

76 W.Va. 576

Supreme Court of Appeals of West Virginia.

EX PARTE DICKEY.

June 22, 1915.

Syllabus by the Court.

All rights of common carriage on highways, such as those conducted by means of drays, omnibuses, hackney coaches, and taxicabs, are legislative grants or concessions, much lower in legal quality and dignity than the rights of ordinary use to which highways are incidentally subjected by citizens in travel and the prosecution of their business.

Legislative recognition of such right of common carriage, as one common to all citizens, by grant of authority to municipal corporations, to license and tax persons engaged in the exercise thereof, in the manner in which they are authorized to license and tax ordinary vocations, is an implied grant of such common right.

But the Legislature may so limit, qualify, and regulate such right as to make the exercise thereof subserve the interest and convenience of the public, as in the case of ferrys, street railways, telegraphs, and telephones.

To that end, it may prescribe the number, character, routes, rates, and hours of service of common carrying vehicles on the highways, or delegate such power of regulation to municipal corporations.

A charter provision empowering a municipal corporation to grant, refuse, or revoke licenses to the owners of vehicles kept for hire therein, and to subject them to such regulations as the interest and convenience of the inhabitants thereof, in the opinion of the municipal authorities, may require, delegates to the corporation full legislative power over such vehicles.

Under such authority, the corporation has power to prescribe the routes and hours of service of motor vehicles commonly called "jitney busses," carrying passengers along the streets and taking in and discharging them in a manner similar to that in which they are received and discharged by street cars, and to require from them indemnity against injury to persons and property occasioned by the operation thereof.

A municipal corporation having full legislative power to limit and regulate the use of vehicles kept for hire may classify them, for purposes of regulation; and an ordinance dealing fully with one class of such vehicles, as determined by the nature of their business and the prices they charge, is not discriminative because of its lack of provision for the regulation of other distinct classes of vehicles kept for hire.

Specification of the price charged by a common carrier vehicle, as an element of its description in an ordinance prescribing its class, does not make the classification arbitrary or discriminative, unless it appears that there are other vehicles of the same class, as determined by the nature of their business, that charge prices other than those specified.

Additional Syllabus by Editorial Staff.

A city ordinance regulating jitney busses on city streets does not conflict with Code 1913, c. 43B, regulating motor vehicles generally.

Synopsis

Original proceedings for habeas corpus by M. T. Dickey against Sam Davis, Chief of Police. Writ refused.

West Headnotes (19)

[1] **Constitutional Law** ➡ **Municipalities and Municipal Employees and Officials**

The Legislature can delegate to a municipal corporation the power to regulate the number, character, routes, rates, and hours of service of common carriers on the streets.

[2] **Highways** ➡ **Power to Control and Regulate**

In the matter of the construction, maintenance and care of the public roads, the boards of supervisors of the respective counties are made a co-ordinate branch of the State government as fully as are the common councils of the several cities and towns within the State, and the full power and authority of the State for the purposes for which these agencies were established is vested in them, and while acting within their well

recognized powers, or exercising discretionary power, the courts are wholly unwarranted in interfering, unless fraud is shown, or the power or discretion is manifestly abused to the oppression of the citizen.

[3 Cases that cite this headnote](#)

[3] **Highways**  **Right to Use**

The rights of common carriers on highways are legislative grants, lower in legal dignity than rights of ordinary use.

[4] **Automobiles**  **Municipal Ordinances**

Legislative recognition of such right of common carriage, as one common to all citizens, by grant of authority to municipal corporations, to license and tax persons engaged in the exercise thereof, in the manner in which they are authorized to license and tax ordinary vocations, is an implied grant of such common right.

[5] **Automobiles**  **Municipal Ordinances**

But the Legislature may so limit, qualify, and regulate such right as to make the exercise thereof subserve the interest and convenience of the public, as in the case of ferrys, street railways, telegraphs, and telephones.

[1 Case that cites this headnote](#)

[6] **Automobiles**  **Municipal Ordinances**

A charter provision empowering a municipal corporation to grant, refuse, or revoke licenses to the owners of vehicles kept for hire therein, and to subject them to such regulations as the interest and convenience of the inhabitants thereof, in the opinion of the municipal authorities, may require, delegates to the corporation full legislative power over such vehicles.

[2 Cases that cite this headnote](#)

[7] **Automobiles**  **Municipal Ordinances**

Under such authority, the corporation has power to prescribe the routes and hours of service of motor vehicles commonly called "jitney busses," carrying passengers along the streets and taking in and discharging them in a manner similar to that in which they are received and discharged by street cars, and to require from them indemnity against injury to persons and property occasioned by the operation thereof.

[17 Cases that cite this headnote](#)

[8] **Automobiles**  **Municipal Ordinances**

A municipal corporation having full legislative power to limit and regulate the use of vehicles kept for hire may classify them, for purposes of regulation; and an ordinance dealing fully with one class of such vehicles, as determined by the nature of their business and the prices they charge, is not discriminative because of its lack of provision for the regulation of other distinct classes of vehicles kept for hire.

[3 Cases that cite this headnote](#)

[9] **Automobiles**  **Municipal Ordinances**

Specification of the price charged by a common carrier vehicle, as an element of its description in an ordinance prescribing its class, does not make the classification arbitrary or discriminative, unless it appears that there are other vehicles of the same class, as determined by the nature of their business, that charge prices other than those specified.

[10] **Automobiles**  **Municipal Ordinances**

Automobiles  **Concurrent and Conflicting Regulations**

A city ordinance regulating jitney busses on city streets does not conflict with Code 1913, c. 43B, regulating motor vehicles generally.

[5 Cases that cite this headnote](#)

[11] **Automobiles**  **Right to Use Highways**

All rights of common carriage on highways, such as those conducted by means of drays, omnibuses, hackney coaches, and taxicabs, are legislative grants or concessions, much lower in legal quality and dignity than the rights of ordinary use to which highways are incidentally subjected by citizens in travel and the prosecution of their business.

[20 Cases that cite this headnote](#)

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

The Legislature may limit and regulate the right of common carriers to use the highways in the interests and convenience of the public.

[4 Cases that cite this headnote](#)

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

The Legislature may regulate the number, character, routes, rates, and service of common carriers on the highways.

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

Laws 1909, c. 3, § 68, delegates to a municipal corporation full legislative power to regulate common carriers by vehicles on the streets.

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

Under Laws 1909, c. 3, § 68, a city can prescribe the routes and hours of service of motor vehicles commonly called “jitney busses” and acting as common carriers of passengers.

[2 Cases that cite this headnote](#)

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

To that end, it may prescribe the number, character, routes, rates, and hours of service of common carrying vehicles on the highways, or

delegate such power of regulation to municipal corporations.

[17] **Automobiles** 🔑 Local Regulations

An ordinance regulating jitney busses is not discriminative because not regulating other motor vehicles kept for hire.

[18] **Automobiles** 🔑 Local Regulations

An ordinance regulating motor vehicles carrying passengers for a fare of 15 cents or less is not discriminative, unless it appears that there are other vehicles of the same class making greater charges.

[19] **Automobiles** 🔑 Franchises and Powers

A grant of authority to municipal corporations to license persons operating as common carriers on the streets is an implied grant of the right to use the streets for such purpose.

[5 Cases that cite this headnote](#)

Attorneys and Law Firms

*781 Daugherty & Riggs, of Huntington, for petitioner.

F. M. Livezey, of Huntington, for respondent.

Opinion

POFFENBARGER, J.

Charging illegality of an ordinance for violation of which he is held in restraint of his liberty, the relator seeks his discharge on a writ of habeas corpus.

The ordinance in question is one made by the commissioners of the city of Huntington, for the regulation, licensing, and taxing of certain vehicles commonly known as “jitney *782 busses,” designated in the ordinance as motor busses and therein defined as vehicles “propelled by either gasoline or electricity, operated over any of the streets in the city of Huntington, for the purpose of carrying passengers for hire, at a rate of fare of 15 cents or less for each passenger, and which

receives and discharges passengers along the route traversed by such vehicles.” It makes it unlawful for any person, firm, or corporation to use or occupy any public street in the city of Huntington with a motor bus, without a permit or license therefor and compliance with the terms of the ordinance. It imposes an annual license tax of \$50 for such of them as have capacities of four passengers or less and \$70 for such as have capacities of five passengers or more, but allows an apportionment of the tax when the license is taken out for the unexpired portion of a year. It also requires the licensee to enter into a bond in the penalty of \$5,000, with a condition for compliance with the provisions of the ordinance and payment of any and all lawful claims for damages for injury to persons or property sustained by passengers in them or by other persons that may be killed or injured or suffer damage to property in the city of Huntington in the operation thereof. A condition precedent to the issuance of the license is the filing of an application showing: (1) The name, residence, and business address of the person, firm, or corporation owning and operating the bus; (2) the type of motor bus to be used; (3) the number of such vehicles to be operated by the applicant and the state license number of each; (4) the seating and weight capacity of each; and (5) the terminals and the routes over which it is to be operated, and the hours of its operation. The commission reserves to itself the right to refuse or grant such permit or license as applied for, or to change the route or the hours set forth in the application and then grant the license upon such changed route or hours or both.

