Muller v. Oregon

Robert Wortman — HIST 330

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1 Arguments

In the case *Muller v. Oregon*, the prosecution for the plaintiff argued against the legitimacy of the Oregon law on three major grounds. First, the law violated the 14th amendment of the United States Constitution. Secondly, it arbitrarily created a separate class of citizen. And lastly, the law constituted an abuse of police power.

1.1 Constitutional objection

The 14th amendment states, in part, “...nor shall any state deprive any person of...property without due process of law...”. And, drawing from Justice Benjamin Magruder’s decision in a related Illinois case, labor was considered as property “...which a worker had a right to sell to an employer [1, p. 12].” Further, Justice Magruder stated that “...woman is entitled to the same rights, under the Constitution, to make contracts with reference to her labor as are secured thereby to men [1, p. 135].” Thus, a law which deprives women of the right to
sell their labor was unconstitutional.

1.2 Class objection

The law also inappropriately created a system of classification between men and women, as the law only applied to members of one of those two sets. This, too, is a particular violation of the 14th amendment, which requires that each citizen be afforded “...equal protection of the laws.” If the law only restricted the working hours of men, but not women, or those of only white persons, or those of “...all persons forty years of age, ...the classification would have been arbitrary, unreasonable, and invalid...[1, p. 137]”. If the law applied to all persons, without capricious limitations to its extent, then it would have been more solidly founded and more defensible.

1.3 Abuse of power

The police power of a state gives the state the right to “overrule individual right or property right to preserve the health, safety, and welfare of the people [1, p. 14].” Thus, the state has the right to regulate and restrict activities which are dangerous to public health (perhaps to include activities which offend public decency). However, as the prosecution pointed out in the case, “Under the statute under review, the employment of women is expressly recognized as proper, and the business in which they are to be employed is not hazardous, dangerous, or immoral [1, p. 136].” No evidence was offered supporting the claim that women are more susceptible to strain or injury from long hours of work, though the claim was repeated several
times from different sources. The prosecution additionally pointed out that placing the limit at ten hours was particularly arbitrary, and had no more foundation in fact than eleven hours or eight hours.

2 Analysis

Infrequent successes such as the 1909 shirtwaist strike connected with the National Women’s Trade Union League notwithstanding, women had been largely unsuccessful at leveraging their collective bargaining power [1, p. 8-11]. So, while men secured better working conditions through their trade unions, women continued to face the demands of greedy, demanding, and often uneducated employers. Thus, however discriminatory, Oregon’s law restricting the hours that women could work in certain occupations, and the Supreme Court’s ruling upholding that law, did serve to protect women workers.

Justice David J. Brewer, in delivering the unanimous opinion, began by noting the extensive existing legislation and prior judgments “...significant of a widespread belief that woman’s physical structure, and the functions she performs in consequence thereof, justify special legislation...[1, p. 148]”. The court’s opinion held that women were at a physical disadvantage, both in strength and structure, and especially “...when the burdens of motherhood are upon her [1, p. 148].” This was particularly distressing to the court, as “...physical well-being of the woman becomes an object of public interest and care in order to preserve the strength and vigor of the race [1, p. 148].” Through the trial, the defense had described, through broad sociological evidence, many perceived differences between men
and women. Justice Brewer summarized:

“The two sexes differ in structure of body, in the functions to be performed by each, in the amount of physical strength, in the capacity for long-continued labor, particularly when done standing, the influence of vigorous health upon the future well-being of the race, the self-reliance which enables one to assert full rights, and in the capacity to maintain the struggle for subsistence.” [1, p. 149]

And so, the court concluded that in spite of the increase in women’s personal rights, they “...will still be where some legislation to protect her seems necessary to secure a real equality of right [1, p. 149].”

That protection was not well-received by all women, however. Many saw such laws as impediments toward general equality for women, promoting the idea that “...women must be protected,’ that they must ‘shrink’ from meeting men on the level ground of equality... [1, p. 167]” Other reformers celebrated the decision, seeing protective laws for women workers as “...an ‘entering wedge’ for protective laws for all workers [1, p. 9].” They hoped to expand on existing laws for women, and broaden them to apply to men, and to pass more laws to improve working conditions in other occupations.

One notable beneficial outcome of the Muller v. Oregon ruling was that the court began to accept sociological and scientific evidence, in addition to purely judicial and legal arguments. Now, the court was open to respond to questions of fact, as well as questions of law. Aside from that positive note, the overall results of the case represented the worst fears of all parties involved. Though the reformers succeeded in defending the Oregon statue limiting
women’s working hours, and consequently similar statues elsewhere, the adoption of those statues failed to serve as the desired “entering wedge” which they hoped would lead to broad labor reform. Because they had won on the grounds of gender differences, they could not claim that similar reforms were needed for all workers. Recovering from that setback and implementing the desired reforms became a much greater struggle. Further, the ruling cemented in the courts and in society certain assumed inferiorities in women. Separating truth from fiction and repairing the misconceptions remains an ongoing effort. And lastly, the laissez-faire policies in government, which were so dear to employers and industry, began to crumple in the face of increasing economic regulation.
References