

January 1966

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Allen Levinthal

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Recommended Citation

Levinthal, Allen (1966) "Courts of Limited and Special Jurisdiction," *Land & Water Law Review*: Vol. 1 : Iss. 2 , pp. 579 - 585.

Available at: https://scholarship.law.uwyo.edu/land_water/vol1/iss2/13

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COURTS OF LIMITED AND SPECIAL JURISDICTION

*Allen Levinthal**Assistant Director, American Judicature Society*

When Bob Allard suggested that I come to Wyoming to discuss minor courts, I was under the impression that what was wanted was the standard cataloging of the deficiencies extant in courts of limited and special jurisdiction around the country. I was prepared to point out the importance of these courts in terms of their closeness to the public and the vital role that they play in dealing with the social ills of our society; to harangue on the justice of the peace system and indicate possible replacements and alternatives more fitting the needs of our present mechanized world. In short, I was prepared to assume the role of visiting expert and to point out the problems and suggest means of solving them.

In true lawyer-like fashion, after having decided what points I wanted to establish, what I was going to say, and how I was going to say it, I went to the authorities to find support and justification. As is usually the case, all of my plans to play leader and prophet were summarily disposed of. The points I wanted to establish had already been made and the things I was going to say had already been said. I was left with the mixed feelings of the lawyer who stayed up all night before the last day of trial preparing an impassioned final argument, who makes a perfunctory motion for a directed verdict and unexpectedly wins his case without resorting to his prepared eloquence. He is certainly happy with the result but how is he now going to justify to his client the fee he was anticipating collecting for having so well presented his cause.

After reading an extensive paper on the minor courts of Wyoming in the Fall 1960 Wyoming Law Journal and the reports of your Minor Courts Committee, headed by Stan Lowe, and after being made aware of the results of your recent attempt to initiate changes in your constitution, it became quite apparent to me that most of the judges and lawyers of Wyoming who have concerned themselves with this problem have long agreed that your present minor court

system is inadequate for today's needs. Many of your judges are making heroic efforts to overcome the deficiencies, but the situation is such that there is no prospect that these temporary efforts will overcome the defects growing out of an outdated minor court system. It is a major obligation of every citizen, including the judges and the lawyers to work towards modernizing the judicial system. From what I have read and now discussed with many of you, it would appear that you have already reached this conclusion and have already taken a great deal of affirmative action to initiate needed reforms.

This being the case, what then can we do here to further implement your action so as to help turn the past's moral victory into an operational reality in the future. Faced with this problem I decided that the best I could do would be to relate our experiences in a very similar situation in my own state of Illinois.

As I am sure you all know, on November 6, 1962, the voters of Illinois adopted the Blue Ballot Judicial Amendment modernizing the Illinois court system and doing away with all of the so-called minor and specialized courts, placing these functions in the hands of magistrates selected by the circuit courts and under the direct supervision of a unified court structure. Four years earlier the Blue Ballot proposal had failed by 60,000 votes primarily because of a lack of explanation and understanding. The bar associations had initiated the campaign and had carried almost the full weight of convincing the public of the need. Although actively sponsored by lay groups the measure was commonly thought of as a child of the lawyers.

In 1962 the Blue Ballot Amendment to our constitution easily met the constitutional requirement that an amendment be supported by a majority of the total votes cast. That figure was exceeded by over 260,000. In fact, the amendment only failed by less than one per cent to meet the alternative method of adoption, a two-thirds majority of the votes cast on the proposition itself.

The passage of the Blue Ballot Amendment in Illinois is testimony of what can be done by the combined efforts of

the organized bar and an aroused public awareness. What prompted this change in attitude on the part of the public during the four-year interval? Only one thing—dissemination of information, information and more information.

The campaign of the Illinois State Bar Association for a new judicial article actually began with its support in 1950 of the so-called "Gateway Amendment" to the constitution to liberalize the amendatory process itself. In its support of the "Gateway Amendment" the organized bar stressed the need for revision of the judicial article.

With the "Gateway Amendment" successful, the association turned to the job of judicial reform and a committee consisting of 2 circuit judges, a county judge, a former justice of the supreme court and 13 lawyers divided between downstate and Chicago, prepared a draft of a new revised judicial article. In 1952 the draft was approved by the profession.

Shortly before the opening of the 1953 session of the Illinois legislature, a statewide citizens committee for the judicial amendment was organized to obtain support of the amendment from civic organizations. Thirty-five civic and business organizations became members and some 40 prominent citizens served on the executive committee. A public relations firm was engaged under the supervision of the citizens committee. The expenses of the citizens committee were paid initially by the Illinois State Bar Association and the Chicago Bar Association from general funds and from special contributions made by lawyers. Financial support was not to be sought outside the legal profession until the second phase of the campaign—submission to referendum of the people was reached. The four Chicago daily newspapers and most downstate newspapers supported the amendment. The proposed amendment was introduced in both houses of the legislature in 1953 with bi-partisan sponsorship, having the endorsement of the supreme court, the Governor and Attorney General. It passed in the state Senate but failed in the House.

After this first defeat the bar associations promised the public they would return to Springfield again in 1955. The Joint Committee of the Illinois and Chicago Bar Associations was expanded and a new draft was approved by the Board

of Governors in February of 1955. That day judge Harold Medina said of this effort, "You will put through your new judicial article this year, in all probability, but if not,—well—then next year. You know, it is no disgrace to be beaten and the beaten can rise again and fight on, and that, of course, is what you will do." These words proved to become the polestar by which the profession continued its efforts. In the 1955 legislature the amendment was defeated by emasculating amendments and a motion to table. The chairman of the Joint Committee on the Judicial Article commenting on this defeat said, "We expect to lose all battles but the last one."

