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The Sufficiency of Traffic Tickets as Criminal Complaints

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THE SUFFICIENCY OF TRAFFIC TICKETS AS CRIMINAL COMPLAINTS

In the normal case against a traffic violator, the defendant is apprehended by an officer who has observed the alleged offense, and in due course is given a "ticket" or summons describing the offense and fixing the time and place for his appearance before the Municipal Court.[1]

There are two distinct sets of rules governing the operation and use of motor vehicles in the State of Illinois and the City of Chicago, respectively. First, there are rules prescribed by the Illinois General Assembly in the Uniform Act Regulating Traffic[2] and second, those prescribed by the municipality under the authority granted by Section 26 of the U.A.R.T.[3] The constitutionality of ordinances promulgated under the U.A.R.T. was upheld in *Village of Winnetka v. Sinnett.*[4]

When the arresting officer issues a "ticket" describing the offense he will usually refer to the statute or code section number violated, along with an abbreviated description of the offense. Later, in the processing of such "tickets" verification is made of the original copy kept by the officer, and the same thereupon becomes an information or complaint. Thus, a formal charge is lodged against the person named in the "ticket."

The text of the "ticket" reads as follows:

> Heretofore, to wit, on the – Day of —— 19– in the said City of Chicago, County of Cook and State of Illinois, You ——, Address —— did then and there drive and operate a certain motor vehicle, to wit, a ——, License No. ——, State of —— Yr. —— upon a public highway of this state, to wit, —— situated within the corporate limits of the City of Chicago aforesaid, and did then and there unlawfully violate section —— of the (UART) or (T.R. Ordinances of the City of Chicago).

Since this type of complaint purports to charge a crime, certain Federal and State Constitutional requirements must be met. The Sixth Amendment of the United States Constitution imposes the following duty: "In all criminal prosecutions, the accused shall . . . be informed of the nature and cause of the accusation. . . ." In Section 9 of Article II of the Illinois Constitution a similar guarantee is stated: "In all criminal prosecutions the accused shall have the right to . . . demand the nature and cause of the accusation, and to have a copy thereof. . . ."

With these basic constitutional requirements in mind, the question for discussion arises: Do Chicago traffic "tickets" or informations reasonably apprise the defendant of the nature of the charge against him?

The operation of this constitutional guarantee was best stated in *People*

[1] American Bar Association, The Changing State–the Unchanging Courts.

[2] Ill. Rev. Stat. (1957) c. 95½.

[3] Ill. Rev. Stat. (1957) c. 95½, § 98.

[4] 272 Ill. App. 143 (1933).

v. Flynn,[5] where the Illinois Supreme Court, considering an indictment against the Mayor of Champaign, stated:

> [S]ection 9 of Article II of our Constitution provides that in a criminal prosecution the defendant shall have the right to demand the nature and cause of the accusation against him. This was intended to give the accused such specific designation of the offense as well as enable him to prepare his defense and to plead the judgment in bar of a subsequent prosecution for the same offense.[6]

For the purpose of clarity, violations under the U.A.R.T. and the Municipal Code of Chicago will be considered separately below, with a view to discussing the adequacy of a traffic "ticket" as an informal complaint charging a crime.

VIOLATIONS UNDER THE U.A.R.T.

Generally, the charge should be so laid in the indictment or information as to bring the case precisely within the statutory description of the offense, distinctly alleging all material facts necessary to constitute the essential elements of the offense.[7] Nothing is to be left to implication or intendment,[8] or to conclusion,[9] nor can the failure to aver material facts be cured by argument or inference.[10]

It appears, therefore, that a charge in the information is sufficient if it adopts and follows the language of the statute, or is in language substantially equivalent thereto. Thus, the defendant is apprised of the particular offense charged, and the court is able to see upon what statute the charge is founded.[11]

It follows, then, that an information charging the statutory offense of reckless driving must state what acts constituted the driving of a vehicle with willful and wanton disregard for the safety of persons and property. In *People v. Green*,[12] the court held that the defendant must be given enough information on the "ticket" to enable him to prepare his defense.

There are numerous cases which consider the sufficiency of indictments, informations, and complaints for the violation of criminal laws; these cases uniformly indicate the necessity for clear, certain, and unambiguous statements of the nature of the offense charged. For example, alleging that the defendant drove "without having proper regard as to the traffic and the use

[5] 375 Ill. 366, 31 N.E.2d 591 (1941). [6] Ibid., at 370.

[7] See People v. Powell, 353 Ill. 582, 187 N.E. 419 (1933); People v. Lake, 332 Ill. 617, 164 N.E. 167 (1928); People v. Sheldon, 322 Ill. 70, 152 N.E. 567 (1926).

[8] State v. Huber, 304 Mo. 15, 263 S.W. 94 (1924).

[9] Cooper v. United States, 299 Fed. 483 (C.A. 3d, 1924).

[10] Hale v. United States, 89 F.2d 578 (C.C. W. Va., 1937).

[11] 115 A.L.R. 357 quoting from 14 R.C.L. 155–157.

