THE UNION LABEL: ITS REQUIREMENTS UPON PUBLIC PRINTING ILLEGAL AS CLASS LEGISLATION, AND, THEREFORE, UNCONSTITUTIONAL

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VARIOUS

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Trieste

THE UNION LABEL

Its requirements upon public printing illegal as class legislation, and, therefore, unconstitutional

Compiled by the Secretary's Office
UNITED TYPOTHETÆ OF AMERICA
New York, 1906

FOLLOWING are some of the opinions and references given in union label cases where ordinances and petitions for ordinances requiring the label on public printing have been contested.

OPINION OF THE SUPREME COURT

In the case of Marshall & Bruce Company *vs.* City of Nashville, deciding that an ordinance requiring the Union Label on public printing is "contrary to public policy, the Charter of the City, and to the Constitution of the State."

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MARSHALL & BRUCE COMPANY

vs.

CITY OF NASHVILLE.

Equity Docket—Davidson County.

This is a bill against the Mayor and City Council of Nashville to recover $83.05 and interest for stationery furnished and printed for the city. The city concedes that the account is correct as to items and amounts, but declines to receive the goods and pay the bill therefor on the ground that the stationery does not bear the union label of the Nashville Allied Trades Council or the label enacted by the International Typographical Union.

It appears that on December 11, 1897, the City Council of Nashville passed the following ordinance:

Section 1. Be it enacted, That all city printing shall bear the union label of the Nashville Allied Trades Council or the label enacted by the International Typographical Union.

Section 2. That this ordinance shall take effect from and after its passage, the welfare of the city requiring it.

It appears further that in February, 1901, the city, being in need of blank books and stationery to the value of over fifty dollars, solicited competitive bids therefor, specifying what was desired, and complainant being the lowest bidder was awarded the contract to furnish the goods, and under its bid and contract manufactured the articles specified according to specifications and delivered some of the letter-heads embraced in the order in March, 1901.

After the manufacture of all the items specified and the advance delivery of the letter-heads mentioned, the city notified

complainant that it would refuse to receive the goods upon the sole and only ground that they did not bear the union label prescribed by the ordinance and refused to pay for the goods for the same reason, and thereupon relet the work to the Brandon Printing Company at an advance price of 38½ per cent. The bill is filed to recover the amount of complainants' bill and to have the ordinance in question declared unreasonable, null, and void.

The city insists upon the validity of the ordinance and that complainants knew of its existence when they made their bid and agreed to abide by it in the event the contract was awarded to them, and upon both grounds denies any right of recovery.

The Chancellor heard the case on proof and held the ordinance null and void because in conflict with the provisions of the charter of the city and gave complainants judgment for the amount of the bill and costs.

The city appealed and in the Court of Chancery Appeals assigned two errors:

First—That the Chancellor erred in holding the ordinance void and that it was not in the power of the city to pass the same.

Second—That even if the ordinance be held void the complainant nevertheless agreed to place the union label upon the stationery and was bound by its agreement and unless complied with it could not recover.

The charter of the city requires that all goods and supplies furnished the city amounting to over fifty dollars must be let out at competitive biddings to the lowest responsble bidder.

We are of opinion that the ordinance in question is clearly in conflict with the spirit, purpose and letter of the charter and is invalid and void.

It is moreover class legislation, contrary to public policy, and to the Constitution of the State, because plainly discriminative in its character. All the authorities to which we have access so hold in regard to similar ordinances and statutes, and we have been able to find none to the contrary. We cite the following from among many others:

Davenport *vs.* Walker, 68 N. Y. Sup. 161; Holden *vs.* City of Alton, Ill., 53 N. W. Rep. 556; City of Atlanta *vs.* Stein, 36 S. E. Rep. 932; Adams *vs.* Brennan, 42 N. E. L. R. A. 718;

Fiske *vs.* The People, 58 N. E. Rep. 985; State *vs.* Loomis, 115 Mo. 307; *In Re* Jacobs, 92 N. Y. 98; People *vs.* Gibson, 100 N. Y. 389.

We give a short synopsis of several cases to illustrate the holdings.

Holden *vs.* City of Alton, Ill., April 17, 1899, 53 N. W. Rep. 556.—The charter of the city of Alton provided that all printing and contracts for stationery should be let to the "lowest bidder" unless the amount of the contract price was under ten dollars. Charles Holden proposed at a competitive bidding under seal to print certain bonds for the city for $18.25. The Sentinel-Democrat Printing Company bid $22.85 for the same work. An ordinance was pending before the Council, but had not become a law, to the effect that no city printing should be let to anyone who could not furnish the union label. Mr. Holden could not, but the Sentinel-Democrat Publishing Company could. The letting of the contract was delayed until the ordinance could be passed. This being done, the contract was let to the Sentinel-Democrat Printing Company and the bid of Holden refused solely and alone on the ground that he could not show the union label. Holden was a stationer of good standing, entirely responsible, and a taxpayer of the city. He filed a bill to enjoin the Sentinel-Democrat Publishing Company from carrying out the contract and the city from paying him therefor. Nothing had been done in that direction when the bill was filed, but pending the final decision the city paid him anyway.

The Court held that the fact that Holden was a bidder did not impair his right to bring the bill as a taxpayer. The Court further said that even if the ordinance had been approved before the bidding the case would not have been altered; that the statute or charter required the contract to be let to the lowest bidder, and that this "*implied* equal opportunity and freedom in all who might choose to bid." The Court said that while in many cases there might be ground for the exercise of discretion, here, there was no attempt to exercise any discretion as to the qualification or facilities of bidders, and that a refusal upon the ground upon which Holden was refused was "merely the imposition of a greater burden on the taxpayers through an attempted abuse of power." As the money was paid after the bill had been filed, restitution to the city was directed.