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MUNICIPAL CORPORATIONS-EXPENDITURE OF FUNDS ACCRUING FROM PARKING METERS

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MUNICIPAL CORPORATIONS—EXPENDITURE OF FUNDS ACCRUING FROM PARKING METERS—Panama City proposed to issue bonds to finance the reconstruction, paving, and improvement of city streets. The bonds were to be secured by and payable from the revenue of the city's parking meters. A petition for validation of the bond issue was submitted and was refused. On appeal, *held*, affirmed. The city may not use the revenue from the parking meters to finance the reconstruction, paving and improvement of streets since this bears no reasonable relation to the regulation of parking and is therefore an illegal exercise of the police power. *Panama City v. State*, (Fla. 1952) 60 S. (2d) 658.

The regulation of parking on city streets through the medium of the parking meter has been sustained, with few exceptions,¹ as a valid exercise of the police power, provided the fees charged bear a reasonable relation to the expenses of regulation.² Mathematical exactness is not required,³ but if the fees greatly exceed the expenses, it is probable that the parking meter ordinance will be

¹ *Monsour v. Shreveport*, 194 La. 625, 194 S. 569 (1940); *In re Opinion to the House of Representatives*, 62 R.I. 347, 5 A. (2d) 455 (1939); *Brodkey v. Sioux City*, 229 Iowa 1291, 291 N.W. 171 (1940). Alabama and North Carolina have been included among the dissenters, but recent decisions indicate a change of position. *Decatur v. Robinson*, 251 Ala. 99, 36 S. (2d) 673 (1948); *State v. Scoggin*, (N.C. 1952) 72 S.E. (2d) 97.

² Annotation, 130 A.L.R. 316 (1941).

³ Opinion of the Justices, 94 N.H. 501, 51 A. (2d) 836 (1947).

held a tax measure and thus an invalid exercise of the police power.⁴ A court could apply the rule strictly and limit expenditures to the cost of installation, maintenance and servicing of the meters. If this were the case, many of the parking meter ordinances would be invalid since it is increasingly apparent that the meters will quickly pay for themselves and that they are an excellent source of revenue.⁵ The courts have not been this strict and where the fees collected bear a reasonable relation to the cost of traffic control and regulation, the ordinances have been sustained.⁶ The cleaning of streets on which meters are located,⁷ the construction of off-street parking facilities,⁸ the purchase of automobiles and other equipment for the police force,⁹ the payment of salaries of police officers,¹⁰ and even the expense of remodeling the police station to accommodate the increased volume of traffic violators,¹¹ are reasonable; but the improvement of port facilities¹² and the construction and repair of streets¹³ are not. One cannot quarrel with a finding that improvement of port facilities does not bear a reasonable relation to traffic regulation, but where it concerns the construction and repair of streets, a contrary finding would not be out of order, particularly if emphasis is placed on general traffic regulation as the standard. However, it appears that many courts, including the Florida court in the principal case, speak of traffic regulation, but actually limit their considerations to parking regulation. It is dubious whether any distinction should be drawn between traffic and parking regulation; nevertheless the courts appear to do so.¹⁴ The problem is not particularly acute in many jurisdictions since uses directly related to parking are not yet exhausted. However, there are practical limitations on the number of meters which can be installed, on the construction of off-street parking areas, and on other related activities, which means that municipalities will be seeking new uses for the excess funds. It is obvious that the municipalities will be very reluctant to reduce or discontinue the golden flow of pennies and nickels; therefore, a re-examination of the entire problem is inevitable. The court in the

⁴ *William Laubach and Sons v. Easton*, 347 Pa. 542, 32 A. (2d) 881 (1943); *Cassidy v. Waterbury*, 130 Conn. 237, 33 A. (2d) 142 (1943).

⁵ NATIONAL INSTITUTE OF MUNICIPAL LAW OFFICERS, *PARKING METERS AS CITY LEGAL PROBLEMS*, Report No. 47 (Sept., 1939); *MUNICIPALITIES AND THE LAW IN ACTION* 272 (1943).

⁶ *Hickey v. Riley*, 177 Ore. 321, 162 P. (2d) 371 (1945); *Hutchinson v. Harrison*, 173 Kan. 18, 244 P. (2d) 222 (1952).

⁷ *Wilhoit v. City of Springfield*, 237 Mo. App. 775, 171 S.W. (2d) 95 (1943).

⁸ *Hutchinson v. Harrison*, note 6 *supra*; *State v. Miami Beach*, (Fla. 1950) 47 S. (2d) 865.

⁹ *Hickey v. Riley*, note 6 *supra*.

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Chase v. Sanford*, (Fla. 1951) 54 S. (2d) 370.

¹³ Principal case.

¹⁴ Principal case; *Hutchinson v. Harrison*, note 6 *supra*; 130 A.L.R. 316 (1941). The distinction is not express but the courts are very careful to confine expenditures to things which are directly related to parking even where they speak of general traffic regulation as the criterion.

principal case faced the problem and narrowly confined expenditures to things directly related to parking.¹⁵ Other courts will undoubtedly reach the same result, but some may be inclined to be more liberal and to expand present concepts to include things which are more directly connected with the overall traffic problem, e. g., the construction and repair of streets. Where the courts are unwilling to liberalize present rules, legislative authorization would appear to be the solution.¹⁶

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¹⁵ In *State v. Daytona Beach*, (Fla. 1949) 42 S. (2d) 764, and *Chase v. Sanford*, note 12 supra, it would appear that the Florida court previously included construction of streets as a valid purpose. The principal case on its face reaches an opposite conclusion, but the court's position may be explained in that the revenues from the meters were absolutely pledged in the principal case and the court was apparently concerned with the city's bargaining away of its power to regulate traffic since it could not remove the meters.

¹⁶ Opinion of the Justices, note 3 supra.