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337 Ill. 200

Supreme Court of Illinois.

CHICAGO MOTOR COACH CO. et al.

v.

CITY OF CHICAGO et al.

No. 17454.

|

June 19, 1929.

|

Rehearing Denied Dec. 17, 1929.

### Synopsis

Suit by the Chicago Motor Coach Company and others against the City of Chicago and others. From an adverse decree, complainants appeal.

Reversed and remanded, with directions.

Stone and Heard, JJ., dissenting.

West Headnotes (14)

#### [1] Municipal Corporations

🔑 Powers and Functions of Local Government in General

Municipalities have only such powers as are given them by the Legislature.

#### [2] Municipal Corporations

🔑 Powers and Functions of Local Government in General

Statute must be shown expressly or by necessary implication granting power sought to be exercised by city, and absence of such grant excludes power.

#### [3] Municipal Corporations

#### 🔑 Construction of Charters and Statutory Provisions

Statutes granting powers to municipalities are strictly construed, and reasonable doubt must be resolved against existence of power.

1 Cases that cite this headnote

#### [4] Municipal Corporations

🔑 Relation to State

City acts as state's agent in exercising power granted by Legislature, which may at any time change agent.

1 Cases that cite this headnote

#### [5] Automobiles

🔑 Right to Use Motor Vehicles on Highways

Automobiles have equal rights on streets with horses and carriages.

#### [6] Automobiles

🔑 Power to Regulate or Prohibit

Statute authorizing city to "regulate" use of streets by automobiles does not authorize city to prohibit use of streets by them. Cities and Villages Act, art. 5, § 1, cl. 9, (see S.H.A. ch. 24, § 23-10).

3 Cases that cite this headnote

#### [7] Automobiles

🔑 Right to Use Highways

Until enactment of law prohibiting or regulating their use, motorbuses have right to operate on highways on complying with valid local ordinances.

#### [8] Highways

🔑 Power to Control and Regulate

Legislature cannot deny citizen right to travel on highway and transport his property in ordinary course of business or pleasure.

3 Cases that cite this headnote

**[9] Automobiles****🔑 Power to Control and Regulate**

State may prohibit use of highways by stagecoach, omnibus truck, or motorbus for private gain.

[3 Cases that cite this headnote](#)

**[10] Automobiles****🔑 Power to Control and Regulate**

City has no power to prohibit operation on streets of motorbuses under certificate of public convenience and necessity from Commerce Commission. Public Utilities Act, §§ 9, 32, 49, 50, 57, 64, 65, 68, 69, 76, S.H.A. ch. 111<sup>2</sup>/<sub>3</sub>, §§ 9, 32, 49, 50, 61, 68, 69, 72, 73, 80.

[19 Cases that cite this headnote](#)

**[11] Highways****🔑 Establishment by Statute or Statutory****Proceedings**

“Public highways” include streets and alleys in municipalities, as well as roads outside municipal boundaries.

**[12] Municipal Corporations****🔑 Title and Rights of Municipality in General**

Title of streets and alleys is held by municipality in trust for use of public at large equally with residents of municipality.

[4 Cases that cite this headnote](#)

**[13] Highways****🔑 Power to Control and Regulate**

State may commit control of highways to single agency or divide supervision thereof as it sees fit.

**[14] Public Utilities****🔑 Certificates, Permits, and Franchises**

By creating Commerce Commission, Legislature withdrew from municipalities power previously exercised respecting use of streets by public

utilities, and conferred them on commission. Public Utilities Act.

[17 Cases that cite this headnote](#)

**\*\*23 \*201** Appeal from Circuit Court, Cook County; Hugo M. Friend, Judge.

**Attorneys and Law Firms**

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**Opinion**

DUNN, J.

The circuit court of Cook county having sustained a demurrer to a bill for an injunction and dismissed the bill for want of equity, the complainants have appealed.

The Chicago Motor Coach Company and several of its employees, in behalf of themselves and all other persons similarly situated and with like rights, filed a bill in the circuit court of Cook county against the city of Chicago, its mayor and superintendent of police to restrain the enforcement of an ordinance of the city. The bill was twice amended, and, a demurrer to the second amended bill having been sustained, the court dismissed it for want of equity. The complainants have appealed directly to this court; the validity of a municipal ordinance being involved, and the judge having made the statutory certificate required for such appeal.

It appears from the bill that the Chicago Motor Coach Company is an Illinois corporation organized in 1913 under the name of Chicago Motor Bus Company, which was later changed to Chicago Motor Coach Company, to operate for public use, in the transportation of persons for compensation upon streets in the city of Chicago, omnibuses propelled **\*\*24** by gasoline, kerosene, or petrol power, or any other

type of vehicle running on the ordinary surface of the ground and not on fixed rails, which may at any time be lawfully used, and to do a general omnibus business; that since its organization it has operated motorbuses upon certain streets in Chicago for the transportation of persons for hire; that before it began to operate motorbuses on the streets the state Public Utilities Commission, and afterward its successor, the Illinois Commerce Commission, on the application \*203 of the company issued to it certificates of public convenience and necessity for the operation of motorbuses over certain designated boulevards, including 19 streets which were named in the bill, and that in pursuance of its charter and such certificates of public necessity and convenience it has developed and established and is now maintaining and operating a comprehensive and extensive system of motorbus transportation of passengers for hire on the boulevards, parkways, and streets in the city of Chicago through the residential and business sections, extending from Devon avenue, in the north part of the city, to Ninety-Second street, in the south part, a distance of approximately 20 miles, and is daily operating its busses on fixed time schedules, on fixed routes, designated in the certificates of public convenience and necessity, which routes aggregate 47.6 miles in extent, of which approximately 41.6 miles are located in boulevards and parkways which are under the jurisdiction of the Lincoln Park Commissioners and the South Park Commissioners, and only approximately 6 miles along the 19 streets of the city of Chicago mentioned in the bill; that the routes connect, so as to comprise one system of transportation, and the corporation is now employing 287 motorbuses in the operation of such routes and systems, which are carrying on an average from 145,000 to 150,000 passengers daily; that on November 22, 1922, the city council of the city of Chicago enacted an ordinance by which all general ordinances of the city were revised and codified in the form of a comprehensive code known as the 'Chicago Municipal Code of 1922,' section 2761 of which declares it to be unlawful for any person, firm, or corporation to operate motorbuses as common carriers on any street in the city of Chicago without first having obtained a specific grant of authority to do so from the city council in the form of an ordinance designating the routes and fixing the terms and conditions under which such busses may be operated, and section 2762 provides a penalty for a violation \*204 of the ordinance; that on February 5, 1924, the city of Chicago notified the company that the use made of the streets mentioned in the bill by motorbuses of the company is unlawful in the absence of special franchise, license, or permission, and that unless within 10 days application

was made to the city council for a franchise, license, or permission to operate its busses in the streets named, the city would proceed to arrest the drivers of the busses and prevent the unlawful operation of such busses on the streets. The bill averred that the attempt to enforce the sections of the ordinance mentioned would cause irreparable injury to it and damages which could not be adequately compensated, and prayed that the defendants be enjoined from enforcing sections 2761 and 2762 of the Chicago Municipal Code of 1922 and from interfering with the operation of the motorbuses upon the streets mentioned in the bill.

[1] [2] [3] [4] The question for decision is, Has the city the power to prohibit the operation on its streets of motorbuses, as common carriers of passengers, by a public utility which has obtained a certificate of public convenience and necessity for such operation from the Illinois Commerce Commission? The appellants deny this power; the appellees affirm it. The city of Chicago is organized under the general Cities and Villages Act. It has no inherent powers. It is thoroughly settled, and too well known to require the citation of any authority, that in this state cities are creatures of the Legislature and derive all their powers only from the statutes which the Legislature enacts. To authorize the exercise of any power by a city a statute must be shown expressly granting the power or making a grant in such terms as necessarily imply its existence. The absence of such grant excludes the power. Statutes granting powers to municipal corporations are strictly construed, and a reasonable doubt of the existence of the power must be resolved against it. The city, in exercising the power granted to it by the Legislature, acts as the agent of the state, and the Legislature \*205 may at any time change its agent and by another statute provide that the power previously exercised by the city shall be exercised by some other agency. There is no disagreement about these statements of the law. The appellants deny that the Legislature has ever authorized cities to prohibit the operation on their streets of motorbuses as common carriers of passengers, and aver that if it ever has done so the power has been withdrawn by the Public Utilities Act (Smith-Hurd Rev. St. 1927, c. 111 2/3, §§ 1-95).

The powers which may be exercised by cities organized under the Cities and Villages Act are enumerated in section 1 of article 5 of that act (paragraph 65 of chapter 24 of the Revised Statutes), as amended. This section consists of 101 clauses, many of which refer to powers to be exercised in regard to streets, alleys, and public grounds. The only two material to be considered here are clauses 7 and 9, which confer power:

‘Seventh-To lay out, to establish, open, alter, widen, extend, grade, pave or otherwise improve streets, alleys, avenues, sidewalks, \*\*25 wharves, parks and public grounds, and vacate the same, and for such purposes or uses to take real property or portions thereof belonging to said city or village and already devoted to a public use when such taking will not materially impair or interfere with the use already existing and is not detrimental to the public. \* \* \* Ninth-To regulate the use of the same.’

[5] Automotive vehicles are lawful means of conveyance and have equal rights upon the streets with horses and carriages. [Christy v. Elliott](#), 216 Ill. 31, 74 N. E. 1035, 1 L. R. A. (N. S.) 215, 108 Am. St. Rep. 196, 3 Ann. Cas. 487; [Ward v. Meredith](#), 220 Ill. 66, 77 N. E. 118; [Indiana Springs Co. v. Brown](#), 165 Ind. 465, 74 N. E. 615, 1 L. R. A. (N. S.) 238, 6 Ann. Cas. 656; [Shinkle v. McCullough](#), 116 Ky. 960, 77 S. W. 196, 105 Am. St. Rep. 249. Many cases have been decided respecting the validity and construction of statutes and ordinances regulating their use upon public highways, and it has been uniformly held that the state, in the exercise of the police power, may regulate their speed and provide other reasonable rules and restrictions as to their use. \*206 [Commonwealth v. Kingsbury](#), 199 Mass. 542, 85 N. E. 848, L. R. A. 1915E, 264, 127 Am. St. Rep. 513; [Christy v. Elliott](#), supra; [State v. Swagerty](#), 203 Mo. 517, 102 S. W. 483, 10 L. R. A. (N. S.) 601, 120 Am. St. Rep. 671, 11 Ann. Cas. 725; [State v. Mayo](#), 106 Me. 62, 75 A. 295, 26 L. R. A. (N. S.) 502, 20 Ann. Cas. 512. Driven by indifferent, careless, or incompetent operators these vehicles may be a menace to the safety of the traveling public, and it has been held that under its authority to regulate the use of the streets a city may enact ordinances which may diminish this danger, and for this purpose may regulate the speed of automobiles and repress their careless management. [City of Chicago v. Kluever](#), 257 Ill. 317, 100 N. E. 917; [People v. Schneider](#), 139 Mich. 673, 103 N. W. 172, 69 L. R. A. 345, 5 Ann. Cas. 790; [Commonwealth v. Kingsbury](#), supra; [Brazier v. Philadelphia](#), 215 Pa. 297, 64 A. 508, 7 Ann. Cas. 548.

