

## Court Reorganization in Idaho

*By Clay V. Spear\**

The late Arthur T. Vanderbilt, founder of the Institute of Judicial Administration, is recognized as having been one of the foremost leaders in the field of judicial reform. He is credited with comparing the pace of such reformation to that of a glacier and stating that "judicial reform is no sport for the short-winded."

The truth of this statement is well known in Idaho, for just on the subject of court organization itself the records of the Idaho State Bar Association disclose that efforts to increase the efficiency and improve the administration of justice in the "inferior" courts, i.e., probate courts, justice of the peace courts and municipal or police courts have persisted for over forty years. Many distinguished members of the Idaho bench and bar labored long and hard to eliminate or improve that portion of our judicial system which often was accused of conducting the "kangaroo courts" or dispensing "cash register" justice. Their efforts were met with some success such as the elimination of the constitutional provision for election of justices of the peace by partisan ballot,<sup>1</sup> and substituting therefor a process of their appointment and removal by the board of county commissioners and the probate judge but only with the written approval of the senior district judge.<sup>2</sup> The most notable achievement however was the amendment of the Judicial Article of the Idaho Constitution eliminating probate courts and courts of justice of the peace as constitutional courts and providing, after a court for trial of impeachments, merely for "a Supreme Court, district courts, and such other courts inferior to the Supreme Court as established by the legislature."<sup>3</sup> The Article as amended also provides: "The courts shall constitute a unified and integrated judicial system for administration and supervision by the Supreme Court. The jurisdiction of such inferior courts shall be as prescribed by the legislature \* \* \* \* " This was an absolute prerequisite to the outstanding progress which has followed, so we who are interested must acknowledge our indebtedness to all those who had a role in successfully maneuvering H.J.R. No. 10 through the legislature and securing its ratification in the 1962 election.

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<sup>1</sup>Proposed by S.L. 1955, page 670, S.J.R. No. 5 and ratified at the general election in November 1956.

<sup>2</sup>S.L. 1959 Ch. 221, page 484.

<sup>3</sup>Article V § 2 amended as proposed by S.L. 1961, page 1077, H.J.R. No. 10 and ratified at the general election November 6, 1962.

After marshaling additional statistical data and conducting further study, a committee comprised of representatives from the Bench, the Bar and the faculty of the Idaho Law School submitted a comprehensive report with detailed recommendations, including the securing of a legislative appropriation of funds for the complete study of court reform or reorganization. Such appropriation was made by the 1965 legislature to the Legislative Council, which completed its preliminary report in May of 1966, which was endorsed by the Bar Association and given wide-spread publicity and discussion through the medium of Citizens Conferences<sup>4</sup> held throughout the various sections of the entire state. From the consensus derived from the citizens participating in these conferences, the Council made its final recommendations and proposals to the legislature on court "modernization." It is noteworthy that the co-chairmen of the subcommittee of the Legislative Council which conducted this study on the Idaho courts were lawyer members of the Senate and House of Representatives respectively, other members of the committee were lawyer-legislators and the committee was ably assisted by an advisory committee on which many of the leading members of the Bench and Bar served. Using these recommendations and proposals as a basis, suitable legislation was drafted, submitted to, and passed by the 1967 legislature. Although that portion of the legislation providing a two-level system of courts was vetoed, the big breakthrough had occurred, and by amending the procedure for the determination of the number, location and appointment of magistrates the balance of the proposed court reorganization was enacted into law in 1969, to become effective on the 11th day of January, 1971.

The 1967 breakthrough included three extremely important portions of the court reorganization program, namely, (1) the redistricting of the judicial districts;<sup>5</sup> (2) the creation of a judicial council;<sup>6</sup> and, (3) the establishment of the office of administrative assistant of the courts.<sup>7</sup> The redistricting reduced the number of judicial districts in Idaho from 13 to 7 and has afforded each judicial district the services of a minimum of three district judges. This contributes to a more effective and efficient judicial system in numerous ways including evening up the work load within each of the districts and facilitating the assignment of district judges

<sup>4</sup>These conferences were sponsored by the Citizens' Committee on Courts, Inc., a non-profit corporation formed by prominent citizens of the state from a cross-section of society after a 2-day conference jointly instituted and conducted by the Idaho State Bar Association and the American Judicature Society.

