under the methods in vogue among the carriers, as pointed out in that decision, was clearly a regulation to protect the shipper and secure unity of transportation with unity of responsibility. It is clearly not analogous to the case under discussion. The regulation bears a substantial relation to interstate commerce, but the case does not stand for the proposition that any absolute liability imposed on a common carrier for the negligence of its employees is necessarily so related. On the other hand it has been decided that a statute making it a crime for a common carrier engaged in interstate commerce to discharge an employee because of his membership in a labor union is not a "regulation of commerce." [22] It would seem that "a provision of law which will prevent or tend to prevent the stoppage of every wheel in every car of an entire railroad system certainly has as direct an influence on interstate commerce as the way in which one car may be coupled to another or the rule of liability for personal injuries to an employee." [23] Perhaps there exist excellent economic reasons for condemning this latter act, and approving the Liability Act, but it is submitted that this question being one of policy is not for the court in passing on the question of the constitutionality of the act.

It is not doubted that if Congress could impose the liability in question, it has the power to prohibit any contract in evasion of it, and the provision of the act declaring such contract void is not repugnant to the Fifth Amendment as an interference with the liberty of contract.[24] *E. H. B., Jr.*

CONSTITUTIONAL LAW—VALIDITY OF A STATUTE REGULATING THE ASSIGNMENT OF WAGES.—Moved by the dishonest and oppressive tactics of persons who made a business of lending money on the security of wages and salaries, the Massachusetts legislature passed an act,[1] which makes invalid as against the employer of the assignor, any assignment of, or order for, wages to be earned in the future, given to secure a loan of less than two hundred dollars, until the assignment or order be accepted in writing by the employer and filed, together with the acceptance, with the clerk of the city or town in the place of residence of the employee. If the person so assigning his wages is married, the written consent of his wife must be appended to the assignment.

The state Supreme Court upheld the constitutionality of this statute.[2] The "loan sharks" whose occupation was thus taken away

[22] Adair v. U. S., 208 U. S. 161 (1907).

[23] Adair v. U. S., *supra*, dissenting opinion, McKenna, J., p. 189.

[24] Chicago, B. & Q. R. Co. v. McGuire, 219 U. S. 549 (1910); Eddystone Pipe & Steel Co. v. U. S., 175 U. S. 228 (1899); B. & O. R. Co. v. Interstate Commerce Com., 221 U. S. 612 (1910).

[1] Mass. Laws, 1908, Chap. 605, secs. 7, 8.

[2] Mutual Loan Co. v. Martell, 200 Mass. 482 (1909).

from them, appealed the case to the Supreme Court of the United States, where the decision of the Massachusetts court was sustained.[3]

The protection of the wage-earner in his relations with his employer has been a fruitful subject of legislative enactment and judicial decision. The early attitude of the courts seems to have been that the liberty to contract, impliedly protected by the Constitution, could not be infringed even by legislation looking to the welfare of the laborer. The question has frequently come up under statutes regulating the hours of work, and the manner of paying wages earned. Different states have reached opposite conclusions on the same questions. A requirement that wages be paid in money and not in company store orders, was held unconstitutional in Illinois[4] and in Pennsylvania;[5] but in Indiana[6] and West Virginia[7] such a regulation was declared valid. The same diversity of opinion is found on the constitutionality of a requirement that wages be paid semi-monthly.[8] Other conflicts on similar questions might be mentioned.

The United States Supreme Court has shown a remarkable uniformity in holding constitutional state laws regulating the manner of earning, and the mode of paying and receiving wages. In Holden v. Hardy,[9] and in Muller v. Oregon,[10] the regulation of the hours of labor for men and women was upheld. In Knoxville Iron Co. v. Harbeson,[11] a requirement that wages be paid in money was held valid. In McLean v. Arkansas,[12] the court, in passing on the constitutionality of a law requiring that wages paid to miners be determined by the weight of the coal at the mouth of the pit, took a position adverse to the decisions of the courts of Illinois.[13]

In recent years the legislatures of various states have extended their regulation of wages and salaries so as to protect their receipt. The pernicious and improper activities of men who, having lent money at usurious rates, have taken assignments of future wages as security, have been so extensive as to require some restrictive regulation. Acting under the police power to promote the welfare and happiness of their citizens, the legislatures have declared such

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[3] Mutual Loan Co. v. Martell, 32 Sup. Ct. Rep. 74 (1911).

[4] Frorer v. People, 141 Ill. 171 (1892).

[5] Godcharles v. Wigiman, 113 Pa. 431 (1886).

[6] Handcock v. Yaden, 121 Ind. 366 (1889).

[7] State v. Coal Co., 36 W. Va. 802 (1892), reversing State v. Goodwill, 33 W. Va. 179 (1889).

[8] Lawrence v. Rutland R. R. Co., 80 Vt. 370 (1907); Republic I. & S. Co. v. State, 160 Ind. 379 (1902).

[9] 169 U. S. 366 (1898).

[10] 208 U. S. 412 (1908).

[11] 183 U. S. 13 (1901).

[12] 211 U. S. 539 (1909).

[13] Ramsey v. People, 142 Ill. 380 (1892).

assignments void, unless executed with formalities somewhat similar to those required by the Massachusetts statute in question in the principal case.

Whether or not such acts of legislatures are a permissible infringement of the free right to contract, is a question which must be decided with due regard to the magnitude of the evil to be corrected and the reasonableness of the means used for that purpose,[14] The courts have long since receded from the position which the Supreme Court of Pennsylvania took in 1886,[15] when it held that an act to compel the payment of wages in cash was "an insulting attempt to put the laborer under legislative tutelage, which is not only disgracing to his manhood, but subversive of his rights as a citizen of the United States." In fact, the same court, only one year later, held,[16] even without legislative enactment, that an assignment of future earnings by one not under contract is so opposed to public policy as to be void. The court shows that if such assignments were held good, necessity or inclination for present comforts would induce the wage-earner into an improvident mortgage of his future. The effect of this upon society would be worse than if the man had sold himself into slavery, for the slave has at least the incentive of the driver's whip to keep him at work, while the man, whose wages are sure to be taken before he receives them, has no incentive to labor at all.

The courts of other states have held constitutional legislative acts declaring assignments made without certain formalities void for similar reasons, without referring very strongly to the elements of dishonesty and oppression inherent in the transactions of the persons lending money on such assignments.[17] On the other hand, the courts of Illinois have consistently held that the free right to contract may not be infringed even when the legislature has thought that freedom to make certain contracts was detrimental to the individual contracting, and to society as a whole. This attitude is seen in Massie v. Cessna,[18] where an act similar to the Massachusetts statute was held unconstitutional. The act applied to all assignments of wages and salaries, and the opinion of the court intimated that an act limited to wages and low salaries, which are most in need of protection, might be enforced. From this concession to the weight of authority two judges dissented, but their position is hardly tenable after the decision by the United States Supreme Court.

L. P. S.

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[14] Engel v. O'Malley, 219 U. S. 128 (1910).

[15] Godcharles v. Wigiman, 113 Pa. 431 (1886).

[16] L. V. R. R. v. Woodring, 116 Pa. 513 (1887).

[17] International Text Book Co. v. Weislinger, 160 Ind. 349 (1902).

[18] 239 Ill. 352 (1909).