

Nunnemacher v. State
129 Wis. 190 (1906)

In this case, the Wisconsin Supreme Court upheld a tax on inheritance, one of the key laws of the Progressives. In issuing this opinion, the Court departed from a course charted by many courts around the nation which had found a natural right to inherit and had determined that legislatures could not interfere with this right by levying a tax. Justice John B. Winslow wrote the majority opinion, Justice Roujet Marshall wrote a concurring opinion and Justice Joshua Eric Dodge and Chief Justice John B. Cassoday filed dissenting opinions.

Nunnemacher had filed a complaint against the state, asking the Court to order reimbursement for the amount of tax he paid on an inheritance. He argued that Chapter 44 of the Laws of 1903^{*}, which gave the state the authority to tax inheritances, was unconstitutional.

The Court had previously dealt with this issue in *Black v. State*^{**} and found the statute unconstitutional. However, the basis for that decision was that the law discriminated in its classifications of who was, and was not, taxed.

In Nunnemacher, the Court did not question the belief that property rights were inherent and protected by the government; however, it did question the assertion that inheritance taxes were forbidden. The Court asserted that the inheritance tax was based on the right of governments to regulate and tax certain transactions.

The petitioner argued that the Wisconsin Constitution only allowed for taxes to be collected on property. Justice Winslow, writing for the Court, noted that the issue of whether only property was taxable had not been dealt with previously: “it seems strange that, notwithstanding the lapse of nearly three score years since the adoption of the Constitution, this question has never been authoritatively decided in Wisconsin.” Examining records from the state constitutional convention, the Court found that the framers did not intend to prohibit an inheritance tax.

The Court also dealt with the issue of whether Chapter 44 of the Laws of 1903 provided for the levying of taxes in a discriminatory manner. For discrimination to be justified, the Court said, there must be a real basis for the different classifications. For example, the Court said, a case involving the inheritance of a “wife or daughter deprived by death of the care and support of her natural protector” called for different treatment than a case arising from the inheritance of a distant relative. The Court therefore found that the different classifications in this law were not unfairly discriminatory.

Justice Marshall wrote in his dissenting opinion that he believed the classifications were unjust. He wrote: “Nothing seems to me more an outrage upon equal rights than discrimination by the law in favor of or against either the poor or the rich by reason of that fact, and nothing seems more to threaten the permanence and safety of society.”

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^{*} Wis. Stat. ch. 44 (Laws of 1903) dealt with the tax rate which was determined based on the property value of the inheritance: “(1.) Upon all in excess of twenty-five thousand dollars and up to fifty thousand dollars one and one-half the primary rates. . . [in exemptions section] (2.) Property of the clear value of ten thousand dollars transferred to the widow of the decedent, and two thousand dollars transferred to each of the other persons described in the first division of section two shall be exempt.” These included brothers, sisters, nieces, nephews, daughters-in-law, and sons-in-law of the deceased.

^{**} 113 Wis. 205

Borgnis and others v. The Falk Company

147 Wis. 327 (1911)

In this case, the Wisconsin Supreme Court unanimously upheld a law creating workers' compensation and strengthened the rights of employees by finding that the law even covered individuals employed in "non-hazardous" trades, reversing a ruling of the Milwaukee County Circuit Court. The majority opinion was written by Chief Justice John B. Winslow. Justices John Barnes and Roujet D. Marshall wrote concurring opinions.

In this case, the Wisconsin Supreme Court unanimously upheld the constitutionality of the Workers Compensation Act of 1911.

The respondents in the case (Borgnis, et al) were employed in supervisory positions at Falk Company, a Milwaukee manufacturing company. Falk argued that although workplace safety conditions needed to be improved, the Act should not be extended to include people who were, like Borgnis, working in "non-hazardous trades." The Court disagreed.

Adding 32 sections to the Wisconsin Statutes, the Workers Compensation Act outlined, according to Chief Justice Winslow:

(A) way by which employer and employed may, if they so choose, escape entirely from that very troublesome and economically absurd luxury known as personal injury litigation and resort to a system by which every employee not guilty of willful misconduct may receive at once a reasonable recompense for injuries accidentally received in his employment under certain fixed rules, without a lawsuit and without friction.

Justice Marshall agreed on the value of the new law, writing:

May it (the legislation) be the beginning of a well rounded out constitutional system making every one who consumes any product of labor for hire pay his proportionate amount of the cost of the creation representing the personal injury misfortunes of those whose hands have enable him to secure the objects of human desire...

Among other things the Act stated that all injured parties must have an examination by a physician, upon the employer's request. The Act also clearly spelled out the definition of an employee.

Winslow stated that the Workers Compensation Act was a legislative response to a public demand to remedy a problem brought on by modern industrialism. Marshall said the Legislature had intended to induce employers to voluntarily "become parties to the new system designed to better conserve human life and human happiness." The Court's role, the justices emphasized, was simply to determine if any provisions of the Act violated the Constitution.