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Right to Travel
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Right to Travel

DESPITE ACTIONS OF POLICE AND LOCAL COURTS, HIGHER COURTS HAVE RULED THAT AMERICAN CITIZENS HAVE A RIGHT TO TRAVEL WITHOUT STATE PERMITS

By Jack McLamb (from Aid & Abet Newsletter)

For years professionals within the criminal justice system have acted on the belief that traveling by motor vehicle was a privilege that was given to a citizen only after approval by their state government in the form of a permit or license to drive. In other words, the individual must be granted the privilege before his use of the state highways was considered legal. Legislators, police officers, and court officials are becoming aware that there are court decisions that disprove the belief that driving is a privilege and therefore requires government approval in the form of a license. Presented here are some of these cases:

CASE #1: "The use of the highway for the purpose of travel and transportation is not a mere privilege, but a common fundamental right of which the public and individuals cannot rightfully be deprived." *Chicago Motor Coach v. Chicago*, 169 NE 221.

CASE #2: "The right of the citizen to travel upon the public highways and to transport his property thereon, either by carriage or by automobile, is not a mere privilege which a city may prohibit or permit at will, but a common law right which he has under the right to life, liberty, and the pursuit of happiness." *Thompson v. Smith*, 154 SE 579.

It could not be stated more directly or conclusively that citizens of the states have a common law right to travel, without approval or restriction (license), and that this right is protected under the U.S Constitution.

CASE #3: "The right to travel is a part of the liberty of which the citizen cannot be deprived without due process of law under the Fifth Amendment." *Kent v. Dulles*, 357 US 116, 125.

CASE #4: "The right to travel is a well-established common right that does not owe its existence to the federal government. It is recognized by the courts as a natural right." *Schactman v. Dulles* 96 App DC 287, 225 F2d 938, at 941.

As hard as it is for those of us in law enforcement to believe, there is no room for speculation in these court decisions. American citizens do indeed have the inalienable right to use the roadways unrestricted in any manner as long as they are not damaging or

violating property or rights of others. Government -- in requiring the people to obtain drivers licenses, and accepting vehicle inspections and DUI/DWI roadblocks without question -- is restricting, and therefore violating, the people's common law right to travel.

Is this a new legal interpretation on this subject? Apparently not. This means that the beliefs and opinions our state legislators, the courts, and those in law enforcement have acted upon for years have been in error. Researchers armed with actual facts state that case law is overwhelming in determining that to restrict the movement of the individual in the free exercise of his right to travel is a serious breach of those freedoms secured by the U.S. Constitution and most state constitutions. That means it is unlawful. The revelation that the American citizen has always had the inalienable right to travel raises profound questions for those who are involved in making and enforcing state laws. The first of such questions may very well be this: If the states have been enforcing laws that are unconstitutional on their face, it would seem that there must be some way that a state can legally put restrictions -- such as licensing requirements, mandatory insurance, vehicle registration, vehicle inspections to name just a few -- on a citizen's constitutionally protected rights. Is that so?

For the answer, let us look, once again, to the U.S. courts for a determination of this very issue. In *Hertado v. California*, 110 US 516, the U.S Supreme Court states very plainly:

"The state cannot diminish rights of the people."

And in *Bennett v. Boggs*, 1 Baldw 60,

"Statutes that violate the plain and obvious principles of common right and common reason are null and void."

Would we not say that these judicial decisions are straight to the point -- that there is no lawful method for government to put restrictions or limitations on rights belonging to the people? Other cases are even more straight forward:

"The assertion of federal rights, when plainly and reasonably made, is not to be defeated under the name of local practice." *Davis v. Wechsler*, 263 US 22, at 24

"Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them." *Miranda v. Arizona*, 384 US 436, 491.

"The claim and exercise of a constitutional right cannot be converted into a crime." *Miller v. US*, 230 F 486, at 489.