[1] As regards legislative power or control, the business or interest regulated by the ordinance is clearly distinguishable from vocations, the pursuit of which does not involve the use of public property. The right of a citizen to pursue any of the ordinary vocations, on his own property and with his own means, can neither be denied nor unduly abridged by the Legislature, for the preservation of such right is the principal purpose of the Constitution itself. In such cases, the limit of legislative power is regulation, and that power must be cautiously and sparingly exercised, unless the business is of such character as places it within the category of social and economic evils, such as gaming, the liquor traffic, and numerous others. To this list may be added such useful occupations as may, under certain circumstances, become public or private nuisances, because offensive or dangerous to health. All of these fall within the broad power of prohibition or suppression, some wholly and absolutely and others conditionally. Such pursuits as agriculture, merchandising, manufacturing, and industrial trades cannot be dealt with at will by the Legislature. As to them, the power of regulation is comparatively slight, when

they are conducted and carried on upon private property and with private means. But when a citizen claims a private right in public property, such as a street or park, a different situation is presented. Such properties are devoted primarily to general and public, not special or private, uses, and they fall within almost plenary legislative power and control. In them, all citizens have the usual and ordinary rights in an equal degree and to an equal extent. In the regulation thereof, the Legislature cannot discriminate. But, as regards unusual and extraordinary rights respecting public properties, its power of control and regulation is much more extensive. Such rights are in the nature of concessions by the public, wherefore the Legislature may give or withhold them at its pleasure. It may give them for some purposes and withhold them for others, and, in the case of those given, it may, upon considerations of character, quality, and circumstances, discriminate, permitting some things of a general class or nature to be done and refusing to permit others of the same general class to be done, or extending the privilege to some persons and denying it to others because of differences of character or capacity.

The right of a citizen to travel upon the highway and transport his property thereon, in the ordinary course of life and business, differs radically and obviously from that of one who makes the highway his place of business and uses it for private gain, in the running of a stage coach or omnibus. The former is the usual and ordinary right of a citizen, a common right, a right common to all, while the latter is special, unusual, and extraordinary. As to the former, the extent of legislative power is that of regulation; but, as to the latter, its power is broader. The right may be wholly denied, or it may be permitted to some and denied to others, because of its extraordinary nature. This distinction, elementary and fundamental in character, is recognized by all the authorities:

“A distinction must be made between the general use, which all of the public are permitted to make of the street for ordinary purposes, and the special and peculiar use, which is made by classes of persons in the pursuit of their occupation or business, such as hackmen, drivers of express wagons, omnibusses, etc. Tiedeman on Municipal Corporations, § 299.

“The rule must be considered settled that no person can acquire the right to make a special or exceptional use of a public highway, not common to all citizens of the state, except by grant from the sovereign power.” *Jersey City Gas Co. v. Dwight*, 29 N. J. Eq. 242; *McQuillen*, *Municipal Corporations*, 1620.

*783 An ordinance of the city of Boston provided that no person should make an address in or upon or near the public grounds of the city, without a permit from the mayor. Having been denied such a permit, one Davis did make a public address on public grounds known as "Boston Commons." Under this ordinance, he was convicted of an offense, and the Supreme Judicial Court of Massachusetts affirmed the judgment, holding the Legislature had conferred upon the city of Boston the power to pass and enforce such an ordinance. On an appeal to the Supreme Court of the United States, the judgment of the state court was affirmed, and Mr. Justice White, delivering the opinion of the court, said: "The fourteenth amendment to the Constitution of the United States does not destroy the power of the states to enact police regulations as to the subjects within their control, * * * and does not have the effect of creating a particular and personal right in the citizen to use public property in defiance of the Constitution and laws of the state." [Davis v. Massachusetts](#), 167 U. S. 43, 47, 17 Sup. Ct. 731, 733 (42 L. Ed. 71).

[2] Plainly, therefore, the result of this inquiry depends, not upon the power of the Legislature over the subject-matter of relator's alleged right, but upon the action of the Legislature respecting the same. That he has no natural or indefeasible right to maintain upon a public highway a vehicle for the carriage of passengers for hire is unquestionable. Though, in point of theory, special rights in highways are vested in individuals only by legislative grant, it is matter of common knowledge and judicial cognizance that, without express legislative permission to do so, citizens use them in special ways consistent with their nature. They naturally enter upon them and carry on business, not inconsistent with their use for ordinary purposes, or rather not obstructive of such use, until prohibited by a statute or an ordinance. In the early history of this country, before the establishment of railroads, the public roads were used by stage lines. Indeed, passenger transportation through the country, other than that by navigable waters, was carried on by means of stage lines, and the Legislatures exercised little, if any, authority over them, beyond the establishment of such regulations as were applicable to other vehicles on the public roads. How their rights were acquired, and just what regulations were imposed, would be matter of historic interest, but its importance or relevancy upon this inquiry would hardly justify the examination of the early statutes, requisite to the ascertainment of the creation, recognition, or regulation of the right. At this late day, they are not readily to be found in the text-books. City cabs and omnibuses are of the same general nature and are permitted to use the streets of all cities

and villages throughout the country, without any special grant from the Legislature. Proceeding upon the assumption of the right of owners of vehicles to use highways for the purposes of common carriage, the Legislatures deal with them in much the same manner as that in which they deal with ordinary vocations, confining themselves to measures of regulation. While it does not amount to an express grant of right to make use of the highways, it is a recognition thereof which fairly amounts to an implied grant. In the general statutes of the state, there is neither a grant nor a prohibition of the use of the public highways for the purposes of common carriage, such as stage lines or omnibuses, and in the charters granted by the Legislature to cities, towns, and villages, as well as in chapter 47 of the Code, under which corporations having a population of less than 2,000 may be organized, there is neither an express grant nor a prohibition of such right; but by the special charters, as well as by chapter 47, municipal corporations are authorized to license vehicles kept for hire, just as they license hotels, peddlers, brokers, billiard and pool tables, slot machines, and numerous other persons and enterprises. Section 28 of chapter 47 of the Code, serial section 2409, among other things, authorizes the councils of cities, towns, and villages "to impose a license tax on persons or companies keeping for hire carriages, hacks, buggies, or wagons, or for carrying passengers for pay in any such vehicle, in such city, town or village." A similar provision is found in most of the special charters granted by the Legislature. This implies the right and, if necessary, grants it. What is necessarily implied in a statute, or must be included in it to make the terms actually used have effect, according to their nature and ordinary meaning, is as much a part of it as if it had been declared in express terms. [State v. Harden](#), 62 W. Va. 313, 58 S. E. 715, 60 S. E. 394; [Hasson v. City of Chester](#), 67 W. Va. 278, 67 S. E. 731.

A similar method of dealing with them in other states is disclosed by the statutes and decisions thereof. Everywhere such enterprises are regarded and treated as of rightful existence and subjected to regulation and control in the same manner as ordinary vocations not in any sense involving the use of public property. Generally the authority and power of regulation in cities and towns is treated as having been delegated to them by the Legislatures. [Frommer v. City of Richmond](#), 31 Grat. (Va.) 646, 31 Am. Rep. 746. In [Commonwealth v. Stodder](#), 2 Cush. (Mass.) 562, 48 Am. Dec. 679, the authority of the mayor and aldermen of the city of Boston to require licenses from citizens of other towns and cities for the maintenance of hackney coaches and omnibuses, for the carrying of passengers from neighboring towns into

the city and out of the city to such neighboring towns, without legislative authority therefor, was denied, as was also their authority to impose any tax upon such carriers.

*784 [3] [4] However it may be regarded as having been acquired, the right claimed by the relator, in the absence of legislative prohibition, seems to be considered in all jurisdiction as one common to all citizens who care to exercise it. Public highways are treated as navigable waters, in the sense that any citizen, desiring to use them as a common carrier thereon, may acquire the necessary equipment, select the portion of the highway or river he desires to use, and enter upon the business in common with all other persons engaged in it. It is equally clear, however, that the Legislature has full and complete power for drastic regulation of such business and to take away the right to pursue it upon such highways as it may see fit to devote exclusively to ordinary public uses. In *O'Connor v. Pittsburgh*, 18 Pa. 187, Gibson, C. J., said:

“To the commonwealth here, as to the king in England, belongs the franchise of every highway as a trustee for the public; and streets regulated and repaired by the authority of a municipal corporation are as much highways as are rivers, railroads, canals, or public roads laid out by the authority of the quarter sessions. In England the public road is called the king's highway; and, though it is not usually called the commonwealth's highway here, it is so in contemplation of law, for it exists only by force of the commonwealth's authority. Every railroad, canal, turnpike, or bridge company has its franchise by grant from the state, and consequently with its original qualities and immunities adhering to it. Every highway, toll or free, is licensed * * * and regulated by the immediate or delegated action of the sovereign power; and in every commonwealth the people in the aggregate constitute the sovereign.”

