

As stated in 16 C.J.S., Constitutional Law, § 202, p. 987:

"Personal liberty, or the right to the enjoyment of life and liberty, is one of the fundamental or natural rights, which has been protected by its inclusion as a guaranty in the various constitutions, which is not derived from, or dependent on, the federal Constitution, and which may not be submitted to a vote and may not depend on the outcome of an election. It is one of the most sacred and valuable rights; as sacred as the right of private property; or as occupying a preferred position as contrasted with property rights; and is regarded as inalienable."

This concept is further amplified in 11 Am.Jur., Constitutional Law, § 329, p. 1135 wherein it is said:

"Personal liberty largely consists of the right of locomotion -to go where and when one pleases - only so far restrained as the rights of others may make it necessary for the welfare of all other citizens. The right of a citizen to travel upon the public highways and to transport his property thereon, by horse drawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but a common right which he has under his right to life, liberty, and the pursuit of happiness. Under this constitutional guaranty one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing another's rights, he will be protected, not only in his person, but in his safe conduct."

See also, Teche Lines, Inc. v. Danforth, 195 Miss. 226, 12 So. (2d) 784 (1943).

In Barbour v. Walker, 126 Okla. 227, 259 Pac. 552, 56 A.L.R. 1049, 1053, the distinction between the right of a citizen to use the public highways for private, rather than commercial purposes is recognized.

"In Ex parte Dickey (Dickey v. Davis) 76 W.Va. 576, L.R.A. 1915 F, 840, P.U.R. 1915 E, 93, 85 S.E. 781, we find this apt expression of the court:

"The right of a citizen to travel upon the highway and transport his property thereon, in the ordinary course of life and business, differs radically and obviously from that of one who makes the highway his place of business and uses it for private gain, in the running of a stagecoach or omnibus. The former is the usual and ordinary right of a citizen, a common right, a right common to all, while the latter is special, unusual and extraordinary. As to the former, the extent of legislative power is that of regulation; but, as to the latter, its power is broader, the right may be wholly denied, or it may be permitted to some and denied to others, because of its extraordinary nature. This distinction, elementary and fundamental in character, is recognized by all the authorities: . . ."