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The Indiana Magistrates Court Act

BY JAMES J. ROBINSON

Purpose. The purpose of the statute creating the Indiana Magistrates Court is to establish a court to supplement the minor court system of the state. Prior to June 30, 1939, the date upon which the new court act became effective, the state's only minor courts were justice of the peace courts and city courts. Modernized minor courts are a necessity for good government. Today the minor court must be able to meet the many new problems which arise from modern highway traffic and from other complexities of modern life. It must have prompt availability, both as to location and as to time. It must be untrammelled by dilatory procedure. It must be characterized by strict judicial impartiality, free from financial bias and from political interference. The public must have confidence in the fairness of the arresting officer and in the impartial disinterestedness of the judge upon the bench. It must be characterized by dignity in its courtroom surroundings, in the conduct of its officers and in the scope of its judicial power. Its procedure and its judgments must evidence a high degree of predictability and of uniformity under law. It must be an integrated part of the judicial system of the state, with strict accountability fixed upon its judges for its efficient and honest operation. The Indiana magistrates court Act of 1939 is designed to provide this modernized type of court.

Jurisdiction. The Indiana Magistrates Court, upon the appointment of the first two magistrates in a county, is given jurisdiction over traffic law violations to the exclusion of the justices of the peace in that county. Most of its work is expected to be in traffic cases. In criminal cases generally it is given power greater than that of the justice of the peace. Its criminal jurisdiction is made as extensive as that of



Prof. Robinson

city courts. Mayors who act as judges of city courts in cities of the smaller classes are likewise relieved of judicial work upon the appointment of magistrates to serve in such cities. The magistrate is given no civil jurisdiction by the act. The magistrate is without authority to remit or to suspend costs indefinitely. The county, instead of the township, is the territorial limit of the court. No change of venue from the county may be had but a change of magistrate is mandatory upon petition of the defendant. No jury trial can be had in the court. A defendant demanding a jury is transferred to the circuit court or to some other court which provides jury trial. The act, however, permits the defendant to have his hearing before two magistrates or three magistrates sitting jointly. If competent magistrates are secured, and if the court thereby wins popular confidence, the act will no doubt be amended to extend the court's jurisdiction to civil cases, and the court, in this way, may eventually supersede the justice of the peace system.

Compensation. The act repudiates the indefensible and unconstitutional fee system as the method of providing compensation for the judge of the minor court. It establishes a salary method of paying the magistrate. The amount of the salary is to be determined by the circuit judge and the board of county commissioners, and is paid from the county treasury. The magistrates court can be set in operation in a county on a self-supporting basis. The county treasury receives a five-dollar fee upon each conviction. The magistrate's salary is to be established by the judge and the county commissioners with the minimum salary set by the statute at fifty dollars for each magistrate. Only twenty cases each month obviously would be sufficient to pay into the county treasury an amount equal to the salaries of the two part-time magistrates whose services would probably be sufficient to meet the needs of the average county. The act provides that magistrates may serve on a part-time basis, with the rest of their time open for law practice or other occupation. The judge and the county commissioners may appoint magistrates to serve on a full-time basis, or they may appoint addi-

tional pairs of part-time or of full-time magistrates, if the judicial business of the county is shown to require such appointments. If the number of magistrates should come to exceed the requirements of the county the judge may and should abolish the excess magistracies.

Selection. The selection of the judges of minor courts should be left so far as possible to the people of the community in which they serve. Home-rule is the principle underlying the selection of the magistrates of each county. The act creates the court in each county, but the court does not become operative in any particular county unless and until the local judge of the circuit court, upon the filing of a petition by forty or more local freeholders and after a formal hearing upon the petition, decides that the court should be set in operation in such county. Upon making such decision, the judge appoints two magistrates who shall be of different political affiliations. The constitutional power of the circuit judge to appoint the magistrates would seem to be clear. He already exercises the power of appointing special judges and other court officials. Decided cases recognize such appointive power in the judge. The alternative methods of selection would be appointment by the governor,—a method inconsistent with home-rule principles, or selection by popular election—a method which seems to have failed, in the case of many justices of the peace and of other judicial officers, to attain competency and strict accountability to the people. Standards of eligibility for appointment are fixed by the act. Capable justices of the peace are eligible for appointment as magistrates upon resignation as justices. The act provides that not more than half of the magistrates are to be appointed from one political party. This bi-partisan plan is reasonably expected to increase the judicial independence and the reputation of the court.

Administrative System. At present the minor courts of the state are not organized in a judicial system; nor are all of their judges listed in any record. The magistrates court of each county, however, is organized under the supervision of the judge of the circuit court of the county. The circuit judge, with respect to each magistrate, has the power of appointment, of removal, of assignment by consent temporarily to a certain locality or to a certain type of cases, and of the

fixing of hours and sessions of court. The circuit judge also has supervisory powers with respect to providing the magistrate with a suitable courtroom, court officers and supplies. The economical utilization of already existing county and city public rooms and court facilities and personnel, which frequently are not fully utilized, is made possible by these provisions of the act. The magistrate has the assistance also of the clerk of the circuit court. The clerk has charge of the magistrate's files, records and financial accounting. The state board of accounts is directed to assist the magistrate in securing and in maintaining uniform record systems. The judgments of the minor court and other details are made continuously available under these provisions of the act. The magistrates court, by the statute, is incorporated into the state court system.

Most states have serious problems in regard to their minor court system. The Indiana act is designed to meet several common problems, particularly the fee system and the method of selecting the magistrates. No doubt amendments of the act will be desirable from time to time. But the act can be made to succeed by the judges of the circuit courts. By careful appointments of magistrates, with assistance perhaps of merit examinations conducted independently at the judge's request, and by the indicated supervision of the operation of the magistrates court it seems that the circuit judge may lessen his own judicial burdens and may also help the people of his county to enjoy the advantages of an effective and economical system of minor courts.

In conclusion, if the foregoing provisions of the Indiana Magistrates Court Act are tested by the standards specified in the first paragraph of this article for modernized minor courts, the act would seem to establish courts which give promise of meeting adequately these pressing modern needs.

North Carolina Magistrates Escape Control

With several thousand justices of the peace North Carolina has a serious problem. An association of the justices who hope to win self-respect, and public respect for the office, gave aid to the State Bar Association in legislature this year, but the reform measure was defeated. It provided for the election in each township of