<sup>5</sup>I.C. §§ 1-801 through 1-808.

<sup>6</sup>I.C. Ch. 21 Title 1.

<sup>7</sup>I.C. § 1-611 et seq.

upon a disqualification or unavailability of any particular district judge. Furthermore, such redistricting was absolutely essential to the establishment of a magistrate system in a truly integrated judicial system in Idaho, which is shortly forthcoming. The Judicial Council consists of three lay members, two attorney members and one district judge, the seventh member being the chief justice of the Supreme Court who is also the chairman. It is charged with the duties of continually conducting studies for the improvement of the administration of justice, for assisting the governor in the appointment of qualified persons to vacancies on the Supreme Court or in any district judgeship and for recommending the removal, discipline or retirement of judicial officers. In the short duration of its existence the Judicial Council has proven most effective in accomplishing the purposes for which it was created.

Without a court administrator, or an administrative assistant to the courts as he is known in Idaho, it would be utterly impossible for any other member within the system — for instance, a member of the Supreme Court as a court coordinator — to properly discharge the multitude of duties so essential to effectively administer a fully integrated system. This again was an essential prerequisite to the successful operation of the court reorganization program envisioned in that portion enacted into law in 1969.

On January 11, 1971, the Idaho judicial system will move from what is at present essentially a three-level court system to a two-level system in which the functions of the probate court, justice court and police court, which presently comprise the third level of the judicial structure, will be transferred to the district court. The probate courts, justice courts and police courts have been abolished by the legislature effective January 11, 1971.<sup>8</sup> Replacing these courts is the newly created magistrates' division of the district court, which unlike the present probate, justice and police courts, is an integral part of the district court staffed by magistrates under the supervision of the district judges.

In order to promote the orderly transition from the present structure to the new system, the legislature has provided that all cases, dockets, records and bonds of the abolished courts shall be transferred to the district court serving the county in which these lower courts are presently located.<sup>9</sup> The judgments issued by these courts which remain unsatisfied at the time of initiation of the new system will be enforceable as district court judgment. Addi-

<sup>8</sup>I.C. § 1-103.

<sup>9</sup>(1969 S.L. Ch. 100, pp. 345-346) I.C. 1-103 N.

tionally, any civil or criminal matter still pending in the lower courts at the time of the transition will be continued in the district court, subject to substantive law and rules of procedure applicable in the district court. An exception, however, has been made for criminal matters pending in the lower court which allows these cases to be continued in the district court under the same statutory rules of criminal procedure presently applicable in the probate or justice court.<sup>10</sup>

To implement the creation of the magistrates' division of the district court, the Idaho legislature created a district magistrate commission in each of Idaho's seven judicial districts.<sup>11</sup> These commissions are comprised of the chairman of the board of county commissioners, or another commissioner designated by him, of each county in the district, the mayor of one municipality in the district, who is appointed by the governor, and the senior district judge of the district, or a district judge designated by him.

These commissioners are given the authority and the duty to determine the number of magistrates to be appointed within the district and to establish the location of the magistrates. The law requires, however, that at least one resident magistrate be appointed in each county. The commissioners are also entrusted with appointing the magistrates within a district on a non-partisan merit basis and setting their salary. However, as a check upon the authority of the magistrate commissions, the legislature provided that the commissions' actions are subject to the approval of a majority of the district judges in the district.<sup>12</sup> More important, a magistrate may be removed, after a hearing, by a majority of the district judges.<sup>13</sup>

The magistrates' division of the district court is envisioned as an integral part of the district court system and to this end the magistrates are placed under the supervision of the district court and, more particularly, under the supervision and control of the senior district judge in the district. In his capacity as supervisor of the magistrates' division of the court, the senior district judge assigns actions or proceedings to magistrates for hearing and prescribes the times and places at which the magistrates shall be available to perform their duties. He is also empowered, if the need arises, to assign magistrates to temporary duty outside the

<sup>10</sup>I.C. § 1-105.

