U.S. Supreme Court

WEST COAST HOTEL CO. V. PARRISH , 300 U.S. 379 (1937)
Decided March 29, 1937.

Appeal from the Supreme Court of the State of Washington.

Mr. Chief Justice HUGHES delivered the opinion of the Court.

This case presents the question of the constitutional validity of the minimum wage law of the state of Washington.

The act, entitled 'Minimum Wages for Women,' authorizes the fixing of minimum wages for women and minors. Laws 1913 (Washington) c. 174, p. 602, Remington's Rev.Stat.(1932) 7623 et seq. It provides:

'Section 1. The welfare of the State of Washington demands that women and minors be protected from conditions of labor which have a pernicious effect on their health and norals. The State of Washington, therefore, exercising herein its police and sovereign power declares that inadequate wages and unsanitary conditions of labor exert such pernicious effect.

'Sec. 2. It shall be unlawful to employ women or minors in any industry or occupation within the State of Washington under conditions of labor detrimental to their health or morals; and it shall be unlawful to employ [300 U.S. 379 , 387] women workers in any industry within the State of Washington at wages which are not adequate for their maintenance.

'Sec. 3. There is hereby created a commission to be known as the 'Industrial Welfare Commission' for the State of Washington, to establish such standards of wages and conditions of labor for women and minors employed within the State of Washington, as shall be held hereunder to be reasonable and not detrimental to health and morals, and which shall be sufficient for the decent maintenance of women.'

Further provisions required the commission to ascertain the wages and conditions of labor of women and minors within the state. Public hearings were to be held. If after investigation the commission found that in any occupation, trade, or industry the wages paid to women were 'inadequate to supply them necessary cost of living and to maintain the workers in health,' the commission was empowered to call a conference of representatives of employers and employees together with disinterested persons representing the public. The conference was to recommend to the commission, on its request, an estimate of a minimum wage adequate for the purpose above stated, and on the approval of such a recommendation it became the duty of the commission to issue an obligatory order fixing minimum wages. Any such order might be reopened and the question reconsidered with the aid of the former conference or a new one. Special licenses were authorized for the employment of women who were 'physically defective or crippled by age or otherwise,' and also for apprentices, at less than the prescribed minimum wage.

By a later act the Industrial Welfare Commission was abolished and its duties were assigned to the Industrial Welfare Committee consisting of the Director of Labor and Industries, the Supervisor of Industrial Insurance, [300 U.S. 379 , 388] the

Supervisor of Industrial Relations, theIndustrial Statistician, and the Supervisor of Women in Industry. Laws 1921 (Washington) c. 7, p. 12, Remington's Rev.Stat.(1932) 10840, 10893.

The appellant conducts a hotel. The appellee Elsie Parrish was employed as a chambermaid and (with her husband) brought this suit to recover the difference between the wages paid her and the minimum wage fixed pursuant to the state law. The minimum wage was $14.50 per week of 48 hours. The appellant challenged the act as repugnant to the due process clause of the Fourteenth Amendment of the Constitution of the United States. The Supreme Court of the state, reversing the trial court, sustained the statute and directed judgment for the plaintiffs. Parrish v. West Coast Hotel Co., 185 Wash. 581, 55 P.(2d) 1083. The case is here on appeal.

The appellant relies upon the decision of this Court in Adkins v. Children's Hospital, 261 U.S. 525, 24 A.L.R. 1238, which held invalid the District of Columbia Minimum Wage Act (40 Stat. 960) which was attacked under the due process clause of the Fifth Amendment. On the argument at bar, counsel for the appellees attempted to distinguish the Adkins Case upon the ground that the appellee was employed in a hotel and that the business of an innkeeper was affected with a public interest. That effort at distinction is obviously futile, as it appears that in one of the cases ruled by the Adkins opinion the employee was a woman employed as an elevator operator in a hotel. Adkins v. Lyons, 261 U.S. 525 , at page 542, 395, 24 A.L.R. 1238.

