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Constitutional Law - Equal Protection of the Law - Garnishee Act

Constitutional Law — Equal Protection of the Law — Garnishee Act. Appellant was a judgment debtor and sought to enjoin appellees, a justice of the peace and a constable, from issuing and levying an execution upon 10 per cent of the wages due appellant from his employer. Appellees would have been acting pursuant to the terms of Chapter 61, Acts 1925, commonly known as the Indiana Garnishee Law of 1925. Thus the issues raised the validity of this act. Held, the Garnishee Law violates Section 23, Article 1 of the Bill of Rights of the Indiana Constitution, as well as the equal protection clause of the Fourteenth Amendment of the Federal Constitution.[1]

Declaring unconstitutional a garnishment statute is rather novel in view of the fact that there were garnishee laws even as far back as colonial days,[2] and that today such proceedings are generally authorized throughout the states.[3] Thus, to better understand the action of the court here, it is well to bear in mind the constitutional and statutory provisions relevant to this question as they were admirably set out in the principal case.

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[23] Frank v. Mangum (1915), 237 U. S. 309 (Ga.); Waterman and Overton, Federal Habeas Corpus Statutes and Moore v. Dempsey (1933), 1 U. Chi. L. Q. 307.

[24] Jordan v. Massachusetts (1912), 225 Mass. 167, 114 N. E. 291; Crane v. Hahlo (1922), 258 U. S. 147 (N. Y.).

[25] State of Ohio v. Akron Metropolitan Park Dist. (1930), 281 U. S. 74 (Ohio).

[26] International Shoe Co. v. Federal Trade Commission (1930), 280 U. S. 291 (C. C. A).

[27] R. G. Lydy, Inc. v. City of Chicago (1934), 356 Ill. 230, 190 N. E. 273; People v. Belcastro (1934), 356 Ill. 144, 190 N. E. 301; Wulzen v. San Francisco (1894), 101 Cal. 15, 20, 35 P. 353; McKinster v. Sager (1904), 163 Ind. 671, 72 N. E. 854; Hovey v. Elliott (1897), 167 U. S. 409 (N. Y.).

[28] Willis, Due Process of Law Under the United States Constitution (1926), 74 U. of Pa. L. Rev. 339.

[1] Martin v. Loula (1935), 194 N. E. 178 (Ind.).

[2] Treadway v. Andrews (1850), 20 Conn. 384, 392, referring to statute of 1784; Ancient Charters and Laws, Mass. Bay, c. 267.

[3] 28 C. J. 17.

The 1925 Garnishee Law simply provides for the service of execution upon any individual or firm from whom is due to a judgment debtor any debts, earnings, salary, wages, income from trust funds, or profits, such execution to become a lien not to exceed 10 per cent of the amount due the judgment debtor and to be a continuing levy until the entire execution is satisfied. This execution is only issued after an execution on a previous judgment has been returned unsatisfied, and the act specifically provides for its issue "notwithstanding any exemption laws now in force."[4] But the Bill of Rights of the state Constitution sets out the necessity of wholesome exemption laws to apply to debtors,[5] and such provision being ineffectual without legislative action[6] the General Assembly subsequently enacted such laws. Thus, at the time of the passage of the Garnishee Act of 1925, the property of any resident householder not exceeding $600 was exempt from execution processes,[7] this being increased to $1,000 in 1933 if the judgment debtor owned real property.[8] Then, when the Garnishee Law was provided for, the only question which seemed to present itself was whether the executions on wages, income, etc., therein provided for were also subject to the general exemption laws, and it was held that they were not.[9] Thus, the law had the effect of removing those enumerated sources of income from the scope of the exemption laws applicable to all other debtors.

At first blush the constitutional question involved would seem to be whether or not the legislature had violated the mandate of Section 22, Article 1 of the Indiana Constitution calling for reasonable exemption laws. But that the legislature is not bound by any rigid rules as to the enactment or retention of exemption provisions is evidenced by the statutes denying exemption against holders of mechanic's liens, purchase money obligations, or taxes[10] and decisions denying it against claims for alimony[11] or to one not a resident householder at the time although subsequently becoming so.[12] However, the determining constitutional point now presented was whether the Garnishee Law infringed upon any of the personal guarantees of the Constitution, and it is upon one of these governmental rocks that the Indiana Supreme Court smashed the small-time creditors' most efficacious method of recovering from even the smallest wage-earner.

