Use of Parking Meter Revenues
USE OF PARKING METER REVENUES

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USE OF PARKING METER REVENUES

David R. Levin
Chief, Land Studies Section
Financial and Administrative Research Branch
Bureau of Public Roads

It is amazing how a seemingly inof-fensive little gadget like the parking meter has in the past 15 years of its use drawn the deadly fire of opponents and the zealous enthusiasm of its advocates. On the one hand, it has been vigorously denounced as an illegal means of extracting money, as a common-law nuisance, and as an abridgment of the rights of abutters. On the other hand, the parking meter has been stoutly defended as the best solution of the urban parking problem and as the most expedient means of regulating curb parking in central business areas.

Viewed realistically, perhaps neither of these extreme positions is altogether correct. For it would seem that the parking meter does have a legitimate place in our present urban areas. Yet, it certainly is not an Aladdin's Lamp, for the relief it provides is decidedly limited.

But the purpose of this investigation is neither to extol the virtues of the parking meter nor to emphasize its shortcomings. Rather, the intent is to examine, objectively, the present significance of the parking meter in terms of the regulation it facilitates and the annual revenue it produces. Further, this study has sought to ascertain the legislative bases for the installation and use of the parking meter; and to review the judicial decisions involving such meters. Finally, based on these present legislative sanctions and judicial attitudes, certain economic aspects of the use of the parking meter have been investigated, particularly the potentialities of an extension of its present use at the curb.

PRESENT SIGNIFICANCE OF PARKING METERS

Almost 15 years have elapsed since the first parking meters were installed in Oklahoma City by its inventor, Carl Magee, lawyer and publisher. From such modest beginnings, parking meter usage has increased to the point where it is estimated that as of the first of this year, some 700,000 meters were in operation in almost 2,000 urban areas and in all of the 48 States. Approximately three-fourths of the cities in the 10,000 to 500,000 population groups are metered. Motorist-parkers are alleged to have paid over $40 million in parking meter fees during 1948. Estimates for 1949 are even higher, both in terms of meters in use and revenue produced.

Sufficient evidence has already accumulated to reveal that the parking meter is effective in facilitating parking turnover at the curb, and in reducing overtime parking. In Washington, D.C., for example, a before-and-after study in selected one-hour zones indicates overtime parking was reduced from 51.1 percent to 19.7 percent by the installation of parking meters; and that the parking turnover, in terms of space-hours, was increased from 3.1 to 7.9 by the use of such meters. Similar studies in other cities, reveal similar findings. In 54 posted zones in these cities overtime parking amounted to 30.9 percent, as compared with 20.9 percent in 27 metered areas; and illegal

1Grateful acknowledgment is made of valuable assistance by George E. Long, Land Studies Section, Financial and Administrative Research Branch, Bureau of Public Roads.

2See Table 1.


4PARKING METERS AS AN AID TO ENFORCEMENT, by John H. Mitton, Institute of Traffic Engineering, September 27, 1949
overtime parking, in terms of space-hours was 34.8 percent in the posted zones and 26.0 percent in the metered areas.

The growth and present usage of the parking meter is no less than spectacular and such usage has become a huge public enterprise. Because of its magnitude, students of the parking problem and of motor vehicle transportation are beginning to ask questions that ultimately may be embarrassing to enterprise.

The questions being pressed and answers being sought concern the following issues: Does the right exist at all to charge a fee for parking at the curb? If parking meter revenues exceed the aggregate of the cost of installation, maintenance, and the administration and enforcement of regulation, is an illegal use being made of the police power? How large must the excess become to render the imposition of the fee a revenue measure? Can this excess be used for off-street parking facilities? Do parking meters constitute a nuisance and an unreasonable obstruction of the streets and sidewalks? Are the constitutional rights of abutters impaired? Does the use of parking meters constitute an unauthorized abandonment of the dedication of land for use as a public way? Can the parking meter be used to display private advertising if additional revenue therefrom will accrue to the municipality?

These and related queries depend for their answers upon the character of existing legislation and upon the attitude of the judiciary insofar as it is discernible.

REVIEW OF EXISTING LEGISLATION

Existing legislation authorizing the installation and use of parking meters has been investigated largely to ascertain to what extent it requires the application of parking meter revenues to designated purposes, what such purposes are, or whether use of the revenue is restricted to the provision of off-street parking facilities. (See Appendix for citations to statutes, by States.)

Legislation Authorizing or Requiring Use of Parking Meter Revenues for Off-Street Parking Facilities - Only eight States and the District of Columbia specifically authorize or require, by law, the application of net parking meter revenues (i.e., gross revenues less the costs of amortization, maintenance, enforcement, etc.) to the provision of off-street parking facilities. A State enactment of a local character in Connecticut, for example, authorizes the town of Stamford to establish and operate off-street parking areas; these may be financed by parking meter revenue as well as by other means. This legal authorization does not require Stamford to so use its net parking meter revenues. Apparently without the benefit of specific enabling authority from the State, the City of Danbury has financed four-fifths of its police department budget for the period 1941-1944 and reduced its general tax rate by half a mill by use of its net parking meter funds.

Special laws in Florida authorize the cities of Coral Gables and Jacksonville to establish off-street parking facilities, and to finance the same by any one or a combination of methods, including the use of net parking meter revenues. Quite in contrast, is a recent enactment in the same State permitting various municipal buildings in the City of Fort Myers, such as the city fire station and police station, to be financed by the issuance of certificates of indebtedness to be payable solely from revenues derived from the operation of the buildings or from net revenues derived from operation of parking meters.

Any Illinois municipality is author-
ized, under a 1949 enactment, to establish parking facilities and to finance such accommodations by bonds payable in part from parking meter revenues. 8

Perhaps one of the best State laws preserving net parking meter funds for the general alleviation of parking difficulties and preventing diversion of such funds to non-parking purposes, is to be found in a 1949 Iowa statute. 9 Under its terms, funds derived from the operation of parking meters shall be used for the following purposes and none other:

1. Payment of the cost of acquisition and installation of meters purchased.
2. Payment of the cost of maintenance and repair of meters, collection of meter fees, and the enforcement of traffic laws in the parking meter district.
3. Payment of the purchase and installation costs of other parking or traffic control devices installed on such portions of streets as are equipped with parking meters.
4. Payment of the cost of acquiring by purchase, lease or similar arrangement of parking lots or other off-street parking areas, including the operation, enlargement or improvement thereof, within four-tenths of a mile of the metered portion of the streets within

The law finally provides that until adequate parking facilities are available, all parking meter revenue not required for the payment of purposes 1, 2, and 3 indicated above, shall be expended for the acquisition of off-street parking accommodations. The total expenditures for items 2 and 3 shall not

### Table 1

<table>
<thead>
<tr>
<th>Population Groups</th>
<th>Cities Having Meters</th>
<th>Cities in Group</th>
<th>Percent of Meters</th>
<th>Cities</th>
</tr>
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<tr>
<td>Under 2,500</td>
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<td>13,288</td>
<td>1.6</td>
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<tr>
<td>2,501-5,000</td>
<td>406</td>
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<td>28.6</td>
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<td>5,001-10,000</td>
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<td>10,001-25,000</td>
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<tr>
<td>25,001-50,000</td>
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<td>213</td>
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<td>50,001-100,000</td>
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<tr>
<td>100,001-250,000</td>
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<td></td>
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<tr>
<td>250,001-500,000</td>
<td>17</td>
<td>23</td>
<td>73.9</td>
<td></td>
</tr>
<tr>
<td>Over 500,000</td>
<td>9</td>
<td>14</td>
<td>64.3</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>1,922</td>
<td>16,752</td>
<td>11.5</td>
<td></td>
</tr>
</tbody>
</table>


---

9 Iowa 1949 Acts and Joint Resolutions, 53rd General Assembly, Chapter 187. This act shall apply to cities acting under special charter except those having a population of less than 30,000. It does not apply to cities and towns of less than 10,000. However, special charter cities under 30,000 and cities and towns under 10,000 may so use their parking meter revenue.
exceed 25 percent of the total meter income.

The New Hampshire statute is not concerned about the strict application of parking meter revenues to parking purposes, though some of the specified uses are in a related field. It provides that revenue derived from the use of meters shall be expended to finance the purchase, maintenance and policing of such meters or to maintain and improve streets and highways, or to acquire, construct, improve, maintain and manage public parking areas, or for any combination of these purposes, but for no purpose not expressly authorized. The Maine statute is substantially similar.

South Dakota municipalities may use proceeds from parking meters for traffic regulation, acquisition and maintenance of traffic control equipment or facilities, off-street parking lots and areas, or the construction, maintenance and upkeep of municipal streets and alleys.

Municipalities in Wisconsin are permitted by law to use net parking meter funds not only to meet the cost of regulation of parking but also to make provision for additional parking places off the street and municipally-owned off-street parking lots. This authorization does not apply to cities of the first class.

