

ing mine managers and mine examiners, and imposing liability upon mine owners for failure to furnish a reasonably safe place for workmen, were upheld during this period.<sup>112</sup> Other similar regulations that were sustained included laws requiring that underground passageways meet or exceed a minimum width,<sup>113</sup> that boundary pillars be installed between adjoining coal properties as a protection against flood in case of abandonment,<sup>114</sup> and that wash houses be provided for employees.<sup>115</sup>

One of the more significant negative holdings of the *Lochner* era was that states could not regulate how much wages were to be paid to employees.<sup>116</sup> As with the other working condition and wage issues, however, concern for the welfare of women and children seemed to weigh heavily on the justices, and restrictions on minimum wages for these groups were discarded in 1937.<sup>117</sup> Ultimately, the reasoning of these cases was extended to more broadly based minimum wage laws, as the Court began to offer significant deference to the states to enact economic and social legislation benefitting labor.

The modern theory regarding substantive due process and wage regulation was explained by Justice Douglas in 1952 in the following terms: “Our recent decisions make plain that we do not sit as a super-legislature to weigh the wisdom of legislation nor to decide whether the policy which it expresses offends the public welfare. The legislative power has limits. . . . But the state legislatures have constitutional authority to experiment with new techniques; they are entitled to their own standard of the public welfare; they may within extremely broad limits control practices in the business-labor field, so long as specific constitutional prohibitions are not violated and so long as conflicts with valid and controlling federal laws are avoided.”<sup>118</sup>

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<sup>112</sup> *Wilmington Mining Co. v. Fulton*, 205 U.S. 60 (1907).

<sup>113</sup> *Barrett v. Indiana*, 229 U.S. 26 (1913).

<sup>114</sup> *Plymouth Coal Co. v. Pennsylvania*, 232 U.S. 531 (1914).

<sup>115</sup> *Booth v. Indiana*, 237 U.S. 391 (1915).

<sup>116</sup> *Adkins v. Children's Hospital*, 261 U.S. 525 (1923); *Stettler v. O'Hara*, 243 U.S. 629 (1917); *Morehead v. New York ex rel. Tipaldo*, 298 U.S. 587 (1936).

<sup>117</sup> *West Coast Hotel Co. v. Parrish*, 300 U.S. 379 (1937) (overruling *Adkins v. Children's Hospital*, 261 U.S. 525 (1923), a Fifth Amendment case); *Morehead v. New York ex rel. Tipaldo*, 298 U.S. 587 (1936).

<sup>118</sup> *Day-Brite Lighting, Inc. v. Missouri*, 342 U.S. 421, 423 (1952) (sustaining a Missouri statute giving employees the right to absent themselves for four hours while the polls were open on election day without deduction of wages for their absence). The Court in *Day-Brite Lighting, Inc.* recognized that the legislation in question served as a form of wage control for men, which had previously found unconstitutional. Justice Douglas, however, wrote that “the protection of the right of suffrage under our scheme of things is basic and fundamental,” and hence within the states’ police power.