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Change of Neighborhood in Nuisance Cases

Martin A. Levitin*

THE LAW OF NUISANCE lies somewhere between the legal principle that each person may use his property as he sees fit, and the contradictory principle that he must so use it as not to injure the property or rights of his neighbors. With the growth of our nation, and its changing balance between rural and urban populations, the established principles of tort law as applied to nuisances evidence the "elastic adaptability" of the common law.¹

In urban areas, the validation of zoning has restricted uses of private land² to keep the pig in the farmyard instead of the backyard. And in rural and unzoned urban areas, judicial zoning is liberalizing nuisance theories.³

The neighborhood conflicts between residential and agricultural, industrial or commercial uses are many. So, also, are the extraneous factors which have affected some court decisions in nuisance cases. These have included economic effects,⁴ aesthetic considerations,⁵ social values,⁶ and wars.⁷ In *Gardner v. International Shoe Co.*^{7a} we find the great heat and little light so characteristic of nuisance cases.

Counsel for both plaintiffs and defendant have favored this court with ably prepared briefs and arguments. Occasionally

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¹ Oleck, Nuisance in a Nutshell, 5 Clev-Mar. L. Rev. 148 (1956).

² *Euclid v. Ambler Realty Co.*, 272 U. S. 365, 47 S. Ct. 114 (Ohio, 1926); *Downham v. City Council of Alexandria*, 58 F. 2d 784 (E. D. Va., 1932).

³ Beuscher and Morrison, Judicial Zoning Through Recent Nuisance Cases, 1955 Wis. L. Rev. 440 (1955).

⁴ *Commonwealth v. Miller*, 139 Pa. 77, 21 A. 138 (1891); *Smith v. Pittston Co.*, 127 S. E. 2d 79 (Va., 1962).

⁵ V. V. C., The Modern Tendency Toward the Protection of the Aesthetic, 44 W. Va. L. Q. 58 (1937); Note, Urban Quietude by Law, 72 *Solicitor's J. & Weekly Repr.* 671 (1928).

⁶ Restatement, Torts, Sec. 828; *Antonik v. Chamberlain*, 81 Ohio App. 465, 78 N. E. 2d 752 (1947); *Beckman v. Marshall*, 85 So. 2d 552 (Fla., 1956).

⁷ *Gardner v. International Shoe Co.*, 319 Ill. App. 416, 49 N. E. 2d 328 (1943); *Powell v. Superior Portland Cement*, 129 P. 2d 536 (Wash., 1942); Note, Home Owners Rights Versus Industrial Expediency, 19 *Ind. L. J.* 167 (1944). But contra, *King v. Columbian Carbon Co.*, 152 F. 2d 636 (5th Cir. 1945).

^{7a} *Ibid.*

they waxed a little literary and eloquent, for instance the plaintiff says, "The rich man in his mansion on the hill, could with the same intellectual honesty, say that he must abandon and destroy his home if he is not allowed to let his sewage run down the hill into backyards of his poor neighbors who live in the valley." The defendant, not to be outdone says, "If plaintiffs are successful in this suit, not only will the defendant's plant have to suspend operations, but so will industrial plants all over the state. The hum of industry and the whirl of busy wheels so vital at this time to our national defense and in repelling the unjust and treacherous attacks which have been made upon us and our liberty and institutions will cease, with consequences to this country too terrible to contemplate." It is needless to say that this argument is interesting if not helpful.^{7b}

In this article, we shall explore the effects the changing of the nature of a neighborhood has had on decisions in nuisance cases.

Agricultural Uses

As residential subdivisions approach rural areas from various directions, what are the likely effects of the changing neighborhood pattern on the farmer and his operations?

In a recent Massachusetts case it was held that the operation of a piggery on a 25 acre tract had become a nuisance by reason of change in environs from farm to residential district, and further operation of the piggery was enjoined.⁸ Although this case did not establish a precedent for this point of view,⁹ contrast this holding with that of the Kansas courts, where one moving into an agricultural area was held bound to accept agricultural pursuits historically carried on in the area.¹⁰ Or further, the case where an action to abate operation of a slaughter house originally built in a comparatively uninhabited area failed, although residences had since been erected in its vicinity.¹¹

Other sharp contrasts appear between jurisdictions in their attitudes toward rural pursuits, where these pursuits are in conflict with rights of habitation in areas characterized by mixed rural and urban land uses. In a small Wisconsin town a stock-

^{7b} *Id.* at 335.