[6] [7] [8] [9] The Legislature may prohibit by general law the operation of automotive vehicles upon the public highways of the state and it may delegate to the cities in the state the power to prohibit such operation within the respective cities. It has not done either in this state. The city has therefore never had the power to prohibit the operation of automotive vehicles on the city streets. It had the power, under clause 9 of section 1 of article 5 of the Cities and Villages Act, to regulate the use of the streets by automotive vehicles but

not to prohibit the use of the streets by them. Regulation is inconsistent with prohibition or exclusion. While it is within the power of the Legislature to prohibit the use of the public highways of the state by motorbuses, yet until the enactment of a law prohibiting or regulating their use they are lawful vehicles and means of conveyance, and have an equal right with omnibuses drawn by horses, trucks and other lawful conveyances, to operate upon the public highways upon compliance with the local ordinances prescribing regulations for their use of the highways, lawfully adopted by the several municipalities in which they operate. [G. R., G. H. & M. Ry. Co. v. Stevens](#), 219 Mich. 332, 189 N. W. 2. Even the Legislature has no power to deny to a citizen the right to travel upon the highway and transport his property in the ordinary course of his business or pleasure, though this right may be regulated in accordance with the public interest \*207 and convenience. Where one undertakes, however, to make a greater use of the public highways for his own private gain, as by the operation of a stagecoach, an omnibus, a truck, or a motorbus, the state may not only regulate the use of the vehicles on the highway, but may prohibit it. A municipality can do so only under a power expressly granted by the state. Ex parte [Dickey](#), 76 W. Va. 576, 85 S. E. 781, L. R. A. 1915F, 840.

[10] It may be conceded that the city of Chicago had the power, by reason of the grant of the Legislature of power to regulate the use of the streets, to designate the routes and fix the terms and conditions upon which motorbuses might be permitted to operate on the streets. Under the powers granted to city councils by the various clauses of section 1 of article 5 of the Cities and Villages Act, the city of Chicago, and many other cities and villages in the state, prior to the going into effect of the Public Utilities Act of 1913 (Laws 1913, p. 459), which became effective on January 1, 1914, properly enacted many ordinances providing rules for the regulation of public utilities and from time to time amended and changed such rules. The ordinances were authorized by the Legislature and compliance with them by the public utilities was required by the courts.

Section 8 of the Public Utilities Act gave general supervision of all public utilities to the Public Utilities Commission, and section 9 required every public utility to comply with every order, decision, direction, rule, or regulation made by the commission in every matter in any way relating to or affecting its business as a public utility. Section 32 required every public utility to furnish, provide, and maintain such service, instrumentalities, equipment, and facilities as should promote

the safety, health, comfort, and convenience of its patrons, employees, and the public, and as should be in all respects adequate, efficient, just, and reasonable.

Section 49 provided that whenever the commission, after a hearing, should find that the rules, regulations, practices, equipment, appliances, facilities, or service of any public utility or the \*208 methods of manufacture, distribution, transmission, storage, or supply employed by it were unjust, unreasonable, \*\*26 unsafe, improper, inadequate, or insufficient, it should determine the just, reasonable, safe, proper, adequate or sufficient rules, regulations, practices, equipment, appliances, facilities, service or methods to be observed, furnished, constructed, enforced, or employed, and should fix the same by its order, decision, rule, or regulation. It was further provided that the commission should prescribe rules and regulations for the performance of any service or the furnishing of any commodity of the character furnished or supplied by any public utility.

Section 50 provided that, whenever the commission, after a hearing, should find that additions, extensions, repairs, improvements, or changes in the existing plant, equipment, apparatus, facilities, or other physical property of any public utility ought reasonably to be made or that a new structure or structures should be erected to promote the security or convenience of its employees or the public or in any other way to secure adequate service or facilities, the commission should order such additions, extensions, repairs, improvements, or changes to be made or such structure or structures to be erected.

Section 57 gave the commission power, after a hearing, to require every public utility to maintain and operate its plant, equipment, or other property in such manner as to promote and safeguard the health and safety of its employees, passengers, customers, and the public, and to this end to prescribe, among other things, the installation, use, maintenance, and operation of appropriate safety or other devices or appliances, to establish uniform or other standards of equipment, and to require the performance of any other act which the health or safety of its employees, passengers, customers, or the public might demand.

Section 64 authorized complaint to be made by any municipal corporation of any act or thing done or omitted to be done in violation, or claimed to be in violation, of any provision of the act or of any order or rule of the \*209 commission. Each city was given the power to appear as complainant

or make application before the commission for an inquiry, investigation, or hearing relating to the rates or other charges for services or public utilities within such city, and in case of any inquiry, investigation, or hearing by the commission, 10 days' written notice to the city was required before such inquiry, investigation, or hearing, and the city was entitled to appear and present evidence relating to the subject-matter.

Section 65 provided for hearings, the issue of process to enforce the attendance of witnesses, the taking of evidence, the entry and service of orders, which should of their own force take effect and become operative 20 days after service, except as otherwise provided. Sections 68 and 69 provided for appeals from the orders of the commission, and section 76 prescribed a penalty for a failure to comply with any provision of the act or with any order of the commission.

The language of the act is sufficiently comprehensive to subject every phase of the relations between every public utility and the public to the supervision and regulation of the Public Utilities Commission. The commission was invested with the supervision of all public utilities, authorized to fix the safe, proper, or adequate equipment to be employed, to direct additions, improvements, or changes to be made, to determine the just, reasonable, safe, proper, adequate, or sufficient rules, regulations, practices, equipment, appliances, facilities, services, or methods to be observed, furnished, constructed, enforced, or employed, and to fix them all by its order, decision, rule, or regulation, and every public utility was required to comply with every order, decision, rule, and regulation of the commission. These provisions certainly covered the whole field of service of every utility. They left no room for the exercise of authority of any other body.

The vesting of the power conferred by this act in the Public Utilities Commission necessarily withdrew from cities and villages all such power as they had previously \*210 been authorized to exercise in the premises. This was the decision in [Northern Trust Co. v. Chicago Railways Co.](#), 318 Ill. 402, 149 N. E. 422. The question had previously been decided in the same way in [Village of Atwood v. Cincinnati, Indianapolis & Western Railroad Co.](#), 316 Ill. 425, 147 N. E. 449. These decisions were followed in [City of Witt v. Cleveland, Cincinnati, Chicago & St. Louis Railway Co.](#), 324 Ill. 494, 155 N. E. 325, and [Chicago, North Shore & Milwaukee Railroad Co. v. City of Chicago](#), 331 Ill. 360, 163 N. E. 141. In the case last cited, as in this case, it was argued that there was no inconsistency between the grant to the city of exclusive power to consent to the occupation of

its streets and the Public Utilities Act, but that they should be construed together, because clause 24 of section 1 of article 5 of the Cities and Villages Act and clause 5 of section 19 of the general Railroad Act (Smith-Hurd Rev. St. 1927, c. 114, § 20) both provide that the consent of the city must be obtained before a commercial railroad can cross or occupy the streets of the city, and there is no provision in the Public Utilities Act which purports to give the commission authority to grant such railroad the right to cross or occupy city streets without the consent of the city; that clause 24 of section 1 of article 5 of the Cities and Villages Act was amended and re-enacted in 1919 (Laws 1919, p. 281), after the passage of the Public Utilities Act, and that section 81 of the Public Utilities Act of 1921 (Laws 1921, p. 748) expressly denied any intent to limit or restrict the power of municipalities to grant and control the use and occupation of the streets.

**\*\*27** This provision of section 81 of the Public Utilities Act of 1921, effective when adopted, is as follows: ‘Nothing in this act shall be construed to limit or restrict powers not or hereafter granted to cities to pass ordinances for the protection of the public health, safety, comfort, and general welfare, or governing the regulation, control or occupation of streets, highways and public property within the city. Nothing in this act shall be construed to limit or restrict the powers granted to cities by this article, nor to extend the jurisdiction of the Illinois Commerce **\*211** Commission over the matters covered by this article except as herein provided. Nothing in this article shall be construed to conflict with powers conferred by this act upon the Illinois Commerce Commission, so far as the exercise of such powers by the commission is necessary or appropriate to its authority with respect to public utilities under the jurisdiction of the commission.’

Clause 24 of section 1 of article 5 of the Cities and Villages Act provides that the city council in cities and president and board of trustees in villages shall have the following powers: ‘To permit, regulate or prohibit the locating, constructing or laying a tract of any horse or electric railroad in any street, alley or public place; but such permission shall not be for a longer time than for twenty years.’ Clause 90 of this section provides that ‘the city council or board of trustees shall have no power to grant the use of or the right to lay down any railroad tracks in any street of the city to any steam, dummy, electric, cable, horse or other railroad comelectric, \* \* \* except upon the petition of the owners of the land representing more than one-half of the frontage of the street, or so much thereof as is sought to be used for railroad purposes.’

In regard to the claim of the city that there is no inconsistency or repugnancy between these provisions of the Cities and Villages Act just quoted and the provisions of section 81 of the Commerce Commission Act, the court in the case last above cited said: ‘It seems clear that the provisions of section 81 of the Public Utilities Act above quoted and the provisions of the Cities and Villages Act just quoted relate to the location of the tracks over and along streets and consent or license to construct tracks across or upon the streets, rather than the supervision, regulation and control of the operation of such railroads when constructed. Section 8 of article 1 of the Public Utilities Act, as revised in 1921 (Smith's Stat. 1927, p. 2130), confers upon the Commerce Commission, formerly the Public Utilities Commission, general **\*212** supervision of all public utilities. It cannot be said to be the intention of the Legislature that both the city and the Commerce Commission shall have jurisdiction of this matter. Where the General Assembly enacts a new statute upon any subject, and it appears from the new act that it is the legislative intention to make a revision of the whole subject, and to frame a new plan or scheme in relation thereto, this is, in effect, a legislative declaration that whatever is embraced in the new statute shall prevail, and whatever is excluded therefrom shall be discarded. The revision of the whole subject by the new statute evidence an intention to substitute its provisions for the old law on the subject’ (citing cases).

The right given to the city to complain to the commission concerning the services of public utilities within the city, the requirement of notice to the city of any hearing relating to the rates or charges for services of public utilities within the city, the right to appear and present evidence upon such hearing and the right of appeal from the order entered, certainly indicated that the Commerce Commission had plenary power over the utility, the conduct of its business and its relations to the public and that no power to exercise any control remained in the city.

[11] [12] [13] [14] The public highways of the state include the streets and alleys in the various municipalities of the state, as well as the public roads which lie entirely outside the boundaries of any municipality. The Legislature has the entire control of all highways, and may delegate the supervision and control of them to any agency which it may deem proper. It may commit the supervision and control of all highways to a single agency, and may change that agency from time to time as it sees fit. It may commit the supervision and control of the streets and alleys in cities

and villages to the city councils or boards of trustees of the respective municipalities, and the supervision and control of the highways which lie beyond the boundaries of any municipality \*213 to another agency, and it may change from time to time the agency established, either within or without the municipalities. The title to the streets and alleys in cities and villages, whether in fee or by way of easement only, is held by each municipality, not for the benefit of the inhabitants of the municipality only, but in trust for the use of the public at large equally with the residents of the municipality, and the state may commit to any agency which it may create for that purpose the entire supervision and control of every part of the highways of the state, or it may divide the supervision and control of the highways as it sees fit. By the creation of the Illinois Commerce Commission, with the comprehensive powers over public utilities which have been mentioned, the Legislature withdrew from municipalities in the state that power which they had previously exercised in regard to the use of the streets by such utilities and conferred those powers on the Commerce Commission.

The decree of the circuit court is reversed, \*\*28 and the cause is remanded to that court, with directions to overrule the demurrer to the amended bill.

Reversed and remanded, with directions.

STONE, J. (dissenting).

I do not concur in the views expressed in this opinion. In view of the importance of this matter and far-reaching effect of the opinion filed, it is necessary that I set forth at some length the reasons for my dissent.

