

proof that they were charged the 3 per cent on purchases since April 1 when the law went into effect.

The exact action of the court was that of sustaining an injunction against state officials from receiving money produced by the tax. That restraining order was issued by Judge Jesse E. Brown of the Madison county Circuit court on a petition presented to him on March 23, his temporary ruling being made permanent a short time thereafter.

The action was brought in the name of Robert Irving Winter of Alton, the head of an association of merchants organized to fight the tax. The association counsel consisted of Frank G. Thompson of Mount Vernon, State Representative Leroy M. Green (Rep., Rockford), Rowley North of Granite City, Roy F. Hall of Rockford, and State Representative Ira H. Streper III (Rep., Alton).

They faced both in the lower court and in the Supreme court Montgomery S. Winnings, special assistant attorney general. Because there was only the official copy of today's decision available and there were two score newspaper men, state officials and legislators clamoring to know immediately what it was all about, Mr. Winnings read the opinion and dictated a hasty summary of it as he went.

**Abstract of Opinion.**

His abstract of the opinion follows: "In an opinion filed today by the Supreme court, the court, in a pro curiam opinion held the sales tax act unconstitutional. All seven judges concurred in the opinion. Justices Duncan and Jones specially concurring.

"The first question presented was whether or not the title of the act expressed more than one subject. But the court held that the act expressed only one subject and did not violate the title provision of the constitution.

"It was also contended that the act violated the equal protection clauses of the state and federal constitution and uniformity provisions of section 1, article IX, of the constitution of Illinois by imposing a tax upon persons engaged in the business of selling tangible personal property at retail; the legislature designated one class upon which the tax was imposed; having designated that class the legislature then attempted to exclude from that class farmers selling their own products.

**Held Not Uniform.**

"Such exclusion results in an improper classification and the act is not uniform in its application to the class upon which it operates and cannot be sustained. Likewise the act in exempting from the tax imposed the business of selling motor fuel at retail exempts without basis in fact from such a class a business indubitably being therein and so violates the uniform requirements of the constitution.

"It was also contended that the act violated article III, of the state constitution providing for the separation of the three departments of government, the due process clause of the constitution, in the provisions of the act relating to this administration.

"The court, however, held that the act did not violate these provisions of the constitution. If it did, the appellee was not injuriously affected and it is not now necessary to pass upon the validity of these provisions.

"It was also urged that the act violated the due process clause of the state and federal constitution in that the act is confiscatory. But the court held that a retailer is not compelled to engage in business at a loss and his property therefore is not confiscated by the imposition of the tax upon him.

**Relief Use Upheld.**

"It was further provided by the act that in counties having over 500,000 inhabitants the money collected should be expended by the Illinois Emergency Relief commission providing relief to residents of such county who are destitute and for such purpose the commission should make use of and cooperate with the county or other municipal corporations charged by law with the duty of poor relief and local relief agents.

"It was not contended, however, that providing relief to citizens who are destitute is not a public purpose, and under the provisions of the act the Illinois Emergency Relief commission can use the funds coming into its hands for no other purpose. These provisions therefore do not violate due process of law of the constitution. Neither does the act amend by reference other acts contrary to the provisions of the constitution.

"It was also contended that the act was not adaptable to the denominations of United States coin and currency and is therefore unworkable. This contention was overruled because the tax is not on the consumer but on the retailer.

"It was also urged that the act vio-

**AIDS HER MOTHER**



**MISS MARGARET GRIGOLIET.** (Tribune Photo.)

Mrs. Maye Grigoliet, 40 years old, 7823 South Michigan avenue, who is suing her husband, John, vice president of the Chatham Heating company, for separate maintenance, testified yesterday in the court of Circuit Judge Craig Hood.