The District of Columbia is the sixth and last jurisdiction, the laws of which specifically authorize the application of net parking meter funds to off-street facilities, among other purposes. The legislation provides that all parking meter fees shall be deposited in a special account in the U.S. Treasury entirely to the credit of the District of Columbia and shall be appropriated and used exclusively for purposes set forth in the chapter, namely, the establishment of off-street parking facilities including reimbursement of the highway fund for advances made to carry out the purposes of the chapter. In spite of this provision, the Appropriation Acts for the District of Columbia from 1942-1947 have provided that parking meter fees shall be deposited to the credit of the highway fund.

Legislation Indicating Disposition of Parking Meter Revenues, but Not Expressly for Off-Street Facilities - The statutes of five States specify the uses that are to be made of net parking meter revenues in general terms, but the establishment of off-street parking facilities is not mentioned expressly. A broad construction of some of these laws would be required before net parking meter funds could be used for off-street accommodations. Cities of the 2nd, 3rd, and 4th classes in Indiana are authorized by law to regulate curb parking by means of parking meters; the fees collected must be deposited in a special fund and used for the following purposes only:

1. For payment of the purchase price, rental fees, and cost of installation of the meters;
2. For payment of the cost of maintenance, operation, repair and all other incidental costs involved in the use of the meters;
3. For payment of cost of traffic signal devices used in the cities and also the repair and maintenance of any public streets where the meters are in

10 New Hampshire Laws of 1947, Ch. 74.
11 Laws of Maine 1949, Ch. 210; Revised Stat. of Maine, Ch. 80, Sec. 83-A.
12 Session Laws of South Dakota, 1949, Ch. 196.
13 Wisconsin Statutes (1947), Vol. 1, Sec. 85. 845.
14 District of Columbia Code, Sec. 40-808
15 1949-52 Stat. 553, Ch. 555, Sec. 1
1948-61 Stat. 443, Ch. 324, Sec. 1
1947-60 Stat. 518, Ch. 544, Sec. 1
1946-59 Stat. 289, Ch. 209, Sec. 1
1945-58 Stat. 526, Ch. 300, Sec. 1
1944-57 Stat. 338, Ch. 184, Sec. 1
1943-56 Stat. 451, Ch. 452, Sec. 1
1942-55 Stat. 528, Ch. 271, Sec. 1
16 Indiana, Kentucky, Montana, North Carolina, and Texas.
17 Burns Indiana Statutes Annotated, 1933, Sec. 48-506 to 48-509.
use, and all streets connected therewith.

Though these funds remain in a special fund, the common council of the city may transfer, by ordinance, any balance of the special fund to the general fund of the city. The ultimate result is obvious.

A Kentucky statute specifies how the proceeds from parking meters in the 2nd class cities shall be used: first, for the acquisition, establishment, erection, maintenance, and operation of the parking meter system; second, for making the system effective; third, for the regulation and limitation of vehicular parking, and traffic relating to parking.

A recent Montana enactment permits the creation of a supplemental revolving fund for the guaranty of special improvement district bonds of cities and towns, authorizes the pledging of net income from parking meters to such fund, and provides for the issuance of bonds having the guarantee of such fund. Any public improvement would qualify presumably, including off-street parking facilities.

More restrictive is the legislative language in North Carolina to the effect that the proceeds derived from the use of meters shall be used exclusively for the regulation and limitation of vehicular parking and traffic relating to such parking, and for making such regulation effective, on the streets and highways of cities and towns. However, in the last three years many cities in this State have been released from this restriction by passage of special acts.

Finally, Texas law indicates that money collected by all cities of 200,000 to 293,000 population from the use of parking meters shall be used for pensions for policemen, firemen and fire alarm operators. These purposes are rather remotely related to the basic purpose for which a parking meter fee is imposed.

No Statutory Provisions Specifically Relating to Use of Net Parking Meter Revenues - In the remaining 35 States, no statutory provision exists relating specifically to the disposition of net parking meter revenues. Parking meters are to be found in all of these jurisdictions, however, except North Dakota, where meters were recently outlawed by referendum vote of the people. Presumably, the disposition of net revenues from meters is handled under general powers including home rule authority.

It is apparent from this brief review of existing legislation dealing with the disposition of parking meter revenues, that the laws of only a single State (Iowa) require the application of such revenues to the objectives for which the parking meters were installed. Even in this State, the authority is qualified. Only a handful of State statutes authorize, but even these do not direct the use of such revenue for off-street parking facilities. In a few other States, enactments provide for the disposition of funds, but do not mention off-street facilities specifically. In the remaining State, there is no statutory provision specifically relating to the use of net parking meter revenues.

The parking meter fee, like the automobile registration fee which is its counterpart in the highway field or the gasoline tax, is levied upon the parker-motorist class with the implied understanding, it would seem, that it will be used to finance the cost of the parking meter regulation. It seems to be further implied that if any net revenues remain, such funds shall be applied to measures further alleviating parking difficulties, especially off-street parking facilities. The use of net parking

18Kentucky Revised States, Sec. 94.740.
19Montana Laws of 1947, Ch. 260.
20General Statutes of North Carolina, 1943, Sec. 160-200, Subsec. 31, as amended by Laws of 1947, Ch. 7.
21Vernon's Texas Civil Statutes (1925), Art. 6243F (10); and Texas Acts of 1941, Ch. 105.
22Atkins v. State Highway Department, 201 S.W. 226 (Texas 1918), upholding the validity of the vehicle registration fee, notwithstanding that the fees collected would produce a sum twelve times the cost of administration.
meter revenues for non-parking purposes is just as objectionable a diversion of parking funds as is the use of highway revenues for non-highway purposes.

This doctrine has already begun to manifest itself in some of the recent judicial decisions on the subject. Let us analyze the attitude of the courts with respect to the use of parking meter revenues and appraise our findings.

SUMMARY OF JUDICIAL DECISIONS

Because the use of the parking meter has become extensive, a vast body of judicial decisions is now available, reflecting the attitude of the courts on practically all the fundamental issues involved. It is not the purpose of this study to review all of these. Only those issues involving the use of parking meter revenues will be summarized. (See Appendix for citations to judicial decisions, by States.)

Right to Regulate Street Parking - The control over streets and highways generally rests in the State. But the law of municipal corporations is well settled today to the effect that cities may regulate the use of their streets by motor vehicles, which includes regulation over the parking of vehicles at the curb, either by express statutory authority or by general laws authorizing the exercise of a police power of reasonable extent. Ordnances prescribing time limitations on parking have long been recognized as a proper exercise of the police power, to further the interests of both the traveling public and abutting property owners. Such regulations are designed to keep traffic moving, to minimize congestion and to afford motorists the opportunity of transacting business with abutters.

Right to Charge a Fee At All for Curb Parking - The primary purposes, in legal theory at least, of a public street or highway is to facilitate the movement of vehicles and to provide access to adjacent property. Since the parking of vehicles at the curb is deemed to be beyond the scope of both of these objectives, it is assumed to be a privilege granted by public authority. In order to regulate street parking, the municipality must make expenditures over and beyond that necessary to facilitate merely movement and access. Accordingly, these public expenses have been deemed to be reimbursable, by means of a fee levied for the privilege of appropriating a portion of a public street for private use. Parking meter legislation has been generally sustained for this purpose.

Regulation Versus Revenue - Assuming, then, that a charge for the privilege of parking at the curb can be made legitimately, if parking meter revenues exceed the costs of the regulation, is an illegal use being made of the police power? An outstanding legal authority asserts that the distinction between a demand of money made under the police power and one made under the power to tax is one of substance rather than of form. So that if the primary purpose of the legislative body in imposing the charge is to regulate, the fee will not be construed as a tax even if it produces revenue for the public. Most of the decisions concerning the validity of parking meter ordinances have indicated that a police power regulation is valid only if the revenue derived is not disproportionate to the cost of the regulation.

24 Kimmel v. City of Spokane, 7 Wash. (2d) 372, 109 P (2d) 1069 (1941).
25 Cooley, THE LAW OF TAXATION (4th ed. 1924), Sec. 27.
26 "Validity of Parking Meter Ordnances in Kentucky," by Frank K. Warnock, KENTUCKY LAW JOURNAL, No. 1948, pp. 81-95.
27 Bowers v. City of Muskegon, 9 N.W. (2d) 889 (Mich. 1943); Hendricks v. City of Minneapolis, 290 N.W. 438 (Minn. 1940); and Hickey v. Riley, 162 P (2d) 371 (Ore. 1945).
The attitude of the Minnesota Supreme Court is typical:28

. . . with no actual trial of the system and the claims of plaintiff and defendant in conflict as to reasonableness of the fee, it would require a clear showing by plaintiff to demonstrate that the fee is too high. It would not be enough to show that the fee will exceed the cost for one period, or by a small amount. It must be made plain that the scheme of the ordinance is such that receipts will continuously and by a substantial amount exceed the cost of installation, maintenance and regulation.

The city may intend by this means to pay for the whole cost of the regulation of parking - the cost of the machines, their repair, the pay of the policemen who will be required to enforce the ordinance, and generally the expense of providing and keeping clear places in which drivers may park . . .

The last item mentioned by the court could mean the provision of off-street parking facilities. If so, then any fee of reasonable proportions would be justified.

