SUPREME COURT OF UNITED STATES

Mutual Loan Company, Plff. in Err.,

Vs.

George J. Martell.

No. 29.

Submitted October 27, 1911.

Decided December 11, 1911.

Mr. Lee M. Friedman for plaintiff in error.

[Argument of Counsel from pages 226-231 intentionally omitted]

No appearance for defendant in error.

Mr. Justice McKenna delivered the opinion of the court:

The question in the case is the validity, under the 14th Amendment of the Constitution of the United States, of a statute of the state of Massachusetts, which (§ 7) makes invalid against the employer of a person any assignment of or order for wages to be earned in the future, to secure a loan of less than $200, until the assignment or order be accepted in writing by the employer, and the assignment or order and acceptance be filed and recorded with the clerk of the city or town in the place of residence or employment, according as the person making the assignment be or be not a resident of the commonwealth. If such person be married, the written consent of his wife must be attached to the assignment or order. Section 8. National banks and banks which are under the supervision of the bank commissioner, and certain loan companies, are exempt from the provisions of the act. Section 6.

The action is in contract on two promissory notes given by two different persons, with an assignment by each of wages to be earned in the future in the defendant's service (defendant in error here, and we will so designate him, and the plaintiff in error as plaintiff). The assignments were duly recorded, but were not accepted in writing by defendant. The assignor in the second

assignment was a married man whose wife did not consent to the assignment.

Judgment was entered in the superior court for the defendant, which was affirmed by the supreme judncial court of Massachusetts. 200 Mass. 482, ——L.R.A.(N.S.) ——, 128 Am. St. Rep. 446, 86 N. E. 916.

The contention of plaintiff is (1) that the provisions of §§ 7 and 8 deprive it of due process of law, and (2) that § 6 deprives it of the equal protection of the laws.

(1) To sustain this contention it is urged that the statute being an exercise of the police power of the state, its purpose must have 'some clear, real, and substantial connection' with the preservation of the public health, safety, morals, or general welfare; and it is insisted that the statute of Massachusetts has not such connection and is therefore invalid.

This court has had many occasions to define, in general terms, the police power, and to give particularity to the definitions by special applications. In Chicago, B. & Q. R. Co. v. Illinois, [1906] USSC 49; 200 U. S. 561, 592, 50 L. ed. 596, 609[1906] USSC 49; , 26 Sup. Ct. Rep. 341, 4 A. & E. Ann. Cas. 1175, it was said that 'the police power of a state embraces regulations designed to promote the public convenience or the general prosperity, as well as regulations designed to promote the public health, the public morals, or the public safety;' and that the validity of a police regulation 'must depend upon the circumstances of each case and the character of the regulation, whether arbitrary or reasonable, and whether really designed to accomplish a ligitimate public purpose.'

In Bacon v. Walker, [1907] USSC 27; 204 U. S. 311, 318, 51 L. ed. 499, 502[1907] USSC 27; , 27 Sup. Ct. Rep. 289, it was decided that the police power is not confined 'to the suppression of what is offensive, disorderly, or unsanitary,' but 'extends to so dealing with the conditions which exist in the state as to bring out of them the greatest welfare of its people.'

In a sense, the police power is but another name for the power of government; and a contention that a particular exercise of it offends the due process clause of the Constitution is apt to be very intangible to a precise consideration and answer. Certain general principles, however, must be taken for granted. It is certainly the province of the state, by its legislature, to adopt such policy as to it seems best. There are constitutional limitations, of course, but these allow a very comprehensive range of judgment. And within that range the Massachusetts statute can be justified. Legislation cannot be judged by theoretical standards. It must be tested by the concrete conditions which induced it; and this test was applied by the supreme judicial court of Massachusetts in passing on the validity of the statute under review.

The court hesitated to say, as at least one court has said, that a total prohibition of the assignment of wages would be valid, but justified the partial restriction of the statute on the ground that the extravagance or improvidence of the wage earner might tempt to the disposition of wages to be earned, and he and his family, deprived of the means of support, might become a public charge. It was pointed out, besides, that his need might be taken advantage of by the unscrupulous. The purposes of the statute are certainly assisted by the formalities which it prescribes as requisite to the validity of an assignment. The requirement that it (the assignment) be accepted in writing by the employer, it was pointed out, protects him and secures the assignment from dispute; and the requirement that the acceptance and the assignment be recorded checks an attempt of the wage earner to procure a dishonest credit.

The court found more difficulty with the provision which requires the consent of the wage earner's wife to the assignment, but justified it on the general considerations we have mentioned, and on the ground of her interest in the right use of his wages, though she have no legal title in them.