To accomplish the exclusion of automobiles from the use of certain streets or public ways in cities and towns, the Legislature of Massachusetts deemed it necessary to

pass a statute authorizing the aldermen of the cities and selectmen of the towns to make such regulations, subject to a power of review in the state highway commission. The constitutionality of this statute was questioned in *Commonwealth v. Kingsbury*, 199 Mass. 542, 85 N. E. 848, 127 Am. St. Rep. 513, but the court upheld it.

It would be inconsistent with this theory to say the Legislature, in committing to county courts, villages, towns, and cities the control of such portions of the highways as happen to be within their limits, intended to make them absolute owners and proprietors of the same, with power to do as they please with them. Such municipalities own such portions of the highways for such public uses and purposes as the Legislature, by express declaration or implication, recognizes as lawful. They hold them as agencies of the state for such public uses, and therefore they can limit, restrict, or regulate such uses in such manner and to such extent only as the Legislature has authorized. For the promotion of local comfort, convenience, and prosperity, the Legislature has empowered them to establish, maintain, and improve highways and given them authority to raise money by taxation for such purposes; and, at the same time, it has compelled them to assume, not only the burden of construction and maintenance, but also liability for injuries occasioned by defects. Nevertheless, it would be inconsistent with sovereign legislative power and control over the highways to infer from this agency legislative purpose to confer upon local municipalities power to deny any right of the public in them. Therefore such authority does not exist, unless it has been expressly or impliedly conferred.

[5] [6] In the light of these general principles and conclusions, the provisions of the charter of the city of Huntington, applicable to the subject, must be read and interpreted. The most comprehensive one of these, and the only one it is deemed necessary to consider, is found in section 68 of chapter 3 of the Acts of 1909. After having authorized the commissioners to require a city license for anything for which a state license is required and to impose a tax thereon for the use of the city, it proceeds as follows:

“And the board of commissioners shall have the power to grant, refuse or revoke any such license of owners or keepers of hotels, carts or wagons, drays, and every other description of wheeled carriages kept or used for hire in said city, and to levy and collect tax thereon and to subject the same to such regulations

as the interest and convenience of the inhabitants of said city, in the opinion of the board of commissioners, may require.”

Power in the city to subject all kinds of wheeled carriages kept for hire to such regulations as the interest and convenience of the inhabitants thereof may require, in the opinion of the board of commissioners, and to refuse them license, is as broad as the power of the Legislature itself over them. They, with the owners and keepers of hotels, are segregated from all other subjects of license and taxation, by the terms of the statute, and put into a separate and distinct class over which the city is accorded full and complete power. In all other cases, it is authorized merely to require licenses and impose taxes, and nothing is said about regulation. In these, there is an explicit grant of power to grant, refuse, or revoke licenses and to regulate in a manner and to an extent left in the discretion of the commissioners. It is wholly unlike the power over the same subjects, granted by section 28 of chapter 47 of the Code, and necessarily evinces legislative intent greatly to enlarge that power. How far? The terms are unlimited. Nothing in the nature of the subject-matter affords a basis or ground for a presumption against intent to allow the words effect accordant with their full literal import. The presumption of intent to allow such vehicles the rights previously enjoyed by them and recognized in most of the special charters and the general law is completely overthrown and broken down by the use of terms in this charter, wholly inconsistent with it. It is difficult to conceive of more comprehensive terms. Of *785 course, the provisions could have been so framed as expressly and in terms to have authorized exclusion from certain streets, the observance of certain hours, and the like, but it is unusual for legislative acts granting full discretionary power to descend into such details. In every such attempt at enumeration, there is always danger of omission of things intended to be included. The standards of regulation here are the interest and convenience of the inhabitants of the city as seen and understood by the commissioners, not any pre-existing law relating to the subject-matter, except, perhaps, the limitations inhibiting discrimination and unreasonableness, to which the Legislature itself is subject.

“While the mere power to license, or to license and regulate, does not confer the power to grant an exclusive license, yet authority delegated to a municipality to grant or refuse

license empowers it to grant such exclusive license.” 25 Cyc. 603; *Burlington, etc., Ferry Co. v. Davis*, 48 Iowa, 133, 30 Am. Rep. 390; *Rosa v. New Orleans*, 1 La. 126; *Carroll v. Campbell*, 25 Mo. App. 630.

“The power to grant an exclusive license must be found, we think, if at all, in other words of the charter. Upon looking into it, we find that it conferred the ‘power to grant and refuse license.’ Herein, we think, was conferred the power to grant an exclusive license. The power to license necessarily includes the power to inhibit unlicensed persons from doing the acts authorized by the license. The power to refuse license necessarily gives the power to limit the issuance of licenses.” *Burlington, etc., Co. v. Davis*, cited.

Under the broad power given by this charter, to grant, refuse, and revoke licenses to hotel keepers and operators of vehicles kept for hire, and to regulate them for the interest and convenience of the inhabitants of the city, the commissioners may do anything respecting these subjects that the Legislature itself could do, and, as we have shown, that power is almost unlimited.

For the grant of such power, reason is found in the nature of these subjects. Whether a hotel or tavern should be permitted in a given place depends upon its character and how it is conducted, for the privilege is peculiarly liable to abuse, and the comfort of the traveling public demands the maintenance of suitable accommodations, just as in the case of a ferry or other provision for public necessities and conveniences. Conveyances on the streets, for the use of the general public, are of the same character, and, in addition to this, cabs, hackney coaches, omnibuses, taxicabs, and hacks, when unnecessarily numerous, interfere with ordinary traffic and travel and obstruct them. Prescription of routes or places of business for them is a fair, reasonable, and efficacious means of preventing such results. Nor is it unreasonable to require them to maintain the service during prescribed hours. They are engaged in a public service which the Legislature may always regulate. Nor is there any constitutional inhibition of legislative requirement of indemnity from persons so engaged, against injury to persons or property. *State ex rel. Case v. Howell* (Wash.) 147 Pac. 1159; *City of Portland v. Western Union Telegraph Co.* (Or.) 146 Pac. 148; *Springfield Water Co. v. Darby*, 199 Pa. 400, 49 Atl. 275.

[7] [8] While this ordinance is said to be discriminatory in favor of omnibuses, taxicabs, hacks, and other vehicles kept for hire, not of the class described in the ordinance, and against that class, there is no suggestion, in the petition for the

writ or in the argument, of the existence of “jitney busses” in the city not included by the description. The price charged is made an element of the description, and, if there were “jitney busses” charging more than 15 cents, this might operate as a classification with reference to the price charged for service and render the ordinance unreasonable. In the opinion of a majority of the members of this court, it would. But there is no pretense of the existence of such vehicles, and, if there are such, we have no judicial knowledge of them. The popular name of the vehicle signifies the contrary. A “jitney bus,” charging more than 5 cents as the ordinary fare, would be a contradiction in terms, and the ordinance may be amenable to criticism for misdescription, on that ground, but clearly not void for that reason.

[9] The ordinance is not obnoxious to the provisions of chapter 43B of the Code of 1913, regulating motor vehicles generally, nor within the scope thereof, except in so far as it imposes the duty of state regulation and a state tax and prescribes the law of the road. These vehicles are more than mere automobiles incidentally used by the citizens for purposes of business and pleasure. They include an additional element, common carriage, bringing them within the municipal power of control, just as horse-drawn carriages and other vehicles fall within it, by reason of the peculiar uses made of them.

Our conclusion is that the ordinance is free from constitutional and other defects, and therefore valid. It may be burdensome and, in the opinion of many people, oppressive and unwise, just as many other valid laws are regarded. But the question submitted here is one of municipal power, not policy. With the latter the courts have nothing to do, nor can they overthrow laws, ordinances, or regulations made by competent authority, merely because, in the opinion of the judges, they might or should have been made more liberal or less rigorous. *Spedden v. Board of Education*, 81 S. E. 724, 52 L. R. A. (N. S.) 163; *Charleston v. Littlepage*, 73 W. Va. 156, 80 S. E. 131, 51 L. R. A. (N. S.) 353.

For the reasons stated, the discharge prayed for is refused, and the relator remanded to the custody of the authorities of the city of Huntington.

LYNCH, J., absent.





