

MAINE STATE LEGISLATURE

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March 28, 1972

Madge E. Ames, Dir. Minimum Wage
Leon V. Walker, Jr., Assistant

Labor and Industry
Attorney General

Samuel B. Gass, Inc. - Overtime for Truck Drivers

SYLLABUS:

Since Maine minimum wage and overtime laws (26 M.R.S.A. § 664) are for the protection of workers' health and welfare, and for the protection of industry or business and to enhance public health, safety and welfare, amendments of these laws may modify the provisions of existing labor contracts with respect to minimum wages and payments of overtime in the exercise of the police power without violating M.R.S.A. Const., Article I, § 11, which provides that the legislature shall pass no law impairing the obligation of contracts.

FACTS:

Prior to January 1, 1972, the drivers employed by Samuel B. Gass, Inc. to carry grain from Samuel Lipman Sons' feed mill to the Lipman broiler farms were included in the definition of agriculture under the Employment Security Law and were thus exempt from the minimum wage and overtime provisions of 26 M.R.S.A. §§ 661 - 672, as amended. By P.L. 1971, Chapter 538, the definition of "agriculture" was amended so that these drivers were not exempt after the effective date of the Act, January 1, 1972.

These employees are paid more than the minimum wage, but are receiving overtime only for hours worked in excess of 49 in any week under the terms of a union contract which provided for overtime after 50 hours during the period September 1, 1970, to September 1, 1971; after 49 hours from September 1, 1971, to September 1972; and after 48 hours from September 1, 1972 to September 1, 1973, the expiration date of the contract.

Effective January 1, 1972, Maine law (26 M.R.S.A. § 664) requires payment of overtime after 40 hours in any week.

The employer claims that the law is not applicable to him because M.R.S.A. Const., Art. I, § 11, provides that "the legislature shall pass no . . . law impairing the obligation of contracts"

QUESTION:

May the Legislature amend 26 M.R.S.A. § 664 with regard to payment of overtime, or minimum wages, with the resultant effect of modifying existing labor contracts to the benefit of the employees?

ANSWER:

Yes.

REASON:

The prevailing doctrine is that private contracts may be subject to the police power of the State. As stated by the United States Supreme Court, "it is the settled law . . . that the interdiction of statutes impairing the obligation of contracts does not prevent the State from exercising such powers as are vested in it for the promotion of the common weal, or are necessary for the general good of the public, though contracts previously entered into between individuals may be thereby affected In other words, that parties by entering into contracts may not estop the legislature from enacting laws intended for the public good." Manigault v. Springs, 199 U.S. 473, 480.

Thus, contracts of employment have been modified by later laws regarding the liability of employers and workmen's compensation.

State laws regulating wages and hours are a proper exercise of the police power to which labor contracts are subject. 51 C.J.S. "Labor Relations", § 219.

26 M.R.S.A. § 661 provides that "it is the declared public policy of the State of Maine that workers employed in any occupation should receive wages sufficient to provide adequate maintenance to protect their health and to be fairly commensurate with the value of the services rendered." And § 664, which sets forth the rates of minimum wages and the provisions for overtime pay, states that "by reason of the declaration of policy set forth in section 661 and in the protection of the industry or business and in the enhancement of public interest, health, safety and welfare, it is declared unlawful for any employer to employ any employee except as otherwise provided in this subchapter "

In view of the above, it is our opinion that the reference employees must be paid in accordance with 26 M.R.S.A. § 664, as amended, despite the terms of their contract of employment, since such regulation of wages and hours by the legislature is a valid exercise of the police power, and is not proscribed by M.R.S.A. Const. Art I, § 11, which provides that the legislature shall pass no law impairing the obligation of contracts.

Leon V. Walker, Jr.
Assistant Attorney General

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