We cannot say, therefore, that the statute as a police regulation is arbitrary and unreasonable, and not designed to accomplish a legitimate public purpose. We certainly cannot oppose to the legislation our notions of its necessity, and we have expressed 'the propriety of deferring to the tribunals on the spot.' Laurel Hill Cemetery v. San Francisco, [1910] USSC 47; 216 U. S. 358, 365, 54 L. ed. 515, 518[1910] USSC 47; , 30 Sup. Ct. Rep. 301.

There are other grounds upon which the statute may be sustained than those expressed by the supreme judicial court of the state. As we have seen, it does not prohibit assignments of wages to be earned. It prescribes conditions to the validity of such assignments, and in this it has many examples in legislation. It has the same general foundation that laws have which prescribe the evidence of transactions and the manner of the execution and authentication of legal instruments. The laws of the states exhibit in their diversities the power of the legislature over property, its devolution and transfer. It is rather late in the day to question that power. See Arnett v. Reade, [1911] USSC 48; 220 U. S. 311, 55 L. ed. 477[1911] USSC 48; , 36 L.R.A.(N.S.) 1040, 31 Sup. Ct. Rep. 425.

But if we consider the Massachusetts statute strictly as a limitation upon the power of contract, it still must be held valid. A statute not unlike it came before this court in Knoxville Iron Co. v. Harbison, [1901] USSC 147; 183 U. S. 13, 46 L. ed. 55[1901] USSC 147; , 22 Sup. Ct. Rep. 1. It was a statute of the state of Tennessee, and required the redemption in cash of any store orders or other evidence of indebtedness issued by employers in payment of wages due to employees. It was assailed as an arbitrary interference with the right of contract. It was sustained as a proper exercise of the power of the state.

There must, indeed, be a certain freedom of contract, and, as there cannot be a precise, verbal expression of the limitations of it, arguments against any particular limitation may have plausible strength, and yet many legal restrictions have been and must be put upon such freedom in adapting human laws to human conduct and necessities. A too precise reasoning should not be exercised, and before this court may interfere there must be a clear case of abuse of power. See Chicago, B. & Q. R. Co. v. McGuire, 219 U. S. 549, 55 L. ed. 328[1911] USSC 27; , 31 Sup. Ct. Rep. 259, where the right of contract and its limitation by the legislature are fully discussed.

(2) This contention attacks § 6 of the statute, which exempts from its provisions certain banks, banking institutions, and loan companies. It is urged that the provision is discriminatory, and therefore denies to plaintiff the equal protection of the laws.

We have declared so often the wide range of discretion which the legislature possesses in classifying the objects of its legislation that we may be excused from a citation of the cases. We shall only repeat that the classification need not be scientific nor logically appropriate, and if not palpably arbitrary, and is uniform within the class, it is within such discretion. The legislation under review was directed at certain evils which had arisen, and the legislature, considering them and from whence they arose, might have thought or discerned that they could not or would not arise from a greater freedom to the institutions mentioned than to individuals. This was the view that the supreme judicial court took, and, we think, rightly took. The court said that the legislature might have decided that the dangers which the statute was intended to prevent would not exist in any considerable degree in loans made by institutions which were under the supervision of bank commissioners, and 'believed rightly that the business done by them would not need regulation in the interest of employees or employers,' citing State v. Wickenhoefer, 6 Penn. (Del.) 120, 64 Atl. 273, a decision by the supreme court of Delaware. See Engel v. O'Malley, [1911] USSC 4; 219 U. S. 128, 55 L. ed. 128[1911] USSC 4; , 31 Sup. Ct. Rep. 190.

But even if some degree of evil which the statute was intended to prevent could be ascribed to loans made by the exempted institutions, their exception would not make the law unconstitutional. Legislation may recognize degrees of evil without being arbitrary, unreasonable, or in conflict with the equal-protection provision of the 14th Amendment to the Constitution of the United States. Ozan Lumber Co. v. Union County Nat. Bank, [1907] USSC 168; 207 U. S. 251, 52 L. ed. 195[1907] USSC 168; , 28 Sup. Ct. Rep. 89; Heath & M. Mfg. Co. v. Worst, [1907] USSC 177; 207 U. S. 338, 52 L. ed. 236[1907] USSC 177; , 28 Sup. Ct. Rep. 114.

This court sustained a classification like that of the Massachusetts statute in Griffith v. Connecticut, [1910] USSC 200; 218 U. S. 563, 54 L. ed. 1151[1910] USSC 200; , 31 Sup. Ct. Rep. 132, where a statute of Connecticut, which fixed maximum rates of interest upon money loaned within the state to persons subject to its jurisdiction, was upheld as a valid exercise of the police power of the state; and a provision of the statute which exempted from its operation 'any national bank or trust company duly incorporated under the laws of the state, and pawnbrokers,' was decided to be a legal

classification.

Judgment affirmed.