Mrs. Grigoliet said her husband is behind in his temporary alimony payments and that she is destitute and forced to live with her friends. Her daughter, Margaret, was forced to live with her father, because the alimony was unpaid. Mrs. Grigoliet charged, and while there found the names of 33 women who are alleged to be friends of her father. The case was continued until tomorrow.

lated section 6, article IX, of the constitution, which provides the general assembly shall have no power to release or discharge municipalities or inhabitants thereof of its proportionate share of state taxes. The court held that this section applies only to the act do not violate this section. The court also held that the act did not violate section 2 of article VIII, which provides that school money must be applied to the objects for which they were made.

"It was contended next that the act violated section 16 of article V, and the court, citing a former opinion, held that the appropriation was not made for a single purpose but was made for use for either one or both of two purposes. And the appropriations are therefore void.

"In conclusion the court held that eliminating the provisions of the act which were found to be void it is not the act the general assembly passed or intended to pass and hence the act under review in whole and entire is void.

Signed by Seven Justices.

The seven Supreme court justices who signed the opinion were Warren W. Duncan, Marion; Norman L. Jones, Carrollton; Frank K. Dunn, Charles-ton; Warren H. Orr, Carthage; Clyde E. Stone, Peoria; Oscar E. Heard, Freeport; and Frederick R. De Young, Chicago. This probably will be the last big case passed upon by Justices Duncan and Dunn, whose terms expire this year and who are not candidates for reelection.

The sales tax bill was introduced as an administration measure by Senator Francis J. Loughran (Dem., Chicago) on Jan. 17, was passed by the senate on Feb. 15, by the house on March 16, and was signed by Gov. Hornor on March 22, taking effect at once, the imposition of the tax starting on April 1.

**The Coat Frock Is Back!**

IN A BORDER PRINT SHEER

\$14.85

We suggest it as an exceptionally good dress for the mothers-to-be. Wrap it around and tie it; puff up the sleeve to its most becoming fullness—see how smart the lines and the tiny print—with its dark, colorful border. Navy blue, black, brown, sizes 33½ to 43½—with a twelve inch lap.

Women's Moderate Price Frocks, Fourth Floor.

**CARSON PIRIE SCOTT & CO**

**RELIEF FACES EMERGENCY AS SALES TAX DIES**

**Refund of Collections Is Another Problem.**

Action by the Illinois Supreme court, which ruled yesterday that the state sales tax is unconstitutional and void, directed attention last night to two problems. They are:

1. The plight of the Illinois Emergency Relief commission, which had expected a revenue of forty to sixty million dollars a year from the tax.

2. Disposition to be made by merchants of the tax money which has been collected in the last forty days. In view of the court decision this money belongs to the consumers who paid it.

**Seek \$2,500,000 from R. F. C.**

Funds for the relief commission are sufficient to cover needs only for the fifteen day period that ends next Tuesday. After that the commission has only \$800,000 with which to go into the next period of two weeks.

However, an application is now pending with the federal Reconstruction Finance corporation for a \$2,500,000 loan. If this is granted the combined sum will enable the commission to continue to care for 800,000 families on the relief rolls until June 1.

Expenditures of the commission are at the rate of approximately \$200,000 a day. Of the relief roll families, 185,000 are in Cook county and 115,000 downstate.

**Sees Day to Day Borrowing.**

Wilfred S. Reynolds, executive secretary of the commission, said yesterday that local resources had been virtually exhausted. It was believed, he said, that after June 1 the organization would have to go on a day to day basis, borrowing from the Reconstruction Finance corporation for each twenty-four hour period, until the federal relief bill which has been sent to the President for his signature goes into effect.

This bill would release an additional \$500,000,000 of federal money for relief loans. It becomes effective ten days after the qualification of a federal relief director.

"Illinois," said Mr. Reynolds, "has already borrowed \$55,243,721 from the government, more than any other state. Originally loans to any one state were limited to \$45,000,000, but the limitation was removed because of the acute situation here.

**Only \$5,000,000 Left.**

"Other states have also borrowed heavily and only \$5,000,000 of the original \$300,000,000 relief loan fund is left.

