

Beyond the Bench
Lochner v. New York (1905)

Standards to Reference

C3 standard: D2.Civ.5.9-12: Evaluate citizens' and institutions' effectiveness in addressing social and political problems at the local, state, tribal, national, and/or international level.

APUSH

- **KC-6.1.II.A** Some argued that laissez-faire policies and competition promoted economic growth in the long run, and they opposed government intervention during economic downturns
- **KC-6.1.II.C.** Labor and management battled over wages and working conditions, with workers organizing local and national unions and/or directly confronting business leaders.

AP Gov

- **EK 3.7.A.1** The doctrine of selective incorporation has imposed limitations on state regulation of civil liberties by extending select protections of the Bill of Rights to the states through the due process clause of the Fourteenth Amendment.
- **EK 1.8.A.1** The Due Process and Equal Protection Clauses of the Fourteenth Amendment give the national government the power to enforce protections for any person against the states, but Supreme Court interpretations can influence the extent of those protections.



What did the Supreme Court decide in *Lochner v. New York* (1905)?

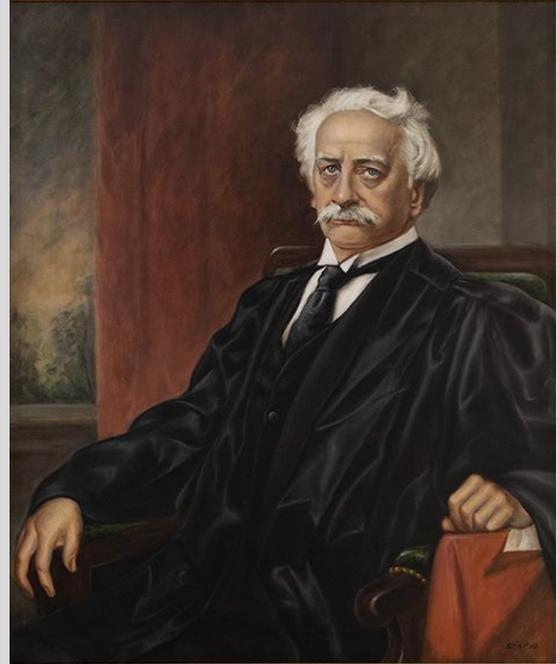


Excerpt from the majority opinion

“The statute necessarily interferes with the right of contract between the employer and employee concerning the number of hours in which the latter may labor in the bakery of the employer. The general right to make a contract in relation to his business is part of the liberty of the individual protected by the Fourteenth Amendment of the Federal Constitution.

Under such circumstances the freedom of master and employee to contract with each other in relation to their employment...cannot be prohibited or interfered with without violating the Federal Constitution.”

Justice Rufus W. Peckham



Courtesy of the Collection of the Supreme Court of the United States



14th Amendment Text

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.



Read the background.

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.

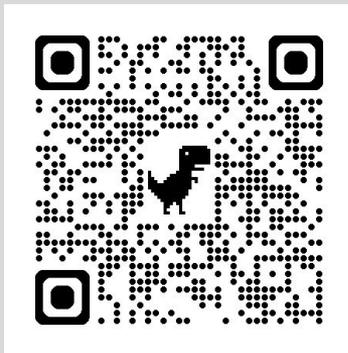
New York state's baking industry came under scrutiny when the *New York Press* published a muckraking report titled “Bread and Filth Cooked Together” in September 1894. The article, which detailed “vermin and dirt abound” and “a grind that makes ambition for personal cleanliness impossible” drew the attention of reformers.

organized labor, and politicians. Unsafe working conditions were 1
State Legislature to unanimously pass the Bakeshop Act in the spri
limited working hours for bakers to a maximum of 10 hours per da

Part I: Background

Directions: Read the [background for *Lochner v. New York*](#) and answer the questions below.