A recent adjudication of the Oregon Supreme Court also provides a broad base for the determination of the reasonableness of the fee:29

. . . The fact that, in the operation of the meters, a revenue has resulted, does not, in itself, classify the ordinances as revenue measures. The right to apply the revenue not only to the narrow and restricted purposes of the mere installation, operation, and maintenance of the meters, but also to the broad purposes of general traffic control where authorized by the enabling ordinances, has been upheld in a number of well-reasoned decisions.

Solution of the problem of regulation versus revenue involves a determination of what elements of public cost can be used appropriately in ascertaining a total cost attributable to the use of parking meters. The costs of parking meter regulation itself, let alone the alleviation of parking difficulties generally, can be broadly construed, and the courts are inclining in that direction in the recent parking meter decisions. For example, such costs would ordinarily include the expense of installation and amortization of the meters, repair and maintenance, administration and enforcement. But might it not also include the "annual costs" of the curb space occupied by a given vehicle, including maintenance expenses, amortization of the right-of-way acquisition applicable thereto, etc. ?

The Washington State Supreme Court indicated that where a parking meter ordinance contains a declaration that it is a regulatory measure enacted under the police power, the court would not go beyond such declaration in the absence of evidence tending to show that the declaration is a sham and that the ordinance is in reality a revenue measure.30

Perhaps one of the most important judicial decisions on the subject is the recent Michigan case of Parr v. Ladd.31 Following the so-called Ann Arbor Plan, the Village Council of Wayne determined, by appropriate legislation, to meet its parking needs by the establishment of a complete municipal automobile parking system, to include all parking meters, parking lots and other facilities. The cost of acquiring all such facilities was to be financed by the issuance of revenue bonds, secured by all the revenues of parking meters and parking lots. The Michigan Supreme Court in this decision fully establishes the power of Michigan cities and villages to foster a complete, unified system of parking facilities, including parking meters and off-street accommodations, financed by self-liquidating bonds secured by a lien on the combined revenues of all facilities. The court stated

28Hendricks v. City of Minneapolis, 290 N.W. 428 (Minn. 1940).

29Hickey v. Riley, 162 P. (2d) 371 (Ore. 1945); also State ex. rel. Harkow v. McCarthy, 126 Fla. 433, 171 So. 314 (1938).

30Kimmel v. City of Spokane, 7 Wash. (2d) 372, 109 P. (2d) 1069 (1941).

in its decision that such a system of parking facilities, designed to relieve congested street conditions resulting from use of motor vehicles, had a definite bearing on public safety and therefore could be considered a public improvement under the provisions of the State's Revenue Bond Act, which act provided that public corporations might purchase, acquire, construct, etc., public improvements — also own, operate and maintain the same.

Abutters' Rights — Another legal issue involved in curb parking regulation by means of meters concerns abutters' rights. An abutting property owner has a common law right of ingress to and egress from his holding, but this right does not include the privilege of storing his automobile in front of his property. With respect to the parking of his vehicle in front of his property, an abutter is treated as a member of the public and is subject to all reasonable traffic and parking regulations. As far back as 1805, an English court asserted that the primary function of a street is for the free passage of the public and anything that impeded that free passage was a nuisance except in emergency cases, and that if the nature of an abutter's business required the loading and unloading of more vehicles than could be accommodated on his own private premises, the abutter must either enlarge his premises or move his enterprise to a more suitable location.


33 Andrews v. City of Marion, 221 Ind. 422, 47 N.E. (2d) 968 (1943); 18 Indiana Law Journal 324.


36 The Meter-Ad Corporation of America, Rochester, New York. It is an aluminum die-casting with the ad between two panels of plate glass. The Meter-Ad Corporation installs the Meter-Ads, services them and procures advertising for them. THE AMERICAN CITY, October 1949, pp. 187-188.

Private Advertising on Parking Meters — A new development concerning the use of the parking meter poses a new legal issue. At least two private concerns are now proposing to make use of parking meters by placing small advertising panels either above or below the coin-receiving device. The space is then leased for stated periods to advertise commodities and services. In return for the privilege of using the space, the city is assigned a substantial percentage of the gross receipts.

The validity of using parking meters as curb parking regulatory devices is now well established. In most jurisdictions, the production of revenue is incidental to the principal regulatory objectives. For a municipality to authorize the use of the meter for private advertising purposes seems inconsistent with the basic function of the meter. Because its only justification, from the standpoint of the city is the production of revenue, this development might easily upset the present legal acceptance of the parking meter as a valid exercise of the police power rather than the power to tax.

Though a new legal issue seems involved, ample analogies already exist, casting a dark shadow upon the legality of this proposed use of the parking...
meter. The erection and maintenance of structures in city streets for private advertising purposes generally have been held to be beyond the powers of a municipality to authorize. In a recent Kansas case, for example, a municipality was denied the right to permit the maintenance of traffic control signals containing private advertising. The court asserted that the advertising had no relation to the public interest; that it is maintained by a private corporation for its own private, pecuniary profit, that it is designed to divert attention of motorists, and is without any relation to public safety, convenience, or welfare. The court further asserted that such advertising matter invades the public interest in two ways: by encroachment and by obstruction to traffic. It was finally indicated that the city had no authority to purchase its traffic signals by farming out the streets to private uses, in a manner which obstructs free use for traffic purposes.

From these and other cases, it appears that the legality of authorizing the placement of advertising matter on parking meters, even though the city will share in the profits, is very much in doubt. Moreover, aside from the legal issues involved, it would seem undesirable public policy to permit what is presumably a regulatory device to be burdened with private advertising, the sole justification of which is the production of revenue.

ADMINISTRATIVE USE OF PARKING METER REVENUES

To the brief review of laws and the judicial decisions which I have just given you, I would like to add a brief comment upon the actual administrative use made of parking meter funds, within the limits permitted by law, presumably.

Relatively recent data for 357 cities having parking meters, summarized in Table 2, indicate that 57 percent of the cities used parking meter receipts for general fund purposes, 11 percent for traffic regulation, 2 percent for off-street parking facilities and 2 percent for a combination of purposes of which about half included off-street parking. The remaining 28 percent did not report.

According to this tabulation, 11 of the cities investigated, or 3 percent, actually used parking meter revenues for the purpose for which the fee is levied in fact - namely, the alleviation of parking difficulties generally. Another study indicates that the use of parking meter revenue to finance off-street facilities is contemplated in at least 24 municipalities. It is presumed, of course, that all cities use at least a portion of their parking meter revenues to finance the cost and administration and enforcement of the parking meter program. But obviously, very, very few use the balance for off-street parking facilities.

ECONOMIC ASPECTS

This monograph on the use of parking meter revenues would not be complete without a few reflections upon the economic aspects. The present rate structures of off-street parking facilities and the scale of parking meter fees seem to provide an incongruous economic situation, to wit: the parker-motorist can park for five cents an hour at the curb in the central areas of most cities in the United States (if he should be so fortunate as to find a vacant space); yet if he should be constrained by the need to park his vehicle to seek an off-street facility right at hand, he would have to pay 35 or 40 or even 50 cents for that hour of parking.

Conceding, of course, that the rates of off-street facilities are unnecessarily
high, it seems that the parking meter curb rates are unreasonably low, if one considers the cost of the privilege provided and the potentialities for the legitimate use of the revenues for alleviating parking difficulties generally. With respect to the cost of a curb space, in addition to the various expenses of the regulation by parking meter already commented upon the annual cost of street space used for parking, including right-of-way, construction, and maintenance costs, would seem to be valid elements by which to gage the reasonableness of parking meter fees.

It is applied to further alleviate parking difficulties, in pursuance of the objective for which the fees are levied in the first instance.

**CONCLUSION**

It is suggested, therefore, that State enabling legislation dealing with parking meters be so drawn as to require (not only authorize) the application of net parking meter revenues to the establishment and fostering of off-street parking facilities. It is but good public policy to make sure that funds contributed by a special group - i.e., the parker-motorists who park in downtown metered areas - be used to benefit that group. If no more than this single step were taken, a tremendous impetus would be given to the establishment of off-street parking facilities in downtown areas. Based upon 1948 revenues, the city of Denver, for example, would have approximately $300,000 more a year for an off-street parking program, a sizeable sum if capitalized at current rates; Oakland and San Diego, California, and Minneapolis, Minnesota would have like sums. At least 32 other cities would

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**TABLE 2**

**DISPOSITION OF RECEIPTS FROM PARKING METERS IN CERTAIN CITIES, 1946**

<table>
<thead>
<tr>
<th>Population Group</th>
<th>Number of Cities</th>
<th>General Fund</th>
<th>Off-Street Parking</th>
<th>Traffic Improvement</th>
<th>Combination</th>
<th>Not Reported</th>
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<tr>
<td>10,000-19,999</td>
<td>124</td>
<td>63</td>
<td>2</td>
<td>13</td>
<td>1 (4 &amp; 5)</td>
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<tr>
<td>20,000-29,999</td>
<td>57</td>
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<td>1</td>
<td>6</td>
<td>1 (4 &amp; 5)</td>
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<td>30,000-39,999</td>
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<td>5</td>
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<td>1</td>
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<tr>
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<td><strong>7</strong></td>
<td><strong>41</strong></td>
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<td><strong>11.4</strong></td>
<td><strong>1.7</strong></td>
<td><strong>27.8</strong></td>
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*Source: The Municipal Year Book, 1946, The International City Managers' Association*
have between $75,000 and $250,000 for the purpose, annually.

