The Monetary Times

Trade Review and Insurance Chronicle

39th Year—No. 11. Toronto, Canada, September 8, 1905. $2 A YEAR IN ADVANCE.

CONTENTS

THE NEW YORK LABOR LAW.

In these days of unusual activity on the part of organized labor, with its constantly increasing demands from employers, it is of interest to note isolated legal cases as they arise, in which the workingman's condition is dealt with, because these throw a great deal of light on the general movement forward of labor claims.

In 1897 the Legislature of the State of New York passed a statute known by its short title as the Labor Law. Among other things it was provided by Section 110 that no "employee shall be required or permitted to work in a biscuit, bread, or cake bakery or confectionery establishment more than sixty hours in any one week." Other sections of the Act prescribe various sanitary conditions.

In the case of Lochner vs. State of New York, which was finally decided by the Supreme Court of the United States on 17th April, 1905, the validity of a conviction under the above Act was fought out, it being contended that the act of the New York Legislature above-mentioned restricted personal freedom of contract (the inviolability of private contract being one of the fundamental principles of English Common Law) as provided for in the 14th Amendment to the Constitution of the United States, which enacts as follows: "Nor shall any State deprive any person of life, liberty, or property, without due process of law."

There were two important questions at issue therefore, (1) as to whether a State of sovereign authority and knowing especially well the peculiar conditions which prompted the enactment in the public interest of such a law, was infringing on the above amendment to the Constitution, and (2), whether or not the State could regulate and restrict private contract; in other words, if a man in the confectionery business was willing to contract to work fifteen hours a day, could the State say to him that it would not allow him to do so.

Both these questions were determined against the State, although there were several dissenting judgments in the Supreme Court. To say, or to enact, that a laboring man in a free country cannot contract to work as long as he pleases and provided his remuneration seems fair to himself, seems to the average man rather absurd and it is not surprising from this standpoint that the State Law was determined to be unconstitutional; but the apparently strained part of the judgment is in declaring the State Law unconstitutional under the 14th Amendment. If there is anything in the principle of public policy, although that term is not very clearly defined, then the States, with theoretically sovereign powers the same as our Provinces of Canada, are the best judges of what peculiar local conditions warrant the enactment of any given law of essentially and entirely local interest.

This case of Lochner versus New York, has caused a great deal of comment in both the United States and Great Britain, and English jurists are more inclined to adopt the view of the dissenting judges as the true exposition of the law. As to this view of the case the following extract from the judgment of Mr. Justice Holmes will be of interest:—

"This case is decided upon an economic theory which a large part of the country does not entertain. If there were a question whether I agreed with that theory, I should desire to study it further and long before making up my mind. But I do not conceive that to be my duty, because I strongly believe that my agreement or disagreement has nothing to do with the right of a majority to embody their opinions in law. It is settled by various decisions of this court that State Constitutions and State Laws may regulate life in many ways which we as legislators might think as injudicious or, if you like, as tyrannical as this, and which equally with this interfere with the liberty to contract. Sunday laws and usury laws are ancient examples. A more modern one is the prohibition of