1. How did population growth in the late nineteenth century impact the development of the bread baking business?
2. What was challenging about baking during this time?
3. What is muckraking?
4. What was the effect of the muckraking report “Bread and Filth Cooked Together?”



Read the muckraking article.

Ask students to read the article and highlight or star information about working and sanitary conditions in New York bakeries.

Alternatively, use this as a hook at the beginning of the lesson before teaching any information about the case!

Primary Source Analysis

Directions: Read the article below. Highlight or star information about the working and sanitary conditions in New York bakeries.

**BREAD AND FILTH
COOKED TOGETHER**

**Horrible Conditions Existing in New
York and Brooklyn Bakeries.**

VERMIN AND DIRT ABOUND

Unclean Men Mix the Dough and Sleep
in the Same Rooms.

A STARTLING EVENING JOURNEY

Here Is Matter for the Board of Health
to Ponder Over.

DREADFUL HOURS OF LABOR

A Grind That Makes Ambition for Personal
Cleanliness Impossible.

THE LABOR MEN IN REVOLT

They Ask "The Press" to Follow Up
Its Good Work Among the Tenements
with a Battle Against
These Enemies of Health
and Decency.

"First of all, it is the desire of The Press to call this matter to the attention of the sanitary authorities of New York and Brooklyn...most of the bake shops in New York and Brooklyn are located below the surface of the street in cellars, that they are damp and thoroughly unwholesome, that they are infested with insects and that not only is the health of the men who work in them endangered...by the health of the consumers as well. It is also charged that the men are worked to the last limits of human endurance, that they are regularly kept before the bench and the oven twelve and fourteen hours a day. Not only are the hours long, but the pay is ridiculously low, and the amount of work demanded is so great that when a day's task is completed the men have neither the strength nor the ambition to clean the shops. Many of them "board in"—that is, sleep and eat in the same building in which they do their work—and go direct from their beds to the mixing bench without washing or otherwise cleansing their person.

The danger is not an imaginary one. It is not simply the danger of eating bread mixed and baked amid dirty surroundings. The latest advances of hygienic science have shown that in the dirt that accumulates in workshops lurk the germs of disease. If your bread contains any of these germs, you are of course in real and immediate danger.

Here is a story told by a journeyman baker who was employed some months ago, which will show how disease may be spread by baker bosses who are careless of cleanliness through wicked and indefensible greed. For the present the name of his employer is withheld.



New York Bakeshop Act of 1895

- Inspired by the exposé in the *New York Press*
- “No employee shall be required, permitted or suffered to work in a biscuit, bread or cake bakery or confectionery establishment more than sixty hours in any one week, or more than ten hours in any one day”

Other Reforms Inspired by Muckraking Journalism

New York State Tenement House Act (1901) – *How the Other Half Lives* by Jacob Riis

Meat Inspection Act (1906) – *The Jungle* by Upton Sinclair

Standard Oil Co. v. United States (1911) – *History of Standard Oil* by Ida Tarbell



Facts of the Case

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 him \$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.



Joseph Lochner (right). Photo courtesy of Professor Josh Blackman.



LOCHNER V. NEW YORK (1905)

Supreme Court of the United States

- The Supreme Court invalidated the Bakeshop Law in a 5-4 decision.
- The majority argued that the act interfered with the right to contract between employer and employee, violating the Due Process Clause of the 14th Amendment.
- According to the majority, the health risks did not justify the state legislature's interference with the right to labor.

Appeals

- Both of New York's appeals courts upheld the lower court's decision and the Bakeshop Act.
- They cited a need to protect worker safety and public health.

Trial

- A grand jury charged Joseph Lochner, a small bakery owner, with violating the Bakeshop Act after one of his employees worked more than 60 hours in one week.
- The court fined him \$50 and sentenced him to 50 days in jail.
- Lochner lost his case at trial.



Lochner v. New York (1905)

- Case summary
- Majority & Dissenting Opinions



Lochner's Bakery in Utica, NY. Photo courtesy of Professor Josh Blackman.