The only ray of hope in the situation, as Mr. Reynolds viewed it, lies in the prospect that there may be a slight decrease in the number of families on the relief rolls. That is a faint ray. Until last month, when the number became stationary, there had been an average increase of 5 per cent monthly in the families cared for.

"A very slight decrease is expected

**Priest Tells of Mrs. McLean's Lindbergh Deal With Means**

BY GENEVIEVE FORBES HERRICK. (Chicago Tribune Press Service.)

Washington, D. C., May 10.—[Special.]—A Roman Catholic priest so ill he came to court in a wheelchair; a detective hugging a parcel of bright diamonds; a defendant cussing out his own lawyer. These are some of the ingredients that went today into the making of the trial, here in the district Supreme court, of Gaston B. Means and Norman T. Whitaker, charged with conspiracy to defraud Mrs. Evelyn Walsh McLean of \$35,000 in connection with their futile plan last year to recover the kidnapped Lindbergh baby.

The Rev. Francis J. Hurney was the priest. He came from a sick bed to tell the court how he had been called to Mrs. McLean's home March 6, 1932, to sit in at a conference with her and Means, as Means received from her \$104,000 with which to ransom the baby he was so confident he could recover. Then the priest traced out a pageant of promises which Means, and later Whitaker, had made to Mrs. McLean, for some six weeks.

**First Promise: 48 Hours.**

He told how he had accompanied Mrs. McLean and Means to Mrs. McLean's country home in nearby Maryland, where Means, he said, had assured them the baby would be returned in 48 hours. He told of the various delays, the numerous excuses which kept coming up as Means sent Mrs. McLean hopefully to her cottage at Aiken, there to receive the baby, and then on down to El Paso, where he assured her, the child would be returned, then back again to Aiken and on to Washington.

This brought the story up to April 17, when Father Hurney said he was informed by Mrs. McLean that her lawyers knew of her transactions with Means, demanded that Means return the \$104,000 to Father Hurney, to be turned over to her.

**Would Add \$35,000.**

Still hopeful of the success of the plan, however, Mrs. McLean that day told Means, who was also at the conference, that if he gave the priest the \$104,000 she would try to raise an additional \$35,000, which Means was to turn over to the kidnapers in return for \$49,000 of the "hot" or

marked money which Lindbergh had given to the kidnapers.

And that's where the diamonds came in. Unable to hand over the cash, Mrs. McLean had reached into her handbag, taken out a diamond necklace and two diamond bracelets, said to be valued at \$95,000, and had urged Father Hurney to take them and pawn.

**Disillusioned by Lawyers.**

Mrs. McLean then turned them over to Miss Elizabeth Poe, a Washington newspaper woman. Instead of taking them to the pawnshop, Miss Poe testified today, she took them to Mrs. McLean's lawyers. The latter, Miss Poe said, told Mrs. McLean she had been duped, insisting that Means return the first money.

Father Hurney, at the instance of the lawyers, went to the Means home and received this explanation: "Mr. Means said he had gone to his home in Concord, N. C., to get money he had been keeping there. On his way back he got to the bridge from Alexandria, Va., to Washington. It was about four in the morning, he said. And a man with a red lantern dashed into the road, stopped his car, and gave him the number 11, the code number used by Mrs. McLean in all the transactions. He told me he did not know the man, but thought that as he gave Mrs. McLean's code number, he ought to hand over the money. He said he did that."

**Means Grows Impatient.**

On cross examination counsel for Means brought out that the suggestion for her to raise \$35,000 of "clean" money in exchange for the \$49,000 "hot" money had come from Mrs. McLean herself.

Means grew more and more impatient; he kept scribbling suggestions in a notebook, passing them up to the lawyer. Finally he hunched near or and in a whisper that whistled across the counsel table said: "Damn it, ask the questions I tell you to."

When the government rested its case Attorney J. W. Tomlinson asked the judge to instruct the jury to find Means not guilty. The judge overruled the motion. Means himself is expected to take the stand tomorrow.