The recent case of Morehead v. New York ex rel. Tipaldo, 298 U.S. 587, 103 A.L.R. 1445, came here on certiorari to the New York court which had held the New York minimum wage act for women to be invalid. A minority of this Court thought that the New York statute was distinguishable in a material feature from that involved in the Adkins Case and that for that and other reasons the New [300 U.S. 379 , 389] York statute should be sustained. But the Court of Appeals of New York had said that it found no material difference between the two statutes and this Court held that the 'meaning of the statute' as fixed by the decision of the state court 'must be accepted here as if the meaning had been specifically expressed in the enactment.' 298 U.S. 587 , at page 609, 56 S. Ct. 918, 922, 103 A.L.R. 1445. That view led to the affirmance by this Court of the judgment in the Morehead Case, as the Court considered that the only question before it was whether the Adkins Case was distinguishable and that reconsideration of that decision had not been sought. Upon that point the Court said: 'The petition for the writ sought review upon the ground that this case (Morehead) is distinguishable from that one (Adkins). No application has been made for reconsideration of the constitutional question there decided. The validity of the principles upon which that decision rests is not challenged. This court confines itself to the ground upon which the writ was asked or granted . * * * Here the review granted was no broader than sought by the petitioner. * * * He is not entitled and does not ask to be heard upon the question whether the Adkins Case should be overruled. He maintains that it may be distinguished on the ground that the statutes are vitally dissimilar.' 298 U.S. 587 , at pp. 604, 605, 920, 103 A.L.R. 1445.

We think that the question which was not deemed to be open in the Morehead Case is open and is necessarily presented here. The Supreme Court of Washington has upheld the minimum wage statute of that state. It has decided that the statute is a reasonable exercise of the police power of the state. In reaching that conclusion, the state court has invoked principles long established by this Court in the application of the

Fourteenth Amendment. The state court has refused to regard the decision in the Adkins Case as determinative and has pointed to our decisions both before and since that case as justifying its position. We are of the opinion that this ruling of [300 U.S. 379 , 390] the state court demands on our part a re-examination of the Adkins Case. The importance of the question, in which many states having similar laws are concerned, the close division by which the decision in the Adkins Case was reached, and the economic conditions which have supervened, and in the light of which the reasonableness of the exercise of the protective power of the state must be considered, make it not only appropriate, but we think imperative, that in deciding the present case the subject should receive fresh consideration.

The history of the litigation of this question may be briefly stated. The minimum wage statute of Washington was enacted over twenty-three years ago. Prior to the decision in the instant case, it had twice been held valid by the Supreme Court of the state. Larsen v. Rice, 100 Wash. 642, 171 P. 1037; Spokane Hotel Co. v. Younger, 113 Wash. 359, 194 P. 595. The Washington statute is essentially the same as that enacted in Oregon in the same year. Laws 1913 (Oregon) c. 62, p. 92. The validity of the latter act was sustained by the Supreme Court of Oregon in Stettler v. O'Hara, 69 Or. 519, 139 P. 743, L.R.A.1917C, 944, Ann.Cas.1916A, 217, and Simpson v. O'Hara, 70 Or. 261, 141 P. 158. These cases, after reargument, were affirmed here by an equally divided court, in 1917. 243 U.S. 629 . The law of Oregon thus continued in effect. The District of Columbia Minimum Wage Law (40 Stat. 960) was enacted in 1918. The statute was sustained by the Supreme Court of the District in the Adkins Case. Upon appeal the Court of Appeals of the District first affirmed that ruling, but on rehearing reversed it and the case came before this Court in 1923. The judgment of the Court of Appeals holding the act invalid was affirmed, but with Chief Justice Taft, Mr. Justice Holmes, and Mr. Justice Sanford dissenting, and Mr. Justice Brandeis taking no part. The dissenting opinions took the ground that the decision was at variance with the [300 U.S. 379 , 391] principles which this Court had frequently announced and applied. In 1925 and 1927, the similar ninimum wage statutes of Arizona and Arkansas were held invalid upon the authority of the Adkins Case. The Justices who had dissented in that case bowed to the ruling and Mr. Justice Brandeis dissented. Murphy v. Sardell, 269 U.S. 530 ; Donham v. West-Nelson Co., 273 U.S. 657 . The question did not come before us again until the last term in the Morehead Case, as already noted. In that case, briefs supporting the New York statute were submitted by the states of Ohio, Connecticut, Illinois, Massachusetts, New Hampshire, New Jersey, and Rhode Island. 298 U.S. page 604, note, 103 A.L.R. 1445. Throughout this entire period the Washington statute now under consideration has been in force.

