

COMMONWEALTH v. STONE

191 Pa.Super. 117, A.2d 453

COMMONWEALTH of Pennsylvania,
Appellant,

v.

Stanley S. STONE.**COMMONWEALTH of Pennsylvania,**
Appellant,

v.

Philip J. DE BLASIO.**COMMONWEALTH of Pennsylvania,**
Appellant,

v.

Stanley S. STONE, Philip J. DeBlasio and
R. E. Butler.

Superior Court of Pennsylvania.

Nov. 11, 1959.

Prosecutions for violations of statute making it a misdemeanor to engage in the budget planning business. From orders of the Court of Quarter Sessions of Dauphin County at Nos. 57 to 61 incl., June Sessions, 1958, Homer L. Kreider, J., quashing the indictments, the Commonwealth appealed. The Superior Court, Nos. 32 to 36, March Term, 1960, Ervin, J., held that statute making it a misdemeanor for budget planner, at request of debtor, to receive money from debtor periodically and distribute such money among certain specified creditors in accordance with a plan agreed upon, unreasonably interferes with and nullifies a vital factor of budget planning business and is unconstitutional exercise of the police power, notwithstanding that planner's activity in collecting and distributing the debtor's money may afford the planner the opportunity to defraud the public.

Orders affirmed.

1. Constitutional Law ¶295**Pawnbrokers and Money Lenders** ¶2

Statute making it a misdemeanor for budget planner, at request of debtor, to re-

ceive money from debtor periodically and distribute such money among certain specified creditors in accordance with a plan agreed upon, unreasonably interferes with and nullifies a vital factor of budget planning business and is unconstitutional exercise of the police power, notwithstanding that planner's activity in collecting and distributing the debtor's money may afford the planner the opportunity to defraud the public. P.S.Const. art. 1, §§ 1, 9; art. 3, § 7; U.S.C.A.Const. Amend. 14; 18 P.S. § 4897.

2. Constitutional Law ¶81

The mere possibility that one engaged in a lawful business may also engage in unlawful practices is no justification for prohibiting the business, if it be a legitimate one in the first instance.

3. Evidence ¶5(2)

It is well known that millions of sales are made in the United States on the installment plan and that billions of dollars are involved in such transactions.

Huette Dowling, Dist. Atty., Frederic G. Antoun, Deputy Atty. Gen., Anne X. Alpern, Atty. Gen., for appellant.

James W. Evans, Harrisburg, for appellee.

Before RHODES, P. J., and WRIGHT, WOODSIDE, ERVIN and WATKINS, JJ.

ERVIN, Judge.

[1] The sole question involved in these appeals is whether the Act of 1955 making it a misdemeanor to engage in the budget planning business, as therein defined, is an unconstitutional exercise of the police powers of the state in violation of art. I, §§ 1 and 9, art. III, § 7, of the Pennsylvania Constitution, P.S. or the 14th Amendment to the Constitution of the United States.