The only equitable alternative to this plan to use parking meter fees exclusively for parking purposes is to reduce present parking meter fees to the point where only the costs of the regulation are reimbursed. This would mean that one or two cents an hour would be charged for curb parking, instead of the present five cents an hour. The policy of using net parking meter funds to finance pensions for firemen, schools, or to reduce the general tax rate is an objectionable practice because a specific class - the parker-motorist - is burdened with a responsibility that ought to be general in its incidence.

If the parker-motorist is given the legal assurance that his contributions, made through the medium of the parking meter, will not be subject to diversion to non-parking purposes, he should not object very strenuously to an increase in parking meter rates to a reasonable level - perhaps to ten cents an hour - if the sums provided under a five-cent schedule should prove to be inadequate. Or, as an alternative, the parking period for a five-cent fee could be cut in half. The resulting increase in funds would supply the wherewithal to make a significant beginning toward solution of the parking problem. Under such a program, it is possible to envision an ultimate situation that would warrant the gradual reduction of curb and off-street parking fees.

In furtherance of a comprehensive plan of curb and off-street parking accommodations for an entire urban area, it probably would be found desirable to meter much larger areas than are now so regulated, even including the entire downtown district in certain cases. Some municipalities are already beginning to think in these terms. Detroit, for example, has an ultimate goal of 10,000 meters. In Chicago, sites for almost 30,000 meters were recommended to the city council.

An integrated system of parking facilities, both curb and off-street, as is now sanctioned by both the legislature and the judiciary in the State of Michigan, will in the end prove to be the most effective means of resolving parking difficulties. Based upon study of the court decisions, I am confident that such a broad plan of attack on the parking problem would be sustained by the courts in most States.

In the role so conceived, the parking meter fee can become to parking finance what the gasoline tax and the registration fee are to highway finance. Until we have the courage and foresight to make such broad provision for funds for parking purposes, we will continue to muddle along with piecemeal palliatives.

38 Mayor O'Dwyer has announced that before the end of the year, some parking meters in special districts in New York City will be in operation on an experimental basis. The fee may be 10 cents an hour. ENGINEERING NEWS-RECORD, Nov. 3, 1949, p. 46, "Municipal Affairs - Parking Meters."
APPENDIX

SUMMARY OF LEGISLATION AND JUDICIAL DECISIONS BY STATES

The material in this appendix is classified by States. The synopsis for each State is divided into two parts, part "I" containing a summary of legislation and part "II" a summary of judicial decisions, all of it concerning parking meters specifically. Most of the cases included herein were found in the American Digest System under key numbers Automobiles 5(3), 7b, and 9. These key numbers were examined through volume 10 (December 1949) of the General Digest, Second Series. The year in parenthesis after the name of the State indicates the latest laws available, while that following a law indicates the year of enactment of that law.

This digest was prepared by George E. Long, Land Studies Section, Financial and Administrative Research Branch, Bureau of Public Roads.
I. No legislation

II. City of Birmingham v. Hood-McPherson Realty Co., 172 So. 114, (1937)

This was the first case holding a parking meter ordinance invalid. The conclusion of the court was that "the ordinance enacted and sought to be enforced was an unauthorized abandonment of the, terms of the deed of dedication, that its execution deprives complainant of its property without due process, and that its administration was and is an unauthorized exercise of the taxing power."

City of Decatur v. Robinson, 36 Sd. (2d) 673, (1948)

This recent decision overruled City of Birmingham v. Hood-McPherson Realty Co. The city's authority to erect parking meters and charge fees for parking was found in section 32(a), Title 36 Code of Alabama, 1940, and sections 425, 429, and 720 of Title 37 which give cities the power to regulate or prohibit parking, the control of the streets, and power to enact ordinances for the public safety, welfare and convenience.

"It is simply a question of exercise of police power possessed by municipalities in the matter of regulation of traffic on the streets of the cities. As we have often observed, the limits of the state's police power has never been fixed nor its boundaries defined. It is a governmental function and is coextensive with the necessities of the case and the safeguard of the public interest . . . time moves on and government takes account of the measured steps of progress with the application of police power to meet new public needs.

"This matter of parking automobiles on downtown public streets is a privilege, not an absolute right . . .

"... True, the city may not use the exercise of the police power as a revenue measure. But the ordinance here in question declares that whatever revenue is derived therefrom is to be devoted to the cost of necessary inspection, police surveillance and incidental expenses that are likely to be imposed upon the public in consequence of this parking privilege."

ARKANSAS (1949)

I. Cities and towns are prohibited from installing parking meters or other devices designed to require automobile owners to pay for the privilege of parking on the streets provided, however, parking meters may be installed after adoption of a local measure authorizing such installation in accordance with provisions of the Initiated and Referendum Amendment to the Constitution of 1874. The act does not apply to cities in which meters were installed prior to January 1, 1939. (1939) Arkansas Stat. 1947 Ann., Sec. 19-3504, 19-3502.

II. Deardrick v. Parker, 200 Sd. (2d) 787, (1947)

City of Forrest City ordinance providing for installation of parking meters was held void because of failure to comply with statute above which was held to be constitutional.

"Municipalities have no powers except those granted expressly or by necessary implication by the Legislature." Here the Legislature has imposed a condition precedent to the installation of parking meters.

ARIZONA (1948)

I. No legislation
Bo legislation

II. Cassidy v. City of Waterbury, 33 A. (2d) 142, (1943)

In this decision it was held that the statutory provision that the traffic authority of any city, town or borough shall have the power to prohibit, limit or regulate the parking of vehicles, that the traffic authority shall be the board of police commissioners and that such authority shall have power to make rules and regulations necessary to make effective the provisions of this chapter is broad enough to permit the installation of parking meters and the charging of a reasonable fee.

To establish invalidity of a city ordinance providing for a parking meter system on ground that the ordinance is a tax and not a regulatory measure, it is not enough to show that the parking fee would exceed the cost of the system for one period or by small amounts, but it must be made plain that the scheme of the ordinance is such that receipts will continuously and by substantial amount exceed the cost of the system.

II. No litigation

DISTRICT OF COLUMBIA (1949)

I. District of Columbia Motor Vehicle Parking Facility Act of 1942

This act empowers the Commissioners of the District of Columbia to secure and install mechanical parking meters or parking devices on streets under their control. (Prior authority had been granted in 1938. See section 40-516, District of Columbia Code, 1940.) Section 40-804(a) D C. Code, 1940. Parking meter fees collected shall be deposited in a special account in the Treasury of the United States entirely to the credit of the District of Columbia and shall be appropriated and used solely and exclusively for the purposes set forth in this chapter, including the reimbursement of the highway fund of the District for any moneys advanced therefrom to carry out the purposes of this chapter. Section 40-808. (1942)

However, the appropriation acts for the District of Columbia for the fiscal years 1942 through 1949 have provided that the fees from parking meters should be deposited to the credit of the highway fund.

I. No legislation

II. No litigation
II. No Litigation

FLORIDA (1949)

I. There is no general statute relating to parking meters. However, in several special acts the State legislature has authorized certain cities to use parking meter revenue in financing off-street parking facilities.

II. State ex rel. Barkow v. McCarthy, 171 So. 3d, (1936)

This was the first appellate court decision on the validity of a parking meter ordinance.

"From a constitutional standpoint, there is no doubt of the power of a municipality to regulate by ordinance traffic on its streets when reasonably necessary for public safety and good order, and to reasonably limit the parking time of motor vehicles using streets in congested areas." The ordinance is reasonable and valid.

Asbell et al. v. Lahan et al., 27 So. (2d) 667, (1946)

The statutory grant of authority to the city to "regulate and control the use of the streets ... by automobiles ..." empowers the city to regulate its streets by parking meters.

Graham v. City of Starke, 42 So. (2d) 278, (1949)

The court followed State ex rel. Barkow v. McCarthy, supra. "Moreover the exercise of the power of the City of Starke to install parking meters is presumed to be justified by local conditions for the appellant failed to make the contrary clearly appear.

GEORGIA (1949)

I. No legislation

II. Gardner v. City of Brunswick, 28 SE. (2d) 135, (1943)

The statutes delegating police powers to the city of Brunswick and giving city general supervision and control over streets, alleys, etc., within limits of city are sufficient to confer police power to enact ordinances for convenience and safety of public and to that end establish and maintain streets and sidewalks and exercise complete control thereover, including regulation of traffic thereon. Regulation of parking may be done by parking meters.

Ashley v. City of Greensboro, 58 SE. (2d) 815, (1950) (See opinion).

IDAHO (1949)

I. No legislation

II. Foster's Inc v. Boise City, 118 P (2d) 721, (1941)

City parking meter ordinance does not deprive owners of property in front of which meters were installed without "due process of law" and does not take their property without payment of just compensation. When the property was dedicated, taken or condemned for public use, it was proper for the land owner to show the probable damage that he will or may "sustain by reason of the most numerous and injurious use" to which the condemner may "lawfully put the property under its condemnation.

