

THE CITY OF EDWARDSVILLE, ILLINOIS
vs.
CENTRAL UNION TELEPHONE COMPANY
Supreme Court of Illinois
302 Ill. 362
February 22, 1922

Appeal from the Circuit Court of Madison County, Illinois, the Honorable J. F. Gillham, Judge presiding.

COUNSEL FOR CENTRAL UNION TELEPHONE COMPANY:

CUTTING, MOORE & SIDLEY; CHARLES W. TERRY; and, CHARLES E. GUELTIG.

COUNSEL FOR THE CITY OF EDWARDSVILLE:

GEORGE A. LYTLE, City Attorney.

OPINION: Justice Thompson...The City of Edwardsville recovered a judgment in the circuit court of Madison county in an action of debt against the Central Union Telephone Company for \$3000. The action was for compensation for the use of portions of the streets, alleys and sidewalks of the city occupied by the poles of appellant, and was based upon an ordinance of the city which provided that any person, firm or corporation owning, controlling or occupying any post or pole over eight feet high which occupied any portion of any street, alley or sidewalk within the city, such post or pole being used to support electric or other wires of whatsoever nature, should pay annually into the treasury of said city the sum of fifty cents for each pole or post so owned, controlled or occupied, as compensation to said city for the use of the portion or portions of the street, alley or sidewalk which said pole or post occupied...[The principal defense relied upon was that the compensation ordinance was invalid because it contravened certain provisions of the Federal constitution and of the State constitution. The trial judge rejected these arguments and the telephone company appealed to the Appellate Court of Illinois. The Appellate Court found that it had no jurisdiction of the case and transferred it to this court.]

...The validity of the ordinance is challenged on the ground that it is unconstitutional, but this question was waived by taking the appeal to the Appellate Court and by assigning errors in that court which it had jurisdiction to hear and determine...The errors assigned in the Appellate Court included, among others, the contentions that the ordinance did not apply to [the telephone company], that the evidence did not justify the finding...in the sum of \$3000, and that the judgment was excessive. All these questions were questions of which the Appellate Court had jurisdiction, and the case was therefore improperly transferred to this court. The cause is accordingly transferred to the Appellate Court for the Fourth District, and the clerk of this court is directed to transmit the transcript and all files herein, with the order of transfer, to the clerk of said Appellate Court.