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Constitutional Law—Magistrates' Court Given Power to Try Misdemeanors

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stand, and that is the operation of the headlights on the brightest of the alternative beams. This interpretation was plainly the meaning intended by the Legislature as evidenced by the legislative note accompanying the 1959 amendment to the statute.[83]

As to the second contention, defendant relied on *People v. Grogan*[84] for the proposition that the word "interferes" is too indefinite to be constitutional. In that case there was a statute which prohibited unnecessary interference with the free and proper use of the public highway. The Court upheld the constitutionality of that statute by equating unnecessary with unreasonable, and said that the word thus qualified gave a meaningful and objective measure of comfort. Defendant argues that since here we have no such qualification the term is constitutionally indefinite.

This Court holds that case to be no authority for defendant's proposition, for there the crime itself was described as unnecessary interference, with no other objective standard of determining what the interference was. Here, the interference is the operation of the headlamps so as to produce dazzling light. The objective standard of measurement is the probable effect of said light on a reasonable man and this is sufficiently definite to warn the citizen. The Court cites *People v. Harvey*[85] where it was held that the interference prohibited by the statute in that case was a definable standard of conduct. It is not the possible subjective effect on a hypersensitive individual, but "unreasonable interference with the reasonable man."

By a unanimous decision, the case was reversed on the law and remanded to the lower court for redetermination on the issues of fact.

MAGISTRATES' COURT GIVEN POWER TO TRY MISDEMEANORS

In *People v. Peck*[86] the constitutionality of the Defense Emergency Act[87] was before the Court of Appeals for the first time.

Defendants were a group of avowed pacifists, who congregated in City Hall Park, in New York City during an air raid, refusing to take shelter. They were arrested, and a Magistrates' Court of the City of New York,[88] assuming jurisdiction under Section 102 of the Defense Emergency Act,[89] convicted

83. N.Y. Vehicle and Traffic Law § 15(3) as amended by N.Y. Laws of 1959, ch. 582.
84. 260 N.Y. 138, 183 N.E. 273 (1932).
85. 307 N.Y. 588, 123 N.E.2d 81 (1954).
86. 7 N.Y.2d 76, 195 N.Y.S.2d 637 (1959).
87. N.Y. Defense Emergency Act § 101(2):
Any person who shall wilfully violate or disobey any duly promulgated regulation or order, or who shall wilfully violate or disobey any official order by a person duly authorized concerning. . . . (b) the conduct of civilians and the movement and cessation of pedestrian and vehicular traffic shall be guilty of a misdemeanor.
88. People v. Parilli, 1 Misc. 2d 201, 147 N.Y.S.2d 618 (Magist. Ct. 1955).
89. N.Y. Defense Emergency Act § 102:
Courts of Special Session outside the city of New York and city magistrates courts in the city of New York, in the first instance, shall have exclusive jurisdiction to hear and determine charges of violations constituting misdemeanors or infractions under this act or under any rule, regulation or order duly promul-

defendants of violations of Section 101(2) of the same Act.[90]

Initially in the Magistrates' Court, the defendants questioned the jurisdiction of that court. They argued that in order for a Magistrates' Court to try a defendant for a misdemeanor, such court must sit as a Court of Special Sessions in conformity with the procedure specified in Section 131 of the New York City Criminal Courts Act,[91] which Section, in effect requires the consent of such defendant before the Magistrates' Court can sit as a Court of Special Sessions thereby enabling it to handle misdemeanors. Defendants pointed out that there was no consent by them. They claimed that the Legislature was without constitutional authority to confer jurisdiction on the Magistrates' Court to try misdemeanors by an act such as Section 102 of the Defense Emergency Act,[92] without requiring the consent of defendants.

