

MAINE STATE LEGISLATURE

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A DISTRICT COURT FOR MAINE

**REPORT TO
THE LEGISLATIVE RESEARCH COMMITTEE
OF MAINE
ON
THE DESIRABILITY OF INTEGRATING ACTIVITIES
OF MUNICIPAL COURTS
AND TRIAL JUSTICES**

(AUTHORIZED BY CHAPTER 91, RESOLVES OF 1959)

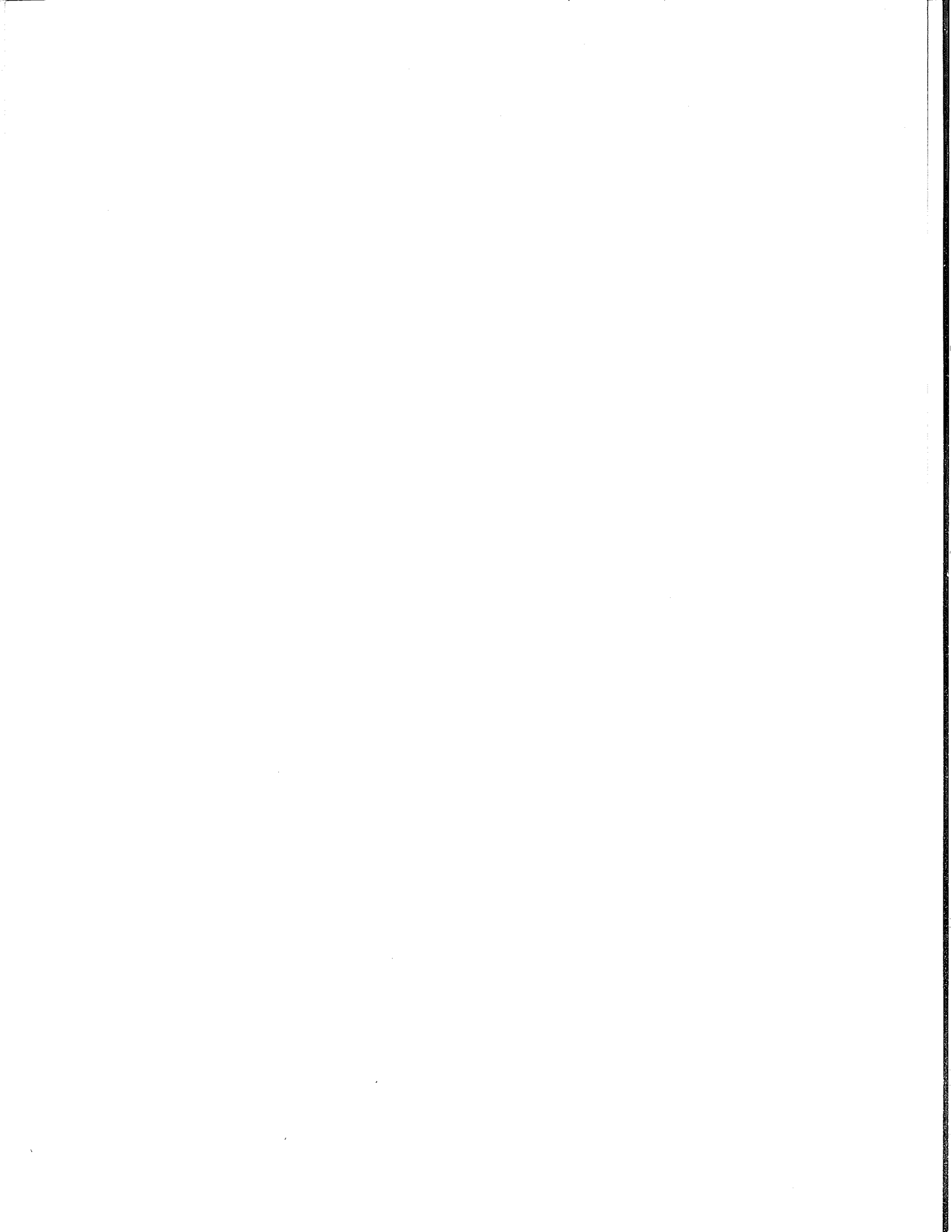
by

**THE INSTITUTE OF JUDICIAL ADMINISTRATION
New York, N. Y.**

Legislative Research Committee

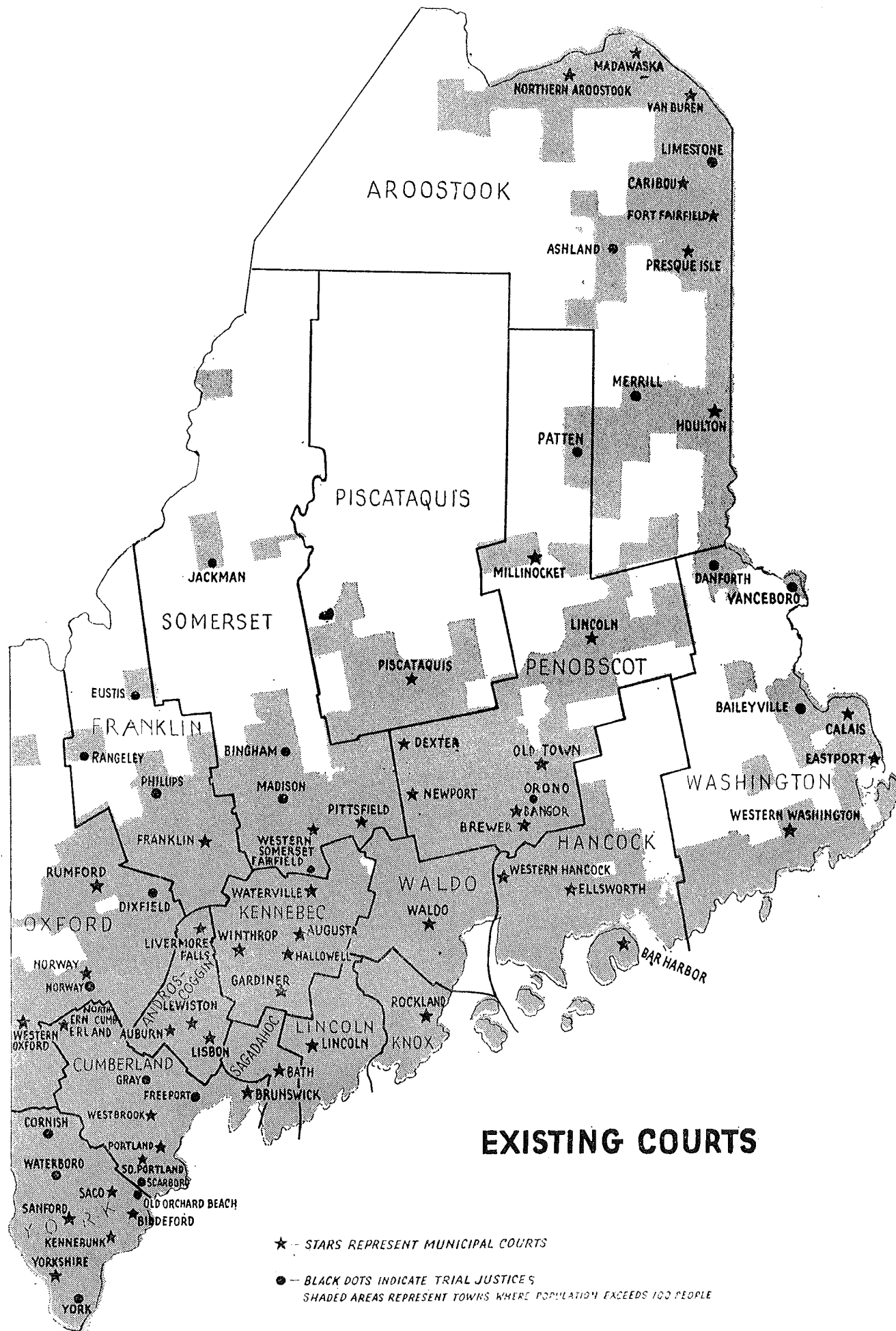
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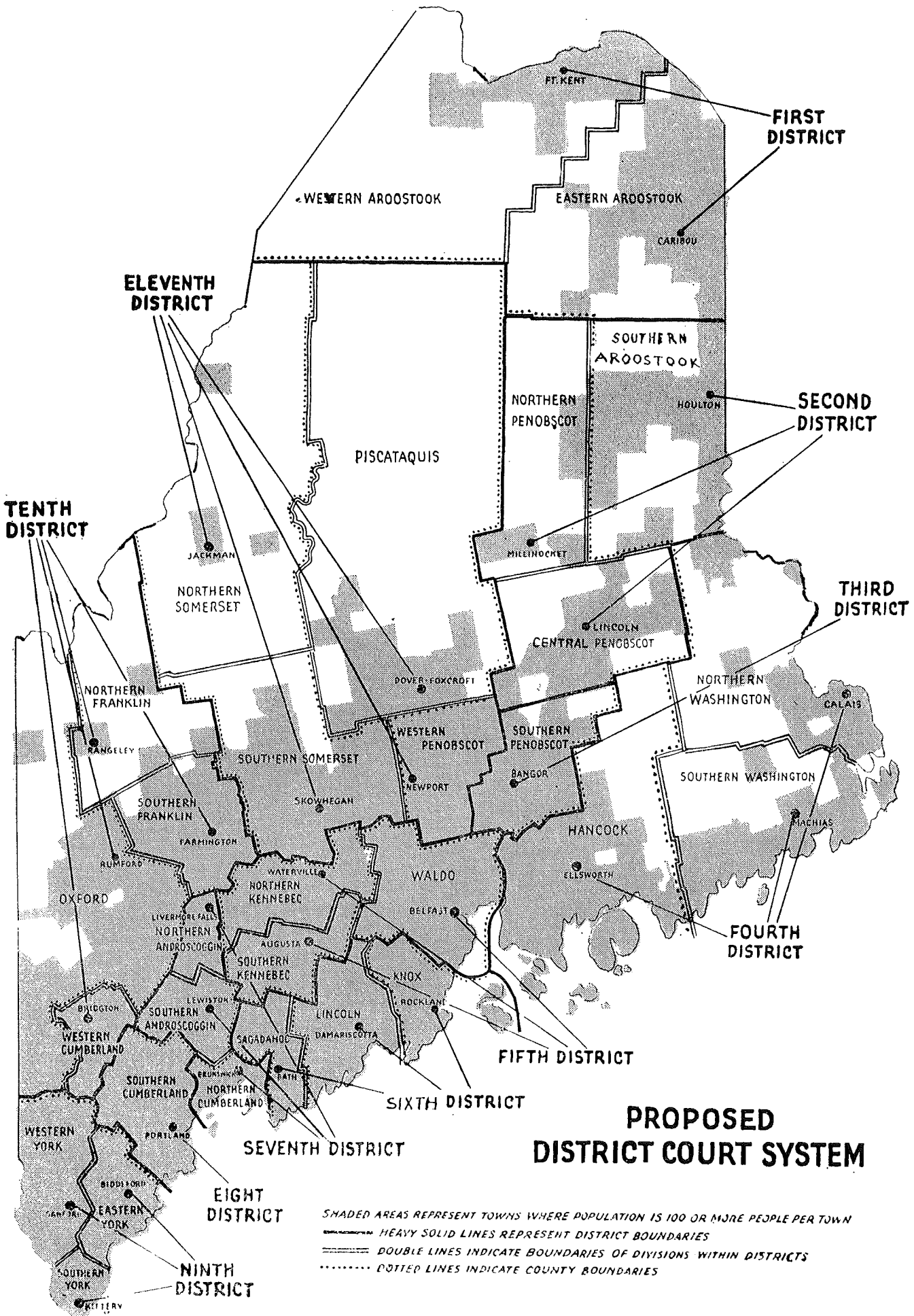
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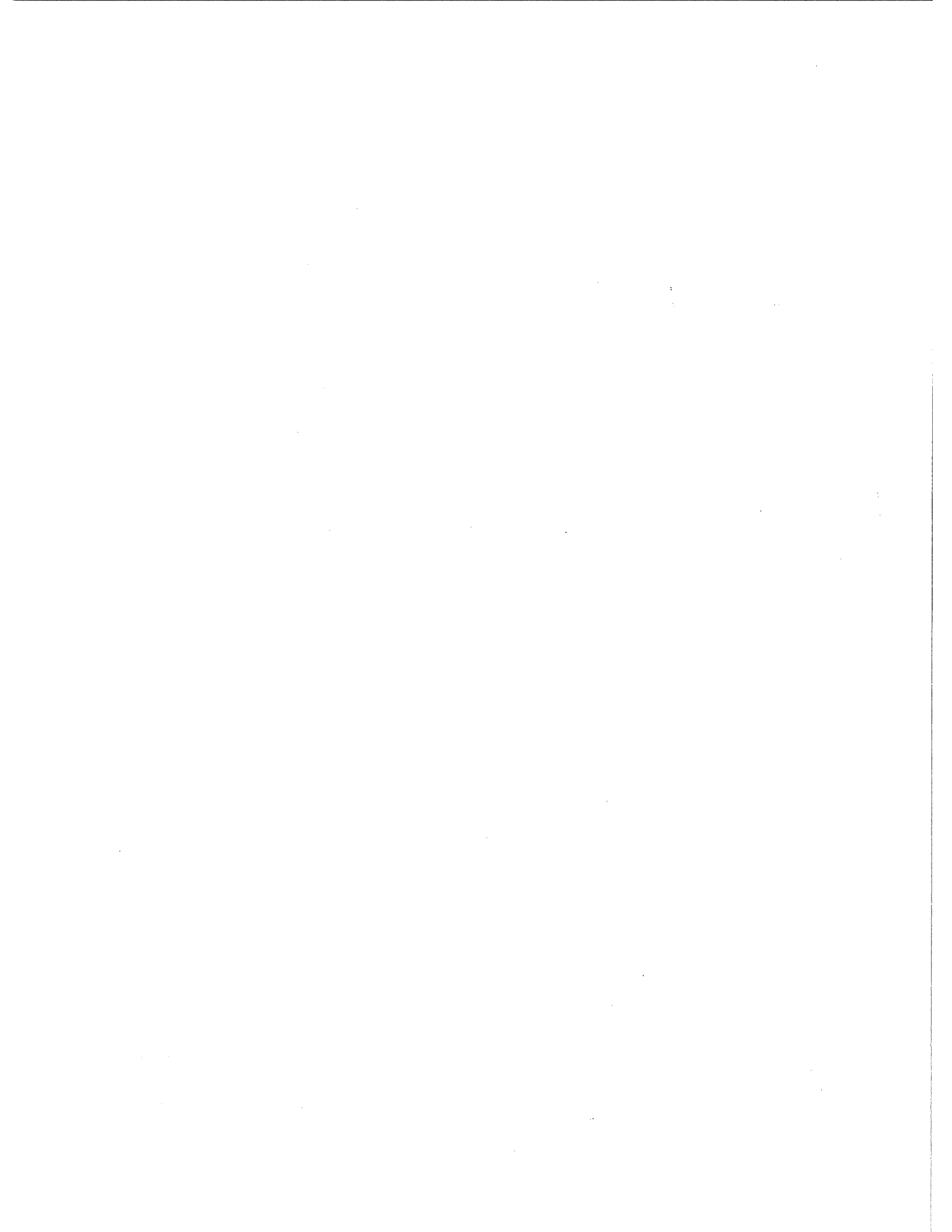
EXISTING COURTS

- ★ - STARS REPRESENT MUNICIPAL COURTS
- - BLACK DOTS INDICATE TRIAL JUSTICES
- SHADED AREAS REPRESENT TOWNS WHERE POPULATION EXCEEDS 100 PEOPLE



**PROPOSED
DISTRICT COURT SYSTEM**

SHADED AREAS REPRESENT TOWNS WHERE POPULATION IS 100 OR MORE PEOPLE PER TOWN
 HEAVY SOLID LINES REPRESENT DISTRICT BOUNDARIES
 DOUBLE LINES INDICATE BOUNDARIES OF DIVISIONS WITHIN DISTRICTS
 DOTTED LINES INDICATE COUNTY BOUNDARIES



To the Committee on Legislative Research:

The present study was undertaken in September 1959 at the request of your Committee, acting pursuant to Chapter 91 of the Resolves of 1959, which reads in pertinent part as follows:

Resolved: "That the Legislative Research Committee be authorized to study the desirability of creating a district court system integrating the activities of the present municipal court and trial justice system . . ."

The resolve of the Legislature does not define the term "district court system." We have assumed, as did the Judicial Council in 1957, when similarly requested by the Legislature to "study the desirability of creating a District Court system integrating the activities of the present municipal court and trial justice system," that the plan imported by the term "is believed to contemplate full-time judicial appointees who shall serve a district . . . to be the only court of limited jurisdiction within the district created."

In other words, the resolve of the Legislature envisages the possible abolition of the present structure of municipal courts and trial justice courts, all locally financed and all served by part-time judges, and the possible establishment in its place of a single state-supported system of courts manned by a corps of full-time judges.

The municipal courts now number fifty. Their judges, each sitting in a single town,¹ are all lawyers, whose chief source of livelihood is their law practice. In addition, the judicial work of these courts is participated in to a greater or less extent by the recorders attached to all but nine of them. About half of these are members of the bar (and in consequence enjoy the title of Associate Judge). The remainder are engaged, as their chief means of livelihood, in a variety of occupations. Whether or not a member of the bar, the recorder may and on occasion does, hold court, performing, as permitted by statute, all the functions of the judge.

There are 24 trial justices. Only one third of them are members of the bar.

In essence the question which the Legislature has authorized your Committee to investigate is this: Would replacement of the ramified structure just described by a corps of full-time judges, relatively few in number, work an improvement in the administration of justice?

The Essential Issue

Other things being equal, it appears to be generally conceded that a full-time judge is better than a

part-time judge. This was recognized by the Committee of the Judicial Council² which, in 1957, reported unanimously "that where the caseload justifies it, the judge should be placed on and paid for full-time application to his duties."³ The Committee's failure to recommend a state-wide system manned by full-time judges was apparently due, not to any doubt as to the superiority of full-time over part-time judges "who because of the low judicial salary must devote the major portion of their time to private practice in order to gain a livelihood," but rather to a fear that a system based on full-time service might, in the smaller towns, sacrifice "the proximity of such a Court to the area and people it serves." The Committee declared that "the strength of the municipal court rests largely in the fact that it is a 'local' court acquainted with the local people and problems."

We have here the essential issue around which differences of opinion as to the practicability of a district court system for Maine appear to revolve. That, in principle, a small corps of professional judges, free like the judges of the Superior Court, from conflicting interests and from other demands on their time, is superior to the many-membered group of lawyers and laymen who now dispense local justice part-time is not seriously questioned by any of those whose opinions we have solicited. Their doubts or objections arise solely from a belief that, under the conditions of population distribution existing in most parts of the State, the reduced accessibility and the reduced knowledge of local conditions and people which a reduction in the number of judges presumably entails are too great a price to pay for the admitted advantages of a full-time judiciary. The problem thus is essentially one of balancing advantages and disadvantages. Are the advantages of a full-time judiciary for the local courts so pronounced as greatly to outweigh any loss of proximity and of local knowledge which a reduction in the number of judges may entail?

1. See Map of Existing Courts. In the case of a few of the municipal courts, their charters provide for the holding of terms for civil business in additional towns. As will appear, the civil business of these courts is small, so that their civil terms are of minor significance.

2. The Committee consisted of two superior court judges, two municipal court judges and two laymen.

3. Presumably the Committee had in mind the municipal courts in the cities of Portland and Bangor, each of which has a caseload which, if augmented by that of some of the nearby minor municipal courts, would justify a full-time judge in place of the part-time judge and part-time associate judge who now divide the work. The possibility of creating a sufficient caseload by uniting several adjacent courts in a circuit served by a single judge was not discussed by the Committee.

Conclusions and Recommendations

Our conclusion is that the advantages greatly outweigh the disadvantages. Specifically, we conclude that the proposed change

- 1) would result in a more uniform disposition of traffic cases, which constitute the largest single class of cases now disposed of by the municipal and trial justice courts, and that in this and other respects the traffic safety program of the state would be furthered;
- 2) would result in a more careful, thorough and expert disposition and follow-up of the problem cases now handled by these municipal and trial justice courts—the cases of alcoholics, juveniles and broken families—and a more satisfactory treatment of divorce cases presently being handled by the Superior Court;
- 3) would tend to produce a closer liaison between the courts and the social agencies of the state, including the probation and welfare departments;
- 4) would make the judicial establishment a force for improvement of the state's social and law enforcement program;
- 5) would tend to improve procedures and record-keeping, with resulting assistance to the law-enforcement agencies of the state;
- 6) would increase respect for the courts and for the law on the part of the citizens of the state; and
- 7) would effect a monetary saving sufficient to provide for the rehabilitation of the needed courthouses and courtrooms

Impelled by these conclusions, we recommend legislation terminating all existing offices of municipal court judge and trial justice, and creating a District Court for the State of Maine, composed of fourteen judges, holding court in thirty places in the State.

Preliminary to an exposition of the basis on which these conclusions and recommendations have been reached, some general comments are appropriate.

Importance of the Local Courts

Although the question presented to your Committee obviously involves important considerations of convenience and economy, its answer cannot be governed exclusively, or even primarily, by those considerations. The values involved are too fundamental to permit of so restricted an approach. Local courts such as those under discussion are not infrequently referred to as "inferior" courts. That term, however, has reference solely to the magnitude of the cases under their jurisdiction, and not to importance of these courts

in the public life of the state. In point of numbers of citizens who come before them, and who derive from them alone their estimate of the administration of justice in the state, they are far more important than the so-called "higher" courts. If the man in the street receives from his treatment in a traffic case an impression of inefficiency, injustice, or favoritism, he will be inclined to regard the entire court system, and indeed the entire state government, as inefficient, unjust or dominated by favoritism. Moreover, despite the limited character of their jurisdiction, in cases of non-support, neglected children and juvenile offenders the local courts deal with matters of the highest importance to the citizens who come before them, and to the people generally. In dealing with chronic alcoholics, they labor with a problem of vital consequence to many members of the community. In the field of traffic offenses, their work has major significance, for upon it largely depends the success of the effort for greater highway safety.

The late Arthur T. Vanderbilt, Chief Justice of New Jersey, speaking of the local courts of that state, said, in words equally applicable to Maine:

"It must be apparent to all who consider the matter that the local courts of first instance are the very foundation of the enforcement of the criminal law. On them rests the primary responsibility for the maintenance of peace in the various communities of the state, for safety on our streets and highways, and most important of all, for the development of respect for law on the part of our citizenry, on which, in the last analysis, all of our democratic institutions depend. This is the underlying reason why I have repeatedly called the municipal courts the most important in our state. Not only is the work of the municipal court fundamental to the preservation of the social order, but, . . . it comes in direct contact with thousands where the other trial courts only reach hundreds and where the appellate courts reach very few indeed. It is obvious that the use in the Constitution [of New Jersey] of the term 'inferior courts' is a phrase, however it may be justified historically, which should never be applied to the municipal court. It is a court of first impression with limited jurisdiction, but it is in no respect an inferior court."

Reorganization vs. Reform

In discussing the subject, we have encountered the contention that many of the defects observable in the operation of the present courts should be capable of correction within the present framework. With this contention we in a measure agree. Should your Com-

mittee decline, at this time, to concur with our recommendations, a program of legislation designed to correct weaknesses in the present system should promptly be undertaken.