There can be no sanction or penalty imposed upon one because of this exercise of constitutional rights." *Sherer v. Cullen*, 481 F 946

We could go on, quoting court decision after court decision; however, the Constitution itself answers our question - Can a government legally put restrictions on the rights of the

American people at anytime, for any reason? The answer is found in Article Six of the U.S. Constitution:

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof;...shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or laws of any State to the Contrary notwithstanding."

In the same Article, it says just who within our government that is bound by this Supreme Law:

"The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution..."

Here's an interesting question. Is ignorance of these laws an excuse for such acts by officials? If we are to follow the letter of the law, (as we are sworn to do), this places officials who involve themselves in such unlawful acts in an unfavorable legal situation. For it is a felony and federal crime to violate or deprive citizens of their constitutionally protected rights. Our system of law dictates that there are only two ways to legally remove a right belonging to the people. These are:

1. by lawfully amending the constitution, or
2. by a person knowingly waiving a particular right.

Some of the confusion on our present system has arisen because many millions of people have waived their right to travel unrestricted and volunteered into the jurisdiction of the state. Those who have knowingly given up these rights are now legally regulated by state law and must acquire the proper permits and registrations. There are basically two groups of people in this category:

1. Citizens who involve themselves in commerce upon the highways of the state. Here is what the courts have said about this: "...For while a citizen has the right to travel upon the public highways and to transport his property thereon, that right does not extend to the use of the highways...as a place for private gain. For the latter purpose, no person has a vested right to use the highways of this state, but it is a privilege...which the (state) may grant or withhold at its discretion..." *State v. Johnson*, 245 P 1073. There are many court cases that confirm and point out the difference between the right of the citizen to travel and a government privilege and there are numerous other court decisions that spell out the jurisdiction issue in these two distinctly different activities. However, because of space restrictions, we will leave it to officers to research it further for themselves.
2. The second group of citizens that is legally under the jurisdiction of the state are those citizens who have voluntarily and knowingly waived their right to travel unregulated and unrestricted by requesting placement under such jurisdiction

through the acquisition of a state driver's license, vehicle registration, mandatory insurance, etc. (In other words, by contract.) We should remember what makes this legal and not a violation of the common law right to travel is that they knowingly volunteer by contract to waive their rights. If they were forced, coerced or unknowingly placed under the state's powers, the courts have said it is a clear violation of their rights. This in itself raises a very interesting question. What percentage of the people in each state have applied for and received licenses, registrations and obtained insurance after erroneously being advised by their government that it was mandatory?

Many of our courts, attorneys and police officials are just becoming informed about this important issue and the difference between privileges and rights. We can assume that the majority of those Americans carrying state licenses and vehicle registrations have no knowledge of the rights they waived in obeying laws such as these that the U.S. Constitution clearly states are unlawful, i.e. laws of no effect - laws that are not laws at all. An area of serious consideration for every police officer is to understand that the most important law in our land which he has taken an oath to protect, defend, and enforce, is not state laws and city or county ordinances, but the law that supersedes all other laws -- the U.S. Constitution. If laws in a particular state or local community conflict with the supreme law of our nation, there is no question that the officer's duty is to uphold the U.S. Constitution.

Every police officer should keep the following U.S. court ruling -- discussed earlier -- in mind before issuing citations concerning licensing, registration, and insurance:

"The claim and exercise of a constitutional right cannot be converted into a crime."
Miller v. US, 230 F 486, 489.

And as we have seen, traveling freely, going about one's daily activities, is the exercise of a most basic right.

