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Municipal Corporations—Local Traffic Ordinances

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tous allowance and before the completion of the conditions precedent there was no vested right to it and hence it could be revoked at the will of the legislature.[40] Once there had been compliance with the statutory conditions a "contractual" relationship arose and there was an absolute right to the pension in absence of any statutory reservations.[41]

In the instant case,[42] the period of service required to entitle petitioner to the pension was increased after the petitioner became a patrolman, but before the constitutional amendment went into effect. The court held that since the statutory change occurred prior to the amendment, no contractual obligation arose from mere membership, and as the petitioner had the expressed right, under the statute, to withdraw his contributions to the fund at any time, there was no taking of property without due process of law.

Local Traffic Ordinances

Section 90 of the Vehicle and Traffic Law delegates to local authorities the power in certain instances to regulate traffic. In addition to the several specific enumerations, they are given the authority to make such additional reasonable ordinances as the special local conditions may require. During this past term, the constitutionality of a town ordinance which prohibited through or transient vehicular traffic on the streets within a specified area was questioned.[43]

It has always been recognized that the regulation of motor vehicles in their use of the streets is an important function of municipal government.[44] Where the exercise of this function is reasonable, nondiscriminatory, authorized by state law and not in conflict with it, it is valid.[45] A regulation which applies to the operation of certain vehicles and not to others is void when the distinction constitutes an unreasonable classification,[46] and a grant of power to a municipality to regulate motor vehicles and street

40. *Pennie v. Reis*, 132 U. S. 464 (1889); *Friel v. McAdoo*, 101 App. Div. 155, 91 N. Y. S. 454 (2d Dep't), *aff'd*, 181 N. Y. 558, 74 N. E. 1117 (1905); *Roddy v. Valentine*, 268 N. Y. 228, 197 N. E. 260 (1935).

41. *Roddy v. Valentine*, *supra* note 40; *Matter of O'Brien v. N. Y. State Teachers' Retirement Board*, 215 App. Div. 220, 213 N. Y. Supp. 738 (3d Dep't), *aff'd*, 244 N. Y. 530, 155 N. E. 884 (1926).

42. *Day v. Mruk*, 307 N. Y. 349, 121 N. E. 2d 362 (1954).

43. *People v. Grant*, 306 N. Y. 258, 117 N. E. 2d 542 (1954).

44. 7 McQUILLAN, MUNICIPAL CORPORATIONS § 24.618 (3d ed. 1949).

45. *Ibid.*

46. *Id.* at § 24.622 (3d ed. 1949).

traffic is not considered to authorize it to forbid the use of its streets to motor vehicles.[47]

The court, noting the prohibition in Section 54 of the Vehicle and Traffic Law,[48] concluded that this ordinance was not a reasonable regulation and very properly held the ordinance invalid.

Elections

Section 248 of the Election Law[49] has again been before the Court of Appeals for interpretation. In the instant case,[50] petitioner, an independent candidate for city judge, sought to have the proposed voting machine format altered so that his opponent, who was nominated by the Republican, Democratic, Liberal and United City parties, would not appear on the ballot on a separate line for the United City party.

The constitutionality of statutes prohibiting the placing of a candidate's name more than once on a ballot have been generally upheld throughout the United States.[51] In New York the statute has been the grounds for some divergence of opinion. Early cases held that comparable statutes that attempted the consolidation on a ballot were unconstitutional as they discriminated against the independent voters.[52] This stand was somewhat modified in *Haskell v. Voorhis*,[53] where the court held that the sole nominee of an independent body who was also a nominee of the Republican party could have the party names and emblems combined on one ballot. Several years later, the court held that the provision of the Election Law was constitutional except in instances where its application would be unfair and prejudicial to a particular class

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47. *Id.* at § 24.616 (3d ed. 1949).

48. § 54: "Local authorities shall have no power . . . to pass, enforce, or maintain any ordinance . . . inconsistent with the provisions of this chapter . . . and no such ordinance . . . shall have any force or effect."

49. § 248:
". . . When the same person has been nominated for the same office to be filled at the election by more than one party, the voting machine shall be so adjusted that his name shall appear in each row or column containing generally the names of candidates for other offices nominated by such party; and if such candidate has also been nominated by one or more independent bodies, his name shall appear only in each row or column containing generally the names of candidates for other offices nominated by any such party, and the name and emblem of each such independent bodies shall appear in one such row or column . . ."

50. *Belford v. Board of Elections of Nassau County*, 306 N.Y. 70, 115 N.E. 2d 658 (1953).

51. See annotation, 78 A.L.R. 398.

52. *Hopper v. Britt*, 203 N.Y. 144, 96 N.E. 371 (1911); *Gilfillan v. Bever*, 124 Misc. 628, 207 N.Y. Supp. 628 (Sup. Ct. 1924), *aff'd*, 212 App. Div. 855, 207 N.Y. Supp. 842 (4th Dep't), *aff'd*, 240 N.Y. 579, 148 N.E. 712 (1925).

53. 246 N.Y. 256, 158 N.E. 613 (1927).