Those who stress the possibility of improvement within the present framework commonly contend further, however, that there is consequently no occasion for a radical change in the system. This contention we are quite unable to accept. Some of the chief weaknesses in the existing system, to which attention will presently be called, are in our opinion inherent in that system and are incapable of correction within the present framework. Even with respect to those defects which are, in theory, susceptible of correction within the present framework, the practical difficulties of enforcing improved standards upon so widely diffused a body of officials, whose chief sources of livelihood and primary interests are elsewhere, make the possibility of even partial improvement quite dubious.

Those who contend that the present system should be improved, not replaced, posit, as their unstated premise, that the burden of proof falls upon those who propose to displace the existing arrangements. However, it is relevant to point out that the existing municipal and trial justice courts represent a marked exception to the principle on which most other state institutions (including the Superior Court) are operated—the principle that the public is best served by public servants who devote the whole of their working time and energy to their public responsibilities. The plan under which local justice is administered as a sideline by public servants whose chief source of income is elsewhere, and indeed to a certain extent in an area inconsistent with their public responsibilities, is itself a gross exception to this pervasive principle. Consequently, the present system rests under the obligation of justifying the making of this exception in its favor.

It must be recognized, too, that this exceptional system was adopted at a time when the volume of business of these courts was but a fraction of its present size, and when difficulties of travel made it almost imperative that a court should be available within a few miles of every important settlement. Hence, even if there were no expressed dissatisfaction with the operation of the present system, its exceptional form of organization would call for re-evaluation in the light of present-day ease of travel and communication.

Impossibility of General Characterization of the Courts

In collecting opinions on this problem,⁴ one is struck with a common tendency to include all seventy-four courts, or at any rate all municipal courts, in a single characterization. Manifestly, however, no single characterization of the work of these courts can be valid. Quite aside from the inevitable disparity in the ability and conscientiousness of judges of courts of comparable size, the great disparity in the volume of business handled by the several courts makes generalizations impossible. There is the widest disparity between the courts in the volume of business done (and consequently in the relative importance in the judge's day of his judicial duties as against his private law practice), in the formality of their procedures, the regularity and duration of their sessions, their records and clerical arrangements, their physical setting. The court in Bangor had in 1959 an annual caseload of 6,706. In the Hallowell court, on the other hand, there were only 125 cases disposed of in 1959. Between the extremes, all possible variations are found, as is shown by Appendices B and C.

There is no need to underscore the contrast between a municipal court in one of the larger cities of the state, with a judge in attendance every day for a substantial part of the day, with dignified quarters and adequate clerical personnel, and with a probation officer in readily available attendance, on the one hand, and on the other a municipal court in one of the small towns, where court is held irregularly, in mean quarters or perhaps in the office where the judge practices law, where the clerical work must perhaps be done by the judge himself, and where a probation officer's services can be obtained only with difficulty. Still greater may be the contrast with a trial justice's court, held in a still smaller settlement, only occasionally, and in surroundings often not even approximating in dignity those of a village law office.

While some trial justices handle a trivial amount of business, averaging less than one case a week, others handle more cases than most municipal courts. For example, the Trial Justice at Scarborough, who is not a lawyer and who is located just outside of the metropolitan area of Portland, where there are three Municipal Courts functioning, disposed of 1,651 cases during 1959. Only eight Municipal Courts in the entire state handled a greater volume of business.⁵

4. See Appendix A, Sources of Information.

5. Appendix B.

I. THE WORK OF THE COURTS

We turn now to an examination of the work of the existing municipal and trial justice courts. The several classes of cases which occupy their time are the kinds which will also provide the bulk of the work for the district courts, if established.

These cases are of widely different kinds, differing widely also in numerical volume. Although the municipal courts have jurisdiction of civil actions at law involving as much as \$600, their civil business is relatively small in terms of the amount of judicial time required for its disposition. While the number of cases is numerically large, the overwhelming majority of them involve only uncontested bill collections. The civil business of the trial justices, whose jurisdiction is limited to \$20, is virtually non-existent. Both courts are therefore essentially "criminal courts"—using that term for lack of a better, because the offenses with which they deal are handled, procedurally, like criminal offenses proper.

In reality, although the municipal courts have jurisdiction to try all offenses not punishable by imprisonment in state prison, and the trial justices also have an extensive though more limited criminal jurisdiction, few of the offenses that come before these courts are criminal in the usual sense. By far the largest single class of cases is composed of traffic offenses. Ranking next in numerical importance are liquor cases—public intoxication and illegal possession of liquor. In some courts, fish and game offenses constitute a sizeable class of cases. Miscellaneous minor offenses and (in the municipal courts) juvenile cases make up the remainder of the cases whose disposition is within the power of these courts. In addition, in felony cases beyond their jurisdiction, these courts are empowered to conduct examinations of persons brought before them to determine whether they should be discharged or held to await the action of a grand jury and possible trial in Superior Court.

As clearly appears from the description just given, most of these cases are criminal only in a technical sense. The defendants involved are characteristically not hoodlums, but peaceful citizens with weaknesses which have led them into trouble—careless driving, alcoholism, irresponsibility in family relations, juvenile indiscipline. Courts which deal with such problems may not fairly be appraised in isolation or solely in terms of judicial efficiency. They must be regarded as part of a larger effort for community improvement in each of the three main areas in which their work lies—traffic safety, liquor and family welfare.

Traffic Offenses

Traffic cases constituted, in 1959, about 70% of all criminal cases disposed of by the municipal and trial justice courts.⁶ Manifestly, it is primarily by their operation in this field that the present courts must be judged. Correspondingly, it is by the extent of its possible superiority in this field that the desirability of a district court system must in large measure be determined.

During the year 1959, 35,792 traffic cases came before the courts. Classified by the nature of the violation involved, their numbers were as follows:

Traffic Cases, Municipal and Trial Justice Courts, 1959⁷

Moving violations—	
Speeding	9,549
Driving under the influence of liquor	2,285
Reckless driving	1,598
Disregarding stop lights or signs	2,962
Other moving violations	3,147
Violations connected with license and registration, or inspection	10,070
Truck violations	3,297
Other	2,884
	<hr/>
Total	35,792

The overwhelming majority of these cases were uncontested, 88% of them resulting in pleas of guilty.⁸ This means that there were only about 4,295 traffic cases which went to trial. The remainder of them, while usually⁹ calling for the exercise of judicial discretion in sentencing, required considerably less time for their disposition.

A very high proportion of the charges involving danger of accident—speeding, reckless driving, driving under the influence of liquor and the like—were made by troopers of the state police. Prosecution of these charges was almost exclusively in the hands of the troopers themselves. Rarely did the county attorneys participate.

6. These figures are based on records, not reproduced in this report, which were prepared by the individual courts and transmitted to the State Highway Department by the County Commissioners for the purpose of identifying payments of police officers' fees and overload fines. They cover certain courts which did not respond directly to our questionnaires. Because of this fact and because the bases for classifying cases were not always uniform, discrepancies (usually minor) can be found between such figures and those shown in the Appendices of this Report. The State Highway figures are used occasionally in this report because of the detailed classification of cases made possible by them.

7. See Appendix D.

8. *id.*

9. Not invariably, because some offenses, particularly those involving truck overloads, carry mandatory penalties.

While the enforcement of the traffic safety laws is thus on the side of policing and prosecution in the hands of an agency acting under centralized state supervision, on the side of judicial enforcement it is in the hands of seventy-four tribunals, each wholly independent of the others and subject to no central supervision whatever. The result is, as might be expected, unequal enforcement on the judicial side. This in turn makes for unequal enforcement on the side of policing and prosecution, despite centralized supervision.

The inequality of the judicial enforcement of the traffic safety laws stems from the wide discretion given the court in the amount of the fine to be imposed (and in determining whether or not to impose imprisonment) and the lack of any common standards for the exercise of discretion. In the case of speeding, the statute prescribes a fine of from \$10 to \$100 (imprisonment for 90 days being also provided for, though apparently very seldom imposed). Some of the judges and trial justices appear to follow the practice of imposing a fine of \$15, regardless of aggravating circumstances. One judge usually imposes a fine of \$5, another in an adjoining court a fine of \$35, and still another, quite commonly, a fine of \$100. Closer scrutiny of the records would doubtless reveal other variations. The tendency of some courts to leniency and of others to severity tends to discourage enforcement by the police. An officer may be inclined to wink at a violation if he feels that the violator will in effect be permitted to shrug off his offense in court by the payment of a trifling fine. Conversely the prospect of an unduly severe penalty may incline an officer to overlook a violation.

For effective enforcement of the traffic laws of the state, there should be a uniform scale of penalties, worked out by the courts and the state agencies responsible for highway safety, and adhered to by all the courts. Such a schedule would not do away with the judge's discretion; it would merely furnish him with detailed standards for the exercise of that discretion. Another tested method of promoting uniformity would be the compilation of comparative data, so that each judge could observe for himself how much more or less severe he was than his brethren. Such a compilation would be meaningful, however, only if the number of cases of each category decided by each judge was substantial. The present arrangement, under which traffic sentences are imposed by about 100 judges¹⁰ some of whom pass on only one or two cases a week, makes useful comparative data, even were anyone charged with collecting such data, impossible.

With a district court system, each of the judges would, in a year, dispose of a large number of cases, so that an analysis of the penalties imposed by him would become significant.

Greater uniformity of sentencing in traffic cases could no doubt be brought about even under the present diffusion of the sentencing discretion by strenuous efforts on the part of the Maine Municipal Judges Association. This would not, however, have any necessary effect upon the actions of trial justices dealing with traffic cases. Furthermore the achievement of greater uniformity among so large and diverse a group would be far more difficult than it would be within a small tightly-knit corps of full-time judges, meeting periodically under the leadership of their chief.

There is another respect in which the concentration of traffic cases in fewer courts than at present, and in a smaller number of court sessions—a necessary feature of a district court system—would strengthen the enforcement of the state's traffic laws. Those most expert in this field strongly recommend that traffic cases be heard separately and apart from other cases, and that each traffic session be regarded as an occasion not merely for penalizing the violators before the court, but for educating them as well—for impressing upon them as a group the necessity, for their own safety as well as that of their families and neighbors, of observing traffic laws and rules. Under the present arrangement, in many of the courts, the paucity of traffic cases at any one session, and the informality of the setting and of the procedure militate strongly against any attempt to give the proceeding any educational value. In a few of the larger courts, some attempt at impressing upon offenders the importance of observing traffic regulations is made. In the smaller courts whose proceedings we observed, however, there was no such attempt. In some of them the procedure was so mechanical and conducted in a setting so little calculated to impress the offender that it could hardly be expected to have any greater educational value than would a notification to the offender (had he indicated in advance his intention to plead guilty) that he was to pay his fine to the town clerk.

The effectiveness of traffic courts in improving traffic safety depends also much on the promptness with which the penalty is visited on the offender. In this respect the present system is on the whole satisfactory even though some courts hold sessions only

10. There are 50 Municipal Court Judges, 24 Trial Justices, and 41 Associate Judges and Recorders of Municipal Courts. The extent to which the 41 Associate Judges and Recorders perform judicial functions varies widely from one court to another.

sporadically or at odd times. With respect to the offense of drunken driving, however—doubtless the offense involving greater danger to highway safety than any other—the lack of finality of a conviction in the municipal or trial justice court seriously impairs its effectiveness. If appeal from such conviction is taken to the Superior Court (or if hearing in the municipal or trial justice court is waived and demand made for trial in the Superior Court), the trial must await a criminal term of the Superior Court in the county involved. During the ensuing delay, the respondent's license continues in force. Even in counties in which the Superior Court terms occur frequently, the failure of the county attorney to bring the case to trial may cause further delay. It may not be amiss to suggest that fewer appeals might be taken if the courts of first instance in traffic cases enjoyed greater stature, prestige and confidence.

In an ideal program for traffic safety, the judges of the traffic courts should themselves be a major force for the improvement of the safety laws and of their enforcement. But such a role can hardly be expected of the many-headed unorganized local judiciary of today. A small corps of full-time judges would be far more likely to play a significant part in the overall road safety program. With the greater uniformity of sentences possible under such a court organization, with the judges insulated from local pressures, and with courtrooms of dignity, a more impartial and effective enforcement of the law in this field would ensue and public confidence in the courts would be enhanced.

Liquor Cases

After traffic cases, the next largest number of cases now dealt with by the local courts are those connected with the use of intoxicating liquor. No less than 16% of all the criminal cases in these courts in 1959 were in this category.¹¹ Almost all of them resulted in pleas of guilty, relieving the judge from the time-consuming problem of determining guilt or innocence, but imposing upon him the difficult (though not necessarily time-consuming) problem of what to do with the offenders.

One group of such cases arises out of the illegal possession or sale of liquor. (Some of these cases involve minors above the juvenile offender age of 17; and from the standpoint of the judicial problems involved, they are closely akin to the juvenile cases, shortly to be discussed). The remainder, comprising over 80% of all liquor cases, are cases of public intoxication.

The defendants charged with intoxication are characteristically a small class of repeaters, in effect, addicts. There is qualified opinion that the courts have little place in dealing with them for they present a problem of rehabilitation to the solution of which, it is urged, the courts have little to contribute. It is possible to reject this extreme view, and yet to appreciate that the role the court should play in these cases is less that of a traditional court than that of a social agency. In our conversations with the municipal court judges we found at least one who has taken a special interest in this problem and has attempted to rehabilitate the defendants brought before him. On the whole, however, it must be said that the system of part-time local judges is hardly well-adapted to this end. Only a program in which the work of the courts is closely integrated with that of probation officers and with social agencies will insure progress in this field. The coordination of the work of these officers and agencies with that of one hundred odd part-time judges presents almost insuperable difficulties. Were there instead a much smaller number of judges and were sentencing for offenses in which probation might be suitable concentrated on particular days, it would perhaps be practicable to assign to each judge a probation officer who would be present at every session of the court at which such sentencing took place. In this way the placing on probation of habitual drunkards might become a more meaningful process than under present conditions in which the placing of offenders on probation is often merely a procedure for collecting the fines imposed.

Family and Juvenile Cases

We pass now to a branch of the work of the municipal courts which, though quantitatively minor and probably accounting for less than 5% of their criminal business,¹² is of prime importance. It concerns cases in which family troubles are involved. These cases come before municipal court judges in the exercise of their jurisdiction to order support for wives and children, to make orders for the commitment of neglected children, and to deal with juvenile

11. This statement is based upon records in the State Highway Department (see Note 6 supra) showing 8,223 such cases in 1959. This amounts to approximately 16% of the 51,136 criminal cases disposed of in 1959.

12. In 1959, there were 1,654 juvenile cases, amounting to about 3% of the total caseload (53,335) of criminal and juvenile proceedings combined (Appendix C.) Some of the "other criminal" cases and special proceedings (estimated at about 1000), however, doubtless involved family matters.

offenders, many of whom are the product of improper family conditions. Some of these juveniles indeed are charged with no specific offense but rather merely with consorting with evil companions.¹³

Such cases are not routine. They do not fit neatly into traditional patterns of "guilty" or "not guilty." They are seldom susceptible of proper disposition by means of the standard criminal sanctions of fine and imprisonment. They demand instead patient and thoughtful inquiry into the causes and cures of complex social difficulties.

In this class of cases the experience of the judge is a prime factor in his effectiveness. The background and training of the typical lawyer to whom responsibility for such cases is now committed on a part-time basis do not equip him to deal wisely with these cases, many of which are truly baffling. Only through study and experience can full effectiveness come. The concentration of such cases in sufficient number to enable the judge who deals with them to become, by study and experience, something of a specialist in family and juvenile problems, is thus a prime desideratum in any plan of court reorganization. Unfortunately, or perhaps fortunately, any great concentration in Maine is unlikely owing to the small total number of such cases. However, the dispersion of that small number among fifty municipal court judges (not to speak of associate judges) is greatly to be deplored.¹⁴ Their concentration in the hands of a much smaller number of judges would be a significant advance. In addition, as in cases of habitual drunkenness, the improved co-ordination with social agencies that can be achieved with a small corps of full-time judges is a factor of the highest importance. The Chief Judge and the two Judges at Large provided under the new system whose function will be to help in the busiest districts of the State, may specialize to some degree in these problem cases, and thus become truly expert in their handling. Their expertness would quickly spread to their colleagues.

Significant as is the difficulty of developing experience and expert knowledge under the present system, we have been even more impressed with another weakness. In well-nigh unanimous agreement, judges whom we have interviewed have confessed regret at their inability to devote to the juvenile and family cases which come before them the amount of time which they felt the cases really required.¹⁵

We confront here a grave weakness of the institution of the part-time judge which it seems difficult, if not impossible, to correct. The lawyer who is also a judge receives for his judicial duties a fixed salary. Whether he gives generously of his time to those

duties or performs them in the shortest time possible, is entirely a matter for his conscience.¹⁶ But his earnings as a lawyer (since nearly all the judges are single practitioners) depend primarily on how much time he devotes to his clients' affairs, and on how much of the work of his office he can do himself instead of calling in the help of a brother lawyer. There is thus, in the case of not a few of the municipal court judges (especially, we may say, among those who impressed us as the abler among them), a more or less continuous conflict between the demands made on their time by their court on the one hand, and their practice on the other. The sharpness of the conflict might perhaps be reduced by an increase in the salary of the judge, but it could hardly be eliminated. The conflict between the desire of the judge to give the parties before him a full hearing and his need to return to his law office to meet an engagement or to catch up on unfinished business, between his desire to give further study and investigation to a case awaiting his decision and the necessity of devoting time to the preparation of a brief or a contract on which a deadline impends, would still remain. The point was well put by the Committee of the Judicial Council which in 1957 reported on the desirability of a district court system. To be of service, declared the Committee, the judge "must be able to devote patient time to the thorough exploration of the case and its causes. 'Patient' time is more readily available when the emoluments of the office enable the judge to give it without the thought lurking in his mind that he must get back to earning a living."

Those who are called upon to deal professionally with family problems—whether as lawyers, judges or probation or social workers—have repeatedly emphasized in recent years the deplorable dispersion of jurisdiction over such proceedings found in some court systems. They have urged the desirability of con-

13. In addition to offenses committed by juveniles, the municipal courts have jurisdiction of "the following conduct of juveniles: habitual truancy; behaving in an incorrigible or indecent and lascivious manner; knowingly and willfully associating with vicious criminals or grossly immoral people; repeatedly deserting one's home without just cause; living in circumstances of manifest danger of falling into habits of vice or immorality". (R.S.ch.152A, §4).

14. Although the trial justices seldom hear non-support proceedings, they too have jurisdiction of them.

15. The earliest published criticism of the municipal courts that has come to our notice is the statement, in 1952, attributed to the judge of one of the larger of those courts, that a disadvantage of the system is the inability of the judges and recorders to devote the necessary time to their part-time posts. (Judge Frank E. Southard, Jr. of Augusta Municipal Court, as reported in *Kennebec Journal*, Oct. 17, 1952.)

16. So, too, is the choice between holding court himself, or delegating the task to the recorder for slight cause.

centrating all such proceedings in a single court.¹⁷ In Maine, fortunately, such dispersion of jurisdiction is not serious. It does, however, exist.

Municipal Courts have jurisdiction over juvenile cases,¹⁸ nonsupport proceedings,¹⁹ and proceedings for the care and custody of neglected children.²⁰ Furthermore, in the exercise of their general jurisdiction over misdemeanors, cases of disorderly conduct and intoxication which arise out of family problems also come before them.²¹ The Probate Courts also have extensive jurisdiction over cases which involve or may involve family problems. Their jurisdiction is concurrent with the Municipal Courts over proceedings for the care of neglected children²² and of proceedings to compel support of wives and children;²³ and they have exclusive jurisdiction of actions for separation,²⁴ with their related problems of alimony and custody of children. Parallel problems of alimony and custody arising in divorce actions are within the exclusive jurisdiction of the Superior Court;²⁵ as are also proceedings under the Uniform Reciprocal Enforcement of Support Act.²⁶ The Superior Court, moreover, has concurrent jurisdiction with the Municipal and Probate Courts of proceedings to compel support of wives and children.²⁷

The fourteen Judges of the district court would have little difficulty in handling all these cases along with their other business. If given jurisdiction over them, the district court would have the power to handle all the cases²⁸ which should be within the jurisdiction of a family court.

Quite aside from the desirability of integrating matrimonial actions with the other work of the district court sitting as family court is the fact that the present vesting of divorce jurisdiction in the Superior Court has not given satisfaction. In certain counties, that Court holds terms so infrequently as unduly to delay the granting of divorce decrees. In 1957 the Judicial Council reported that by reason of the length of time required in certain counties for the disposition of divorce actions, it was desirable that jurisdiction of such actions be given to the probate judges of the several counties. The situation then described has since been somewhat but perhaps not completely corrected by the system of special assignments of Superior Court judges instituted by the Chief Justice of the Supreme Judicial Court in 1958. Under it a justice who has completed the normal trial calendar of the term in the county to which he has been assigned may be assigned by the Chief Justice to another county to dispose there of such matters as can be disposed of in chambers.

More important, the Judicial Council pointed out that "Very seldom, if ever, does the same judge have consecutive terms in a given county. This means that recurrent domestic disputes between the same parties are heard by different judges. The needs of dependents and the earning capacity of the husband and father changes from time to time, the needs of the children as to custodial attention varies from time to time. Not only should court service be promptly available but it would be greatly to the advantage of the persons involved and the judge charged with the responsibility of aiding the situation if one judge could follow a given family situation from the beginning to the end of its internal controversy."

The recommendation of the Judicial Council for a transfer of divorce jurisdiction to the Probate Court was not acted upon by the Legislature, perhaps for the reason that its proposal contemplated also the transfer to the probate judges of exclusive jurisdiction in all *civil* domestic relations matters, while leaving *criminal* jurisdiction over domestic relations cases, including those involving juveniles, in the municipal courts.²⁹ If the recommendation had been adopted, it would have removed one court from the field of family problems, but left two others (Municipal and Probate Courts) dividing jurisdiction between them. All of the advantages contemplated by the recommendation can still be achieved by vesting divorce, separation

17. See for example, Roscoe Pound, *The Place of the Family Court in the Judicial System*, 5 Nat'l Probation and Parole Ass'n Journal 161-171 (April 1959); Children and Families in the Courts of New York City (New York, Dodd, Mead & Co. 1954) pp.8-9.

18. R.S., c. 152-A§3.

19. R.S., c.138,§1, c.166, §§43 and 72.

20. R.S., c.25,§249.

21. Non-support, disorderly conduct and intoxication cases are within the jurisdiction also of the trial justices.

22. R.S., c.25, §240.

23. R.S., c.166, §43.

24. R.S., c.166, §44.

25. R.S., c.166, §55.

26. R.S., c.167, §2.

27. R.S., c.166, §43.

28. The Superior Courts would still occasionally have to deal with a family problem, as in connection with a habeas corpus proceeding over the custody of a child, or a prosecution of a man for deserting his wife or children in destitute circumstances (R.S. c.138,§2). Similarly the Probate Court would still deal with adoptions and guardianships, which might (though they rarely do) arise out of family problems. Such proceedings are of infrequent occurrence, and we do not recommend transfer of them to the District Court. However, after the District Court is in operation, further study of the matter may warrant such a recommendation.

