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Courts

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COURTS

Venue for Violations of Motor Vehicle Code. Section 2 of Chapter 393¹ states among other provisions that, with certain expressed exceptions, the "venue in all justice courts shall be before one of the two nearest justices of the peace in incorporated cities and towns nearest to the point the violation allegedly occurred." This has caused considerable concern (and also a loss of profit to country justices), especially since the attorney general has "requested" the state patrol to comply with the provision. Similar language was found in the amended law which was enacted in 1949.²

In 1953, a general venue provision relating to justices of the peace was passed which provided that "the venue in all criminal actions shall be brought before either of the nearest two justices of the peace to the place where the alleged violation occurred."³ Since chronologically the 1953 general act was subsequent to the 1949 motor vehicle provision, the attorney general ruled that the 1953 act impliedly repealed the 1949 provision.⁴ The state patrol continued its practice of citing traffic cases before justices located outside of incorporated cities.

The reenactment of the venue provision in the motor vehicle code makes it the latest word where traffic violations are involved, and hence controlling.

One basic reason for laying the venue in incorporated cities is to increase the likelihood that the judges will have had legal training. Justices in cities of 5000 or more must be members of the bar.⁵

Requiring traffic cases to be tried in incorporated cities has the disadvantage of bringing more cases into a court usually already overburdened with violations of municipal ordinances. It has the advantage, however, of centralizing the place of trial; thus, citing patrolmen are required to appear in fewer courts.

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Independent Municipal Courts. Chapter 220 of the session laws is of interest because it creates a municipal court in Seattle independent of the justice of the peace court system, with jurisdiction similar to that exercised by justices of the peace and with exclusive original jurisdic-

¹ Other sections of Chapter 393 are discussed under *Criminal Law, infra*, p. 201, 203.

² RCW 46.52.100.

³ RCW 3.20.131.

⁴ OPINIONS OF THE ATTY. GEN. 1953-55-159.

⁵ RCW 3.12.071.

tion over violations of municipal ordinances.⁶ The statute provides that the court shall have concurrent jurisdiction with the superior courts and justices of the peace in civil and criminal matters as now provided by law for justices of the peace, and it authorizes a judge of the court to sit in preliminary hearings as a magistrate. In cases within the concurrent jurisdiction a change of venue to a justice of the peace may be had in accordance with the provisions of RCW 3.20.100-110. Jurisdiction over violations of municipal ordinances is generally the same as the jurisdiction of police judges established by RCW 35.22.

If the act becomes effective, judges will be elected in 1958 for four year terms and in the meantime, police court judges will qualify as judges of the court.⁷ Thus, in the future the judges would not be appointed from the justices of the peace as are police judges in other cities of the first class.

It might be noted that section 26 of the statute provides that the court may subpoena witnesses "as now authorized in superior courts throughout the state." Apparently, the intention was to provide that the power of subpoena in civil and criminal cases be the same as that granted to the superior courts. However, the addition of the phrase "throughout the state" makes the section somewhat ambiguous when civil cases are considered. The statute also bears other marks of hurried enactment.

A variety of reasons could be urged to justify the creation of a municipal court having jurisdiction beyond violation of municipal ordinances and staffed with judges free from any formal connection with the justice of the peace system. In any event, the passage of this act is a legislative precedent for the creation of similar courts in Washington cities of less than five hundred thousand inhabitants if such courts are desired in the future. Other states have established municipal courts independent of justices of the peace. Going beyond the present Washington statute some states have found it desirable and expedient to abolish justice of the peace jurisdiction in cities where such municipal courts have been created.

ROBERT MEISENHOLDER

⁶ The act refers to cities of the first class having more than five thousand inhabitants.

⁷ At the present writing, the act has not become effective because of a temporary restraining order entered by the Superior Court of King County. Constitutional and other questions which may be involved in this proceeding are not discussed in this review of the statute.