All Citations

76 W.Va. 576, 85 S.E. 781, L.R.A. 1915F,840

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)
Called into Doubt by	 1. Halajian v. D & B Towing MOST NEGATIVE 146 Cal.Rptr.3d 646 , Cal.App. 5 Dist. CRIMINAL JUSTICE - Driving After Revocation. Towing and impounding truck upon arrest for license and registration violations did not violate Fourth Amendment.	Sep. 04, 2012	Case		—
Distinguished by	2. City of Elkins v. Black  2015 WL 5125468 , W.Va. Pro se petitioner Joshua G. Black appeals the Circuit Court of Randolph County's October 30, 2014, order finding petitioner guilty of one count of driving on a revoked license,...	Aug. 31, 2015	Case		—

Citing References (148)

Treatment	Title	Date	Type	Depth	Headnote(s)
Distinguished by NEGATIVE	1. City of Elkins v. Black ¶ 2015 WL 5125468, *2+ , W.Va. Pro se petitioner Joshua G. Black appeals the Circuit Court of Randolph County's October 30, 2014, order finding petitioner guilty of one count of driving on a revoked license,...	Aug. 31, 2015	Case		—
Discussed by	2. Quigg v. State ¶ 93 So. 139, 141+ , Fla. Error to Circuit Court, Dade County; H. Pierre Branning, Judge. Proceeding in habeas corpus by the State of Florida, on the relation of E. H. Radel, Jr., against Leslie Quigg,...	Aug. 02, 1922	Case		—
Called into Doubt by NEGATIVE	3. Halajian v. D & B Towing 146 Cal.Rptr.3d 646, 653 , Cal.App. 5 Dist. CRIMINAL JUSTICE - Driving After Revocation. Towing and impounding truck upon arrest for license and registration violations did not violate Fourth Amendment.	Sep. 04, 2012	Case		—
Cited by	4. Markey v. Wachtel 264 S.E.2d 437, 441 , W.Va. Original habeas corpus proceedings and appeals from mental commitment proceedings initiated in the Circuit Court, Marion County, Jack Maranari, J., were consolidated for...	Dec. 11, 1979	Case		—
Cited by	5. Chesapeake & Potomac Tel. Co. of W. Va. v. City of Morgantown ¶ 107 S.E.2d 489, 495+ , W.Va. Action by telephone company against a municipality, for a declaratory judgment determining rights of the parties in connection with use by telephone company of city streets for...	Mar. 03, 1959	Case		—
Cited by	6. Chesapeake & Potomac Tel. Co. v. City of Morgantown 105 S.E.2d 260, 273 , W.Va. Suit to enjoin enforcement of an ordinance. From a decree of the Circuit Court, Monongalia County, Don J. Eddy, J., the defendants appealed. The Supreme Court of Appeals, Donley,...	Oct. 21, 1958	Case		—
Cited by	7. Tweel v. West Virginia Racing Commission 76 S.E.2d 874, 880+ , W.Va. Original mandamus proceeding for writ commanding racing commission to issue license to petitioner to conduct horse race meeting at race track to be constructed by petitioner. The...	June 30, 1953	Case		—
Cited by	8. State v. State Road Commission of W.Va. 141 S.E. 524, 525 , W.Va. Original proceeding by the State, on the relation of William C. Chafin, for mandamus to be directed to the State Road Commission and others. Writ denied.	Jan. 31, 1928	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	9. Carson v. Woodram 120 S.E. 512, 513 , W.Va. Appeal from Circuit Court, Cabell County. Suit by Asa Carson against Benjamin Woodram and others. From a decree dissolving a temporary injunction, plaintiff appeals. Reversed,...	Dec. 11, 1923	Case		—
Cited by	10. State v. Robinson 104 S.E. 473, 476 , W.Va. Prohibition by the State, on the relation of Frank Constanzo, against Hon. Alan H. Robinson, Judge, etc. Writ of prohibition awarded.	Nov. 23, 1920	Case		—
Cited by	11. Beck v. Cox 87 S.E. 492, 493 , W.Va. Petition by James Beck against James A. Cox, Mayor, and others, for writ of prohibition. Writ refused.	Dec. 17, 1915	Case		—
Cited by	12. Nolen v. Riechman 225 F. 812, 824 , W.D.Tenn. In Equity. Suit by E. P. Nolen against J. A. Riechman, Sheriff of Shelby County, Tenn., and E. H. Crump, Mayor of City of Memphis, and W. J. Hays, Chief of Police of Memphis, to...	Aug. 06, 1915	Case		—
Cited by	13. Schoenfeld v. City of Seattle 265 F. 726, 730+ , W.D.Wash. In Equity. Suit by Alvin M. Schoenfeld against the City of Seattle, in which a petition in intervention was tendered by Edward W. Bundy. Permission to file petition in...	June 09, 1920	Case		—
Cited by	14. State v. Polakow's Realty Experts ʹʹ 10 So.2d 461, 476 , Ala. Appeal from Circuit Court, Jefferson County; Gardner Goodwyn, Judge. Prosecutions by the State of Alabama against Polakow's Realty Experts, Incorporated and against P. S. Strumpf...	Oct. 22, 1942	Case		—
Cited by	15. Haddad v. State 201 P. 847, 851 , Ariz. John M. Haddad and Jose Biances were convicted of violating an order of the Arizona Corporation Commission, and they appeal. Affirmed as to defendant Biances and reversed as to...	Nov. 16, 1921	Case		—
Cited by	16. City of Pine Bluff v. Arkansas Traveler Bus Co. 285 S.W. 375, 376 , Ark. Appeal from Circuit Court, Jefferson County; T. G. Parham, Judge. The Arkansas Traveler Bus Company was fined in municipal court of Pine Bluff for violation of a city ordinance. On...	July 12, 1926	Case		—
Cited by	 17. Frost v. Railroad Commission of Cal. ʹʹ 240 P. 26, 28 , Cal. In Bank. Application by Marion L. Frost and Wesley H. Frost, copartners doing business under the name and style of Frost & Frost Trucking Company, for a writ of certiorari to...	Oct. 01, 1925	Case		—




Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	18. Ex parte Lee 153 P. 992, 994+ , Cal.App. 2 Dist. Application for writ of habeas corpus by H. G. Lee against the Chief of Police of the City of San Diego. Writ discharged. See, also, 153 Pac. 995.	Nov. 04, 1915	Case		—
Cited by	19. McKay v. Public Utilities Com'n ¶ 91 P.2d 965, 969 , Colo. En Banc. Error to District Court, City and County of Denver; Stanley H. Johnson, Judge. Action by Oren L. McKay against the Public Utilities Commission of the State of Colorado and...	May 29, 1939	Case		—
Cited by	20. Cutrona v. City of Wilmington ¶ 127 A. 421, 424+ , Del.Supr. Appeal from Chancery Court, New Castle County. Bill by Samuel Cutrona, trading as the Wilmington–New Castle Bus Line, against the Mayor and Council of Wilmington. Decree of...	Nov. 28, 1924	Case		—
Cited by	21. City of Coral Gables v. City of Miami 190 So. 427, 429 , Fla. Suit by the City of Coral Gables against the City of Miami and others to enjoin collection by City of Miami of tax on gross receipts in Miami from buses operated by City of Coral...	June 16, 1939	Case		—
Cited by	22. State v. Quigg ¶ 114 So. 859, 861 , Fla. En Banc. Error to Circuit Court, Dade County; Paul D. Barns, Judge. Proceeding by the State, on the relation of Clayton Pennington, for habeas corpus to be directed to H. Leslie...	Dec. 06, 1927	Case		—
Cited by	23. State v. Dillon 89 So. 558, 559 , Fla. Error to Circuit Court, Dade County; H. Pierre Branning, Judge. Proceeding by the State, on the relation of E. Stephenson, against Raymond Dillon, chief of police of the City of...	Aug. 15, 1921	Case		—
Cited by	24. Jewel Tea Co. v. City Council of Augusta ¶ 200 S.E. 503, 505 , Ga.App. Error from Superior Court, Richmond County; A. L. Franklin, Judge. Proceeding by the City Council of Augusta against the Jewel Tea Company, Inc. To review a judgment of the...	Dec. 05, 1938	Case		—
Cited by	 25. Chicago Motor Coach Co. v. City of Chicago 169 N.E. 22, 25+ , Ill. 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....	June 19, 1929	Case		—
Cited by	26. Denny v. City of Muncie 149 N.E. 639, 641+ , Ind. Appeal from Circuit Court, Blackford County; Victor H. Simmons, Judge. Suit by Sumner B. Denny against the City of Muncie and others. From an adverse judgment, plaintiff appeals....	Nov. 24, 1925	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	27. Frick v. City of Gary 135 N.E. 346, 348+ , Ind. Appeal from Superior Court, Lake County; Charles E. Greenwald, Judge. Action by Henry H. Frick against the City of Gary to restrain the enforcement of a city ordinance. Judgment...	May 12, 1922	Case		—
Cited by	28. People's Taxicab Co. v. City of Wichita 34 P.2d 545, 549 , Kan. Appeal from District Court, Sedgwick County, Division No. 1; Ross McCormick, Judge. Action by the People's Taxicab Company against the City of Wichita and others. Judgment for...	July 07, 1934	Case		—
Cited by	29. Decker v. City of Wichita 202 P. 89, 90 , Kan. Appeal from District Court, Sedgwick County. Suit by A. T. Decker and others against the City of Wichita and others for an injunction. Judgment for defendants on demurrer, and...	Nov. 12, 1921	Case		—
Cited by	30. Red Star Motor Drivers' Ass'n v. City of Detroit 208 N.W. 602, 603+ , Mich. Appeal from Circuit Court, Wayne County, in Chancery; Ormond F. Hunt, Judge. Suit by the Red Star Motor Drivers' Association and others against the City of Detroit and others. ...	Apr. 14, 1926	Case		—
Cited by	31. Melconian v. City of Grand Rapids 188 N.W. 521, 524+ , Mich. Appeal from Superior Court of Grand Rapids, in Chancery; Major L. Dunham, Judge. Suit by Harry Melconian and others against the City of Grand Rapids, to enjoin the enforcement of...	June 05, 1922	Case		—
Cited by	32. Schultz v. City of Duluth 203 N.W. 449, 450+ , Minn. Appeal from District Court, St. Louis County; H. J. Grannis, Judge. Suit by Carl H. Schultz against the City of Duluth, in which the Duluth Street Railway Company intervened. From...	Apr. 24, 1925	Case		—
Cited by	33. Jefferson Highway Transp. Co. v. City of St. Cloud 193 N.W. 960, 962 , Minn. Appeal from District Court, Stearns County; John A. Roeser, Judge. Suit by Jefferson Highway Transportation Company against the City of St. Cloud and others for injunction. From...	May 25, 1923	Case		—
Cited by	34. Scott v. Hart 91 So. 17, 19 , Miss. Appeal in Chancery Court, Hinds County; V. J. Stricker, Chancellor. Bill by Brit Hart and others against W. A. Scott, Mayor of the City of Jackson, and others. From a decree in...	Mar. 13, 1922	Case		—







Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	 35. Ex parte Tarling 241 S.W. 929, 934 , Mo. Petition for writ of habeas corpus by Edward J. Tarling. Petitioner released from custody on one charge and remanded to custody on another. This is an original proceeding in habeas...	May 22, 1922	Case		—
Cited by	 36. Roller v. Allen 96 S.E.2d 851, 859 , N.C. Suit to enjoin enforcement of statutes creating licensing board for tile contractors and giving board exclusive right to license persons to engage in tile, marble and terrazzo...	Feb. 27, 1957	Case		—
Cited by	 37. State v. Harris  6 S.E.2d 854, 863 , N.C. Appeal from Superior Court, Vance County; W. J. Bone, Judge. J. P. Harris was convicted of engaging in the business of dry cleaning without having procured a license, and he...	Feb. 02, 1940	Case		—
Cited by	 38. State v. Lawrence 197 S.E. 586, 592 , N.C. Appeal from Superior Court, Forsyth County; F. D. Phillips, Judge. N. L. Lawrence was charged with practicing photography without a license. From a judgment of acquittal, the State...	June 15, 1938	Case		—
Cited by	39. State v. Cromwell 9 N.W.2d 914, 920 , N.D. Appeal from District Court, Mercer County; Berry, Judge. O. G. Cromwell was convicted of attempting to practice photography without a license, and he appeals. Reversed and remanded...	June 05, 1943	Case		—
Cited by	40. Omaha & Council Bluffs St. Ry. Co. v. City of Omaha 208 N.W. 123, 125 , Neb. Appeal from District Court, Douglas County; W. G. Hastings, Judge. Suit by the Omaha & Council Bluffs Street Railway Company against the City of Omaha and others for an injunction...	Mar. 19, 1926	Case		—
Cited by	 41. Ex parte Counts 153 P. 93, 94+ , Nev. Original proceedings by W. L. Counts for writ of habeas corpus. Writ denied.	Nov. 26, 1915	Case		—
Cited by	42. Dobosen v. Mescall 199 N.Y.S. 800, 802+ , N.Y.A.D. 4 Dept. Appeal from Special Term, Erie County. Application of Abraham Dobosen for a mandamus order against Michael J. Mescall, as Mayor, and John Droszdowski and others, as Councilmen,...	May 02, 1923	Case		—
Cited by	43. People v. Martin 197 N.Y.S. 28, 32 , N.Y.A.D. 1 Dept. Appeal from Court of Special Sessions of City of New York. Charles Martin was convicted of unlawfully operating a motor vehicle used in transferring passengers for hire, without...	Nov. 17, 1922	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	44. Barbour v. Walker  259 P. 552, 554+ , Okla. Commissioners' Opinion, Division No. 1. Appeal from District Court, Pottawatomie County; Hal Johnson, Judge. Action by Ben Barbour and another, against A. T. Walker and another for...	Sep. 13, 1927	Case		—
Cited by	45. Anderson v. Thomas 26 P.2d 60, 67 , Or. In Banc. Appeal from Circuit Court, Marion County; L. G. Lewelling, Judge. Suit by A. C. Anderson against Charles M. Thomas, State Commissioner of Public Utilities. From the...	Oct. 17, 1933	Case		—
Cited by	46. Cummins v. Jones  155 P. 171, 172 , Or. In Banc. Appeal from Circuit Court, Clackamas County; George R. Bagley, Judge. Action by A. B. Cummins and others against Linn E. Jones, Mayor, and E. L. Shaw, Chief of Police of...	Feb. 15, 1916	Case		—
Cited by	47. Thielke v. Albee  153 P. 793, 796 , Or. In Banc. Appeal from Circuit Court, Multnomah County; George R. Bagley, Judge. Suit by A. A. Thielke and others against H. R. Albee, Mayor of the City of Portland. This is a suit...	Dec. 28, 1915	Case		—
Cited by	48. Ex parte Luna 266 S.W. 415, 417+ , Tex.Crim.App. Original application for writ of habeas corpus by Luis Luna. Order refusing to discharge relator affirmed.	Nov. 26, 1924	Case		—
Cited by	49. Dallas Taxicab Co. v. City of Dallas 68 S.W.2d 359, 362 , Tex.Civ.App.-Dallas Appeal from District Court, Dallas County; T. A. Work, Judge. Suit by the Dallas Taxicab Company and others against the City of Dallas and others. From a judgment dissolving a...	Jan. 20, 1934	Case		—
Cited by	50. Davis v. City of Houston  264 S.W. 625, 629 , Tex.Civ.App.-Galveston Appeal from District Court, Harris County; Ewing Boyd, Judge. Suit by A. C. Davis and others against the City of Houston. From a judgment for defendant, plaintiffs appeal. ...	May 29, 1924	Case		—
Cited by	51. City of San Antonio v. Fetzer 241 S.W. 1034, 1036 , Tex.Civ.App.-San Antonio Appeal from District Court, Bexar County; R. B. Minor, Judge. Suit by A. Fetzer and others to restrain the City of San Antonio and its officials from enforcing an ordinance. From a...	May 10, 1922	Case		—
Cited by	52. City of Dallas v. Gill  199 S.W. 1144, 1146 , Tex.Civ.App.-Dallas Appeal from District Court, Dallas County; E. B. Muse, Judge. Suit by D. H. Gill and others against the City of Dallas and others. Judgment for plaintiffs, and defendants appeal....	Dec. 15, 1917	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	53. Peters v. City of San Antonio 195 S.W. 989, 992 , Tex.Civ.App.-San Antonio Appeal from District Court, Bexar County; J. T. Sluder, Judge. Suit by C. J. Peters and others against the City of San Antonio and others, in which J. G. Lentz and others filed a...	May 23, 1917	Case		—
Cited by	54. Kizee v. Conway ” 35 S.E.2d 99, 101+ , Va. Error to Corporation Court of City of Danville; Henry C. Leigh, Judge. Action by J. W. Kizee, Sr., and others against P. F. Conway and others, constituting the Council of the City...	Sep. 05, 1945	Case		—
Cited by	55. Long's Baggage Transfer Co. v. Burford ” 132 S.E. 355, 356 , Va. Error to Corporation Court of Lynchburg. Bill by Long's Baggage Transfer Company against Etta W. Burford and others. Decree sustaining a demurrer to and dismissing the bill, and...	Mar. 18, 1926	Case		—
Cited by	56. Taylor v. Smith ” 124 S.E. 259, 264+ , Va. Error to Corporation Court of Roanoke. Mandamus by R. C. Smith against one Taylor, Superintendent of Police of the City of Roanoke. Judgment for plaintiff, and defendant brings...	Sep. 18, 1924	Case		—
Cited by	57. Tarver v. City Commission In and For City of Bremerton ” 435 P.2d 531, 535+ , Wash. Proceeding by petitioner taxicab operator, by writ of certiorari, for review of action of city commission which sustained validity of ordinance under which petitioner's taxicab...	Dec. 14, 1967	Case		—
Cited by	58. Brown v. City of Seattle 272 P. 517, 521 , Wash. Department 2. Appeal from Superior Court, King County; Howard M. Findley, Judge. Action by E. L. Brown against the City of Seattle and others. Judgment for plaintiff, and...	Dec. 10, 1928	Case		—
Cited by	59. City of Seattle v. Ford 257 P. 243, 245 , Wash. En Banc. Appeal from Superior Court, King County; Hall, Judge. Joseph Ford was accused of violating an ordinance of the City of Seattle. From a judgment discharging the defendant,...	June 14, 1927	Case		—
Cited by	60. Northwestern Nat. Ins. Co. v. Fishback 228 P. 516, 517 , Wash. En Banc. Appeal from Superior Court, Thurston County; John M. Wilson, Judge. Action by the Northwestern National Insurance Company and another against H. O. Fishback, Insurance...	Aug. 07, 1924	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	61. State v. City of Spokane 186 P. 864, 865 , Wash. Department 2. Appeal from Superior Court, Spokane County; R. M. Webster, Judge. Action by the State of Washington, on the relation of W. L. Schafer, against the City of Spokane, a...	Jan. 09, 1920	Case		—
Cited by	62. Hadfield v. Lundin 168 P. 516, 517+ , Wash. En Banc. Appeal from Superior Court, King County; Mitchell Gilliam, Judge. Action by Earl Hadfield in his own behalf, and in behalf of others similarly situated, against Alfred H....	Nov. 08, 1917	Case		—
Cited by	  63. Johnson v. State Hearing Examiner's Office 838 P.2d 158, 175+ , Wyo. Drivers under age 19 were convicted of possession or consumption of alcohol, in the District Courts, Albany County, Arthur T. Hanscum, J., and Sheridan County, James N. Wolfe, J.,...	Aug. 26, 1992	Case		—
Cited by	64. Public Service Commission of Wyoming v. Grimshaw 53 P.2d 1, 5 , Wyo. Reserved Questions from District Court, Sheridan County; James H. Burgess, Judge. Action by the Public Service Commission of Wyoming against W. C. Grimshaw. On reserved questions...	Dec. 17, 1935	Case		—
Cited by	65. Weaver v. Public Service Commission of Wyoming 278 P. 542, 546 , Wyo. Appeal from District Court, Laramie County; Clyde M. Watts, Judge. Proceedings by W. H. Weaver against the Public Service Commission of Wyoming. Judgment for defendant, and...	June 18, 1929	Case		—
Cited by	66. Honorable J. Bruce Burns Wash. AGO 1959-60 NO. 88, 1959-60 NO. 88+ A law enforcement officer has no authority, either statutory or common law, to stop a motorist for the sole purpose of determining whether the motorist has a valid operator's...	Dec. 10, 1959	Administrative Decision		—
Mentioned by	67. Packard v. Banton 44 S.Ct. 257, 259 , U.S.N.Y. Appeal from the District Court of the United States for the Southern District of New York. Suit by William Henry Packard against Joab H. Banton, as District Attorney in and for the...	Feb. 18, 1924	Case		—
Mentioned by	 68. State v. Memorial Gardens Development Corp. 101 S.E.2d 425, 434 , W.Va. Action by state to enjoin defendant from violating provisions of statute requiring depositing of money paid to it under pre-need burial contracts. The Circuit Court, Monongalia...	Dec. 03, 1957	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	69. State ex rel. Lockhart v. Rogers 61 S.E.2d 258, 261 , W.Va. The State, on the relation of Edward Lockhart, Sr., and others, brought an original proceeding in mandamus against L. E. Rogers, Mayor, etc., and others, to compel defendants to...	May 29, 1950	Case		—
Mentioned by	70. U.S. v. Husband R. (Roach) 453 F.2d 1054, 1062 , 5th Cir.(Canal Zone) Defendant was convicted in the Magistrate's Court of operating his bus in violation of regulation of Canal Zone, a misdemeanor, and he appealed. The United States District Court...	Dec. 30, 1971	Case		—
Mentioned by	71. Lutz v. City of New Orleans 235 F. 978, 980 , E.D.La. In Equity. Bill by Felix Lutz and others against the City of New Orleans. Application for preliminary injunction. Application denied.	May 29, 1916	Case		—
Mentioned by	72. Liberty Highway Co. v. Michigan Public Utilities Commission 294 F. 703, 709 , E.D.Mich. In Equity. Suit by the Liberty Highway Company, an Ohio corporation, and Edward Kabel, a citizen of Ohio, against the Michigan Public Utilities Commission, the five members of...	Dec. 11, 1923	Case		—
Mentioned by	73. People v. Galena 70 P.2d 724, 728 , Cal.Super.A.D. Appeal from Municipal Court of San Francisco; Daniel S. O'Brien, Judge. Cyril S. Galena was convicted of violating a taxicab ordinance, and he appeals. Affirmed.	June 08, 1937	Case		—
Mentioned by	74. State v. Muolo 176 A. 401, 404 , Conn. Error from City Court of New Haven; Joseph Weiner, Judge. Information against Rocco Muolo charging the accused with unlawfully using a taxi stand, brought to the city court of New...	Jan. 03, 1935	Case		—
Mentioned by	75. Cutrona v. City of Wilmington 124 A. 658, 662 , Del.Ch. Suit by Samuel Cutrona against the Mayor and Council of Wilmington and others. Bill dismissed.	May 09, 1924	Case		—
Mentioned by	76. Jarrell v. Orlando Transit Co. 167 So. 664, 668 , Fla. Bill by Orlando Transit Company against J. B. Jarrell, individually and trading and doing business as Economy Cab Company. From the decree, defendant appeals. Affirmed.	Apr. 24, 1936	Case		—
Mentioned by	77. Schlesinger v. City of Atlanta 129 S.E. 861, 868 , Ga. Error from Superior Court, Fulton County; Geo. L. Bell, Judge. Action by S. F. Schlesinger and others against the City of Atlanta. Judgment for defendant, and plaintiffs bring...	Sep. 22, 1925	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	 78. Hazelton v. City of Atlanta 93 S.E. 202, 202 , Ga. Error from Superior Court, Fulton County; Geo. L. Bell, Judge. Action between J. F. Hazelton and others and the City of Atlanta. There was a judgment for the latter, and the former...	Aug. 17, 1917	Case		—
Mentioned by	79. In re Public Utilities Commission's Investigation 1 P.2d 627, 629 , Idaho Appeal from Public Utilities Commission. In the matter of an investigation by the Public Utilities Commission of Idaho on the operation of stage or truck lines on United States...	July 08, 1931	Case		—
Mentioned by	80. Weksler v. Collins 147 N.E. 797, 800 , Ill. Suit by Max Weksler against Morgan G. Collins and others. Decree for defendants, and plaintiff appeals. Affirmed. Thompson, J., dissenting. Heard, J., dissenting in part but...	Apr. 24, 1925	Case		—
Mentioned by	81. People v. Kastings 138 N.E. 269, 273 , Ill. Error to Municipal Court of Chicago; Theodore F. Ehler, Judge. E. W. Kastings and convicted of unlawfully operating a taxicab on the streets of Chicago, and he brings error....	Feb. 21, 1923	Case		—
Mentioned by	 82. Sprout v. City of South Bend 153 N.E. 504, 506 , Ind. Appeal from St. Joseph Circuit Court, W. A. Funk, Judge. Action by the City of South Bend against Otis Sprout. Judgment for plaintiff, and defendant appeals. Affirmed.	Oct. 14, 1926	Case		—
Mentioned by	83. Towns v. Sioux City 241 N.W. 658, 662 , Iowa Appeal from District Court, Woodbury County; Robt. H. Munger, Judge. An action in equity to enjoin the appellant defendant, City of Sioux City, from enforcing an ordinance which...	Mar. 08, 1932	Case		—
Mentioned by	84. Solberg v. Davenport 232 N.W. 477, 482+ , Iowa Appeal from District Court, Woodbury County; Robt. H. Munger, Judge. Action in equity asking for an injunction restraining the enforcement and carrying out of the provisions of...	Sep. 26, 1930	Case		—
Mentioned by	 85. Huston v. City of Des Moines 156 N.W. 883, 890 , Iowa Appeal from District Court, Polk County; Hubert Utterback, Judge. Action to test the validity of a statute and an ordinance of the defendant city licensing and regulating what are...	Mar. 11, 1916	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	86. Reo Bus Lines Co. v. Southern Bus Line Co. 272 S.W. 18, 20 , Ky. Appeal from Circuit Court, Fayette County. Action by the Reo Bus Lines Company against the Southern Bus Line Company. From an order granting partial relief, only, plaintiff...	May 12, 1925	Case		—
Mentioned by	87. City of New Orleans v. Le Blanc 71 So. 248, 255 , La. Appeal from Recorder's Court of New Orleans; J. J. Fogarty, Recorder. Hoa Le Blanc was convicted of violating an ordinance of the City of New Orleans, and appeals. Affirmed on...	Nov. 29, 1915	Case		—
Mentioned by	88. McGill v. City of St. Joseph 38 S.W.2d 725, 727 , Mo.App. Appeal from Circuit Court, Buchanan County. Suit by Charles McGill and others against the City of St. Joseph. Judgment for plaintiffs, and defendant appeals. Cause transferred from...	May 04, 1931	Case		—
Mentioned by	89. Mike Berniger Moving Co. v. O'Brien 240 S.W. 481, 484 , Mo.App. Error to St. Louis Circuit Court; Benjamin J. Klene, Judge. "Not to be officially published." Suit by the Mike Berniger Moving Company against Martin O'Brien, Chief of Police of...	Apr. 04, 1922	Case		—
Mentioned by	90. State v. Johnson 243 P. 1073, 1078 , Mont. Appeal from District Court, Lewis and Clark County; W. H. Poorman, Judge. Samuel S. Johnson was charged with owning and operating an automobile, motor vehicle, and bus line for...	Jan. 26, 1926	Case		—
Mentioned by	91. Petersen v. Beal 237 N.W. 146, 147 , Neb. Appeal from District Court, Douglas County; Thomsen, Judge. Suit by Peter H. Petersen against Henry J. Beal, County Attorney of Douglas County, and others, in which suit the...	June 05, 1931	Case		—
Mentioned by	92. In re Opinion of the Justices 129 A. 117, 118 , N.H. Request by the Senate for opinion of Justices of Supreme Court regarding validity of proposed bill for compulsory insurance against liability for damages incurred in operation of...	Apr. 10, 1925	Case		—
Mentioned by	93. Village of Bronxville v. Maltbie 30 N.E.2d 475, 478 , N.Y. Appeal from Supreme Court, Appellate Division, Third Department. Proceeding in the matter of the application of the Village of Bronxville for an order against Milo R. Maltbie and...	Nov. 19, 1940	Case		—
Mentioned by	94. State ex rel. McBride v. Deckebach 157 N.E. 758, 760 , Ohio Mandamus by the State, on the relation of James A. McBride, to compel Alfred C. Deckebach, Auditor, to issue to relator license as owner and operator of a taxicab. Writ...	June 22, 1927	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	 95. Dent v. Oregon City 211 P. 909, 911 , Or. In banc. Appeal from Circuit Court, Clackamas County; J. U. Campbell, Judge. E. W. Dent was convicted in the recorder's court of violating an ordinance of Oregon City. He removed...	Jan. 02, 1923	Case		—
Mentioned by	96. Com. v. Koczwara 1952 WL 4168, *4 , Pa.Com.Pl. On January 25, 1951, Joseph P. Koczwara filed an appeal with this court from an order of the Secretary of Revenue of the Commonwealth of Pennsylvania suspending his operator's...	1952	Case		—
Mentioned by	97. Huffman v. City of Columbia 144 S.E. 157, 160+ , S.C. Original application by C. J. Huffman and others against the City of Columbia and others to enjoin the enforcement of an ordinance. Petition dismissed.	July 24, 1928	Case		—
Mentioned by	98. City of Memphis v. State 179 S.W. 631, 635 , Tenn. Appeal from Circuit Court, Shelby County; A. B. Pittman, Judge. Habeas corpus by the State of Tennessee, on the relation of S. B. Ryals, against the City of Memphis and others....	Oct. 23, 1915	Case		—
Mentioned by	99. Juhan v. State 216 S.W. 873, 876 , Tex.Crim.App. Appeal from Collin County Court; R.L. Moulden, Judge. C.O. Juhan was convicted of violating Acts of 34 Leg.1915, c. 28, defining loan brokers, and providing regulations therefor,...	June 05, 1918	Case		—
Mentioned by	 100. Ex parte Parr 200 S.W. 404, 406 , Tex.Crim.App. Original application by A.S. Parr for a writ of habeas corpus. Application dismissed.	Jan. 16, 1918	Case		—
Mentioned by	 101. Thompson v. Smith 154 S.E. 579, 583 , Va. Appeal from Corporation Court of Lynchburg. Bill by W. L. Thompson against D. C. Smith, Chief of Police of the City of Lynchburg. From a decree dismissing the bill upon demurrer,...	Sep. 12, 1930	Case		—
Mentioned by	 102. Allen v. City of Bellingham 163 P. 18, 25 , Wash. Department 1. Appeal from Superior Court, whatcom County; Augustus Brawley, Judge. Action by A. L. Allen against the City of Bellingham and others. From judgment for defendants,...	Feb. 17, 1917	Case		—
Mentioned by	103. State v. Seattle Taxicab & Transfer Co. 156 P. 837, 842 , Wash. Department 1. Appeal from Superior Court, King County; King Dykeman, Judge. The Seattle Taxicab & Transfer Company was convicted of violation of taxicab law and fined. From the...	Mar. 29, 1916	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	104. Rouso v. State 204 P.3d 243, 250 , Wash.App. Div. 1 GOVERNMENT - Gambling. Gambling Act amendments did not impermissibly interfere with Congress's authority to regulate interstate and international commerce under the dormant...	Mar. 23, 2009	Case		—
Mentioned by	105. Northwest Greyhound Kennel Ass'n, Inc. v. State 506 P.2d 878, 882 , Wash.App. Div. 2 Kennel association brought action against the State and the State Horse Racing Commission seeking declaration that Horse Racing Act was unconstitutional. The Trial Court, Thurston...	Feb. 07, 1973	Case		—
Mentioned by	106. Vanderwerker v. City of Superior 192 N.W. 60, 62 , Wis. Appeal from Circuit Court, Douglas County; W. R. Foley, Judge. Application by Reed Vanderwerker and others, for an injunction to enjoin the City of Superior and others from...	Feb. 06, 1923	Case		—
—	107. Power of municipal corporation to fix rates of motor vehicles for hire 65 A.L.R. 1364 The reported case for this annotation is Clem v. City of La Grange, 169 Ga. 51, 149 S.E. 638, 65 A.L.R. 1361 (1929).	1930	ALR	—	—
—	108. Power of municipality to classify for purposes of taxation as affected by classification made by state or its failure to classify 110 A.L.R. 1203 The reported case for this annotation is City of Fredericksburg v. Sanitary Grocery Co., 168 Va. 57, 190 S.E. 318, 110 A.L.R. 1195 (1937).	1937	ALR	—	—
—	109. Validity of regulations excluding or restricting automobile traffic in certain streets 121 A.L.R. 573 The reported case for this annotation is Wilbur v. City of Newton, 301 Mass. 97, 16 N.E.2d 86, 121 A.L.R. 570 (1938).	1939	ALR	—	—
—	110. Reasonableness and validity of requirement as to bonds from operators of jitney busses 22 A.L.R. 230 The reported case for this annotation is State v. Dillon, 82 Fla. 276, 89 So. 558, 22 A.L.R. 227 (1921).	1923	ALR	—	—
—	111. Couch on Insurance s 109:80, § 109:80. Statutory requirement of security or insurance as precondition to license Many states have enacted statutes requiring motor vehicle carriers of passengers or goods for hire to furnish, as a prerequisite to the obtaining of a license or certificate to use...	2022	Other Secondary Source	—	—

