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THE TAXATION OF CHAIN STORES

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CHAIN store interests recently suffered an unexpected repercussion as a result of two decisions of the United States Supreme Court.² In these decisions the Supreme Court upheld anti-chain store legislation in the states of Indiana and North Carolina, and the natural effect will probably be the enactment by every state of similar anti-chain store legislation which is apparently arbitrary and discriminatory.

By the provisions of the Indiana statute³ every person, firm, corporation, association, or copartnership operating one or more stores within the state under the same general management, supervision or ownership is subject to a graduated license tax. These are as follows: First, upon one store, the license fee shall be three dollars for each such store; second, upon two stores or more, but not exceeding five stores, the annual license fee shall be ten dollars for each such additional store; third, upon each store in excess of five but not to exceed ten, the annual license fee shall be fifteen dollars for each such additional store; fourth, upon each store in excess of ten, but not to exceed twenty, the annual license fee shall be twenty dollars for each such additional store; fifth, upon each store in excess of twenty, the annual license

¹ Member Illinois Bar; Professor of Law at Chicago-Kent College of Law.

² State Board of Tax Commissioners of the State of Indiana v. Jackson, 283 U. S. 527; Great Atlantic and Pacific Tea Co. et al. v. Maxwell, etc., 52 S. Ct. 26.

³ Indiana Laws of 1929, Ch. 207.

fee shall be twenty-five dollars for each such additional store.

The North Carolina act⁴ requires everyone, except automobile and motorcycle dealers and owners of service stations, who operates two or more retail stores, to pay an annual license tax of fifty dollars for each store in excess of one.

That the power of taxation is necessary to the existence of state governments is unquestioned; and while the state's power of taxation must not be so exercised as to deny to any the equal protection of the laws, this limitation still permits a wide legislative discretion in classifying business, occupations, or trades for tax purposes. The principle that a state may not deny to any person the equal protection of the laws does not mean that equal taxation is required, nor does it prevent special forms of regulation or taxation through an excise or license tax.⁵ The Supreme Court of the United States has also decided that a statute which discriminates in favor of a particular class is not arbitrary provided the discrimination is based on some reasonable distinction.⁶ Such a statute will be upheld if any reasonable consideration will support it.⁷ In *Chicago, Burlington & Quincy Railroad Company v. McGuire*,⁸ the court said:

Whether the enactment is wise or unwise, whether it is based on sound economic theory, whether it is the best means to achieve the desired result, whether, in short, the legislative discretion within its prescribed limits should be exercised in a particular manner, are matters for the judgment of the legislature, and the earnest conflict of serious opinion does not suffice to bring them within the range of judicial cognizance.

The majority of the Supreme Court⁹ in the Jackson case seem to take this attitude in regard to the power

⁴ Laws of North Carolina, 1929, Revenue Act, Ch. 345.

⁵ *Bell's Gap Railroad Co. v. Pennsylvania*, 134 U. S. 232; *Southwestern Oil Co. v. State of Texas*, 217 U. S. 114; *Brown-Forman Co. v. Kentucky*, 217 U. S. 563.

⁶ *American Sugar Refining Co. v. Louisiana*, 179 U. S. 89.

⁷ *Rast v. Van Deman & Lewis Co.*, 240 U. S. 342; *Quong Wing v. Kirkendall*, 223 U. S. 59.

⁸ 219 U. S. 549.

⁹ Chief Justice Hughes, Justices Roberts, Stone, Holmes and Brandeis.

of a state to tax, although the court in the *McGuire* case had in mind the power of a state to interfere with freedom of contract.