29. The recommendation of the Judicial Council was "That all domestic relations problems, including that of divorce, invoking civil remedies, be transferred from the Superior Court to the Probate Courts, with progressive attention toward the establishment of a staff or staffs of personnel trained in marriage counselling and family discord analysis as an adjunct to the Probate Court System."

and support jurisdiction in the District Court. These advantages include (1) greater dispatch in the handling of matrimonial cases, (2) better "follow-through" by a single informed judge, and (3) greater likelihood of building up a staff of personnel trained in marriage counselling and related family problems. In addition, there would be realized the further great advantage of concentrating in a single court all family problems, not just half of them.

A rigorously logical application of the principles just discussed would require the withdrawal from the Superior and Probate Courts of the jurisdiction which they now exercise in this field. However, the withdrawal from the Superior Court of its present divorce jurisdiction would require provision to be made in the District Court for jury trial on framed issues—a provision involving obvious difficulties and complications. The same is true of the jurisdiction exercised by the Superior Court—though very rarely—in prosecutions for desertion and wilful nonsupport. We think it preferable to permit the jurisdiction of the Superior Court to remain undisturbed. While such jurisdiction will exist, resort to it presumably will be rare.

So far as concerns the Probate Court, a transfer to the District Court of its present jurisdiction in family matters (actions for separation, proceedings to compel support and proceedings for the care and custody of neglected children) would not require any provision in the District Court for jury trial. The number of cases in those categories actually disposed of by the Probate Court is in most counties not significantly large, according to our information. The likelihood is that even this infrequent exercise of jurisdiction in family matters will dwindle. It seems best, therefore, to defer until after the establishment of the District Court the question of whether the present jurisdiction of the Probate Court in family matters should be withdrawn.

Miscellaneous Criminal Cases

The remainder of the criminal business of the present courts, arising out of game violations, assaults, petty thefts and a variety of other minor offenses and misdemeanors, can be treated briefly. Many of the cases are routine, resembling the traffic and intoxication cases already discussed.

One large group of such cases arises out of violations of the inland game laws and the laws governing sea and shore fisheries. In 1959, the existing courts disposed of 1985 such cases, amounting to 4% of their total business or approximately 1 case out of every 25.³⁰ In some courts, such cases account for a considerably higher percentage of the total business.

Most game cases result in pleas of guilty, and thus call for substantially the same type of judicial attention that is accorded traffic and intoxication cases.

The same is probably true of most miscellaneous crimes, even though a few of them individually require trial and hence the expenditure of a greater amount of judicial time. Our overall figures³¹ indicate that in non-traffic cases generally, 84% result in pleas of guilty. Since there are only about 4,133 miscellaneous cases per year if we exclude traffic, intoxication, game and family cases,³² the total number of trials required should not exceed 661 ($4,133 \times 16\% = 661$).

In addition to handling cases within their trial jurisdiction, the Municipal and Trial Justice Courts also have power to conduct preliminary examination in felony cases. There were 946 such examinations in 1959, some of them, of course, coming before trial justices without legal training.³³

Civil Cases

The work of the Municipal and Trial Justice Courts on the civil side is, as already indicated, minor. While a great many cases are filed (11,573 in 1959),³⁴ the overwhelming majority of them involve bill collections, seldom raising any issue beyond the defendant's ability or willingness to pay. A few of them go under the resounding title of actions for "Forcible Entry and Detainer," but these differ from other bill collections chiefly in that they are brought for non-payment of rent rather than some other type of debt.

As might be expected, few of these cases go to trial. Either the defendant defaults, allowing judgment to be rendered against him, or he pays his debt, allowing the action to be marked "settled" or "discontinued" on the court records. In either event, no judicial action is necessary. Whatever court work has to be done is purely clerical.

According to questionnaires returned by the courts, however, about 8% of the civil cases are contested.³⁵ This figure seems high to us in the light of our conversations with Municipal Court Judges and our own examination of the civil dockets of a few of the courts. It may possibly be explained by the recording as "contested" cases those in which the defendant ap-

30. State Highway Department figures. See Note 6 supra.

31. See Appendix D.

32. According to the State Highway Dept. figures, there were 5,133 miscellaneous criminal cases. At p. 8 supra, we assumed that about 1,000 of these arose out of family problems and hence attributed that number to "family and juvenile cases", leaving 4,133 in the miscellaneous category.

33. See Appendix C.

34. See Appendix C.

35. See Appendix D.

pears only for the purpose of making arrangements to pay his debt or those in which the sole matters for discussion are the terms and time of payment. In any event it seems that little judicial time is being spent even on the "contested" civil cases. Many of the courts which deal with civil cases (some of them have no civil business) handle them in a short session set aside for that purpose every other week.

If a civil case within the jurisdiction of the Municipal Court (\$600) is really contested, it is more likely to find its way into the Superior Court than into the Municipal Court. One might expect the reason to be the availability of a jury trial in the Superior Court. We have no statistics to disprove that assumption, but conversations with experienced and well-informed practitioners lead us to believe that the real reason lies elsewhere. If there is a defense on the merits and if the defendant loses, he may appeal to the Superior Court and there have a trial *de novo*. This entails more delay and more expense for the plaintiff. That seems to be the primary reason why some lawyers prefer bringing actions in which there may be a contest into the Superior Court in the first instance. In 1959, in Cumberland County, 593 civil cases where the amount in controversy was \$600 or less were brought originally in the Superior Court.³⁶ Presumably the same situation prevails in other parts of the state.

If a District Court is established with judges of prestige and stature, and if those judges develop, as may be anticipated, a strong record of having their judgments affirmed when challenged, the bar probably will be disposed to bring more civil actions into that court than are now being brought into the Municipal Court. This will increase the work of the District Court, but will ease the load in the Superior Court and go far toward avoiding the wasteful spectacle of double trials. There is little justification for burdening the Superior Court with bill collection cases either originally or on appeal.

II. THE COURTS IN OPERATION

The Judge's Local Knowledge

An objection that has been voiced to supplanting the present system of courts is based upon the contention that their judges have intimate connections with the communities in which they sit. This is said to give them uniquely valuable insights into the circumstances and the personalities involved in the cases that come before them, insights which judges not resident in the community could not be expected to have. Thus the Committee of the Judicial Council which in 1957 reported its divergent views as to the desirability of a district court system declared that "the strength of the municipal court rests largely on the fact that it is a 'local' court acquainted with the local people and problems."

While this argument is stated in general terms, it is relevant only to a limited group of cases—those involving juveniles or broken families or otherwise presenting social problems. As for traffic cases or civil actions, no one contends their just disposition can be helped by any amount of local knowledge. Quite the reverse might be expected.

Even with respect to cases in which a judge's local knowledge might be thought to have special value, that value does not in fact inhere in the present system except to a minor extent. The courts having jurisdiction over a majority of the inhabitants of the state and handling an overwhelming majority of the problem cases are situated in communities much too large to permit the judge to have any great amount of usable local knowledge. If it is possible to administer justice satisfactorily in Portland, Auburn, Lewiston and Bangor without intimate personal knowledge of special circumstances and personalities, it should be equally possible to do so in the smaller communities of the state.

Only 23 of the towns in which Municipal courts now exist would cease to have court sessions under the district court system we recommend. In each case, however, District Court would be held in some nearby town one day or more each week.³⁷ A district judge from a neighboring town sitting in a small community even one day a week should be able to acquire fairly promptly a serviceable amount of the local lore on which such stress is laid. He might not become so well acquainted with the outlying villages or rural areas in his district, but such communities seldom produce the problem cases now under consideration. If the district court plan be thought clearly desirable

36. See Appendix G.
37. See Maps.

MAINE DISTRICT COURT REPORT

(Legislative Research Committee Publication No.100-4)

ERRATA

page 13 - right hand column - 12th line from bottom:

DELETE line reading

"the prosecutor is a part-time official who has no"

and SUBSTITUTE

"the prosecutor's office in daily attendance. In the other"

1. The first part of the document

2. The second part of the document

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4. The fourth part of the document

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7. The seventh part of the document

from other standpoints, the loss in a few cases of the judge's intimate personal knowledge of the parties can hardly weigh very heavily in the balance—particularly since that loss can be largely, if not completely, compensated by the advice of probation officers or of the personnel of other social agencies concerned with the cases.

But it is urged that the resident judge's service to the community extends beyond the cases that are filed in his court—that by virtue of his position and his personal acquaintance with the people of the community, he is often able to settle disputes among his fellow-townsmen without any case coming to court. Doubtless there is much truth in this. It may be questioned, however, whether even in communities in which there is no judge, a respected lawyer may not have equal influence in keeping his neighbors out of court. Even in large cities this is not unknown. Moreover, in some instances to which our attention has been called, the dispute or quarrel was one which would not in any case have been likely to result in court proceedings. A minister or priest or any respected social-minded member of the community to whom appeal might have been made would have served equally well. Mention has also been made of juvenile cases in which, owing to the personal familiarity of the judge with the family and perhaps the juvenile himself, it has been possible to dispose of the case without even an entry on the confidential docket of juvenile cases. Assuming such disposition to be desirable, there would seem no reason why it might not equally well be made by a non-resident judge before whom the facts had been laid before the filing of a formal complaint—part of the facts being the opinion of the family and the juvenile held by those resident in the town, which a non-resident judge could ascertain without much difficulty.

One further aspect of the matter of local knowledge should not escape attention. It is the pervasive theory of Anglo-American law that a judge's disposition of a case should be based upon the evidence before him, not on knowledge or impressions gained by personal acquaintance. Still less should it be based upon knowledge or impressions gained from hearsay, not to say gossip, always a factor in "local" knowledge. Indeed such knowledge or impressions may in extreme cases be ground for the disqualification of a judge. Admittedly, these concepts are less strictly honored in connection with cases of the kind under discussion than in more formal litigated proceedings. Nevertheless, the mother accused of neglecting her child, or the juvenile charged with delinquent behavior is also

entitled to an unprejudiced hearing. More than one municipal court judge has told us that, though local familiarity has its value, it not infrequently makes difficult a decision based, as the law requires, on the evidence alone.

The Courts and the Social Agencies

In the fields of traffic, alcoholism, family relations and juvenile misbehavior, other agencies beside the courts are at work. In this area, dealing with problems which are as much social as they are legal, the courts should and do collaborate with these agencies, both public and private. The collaboration is impeded, however, by the very number of judges and trial justices and their geographical dispersion. The fact that the judges have been chosen without much reference to their special competence or interest in these fields accentuates the problem, as does also the fact that they ordinarily do not have at their disposal sufficient time for improving their understanding by study. The view may be said to be general among the agencies in question that with a small corps of career judges, a closer collaboration with the state and private agencies would result.

If the state does not in fact now have in all these fields a comprehensive program in which a corps of career judges may fruitfully participate, the problem of an effective court system in these fields must all the more be regarded as part of the larger problem. The court system is one of the key factors making for or retarding the development of a comprehensive state program. To the extent that such a program is lacking or inadequate, the relevant question is whether the existing court system or a district court system is more likely to help toward its development.

Participation by County Attorneys

The extent to which county attorneys now conduct the prosecution of cases before municipal and trial justice courts varies from county to county. Only in the Portland Municipal Court is a representative of the prosecutor is a part-time official who has no courts, the prosecutor or an assistant is present only if his participation has been requested by the court or the arresting agency, or if he himself deems it necessary to conduct the prosecution. Thus he would ordinarily be present at any preliminary hearing on a felony charge, but in a misdemeanor case only if there were advance warning that the respondent was to be represented by counsel or was likely to take an appeal in the event of his being convicted. In most counties the prosecutor is a part-time official, and he has no assistant. Hence his appearance in a local court de-

pends partly on whether his presence is required in the Superior Court and partly on the extent of the pressures from his private law practice.

Ideally, a representative of the prosecutor's office should be present at each session of a local court, if not to participate in trials, then at least to assist police and other law enforcement officers in framing complaints and preparing cases. The present system of part-time ill-paid county prosecutors makes even an approximation to this ideal impossible. This would still be true if the number of courts were reduced. It seems clear, however, that pending such a reorganization of the prosecuting machinery as would make possible the presence of a trained prosecutor at each session of each local court, a reduction of the number of courts from seventy-four to thirty would greatly facilitate the participation of county prosecutors in the work of the local courts.

Record Keeping and Reporting

Clerks are almost as important as judges in the proper functioning of a court. Records must be kept, reports made and documents drafted. Trained people must be on hand to do the job and places must be available for them to work.

The Municipal and Trial Justice Courts in Maine are not exempt from responsibilities in the way of recording and reporting. It goes without saying that they must keep case dockets and files. In addition, however, they are required to render reports of various kinds. One report goes to the County Treasurer, showing all moneys collected. Since substantial amounts are involved (about \$1 million per year in the aggregate)³⁸ and since the entire fiscal management of the courts is predicated on accurate figures, the importance of this report is obvious.

No less important are reports of traffic offenses required to be rendered to the Secretary of State and reports of other offenses required to be rendered to the State Police. The former are used as the basis of the state's "point system" which is the foundation for revoking or suspending the licenses of dangerous drivers. The latter reports are used, along with records kept by the State Police directly, to identify persons with criminal records, to indicate the need for increased patrol activity in various areas and generally to keep officials informed of criminal activity in the state.

Despite these heavy responsibilities, the existing Municipal and Trial Justice Courts are sadly lacking in facilities for meeting them. There are recorders in most of the Municipal Courts,³⁹ but they are as likely

as not to be lawyers. If so, they not only have the title of "Associate Judge", but also usually the work of a judge. To the extent that they perform purely clerical work, their talents are being wasted. Aside from the recorders, the courts are dependent for clerical help on appropriations for clerk hire made by the county commissioners. In 5 counties, not a single clerk as such is available, and in one of the remaining counties, the appropriation for 1959 was only \$66.⁴⁰ Thus in six counties, clerical help beyond any which may be given by the recorders is virtually non-existent. In some of the other ten counties, clerical help, while available, is inadequate.

The consequence is that judges are spending a disproportionate amount of their time in clerical work.⁴¹

Physical facilities for carrying on clerical work are also inadequate. Some of the offices attached to the busiest courts are cramped and crowded, teeming with lawyers, police officers and respondents during and near the time that court is in session. At worst there are no offices at all. Where this is so, the court's official records must be maintained and stored in the private office or home of the judge, recorder or trial justice. In theory public records, these documents in practice are so inaccessible that they might as well not be. Another consequence of the lack of regular offices is that persons having business with the court experience difficulty in transacting it beyond what they have any reason to expect from a governmental agency.

In view of their inadequate personnel and facilities, it is not surprising that many courts neglect to make the reports required of them by the State Police and the Secretary of State, thus impeding if not imperiling important programs for traffic safety and police protection.⁴² Nor is it surprising that state auditors have experienced difficulty over many years with the financial records of the courts.

As for statistics of general interest on the business of the courts, such as those contained in this report, they are quite beyond the capabilities of the present

38. See Appendix I.

39. No trial justice courts have recorders, and very few have any clerical help whatever.

40. See Appendix I.

41. Much of the work is unnecessary, consisting, as it does, of the drafting of complaints (sometimes called warrants) in traffic cases. This presents a procedural problem discussed later in this report.

42. For the year 1959, 19 of the 50 municipal courts failed in 8 or more months to send any abstracts to the State Police Department, 7 of these sent no abstracts whatever, 5 sent some in only 1 month, 3 in only 2 months, 2 in only 3 months and 2 in only 4 months. (Figures furnished by State Police Headquarters).

system. In the first place, there is no central agency to ask for or collect the necessary data. Secondly, there is insufficient clerical help in many of the local courts to do even the minimal amount of reporting that is now required by law.

A system of district courts, manned by adequate clerical help (an essential feature of the plan) could remedy all of the deficiencies noted above. There would be a clerk's office in every district, with a regular clerk in charge, keeping regular office hours and working under the supervision of a full-time judge. There would also be a central office checking the records and reports of all courts, under the supervision of the Chief Judge, and preparing such statistics as might be needed to present at any time an accurate picture of the operation of the entire system.

Recording and reporting the work of the local courts is a state function serving a state need. Financial support for that function should be provided by the state (out of court revenues) and should not depend on the varying estimates of the need and value of the function made by sixteen boards of county commissioners.

Physical Facilities

The courtrooms used by the Superior Court and those used by Municipal Courts present dramatic contrasts. The former are typically spacious, properly lighted and well-furnished, with decent clerk's offices and adequate chambers for the judges. Yet relatively few citizens of the state ever enter them, and in some counties they are used only a few weeks a year. The latter are too often small, dingy and shabby, with no offices either for judges or clerks, if indeed there are any clerks. Yet these courtrooms are in constant heavy use.

There are some exceptions to the generally poor quality of local courtrooms, notably in Portland and Bangor, but the adequacy of their facilities is at least counterbalanced by the extreme inadequacy of those in many other communities. In some places, the Municipal Court has no courtroom at all. The judge holds court in his private law office, which may or may not be clean, but certainly is not impressive. In other places, a courtroom may be supplied, but only in rented space of an office building. As for Trial Justices, they rarely have anything resembling courtrooms. Sessions are held in the business offices or homes of the Trial Justices in an atmosphere quite unlike that usually associated with the administration of justice. Even in a Municipal Court with a courtroom provided, when the recorder holds court in the judge's absence,

he may do so in his home or place of business, however unsuitable, because he cannot conveniently leave.⁴³

A deficiency found even in connection with most of the better courtrooms is the lack of provision for a private office for the judge. When he is off the bench, there is no place for him to go except into the corridor or an overcrowded clerk's office or his own private law office for the transaction of judicial business, including necessary conferences with respondents, lawyers, juveniles, their parents, social workers, law enforcement officers, and others having legitimate business with the court.⁴⁴ Another common deficiency, already noted, is the absence of a clerk's office, open at the usual hours, to which members of the public may resort for consulting records, obtaining information, filing papers or requesting the issuance of warrants. The lack of such elementary facilities, which a citizen expects every governmental agency to have, cannot but lower a court in public esteem.

The provision now made for courtrooms and related facilities and their maintenance varies from place to place with the standards of suitability and expenditure that happen to be entertained by county commissioners, or in some cases by town authorities. Thus far, the state has assumed no responsibility for insuring that its courts shall have a setting worthy of their high function.

That any local court should have a dignified, if not impressive, physical setting seems self-evident. Such a setting is likely to be as effective as a monetary penalty in creating in the traffic violator or other offender a state of mind favorable to future observance of the law.

A program for upgrading the facilities of the local courts is clearly in order. However, such a program obviously would present far greater difficulty if the

43. The most striking instance of this character that came to our notice involved holding court in the kitchen of the recorder's home. The recorder, a housewife, interrupted her judicial duties from time to time to attend to her infant, who was also present.

44. One of the judges interviewed informed us that he had vetoed the provision of a private office in connection with his courtroom. His reason was that the sight of police officers entering the private office to consult the judge created an impression among the respondents in the courtroom that the judge, instead of being an impartial umpire, was merely the judicial arm of the police. The remedy would seem to be, however, not to deny the judge a private office, but to restrict the access of police officers to it. Undesirable confabulation "between" the judge and police officers, a frequent phenomenon in these courts, is closely associated with the needless requirement that the court issue a so-called "warrant" for each respondent even though he is already physically present in court in response to a summons. See p. 26.

present structure of seventy-four courts were to be continued than if the number of places for holding court were to be reduced. In our recommended plan for a district court, there would be need for only thirty courtrooms. These would be located, for the most part, at places where facilities at least approaching adequacy are already in existence.

The Conduct of Proceedings

Reasonable formality in court procedure is generally conceded to be helpful in creating an impression of dignity, and in inculcating respect for the law. In the courts having a substantial volume of business, the procedure is of necessity sufficiently formal. Particularly is this so where there is present a clerk of the court, making it unnecessary for the judge to discharge the clerical and financial details of the court's work in the presence of litigants.

In many of the courts, however (even where the court may have a recorder), it is the exception rather than the rule for the recorder or any other clerical assistant to be present during court sessions. Under these circumstances, and especially where the day's calendar contains only a few cases, it requires deliberate effort on the part of the judge to impart to the proceedings the formal dignity they should have; and it is hardly surprising that a high standard is not uniformly found. In some cases, indeed, an extreme lack of formality is encountered, as is illustrated by a proceeding observed in one municipal court in which a single traffic offense was the sole item of business on the day's calendar. The judge entered the courtroom and, without removing his top-coat, took his place behind the desk that did service as the bench. Then, without taking his seat, he read the warrant to the respondent, who pleaded guilty. The judge announced the fine, and the respondent placed the money on the desk. Thereupon the judge put the money in his pocket and left the courtroom. No receipt was given the respondent, nor was an entry made in his presence on any record, the judge presumably intending to cause the necessary record to be made when he returned to his law office.

A procedure so informal (especially when carried out, as in the incident described, in a courtroom badly needing tidying), far from reinforcing the deterring and reforming influence of a fine, can do much to weaken it.

III. THE COURTS IN PUBLIC ESTEEM

It is an oft-forgotten yet obvious fact that the public image of the courts generally is derived largely from the so-called "inferior" courts. While the citizen, through the printed page and the screen, receives impressions of the higher courts as well, his first-hand impressions are largely confined to the local courts. During the year 1959, about 54,000 citizens appeared before the municipal and trial justice courts of the state.⁴⁵ Over a 5-year period, even allowing for repeaters, the proportion of the population which came before these courts is very much larger than is commonly supposed.⁴⁶

One aspect of the public image of the courts is sometimes overlooked—its relation to the morale of the law enforcement officer, and hence to the level of law enforcement in the state. Lack of dignity in the setting of a court, excessive informality in its procedure, needless wasting of the time of officers and respondents, unfamiliarity on the part of a recorder or trial justice with rules of law and evidence known to any well-trained officer—all such things may create in an officer a distaste for court appearance. This distaste may sway the precarious balance when he debates with himself whether to prosecute or to ignore a violation he has observed.

The Municipal Court Judge

In its 1957 report on the desirability of creating a district court system, the Judicial Council committee, composed of two superior court judges, two municipal court judges and two laymen, declared that "prestige and respect toward some of the municipal courts is sadly lacking, while others could be greatly improved upon in that phase of their position." The committee did not indicate whether this estimate applied to only a few of the courts or to a large number.

Nor are we in a position to offer our own view. Appraisals of the calibre of particular judges which came to our attention in the course of our studies were too few and scattered to enable us to form any reliable

45. This is the total number of traffic, criminal, and juvenile cases, and preliminary hearings (See Appendix C). It does not take account of repeaters, but neither does it include persons who may have appeared in connection with civil cases.

46. The 1960 population of the state was approximately 962,000. The number of criminal cases in 1959 was about 54,000. On the assumption that the caseload remained relatively constant, the number of cases over the 5-year period was probably about 270,000. Subtracting 25% for those which might have involved respondents who appeared more than once, one would arrive at an estimate of about 200,000 citizens coming before the Municipal and Trial Justice courts out of a total population of 962,000.

opinion as to the degree of respect in which the municipal court bench as a whole is held. Our own impression of municipal court judges is that, generally speaking, they are conscientious and able—abler than might reasonably be expected in the light of their meager salaries and the importance of purely political factors in their selection. As for the municipal court as an institution, however, that is another problem. The failure of county or town authorities in many parts of the state to make adequate provision for courtroom facilities and clerical service—despite the net revenues which the courts produce—seems to us a reliable index of the lack of any high regard for the municipal court as such.

Although unable to make any general statement as to the degree of respect in which the municipal court judges are held, we have found evidence of critical attitudes toward them which are bred almost inevitably by the dual position they occupy in their communities.