⁸ *Pendoley v. Ferreira*, 187 N. E. 2d 142 (Mass., 1962).

⁹ *Commonwealth v. Perry*, 139 Mass. 198, 29 N. E. 656 (1885).

¹⁰ *Dill v. Excel Packing Co.*, 183 Kan. 513, 331 P. 2d 539 (1958).

¹¹ *Ballantine v. Webb*, 84 Mich. 38, 47 N. W. 485, Annot., 13 L. R. A. 32 (1890).

yard nuisance near the railroad station was not abated despite suit by aggrieved local residents, since no other reasonably convenient and practicable location for the stockyards could be found.¹² A Texas community was subjected to the annoyances of a cotton gin operation on similar reasoning.¹³ In Missouri a city ordinance prohibiting the keeping of hogs within city limits from April 1st to October 15th of each year was struck down as wholly arbitrary.¹⁴ Cattle and hog raising were protected from complaining residents in Nebraska and Kentucky.¹⁵ Noisy ducks received an umbrella of protection in rural Ohio.¹⁶

Courts of other jurisdictions have not been so tolerant of agrarian nuisances where residential neighbors have been offended. Cattle and hog pens in Indiana were considered to be incompatible with hotel and boarding houses in the neighborhood, and required abatement.¹⁷ Slaughter houses historically have been held to be nuisances even when originally built in remote places, where nearby home building has taken place.¹⁸ Even passersby on the highway have been protected from the olfactory discomforts of slaughter houses.¹⁹

California has been hard on farm nuisances, to the benefit of adjoining residents.²⁰ In Michigan, where a city maintained a piggery to dispose of garbage, neighbors eliminated the nuisance by means of an injunction.²¹ Relatively early, Massachusetts courts had established their position by granting to municipalities the right to enjoin the keeping of hogs within city limits.²²

Farm operations can continue to expect rough treatment from the courts as cities bulge and protrude into previously agri-

¹² *Dolan v. Chicago, M. & St. P. Rwy. Co.*, 118 Wis. 362, 95 N. W. 385 (1903).

¹³ *Gose v. Coryell*, 59 Tex. Civ. App. 504, 126 S. W. 1164 (1910).

¹⁴ Note, 34 Law Notes 113 (1930); *Kays v. City of Versailles*, 22 S. W. 2d 182 (Mo. App., 1929).

¹⁵ *Vana v. Grain Belt Supply Co.*, 143 Neb. 118, 10 N. W. 2d 474 (1943); *Hall v. Budde*, 293 Ky. 436, 169 S. W. 2d 33 (1943).

¹⁶ *DeAlbert v. Novak*, 78 Ohio App. 80, 69 N. E. 2d 73 (1946).

¹⁷ *Ohio & Miss. Ry. Co. v. Simon*, 40 Ind. 278 (1872).

¹⁸ *Slaughter House Cases*, 16 Wall. 36, 21 L. Ed. 394 (1872).

¹⁹ *State v. Woodbury*, 67 Vt. 602, 32 A. 495 (1895).

²⁰ *McIntosh v. Brimmer*, 68 Cal. App. 770, 230 P. 203 (1924); *Cook v. Hatcher*, 121 Cal. App. 398, 9 P. 2d 231 (1932).

²¹ Note, 31 Law Notes 152 (1927); *Trowbridge v. Lansing*, 237 Mich. 402, 212 N. W. 73 (1927).

²² Note, *Right to Enjoin Keeping of Swine Within Limits of Municipality*, 32 Law Notes 32 (1928); *Lexington v. Miskell*, 260 Mass. 544, 157 N. E. 598 (1928).

cultural areas. There will, however, be some consolation for the farmers in increased land values.

Industrial Uses

What effects may changing community characteristics have on the operations of an industrial plant in a remote area?