It is interesting to note the differences or advantages peculiar to the chain stores which the majority of the Supreme Court rely upon to justify the classification under the Indiana statute. According to the evidence these advantages were as follows: First, chains ordinarily buy in large quantities. But through the medium of co-operative purchasing associations this advantage is likewise enjoyed by independent proprietors of single stores; hence it is not peculiar to the chain store. Second, they buy for cash and obtain the advantage of a discount. The evidence did not indicate how or why this so-called chain store advantage was not open to independent dealers. It does not appear that this is a real difference between chains and independents. Third, chains, skilled in buying, are able to avoid overbuying, and yet to keep the stores stocked with products suitable in size, style and quality for the neighborhood customers who patronize them. Is it true that this advantage is peculiar to the chains and is closed to independent merchants? If independent merchants fail to use skill in buying, is their lack of ability corrected by penalizing those who do use it? Fourth, chains obtain cheaper, yet superior advertising. What prevents the independent from arranging his store in the attractive manner peculiar to the chain stores? Would it not be more just to encourage economy and modern methods by taxing equally the efficient and the inefficient? Fifth, chains have superior management and method. Again, it is strange that the chain stores have a monopoly on intelligent management and good service. Additional advantages claimed to be peculiar to chain stores are the following: Warehousing of goods and distributing from a single warehouse to numerous stores; an abundant supply of capital, whereby advantage may be taken of opportunities for the establishment of new units; a pricing and sales policy resulting in prices slightly lower on the part of the chain stores as compared with single stores; a greater turn-over, and a constant analysis of the turn-over to ascertain relative profits on varying items; standardization in the matter of display and store man-

agement. Thus, it is to be observed that every point of difference said to exist between the chain stores and independent stores seems open to adoption by the independents. In fact, because of the existence of the Independent Grocers' Alliance in Indiana, these advantages were not at all peculiar to chain stores but were likewise enjoyed by many independents. The Indiana statute, consequently, indicates a plain attempt on the part of the legislature to discriminate against owners of more than one store and to favor owners of a single store.

It may well be asked, "Who will shoulder this added burden imposed on the chain stores?" According to reliable authority¹⁰ license taxes as well as gross receipts taxes are easily shifted to the public. Hence, from the point of view of the general public, the resultant higher cost of necessities is an effect which perhaps will overbalance any advantages to be derived from the increased revenue.

Since the Indiana statute was upheld as a revenue measure and was not justified under the police power of the state, and since the "substantial difference" relied upon by the majority of the Court in the Jackson case consisted merely in carrying on business under many roofs as compared to carrying on business under one roof, it would be interesting if another state were to enact a statute imposing a tax on chain stores, grading the tax upward in the case of chains operating fewer stores, and taxing owners of single stores the highest tax per unit of all the stores being taxed.

Under the decision of *State Tax Commissioners of Indiana v. Jackson*, the Supreme Court could not deny a difference existed between chains and unit stores, and, if the statute were a revenue measure the Supreme Court could not inquire into the reason for the statute. Such a classification would be identical with that in the Indiana statute except that the chains would have the advantage. It is therefore necessary for W. K. Henderson of Shreveport, Louisiana, leader of independent merchants' asso-

¹⁰ E. R. A. Seligman, *The Shifting and Incidence of Taxation* (2d Ed., 1899), pp. 269-294.

ciations and other independents to embrace this new doctrine handed down in the Jackson case with extreme care as it may prove to be a two-edged sword.

It is to be hoped that income taxes will not be made to depend on the number of sources from which income is derived. If the doctrine of the Jackson case were to be carried over to the field of income taxation we would find John Jones, with an income of four thousand dollars a year derived from ten stores or units, paying an income tax higher than that paid by William Smith who operates but one store, yet has an income of a million dollars a year. According to the Jackson case, the fee is made to depend upon the number of sources or units regardless of such distinguishing features as kind, value, size, location, amount invested, amount or character of business done, or the income derived therefrom.

That other states will follow the example set by Indiana is unquestioned.¹¹ In 1929 and 1930, some eighty-four anti-chain store tax measures were introduced in the various state legislatures. Of those measures, six eventually became either license or sales tax laws. Furthermore, over one hundred chain tax bills of various sorts were introduced in the legislatures of forty-four states during the sessions of 1931,¹² and in Alabama¹³ and Florida¹⁴ the measures became laws. Of the states recently in session a chain store bill was introduced in Tennessee,¹⁵ while such legislation has been approved in Arizona¹⁶ and Wisconsin.¹⁷

The Arizona and Wisconsin chain store laws are modeled after the Indiana act, the fees in Arizona ranging from five dollars on each store in excess of one, but not exceeding five, to twenty-five dollars on each store in excess of twenty, while the Wisconsin fees range from ten dollars on two to five stores, to fifty dollars on each store in excess of twenty.

¹¹ 17 Va. Law Rev. 313.

¹² The Tax Magazine, July, 1931, p. 261.

¹³ Laws of 1931, Act 369.

¹⁴ Laws of 1931, House Bill No. 8-X.

¹⁵ H. B. 138 and S. B. 7.

