DOCUMENTS

PRINTED BY ORDER OF

THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1855.

AUGUSTA:
STEVENS & BLAINE, PRINTERS TO THE STATE.
1855.

THIRTY-FOURTH LEGISLATURE.

SENATE. No 20.

STATE OF MAINE.

Majority and Minority Reports of the Commissioners appointed "to prepare a Judiciary System," together with the Bills presented by said Commissioners.

To the Legislature of Maine:

The undersigned, appointed Commissioners by a resolve of the present Legislature "to prepare a Judiciary system," beg leave to present their report, with the accompanying bill.

The first object of the Commissioners was to ascertain what defects and evils exist in the practical workings of the present judicial system, and then to consider the different remedies suggested, and to recommend those which seem adapted to effect the object in view.

Two leading propositions have been before the commissioners. One proposes the abolition of the present judicial system of the State, and the restoration of the court of common pleas, as it existed from 1835 to 1839. The other retains the present system, with modifications of its jurisdiction, a division of its powers, and some new provisions designed to facilitate the business of the court, and prevent the delays of justice.

The undersigned believe that frequent changes in the judicial system are to be deprecated, and to be avoided, unless evils exist of so grave a character as to essentially impede the due and prompt administration of justice, and which cannot be remedied by amendments of the existing system. No system of jurisprudence ever

Stevens & Blaine, Printers.

was, or probably ever will be perfect in all its parts, and in all its details.

It is believed that the principal difficulties experienced in the administration of justice, which most embarrass the proceedings of the court, and delay the prompt and final adjudication of causes, may be resolved into two general heads.

1st, That under the present system, which practically requires at least five of the judges to attend each law term, and which also compels all the judges to hold terms for jury trials, it is impossible for the court to agree upon and draw up opinions, and communicate with each other in the cases of law and equity before them, as promptly as the rights and interests of parties, and the satisfactory administration of justice requires.

During the three months which are now devoted to hearing law arguments, the whole court is employed, and with the exception of a few criminal terms, no terms for jury trials are held in that quarter part of the year. In the remaining months the judges are so constantly engaged in jury trials that they cannot meet for consultation, and are interrupted in their examination of the law cases, and have not time to consider them fully.

In addition to the causes of delay, the fact that the judges reside at great distances from each other, and are so frequently absent from their homes, renders the transmission of written opinions from one to another slow and uncertain, and suitors cannot calculate upon having a decision of their law questions until the expiration of a year after argument. The law terms in each district are held but once a year. By the returns annexed it will be seen that there are now pending ——— cases of law, and probably before the law terms of this year are held, the number will be increased very considerably.

The commissioners are united in opinion, that some change in the organization of the court is required to remedy the evils named in reference to the cases of law and equity. The undersigned are not satisfied that these evils are so inherent in and peculiar to the pres-

ent system, as to involve the necessity of a return to the old system of courts of supreme and inferior jurisdiction, in which it is believed similar obstacles have been experienced and would again be encountered. They believe that the present system may be modified in such a manner as to remedy the evil in a great degree. They have considered different plans and propositions. One is to create a new and independent law court, to be composed of three or more judges, appointed and commissioned as a court of errors and law. In addition to the objections to such a court, which will be suggested in another connection, there seems to be a constitutional difficulty in creating such a court and giving to it the pre-eminence and permanency contemplated, whilst the present court exists. This latter court is the "supreme judicial court" named in the constitution, and is the court whose opinions are to be given, when the executive or Legislature ask them. This is the permanent court. The new court could only be one of those "other courts" named in the constitution, which can be created or destroyed at the pleasure of the Legislature.