The fact that the fee produces more than the actual cost and expense of enforcement and supervision, is not an adequate objection to the exaction of the fee, but the charge made must bear a reasonable relation to the thing to be accomplished.

ILLINOIS (1949)

I. Any municipality is hereby authorized to: (a) acquire by purchase or otherwise, own, construct, equip, manage, control, etc., and operate motor vehicle parking lots, garages, parking meters and any other revenue producing facilities necessary or incidental to the regulation, control, and parking of motor vehicles. (hereinafter referred to as parking facilities) as the corporate authorities may from time to time find the necessity therefor exists and for that purpose may acquire property of any and every kind or description, whether real, personal or mixed, by gift, purchase or otherwise. (1949)

City may issue and sell bonds for the purpose of acquiring, erecting, etc., parking facilities. Bonds are payable solely from proceeds derived from operation of the parking facilities, including parking meters. Illinois Revised Stat. 1949 State Bar Association Edition, Ch. 24 sec 52.1-1.

II. City of Bloomington v. Mirrick, 45 NE. (2d) 552, (1942)

"The question presented is: Is the right to provide parking spaces in the public streets, and parking meters, and to impose a charge for the privilege of parking in such spaces, a power included in the delegation of power to regulate the use of streets and traffic thereon? This proposition resolves itself into the inquiry as to whether the use of parking meters as provided in the ordinance constitutes a regulation of the use of the streets or a regulation of traffic, or is so necessarily incident thereto that it can be said to be a power implied in the powers expressly granted." Answered in the affirmative.
I. Cities within the population range of 10,000-250,000 (second, third and fourth class cities) may by ordinance regulate the standing or parking of vehicles upon the streets within the city by the use of parking meters and may provide for the collection of license fees from any person standing or parking any vehicle upon any such street which fees shall be fixed by ordinance of the city council. (1946) Sec. 48-506 Burns Ind. Stat. Ann., 1933

These cities shall provide, by ordinance, that all license fees, when collected from parking meters, shall be deposited with its city treasurer, to the credit of such city, but in a special fund, which said special fund shall be disbursed and paid out only under the orders and directions of the board of public works of said city, and for the following purposes only:

(a) payment of the purchase-price, rental fees and cost of installation of parking meters;

(b) payment of cost of maintenance, operation, repair and all other incidental costs and expenses in the operation of parking meters—included in incidental costs and expenses shall be the cost of clerk and bookkeeping expenses in the handling and keeping of records of all fees so collected and expended, and

(c) payment of the cost of traffic signal devices and repair and maintenance of the public streets and highways where parking meters are in use, and all streets connected therewith in said city.

Money remaining in the special fund at the end of the year shall remain there and shall not revert to the general funds of the city. However, the common council may by ordinance transfer funds remaining at the end of the year from the special fund to general funds. 48-508

Section 48-509 legalised parking meter ordinances similar to the above which any city within the population range of 10,000-250,000 might have passed prior enactment of the above act.

In 1949 an act similar to that set forth above was passed applying to cities of the fifth class and towns. Burns Sec. 48-511 through 48-520.

Sections 48-6030 through 48-6036 authorise cities of the first class to acquire, establish, construct, maintain, operate and regulate municipal parking facilities for vehicles. A "municipal parking facility" is any space either on or off of a public thoroughfare, which is municipally owned and operated for the purpose of providing and regulating parking of vehicles, including legally designated space along any public thoroughfare either at ground level or multiple levels (1945)

Parking meters come within this definition.

II. Andrews v. City of Marion, 47 NE. (2d) 968, (1943)

"Provided the right to regulate the use of streets and alleys by vehicles is expressly given to the common council of the various cities of the state.

"When the space in front of appellant's property was originally dedicated to public use for a street its dedication was not limited to uses then actually contemplated. When land is dedicated for the use of the public as a city street, it is dedicated for all of the ordinary purposes of a city street; not only to the uses which were ordinarily made of such streets at the time of the dedication, but also to the uses demanded by new improvements made since.

"The fact that the ordinance imposed a charge for parking in the public street does not make the ordinance invalid nor make it a revenue measure. Where a city has authority to charge for the use of streets for the purpose of raising funds for the expense of acquiring, maintaining and using the streets, and the other expenses incidental to the enforcement of this ordinance.

"The ordinance in question was not an unreasonable exercise of the police power."

IOWA (1949)

1. "cities and towns shall have additional power and authority to purchase or lease, install, maintain, repair and operate parking meters or other traffic or parking control devices" (1947) Iowa Code Anno., Ch. 390, Sec. 390.7

Funds derived from the operation of parking meters shall be used for the following purposes and none other, to wit:

1. Payment of cost of acquisition and installation of meters purchased

2. Payment of cost of maintenance and repair of meters, the collection of meter fees, and the enforcement of traffic laws in the parking meter district.

3. Payment of the purchase and installation costs of other parking or traffic control devices installed on such portions of streets as are equipped with parking meters

4. Payment of the cost of acquiring by purchase, lease or similar arrangement of parking lots or other off-street parking areas, including operation, enlargement or improvement thereof or the facilities thereof, within four-tenths of a mile of the metered portion of the streets within the meter district.
5. Retirement of revenue bonds issued pursuant to the provisions of this chapter; and cities and towns may pledge such funds not required for the payment of costs under subsections one (1), two (2) and three (3) hereof to the payment of such bonds

"... the trial court should have held that the (parking meter) ordinances, as they were being enforced and administered, were not legitimate regulatory measures, but unauthorized revenue producing acts, and the court should have held that the city was imposing charges for parking vehicles and disposing of the revenues therefrom without lawful authority. Injunctive relief appropriately restraining the defendants should have been decreed."

II. Brodky v. Sioux City, 296 NW 172, (1941)

"Further consideration of this case on petition for rehearing demonstrates that the original decision herein is based in part upon the holding that the ordinances are unauthorized revenue producing acts and may have overlooked various expenses which should have been included in the cost of regulation and supervision connected with the ordinances."

The parking meter ordinance may be enforced.

KANSAS (1949)

I. Chapter 120, Laws of Kansas 1949, authorizes cities of the first and second class to acquire off-street parking stations. Money from the parking meter fund not needed for current operations during the budget year may be used. The act mentions several other possible sources for the necessary revenue.

If no money is available then the governing body may submit to the vote of the people whether bonds shall be issued for off-street parking stations. If a majority of the votes cast are in favor of a bond issue, all revenue from parking meters not needed for the purchase and maintenance of meters, regulation of parking and operation of off-street parking facilities shall be used toward retirement of the bonds. Any lack of revenue from this source shall be supplemented by a general bond tax

II. No litigation

KENTUCKY (1949)

I. The governing body of any city of the second class may enact an ordinance providing for the installation of parking meters and may require a reasonable parking meter fee not to exceed the rate of five cents per hour. The proceeds shall be used: First, for the purpose of the acquisition, establishment, maintenance and operation of the parking meters; second, for the purpose of making the system effective; and third, for the expenses incurred by and throughout the city in the regulation and limitation of vehicular parking, traffic relating to parking, traffic safety devices, signs, signals, markings, policing, lights, traffic surveys and safety programs (1946) Kentucky Revised Stat. 1946, Sec. 94.740
II. City of Louisville v. Louisville Automobile Club, 160 S.W. (2d) 663, (1942)

The obstruction of sidewalks by parking meters cannot be classed as a nuisance or unreasonable obstruction. "To do so would be to condemn fire hydrants, mail and waste boxes, telephone and light poles, all of which, as do the parking meters, when properly placed, serve some function; serve some governmental purpose, all necessary to promote the safety of the public, permissible even though some persons may suffer inconvenience by reason of their presence.

"Generally speaking, municipal regulations to be valid do not necessarily have to operate on all alike, provided they operate equally on all of a class embraced within their provisions."

The city's authority to install parking meters under its police power to reasonably regulate parking on the streets was not challenged.

Stephens et al. v. City of机组, 209 S.W. (2d) 81, (1948)

The decision of City of Louisville v. Louisville Automobile Club was followed and it was held that a city of the fourth class could, in the exercise of its police power, regulate traffic on its public streets by the use of parking meters

City of Pulaski v. Pendleton County Court, 215 S.W. (2d) 101, (1948)

Judgment by the trial court that a city of the fifth class did not have authority to install parking meters was reversed. ERS 87 070 contains the grant of general powers to a city of the fifth class. Such a city may enact and enforce, within the city limits, all local, police, sanitary, and other regulations that do not conflict with general laws.

"It is our view that a city of the fifth class has authority under its general powers to install parking meters. The installation of parking meters does not conflict with any general law and we believe that the wording of ERS 87 070 is broad enough to warrant their installation."