The correct solution of the main problem involved in this case is, as I view it, to be based on the determination of two propositions: First, whether cities, prior to the passage of the Public Utilities Act, had power to permit or deny the use of the streets to public utilities; and, second, if so, whether the Utilities Act has taken that power from the cities. It may be conceded, as stated in the opinion filed, that cities are creatures of the Legislature and possess only \*214 such powers as are conferred by statute. This is well recognized. The Commerce Commission is likewise a creature of the statute and possesses only such powers as the Legislature confers. It was argued in the briefs of appellant that, in the absence of and prior to any statute on the subject, a public carrier of passengers had a permissive right to use the streets for its business, and its use was, therefore, not unlawful. The

streets and highways of the state are under the paramount and primary control of the Legislature, except where that control is limited by the Constitution. *City of Chicago v. Kluever*, 257 Ill. 317, 100 N. E. 917. All persons, in the absence of legislative edict, are vested with the right to the use of the streets and highways for travel from one place to another in connection with their business, when such use is incidental to that business. This is an ordinary use of the streets and highways, and is frequently characterized as an inherent or natural right.

No person has an inherent or natural right, however, to make the streets or highways his place of business. Such a use is generally characterized as an extraordinary use. *Greene v. City of San Antonio (Tex. Civ. App.)* 178 S. W. 6; *Hadfield v. Lundin*, 98 Wash. 657, 168 P. 516, L. R. A. 1918B, 909, Ann. Cas. 1918C, 942; *Le Blanc v. City of New Orleans*, 138 La. 243, 70 So. 212; Ex parte *Dickey*, 76 W. Va. 576, 85 S. E. 781, L. R. A. 1915F, 840; *Desser v. City of Wichita*, 96 Kan. 820, 153 P. 1194, L. R. A. 1916D, 246; *Melconian v. City of Grand Rapids*, 218 Mich. 397, 188 N. W. 521. The use of the streets for purely private gain may not be given, even by legislative authority, unless there be also in such use a public service. That the use of motorbuses for the public carriage of passengers is an extraordinary or different use from that which the citizen is entitled to make of the street without consent, is of a more dangerous character, and may not be exercised without consent, has been recognized by this court and the courts of other states. *City of Chicago v. Kluever*, supra; *Melconian v. City of Grand Rapids*, supra; Ex parte *Dickey*, supra; *Le Blanc v. City of New Orleans*, supra; *Greene v. City of San Antonio*, supra; *Hadfield v. Lundin*, supra; \*215 *Gill v. City of Dallas (Tax. Civ. App.)* 209 S. W. 209; *State v. Iams*, 78 Neb. 678, 111 N. W. 604, 11 L. R. A. (N. S.) 736.

It is clear from these authorities that a utility of the character of appellant, in the absence of legislative enactment on the subject, has no inherent or natural right to use the streets as a place of business. By section 1 of article 5 of the Cities and Villages Act, city councils are given certain numerous powers enumerated in 102 clauses of that section. By the ninth clause cities are given power 'to regulate the use of the same,' referring to streets. By the 102d clause of the section cities are given power to pass all ordinances, rules, and regulations proper or necessary to carry into effect the powers by that act granted. The distinction between ordinary use of the highways, which may not be denied, and extraordinary use thereof, which may be permitted or denied, has been

shown in numerous opinions of this court, and by them it has become well-settled law in this state that a city may, under the power of exclusive control of the streets granted to it by the Legislature, allow or deny any use of them which is not inconsistent with the public objects for which they are held, and may regulate such use and fix a reasonable compensation to be paid therefor. *Sears v. City of Chicago*, 247 Ill. 204, 93 N. E. 158, 139 Am. St. Rep. 319, 20 Ann. Cas. 539; *People v. Clean Street Co.*, 225 Ill. 70, 80 N. E. 298, 9 L. R. A. (N. S.) 455, 116 Am. St. Rep. 156; *West Chicago Masonic Ass'n v. Cohn*, 192 Ill. 210, 61 N. E. 439, 55 L. R. A. 235, 85 Am. St. Rep. 327; *Chicago Municipal Gas Light Co. v. Town of Lake*, 130 Ill. 42, 22 N. E. 616; *City of Chicago v. Trotter*, 136 Ill. 430, 26 N. E. 359; *City of Quincy v. Bull*, 106 Ill. 337; *Gridley v. City of Bloomington*, 68 Ill. 47; *Nelson v. Godfrey*, 12 Ill. 20.

From these authorities it cannot be doubted that in the condition of the law prior to the enactment of the Public Utilities Act cities had a right to permit or deny the use of the streets by public utilities. Prior to such enactment they had also the power to regulate the business of utilities conducted on the streets. \*216 Has the power to control the use of the streets been taken away by the Utilities Act? The purpose of the Utilities Act, as has been many times shown in the construction of the act by the opinions of this court, is to regulate the service of public utilities. The act is sustained on the ground that it is a proper exercise of the police power. *City of Chicago v. O'Connell*, 278 Ill. 591, 116 N. E. 210, 8 A. L. R. 916; *Schiller Piano Co. v. Illinois Northern Utility Co.*, 288 Ill. 580, 123 N. E. 631, 11 A. L. R. 454. The public \*\*29 interest in utilities is primarily in the service and not in the use of a given street or highway by such utility. The police power arises not so much out of the place of operation of these utilities as from the character of the service given and rates charged by them. Steam railroads, operating upon their own right of way, are nevertheless within the Public Utilities Act, because of the public interest in the service they render and the benefit to the public of regulating that service. The Public Utilities Act is not primarily an act to regulate the use of streets and highways. There is no direct provision of the act empowering the Commerce Commission so to do. The Public Utilities Act is comprehensive legislation designed to take over the regulation and control of public utilities.

The opinion filed, as I view it, confuses the powers to regulate the use of the streets specifically conferred on cities by the ninth clause of section 1, art. 5, of the Cities and Villages Act with the power conferred on the Commerce Commission to

regulate the business of public utilities. There is no language in the act expressly repealing this clause of the Cities and Villages Act. It has always been the rule in this state that repeals by implication are not favored. Whether the power given under an act arises from express words of the statute or by necessary implication, the power exists, and the courts are no more favorable to a repeal by implication of the latter than they are of the former. The Utilities Act therefore cannot be said to have repealed said clause 9 of the Cities and Villages Act, as \*217 relates to utilities, unless there appear in the former act provisions necessarily repugnant to and inconsistent with clause 9. Section 8 of the Utilities Act provides: 'The commission shall have general supervision of all public utilities, except as otherwise provided in this act, shall inquire into the management of the business thereof and shall keep itself informed as to the manner and method in which the business is conducted.'

Supervision is generally defined as the act of overseeing, or superintending, or inspecting. The various sections of the Public Utilities Act specify of what this supervision is to consist. Under section 9 it is required that the public utility comply with the requests and orders of the commission. Section 55 (Smith-Hurd Rev. St. 1927, c. 111 2/3, § 59) provides: 'No public utility shall begin the construction of any new plant, equipment, property or facility which is not in substitution of any existing plant, equipment, property or facility or in extension thereof or in addition thereto, unless and until it shall have obtained from the commission a certificate that public convenience and necessity require such construction. No public utility not owning any city or village franchise nor engaged in performing any public service \* \* \* and not possessing a certificate of public convenience and necessity from the State Public Utilities Commission or the Public Utilities Commission, at the time this act goes into effect shall transact any business in this state until it shall have obtained a certificate from the commission that public convenience and necessity require the transaction of such business. Whenever after a hearing the commission determines that any new construction or the transaction of any business by a public utility will promote the public convenience and is necessary thereto, it shall have the power to issue certificates of public convenience and necessity. \* \* \* Unless exercised within a period of two years from the grant thereof authority conferred by a certificate of convenience and necessity issued by the commission shall be null and void. No certificate of public convenience and \*218 necessity shall be construed as granting a monopoly or an exclusive privilege, immunity or franchise.' Section 55a



(Smith-Hurd Rev. St. 1927, c. 111 2/3, § 57) provides for a bond and sworn statement of ability to pay damages. By section 29 it is provided that no franchise, license, permit, or right to own, operate, or control a public utility shall be assigned, transferred, or leased, unless the same shall have been approved by the commission. 'Such permission shall not be construed to revive or validate any lapsed or invalid franchise, license, permit or right, or to enlarge or add to the powers and privileges contained in the grant of any franchise, license, permit or right, or to waive any forfeiture.'

The right of municipalities to consent to or deny the use of the streets by utilities has been recognized by this court since the passage of the Public Utilities Act. *People v. Chicago Motor Bus Co.*, 295 Ill. 486, 129 N. E. 114; *City of Springfield v. Inter-State Telephone Co.*, 279 Ill. 324, 116 N. E. 631. That the Legislature did not intend by the Public Utilities Act to place this power in the Commerce Commission is further evidenced by the act of 1917, known as the Sixty Million Dollar Bond Issue Act. Laws 1917, p. 696. Section 12 of that act provides that the control and maintenance of the highways of the state under the system there established shall be and remain under the jurisdiction and control of the department of public works and buildings; that 'no public utility company or person shall be granted any right, privilege or franchise in, on or along any such highway without the consent of said department of public works and buildings.' Likewise in the Act of June 29, 1923 (Laws 1923, p. 537), the same provision is found with reference to the roads included in the One Hundred Million Dollar Bond Issue Act. It is likewise worthy of note that section 38 of its Road and Bridge Act (Smith's Stat. 1927, p. 2349) provides as to a large number of public utilities that they shall not have the right to locate or construct roads or place poles or wires or lay pipe lines along \*219 any state aid \*\*30 road without the consent of the county board of the county where it is proposed to place the same. It is also by that section required that the county board shall receive the approval of the state highway commission to so use the roads before the consent of such board shall become effective. There is no provision of the Public Utilities Act which either expressly or by necessary implication repeals the provisions giving to cities the power to regulate the use of streets, and a certificate of convenience and necessity cannot be said to be a license to a public utility to use the streets. The result of the holding of the opinion here filed is to place the Utilities Act in direct conflict with the acts just referred to. Obviously, if the power to regulate utilities carries with it the power to say whether they shall use certain streets or highways as a place of business, the powers granted to the department of public

works in one case and the county boards in the other do not exist.

It is held in the opinion filed that it is the purpose, as shown by the act, to turn the complete control of the matter of regulating public utilities, and the use of the streets by same, over to the Commerce Commission, and that it is inconsistent that the power to permit or deny the use of streets by a utility be retained by the city. We have repeatedly held that the Public Utilities Act covers the whole subject of utility regulation and that by it the state has recalled such power from the cities. *Chicago, North Shore & Milwaukee Railroad Co. v. City of Chicago*, 331 Ill. 360, 163 N. E. 141; *Northern Trust Co. v. Chicago Railways Co.*, 318 Ill. 402, 149 N. E. 422; *Village of Atwood v. Cincinnati, Indianapolis & Western Railroad Co.*, 316 Ill. 425, 147 N. E. 449. No former opinion of this court, however, has held that power to regulate utilities includes the power to permit or deny the use of streets or that the two powers are inconsistent. In *Chicago, North Shore & Milwaukee Railroad Co. v. City of Chicago*, supra, the opinion especially points out that 'the question here involves the power to regulate the operation \*220 of certain railroads now in the streets of the appellee city, and neither the consent of the city to the use of the streets nor the charter contracts of these railroads is involved.' In none of these cases cited has power of the city to regulate the use of the streets been brought directly into question.

In *City of Chicago v. O'Connell*, supra, this court considered a bill of the city of Chicago seeking to restrain the Public Utilities Commission from enforcing a certain order relating to equipment and operation of street cars in the city of Chicago. In that case the distinction between the regulation of the utility and the power to consent to the use of the streets is clearly drawn. Section 4 of article 11 of the Constitution prohibits any act of the Legislature permitting the construction and operation of a street railway on the streets of a city without the consent of the city. The question was whether the Utilities Act contravened these constitutional provisions, and it was held that the act conferring on the Public Utilities Commission the power to regulate the utility was in no way inconsistent with the power reserved to the cities to consent to or deny the use of the streets by such utility. A distinction in principle between that case and the case at bar, as to this point, does not exist. No provision of the Utilities Act expressly takes away the power of the city to consent to or deny the use of the streets by a public utility or grants powers to the Commerce Commission inconsistent with the exercise of such powers by the city, and in no case prior to the one

at bar has it ever been so held. The opinion filed holds that the rights conferred on cities to regulate the use of the streets was withdrawn by the passage of the Utilities Act, and that thereby clause 9 of section 1 of article 5 of the Cities and Villages Act, so far as it relates to this subject, was repealed because inconsistent with the Utilities Act enacted later. By the same token it must be said that siad clause 9 of the Cities and Villages Act, having been reenacted in 1925 and again in 1927 in its original language, supersedes the inconsistent \*221 provisions of the Utilities Act, if any existed. This is an undoubted rule of statutory construction and requires no citation to support it. I am of the opinion, however, that there is no inconsistency requiring a holding by this court that the said clause 9 of the Cities and Villages Act was repealed by the Public Utilities Act.