¹⁶ H. B. 13, approved January 9, 1932.

¹⁷ A 35-X became law February 6, 1932.

Three anti-chain store bills have also been introduced at the special session of the Illinois legislature.¹⁸ A 1931 bill called for the payment of an annual license fee of one thousand dollars on each store of a chain after the first three. What effect will this bill have on the chain store business if it is enacted into law? Taking the Kroger Grocery and Baking Company units in Illinois as an example, we find that this company operates 633 stores in Illinois. These stores have currently averaged annually about fifty thousand dollars per store in gross sales. The profit on sales, currently earned, amounts to about 2 per cent, or one thousand dollars, which equals the tax the Illinois bill would impose on each store, thus leaving nothing for the Kroger Company for return on the investment.¹⁹

As a result of such legislation, the Supreme Court of the United States will no doubt soon be called upon to determine what is confiscation. Apparently, at the present time, a state has the power to discriminate between persons engaged in the same occupation even though the basis of classification used is wholly immaterial either from an economic or social point of view. Or, to put it in another way, states may make any classifications they choose, based on any difference, however slight, and still comply with the requirement calling for the equal protection of the laws. Such a rule is not satisfactory, however, and it is to be regretted that the court did not see fit to adhere to the fair rule of equal protection of the laws for all persons following identical occupations.

It is submitted that the decision in *Quaker City Cab Company v. Pennsylvania*²⁰ was controlling and should have been followed in the Jackson case. The former case arose as the result of a Pennsylvania statute which imposed a tax on the gross receipts of a corporation engaged in the general taxicab business. The statute did not impose a like tax on the gross receipts of individuals and partnerships similarly engaged. It was claimed that there were advantages peculiar to the corporate form of business which were not at the disposal

¹⁸ H. B. 44-X, H. B. 52-X and S. B. 70-X.

¹⁹ Chain Store Magazine, June 1931, p. 9.

²⁰ 277 U. S. 389.

of individuals and partnerships. Hence the facts and the question therein presented were not unlike those involved in *Tax Commissioners of Indiana v. Jackson*. The court, in the Pennsylvania case, decided that the statute was unconstitutional as a denial to the corporation of the equal protection of the laws. The state could not place corporations engaged in the general taxicab business in one class and at the same time place individuals and partnerships engaged in an identical business in a different class for tax purposes.

In a Kentucky decision,²¹ it was held that a license tax was unconstitutional which attempted to impose a higher tax upon cash and carry grocery stores than upon other grocery stores. In *Keystone Grocery and Tea Company v. Huster*,²² the Maryland court was of the opinion that there were no essential characteristics, distinguishing chain stores from stores operated by independent merchants, which would justify a separate classification of chain stores for the purpose of taxation. This decision, incidentally, doomed the Maryland statute which attempted to limit, on the monopoly basis, the operation by one person, firm, association, or corporation of more than five mercantile establishments in a chain.²³

In *Louis K. Liggett Company v. Baldrige*,²⁴ another type of anti-chain store legislation—the policy regulation of chain drug stores—was held unconstitutional. The Pennsylvania statute involved in this case was condemned by Owen Roberts, counsel for the Liggett Company, who also represented the Quaker City Cab Company in the suit already discussed.²⁵ Since then, Mr. Roberts, as a member of our Supreme Court, has apparently changed his mind about these Pennsylvania statutes, for although the Indiana statute was treated as a revenue measure the rule is that whether the license is imposed as an exercise of the police power or as an exercise of the

²¹ City of Danville et al. v. The Quaker Maid, Inc., 211 Ky. 677.

²² Allegheny County Circuit Court, No. 10922, Equity case (unreported, 1927).

²³ Laws of Maryland, 1927, Ch. 554, sec. 1.

²⁴ 278 U. S. 105.

²⁵ See footnote 22, supra.

taxing power, arbitrary discrimination is improper.²⁶ Actually the Indiana law was simply an attempt to exercise the police power of the state in a manner that would favor one group of taxpayers and discriminate against another group without any social interest or proper classification to uphold it as an exercise of this power.

In *F. W. Woolworth Company et al. v. Harrison*,²⁷ the constitutionality of a Georgia statute,²⁸ which imposed a license tax of fifty dollars upon each store when more than five stores were operated as a chain, was questioned. The case had been appealed from a decision of the Superior Court of Fulton County. The Supreme Court of Georgia held the statute was unconstitutional, reversing the decision of the lower court.

