

How to Avoid Paying Your Fine For a Parking Ticket—Demurrer

By Tim Hutchens

Of The Herald Tribune Staff

Out of the folly of a court case this month, a lawyer who beat his client's parking ticket hopes to build a method for other motorists wrongfully ticketed to do the same—without needing lawyers.

His ideas will interest the do-it-yourself people, particularly those who cannot find hours to spend in Traffic Court waiting to plead their cases.

Opposed to the ideas, although he refuses to say why, is John M. Murtagh, administrative judge of the New York City Criminal Court, which includes the Traffic Court.

The lawyer is Leon H. Charney, 120 Broadway, most of whose clients are in show business. Three weeks ago, one retained him at an undisclosed fee to argue against a \$5 parking ticket.

THE CASE

The defendant in the well-publicized case was William J. Jacob, 257 W. 86th St., a song writer. He had parked legally outside his apartment four weeks ago. The next morning, Transit Authority workers arrived before Mr. Jacob had eaten breakfast and painted a bus stop around the car.

A patrolman ticketed the car for parking in a bus stop

before Mr. Jacob had finished breakfast.

Judge John F. Furey, sitting in Traffic Court, dismissed the case. The dismissal was not based simply on the absurdity of the ticket. It resulted from a legal maneuver by Mr. Charney—a demurrer.

A demurrer is a pleading that a claim, in this case the ticket, does not sufficiently state that an offense occurred.

In the memory of court clerks who had processed tickets for 20 years, the demurrer was a precedent in Traffic Court. Robert Morris, deputy chief clerk of Criminal Court, agreed.

THE PLEA

Most people who believe they are innocent of traffic violations fatalistically mail in the fine, believing also that they cannot win or cannot take time to contest tickets.

Or else they take the time, often hours, and plead not guilty in court. The plea demands a second, time-consuming appearance for trial.

In 1963, the last complete year for which Criminal Court statistics are available, a total of 1,304,654 traffic ticket cases in New York City brought 1,287,950 convictions. Of these, 1,284,106 represented guilty pleas. In other

words, few people contest traffic tickets.

For the few people truly knowledgeable in Traffic Court matters, regular legal motions are unnecessary. One can simply mail his ticket to the Criminal Court's Traffic Summons Control Bureau, enclosing reasons why the ticket should not have been received.

THE TICKETS

More often than not, apparently, these tickets are dismissed, although specific figures are not available. The bureau's operation and records are not open for inspection, Judge Murtagh said. A court employee said she had seen such tickets arranged for dismissal daily.

The bureau, she said, receives explanatory letters accompanying tickets, checks them with various agencies and finds that more than half include legitimate grounds for dismissal.

This service, she said, is a "convenience for the public." But it depends entirely on "word of mouth." Even lawyers don't know about it.

THE DEMURRERS

Mr. Charney is asking "Why?"

After spending 15 hours and a fair bit of his client's money, Mr. Charney is also saying, "Me too—why didn't I know about the bureau?"

"The bureau is accepting informal demurrers," he said. "Let's let people file formal demurrers. That's all I'm asking."

In a letter last week to Judge Murtagh and the State Judicial Conference, which recommends court procedures, he wrote:

"I do know that whether it is formal or informal, the entire public should have the opportunity to use it (the chance to demur). What is good for one should be good for all."

Mr. Charney wants the bureau's work incorporated in the statutes. Then, as easily as a person could mail in a fine, he could mail in proof of innocence and win his case without the inconvenience of a court appearance.

Instructions should be printed on tickets as conspicuously as the instructions for mailing fines, he said.

Would amateur attorneys arguing their cases through the mails bog down the courts? "Not really," Judge Murtagh said.

"What do you think of Mr. Charney's idea?"

"Let him take it to the legislature," the judge snapped. "Why are you so interested in this?"

"How does anybody know whether a ticket is being fixed?"

"Try it."