Right to Travel

Citations from Court Cases

1. Thompson v. Smith, 154 SE 579, 11 American Jurisprudence, Constitutional Law, section 329, page 1135 “The right of the Citizen to travel upon the public highways and to transport his property thereon, in the ordinary course of life and business, is a common right which he has under the right to enjoy life and liberty, to acquire and possess property, and to pursue happiness and safety. It includes the right, in so doing, to use the ordinary and usual conveyances of the day, and under the existing modes of travel, includes the right to drive a horse drawn carriage or wagon thereon or to operate an automobile thereon, for the usual and ordinary purpose of life and business.”
2. Thompson vs. Smith, supra.; Teche Lines vs. Danforth, Miss., 12 S.2d 784 “... the right of the citizen to drive on a public street with freedom from police interference... is a fundamental constitutional right”
3. White, 97 Cal.App.3d.141, 158 Cal.Rptr. 562, 566-67 (1979) “citizens have a right to drive upon the public streets of the District of Columbia or any other city absent a constitutionally sound reason for limiting their access.”
4. Caneisha Mills v. D.C. 2009 “The use of the automobile as a necessary adjunct to the earning of a livelihood in modern life requires us in the interest of realism to conclude that the RIGHT to use an automobile on the public highways partakes of the nature of a liberty within the meaning of the Constitutional guarantees. . . .”
5. Berberian v. Lussier (1958) 139 A2d 869, 872, See also: Schechter v. Killingsworth, 380 P.2d 136, 140; 93 Ariz. 273 (1963). “The right to operate a motor vehicle [an automobile] upon the public streets and highways is not a mere privilege. It is a right of liberty, the enjoyment of which is protected by the guarantees of the federal and state constitutions.”
6. Adams v. City of Pocatello, 416 P.2d 46, 48; 91 Idaho 99 (1966). “A traveler has an equal right to employ an automobile as a means of transportation and to occupy the public highways with other vehicles in common use.”
7. Campbell v. Walker, 78 Atl. 601, 603, 2 Boyce (Del.) 41. “The owner of an automobile has the same right as the owner of other vehicles to use the highway,* *
* A traveler on foot has the same right to the use of the public highways as an automobile or any other vehicle.”
8. Simeone v. Lindsay, 65 Atl. 778, 779; Hannigan v. Wright, 63 Atl. 234, 236. “The RIGHT of the citizen to DRIVE on the public street with freedom from police interference, unless he is engaged in suspicious conduct associated in some manner with criminality is a FUNDAMENTAL CONSTITUTIONAL RIGHT which must be protected by the courts.”
9. People v. Horton 14 Cal. App. 3rd 667 (1971) “The right to make use of an automobile as a vehicle of travel long the highways of the state, is no longer an open question. The owners thereof have the same rights in the roads and streets as the drivers of horses or those riding a bicycle or traveling in some other vehicle.”

