

Then again it was the opinion in the case of *Pound v. Lawrence*, 233 S. W. 359, 361, that shares of stock are within the meaning of the term "commodities," which is a broader term than merchandise, and which, in referring to commerce, may mean almost any article of movable or personal property.

The question is not raised relative to the Tower Mutual Insurance Company trading in the stocks. I point out to you the fact that one trading in stocks would come within the prohibition of section 180 for the reason that it would be an easy matter to transfer enough of the stock to lose control of the sausage manufacturing company temporarily, then upon being licensed to do business in Indiana buy it back. It is my opinion that such would be a subterfuge and within the prohibition of the statute.

To answer the question specifically, it is my opinion that since the Tower Mutual Insurance Company of Cincinnati owns the sausage manufacturing company of which you spoke, the insurance company is trading in goods, wares and merchandise in contravention of section 180 of the Indiana Insurance Code. A relinquishment of control would change the conclusion.

POLICE, INDIANA STATE: Firearms Act—gas guns, fingerprints.

May 11, 1937.

Mr. Don F. Stiver,
Supt., Indiana State Police,
State House,
Indianapolis, Indiana.

My dear Mr. Stiver:

This will acknowledge receipt of your letter of May 10, 1937, in which you asked about the Firearms Act of 1935 (Acts of 1935, Chapter 63) as amended by chapter 158, Acts of 1937, page 843.

Your first question is, "Does a pistol of the type that shoots a gas shell cartridge come within the definition of the Act?"

Webster has defined a "firearm" to mean "any weapon from which a shot is discharged as by explosives." The Act of

1935, in section 1, says "that the term 'pistol,' as used in this Act, means any firearm with a barrel less than twelve inches in length."

This definition, as set out in the 1935 Firearms Act, is the definition which has been adopted by the National Conference of Commissioners on Uniform State Laws. Such is the definition which is found in the laws of South Dakota (Laws 1935, Chapter 208) and the laws of Washington (Laws 1935, Chapter 172).

The Commissioners' note appended to the Uniform Firearms Act says, among other things, that the definition "thus includes a revolver or any small firearm capable of being concealed on the person." Other kinds of dangerous weapons are not included.

Since the definition of firearms includes the word "shot," and "shot" means a missile or projectile when it is used as a noun, and since the gas shells do not have a projectile but rather only gas, of one form or another, such weapon would not come within the definition of pistol, as used in the 1935 Act, as amended by chapter 158, Acts of 1937.

Your second question turns on section 5 of the Act, as amended. The important provision of the Act is as follows: "The license shall be in triplicate, in form to be prescribed by the Superintendent of State Police, and shall bear the name, address, description and signature of the licensee and the reason given for desiring a license * * *." Your specific question is, "Would it be legal to require, as a part of the form as prescribed by the Superintendent of State Police, fingerprints of the licensee as a part of the form?"

Reading the whole Act, we find that the evident purpose of it was to prevent the unwarranted distribution of firearms to irresponsible people and to those others who did not have a need or adequate reason to justify possession of such firearms.

The Act is a police measure and should be interpreted so that the intent and purpose of the Act will be given the sufficient possible scope consummate with the provisions of the Act. Furthermore, the Act has as a purpose, the identification of all persons who purchase pistols and who seek licenses to carry them. Since this is true, and since fingerprints are an infallible means of identification, it would be my opinion that it would be legal for you to require of li-

censees that they be fingerprinted on the form of application for license which you, as Superintendent of State Police, prescribe.

Your last question deals with section 9, subsection 4, of the Acts of 1935, as amended by chapter 158, Acts of 1937. You ask whether or not the provision in the section relative to a form to be prescribed by the Superintendent of State Police for the purpose of keeping of records by the sellers of pistols, may also be such as to require the applicant to be fingerprinted before a sale can be made.

Since one of the intentions of the Act, as previously pointed out, is for the purpose of identification, it is my opinion that the form should require the fingerprints, for the reason that an identification at the time of purchase is more imperative from a point of view of identifying the individual and furthermore, from a point of view of a policing measure than at any other time.

AUDITOR OF STATE: Gasoline Tax, exemption of American National Red Cross on gasoline used by it in flood relief in southern Indiana. Red Cross, whether same is a governmental agency.

May 11, 1937.

Hon. Laurence F. Sullivan,
Auditor of State,
Indianapolis, Indiana.

Dear Mr. Sullivan:

I have before me your letter of May 6, reading in part as follows:

“The question has arisen as to whether or not the American Red Cross is a recognized United States Government agency, and, as such, whether or not this department is protected in allowing exemption of the State motor vehicle fuel tax on sales of motor vehicle fuel to this organization.

“If the American Red Cross may purchase motor vehicle fuel less the Indiana State tax, should this department require the use of Form 1094, which form is furnished by the United States Government to the various governmental branches entitled to purchase motor vehicle fuel tax free.”