the recurrence of comparable violations.[76] This action saves the complainant from similar treatment in the future and secures to the race as a whole the benefits of the action—freedom from unfriendly regulations.

It might be argued that the courts should allow damages under the act for unfair treatment resulting, not in financial harm, but in deprivation of civil rights. This position loses sight of the purpose of the act—to provide fair and impartial regulation in transportation.[77] While an unfair regulation may result in a violation of a Negro's rights, the Interstate Commerce Act is not the proper instrument to rely on for reparation. The courts, in including segregation in section 3(1), have already stretched the act beyond its intended scope.

In light of the Supreme Court's disposition of the school segregation and the recreation cases, the demise of the separate but equal doctrine in transportation seems a practical certainty. Strengthened with a recognition of his substantive rights by the courts and with the vitalization of remedies under the Civil Rights Act and the Interstate Commerce Act, the Negro is given new opportunities to seek acceptance on his own merits.

VITALIZATION OF THE INDIANA CORONER SYSTEM—CHANNELING MEDICO-LEGAL DUTIES TO THE TECHNICALLY TRAINED

Indiana is aligned with the majority of states[1] which continue to use outdated coroner procedures, the subject of increasing criticism not only from lawyers, prosecutors, and laymen but also from medical and non-medical coroners.[2] Established in 1852, the Indiana system has re-

76. *Ibid.*

77. New York, N.H., & H. R.R. Co. v. I.C.C., 200 U.S. 361, 402 (1905).

1. GRADWOHL, LEGAL MEDICINE 71-107 (1954); NATIONAL MUNICIPAL LEAGUE, CORONERS IN 1953; MINNESOTA LEGISLATIVE RESEARCH COMMITTEE, THE CORONER SYSTEM IN MINNESOTA (1954). In seven states, the coroner has been replaced by the medical examiner. In twelve other states, the medical examiner has replaced the coroner in certain counties. See Ferguson, *It's-Time for the Coroner's Post-Mortem*, 39 J. AM. JUD. SOC'Y. 40, 43 (1955).

2. See the following newspaper accounts: Chicago Daily Tribune, Oct. 10, 1955, Part 3, p. 4, col. 1; Stucky, *Kentucky Coroner System Labeled Ridiculous*, The Louisville Courier-Journal, Feb. 13, 1955, § 3, p. 5, col. 1. For more detailed study regarding coroner criticism see the following: NATIONAL MUNICIPAL LEAGUE, A MODEL STATE MEDICO-LEGAL INVESTIGATIVE SYSTEM (1954); MYREN, CORONERS IN NORTH CAROLINA (1953); BLAIR, THE OFFICE OF COUNTY CORONER IN KANSAS (1953); Ferguson, *supra* note 1, at 40; Snyder, *Justice and Sudden Death*, 36 J. AM. JUD. SOC'Y. 142 (1953); Ford, *Medicolegal Investigation of Violent and Unexplained Deaths*, 145 J. AM. MED. ASS'N 1027 (1951); *Helpern, The Postmortem Examination in Cases of Suspected Homicide*, 36 J. CRIM. L. & C. 485 (1946); Comment, 1951 WIS. L. REV. 529; Note, 26 N.C.L. REV. 96 (1947). In connection with research on this note, all counties in Indiana

mained basically unchanged, save for revision in coroner remuneration.[3] The antiquity of this system becomes evident when it is compared with medical examiner systems adopted by other states which have attempted to raise the standards of qualification, increase jurisdiction, facilitate autopsies, and eliminate traditional judicial duties. Only through substantial reform can Indiana obtain the societal benefits the coronership is supposed to provide.

The Indiana coroner is an unqualified, constitutional county officer elected for a four-year term. He may serve no more than two terms in any twelve-year period.[4] Each coroner is commissioned by the governor and must post a bond, the amount determined by the board of county commissioners.[5] Obsolete duties require the coroner to suppress affrays, riots, and breaches of the peace.[6] He also must serve any writ or warrant on the sheriff as the circumstances dictate[7] and assume the duties of the sheriff when he is interested, absent, or otherwise incapacitated.[8]

Under the Indiana system, a coroner has both investigative and judicial functions which, in turn, depend upon the doubtful concept of jurisdiction. Before a coroner can exercise his affirmative investigatory duty, he must be informed that a death is supposed to have been caused by violence or casualty and that the body is within his county.[9] The person need not have died within the county so long as the body is now within its boundaries.[10] Death by violence or casualty is the most difficult of these conditions precedent, limiting unduly the type of case which an Indiana coroner may investigate.

---

were contacted for information on local coroner functioning; forty-four counties replied. Answers to the questionnaire by both medical and non-medical coroners revealed a need for improvement. The coroner's survey is on file in the office of the *Indiana Law Journal*. Further reference to this survey will be to Coroner Survey.

3. Abolition of the coroner's jury in 1879 represents the only substantive change. IND. ANN. STAT. § 49-2905 (Burns 1951). For statutes on coroner remuneration see IND. ANN. STAT. §§ 49-2919-22 (Burns 1951). The 1955 Indiana Legislature revised the fee system and provided for a salary and greater mileage allowance. Ind. Acts 1955, c. 216, 230.

4. IND. CONST. art. 6, § 2.

5. IND. ANN. STAT. § 49-2901 (Burns 1951).

6. *Ibid.*

7. IND. ANN. STAT. § 49-2903 (Burns 1951). This is a little known duty which the coroner may be required to perform. He is the only county officer authorized to arrest the sheriff and commit him to jail. The Coroner Survey indicated that at least twenty county coroners have used this section.

8. IND. ANN. STAT. § 49-2902 (Burns 1951). These duties may deter qualified individuals interested in a coroner system based on modern medico-legal principles. They are duties which do not depend on medical or legal skills and have been eliminated in revised coroner systems. See text *infra* p. 305.