The principle which must control our decision is not in doubt. The constitutional provision invoked is the due process clause of the Fourteenth Amendment governing the states, as the due process clause invoked in the Adkins Case governed Congress. In each case the violation alleged by those attacking minimum wage regulation for women is deprivation of freedom of contract. What is this freedom? The Constitution does not speak of freedom of contract. It speaks of liberty and prohibits the deprivation of liberty without due process of law. In prohibiting that deprivation, the Constitution does not recognize an absolute and uncontrollable liberty. Liberty in each of its phases has its history and connotation. But the liberty safeguarded is liberty in a social

organization which requires the protection of law against the evils which menace the health, safety, morals, and welfare of the people. Liberty under the Constitution is thus necessarily subject to the restraints of due process, and regulation which is reasonable in relation to its subject and is adopted in the interests of the community is due process. [300 U.S. 379 , 392] This essential limitation of liberty in general governs freedom of contract in particular. More than twenty-five years ago we set forth the applicable principle in these words, after referring to the cases where the liberty guaranteed by the Fourteenth Amendment had been broadly described. 1

'But it was recognized in the cases cited, as in many others, that freedom of contract is a qualified, and not an absolute, right. There is no absolute freedom to do as one wills or to contract as one chooses. The guaranty of liberty does not withdraw from legislative supervision that wide department of activity which consists of the making of contracts, or deny to government the power to provide restrictive safeguards. Liberty implies the absence of arbitrary restraint, not immunity from reasonable regulations and prohibitions imposed in the interests of the community.' Chicago, Burlington & Quincy R. Co. v. McGuire, 219 U.S. 549, 565 , 262.

This power under the Constitution to restrict freedom of contract has had many illustrations. 2 That it may be exercised in the public interest with respect to contracts [300 U.S. 379 , 393] between employer and employee is undeniable. Thus statutes have been sustained limiting employment in underground mines and smelters to eight hours a day (Holden v. Hardy, 169 U.S. 366); in requiring redemption in cash of store orders or other evidences of indebtedness issued in the payment of wages (Knoxville Iron Co. v. Harbison, 183 U.S. 13); in forbidding the payment of seamen's wages in advance (Patterson v. The Bark Eudora, 190 U.S. 169); in making it unlawful to contract to pay miners employed at quantity rates upon the basis of screened coal instead of the weight of the coal as originally produced in the mine (McLean v. Arkansas, 211 U.S. 539); in prohibiting contracts limiting liability for injuries to employees (Chicago, Burlington & Quincy R. Co. v. McGuire, supra); in limiting hours of work of employees in manufacturing establishments (Bunting v. Oregon, 243 U.S. 426 , Ann.Cas.1918A, 1043); and in maintaining workmen's compensation laws (New York Central R. Co. v. White, 243 U.S. 188 , L.R.A.1917D, 1, Ann.Cas.1917D, 629; Mountain Timber Co. v. Washington, 243 U.S. 219 , Ann.Cas.1917D, 642). In dealing with the relation of employer and employed, the Legislature has necessarily a wide field of discretion in order that there may be suitable protection of health and safety, and that peace and good order may be promoted through regulations designed to insure wholesome conditions of work and freedom from oppression. Chicago, Burlington & Quincy R. Co. v. McGuire, supra, 219 U.S. 549 , at page 570.