This case is one of very great importance. The motorbus method of transportation in this state is an important one, and is entitled to fair considerations at the hands of the law-makers. This court, however, has no authority to legislate, as the opinion filed seems to me to do. The holding in this opinion cannot be confined to motorbus utilities, but must extend to every kind of public utilities and to all use by them of the streets. Clearly, if the power to control the use of the streets has been taken away as to all utilities except street railways, which are within the provisions of the Constitution, then no city has power to require compensation for the use of the streets or to say what streets may be so used, though the city is required to police the streets to protect the public. Surely such a construction of the act should rest on a more solid foundation, if repeal by implication is to be found. It is stated in the opinion that the fact that the Utilities Act permits cities to complain to the Commerce Commission regarding the service of utilities indicates that plenary power over the utilities has been given to the Commerce Commission and

that no power to exercise any control remains in the city. Section 64 of the Public Utilities Act (Smity-Hurd Rev. St. 1927, c. 111 2/3, § 68) gives the city a right to complain as to rates or the service rendered, and \*\*31 as to that service it is clear that the city can exercise no control. As I view it, such provision of the act, instead of indicating a complete removal of the power from the city, shows the extent of the power granted to the Commerce Commission to be limited to the regulation of the business of the utility.

No suggestion appears as to a right in the city to complain to the commission as to what streets are to be used or whether \*222 any may be used by the utility. It seems clear that the matter was left to the city, where it has rested since the first passage of the Cities and Villages Act. Section 65 of the act (Smith-Hurd Rev. St. 1927, c. 111 2/3, § 69) provides that ‘in any matter concerning which the commission is authorized to hold a hearing, upon complaint or application or upon its own motion, notice shall be given to the public utility and to such other interested persons as the commission shall deem necessary,’ in the manner provided by the act. The act makes no express provision for notice to cities of hearings on applications for a certificate of convenience and necessity by a public utility which desires to operate in such city. This indicates an intention on the part of the Legislature that a matter so vital to the city as the control of the use of the streets is to remain within the powers of the city.

HEARD, J. I fully concur in the foregoing dissenting opinion.

#### All Citations

337 Ill. 200, 169 N.E. 22, 66 A.L.R. 834

**Negative Treatment****Negative Citing References (2)**

The KeyCited document has been negatively referenced by the following events or decisions in other litigation or proceedings:

| Treatment                   | Title   | Date             | Type | Depth | Headnote(s)  |
|-----------------------------|---|------------------|------|-------|--|
| Overruling<br>Recognized by | 1. <a href="#">American Tel. &amp; Tel. Co. v. Village of Arlington Heights</a><br><br>576 N.E.2d 984 , Ill.App. 1 Dist.<br>Telephone company sought to enjoin cities from interfering with its installation of optical fiber system under municipal streets. After preliminary injunction was upheld, 174... | June 28,<br>1991 | Case |       | <a href="#">10</a><br><a href="#">12</a><br><a href="#">14</a><br><br>N.E. |
| Abrogation<br>Recognized by | 2. <a href="#">American Tel. &amp; Tel. Co. v. Village of Arlington Heights</a> <b>MOST NEGATIVE</b><br><br>1992 WL 356097 , Ill.<br>Franchise Fees. Municipalities could require telephone company to pay franchise fee as condition of installing fiber optic cable under streets.                          | Dec. 04,<br>1992 | Case |       | <a href="#">6</a><br><a href="#">10</a><br><a href="#">12</a><br><br>N.E.  |

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| Examined by                                 |  <b>1. American Tel. &amp; Tel. Co. v. Village of Arlington Heights</b> ¶¶<br>620 N.E.2d 1040, 1048+ , Ill.<br>Public Street. City could not require telephone company to pay toll for laying cable across public streets.  | Aug. 26, 1993 | Case     |    | <a href="#">10</a><br><a href="#">12</a><br><a href="#">14</a><br>N.E. |
| Overruling Recognized by<br><b>NEGATIVE</b> | <b>2. American Tel. &amp; Tel. Co. v. Village of Arlington Heights</b><br>576 N.E.2d 984, 994+ , Ill.App. 1 Dist.<br>Telephone company sought to enjoin cities from interfering with its installation of optical fiber system under municipal streets. After preliminary injunction was upheld, 174...   | June 28, 1991 | Case     |    | <a href="#">10</a><br><a href="#">12</a><br><a href="#">14</a><br>N.E. |
| Abrogation Recognized by<br><b>NEGATIVE</b> |  <b>3. American Tel. &amp; Tel. Co. v. Village of Arlington Heights</b> ¶¶<br>1992 WL 356097, *4+ , Ill.<br>Franchise Fees. Municipalities could require telephone company to pay franchise fee as condition of installing fiber optic cable under streets.                           | Dec. 04, 1992 | Case     |    | <a href="#">6</a><br><a href="#">10</a><br><a href="#">12</a><br>N.E.  |
| Discussed by                                | <b>4. City of Peoria v. Peoria Transit Lines, Inc.</b> ¶¶<br>144 N.E.2d 609, 610+ , Ill.<br>Suit by municipality to recover amounts alleged to be due from motor bus company under franchise ordinance. The Circuit Court, Peoria County, Henry J. Ingram, J., entered summary...  | May 23, 1957  | Case     |    | <a href="#">10</a><br><a href="#">14</a><br>N.E.                       |
| Discussed by                                |  <b>5. City of Geneseo v. Illinois Northern Utilities Co.</b><br>39 N.E.2d 26, 33+ , Ill.<br>Appeal from Circuit Court, Henry County; A. J. Scheineman, judge. Appeal from Circuit Court, McLean County; William C. Radliff, Judge. Complaint by the City of Geneseo against the... | Nov. 24, 1941 | Case     |  | <a href="#">10</a><br><a href="#">14</a><br>N.E.                       |
| Discussed by                                |  <b>6. City of Geneseo v. Illinois Northern Utilities Co.</b><br>1 N.E.2d 392, 394+ , Ill.<br>Suit by the City of Geneseo against the Illinois Northern Utilities Company. From a decree for plaintiff, defendant appeals. Reversed and remanded, with directions. STONE, C. J.,... | Feb. 14, 1936 | Case     |  | <a href="#">10</a><br><a href="#">14</a><br>N.E.                       |
| Discussed by                                | <b>7. Petition for Writ of Certiorari</b><br>Sullivan v. State of North Carolina<br>2010 WL 4382025, *4382025+ , U.S. (Appellate Petition, Motion and Filing)  | Sep. 16, 2010 | Petition |  | <a href="#">8</a><br>N.E.  |
| Discussed by                                | <b>8. Reply Brief of Petitioners.</b><br>City of Chicago v. Fieldcrest Dairies, Inc.<br>1942 WL 53641, *53641+ , U.S. (Appellate Brief)  | Mar. 12, 1942 | Brief    |  | <a href="#">10</a><br>N.E.   |

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| Discussed by | <b>9. Brief for the Plaintiff-Appellant Rodney Rollins ¶¶</b><br>Rodney ROLLINS, Plaintiff-Appellant, v. Joseph WILLETT et. al., Defendants-Appellees.<br>2016 WL 359039, *1+ , 7th Cir. (Appellate Brief)  | Jan. 19, 2016 | Brief |       | <a href="#">8</a><br>N.E.                        |
| Discussed by | <b>10. Appellant's Consolidated Opening Brief ¶¶</b><br>State of Kansas, Inc., et al County of Ford, Inc., and City of Dodge City, Plaintiff/Appellee. v. PRIVATE CITIZEN OF KANSAS RONALD BRUCE, Hartnett, su...<br>1997 WL 33815251, *33815251+ , Kan.App. (Appellate Brief)                  | Mar. 18, 1997 | Brief |       | <a href="#">7</a><br><a href="#">8</a><br>N.E.   |
| Discussed by | <b>11. Brief and Supplemental Record Appendix for the Commonwealth ¶¶</b><br>COMMONWEALTH, Appellee, v. Jeffrey NOEL, Appellant.<br>2016 WL 6665845, *1+ , Mass.App.Ct. (Appellate Brief)   | Nov. 01, 2016 | Brief |       | <a href="#">4</a><br>N.E.                        |
| Discussed by | <b>12. Brief and Appendix for Jeffrey Noel</b><br>COMMONWEALTH, Appellee, v. Jeffrey NOEL, Appellant.<br>2016 WL 4729709, *1+ , Mass.App.Ct. (Appellate Brief)  | Aug. 31, 2016 | Brief |       | <a href="#">10</a><br>N.E.                       |
| Cited by     | <b>13. Chicago Nat. Bank v. City of Chicago Heights</b><br>150 N.E.2d 827, 830 , Ill.<br><br>Suit for injunctive relief. The Circuit Court, Cook County, John T. Dempsey, J., rendered a summary decree for one of two plaintiffs, and defendants appealed. The Supreme Court,...               | May 21, 1958  | Case  |       | —  |
| Cited by     | <b>14. Lustfield v. Chicago Transit Authority</b><br>97 N.E.2d 347, 351+ , Ill.<br><br>Gladys Lustfield brought suit against the Chicago Transit Authority for a mandatory injunction to compel defendant to render electrical train service under ordinances to the Town...                    | Jan. 18, 1951 | Case  |       | <a href="#">6</a><br><a href="#">10</a><br>N.E.  |
| Cited by     | <b>15. Brotherhood of Railroad Trainmen v. Elgin, J. &amp; E. Ry. Co. ¶¶</b><br>46 N.E.2d 932, 938 , Ill.<br><br>Appeal from Circuit Court, Cook County; John Prystalski, judge. Proceeding by the Brotherhood of Railroad Trainmen against the Elgin, Joliet and Eastern Railway Company on... | Jan. 19, 1943 | Case  |       | <a href="#">14</a><br>N.E.                       |
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| Cited by  | <b>18. City of Chicago v. Alton R. Co.</b><br>188 N.E. 831, 833 , Ill.<br><br>Action by the City of Chicago against the Alton Railroad Company. Judgment for plaintiff, and defendant appeals. Reversed and remanded, with directions. DE YOUNG and HERRICK, JJ,...  | Dec. 22, 1933 | Case |       | <a href="#">10</a><br><a href="#">14</a><br>N.E. |
| Cited by  | <b>19. Cain v. Lyddon</b><br>175 N.E. 391, 393+ , Ill.<br><br>Commissioner's Opinion. Mandamus proceeding by Sidney Cain against Forrest A. Lyddon. The writ was granted, and defendant appeals. Reversed and remanded, with directions.   | Feb. 18, 1931 | Case |       | <a href="#">14</a><br>N.E.                       |
| Cited by  | <b>20. People ex rel. Johns v. Thompson</b><br>173 N.E. 137, 139 , Ill.<br><br>Mandamus proceedings by the People, on the relation of Wesley Johns, against William Hale Thompson, as Mayor of the City of Chicago, and others. Judgment dismissing petition was...  | Oct. 25, 1930 | Case |       | <a href="#">9</a><br>N.E.                        |
| Cited by  | <b>21. Gerstley v. Globe Wernicke Co.</b><br>172 N.E. 829, 834 , Ill.<br><br>Commissioner's Opinion. Suit by Jennie R. Gerstley and others against the Globe Wernicke Company. From a decree dismissing the bill, complainants appeal. Reversed and remanded...  | June 20, 1930 | Case |       | <a href="#">3</a><br>N.E.                        |
| Cited by  | <b>22. Southern Illinois Asphalt Co., Inc. v. Environmental Protection Agency</b><br>303 N.E.2d 606, 610 , Ill.App. 5 Dist.<br><br>Petition for review under the Administrative Review Act of action of pollution control board which found petitioner guilty of violating the Environmental Protection Act, ordered...                | Oct. 10, 1973 | Case |       | <a href="#">14</a><br>N.E.                       |
| Cited by  | <b>23. Quilici v. Village of Morton Grove</b><br>695 F.2d 261, 275 , 7th Cir.(Ill.)<br><br>Handgun owners brought action against village, challenging constitutionality of village gun control ordinance. The United States District Court for the Northern District of...   | Dec. 06, 1982 | Case |       | <a href="#">6</a><br>N.E.                        |
| Cited by  | <b>24. N. L. R. B. v. Monogram Models, Inc.</b><br>420 F.2d 1263, 1265 , 7th Cir.(Ill.)<br><br>Proceeding on petition for enforcement of order of National Labor Relations Board. The Court of Appeals, Grant, District Judge, held that where persons, who distributed union...   | Dec. 09, 1969 | Case |       | —  |