9. IND. ANN. STAT. § 49-2904 (Burns 1951).

10. Jameson v. The Board of Commissioners, 64 Ind. 524 (1878).

The Indiana Supreme Court has defined the coroner's duty and power as ministerial, indicating that his jurisdiction must be exercised within some reasonable supposition that the death under investigation resulted from violence or casualty.[11] The coroner, therefore, must form his judgment upon those facts which are immediately accessible, and, if there is no *reasonable* basis for suspicion, he is acting without his jurisdiction. Furthermore, jurisdiction is a prerequisite to autopsy performance.[12] Although no damage suits for wrongful autopsy have been reported in Indiana, other states have imposed liability for the wrongful performance of this phase of the coroner's investigatory duty.[13] An unauthorized autopsy to determine the cause of death when there is no suspected death by violence or casualty violates the rights of the next of kin.[14]

After the jurisdictional requirements have been fulfilled the coroner is instructed to inquire immediately how the deceased came to his death.[15] From this statutory mandate it appears that the coroner could be of great assistance to law enforcement officials since in many instances he is the first to gather valuable evidence. In two counties before a body is moved, it must be photographed by the coroner so as to disclose the manner and circumstances of death.[16] In seven counties the coroner must employ a physician skilled in pathology to perform an autopsy when deemed necessary.[17] The limited application of these statutory requisites

---

11. See Stults v. The Board of Commissioners, 168 Ind. 539, 81 N.E. 471 (1907); Sandy v. The Board of Commissioners, 171 Ind. 674, 87 N.E. 131 (1909). The Court indicated that "a reasonable supposition that a death occurs from violence or casualty, is as necessary to confer jurisdiction to hold an inquest, or an autopsy, as that the body be found in [the] county." *Id.* at 677, 87 N.E. at 132.

12. Sandy v. The Board of Commissioners, 171 Ind. 674, 87 N.E. 131 (1909).

13. See Crenshaw v. O'Connell, 235 Mo. App. 1085, 150 S.W.2d 489 (1941); Gurganious v. Simpson et al., 213 N.C. 613, 197 S.E. 163 (1938). See also WEINMANN, THE LAW OF DEAD HUMAN BODIES 88 (1929).

14. The court indicated that "an unauthorized autopsy to determine the cause of death where foul play is not suspected, though ordered by the coroner under color of his office, is in violation of the rights of the next of kin of the deceased, and that the coroner is not protected by the official capacity in which he purports to act." Gurganious v. Simpson et al., 213 N.C. 613, 616, 197 S.E. 163, 164 (1938).

15. IND. ANN. STAT. § 49-2904 (Burns 1951).

16. *Ibid.* Counties having a population of more than 200,000 and less than 400,000 are Lake and St. Joseph. If a photograph will assist in determining cause of death, a population limitation is irrelevant since it is as necessary to determine the cause of death in a densely populated county as in a less populated one. See note 84 *infra.*

17. IND. ANN. STAT. § 49-2943 (Burns Supp. 1953). The reference in Burns IND. ANN. STAT. is misleading since this act concerns the office of county coroner in counties having a population of more than 100,000. Refer to Ind. Acts 1953, c. 240. The seven counties include Allen, Lake, Madison, Marion, St. Joseph, Vanderburgh, and Vigo. This provision does not increase jurisdiction nor indicate under what circumstances an autopsy is deemed necessary. It implies that an autopsy shall be performed only in those instances when the coroner assumes jurisdiction over the body. See Sandy v. The Board of Commissioners, 171 Ind. 674, 87 N.E. 131 (1909).

is unexplained. It seems unreasonable to confine improvements in the coroner system solely on the basis of population considerations.

Along with investigatory duties, the coroner acts in a judicial capacity. Since coroner's juries are abolished in Indiana,[18] holding an inquest and reaching a verdict are the coroner's responsibility.[19] He may summon all witnesses or parties who may be of assistance in determining the cause of death. [20] If the inquest determines death was the result of a felony, the coroner issues a writ to the constable, who arrests the person charged.[21] In those instances where a coroner is requested to view a body which does not come within his jurisdiction, no inquest can result. However, an inquest can be held when a reasonable man would assume that death was by casualty or violence; even though the subsequent verdict may indicate absence of cause to give original jurisdiction, the coroner would have been acting within his jurisdiction. Under no circumstances may the coroner act further on his own motion after he has returned the verdict.[22] Since the only procedure for obtaining a new inquest is with leave of the court,[23] a verdict is final and cannot be reversed by public pressure alone.

Testimony obtained during an inquest may become important for evidentiary considerations in criminal and civil cases. Such testimony, voluntarily made and signed, is admissible against the witness when he is later charged with murdering the deceased.[24] However, to be admissible in civil actions the former testimony must have been given under oath, and the party against whom it is now offered, or a party in like interest, must have had a reasonable opportunity to cross-examine.[25]

A coroner's verdict determining criminal liability assumes the form

18. IND. ANN. STAT. § 49-2905 (Burns 1951). This was certainly a wise move, for these jurors would often have no idea of symptoms for cause of death. See Breyfogle, *The Laws of Missouri Relating to Inquests and Coroners,* 10 Mo. L. REV. 34, 60 (1945). The author indicates that "mere viewing of the body by both the coroner and the jury can no longer serve as a substitute for a scientific examination. . . ."

19. IND. ANN. STAT. § 49-2908 (Burns 1951).

20. IND. ANN. STAT. § 49-2906 (Burns 1951).

21. IND. ANN. STAT. § 49-2914 (Burns 1951).

22. Board of Commissioners v. Van Cleave, 19 Ind. App. 643, 49 N.E. 978 (1898).

23. *Ibid.*

24. Davidson v. The State, 135 Ind. 254, 34 N.E. 972 (1893).

25. See Edgerley v. Appleyard, 110 Me. 337, 86 Atl. 244 (1914), where testimony taken at the coroner's inquest was held inadmissible since there was no opportunity to cross-examine. This case appears in MCCORMICK, EVIDENCE § 231 n.2 (1954). "But where testimony taken at a coroner's inquest was offered, and [even though] it appeared that counsel for the present party was present at the inquest, it was held inadmissible absent a showing that he was accorded [an] opportunity to cross-examine in behalf of the party against whom it is now offered." *Id.* § 231 n.3. See 5 WIGMORE, EVIDENCE § 1374 (3d ed. 1940). See also People v. Nisonoff, 293 N.Y. 597, 59 N.E.2d 420 (1944), where autopsy reports, filed as public records, were held admissible.

of an indictment. To offer it in evidence against the accused when it is a foundation of the charge against him and not evidentiary in nature seems presumptuous.[26] Should the inquest indicate criminal liability of one other than the accused on trial, however, the coroner's verdict is admissible as part of the defense.[27] Indiana decisions indicate a reluctance to admit a coroner's verdict as evidence to establish the affirmative defense of suicide in actions on insurance policies.[28] Perhaps the rationale against admission is that it constitutes proof of the main issue in controversy. Courts no longer admit evidence of a coroner's inquest in civil cases as official statements; non-admissibility appears premised on a growing lack of confidence in the reliability of a coroner's finding.[29]

Introduction in evidence of a death certificate prepared and signed by a coroner would probably not be allowed.[30] Although the coroner is to determine the cause of death in cases of casualty or violence, he has no authority to sign the certificate, but must give information concerning the cause of death to the local health official, a doctor of medicine, who completes the certificate.[31] This position is understandable when the coroner is not a physician, since no layman should be allowed to certify the cause of death. However, in counties where the coroner is a physician

---

26. 5 WIGMORE, EVIDENCE § 1671 (3d ed. 1940, Supp. 1953).

27. *Ibid.*

28. Craiger v. Modern Woodmen of America, 40 Ind. App. 279, 80 N.E. 429 (1907); Union Central Life Insurance Co. v. Hollowell, 14 Ind. App. 611, 43 N.E. 277 (1895).

29. 5 WIGMORE, EVIDENCE § 1671 (3d ed. 1940, Supp. 1953). By statute Minnesota has excluded this kind of evidence: "The record of the inquest proceedings and the report thereof may not be used in evidence in any civil action arising out of the death for which such inquest was ordered. . . ." MINN. STAT. ANN. § 390.11 (West 1947).

Contrast this with recent developments in states which have adopted the medical examiner system. The autopsy reports are admissible in evidence in Arkansas. ARK. STAT. ANN. § 42-606 (Supp. 1953). "The records of the office of the Chief Medical Examiner, and of the several Deputy Medical Examiners, made by themselves or by any one under their direction or supervision, or transcripts thereof certified by such Medical Examiner, shall be received as competent evidence in any Court in this State of the matters and facts therein contained." MD. ANN. CODE GEN. LAWS art. 22, § 8 (1952). A similar provision can be found in Virginia. VA. CODE § 19-26 (1950).

30. Introduction of the death certificate as evidence of the cause of death has been held inadmissible when signed by a non-medical coroner, since no autopsy was performed to determine cause of death and it was therefore mere hearsay. Kanne v. Metropolitan Life Insurance Co., 310 Ill. App. 524, 34 N.E.2d 732 (1941). In a federal case, Hunter v. Derby Foods, Inc., 110 F.2d 970, 973 (2d Cir. 1940), the coroner had performed an autopsy and indicated cause of death on the death certificate. Since Congress provided for records made in the regular course of business to be admissible in evidence, this court indicated that the death certificate made by the coroner is a record made in the regular course of business. *Ibid.* See also People v. Proctor, 239 P.2d 697 (Calif. 1952).

31. "In no case does the corner (*sic*) certify to the cause of death on the certificate of death. The funeral director does not sign the certificate of death, and the cause of death should be certified only by the attending physician or the local health officer under the facts of the particular case." 1946 OPS. IND. ATT'Y GEN. 187, 192.

he may be as competent to sign the death certificate as the health officer.

While the Indiana Constitution specifies no qualification requirements for coroners, much has been written advocating a medical education as a necessary requisite.[32] Criticism has been heaped upon the coroner-undertaker because of his interest in the position[33] and his practice of embalming prior to autopsy.[34] Medical experts have indicated that the body should not be embalmed prior to autopsy since the process vitiates many necessary chemical tests.[35] It appears that a statutory penalty could be provided in cases where the undertaker fails to obtain approval for embalming.[36]

Any analysis of necessary qualifications for coroner requires an examination of the physician's capabilities. In some counties it may be impossible to attract a physician as coroner. The coroner's office is a thankless one, unattractive not only financially but also because of undefined and ambiguous duties. Experts in the field of forensic medicine

32. "There must be a demand for properly trained men, there must be opportunities which would make the medical graduate wish to elect a career as a medical examiner, and there must be facilities for obtaining the thorough training which would fit him for such a career. The elective office of coroner, subject to the vagaries of politics, offers no inducements to the physician to enter the field of forensic medicine." SCHULTZ AND MORGAN, THE CORONER AND THE MEDICAL EXAMINER 84 (1928). See Breyfogle, *The Laws of Missouri Relating to Inquests and Coroners,* 10 MO. L. REV. 34, 60 (1945); Note, 46 J. CRIM. L., C. & P. S. 232, 234 (1955); Comment, 1951 WIS. L. REV. 529.

33. One author has indicated: "The undertaker-coroner which is so common in this country is a particularly undesirable combination in that the office of coroner is sought chiefly for a financial motive. Bearing in mind that as a coroner he is called to view the remains of about one-fifth of all persons who die, he obviously has an enormous business advantage in securing those bodies for burial." Snyder, *Justice and Sudden Death,* 36 J. AM. JUD. SOC'Y 142, 144 (1953). Another criticism is the power of any coroner to give certain undertakers business. SCHULTZ AND MORGAN, *op. cit. supra* note 32, at 23-4.

34. Snyder, *supra* note 33, at 144.

35. The Deputy Chief Medical Examiner of New York City sharply criticizes the practice of embalming prior to autopsy in Helpern, *The Postmortem Examination in Cases of Suspected Homicide,* 36 J. CRIM. L. & C. 485, 502-3 (1946). Another authority states: "In a large proportion of homicidal and accidental deaths the question of drinking and alcoholic influence is bound to arise. Due to the fact that embalming fluid contains a considerable proportion of alcohol, the determination of that question is out of reach of the investigator if the body has been embalmed. Likewise, in the case of carbon monoxide poisoning, and death due to several other common poisons, it is impossible to identify accurately the poisoning agent if embalming has preceded the complete investigation." Snyder, *supra* note 33, at 145. For a detailed discussion of embalming and its effect on an autopsy see GRADWOHL, LEGAL MEDICINE 27-31 (1954). In this analysis the author illustrates the value of performing the autopsy before embalming. The author indicates that only arterial embalming, often necessitated by lack of adequate refrigeration facilities, should be allowed prior to autopsy.

36. This remedy is suggested in connection with a revision of the Indiana Coroner system, where a pathologist would give authorization for embalming. For a discussion of a proposed revision see pp. 307-10 *infra.* Michigan has recently enacted a statute dealing with this problem. MICH. STAT. ANN. § 5.953(4) (1953).

admit that even the general practitioner of medicine is not always properly skilled in pathology to reach the degree of expertness required in initial examinations.[37] Thus while a physician would be desirable, his services, if available at all, may be no better than those of a layman. Lack of more stringent qualifications may not be as great a hinderance to the coroner system as writers have indicated.

The limited jurisdiction granted the Indiana coroner is the greatest defect in the present system. Some deaths may be of a mysterious character and yet not qualify as a coroner's case under the "violence or casualty" test.[38] Presently, statutory jurisdiction does not extend to sudden deaths following apparent good health, suspicious deaths, nor those occurring in an unusual manner or while a deceased was unattended by a physician. Indiana coroners have expressed a concern over the actual limits of their jurisdiction by requesting a detailed standard.[39] Legislation requiring investigation of all deaths that may result in criminal prosecution, civil litigation, industrial compensation awards, or where the cause and manner of death are unrecognizable would alleviate this problem.[40]

Jurisdiction restrictions also limit the authority for autopsy performance. In many instances it is impossible to determine accurately the cause

37. NATIONAL MUNICIPAL LEAGUE, A MODEL STATE MEDICO-LEGAL INVESTIGATIVE SYSTEM 10 (1954); MYREN, CORONERS IN NORTH CAROLINA 39 (1953); Helpern, *supra* note 35, at 488; Note, 46 J. CRIM. L., C. & P. S. 232, 234 (1955).

38. IND. ANN. STAT. § 49-2904 (Burns 1951). The exact limits of coroner jurisdiction as statutorily defined are uncertain. Probably included within the statutory language would be deaths from accidents, which would embrace those deaths from drowning, burns, falls, hanging, suffocation, suicide, or vehicle accidents. Deaths from violence would include murder, rape, arson, or robbery deaths. This is not an all inclusive list. Although coroners may have exercised jurisdiction over the body in other types of cases, whether by tradition or agreement among the coroners, the criticism still remains that no defined standards are outlined. The Indiana State Coroners Association and the Board of Health have agreed upon certain kinds of deaths which are reportable to the coroner's office. However, many of these deaths are not of a type that could be called "violence or casualty." The brochure of their recommendations is on file in the office of the *Indiana Law Journal.*

39. Coroners from the following counties expressly requested a more detailed standard for jurisdiction: Floyd, Grant, Howard, Jay, LaGrange, Lawrence, Monroe, Starke, Tippecanoe, and White.

40. NATIONAL MUNICIPAL LEAGUE, *op. cit. supra* note 37, at 13. The recommendations listed in this study present the framework for an adequate law establishing the classes of deaths to be investigated in the public interest. One author has indicated that a good coroner or medical examiner system should answer the following questions: "Do your laws guarantee the recognition of murder, suicide and accidental deaths? Are the guilty convicted? Are those who are innocent and accused of crime exonerated? Do the courts, both civil and criminal, have presented to them sound, well-documented medical evidence so that verdicts may be based on scientifically evolved principles?" Luongo, *The Practicing Physician and Legal Medicine,* 29 HEALTH NEWS 3, 4 (1952). Increased jurisdiction would be a step toward a more adequate organization. See also Curphey, *Forensic Medicine in New York State,* 29 HEALTH NEWS 10 (1952).

of death without an autopsy.[41] Unfortunately, the statutory mandate for autopsy performance is vague.[42] Faced with this ambiguity and the threat of tort liability a coroner may forego an autopsy.[43] While the coroner should not be immune from tort liability, he must be given a certain amount of discretion to request an autopsy. It would seem advisable to allow an autopsy whenever the cause of death has not been determined beyond a reasonable doubt.

Since the inquest can neither convict nor acquit anyone of a crime,[44] the procedure must be examined with a view toward delegating this function to a qualified law enforcement official. Even though the inquest is referred to as a judicial function, it lacks an element of judicial power since it is a mere finding and does not establish rights.[45] The sole purpose of the coroner's inquest is to have someone immediately responsible investigate the crime. As a judicial officer the coroner examines witnesses and attempts to determine accurately the cause of death. These functions require the experience of a qualified attorney and the aptitude of a judicial officer, traits rarely found in a county coroner.[46]

Another criticism of the inquest is duplication of duties.[47] Any evidence presented pointing to the guilt of an individual must be repeated at a later date both before a grand jury for indictment and a court of law when the accused is brought to trial. As has been indicated earlier, testimony at the inquest may be of no value in a civil action due to absence of an opportunity to cross-examine,[48] while its value in a criminal

41. See Breyfogle, *The Laws of Missouri Relating to Inquests and Coroners,* 10 Mo. L. Rev. 34, 60 (1945).

42. See note 17 *supra.*

43. See notes 13, 14 *supra.* The Survey of the Indiana Coroner asked whether fear of tort liability for a wrongful autopsy deterred a coroner in having an autopsy performed. An affirmative answer was received in approximately 20 percent of the replies. Even those coroners who indicated no fear of tort liability for wrongful autopsy added that permission was always requested of the next of kin before an autopsy was performed.

Under some circumstances an autopsy may be advantageous for evidentiary reasons although the cause of death may be obvious, e.g., the recovery of the bullet or determination of alcoholic content. Minnesota Legislative Research Committee, The Coroner System in Minnesota 47 (1954).

44. "The whole proceeding is merely preliminary, and the object is to determine whether it is probable that a crime has been committed by an examination of the facts while they can be most easily had." The Board of Commissioners v. Van Cleave, 19 Ind. App. 643, 648, 49 N.E. 978, 980 (1898).

45. Stults v. Board of Commissioners, 168 Ind. 539, 81 N.E. 471 (1907).

46. Schultz and Morgan, The Coroner and the Medical Examiner 9 (1928). "An inquest is a legal proceeding over which the coroner presides, yet only rarely is this official informed as to the rules of evidence and the requirements of proof necessary to be applied for the proper conduct of the proceeding. This duty obviously requires a person with legal training." Comment, 1951 Wis. L. Rev. 529, 539.

47. Schultz and Morgan, *op. cit. supra* note 46, at 87.

48. See note 25 *supra.*

prosecution would be equally worthless if the accused did not voluntarily appear and sign the testimony.[49] Also, the coroner's verdict as evidence in civil actions is valueless.[50] Instead of furthering crime detection the inquest actually may be obstructing it because of careless handling by one inexperienced in legal matters.

As early as 1877 Massachusetts attempted to circumvent similar evils in its coroner system by adopting the first medical examiner system.[51] Generally, this system functions under the leadership of an uncompensated board[52] which selects a skilled pathologist as chief medical examiner for the state.[53] His office may act as an independent agency or as a part of an existing state agency.[54] The organizational framework allows the local units of government to draw upon the experience and training of an expert in determining the cause of death.

Increased jurisdiction is a basic improvement incorporated in the medical examiner procedure. The vague "death by violence or casualty" restriction has been eliminated and broader standards of jurisdiction have been defined. Not only is the medical examiner given jurisdiction whenever any person dies as a result of violence, suicide or casualty, but also if the deceased has died suddenly when in apparent good health, when unattended by a physician, or in any suspicious or unusual manner.[55]

---

49. *Ibid.*

50. *Ibid.*

51. See NATIONAL MUNICIPAL LEAGUE, A MODEL STATE MEDICO-LEGAL INVESTIGATIVE SYSTEM 37 (1954). "The investigations of the medical examiner in Massachusetts were limited to cases of suspected violence and the examiner was not allowed to perform an autopsy unless he was duly authorized by the district attorney or other designated officials. These restrictions impeded the effectiveness of the medical examiner, but [it] was a vast improvement over the former system. . . ." Ferguson, *It's Time for the Coroner's Post-Mortem*, 39 J. AM. JUD. SOC'Y 40, 42 (1955).