The Indiana act itself had been held unconstitutional by three judges of a Federal statutory court of the Southern Indiana District, Indianapolis Division.²⁹ It was this decision, which was unanimous, from which the State Tax Commissioners of Indiana appealed to the United States Supreme Court.³⁰

Again, in the United States District Court for the Southern District of Mississippi,³¹ an order granted an interlocutory injunction restraining the enforcement of the Mississippi chain store tax.³² The Mississippi act imposed a tax of one-fourth of 1 per cent, additional, upon the gross income of all stores of persons operating more than five retail stores selling tangible property. The order of the United States District Court was made prior to the decision of the United States Supreme Court in the Indiana case.³³ No opinion was rendered by the United States District Court for the Southern District of Mississippi in the Penny Stores case, and on appeal to

²⁶ *Commonwealth v. Payne Medicine Company*, 138 Ky. 164; *Kansas City Southern Railway Company v. Road Improvement District No. 6*, 256 U. S. 658.

²⁷ 172 Ga. 179; see also note 55 infra.

²⁸ Georgia General Revenue Act, 1929, par. 109.

²⁹ *Jackson v. State Board of Tax Commissioners of Indiana et al.*, 38 Fed. (2d) 652.

³⁰ See footnote 2 supra.

³¹ *Penny Stores, Inc., v. Mitchell et al.* (Sept. 30, 1930).

³² Acts of Mississippi, 1930, Art. 1, Ch. 90, secs. 2-c, 11, 13.

³³ *State Board of Tax Commissioners v. Jackson*, 283 U. S. 527.

the United States Supreme Court the only question presented was whether the District Court abused its discretion in granting an injunction until the case could be heard upon its merits. As no abuse of discretion was shown the United States Supreme Court affirmed the order on October 26, 1931.³⁴

In South Carolina, the rule laid down by the statutory United States District Court for the Southern District of Indiana was followed.³⁵ Further procedure by the Tax Commission of South Carolina was suspended until the United States Supreme Court ruled on the petition for a rehearing of the Indiana case. On October 12, 1931, the Court denied this petition, which claimed that the decision of the Supreme Court in *Commissioners v. Jackson* did not place any limitation on the power of a state to increase the amount of taxation on chain stores to an oppressive extent, and to the point of destruction.

In North Carolina a chain store bill,³⁶ imposing an annual license tax of \$50 upon each retail store in excess of one, was upheld by the Supreme Court of the state.³⁷ The North Carolina Supreme Court had previously held unconstitutional an earlier statute which imposed a license tax upon each retail store operated by a person who controlled six or more stores.³⁸ It is rather difficult to reconcile the two North Carolina decisions. The United States Supreme Court has recently affirmed the judgment of the North Carolina Supreme Court upholding the constitutionality of the North Carolina 1929 chain store act.³⁹

Virginia's anti-chain store law has also met with favor in the courts. The United States District Court for the Eastern District of Virginia recently upheld⁴⁰ the act which imposes a graduated and separate merchants'

³⁴ *Mitchell v. Penny Stores, Inc.*, 76 L. Ed. 32.

³⁵ *Southern Grocery Stores v. South Carolina Tax Commissioners*, United States District Court, South Carolina; hearing in this case to be held after January 12, 1932.

³⁶ *Laws of North Carolina, 1929, Ch. 345.*

³⁷ *Great Atlantic & Pacific Tea Co. v. Maxwell*, 199 N. C. 433.

³⁸ *Great Atlantic & Pacific Tea Co. v. Doughton*, 196 N. C. 145.

³⁹ *Great Atlantic & Pacific Tea Co. v. Maxwell*, 52 S. Ct. 26.

⁴⁰ *In Great Atlantic & Pacific Tea Co. v. Morrisett et al.*, 52 S. Ct. 39.

license tax, measured by the amount of purchases, on all distributing houses.⁴¹ In a *per curiam* judgment the United States Supreme Court affirmed the decision of the United States District Court⁴² and cited the Indiana case in support of the judgment.

