

BARRY V. COMPTON, 1933-NMSC-090, 37 N.M. 599, 26 P.2d 359 (S. Ct. 1933)

**John H. BARRY and W. T. Stalcup, for Themselves and for all
Others Similarly Situated, Appellees,**

vs.

**J. C. COMPTON, District Attorney of the Ninth Judicial
District of the State of New Mexico, and E. B.
Eastham, Sheriff of Curry County, New Mexico,
Appellants**

No. 3916

SUPREME COURT OF NEW MEXICO

1933-NMSC-090, 37 N.M. 599, 26 P.2d 359

October 23, 1933

Appeal from District Court, Curry County; Harry L. Patton, Judge.

COUNSEL

J. C. Compton, Dist. Atty., of Portales, for appellants.

Perkins L. Patton, Richard E. Manson, and Carl A. Hatch, all of Clovis, for appellees.

JUDGES

Watson, Chief Justice. Sadler, Hudspeth, Bickley, and Zinn, JJ., concur.

AUTHOR: WATSON

OPINION

{1} John H. Barry, proprietor of a retail hardware establishment, and W. T. Stalcup, an employee thereof, for themselves and in behalf of others similarly situated, sued to enjoin J. C. Compton, district attorney, and E. B. Eastham, county sheriff, from enforcing Laws 1933, c. 149, limiting the hours of labor of male employees in mercantile establishments.

{2} The defendants demurred to the complaint, and, their demurrer being overruled, refused to plead further, and have appealed from the final judgment awarding the relief prayed for.

{3} There are no contentions of error here other than that the learned trial judge erred in holding the statute unconstitutional. State v. Henry, 37 N.M. 536, 25 P.2d 204, is therefore controlling of this case.

{4} The judgment will be affirmed and the cause remanded. It is so ordered.