

IN THE
SUPREME COURT OF ILLINOIS.

SOUTHERN GRAND DIVISION.

MAY TERM, A. D. 1894.

Ferdinand Bunte,
Plaintiff in Error,
vs.
People of the State of Illinois,
Defendant in Error.

} Error to
Criminal Court,
Cook County.

ABSTRACT OF RECORD.

Page of
Record.

1 **PLACITA.**

2 Transcript from justice of the peace. February 23, 1894, warrant issued; February 23, 1894, defendant appears, waives process, and also waives jury trial, in writing; witnesses sworn and examined; February 28, 1894, court finds defendant guilty, and imposes fine of \$5.00, and costs; March 2, 1894, appeal to Criminal court of Cook county.

3, 4 Complaint of Florence Kelly, factory inspector; says that February 23, 1894, Ferdinand Bunte was owner and manager of a candy manufacturing factory or workshop in Chicago; that on said date, as such manager, defendant employed in the manufacture of candies in said factory

one Mary Breen, an adult female, for more than eight hours of said day; that said Mary Breen, on said date, worked in said factory for said Bunte more than eight hours; that said work consisted exclusively of wrapping peanut candy for wages, measured at so much per hour, fixed and determined by the total number of hours worked.

5 Warrant for arrest of defendant.

6 Appeal bond.

7 April 20, 1894, appearance of parties in Criminal court; defendant waives jury; defendant found guilty and fined five dollars; motion for new trial; motion overruled; objection and exception by defendant.

8 Motion in arrest of judgment; motion overruled; objection and exception by defendant.

Judgment on finding.

Defendant fined five dollars and costs; objection and exception to judgment; appeal prayed and allowed to the Supreme court of Illinois, Southern grand division.

9 Bond and bill of exceptions in twenty days.

11-36 Bill of exceptions.

11 Defendant waives in writing his right to trial by jury.

12 MARY BREEN, a witness for the People, testified:

13 I live at 29 Snell street; worked for defendant February 23, 1894, in his factory, making peanut candy; worked for nine hours, from 8 o'clock until 12; had half an hour for lunch and started from half-past 12 and worked until 5:30; worked for wages and was paid by the week.

Cross-Examination.

14 Have worked for Mr. Bunte for six years; am about
 twenty years old; am not married; I packed peanut
 candy in boxes on that day; it is not very hard work;
 have no written contract with Bunte; am hired by the
 week; I wanted to work more than eight hours; they
 pay me according to the length of time I work; if my
 hours are shorter I get less pay; I need all the money I
 can earn to live on and help support my family; the fac-
 tory is clean and well lighted; they do nothing but manu-
 facture candy.

Re-direct Examintion.

15 I packed the candy into five-pound boxes, standing up
 all day; around Christmas we work until 9 o'clock; I
 worked as many evenings as they wanted me to; some-
 times two or three evenings in succession; commenced at
 8 in the morning and worked until 9 in the evening; had
 half an hour for lunch and for supper; we lunched be-
 16 tween times; kept on working while we were taking
 lunch.

Re-cross Examination.

17 During the week including February 23, 1894, I earned
 about \$3.60; work by the week.

Re-direct Examination.

18 Six years ago I worked ten hours; then I got \$5.50 per
 week; since the eight hour law was passed Mr. Bunte
 provided that I should work nine hours a day and get
 \$3.60 a week.

19

Re-cross Examination.

Worked eight hours usually every day during the last two months; haven't got paid yet for working over hours February 23d; know I am going to get around four dollars for the week. I work eight hours a day for \$3.60 a week; commence at eight and end at half past four, with half hour for lunch. There has never been an occasion
 21 when I did not get more wages when I worked more than eight hours a day; the book-keeper fixes the particular
 22 pay for overtime; I get twice as much for the time I work overtime as others. I was getting \$5.50 regular pay last
 23 Christmas; one week I got six dollars and only worked one evening.