Earliest writings on the law of nuisance reflected antagonistic opinions.²³

As the city extends such nuisances should be removed to the vacant grounds beyond the immediate neighborhood of the residence of the citizens. This public policy, as well as the health and comfort of the population of the city, demand.²⁴

Factories established in open country were forced to move in deference to the rights of approaching homes.²⁵ Special care in the operation of the nuisance-creating plant was no defense; it was held not to be error for a Maryland court to refuse to instruct a jury that persons must submit to the reasonable consequences of the operation of an expensive factory producing goods useful to the public.²⁶

A vested interest cannot, because of conditions once obtaining, be asserted against the proper exercise of police power—to so hold would preclude development.²⁷

Those times were not, however, without their voices in the protection of valuable industry. In Pennsylvania an oil refinery successfully defended against its neighbors' complaints, on grounds of the nature and importance of the business to the growth and prosperity of the community as well as of the great

²³ Joyce, *Law of Nuisances* (2d ed., 1906); Wood, *The Law of Nuisances* (1893).

²⁴ *Wier's Appeal*, 74 Pa. 230 (1873).

²⁵ *Northwestern Fertilizing Co. v. Hyde Park*, 97 U. S. 659, 24 L. Ed. 1036 (Ill., 1878); *Yaffe v. Ft. Smith*, 178 Ark. 406, 10 S. W. 2d 886, Annot., 61 A. L. R. 1138 (1928); *Green v. Gilbert*, 60 N. H. 144 (1880); *City of Baltimore v. Fairfield Imp. Co.*, 87 Md. 352, 39 A. 1081, Annot., 40 L. R. A. 494, 67 Am. St. Rep. 344 (1898); *Campbell v. Seaman*, 63 N. Y. 568, 20 Am. Rep. 567 (1876); *People v. Detroit White Lead Works*, 82 Mich. 471, 46 N. W. 735, Annot., 9 L. R. A. 722 (1890); *Susquehanna Fertilizer Co. v. Malone*, 73 Md. 276, 20 A. 900, Annot., 9 L. R. A. 737, 25 Am. St. Rep. 595 (1890); *North American Cement Corp. v. Price*, 164 Md. 234, 164 A. 545 (1933).

²⁶ *Susquehanna Fertilizer Co. v. Spangler*, 86 Md. 562, 39 A. 270, 63 Am. St. Rep. 533 (1898).

²⁷ *Chicago & Alton R. R. v. Tranbarger*, 238 U. S. 67, 35 S. Ct. 678 (Mo., 1915).

capital investment involved.²⁸ An Alabama court, although abating a nuisance created by an ice cream plant, recognized that

Discomforts necessarily incident to businesses essential to existence and progress of people must be endured without legal recourse.²⁹

Other cases show the influences of the industrial giant and sheer expediency. In Utah, oil refinery odors, causing discomfort to nearby homeowners without injuring life or health, could not be abated.³⁰ In Washington residents could not protect themselves against smoke, gases, and dust from local industrial activity.³¹ In Illinois the umbrella of protection was raised over a tannery when it was held to be against public policy to interfere with normal industrial activity.³²

Apt summary of the widely accepted liberal view³³ is found in a case denying abatement of a nuisance created by 75 coke ovens:

All that can be required of men who engage in lawful business is that they shall regard the fitness of locality. In the residence sections of a city, business of no kind is desirable or welcome. On the other hand, one who becomes a resident of a trading or manufacturing neighborhood, or who remains while in the march of events a residential district gradually becomes a trading or manufacturing neighborhood, should be held bound to submit to the ordinary annoyances, discomforts, and injuries which are fairly incidental to the reasonable and general conduct of such business in his chosen neighborhood. The true rule would be that any discomfort or injury beyond this would be actionable.³⁴

²⁸ *Commonwealth v. Miller*, *supra* n. 4.

²⁹ *Dixie Ice Cream Co. v. Blackwell*, 217 Ala. 330, 116 So. 348, Annot., 58 A. L. R. 1223 (1928). See also, *Wojnar v. Yale & Towne Mfg. Co.*, 348 Pa. 595, 36 A. 2d 321 (1944); *Maloney v. Pounds*, 361 Pa. 498, 64 A. 2d 802 (1949).

³⁰ *Dahl v. Utah Oil Refining Co.*, 71 Utah 1, 262 P. 269 (1927).

³¹ *Powell v. Superior Portland Cement*, *supra* n. 7.

³² Comment, *Home Owners Rights Versus Industrial Expediency*, 19 Ind. L. J. 167 (1944); *Gardner v. Int. Shoe Co.*, *supra* n. 7.

³³ *Hannum v. Gruber*, 346 Pa. 417, 31 A. 2d 99 (1943); *Patterson v. Peabody Coal Co.*, 3 Ill. App. 2d 311, 122 N. E. 2d 48 (1954); *Lee v. Florida Public Utilities Co.*, 145 So. 2d 299 (Fla., 1962).