Another plan is the one contained in the annexed bill. It creates a permanent law department of the existing court, and places the chief justice permanently at its head. But it provides that the other judges shall alternately fill the places of associate judges in the department. It thus creates a body which will always be in existence, and will have the sole charge of the law cases, and be enabled, by giving their undivided attention to such cases, and by having two terms annually in each district, to determine all such cases with reasonable promptness. It avoids any invidious distinctions, and proceeds upon the ground that any person who has found a place on the court, is, or ought to be, fitted to discharge any and all the duties of his office. Whilst it gives permanency to the department, obviates the objections against permanent law judges, it places all on an equality, and compels all to perform circuit duties in their turn. It is thought that the designation of the chief justice

as a permanent member, cannot be regarded as invidious, and that it will to a certain extent, meet the objection to frequent changes of the members. But there are objections to the designation of all the members of the law department as permanent incumbents, which are worthy of consideration. The selection of such judges from the whole number on the bench in whatever mode, or by whatever authority made, (unless by lot) would necessarily and inevitably be somewhat invidious, and probably difficult and unsatisfactory. The force of this objection, whatever it may be, will be apparent without further remark on this delicate topic.

But the soundest lawyers and most distinguished jurists of our country have often expressed strong objections to the creation of a mere law court, to be composed of individual judges, who are to remain permanently in that department, and never mingle with the people or the bar, in the active discharge of the duties of the jury terms. They have viewed with distrust this isolation and exclusive devotion to mere abstract law. It has been deemed of the highest importance to the intelligent and practical administration of the law, that judges should in practice apply their theoretical opinions to the varying and actual facts before them in jury trials, and thus be better able to settle and fix the principles of law, so as best to meet the demands of the age, and the actual progress of human affairs, and the real wants of the people.

There will also grow up a secret, if not open jealousy of such a tribunal, as one which is not in keeping with the popular feeling and tendency, or as one devoted only to black letter law, and ancient precedent, and out of the reach of the advancement of the age in jurisprudence and liberal views. Defeated suitors, and disappointed advocates would, very possibly, denounce it as exclusive, intolerant and arbitrary, if not as claiming infallibility, and resting rather on authority, than on argument and reason. If such a court is established, unless it can command and retain public confidence and respect, it would be worse than useless, and the very fact of its

isolation and exclusion from active duties and the intercourse which belongs to jury trials, would serve to create a jealousy and distrust, however unfounded in fact it might be.

The effect of such a system upon the judges themselves, would probably not be favorable. Allusion has already been made to the position of the exclusive law judges, and the effect of their personal isolation on themselves and on the system—and it may well be doubted whether those judges who are perpetually fixed in the position of presiding only at jury trials, would feel that honorable ambition to keep up or to make themselves "learned in the law," and in its advancements as a science, which they would feel if they were certain of taking their place on the law department in their turn, and of being called on to investigate and determine nice and difficult questions of law, and of publishing to the world their reasons for their decisions.

The undersigned have concluded to submit the plan set forth in the bill, for the consideration of the Legislature.

In order to facilitate the prompt decision of law questions, it is proposed to have two law terms in each district annually. This will also bring the judges together for consultation, and enable them to dispose of the law dockets without much delay.

The undersigned are satisfied that if the law department is established, it will be necessary, to enable the other judges to hold the jury term, to add another judge to the present number, and they have provided for such an addition in the bill submitted.

The second practical difficulty in the judicial department, as it appears to the undersigned, after careful examination of all the facts, is that in all the counties, a large number of actions are placed on the trial dockets, merely for delay, in which no actual trials are expected or intended.

The returns submitted, show a very considerable diminution of the number of actions pending in the court at the present time, when compared with the number pending in both courts at the commencement of the present system in 1852. It is also true.

as will appear by the returns, that the number of actions entered since 1852, is proportionably less. It is, however, to be noted that the number of cases entered for the years before 1852, embrace the full period of three years, whilst the returns since the creation of the present court, in May 1852, embrace only two years and eight months. In some of the large counties, it would appear by the returns that the dockets are somewhat incumbered. But the uncertainty of any conclusions as to the cause or the remedy, drawn solely from the returns, is manifest, when it is known that the county where two thousand actions are pending, there is no complaint of delay in trials, and actions are in fact tried at the second term after entry. In other counties where the number of actions on the docket exceed three hundred, it is also known that the court can and does try all causes, which are in fact for trial, and where the parties are ready, in three or four days. To render the returns reliable for practical inferences, they should show how many cases are in fact for trial and how many are mere stumbling blocks in the way of reaching actual trials. And also whether in fact cases are delayed beyond the second term, when parties are ready for trial. And it would also be important to know whether contested cases have increased or diminished.