Treatment	Title	Date	Type	Depth	Headnote(s)
—	112. Couch on Insurance s 109:81, § 109:81. Validity of regulations The validity of statutes and ordinances requiring motor carriers for hire to furnish bonds or policies of insurance for the protection of persons who may be injured through the...	2022	Other Secondary Source	—	—
—	113. Couch on Insurance s 109:82, § 109:82. Validity of regulations—Exempting particular carriers from regulations The class of statute here under consideration is valid although it makes a classification upon the basis of the nature of the operations in which the vehicle is used or of the...	2022	Other Secondary Source	—	—
—	114. Local Government Law s 15:23, § 15:23. Activities subject to license requirement—Vehicle use The attempted application of local regulatory licensing schemes to vehicle use raises difficult problems of conflict and preemption with state statutory schemes embodied in vehicle...	2023	Other Secondary Source	—	—
—	115. McQuillin The Law of Municipal Corporations s 23:13, § 23:13. Illustrative cases There are, of course, numerous instances of conduct, acts and omissions that violate municipal ordinances. In other words, the range of conduct prohibited by ordinances is...	2023	Other Secondary Source	—	—
—	116. McQuillin The Law of Municipal Corporations s 30:43, § 30:43. Municipal powers—Scope and extent The power to control streets gives authority to set aside a portion for vehicles and a portion for pedestrians, and to prescribe what portion of the street shall be used as a...	2023	Other Secondary Source	—	—
—	117. McQuillin The Law of Municipal Corporations s 34:11, § 34:11. Power of state legislature Primarily the legislature possesses full and paramount power over all highways, streets, and alleys in the state. Therefore, the power to grant franchises to use the streets...	2022	Other Secondary Source	—	—
—	118. McQuillin The Law of Municipal Corporations s 34:12, § 34:12. Need for municipal consent Where the use of the city's streets is conferred upon a public service company by the state constitution, by statute or the company charter, the city's consent to such use is not...	2022	Other Secondary Source	—	—
—	119. McQuillin The Law of Municipal Corporations s 24:676, § 24:676. Generally Transportation in city streets is, in general, subject to municipal police regulation. Accordingly, motor carriers and vehicles for hire are subject to municipal regulation where...	2022	Other Secondary Source	—	—