³⁴ *Soukoup v. Republic Steel Corp.*, 78 Ohio App. 87, 66 N. E. 2d 334, 340 (1946) quoting *Eller v. Koehler*, 68 Ohio St. 51, 57, 67 N. E. 89, 91 (1903). See also, *Burke v. Hollinger*, 296 Pa. 510, 146 A. 115 (1929); *City of Milwaukee v. Milbrew, Inc.*, 240 Wis. 527, 3 N. W. 2d 386 (1942); *Chicago v. Reuter Bros. Iron Works*, 398 Ill. 202, 75 N. E. 2d 355, Annot., 173 A. L. R. 266 (1947).

There still remain some jurisdictions that deal harshly with industrial nuisances. Arkansas courts have held that it is the nature and character of the locality at the time of the annoyance that governs, and that private rights must yield to public rights in the developing community, notwithstanding a city operating license.³⁵ In a Louisiana case a United States District Court stated that the right of habitation is superior to the rights of industry or trade, and that as the population approaches a nuisance the latter must be abated immediately.³⁶ Virginia courts have also held that importance to the wealth and prosperity of a community does not give industry rights superior to those of nearby residents.³⁷

The element preference of time-ownership has resulted in three theories.³⁸ The extreme views are first, that a nuisance in existence for many years obtains prescriptive rights, and that one knowing of the nuisance and moving nearby assumes the risk³⁹; or second, that although one knows of the nuisance and moves in, damages can be recovered.⁴⁰ A third and middle view holds that the fact that one moves to a nuisance is an important consideration in determining the case and tends to moderate the remedy available to the plaintiff to abate the nuisance.⁴¹

Business & Commercial Uses

A homeowner brings suit to enjoin operation of an existing but discomforting business in a residential area. What is the probable result? Similarly, a homeowner in an established residential neighborhood receives notice of the intention of a business to locate in his vicinity. What rights does he have against the intruder?

³⁵ *Ft. Smith v. Western Hide Co.*, 153 Ark. 99, 239 S. W. 724 (1922).

³⁶ *Alford v. Illinois Central Rwy. Co.*, 86 F. Supp. 424 (W. D. La., 1954).

³⁷ *Smith v. Pittston Co.*, *supra* n. 4.

³⁸ Russell, *Zoning Laws in Reference to Prior Established Businesses*, 1 *Baylor L. Rev.* 87 (1948); Garmon, *Time of Creation of Nuisance—Those Privileged*, 4 *Baylor L. Rev.* 382 (1952).

³⁹ *Austin v. Converse*, 219 Pa. 3, 67 A. 921 (1907); *Strieber v. Ward*, 196 S. W. 720 (Tex. Civ. App., 1917); *Iford v. Nickel*, 1 S. W. 2d 751 (Tex. Civ. App., 1928); *McClung v. Louisville & N. Rwy. Co.*, 255 Ala. 302, 51 S. 2d 371 (1951).

⁴⁰ *Alford v. Illinois Central Rwy. Co.*, *supra* note 36; *Galveston, H. & S. A. Rwy. Co. v. Miller*, 93 S. W. 177 (Tex. Civ. App., 1907); *Bickley v. Morgan Utilities Co.*, 173 Ark. 1038, 294 S. W. 38 (1927).

⁴¹ *Mahlstadt v. City of Indianola*, 251 Iowa 222, 100 N. W. 2d 189 (1959); *Hall v. Budde*, *supra* n. 15; *Oliver v. Forney Cotton Oil and Ginning Co.*, 226 S. W. 1094 (Tex. Civ. App., 1921).

In the leading case of *Hadacheck v. Los Angeles*,⁴² the California courts sustained an ordinance prohibiting operation of a brickyard in a residential area annexed to the city. The court gave little solace for the near million dollar loss, in the following rationale:

. . . to permit such an interest vested because of conditions once obtaining would preclude development and fix a city forever in its primitive conditions. There must be progress, and if in its march private interests are in the way, they must yield to the good of the community.⁴³

Similar fates have befallen junk yards,⁴⁴ used car lots,⁴⁵ automobile wrecking yards,⁴⁶ and even a city dump.⁴⁷ In the case of a riding academy forced to abandon its former location in a residential neighborhood, the court wasted little sympathy on this business, holding it to be non-essential and not dependent upon a fixed location.⁴⁸ With aplomb, Justice Musmanno disposed of the problems created by a badly-operated drive-in theater⁴⁹