The problem of preserving the confidence of the community in the impartiality of a judge who, concurrently with his judicial duties, is carrying on the practice of law among the very people on whom he sits in judgment, has long been recognized as a serious one. In the Canons of Judicial Ethics promulgated by the American Bar Association, the practice of law by a judicial officer is deplored, to be suffered as a necessary evil only where “the county or municipality is not able to pay adequate living compensation for a competent judge.” The Canons go on to declare that a judge who practices law “is in a position of great delicacy and must be scrupulously careful to avoid conduct in his practice whereby he utilizes or seems to utilize his judicial position to further his professional success.” (Canon 31) However upright the lawyer-judge, there always exists the possibility of his being influenced, albeit subconsciously, in the disposition of a case before him, by the effect such disposition may have on the possibility of future retainers by one or another of the parties. Even if he in fact bends over backward, the suspicion of divided loyalty is always lurking in the background.

The small size of the communities served by many of the municipal courts is doubtless an aggravating circumstance. In a small town the judge is necessarily well-acquainted with its leading citizens. They are likely to be, either actually or potentially, among his more desirable clients. In this aspect, the fact that the judge is rooted in the community and knows the local people presents itself as a distinct weakness of the present system rather than its chief merit, as frequently claimed.

Moreover, confidence in the complete impartiality of the municipal court judge can hardly be expected when the lawyer before him is himself the judge of a neighboring municipal court, before whom the judge on the bench will perhaps shortly be appearing as a lawyer. Even the relation of the lawyer-judge to his brother attorneys may raise suspicion.⁴⁷ The lawyer who appears before him when he sits as judge in the morning may be the same one from whom, in another matter, he may be planning to ask for cooperation that afternoon. Both from the standpoint of the judge and that of the public, it is better that there be a visible distance between the judge and the attorneys who practice before him.

Paradoxically, the lack of complete confidence in the courts is founded as much in the fear that they may be unduly harsh as in the suspicion that they may be excessively lenient. This feeling in criminal cases is found almost everywhere to a certain extent. In the present situation, however, there are specific aggravating factors. One of them is the informality of contacts between police officers and judges,⁴⁸ particularly in connection with the preparation of warrants.⁴⁹ These contacts, observed by respondents, arouse understandably, even if unjustifiably, suspicion that the representatives of the two arms of the state are collaborating against the citizen. Another factor is the lack of provision for legal counsel for the officers, causing them to turn to the judge for advice and for assistance in prosecution. Some of the judges, far from deploring the role into which they are thus cast, seem to welcome it.⁵⁰ The lawyer-judge also has occasion for informal contacts with law enforcement officers (including members of the state police assigned to the locality) quite aside from his judicial duties. He may, indeed, as a lawyer, occasionally wish to seek from those officers cooperation, to use no stronger term, in the interest of a client—whether the client seeks the

47. This is so even in traffic cases, despite the fact that a defendant in such a case is rarely represented by an attorney. Not a few citizens believe that the disposition of a traffic charge may be favorably influenced by the private intervention, on behalf of the defendant, of a lawyer who is on friendly terms with the judge. The present practice which permits the judge to “file” a charge, without requiring the defendant to plead, encourages this belief.

48. A few of the judges, recognizing this, refuse to confer with officers in their private law offices. One even requires all conferences to be in open court.

49. As to the needlessness of the issuance of a warrant in a case in which the respondent has been summoned by the officer and has appeared, see p. 26.

50. One judge writes: “We [i.e. the town in which his courts sits] support two squad cars and 13 men. They take their cue from the local judge. He advises, assists and damn near joins the posse. The people know him as the highest law enforcement officer.”

aid of the officers (in recovering stolen property, for example), or seeks favored treatment at their hands when himself suspected of a violation of law.⁵¹

Nor is the reputation of Municipal Court judges for strict impartiality enhanced by the tradition of political selection which prevails in their appointment. When a municipal court judge is the local party chairman or when he suspends court to attend a political convention or similar gathering, his public image as a judge is likely to suffer. Political selection, however is an evil which could be corrected within the present framework of a multiplicity of part-time judges. The best that can be said for a district court system in this regard is that it would allow a fresh start on the problem of judicial selection, and that, by reducing the number of posts to be filled, it would tend to concentrate greater attention by the bar and the public generally on the quality of the Governor's appointments.⁵²

In considering whether replacement of the present judges by a small corps of full-time judges is desirable, account must be taken not only of the present state of the municipal court bench but also of its possible future. Assessing the prospects, we find reason to fear that it may be increasingly difficult to maintain the present level of quality in the municipal court bench.

Success such as the Governor has had in the past in finding capable lawyers to take the office of municipal court judge is likely in the future to decrease. The task of appointment is intrinsically difficult because of the small number of lawyers from whom a choice must be made, for only a resident lawyer is, as a practical matter, and in many cases as a statutory matter, available. The difficulty will probably increase because of the additional restrictions which have recently, and very properly, been placed upon the judge's private law practice. By the Maine Criminal Rules promulgated in 1959 by the Justices of the Supreme and Superior courts, in the exercise of the authority vested in them by the statute of 1957, no judge of a municipal court may be "retained or employed or . . . act as attorney . . . in any civil case involving the same facts" as are involved "in any criminal proceeding" (Rule 17). This limitation is presumably intended to bar the judge from representing the plaintiff, the defendant or the insurer in a negligence claim arising out of an automobile accident in connection with which there has been any criminal charge.

In addition, the rule now bars him from all criminal practice. The opinion has been expressed to us by several municipal court judges that these additional limitations on the judge's law practice will greatly reduce the attractiveness of the post.⁵³ A few have stated that had such limitations existed at the time of their appointment they would have hesitated to accept.

In addition to the fact that the office of municipal court judge thus appears to be declining in attractiveness to abler members of the bar in the larger towns, there is, in small communities, the added difficulty that the number of lawyers from among whom the choice of a judge must be made tends to decline. In legal as in medical practice, as indeed in trade and other activities, a continuous erosion of the business of the smaller centers goes on, due to the attractive force of the larger centers in the area and to improved travel.

In sum, the prospect is for a deterioration rather than an improvement in the quality of the Municipal Court bench.

One final matter calls for comment. It is essential that for every municipal judge there be available a substitute to hold court when the judge is ill, on vacation, or otherwise necessarily absent. The statute makes two kinds of provision for this need. In counties in which there are two or more municipal court judges, any one of them may substitute for any other. In practice, however, this provision is but little availed of. Instead, resort is had to the other expedient provided by statute. In the absence of the judge, court is held by the recorder, found in 41 of the 50 municipal courts.⁵⁴ Of these recorders, some are lawyers recently admitted to the bar. Some are persons without

51. The judge is now prohibited from representing a defendant in criminal cases; but there is no explicit prohibition against his dealing with the police on behalf of a client.

52. The term of office for Municipal Court Judges (4 years) is only a little more than half as long as that of all other judicial officers, including probate judges and Trial Justices (7 years). The fixing of the term of office of District Judges at 7 years would also reduce the number of appointments to be made.

53. Moreover no attorney "holding himself out as a partner or associate of a judge" of a municipal court may appear in any civil case involving the same facts as are involved in a case on the criminal side of that court, or on appeal from any case originating "there", i.e., presumably on the criminal side of the court, or may represent the defendant "on the criminal side of such court." (Maine Criminal Rules, Rule 17). The rule makes these limitations applicable also to the associate judge, and to a trial justice who is an attorney.

54. In practice, in two of these courts, the recorder, holding at the same time the full-time office of clerk of courts for the county, does not in fact hold court.

any formal legal training, so that in a number of the municipal courts of the state, a litigant may find his case tried by a layman, just as if he were in Trial Justice Court.⁵⁵

The Trial Justice

Though the trial justices are not wanting in conscientiousness or intelligence, two-thirds of them lack the legal knowledge which ought to be possessed by judges vested with the considerable powers they enjoy. Such knowledge is especially necessary where, as is usually the case in a Trial Justice court, the defendant charged with an offense is not represented by an attorney. In such a situation, the judge should be especially careful to protect the defendant's legal rights against the zeal, or possibly the animus, of the police officer making the charge. A trial justice whose experience with legal questions may well be less than that of the officer is not equipped to do this. In the case of several trial justices who came under our observation, it seemed clear that, because of their own insecurity in legal matters, they relied upon the arresting officer—usually a state police trooper assigned to patrol the area in which the trial justice held court—to a degree which made the impartial trial of an issue of veracity as between the officer and the defendant well-nigh impossible. This may be in part the explanation for the apparent preference observable on the part of some law enforcement officers for a trial justice court as against an adjacent municipal court.⁵⁶

We heard little praise of the trial justices, and not a little criticism, the latter from lawyers and judges as well as from law enforcement officers. We feel satisfied that the trial justice system impedes the development of a proper respect for the courts and the law.

IV. THE PROPOSED DISTRICT COURT SYSTEM

To implement our recommendations, we have drafted a statute, which is appended. We here set forth briefly the plan proposed.

In place of the existing municipal courts and trial justice courts, a single District Court is to be created, manned by fourteen judges. The court is to sit at thirty places in the state.⁵⁷ Offenses committed within a defined area surrounding the place at which court is held (such area being termed a "division") are to be heard in that place. Each division is wholly within a county. It may comprise an entire county or only part of a county, but no division will cross county boundaries.

In only two divisions—those centered at Bangor and Portland—is the case load expected to be large enough to occupy the full time of a judge. In the remaining twenty-eight divisions the case load is expected to be such that it can be disposed of by a judge sitting one, two or three days a week. Accordingly, divisions are grouped into "districts", each district to be the responsibility of a single judge, who will ride circuit from one division to another. There are eleven districts proposed, two of which (already mentioned) consist of a single division, two of which comprise two divisions each, five of which comprise three divisions each and two of which comprise four divisions each. Another judge will be the Chief Judge, who will have no district of his own, but will handle the administrative work of the system and be available to sit as a judge in any district where his services are needed. Finally, there will be two "judges at large," not assigned to particular districts, but available to help wherever needed because of heavy case loads, judicial vacations or similar factors which may call for adjustments within the system.

Judges of the court are to be members of the bar but are not to practice law or to engage in any other occupation. Like Superior Court judges, they are to

55. Several judges have informed us that they are at pains to warn the lay recorder not to proceed should a question of law arise, but to adjourn the case to a date when it can be heard by the judge. That one lacking in legal knowledge may fail to be aware of the emergence of a legal question does not appear to have been considered.

56. Other partial explanations may be found in the more convenient hours and better parking facilities offered by some trial justice courts. The trial justice courts are not, as is often supposed, located only in the remoter areas. Several of them are found but a few miles from municipal courts. Thus a trial justice is found at Orono, only a few miles from Bangor and Old Town; and at Scarboro, only a few miles from Portland.

57. See map of Proposed District Court System.

be appointed for seven-year terms by the Governor with the advice and consent of the Council. The Chief Judge is to receive a salary of \$12,500 a year; the remaining judges \$12,000. All are to enjoy the same pension benefits as are now enjoyed by the judges of the Superior Court.

The Court is to possess the jurisdiction now exercised by the Municipal and Trial Justice courts, and in addition, jurisdiction over proceedings for divorce, separation, annulment, and proceedings under the Uniform Reciprocal Support Act.⁵⁸

Rules of procedure are to be prescribed by the justices of the Supreme Judicial Court, but pending the promulgation of new rules, current procedures will continue.⁵⁹

Each division of the court is to be supplied by the Chief Judge with appropriate quarters, clerical assistance, equipment, supplies and services. All fines collected by the court are to be placed in a state-administered fund, and the Chief Judge is authorized to draw upon this fund for meeting all needful disbursements. Provision is also made for allocations from this fund to a separate fund for the construction and improvement of district court courthouses.

On the basis of experience, it is expected that the fines collected by the courts will be several times greater than the sums to be disbursed for the purposes mentioned. The surplus will be distributed annually to certain of the state departments in accordance with present statutes governing fines collected by the existing courts, and to the counties in accordance with a formula set forth in the proposed statute, which it is expected will yield to the counties substantially the same amounts as they now receive.

The Number of Judges Needed

Our proposal for eleven districts, with a single judge in each and a chief judge and two judges at large available to sit where needed, is based upon a study of population distribution and anticipated case loads. In areas where the population is thin and distances are great so that some judicial travel will be involved, it is necessary to provide more judges, in relation to case loads, than in urban areas.

We do not anticipate any objection that more judges are provided than will be needed. However, a question may be raised as to whether there are enough judges. Under the new system fourteen judges will be expected to do the work now being done by about 100 judges.

For five of the proposed districts, the anticipated case load would seem to be well within the capacity

of a single judge.⁶⁰ The demonstration is in the fact that the case load for each will be substantially less than the case load now being handled in the Bangor Municipal Court by its Judge and Associate Judge, sitting alternately. Certainly the time spent by these two men does not exceed that which would be available to one full-time judge. Indeed in these five districts, the judges should be able to dispose of more cases than are anticipated. Their relatively small case loads are justified only because the judges will be required to do some travelling between divisions of their own districts and will be available to help out in other districts when illnesses, vacations or heavy calendars indicate the need of outside help.

In each of the remaining six districts, the anticipated case load will be greater than that now carried in any one municipal court. Nevertheless it will not, in our judgment, be too heavy for a single judge.

It is the district having the largest anticipated case load which presents most sharply the question of whether any judge will be overburdened. If one judge will be able to handle the work in that district, it follows that a single judge will be able to handle the work in any other district where the case load is smaller.

The district in question is the 8th, comprising the Portland metropolitan area. Now functioning in this area are three municipal courts—at Portland, South Portland and Westbrook and two trial justice courts—at Gray and Scarborough.

In considering whether a single district judge will be able to handle the case load anticipated in the Portland area, we assume that the number and type of cases coming into the court will be substantially the same as those now coming into the existing courts. Maine's population is relatively stable, and

58. The committee of the Judicial Council which reported on the district court proposal in 1957 was of opinion that certain crimes now triable only in the Superior Court might well be "down graded" to bring them within the jurisdiction of the district court if established. The committee declared that "many situations arising out of neighborhood disputes which might well ripen into serious litigation may often be corrected if the court at hand has power to finally dispose of the case without reference to a court of greater jurisdiction and less local knowledge." The suggestion will be worth studying after a district court system becomes established. See also pp. 10-11 supra.

59. Draftsmen may find helpful the "Model Rules Governing Procedure in Traffic Cases" promulgated by the National Conference of Commissioners on Uniform State Laws in 1957 and recommendations made in 1957 by the Public Officials Traffic Safety Conference and approved in 1958 by the American Bar Association and the Conference of Chief Justices of State Supreme Courts.

60. The anticipated caseloads of the various districts, computed in accordance with the 1959 caseloads of the existing courts in their respective areas, are shown in Appendix E.

there is no reason to anticipate any radical upsurge in judicial business or any radical change in its character within the next decade. We assume also that the proportion of pleas of guilty in criminal cases and of defaults in civil cases will follow the same pattern as in the past.

Of the 6,660 criminal cases disposed of in 1959 by the courts now sitting in the proposed Portland district, 4,973 were traffic cases,⁶¹ In only a very small proportion of those (about 12%) did the respondent plead not guilty. The judicial work involved thus consisted chiefly in the imposition of a fine⁶²

If the District Judge operates efficiently, scheduling cases promptly one after another, and if he is freed from the clerical detail and conferences now involved in the use of the outmoded criminal warrant and complaint,⁶³ he should be able to dispose of these routine cases quite rapidly but with fairness and dignity. The explanation of the offense charged (for example, "You are charged with travelling 45 miles per hour in a 30 mile zone on Route 1 between Portland and Scarboro) and the query "How do you plead?", followed by the answer "Guilty" (even if supplemented occasionally by an explanation) and then the announcement of the fine imposed should require only a minute or two for each case. This the reader can readily verify for himself by sitting in a well-run traffic court and timing the disposition of cases.

According to an informed estimate,⁶⁴ the time required to handle, properly and with dignity, a plea of guilty in a traffic case is about 2 minutes. An estimate of about 3 minutes per case seems ample to cover the non-traffic cases in which the respondent pleads guilty most of which (as for example, the public intoxication cases) are equally routine. An allowance of three minutes for all pleas of guilty, traffic and non-traffic seems adequate, especially since traffic cases are expected to comprise about 70% of the criminal work of this district court.⁶⁵

About 12% of the traffic cases and about 16% of the other criminal cases will involve pleas of not guilty and thus require trial.⁶⁶ Again, traffic cases provide a standard for the amount of time needed. The same informed estimate mentioned above gives 12 minutes as the time usually needed for each contested traffic case. If this is increased to 15 minutes, it should be an ample average for all cases, including non-traffic as well as traffic cases.

Assuming the same volume of business under the new system as prevails at present, the Portland Court would handle 597 traffic trials and 270 other criminal

trials per year or a total of 867 trials, as against 4,376 pleas of guilty in traffic cases and 1,417 pleas of guilty in other cases or a total of 5,793 pleas of guilty.⁶⁷ Based upon a court year consisting of 250 days,⁶⁸ this would average out to about 23 pleas of guilty and 3½ trials per day. Each plea of guilty should require 3 minutes on the average, or a total of 69 minutes per day for the 23 cases; and each trial would average 15 minutes, or a total of 53 minutes per day. Thus the normal criminal docket would account for slightly more than 2 hours of the judge's time per day.

The district court would also handle preliminary examinations in felony cases to be tried in the Superior Court. Such examinations are ordinarily simple and expeditious. The sole issue is whether there is probable cause to believe that the defendant committed the crime charged against him. Ordinarily only the prosecution's evidence is heard, and only enough of that to make out a prima facie case. Hence the evidence is less voluminous and the decision less difficult than where guilt or innocence must be determined. If no probable cause is found, the defendant is discharged. If probable cause is found, he is "bound over" for trial in the Superior Court. In neither event does the examining magistrate have to concern himself with what would be an appropriate sentence. Often the defendant does not even want a preliminary examination. If so, all the judge needs do is explain to him his rights.

The amount of time required in preliminary examinations is modest. In the courts now functioning in the Portland area, about 282 such examinations were

61. (From Appendix C.)	Traffic	Other Cases	Total
Portland	1,036	1,186	2,222
Westbrook	944	218	1,162
South Portland	510	109	619
Gray	1,001	41	1,042
Scarboro	1,482	133	1,615
Total	4,973	1,687	6,660

62. See Appendix D.
 63. Under the rule-making power vested by the statute in the justices of the Supreme Judicial Court, there is no reason why simple and sensible procedures cannot be put into effect, taking advantage of the best proven features now found in operation throughout the nation.
 64. Warren, *Traffic Courts* (Little Brown & Co., 1942) pp.33-34.
 65. State Highway Department figures. See p.15 supra.
 66. See Appendix D.
 67. See p. 6 supra.
 68. It is assumed that the number of court days available in each district will be 250 per year. This contemplates that court will be held 5 days a week for 50 weeks a year (2 weeks being allowed for holidays, judges' conferences, and the like). While each judge will be entitled to a month's vacation, his court will nevertheless continue to operate, while he is away, under substitute judges. (See Section 13, Subd. I and IV of Proposed Statute)

held in 1959.⁶⁰ If we assume that there were 75 full hearings, occupying one hour each, and that in the remainder, the defendant waived a full hearing, so that not more than 15 minutes of the judge's time per case was consumed, we arrive at an estimate of 127 hours for the year, or an average of about one half hour per day.

The time required for processing juvenile cases is harder to estimate, because they fall into less clearly defined patterns than ordinary civil, criminal or matrimonial cases. Nevertheless, based upon conversations with Municipal Court judges, we feel that one hour for each juvenile case will strike a fair average. This should allow sufficient time for conversations with parents and social workers, and for the generally deliberative treatment required. In 1959, the courts sitting in the area covered by the proposed Portland District⁷⁰ handled a total of 271 juvenile cases, or slightly more than an average of 1 per court day. This should take roughly 271 hours or an average about 1 hour and 5 minutes per court day.

As for civil cases (mostly bill collections) the overwhelming majority of them can be expected to be dismissed, defaulted, or settled, as at present, and so to require very little, if any, judicial time. The few which involve contests (more often than not, merely upon the terms and time of payment), should not take longer normally than 10 minutes per case. A single afternoon session a week should be ample to take care of them all. During 1959, the courts now functioning in the proposed Portland district handled 1,981 civil proceedings.⁷¹ If we assume that 8% of the cases,⁷² or 158, could be expected to involve some sort of hearing, this would average less than 1 case per day, accounting for less than 10 minutes of the judge's time.

Domestic relations cases follow the same pattern generally as civil and criminal cases. There are few contests either on the issue of whether there should be a divorce or on other potential issues, such as those involving the custody of children or the amount of support. An uncontested case (about 85% of the proceedings are uncontested)⁷³ normally takes at the present time not more than 10 minutes of a judge's time.⁷⁴ A contested case should take on the average about an hour.⁷⁵

The anticipated case load for matrimonial cases must be computed on the basis of past experience in the Superior Court.⁷⁶ In 1959, the Superior Court of Cumberland County handled 652 divorce cases and 7 annulment cases, some, but not all, involving incidentally petitions for support or custody of children.

In addition, 119 petitions to amend or enforce existing divorce decrees and 113 petitions under the Uniform Reciprocal Support Act were processed.⁷⁷ This makes a total of 891 separate matrimonial proceedings⁷⁸ in the entire county of Cumberland (by far the most populous in the state). The district court for the eighth district can be expected to handle a substantially smaller number because it does not include the northeastern portion of the county, centering around Brunswick, or the northwestern portion, centering around Bridgton. Let us assume that the district court would handle 650 matrimonial proceedings during the course of the year. 15% of them could be expected to be contested, requiring 1 hour of the judge's time per case. The remainder would be uncontested. If we double the amount of time previously estimated, each of these uncontested proceedings should take an average of about 20 minutes of the judge's time.

Thus the total amount of time for the year would be computed as follows:

98 contested proceedings at 1 hour each—98 hours
552 uncontested proceedings at 20 minutes each—
184 hours

This yields a total of 282 hours per year or about 1 hour and 10 minutes per court day.

69. Portland Municipal Court (approx.)	250
Westbrook Municipal Court	11
South Portland Municipal Court	13
Gray Trial Justice	6
Scarboro Trial Justice	2
Total	282

See Appendix C

70. The Portland Municipal Court handled 115, the Westbrook Municipal Court 126, and the South Portland Municipal Court 30 such proceedings.

71. Details (from Appendix C) are as follows:

	Civil Cases	Small Claims	Sp. Proc.	Total
Portland M.C.	1,562	216	79	1,857
So. Portland M.C.	16	8	27	51
Westbrook M.C.	36	0	3	39
Scarboro T.J.	34	0	0	34
			Total	1,981

72. See Appendix D.

73. Estimate by Mr. Frederick Johnson, Clerk of Courts, Cumberland County.

74. Id. Perhaps it should take more time. If so, we believe that more time will be available under the new system. See p.69 infra.

75. Id.

76. Since divorce jurisdiction is now vested in the Superior Court, with eight judges handling the work for the entire state (along with the Superior Court's normal complement of civil and criminal cases), it seems clear that 14 district judges should be able to take over the work in stride if their time is not too fully preempted by crimina and juvenile cases.

77. See Appendix H.

78. Actions for separation are now handled in the Probate Court, but the volume of such actions is believed to be so small as not to affect our calculations. The same is true of the non-support and neglected children proceedings now brought in the Probate Court.