10. *House v. Cramer*, 112 N.W. 3; 134 Iowa 374; *Farnsworth v. Tampa Electric Co.* 57 So. 233, 237, 62 Fla. 166. "The automobile may be used with safety to others users of the highway, and in its proper use upon the highways there is an equal right with the users of other vehicles properly upon the highways. The law recognizes such right of use upon general principles.
11. *Brinkman v Pacholike*, 84 N.E. 762, 764, 41 Ind. App. 662, 666. "The law does not denounce motor carriages, as such, on public ways. They have an equal right with other vehicles in common use to occupy the streets and roads. It is improper to say that the driver of the horse has rights in the roads superior to the driver of the automobile. Both have the right to use the easement."
12. *Indiana Springs Co. v. Brown*, 165 Ind. 465, 468. U.S. Supreme Court says No License Necessary To Drive Automobile On Public Highways/Streets No License Is Necessary "A highway is a public way open and free to any one who has occasion to pass along it on foot or with any kind of vehicle." *Schlesinger v. City of Atlanta*, 129 S.E. 861, 867, 161 Ga. 148, 159;
13. *Holland v. Shackelford*, 137 S.E. 2d 298, 304, 220 Ga. 104; *Stavola v. Palmer*, 73 A.2d 831, 838, 136 Conn. 670 "There can be no question of the right of automobile owners to occupy and use the public streets of cities, or highways in the rural districts."
14. *Liebrecht v. Crandall*, 126 N.W. 69, 110 Minn. 454, 456 "The word 'automobile' connotes a pleasure vehicle designed for the transportation of persons on highways."
15. *American Mutual Liability Ins. Co., vs. Chaput*, 60 A.2d 118, 120; 95 NH 200 *Motor Vehicle*: 18 USC Part 1 Chapter 2 section 31 definitions: "(6) Motor vehicle. – The term "motor vehicle" means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways..." 10) The term "used for commercial purposes" means the carriage of persons or property for any fare, fee, rate, charge or other consideration, or directly or indirectly in connection with any business, or other undertaking intended for profit. "A motor vehicle or automobile for hire is a motor vehicle, other than an automobile stage, used for the transportation of persons for which remuneration is received."
16. *International Motor Transit Co. vs. Seattle*, 251 P. 120 The term 'motor vehicle' is different and broader than the word 'automobile.'"
17. *City of Dayton vs. DeBrosse*, 23 NE.2d 647, 650; 62 Ohio App. 232 "Thus self-driven vehicles are classified according to the use to which they are put rather than according to the means by which they are propelled" – *Ex Parte Hoffert*, 148 NW 20
18. The Supreme Court, in *Arthur v. Morgan*, 112 U.S. 495, 5 S.Ct. 241, 28 L.Ed. 825, held that carriages were properly classified as household effects, and we see no reason that automobiles should not be similarly disposed of."
19. *Hillhouse v United States*, 152 F. 163, 164 (2nd Cir. 1907). "...a citizen has the right to travel upon the public highways and to transport his property thereon..." *State vs. Johnson*, 243 P. 1073; *Cummins vs. Homes*, 155 P. 171; *Packard vs. Banton*, 44 S.Ct. 256; *Hadfield vs. Lundin*, 98 Wash 516, *Willis vs. Buck*, 263 P. 1 982;

20. Barney vs. Board of Railroad Commissioners, 17 P.2d 82 “The use of the highways for the purpose of travel and transportation is not a mere privilege, but a common and fundamental Right of which the public and the individual cannot be rightfully deprived.”
21. Chicago Motor Coach vs. Chicago, 169 NE 22; Ligare vs. Chicago, 28 NE 934; Boon vs. Clark, 214 SSW 607; 25 Am.Jur. (1st) Highways Sect.163 “the right of the Citizen to travel upon the highway and to transport his property thereon in the ordinary course of life and business... is the usual and ordinary right of the Citizen, a right common to all.”
22. Ex Parte Dickey, (Dickey vs. Davis), 85 SE 781 “Every Citizen has an unalienable RIGHT to make use of the public highways of the state; every Citizen has full freedom to travel from place to place in the enjoyment of life and liberty.”
23. People v. Nothaus, 147 Colo. 210. “No State government entity has the power to allow or deny passage on the highways, byways, nor waterways... transporting his vehicles and personal property for either recreation or business, but by being subject only to local regulation i.e., safety, caution, traffic lights, speed limits, etc. Travel is not a privilege requiring licensing, vehicle registration, or forced insurances.”
24. People v. Battle “Persons faced with an unconstitutional licensing law which purports to require a license as a prerequisite to exercise of right... may ignore the law and engage with impunity in exercise of such right.”
25. Shuttlesworth v. Birmingham 394 U.S. 147 (1969). U.S. Supreme Court says No License Necessary To Drive Automobile On Public Highways/Streets No License Is Necessary “The word ‘operator’ shall not include any person who solely transports his own property and who transports no persons or property for hire or compensation.”
26. Statutes at Large California Chapter 412 p.83 “Highways are for the use of the traveling public, and all have the right to use them in a reasonable and proper manner; the use thereof is an inalienable right of every citizen.”
27. Escobedo v. State 35 C2d 870 in 8 Cal Jur 3d p.27 “RIGHT — A legal RIGHT, a constitutional RIGHT means a RIGHT protected by the law, by the constitution, but government does not create the idea of RIGHT or original RIGHTS; it acknowledges them. . . “
28. Bouvier’s Law Dictionary, 1914, p. 2961. “Those who have the right to do something cannot be licensed for what they already have right to do as such license would be meaningless.”
29. City of Chicago v Collins 51 NE 907, 910. “A license means leave to do a thing which the licensor could prevent.” Blatz Brewing Co. v. Collins, 160 P.2d 37, 39; 69 Cal. A. 2d 639. “The object of a license is to confer a right or power, which does not exist without it.”
30. Payne v. Massey (19__) 196 SW 2nd 493, 145 Tex 273. “The court makes it clear that a license relates to qualifications to engage in profession, business, trade or calling; thus, when merely traveling without compensation or profit, outside of business enterprise or adventure with the corporate state, no license is required of the natural individual traveling for personal business, pleasure and transportation.”
31. Shuttlesworth v. Birmingham 394 U.S. 147 (1969). “With regard particularly to the U.S. Constitution, it is elementary that a Right secured or protected by that