52. See MINNESOTA LEGISLATIVE RESEARCH COMMITTEE, THE CORONER SYSTEM IN MINNESOTA 23 (1954). See the following state statutes providing for a medical examiner system which operates through a commission or board: ARK. STAT. ANN. § 42-601 (Supp. 1953); MD. ANN. CODE GEN. LAWS art. 22, § 1 (1952). Perhaps the reason for selection by a commission or board is to discourage politically-inspired appointments. Normally, the chief medical examiner will appoint the local examiners. In New York City the chief medical examiner is appointed by the mayor from the classified civil service. He must be a physician and a skilled pathologist and microscopist. N. Y. CITY CHARTER AND ADM. CODE c. 39, § 874 (1943).

53. *"Pathologist:* A medical man who has specialized in the study of abnormal changes in bodily tissues or functions caused by diseases, toxins or poisons, and by any other species of traumatic stimuli." Helpern, *The Postmortem Examination in Cases of Suspected Homicide*, 36 J. CRIM. L. & C. 485, 489 n.6 (1946).

54. The actual administrative organization within each state will depend upon the cost of the system and whether it can function independently or as a part of a similar agency. Originally, the Virginia system was set up as an independent agency. However, it has since become a part of the State Board of Health. VA. CODE § 19-14 (1950).

55. See the following representative statutes for varying outlines on definite standards of jurisdiction: ARK. STAT. ANN. § 42-604 (Supp. 1953); GA. CODE ANN. § 21-205 (Supp. 1954); MD. ANN. CODE GEN. LAWS art. 22, § 6 (1952); MICH. STAT.

Much of the effectiveness of any system depends on the discretion given a coroner or medical examiner to request autopsies. In Maryland "[i]f the cause of death shall be established beyond a reasonable doubt . . ." then the medical examiner shall make his report. "If, however, in the opinion of such medical examiner, an autopsy is necessary, the same shall be performed. . . ."[56] Since jurisdiction has been increased, more deaths will be scrutinized by the medical examiner thus lessening the possibility of unsuspected crimes going undetected.[57]

Another feature of the medical examiner system is appointment and tenure of office.[58] The chief medical examiner normally appoints the local examiners to work directly under his supervision;[59] the system achieves a channel of responsibility largely divorced from politics. All of the recent medical examiner systems eliminate many of the coroner's characteristic duties. Generally, the judicial functions have been abrogated,[60] allowing the examiner to devote himself solely to investigatory duties. He acts without the aid of a coroner's jury and does not hold inquests, issue warrants, take testimony, or render decisions.[61] With the separation of medical and legal functions, the public benefits from specialization.

In contrast with the medical examiner plan the Indiana coroner system seems inadequate in the areas of coroner jurisdiction, autopsy performance, and continued maintenance of judicial duties. Adoption of the model medical examiner system would necessitate a constitutional amendment,[62] while a modified medical examiner system might be superimposed

---

ANN. § 5.953(2) (1953); N. Y. CITY CHARTER AND ADM. CODE c. 39, § 878 (Supp. 1950); PA. STAT. ANN. tit. 16, § 2151-1236 (1954); R. I. GEN. LAWS c. 11, § 8 (1938); VA. CODE § 19-22 (1950). These statutes provide for definite standards without specifically enumerating every type of death. For a detailed list of cases that come within coroner jurisdiction see LA. REV. STAT. ANN. § 33:1561 (1954).

These statutes are listed for general information. It is not suggested that they supplant the Indiana statute. While many of these states do not have a constitutionally originated coroner, the ideas for coroner jurisdiction can be studied with a view toward using the best as a guide for revision in Indiana.

56. MD. ANN. CODE GEN. LAWS art. 22, § 7 (1952).

57. Because most statutes fail to provide for routine investigation of the many violent deaths that are not externally obvious, many unsuspected homicides go undetected. Helpern, *supra* note 53, at 486. See also NATIONAL MUNICIPAL LEAGUE, *op. cit. supra* note 51, at 9.

58. See MINNESOTA LEGISLATIVE RESEARCH COMMITTEE *op. cit. supra* note 52, at 38.

59. *Id.* at 39.

60. MD. ANN. CODE GEN. LAWS art. 22, § 9 (1952); N. Y. CITY CHARTER AND ADM. CODE, c. 39, § 874 (1943).

61. See Senior v. Boyle, 221 N.Y. 414, 117 N.E. 618 (1916).

62. See IND. CONST. art. 6, § 2. While the constitution does provide for a coroner, it does not specify any qualifications. A necessary part of the medical examiner system is provision for qualifications of the local examiners. Therefore, were Indiana to adopt a medical examiner system in toto a constitutional amendment would be required.

upon our present coroner organization. An ideal system would have a medico-legal expert as the coroner in every county; this is impractical, however, since few counties can adequately support such an expert.[63] Efforts should be directed toward establishing a system best calculated to produce the results expected were every coroner a medico-legal expert.

If Indiana were to adopt a medical examiner system requiring every coroner to be an appointed physician, an amendment to our constitution would be necessary.[64] However, to pass an amendment requires the action of two successive legislatures and then submission of the proposal to the electorate—at least a six-year project.[65] The history of Indiana constitutional amendments indicates the improbability of change.[66] An examination of approximately half of the counties in Indiana reveals that 62 percent of the coroners are physicians while 32 percent are undertakers.[67] This indicates that many doctors are seeking the office of coroner, and that there may not be a need for a constitutional amendment requiring all coroners to be physicians; instead statutory changes furnishing the greatest available skills to each county may be accomplished without abandoning the elected coroner.