Adding together all of the judge's time per day, we arrive at the following result:

Normal criminal docket	2 hours
Preliminary hearings	30 minutes
Juvenile cases	1 hour and 5 minutes
Civil cases	10 minutes
Matrimonial cases	1 hour and 10 minutes
Total	4 hours and 55 minutes

This seems a reasonable amount of time to expect from a conscientious judge.

If, however, the time we have allowed for the handling of one or another category of cases be thought inadequate, there is still an ample margin of safety.

There will be two Judges at Large, not assigned to any district but available to help wherever needed. One of them in all probability would have his normal base of operations in or near Portland, and would have primary responsibility for helping out in Portland and in York County. If he devoted about half of his time to the District Court in Portland, he should be able to carry about one-third of the caseload there or some 3065 civil and criminal cases and some 220 matrimonial proceedings. This would reduce the caseload of the judge regularly assigned to Portland to 6130 civil and criminal cases and 430 matrimonial cases. This is less than the total number of cases now being handled in the Bangor Municipal Court by its Judge and Associate Judge, sitting alternately. Therefore, it should be well within the capacity of a single full-time judge.

We do not mean to suggest that the Judge at Large would necessarily handle the full range of cases arising in the Portland District. A plan might be devised whereby he would specialize in juvenile, family and matrimonial cases, developing wide experience and expert knowledge in that limited area.⁷⁹

Furthermore, the Chief Judge will have his headquarters in Augusta, about an hour and a half's drive from Portland. Having no regular case load of his own, he will be available to sit wherever there is need for additional manpower and presumably he, too, would concentrate on Portland if the load became unduly heavy there. Most of his time devoted to holding court, however, would probably be spent in Kennebec and Androscoggin counties.

Finally, in addition to the Chief Judge and one of the Judges at Large, other judges having relatively light case loads might be called on to sit in the Portland Court. Two nearby ones in particular would qualify. One is the judge serving the 10th District, where the anticipated case load is only 4,330 cases

a year (compared to Portland's 9,194 cases).⁸⁰ One of the places where he will be holding court normally is Bridgton, only a short drive away from Portland. The other judge is the one in the 6th District, where the anticipated case load is only 4,130 cases per year. One of the places where he will be holding court normally is Bath, again only a short drive away from Portland. Either of these men should be able occasionally to spend a day in Portland, or a half day either before or after attending to the normal case load at his nearest home base.

Much the same situation as prevails at Portland, also prevails at Bangor, where the judge of the 3rd District will have a heavy case load (8,489 cases per year anticipated). He, too, will be surrounded by potential help—on the south, by the Chief Judge at Augusta; on the east, by the judge of the 4th District (3,291 cases per year anticipated), holding court sometimes at Ellsworth, and on the north by the judge of the 2nd District (2,759 cases per year anticipated), holding court sometimes at Lincoln. Even more important than the help from such sources, however, would be the help of one of the Judges at Large, who would probably be stationed in or near Bangor.

The availability of nearby judges to help out in Portland and Bangor shows not only that the judges in those cities will not be overloaded, but also that a state-wide system of courts provides great flexibility and economy in the use of manpower.

The only other district having a heavy case load is the 9th, comprising the three divisions of York County. Here the anticipated case load of 8,661 cases is made up in large part of truck overload cases and other non-moving truck violations.⁸¹ These cases, carrying mandatory penalties and almost always resulting in pleas of guilty, require very little judicial time for their disposition. They could properly be handled in a "Violations Bureau" by a clerk. The Chief Judge could set up such an office for the routine handling of routine cases, requiring no judicial discretion, in the 9th or any other district where the volume of such cases seemed to justify it. But even if such a Bureau were not established, and even if the number of such cases in the 9th District should not be radically reduced, as expected, by a proposed change in State police procedure which would cause truck weighing to be done at a number of shifting locations throughout the state, there is little reason to doubt that the

79. See p. 9 supra.

80. For caseloads, in this and the next paragraph, see Appendix E.

81. According to State Highway Department figures (See p. supra), there were 2,228 such cases in 1959.

judge of the 9th District could handle his assignment just as well as those located at Portland and Bangor. He, too, would have, close at hand, help from one of the Judges at Large as well as whatever additional help he might need from the Chief Judge and from Judges regularly assigned to other districts.

Finally, during the first year or two of the Court's operation, some Municipal and Trial Justice courts would still be in operation, carrying a portion of the case load. All of them would not have gone out of existence until the District Court was fully staffed and operating smoothly in all Districts.

In short, the system proposed provides adequate manpower and flexibility to meet all needs which reasonably can be anticipated.

Accessibility of Courts

Reducing from seventy-four to thirty the number of places at which court will be held under the new system raises the important question as to how much the accessibility of the courts will be impaired.

At the outset, it should be recognized that this question concerns only a part, and much the smaller part, of the total area of the state. In the larger part of the state, containing its forest areas, the population is so thin as to make convenient accessibility impracticable under any plan of court organization, including the one now existing. This is strikingly evident from the accompanying map of the state, showing the location of the existing courts in relation to population distribution.⁸² These courts are not spread evenly over the entire state but concentrated in areas where the population is relatively dense. Even in populated areas, the courts are not necessarily dispersed; often they are clustered together. For example, in the Portland area there are 3 municipal courts and 1 trial justice, all within a few miles of each other. In the Bangor area there are 2 municipal courts almost side by side within the metropolitan area, while a few miles up the road is a trial justice court and a few miles further on, still another municipal court. The same pattern can be found in the Augusta area, the Auburn-Lewiston area and in other places. Sometimes a single town contains both a Municipal Court and a Trial Justice.

Because of the present concentration of courts and because, under the new system, court will continue to be held in most of the places where the major courts are now located, the problem of accessibility is less formidable than might be thought.

A great majority of the cases—about 60% of the total—will continue to be disposed of in the same

places as at present.⁸³ The courts now sitting at places where court will no longer be held under the new system account for only 40% of all the cases in the state. Even these figures give a somewhat erroneous impression of the extent of the problem. In some instances, District Courts will be located closer to the areas where cases originate than the Municipal Courts now serving those areas. For example, the truck overload cases now going to the Yorkshire Municipal Court (over 2,200 in 1959)⁸⁴ originate at the weighing station located at Kittery, about 11 miles away. Under the new system, they would go to the District Court at Kittery. Similarly, the District Court in Lincoln County would be located close to its center, at Damariscotta, rather than at its edge, in Wiscasset, where the present Municipal Court is located. Furthermore, many of the courts which will cease to exist are located so near other places at which court will continue to be held under the district court system that any loss in accessibility may be regarded as negligible. Thus the Auburn Municipal Court is located in the same metropolitan area as Lewiston, where court will continue to be held under the District Court system; and the Brewer Municipal Court is located in the same metropolitan area as Bangor, where again court will continue to be held. Sometimes of course, the distances are greater, but rarely, if ever, great enough to cause serious public inconvenience. Litigants do not necessarily live in the towns where the courts in which they now appear are located. They may equally well live closer to the proposed District Court seats, working, shopping or even going to the movies in those towns.

The most troublesome situation to be anticipated and the one which places the greatest strain on the proposed District Court plan is that caused by the discontinuance of the present Municipal Court at Fryeburg, Oxford County, which in 1959 handled 154 cases or an average of about three cases a week. Assuming (unrealistically) that all of the respondents live in or south or west of Fryeburg, the prospect is for an hour's travel (about 45 miles) on the part of each of them to reach Rumford, where the new District Court will be located. If this seems an unreasonable burden, there are two possible solutions. One, which is incorporated in the proposed statute (Section 5) is to allow the respondents to have their cases heard in a District Court which is closer but

82. See Map of Existing Courts.

83. Of the 66,301 cases disposed of by all existing courts in 1959 (See Appendix C), only 26,273 or about 40% of them were handled by courts in places where the District Court will not sit. See Appendix F.

84. See Footnote 81.

within a different county—namely, the one located at Bridgton in Cumberland County. This could be accomplished by a standing order of either the judge at Bridgton or Rumford, concurred in by the law enforcement officers of the area. The other solution, more radical, is to alter the boundaries of divisions without regard to county lines. This might prove a convenience to some citizens in this area and also in other areas—for example, those living in Fairfield and Smithfield, which are some distance from Skowhegan in their own county of Somerset but just across the line from Waterville in Kennebec County, or those in Bowdoin, who are further from Bath in their own county than from Lewiston in adjoining Androscoggin County. There are, however, practical difficulties in determining how prosecutors and local police officers would act outside of the areas of their appointment and in determining where appeals to the Superior Court (now organized, like many governmental agencies, on a county basis) should go from a division embracing an area partly in one county and partly in another. While such problems are not insoluble, there seems to be no reason for burdening the new District Court system with them in its initial period of operation. Particularly is this true when the other solution described above can take care of whatever hardship cases are likely to arise in the near future. Should a large number of hardship cases develop, the Chief Judge of the District Court will be in a position to initiate a study of the desirability and practicability of redrawing the boundaries of divisions and districts and to make appropriate recommendations to the Legislature.

But how serious is the burden of increased travel for a relatively small number of people when weighed against the advantages of a better system of courts? In all public facilities, accessibility is of course to be desired. However, sometimes it can be secured only at the expense of other values—as strikingly illustrated in the case of schools and hospitals. The extent to which other values may properly be sacrificed in the interest of greater accessibility obviously varies widely from one type of public facility to another. One obvious factor in the problem is the frequency with which the facility is visited by those required to visit it. In the case of a court, frequent visits are made by law enforcement officers and lawyers, but the ordinary citizen has infrequent occasion to visit court, whether as party or witness. He may indeed never enter a court in either capacity in the course of his lifetime. Even if he is the driver of an automobile and so a potential offender against the traffic laws, he may

come into court only once or twice in his entire driving career. If he is a hunter, again his chance of being hailed into court more than once or twice to answer for a violation of the game laws is slight.

With respect to the convenience of the respondent, the unstated premise in discussions of accessibility is that the offense has presumably occurred in the vicinity of his home, so that he would be inconvenienced by a hearing near his home. This premise is of doubtful validity. So far as traffic offenses are concerned—and they constitute the vast majority of the cases—a violation is just as likely to occur at some distance from the offender's home. Particularly is this likely to be so with respect to a violation on a highway in the open country, where a great many traffic violations occur. Whether the offender be summoned to a court in Town A or one in Town B, 5 or 10 miles more or less distant, is ordinarily of little significance to him.

The interruption in the daily life of one who is required to attend court as a respondent in a criminal prosecution, and the emotional stresses experienced by him, are ordinarily of much greater consequence than the travel involved in his coming and going. If a more distant court is likely to dispose of his case in a manner more satisfactory or more helpful than could a nearer and less highly organized court, the additional distance travelled is surely worth while.

In civil cases, the number of contests is so small that the question of accessibility is of minor importance.

As for witnesses in either civil or criminal cases (the number of witnesses is relatively small) additional distance is no doubt a hardship to them for which their mileage fees hardly compensate. But some witnesses neither live nor work in the immediate vicinity of the place where the occurrence to which they testify took place, so that whether the court house lies a few miles nearer to or further from that place makes little difference.

Saying that a courthouse is more distant is not necessarily saying that it is less accessible. Accessibility often involves other factors than mere distance. The condition of roads may be one. The location of the courthouse in a center to which one goes on other errands, or in which one's daily occupation lies, may be another. The hours at which the office of the court is open for business may be still another, for a nearby courthouse is hardly convenient if one is not sure of finding it attended when one visits it.

From the standpoint of law enforcement officers, whose time is directly paid for by the public, and of lawyers, whose time is indirectly paid for, the concentration of business in a smaller number of court-houses than at present would make for economy and convenience rather than the reverse.

But so far as concerns law enforcement officers, their attendance at court in traffic cases, now accounting for so much of their court time, is in large part unnecessary. In the great majority of such cases, their presence in court could be entirely dispensed with. Under the present procedure, where an officer issues a summons in a traffic case, he must attend court before the hour at which the summons is returnable (sometimes on the preceding day) in order to request the issuance of a warrant. The requirement is that a warrant issue even in a case in which the offender has been served with a summons and has in obedience thereto appeared in court on the return day. This requirement—apparently merely traditional, for no statute imposing it has been found—serves no purpose whatever. It is wholly unknown in a number of other states where the Uniform Traffic Ticket or some other ordinary form of summons is used.⁸⁵ Quite aside from entailing loss of time on the part of the officer, the present practice imposes on the judge or the clerk, if there is one, a wholly needless burden of clerical work. Even if the existing system of courts is continued, the practice of using warrants and complaints in traffic cases should be discontinued. Only where the respondent fails to appear in obedience to the summons—which failure itself should constitute a separate offense—should a warrant for his arrest issue.

Furthermore, if the respondent appears and pleads guilty, as he does in 88% of the traffic cases,⁸⁶ there is still no need for the appearance of the arresting officer. The only purpose he can serve in court is to inform the judge of the conditions surrounding the admitted offense, so that its gravity may be properly appraised in imposing sentence. This purpose, however, can equally well be served by the summons or "ticket" itself. If the "Uniform Traffic Ticket" or some variation of it is used, it will carry all the needed information.⁸⁷

Under this procedure, if, upon the return day, a respondent pleads not guilty, his hearing may be adjourned to a later date, at which time the arresting officer will be present. An alternative procedure, which would save the respondent the necessity of two appearances, would be this: the summons could contain a detachable portion which the respondent could

file in court, on or before the return day, by registered mail, embodying a plea of not guilty. The summons would call, in that event, for his appearance in court on a later date, and the court, on receipt of such a plea, would notify the officer to attend on the hearing day.⁸⁸

By the introduction of these procedures, the loss of time of police officers from their primary duty of patrol would be very greatly reduced. There would still be some cases going to trial in which the attendance of police officers would be necessary and would involve longer travel than at present. Particularly would this be true for town police officers in those towns where court is now held, but where it will no longer be held under the proposed system. The total number of their cases requiring trial, however, is not great, and the burden of providing a substitute officer for patrol duty on those relatively rare occasions when it would be necessary to relieve the regular officer for attendance at court in another town would be relatively minor. The total time saved state and local police officers by eliminating needless appearances in court would more than compensate for that spent in extra travel in the few cases in which court attendance would still be necessary.

Needless appearances of law enforcement officer in court have a consequence more serious than the mere loss of time from patrol duty. They tend to discourage thoroughgoing law enforcement. An officer debating whether or not to issue a summons will be less ready to do so if its issuance inevitably means time spent in court which he feels would better be spent in patrolling his post.

85. In the "Uniform Traffic Ticket and Complaint" devised by the American Bar Association Traffic Court Program, recommended in the Model Rules Governing Procedure in Traffic Cases adopted by the National Conference of Commissioners on Uniform State Laws in 1957, and widely used in a number of states, the copy which is filed in court is termed a "complaint-affidavit." It would appear to serve the purpose now accomplished in Maine by the cumbersome warrant and complaint.

86. See Appendix D.

87. Even if it be thought that the presence of the officer is desirable, his time could be greatly economized by permitting him to make all summonses issued by him within a certain period returnable upon a particular day, fixed in advance. This is done in many other jurisdictions. The notion which seems to prevail among some lawyers and judges in Maine that the constitutional guarantee of a speedy trial entitles the respondent, though not in custody, to a hearing on the day following the day on which the officer issues the summons, appears to be quite unfounded. So far as we have been able to ascertain this is nowhere recognized as a rule of law.

88. Under this procedure there seldom would occur, as there sometimes does at present, a failure on the part of the officer to procure the attendance of necessary witnesses due to his mistaken assumption that the respondent would plead guilty.

Availability of Judges

Quite distinct from the question of the accessibility of the courthouse is that of the availability of the Judge. Under the present system there are seventy-four places in the state in which there is a resident judge.⁸⁹ Under the proposed system there will be but fourteen.

For the vast majority of cases that come before the present courts, daily court sessions are quite unnecessary. Indeed, they may be the cause of needless expenditures of time, not only on the part of the judge but also on the part of a law enforcement officer compelled to attend court for one or two cases which could just as well be deferred to a later time when a sufficient volume of the officer's cases would have accumulated to make his travel and waiting worth while.

That, on the civil side of the court, daily availability of the judge is unnecessary is obvious. It is equally unnecessary on the criminal side except for a small group of cases in which the defendant is in custody, so that the unavailability of the judge for immediate hearing of his case might result in his unjust detention. In the overwhelming majority of criminal cases—as in all cases under the juvenile law—there is no arrest, the offender being merely given a summons ordering him to appear in court on a subsequent day. Whether that day be the next day, or the next week, is ordinarily of no consequence to him.⁹⁰

However, a driver on his way to a distant point who is summoned for a traffic offense would normally like to have his hearing promptly, if possible at once. He may be a non-resident of the state, on his way out of it; but even if he is a Maine resident, he may be greatly inconvenienced by having to return for hearing to the district in which the summons was issued. This situation presents to the legislature the problem of whether the general policy of requiring the personal appearance of a traffic offender in all cases involving moving violations is of sufficient importance to warrant insisting upon it even where it causes the offender what may be regarded as a disproportionate loss of time and disproportionate expense.⁹² The present practice of some courts, even in cases of speeding and reckless driving, is to permit a plea of guilty to be entered by an attorney. Consequently, in a considerable number of cases the out-of-state defendant, when unable to obtain an immediate hearing (as when summoned on a Saturday or Sunday)⁹¹ arranges for his appearance by an attorney, authorizing him to enter a plea of guilty, and supplying him with funds to pay the anticipated fine. If this method of dispen-

sing with personal appearance in the case of the out-of-state motorist who proposes to plead guilty meets with the approval of the legislature, there would seem to be no reason why every bail commissioner should not be authorized on behalf of the District Court to receive a plea of guilty and a deposit of the anticipated fine.⁹³ As to the Maine resident en route to a distant point, the same procedure could be followed, or if the legislature should not see fit to waive his personal appearance, a procedure could readily be devised whereby he might plead guilty in the district where he resided, and receive the imposition of the penalty at the hands of the judge in that district.

A similar problem is presented with respect to non-resident offenders against the fish and game laws. It is susceptible of a similar solution.

When we pass to cases in which the offender is taken into custody instead of being merely summoned to appear at a later date, a different problem is presented.

By far the greatest number of such cases have to do with public intoxication. The arrest of the drunkard does not stem from the seriousness of his offense or the likelihood that, if left at large, he will endanger the public safety or will flee. The drunkard is unlikely to do either. He is arrested, ordinarily, because he is not fit to take care of himself. He commits no offense

89. Not all of the present courts, however, hold sessions every day or during all regular business hours. Some judges hold court irregularly—only when there is a case or batch of cases waiting. Others hold court on certain designated days and during certain designated hours. Thus in one court, cases may be called at 8 o'clock in the morning, Monday through Friday, and in another every Tuesday night and Saturday afternoon.

90. The unfounded notion that the constitutional requirement of a speedy trial entitles a defendant not in custody to a hearing on the day following that on which he receives the summons has already been commented on. See footnote 87.

91. It is not the practice of the state police to take an out-of-state motorist into custody for a traffic offense even though his state is not one of those which have a reciprocal arrangement with Maine whereby they will suspend the license of a driver who defaults in answering a Maine traffic summons.

92. Practice appears to vary among the municipal court judges and trial justices with respect to the extent to which they feel themselves obliged, or inclined, to convene court solely for the convenience of an out-of-state motorist. Some will permit the offender to be brought before them at almost any hour of the night. Others refuse to hear any such case on Saturday or Sunday. The present lack of established practice sometimes results in protracted telephone discussion between a law-enforcement officer eager to speed the offender on his way, and a judge reluctant to cooperate in this effort. There should be a state-wide uniform policy on this point.

93. In New Brunswick, the officer himself is authorized to accept the deposit of the anticipated fine. A case in Maine came to our attention in which a state trooper who telephoned a judge in the early hours of the morning to request an immediate hearing for an out-of-state motorist was induced by the judge, in collaboration with the sheriff (whose responsibility in the premises eludes us) to accept a deposit of the anticipated fine for delivery to the court presumably to receive authority to enter a plea of guilty.

by becoming intoxicated, for intoxication is not unlawful. His offense consists in the fact that while intoxicated—while in a condition, that is to say, in which he was not fully responsible for his actions—he ventured into a public place.

These considerations suggest the conclusion that as to the local man arrested for public intoxication, it would be quite practicable, on his sobering up, if no judge were then available to give him an immediate hearing, to release him on his own recognizance under summons to appear at a later date. Indeed, even if a judge were available, there might be something to be said, from the therapeutic standpoint, for such a delay.

In certain areas of the state—especially during the harvest season in the potato country, and the logging season in woodland areas—Saturday night celebrations often result in a number of migratory workers being charged with public intoxication. These, too, could ordinarily well be discharged on their own recognizance pending later appearance. Assuming that some, or many, defaulted in appearing, it is not clear that law enforcement would suffer. If a migrant alcoholic who had been arrested and released gave the town, or better still, the state, a wide berth, no great evil would result.

The problem thus narrows down to the relatively few persons taken into custody on charges other than intoxication and who are unable or unwilling to furnish bail. They are entitled under the law to a prompt hearing. Maine has no constitutional or statutory provision fixing a specific time limit. With respect to trial, the constitution requires a “speedy” trial. With respect to a preliminary hearing on a felony charge, the statute provides that it shall be held “as promptly as possible.” The general understanding of the bar is that these provisions require that a defendant under arrest be given a hearing, if he wants one, not later than the day following his arrest.

There is no basic difficulty in complying with this requirement under the plan proposed. No part of the state, however remote, would be beyond a day’s travel from a place where a District Court judge would be sitting. In a few cases, the distance would be substantial—as much perhaps as sixty miles, but in most cases, travel time and distance would be moderate.⁹⁴ Transporting prisoners would entail expense and time on the part of police officers, but in view of the small number of cases involved⁹⁵ the total amount of time and expense involved for the entire state over the course of a year would be small. Furthermore, in at least eleven of the thirty places in which court is to be held under the plan proposed, a judge will be

available daily during regular court hours. Of the remaining places, some of them will be the home towns of the district judges. This means that a judge who is not holding court on a particular day in his home town will nevertheless be there in the morning before he leaves to sit elsewhere and in the evening after he returns. In no case will the distance be so great as to require him to spend the night away from home. The consequence is that any emergency requiring prompt action can be dealt with. If it does not arise at a place where court is currently being held or where the district judge lives, it will arise at a place which the judge, adjourning court if necessary, can reach within an hour or two of driving. Or, if it appears that the matter could more conveniently be handled by another district judge, that can be arranged by a telephone call to the Chief Judge.

The New Judges

As in any judicial system, the quality of service which the district courts, if established, will render to the community will depend essentially on the stature of the judges who man them.

The legal problems which will be presented to these courts are neither complex nor specialized. They are well within the competence of any lawyer of ordinary education and experience. It is not therefore essential that the judges be drawn from among those lawyers whose professional experience has been in the world of large business transactions involving complex questions of property relationships and tax liability. Indeed a lawyer of that type would be likely to find the work uncongenial if it were his sole occupation.

What is needed, ordinary legal competence being assumed, is a judge who will find satisfaction in what might be called the social service he can render through the proper administration of his court. Through his impact on the driving habits of the citizenry, he can make an important contribution to traffic safety, saving lives and preventing suffering. Sitting as a juvenile court, he can have a far-reaching effect on the lives of adolescents who stand on the brink of a precipitous descent to criminality. In the related fields of non-support proceedings and matrimonial actions, he can do much to mend broken

94. In the county of Charlotte, in the province of New Brunswick, where a single full-time judge (the county magistrate) has replaced the part-time justices formerly found at various points in the county, it has been found practicable to bring prisoners, when necessary, as much as 60 miles to St. Stephen, where the county magistrate ordinarily sits.