<sup>11</sup>I.C. Ch. 22, Title 1.

<sup>12</sup>I.C. § 1-2205.

<sup>13</sup>I.C. § 1-2207.

county of their residence, but within the same judicial district, in order to evenly distribute the work load of the magistrates.

As for the magistrates themselves, the law requires that they be high school graduates or have obtained the equivalent of a high school education and be a qualified elector of the county for which they are appointed. A "grandfather clause" exempts from the educational qualification all probate judges, justices of the peace and police judges holding office after the 2nd Monday of January, 1969. They are all eligible for appointment as magistrates upon resignation or expiration of their terms. Also considering the possibility that in certain remote Idaho counties no qualified resident elector may be available, the legislature has provided that, in that event, a non-resident magistrate may be appointed.<sup>14</sup> The new system thus takes into account the fact, that although there will no doubt be attorney magistrates in the more populous counties, there will be counties where, because of economics and light case loads, appointment of attorney magistrates will not be feasible. The statutory requirement of a high school education, however, allows the appointment of laymen magistrates who, although they will not be given the broader jurisdiction of attorney magistrates, will nevertheless be capable of handling the same functions which are presently performed by judges of the lower courts. As a means of upgrading the magistrates' division, no magistrate shall take office for the first time until he has attended an institute on the duties and functioning of the magistrate's office, unless such attendance is waived by the Supreme Court. These institutes are to be held under the supervision of the Supreme Court and the plans and curricula for the 6-day session to be held in December, 1970 are already formulated by the Administrative Assistant to the Courts. The National College of State Trial Judges is cooperating in this first institute and will furnish some of the instructors or panelists. The Supreme Court is authorized to establish such an institute at such times and for such purposes as it deems necessary and may require attendance of the magistrates, with their actual and necessary expenses being paid.

The statute fixing the jurisdiction of the magistrates' division<sup>15</sup> merely specifies the outer limits of jurisdiction, leaving the senior district judge the authority, subject to rules of the Supreme Court, to assign causes to the magistrates for hearing. The magistrates' jurisdiction extends to both civil and criminal cases. Generally

<sup>14</sup>I.C. § 1-2206.

<sup>15</sup>I.C. § 1-2208.

civil jurisdiction is limited to cases involving not to exceed \$1,000. Included within the magistrates' jurisdiction, subject to the \$1,000 limit, are actions for the recovery of money only arising upon a contract; actions for damages for personal injury, or for injury to property, or for fraud; and actions for rent and for claim and delivery, as well as actions to collect taxes and proceedings in attachment, garnishment, and wage deductions for the benefit of creditors. The magistrates may also entertain proceedings in forcible entry and unlawful or forceful detainer and proceedings for the enforcement or foreclosure of common law or statutory liens not exceeding \$1,000 on real or personal property. Jurisdiction without monetary limit is assignable to magistrates over proceedings in the probate of wills and administration of estates of decedents, minors and incompetents. Additionally, all juvenile proceedings are within the jurisdiction of the magistrates.

The criminal jurisdiction of the magistrates' division is limited to misdemeanors and quasi-criminal actions the maximum punishment for which is a \$1,000 fine or confinement in the county jail for one year, or both. Preliminary hearings to determine whether an individual accused of crime should be bound over to the district court for trial are within the jurisdiction of the magistrates, as is the grant or denial of bail. Magistrates also have authority to issue warrants for arrest or for searches and seizures and to entertain proceedings to prevent the commission of crimes.

The legislature seemingly left the door open for the Supreme Court to adopt rules granting additional jurisdiction assignable to magistrates, but such assignment is limited to attorney magistrates only.<sup>10</sup> Included are civil actions in which the amount of money, damages, or value of property claimed exceeds \$1,000 and criminal proceedings in which the defendant is subject to a maximum fine in excess of \$1,000 or imprisonment for longer than one year. Attorney magistrates may also be assigned all habeas corpus proceedings and all cases involving the custody of minors, as well as proceedings for divorce, separate maintenance or annulment. In addition they could be assigned proceedings in quo warranto, or actions for injunction, prohibition, mandamus, ne exeat or the appointment of a receiver.