Yet even substantive statutory changes applied to the present constitutional office of the coroner give rise to constitutional doubts. The legislation might be considered an attempt to change the duties of a constitutional office as it was known at common law.[68] While the coroner holds a constitutional office, his duties in this state have been wholly formulated by statute; therefore, a change ought not be ruled an invasion of common law. Even in English law holding an inquest was not originally a duty of the coroner since the principal function of his office was protection of the crown's pecuniary interests.[69] Later, the duties included

63. NATIONAL MUNICIPAL LEAGUE, *op. cit. supra* note 51, at 7.

64. See note 62 *supra.*

65. Lambert and McPheron, *Modernizing Indiana's Constitution,* 26 IND. L.J. 185, 187 (1951).

66. *Ibid.* Even though constitutional hurdles were overcome, the amendment would be ineffective if doctors refused to serve as examiners. Also, while a physician is desirable for this position, he may not be sufficiently skilled in pathology to be of any more value than a lay coroner. See note 37 *supra* and the accompanying discussion at pp. 301-02 *supra.*

67. Although each county in Indiana was contacted in the Survey of Indiana Coroners, replies were received from only 44 counties. Nevertheless, the replies were representative of all Indiana counties since it included both large and small counties. From these results probabilities can be seen in other counties. For a listing of counties which replied to the questionnaire, see note 80 *infra.*

68. See the dissenting opinion in Schultz v. Milwaukee County, 245 Wis. 111, 13 N.W.2d 580 (1944).

69. See 1 HOLDSWORTH, HISTORY OF ENGLISH LAW 82, referred to in Schultz v. Milwaukee County, 245 Wis. 111, 115, 13 N.W.2d 580, 582 (1944).

holding inquests and summoning a coroner's jury.[70] The first Indiana legislature in 1816 enacted a statute providing for the office of sheriff and coroner.[71] The only coroner's function specified was to perform the duties of an interested or prejudiced sheriff. In subsequent legislation the coroner was empowered to hold inquests and to summon juries.[72] In 1879 the coroner's jury was abolished.[73] The coronership is unlike the office of the sheriff, where common law tradition, legislatively undefined, serves as a constitutional limitation on statutory change.[74] It is noteworthy that the constitutionality of previous statutory deletions and additions to the coroner's duties has not been challenged. Moreover, despite similar uncertainty, other states with a constitutionally created coronership have passed legislation superimposing a form of the medical examiner system on the coroner's office.[75]

To establish a revised coroner system it is submitted that a bill be enacted making a commission, composed of medical, legal, and law enforcement experts and appointed by the Governor, in charge of an Indiana examiner system.[76] This uncompensated board would select a man skilled in pathology to act as the chief medical examiner for the state with his office and laboratory facilities in Indianapolis. It would seem advisable for the chief examiner to be associated with the Indiana University School of Medicine[77] which could provide sufficient laboratory and autopsy

70. *Ibid.*

71. See Ind. Acts 1816-17, c. XIII, § 9, which provided for the commissioning of sheriffs and coroners.

72. This legislation did not occur until the following legislative session where an act was passed regulating the duties of sheriffs and coroners. See Ind. Acts 1817-18, c. XX, § 2, providing for a coroner's jury and the coroner's jury verdict.

73. IND. ANN. STAT. § 49-2905 (Burns 1951). The coroner's jury was almost as much a tradition as is the coroner. When the jury was abolished, one of the main duties of the coroner's office was removed. While the statute abrogating coroner's juries may have increased the responsibilities of the individual coroner, it still removed a vestige of his office.

74. See People v. Board of Commissions, 397 Ill. 293, 74 N.E.2d 503 (1948); Schultz v. Milwaukee County, 245 Wis. 111, 13 N.W.2d 580 (1944).

75. This was done in Wisconsin and held constitutional. *Ibid.* The court traced the history of the coroner's office and how it differed with that of the sheriff. While the duties of the coroner in that state are the same as in Indiana, there had been a pronounced difference in statutory authority for performance of duties. However, it is felt that this case is authority for a revision of the Indiana system whereby the medical examiner system would be superimposed on the coroner's office.

76. This would allow the ablest men in the state to combine their skills in working out a medical examiner system for Indiana. Whether this office should be an independent agency or connected with the State Department of Health should be left to the discretion of the legislature. See note 54 *supra.*

77. In this way the chief examiner's remuneration would be received partially from the school and the state. The salary must be large enough to attract an expert in this area. If he is a member of the staff of the medical school and also the chief examiner, his combined remuneration should be sufficiently attractive to obtain the type person required for the position. See MYREN, CORONERS IN NORTH CAROLINA 54 (1953), where

facilities for all counties.[78] Local examiners, appointed by the chief medical examiner,[79] could draw upon the knowledge and experience of the chief examiner in all doubtful cases requiring determination of the cause of death.

Present geographical or county lines may not be the most effective division for a revised system insofar as work and cost are concerned. The American Medical Association reveals that for each 100,000 inhabitants the medical duties of the coroner or medical examiner should consist of investigating approximately 200 deaths per year.[80] Since there are eighty-

---

the author discusses the possible role of a medical school in a medical examiner system. See also MINNESOTA LEGISLATIVE RESEARCH COMMITTEE, THE CORONER SYSTEM IN MINNESOTA 31 (1954).

78. "An affiliation with a medical school is desirable in order that the medical personnel of the laboratory be acquainted with modern advances in medicine and that the specialized knowledge of injury and disease acquired through the work of the laboratory be made available for the common good." NATIONAL MUNICIPAL LEAGUE, A MODEL STATE MEDICO-LEGAL INVESTIGATIVE SYSTEM 17, 18 (1954).

In the Coroner Survey 69 percent of the counties replying utilized some of the facilities of the Indiana University School of Medicine, if only for obtaining toxicology reports. However, it would be advantageous if these facilities were coordinated to allow all counties to be served quickly at a minimum cost. Since the medical school is centrally located it can be a vital source of medical information for each pathologist in a revised coroner system.

79. The combined medical associations of those areas to be served might prepare a list of qualified physicians, skilled in pathology, from which an area examiner could be appointed. See pp. 309-10 *infra* for a discussion of suggested grouping of adjacent counties.

80. See *MINNESOTA LEGISLATIVE RESEARCH COMMITTEE supra* note 77, at 13. The Coroner Survey indicates the following deaths investigated in relation to county population. (Population figures are based upon the 1950 census.)