95. The number might be still further reduced by a re-study of bail policies.

homes. In dealing with the widespread problems of alcoholism, he can help to rehabilitate habitual drunkards who come before him. A judge who sees his work as a key part of the total community effort to deal with such problems, and who finds satisfaction and inspiration in that view of his task is the ideal.

The Chief Judge, in addition to the qualities sought in the other judges, should also be a good administrator. While he will spend part of his time hearing cases in districts where help is needed (because of vacations, illnesses, heavy calendars and the like), he will probably spend about an equal amount of time in superintending the operation of the entire system. On him will fall the burden of preparing the budget, providing physical facilities and clerical help, fixing times for holding court, arranging vacations, making temporary assignments, presiding at conferences, and, in general, attending to all the housekeeping chores involved in the management of a large enterprise. Though not vested with disciplinary power as such, he will have the prestige and moral authority to check arbitrary conduct or slothfulness on the part of any member of the corps.

With a state wide system and full time judges, the entire state may be drawn upon, if necessary, to furnish qualified judges. The Governor will not be restricted, as he is now, in the appointment of municipal court judges, to a narrow choice. The part-time judge of today is, by statute in some cases and by the practicalities of law practice in others, necessarily drawn from the local bar, for he cannot very well practice law in one place and sit regularly as a judge at a distant point.⁹⁶ Under the new system, the judge will probably (but not necessarily) also be appointed from the area in which he is to sit, but that area will be far larger than a single town. In the case of the Chief Judge and the two Judges at Large, the Governor probably will feel free to choose them from any place in the entire State.

The suggestion has been made that no district judge should be permanently assigned to any particular district but that all should move from district to district, so that, if one is unacceptable to the bar of a particular district, its members can delay matters until he moves on to another district. How this would benefit those citizens who come before the court, as most do, without the assistance of counsel, is not clear. Nor is it clear that lawyers should have any greater right than they now possess to pick the judges who will hear their cases. The Superior Court will still be open to an aggrieved lawyer or litigant, for under the proposed plan it will retain all of its original jurisdic-

tion, concurrent for the most part with that of the District Court, as well as its appellate jurisdiction.

Aside from the inconveniences that arise in any judicial system from a change of judges while matters are pending before a court, the itinerant life which a district judge would lead if he had to move all over the state would make the post distinctly less attractive. The district judge would not, like a Superior Court judge, enjoy frequent recesses which he could spend in his home city; he would be almost continuously away from home.

Except for the Chief Judge and the two Judges at Large, we recommend the permanent assignment of a judge to a single district, ordinarily the district in which he already lives, with perhaps an occasional assignment to another district which will serve to stimulate and refresh him and at the same time to knit together more closely the several districts into a single system.

To take advantage of the wide choice of personnel which will be possible, it is essential that the salary offered the District Judge be attractive. We believe that a salary of \$12,000 is, in relation to the salaries now established for justices of the Supreme Judicial Court and the Superior Court (\$13,000 and \$12,500 respectively), proper. It is large enough (but no larger than necessary) to appeal to lawyers of the requisite stature. They should be appointed, like the judges of the Superior Court, for seven-year terms, and be eligible for retirement on the same conditions.

But adequate financial provisions alone will not induce an able man to seek the office of District Judge. He may not seek it if he believes that political connections will count more heavily in the selection process than judicial promise. He may not seek it if the term is short. He may not seek it if he faces the prospect of being denied reappointment at the end of his term, despite dedicated and competent service, to make way for a newcomer with political influence.

Indeed, unless there is a firm prospect for continuance in office during good behavior, through successive reappointments regardless of changes in the political complexion of the administration, it may be more difficult to attract an able man to a full-time than to a part-time judgeship. He might be willing to assume a part-time judgeship without serious con-

96. Where several municipal courts are close together, as in the case of Portland, South Portland and Westbrook, a judge of any one of them could practice in any of these places. However, the statute governing the Westbrook court requires that the judge be a "citizen" of Westbrook, while that governing the South Portland court requires the judge to be an "inhabitant" of that town.

cern about possible reappointment—indeed perhaps with the intention of declining reappointment, if offered; but he is not likely, on such a short-term basis, to abandon a practice built up over many years.

Needless to say, should a tradition become established of elevating distinguished district judges to the higher courts, the office of District Judge would gain in attractiveness.

Still another factor will have an important influence on the willingness of able men to accept appointment—the jurisdiction of the court. The greater the possibility that the day's work will involve, even if only occasionally, a case of some importance or one presenting questions of law, the more attractive will be the judge's post. The proposed extension of the jurisdiction of the court to matrimonial actions is in this aspect doubly desirable.

Given an adequate salary level, security of tenure, and a tradition of selection which de-emphasizes party politics, a superior type of district court judge may be confidently expected. If, in addition, the jurisdiction of the court is enlarged over that now enjoyed by the municipal court, even greater confidence is justified.

A unique feature of the proposed plan will tend to rapidly increase the competence of the judges after their appointment. By arrangement with the Chief Judge, they will be able to attend traffic institutes and similar schools for judges. A few of the present Municipal Court judges have attended traffic conferences on their own initiative and at their own expense, and have profited greatly. Under the new system, all of the judges will be encouraged and helped to take advantage of similar opportunities.

District judges would be removable by impeachment in the same manner as the judges of the Supreme Judicial Court and of the Superior Court. No additional method of removal is provided in the proposed statute.⁹⁷ We believe that with a small corps of judges, it should be possible for the Chief Judge and his colleagues, with the aid of the higher courts, to exert sufficient moral pressure on any derelict member of the court to induce his resignation. No special formal machinery appears to be necessary.

Clerical Personnel

We regard it as essential that there be maintained, in each place where the court sits, a public office of the court, with a clerk in attendance during the usual business hours. The clerk, in addition to keeping the records of the court and attending its sessions should be competent to assist persons seeking to examine the records of the court, and to give information as to the court's rules, procedures and jurisdiction.

In some of the places in which court is to be held these duties will not require a full time clerk. Where that is so, the solution would seem to be to give these duties to some person already employed in an appropriate public office.⁹⁸ In a few of the municipal courts, such an arrangement is already in effect; the court sits at the county seat, and the county's clerk of courts acts also as recorder of the municipal court. There would seem no reason why a similar arrangement could not be made in other towns. In most of the towns where court will be held under the proposed plan, the town clerk's office would furnish the logical place for the office of the district court; and the town clerk, or one of his subordinates, could act as clerk of the district court.

Cost

The impression is fairly widespread that the present system of part-time judges is an economical one, and that a corps of full-time judges would of necessity be more costly. We find that, on the contrary, the cost of the present system is substantially greater than would be the cost of the system we propose.

The costs involved are primarily the compensation of judges and clerks, and the maintenance of court rooms and offices. Other subsidiary expenses, as for supplies, are relatively so minor as to be negligible in this discussion.

The following sets forth the personnel costs of the present and proposed systems:

Municipal and Trial Justice Courts (1959) ⁹⁹	
Salaries of judges, associate judges and recorders	\$201,000.00 ¹⁰⁰
Salaries of trial justices	25,168.55
Salaries of clerks	47,357.67
Total	<u>\$273,526.22</u>
Proposed District Courts	
Salary of Chief Judge	\$ 12,500.00
Salaries of judges (13 at \$12,000)	156,000.00
Salaries of clerks (equivalent to 15 full-time clerks at \$4,000 each)	60,000.00
Travel allowances for personnel serving more than 1 district	7,200.00
Total	<u>\$235,700.00</u>

97. Provision for the removal of judges of the lower courts by the judges of the higher courts is found in some states, and is gaining in favor.

98. Under no circumstances should the town police have any connection with the clerical side of the court. The police should be as completely dissociated from the court as possible.

99. See Appendix I.

100. This is the amount specified in R.S. Chap. 89, Sec. 254 (1959). The other figures show the amounts actually paid in 1959 as per County Treasurers' reports.

The travel allowance indicated for the proposed District Courts is necessitated by the fact that 12 of the 14 judges will hold court in more than one place (the judges in Portland and Bangor will be stationary). An accurate estimate of travel costs is impossible at this time, but a rough figure can be arrived at as follows:

12 judges, each traveling 150 miles per week	1800 miles
1800 miles per week x 50 court weeks	90,000 miles
90000 miles x allowance of 8¢ per mile	\$7,200

Even with this added expense, the anticipated cost of running the District Courts is about \$37,500 a year less than the cost of running the present Municipal and Trial Justice Courts.

The reason it is possible to provide a corps of full-time judges, with adequate clerical assistance, together with an administrative office, for less than is now paid for part-time judges, some of them unprovided with clerical assistance, and without any administrative supervision, is that the present division of the state's case load into seventy-four parts produces some courts with so inconsiderable a case load that despite the small salary paid the judge, the cost per case is high. Some of the judges receiving the smallest salaries are being paid the most per case, or, to state it another way, are being paid annual salaries for work that could be done in a week or a month.

No estimate is here made as to the cost of maintenance of courtrooms under the proposed system. Though the number of courtrooms would be smaller, their better quality and maintenance would probably cost as much as the present courtrooms. For reasons stated elsewhere in this report, a major program for the improvement of court facilities is clearly in order. Part of the money saved by the new system can and should be used for this purpose.

Some savings to be effected by the new system, while not susceptible of measurement, can be expected to be substantial. Such are the savings in clerical time which can be achieved through substituting the uniform traffic ticket for the criminal complaint and warrant in traffic cases, the savings in police time which can be achieved through dispensing with the presence of officers in uncontested cases, and the savings in accounting and auditing time by concentrating those functions in fewer hands. Another intangible saving may come from postponing the creation of additional Superior Court judgeships by reason of the District

Court's relieving the Superior Court judges of the burden of handling matrimonial matters.

The total revenues yielded by the present Municipal and Trial Justice courts total about \$1,000,000 annually.¹⁰¹ An equivalent amount should be produced by the new system, but paid, in the first instance, into the State Treasury rather than into County treasuries. However, insofar as savings are effected, and insofar as net revenues are produced, the counties of the State will be the principal beneficiaries, continuing to receive, as they do now, the lion's share of the difference between revenues and expenses. This excess will be allocated between counties on the basis of their population, rather than, as now, on the more fortuitous basis of where a given case happens to be tried. The state government will not profit financially at the expense of the counties. Its only benefit will come from having a better system of courts.

101. See Appendix I.

V. THE TRANSITION PERIOD

It might be practical, purely from the standpoint of the administration of justice, to institute the District Court on a given day in every part in the state, and simultaneously to withdraw all jurisdiction from the municipal and trial justice courts. We favor, however, a more gradual transition.

It is proposed that the new system get under way as soon as possible after January 1, 1962 by the appointment of the Chief Judge and that it be in full operation in all districts not later than December 31, 1963. During this two-year period, the court will be established in each district at a time to be determined by the Governor.

Even on its establishment in a given district, however, the District Court will not immediately succeed to all the business of the municipal and trial justice courts now serving that district. Any court having a judge whose term has not yet expired will continue in existence, exercising jurisdiction concurrently with the new District Court. In this way time will be afforded for working out the problems created by the new system. Moreover, this course will avoid legal as well as moral and human questions which would be raised by the abolition of the offices of the present judges before the expiration of their constitutional terms of office. The monetary cost of this arrangement will be relatively modest.¹⁰²

A problem arises in connection with those judges and trial justices now holding office whose terms will expire before the date on which the district court is established in their areas. It would be wasteful to make an appointment (or reappointment) for a full 4-year or 7-year term. Hence, we propose that the term of each such judge and trial justice be extended by statute until the date on which a district court begins functioning in the area now served by such judge or justice.¹⁰³ As a result, a smooth transition, it is believed, will be effected between the present courts and the proposed new system.

102. To gauge the cost involved in the transition, let it be assumed that the court will be functioning in all districts as early as January 1, 1963. If all judges and trial justices now in office whose terms expire after that date are at that time still in office, their unexpired terms, and the salary payable to them during such unexpired term, will be as shown by the following table:

Municipal Court Judges			Amount Payable after Jan. 1, 1963
County	Name	Term Expires	
Aroostook	Alfred E. LaBonty, Jr.	October 1963	\$2,000
Cumberland	Arnold S. Lane	September 1963	1,275
Hancock	Charles J. Hurley	March 1963	750
Kennebec	Roland J. Poulin	March 1963	925
Knox	Christy C. Adams	April 1963	800
Penobscot	Peter Briola	September 1963	1,875
Somerset	John B. Furbush	March 1963	625
Washington	Wesley E. Vose	February 1964	2,800
York	Hilary F. Mahaney	December 1963	1,800

VI. CONCLUSION

There is need for improving the local courts of the state and elevating them in public esteem. We believe that this will be difficult if not impossible to accomplish with the present structure of multiple courts manned by part-time judges. While some improvement at particular points is possible, we believe that the elevation of local courts in the public mind to a position approaching that occupied by the Superior Court—a consummation by no means beyond early achievement—requires a fresh start. What is wanted is a new appreciation by the public, and by public officials throughout the state of the major importance of the thoroughgoing and uniform enforcement of the traffic and game laws, of promptness in dealing with other misdemeanors, and of determined handling of juvenile misbehavior and family problems. With such appreciation will come an understanding of the importance of the courts dealing with these matters. In our judgment, only a new system, with qualified full-time judges, better physical facilities, improved procedures and a new dignity, will achieve what is needed.

Respectfully submitted,

The INSTITUTE OF JUDICIAL ADMINISTRATION
by DELMAR KARLEN
LEWIS MAYERS¹⁰⁴

Trial Justices			
Aroostook	Donald Atwater	February 1965	1,080
Aroostook	Raymond J. Bushey	February 1965	1,950
Aroostook	Leroy Gardner	November 1966	800
Cumberland	Bertha E. Rideout	March 1964	4,000
Franklin	Lee Ricker	November 1965	600
Franklin	Cony Hoyt	March 1965	2,025
Franklin	Coleman Mitchell	October 1964	735
Oxford	Rupert F. Aldrich	November 1965	1,167
Penobscot	Llewellyn Michaud	October 1963	1,500
Washington	Walter E. Beers	September 1966	1,125
Washington	Donald Mercier	March 1966	975
York	Lester M. Bragdon	May 1965	4,833
York	Wesley M. Mewer	January 1964	650
York	John P. Waite	July 1964	816
			Total \$34,606

103. An additional provision of the statute, designed to insure the availability of local courts during the transition period, authorizes the interim appointment of associate judges and recorders to serve until the district court begins to function, in areas where a municipal court judge or a trial justice may die or resign. There is no constitutional bar to the appointment of an associate judge or recorder for an interim period as there is to the appointment of a judge or trial justice, the terms of the latter officers being fixed by the Constitution. This provision would presumably be used by the Governor only when he believed it necessary pending the establishment of the District Court in a given area.

104. The writers wish to record their indebtedness to the following members of the staff of the Institute of Judicial Administration for their contributions to this project:

Mrs. Fannie J. Klein	Mrs. Sylvia Dolan
Miss Lee Alexander	Mr. Alan Liker
Miss Lucy Bush	Miss Josephine Peckham
	Mrs. Anna Schwartzberg

PROPOSED STATUTE

'CHAPTER 108-A. DISTRICT COURT.

AN ACT Creating a District Court to Integrate Activities of Municipal Courts and Trial Justices.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S. c. 108-A additional. The Revised Statutes are amended by adding a new chapter to be numbered 108-A, to read as follows:

'Chapter 108-A. District Court.

Sec. 1. District Court established. There is established a District Court for the State of Maine.

Sec. 2. Jurisdiction. The District Court shall possess the jurisdiction now exercised by all trial justices and municipal courts in the State, and in addition, original jurisdiction, concurrent with that of the Superior Court, of actions for divorce or annulment of marriage and of proceedings under Chapter 167, and original jurisdiction, concurrent with that of the Probate Court, of actions for separation.

Sec. 3. Judicial divisions. The State is divided into 30 judicial divisions, named and defined as follows, and with places for holding court therein as follows:

I. Northern Androscoggin. Northern Androscoggin consists of the towns of Leeds, Livermore, Livermore Falls and Turner. The District Court for Northern Androscoggin shall be held at Livermore Falls.

II. Southern Androscoggin. Southern Androscoggin consists of all towns in Androscoggin County not included within the division of Northern Androscoggin. The District Court for Southern Androscoggin shall be held at Lewiston.

III. Western Aroostook. Western Aroostook consists of the towns and unorganized territory known as Grand Isle, T11 R9, T12 R9, T13 R8, T14 R7, T15 R6, T16 R5, T17 R4, and all towns in Aroostook County lying to the west of these. The District Court for Western Aroostook shall be held at Fort Kent.

IV. Eastern Aroostook. Eastern Aroostook includes the towns and unorganized territory known as Cox Patent Bridgewater, Oxbow Plt., TD R2, T9 R3, T9 R4, T9 R5, T9 R7, T9 R8 and all towns in Aroostook County lying to the north of these up to the boundary of the division of Western Aroostook. The District Court for Eastern Aroostook shall be held at Caribou.

V. Southern Aroostook. Southern Aroostook consists of all towns and unorganized territory in Aroostook County not included within the divisions of Western Aroostook and Eastern Aroostook. The District Court for Southern Aroostook shall be held at Houlton.

VI. Northern Cumberland. Northern Cumberland consists of the towns of Brunswick, Freeport, Harpswell, Pownal and Yarmouth. The District Court for Northern Cumberland shall be held at Brunswick.

VII. Southern Cumberland. Southern Cumberland consists of the towns of Casco, Standish and all towns lying to the south and east of these in Cumberland County up to the boundaries of the division of Northern Cumberland. The District Court for Southern Cumberland shall be held at Portland.

VIII. Western Cumberland. Western Cumberland consists of all towns in the County of Cumberland not included within the divisions of Northern and Southern Cumberland. The District Court for Western Cumberland shall be held at Bridgton.

IX. Northern Franklin. Northern Franklin consists of Kingfield, Madrid, Mt. Abraham T4 R1, Twp E and all towns and unorganized territory in Franklin County lying to the north of these. The District Court for Franklin shall be held at Rangeley.

X. Southern Franklin. Southern Franklin consists of all towns and unorganized territory in Franklin County not included within the division of Northern Franklin. The District Court for Southern Franklin shall be held at Farmington.

XI. Hancock. Hancock consists of the entire County of Hancock. The District Court for Hancock shall be held at Ellsworth.

XII. Northern Kennebec. Northern Kennebec consists of the towns of Albion, Belgrade, Readfield, Sidney, Vassalboro, Wayne, Winslow and all towns in Kennebec County lying to the north of these. The District Court for Northern Kennebec shall be held at Waterville.

XIII. Southern Kennebec. Southern Kennebec consists of all towns in Kennebec County not included within the division of Northern Kennebec. The District Court for Southern Kennebec shall be held at Augusta.

XIV. Knox. Knox consists of the entire County of Knox. The District Court for Knox shall be held at Rockland.

XV. Lincoln. Lincoln consists of the entire County of Lincoln. The District Court for Lincoln shall be held at Damariscotta.

XVI. Oxford. Oxford consists of the entire County of Oxford. The District Court for Oxford shall be held at Rumford.

XVII. Northern Penobscot. Northern Penobscot consists of the towns and unorganized territory of Hopkins Academy Grant, Long A, Medway, TA R7, TA R8 and R9 and all towns in Penobscot County lying to the north of these. The District Court for Northern Penobscot shall be held at Millinocket.

XVIII. Central Penobscot. Central Penobscot consists of the towns and unorganized territory of Burlington, Edinburg, Lakeville Plt., LaGrange, Lowell, Passadumkeag, T3 R1, T5 R1 and all towns in Penobscot County lying to the north of these up to the boundary of the division of Northern Penobscot. The District Court for Central Penobscot shall be held at Lincoln.

XIX. Southern Penobscot. Southern Penobscot consists of the municipalities of Alton, Glenburn, Hampden, Hermon, Old Town and all municipalities in Penobscot County lying to the east of these and south of the division of Central Penobscot. The District Court for Southern Penobscot shall be held at Bangor.

XX. Western Penobscot. Western Penobscot consists of all towns in Penobscot County not included within the divisions of Northern, Central or Southern Penobscot. The District Court for Western Penobscot shall be held at Newport.

XXI. Piscataquis. Piscataquis consists of the entire County of Piscataquis. The District Court for Piscataquis shall be held at Dover-Foxcroft.

XXII. Sagadahoc. Sagadahoc consists of the entire County of Sagadahoc. The District Court for Sagadahoc shall be held at Bath.

XXIII. Northern Somerset. Northern Somerset consists of the towns and unorganized territory known as Bowtown T1 R4, East Moxie T2 R4, Flagstaff T4 R4, Pierce Pond T2 R4, T3 R4, The Forks Plt. and all towns in Somerset County lying to the north of these. The District Court for Northern Somerset shall be held at Jackman.

XXIV. Southern Somerset. Southern Somerset consists of all towns in the County of Somerset not included within the division of Northern Somerset. The District Court for Southern Somerset shall be held at Skowhegan.

XXV. Waldo. Waldo consists of the entire County of Waldo. The District Court for Waldo shall be held at Belfast.

XVI. Northern Washington. Northern Washington consists of the towns and unorganized territory known as Charlotte, Cooper, Crawford, Pembroke, Perry, T26

E.D., T36 M.D., T37 M.D. and all towns in Washington County lying to the north of these. The District Court for Northern Washington shall be held at Calais.

XXVII. Southern Washington. Southern Washington consists of all towns in the County of Washington not included within the division of Northern Washington. The District Court for Southern Washington shall be held at Machias.

XXVIII. Eastern York. Eastern York consists of the towns of Hollis, Kennebunk, Lyman, Wells and all towns in York County lying to the east of these. The District Court for Eastern York shall be held at Biddeford.

XXIX. Southern York. Southern York consists of the towns of Eliot, Kittery, South Berwick and York. The District Court for Southern York shall be held at Kittery.

XXX. Western York. Western York consists of all towns in York County not included within the division of Eastern York and Southern York. The District Court for Western York shall be held at Sanford.

Sec. 4. Districts. The judicial divisions are organized into 11 districts, as follows, with the place for holding court shown in parenthesis after the name of each division:

I. First district. The first district consists of the divisions of eastern Aroostook (Caribou) and Western Aroostook (Fort Kent).

II. Second district. The second district consists of the divisions of Southern Aroostook (Houlton), Northern Penobscot (Millinocket) and Central Penobscot (Lincoln).

III. Third district. The third district consists of the division of Southern Penobscot (Bangor).

IV. Fourth district. The fourth district consists of the divisions of Hancock (Ellsworth), Northern Washington (Calais) and Southern Washington (Machias).

V. Fifth District. The fifth district consists of the divisions of Northern Kennebec (Waterville), Southern Kennebec (Augusta) and Waldo (Belfast).

VI. Sixth district. The sixth district consists of the divisions of Sagadahoc (Bath), Lincoln (Damariscotta) and Knox (Rockland).

VII. Seventh district. The seventh district consists of the divisions of Northern Cumberland (Brunswick), Northern Androscoggin (Livermore Falls) and Southern Androscoggin (Lewiston).

VIII. Eighth district. The eighth district consists of the division of Southern Cumberland (Portland).

IX. Ninth district. The ninth district consists of the divisions of Eastern York (Biddeford), Western York (Sanford) and Southern York (Kittery).

