

the ground that it "has requested that, *because of its geographical location*, said State-wide policy in so far as it is implemented" by the bill "should be inapplicable to it". In other words, since the dispensaries in Montgomery County have to compete with retail liquor stores in the District of Columbia, the State-wide policy of promoting temperance and the orderly distribution of alcoholic beverages "as implemented" by the bill should not apply to them.

As to the other counties excluded, there is likewise no legislative declaration that their exclusion was prompted by their having county dispensaries. Moreover, it should be noted that not all counties with dispensaries have been excluded. For example, Caroline, Kent and Dorchester Counties have liquor dispensaries (Article 2B, Sections 161 and 169), but those counties are not excluded.

In view of the exclusion of certain counties from the "state-wide policy" of promoting temperance and the orderly sale of alcoholic beverages "as implemented" by the proposed legislation, and the fact that not all retail sales in the counties affected are subject to the control imposed, the bill, if enacted, may well be held to be arbitrary and invalid as not being even reasonably calculated to forward its announced purpose (see *Schwegmann Bros. v. Louisiana Board of Alcoholic Beverage Control*, 216 La. 148). The liquor dispensaries in the excluded counties may continue to sell alcoholic beverages at any price which they see fit—however low. As to Montgomery County, this low price would apply only to alcoholic beverages consumed therein, since the exportation of such beverages therefrom into other counties of the State is prohibited. However, this prohibition does not apply to alcoholic beverages purchased in the other excluded counties for consumption in counties covered by the bill.

It should also be noted that the bill does not apply to the sale of beer, or to the sale of any alcoholic beverages by the drink in bars, restaurants and night clubs. Moreover, a manufacturer who does not favor fair trade may easily defeat the avowed purpose of the bill by setting his minimum retail price at such a level as to permit the retail package goods store to sell that manufacturer's products at as low a price as he would have been able to do had the bill not been passed.

In view of these factors, we feel that the Court of Appeals might well find from the face of the bill itself what it was unable to find in the wholesale price-posting statute (Chapter 711, Acts of 1951) which applied on a State-wide basis—i.e., that it "could not serve its avowed purposes". *Dundalk Liquor Co. v. Tawes*, 201 Md. 58, 70 (1952).

Similarly, the lack of any apparent basis for the exclusion of certain counties from a State-wide regulatory policy which would appear to be equally applicable to them may well make the bill discriminatory legislation in violation of Article 23 of the Declaration of Rights. The power of the Legislature to restrict the application of statutes to localities less in extent than the entire State is not unlimited; it "cannot be used to deprive the citizens of one part of the State of the rights and privileges which they enjoy in common with the citizens of all other parts of the State, unless there is some difference between the conditions in the territory selected and in the conditions in the territory not affected by the statute sufficient to afford some basis, however slight, for classification". *Maryland Coal & Realty Co. v. Bureau of Mines*, 193 Md. 627, 642 (1949).