



1930

## Chain Store Licensing

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Burke, Tracy R. Bangs, B. F. Spalding, John Wishek, L. N. Torson, J. M. Austin, James Campbell, and B. W. Shaw—not a large group, but surely pioneers.

The election of officers presented several contests, some bearing the stamp of "political" prearrangement, others arising on the "spur of the moment" and without notice. Harmony seemed to prevail after it was all over, all elections being made unanimous on motion. John O. Hanchett had the field all to himself for President, but the ballot could not be cast until the usual number and variety of seconding speeches had been placed on record. For Vice-President the offerings were A. L. Netcher of Fessenden, W. H. Hutchinson of LaMoure, and J. P. Cain of Dickinson, W. H. Stutsman serving notice that in the case of Mr. Cain the West was simply demanding recognition next year. The first ballot eliminated Cain, and Judge Hutchinson survived the second ballot by a narrow margin. For Secretary-Treasurer the nominations were R. E. Wenzel, C. L. Foster and W. F. Burnett, the so-called "Czar" being re-elected on the first ballot. In connection with this election may we assure the members of the Association that we appreciate it, that we have no hard feelings with respect to criticisms and know that some are deserved, that we shall endeavor to do more, rather than less, during the coming year. We are, however, unable to discover any symptoms of "Czar-itis" unless a determination to keep within our budget, notwithstanding outside pressure, entitles us to that designation.

The only invitation for the next meeting came from Bismarck. Fargo and Dickinson representatives, however, requested time to confer with other members at home, and will, doubtless, present invitations for the 1932 session.

We shall not, at this time, print the report of the Resolutions Committee. It will go into the official record, and may be found in the December issue. Mention should be made of that part dealing with the expression of appreciation for the courtesies extended by the Superintendent of the Hospital for the Insane, which included an excellent and highly appreciated lunch at noon of the second day, and the use of the Hospital Auditorium for the afternoon meeting. It may surprise some of the "natives" to discover that all members of the profession were permitted to depart without official escort.

May we say in closing, what was in the minds of those present, and only partly expressed, that President F. J. Traynor proved a worthy successor to A. M. Kvello, and the Association is better and stronger through his well-directed efforts the past year.

#### CHAIN STORE LICENSING

The Supreme Court of the United States (five to four decision) in *Indiana vs. Jackson*, 51 *Sup. Ct. Rep.* 540, declares constitutional the Indiana licensing act which places a tax upon stores of \$3.00, and \$25.00 for each store in excess of twenty. Notwithstanding the rather strenuous arguments against the constitutionality of the statute, and the rather effective presentation of a comparative situation involving large department stores and the members of the Independent Grocers' Alliance, the act was held constitutional, the Court stating, in part:

"The record shows that the chain store has many features and advantages which definitely distinguish it from the individual store

dealing in the same commodities. With respect to associations of individual stores for purposes of cooperative buying, exchange of ideas as to advertising, sales methods, etc., it need only be remarked that these are voluntary groups, and that series of independent units cannot, in the nature of things, be as efficiently and successfully integrated as a chain under a single ownership and management. . . .

"While it is true that large department stores reap many of the advantages and employ many of the methods of a chain store group, such as large capital, buying in quantity, and the ability to command the highest type of management, it is, nevertheless, evident that whereas a department store spreads its efforts over a number of different sorts of shops under one roof, the chain store owner concentrates its energy upon the conduct of but one kind of stores located in many neighborhoods. Obviously greater specialization in management and methods is possible in the latter type of enterprise than in the former, whose management however capable, must after all consist of many separate types each devoted to a single store similar to an independent retail store. The mass buying done by a chain store owner for a number of units selling the same goods, is not comparable to the individual purchasing of a department store for its grocery, its shoe, its drug, and each of its other departments. It is not to be expected that the management problems of stores, essentially separate and differing entirely in the character of their business, under the aegis of a single department store, will be the same as those involved in the intensive selling of a chain store owner operating an equal number of units all devoted to a single line of business. . . .

"The principles which govern the decision of this cause are well settled. The power of taxation is fundamental to the very existence of the government of the states. The restriction that it shall not be so exercised as to deny to any the equal protection of the laws does not compel the adoption of an iron rule of equal taxation, nor prevent variety or differences in taxation, or discretion in the selection of subjects, or the classification for taxation of properties, businesses, trades, callings, or occupations. . . The fact that a statute discriminates in favor of a certain class does not make it arbitrary, if the discrimination is founded upon a reasonable distinction . . or if any state of facts reasonably can be conceived to sustain it. . .

"It is not the function of this Court in cases like the present to consider the propriety or justness of the tax, to seek for the motives, or to criticize the public policy which prompted the adoption of the legislation. Our duty is to sustain the classification adopted by the legislature if there are substantial differences between the occupations separately classified. Such difference need not be great. The past decisions of the Court make this abundantly clear. . .

"The court below fell into the error of assuming that the distinction between the appellee's business and that of the other sorts of stores mentioned was solely one of ownership. It disregarded the differences shown by the record. They consist not merely in ownership, but in organization, management, and type of business transacted. The statute treats upon a similar basis all owners of chain stores similarly situated. In the light of what we have said this is all that the Constitution requires."