The Indiana Constitution enjoins the General Assembly from granting to "any citizen or class of citizens privileges or immunities which upon the same terms shall not equally belong to all citizens"[13] and this is reiterated in the famous last clause of the Fourteenth Amendment to the Federal Constitution prohibiting a state from legislating so as to "deny to any person within its jurisdiction the equal protection of the laws." The instant case has held that to permit a judgment creditor to levy execution upon 10 per cent of the "debts, earnings, salaries, wages, income from trust funds, or profits" due and owing to the judgment debtor, or which thereafter becomes due and owing to him, is a denial of the equal protection of the exemption laws of Indiana. The opinion points out the alleged arbitrary classification of debtors

4 Indiana Acts, 1925, c. 61.
5 Indiana Constitution, Art. 1, sec. 22.
6 Green v. Aker (1858), 11 Ind. 223; Coppage v. Gregg (1891), 1 Ind. App. 112, 27 N. E. 570; Beard v. Indianapolis Fancy Grocery Co. (1913), 180 Ind. 536, 103 N. E. 404.
7 Burns' 1926, sec. 769.
8 Burns' 1933, sec. 2-3501.
9 Lauer Auto Co. v. Moody (1926), 85 Ind. App. 112, 154 N. E. 501; 2 Ind. L. J. 620.
10 Burns' 1926, sec. 782.
11 Menzie v. Anderson (1879), 65 Ind. 239.
12 Miller v. Swhier (1907), 40 Ind. App. 465, 79 N. E. 1092; Finley v. Sly (1873), 44 Ind. 266, 269; 2 Ind. L. J. 620, 621.
13 Indiana Constitution, Art. 1, sec. 23.

in that a judgment debtor with $600 in cash or goods is exempt from his contractual obligations while another with that amount in the bank or even with no property but with some sort of income is not exempt to the extent of that income.

Now it is the purpose of the above constitutional guarantees to give general protection against arbitrary and discriminating social control.[14] As set out by the court in a case involving the federal clause, "The inhibition of the amendment . . . was designed to prevent any person or class of persons from being singled out as a special subject for discriminating and hostile legislation."[15] Although class legislation is forbidden, a classification which rests upon reasonable grounds of distinction is not.[16] Where there are rational grounds for so doing, persons or their properties may be grouped into classes to each of which specific legal rights or liabilities may be attached.[17] Whether an act which denies to wage-earners and others set out by this statute, the shield of the exemption laws against their judgment debtors is, or is not, a reasonable classification would require for its answer a too lengthy discussion of the social, economic, and possibly even political factors which must certainly have influenced the result here. It is submitted that this decision is a more stringent application of the quality clause than even the United States Supreme Court has applied in many other cases involving legislative classifications for various purposes.

The best recent example of comparable latitude in such discrimination is found in the case of Board of Tax Commissioners v. Jackson[18] wherein the Indiana Chain Store Tax Law[19] was held not to be an arbitrary classification but founded on a reasonable distinction. This court has also upheld separate tax classifications for national banks and various other financial businesses.[20] In fact, it has been in the field of taxation especially, where variety and flexibility are, if not exactly desirable, certainly popular, that the Supreme Court has not enforced an iron rule of equality.[21] Somewhat more analogous to the equality clause problem in the principal case was the statute under consideration in Life and Casualty Co. v. McCray[22] where the court held an Arkansas statute imposing on insurance companies additional damages for failure to pay a claim was not a denial of the equal protection of the laws by imposing on a single class of debtors penalties to compel them to pay their debts.[23] Similar statutes involving penalties in the form of special damages for failure to pay promptly a particular class of claims against debtors generally,[24] claims against railroads arising from the breach of a duty undertaken on entering upon the discharge of a public function,[25] and claims against insurers[26] were considered by the

14 Willis, Treatise on Constitutional Law (to be published), Chap. XV; Cincinnati, etc., Ry. v. McCullom (1915), 183 Ind. 556, affirmed 245 U. S. 632.

15 Pembina Mining Co. v. Pennsylvania (1888), 125 U. S. 181, 188.

16 Barbier v. Connolly (1885), 113 U. S. 27; Southern Ry. v. Green (1910), 216 U. S. 400; Sperry & Hutchinson Co. v. State (1919), 188 Ind. 173, 122 N. E. 584; Shideler v. Martin (1922), 192 Ind. 574, 136 N. E. 1, 137 N. E. 528; Baldwin v. State (1923), 194 Ind. 303, 141 N. E. 343.

