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II PETTY MAGISTRATES' COURTS IN CONNECTICUT

GEORGE H. DAY*

There are one hundred and sixty-nine towns in Connecticut, and only twenty City Police Courts, five borough courts, and twenty-one town courts having criminal jurisdiction—obviously not enough to go around. In those towns not so blessed the historic justice of the peace still has his day. These courts are each created by special act of the legislature, and the provisions of each of these acts differ in greater or less degree from the others. Two of them have jurisdiction to impose a fine not to exceed five hundred dollars or a jail sentence not exceeding one year or both; thirteen of them, a fine not to exceed two hundred and fifty dollars, or a jail sentence not to exceed six months, or both; two of them, a fine not to exceed three hundred dollars, or a jail sentence not to exceed six months, or both; one of them a fine not to exceed one hundred dollars, or a jail sentence not to exceed six months, or both; one of them, a fine not to exceed two hundred and fifty dollars, or a jail sentence not to exceed sixty days, or both; and all others, a fine not to exceed two hundred dollars, or a jail sentence not to exceed six months, or both.

Judges and deputy judges of these courts are invariably appointed by the legislature to hold office for a term of two years, the only exception, I believe, being in New Haven, where the judges are appointed by the general assembly upon the nomination of the governor (Special Acts of 1917, Chapter 449, §4). Vacancies, when the legislature is not sitting, are filled by the governor until the third Wednesday of the next session and until a successor is qualified (Gen. Stats. Rev. 1918, §85). Provisions for the appointment of prosecutors and clerks vary, but the most common place this in the hands of the judge of the court. In one instance it is provided that "the judge . . . shall appoint a prosecuting attorney and an assistant prosecuting attorney, neither of whom shall belong to the same political party as the judge." (Special Acts of 1893, Chapter 729, §69.) Gen. Statutes, Revision of 1918, §6668, provides that ". . . the judge of every district, police, city, borough and town court *shall* appoint one or more probation officers, male or female, to act under the direction of such court, and

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may remove them at pleasure," and the compensation of such officers is fixed by the court at a rate not to exceed ten dollars a day in cities of fifty thousand or over, and at a rate not to exceed six dollars a day in all other cities or towns (Public Acts of 1923, Chapter 79).

In the more populous towns, cities and boroughs, the officers of the court are paid salaries. In the less populous ones they are paid by fees which are taxed as costs, a system which makes the commission of minor offenses a somewhat expensive indulgence.

Each judge, prosecuting attorney and clerk of such courts is ex-officio a like officer of a separate juvenile court having identical territorial jurisdiction, and, where in receipt of salaries in their former capacities, they are not entitled to fees in the performance of their duties in juvenile courts (Public Acts of 1923, Chapter 336). These latter courts are beyond the scope of this article.

In addition to the jurisdiction outlined above, these courts may take final jurisdiction whenever they shall determine that no greater punishment ought to be imposed than that which they may lawfully inflict, if the maximum punishment for the offense charged does not exceed five years or one thousand dollars or both, or if it is a violation of the Act concerning the Enforcement of the Eighteenth Amendment of the Constitution of the United States (Public Acts of 1923, Chapter 91), or is an embezzlement in which the value of the goods appropriated does not exceed two hundred dollars (Public Acts of 1923, Chapter 25). They may commit males between the ages of sixteen and twenty-five years to the Connecticut Reformatory on indeterminate sentence, where they may be detained not more than two years (Public Acts of 1919, Chapter 262, §4), may commit women over sixteen years of age to the Connecticut State Farm for Women on indeterminate sentence, where they may be held for not more than three years (Gen. Stats., Rev. of 1918, §1726), and may commit unmarried females between the ages of sixteen and twenty-one years who are found to be in manifest danger of falling into habits of vice to the House of the Good Shepherd, the Florence Crittenton Mission, or the Connecticut State Farm for Women, where they may be held until they attain twenty-one years of age (Gen. Stats., Rev. of 1918, §§1726, 1774). Male persons who are habitual drunkards or are drug addicts may be committed to the State Farm for Inebriates for a period of not less than six months or not more than three years (Gen. Stats., §1738). Any accused person acquitted on the ground of insanity may be committed to either of the state hospitals for the insane (Gen. Stats., §6585).

The great majority of arrests are made without warrant on apprehension in the act or on the speedy information of others (Gen. Stats., §223). A warrant is issued upon the complaint of the prosecuting attorney. Trials are summary, and no juries are provided. Any person convicted may, within forty-eight hours of such conviction, appeal from such judgment to the next term of the Criminal Court of Common Pleas in the county in which the offense is alleged to have been committed, if any there be, and if not to the Superior Court next to be held in such county for the trial of criminal causes (Public Acts of 1923, Chapter 283, §2). Some charters provide that the person convicted may appeal "except when the conviction shall be for the crimes of profane cursing and swearing and Sabbath breaking." (*e. g.*, Charter of the City of Hartford, Special Acts of 1859, p. 44.)

