

of America. The court below held that the act was unconstitutional and quashed the indictments. The Commonwealth appealed.

The Act of 1955, P.L. 755, 18 P.S. § 4897, provides as follows: "(a) 'Budget Planning', as used in this section, means the making of a contract, express or implied, with a particular debtor whereby the debtor agrees to pay a certain amount of money periodically to the person engaged in the budget planning business, who shall, for a consideration, distribute the same among certain specified creditors in accordance with a plan agreed upon.

"(b) Whoever engages in the business of budget planning is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not more than five hundred dollars (\$500), or undergo imprisonment of not more than one (1) year, or both; Provided That the provisions of this act shall not apply to those situations involving budget planning as herein defined incurred incidentally in the practice of law in the Commonwealth."

The defendants argue that the act is an absolute prohibition, not a mere regulation, of the budget planning business and violates their right to engage in a legitimate business under the due process clauses of the State and Federal Constitutions.

The Commonwealth argues that the act does not arbitrarily, unreasonably and unnecessarily interfere with private business or property and that despite its title: "An act * * * prohibiting budget planning business, and prescribing penalties for violation thereof," the act in fact does not prohibit the business of budget planning. The Commonwealth says the act is regulatory only, that it allows budget planning but does not allow the budget planner to collect and distribute the debtor's money to the debtor's creditors.

While the act does not prohibit all phases of budget planning, to deny the budget planner the right, at the request of the

debtor, to receive money from the debtor and "distribute the same among certain specified creditors in accordance with a plan agreed upon" constitutes a nullification of a vital factor of the budget planning business and we can see no justification for such interference.

In *Com. ex rel. Woodside v. Sun Ray Drug Co.*, 383 Pa. 1, 10, 11, 116 A.2d 833, 837, our Supreme Court said: "The scope of the police power of the Commonwealth is necessarily very broad. As was stated in *Commonwealth v. Stofchek*, 322 Pa. 513, at page 519, 185 A. 840, at page 844: '* * * the state possesses inherently a broad police power, which transcends all other powers of government. There is therefore no unqualified right to acquire, possess, and enjoy property if the exercise of the right is inimical to the fundamental precepts underlying the police power. * * *'. However, the basis of every exercise of the police power must be to promote or maintain the health, safety or general welfare of the public. *White's Appeal*, 287 Pa. 259, 134 A. 409, 53 A.L.R. 1215. * * *

"The standard to be applied in this type of case was well stated by Mr. Chief Justice Stern in the recent case of *Cott Beverage Corporation v. Horst*, 1955, 380 Pa. 113, 110 A.2d 405. In that case the Chief Justice, quoting from *Gambone v. Commonwealth*, 375 Pa. 547, 101 A.2d 634, stated, 380 Pa. at page 118, 110 A.2d at page 407: '* * * By a host of authorities, Federal and State alike, it has been held that a law which purports to be an exercise of the police power must not be unreasonable, unduly oppressive or patently beyond the necessities of the case, and the means which it employs must have a real and substantial relation to the objects sought to be attained. Under the guise of protecting the public interests the legislature may not arbitrarily interfere with private business or impose unusual or unnecessary restrictions upon lawful occupations. The question whether any particular statutory provision is so related to the public good and so reasonable