- document cannot be overthrown or impaired by any state police authority.”
32. *Donnolly vs. Union Sewer Pipe Co.*, 184 US 540; *Lafarier vs. Grand Trunk R.R. Co.*, 24 A. 848; *O’Neil vs. Providence Amusement Co.*, 108 A. 887. “The right to travel (called the right of free ingress to other states, and egress from them) is so fundamental that it appears in the Articles of Confederation, which governed our society before the Constitution.”
 33. (*Paul v. Virginia*). “[T]he right to travel freely from State to State ... is a right broadly assertable against private interference as well as governmental action. Like the right of association, it is a virtually unconditional personal right, guaranteed by the Constitution to us all.” (U.S. Supreme Court,
 34. *Shapiro v. Thompson*). EDGERTON, Chief Judge: “Iron curtains have no place in a free world. ...’Undoubtedly the right of locomotion, the right to remove from one place to another according to inclination, is an attribute of personal liberty, and the right, ordinarily, of free transit from or through the territory of any State is a right secured by the Constitution.’
 35. *Williams v. Fears*, 179 U.S. 270, 274, 21 S.Ct. 128, 45 L.Ed. 186. “Our nation has thrived on the principle that, outside areas of plainly harmful conduct, every American is left to shape his own life as he thinks best, do what he pleases, go where he pleases.” *Id.*, at 197.
 36. Comment, 61 *Yale L.J.* at page 187. “a person detained for an investigatory stop can be questioned but is “not obliged to answer, answers may not be compelled, and refusal to answer furnishes no basis for an arrest.” Justice White, *Hiibel* “Automobiles have the right to use the highways of the State on an equal footing with other vehicles.”
 37. *Cumberland Telephone. & Telegraph Co. v Yeiser* 141 *Kentucky* 15. “Each citizen has the absolute right to choose for himself the mode of conveyance he desires, whether it be by wagon or carriage, by horse, motor or electric car, or by bicycle, or astride of a horse, subject to the sole condition that he will observe all those requirements that are known as the law of the road.”
 38. *Swift v City of Topeka*, 43 U.S. Supreme Court says No License Necessary To Drive Automobile On Public Highways/Streets No License Is Necessary 4 *Kansas* 671, 674.
 39. *U.S. v Mersky* (1960) 361 U.S. 431: An administrative regulation, of course, is not a “statute.” A traveler on foot has the same right to use of the public highway as an automobile or any other vehicle.
 40. *Cecchi v. Lindsay*, 75 *Atl.* 376, 377, 1 *Boyce (Del.)* 185. Automotive vehicles are lawful means of conveyance and have equal rights upon the streets with horses and carriages.
 41. *Chicago Coach Co. v. City of Chicago*, 337 *Ill.* 200, 205; See also: *Christy v. Elliot*, 216 *Ill.* 31; *Ward v. Meredith*, 202 *Ill.* 66; *Shinkle v. McCullough*, 116 *Ky.* 960; *Butler v. Cabe*, 116 *Ark.* 26, 28-29. ...automobiles are lawful vehicles and have equal rights on the highways with horses and carriages. *Daily v. Maxwell*, 133 *S.W.* 351, 354.
 42. *Matson v. Dawson*, 178 *N.W.* 2d 588, 591. A farmer has the same right to the use of the highways of the state, whether on foot or in a motor vehicle, as any other citizen.