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| Cited by  | <b>27. Capitol Taxicab Co. v. Cermak</b><br>60 F.2d 608, 610 , N.D.Ill.<br><br>Bill by the Capitol Taxicab Company against Anton J. Cermak, Mayor of the City of Chicago, and others. Motion to dismiss the bill. Motion granted.   | Aug. 19, 1932 | Case |       | <a href="#">9</a><br><br>N.E.                        |
| Cited by  | <b>28. Wherrett v. Doyle</b><br>456 F.Supp. 203, 206 , D.Neb.<br><br>Plaintiffs, bicycle riders who claimed to use bicycles for business and pleasure, brought action challenging statutes prohibiting bicycles on interstate highway bridges. The...   | July 12, 1978 | Case |       | <a href="#">9</a><br><br>N.E.                        |
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| Cited by  | <b>30. Ash v. Gibson</b><br>67 P.2d 1101, 1109 , Kan.<br><br>Appeal from District Court, Franklin County; Hugh Means, Judge. Action by Everett Ash and others against E. V. Gibson and other. Judgment for plaintiffs, and defendants appeal....  | Apr. 10, 1937 | Case |       | <a href="#">10</a><br><a href="#">14</a><br><br>N.E. |
| Cited by  | <b>31. Adams v. Burke</b><br>215 S.W.2d 531, 533+ , Ky.<br><br>Appeal from Circuit Court, Carroll County; Ward Yager, Judge. Suit by Arch Burke against Orville Adams and others for an injunction restraining the named defendant from operating a...  | June 18, 1948 | Case |       | <a href="#">10</a><br><a href="#">14</a><br><br>N.E. |
| Cited by  | <b>32. State v. Palmer</b><br>3 N.W.2d 666, 668 , Minn.<br><br>Appeal from Municipal Court, Hennepin County; P. W. Guilford, Judge. J. Vincent Palmer and others were convicted of violating a city ordinance forbidding carrying of passengers for...  | May 08, 1942  | Case |       | <a href="#">4</a><br><br>N.E.                        |
| Cited by  | <b>33. Bryan v. Olson</b><br>282 N.W. 405, 406 , N.D.<br><br>Appeal from District Court, Burleigh County; H. L. Berry, Judge. Certiorari proceeding by Waldo Bryan and J. R. Bryan, copartners, doing business under the name and style of the...   | Nov. 10, 1938 | Case |       | <a href="#">8</a><br><br>N.E.                        |

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| Cited by  | <b>34. Blumenthal v. City of Cheyenne</b><br>186 P.2d 556, 567 , Wyo.<br><br>Appeal from District Court, Laramie County; H. R. Christmas, Judge. Action by Arthur Blumenthal and others against City of Cheyenne, a municipal corporation, and others, to enjoin...   | Nov. 18, 1947 | Case  |       | —                          |
| Cited by  | <b>35. Western Auto Transports v. City of Cheyenne</b><br>120 P.2d 590, 595 , Wyo.<br><br>Appeal from District Court, Laramie County; Sam M. Thompson, Judge. On petition for rehearing. Rehearing denied. For prior opinion, see 118 P.2d 761.   | Jan. 05, 1942 | Case  |       | <a href="#">10</a><br>N.E. |
| Cited by  | <b>36. Brief of Appellee, State of Ohio.</b><br>Dunn v. Ohio<br>1942 WL 54047, *54047+ , U.S. (Appellate Brief)   | Dec. 30, 1942 | Brief |       | —                          |
| Cited by  | <b>37. Appellant's Brief</b><br>David A. PERRY, Plaintiff - appellant, v. Virginia C. BEECHER, Director of the New Hampshire Division of Motor Vehicles, Defendant - appellant.<br>2004 WL 5664455, *5664455+ , 1st Cir. (Appellate Brief)  | Aug. 30, 2004 | Brief |       | —                          |
| Cited by  | <b>38. Brief of Appellant Bettie Paige-El</b><br>Bettie PAIGE-EL, Claimant -- Appellant, v. Peter CONGALOSI, Jarrod Herbert, Defendant - Appellees.<br>2017 WL 3948148, *1+ , 2nd Cir. (Appellate Brief)  | Aug. 29, 2017 | Brief |       | —                          |
| Cited by  | <b>39. Reply Brief for the Plaintiff-Appellant Rodney Rollins</b><br>Rodney ROLLINS, Plaintiff-Appellant, v. Joseph WILLETT et. al., Defendants-Appellees.<br>2016 WL 1407685, *1 , 7th Cir. (Appellate Brief)  | Mar. 31, 2016 | Brief |       | <a href="#">8</a><br>N.E.  |
| Cited by  | <b>40. Response to Appellees Richard Miranda, Michael G. Rankin, Laura Brynwood, William F. Mills, Sr., Theodore Abrams, Antonio Riojas, and Mitchell Kagen ¶¶</b><br>Marshall E. HOME, Plaintiff -- Appellant, v. Quinton MEHR, et al., Defendants -- Appellees.<br>2009 WL 3639494, *3639494 , 9th Cir. (Appellate Brief) | Apr. 04, 2009 | Brief |       | <a href="#">8</a><br>N.E.  |
| Cited by  | <b>41. Appellant's Opening Brief ¶¶</b><br>Roger Sunpath TOLCES, Plaintiff/Appellant, v. Grover TRASK, District Attorney, County of Riverside and Ingrid Traver, Defendants/ Respondents.<br>1999 WL 33722525, *33722525+ , Cal.App. 4 Dist. (Appellate Brief)  | Feb. 09, 1999 | Brief |       | <a href="#">8</a><br>N.E.  |
| Cited by  | <b>42. All Rights Writ</b><br>Percival Charles FERRIS, Jr., Petitioner, v. STATE OF FLORIDA, Respondent.<br>2016 WL 3466995, *1 , Fla. (Appellate Brief)  | June 17, 2016 | Brief |       | <a href="#">8</a><br>N.E.  |



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| Cited by  | <b>43. Opening Brief of Defendant-Appellant and Appendix A</b><br>STATE OF HAWAII, Plaintiff-Appellee, v. Robert COVINGTON Jr., Defendant-Appellant.<br>2018 WL 10036234, *1 , Hawai'i App. (Appellate Brief)   | Dec. 07, 2018 | Brief |       | —                          |
| Cited by  | <b>44. Brief of the Plaintiffs-Appellants</b><br>Elizabeth CASTILLO, a minor, by her mother, Esperanza Castillo, Esperanza Castillo, Rosalino Castillo, Maria Castillo, Yesenia Castillo, and Enrique C...<br>2017 WL 10619615, *1+ , Ill.App. 1 Dist. (Appellate Brief)                    | Aug. 21, 2017 | Brief |       | —                          |
| Cited by  | <b>45. Brief of S. Arne Carlsson</b><br>S. Arne CARLSSON, Plaintiff-Appellant, v. AMERICAN FAMILY INSURANCE COMPANY, Defendant-Appellee.<br>2010 WL 8444826, *1 , Ill.App. 1 Dist. (Appellate Brief)  | Dec. 23, 2010 | Brief |       | —                          |
| Cited by  | <b>46. Brief of the Plaintiff-Appellant</b><br>Quentin LOCKLEAR, as Special Administrator of the Estate of Jeanette Locklear, Plaintiff-Appellant, v. WALGREEN CO. Walgreen Properties, Inc., America...<br>2009 WL 4023408, *4023408 , Ill.App. 1 Dist. (Appellate Brief)                  | July 31, 2009 | Brief |       | —                          |
| Cited by  | <b>47. Brief of the Plaintiff-Appellant</b><br>Michael Ian BENDER, as Special Administrator of the Estate of Lawana D. Barton, a/k/a Tawana Barton, Deceased, Plaintiff-Appellant, v. Denise EIRTNG, ...<br>2007 WL 7562549, *1 , Ill.App. 1 Dist. (Appellate Brief)                        | Mar. 21, 2007 | Brief |       | <a href="#">10</a><br>N.E. |
| Cited by  | <b>48. Reply Brief for the Appellant</b><br>Michael F. WOODWARD, Plaintiff-Appellant, v. George E. RYAN, Secretary of State, Frank E. Marzullo, Superintendent of Police of the City of Berwyn, Un...<br>1996 WL 34431914, *34431914+ , Ill.App. 1 Dist. (Appellate Brief)                  | Apr. 24, 1996 | Brief |       | <a href="#">8</a><br>N.E.  |
| Cited by  | <b>49. Brief for the Appellant</b><br>Michael F. WOODWARD, Plaintiff-Appellant, v. George H. RYAN, Secretary of State, Frank E. Marzullo, Superintendent of Police of the City of Berwyn, Un...<br>1995 WL 17852569, *1+ , Ill.App. 1 Dist. (Appellate Brief)                               | Oct. 30, 1995 | Brief |       | <a href="#">8</a><br>N.E.  |
| Cited by  | <b>50. Brief of Defendant-Appellant Village of Lemont</b><br>LIMESTONE DEVELOPMENT CORPORATION, Plaintiff-Appellee, v. VILLAGE OF LEMONT, a Municipal Corporation, and K.A. Steel Chemicals, Inc., a Delaware Corpo...<br>1995 WL 17167027, *17167027+ , Ill.App. 1 Dist. (Appellate Brief) | Sep. 07, 1995 | Brief |       | <a href="#">9</a><br>N.E.  |