Treatment	Title	Date	Type	Depth	Headnote(s)
—	<p>120. McQuillin The Law of Municipal Corporations s 24:678, § 24:678. State law and regulation</p> <p>The rule that ordinances must conform to, and not conflict with, governing state statutes and policy in order to be valid is applicable with respect to the regulation of vehicles...</p>	2022	Other Secondary Source	—	—
—	<p>121. McQuillin The Law of Municipal Corporations s 24:684, § 24:684. Generally</p> <p>Taxicabs and their predecessors, hackneys and other horsedrawn carriages for hire by passengers, are subject to state or municipal police regulation. Taxicabs are also sometimes...</p>	2022	Other Secondary Source	—	—
—	<p>122. McQuillin The Law of Municipal Corporations s 24:700, § 24:700. Municipal power</p> <p>Municipal corporations have broad police power in the regulation of all carriers on streets, including both freight and passenger carriers, such as taxicabs and hackney coaches,...</p>	2022	Other Secondary Source	—	—
—	<p>123. McQuillin The Law of Municipal Corporations s 24:701, § 24:701. Financial responsibility</p> <p>Statutes or ordinances may require owners of motor buses, street railway or other passenger carriers to file or deposit an indemnity bond, policy of liability insurance or other...</p>	2022	Other Secondary Source	—	—
—	<p>124. McQuillin The Law of Municipal Corporations s 24:707, § 24:707. Regulation of motor buses</p> <p>Motor buses, jitneys, and similar vehicles run for hire clearly are subject to necessary, appropriate, and reasonable municipal police regulation, except where they are subject to...</p>	2022	Other Secondary Source	—	—
—	<p>125. McQuillin The Law of Municipal Corporations s 24:708, § 24:708. Regulation of motor buses—Reasonableness, uniformity, and other requisites</p> <p>Ordinances and regulations relating to motor buses and other urban area passenger carriers for hire must be reasonable, and their reasonableness is subject to judicial review. An...</p>	2022	Other Secondary Source	—	—
—	<p>126. McQuillin The Law of Municipal Corporations s 24:709, § 24:709. Regulation of motor buses—State regulation</p> <p>State statutes frequently make provisions relative or applicable to the operation of motor buses or other motor carriers for hire, particularly interurban buses, and, as a general...</p>	2022	Other Secondary Source	—	—
—	<p>127. McQuillin The Law of Municipal Corporations s 26:160, § 26:160. Effect of state licensing or regulation</p> <p>The power of the city to license automobiles and other vehicles depends upon the law of the particular jurisdiction. General motor vehicle laws most often vest the power in the...</p>	2022	Other Secondary Source	—	—

