



Lochner v. New York

- I. Introduction
 - a. Times are changing. Home production giving way to industrialization
 - b. Tenement bakeshop symbolizes change
 - i. Immigrants producing bread in tenements
 - ii. Located in cities – an indication of urbanization
 - iii. Created public health challenges
 - c. Very small businesses, trapped between large production threatening to develop and home baking.
 - d. Labor costs are the only way owners have to control profit
 - e. Quest for Shorter Hours
 - i. Movement from subsistence agriculture to industrial production.
 - ii. Employers want to know that you'll show up on time and do a full day's work.
 - iii. Have lost autonomy, and gained fear of replacement.
 - iv. On top of that, the city was offering new leisure opportunities.
 - v. Labor and press persuade "political machine" to put through Bakeshop Act
- II. Reformers
 - a. Elite, middle class
 - b. Religious, moral, "noblesse oblige" – rich have an obligation to give back to the poor
 - c. Progressives: Believe that government should play a direct role in helping people
 - i. Saw government's power
 - ii. Saw things like social security developing in places in Europe
 - d. Experiencing urban life – crime, immigrants, threat of outbreak of disease
 - e. Pre-civil war, reform says: get people to self-control. After the Civil War, reform says: change the environment to make people in it better.
 - f. Afraid of revolution (socialist)!
- III. The Case
 - a. Argument: Restrictions on hours restricted American values.
 - i. Big pre-war fear that slavery would expand into the West – to all the territories
 - ii. Fear was of competition with slave labor
 - iii. Wanted vision of the West
 - b. This was a real challenge to the notion of being a free man – of controlling the fruits of your labor
 - c. Smith's laissez-faire plus Darwin's evolution created a very potent ideology and strong opposition to government intervention.
 - d. State Intervention
 - i. As old as the other ideas
 - ii. Variety of new redistribution of wealth ideas (socialism, Marxism)
 - iii. Era of Science – Tempting to use government to solve problems
 - iv. Liberty of contract is illusory. Laborers don't really have the power to control their contracts
 - e. How do courts get the power to strike down a law?
 - i. Substantive due process!
 - ii. Police power – power of states to regulate for health, safety, morals, welfare of the people
 - iii. Need a balance between police power and substantive due process
- IV. The Decision
 - a. Court strikes down the law
 - b. Kens argues that the decision imposed an ideology even though the Court didn't use the same reasoning in many other cases.
 - c. It was the elite Middle Class Reformers who were upset
 - d. Ultimately reversed by those reformers in Roosevelt's administration in favor of the New Deal
 - e. The way Lochner protected economics, Roe v. Wade used substantive due process too.