25 FERDINAND BUNTE, a witness in his own behalf, testified:

Have been in the wholesale candy business for fifteen years; know the witness Mary Breen; on February 23d she worked nine hours; the regular working hours were
 26 eight hours; I hired her by the week; to-day is our pay day; she is to receive compensation for her overtime
 27 work of February 23d. All our employes understand that they work eight hours with pay for overtime, whether it is five minutes or ten; when they ring the bell to register it shows every hour or half hour that is over, and it is double pay; had no special talk with this girl; they all know our rules; years ago I talked with her about working overtime; they all know it; never posted any notice or rule; I am personally acquainted with every one of the 150 girls there; think I told the girl when she was hired six years ago that whatever they work overtime they get pay for.

29 Defendant submitted propositions of law as follows:

1st. As a matter of law, the court holds that the act of the legislature of the State of Illinois, entitled, "An Act to regulate the manufacture of clothing, wearing apparel and other articles in this state, and to provide for the appointment of state inspectors to enforce the same, and to make an appropriation therefor," approved June 17, 1893, and each and every section thereof is illegal and void.

2d. That section 5 of said act is illegal and void.

3d. That section 6 of said act is illegal and void.

30 4th. That section 7 of said act is illegal and void.

5th. That section 8 of said act is illegal and void.

6th. That said act and each and every section thereof is contrary to and in violation of the constitution of the State of Illinois.

7th. That section 5 of said act is contrary to and in violation of said constitution.

31 8th. That section 6 of said act is contrary to and in violation of said constitution.

9th. That section 7 of said act is contrary to and in violation of said constitution.

10th. That section 8 of said act is contrary to and in violation of said constitution.

11th. That said act and each and every section thereof is contrary to and in violation of the constitution of the United States and the amendments thereto.

12th. That section 5 of said act is contrary to and in violation of said constitution and amendments.

13th. That section 8 of said act is contrary to and in violation of said constitution and amendments.

Court refused to find any of said propositions; objection and exception by defendant.

32 Motion for new trial.

1st. That said act, and each and every section thereof, is illegal and void.

2d. That section 5 of said act is illegal and void.

3d. That section 6 of said act is illegal and void.

4th. That section 7 of said act is illegal and void.

33 5th. That section 8 of said act is illegal and void.

6th. That said act and each and every section thereof is contrary to and in violation of the constitution of Illinois

7th. That section 5 of said act is contrary to said constitution.

8th. That section 6 of said act is contrary to said constitution.

9th. That section 7 of said act is contrary to said constitution.

10th. That section 8 of said act is contrary to said constitution.

11th. That said act and each and every section thereof is contrary to the constitution of the United States and the amendments thereto.

34 12th. That section 5 of said act is contrary to the United States constitution and amendments.

13th. That section 8 of said act is contrary to the United States constitution and amendments.

(Motion overruled; objection and exception by defendant.)

Motion in arrest of judgment on the grounds:

35 1st. The finding is contrary to the constitution of Illinois.

2d. The finding is contrary to the constitution of the United States and the amendments thereto.

(Motion denied; objection and exception.)

Defendant found guilty and fined \$5 and costs.

(Objection; exception by defendant.)

Appeal prayed by defendant.

36 Stipulation in writing that appeal should be taken to or writ of error sued out of the Supreme court of Illinois for the Southern Grand Division, May term, 1894.

Appeal allowed upon defendant giving bond.

Signature and seal of judge, April 20, 1894.

73 Stipulation that original bill of exceptions be made part of record.

38 Certificate of clerk.

39, 40 ASSIGNMENT OF ERRORS.

First. The court below erred in refusing to find as law the propositions of law asked by defendant.

Second. The court below erred in finding defendant guilty.

Third. The court below erred in overruling the motion for a new trial.

Fourth. The court below erred in denying the motion in arrest of judgment.

Fifth. The court below erred in rendering judgment upon the finding.

Sixth. The judgment is contrary to and in violation of the provisions of the constitution of the State of Illinois.

Seventh. The judgment is contrary to, and in violation of the provisions of the constitution of the United States and the amendments thereto.

By reason whereof the plaintiff in error prays that said judgment may be reversed.

40 Joinder in error.

MORAN, KRAUS & MAYER,
Attorney for Plaintiff in Error.