In 1957, the measure again returned to the legislative halls. Leaders in business and agriculture comprised the officers and directors of a new citizens committee, presidents of leading manufacturing companies and leading agricultural associations, former legislators and state officials accepted positions on its board of directors. Some of the organizations supporting the amendment were: the American Association of University Women, the Better Government Association, the Chicago Association of Commerce and Industry, the Church Federation of Greater Chicago, the Citizens of Greater Chicago, the Citizens Committee for Better Government, the Junior Association of Commerce and Industry, the Illinois Home Bureau Federation, the Illinois Agricultural Association, the Illinois Federation of Women's Clubs, the State Chamber of Commerce, and the League of Women Voters.

The groundswell of organizational support became so great that the Governor sent a special message to the legislature proposing a reconciliation of the method of selecting judges which was the only item on which there was substantial disagreement and appealing to all parties concerned to accept a compromise proposal. At emergency meetings of the Joint Committee and the governing boards of the bar associations, a resolution was adopted reiterating the belief that an indispensable cornerstone of judicial reform was an improved method of selection of judges but accepting the compromise proposed as a first step. The Judicial Article was approved by the legislature at the 1957 session. Although somewhat

disappointing in that it failed to meet the standards set for selection of judges, it did provide for a new court system. The associations issued a statement supporting the amendment and pledging continuation of efforts to attain the adoption of a non-political system of judicial selection.

The efforts of the associations and the citizens committee to obtain public approval of the amendment were as previously indicated not successful in the 1958 election. Although a majority of those concerned with the matter had been convinced, we had failed to concern a majority of the voters, and lost by a narrow and technical margin.

Faced with the 1962 election and another attempt to obtain passage of the amendment by the voters, a reevaluation of the respective roles and responsibilities of the various organizations was effectuated. The bar associations decided that to create proper liaison with the work of The Citizens' Committee, and thereby encourage the increasing of public awareness, the legal profession had to assist the citizens committee rather than attempt to replace it in carrying out its function.

Solicitation of funds through the state and local bar associations were to be allocated principally to the operation of the citizens committee.

The entire effort of the Joint Committee of the bar was to make both the talent and funds of the legal profession available to the citizens committee and intensified liaison between the two organizations was the keynote of the entire campaign.

Incidentally, at the same time that this decision to work primarily through the citizens committee was being effectuated in Illinois, a campaign to improve the method of selection and tenure of judges was being carried out in Iowa. There too, the bar association had decided that it would be more effective to work through a Voters Committee for Judges and Courts. This organization of non-lawyer leadership, together with the cooperating support and active participation of the Iowa Judges Association was successful in convincing the electorate.

Colorado's experience also disclosed an eager willingness by non-lawyer leader to assist in these efforts. Their "Citizens Committee for Modern Courts" headed by Dr. Robert Stearns, former President of Colorado University, took the burden from the legal profession of successfully doing away with justice of the peace courts and overhauling the court structure generally. At the present time another citizens organization is underway to seek enactment of judicial selection, tenure and removal plans resulting from a study by the State Bar Association.

Back in Illinois, the Committee for Modern Courts, the citizens group, organized local committees throughout the state and with the help of thousands of public spirited citizens and representatives of substantially every major business, labor, agricultural, professional and civic interest in the state, using all media of communications, working through the churches, the schools, and local civic organizations, blanketing the state with literally hundreds of thousands of pamphlets, leaflets and films, providing speakers for any and all functions through a central speakers bureau, and obtaining ever increasing public support, in a non-partisan attempt to increase the momentum of the campaign and secure the adoption of the Blue Ballot article ultimately succeeded.

I am not suggesting that this Illinois experience should be your sole guide to future action. Your approach to this problem should depend largely on the needs and available facilities of your state. Only by an active partnership participation of the citizens groups, lawyers and judges organizations were we able to achieve what we now consider one of the most modern and effective court systems in the country.

What we achieved may not be an answer for you. The structure we needed may not fill your needs. We specifically provided for magistrates to be appointed by the circuit courts; the Model Judicial Article for state constitutions provides for a separate magistrate's court; I note that your suggested article simply leaves the question open for later determination. I certainly cannot say which is the best approach. In my state we had to compromise our position on selection. Other states have felt it possible to obtain complete reform

in one package. What you do depends on your judgment. The fact is, however, that reform measures are urgent and possible, that defects in the quality of minor court justice caused by obsolescence of the judicial system, inordinate delays in litigation, wasteful burdens on the taxpayer by reason of duplication of services and inflexibility can be dealt with.

It is a sad commentary that in a time of world-wide ideological conflict the quality of American justice should be at its poorest at the level affecting the greatest number of people. The system of inferior tribunals not of record has no defenders in current legal literature. Its evils lie in the general lack of qualifications for judicial duty of the justice of the peace or police magistrate, in the susceptibility of such officials to local political influence, in the fee system of compensation which makes the judge an interested party to the litigation and in the wasteful system of trial de novo in a higher court.

Even in the least populated areas there are no longer physical obstacles to the ideal of providing one trial before a competent tribunal followed by an opportunity for review on the record by an appellate court.

Whatever may have been the situation under frontier conditions, there is no need today to put up with a system so discreditable to American justice.