

OFFICIAL OPINION NO. 76

July 30, 1945.

Mrs. Fern E. Norris, Reporter,
Supreme and Appellate Courts,
State House,
Indianapolis 4, Indiana.

Dear Mrs. Norris:

Your letter of June 26, 1945, received requesting an official opinion as to whether or not local magistrates were entitled to free copies of the Indiana Supreme and Indiana Appellate Court Reports.

The authority to distribute the Indiana Supreme and Indiana Appellate Court Reports was formerly vested in the Secretary of State under Section 49-1622 Burns' 1943 Supplement, being Section 7, Chapter 170, Acts 1891, as last amended by Section 1, Chapter 18, Acts 1937, which provides as follows:

"The secretary of state is hereby authorized to distribute the Indiana Supreme and the Indiana Appellate Court reports without charge as follows: Two (2) copies to each circuit, superior, criminal and probate court; two (2) copies to each division of every municipal court of any county; one (1) copy to each city court of every city of the second and third class; to the Indiana University School of Law such number of the reports as may be needed by such school of law, either to supply its own needs or to exchange for the reports of other states; two (2) copies to the Benjamin Harrison School of Law, the Indiana Law School, and two (2) copies to each law school in Indiana, which has regularly enrolled and an average attendance in its law classes not less than fifty (50) students and that has been established for more than five (5) years; and two (2) copies to the state library, Purdue University, Ball State Teachers College and Indiana State Teachers College. The remaining volumes may be sold or may be exchanged for volumes of the Indiana Supreme or Appellate Court reports not published by the state, or for such other reports or legal publications not pub-

lished by the state as shall be required by the Supreme Court library. Such volumes so obtained, together with the volumes published by the state, necessary to make complete sets, or to complete incomplete sets, may be distributed free of charge to the several circuit, superior, criminal and probate courts and to each division of the municipal court of any county, and to each city court of every city of the second and third class, upon requisition of the judges that such reports are needed for the libraries of the courts, or to any such library or educational institution which shall make requisition therefor."

The above duties of the Secretary of State were transferred to the Reporter of the Supreme Court by Section 49-2008 Burns' 1943 Supplement, same being Section 1, Chapter 37, Acts 1943, which in part reads as follows:

"From and after the passage of this act, all duties heretofore performed by the secretary of state under the provision of any law of this state in connection with the printing, publication, sale, and distribution of the reports of the Supreme and Appellate Courts of the State of Indiana shall be transferred to and performed by the reporter of the Supreme Court. * * *"

Magistrates' Courts are created as a court of record under the provisions of Section 4-3801 *et seq.* Burns' 1943 Supplement, same being Chapter 164, Acts 1939, as amended by Chapter 80, Acts of 1941.

In construing the last cited statute the Supreme Court in the case of *Petition for Appointment of Magistrates* (1940), 216 Ind. 417, at page 424 of the opinion, said:

"Concerning the question at hand, it is readily discernible by a reading of the act that the Magistrate's court is not a circuit court. It is a special court of limited jurisdiction, created by the Legislature for the purpose of hearing and trying misdemeanors only where the penalty does not exceed \$500 or six months in prison. It has no civil jurisdiction. It is created to take the place of the justice of the peace court and

mayor's court in the trial of all motor vehicle violations. It is a court without authority to impanel a jury, but a provision is made that when one is requested the defendant shall be held to appear in a court where he may have a jury. Therefore, it clearly appears that this is a court of special limited jurisdiction."

Where an office is created by statute, public officers may exercise only such powers as are expressly authorized by statute.

State *ex rel.* v. Goldthait (1909), 172 Ind. 210, 216, 217;
 State *ex rel.* v. Home Brewing Co. (1914), 182 Ind. 75, 91, 92;
 The State v. The Portsmouth Savings Bank (1886), 106 Ind. 435, 451;
 Dept. of Insurance v. Church Members Relief Assn. (1940), 217 Ind. 58, 60.

From the foregoing authorities it is my opinion magistrates' courts created under Section 4-3801 Burns' 1943 Supplement, *supra*, are not entitled to free copies of the Indiana Supreme and Indiana Appellate Court Reports, for the reason such courts are not among those named in the statute prescribing such distribution, and that therefore the Reporter of the Indiana Supreme and Appellate Courts, having received no delegation of authority from the Legislature to so distribute said reports free to such magistrates' court, such Reporter has no authority to do so.

OFFICIAL OPINION NO. 77

July 30, 1945.

Miss Geraldine Foster, Secretary,
 Indiana State Board of Registration for Architects,
 State House,
 Indianapolis 4, Indiana.

Dear Miss Foster:

Your letter of July 13, 1945, received requesting an official opinion on the following question: