

Case No. 4,691.
[1 Dill. 118.]¹

FAUNTLEROY v. HANNIBAL.

Circuit Court, E. D. Missouri.

1870.

MUNICIPAL CHARTERS JUDICIALLY NOTICED.

The courts will judicially notice powers of a public nature conferred upon a municipal corporation, created by legislative act, though the act is not in terms declared to be public.

[Cited in *Cluck v. State*, 40 Ind. 273.]

At law.

Dryden & Dryden and Grant & Smith, for plaintiff.

Carr & Wilson, for defendant.

Before DILLON, Circuit Judge, and TREAT and KREKEL, District Judges.

DILLON, Circuit Judge. This is an action on certain coupons attached to bonds issued by the city of Hannibal to the Pike County Railroad Company of Illinois, in 1858, to aid in the construction of that railroad. The defendant demurred to the declaration on the ground that the act amending the charter of the city of Hannibal and authorizing it to subscribe to the capital stock of the company, was not set forth in the declaration; also that as neither that act nor the charter of the city were declared to be public acts, the courts could not take judicial notice of them.

The court, upon consideration, is of opinion that the act is in its nature public, though relating only to the powers of a single municipal or public corporation; and consequently, that it can judicially notice it, without a declaration therein that it is a public act. Charters for the government of cities and towns are, in this country, public in their nature, and not special or private acts. Demurrer overruled.

NOTE. Courts will judicially notice the charter of a municipal corporation without being pleaded, not only where it is declared to be a public statute, but when it is public or general in its nature or purposes, though there be no express provision to that effect; but the ordinances thereof are not public, and must be pleaded. *State v. Mayor, &c.*, 11 Humph. 217; *Alderman, etc., v. Finley*, 5 Eng. (Ark.) 423, 516; *Beatty v. Knowler*, 4 Pet [29 U. S.] 152, 157; *West v. Blake*, 4 Blackf. 234; *Briggs v. Whipple*, 7 Vt. 15, 18; *Case v. Mayor of Mobile*, 30 Ala. 538; *Young v. Bank*, 4 Cranch [8 U. S.] 384.

¹ [Reported by Hon. John F. Dillon, Circuit Judge, and here reprinted by permission.]