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Constitutional Law—Bright Light Driving Statute Held Not Vague

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Veorhis dissenting, held that the man was not fired because of any inference that he was a member of the Communist Party, nor because he invoked the Fifth Amendment, but because of the doubt created in the mind of his employer as to his reliability. The Supreme Court affirmed this decision.[75]

In the present case, duty required the attorney to answer: privilege permitted him to decline to answer. The exercising of the privilege, however, was entirely inconsistent with his duty as a member of the bar, and the violation of his duty constituted cause for disbarment.[76]

BRIGHT LIGHTS DRIVING STATUTE HELD NOT VAGUE

> New York Vehicle and Traffic Law Section 375(3) states: ". . . whenever a vehicle approaching from ahead is within five hundred feet . . . the headlamps, if of the multiple beam type, shall be operated so that dazzling light does not interfere with the driver of the approaching vehicle. . ."

In *People v. Meola*[77] the constitutionality of this section was put in question. Defendant was convicted in the Court of Special Sessions of the Town of Newburg for failing to dim her headlights.

On appeal defendant made two contentions. First, that the statute in question is constitutionally vague insofar as the phrase "dazzling light" is incapable of any objective measurement, and is thereby meaningless as to furnishing the citizen a standard of required conduct. Secondly, the term "interferes" is indefinite and makes criminality depend entirely on the subjective effect of the light upon the complainant.

The judgment was reversed in County Court,[78] on the grounds that the rules of criminal law are applicable to statutes which create traffic infractions,[79] and as such this statute was vague and failed to give the required warning to citizens as to what constitutes a violation of the law.[80] The clarity of the offense described by a criminal statute raises a constitutional question since it is one of the requirements of the due process guarantee.[81]

Upon petition of the Attorney General in his statutory capacity,[82] the case was reviewed by the Court of Appeals.

The Court answered defendant's first contention by stating that vagueness only resulted when the phrase "dazzling light" was isolated from the overall context of the statute. The proscribed conduct of the accused is the operation of multiple beam headlamps so as to produce dazzling light. Read in its entirety this can have but one meaning which the average citizen would so under-

75. 357 U.S. 468 (1958).
76. Christal v. Police Comm. of San Francisco, supra note 72.
77. 7 N.Y.2d 391, 198 N.Y.S.2d 276 (1960).
78. 19 Misc. 2d 837, 194 N.Y.S.2d 823 (County Ct. 1959).
79. People v. Hildebrandt, 308 N.Y. 397, 126 N.E.2d 377 (1955).
80. People v. Firth, 3 N.Y.2d 472, 168 N.Y.S.2d 949 (1957).
81. Jordan v. DeGeorge, 341 U.S. 223 (1951).
82. N.Y. Executive Law § 71.

stand, and that is the operation of the headlights on the brightest of the alternative beams. This interpretation was plainly the meaning intended by the Legislature as evidenced by the legislative note accompanying the 1959 amendment to the statute.[83]

As to the second contention, defendant relied on *People v. Grogan*[84] for the proposition that the word "interferes" is too indefinite to be constitutional. In that case there was a statute which prohibited unnecessary interference with the free and proper use of the public highway. The Court upheld the constitutionality of that statute by equating unnecessary with unreasonable, and said that the word thus qualified gave a meaningful and objective measure of comfort. Defendant argues that since here we have no such qualification the term is constitutionally indefinite.

This Court holds that case to be no authority for defendant's proposition, for there the crime itself was described as unnecessary interference, with no other objective standard of determining what the interference was. Here, the interference is the operation of the headlamps so as to produce dazzling light. The objective standard of measurement is the probable effect of said light on a reasonable man and this is sufficiently definite to warn the citizen. The Court cites *People v. Harvey*[85] where it was held that the interference prohibited by the statute in that case was a definable standard of conduct. It is not the possible subjective effect on a hypersensitive individual, but "unreasonable interference with the reasonable man."

By a unanimous decision, the case was reversed on the law and remanded to the lower court for redetermination on the issues of fact.

MAGISTRATES' COURT GIVEN POWER TO TRY MISDEMEANORS

In *People v. Peck*[86] the constitutionality of the Defense Emergency Act[87] was before the Court of Appeals for the first time.

Defendants were a group of avowed pacifists, who congregated in City Hall Park, in New York City during an air raid, refusing to take shelter. They were arrested, and a Magistrates' Court of the City of New York,[88] assuming jurisdiction under Section 102 of the Defense Emergency Act,[89] convicted

83. N.Y. Vehicle and Traffic Law § 15(3) as amended by N.Y. Laws of 1959, ch. 582.
84. 260 N.Y. 138, 183 N.E. 273 (1932).
85. 307 N.Y. 588, 123 N.E.2d 81 (1954).
86. 7 N.Y.2d 76, 195 N.Y.S.2d 637 (1959).
87. N.Y. Defense Emergency Act § 101(2):
Any person who shall wilfully violate or disobey any duly promulgated regulation or order, or who shall wilfully violate or disobey any official order by a person duly authorized concerning. . . . (b) the conduct of civilians and the movement and cessation of pedestrian and vehicular traffic shall be guilty of a misdemeanor.
88. People v. Parilli, 1 Misc. 2d 201, 147 N.Y.S.2d 618 (Magist. Ct. 1955).
89. N.Y. Defense Emergency Act § 102:
Courts of Special Session outside the city of New York and city magistrates courts in the city of New York, in the first instance, shall have exclusive jurisdiction to hear and determine charges of violations constituting misdemeanors or infractions under this act or under any rule, regulation or order duly promul-