LOUISIANA (1948)

I. All municipalities are authorized and empowered, in their discretion, to provide by ordinance for the installation, etc., of parking meters and to fix and require the payment of a fee for the privileges of parking opposite such meters when they are in operation. If, after a six-month trial of parking meters, but within nine months, fifteen percent of the municipality's qualified voters by petition so request, an election shall be held to determine whether parking meters shall remain. A majority of the votes cast shall determine same. (1946) Louisiana Gen. Stat. (DAIRY) Sec 5220 5 and 5220.6

(This statute grants the authority found lacking in the two decisions mentioned below)

II. City of Shreveport v. Briester, 194 So. 566, (1939)

Defendant Briester was prosecuted in a criminal action by the city because of his failure to deposit a coin in a parking meter when he parked in a metered zone. Defendant's demurrer on the ground that the ordinance was ultra vires was upheld. A State statute prohibited the levying of a license of any character whatsoever, either under the municipality's taxing power or police power, unless such a license is levied by the State. The city's attempt to impose a license fee by requiring a deposit in a parking meter was unauthorized and invalid.

The power to levy a license is not an essential element of the police power

Honour et al. v. City of Shreveport, 194 So. 569, (1940)

In a civil action the city was enjoined from installing parking meters upon the same reasons given for the decision in the Brister case

MAINE (1949)

I. The legislative body of any city and the inhabitants of any town may install parking meters and establish reasonable charges for parking to be paid through such meters.

The revenue from the use of such meters shall be expended to finance the purchase, maintenance and policing of such meters or to maintain and improve streets and highways, or to acquire, construct, improve, maintain and manage public parking areas, or for any combination of the foregoing purposes, but for no purpose not expressly authorized herein. Laws of Maine 1949, Ch. 210 Revised Stat. of Maine, C 80, Sec. 83-A

II. No litigation
MARYLAND (1949)

I. No general statute. In 1947 the legislature authorized the town of Thurmont to install meters, and in 1949 the county commissioners of Baltimore County were authorized to install parking meters.

II. No litigation

MASSACHUSETTS (1948)

I. Any city or town may install parking meters for the purpose of enforcing its ordinances and regulations relating to the parking of vehicles on ways within its control. (1947) Anno. Code of Massachusetts Ch. 40, Sec. 22a.

II. In re Opinion of the Justices, 5 EP. (2d) 179, (1937)

"Requirement of payments from those parking automobiles to meet the cost of the installation, operation and maintenance of the system and its general supervision would be permissible. It is not necessarily an infringement of the rights of individuals in public ways to charge a small fee for some legitimate special use to defray the cost of the special service afforded. That would be nothing more than the exaction of a toll which was familiar in the early days of highways.

"The conclusion is that within the limits of public travel, the General Court may regulate parking and do so by a fee system intended to hasten the departure of parked vehicles and to help defray the cost of installation and of supervision."

MICHIGAN (1949)

I. No legislation

II. Bowers v. City of Muskegon, 9 EV. (2d) 869, (1933)

"The (parking meter) ordinance involved in the case at bar does not impose a tax upon vehicles. It merely imposes a fee for the voluntary use of a particular space for a designated period.

"It must be assumed that parking in a city street is a privilege and subject to regulation by the proper authorities of the city entailing upon the city additional expenses in order that there may be proper supervision and regulation. If parking is a privilege and not an absolute right, the power to regulate implies the power to exact a fee for the cost of such regulation."

Parry v. Ladd, 36 EV. (2d) 157, (1949)

The village of Wayne adopted an ordinance under which the village proposes to combine all automobile parking facilities, both on-street and off-street, into one single system, under the supervision and control of the village council. The ordinance provides for the issuing of revenue bonds payable solely out of revenues to be derived from the operation of said system to defray the expense of acquiring and constructing parking facilities, installing meters on village-owned property, etc.

 Held: Such a system is a "public improvement" and bonds may be issued.

MINNESOTA (1949)

I. The only statute mentioning parking meters is one prohibiting the manufacture, sale, etc., of slugs similar in size and shape to U. S. coins with knowledge or reason to believe such slug may be used in a parking meter . . . in substitution of lawful coin. (1941) Minn. Stat. Anno., Sec. 620.28.

II. Hendricks v. City of Minneapolis, 290 Ev. 426, (1940)

"The claim is that five cents is an excessive charge and will result in receipts far beyond the cost of enforcement and regulation. If so, the ordinance must fall as a revenue measure . . . ."

"In a case of this kind, with no actual trial of the system and the claims of plaintiff and defendant in conflict as to reasonableness of the fee, it would require a clear showing by plaintiff to demonstrate that the fee is too high. It would not be enough to show that the fee will exceed the cost for one period, or by a small amount. It must be made plain that the scheme of the ordinance is such that receipts will continually and by a substantial amount exceed the cost of installation, maintenance and regulation.

"The city may intend by this means to pay for the whole cost of the regulation of parking—the cost of the machines, their repair, the pay of the policemen who will be required to enforce the ordinance, and generally the expense of providing and keeping clear places in which drivers may park . . . ."
MISSISSIPPI (1948)

I. No legislation

II. No litigation

MISSOURI (December 1, 1949)

I. Municipalities may, by ordinance, regulate the parking of vehicles on streets by the installation of parking meters for limiting the time of parking and exacting a fee therefor or by the adoption of any other regulatory method that is reasonable and practical. (1945) Missouri Revised Stat. Ann., Sec. 8595 (b).

II. Wilke v. City of Springfield, 171 S.W. (2d) 95, (1943)

Ninety five individuals joined in seeking to have declared void the city's parking meter ordinance and to have the city enjoined from enforcing it. Plaintiffs offered considerable evidence to show that the revenue derived from the fees charged for parking were greatly in excess of the increased expense incidental to substituting meters for the old method and the cost to the city of maintaining the meter system, and that through the fees collected thereby it was the purpose of the city to reduce other taxes and especially the gasoline tax within the corporate limits.

By statute the city is given power to regulate and control the use of streets and the parking of vehicles therein, and the city has wide discretion in the exercise of such powers. It is also given power to regulate parking on its streets.

Held: Parking meters are reasonable means of enforcing parking regulations and are in effect mechanical policemen who show when the parker's time is up.

On its face the ordinance does not appear to be a revenue measure; it clearly purports to be a regulatory measure. Since the city has the right to regulate parking, it is obvious that the city has the right to exact such fee for parking as is incidental to and necessary for the purpose of such regulation. The meter deposit required by the ordinance is reasonable and the purpose for which it is levied is a legitimate expense incidental to the regulatory provisions of said ordinance and is a valid exercise of the police power granted to the city. Therefore, the ordinance should not be construed as a revenue measure unless the receipts from the meters be so substantially in excess of the amount required for the purposes mentioned in the ordinance as to take said operation outside of police regulation.

It was further held that the evidence introduced was inadequate to prove the ordinance a revenue measure rather than a regulatory one.

State ex rel. Audrain County v. City of Mexico, 197 SW. (2d) 301, (1946)

"The regulation of the parking of automobiles on its streets by a city is a valid exercise of the State's delegated police power. This is also true of such regulation by means of parking meters."

MONTANA (1949)

I. Chapter 260, Laws of Montana 1947 authorizes the pledging of net income from parking meters to a Supplemental Revolving Fund for the Guarantee of Special Improvement District Bonds of Cities and Towns.

Any incorporated city or town of 2,500 or less is empowered to enact an ordinance providing for the purchase, rent, installation, etc., of parking meters. First, however, the approval of a majority of the qualified electors must be obtained in an election. This act does not affect ordinances already adopted relating to parking meters. Laws of Montana 1949, Ch. 91.

II. Glodt v City of Missoula, 190 P. (2d) 545, (1948)

A city's contract to purchase parking meters, to be installed at locations determined by city, used and operated under its control, and paid for by rentals from revenues thereof collected by city, was not void as granting vendor a right or privilege, special or otherwise, exclusive or in common with others, without submission of matter to vote of city's resident freetholders.

A city's installation and use of parking meters on its streets is not unconstitutional as establishment of toll roads, as Constitution does not prohibit establishment of such roads but merely prohibits passage of special laws licensing toll roads.

A city's installation of parking meters on its streets is not invalid as constituting nuisance and obstruction of streets in violation of statute merely granting cities power to clean and enforce cleaning of streets.

A fee charged city for parking of vehicles on its streets by means of parking meters is not a "tax" but a "license fee" for a privilege, and is properly chargeable for regulatory purposes under city's police powers, where revenues collected do not exceed expenses of regulating traffic in city and installing, inspecting, operating, controlling, and using meters.
It was further stated that reasonable fees may be charged and any excess revenue after payment of the purchase price and maintenance and policing of the meters may be used as set forth in the second paragraph of the act above.

Further, parking is obviously an incident of modern highway travel, and the owners of land abutting upon a highway cannot prevent or control it. The right to use a public highway includes the right to use it in all the modes now customarily in use in the locality. Any such use must therefore be held to be within the original purposes for which highways were taken and laid out, and it must be assumed that compensation for such use was included in the damages awarded at the time of the original taking.

NEW JERSEY (1949)

I. No legislation

II. Board of Commissioners of City of Newark v. Local Govt. Board of New Jersey, 155 A. (2d) 339, (1945)

Newark's budget for 1945 contained two items in the "Appropriations for Dedicated Parking Meter Purposes," i.e., $7,000 for traffic signals and $5,500 for motorcycles, which the State's Director of the Division of Local Government eliminated from the budget as "not, under the provisions of R.S. 40:2-33, applicable to revenues dedicated to parking meter purposes." This section states that "all moneys derived from the operation of each publicly owned or operated utility or enterprise and any other moneys applicable to its support, shall be segregated by the municipality and kept in a separate fund which shall be known as 'utility fund.'" It was held that parking meters were not public utilities or enterprises within the meaning of this section and that parking meter revenues are general revenues of the municipality and all appropriations in connection therewith are general appropriations and should be set up in the general budget.