Another important element is wanting, viz: — the actual length of terms in each county, and whether any and how many terms have been adjourned after a few days' session, without disposing of the cases for trial.

The undersigned are satisfied that in most, if not all the counties, the difficulty lies, not so much in the real amount of business to be done, as in the difficulty of ascertaining what is in fact to be done, and when cases can be reached in order. Between the cases where there are actual issues to be determined, there are an immense number of actions marked for trial and continued from term to term, which are never tried, and which were never intended for trial, and which block the way and confuse the court and counsel. Many of these cases are unnecessarily and unreasonably continued from

term to term, at great cost to the parties, and for the mere purpose of delay.

The undersigned believe that these evils can in a great degree be cured by the enactment of the provisions of the 5th section of the act herewith submitted. They are not peculiar to any system, but liable to grow up under any that can be devised. They do not necessarily require the abolition of an existing system, but rather its amendment.

The proposed provisions are undoubtedly somewhat stringent, and introduce some new rules of practice. But it is believed that the evils cannot be effectually reached and cured by any less explicit or less severe remedy. The section is plain in its provisions and needs but little explanation or elucidation. The two leading purposes are to separate real trials from those which are not such, and to clear the docket of actions continued beyond the second term, where the due administration of justice does not require a continuance. It proposes to effect the first object by having an exclusive and separate trial docket at each term, on which no action shall be entered until specifications of defence, and a written declaration that there is a defence, which the party intends in good faith to make, is filed. A trial docket, thus made up, will show at a glance the cases to be tried, and the order of the trials, and enable parties to act understandingly in their preparations for trial.

It proposes to effect the second object by cutting off all costs to either party after the second term, in all cases not on the trial docket, except those cases in which the court shall certify that the delay was necessary for the due administration of justice.

The undersigned have not inserted a provision requiring an affidavit, as upon reflection they are unwilling to multiply oaths, and would prefer to rely upon the honor of counsel and of parties, satisfied that in practice, but few cases could or would find a place improperly on the trial docket. To meet, however, such cases, if any such should arise, the provision for treble costs is inserted. If

these provisions are adopted, and strictly and faithfully carried out by the court in practice, the undersigned believe that a great part of the existing evils will be remedied, and that causes can be tried and determined with reasonable despatch.

The proposition to revive the court of common pleas, to be held in all the counties of the State, has received the deliberate consideration of the commissioners. The undersigned have not been able to perceive the necessity or expediency of creating such a court at the present time. They believe that the adoption of the amendments they propose to the existing system, will so far remedy the evils complained of, that justice may be administered, under the present organization, with reasonable despatch and to the public satisfaction.

The great question in relation to a court of common pleas, has reference to the extent of its jurisdiction in civil and criminal cases. One proposes to give to such a court exclusive jurisdiction only in cases where the debt or damage is less than a certain sum—two or three hundred dollars—and giving right of appeal in all matters of fact, when the amount demanded is more than the limited sum, with a right in all cases to except to rulings in matters of law.

Another system gives to such court original jurisdiction of all cases above twenty dollars, and concurrent jurisdiction with the supreme court of all such cases above two or three hundred dollars, and exclusive jurisdiction in all cases under that sum. Or to state the matter more plainly to unprofessional minds—under the first proposition, when a case, where the amount demanded is over two hundred dollars is entered in that court, a jury trial may be there had, and either party may appeal from that decision and have another jury trial in the court above; or the case may be carried up without a trial in the court of common pleas by fictitious pleadings, which are waived in the court above. In all cases of a less amount, exceptions to the judge's rulings, &c., may be taken and carried to the supreme court.