[12] 368 Ill. 242, 13 N.E.2d 278 (1938).

of the way so as to endanger the life or limb or injure the property of any person" without charging any willful violation was held insufficient in a prosecution under Section 49 of the U.A.R.T.[13] An information charging no particulars in the manner in which Section 36 of the U.A.R.T. was violated was held insufficient.[14] In the case of *People v. Martin*, it was said:

> The use of the word "unlawfully" in connection with the allegation of possession does not have any effect, inasmuch as the use of this word . . . does not state any fact from which the inference of unlawfulness would arise. . . .[15]

It is difficult to ascertain what words are sufficient to charge the violator, for while the courts have found complaints void on the grounds of insufficiency, they have not stated a standard of compliance in specific terms. Three recent cases point up the difficulty in this area.

In *People v. Neal*,[16] an information charging violation of the U.A.R.T. was brought "in the name and by the authority of the People of the Chicago Park District." The information was held void as it did not comply with the constitutional requirement that all prosecutions be carried on in the name and by the authority of the People of Illinois.[17]

Then, in 1957, the court in *People v. Lewis*[18] held that an information charging that on a specified date, defendant did "unlawfully violate Section 47 of the U.A.R.T. under influence" and containing the notation, "Make of car 54 Buick sedan" and carrying a license of a certain number and year, did not contain essential elements charging defendant with any criminal offense and was void and insufficient to justify conviction for driving a vehicle under the influence of intoxicating liquor.

In 1957, the most recent case in point, *People v. Perlman*[19] was decided. There, an information charged the defendant with speeding in violation of Section 49 of the U.A.R.T. The "ticket" or information read:

> [Defendant] did . . . operate a certain motor vehicle . . . upon a public highway of this state . . . situated within the corporate limits of . . . Chicago, and did then and there unlawfully violate Section 49 . . . of the (U.A.R.T.) of the State of Illinois by driving said vehicle at the rate of 42 [m.p.h.] within a zone where the prima facie speed limit was 30 [m.p.h.].[20]

The court stated that such an act was not a crime at common law, but has become such by statutory enactment and, therefore, should be so charged.

[13] People v. Ribstein, 234 Ill. App. 440 (1924).

[14] People v. Neal, 9 Ill. App.2d 562, 133 N.E.2d 771 (1956). See also People v. Patterson, 18 Ill. App. 2d 179, 151 N.E.2d 424 (1958).

[15] 314 Ill. 110, 115 (1924).

[16] 9 Ill. App.2d 562, 133 N.E.2d 771 (1956).

[17] Ill Const. Art. VI, § 33.

[18] 13 Ill. App.2d 253, 141 N.E.2d 661 (1957).

[19] 15 Ill. App.2d 239, 145 N.E.2d 762 (1957).

[20] Ibid., at 248, 767.

In this case, the defendant was not charged in the language of the statute, nor was the violation contemplated by the statute set out in substance. The court went on to say:

> It has been held that in order to give the court jurisdiction of the subject matter in a criminal case *it is essential that the accused be charged with a crime, and that if he is not so charged, without any necessity of his making a motion to quash or other objection to the pleadings and even in spite of the fact that he has entered a plea of guilty, any judgment rendered against him under such pleadings is void.* . . . The information charges no offense proscribed by law.[21]

It may be concluded that the standard form of complaint used in the Chicago traffic court (that defendant did then and there violate some section of the U.A.R.T. coupled with abbreviated words which attempt to describe the offense) is generally insufficient to apprise the defendant of the nature of the charge. Hence, a motion to quash would be granted.

VIOLATIONS UNDER THE MUNICIPAL CODE OF CHICAGO

At first glance it would seem that since a municipality is a creature of the state, it would, in all proceedings, criminal or civil, be bound by the regulations and restrictions imposed upon the state. However, in pleadings associated with violations under municipal traffic ordinances, the courts have taken a rather unique position. Informality of the information or complaint seems to be the rule and not the exception.[22] Generally, in prosecutions under municipal ordinances, the form of pleading is immaterial. Regardless of the form of pleading, if it notifies the defendant of the particular ordinance which he is charged with violating, and states facts sufficient to bar another prosecution for the same offense, the complaint is sufficient.[23]

It must be remembered that the same "ticket" or information is used in Chicago for violations under the U.A.R.T. as for violations under the Municipal Code. Yet, for U.A.R.T. violations, strict formality in pleading is required, while informal pleading will suffice in Municipal Code violations. The distinction, if any, perhaps lies in the nature of the prosecution.

Prosecution for Municipal Code violations have been held to be quasi-criminal. In *Chicago v. Dickson*,[24] the court recognized that ordinance violations are generally civil in cause, but held that such violations will be enforced as being quasi-criminal in nature.

Section 26 of Article VI of the Illinois Constitution defines the jurisdiction of the Criminal Court of Cook County as including all cases criminal and quasi-criminal in nature; in *Wiggins v. Chicago*, the court interpreted this section:

[21] Ibid., at 249, 767 (emphasis supplied).

[22] City of Evanston v. Ward, 335 Ill. App. 227, 81 N.E.2d 14 (1948).

