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Constitutional Law—Registration of Gasoline Stations

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Registration of Gasoline Stations

Section 283-a of the New York Tax Law requires the procurement of a license from the Department of Taxation and Finance prior to operating a filling station, such license being issued upon application and payment of a registration fee. This section was passed to prevent tax evasion by giving the Tax Commissioner a list of operators enabling him to determine if a distributor has paid the motor fuel taxes which he has collected from the consumers.³⁸

In upholding the constitutionality of this statute,³⁹ the Court agreed that the section was valid without giving any reason for its assertion. It might be argued that the statute was valid as an exercise of the police power. The welfare of the citizen is of such primary importance as to make laws tending to promote such object proper under this power.⁴⁰ Generally, legislation is valid which has for its object the prevention of fraud, and deceit.⁴¹ A statute tending to prevent the fraudulent evasion of taxes would appear to be within the power of the state.

It would also seem that this statute, being designed as an integral part of the motor fuel tax could be upheld as an aid in tax collection and a necessary adjunct to the taxing power of the state.⁴² If a sovereign is given the right to tax, it has the right to utilize the most efficient methods of collecting this tax within the bounds of due process and this registration device is a reasonable way of enforcing the motor vehicle tax.

As the concurring opinion points out, this statute cannot be treated as a true licensing statute for it is devoid of standards to guide the Commissioner in its enforcement.⁴³ There would seem to be no reason for invalidating this statute; whether regarded as an aid to tax collection or as a measure designed to prevent fraud, it is reasonably calculated to effectuate a legitimate legislative goal.

Jury Selection Statute

The problem of modernizing New York's antiquated jury system has long plagued the Legislature as well as the Judicial Council.⁴⁴ Prior to 1940 there were over 250 sections of the Judiciary Law and about 150 sections of the Unconsolidated Laws which governed the selection of jurors and which set up a maze of

38. 1931 ANNUAL REPORT STATE TAX COMMISSION, 1932 LEG. DOC. No. 11, p. 18.

39. *People v. Faxlanger*, 1 N. Y. 2d 393, 135 N. E. 2d 705 (1956).

40. *New York ex rel. Bryant v. Zimmerman*, 278 U. S. 63 (1927).

41. *Biddles v. Enright*, 239 N. Y. 354, 146 N. E. 625 (1925).

42. *Genet v. City of Brooklyn*, 99 N. Y. 296, 1 N. E. 777 (1885).

43. *Packer Collegiate Institute v. University of the State of New York*, 298 N. Y. 184, 81 N. E. 2d 80 (1949).

44. SEVENTH ANNUAL REPORT AND STUDIES, THE JUDICIAL COUNCIL OF THE STATE OF NEW YORK, 153 (1941).