County	*Population*	*Bodies Viewed in 1954*	*County*	*Population*	*Bodies Viewed in 1954*
Allen	183,722	296	Madison	103,911	103
Bartholomew	36,108	31	Marshall	29,468	36
Benton	11,462	18	Monroe	50,080	22
Boone	23,993	53	Montgomery	29,122	21
Clark	48,330	60	Morgan	23,726	33
Dearborn	25,141	38	Pulaski	12,493	9
Delaware	90,252	95	Randolph	27,141	10
Dubois	23,785	22	Ripley	18,763	19
Elkhart	84,512	99	St. Joseph	205,058	173
Floyd	43,955	49	Shelby	28,026	53
Grant	62,156	63	Starke	15,282	22
Greene	27,886	51	Sullivan	23,667	43
Hancock	20,332	40	Switzerland	7,599	12
Harrison	17,858	28	Tippecanoe	74,473	70
Henry	45,505	60	Vanderburg	160,422	540
Howard	54,498	91	Vigo	105,160	200
Jay	23,157	30	Wabash	29,047	46
Johnson	26,183	22	Warren	8,535	13
Kosciusko	33,002	63	Warrick	21,527	30
LaGrange	15,347	14	Wayne	68,566	80
Lake	368,152	415	Wells	19,564	21
Lawrence	34,346	48	White	18,042	8

five counties in Indiana with a population of less than 100,000, a medico-legal expert, limited to one county, would find difficulty maintaining full-time work. A major factor in attracting qualified personnel is an adequate salary. Were it possible for one examiner to serve more than a single county, the costs as well as services of capable individuals could be shared.

It is submitted that, for purposes of the revised system, the counties of the state be divided into areas with a combined total population approximating 100,000.[81] Each county over 100,000 would utilize the full-time services of the area examiner. On the other hand, when adjacent counties are sparsely populated, they would not be denied expert medico-legal skills and they would *share* the services of an area examiner.

Each county would continue to elect a coroner who would assist the area examiner. The area examiner would be available for autopsies within the combined-counties area and consultation on deaths occurring within his statutory jurisdiction. When a dead body is discovered within a given county, the function of the elected coroner would be to examine the body initially and notify the area examiner,[82] who would prepare a report stating the cause of death. If cause of death could not be determined by an external examination, and the examiner would have jurisdiction,[83] then

---

An examination of these statistics reveal that the counties in Indiana approximate the average posed by the American Medical Association. Notable exceptions are Vanderburg and Vigo counties.

81. One suggested grouping of adjacent counties might result in 28 areas with these aggregate populations: Lake (368,152); Porter, LaPorte (116,884); St. Joseph (205,058); Elkhart (84,512); LaGrange, Steuben, Noble, DeKalb (83,532); Allen (183,722); Kosciusko, Whitley, Wabash, Huntington (112,277); Marshall, Starke, Pulaski, Fulton (73,808); Newton, Jasper, Benton, White, Tippecanoe (131,984); Cass Carroll, Howard, Tipton (124,867); Miami, Grant (90,357); Wells, Blackford, Adams, Jay (79,140); Delaware (90,252); Randolph, Wayne, Fayette, Union (125,510); Madison (103,911); Marion (551,777); Clinton, Hamilton, Hendricks, Boone (106,812); Montgomery, Warren, Vermillion, Fountain, Parke, Putnam (113,840); Vigo (105,160); Henry, Hancock, Shelby, Rush (113,662); Morgan, Johnson, Monroe, Brown (106,198); Franklin, Dearborn, Decatur, Ripley, Ohio, Switzerland, Jennings, Jefferson (126,841); Bartholomew, Jackson, Scott, Washington, Orange, Lawrence (143,609); Clark, Floyd, Harrison, Crawford (119,432); Clay, Owen, Sullivan, Greene, Daviess, Martin (124,674); Knox, Gibson, Posey (93,953); Pike, Warrick, Spencer, Perry, Dubois (93,848); Vanderburg (160,422).

82. The elected coroner would act as a deputy to the area examiner and would be first to arrive at the scene; his other duties would include serving a writ on the sheriff when necessary and assuming the duties of the sheriff when he is interested, absent or otherwise incapacitated. The elected coroner could also be in charge of any valuables found on the body and proper disposition thereof. For the present statute see IND. ANN. STAT. § 49-2909 (Burns 1951).

83. Area examiner jurisdiction would consist of two requisites: First, the person must have died as a result of one of the legislatively stated causes of death to give jurisdiction; second, the body must be within a certain area. Presently, a coroner has jurisdiction only over a body within his county. See note 10 *supra*. Legislation would be necessary to give the area examiner jurisdiction within the grouped area. This change

an autopsy should be performed by the area examiner or assistance requested from the chief medical examiner. The judicial functions of the coroner ought to be assumed by the prosecuting attorney. If either the autopsy or the external examination reveal proof or a reasonable suspicion that death was caused by felonious means, these facts should be reported to the prosecuting attorney of the county in which the body was discovered. At any inquest held by this judicial officer, however, the coroner and area examiner might be important witnesses; a vital provision of any revised statutory procedure is admission of the report of the area examiner's investigation as evidence.[84]

The cost of a revised system must not be prohibitive and should be balanced against an appreciable improvement over the present procedure. Per capita cost for coroner service in Indiana has ranged from about 11.71 cents to a low of 2.64 cents.[85] Although costs tend to vary considerably from one system to another, depending upon the social complexity of the area and the legal requirements governing the jurisdiction and extent of investigation, a comparison of costs in states using the medical examiner system may serve as a guide for any new Indiana plan. Virginia, with a population approximating that of Indiana, has a medical examiner in each county who is assisted by deputies.[86] The Chief Medi-

---

in local government would not be considered as depriving the local citizens of the right to decide local matters. See City of Evansville v. State, 118 Ind. 426, 21 N.E. 267 (1889). Since the ultimate goal in a good system guarantees the recognition of murder, suicide and accidental death, exonerates the innocent, and presents sound, well-documented medical evidence, these goals are for the entire populace of Indiana and not the local community.

84. See note 29 *supra*. Photographs should be widely used by the area examiner and taken by him if possible. This would eliminate the necessity to produce the photographer as a witness. Helpern, *The Postmortem Examination in Cases of Suspected Homicide*, 36 J. CRIM. L. & C. 485, 605 (1946).

"There are never too many photographs in connection with a medicolegal autopsy. Identification photographs are necessary but not alone sufficient. Close-up pictures of significant injuries and wounds are invaluable later after the body has long been buried or cremated. This is particularly true of wounds with a distinctive pattern such as may be caused by claw hammers, meat tenderizers, threaded pipes, or distinctive automobile ornaments. A small ruler should be placed in these close-up photographs so that relative size can be determined." GRADWOHL, LEGAL MEDICINE 26 (1954).

85. Per capita costs to taxpayers in a few counties have been computed from figures received in the Coroner Survey. They include the following: Benton (2.64c), Boone (4.94c), Clark (2.36c), Dearborn (3.12c), Delaware (3.76c), Dubois (3.80c), Elkhart (4.86c), Hancock (5.54c), Henry (3.52c), Howard (6.98c), Lake (11.71c), Madison (4.27c), Marshall (4.08c), Shelby (3.30c), Switzerland (3.23c), Vanderburg (7.51c). Again, for analytical purposes these costs must be projected throughout the entire state in counties of similar population.