"... the operation of parking meters is not within the category of municipally owned utilities regulated by section 40:62-1, nor is it given that status by any other statute. The Legislature has not deemed it a revenue-producing enterprise calling for special classification a particular application of the income. Dedication is an affirmative legislative act; and it requires something more than the mere receipt of moneys under a police regulation which in quantum are limited to the cost of supervision and enforcement. The earmarking of municipal income for a special use is a deviation from the normal policy of making appropriations for public purposes in keeping with income and the exigencies of the local economy, and the dedicatory intention is not to be presumed but plainly indicated in the legislative expression."

The ordinance was held valid but excess revenue must go into the general funds.
NEW MEXICO (1949)

I. No legislation

II. No Litigation

NEW YORK (1949)

I. "The legislative body of a town of the first class or town of the second class having a population in excess of 8,000 may limit parking on any public highway within congested areas of such town, outside of villages therein, and, with the approval of the State traffic commission, on any State highway within such areas, providing such parking limitations are enforced by the use of parking meters." (1949) 62-A McKinney's Consolidated Laws of New York, Vehicle and Traffic Law Sec. 86 Subsec. 1.

Section 54 of the same title is the same as the above and in addition it authorizes the legislative body of a city or village to limit or prohibit parking in the city or village streets and to install parking meters and fix and require the payment of a fee for the privilege of parking where the meters are located. (1946)

New Law for Towns.

II. Gilley Buildings, Inc. v. Incorporated Village of Great Neck Plaza
11 N.Y.S. (2d) 694, (1939), affirmed 16 N.Y.S. (2d) 832

The local parking meter ordinance was held to be constitutional. This ordinance was enacted under express authority granted by a New York statute passed in 1937.

It was plaintiff's contention that the installation and maintenance of parking meters in front of his premises constituted an illegal interference with his easement of access in violation of the State Constitution.

Held: It is well settled in New York that whatever right of access an abutter has is in any event subordinate to the rights of the public at large and subject to reasonable regulation and control by the State. The parking meter ordinance is reasonable. When and where parking may be banned altogether is still the exclusive function of the State, or the political subdivision to which it may delegate that power.

An abutter once upon the highway is treated no differently than any other member of the traveling public and he does not have a right to park in front of his premises.

"Nor does the fact that a small fee is charged for parking, in aid of its regulation, render the ordinance void."

People v. Baxter, 32 N.Y.S. (2d) 320, (1941)

Defendant contended that he was in a store securing change for deposit in a parking meter when his car was ticketed for parking in a metered space after the time had expired. He also contended that the parking meter ordinance was invalid; and that no intention to park without paying was shown.

Held: "The power to control and regulate the public highways rests primarily with the State legislature. It cannot be seriously contended that the legislature may not delegate its own power to local authorities, which in fact it has." The delegated power was to limit or prohibit parking on the streets and no mention was made of parking meters in the State statute. However, the court ruled that the parking could be regulated by parking meters.

It was further held that intent was not an element of the offense charged and none need be proved. The ordinance required deposit of a coin in the meter immediately after parking. By its literal meaning the word "immediately" does not allow the operator to choose when he will insert the coin without relation to the time of parking. The ordinance does not allow his time to visit stores to secure change, he must deposit a proper coin immediately after parking.

People on complaint of Bergen v. Litman, 85 N.Y.S. (2d) 44, (1948)

An ordinance provided for parking on certain streets of Long Beach, L.I. for up to 10 hours by depositing in a parking meter a nickel for each hour up to 10 hours that one wanted to park.

Held. This part of the ordinance was void because unreasonable. The streets near the ocean front are very crowded during the summer, and it is unreasonable to allow one to park ten hours thereon.

Parking meters are void only as regulatory measures and are most useful in speeding up parking traffic. If one is allowed to park 10 hours at a metered spot, the meter is not regulating nor serving its true purpose.

NORTH CAROLINA (1949)

I. "In the regulation and limitation of vehicular traffic and parking in cities and towns the governing bodies may . . . enact ordinances providing for a system of parking meters designed to promote traffic regulation and requiring a reasonable deposit (not in excess of five cents per hour) from those who park vehicles for stipulated periods of time in certain areas in which the congestion of vehicular traffic is such that public convenience and safety demand such regulation. The proceeds derived from the use of these . . ."
such parking meters shall be used exclusively for the purpose of making such regulation effective and for the expenses by the city or town in the regulation and limitation of vehicular parking, and traffic relating to such parking, on the streets and highways of said cities and towns. (1947) General Stat. of North Carolina of 1943, Sec. 160-200, Subsec. 3l.

Numerous laws passed in 1947 and 1949 authorise certain cities to spend parking meter revenues for specified alien purposes, mostly for recreation. A very few authorise certain cities to use the revenue for the purpose of providing off-street parking facilities

II Rhodes, Inc. v. City of Raleigh, 9 SE. (2d) 389, (1940)

A grant of authority by the State to municipalities to "adopt such ordinances for the regulation and use of the streets . . . as it may deem best for the public welfare of the citizens of the city" and to "regulate and control the use thereof by . . . vehicles" is not broad enough to authorise installation of parking meters and the charging of a fee to park.

"Parking, generally speaking, is not the thing at which the corrective regulation is aimed. It is the occupation of the parking space by the same car for an unreasonable length of time to the detriment of the rights of others. Fairly considered we can find no substantial relation between the meter charge and the correction of this evil."

NORTH DAKOTA (1949)

I. On June 29, 1948 an initiated measure prohibiting parking meters in all political subdivisions of the State was approved by a vote of 96,192 to 93,670—a margin of 2,522 votes. Laws of North Dakota 1949, p. 506

II. State ex rel. Dreyer v. Brekke, 28 NW. (2d) 536, (1947)

II. State ex rel. Dreyer v. Brekke, 28 NW. (2d) 536, (1947)

municipalities such as the city of Minot have the right in the exercise of their power to regulate the use of streets to make and enforce regulations with respect to parking. It may regulate parking by the use of parking meters and may require deposit of a reasonable fee in the parking meter for the privilege of parking.

City of Fargo v. Satre, 36 NW. (2d) 39, (1949)

Suit was brought by cities that had purchased parking meters to enjoin the State's Attorney General from enforcing the law approved by referendum in June 1948. The action was based upon the allegation that the law was unconstitutional.

The final result of the case was that the law was held to be constitutional, and today parking meters are prohibited in North Dakota

OHIO (1949)

I. A penalty is provided that is to be imposed upon anyone using slugs in parking meters. Throckmorton's Ohio Code Anno., Sec. 13184

II. City of Columbus v. Ward, 31 NE. (2d) 143, (1940)

The findings by the lower court that the parking meter ordinance was a valid exercise of police power for the purpose of regulating parking on the streets of Columbus, and that no right of plaintiff under the Constitution of either the Nation or State, or the statutes of the State or the charter of the city of Columbus was violated thereby were affirmed.

OKLAHOMA (1949)

I. No legislation

II. Ex Parte Duncan, 65 P. (2d) 1015, (1937)

"We are not dealing with an absolute right (parking) which could only be infringed upon by the police power of the State, but rather, with a privilege which may be controlled and regulated by the powers granted to the city to be exercised for the public safety and good order. If the city has the power to regulate parking, it has the power to exact a fee of sufficient amount to cover the expenses of maintaining the regulation.

"The courts will not seek to avoid an ordinance by nice calculations of the expense of enforcing police regulations, but will promptly arrest any clear abuse of the power."

The court held the parking meter ordinance to be valid.
Oregon (1949)

I

Jo legislation

II. Hickey v. Riley, 162 P. (2d) 371, (1945)

Plaintiff was the lessee of property abutting upon a public street. Parking meters had been installed in front of his leased premises, and it was shown by the evidence that the meters interfered to some extent with access to the premises by plaintiff and his customers. Further plaintiff had been arrested and compelled to pay a fine for parking his automobile upon a metered location without paying the meter fee. The above facts plus the fact that the city threatened to continue to cause his arrest and prosecution if he persists in such conduct show a special injury to plaintiff and are sufficient to permit him to bring suit in his own name.

Although plaintiff won his right to bring suit, he lost out on his various arguments against the validity of the Portland parking meter ordinance.

Plaintiff argued that the ordinance discriminated against motorists and in favor of operators of other classes of vehicles, such as those drawn by horses. The court called this argument unavailing, pointing out that the traffic upon the streets of a modern city is almost entirely motorized. "It is competent for the municipality to legislate in regulation of the preponderant cause of traffic congestion, and such legislation may not be attacked upon the ground that it does not include within its operation other forms of traffic which may occasionally be found upon the streets. Such separate classification and regulation of automobiles is not class legislation in the sense prohibited by the constitution."