The person who lives in the middle of a city cannot, of course, ask to be immunized from the effects of the turbulence, traffic and noises which are inevitably part of urban life, but the person who moves into a rural area to escape such turbulence, traffic and noises has the right to ask the law to bar turbulence, traffic and noises from pursuing him.⁵⁰

Where residential neighborhoods have experienced a decline, the general rule has been to the contrary, as in the early case of *Doellner v. Tynan*⁵¹:

Where a street in a city ceases to be used or occupied as a place of residence and is changed into a place of business, no one or two persons, who may desire to continue to reside therein can restrain the carrying on of a lawful and useful

⁴² 239 U. S. 394 (Cal., 1915), affg. *Ex Parte Hadacheck*, 165 Cal. 416, 132 P. 584 (1913).

⁴³ *Id.*, at 410.

⁴⁴ Freed, Note, 5 Notre Dame Law. 43 (1929); *Weishahn v. Kemper*, 32 Ohio App. 313, 167 N. E. 468 (1928).

⁴⁵ *Martin v. Williams*, 141 W. Va. 595, 93 S. E. 2d 835 (1956).

⁴⁶ *Bowlin v. George*, 123 S. E. 2d 528 (S. C., 1962).

⁴⁷ *Mile Road Corp. v. City of Boston*, 187 N. E. 2d 826 (Mass., 1963).

⁴⁸ *Robinson v. Westman*, 224 Minn. 105, 29 N. W. 2d 1, Annot., 174 A. L. R. 746 (1947).

⁴⁹ *Guarina v. Bogart*, 407 Pa. 307, 180 A. 2d 557 (1962).

⁵⁰ *Id.*, at 561.

⁵¹ 38 How. Prac. 176 (N. Y., 1869).

trade in such street, because they are subjected to annoyance or even loss thereby. Better that they should go elsewhere than the public be inconvenienced by arresting a useful and necessary business⁵²

The newcomer business also drove out the old residents in a concurring Michigan case of the same period.⁵³ Once the decline begins, the presumption seems to favor the commercial growth. Funeral homes often have successfully put their feet in the doors of declining residential neighborhoods.⁵⁴

Even without neighborhood decline, it is often difficult for residents to keep commercialization out. An automobile repair garage moved in where the court felt that the public benefit preponderated over the private inconvenience, and injunctive relief against the anticipated nuisance was denied.⁵⁵ A recent phenomenon, the swim club, also has avoided categorization as a nuisance, with the court recognizing and discounting, as a controlling factor, the diminished values of plaintiff's property⁵⁶:

It is not enough that acts complained of diminish the value of plaintiff's property to warrant enjoining them as nuisance.⁵⁷

An even more flagrant invasion was held to be beyond judicial abatement, where the construction of an industrial loading dock to move stone became an accomplished fact to the summer cottage owners on Lake Huron.⁵⁸ The court's reasoning was based upon the value of the new installation as compared with that of the existing homes:

Such a decree would amount to outright destruction and loss of valuable property constituting an even greater wrong than that which the company has perpetrated.⁵⁹

⁵² *Id.*, at 178.

⁵³ *Gilbert v. Showerman*, 2 Mich. N. P. 158 (1871).

⁵⁴ *Lynch, Restricting Undertaking Establishments*, 14 Georgetown L. J. 352 (1926); *Linsler v. Booth Undertaking Co.*, 120 Wash. 177, 206 P. 976 (1922); *Meldahl v. Holberg*, 55 N. D. 523, 214 N. W. 802 (1927); *Comment*, 26 Va. L. Rev. 392 (1940); *Dawson v. Laubensweiler*, 241 Iowa 850, 42 N. W. 2d 726 (1950).

⁵⁵ *Nevis v. McGavock*, 214 Ala. 93, 106 So. 597 (1925). But contra, *Ballstadt v. Pagel*, 202 Wis. 484, 232 N. W. 862 (1930).

⁵⁶ *Marco v. Swinnerton*, 22 Conn. Sup. 335, 171 A. 2d 418 (1960).

⁵⁷ *Id.*, at 418.

⁵⁸ *Obrecht v. National Gypsum Co.*, 361 Mich. 399, 105 N. W. 2d 143 (1960).