Under the Kentucky anti-chain store act,⁴³ the tax is measured by the volume of gross retail sales of all stores. The tax rates are as follows:

1. One-twentieth of 1 per cent of gross sales of \$400,000 or less.
2. Two-twentieths of 1 per cent of excess of gross sales over \$400,000 but not over \$500,000.
3. Five-twentieths of 1 per cent of excess of gross sales over \$500,000 but not over \$600,000.
4. Eight-twentieths of 1 per cent of excess of gross sales over \$600,000 but not over \$700,000.
5. Eleven-twentieths of 1 per cent of excess of gross sales over \$700,000 but not over \$800,000.
6. Fourteen-twentieths of 1 per cent of excess of gross sales over \$800,000 but not over \$900,000.
7. Seventeen-twentieths of 1 per cent of excess of gross sales over \$900,000 but not over \$1,000,000.
8. One per cent of excess gross sales over \$1,000,000.

This statute was declared valid by a Circuit Court in Kentucky.⁴⁴ On appeal, however, the Kentucky Court of Appeals reversed the judgment of the Circuit Court⁴⁵ on the grounds that the record did not show that plaintiff, Moore, was one of the class of taxpayers who would have to pay the gross sales tax if the law were upheld, and that a decision on the constitutionality could not be had unless a taxpayer who would have to pay the tax were made a party. On a further appeal to the Kentucky

⁴¹ Laws of Virginia, 1925, Ch. 45, sec. 188, Virginia Tax Code.

⁴² *In Great Atlantic & Pacific Tea Co. v. Morrisett*, 52 S. Ct. 39.

⁴³ Kentucky Laws, 1930, Ch. 149.

⁴⁴ *Moore v. State Board of Charities and Corrections*, Franklin Circuit Court, Kentucky (January 21, 1931).

⁴⁵ *Moore v. State Board of Charities and Corrections*, 238 Ky. 243.

Court of Appeals,⁴⁶ after the D. T. Bohon Company was made a party defendant, the court affirmed the judgment of the Franklin Circuit Court of Kentucky which in a new action⁴⁷ had again upheld the constitutionality of the statute. An action seeking to restrain the enforcement of this gross retail sales tax law has been dismissed for want of equitable jurisdiction.⁴⁸

The Florida anti-chain store act⁴⁹ imposes a license tax upon all who operate one or more retail stores. The act expressly exempts filling stations selling exclusively gasoline and other petroleum products. The tax for operating in any one county is as follows:

One store, five dollars.

Two to fifteen stores, ten dollars for each additional store.

Fifteen to thirty stores, fifteen dollars for each additional store.

Thirty to fifty stores, twenty dollars for each additional store.

Fifty to seventy-five stores, thirty dollars for each additional store.

More than seventy-five stores, forty dollars for each additional store.

Where stores are operated in different counties, the rate is as follows:

Two to fifteen stores, fifteen dollars for each additional store.

Fifteen to thirty stores, twenty dollars for each additional store.

Thirty to fifty stores, thirty dollars for each additional store.

Fifty to seventy-five stores, forty dollars for each additional store.

More than seventy-five stores, fifty dollars for each additional store.

Two chain store companies started a suit in a county court of Florida against the State Comptroller to test

⁴⁶ Moore v. State Board of Charities and Corrections, 239 Ky. 729.

⁴⁷ Franklin Circuit Court of Kentucky (April 17, 1931).

⁴⁸ Kroger Grocery & Baking Co. v. Lewis et al., United States District Court, Eastern District of Kentucky, (November 6, 1931).

⁴⁹ Florida Laws, 1931, House Bill No. 8-X.

the constitutionality of this tax act.⁵⁰ The county court declined to grant an order enjoining the enforcement of the law, and the plaintiffs thereupon appealed the case to the Supreme Court of the state. The parties dismissed the appeal to the Supreme Court shortly after it had been filed in order to bring further proceedings before the Leon County Circuit Court. Judge Love of the Leon County Circuit Court on November 5, 1931, entered an order granting leave to the complainants in the suit to file an amended bill of complaint within seven days. The record of the court two weeks later showed that no such bill had been filed.

The Attorney-General of Florida is of the opinion that dealers to whom a fertilizer manufacturer sells on consignment are outside the scope of this anti-chain store law.⁵¹

As far as the writer has been able to determine no decision has yet been rendered concerning the constitutionality of the Alabama anti-chain store law.⁵² The Alabama act taxes every person operating one or more stores, either retail or wholesale, except a business principally selling or distributing petroleum products. The annual fee for operating one store is one dollar; for operating two to five stores, ten dollars for each additional store; for operating five to ten stores, fifteen dollars for each additional store; for operating ten to twenty stores, twenty-five dollars for each additional store; and for operating more than twenty stores, seventy-five dollars for each additional store.