The point that has been strongly stressed that adult employees should be deemed competent to make their own contracts was decisively met nearly forty years ago in Holden v. Hardy, supra, where we pointed out the inequality in the footing of the parties. We said (Id., 169 U.S. 366, 397 , 390):

'The legislature has also recognized the fact, which the experience of legislators in many states has corroborated, that the proprietors of these establishments and their operatives do not stand upon an equality, and that [300 U.S. 379 , 394] their interests are, to a certain extent, conflicting. The former naturally desire to obtain as much labor as possible from their employe s, while the latter are often induced by the fear of

discharge to conform to regulations which their judgment, fairly exercised, would pronounce to be detrimental to their health or strength. In other words, the proprietors lay down the rules, and the laborers are practically constrained to obey them. In such cases self-interest is often an unsafe guide, and the legislature may properly interpose its authority.'

And we added that the fact 'that both parties are of full age, and competent to contract, does not necessarily deprive the state of the power to interfere, where the parties do not stand upon an equality, or where the public heath demands that one party to the contract shall be protected against himself.' 'The state still retains an interest in his welfare, however reckless he may be. The whole is no greater than the sum of all the parts, and when the individual health, safety, and welfare are sacrificed or neglected, the state must suffer.'

It is manifest that this established principle is peculiarly applicable in relation to the employment of women in whose protection the state has a special interest. That phase of the subject received elaborate consideration in Muller v. Oregon (1908) 208 U.S. 412, 326 , 13 Ann.Cas. 957, where the constitutional authority of the state to limit the working hours of women was sustained. We emphasized the consideration that 'woman's physical structure and the performance of maternal functions place her at a disadvantage in the struggle for subsistence' and that her physical well being 'becomes an object of public interest and care in order to preserve the strength and vigor of the race.' We emphasized the need of protecting women against oppression despite her possession of contractual rights. We said that 'though limitations upon personal and contractual rights may be removed by legislation, there is that in her [300 U.S. 379 , 395] disposition and habits of life which will operate against a full assertion of those rights. She will still be where some legislation to protect her seems necessary to secure a real equality of right.' Hence she was 'properly placed in a class by herself, and legislation designed for her protection may be sustained, even when like legislation is not necessary for men, and could not be sustained.' We concluded that the limitations which the statute there in question 'places upon her contractual powers, upon her right to agree with her employer, as to the time she shall labor' were 'not imposed solely for her benefit, but also largely for the benefit of all.' Again, in Quong Wing v. Kirkendall, 223 U.S. 59, 63 , in referring to a differentiation with respect to the employment of women, we said that the Fourteenth Amendment did not interfere with state power by creating a 'fictitious equality.' We referred to recognized classifications on the basis of sex with regard to hours of work and in other matters, and we observed that the particular points at which that difference shall be enforced by legislation were largely in the power of the state. In later rulings this Court sustained the regulation of hours of work of women employees in Riley v. Massachusetts, 232 U.S. 671 (factories), Miller v. Wilson, 236 U.S. 373 , L.R.A.1915F, 829 (hotels), and Bosley v. McLaughlin, 236 U.S. 385 (hospitals).

This array of precedents and the principles they applied were thought by the dissenting Justices in the Adkins Case to demand that the minimum wage statute be sustained. The validity of the distinction made by the Court between a minimum wage and a maximum of hours in limiting liberty of contract was especially challenged. 261 U.S. 525 , at page 564, 403, 24 A.L.R. 1238. That challenge persists and is without any satisfactory answer. As Chief Justice Taft observed: 'In absolute freedom of contract the

one term is as important as the other, for both enter equally into the consideration given and received, a restriction as to [300 U.S. 379 , 396] the one is not any greater in essence than the other, and is of the same kind. One is the multiplier and the other the multiplicand.' And Mr. Justice Holmes, while recognizing that 'the distinctions of the law are distinctions of degree,' could 'perceive no difference in the kind or degree of interference with liberty, the only matter with which we have any concern, between the one case and the other. The bargain is equally affected whichever half you regulate.' Id., 261 U.S. 525 , at p. 569, 43 S. Ct. 394, 405, 24 A.L.R. 1238.

