

File No. 13715 Continued.

vehicles, bicycles, tricycles, \*\*\*\*for the privilege of operating, driving or propelling the same along or upon the public streets, avenues, \*\*\*\* in the City of Buffalo, etc".

and authorized the imposition of a penalty for the violation of any such regulation.

The "Motor Vehicle Law", Laws of 1904, effective May 3rd, 1904, provided among other things, as follows:

"Section 1. \*\*\*\* Except as otherwise herein provided, it shall be controlling, \*\*\*\* (2). On their (motor vehicles) use of the public highways, \*\*\*\* Sec. 4 \*\*\*\* Sub-division 3. Local ordinances prohibited, -Subuect to the provisions of this act, local authorities shall have no power to pass, enforce or maintain any ordinance, rule or regulation requiring of any owner or operator of a motor vehicle any license or permit to use the public highways, or excluding or prohibiting any motor vehicle whose owner has complied with section two of this Act from the free use of such highways, \*\*\*\* or except as herein provided, in any way affecting the registration or numbering of motor vehicles or prescribing a slower rate of speed than herein specified \*\*\*\* and all such ordinances, rules or regulations now in force are hereby declared to be of no validity or effect \*\*\*\*."

The Act also contained a section expressly repealing all acts or parts of acts inconsistent therewith.

On March 18th, 1907, the Common Council passed an ordinance imposing upon the owners of automobiles,

"an annual tax of \$5.00"

and provided that all sums so received should be credited to a special fund for the repair of paved streets, avenues, alleys, etc.

The defendant complied with the State law but refused to pay the City tax, for which he was indicted, and upon his demurrer to the indictment it was held that the City Council was without authority to impose the said tax, by virtue of the fact that the "Motor Vehicle Law" was a state wide regulation of all kinds of motor vehicles, and for the further reason that the amendment of the City Charter of the City of Buffalo had been repealed by the express provisions of the "Motor Vehicle Law".

The Court said:

"The necessity for a uniform law throughout the state was apparent, and the "Motor Vehicle Law" was clearly designed as a new, complete and general enactment to take the place of all previous statutes, ordinances or rules relating to the use of motor vehicles upon the streets and highways of this state. The purpose of the legislature in enacting such law is shown in the clear and unmistakable language used by it \*\*\*\*. It asserts that, except as therein otherwise provided, it shall be controlling in the use of the public highways. With the exceptions stated in the Act, it provides that local authorities shall have no power to pass, enforce or maintain any or"