[23] For collection of cases see 62 C.J.S. § 327.

[24] 221 Ill. App. 255 (1921).

When the entire section is considered in the light of our jurisprudence, we must conclude that it was intended to embrace all offenses not crimes or misdemeanors, but that are in the nature of crimes. . . . [A] quasi crime would not embrace an indictable offense, whatever might be its grade, but simply forfeitures for a wrong done to the public whether voluntary or involuntary where a penalty is given.[25]

Violations of municipal ordinances are quasi-crimes and thus not subject to strict interpretation of pleading formalities. If this is so, then it appears that complaints for Municipal Code violations need only contain the number of the section violated rather than a formal statement of the charge. The interests of time and expediency, and to prevent a "jamming up" of the traffic courts are reasons most often advanced for disregarding pleading formalities in cases of this nature.

CONCLUSION

There have been few cases in Illinois which have turned upon the sufficiency of a traffic "ticket" as a complaint. However, several conclusions may be drawn from the cases which have been decided on the point.

A motion to quash would be in order in nearly every prosecution under the U.A.R.T. where the standard complaint of the Municipal Court of Chicago is used.

Charges of reckless driving must be enumerated in detail in the words of the statute under which prosecution is being made.

The charge of negligent driving must in detail set out the acts and the essentials necessary to sustain a prima facie case of negligence. The U.A.R.T. is not clear as to what constitutes negligent driving. The Illinois Supreme Court has held that when a statute defining a crime does not describe an act or acts composing the offense, they must be specifically averred in the information.[26] As was said in *Johnson v. People:*

No principle of criminal pleading is better settled than that an indictment for a mere statutory offense must be framed upon the statute, and that this fact must distinctly appear upon the face of the indictment itself. That it shall so appear, the pleader must either charge the offense in the language of the act, or specifically set forth the facts constituting the same. It sometimes happens, however, that the language of a statute creating a new offense does not describe the act or acts constituting such offense. In that case the pleader is bound to set them forth specifically.[27]

Regarding the sufficiency of the information for Municipal Code violations, a minimum of authority upholds the proposition that merely writing the section number violated is sufficient.

[25] 68 Ill. 372, 374 (1873).

[26] People v. Kabana, 388 Ill. 198, 57 N.E.2d 460 (1944).

[27] 113 Ill. 99, 102 (1885). See also 1 Wharton on Criminal Law §§ 164, 372 (1932).

There appears to be no logical basis for distinguishing U.A.R.T. violations from Municipal Code violations insofar as the wording of the complaint. The penalties and effects are similar in both cases. The municipality is a mere creature of the state subject to restrictions placed upon it by the legislature. The Municipal Code is subject to the same constitutional restrictions as is the U.A.R.T. Thus, there is extant, an area of law where artificial distinctions have been imposed by judicial decision. The way is open, then, for legislative equalization of treatment under the two bodies of law. At the very least, supreme court clarification is called for.

RAMIFICATIONS OF THE McNABB RULE

INTRODUCTION

At early common law a confession, no matter how obtained, was admissible in evidence against the person making it. In fact, a confession was considered as the strongest evidence of guilt. In England, during the Star Chamber proceedings, which were inquisitional in nature, many tortures were administered to the accused to make him confess.[1] Modern courts, however, have looked with a jaundiced eye on any confessions made in such a manner. As a general rule, a confession will be admitted into evidence only if it is freely and voluntarily made without any inducements made to the accused in order to obtain the confession.[2]

Previous to the 1943 case of *McNabb v. United States*[3] the courts generally held that voluntariness was the only test to be applied in determining admissibility of a confession and a delay in arraignment was only to be considered as a factor in the voluntariness of the confession.[4] In *People v. Vinci*[5] the Illinois Supreme Court had stated the general rule:

> While an officer is frequently justified in subjecting a prisoner to a lengthy and vigorous examination for the purpose of satisfying himself of the guilt of the accused or for the purpose of getting information which would lead to the discovery of crime, whether information thus elicited is a voluntary confession must depend upon the facts of each case.[6]

[1] Baughman v. Commonwealth, 206 Ky. 441, 267 S.W. 231 (1924).

[2] Bram v. United States, 168 U.S. 532 (1897). This comment, however, does not concern itself with confessions made under inducements or promises of immunity.

[3] 318 U.S. 332 (1943).

[4] People v. Devine, 46 Cal. 45 (1873); Cahill v. People, 111 Colo. 29, 137 P.2d 673 (1943); Douberly v. State, 184 Ga. 573, 192 S.E. 223 (1937); People v. Vinci, 295 Ill. 419, 129 N.E. 193 (1920); People v. Crabb, 372 Ill. 347, 24 N.E.2d 46 (1939); Commonwealth v. DiStasio, 294 Mass. 273, 1 N.E.2d 189 (1936); People v. Alex, 265 N.Y. 192, 192 N.E. 289 (1934); Cates v. State, 118 Tex. Crim. 35, 37 S.W.2d 1031 (1930).

[5] 295 Ill. 419, 129 N.E. 193 (1920).

[6] Ibid., at 426, 195.