Statutes — Interpretation — Application of Venue Statute to Owners of Forms of Transportation Unknown at the Time of Its Enactment — An Iowa venue statute passed in 1872 provided that "an action may be brought against any railway corporation, the owner of stages, or other line of coaches or cars . . . in any county through which such road or line passes or is operated." \(^1\) A damage action was brought against petitioner in a county through which its truck line regularly operated. Petitioner moved for a change of venue to the county where its principal office was located. The motion was overruled and petitioner tested the validity of the ruling in an action in certiorari. *Bruce Transfer Co. v. Johnston*, (Iowa, 1939) 287 N. W. 278.

The problems raised in construing statutes to apply to situations and instrumentalities unknown at the time of their enactment are well illustrated in cases involving automobiles, trucks and buses. \(^2\) The courts are generally liberal in applying statutes passed before the advent of the automobile to motor transpor-

\(^1\) Iowa Code (1935), § 11041. The clause first appeared in a statute of 1872 and has remained unchanged since 1897.

\(^2\) The oft-quoted statement of the proposition that statutes may apply to new circumstances is found in 25 R. C. L. 778 (1919).
RECENT DECISIONS

The better reasoned decisions look first to the primary purpose of the legislature as expressed in the statute. If the statute concerns a problem which is common to transportation generally rather than to a specific type of vehicle, the courts apply it to motor transportation unless specific language in the statute prohibits such application. For example, venue statutes, such as the one in the principal case, are primarily designed to serve the convenience of litigants in suits against common carriers which operate over regular routes. Here the statutory purpose is as applicable to a motor truck or bus line as it was to stage coach lines, so the courts have reason to construe the statutes to include motor carriers.

Another group of cases involves statutes passed in the nineteenth century which exempt from attachment and execution vehicles and equipment used in earning the debtor's means of livelihood. The courts hold that automobiles and trucks are included in the purpose and language of these exemption statutes, where the use of the auto or truck is analogous to the use made of the vehicles enumerated in the statute. Similarly, statutes regulating road and bridge tolls for carriages or stage coaches are held to apply to automobiles and buses and statutes taxing the gross income of "transportation companies" are held to apply to taxicab companies, although taxicabs were unknown when the taxing law was passed. An analogous situation arises where statutes require railway locomotives to be equipped with a "steam whistle" and to give certain signals when approaching highway crossings, and the railroad subsequently adopts a Diesel car or train. Where steam locomotives are specifically referred to in the statute, courts do not apply the regulations to Diesel cars or trains, but when the statutory language is more general, the latter are held to be included.

8 Gess v. Wilder, 237 Ky. 839, 36 S. W. 2d 617 (1931) (trucking company a "common carrier" for purposes of a similar venue statute). Contra: Great Lakes Stages v. Laing, 123 Ohio St. 37$, 175 N. E. 598 (1931) (bus line held not a line of "stages or other coaches" for venue purposes).

4 Some courts require that the automobile be indispensable to the debtor in earning his living, while other courts allow exemption for autos when their use is reasonably convenient. Compare Printz v. Shepard, 128 Kan. 210, 276 P. 811 (1929) (exemption allowed on a car used by a farmer to carry produce to market), with Gordon v. Brewer, 32 Ohio App. 199, 166 N. E. 915 (1929) (exemption not allowed on a car used by a real estate dealer in calling on customers, etc.), and First National Bank v. Larson, 213 Iowa 468, 239 N. W. 134 (1931) (exemption not allowed because there was no proof that the car was indispensable to debtor's business). For purposes of exemption statutes, automobiles and trucks have been held to be included in such terms as a "wagon," a "farm utensil," and a "tool or instrument used in a trade or profession." See annotations, 28 A. L. R. 74 (1924); 94 A. L. R. 299 (1935).

5 Burton v. Monticello, etc. Turnpike, 162 Ky. 787, 173 S. W. 144 (1915).


7 See Franklin & P. Ry. v. Shoemaker, 156 Va. 619, 159 S. E. 100 (1931), where the cases are collected and discussed. Some courts find it difficult to rationalize the proposition that a substituted method of performance can satisfy this type of statute, because when they applied the statutes to steam trains, they insisted on strict compliance with the regulations. See also, Haaga v. Saginaw Logging Co., 165 Wash. 367, 5 P. (2d) 505 (1931) (holding that the statute applied to a gasoline car), and
However, criminal statutes, under traditional criminal law doctrines of strict interpretation, are not construed to apply to new forms of transportation. Likewise, under tort law, statutes giving municipalities the duty of keeping streets reasonably safe for carriages are not held to create a duty to keep them safe for automobiles. In summarizing the results of the above decisions, two tests can be formulated for determining the applicability of a statute to a situation or instrumentality unknown at the time of its enactment. (1) Is the primary purpose or policy of the legislature as expressed in the statute applicable to the new situation or instrumentality? (2) Is the language of the statute broad enough to include the new situation or instrumentality? Judged by these tests, both the result and the reasoning of the principal case seem correct and desirable.


In United States v. One Automobile, (D. C. Mont. 1916) 237 F. 891, the court refused to compel the forfeiture of an automobile under a statute providing for the forfeiture of "wagons, carts or sleds" used to transport liquor to the Indians. The principle is best discussed by Holmes, J., in McBoyle v. United States, 283 U. S. 25, 51 S. Ct. 340 (1931).

Doherty v. Inhabitants of Ayer, 197 Mass. 241, 83 N. E. 677 (1908). The specific type of vehicle is of primary importance in this type of statute, as there is a considerable difference in the upkeep of streets required for horses and carriages and that required for automobiles. The courts are also reluctant to extend municipal duties without express legislative authority.

Radin, "Statutory Interpretation," 43 Harv. L. Rev. 863 (1930). This article contains a good discussion of what constitutes the "purpose" of a statute. Kohler, in "Judicial Interpretation of Enacted Law," Science of Legal Method, Selected Essays 187 at 193 (1917) (9 Modern Legal Philosophy Series), states: "By recognizing that interpretation may change with the times it is possible to give statutes a certain elasticity, by which they may correspond with changing social requirements and continue to confer benefits on the community even after all the conditions have changed which originally brought about their adoption."