To summarize, then, we find there are eleven states at the present time with anti-chain store laws. These states are, Alabama, Arizona, Florida, Georgia, Indiana, Kentucky, Mississippi, North Carolina, South Carolina, Virginia and Wisconsin. The Georgia law has been held

⁵⁰ *Louis K. Liggett Co. and Winn E. Lovett Grocery Co. v. Amos et al.*, Leon County Circuit Court, (Sept. 30, 1931).

⁵¹ Opinion of the Attorney General of Florida, November 10, 1931.

⁵² Alabama Laws, 1931, Act 369.

unconstitutional by the State Supreme Court;⁵³ and in Mississippi and South Carolina, United States district courts suspended proceedings to await the final action in the Jackson case.⁵⁴ Since the United States Supreme Court on October 26, 1931, denied a petition for a rehearing in the Jackson case, it seems likely that the United States district courts in Mississippi and South Carolina will uphold the statutes in those states.

It is alleged that chain stores force independent merchants out of business, take money from the local community and send it to metropolitan centers, fail to support local institutions, tend to destroy individual initiative, and bring about a monopoly of many businesses. On the other hand it must be said that the public has received the benefit of lower prices through chain stores. Moreover, individual initiative and incentive would suffer if legislation tends to penalize expansion and natural growth through efficient business management. But regardless of the merit of these arguments, it is evident that they are based on prejudice and not upon any such distinction as should serve for tax classification.

On good authority it is claimed only 18 per cent of this country's retail business is transacted by chains.⁵⁵ If this is a monopoly, the proper procedure for stopping it is by means of the Clayton or Sherman Acts.

In conclusion the writer believes that the following seven points should be considered in relation to the problem of anti-chain store legislation: 1. The decision in the case of *State Tax Commissioners of Indiana v. Jackson* is out of line with the settled rule concerning classification for the purpose of taxation.⁵⁶ 2. States should not be given the power to tax in any arbitrary manner

⁵³ *F. W. Woolworth Co. v. Harrison*, 172 Ga. 179.

⁵⁴ 283 U. S. 527.

⁵⁵ W. B. Nichols, *Chain Stores Fighting Unfair Taxes*, Barron's, Aug. 3, 1931, p. 18.

⁵⁶ *Quaker City Cab Co. v. Pennsylvania*, 277 U. S. 389; *Royster Guano Co. v. Virginia*, 253 U. S. 412; *Louisville Gas & E. Co. v. Coleman*, 277 U. S. 32; *Air-Way Electric Appliance Corporation v. Day*, 266 U. S. 71.

they see fit to adopt, the only requirement being that there must be some difference between one class of taxpayers discriminated against and another class of taxpayers favored by the statute.⁵⁷ 3. A statute whether based on the taxing power of the state or the police power must comply with the due process and equal protection clauses of the Federal Constitution.⁵⁸ 4. The equal protection clause of the Constitution limits the power of any state to tax.⁵⁹ 5. Statutes justified on the basis of the power of a state to tax are invalid when discriminating classifications therein contained are not based on differences of substance.⁶⁰ 6. Classification in revenue measures should be upheld only if it bears a real relationship to public rather than private interests.⁶¹ 7. Classification is permitted in order that inequalities may be corrected or avoided, but it should never be permitted to create inequalities.⁶²

⁵⁷ *Magoun v. Illinois Trust & Savings Bank*, 170 U. S. 283.

⁵⁸ United States Constitution, Art. 14, sec. 1; *Commonwealth v. Payne Medicine Company*, 138 Ky. 164.

⁵⁹ *Bell's Gap R. Co. v. Pennsylvania*, 134 U. S. 232.

⁶⁰ *Gulf, C. & S. F. Ry. Co. v. Ellis*, 165 U. S. 150.

⁶¹ *American Sugar Refining Co. v. Louisiana*, 179 U. S. 89; public policy in this case warranted the particular classification as the discrimination was intended to encourage agriculture generally.

⁶² *Commonwealth v. Alden Coal Co.*, 251 Pa. 134; *County of Santa Clara v. Southern Pacific R. Co.*, 18 Fed. 385.