This is substantially the system on which the court of common pleas was originally constituted and which continued till 1835 when the second plan above indicated was adopted.

By this amendment no appeals in matters of fact were allowed, and no fictitious demurrers. This Court had final jurisdiction in matters of fact, of all cases to any amount, which were brought into it—the right of exception in matters of law still continuing. This remained in force until the creation of the district court in 1839, when the old system of appeals was restored, and this continued until the adoption of the present system in 1852, when the district court was abolished, and its cases and jurisdiction transferred to the supreme court.

Neither system seems to have been satisfactory in its practical workings. Under the first, the common pleas and district courts became mere courts of delay, for the accumulation of costs, where, after all possible detention, the cases contested were carried to the higher court, which became the real battle field, whilst the common pleas was but the arena for skirmishing-feints and sham battles, without any final results.

Under the second, which on its face appeared somewhat plausible, as it denied all appeals in matters of fact, and all sham demurrers, and gave to the lower court final jurisdiction, except in matters of law, the practical operation was such that a very few years experience induced an abandonment of the old system, and a return to the old system, and when the evils under this system became again apparent and called for a change, the Legislature in 1852, instead of falling back upon the proposition for a court of final jurisdiction without appeal, abolished the whole system as unnecessarily expensive, cumberous and inefficient.

The plan of a common pleas court without appeal, in any matter of fact, was found to be unsatisfactory to suitors and the public. It was found that where two courts existed, both with jurors for trials and both having concurrent jurisdiction of actions, that the unsuccessful party complained loudly that he could not have his case

carried to the higher tribunal. Whilst two courts existed, two trials were demanded. This was particularly the case with defendants, who said that they had no voice in the selection of the tribunal, and insisted that they ought not to be denied a right to an appeal. And plaintiffs who had failed in their first attempt to establish their claim were equally anxious to escape from the lower tribunal, and have a new trial by jury in the court above.

When there is but one court and one system, parties know that there can be a trial in no other, and that they must abide the result.

The proposition for a common pleas court does not contemplate a court of limited jurisdiction in civil matters, but gives to it unlimited jurisdiction in all such matters to highest sums except in a few cases. A plaintiff who demands fifty dollars, or a hundred thousand dollars, may, if he chooses, bring his action in that court, and the verdict is final unless set aside on matters of law. In short, the court of common pleas has substantially the same power and jurisdiction in the trial of causes, as the supreme court when held by a single judge, except that it has exclusive jurisdiction of all matters when the debt or damage demanded is less than a certain sum. And as to those smaller actions, exceptions to the ruling of a judge of the court of common pleas can be taken, in the same manner as from a single judge of the supreme court.

If this system is adopted, we shall have two courts of equal and concurrent jurisdiction of the larger cases, and with equal powers in the trial of all matters of fact.

The plaintiff only has the power of selection—and as the court of common pleas has jurisdiction of all cases as before stated, and the supreme court has original jurisdiction only above three hundred dollars, and as there are many cases of uncertain damages, where the plaintiff, although he claims a large sum is not sure of recovering, (if he recovers at all,) more than three hundred dollars, he will for security bring his action in the lower court. It will not be safe for the plaintiff, in a very large class of cases, to bring his ac-

tion in the supreme court, however anxious he may be to have his case there tried. The result must be that business will necessarily accumulate in the court of common pleas, and complaints of large dockets and of the law's delay will be heard from various quarters.

The present number of courts is fifteen. The undersigned cannot think that there is any necessity for two courts of concurrent jurisdiction (except as before stated,) in all these counties. A glance at the returns will show that in many of them the number of pending actions is too small to require two courts. In fact, several of the counties have applied for, and obtained the discontinuance of one of the annual terms as unnecessary.