Upon the appeal the case is tried *de novo*. If the offense is beyond the jurisdiction of the court, it acts as a court of inquiry, and, upon a finding of probable cause, binds the accused over to the next criminal term of the Superior Court in the county (Gen. Stats., §6549). An original information may be filed by the state's attorney in the Superior Court against any person accused of crime in any case in which an inferior court may, in its discretion, punish him or bind him over for trial, and in any other case upon the order of the Superior Court (Public Acts of 1923, Chapter 233).

In the more populous jurisdictions, the officers of inferior courts are practicing attorneys. In the others they are laymen. In every instance, I believe, they devote only part time to their duties—a fact which carries with it significant implications. Most of them expect to spend but a few terms in office; and promotions from these courts to higher benches are few and far between. The offices are regarded not as careers in themselves, but as stepping-stones to careers; and the incumbents look to private practice for their livelihoods, both present and future. On the other hand, a much higher type of man is undoubtedly available than would be the case if retirement from private practice and the abandonment of the possibility of the type of career which that practice holds out were necessary. Certainly this is true if anything like the present scale of salaries is to be maintained.

Although the acts creating these courts bear a marked similarity, the courts themselves vary greatly in character. In a small town where the judge convenes court wherever and whenever it may be necessary, and the officers are all laymen not in receipt of salaries, the situation is only one degree removed from the justice of the peace. The chief advantage of the former system over the latter is that the constable

can no longer play one justice against the other in the interest of his bill of costs. In the larger cities there are, of course, established court rooms, court is held every day in the year except Sunday, and a staff of full-time probation officers is provided. Hartford has, I believe, the largest probation staff, consisting of one part-time and three full-time probation officers without taking into account clerical assistants and the probation staff of the Juvenile Court.

In theory, each of these courts is an independent unit. The judge is answerable only to the legislature, and, generally speaking, the prosecutor is answerable only to the judge. The absolute right to an appeal and a trial *de novo*, however, makes the state's attorney for the county the keystone to the administration of the criminal law in this state. If it is his policy to support the judgments of minor courts and to make appeals unprofitable, appeals will not be lightly taken. On the other hand, by a free use of the *nolle* he can destroy the influence and standing of the minor court and the excessive employment of the bench warrant in the higher court may discredit it further. Minor courts, therefore, reflect more or less clearly the attitude and policy of the state's attorney.

This responsibility for the enforcement of the Eighteenth Amendment and the suppression of the criminal element which follows in the train of laxness in this regard, rests primarily with these courts and with local police. Search warrants for illicit liquor may be issued only by justices of the peace, and by town, city, borough and police courts (Public Acts of 1921, Chapter 291, §6). The spectacle of the Federal Courts in the last few years has taught the hopelessness of adequate enforcement of this law without the petty magistrate's court and the summary trial.

The writer has often wondered whether the importance of these courts in our judicial system is properly comprehended. In the City Police Court of Hartford for the quarter, July 1, 1924 to October 1, 1924, two thousand and thirty-seven offenders (exclusive of those presented on warrants for personal tax collections) were arraigned. Of this number only fifty-nine, or less than three per cent, ever reached the higher court for disposition. In other words, to ninety-seven per cent of the offenders against the law in the City of Hartford, the Police Court stands for all the law and justice that they know. Few appeals were taken, and many of those were vacated. This state of affairs may be, and frequently is furthered by the exercise of a sound discretion by an intelligent prosecutor. The value of goods stolen may, by a conservative estimate, be reduced to the point where a minor

court can take jurisdiction. Where there is doubt whether the appropriate charge is theft of a motor vehicle or merely operating it without the permission of the owner, resolving it the latter way will accomplish as much, usually, as binding over. What might technically be a highway robbery, may be charged in two counts as assault and battery and theft from the person. All this expedites the administration of the law, saves the taxpayers' money, and, if the exercise of the discretion is sound, provides adequate treatment of the offender.

There are many classes of cases which the higher court rarely or never sees. The young girl sex offender, most of the young boys, the domestic and non-support cases rarely go that far. The drunkard, the drug addict, the vagrant and the prostitute almost never do.

It is fortunate, then, for the sake of our citizenship that it is not unusual to find the justice administered in these courts of a high order. Not infrequently the petty court has a clearer vision of the problem of the community and the individual, and more thorough understanding of the offender as a human being and a member of society, desirable or undesirable, than the more majestic and learned higher court. It is natural that it should be so. It is dealing more in the concrete and less in the abstract, is applying principles to more facts and more closely to those facts than the more remote judiciary. It has a thousand contacts with the community to bring it understanding that the higher court can never have; and those same contacts serve to furnish means through socialized probation departments for the adjustment of the individual. They deserve our study and attention that the highest standards of administration and of personnel may be maintained.