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JACOB D. FUCHSBERG LAW CENTER
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Touro Law Review

Volume 9 | Number 3

Article 18

1993

Due Process

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Recommended Citation

(1993) "Due Process," *Touro Law Review*. Vol. 9: No. 3, Article 18.

Available at: <https://digitalcommons.tourolaw.edu/lawreview/vol9/iss3/18>

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policies.²⁰⁴ Furthermore, “the Fourteenth Amendment was not intended to compel the state to adopt an iron rule of equal taxation”²⁰⁵

Traditionally classification has been a device for fitting tax programs to local needs and usages in order to achieve an equitable distribution of the tax burden [T]he presumption of constitutionality can be overcome only by the most explicit demonstration that a classification is a hostile and oppressive discrimination against particular persons and class.²⁰⁶

In *Madden*, the Supreme Court concluded that neither the Due Process Clause nor the Equal Protection Clause was violated when Kentucky imposed a higher tax on deposits made in banks outside of Kentucky banks than deposits made in Kentucky banks.²⁰⁷ There was a rational basis for the difference in the tax rate, namely, “differences in the difficulties and expenses of tax collection.”²⁰⁸ Consequently, that legislation was upheld.

In conclusion, neither the New York Court of Appeals nor the Supreme Court have imposed a strict standard of review for economic legislation. The rational basis test used by both courts affords state legislatures great deference in this area. As such, most economic legislation will be upheld under this standard.

WESTCHESTER COUNTY

New York v. Cortlandt Medical Building Associate²⁰⁹
(decided March 17, 1992)

The defendant claimed that his rights to due process and equal protection pursuant to the state²¹⁰ and federal²¹¹ constitutions

204. *Id.* at 87-88 (footnote omitted).

205. *Id.* at 88 (quoting *Bell's Gap R.R. Co. v. Pennsylvania*, 134 U.S. 232, 237 (1980)).

206. *Id.* (footnote omitted).

207. *Id.* at 88-90.

208. *Id.* at 90 (footnote omitted).

209. 153 Misc. 2d 692, 582 N.Y.S.2d 640 (Town Ct. Westchester County 1992).

were violated because section 6-8(A) of the Town of Cortlandt Code²¹² did not provide for a hearing before imposing a fine on him and because the town code imposes different penalties on residential and commercial users.²¹³ The court held that the code was unconstitutional on two grounds. First, the code enabled the Town to take away the defendant's property without affording him a hearing to contest whether the fine was legitimate, thus violating his right to procedural due process.²¹⁴ Second, since the Town failed to provide a rational basis upon which to distinguish between residential and commercial users, the code violated defendant's right to equal protection.²¹⁵

The defendant occupied a commercial building in which four false alarms over a two month period allegedly occurred.²¹⁶ Based upon these alleged false alarms, the defendant was fined \$300.00 pursuant to the code. The defendant refused to pay the fines and the Town brought suit.²¹⁷

The court found that the defendant's due process rights were violated, reasoning that a hearing is required before a person can be divested of a property interest.²¹⁸ The court stated that the town code dictated that fire officials make the sole determination of whether a fire alarm was in fact false. Thus there was no opportunity for the occupant of the building to contest the validity of the officials' determination of a false alarm. Therefore, proce-

210. N.Y. CONST. art. I, §§ 6, 11.

211. U.S. CONST. amend. XIV, § 1, cls. 2, 3.

212. TOWN OF CORTLANDT CODE § 6-8(A). The town code imposes a fine on building owners or lessees for false fire or police alarms that occurred in their buildings. For the first alarm, a residential property owner/lessee receives a warning and a commercial owner/lessee is fined \$50.00. For the second false alarm, and every false alarm thereafter, a residential owner/lessee is fined \$30.00 and a commercial owner/lessee is fined \$100.00. *Cortlandt*, 153 Misc.2d 692-93, 582 N.Y.S.2d at 640.

213. *Cortlandt*, 153 Misc. 2d at 693, 582 N.Y.S.2d at 640-41.

214. *Id.* at 693, 582 N.Y.S.2d at 641.

215. *Id.*

216. *Id.* at 694, 582 N.Y.S.2d at 640.

217. *Id.*

218. *Id.*

dural due process was violated since a fine could be imposed without an opportunity to be heard.²¹⁹

In reaching its conclusion, the court relied on the reasoning of several state and federal due process decisions.²²⁰ For example, in *Commissioner of Labor v. Hinman*,²²¹ the appellate division held that a right to a full hearing within thirty days of imposition of a civil penalty did not violate due process.²²² In *Hinman*, the defendant was fined \$2,400 for employing people to work at her home without obtaining an industrial homework permit.²²³ The defendant petitioned for review thirty-one days after imposition of the fine and was subsequently denied a hearing because she failed to petition for review within thirty days of imposition of the fine.²²⁴ The court reasoned that the defendant had a reasonable opportunity for a hearing up until thirty days after imposition of the civil penalty.²²⁵ The court utilized a balancing test and found "an acceptable balance between the purposes of the legislation and the protection of individual due process rights . . . through the procedure which provides an opportunity for both a meaningful hearing and judicial review."²²⁶

The Federal Due Process Clause²²⁷ offers similar protection to people deprived of their property without an opportunity for a hearing.²²⁸ In *Fuentes v. Shevin*,²²⁹ the United States Supreme Court held that a writ of replevin which orders state agents to

219. *Id.*

220. *Id.*

221. 103 A.D.2d 886, 478 N.Y.S.2d 116 (3d Dep't 1984).