43. *Molway v. City of Chicago*, 88 N.E. 485, 486, 239 Ill. 486; *Smiley v. East St. Louis Ry. Co.*, 100 N.E. 157, 158. "A soldier's personal automobile is part of his 'household goods[.]'"
44. *U.S. v Bomar*, C.A.5(Tex.), 8 F.3d 226, 235" 19A Words and Phrases – Permanent Edition (West) pocket part 94. "[I]t is a jury question whether ... an automobile ... is a motor vehicle[.]"
45. *Slusher vs. Safety Coach Transit Co.*, 229 Ky 731, 17 SW2d 1012, and affirmed by the Supreme Court in *Thompson vs. Smith* 154 S.E. 579. "The right of a citizen to travel upon the public highways and to transport his property thereon, by horse-drawn carriage, wagon, or automobile is not a mere privilege which may be permitted or prohibited at will, but a common right which he has under his right to life, liberty, and the pursuit of happiness."
46. *Richmond Baking Co. vs. Department of Treasury* 18 N.E. 2d 788. "Users of the highway for transportation of persons and property for hire may be subjected to special regulations not applicable to those using the highway for public purposes."
47. *Rosenblatt vs. California* 158 P2d 199, 300. "In California, a license is defined as "A permit, granted by an appropriate governmental body, generally for a consideration, to a person or firm, or corporation to pursue some occupation or to carry on some business subject to regulation under the police power."
48. *Adams vs. City of Pocatello* 416 P2d 46 "Operation of a motor vehicle upon public streets and highways is not a mere privilege but is a RIGHT or liberty protected by the guarantees of Federal and State constitutions."
49. *Pontius vs. McClean* 113 CA 452 "One who DRIVES an automobile is an operator within meaning of the Motor Vehicle Act."
50. Statutes at Large California Chapter 412 p.833 "The word 'operator' shall not include any person who solely transports his own property and who transports no persons or property for hire or compensation."
51. *In Re Graham* 93 Cal App 88. "A citizen may have the right, under the 14th amendment to the Constitution of the United States, to travel and transport his property upon the public highways by auto vehicle, but he has no right to make the highways his place of business by using them as a common carrier for hire; such use being a privilege which may be granted or withheld by the state in its discretion, without violating the due process or equal protection clauses."
52. *PG&E vs. State Treasurer*, 168 Cal 420 "The license charge imposed by the motor vehicle act is an excise or privilege tax, established for the purpose of revenue in order to provide a fund for roads while under the dominion of the state authorities, it is not a tax imposed as a rental charge or a toll charge for the use of the highways owned and controlled by the state."
53. *Indiana Springs Co. vs. Brown*, 74 N.E. 615. "The same principles of law are applicable to them as to other vehicles upon the highway. It is therefore, the adaptation and use, rather than the form or kind of conveyance that concerns the courts."
54. *Moore vs. Roddie*, 180 P. 879, *Blair vs. Broadmore* 93 S.E. 632. "The automobile is not inherently dangerous."
55. *Berberian vs. Lussier* (1958) 139 A2d 869, 872 "The use of the automobile as a necessary adjunct to the earning of a livelihood in modern life requires us in the

interest of realism to conclude that the RIGHT to use an automobile on the public highways partakes of the nature of a liberty within the meaning of the Constitutional guarantees.

