

LICENSES: Justices of the Peace and Police Judges have no jurisdiction to revoke or cancel State automobile licenses or to stay execution of punishment conditioned on good behavior.

5-7
May 3, 1935.



Honorable Edgar J. Keating
House of Representatives
Jefferson City, Missouri

Dear Sir:

Your letter of May 1, 1935, requesting an opinion of this office is as follows:

"A conference committee of the House and Senate meeting to consider perfected committee substitute for senate bill 163 permitting municipalities generally to enact driver's license laws and charge a fee for the licenses, respectfully request that you render them an opinion on the following questions:

"1. Are the police judges and justices of the peace of Missouri authorized to grant stay of execution upon condition that the accused refrain from driving his automobile for a certain specified time?

"2. Have they the power to revoke or cancel the state automobile license for violation of the driving ordinances or statutes?

"The committee desires to have a meeting on this matter at 1:30 p. m. tomorrow, May 2, and would appreciate an opinion in time to discuss the same at that meeting."

The Missouri Constitution, Article VI, Section 37, provides:

"In each county there shall be appointed, or elected, as many justices

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of the peace as the public good may require, whose powers, duties and duration in office shall be regulated by law."

In the case of *Brownfield v. Thompson*, 96 Mo. App. 340, l. c. 342, the Appellate Court said:

"A justice's court is not only a court of limited jurisdiction, but its powers are limited within its jurisdiction. It can only do such things where it has jurisdiction as the Legislature has provided it may. The manner of exercising its jurisdiction is limited by the same law that created it.* * * The Legislature has defined the jurisdiction of justices of the peace and has provided in a very careful and specific manner their duties and their mode of procedure."

CONCLUSION.

It is the opinion of this office that a Justice's Court is a court of limited jurisdiction, and that its powers are even limited within its jurisdiction. A Justice of the Peace has no power beyond the Constitution and Statutes and is limited in power to act only within the Constitution and Statutes. Except for powers expressly allowed or necessarily implied from the Constitution and Statutes, he has no other authority upon which to justify his acts. Any act beyond his authority to act is void.

The powers of a municipal police judge are even more limited than those of a justice of the peace.

We find no constitutional or statutory provision authorizing justices of the peace or police judges in Missouri to grant stays of execution conditioned "that the accused refrain from driving his automobile for a certain specified time." At the present time such an order would be beyond the jurisdiction of a Justice of the Peace or Police Judge and void.

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We find no constitutional or statutory provision giving justices of the peace or police judges power to revoke or cancel a State Automobile license for violation of any municipal drivers' ordinance or any Statute authorizing said ordinance. At the present time a cancellation of State automobile licence by a Justice of the Peace or Police Judge would be void.

These officers are creatures of the Statutes. For these officers to have such power the Legislature must give it to them or it must delegate the right to cities to give it to them through ordinances.

Nothing in the present existing law or in Committee Substituted to Senate Bill 163 gives justices or police judges the powers inquired about.

Respectfully submitted

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Assistant Attorney General.

APPROVED:

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Attorney General.

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