"But I can't be sure that he will," Mr. Tomlinson said this evening.

**62 DEATHS TOLL OF CUMBERLAND VALLEY TORNADO**

**Hits Tennessee-Kentucky Border.**

Nashville, Tenn., May 10.—[Special.]—Sixty-two deaths were reported today in the wake of a spring tornado which swept the upper Cumberland valley along the Kentucky-Tennessee border late last night. The number of injured was undetermined.

Tennessee's death toll tonight stood at 26 and Kentucky's at 36.

The greatest loss of life was reported in Beatty Swamps, Overton county, Tenn., where rescuers had found 20 dead early this afternoon.

**Other Counties Hit.**

In Monroe and Adair counties, Kentucky, a death list of 16 was reported. Twenty casualties were reported in Russell county, Kentucky.

In Wilson county, Tennessee, 50 miles away from Beatty Swamps, two Negroes lost their lives in a heavy windstorm that swept the state.

The tornado swept away houses, barns, and trees in its path. At Beatty Swamps, all lines of communication were almost entirely cut.

**Child Blown Away.**

Among the dead in Russell county was Mrs. Henry Smith of Fonthill. Her child was blown away by the tornado and has not been found. In Russell Springs nearby, three houses were blown down but no deaths were reported.

Among the dead in Tompkinsville were the Rev. Roy Bedford, pastor of the Northern Methodist church, and his wife.

The deaths brought to around 250 the number of persons lost in tornadoes in the south during recent weeks.

**Two Killed in Illinois.**

Mount Vernon, Ill., May 10.—[Special.]—Two persons were killed last night when a windstorm wrecked the home of Thomas Cantrell at Dale in Hamilton county. The dead are Marvin Thompson, 17 years old, and Thelma Cantrell, 10 years old.

**Report Five Dead in Texas.**

Brownwood, Tex., May 10.—(P)—A violent windstorm which raged in this section tonight was reported to have caused the death of five persons at Jones Chapel, a farming settlement east of Brownwood.

**Approve D. H. Morris as Ambassador to Belgium**

Washington, D. C., May 10.—(P)—The nomination of Dave H. Morris of New York to be ambassador to Belgium was approved today by the senate foreign relations committee.

**ILLINOIS STUDENT TAKES HONORS IN SPEAKING CONTEST**

Wooster, O., May 10.—(P)—Harold Stark of Granite City, Ill., high school, competing for the third successive year in the finals of the national high school forensic tournament, tonight won the acclaim of his competitors by capturing the championship in oratorical declamation and second place in dramatic declamation.

Besides Stark the high school champions crowned tonight were Denton Snyder of Humbolt, Ia., in dramatic declamation; Caryl Arnold of Grand Rapids, Minn., in humorous declamation; Robert Dunham of Sioux Falls, S. D., in extempore speaking, and Gene Davis of Cicero, Ill., in original oratory.

Stark's subject in the oratorical declamation contest was "The Supreme Menace" and dealt with war. In the dramatic declamation event he spoke on "Death Takes a Holiday."

Another Humbolt speaker, Frances Bowman, was third place in dramatic declamation with "The Arithmetic Lesson." Mary Reilly of Rankin Township High school, near Danville, Ill., was second. Her topic was "At the Declaratory Contest."

Rachel Collins, another Cicero, Ill., contestant, won third place in dramatic declamation with "The Valiant."

Last year Stark won second and two years ago was third in dramatic declamation.

**WHEATON JURY HUNTS WINFIELD VILLAGE BOOKS**

An investigation was started by the Du Page county grand jury in Wheaton yesterday to determine what has become of the records of the village of Winfield.

L. O. Thieme, village president, who was defeated for reelection last month, was one of those who testified. Mr. Thieme said later that he had asked the help of the grand jury because he records could be found for the six years previous to his induction into office.

In the recordless period, he added, two bond issues for a total of \$50,000 had been floated and he couldn't even find out who held the bonds. It is expected that the officials who held office during the six years will be called to tell what, if anything, they know of the records.