The evident tendency is to multiply counties in various parts of the State. The undersigned cannot understand how four judges of the supreme court can hear and determine all cases in law and in equity, and hold jury terms in all these counties. They cannot hold but one law term in each year unless it is expected that nearly all the cases, great and small, will be tried in the common pleas.

The only material difference between the two courts in the proposed system as to jurisdiction and trials of matters of fact being found as above stated, only in the fact that the common pleas will have exclusive cognizance of cases under three hundred dollars, it becomes a grave question whether the adminstration of justice and the public interest so imperiously require a change so as to justify the restoration of a system, which has heretofore been tried and abandoned, and must involve expense, and a complication of the machinery of justice.

It is urged that to maintain the dignity of the supreme court, and to secure the respect of the people, it is necessary to institute a lower court, and to exclude from the higher court all but actions involving large amounts. Theoretically, every case which is worthy of cognizance by the judicial tribunals and has a claim to be decided by them, is entitled to the fullest consideration of the best minds in that department of power. The amount nominally

involved by no means measures in all cases the importance of the principles discussed, or the effect of the judgment on the rights of the parties, and even if it did in a given case, it may well be doubted whether an able and faithful judge would loose any respect by a patient, careful and impartial examination of the causes of smaller amount, which may yet be important to men of small means, and which may come before him. The time has passed, or is fast passing away, when official rank, outward pomp and decoration, or a statute precedence can give real influence, or command real and enduring respect. The respect of an intelligent people for their judiciary is based on higher grounds; it rests on that deep respect for law, and that reverence for its impartial administration, which every true and loyal citizen feels, and which he knows must be cherished and preserved if we hope to maintain a government of law and not of men. A court which fearlessly discharges all its duties, and ably administers the law independently of all external influences, and with a single eye to truth and justice, which shrinks from no labor and shuns no responsibility, need not fear that its dignity will be lowered, or that public respect will be measured by the *ad damnum* in its writs. It is a fact worthy of a passing notice, that during our whole judicial history, questions of law, arising in cases of the smallest possible amount, have been adjudicated upon in the highest court, without any objection. It may be difficult for a common mind to perceive the difference in point of respectability between an issue in fact and an issue in law; or, how one can be more compatible with the dignity of the court than the other. The other argument, that the accumulation of business in a single court requires a separation, is certainly of greater importance, and of greater interest to practical men. This point has been considered in a former part of this report. The undersigned have not been able to see the necessity, which is asserted they believe, that if the provisions of the 5th Section of the bill herewith submitted are adopted and enforced, and a separate law department is

created, that under the present system, with an additional judge, justice may be administered promptly and without delay, and to the public satisfaction.

In considering the proposition for the creation of a new court composed of four judges, the fact that we never have a court with seven judges is not to be overlooked. It is undoubtedly true that individuals or expense are not to stand in the way of reforms, when the public exigency and the overpowering necessity of the case require a disregard of both. But in the case before us it is enough to call the attention of the Legislature to the present and prospective organization of the court, and to leave that suggestion without further comment, as each man can readily comprehend the actual position of the case in this aspect, and judge for himself what weight it ought to have in deciding the questions before him. It is sometimes said that we must have a court for small cases; but it is perhaps not amiss to consider whether the constitution of such a court for such a purpose does not necessarily invite the class of cases for which it is particularly instituted, and whether there will not probably be a growing unwillingness on the part of parties, and respectable counsel, to bring into the supreme court this class of cases, except where essential rights or important principles are involved. The undersigned, therefore, are opposed to the entire repeal of the present organization, and submit to the Legislature the accompanying bill for their consideration.

EDWARD KENT.

March 2, 1855.

I concur in this report in the main; but am of opinion that the law department provided for in the annexed bill, would better subserve the public interests if the judges should be designated, or appointed to hold their places *permanently*, being required as the public service should demand, to perform circuit duties.