222. *Id.* at 887, 478 N.Y.S.2d at 119.

223. *Id.* at 886, 478 N.Y.S.2d at 118.

224. *Id.* at 886-87, 478 N.Y.S.2d at 119.

225. *Id.*

226. *Id.* at 887, 478 N.Y.S.2d at 119.

227. U.S. CONST. amend. XIV, § 1, cl. 2.

228. *See Goss v. Lopez*, 419 U.S. 565, 579 (1975) (public school students faced with suspension have property and liberty interests qualifying for due process protection); *Fuentes v. Shevin*, 407 U.S. 67, 92 (1972) (purchasers of household goods cannot have their property seized pursuant to pre-judgment replevion statute without appropriate due process safeguards); *Sniadach v. Family Fin. Corp.*, 395 U.S. 337, 342 (1969) (wage garnishment without notice and prior hearing violates procedural due process).

229. 407 U.S. 67 (1972).

seize a person's possessions simply on a private party's summary *ex parte* application violates procedural due process.²³⁰ In *Fuentes*, the plaintiffs challenged Florida and Pennsylvania statutes that permitted private parties to claim a right to property by posting a security bond.²³¹ Neither statute provided for notice or an opportunity for a hearing prior to the seizure of the property;²³² however, the Florida statute did provide for a hearing "after" the seizure of the property.²³³ The Supreme Court noted there are only a few instances when a court is allowed to seize property without an opportunity for a prior hearing,²³⁴ and a claim between private parties, such as the case in *Fuentes*, did not constitute one of the exceptional situations.²³⁵ Consequently, the private party defendants were required to afford plaintiffs an opportunity to be heard *prior* to the taking of their property.²³⁶

As to the equal protection claim, the court in *Cortlandt* held that the town code violated equal protection principles which require that persons similarly situated are required to be treated the same unless there is a valid reason for differentiating between them.²³⁷ Since the town code failed to provide a basis for rationalizing the different treatment between commercial and residential owners/lessees, the court concluded that the defendant's right to equal protection was violated.²³⁸

New York State courts apply a rational relationship test when analyzing equal protection rights in the areas of economics and social welfare.²³⁹ The rational relationship test provides that a

230. *Id.* at 80-83.

231. *Id.* at 69-70.

232. *Id.* at 70.

233. *Id.* at 73-74.

234. *Id.* at 90-92.

235. *Id.* at 93.

236. *Id.* at 88 (citing *Sniadach v. Family Fin. Corp.*, 395 U.S. 337, 342 (1972)).

237. *Cortlandt*, 153 Misc. 2d at 694, 582 N.Y.S.2d at 641.

238. *Id.*

239. See *D'Angelo v. Cole*, 67 N.Y.2d 65, 69, 490 N.E.2d 819, 822, 499 N.Y.S.2d 900, 903 (1986) (ordinance struck down because not reasonably connected to public health, safety, or welfare); *McMinn v. Town of Oyster*

classification is to have a reasonable basis that is rationally related to the law enacted.²⁴⁰ This test affords deference to the judgment of the legislature since the legislature has knowledge of the best means to achieve a desired result, whereas the judiciary may not have this knowledge.²⁴¹

Similarly, federal equal protection requirements provide that if a classification is made based on economic grounds, then the legislature must have a valid reason for the different treatment.²⁴² The statute will be upheld if there is some rational relationship between the means selected by the legislature and the valid legislative objective.²⁴³

Therefore, within the economic and social welfare spheres, both the state and federal constitutions protect citizens from governmental divestiture of their property without having an opportunity of a hearing. In addition, citizens who are similarly situated should be treated the same unless the government can provide a rational basis for the disparate treatment.

Bay, 66 N.Y.2d 544, 549, 488 N.E.2d 1240, 1242, 498 N.Y.S.2d 128, 130-31 (1985) (ordinance's definition of family violates due process as there was no reasonable relation between end sought by regulation and means chosen); *Montgomery v. Daniels*, 38 N.Y.2d 41, 61, 340 N.E.2d 444, 456, 378 N.Y.S.2d 1, 18 (1975) (no-fault insurance law does not involve suspect class thus test of equal protection was rational basis test); *Goldberg v. Corcoran*, 153 A.D.2d 113, 118, 549 N.Y.S.2d 503, 507 (2d Dep't 1989) (insurance statute upheld since it was enacted pursuant to legitimate objectives and means adopted were reasonably related to objective).

240. *Montgomery*, 38 N.Y.2d at 61, 340 N.E.2d at 456, 378 N.Y.S.2d at 18.

241. *Id.* at 53, 340 N.E.2d at 451, 378 N.Y.S.2d at 10.

242. *See Metropolitan Life Ins. Co. v. Ward*, 470 U.S. 869, 879 (1985) (promotion of domestic business by discriminating against non-resident competitors not legitimate state purpose); *United States Dep't of Agric. v. Moreno*, 413 U.S. 528, 534 (1973) (one objective of excluding "hippie communes" is not a legitimate governmental interest).

243. *See, e.g., New Orleans v. Dukes*, 427 U.S. 297, 306 (1976) (excluding street vendors who have worked less than eight years rationally related to state objective preserving the appearance and custom of French Quarter); *Moreno*, 413 U.S. at 533-34 (1973) (limiting federal food stamps to households containing related persons is not rationally related to expressed purposes of statute which was to satisfy nutritional needs and to help nation's agriculture).