New York,[93] the Court found that a law restricting employment in bakeries to ten hours per day and 60 hours per week was not a true health measure, but was merely a labor regulation, and thus was an unconstitutional interference with the right of adult laborers, *sui juris*, to contract for their means of livelihood. Denying that the Court was substituting its own judgment for that of the legislature, Justice Peckham nevertheless maintained that whether the act was within the police power of the state was a "question that must be answered by the Court." Then, in disregard of the medical evidence proffered, the Justice stated: "In looking through statistics regarding all trades and occupations, it may be true that the trade of a baker does not appear to be as healthy as some other trades, and is also vastly more healthy than still others. To the common understanding the trade of a baker has never been regarded as an unhealthy one. . . . It might be safely affirmed that almost all occupations more or less affect the health. . . . But are we all, on that account, at the mercy of the legislative majorities?" [94]

Justice Harlan, in dissent, asserted that the law was a health regulation, pointing to the abundance of medical testimony tending to show that the life expectancy of bakers was below average, that their capacity to resist diseases was low, and that they were peculiarly prone to suffer irritations of the eyes, lungs, and bronchial passages. He concluded that the very existence of such evidence left the reasonableness of the measure open to discussion and thus within the discretion of the legislature. "The responsibility therefor rests upon the legislators, not upon the courts. No evils arising from such legislation could be more far-reaching than those that might come to our system of government if the judiciary, abandoning the sphere assigned to it by the fundamental law, should enter the domain of legislation, and upon grounds merely of justice or reason or wisdom annul statutes that had received the sanction of the people's representatives. . . . [L]egislative enactments should be recognized and enforced by the courts as embodying the will of the people, unless they are plainly and palpably, beyond all question, in violation of the fundamental law of the Constitution." [95]

A second dissenting opinion, written by Justice Holmes, has received the greater measure of attention as a forecast of the line of reasoning the Court was to follow some decades later. "This case is decided upon an economic theory which a large part of the country does not entertain. If it were a question whether I agreed with that theory, I should desire to study it further and long before making

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[93] 198 U.S. 45 (1905).
[94] 198 U.S. at 59.
[95] 198 U.S. at 74 (quoting Atkin v. Kansas, 191 U.S. 207, 223 (1903)).