Plaintiff's next argument was that the exaction of a parking fee discriminates in favor of the rich and against the poor. The court found this argument to be without merit and answered it in these words: "The expense of operating a motor-car is so considerable, that it would seem improper that any motorist exists upon whom the imposition of a five-cent fee for the privilege of parking his car in the business area of a city would be an unreasonable discrimination."

Another claim made by the plaintiff was that the city may not lawfully exact a charge for the privilege of parking upon the public streets. The court denied this claim, and in doing so, it gives an excellent summary of decisions of other jurisdictions in which the validity of parking meter ordinances had been considered.

Other claims by plaintiff, all of which were denied as grounds for invalidating the parking meter ordinance, were: 1. The parking meter ordinance is "a tremendous revenue-producing means" and was passed for that purpose rather than to regulate parking. 2. In operation, the ordinance has not in fact regulated parking. 3. Motorists often unlawfully park for more than one hour, simply depositing additional coins in the meter from time to time.

Pennsylvania (1949)

I

In 1947 the boroughs were authorized to make and regulate charges in the operation of its utilities, parking meters, parking lots, and its other facilities and services to the public. The charges are for general borough purposes in relief of taxes on real estate. Purdon's Penna. Stat. Ann. Title 53, Sec. 13376.

Also in 1947 townships of the first class were empowered to install parking meters on any township-owned land to be devoted to parking. Purdon's Penna. Stat. Ann. Title 53, 1906, XXII.

II. Laubach and Sons v. City of Easton, 32 A. (2d) 681, (1943)

Plaintiff's appeal from refusal by the trial court to enjoin officials of the city of Easton from installing parking meters

By statute local authorities have power to regulate or prohibit parking. This may be done by parking meters, and a reasonable fee may be charged.

"It has been recognized consistently by judicial authority, that where is necessary in the proper conduct of business that unusual demands be made on the city facilities, a reasonable charge may be made by the municipality to cover its actual expense in providing such special services. The primary purpose of ordinances such as this under consideration is the reimbursement of the city for providing special services to the licensees.

In matters of this character municipalities must be given reasonable latitude in fixing charges to cover anticipated expenses to be incurred. All doubt should be resolved in favor of the fairness of the charge. At the same time the municipality must keep in mind at all times that it may not employ this device to raise general revenue under the guise of a police regulation."
RHODE ISLAND (1949)

I. There is no general legislation relating to parking meters but there are several local statutes or special acts. Some of these require approval by the city's voters before steps can be taken to install parking meters.

An unusual act passed in 1949 provides that during any annual national "March of Dimes" campaign any city having parking meters may permit the insertion of dimes in the meters. The dimes will then be collected and turned over to the committee in charge of the "March of Dimes" campaign. Rhode Island Public Laws 1949, Ch. 2162.

The statute does not indicate whether or not the usual fee must also be paid.

II. State v. Goldberg, 1 A. (2d) 101, (1936)

The Bureau of Police and Fire of the City of Providence was given authority to make all needful rules and regulations for the regulation and control of traffic in the city, not inconsistent with the laws of the State. The Bureau then passed a parking meter ordinance and meters were installed. Defendants were prosecuted for parking in a meter zone without inserting five cents in the parking meter.

Declining to answer the constitutional question raised, the court remanded the case to the trial court with directions to determine whether or not the Bureau had the authority to pass such an ordinance. The appeal was premature.

In re Opinion to the House of Representatives 5 A. (2d) 855, (1939)

The Rhode Island House of Representatives requested the court's answer to the question whether the former Bureau of Police and Fire of the City of Providence has any legal right to authorize the installation of parking meters.

Held: The mere power to regulate and control traffic is not sufficient to permit charging a fee for the privilege of parking on public streets.

SOUTHERN CAROLINA (1949)

I. Laws 1947 No. 56. Prohibits any city having exactly 3744 inhabitants by 1940 census from installing meters.

II. Owens v. Owens,
Maxwell and Quinn Realty Co. Inc. v. City of Columbia
8 S.E. (2d) 339, (1940)

"... it is clearly the law that a regulatory measure of this kind may produce only such revenue as is reasonably necessary to defray the expense connected with its operation, and that an ordinance passed for the real purpose of raising revenue under the guise of obtaining funds for the enforcement of a police regulation, is invalid.

"... the use of the streets for the purpose of parking automobiles is a privilege, and not a right; and the privilege must be accepted with such reasonable burdens as the city may place as conditions to the exercise of the privilege."

The city's parking meter ordinance enacted under its power to regulate parking is a proper means of exercising that power. Plaintiff failed to prove that the revenue from parking meters exceeded that needed to cover the expenses of maintaining the parking meter system.

SOUTH DAKOTA (1949)

I. Every municipality shall have the power to acquire, operate, maintain and regulate parking meters on the public streets and places and on parking lots and areas controlled by the municipality, to fix and collect regulatory parking fees for the parking of vehicles in parking meter spaces therein, and to use the proceeds therefrom for traffic regulation, acquiring and maintaining traffic control equipment or facilities, or acquiring, equipping and maintaining off-street parking lots and areas, or for the construction, maintenance and up keep of municipal streets and alleys." Session Laws of South Dakota, 1949, Ch. 196.

II. No litigation
Ho legislation

I. No legislation

II. Porter et al. v. City of Paris, 201 So. (2d) 688; (1947)

Plaintiffs, as taxpayers, seek to enjoin the installation of parking meters by the city, claiming that the contract for meters was contrary to public policy and void, and that the fees charged for parking rights were a municipal tax which was not authorized by the city charter.

Held: A taxpayer is not authorized to maintain a suit simply because he is a taxpayer. He must show that the effect of the legislative act would be to increase his burden of taxation, or to divert a fund from the purpose of which it was intended by law, or to affect him differently than other citizens or taxpayers in a similar position. Plaintiff has failed to do this.

However, since this was the first time the question had been before the courts, the court considered plaintiffs' claims. The chancellor below held that the (parking meter) resolution was intended as a means for the regulation of traffic and parking, that it was not intended for the purpose of raising revenue for the general fund and the use of the city, and that the amounts collected are not disproportionate to the expenses involved.

These findings were affirmed.

TEXAS (1949)

I. In all cities of 200,000-293,000 population money collected from parking meters shall be used for the purpose of carrying out the provision of this act, which is entitled "Pensions for Policemen, Firemen and Fire Alarm Operators in Cities Having Population of 200,000 to 293,000." (1941) Vernon's Texas Civil Stat., Art. 624-A(16).

II. Harper v. City of Wichita Falls, 105 So. (2d) 743; (1937)

"...it must be presumed that the (parking meter) ordinance was passed as a police regulation as recited therein, and that the parking meter fee was intended to cover the expenses recited in the ordinance, all of which it could lawfully do under its charter and the statutes of the state, if the regulation was not unreasonable."
VIRGINIA (1948)

I. The city or town governing body may, by a general ordinance, provide for the regulation of parking within its limits. It may provide for the installation of parking meters and require payment of a fee for the privilege of parking in a metered zone. (1938) Code of Virginia 1950, Title 46, Sec. 259.

Another act provides for a penalty to be imposed upon anyone using slugs in parking meters.

Sec. 46-259.1 (1950) authorizes certain counties to install parking meters.

II. County Court of Webster County v. Bemis [3 SE (2d) 631, (1939)]

Under statutory authority to an incorporated town "to regulate the parking of vehicles upon any designated streets," the town council has the power to install parking meters on such streets. The action of the council thereon, unless arbitrary or fraudulent, is beyond judicial control.

WASHINGTON (1949)

I. No legislation

II. Kimmel v. City of Spokane, 109 P. (2d) 1069, (1941)

"That the ordinance is a regulatory measure enacted under the police power is not open to question on the record before us, although, at the argument, the suggestion was made that it is a revenue measure. But, since the declared purpose of the ordinance is regulatory, the court will not go behind the legislative declaration in the absence of evidence tending to show that the declaration is shown and that the ordinance is, in reality, a revenue measure.

"The Constitution accords to municipalities plenary police power within their limits. (Constitution Art. 11, sec. 11) This power, of course, ceases when the state enacts a general law on a particular subject, unless there is room for concurrent jurisdiction."

WISCONSIN (1949)

I. It is the public policy of the State that the use of parking meters is a local matter to be determined by local authority. Local authorities may use the revenues of parking meters not only to meet the cost of regulation of parking but also to make provision for additional places off the street and such other expenses and purposes as the local authority deems reasonably necessary to provide for the convenience, safety and welfare of persons using the streets and highways of the municipality for vehicular traffic. Local authorities may by ordinance, resolution, rule or regulation provide for parking meters and use of the revenue for general street and highway maintenance, repair and construction, traffic regulations and for the purchase and operation of municipally owned, off-street parking lots. This section shall not apply to cities of the first class. (1945) Wisconsin Stat. (1947) 85 845.

Whether or not cities of the first class shall have parking meters is a local matter. Such cities may install parking meters after enactment or passage of an ordinance, resolution, rule or regulation. Laws of Wisconsin 1949 1949, Ch. 199.

II. No litigation

WEST VIRGINIA (1949)

I. No legislation

II. No litigation
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