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| Cited by  | <b>51. Brief of Appellant</b><br>STATE OF KANSAS, Appellee, v. William H. WHITE Secured party of Interest Non-citizen; American National, Appellant.<br>2015 WL 4646249, *1+ , Kan.App. (Appellate Brief)                      | July 06, 2015 | Brief |       | —                         |
| Cited by  | <b>52. Brief for the Appellant Richard Pacheco</b><br>COMMONWEALTH OF MASSACHUSETTS, v. Richard PACHECO, Appellant.<br>2009 WL 8385721, *1+ , Mass.App.Ct. (Appellate Brief)   | Oct. 26, 2009 | Brief |       | <a href="#">8</a><br>N.E. |
| Cited by  | <b>53. Brief in Support of Notice for Dismissal for Lack of Jurisdiction</b><br>STATE OF MAINE, Plaintiff, v. Daniel H. PELLETIER Jr., Defendant.<br>2015 WL 9899914, *1 , Me. (Appellate Brief)                               | May 27, 2015  | Brief |       | <a href="#">8</a><br>N.E. |
| Cited by  | <b>54. Appellant's opening brief</b><br>STATE OF MAINE, Plaintiff-Respondent, v. Timothy M CASON, Defendant-Appellant.<br>2012 WL 5854255, *1+ , Me. (Appellate Brief)   | 2012          | Brief |       | <a href="#">8</a><br>N.E. |
| Cited by  | <b>55. Brief for Appellant</b><br>CITY OF EAST CLEVELAND, Plaintiff, v. DONALD RIVERS GOOLSBY, Defendant-Appellant.<br>2012 WL 8134186, *1+ , Ohio App. 8 Dist. (Appellate Brief)  | May 17, 2012  | Brief |       | <a href="#">8</a><br>N.E. |
| Cited by  | <b>56. Brief of Appellant</b><br>COMMONWEALTH OF PENNSYLVANIA, Appellee, v. John M. DILIBERTO, Appellant.<br>2016 WL 8606907, *1+ , Pa.Super. (Appellate Brief)  | Sep. 26, 2016 | Brief |       | <a href="#">8</a><br>N.E. |
| Cited by  | <b>57. Brief for Appellant</b><br>COMMONWEALTH OF PENNSYLVANIA, Appellee, v. Joseph Ronald GREENBERG, JR., Appellant.<br>2012 WL 7985515, *1+ , Pa.Super. (Appellate Brief)  | Oct. 02, 2012 | Brief |       | <a href="#">8</a><br>N.E. |
| Cited by  | <b>58. Brief for Appellant &amp; Rep Record</b><br>COMMONWEALTH OF PENNSYLVANIA, v. Kimberly S. MINDEK.<br>2005 WL 3968602, *3968602 , Pa.Super. (Appellate Brief)   | Aug. 08, 2005 | Brief |       | <a href="#">8</a><br>N.E. |
| Cited by  | <b>59. Final Brief</b><br>John DALEN, Appellant, v. THE STATE, Respondent.<br>2018 WL 7823881, *1+ , S.C.App. (Appellate Brief)  | Dec. 17, 2018 | Brief |       | —                         |
| Cited by  | <b>60. Brief of Appellant</b><br>John DALEN, Appellant, v. THE STATE, Respondent.<br>2018 WL 3256922, *1+ , S.C.App. (Appellate Brief)   | June 13, 2018 | Brief |       | —                         |
| Cited by  | <b>61. Brief of Amicus Curiae Utah Shared Access alliance</b><br>HOGS R US, a Utah corporation, et al., Plaintiffs/Appellants, v. TOWN OF FAIRFIELD, Defendant/Appellee.<br>2008 WL 6928093, *6928093 , Utah (Appellate Brief) | Feb. 08, 2008 | Brief |       | <a href="#">8</a><br>N.E. |

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| Cited by  | <b>62. Appellant's Brief</b><br>FOND DU LAC COUNTY, Plaintiff-Respondent, v. Kevin C. DERKSEN, Respondent-Appellant. 2001 WL 34357488, *34357488, Wis.App. II Dist. (Appellate Brief)   | Oct. 14, 2001 | Brief    |       | —                         |
| Cited by  | <b>63. Complaint For Violations of Civil Rights, Violations of United States Constitutional Rights, Denial of Due Process of Law, Oppression Resulting from C...</b><br>Jerry VIERRA, Plaintiff, v. Cochise COUNTY, State of Arizona, Officer B. W. Berry as Agent of Cochise County Sheriffs Department, and B. W. Berry, Ind... 2006 WL 4028409, *4028409, D.Ariz. (Trial Pleading) | Dec. 18, 2006 | Petition |       | —                         |
| Cited by  | <b>64. Complaint for Civil Penalties and Other Relief for Damages</b><br>Latasha PARHAM Plaintiff, Pro se, Plaintiff, v. Philip STEEMERS, in his own official and individual capacity, Defendant, Ed Dadisho, in his own offici... 2011 WL 9195508, *1, E.D.Cal. (Trial Pleading)   | June 01, 2011 | Petition |       | —                         |
| Cited by  | <b>65. Notice of Removal from Superior Court to Federal Court Proper Jurisdiction &amp; Venue Pursuant to Title 28   1441-  1446)</b><br>SUPERIOR COURT Judge John A. Parkins Jr. Judge Joesph R. Slight III Judge Mary Miller Johnston Judge Charles H. Toliver IV Judge William C. Carpenter... 2009 WL 5865970, *5865970, D.Del. (Trial Pleading)                                  | Dec. 01, 2009 | Petition |       | <a href="#">8</a><br>N.E. |
| Cited by  | <b>66. Jurisdiction ¶¶</b><br>Oliver ENDSLEY, Plaintiff, v. State of Georgia, Defendant. 2003 WL 23825732, *23825732+, N.D.Ga. (Trial Pleading)   | Apr. 07, 2003 | Petition |       | <a href="#">8</a><br>N.E. |
| Cited by  | <b>67. Jurisdiction ¶¶</b><br>Airrion BLAKE-BEY A Natural Person, In Propria Persona, Sui Juris (not to be confused with nor Substituted with Pro Se); and not a Statutory Person., ... 2011 WL 3800145, *1, N.D.Ill. (Trial Pleading)  | Aug. 29, 2011 | Petition |       | <a href="#">8</a><br>N.E. |
| Cited by  | <b>68. Statement of the Case</b><br>Richard WOS, Plaintiff, v. COOK COUNTY SHERIFF M. SHEAHAN, Aleshia Reinhart, Ray Farinella, Unknown Cook County Officers, Leyden-Windy City Towing Inc... 2001 WL 34669179, *34669179, N.D.Ill. (Trial Pleading)  | Sep. 26, 2001 | Petition |       | <a href="#">8</a><br>N.E. |
| Cited by  | <b>69. Statement of the Case</b><br>Richard WOS, Plaintiff, v. COOK COUNTY SHERIFF, M. Sheahan, Aleshia Reinhart, Ray Farinella, Unknown Cook County Officers, Leyden-Windy City Towing In... 2001 WL 34669178, *34669178, N.D.Ill. (Trial Pleading)  | Aug. 09, 2001 | Petition |       | <a href="#">8</a><br>N.E. |

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| Cited by  | <b>70. Complaint for Money Damages, Punitive Damages, Declaratory and Injunctive Relief under 42 USC 1983</b><br>Michael Owen THOMPSON Steve Bloomer James Lee Mathias, Plaintiffs, v. ROCK ISLAND POLICY OFFICER POULOS DOUG Williams Eric Clark Rock Island policy of...<br>2004 WL 3126386, *3126386, S.D.Iowa (Trial Pleading)  | May 17, 2004  | Petition |       | —                         |
| Cited by  | <b>71. Complaint for Money Damages, Punitive Damages, Declaratory and Injunctive Relief under 42 USC 1983 Corrected Version</b><br>Michael Owen THOMPSON, Steve Bloomer, James Lee Mathias, Plaintiffs, v. Rock Island policy officer POULOS, Doug Williams, Eric Clark, Rock Island poli...<br>2004 WL 3022423, *3022423, S.D.Iowa (Trial Pleading)                        | May 11, 2004  | Petition |       | <a href="#">8</a><br>N.E. |
| Cited by  | <b>72. Complaint for Money Damages, Punitive Damages, Declaratory and Injunctive Relief under 42 USC 1983</b><br>Michael Owen THOMPSON, Steve Bloomer, James Lee Mathias, Plaintiffs, v. Rock Island policy officer POULOS, Rock Island policy officer Doug Williams #1...<br>2004 WL 3022407, *3022407, S.D.Iowa (Trial Pleading)  | Feb. 04, 2004 | Petition |       | —                         |
| Cited by  | <b>73. Complaint for Money Damages, Punitive Damages, Declaratory and Injunctive Relief under 42 USC 1983 1st Ammended Complaint</b><br>Michael Owen THOMPSON, Steve Bloomer, James Lee Mathias, Plaintiffs, v. ROCK ISLAND POLICY OFFICER Poulos Rock Island policy officer Doug Williams #12...<br>2004 WL 3126354, *3126354, S.D.Iowa (Trial Pleading)                   | 2004          | Petition |       | —                         |
| Cited by  | <b>74. Verified Petition in the Cause of A Petition to Void Judgement/ Verdict and Constructive Notice of Lis Pendens (You Are About to Be Sued!)</b><br>Earl-Brian: PARRIS-EL, in Propia Persona, Sui Juris, Complainant, Affiant, Declarant, v. State of Michigan City of Rockwood Judge: Michael K. McNally ...<br>2005 WL 1792631, *1792631, E.D.Mich. (Trial Pleading) | May 27, 2005  | Petition |       | <a href="#">8</a><br>N.E. |
| Cited by  | <b>75. Claim for trespass theft verifide wrongdoer require trial by jury</b><br>I ; A MAN, PROSECUTOR, v. Jorden MILLER S. Yech Ben Eberly James Becker Roger Johnson Paul Grenon.<br>2017 WL 5675298, *1, W.D.Mich. (Trial Pleading)   | July 11, 2017 | Petition |       | <a href="#">8</a><br>N.E. |

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| Cited by  | <b>76. Legal Notice of Removal from Municipal Court to Federal Court Pursuant to Title 28 § 1441-§1446 Proper Article III Jurisdiction</b><br>MEMPHIS POLICE DEPARTMENT General Sessions Court State of Tennessee Officer Jason Denison, Respondent(s), v. Mario:-Al Moreno EL-BEY, A Natural Person...<br>2012 WL 4929470, *1, W.D.Tenn. (Trial Pleading) | Mar. 23, 2012 | Petition |       | —                         |
| Cited by  | <b>77. Complaint</b><br>Ardis Roy MELTON, Plaintiff, v. The State of Texas the Department of Public Safety, Defendant.<br>2012 WL 5209334, *1, N.D.Tex. (Trial Pleading)   | May 14, 2012  | Petition |       | <a href="#">8</a><br>N.E. |
| Cited by  | <b>78. Legal Notice of Removal from Municipal Court to Federal Court Pursuant to Title 28 § 1441- §1446 Proper Article III Jurisdiction</b><br>CENTRALIZED INFRACTIONS BUREAU Texas Superior Court State of Texas Officer Albert Munoz Badge No. 3061, Plaintiff(s), v. Taliek Ra BEY, A Natural Pers...<br>2012 WL 5230816, *1, S.D.Tex. (Trial Pleading) | May 08, 2012  | Petition |       | —                         |
| Cited by  | <b>79. Plaintiff's Answer to Defendants Mt Pleasant City Corp., Jim Wilberg Kay Larsen, Chad Wooley, Ivo Ray Peterson Motion for Judement on Pleadings</b><br>Philip-james: ROBERTS, Plaintiff, v. Kevin BRADSHAW Et al.<br>2005 WL 1989186, *1989186, D.Utah (Trial Pleading)   | May 05, 2005  | Petition |       | <a href="#">8</a><br>N.E. |
| Cited by  | <b>80. Complaint: Deprivation of Life, Liberty, and the Pursuit of Happiness</b><br>""We the People" ex rel., the Citizen(s), Lewis RUDOLPH; Morgan., and Donna Thomas; Morgan., and Estate (if applicable) Injured and Proper Party(s), ...<br>2001 WL 34739176, *34739176+, E.D.Wash. (Trial Pleading)   | Feb. 28, 2001 | Petition |       | <a href="#">8</a><br>N.E. |
| Cited by  | <b>81. Memorandum in Support of Complaint</b><br>We The People Noble Asad Hajur Bey Moorish National Preamble Citizen Of The United States General Governmant Plaintiff, v. Officer MIKESELL et. al., D...<br>2003 WL 23774762, *23774762, M.D.Fla. (Trial Motion, Memorandum and Affidavit)   | July 21, 2003 | Motion   |       | —                         |
| Cited by  | <b>82. Dwight A. MCFARLAND-BEY, Plaintiff/ Appellant, v. CITY OF CHICAGO, et al, Defendants/Appellee(s).</b><br>2007 WL 3264472, *3264472, N.D.Ill. (Trial Motion, Memorandum and Affidavit)   | Sep. 17, 2007 | Motion   |       | —                         |
| Cited by  | <b>83. Plaintiff's Response to Defendants Farinella and Reinhart's Motion to Dismiss</b><br>Richard WOS, Plaintiff, v. COOK COUNTY SHERIFF M. SHEAHAN, Officer Reinhart, Officer Farinella, Unknown Cook County Officers Leyden-Windy City Towing ...<br>2001 WL 34669181, *34669181, N.D.Ill. (Trial Motion, Memorandum and Affidavit)                    | Dec. 19, 2001 | Motion   |       | —                         |