One of the points which was pressed by the Court in supporting its ruling in the Adkins Case was that the standard set up by the District of Columbia Act did not take appropriate account of the value of the services rendered. In the Morehead Case, the minority thought that the New York statute had met that point in its definition of a 'fair wage' and that it accordingly presented a distinguishable feature which the Court could recognize within the limits which the Morehead petition for certiorari was deemed to present. The Court, however, did not take that view and the New York Act was held to be essentially the same as that for the District of Columbia. The statute now before us is like the latter, but we are unable to conclude that in its minimum wage requirement the state has passed beyond the boundary of its broad protective power.

The minimum wage to be paid under the Washington statute is fixed after full consideration by representatives of employers, employees, and the public. It may be assumed that the minimum wage is fixed in consideration of the services that are performed in the particular occupations under normal conditions. Provision is made for special licenses at less wages in the case of women who are incapable of full service. The statement of Mr. Justice Holmes in the Adkins Case is pertinent: 'This statute does not compel anybody to pay anything. It simply forbids employment at rates below those fixed as [300 U.S. 379 , 397] the minimum requirement of health and right living. It is safe to assume that women will not be employed at even the lowest wages allowed unless they earn them, or unless the employer's business can sustain the burden. In short the law in its character and operation is like hundreds of so- called police laws that have been up-held.' 261 U.S. 525 , at page 570, 406, 24 A.L.R. 1238. And Chief Justice Taft forcibly pointed out the consideration which is basic in a statute of this character: 'Legislatures which adopt a requirement of maximum hours or minimum wages may be presumed to believe that when sweating employers are prevented from paying unduly low wages by positive law they will continue their business, abating that part of their profits, which were wrung from the necessities of their employees, and will concede the better terms required by the law, and that while in individual cases, hardship may result, the restriction will enure to the benefit of the general class of employees in whose interest the law is passed, and so to that of the community at large.' Id., 261 U.S. 525 , at page 563, 403, 24 A.L.R. 1238.

We think that the views thus expressed are sound and that the decision in the Adkins Case was a departure from the true application of the principles governing the regulation by the state of the relation of employer and employed. Those principles have been reenforced by our subsequent decisions. Thus in Radice v. New York, 264 U.S. 292 , we sustained the New York statute which restricted the employment of women in restaurants at night. In O'Gorman & Young v. Hartford Fire Insurance Company, 282 U.S. 251, 72 A.L.R. 1163, which upheld an act regulating the commissions of insurance

agents, we pointed to the presumption of the constitutionality of a statute dealing with a subject within the scope of the police power and to the absence of any factual foundation of record for deciding that the limits of power had been transcended. In Nebbia v. New York, 291 U.S. 502, 89 A.L.R. 1469, dealing [300 U.S. 379 , 398] with the New York statute providing for minimum prices for milk, the general subject of the regulation of the use of private property and of the making of private contracts received an exhaustive examination, and we again declared that if such laws 'have a reasonable relation to a proper legislative purpose, and are neither arbitrary nor discriminatory, the requirements of dur process are satisfied'; that 'with the wisdom of the policy adopted, with the adequacy or practicability of the law enacted to forward it, the courts are both incompetent and unauthorized to deal'; that 'times without number we have said that the Legislature is primarily the judge of the necessity of such an enactment, that every possible presumption is in favor of its validity, and that though the court may hold views inconsistent with the wisdom of the law, it may not be annulled unless palpably in excess of legislative power.' Id., 291 U.S. 502 , at pages 537, 538, 516, 89 A.L.R. 1469.