86. Naturally, it is difficult to look at another state and predict how successful the measures used there will be in Indiana. Many of the states do not have the same form of local government or do not have a constitutional coroner. While costs in Virginia may serve as a superficial guide, that state has not attempted to superimpose a form of the medical examiner on the constitutional office of coroner. Therefore, cost compari-

cal Examiner in Virginia has reported the total per capita cost for the state in 1951-52 as 3.67 cents, an amount lower than present costs for most Indiana counties.[87] The fees allowed a medical examiner include ten dollars for each body viewed, while pathologist fees range from twenty-five to fifty dollars.[88] If the Indiana coroner's salary were reduced commensurately with his duties, and fees comparable to those of Virginia were authorized in Indiana for each body viewed by the medical examiner and for each autopsy performed, adequate personnel might be attracted at a minimum expense to the taxpayer.[89] Costs, though difficult to project, probably would not increase. Certainly even a slight increase in costs would be more than offset by the improvements in the system.

The difficulties presented by the constitutional origin of the coroner are not insurmountable. Three solutions are available: (1) A constitutional amendment either changing qualifications or (2) adopting a form of the medical examiner system; or (3) statutory reform eliminating the main duties of the coroner by superimposing a form of the medical examiner system on the present organization. The latter approach seems preferable since it is most likely to be quickly and certainly attained; constitutional doubts are negligible since the coroner's office has been statutorily defined since its inception in this state.

Whatever procedural revision is effected, the duties of the examining officer must be enlarged and defined. Expanding jurisdiction beyond its narrow "violence or casualty" test is essential in any statute defining coroner or medical examiner powers. This improvement would enable the examiner to perform an autopsy when the cause of death has not been determined beyond a reasonable doubt. The suggested area examiner system would eradicate most defects of unqualified personnel and duplication of functions. Separating the legal and medical functions so that the inquest is conducted by a qualified judicial officer would allow the

---

sons serve only as a guide and are not suggested as ultimate figures in a cost structure for Indiana. For an excellent analysis of cost data in various states see MINNESOTA LEGISLATIVE RESEARCH COMMITTEE, THE CORONER SYSTEM IN MINNESOTA 14-21, 24-8 (1954).

87. *Id.* at 25.

88. *Id.* at 30.

89. Any cost structure adopted in Indiana for a revised coroner system must be balanced against two interests: First, it must not overly burden the taxpayer; second, it must be sufficient to attract adequate personnel. The elected coroner would have fewer duties and responsibilities since his inquest responsibilities would be eliminated. Therefore, his salary could be reduced. On the other hand, the area examiner should be allowed a fixed fee for each body examined and also a reasonable allowance for autopsy performance. The county in which the body was discovered would remunerate the examiner. The problem of exact fees or salaries, which are difficult to establish, should be placed in the hands of a legislative committee for careful consideration.

examiner to specialize in medical determinations; evidence would assume an authoritative and useful character. Only by revising its antiquated coroner system and by channeling the medical and legal responsibilities to men technically trained to perform those functions can Indiana adequately meet the public needs.

THE NEED FOR A LIBERAL BUSINESS ENTRY STATUTE IN INDIANA

The adversary system of law is premised on the general theory that facts should be proved by a witness produced in court and subject to cross-examination. Because of a corresponding interest in obtaining all the facts necessary for proper adjudication of the dispute by the court or jury, deviations from this principle are being made when the trustworthiness of an offered item is substantially above reproach. The restrictiveness of common law rules of evidence has, in many jusidictions,[1] engendered the passage of legislation permitting records, relied upon daily by businessmen in the conduct of their affairs,[2] to be admitted and evaluated by courts and juries. Indiana has not yet enacted such a statute,[3] and reliable records of this type are subject to exclusion as evidence by the rules of hearsay[4] and *res gestae*[5] as applied by its courts. The present

1. CAL. CODE CIV. PROC. ANN. (EVID.) §§ 1953e-53h (1946); DEL. CODE ANN. § 4310 (1953); FLA. STAT. § 92.36 (1953); GA. CODE ANN. § 38-711 (1954); MINN. STAT. ANN. §§ 600.01-.04 (West 1947); MONT. REV. CODES ANN. §§ 93-801-1 to -01-4 (1947); NEB. REV. STAT. § 25-12, 108-11 (Supp. 1953); N.J. STAT. ANN. §§ 2A:82-34 to -37 (1952); N.D. REV. CODE § 31-0801 (1943); OHIO REV. CODE ANN. § 2317.40 (1954); ORE. REV. STAT. §§ 41.680-.710 (1953); PA. STAT. ANN. tit. 28, §§ 91a-91d (Supp. 1954); TEX. STAT., art. 3737e (Supp. 1952); WASH. REV. CODE §§ 5.44.100-.120 (1951); WYO. COMP. STAT. ANN. §§ 3-3122-25 (1945). See MORGAN *et al.*, THE LAW OF EVIDENCE, SOME PROPOSALS FOR ITS REFORM 52-53 (1927).

2. MORGAN *et al.*, *op. cit. supra* note 1, at 51; Comment, 2 HASTINGS L.J. 40, 43 (1951). See notes 53-55 *infra* and accompanying text.

3. Two attempts to enact the UNIFORM BUSINESS RECORDS AS EVIDENCE ACT in Indiana have failed, the bills having died in Senate committees. IND. S. JOUR. 552, 572, 783 (1937); IND. S. JOUR. 551, 570 (1943). See note 46 *infra* for the pertinent provisions of this act. Indiana has adopted legislation permitting reproduced business records to be admitted in evidence as original records. IND. ANN. STAT. §§ 2-1649-51 (Burns Supp. 1955).

4. Bank of Poneto v. Kimmel, 91 Ind. App. 325, 168 N.E. 604 (1929); Over v. Dehne, 38 Ind. App. 427, 75 N.E. 664 (1906); Dodge v. Morrow, 14 Ind. App. 534, 43 N.E. 153 (1895); The First Nat'l Bank of Porter County v. Williams, 4 Ind. App. 501, 31 N.E. 370 (1891).

5. Hitt v. Carr, 201 Ind. 17, 162 N.E. 409 (1928); Pittsburg, Cincinnati & St. Louis R.R. Co. v. Noel, 77 Ind. 110 (1881); Equitable Life Assurance Society v. Campbell, 85 Ind. App. 450, 150 N.E. 31, 151 N.E. 682 (1926); Marks v. Box, 54 Ind. App. 487, 103 N.E. 27 (1913).