Treatment	Title	Date	Type	Depth	Headnote(s)
—	<p>128. McQuillin The Law of Municipal Corporations s 26:163, § 26:163. Financial responsibility</p> <p>As a condition to a license to operate motor vehicles, or certain classes of those vehicles, an indemnity insurance policy, bond, or other financial security for protection of...</p>	2022	Other Secondary Source	—	—
—	<p>129. McQuillin The Law of Municipal Corporations s 26:170, § 26:170. Generally</p> <p>Municipal corporations generally have power, subject to the terms and conditions of franchises or franchise laws, to license and to impose a license fee or tax on buses or jitneys...</p>	2022	Other Secondary Source	—	—
—	<p>130. Am. Jur. 2d Automobiles and Highway Traffic s 13, § 13. Vehicles engaged in transportation for hire</p> <p>Am. Jur. 2d Automobiles and Highway Traffic</p> <p>The use of highways for the purpose of transporting persons or property for hire, by the ordinary means, is incidental to and consistent with the primary purpose of their...</p>	2023	Other Secondary Source	—	—
—	<p>131. Am. Jur. 2d Automobiles and Highway Traffic s 67, § 67. Delegation of power by state</p> <p>Am. Jur. 2d Automobiles and Highway Traffic</p> <p>In the absence of constitutional limitations, the legislature of each state may delegate to its municipalities or other political subdivisions the power to impose a fee or tax for...</p>	2023	Other Secondary Source	—	—
—	<p>132. Am. Jur. 2d Automobiles and Highway Traffic s 175, § 175. Financial responsibility or security requirements for motor carriers; generally</p> <p>Am. Jur. 2d Automobiles and Highway Traffic</p> <p>Minimum levels of financial responsibility are set forth by federal law for the transporting of passengers and property by motor carriers. The purpose of federal regulations...</p>	2023	Other Secondary Source	—	—
—	<p>133. Am. Jur. 2d Highways, Streets, and Bridges s 144, § 144. Use of highways, generally</p> <p>Am. Jur. 2d Highways, Streets, and Bridges</p> <p>Streets and highways are established and maintained primarily for purposes of travel by the public, and incidental uses. Although the use of highways for purposes of travel and...</p>	2023	Other Secondary Source	—	—
—	<p>134. Am. Jur. 2d Highways, Streets, and Bridges s 157, § 157. Validity of regulations—Discrimination; classification</p> <p>Am. Jur. 2d Highways, Streets, and Bridges</p> <p>Regulations pertaining to the use of highways and streets must not unjustly discriminate between individuals or classes. Reasonable classifications will be upheld. A classification...</p>	2023	Other Secondary Source	—	—

Treatment	Title	Date	Type	Depth	Headnote(s)
—	135. Am. Jur. 2d Highways, Streets, and Bridges s 167, § 167. Power to authorize Am. Jur. 2d Highways, Streets, and Bridges No person may acquire a right to make a special or exceptional use of a public highway not common to all the citizens of the state, or not reserved in the instrument of dedication,...	2023	Other Secondary Source	—	—
—	136. Am. Jur. 2d Highways, Streets, and Bridges s 180, § 180. Fees, taxes, and charges Am. Jur. 2d Highways, Streets, and Bridges A "franchise fee" is a payment exacted in exchange for the right or privilege to use and occupy city streets. Where a license or permit is required as a condition of the right to...	2023	Other Secondary Source	—	—
—	137. Am. Jur. 2d Highways, Streets, and Bridges s 183, § 183. Discrimination; prohibition of special privileges Am. Jur. 2d Highways, Streets, and Bridges In authorizing the use of highways for a special purpose or in a special manner, the public authorities may not unjustly discriminate between individuals or classes of individuals...	2023	Other Secondary Source	—	—
—	138. Am. Jur. 2d Highways, Streets, and Bridges s 210, § 210. Municipal power to prohibit or regulate Am. Jur. 2d Highways, Streets, and Bridges 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...	2023	Other Secondary Source	—	—
—	139. Am. Jur. 2d Highways, Streets, and Bridges s 223, § 223. Use of highways for transportation facilities and operation, generally Am. Jur. 2d Highways, Streets, and Bridges 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...	2023	Other Secondary Source	—	—
—	140. MUNICIPAL CORPORATIONS - FRANCHISES AND LICENSES - NATURE OF RIGHT TO USE STREETS FOR MOTOR-BUS TRANSPORTATION 37 Harv. L. Rev. 777 , 778 The charter of Dallas, Texas, provides that the city shall have the power "to confer upon any person or corporation the franchise or right to use the property of the city . for...	1924	Law Review	—	—
—	141. "JITNEY BUS" REGULATION 29 Harv. L. Rev. 437 , 439+ The rapid rise of the automobile hack, or "jitney bus," has called forth a correspondingly widespread body of legislation, which is the more interesting because of the uniformity...	1916	Law Review	—	—

Treatment	Title	Date	Type	Depth	Headnote(s)
—	<p>142. WHITHER THE PUBLIC FORUM DOCTRINE: HAS THIS CREATURE OF THE COURTS OUTLIVED ITS USEFULNESS? 44 Real Prop. Tr. & Est. L.J. 637 , 743</p> <p>Editors' Synopsis: Tracing both the development of the Public Forum Doctrine and the history of the property rights it affects, in this Article the Author argues that the doctrine...</p>	2010	Law Review	—	—
—	<p>143. CONSTITUTIONAL LAW-MUNICIPAL CORPORATIONS-POWER TO REGULATE USE OF STREETS 1 Tex. L. Rev. 475 , 475</p> <p>The city of San Antonio passed an ordinance regulating the use of its streets by complainants who were engaged in the business of carrying persons in automobiles from one point in...</p>	1923	Law Review	—	—
—	<p>144. COMMERCIAL USE OF THE HIGHWAY AS A BASIS FOR MOTOR CARRIER REGULATION 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	—	—
—	<p>145. MUNICIPAL CORPORATIONS-REGULATION OF JITNEYS 32 Yale L.J. 190 , 190</p> <p>By its charter the city of Miami had the, power "to license, control, tax, and regulate traffic and sales upon the street." Par. H. H., sec. 3. An ordinance forbade the operation...</p>	1922	Law Review	—	—
—	<p>146. CONSTITUTIONAL METHODS OF REGULATING JITNEYS 31 Yale L.J. 183 , 187</p> <p>Not every business or profession is subject to general state regulation. In order to justify such legislation the health, safety, morals, or general welfare of the public must be...</p>	1921	Law Review	—	—
—	<p>147. P 40,272Z KENNETH REESMAN ET AL. V. STATE OF WASHINGTON AND DONALD MOOS, DIRECTOR OF AGRICULTURE FOR THE STATE OF WASHINGTON. Food Drug Cosmetic Law Reporter</p> <p>Kenneth Reesman et al. v. State of Washington and Donald Moos, Director of Agriculture for the State of Washington. In the Superior Court, Yakima County (Washington). No. 50506....</p>	1967	Other Secondary Source	—	—
—	<p>148. Cybercrime and Security s 19:21, § 19:21. Rouso v. Washington—Online Gambling Ban Upheld (3/23/2009)</p> <p>Where the statute regulates even-handedly to effectuate a legitimate local public interest, and its effects on interstate commerce are only incidental, it will be upheld unless the...</p>	2023	Other Secondary Source	—	—

History

There are no History results for this citation.