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| Cited by     | <b>84. Response to Plaintiff's opposition to Petitioner's Motion to Strike Plaintiffs Motion to remand and Response to Plaintiffs response in support of Moti...</b><br>JUSTICE COURT, a corporation, County of Clark, a corporation of State of Nevada, a corporation, Plaintiff, v. Vernon-Harry: CLEMENS, Alleged Defendant...<br>2003 WL 24263092, *24263092, D.Nev. (Trial Motion, Memorandum and Affidavit) | June 12, 2003 | Motion |       | —                          |
| Cited by     | <b>85. Response to the Motion to Dismiss</b><br>Elizabeth CASTILLO, a minor, by her mother, Esperanza Castillo, Esperanza Castillo, Rosalino Castillo, Maria Castillo, Yesenia Castillo, and Enrique C...<br>2016 WL 11268586, *1+, Ill.Cir.Ct. (Trial Motion, Memorandum and Affidavit)  | Oct. 12, 2016 | Motion |       | <a href="#">6</a><br>N.E.  |
| Mentioned by | <b>86. Central Ill. Public Service Co. v. Illinois Commerce Commission ex rel. Illinois Cent. R. Co.</b><br>165 N.E.2d 322, 326, Ill.<br><br>Proceeding presenting question of jurisdiction of Illinois Commerce Commission to compel power company to contribute to cost of changing train-stop system of railroad. From a...  | Jan. 22, 1960 | Case   |       | <a href="#">14</a><br>N.E. |
| Mentioned by | <b>87. People ex rel. Barrett v. Oregon State Sav. Bank</b><br>192 N.E. 580, 582, Ill.<br><br>Proceeding by the People, on the relation of Edward J. Barrett, Auditor of Public Accounts, against the Oregon State Savings Bank, for dissolution and settlement of the bank's...  | Oct. 19, 1934 | Case   |       | —                          |
| Mentioned by | <b>88. City of Chicago v. Chicago Great Western R. Co.</b><br>180 N.E. 835, 838, Ill.<br><br>Proceedings by the City of Chicago against the Chicago Great Western Railroad Company. The city recovered judgment in the municipal court, and defendant appeals directly to the...  | Apr. 23, 1932 | Case   |       | <a href="#">10</a><br>N.E. |
| Mentioned by | <b>89. People v. Linde</b><br>173 N.E. 361, 363, Ill.<br><br>Commissioner's Opinion. Error to Circuit Court, Du Page County; W. J. Fulton, Judge. W. Linde was convicted for violation of the Motor Vehicle Act of 1919, § 3, as amended, and he...   | Oct. 25, 1930 | Case   |       | —                          |
| Mentioned by | <b>90. Kirwin v. Peoples Gas Light and Coke Co.</b><br>528 N.E.2d 201, 213, Ill.App. 1 Dist.<br><br>Plaintiff brought suit against public utility and home rule city alleging that city had not enforced, and that utility was out of compliance with, city ordinance mandating testing...  | Aug. 03, 1988 | Case   |       | —                          |

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| Mentioned by | <p><b>91. Peoples Gas Light and Coke Co. v. City of Chicago</b><br/>465 N.E.2d 603, 607+ , Ill.App. 1 Dist.</p> <p>Following remand, 117 Ill.App.3d 353, 72 Ill.Dec. 865, 453 N.E.2d 740, the Circuit Court, Cook County, James C. Murray, J., found that city ordinance imposing blanket prohibition...</p> | June 18, 1984 | Case |       | <p><a href="#">14</a></p> <p>N.E.</p> |
| Mentioned by | <p><b>92. People v. Tadd</b><br/>299 N.E.2d 8, 9 , Ill.App. 2 Dist.</p> <p>Defendant was prosecuted under the vehicle code for speeding on drives situated on campus of state university. The Circuit Court, DeKalb County, Thomas S. Cliffe, J., dismissed...</p>   | July 02, 1973 | Case |       | <p><a href="#">12</a></p> <p>N.E.</p> |
| Mentioned by | <p><b>93. City of Tulsa v. Southwestern Bell Telephone Co.</b><br/>5 F.Supp. 822, 827 , N.D.Okla.</p> <p>At Law. Action by the City of Tulsa against the Southwestern Bell Telephone Company. On defendant's motion for a directed verdict. Motion sustained.</p>  | Jan. 29, 1934 | Case |       | —                                     |
| Mentioned by | <p><b>94. Wald Storage &amp; Transfer Co. v. Smith</b><br/>4 F.Supp. 61, 64 , S.D.Tex.</p> <p>In Equity. Separate suits by the Wald Storage &amp; Transfer Company and by D. A. Beard against Lon A. Smith and others. Bills dismissed for want of equity.</p>   | June 23, 1933 | Case |       | <p><a href="#">10</a></p> <p>N.E.</p> |
| Mentioned by | <p><b>95. In re Stanley</b><br/>174 A. 93, 96 , Me.</p> <p>Exceptions from Supreme Judicial Court, Kennebec County, at Law. In the matter of the application of John M. Stanley for certificate of convenience and necessity to operate as a...</p>  | July 27, 1934 | Case |       | <p><a href="#">8</a></p> <p>N.E.</p>  |
| Mentioned by | <p><b>96. City of St. Paul v. Twin City Motor Bus Co.</b><br/>245 N.W. 33, 35 , Minn.</p> <p>Appeal from District Court, Ramsey County; Kenneth G. Brill, Judge. Action by the City of St. Paul against the Twin City Motor Bus Company. From an order sustaining a demurrer to...</p>                       | Oct. 28, 1932 | Case |       | <p><a href="#">8</a></p> <p>N.E.</p>  |
| Mentioned by | <p><b>97. Wilson v. City of St. Robert</b><br/>714 S.W.2d 738, 741 , Mo.App. S.D.</p> <p>Operator of limousine service brought action against municipality seeking to enjoin application and enforcement of ordinance regulating taxicabs. The Circuit Court, Pulaski...</p>                                 | June 17, 1986 | Case |       | <p><a href="#">10</a></p> <p>N.E.</p> |
| Mentioned by | <p><b>98. Tri-City Motor Transp. Co. v. Great Northern Ry. Co.</b><br/>270 N.W. 100, 106 , N.D.</p> <p>Appeal from District Court, Ward County; John C. Lowe, Judge. Proceeding in the matter of the application of the Tri-City Motor Transportation Company (also known as Elsholtz...</p>                 | Nov. 13, 1936 | Case |       | —                                     |

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| —         | <b>99. Conflict between statutes and local regulations as to automobiles</b><br>147 A.L.R. 522<br><br>The reported case for this annotation is Pipoly v. Benson, 20 Cal. 2d 366, 125 P.2d 482, 147 A.L.R. 515 (1942).   | 1943 | ALR                    | —     | <a href="#">14</a><br>N.E.                       |
| —         | <b>100. Power of municipality to deny the use of its streets to public carrier which has obtained from state commission certificate of public convenience</b><br>66 A.L.R. 847<br><br>In general, as to jurisdiction of public service commission over carrier transporting by motor trucks or busses, see annotations in 1 A.L.R. 1460; 9 A.L.R. 1011; and 51 A.L.R. 820.... | 1930 | ALR                    | —     | <a href="#">14</a><br>N.E.                       |
| —         | <b>101. Jurisdiction of public service commission over carriers transporting by motor trucks or busses</b><br>103 A.L.R. 268<br><br>(Supplementing annotation in 51 A.L.R. 820.) In the earliest annotation upon this subject, when motor transportation was in its infancy, the question generally was whether the...  | 1936 | ALR                    | —     | <a href="#">10</a><br><a href="#">14</a><br>N.E. |
| —         | <b>102. Failure to keep up insurance, or to pay taxes or interest, as accelerating maturity of mortgage in absence of express provision to that effect</b><br>54 A.L.R. 1230<br><br>It seems to be generally held that the failure on the part of a mortgagor to keep the mortgaged premises insured, or to pay the taxes thereon, or to pay the interest instalments on...   | 1928 | ALR                    | —     | <a href="#">9</a><br>N.E.                        |
| —         | <b>103. Gelfand, State and Local Government Debt Financing s 1:3, § 1:3. Constitutional considerations</b><br><br>Municipal corporations and other subdivisions of local government are political subdivisions of the State that are created by the State. They may be counties, cities, towns, and...  | 2019 | Other Secondary Source | —     | <a href="#">1</a><br>N.E.                        |
| —         | <b>104. Local Government Law s 2:9, § 2:9. General purpose agencies of local government—Cities</b><br><br>In England, a city was defined as that place "which hath a bishop," a cathedral town with an ancient patent. In colonial America, the term city was applied to any populous place...  | 2019 | Other Secondary Source | —     | —  |
| —         | <b>105. Local Government Law s 15:12, § 15:12. Activities subject to license requirement—Public transportation: from taxicabs to ride-sharing</b><br><br>The police power authority ordinarily conferred upon localities with respect to streets and ways, vehicles for hire, or transport by motor vehicles provides the foundation for...                                   | 2019 | Other Secondary Source | —     | <a href="#">14</a><br>N.E.                       |



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| —         | <b>106. McQuillin The Law of Municipal Corporations s 4:5, § 4:5. General rule as to legislative control—Limitations on municipal powers; liabilities</b><br><br>In accordance with the settled doctrine that municipal corporations of all kinds are politically subordinate subdivisions of the state government, the legislature may designate... | 2019 | Other Secondary Source | —     | <a href="#">1</a><br>N.E.                        |
| —         | <b>107. McQuillin The Law of Municipal Corporations s 2:12, § 2:12. Municipal corporations—Nature and status</b><br><br>A municipal corporation is generally regarded by the courts as a subordinate branch of the government of the state, and therefore municipal administration is an instrumentality of...                                       | 2019 | Other Secondary Source | —     | —  |
| —         | <b>108. McQuillin The Law of Municipal Corporations s 30:2, § 30:2. Highway defined</b><br><br>All highways are either public or private. A way open to all the people is public, and, in law, is termed a highway whether called a road, street, avenue or public square. The term...   | 2019 | Other Secondary Source | —     | <a href="#">11</a><br><a href="#">12</a><br>N.E. |
| —         | <b>109. McQuillin The Law of Municipal Corporations s 34:9, § 34:9. Public utility defined—State commissions</b><br><br>Statutes manifest the recognition that the control of the plants, apparatus and transmission lines of a public service company is a matter of more than local concern, and one that...                                       | 2019 | Other Secondary Source | —     | —  |
| —         | <b>110. McQuillin The Law of Municipal Corporations s 24:620, § 24:620. Rights, privileges, and duties of persons</b><br><br>Vehicular use of public streets, particularly in commercial enterprises, such as the taxicab, motor freight or passenger bus business, is a privilege and not a right. With respect...                                  | 2019 | Other Secondary Source | —     | <a href="#">5</a><br>N.E.                        |
| —         | <b>111. McQuillin The Law of Municipal Corporations s 24:640, § 24:640. Exclusion from certain streets</b><br><br>Municipal ordinances excluding vehicles or certain classes of vehicles from certain streets may be made, and are valid where they are reasonable and justified. By such ordinances,...   | 2019 | Other Secondary Source | —     | <a href="#">6</a><br>N.E.                        |
| —         | <b>112. McQuillin The Law of Municipal Corporations s 24:641, § 24:641. Generally</b><br><br>The regulation of motor vehicles in their use of streets is an important function of modern municipal government, and is valid where it is reasonable, nondiscriminatory, and...  | 2019 | Other Secondary Source | —     | <a href="#">6</a><br>N.E.                        |
| —         | <b>113. McQuillin The Law of Municipal Corporations s 26:174, § 26:174. State licensing and regulation</b><br><br>As previously has been observed, state and municipal legislation may operate exclusively or concurrently with respect to a given subject. State regulation and licensing of all...   | 2019 | Other Secondary Source | —     | —  |