LOT M. MORRILL.

Whole No. Entries made in the Judicial Courts in the several Counties, for a period of three years prior and subsequent to January 1, 1852.

Counties.	Entries prior to January 1st, 1852.	Entries subsequent to Jan. 1st, 1852.	Remarks.
York,	2938	2328	
Cumberland,	4387	2990	
Lincoln,	4666	2879	
Hancock,	1706	1318	
Kennebec,	5007	3251	
Washington,	2501	1842	
Oxford,	2168	1407	
Somerset,	2433	1579	
Penobscot,	5717	4508	
Waldo,			No returns.
Franklin,	998	640	
Piscataquis,	787	425	
Aroostook,			No returns.
Sagadahoc,		358	
Androscoggin,		267	
	33,378	23,792	

Actions pending in the several Counties, Jan. 1, 1852 *and* 1855.

Counties.	Whole No. Jan. 1, 1852.	Marked law.	Criminal	Whole No. Jan. 1, 1855.	Marked law.	Criminal
York,	721	25	36	868	37	69
Cumberland,	808	50	26	714	56	55
Lincoln,	1260	58	19	748	38	23
Kennebec,	1079	70	30	1024	86	47
Hancock,	419	10	7	320	11	6
Washington,	605	33	31	353	33	24
Somerset,	1070	34	42	544	30	70
Penobscot,	2008	111	44	1922	75	46
Franklin,	242	27	6	162	6	12
Piscataquis,	163	3	13	169	4	11
Sagadahoc,				304	11	
Androscoggin,				267		
Oxford,	518	14	25	365	28	32
Waldo,	no returns.					
Aroostook,	no returns.					
	8,993	435	279	7,760	415	395

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND FIFTY-FIVE.

AN ACT additional concerning the Supreme Judicial Court, and its jurisdiction.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECTION 1. The supreme judicial court shall be holden at the times and places hereafter named, by three judges of said court, for the purpose of hearing and determining all questions of law and equity which may arise in any mode; and said three judges, or a majority of them, shall have all the powers, perform all the duties, and be subject to all the provisions of existing laws, which now devolve upon, or are applicable to, the said supreme judicial court, when holden by at least a majority thereof. The chief justice of said court shall always be one of said three judges. The two associate justices of said court, who have held the

office of judge for the longest time, shall be the two associate justices in said law department, until the first day of January, in the year of our Lord one thousand eight hundred and fifty-seven, when they shall cease to act in said capacity. And the two associate justices of said court, who are next in seniority as above stated, shall be such associate justices for one year next succeeding. And at the expiration of every year thereafter, two associate justices selected according to the foregoing rule, shall successively be the associate justices in such law department for one year. In case of equal term of service as aforesaid, the senior in age shall be designated. And in all cases the said justices may decide and determine all questions and matters which have been argued or submitted before the expiration of their said term of service in said law department, after said expiration. And in case of a vacancy in the office held by any associate justice of said supreme judicial court during his term of service in said law department, his place in said department shall be filled for the remainder of his term by the justice who would have succeeded him at the expiration of his said term. And said

justice shall remain in said law department until the expiration of the year, during which he would have held such place, if no such vacancy had happened, unless he shall have served in said law department one year in filling such vacancy, in which case he shall not hold beyond the expiration of the term in which the vacancy occurred. Either of said three justices during their said terms in said law department may exercise all the powers of any single justice of said court, and may hold any term of said supreme judicial court, which by law may be holden by one justice thereof, when the holding of such term will not interfere with the proper discharge of their duties in said law department.

SECT. 2. The eleventh section of the act "concerning the supreme judicial court, and its jurisdiction, approved April ninth, eighteen hundred and fifty-two," be and the same is hereby repealed.

SECT. 3. There shall be an additional justice of the supreme judicial court, who shall be appointed and commissioned as prescribed in the constitution.