Thus to summarize, basically the jurisdiction of non-attorney magistrates will be limited to civil actions involving a maximum of \$1,000 and to criminal proceedings authorizing imposition of a fine of not more than \$1,000 or a sentence of not more than one

<sup>10</sup>I.C. § 1-2210.

year in the county jail or both. On the other hand, should the Supreme Court so choose, the attorney magistrate could be assigned certain civil or criminal actions or proceedings with unlimited jurisdiction. Since this is within the rule-making power of the Supreme Court and controlled by the actual assignments made by the respective senior district judges, it remains to be seen whether and to what extent such far-reaching jurisdiction is in fact bestowed upon attorney magistrates.

In any event a comparison of the jurisdiction of the new magistrates' division of the district courts with the respective jurisdictions of the replaced courts discloses that the overlapping and concurrent jurisdiction of the present lower courts has been eliminated and the new jurisdictional limit has been increased to include actions and proceedings beyond the cognizance of the present courts. Thus there will be a shifting of part of the original jurisdiction formerly committed exclusively to the district court to the magistrates' division, thereby providing a possible source of relief from crowded dockets in the district courts.

Another innovation of the new court system is that a verbatim record of all proceedings or evidence at trials before a magistrate shall be maintained either by an electrical device or by stenographic means. Any party who desires stenographic reporting may insist thereupon but that party is responsible for the costs of such reporting.<sup>17</sup> Since the record of a trial or proceeding is available on an appeal from the magistrates' division to the district court, the district judge shall review the case *on the record* and affirm, reverse, remand or modify the judgment. However the district court may, in its discretion, remand the case for a new trial or he may direct that the case be tried *de novo* before him.<sup>18</sup> In many instances, deciding the appeal on the record will provide an expeditious method of disposing of appeals without the necessity of the additional expense, delay and effort necessitated by a trial *de novo* in the district court as is now required in all appeals from the lower courts.

It should also be noted there may be created within every magistrates' division of the district court a small claims department with jurisdiction only in cases for the recovery of money where the amount of the claim does not exceed \$200 and where the defendant resides within the county of such magistrates' divi-

<sup>17</sup>I.C. § 1-2212.

<sup>18</sup>I.C. § 1-2213.

sion. This legislation<sup>19</sup> provides a prompt and inexpensive method of disposing of these claims with as little formality as possible and still afford each of the parties his day in court after proper notice has been given. Much consideration was given to raising the jurisdictional limit to \$300 but the legislature compromised the difference between the \$100, now provided, and the \$300 suggested in the proposed court reorganization. The use of attorneys to plead one's case is prohibited as is a jury trial. Appeal by either party is provided.

The outstanding feature of the new court structure will be its flexibility. Each judicial district, through its district magistrates' commission, will determine the number and the type of magistrates, i.e., whether attorney or non-attorney, and whether full-time or part-time magistrates, required for that particular district. This will vary from district to district depending upon the estimated case work loads and the personnel available. No uniformity is required except the establishment of the court system which will make available prompt and impartial justice to the citizens of every judicial district in Idaho. Additionally, by properly assigning the magistrates, a senior district judge can make full use of any special education, training, skill or aptitude of a particular magistrate which especially qualifies him for presiding over certain types of cases such as proceedings in the probate of wills and administration of the estates of decedents or juvenile proceedings.

Unquestionably there are a multitude of practical problems to be solved in putting the new court system into operation; but a sound structure has been erected. If those of us who are destined to work in and with the new court organization will strive as diligently to make it function successfully as did the men who labored to obtain it for us, then who can doubt the outcome? I predict Idaho will be known as the state with a truly unified and integrated judicial system geared for the efficient and effective administration of justice from top to bottom, i.e., the Supreme Court to the Magistrates Division of the District Courts.

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<sup>19</sup>I.C. Ch. 23 Title 1.