⁵⁹ *Id.*, at 153.

Zoning and Nuisance

The interrelation of zoning and nuisance have been well explored since the leading case of *Euclid v. Ambler Realty Co.*⁶⁰ established zoning as an important force in the control of urban land uses.⁶¹ Zoning systems involve the regulation of land uses based upon the police power of the state, whether the uses are nuisances or not. The intent is to supply a planned scheme of development which will benefit the entire community. Consideration is given to the character of the district, its suitability for particular uses, conservation of property values, lessening of traffic congestion, public safety, and aesthetics. These factors are identical to those usually considered in nuisance cases.

Zoning may be tending to liberalize nuisance law, according to the results of an analysis of court decisions involving nuisance in an unzoned area.⁶² Zoning systems tend to perpetuate the status quo in residential, industrial and commercial districts, and to prevent the changing of neighborhoods. They cannot, however, be made to serve as a protection, authorization or licensing authority for the perpetuation of nuisances.⁶³

Nor, on the other hand, can nonconforming uses which were not actual nuisances be removed without compensation.⁶⁴ Zoning ordinances also cannot be used by municipalities to arbitrarily deal with existing property rights.⁶⁵ Withholding of a building permit during pendency of a zoning ordinance,⁶⁶ interim zoning of a district of changing character pending passage of legisla-

⁶⁰ *Supra*, n. 2.

⁶¹ Noel, *Retroactive Zoning and Nuisances*, 41 *Columbia L. Rev.* 457 (1941); Kurtz, *Effect of Land Use Legislation on the Common Law of Nuisance in Urban Areas*, 36 *Dicta* 414 (1959); Comment, *Zoning and the Law of Nuisance*, 29 *Fordham L. Rev.* 749 (1961).

⁶² Beuscher and Morrison, *op. cit. supra* n. 3.

⁶³ E. H. G., *Nuisance—Zoning Laws*, 1 *So. Cal. L. Rev.* 97 (1927); Williams v. Blue Bird Laundry, 54 *Cal. App. Dec.* 126 (1927); Jones v. Kelley Trust Co., 179 *Ark.* 857, 18 *S. W. 2d* 356 (1929); Note, *Zoning—Legislative Authorization as a Defense to an Action for Nuisance*, 34 *Tex. L. Rev.* 482 (1956); Fuchs v. Curran Carb. & Eng. Co., 279 *S. W. 2d* 211 (Mo., 1956); Reid v. Brodsky, 397 *Pa.* 463, 156 *A. 2d* 334 (1959).

⁶⁴ Beuscher & Morrison, *op. cit. supra* n. 3.

⁶⁵ Russell, *op. cit. supra*, n. 38; *City of Chicago v. Reuter Bros. Iron Works*, 75 *N. E. 2d* 335 (Ill., 1948); Comment, *Zoning Law, Injunction to Restrain Proposed Operation*, 9 *Fordham L. Rev.* 437 (1940); *Sweet v. Campbell*, 282 *N. Y.* 146, 25 *N. E. 2d* 963 (1940).

⁶⁶ *State ex rel. Fairmount Center Co. v. Arnold*, 138 *Ohio St.* 259, 34 *N. E. 2d* 777 (1941).

tion,⁶⁷ and an ordinance providing that undesirable business could be ordered terminated after a reasonable period,⁶⁸ all have been struck down in Ohio as deprivations of property without due process of law.

Zoning has attempted to prevent future conflicts. Nevertheless, the dynamic growth of metropolitan populations, and the changes brought about through urban renewal and changing neighborhoods, will continue to provide the courts with nuisance cases. Resolution of these cases will continue to be made by the application of elastic rules applied to meet changing needs created by the population explosion, scientific advances, social, and other changes.⁶⁹

⁶⁷ *Henn v. Universal Atlas Cement Co.*, 144 N. E. 2d 917 (Ohio, 1957). See also Annot. 136 A. L. R. 840 (1942); 42 A. L. R. 2d 1140 (1955); and 58 Am. Jur. 1021 (1948).

⁶⁸ *City of Akron v. Chapman*, 160 Ohio St. 382, 116 N. E. 2d 697 (1953).

⁶⁹ An imaginative, fictional introduction into these potential problems may be found in Frederik Pohl and C. M. Kornbluth, *The Space Merchants* (New York: Ballantine Books, 1953).