

of Carolina declared that a statute (Pr. Acts of N.C. ch. 14) which forbade any person "to use upon the road of the A. company a bicycle, tricycle, or other non-horse vehicle, without the express permission of the superintendent of the road" was not unconstitutional, as destroying the property of citizens or depriving them of the reasonable use of it. The argument was that, as a man has no right to use his property so as to injure another in the just use of his, there was no reason why the owner of a particular kind of vehicle should be allowed to use it on a certain road, when, on account of its peculiar form or appearance, or from the unusual manner of its use, it was apt to frighten horses or otherwise to imperil passengers over the road. An enactment which had simply the effect of regulating the use of property was always a lawful exercise of the general police power of a legislature. Nor could such a statute be objected to on the ground that it left an arbitrary discretion to the superintendent of the road, since the true import of the provision was that the power vested in him should be honestly, fairly and reasonably exercised for the purpose of giving effect to the law, and that it was his duty to grant permission to cyclists to use the road, on any occasions when such use is safe for others. (b) So recently as six years ago the Supreme Court of Maryland laid down the rigid rule that the onus of shewing that a rule or by-law of a municipality, prohibiting persons from riding bicycles across a public bridge is invalid, as being unreasonable, rests upon the party who denies its validity, a very significant shifting of the presumption that would ordinarily be entertained in view of the fact that the use of highways by the citizen is a matter of common right. (c)

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(b) *State v. Yopp* (1887) 97 N.C. 477.

(c) *Twilley v. Perkins* (1893) 26 Atl. Rep. 286; 77 Md. 252; 19 L.R.A. 632. [A case in which the plaintiff was suing the commissioners of the highway for assault and battery, and unlawful imprisonment.] The particular conclusion arrived at was that, as some horses, ordinarily gentle, are apt to take fright at bicycles, when ridden along the public highways, and many never become accustomed to them, the discretionary powers of county commissioners who have full authority to make reasonable rules and regulations for the use of a certain bridge were not exceeded by the promulgation of a rule forbidding any person to "ride" a bicycle or tricycle over the bridge. The Court emphasized the fact that it was only the "riding" of the bicycle that was prohibited, and said that a bicyclist had no right to insist upon the use of his property or vehicle on the public highway in a manner that might produce danger or injury to others who were lawfully exercising their rights in the ordinary use of their property.