The Magistrates' Court accepted jurisdiction. It stated that when Section 131 of New York City Criminal Courts Act[93] was enacted in 1915, only Courts of Special Sessions had jurisdiction to try misdemeanors and thus the meaning given Section 131 by the defendant is derived solely from the law as it was at that time. However, they noted that in 1925 what is now Section 18 of Article 6 of the New York Constitution was added providing "courts of special sessions and *inferior local courts of similar character shall have jurisdiction of misdemeanors* (emphasis added)." The Magistrates' Court thus reasoned that this later language was added to extend to the legislative authority to empower "inferior local courts of similar character" to try misdemeanors. The question then remained whether Magistrates' Courts were embraced by the terms "inferior local courts of similar character." The lower court concluded that they were, noting that the Legislature recognized them as being similar in Section 131 of the New York City Criminal Courts Act[94] which under the procedure there set forth empowers a single magistrate to exercise all of the powers of a Court of Special Sessions.

As to the merits, the Magistrates' Court, while agreeing that defendants have a right of free exercise of religion, noted that the New York Constitution states that this right ". . . does not justify practices inconsistent with the peace or safety of this state."[95] It determined the Defense Emergency Act to be necessary to the peace and safety of the state and therefore that it was not a violation of defendant's constitutional right.

The Court of Appeals in a 4-3 decision, upheld the findings of the lower

gated pursuant to this act, committed within the territorial jurisdiction of such courts.

90. Supra note 87.

91. N.Y. City Criminal Cts. Act § 131:
. . . (1.) The defendant shall be advised that he has the right to be tried by the court of special sessions. . . .

92. Supra note 89.

93. Supra note 91.

94. Ibid.

95. N.Y. Const. Art. I, § 3.

court.[96] The majority in a per curiam opinion merely restated the holdings arrived at below.

The dissenting opinion, however, vigorously attacked the majority view that the Legislature has the power to vest the Magistrates' Courts of the City of New York with power to try misdemeanors. They argued that if the added language in 1925 (i.e., "inferior local courts of similar character") was meant to extend power to the Legislature to grant jurisdiction to Magistrates' Courts, it would only have been necessary to add "inferior local courts." The Magistrates' interpretation would render the words "of similar character" mere surplusage which could not have been the intention of the Legislature. Thus the dissent concludes that the words "of similar character" refer to courts which function outside New York having similar or equivalent jurisdiction to the Courts of Special Sessions. Given this interpretation, the State Constitution did not vest the Legislature with authority to enact Section 102 of the Defense Emergency Act.[97] As a result the dissent urges, as did defendants below, that the only way that a Magistrates' Court can obtain jurisdiction to try a misdemeanor is as provided in Section 131 of the New York City Criminal Courts Act,[98] which as previously stated, in effect, requires the consent of the defendant.

It appears that the purpose of the Act is to meet the dangerous problems that are ever present from the threat of enemy attack, especially from atomic raids. In passing such an act the Legislature realized that such dangers and problems must be met with the "least possible interference with the existing division of the powers of the government and the least possible infringement of the liberties of the people, including the freedom of speech, press and assembly."[99]

County Liability Under Article IX, Section 5 of State Constitution

Article IX, Section 5 of the New York State Constitution provides in part that the office of Sheriff will be an elective office. It further provides, "But the county shall never be made responsible for the acts of the sheriff."[1]

The immunity clause was first constructed by the court in *Wolfe v. Supervisors of Richmond County*.[2] The case involved an action under a statue making a city or county liable for damage caused by a mob or riot.[3] The question was whether the statute violated Article IX, Section 5. It was held that it

96. Supra note 86.
97. Supra note 89.
98. Supra note 91.
99. N.Y. Defense Emergency Act § 2.

1. This immunity clause has been in the Constitution since 1821, and proposed amendments in both 1867 and 1938 failed to remove it. Convention Proceedings and Debates 1867-1868, Vol. II, 924-926; revised Record, N.Y. State Const. Convention, 1938, Vol. I, 237, 1017, 2541.
2. 19 How. Prac. 370 (Sup. Ct. 1860).
3. Then L. 1855, ch. 428, now N.Y. Gen. Mun. Law, § 71.