

**OPINION
45-257**

October 31, 1945 (OPINION)

STREETS

RE: Use of by School Children

Re: Children Sliding on Streets

Your letter of October 30, re above, at hand.

Your letter presents something of a difficult problem. I infer that the children habitually use the street involved in the winter time as a place for coasting. Such use of a street used for ordinary traffic makes accidents almost unavoidable. The city might by ordinance wholly forbid the use of the street for coasting. Even then, it would require very close policing to stop the children entirely from sliding on the street. An alternative to such prohibition, it seems to me, would be putting up stop signs at the intersections where this street crosses other streets, with plainly legible signs in addition to the stop signs, informing drivers of vehicles that the street is used by children for coasting. This would warn people crossing Fourth Avenue to watch out for coasters.

As for stopping traffic entirely on Fourth Avenue, this, in my opinion could not be done without the consent of every abutting owner within the portion of Fourth Avenue closed to traffic. The abutting owners have a right of ingress and egress of which the city could not deprive them without their consent. Appropriate signs might be placed at both ends of the portion of Fourth Avenue habitually used by the children for coasting, so as to warn anyone driving thereon that they might encounter coasters. It is my opinion that the marking of Fourth Avenue and the intersections with other streets, as indicated, would not render the city liable in case of accident involving vehicles and coasters or pedestrians crossing Fourth Avenue and coasters.

McQuillin in his work on Municipal Corporations, in Chapter 54, Section 2992, Vol. 7, page 278, says:

"Moreover, if necessary to prevent accidents, a municipality not only may but it is its duty to close the street to the public by some barrier. So a municipality may block off a portion of a street, in its discretion for the comfort and well being of sick residents therein, provided the obstruction for that purpose is such as to give reasonable notice of the closing of part of the street."

It is my opinion that if the city has the power indicated, that it would have the right to lessen the probability of accidents upon the street between coasters and pedestrians or drivers of vehicles, by erecting suitable barriers or notices on the street and the intersections as above indicated.

If the street is habitually used by coasters, to the knowledge of the

city council and without any endeavor on their part to stop such use, it might be their duty to put up such warning signs in an endeavor to avoid accidents. At any rate, in my opinion, the putting up of such signs, or possibly a complete barrier at intersections, would not render the city liable to anyone in any way, except and unless by so doing they cut off the right of ingress and egress from abutting owners. It is my opinion that they are the only class of people who could object to the erection of such barriers.

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