17 Willoughby, Constitutional Law (1929), sec. 1269.

18 (1931) 283 U. S. 527; 7 Ind. L. J. 179.

19 Ind. Acts 1929, c. 207.

20 First National Bank v. Louisiana Tax Comm. (1933), 289 U. S. 60.

21 Ohio Oil Co. v. Conway (1930), 281 U. S. 146.

22 (1934) 291 U. S. 566.

23 19 Minn. L. R. 119.

24 Missouri, etc., Ry. v. Cade (1914), 233 U. S. 642.

25 Atchison, etc., R. R. v. Matthews (1899), 174 U. S. 96; Seaboard Air Line v. Seegers (1907), 207 U. S. 73.

26 Fidelity Mutual Life Assn. v. Mettler (1902), 185 U. S. 308.

court as merely "a reasonable incentive for the prompt settlement, without suit, of a class of just demands admitting of special legislative treatment."[27]

Of course, it is not contended that the Indiana Garnishee Law came within the reasonable classification requirements to which the above cases give lip service, but it is submitted that our state Supreme Court has taken a step away from the higher court's position of reluctance to disturb these legislative divisions. Nor is the unyielding certainty of the court as to the unreasonableness of so classifying debtors entirely invulnerable. Even assuming the wage earners' need of protection since it is inherent in the modern extensive use of credit that he will assume obligation beyond his means, yet absolute prohibition of garnishment gives that protection at a disproportionate cost to the creditor.[28] As Professor Brown points out,[29] the debtor can still enjoy 90% of his income free from any claims and the probabilities of actual hardship because of such levy is extremely doubtful. In view of the Indiana law invalidating assignments of future wages,[30] the Garnishee Law of 1925, although naturally unpopular, was, however, one of the least defective solutions to the above creditor-debtor situation.[31] However this may be the next step in Indiana lies with the legislature.

H. A. A.

Constitutional Law—Validity of the Uniform Declaratory Judgment Act. Appellee prayed for a determination of the rights and obligations of the parties under a written contract for the sale of shares of stock in a corporation. Although the complaint alleged no invasion of appellee's rights, the lower court acknowledged the prayer in a judgment rendered pursuant to the Indiana enactment of the Uniform Declaratory Judgment Act. The judgment pronounced the rights and obligations which devolved upon the parties from the construction which the court placed upon the disputed provisions of the contract. This appeal challenges the constitutionality of the statute. Held, the Uniform Declaratory Judgment Act does not offend the Indiana constitution.[1]

Although a complete realization of the value of preventative justice is an account in modern history, the declaratory judgment is not an adventure in the judicial process. Here, as elsewhere in the evolution of human understanding, discovery is nothing more than a consciousness of the old. When the first judgment was rendered in favor of a defendant a declaratory judgment was given. There was no consequential relief demanding execution; no one was summoned to conduct or reprimanded for conduct; it was merely a declaration that a duty did not exist, or, if the duty and its correlative right did exist, there had been no violation. More pronounced illustrations are readily available in the history of Anglo-American jurisprudence. An action to remove cloud from title, the giving of instructions to a trustee, the founding of boundary lines, a suit to construe a will, quia timet—all carry the impress of their modern sequel, the declaratory judgment.[2] History, then, is in accord with the recent decisions which have sustained preventative justice.

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27 Yazoo, etc., R. R. v. Jackson Vinegar Co. (1912), 226 U. S. 217; 19 Minn. L. R. 119.

28 45 Harv. L. R. 1102.

29 2 Ind. L. J. 620, 624.

30 Burns' 1933, sec. 40-201.

31 Compare other legislative devices set out in 45 Harv. L. R. 1102.

1 Rauh v. Fletcher Savings & Trust Co. (1935), 194 N. E. 334 (Ind. Sup. Ct.).

2 Nashville, C. & St. L. R. Co. v. Wallace (1933), 288 U. S. 249; State ex rel. Hopkins v. Grove (1922), 109 Kan. 619, 201 Pac. 82; Farabaugh and Arnold, The Uniform Declaratory Judgments Act (1928), 3 Ind. L. J. 351.