56. *People vs. Horton* 14 Cal. App. 3rd 667 (1971) "The RIGHT of the citizen to drive on the public street with freedom from police interference, unless he is engaged in suspicious conduct associated in some manner with criminality is a FUNDAMENTAL CONSTITUTIONAL RIGHT which must be protected by the courts."
57. *Kent vs. Dulles* 357 U.S. 116, *U.S. vs. Laub* 385 U.S. 475 "The right to travel is part of the 'liberty' that a citizen cannot be deprived of without due process of law."
58. *Shevlin-Carpenter Co. vs. Minnesota*, 218 U.S. 57 "When a person applies for and accepts a license or permit, he in effect knows the limitations of it, and takes it at the risk and consequences of transgression."
59. *Schactman v. Dulles* 96 App DC 287, 225 F2d 938, at 941 "The right to travel is a well-established common right that does not owe its existence to the federal government. It is recognized by the courts as a natural right."
60. *State vs. Johnson*, 243 P. 1073; *Hadfield*, supra; *Cummins vs. Homes*, 155 P. 171; *Packard vs. Banton*, 44 S.Ct. 256; etal "For while a Citizen has the Right to travel upon the public highways and to transport his property thereon, that Right does not extend to the use of the highways, either in whole or in part, as a place for private gain. For the latter purpose no person has a vested right to use the highways of the state, but is a privilege or a license which the legislature may grant or withhold at its discretion."
61. *Barney vs. Board of Railroad Commissioners*, 17 P.2d 82; *Willis vs. Buck*, 263 P.1 982 Heretofore the court has held, and we think correctly, that while a Citizen has the Right to travel upon the public highways and to transport his property thereon, that Right does not extend to the use of the highways, either in whole or in part, as a place of business for private gain."
62. *State vs. City of Spokane*, 186 P. 864 "The right of the citizen to travel upon the highway and to transport his property thereon, in the ordinary course of life and business, differs radically and obviously from that of one who makes the highway his place of business for private gain in the running of a stagecoach or omnibus."
63. *Teche Lines vs. Danforth*, Miss., 12 S.2d 784; *Thompson vs. Smith*, supra. "The right of the Citizen to travel upon the public highways and to transport his property thereon, in the ordinary course of life and business, is a common right which he has under the right to enjoy life and liberty, to acquire and possess property, and to pursue happiness and safety. It includes the right, in so doing, to use the ordinary and usual conveyances of the day, and under the existing modes of travel, includes the right to drive a horse drawn carriage or wagon thereon or to operate an Automobile thereon, for the usual and ordinary purpose of life and business."
64. *Stephenson vs. Rinford*, 287 US 251 "First, it is well established law that the highways of the state are public property, and their primary and preferred use is for private purposes, and that their use for purposes of gain is special and extraordinary which, generally at least, the legislature may prohibit or condition as it sees fit."
65. "CVC 17459. The acceptance by a resident of this state of a certificate of ownership or a certificate of registration of any motor vehicle or any renewal

thereof, issued under the provisions of this code, shall constitute the CONSENT by the person that service of summons may be made upon him within or without this state, whether or not he is then a resident of this state, in any action brought in the courts of this state upon a cause of action arising in this state out of the ownership or operation of the vehicle." California Vehicle Code

66. "CVC 17460. The acceptance or retention by a resident of this state of a driver's license issued pursuant to the provisions of this code, shall constitute the CONSENT of the person that service of summons may be made upon him within or without this state, whether or not he is then a resident of this state, in any action brought in the courts of this state upon a cause of action arising in this state out of his operation of a motor vehicle anywhere within this state." California Vehicle Code
67. Ex Parte Dickey, (Dickey vs. Davis), 85 SE 781. "the right of the Citizen to travel upon the highway and to transport his property thereon in the ordinary course of life and business, differs radically and obviously from that of one who makes the highway his place of business and uses it for private gain in the running of a stagecoach or omnibus. The former is the usual and ordinary right of the Citizen, a right common to all, while the latter is special, unusual, and extraordinary."