X. Tenth District. The tenth district consists of the divisions of Northern Franklin (Rangeley), Southern Franklin (Farmington) Oxford (Rumford) and Western Cumberland (Bridgton).

XI. Eleventh district. The eleventh district consists of the divisions of Piscataquis (Dover-Foxcroft), Northern Somerset (Jackman), Southern Somerset (Skowhegan) and Western Penobscot (Newport).

Sec. 5. Where actions brought.

I. Juvenile proceeding or criminal prosecution. A juvenile proceeding or criminal, including traffic, prosecution shall be brought in the division in which the offense charged took place, but if the proceeding involves two or more offenses committed in different divisions, it may be brought in any one of them.

II. Forcible entry and detainer; replevin; attachment. An action for forcible entry and detainer or replevin or any action commenced by attachment shall be brought in the division in which the property involved is located.

III. Divorce, separation, annulment, support. An action or proceeding for divorce, separation, annulment of marriage or for support may be brought in the division where either the plaintiff or the defendant resides.

IV. Other civil actions. Any other civil action or proceeding shall be brought in the division where any defendant resides, but if all defendants are nonresidents of the State, it may be brought in any division of the plaintiff's choice.

V. Corporation. A corporation shall be deemed a resident of any district in which it maintains a place of business.

VI. Brought in any division with consent. Notwithstanding subsections I to V, all parties, with the approval of any district judge, may consent to any action, proceeding or prosecution being brought and determined in any division.

VII. Improper Venue. If any action or proceeding, civil or criminal, is brought in the wrong division, the court, upon motion or on its own initiative, shall transfer it to a proper division. Any objection to improper venue is waived unless asserted by motion to transfer the case made before the commencement of trial or, in the event of default in appearance or answer, before the entry of judgment.

VIII. Transfer of any case. The court may, upon motion or its own initiative, transfer any case to an-

other division for the convenience of parties or witnesses or in the interest of justice.

Sec. 6. Service of process. All process of the District Court shall run throughout the State, and may be served outside of the division from which issued with the same effect as if served within such division.

Sec. 7. Rules.

I. Rules. The Justices of the Supreme Judicial Court are empowered to make and amend rules of procedure for the District Court and for appeals from the District Court.

II. Pending new rules. Pending promulgation of new rules as provided in subsection I:

A. Warrants for arrest and search warrants may be issued by any District Court Judge, by any judge, associate judge or recorder of any municipal court, by any trial justice or by any justice of the peace who is a lawyer and who has been especially appointed for this purpose by the Chief Judge of the District Court.

B. The rules of procedure now in effect for cases and proceedings within the jurisdiction vested by this chapter in the District Court shall apply.

C. Appeals from the District Court shall be heard de novo in the Superior Court.

Sec. 8. Appeal. Any appeal shall be taken to the Superior Court for the county embracing the division in which the judgment was rendered.

Sec. 9. Judges; appointment; salary; retirement.

The Governor, with the advice and consent of the Council, shall appoint to the District Court one Chief Judge, 2 Judges at Large and 11 Judges, one for each district. Each shall have a term of office of 7 years. The Chief Judge shall receive an annual salary of \$12,500 and each judge shall receive an annual salary of \$12,000.

To be eligible for appointment as a District Judge, a person must be a member of the bar of the State. As used in this chapter, unless the context indicates otherwise, this term shall include the Chief Judge and the Judges at Large.

A District Judge shall devote full time to his judicial duties. He shall not practice law during his term of office, nor shall he during such term be the partner or associate of any person in the practice of law.

Each District Judge shall be entitled to 30 days' vacation each year, to be taken at such time or times as may be fixed by the Chief Judge.

Chapter 106, sections 3 and 4, now applicable to Justices of the Superior Court, are made applicable to Judges of the District Court.

Sec. 10. Clerks; appointment; compensation.

For each division and for the office of the Chief Judge, the Chief Judge shall appoint, subject to the Personnel Law, one chief clerk and such other clerks as may be necessary. Each clerk shall be compensated by the State at a rate comparable to that paid other state employees performing substantially similar service, as determined by the Chief Judge. If the business in any division does not require the full-time service of a clerk, the Chief Judge shall appoint as a part-time clerk for such division the town clerk or some other official or employee of the town or county working in the place where the District Court sits for such division.

Sec. 11. Place for holding court; suitable quarters. In each division, the place for holding court shall be located in a state, county or municipal building designated by the Chief Judge, who, with the advice and approval of the Bureau of Public Improvements, is empowered to negotiate on behalf of the State, the leases, contracts and other arrangements he considers necessary, within the limits of the budget and the funds available under section 12, subsection III, to provide suitable quarters, adequately furnished and equipped for the District Court in each division.

The facilities of the Superior Court in each county when that court is not in session shall be available for use by the District Court of that division in which such facilities are located. Arrangements for such use shall be made by the Chief Judge.

Sec. 12. District Court Funds.

I. **District Court Fund.** All fines, bail forfeitures and fees collected in the District Court of any division shall be paid to a clerk thereof, who shall deposit them in a special account within 72 hours of their receipt. Once each month, he shall remit such sums to the Treasurer of State, who shall deposit them in a special fund, to be known as the "District Court Fund."

II. **Expenses.** Out of such fund, the Treasurer of State shall pay, in accordance with a budget submitted each year by the Chief Judge, the expenses of the District Court, and all sums of money produced by cases brought in the District Court which shall become due to state departments and agencies, municipalities, and state, county and municipal officers. Any sums heretofore payable to counties by reason of such cases shall be paid to them not under this subsection, but under subsection IV.

III. **District Court Building Fund.** After paying such expenses or providing sufficient reserves for their payment, the Treasurer of State shall establish a special "District Court Building Fund" to be used solely for the building, remodelling and furnishing of quarters for the District Court, as determined and certified by the Chief Judge. The sum of \$3,000 per month shall be deposited in this fund until the Chief Judge certifies to the Treasurer of State that physical facilities for the District Court throughout the State are such that further deposits in said special building fund are no longer necessary.

IV. **Balance to counties.** After paying or setting aside the sums described in this section, the Treasurer of State shall pay semi-annually the balance remaining in the District Court Fund to the counties of the State in the proportion which the population of each bears to the total population of the State, according to the latest available Federal Census.

Sec. 13. Duties of Chief Judge. The Chief Judge shall be responsible for the operation of the District Court and for the efficient use of its manpower. To this end he shall:

I. **Hold court when necessary.** Hold court in any division when he deems it necessary by reason of illness, absence or disability of the judge regularly assigned or by reason of an excessive case load in any district;

II. **Assign Judges at Large.** Assign Judges at Large to hold court in any division where, in his judgment, they are needed;

III. **Days and hours for holding court.** Fix the days and hours for holding court in each division;

IV. **Vacations.** Determine the times for the taking of vacations by all district judges;

V. **Assign judges.** Assign a judge to hold court for a temporary period in a district or division outside of his own district;

VI. **Traffic Violations Bureau.** Authorize for any division the establishment of a "Traffic Violations Bureau" in accordance with the "Model Rules Governing Procedure in Traffic Cases" promulgated by the National Conference of Commissioners on Uniform State Laws in 1957;

VII. **Records and reports.** Prescribe the records to be kept and destroyed and the reports to be made by each District Judge;

VIII. **Statistics.** Collect and publish such statistics pertaining to the business of the District Court as he deems desirable;

IX. **Budget.** Prepare and submit an annual budget for the District Court;

X. *Report.* Render to the Chief Justice of the Supreme Judicial Court an annual report on the state of business in the District Court and on the conferences held pursuant to subsection XII;

XI. *Courtroom facilities.* Make necessary arrangements for proper courtroom facilities for all branches of the District Court pursuant to section 11; establish his own headquarters with appropriate facilities at Augusta; and establish quarters and facilities for the Judges at Large;

XII. *Conference of judges.* Convene at least once annually at such place as he may deem appropriate, a conference of District Court Judges to consider and take action upon or make recommendations with respect to current problems in the operation of the District Court, including but without being limited to the following topics:

- A. *Uniformity of sentences;*
- B. *Standardized and simplified forms;*
- C. *Judicial workloads and assignments;*
- D. *Records, reports and statistics;*
- E. *Relations with law enforcement agencies, social agencies and other courts;*
- F. *Needed changes in procedural and substantive law;*
- G. *Needed legislative changes in the boundaries of divisions and districts and in places for holding court.*

The expenses of District Court Judges attending this conference shall be defrayed by the State.

XIII. *Seminars, institutes, etc.* Authorize at the state's expense and within the financial limits of the budget, the attendance of such District Judges as the Chief Judge considers desirable at traffic law institutes and other similar seminars, schools or conferences for judges.

Sec. 2. Effective date; transition to new system.

Chapter 108-A of the Revised Statutes, as enacted by Sec. 1 of this act, shall take effect on Jan. 1, 1962, and the Chief Judge provided for in Sec. 9 of said chapter shall be appointed as soon thereafter as reasonably possible. The appointment of the other district judges provided for in said Sec. 9 shall be made during a period commencing 6 months after the appointment of the Chief Judge and ending December 31, 1963, as need exists in the judgment of the Governor. The District Court shall be deemed to be established in a district, within the meaning of this section, on the date when the district judge appointed to such district assumes office.

After the passage of this Act, except as provided in the following paragraphs, no trial justice and no judge, associate judge or recorder of a municipal court shall be appointed or reappointed; but the term of any trial justice and of any judge, associate judge or recorder of a municipal court, holding office at the time of the passage of this act, which shall expire prior to the establishment of the District Court in the district in which such trial justice resides, or such municipal court is located, is extended until such establishment.

If in a municipal court the office of judge becomes vacant prior to Jan. 1, 1962, or thereafter, but prior to the establishment of the District Court in the district in which such municipal court is located, and there is an associate judge of such court, he shall thereafter, and until the District Court is established in the said district, be paid the same salary as provided for the office of judge of such court. If such court has no associate judge, the Governor may, with the advice and consent of the Council, (notwithstanding that such court may already have a recorder) appoint an associate judge of such court to serve until the establishment of the District Court in such district; and such associate judge shall be paid the same salary as provided for the office of judge of such municipal court. Upon the establishment of the District Court in the said district such municipal court shall cease to exist, and all cases pending in such court and all of its records shall be transferred to the District Court for the division in which such court was located; and all persons then on probation pursuant to order of such municipal court shall be deemed to be on probation under the order of said District Court.

If a trial justice dies or vacates his office prior to Jan. 1, 1962, or thereafter, but prior to the establishment of the District Court in the district in which the residence of such trial justice is located, the Governor may with the advice and consent of the Council appoint an additional recorder of a municipal court in the county of such place of residence, to serve until the establishment of the District Court in such district; and such recorder shall be paid the same salary as was theretofore paid the said trial justice. Upon the establishment of the District Court in said district all cases pending before him and all his records shall be transferred to the District Court for the division in which he resided.

Upon the establishment of the District Court in a district, the judge of a municipal court located in the district whose term has not yet expired shall continue to exercise, concurrently with the District Court,

the jurisdiction vested in such municipal court, until after the expiration of his term. Upon such expiration, or upon his office otherwise becoming vacant, after such establishment of the District Court, such municipal court shall cease to exist, and all cases pending in such court and all of its records shall be transferred to the District Court for the division in which such court was located; and all persons then on probation pursuant to order of such municipal court shall be deemed to be on probation under the order of said District Court.

Upon the establishment of the District Court in any district, a trial justice residing in the district whose term has not yet expired shall continue to exercise, concurrently with the District Court, the jurisdiction now vested in him, until the expiration of his term. Upon such expiration, or upon his office other-

wise becoming vacant after such establishment, all cases pending before him and all his records shall be transferred to the District Court for the division in which he resided.

Sec. 3. Repealer. All acts or parts of acts and rules inconsistent with this act are repealed or amended to conform hereto.

Sec. 4. Appropriation. Upon the establishment of the District Court Fund created by R.S.c. 108-A, Sec. 12, enacted by Sec. 1 of this Act, there is appropriated to such District Court Fund, from the Unappropriated Surplus of the General Fund, the sum of \$50,000 to carry out the purposes of this act. On June 30, 1964 there shall be returned to the General Fund the sum of \$50,000.

Appendix A

SOURCES OF INFORMATION

In conducting our study we have examined a large amount of documentary material, published and unpublished, and have collected from various state agencies, county records and the courts themselves statistics regarding the cases disposed of by the Municipal and Trial Justice courts, and regarding their finances. We have conferred with members of the Supreme and Superior Court benches, and with a number of state officials whose work brings them in contact with the courts, as well as with some local officials; and have obtained comments from others through correspondence. Conversations with members of the state and local police forces have been instructive. We have interviewed in their offices many of the judges, associate judges and recorders of the municipal courts, and many of the trial justices, and have also obtained thoughtful written comments from some of them as well as from most county attorneys. We have inspected a large number of courtrooms, or other places in which court is held, and on occasion have been present at court sessions.

We have given attention also to the experience of other states, and of the province of New Brunswick, Canada.

During the past two decades there have been published a number of studies of state judicial systems, authorized by the legislatures, judicial councils, or bar associations of other states, in which consideration has been given to the possible reorganization of local courts. We have examined these studies for whatever light they might throw on the Maine situation. However, the problem is in each state so intertwined with its individual constitutional and statutory law, general court structure, county organization and population distribution that we have found little if anything in these studies which would be helpful to your Committee. Accordingly we make no reference to them.

Because traffic cases form a far larger part of the work of the municipal and trial justice courts than do cases of any other category, we have given special attention to the methods employed elsewhere in handling such cases. In this regard, the work done by the Traffic Court Program of the American Bar Association has been very helpful.

Attendance at the August 1960 annual meeting of the Maine Bar Association gave us the opportunity for discussion with a number of members of the Maine bar.

We take this occasion for expressing our gratitude to the members of the District Court Subcommittee of the Legislative Research Committee who have given generously of their time, attention and advice, carefully considering data and recommendations previously submitted to them. Representative William G. Earles, chairman of the Subcommittee has been particularly active in assisting our labors and has devoted a great deal of his time to the project. Other members of the Subcommittee are:

Hon. Cleveland P. Curtis
Hon. Albert W. Emmons
Hon. Alton A. Lessard
Hon. Clarence W. Parker
Hon. Robert G. Wade

Special thanks are also due to Mr. Samuel Slosberg, Executive Director of the Legislative Research Committee for the thoughtful and generous assistance and cooperation which he and those under his direction accorded us.

We are deeply grateful to all of the judicial officers, state and local officials, lawyers and interested citizens who have talked to us or given us the benefit of their views in writing. A partial list of these persons is as follows:

Hon. Clinton A. Clauson, former Governor of the State
Hon. Robert B. Williamson, Chief Justice of the Supreme Judicial Court
Hon. F. Harold Dubord, Associate Justice of the Supreme Judicial Court
Hon. Cecil J. Siddall, Associate Justice of the Supreme Judicial Court
Hon. Francis W. Sullivan, Associate Justice of the Supreme Judicial Court
Hon. Walter M. Tapley, Jr., Associate Justice of the Supreme Judicial Court
Hon. Harold C. Marden, Judge of the Superior Court
Hon. Abraham M. Rudman, Judge of the Superior Court
Hon. Randolph A. Weatherbee, Judge of the Superior Court
Hon. Leonard F. Williams, Judge of the Superior Court

Judges of Municipal Courts:

Hon. Frank E. Southard, Jr., Augusta M.C.
Hon. Norman Shaw, Bar Harbor M.C.
Hon. Leon L. Spinney, Brunswick M.C.
Hon. Cecil H. Burleigh, Caribou M.C.
Hon. Bartolo M. Siciliano, Dexter M.C.
Hon. Charles J. Hurley, Ellsworth M.C.
Hon. Hubert Ryan, Franklin M.C.

Hon. Leroy Snowden, Hallowell M.C.
 Hon. Albert P. Putnam, Houlton M.C.
 Hon. David W. Emmons, Kennebunk M.C.
 Hon. Fernand Despins, Lewiston M.C.
 Hon. Arthur E. Nissen, Lincoln M.C.
 Hon. Arthur E. Nissen, Lincoln M.C.
 Hon.. Frederick Keamy, Lisbon M.C.
 Hon. Alfred E. LaBonty, Jr., Town of Madawaska M.C.
 Hon. William F. Jude, Newport M.C.
 Hon. Robert Jalbert, North Aroostook M.C.
 Hon. Beverly W. Spencer, Old Town M.C.
 Hon. John B. Furbush, Pittsfield M.C.
 Hon. Sidney W. Wernick, Portland M.C.
 Hon. Walter Murrell, Portland M.C.
 Hon. Julian Turner, Presque Isle M.C.
 Hon. Christy C. Adams, Rockland M.C.
 Hon. John L. Batherson, Rumford M.C.
 Hon. Roger P. Flaherty, Sanford M.C.
 Hon. Elmer Violette, Van Buren M.C.
 Hon. Hillard Buzzell, Waldo County M.C.
 Hon. Roland J. Poulin, Waterville M.C.
 Hon. Francis Rocheleau, Westbrook M.C.
 Hon. Wesley E. Vose, West Washington M.C.
 Hon. Wiley C. Conary, Western Hancock M.C.
 Hon. Paul Quarrington, Yorkshire M.C.

Associate Judges of Municipal Courts

Hon. Claude Bourget, Augusta M.C.
 Hon. Wendell R. Atherton, Bangor M.C.
 Hon. Ronald Hart, Bath M.C.
 Hon. Gerald C. Nason, Biddeford M.C.
 Hon. Leo Singer, Brunswick M.C.
 Hon. Thomas Reagan, Kennebunk M.C.
 Hon. Keith N. Edgerly, Piscataquis M.C.
 Hon. William F. Wilson, Saco M.C.
 Hon. David Slater, Yorkshire M.C.

Recorders of Municipal Courts

Mr. Frederick Young, Calais M.C.
 Mr. John Leighton, Eastport M.C.

Trial Justices

Hon. Raymond J. Bushey, Ashland
 Hon. John C. Marble, Jr., Dixfield
 Hon. William E. Burgess, Fairfield
 Hon. Bertha Rideout, Freeport
 Hon. Grover Alexander, Gray
 Hon. Donald Atwater, Limestone
 Hon. Leroy G. Gardner, Merrill
 Hon. Rupert F. Aldrich, Norway
 Hon. Cony Hoyt, Phillips
 Hon. Ray L. Littlefield, Scarboro
 Hon. Lester M. Bragdon, York

State Officials

Lieutenant Bachelor of the State Police
 Hon. Russell Carter, Assistant Director, State Highway Dept.
 Hon. Newell C. Dyke, Director of Municipal Audit
 Mr. Frazier, deputy Secretary of State, in charge of hearings on suspension of automobile operators' licenses
 Mr. Ronald Green, Commissioner of Sea and Shore Fisheries
 Miss Edith L. Hary, State Law Librarian
 Major Parker Hennessey, Deputy Chief and Executive Officer, Maine State Police
 Hon. Louis Jalbert, Representative from Lewiston
 Lieutenant Robert McKenney, State Police, in command of Troop D at Thomaston
 Trooper Walter Manchester, State Police
 Colonel Marx, Chief of State Police
 Hon. Michael A. Napolitano, State Auditor
 Lieutenant Orcutt of the State Police
 Trooper Willis Parker, State Police
 Mr. John Shea, Director of Division of Probation and Parole, Department of Mental Health
 George West, Esq., deputy Attorney General

County Attorneys

Hon. Gaston M. Dumais, Androscoggin
 Hon. Ferris Freme, Aroostook
 Hon. Arthur Chapman, Jr., Cumberland
 Hon. Calvin B. Sewall, Franklin
 Hon. Kenneth W. Blaisdell, Hancock
 Hon. Robert A. Marden, Kennebec
 Hon. Curtis M. Payson, Knox
 Hon. J. Blenn Perkins, Jr., Lincoln
 Hon. William E. McCarthy, Oxford
 Hon. Ormon G. Twitchell, Penobscot
 Hon. Stuart E. Hayes, Piscataquis
 Hon. Arthur D. Dolloff, Sagadahoc
 Hon. Richard W. Glass, Waldo
 Hon. Gerald E. McDonald, Washington
 Hon. Marcel R. Viger, York

County Officials

Theodore Barris, Esq., Assistant District Attorney of Cumberland County
 Mr. Ray Campbell, County Commissioner, Penobscot County
 Mr. Robert Cram, County Commissioner, Cumberland County
 Mr. Antonio R. Fournier, County Commissioner, Androscoggin County
 Hon. N. M. Haskell, Judge, Probate Court, Cumberland County

Mr. Frederick A. Johnson, Clerk of Courts, Cumberland County

Mrs. Bessie O. Keeler, Clerk of Courts, Augusta

Others

Mr. Arlyn E. Barnard, Chairman of the Maine Highway Safety Comm.