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| —         | <b>114. McQuillin The Law of Municipal Corporations s 30:142, § 30:142. Public use paramount</b><br>The municipality must keep public streets open for public use pursuant to legislative mandate. When a public street is duly laid out, an easement in the land in favor of the public...  | 2019 | Other Secondary Source | —     | <a href="#">14</a><br>N.E.                     |
| —         | <b>115. McQuillin The Law of Municipal Corporations s 30:154, § 30:154. Automobiles</b><br>Automobiles are without question recognized as appropriate vehicles for use upon the streets and roads. Even from the early days of their appearance on streets and roads,...   | 2019 | Other Secondary Source | —     | <a href="#">5</a><br>N.E.                      |
| —         | <b>116. Ordinance Law Annotations Streetcars and Buses s 15, § 15. Authority of municipality generally</b><br>Ordinance Law Annotations Streetcars and Buses<br>An ordinance regulating the operation of vehicles transporting passengers for hire, but not the transportation of freight for hire, is not violative of the equal protection of the... | 2019 | Other Secondary Source | —     | <a href="#">6</a><br>N.E.                      |
| —         | <b>117. Ordinance Law Annotations Streetcars and Buses s 16, § 16. Limitations on authority</b><br>Ordinance Law Annotations Streetcars and Buses<br>A city may not, by mere resolution, regulate the manner and method of operation of a street railway, since a resolution is not a law, and such a regulation can only be effectuated...            | 2019 | Other Secondary Source | —     | <a href="#">10</a><br>N.E.                     |
| —         | <b>118. Sutherland Statutes and Statutory Construction s 64:1, § 64:1. Grants of power to government agencies</b><br>Statutes delegating official authority and power to government agencies and other departments of government which derive their existence directly from constitutional authority give...   | 2019 | Other Secondary Source | —     | <a href="#">3</a><br>N.E.                      |
| —         | <b>119. Sutherland Statutes and Statutory Construction s 64:2, § 64:2. Grants of power to local governments</b><br>The powers of local governing bodies are wholly derived from legislation, whether in statutory or constitutional provisions or both. It is a well-established principle, in what has...   | 2019 | Other Secondary Source | —     | —  |
| —         | <b>120. West's A.L.R. Digest 48AK4, # 4. Right to use motor vehicles on highways</b><br>West's A.L.R. Digest   | 2019 | Other Secondary Source | —     | <a href="#">5</a><br>N.E.                      |
| —         | <b>121. West's A.L.R. Digest 200K18, # 18. In general</b><br>West's A.L.R. Digest  | 2019 | Other Secondary Source | —     | <a href="#">12</a><br>N.E.                     |
| —         | <b>122. West's A.L.R. Digest 268K54, # 54. Relation to state</b><br>West's A.L.R. Digest   | 2019 | Other Secondary Source | —     | <a href="#">4</a><br>N.E.                      |
| —         | <b>123. West's A.L.R. Digest 268K57, # 57. -- Powers and functions of local government in general</b><br>West's A.L.R. Digest  | 2019 | Other Secondary Source | —     | <a href="#">1</a><br><a href="#">2</a><br>N.E. |

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| —         | <b>124. West's A.L.R. Digest 268K58, # 58. Construction of charters and statutory provisions</b><br>West's A.L.R. Digest  | 2019 | Other Secondary Source | —     | <a href="#">3</a><br>N.E.                        |
| —         | <b>125. West's A.L.R. Digest 48AK58, # 58. Right to use highways</b><br>West's A.L.R. Digest  | 2019 | Other Secondary Source | —     | <a href="#">9</a><br>N.E.                        |
| —         | <b>126. West's A.L.R. Digest 48AK59, # 59. Power to control and regulate</b><br>West's A.L.R. Digest  | 2019 | Other Secondary Source | —     | <a href="#">9</a><br><a href="#">10</a><br>N.E.  |
| —         | <b>127. West's A.L.R. Digest 200K165, # 165. -- Power to control and regulate</b><br>West's A.L.R. Digest   | 2019 | Other Secondary Source | —     | <a href="#">8</a><br><a href="#">13</a><br>N.E.  |
| —         | <b>128. West's A.L.R. Digest 268K658, # 658. Title and rights of municipality in general</b><br>West's A.L.R. Digest  | 2019 | Other Secondary Source | —     | <a href="#">11</a><br><a href="#">12</a><br>N.E. |
| —         | <b>129. West's A.L.R. Digest 317AK113, # 113. Certificates, permits, and franchises</b><br>West's A.L.R. Digest   | 2019 | Other Secondary Source | —     | <a href="#">10</a><br>N.E.                       |
| —         | <b>130. West's A.L.R. Digest 48AK5(1), # 5(1). In general</b><br>West's A.L.R. Digest   | 2019 | Other Secondary Source | —     | <a href="#">6</a><br>N.E.                        |
| —         | <b>131. Am. Jur. 2d Highways, Streets, and Bridges s 210, § 210. Municipal power to prohibit or regulate</b><br>Am. Jur. 2d Highways, Streets, and Bridges<br><br>The use of public streets as a place to conduct a private business is generally recognized as a special or extraordinary use, which the controlling public authority may prohibit or...                               | 2019 | Other Secondary Source | —     | <a href="#">6</a><br>N.E.                        |
| —         | <b>132. Am. Jur. 2d Highways, Streets, and Bridges s 223, § 223. Use of highways for transportation facilities and operation, generally</b><br>Am. Jur. 2d Highways, Streets, and Bridges<br><br>The use of highways and streets as a facility for commercial transportation of freight or passengers by the ordinary means is incidental to and consistent with the primary purpose... | 2019 | Other Secondary Source | —     | <a href="#">7</a><br>N.E.                        |
| —         | <b>133. CJS HIGHWAYS s 1, § 1. Definitions, nature, and construction</b><br>CJS HIGHWAYS<br><br>The term "highway" means a way open to all the people without distinction for passage and repassage at their pleasure or, as stated succinctly, a public way or road. A "highway"...  | 2019 | Other Secondary Source | —     | —  |
| —         | <b>134. Illinois Law &amp; Prac. Automobiles &amp; Mtr. Vehicles s 4, § 4. Municipal regulation</b><br>Illinois Law & Prac. Automobiles & Mtr. Vehicles<br><br>Under the chapter of the Illinois Vehicle Code constituting the Illinois Rules of the Road, such rules must be applicable and uniform throughout the State and in all political...                                       | 2019 | Other Secondary Source | —     | —  |

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| —         | <b>135. Illinois Law &amp; Prac. Automobiles &amp; Mtr. Vehicles s 7, § 7. Generally</b><br>Illinois Law & Prac. Automobiles & Mtr. Vehicles<br><br>The General Assembly has the right, in the exercise of the police power, to provide reasonable rules and restrictions as to the operation and use of motor vehicles in the state;...  | 2019 | Other Secondary Source | —     | —  |
| —         | <b>136. Illinois Law &amp; Prac. Automobiles &amp; Mtr. Vehicles s 19, § 19. Generally</b><br>Illinois Law & Prac. Automobiles & Mtr. Vehicles<br><br>Public service motor carriers are lawful vehicles and means of conveyance and, until the enactment of a law prohibiting or regulating their use, they have an equal right with other...                                   | 2019 | Other Secondary Source | —     | <a href="#">7</a><br>N.E.                        |
| —         | <b>137. Illinois Law &amp; Prac. Automobiles &amp; Mtr. Vehicles s 20, § 20. Regulation by municipalities</b><br>Illinois Law & Prac. Automobiles & Mtr. Vehicles<br><br>Within constitutional limits, municipalities may regulate public service motor vehicles to the extent that authority has been properly delegated to them by the General Assembly;...                   | 2019 | Other Secondary Source | —     | <a href="#">9</a><br>N.E.                        |
| —         | <b>138. Illinois Law &amp; Prac. Automobiles &amp; Mtr. Vehicles s 23, § 23. Particular regulations— Licenses and license fees</b><br>Illinois Law & Prac. Automobiles & Mtr. Vehicles<br><br>To the extent that authority has been properly delegated by the State, municipalities, within constitutional limits, may require operators of public service motor vehicles to... | 2019 | Other Secondary Source | —     | <a href="#">10</a><br>N.E.                       |
| —         | <b>139. Illinois Law and Practice Carriers s 7, § 7. Control and regulation, generally</b><br>Illinois Law and Practice Carriers<br><br>Intrastate common and contract carriers are subject to economic regulation by the Illinois Commerce Commission as persons engaged in the business of providing transportation for...  | 2019 | Other Secondary Source | —     | <a href="#">9</a><br>N.E.                        |
| —         | <b>140. Illinois Law and Practice Carriers s 8, § 8. Regulation by state administrative agency</b><br>Illinois Law and Practice Carriers<br><br>The Illinois General Assembly may determine what state agency or commission will supervise a common carrier operating within the State of Illinois. Except as otherwise provided in...  | 2019 | Other Secondary Source | —     | <a href="#">10</a><br>N.E.                       |
| —         | <b>141. IL-LP CITIES s 47, § 47. Legislative control and supervision of municipalities, generally</b><br><br>Since a municipal corporation is a creature of statute, it is subject to the legislative will, and, within constitutional limits, the powers, duties, and liabilities of municipal...  | 2019 | Other Secondary Source | —     | <a href="#">1</a><br>N.E.                        |
| —         | <b>142. IL-LP CITIES s 881, § 881. Title or interest of municipality in municipal streets and other public ways—Trust</b><br><br>A city holds streets in trust for the public, and governmental entities have a corresponding duty to maintain the streets and roadways within their jurisdiction. Alleys and...  | 2019 | Other Secondary Source | —     | <a href="#">11</a><br><a href="#">12</a><br>N.E. |

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| —         | <p><b>143. MUNICIPAL CORPORATIONS - POWERS AND FUNCTIONS - POWER TO CHARGE TOLLS FOR BRIDGE AND TUNNEL</b><br/>45 Harv. L. Rev. 936 , 937</p> <p>Municipal legislation authorized the issue of corporate stock to finance the construction of a tri-borough bridge and vehicular tunnel, and authorized the charging of tolls in...</p>                   | 1932 | Law Review | —     | <p><a href="#">3</a><br/>N.E.</p>  |
| —         | <p><b>144. HOME RULE HITS THE ROAD IN ILLINOIS: AMERICAN TELEPHONE AND TELEGRAPH CO. v. VILLAGE OF ARLINGTON HEIGHTS</b><br/>25 Loy. U. Chi. L.J. 577 , 605</p> <p>The strength of free peoples resides in the local community. Local institutions are to liberty what primary schools are to science; they put it within the people's reach; they...</p> | 1994 | Law Review | —     | <p><a href="#">12</a><br/>N.E.</p> |
| —         | <p><b>145. A LEGAL RESPONSE TO THE SOVEREIGN CITIZEN MOVEMENT</b><br/>80 Mont. L. Rev. 153 , 187+</p> <p>"A little knowledge is a dangerous thing. It may also prove costly." In early 2016, armed antigovernment protesters led by Ammon Bundy occupied the Malheur National Wildlife...</p>   | 2019 | Law Review | —     | <p><a href="#">8</a><br/>N.E.</p>  |
| —         | <p><b>146. COMMERCIAL USE OF THE HIGHWAY AS A BASIS FOR MOTOR CARRIER REGULATION</b><br/>40 Yale L.J. 469 , 475</p> <p>The part which the mammoth bus and giant truck are playing in present day transportation lends new significance to the problem of motor-carrier regulation. While the fact that...</p>   | 1931 | Law Review | —     | —                                  |

## **Filings**

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## **History**

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