



Lochner v. New York (1905)

The Supreme Court's decision that struck down state limits on work hours in bakeries

Background

During the late 19th century, cities in the United States became centers of industrial growth. People moved from rural areas and emigrated from countries around the world to take advantage of economic opportunities created by factories and mass production. As the number of women working outside the home increased, more families were in need of prepared food items, like bread. Additionally, most of the urban population lived in overcrowded **tenements** that often did not have ovens. As a result, the bread baking industry expanded.

Like most other urban establishments, bread bakeries were unsanitary. Because ovens were so heavy—and rent was so cheap—most bread bakeries operated in tenement cellars. The cellars had saturated dirt or wooden floors, low ceilings, and little ventilation. The sewer, which frequently leaked, was also located in the cellar. Constant exposure to flour dust, fumes, and extreme temperatures led to health setbacks.

The work itself was challenging. Bakers measured and dumped ingredients using heavy shovels and sacks, not the cups and teaspoons known to modern bakers. Hours were so long that most contracts required bakers to sleep in the shop—usually on the boards they used to knead bread. A typical baker worked 74 hours every week, but some were reported to work as many as 114 hours.

New York state's baking industry came under scrutiny when the *New York Press* published a **muckraking** report titled "Bread and Filth Cooked Together" in September 1894. The article, which detailed "vermin and dirt abound" and "a grind that makes ambition for personal cleanliness impossible" drew the attention of reformers, organized labor, and politicians. Unsafe working conditions were not unique to the baking industry, but the momentum generated by this exposé led the New York State Legislature to unanimously pass the Bakeshop Act in the spring of 1895. The act implemented standards for sanitation and working conditions in bakeries. It also limited working hours for bakers to a maximum of 10 hours per day or 60 hours per week.

Facts

Joseph Lochner owned a small bakery in Utica, New York. In April 1901, Lochner was arrested and charged with violating the Bakeshop Act. One of his employees, Aman Schmitter, worked more than 60 hours in one week. The state trial court fined Lochner \$50 and sentenced him to 50 days in jail. Lochner appealed. Both state appeals courts upheld the law, citing a need to protect worker safety and public health. Lochner appealed his case to the Supreme Court.

Issue

Does a state law regulating maximum work hours violate the Due Process Clause of the Fourteenth Amendment?

Summary

The Supreme Court invalidated the Bakeshop Law in a 5-4 decision on April 17, 1905. Justice Rufus W. Peckham wrote for the majority that the law's interference with the right to contract between employer and employee was unconstitutional. While the Constitution does not explicitly mention **liberty of contract**, Justice Peckham stated that it is implied by the **Due Process Clause** of the **Fourteenth Amendment**. According to the majority, the freedom to enter into a contract however and with whomever you please falls under the government's protection against any statute that infringes on an individual's "life, liberty, or property without due process of law."

Justice Peckham's opinion for the Court stated that the health risks associated with the baking industry do not justify the state legislature's interference with the right to labor or *Lochner's* liberty of contract. Therefore, the majority decided the Bakeshop Act was an improper use of the state's power to legislate for the health, safety, and welfare of the public.

Justice John Marshall Harlan dissented, joined by Justice Edward D. White and Justice William R. Day. Unlike Justice Peckham, they believed the state legislature's determination that the conditions in bakeries were a legitimate public health concern was reasonable. Justice Oliver Wendell Holmes filed a separate dissenting opinion. He criticized the majority for using the Fourteenth Amendment's Due Process Clause to protect a right not explicitly written in the Constitution.

Precedent Set

Lochner v. New York initiated an era in which the courts protected economic freedom and liberty of contract by invalidating state and federal laws that inhibited business. By 1937, however, the Court's decision in *West Coast Hotel v. Parrish* upheld the constitutionality of a state minimum wage law and reversed *Lochner*. The period from 1905 to 1937 is sometimes called the "Lochner Era."

Additional Context

The Court's majority and dissenting opinions in the *Lochner* case demonstrate two methods of **jurisprudence** judges use to interpret the Constitution. The majority opinion applied a school of thought that later became known as **substantive due process**. "Liberty of contract" is not written in the Bill of Rights, but using substantive due process, the majority argued that it is implied in the Fourteenth Amendment's Due Process Clause. That clause protects against the government's taking of an individual's "life, liberty, or property without due process of law." The Court has since used substantive due process for a variety of reasons, such as recognizing a right to privacy in *Griswold v. Connecticut* (1965).

In contrast, the dissenting opinion relies on a **strict constructionist** approach to interpreting the Constitution. That school of thought is that courts should apply the Constitution exactly as written. Strict constructionists believe substantive due process lends itself to creating law, rather than applying it. Laws, they argue, should only be created by elected officials and the legislative branch. Debate over which method of jurisprudence should prevail—substantive due process or strict constructionist—continues today.

Furthermore, the decision frustrated **Progressive** and **New Deal** reformers who believed government intervention was the best solution to society's social and economic problems. To these reformers, and other critics, the *Lochner* decision became an undesirable example of **judicial activism**—the practice of making a judicial decision based on personal policy views instead of the law. By striking down a justifiable state regulation, critics feared that the Court's majority inappropriately stepped into politics. In the eyes of reformers, the *Lochner* decision protected businesses over the rights of workers and supported **laissez faire** ideology. Though this was the perception of reformers, the Supreme Court upheld approximately as many regulations as it overturned during this era.

Key Vocabulary

- **Tenement** – a run-down and often overcrowded apartment house, especially in a poor section of a large city
- **Muckraking** – the action of searching out and publicizing scandalous information, often used during the Progressive Era to expose political corruption
- **Liberty of contract** – the freedom to enter into employment or conduct business without interference from the state or federal governments
- **Due Process Clause** – a provision in both the Fifth (applies to federal government) and Fourteenth Amendments (applies to states) that guarantees individuals protection of the right to notice and being heard when they may be deprived of life, liberty, or property; protections against equal protection violation, and the protection of fundamental rights
- **Fourteenth Amendment** – ratified in 1868, granted citizenship to all persons born or naturalized in the United States—including formerly enslaved people—and guaranteed all persons “equal protection of the laws”
- **Substantive due process** – the idea that the Due Process Clauses of the Fifth and Fourteenth Amendments, which prohibits the government from depriving “any person of life, liberty, or property without due process of law,” protects some rights not explicitly listed in the Constitution
- **Laissez faire** – an economic theory where there is minimal government interference in the economy
- **Strict constructionist** – one who believes that the Constitution should be interpreted according to the literal meaning of its language at the time of passage,

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- **Progressive** – refers to members of the Progressive Movement of the early 20th century who pursued a variety of social, economic, and political reforms
- **New Deal** – a series of public programs and reforms enacted by President Franklin D. Roosevelt's administration between 1933 and 1938 in response to the Great Depression
- **Judicial activism** – the practice of making a judicial decision based on personal policy views instead of the law

Discussion Questions

1. How did population growth in the late nineteenth century impact the development of the bread baking business?
2. Laissez faire refers to a policy of minimal government interference in the economy, and was the prevailing economic ideology during this time period. How did the majority opinion in *Lochner* reflect laissez faire?
3. Do you think that states should be able to regulate working hours or should businesses and workers have the freedom to decide how long to work? Explain.
4. Why did critics disagree with the majority opinion in *Lochner*?

Extension Activity

Read the case summary of *Griswold v. Connecticut*. Compare judicial activism in this case with *Lochner*. How are the cases similar? How are they different?

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