With full recognition of the earnestness and vigor which characterize the prevailing opinion in the Adkins Case, we find it impossible to reconcile that ruling with these well-considered declarations. What can be closer to the public interest than the health of women and their protection from unscrupulous and overreaching employers? And if the protection of women is a legitimate end of the exercise of state power, how can it be said that the requirement of the payment of a minimum wage fairly fixed in order to meet the very necessities of existence is not an admissible means to that end? The Legislature of the state was clearly entitled to consider the situation of women in employment, the fact that they are in the class receiving the least pay, that their bargaining power is relatively weak, and that they are the ready victims of those who would take advantage of their necessitous circumstances. The Legislature was entitled to adopt measures to reduce the evils of the 'sweating sys- [300 U.S. 379 , 399] tem,' the exploiting of workers at wages so low as to be insufficient to meet the bare cost of living, thus making their very helplessness the occastion of a most injurious competition. The Legislature had the right to consider that its minimum wage requirements would be an important aid in carrying out its policy of protection. The adoption of similar requirements by many states evidences a deepseated conviction both as to the presence of the evil and as to the means adapted to check it. Legislative response to that conviction cannot be regarded as arbitrary or capricious and that is all we have to decide. Even if the wisdom of the policy be regarded as debatable and its effects uncertain, still the Legislature is entitled to its judgment.

There is an additional and compelling consideration which recent economic experience has brought into a strong light. The exploitation of a class of workers who are in an unequal position with respect to bargaining power and are thus relatively defenseless against the denial of a living wage is not only detrimental to their health and well being, but casts a direct burden for their support upon the community. What these workers lose in wages the taxpayers are called upon to pay. The bare cost of living must be met. We may take judicial notice of the unparalleled demands for relief which arose during the recent period of depression and still continue to an alarming extent despite the degree of economic recovery which has been achieved. It is unnecessary to cite official statistics to establish what is of common knowledge through the length and

breadth of the land. While in the instant case no factual brief has been presented, there is no reason to doubt that the state of Washington has encountered the same social problem that is present elsewhere. The community is not bound to provide what is in effect a subsidy for unconscionable employers. The [300 U.S. 379 , 400] community may direct its law-making power to correct the abuse which springs from their selfish disregard of the public interest. The argument that the legislation in question constitutes an arbitrary discrimination, because it does not extend to men, is unavailing. This Court has frequently held that the legislative authority, acting within its proper field, is not bound to extend its regulation to all cases which it might possibly reach. The Legislature 'is free to recognize degrees of harm and it may confine its restrictions to those classes of cases where the need is deemed to be clearest.' If 'the law presumably hits the evil where it is most felt, it is not to be overthrown because there are other instances to which it might have been applied.' There is no 'doctrinaire requirement' that the legislation should be couched in all embracing terms. Carroll v. Greenwich Insurance Co., 199 U.S. 401, 411 ; Patsone v. Pennsylvania, 232 U.S. 138, 144 ; Keokee Coke Co. v. Taylor, 234 U.S. 224, 227 ; Sproles v. binford, 286 U.S. 374, 396 , 588; Semler v. Oregon Board, 294 U.S. 608, 610 , 611, 571. This familiar principle has repeatedly been applied to legislation which singles out women, and particular classes of women, in the exercise of the state's protective power. Miller v. Wilson, supra, 236 U.S. 373 , at page 384, L.R.A.1915F, 829; Bosley v. McLaughlin, supra, 236 U.S. 385 , at pages 394, 395; Radice v. New York, supra, 264 U.S. 292 , at pages 295-298, 326, 327. Their relative need in the presence of the evil, no less than the existence of the evil itself, is a matter for the legislative judgment.

Our conclusion is that the case of Adkins v. Children's Hospital, supra, should be, and it is, overruled. The judgment of the Supreme Court of the state of Washington is affirmed.

Affirmed.