Oliver C. Atkinson, who defeated Thieme in the recent election, scoffed at the idea that anything was wrong with the village. He said Thieme was trying to make trouble because he and his faction, many of them Chicago business men living in Winfield, had been defeated by the votes of the home folks of the village.

**BISHOP MANNING SUFFERS 20% CUT FROM HIS PAY**

New York, May 10.—[Special.]—Bishop William T. Manning of the Protestant Episcopal diocese of New York and Suffragan Bishops Arthur S. Lloyd and Charles K. Gilbert accepted 20 per cent salary reductions today as the 15th diocesan convention reduced the Episcopal fund budget correspondingly. Bishop Manning at present receives \$15,000 a year, while the salary of each of the suffragan bishops is \$10,000 a year.

Earlier President Roosevelt was re-elected for another six year term as a trustee of the Cathedral of St. John the Divine at the convention which concluded its two day session at the synod house on the cathedral grounds.

**MOTHER'S DAY IS NEXT SUNDAY**

**A GIFT that Mother will love**

Fannie May Candies for Mother's Day (next Sunday) will show your appreciation for the countless things Mother has done for you. Fannie May's are made the home-made way—without the addition of preservatives. These truly fresh and pure candies send spurts of cream through the chocolate coatings occasionally. Place Mother's Day parcel post orders now!

Our Shop at 4812 Broadway, next to The Uptown Theater, now reopened

**Fannie May Home made Candies 50% off**

Fannie May Candy Shops All Over Chicago and in Milwaukee, Peoria, Rockford, Springfield, Bloomington

**MOTHER'S DAY SPECIAL**

Specially packed box of Fannie May Candies—Almost 2 lbs., for

75c

**NEW U. S. ENVOYS SAIL FOR POSTS AMID CEREMONY**

New York, May 10.—(P)—After Alfred E. Smith and forty-eight young women had released baskets full of carrier pigeons in a ceremony on the decks of the S. S. Washington today, two new ambassadors sailed on the liner's maiden voyage to take up their posts abroad. They were Robert Worth Bingham, for the court of St. James, and Claude G. Bowers, ambassador to Spain.

The pigeons used in the farewell ceremony had been loaned by the United States army signal corps at Fort Monmouth, N. J. Each bird bore a message to the governor of one of the states. Former Gov. Smith's bird strolled leisurely along the deck after he had opened the hamper and it took considerable arm waving and "shooing" to start it on its way to Washington, D. C.

When the usual question put to all departing ambassadors to the court of St. James—about the knee breeches—was asked Mr. Bingham said: "I had hoped you wouldn't ask that question, but as you have asked it you can say positively that I will not wear them."

He likened the subject to mother-in-law jokes.

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**Gray AND beige!**

They're Built to High Quality Standards And Are Guaranteed to Give Satisfaction!

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When you buy Maling Brothers' Shoes you're buying the smartest style obtainable—at an unbeatable low price.

Your Size . . . Your Color . . . Your Style. You'll Find Them All at Maling Brothers

**Maling Brothers**

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3249 LAWRENCE AVE. 3218 LINCOLN AVENUE 2764 MILWAUKEE AVE. 6320 S. HALSTED ST. 3249 ROOSEVELT ROAD 4039 W. MADISON ST. 1335 MILWAUKEE AVE.

All Neighborhood Stores Open Tonight 11:15

**CASH BARGAIN BASEMENT**



**FUR TRIMMED COATS**

A sale that cracks every value record wide open

\$10 worth \$20-\$25 and more

Over ten thousand women have already taken advantage of this sale. Over ten thousand have received the best bargains in their life. Stunning coats. Beautifully tailored coats. Coats with genuine ermine, krummer, wolf, galyak, squirrel. Fully silk lined. Yes, at \$10—and a vast, varied selection for larger women as well as misses. Sizes 38 to 46 and 12 to 20

**Maurice L Rothschild**

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