Sidney L. Cullen, Editor, Rockland Courier-Gazette

Hon. Harry Groom, County Magistrate, St. Stephens, New Brunswick, Canada

Edward I. Gross, Esq., former Judge of Bangor Municipal Court and President of Association of Municipal Court Judges

Mr. Bert Merrill, Town Manager, Town of Bowdoinham

Appendix B

TOTAL CASES IN DESCENDING ORDER OF VOLUME

<u>Municipal Courts</u>	<u>Total</u>	<u>Criminal (including traffic, juvenile and pre- liminary hearings)</u>	<u>Civil (including small claims)</u>
Bangor	6706	4999	1707
Portland	4444	2587	1857
Lewiston	3353	2776	577
Yorkshire	3206	3062	144
Caribou	2576	2192	384
Waterville	2502	1684	818
Presque Isle	2457	1719	738
Augusta	1760	1336	424
Rockland	1480	1171	309
Western Somerset	1478	691	787
Bath	1437	1174	263
Houlton	1419	1199	220
Waldo	1331	1007	324
Kennebunk	1308	1182	126
Westbrook	1242	1203	39
Livermore Falls	1216	1111	105
Lincoln (Lincoln County)	1213	910	303
Brunswick	1180	1109	71
Norway	1177	796	381
Ellsworth	1165	910	255
Old Town	1090	950	140
Rumford	1073	1000	73
Saco	984	893	91
Sanford	936	578	358
Gardiner	846	720	126
Town of Lincoln	827	747	80
Piscataquis	820	652	168
South Portland	809	758	51
Biddeford	769	473	296
Northern Aroostook	740	709	31
Madawaska	702	652	50
Auburn	671	598	73
Northern Cumberland	643	569	74
Franklin	563	423	140
Brewer	517	517	0
Pittsfield	494	421	73
Calais	474	410	64
Van Buren	436	435	1
Bar Harbor	425	403	22
Fort Fairfield	420	419	1
Millinocket	360	302	58
Newport	340	295	45
Western Hancock	299	280	19
Dexter	278	276	2
Lisbon	251	241	10
Winthrop	175	133	42
Western Oxford	154	145	9
Eastport	125	80	45
Hallowell	125	120	5

No figures available for Western Washington

Appendix B (cont'd)

<u>Trial Justice Courts</u>	<u>Total</u>	<u>Criminal (including preliminary hearings, traffic & juvenile)</u>	<u>Civil</u>
Scarboro	1651	1617	34
York	1101	1101	
Gray	1048	1048	
Freeport	910	910	
Madison	239	239	
Dixfield	217	217	
Phillips	214	214	
Jackman	183	183	
Orono	176	176	
Waterboro	172	172	
Ashland	169	169	
Old Orchard Beach	168	168	
Baileyville	139	139	
Fairfield	138	138	
Bingham	135	135	
Rangeley	122	122	
Limestone	116	116	
Norway	115	115	
Merrill	100	100	
Patten	53	52	1
Eustis	52	52	
Danforth	40	40	
Vanceboro	24	24	
Cornish	17	17	

Appendix C
CASELOAD BY COURTS
(Contested and Uncontested)

	CRIMINAL						7 Juvenile	CIVIL						14 Special Proceedings	15 Preliminary Examination	Total The sum of Cols. 3, 6, 7, 10, 13, 14 & 15
	TRAFFIC			OTHER				ORDINARY			SMALL CLAIMS					
	1	2	3	4	5	6		8	9	10	11	12	13			
	Plea— Not Guilty	Guilty, Noelle Prossed, Filed	Total	Plea— Not Guilty,	Guilty, Noelle Prossed, Filed	Total		Contested and Tried	Defaulted, Dis- missed, Settled	Total	Contested and Tried	Defaulted, Dis- missed, Settled	Total			
Auburn	STATISTICS NOT FURNISHED															
Augusta	113	737	850	49	346	395	45	31	370	370	10	33	43	11	46	1760
Bangor	321	2304	2625	120	2100	2220	110	118	1124	1242	8	397	405	60	44	6706
Bar Harbor	32	203	235	22	122	144	18	--	15	15	--	7	7	--	6	425
Bath	87	671	758	61	311	372	34	--	168	169	--	87	87	7	10	1437
Biddeford	STATISTICS NOT FURNISHED															
Brewer	STATISTICS NOT FURNISHED															
Brunswick	24	846	870	9	193	202	30	7	60	67	--	--	--	4	7	1180
Calais	55	147	202	52	137	189	11	7	19	26	--	33	33	5	8	474
Caribou	251	1198	1449	49	514	563	180	15	236	251	4	121	125	8	--	2576
Dexter	19	179	198	15	50	65	13	--	--	--	*	*	*	2	--	278
Eastport	5	26	31	14	28	42	6	--	6	6	--	39	39	--	1	125
Ellsworth	52	512	564	64	233	297	33	6	62	68	--	180	180	7	16	1165
Ft. Fairfield	STATISTICS NOT FURNISHED															
Franklin	29	200	229	35	76	111	69	5	106	111	--	29	29	--	14	563
Gardiner	44	502	546	97	37	134	25	3	82	85	--	28	28	13	15	846
Hallowell	23	77	100	5	12	17	1	--	2	2	--	--	--	3	2	125
Houlton	104	584	688	56	381	437	44	1	140	141	--	76	76	3	30	1419
Kennebunk	74	1010	1084	24	61	85	7	3	60	63	3	53	56	7	6	1308
Lewiston	161	1502	1663	79	903	982	98	10	210	220	3	326	329	28	33	3353
Lincoln (Wis.)	92	420	512	81	264	345	30	21	63	84	4	206	210	9	23	1213

*45 ordinary civil and 129 small claims filed. Number of contests not known.

Appendix C (cont'd)

MUNICIPAL COURTS

1959

CASELOAD BY COURTS

(Contested and Uncontested)

	CRIMINAL						7 Juvenile	CIVIL						14 Special Proceedings	15 Preliminary Examination	Total The sum of Cols. 3, 6, 7, 10, 13, 14 & 15
	TRAFFIC			OTHER				ORDINARY			SMALL CLAIMS					
	1 Plea-- Not Guilty	2 Guilty, Nolle Prossed, Filed	3 Total	4 Plea-- Not Guilty	5 Guilty, Nolle Prossed, Filed	6 Total		8 Contested and Tried	9 Defaulted, Dis- missed, Settled	10 Total	11 Contested and Tried	12 Defaulted, Dis- missed, Settled	13 Total			
Tn. of Lincoln	90	437	527	64	137	201	19	-	26	26	2	47	49	5	-	827
Lisbon	25	150	175	14	48	62	3	1	6	7	1	-	1	2	1	251
Livermr. Falls	74	919	993	19	90	109	7	2	46	48	1	52	53	4	2	1216
Madawaska	34	359	393	17	230	247	9	-	-	-	3	44	47	3	3	702
Millinocket	27	108	135	63	81	144	17	-	33	33	-	17	17	8	6	360
Newport	14	220	234	14	43	57	3	2	6	8	9	25	34	3	1	340
No. Aroostook	63	431	494	20	147	167	20	2	11	13	-	14	14	4	28	740
No. Cumberld.	41	290	331	37	131	168	12	-	56	56	-	14	14	4	58	643
Norway							STATISTICS NOT FURNISHED									
Old Town	53	416	469	85	367	452	24	12	60	72	2	56	58	10	5	1090
Piscataquis	35	242	277	75	267	342	13	2	63	65	-	83	83	20	20	820
Pittsfield	34	279	313	15	51	66	32	7	47	54	2	11	13	6	10	494
Portland	186	850	1036	290	896	1186	115	197	1365	1562	5	211	216	79	250	4444
Presque Isle	234	839	1073	88	457	545	54	117	484	601	5	113	118	19	47	2457
Rockland	171	486	657	121	331	452	35	44	56	100	17	180	197	12	27	1480
Rumford	95	511	606	66	257	323	62	12	24	36	4	22	26	11	9	1073
Saco	72	627	699	37	134	171	10	3	57	60	-	25	25	6	13	984
Sanford	39	334	373	36	125	161	15	2	74	76	-	262	262	20	29	936
So. Portland	78	432	510	22	87	109	126	2	14	16	-	8	8	27	13	809
Van Buren	21	258	279	26	123	149	5	-	-	-	-	-	-	1	2	436
Waldo County	75	495	570	105	259	364	42	2	150	152	-	163	163	9	31	1331
Waterville	135	998	1133	80	409	489	41	23	609	632	5	171	176	10	21	2502
Westbrook	147	797	944	31	187	218	30	5	31	36	-	-	-	3	11	1242
West. Hancock	30	189	219	11	40	51	8	-	19	19	-	-	-	-	2	299
West. Oxford	9	90	99	7	30	37	3	-	2	2*	-	5	5*	2	6	154
W. Somerset	45	331	376	81	166	247	42	64	616	680	-	107	107	-	26	1478
Washington W.							STATISTICS NOT FURNISHED									
Winthrop	6	71	77	5	32	37	8	-	18	18	-	23	23	1	11	175
Yorkshire	6	2158	2164	3	864	867	22	9	30	39	2	98	100	5	9	3206
Totals	3325	24435	27760	2264	11757	14021	1531	736	6595	7331	90	3366	3456	441	902	55442

* Does not include cases pending at end of year

CASELOAD BY COURTS

(Contested and Uncontested)

	CRIMINAL CASES						CIVIL CASES						13 Preliminary Examination	Sum of Columns 3, 6, 9, 12, & 13 TOTAL
	TRAFFIC			OTHER			ORDINARY			SMALL CLAIMS				
	1 Plea- Not Guilty	2 Guilty, Nolle Prossed, Filed	3 TOTAL	4 Plea- Not Guilty	5 Guilty, Nolle Prossed, Filed	6 TOTAL	7 Contested and Tried	8 Defaulted, Dis- missed, Settled	9 TOTAL	10 Contested and tried	11 Defaulted, Dis- missed, Settled	12 TOTAL		
Ashland	17	150	167										2	169
Baileyville	19	85	104	8	23	31							4	139
Bingham	STATISTICS NOT FURNISHED													
Cornish		2	2		15	15								17
Danforth		10	10		30	30								40
Dixfield	24	151	175	7	35	42								217
Eustis	2	49	51	1		1								52
Fairfield	6	83	89	19	30	49								138
Freeport	103	765	868	13	29	42								910
Gray	85	916	1001	8	33	41							6	1048
Jackman Plantation	2	112	114	3	66	69								183
Limestone	14	58	72	8	35	43							1	116
Madison	25	136	161	15	63	78								239
Merrill	4	69	73	3	24	27								100
Norway	4	85	89	2	24	26								115
Old Orchard Beach	12	44	56	34	78	112								168
Orono	35	141	176											176
Patten	7	34	41	2	8	10		1	1				1	53
Phillips	19	97	116	25	66	91							7	214
Rangeley	5	40	45	23	51	74							3	122
Scarboro	118	1364	1482	15	118	133	6	28	34				2	1651
Vanceboro	6	6	12	6	6	12								24
Waterboro	12	73	85	21	66	87								172
York	66	939	1005	9	87	96								1101
TOTAL	585	5409	5994	222	887	1109	6	29	35				26	7164

Appendix C (cont'd)

NOTE: For the courts which did not furnish statistics, we have the following figures for total case loads from reports on file in the State Highway Department.

Court	Traffic Cases	Other Criminal Cases	Juvenile	Preliminary Hearing	Total Criminal	Civil	Total
Auburn M.C.	254	271	73		598	73	671
Biddeford M.C.	207	225	41	—	473	296	769
Brewer M.C.	386	129	—	2	517	—	517
Fort Fairfield M.C.	227	182	1	9	419	1	420
Norway M.C.	565	216	8	7	796	381	1177
Bingham T.J.	88	47	—	—	135	—	135
TOTAL	1727	1070	123	18	2938	751	3689

No figures for the Municipal Court of Western Washington County are available either from the court itself or the State Highway Department.

Adding the totals immediately above with those for courts reporting directly, we have the following totals:

	Traffic Cases	Other Criminal Cases	Juvenile	Prelim. Hearing	Spec. Proceeding	Civil	Total
Courts reporting directly	33,754	15,130	1,531	928	441	10,822	62,606
Courts for which data derived from State Highway Dept.	1,727	1,070	123	18	—	751	3,689
GRAND TOTAL	35,481	16,200	1,654	946	441	11,573	66,295

Appendix D

SUMMARY OF CONTESTED AND UNCONTESTED PROCEEDINGS

	<u>MUNICIPAL COURTS</u>	<u>TRIAL JUSTICES</u>	<u>TOTAL</u>
<u>CRIMINAL CASES</u>			
<u>Traffic</u>			
Plea—Not Guilty	3,325	585	3,910
Guilty, Nolle Prossed, Filed	24,435	5,409	29,844
TOTAL	<u>27,760</u>	<u>5,994</u>	<u>33,754</u>
<u>Other</u>			
Plea—Not Guilty	2,264	222	2,486
Guilty, Nolle Prossed, Filed	11,757	887	12,644
TOTAL	<u>14,021</u>	<u>1,109</u>	<u>15,130</u>
<u>JUVENILE</u>	1,531		<u>1,531</u>
<u>CIVIL CASES</u>			
<u>Ordinary</u>			
Contested and Tried	736	6	742
Defaulted, Dismissed, Settled	5,595	29	6,624
TOTAL	<u>7,331</u>	<u>35</u>	<u>7,366</u>
<u>Small Claims</u>			
Contested and Tried	90		90
Defaulted, Dismissed, Settled	3,366		3,366
TOTAL	<u>3,456</u>		<u>3,456</u>
<u>SPECIAL PROCEEDINGS</u>	441		<u>441</u>
<u>PRELIMINARY EXAMINATIONS</u>	902	26	<u>928</u>
<u>GRAND TOTALS</u>	<u>55,442</u>	<u>7,164</u>	<u>62,606</u>

Percentage of Contested and Uncontested Proceedings

	Contested		Uncontested		Total
	Number	Percentage	Number	Percentage	
Traffic Cases	3,910	12%	29,844	88%	33,754
Other Criminal Cases	2,486	16%	12,644	84%	15,130
Civil Cases	832	8%	9,990	92%	10,822

These summaries are based upon the detailed figures shown in Appendix C. Not included are cases handled in courts which failed to respond to our questionnaires. Also omitted are juvenile cases, special proceedings and preliminary hearings. Data as to the number of these proceedings which were contested are not available.

Appendix E

CASELOADS OF EXISTING MUNICIPAL AND TRIAL JUSTICE COURTS ARRANGED ACCORDING TO PROPOSED DISTRICTS

	Total	Criminal (Including traffic, juvenile, preliminary hearings)	Civil (Including small claims and special proceedings)
<u>1st District</u>			
Caribou M.C.	2576	2192	384
*Fort Fairfield M.C.	420	419	1
Northern Aroostook M.C.	740	709	31
Madawaska M.C.	702	652	50
Presque Isle M.C.	2457	1719	738
Van Buren M.C.	436	435	1
Ashland T.J.	169	169	
Limestone T.J.	116	116	
Total	7616	6411	1205
 <u>2nd District</u>			
Houlton M.C.	1419	1199	220
Millinocket M.C.	360	302	58
Town of Lincoln M.C.	827	747	80
Merrill T.J.	100	100	
Patten T.J.	53	52	1
Total	2759	2400	359
 <u>3rd District</u>			
Bangor M.C.	6706	4999	1707
Old Town M.C.	1090	950	140
*Brewer M.C.	517	517	
Orono T.J.	176	176	
Total	8489	6642	1847
 <u>4th District</u>			
Ellsworth M.C.	1165	910	255
Western Hancock M.C.	299	280	19
Bar Harbor M.C.	425	403	22
Calais M.C.	474	410	64
*W. Washington M.C.	No figures available. Estimated not to exceed 600 cases of all kinds on basis of earlier years.		
Vanceboro T.J.	24	24	
Baileyville T.J.	139	139	
Danforth T.J.	40	40	
Eastport M.C.	125	80	45
Total	2691	2286	405
plus	600	(Estimated case-load of West Washington M.C.)	
	3291		

Appendix E (cont'd)

**CASELOADS OF EXISTING MUNICIPAL AND TRIAL JUSTICE
COURTS ARRANGED ACCORDING TO PROPOSED DISTRICTS**

	<u>Total</u>	<u>Criminal</u> <small>(Including traffic, juvenile, preliminary hearings)</small>	<u>Civil</u> <small>(Including small claims and special proceedings)</small>
<u>5th District</u>			
Augusta M.C.	1760	1336	424
Gardiner M.C.	846	720	126
Hallowell M.C.	125	120	5
Waterville M.C.	2502	1684	818
Winthrop M.C.	175	133	42
Waldo M.C.	1331	1007	324
Total	<u>6739</u>	<u>5000</u>	<u>1739</u>
 <u>6th District</u>			
Rockland M.C.	1480	1171	309
Lincoln (Wiscasset) M.C.	1213	910	303
Bath M.C.	1437	1174	263
Total	<u>4130</u>	<u>3255</u>	<u>875</u>
 <u>7th District</u>			
*Auburn	671	598	73
Lewiston M.C.	3353	2776	577
Lisbon M.C.	251	241	10
Livermore Falls M.C.	1216	1111	105
Brunswick M.C.	1180	1109	71
Freeport T.J.	910	910	
Total	<u>7581</u>	<u>6745</u>	<u>836</u>
 <u>8th District</u>			
Portland M.C.	4444	2587	1857
South Portland M.C.	809	758	51
Westbrook M.C.	1242	1203	39
Gray T.J.	1048	1048	
Scarboro T.J.	1651	1617	34
Total	<u>9194</u>	<u>7213</u>	<u>1981</u>
 <u>9th District</u>			
York T.J.	1101	1101	
Old Orchard Beach T.J.	168	168	
Waterboro T.J.	172	172	
Cornish T.J.	17	17	
*Biddeford M.C.	769	473	296
Kennebunk M.C.	1308	1182	126
Saco M.C.	984	893	91
Sanford M.C.	936	578	358
Yorkshire M.C.	3206	3062	144
Total	<u>8661</u>	<u>7646</u>	<u>1015</u>

Appendix E (cont'd)

**CASELOADS OF EXISTING MUNICIPAL AND TRIAL JUSTICE
COURTS ARRANGED ACCORDING TO PROPOSED DISTRICTS**

	Total	Criminal (Including traffic, juvenile, preliminary hearings)	Civil (Including small claims and special proceedings)
<u>10th District</u>			
Northern Cumberland M.C.	643	569	74
Franklin M.C.	563	423	140
Eustis T.J.	52	52	
Phillips T.J.	214	214	
Rangeley T.J.	122	122	
*Norway M.C.	1177	796	381
Rumford M.C.	1073	1000	73
Western Oxford M.C.	154	145	9
Norway T.J.	115	115	
Dixfield T.J.	217	217	
Total	4330	3653	677
<u>11th District</u>			
*Bingham T.J.	135	135	
Fairfield T.J.	138	138	
Jackman Plantation T.J.	183	183	
Madison T.J.	239	239	
Piscataquis M.C.	820	652	168
Pittsfield M.C.	494	421	73
Western Somerset M.C.	1478	691	787
Newport M.C.	340	295	45
Dexter M.C.	278	276	2
Total	4105	3030	1075

*Note: For courts which failed to respond to our questionnaires, we have used figures derived from the State Highway Department.

**Note: For the Municipal Court, Western Washington, we have neither a questionnaire nor State Highway figures. Hence we merely estimate the caseload for it.

Summary

**Caseloads by Proposed Districts in Descending
Order of Volume**

8th	District	9194	10th	District	4330
9th	District	8661	6th	District	4130
3rd	District	8489	11th	District	4105
1st	District	7616	4th	District	3291
7th	District	7581	2nd	District	2759
5th	District	6739			

Note: Matrimonial cases are not included.

Appendix F

CASELOADS OF PLACES WHERE COURT WILL NO LONGER BE HELD

<u>Municipal Cts.</u>	<u>County</u>	<u>All cases, civil & crimin., 1959</u>	<u>Approx. distance from District Ct. in road miles</u>
Auburn	Androscoggin	671*	Same metrop. area as Lewiston
Bar Harbor	Hancock	425	18 to Ellsworth
Brewer	Penobscot	517*	Same metrop. area as Bangor
Bucksport (W. Hancock)	Hancock	299	17 to Ellsworth
Dexter	Penobscot	278	33 to Bangor
Fort Fairfield	Aroostook	420*	10 to Caribou
Fryeburg (W. Oxford)	Oxford	154	45 to Rumford
Gardiner	Kennebec	846	6 to Augusta
Hallowell	Kennebec	125	3 to Augusta
Kennebunk	York	1308	6 to Biddeford
Lisbon	Androscoggin	251	5 to Lewiston
Madawaska	Aroostook	702	12 to Fort Kent
Norway	Oxford	1177*	30 to Rumford
Old Town	Penobscot	1090	10 to Bangor
Pittsfield	Somerset	494	5 to Newport
Presque Isle	Aroostook	2457	11 to Caribou
Saco	York	984	Same metrop. area as Biddeford
South Berwick (Yorkshire)	York	3206	11 to Kittery
South Portland	Cumberland	809	Same metrop. area or Portland
Van Buren	Aroostook	436	20 to Caribou
Westbrook	Cumberland	1242	5 to Portland
Winthrop	Kennebec	175	6 to Augusta
Wiscasset (Lincoln)	Lincoln	1213	7 to Damariscotta
 <u>Trial Justices</u>			
Ashland	Aroostook	169	26 to Caribou
Baileyville	Washington	139	10 to Calais
Bingham	Somerset	135*	20 to Skowhegan
Cornish	York	17	31 to Sanford
Danforth	Washington	40	50 to Calais
Dixfield	Oxford	217	4 to Rumford
Eustis	Franklin	52	23 to Rangeley
Fairfield	Somerset	138	6 to Skowhegan
Freeport	Cumberland	910	7 to Brunswick
Gray	Cumberland	1048	13 to Portland
Limestone	Aroostook	116	11 to Caribou
Madison	Somerset	239	9 to Skowhegan
Merrill	Aroostook	100	16 to Houlton
Norway	Oxford	115	30 to Rumford
Old Orchard Beach	York	168	2 to Biddeford
Orono	Penobscot	176	7 to Bangor
Patten	Penobscot	53	40 to Millinocket
Phillips	Franklin	214	19 to Farmington
Scarboro	Cumberland	1651	5 to Portland
Vanceboro	Washington	24	32 to Calais
Waterboro	York	172	16 to Sanford
York	York	1101	6 to Kittery
	Total	26,273	

Note: The Municipal Court of Eastport has ceased to function and is therefore not included in the above list. Its caseload, however, is reflected in Appendices B and C.

*Figures starred are based on State Highway Dept. figures. See Note 6, p. 6 supra.

Appendix G

SUPERIOR COURT, CUMBERLAND COUNTY CIVIL CASES FINISHED 1959

Type of Case	Total Finished	Tried	Settled Dismissed Defaulted	\$600 or less	Ad Damnum \$600- \$1000	\$1000- \$2000	
Negligence	422	54	368	126	50	50	196
Collections Accounts, Notes, Contracts, etc.	1054	72	982	465	290	154	145
Appeals from Mun. Courts	45	13	32	45	—	—	—
Other	117	32	85	2	—	11	32
Totals	1638	171	1467	638	340	215	373

Appendix H

SUPERIOR COURT, CUMBERLAND COUNTY FINISHED DIVORCES AND PETITIONS RELATED TO DIVORCES 1959

Total Divorces Granted	524	
Children Involved	326	
No Children	198	
Total Divorces Dismissed, Dis- continued or Denied	<u>128</u>	
Total Divorces Finished		652
Annulments Granted during 1959		7
Petitions for Separate Support and Custody of Children pending Divorce	304	
Petitions to Enforce Divorce Decree or to Amend	<u>119</u>	
Total Petitions Finished		423
Petitions Granted After Hearing	290	
Petitions Dismissed or Discontinued	<u>133</u>	
Total Petitions Finished		423
<u>Actions Finished Under Uniform Reciprocal Support Act</u>		
Maine was Initiating State	82	
Maine was Responding State	<u>31</u>	
Total		113
Petitions Heard by Court	83	
Petitions Dismissed	<u>30</u>	
Total		113

Appendix I

RECEIPTS AND EXPENDITURES OF THE MUNICIPAL AND TRIAL JUSTICE COURTS, BY COUNTY, IN 1959

County	Salary of Judges, Recorders and Trial Justices	Clerk Hire	Other Expenditures including payments to state and to officials of state, county and local government	Total Expenditures	Total Receipts
Androscoggin	\$16,550.00	\$ 6,389.35	\$ 23,800.81	\$ 46,740.16	\$ 41,988.67
Aroostook	33,950.00	.....	55,091.59	89,041.59	120,997.09
Cumberland	37,550.00	11,234.60	58,698.36	107,482.96	134,694.50
Franklin	4,532.05	1,083.31	12,069.31	17,684.67	14,190.40
Hancock	8,994.51	.....	13,760.22	22,754.73	32,161.00
Kennebec	15,900.02	.....	24,446.80	40,346.82	80,144.98
Knox	3,849.97	947.96	5,765.03	10,562.96	16,341.00
Lincoln	4,600.00	472.90	7,222.19	12,295.09	20,322.53
Oxford	9,900.00	66.00	14,667.44	24,633.44	32,647.26
Penobscot	27,670.91	14,060.33	64,902.42	106,633.66	142,961.43
Piscataquis	3,400.00	.....	7,668.80	11,068.80	15,087.60
Sagadahoc	5,174.57	1,140.00	5,428.00	11,742.57	21,354.00
Somerset	9,900.00	2,232.50	15,659.39	27,791.89	37,810.11
Waldo	4,300.00	564.75	8,784.39	13,649.14	22,092.00
Washington	8,816.50	.....	12,444.05	21,260.55	34,138.82
York	25,320.00	12,346.53	20,390.93	58,057.46	220,157.05
Totals	\$220,408.53	\$50,538.23	\$350,799.73	\$621,746.49	\$987,088.44

The source of this information is the County Treasurer's report for each county.