SECT. 4. The supreme judicial court shall be holden by said three judges for the purposes afore-

said, in every year at the times and places following:

In and for the Western District, at Portland, on the fourth Tuesday of February and the third Tuesday of July.

In and for the Middle District, at Augusta, on the first Tuesday of January and the first Tuesday of June.

In and for the Eastern District, at Bangor, on the second Tuesday of February and the last Tuesday of June.

SECT. 5. In all civil cases hereafter entered in said court, when the defendant appears and desires a trial, he shall, at least fourteen days before the commencement of the term next after the entry of the action or service on him, file with the clerk of the court, a specification in brief of the nature and grounds of his defense, with a declaration signed by himself or his attorney, that the declarant believes that there is a good defense to all or a part of the plaintiff's claim, and that he intends in good faith to make such defense. And no action shall be placed on the trial docket unless such specification and declaration has been filed as aforesaid. The court may in its discre-

tion, in cases of accident or mistake clearly shown, allow such specification and declaration to be filed and an entry made on the trial docket after said time. A separate trial docket shall be made out by the clerk at each term, which shall contain only such cases as are above specified, in their proper order. The court before proceeding to the trial of causes, or at some early and convenient time in each term, shall dispose of all the cases not on the trial docket, by non-suit, default, continuance or otherwise, as the proper and prompt administration of justice may require. No costs shall be allowed to either party, after the second term after entry in any action, not on the trial docket as aforesaid, unless the judge presiding when final judgment is given, shall certify or enter upon record that the delay and continuance or continuances after such second term were proper and necessary for the due administration of law and justice in that case. And in any case which has been entered on the trial docket as aforesaid, if no issue shall be joined and no actual trial in any mode be had, and judgment be rendered for the plaintiff, the defendant shall be liable for treble costs, unless the judge pre-

siding as aforesaid shall certify or enter upon record that the defendant had reasonable grounds for filing his said specification and declaration, and that the same was not filed for the mere purpose of delay.

SECT. 6. All acts or parts of acts relating to the time and place for holding the terms of said court by not less than a majority of said court, and all acts and parts of acts inconsistent with this act, are hereby repealed, and such repeal shall not revive any former act.

SECT. 7. This act shall take effect from and after the thirtieth day of April next.

STATE OF MAINE.

To the Senate and House of Representatives of the State of Maine, in Legislature assembled:

The undersigned, one of the commissioners appointed by a resolve passed February 8, 1855 "to revise the laws establishing the supreme judicial court of this State, and to prepare a bill, or bills, for the establishment of an additional court, or courts, with such modification of the powers and jurisdiction of the supreme judicial court as they shall deem necessary and proper," not having been able to concur in the views and plans of his learned associates, respectfully submits the following report:

That the judiciary system of our state needs revision and reform, is a fact glaringly obvious to every one having intercourse in any capacity with our judicial tribunals:—and indeed this fact appears with great propriety to have been assumed by the Legislature in the terms of the resolve creating the commission. This system, adopted some three years since, without (in the opinion of most of our ablest jurists,) that careful consideration which the importance of the subject called for, was presented and importunately urged upon the Legislature of 1852, with the attractive argument that under its new and salutary provisions, justice would be administered as required by the constitution, "completely and without denial, promptly and without delay." And that Legislature, trusting thereby to promote the public interests in this most important branch of the government, adopted the plan thus plausibly presented to them.

Thus one old system, in its principles coeval with our existence as a state,—similar to that which has so beneficially prevailed for

so many years in our Parent Commonwealth, and which had been found to fulfill the great purposes it was designed to accomplish, was made to give place to a new system, which fairly considered and truly represented could never have been regarded as other than a doubtful experiment. The common sense principle of despatching business by a division of labor, and the declaration of our constitution, that the judicial power shall be vested in a supreme judicial court and *such other courts* as the Legislature should establish, were alike disregarded. The common pleas, or district court was abolished: and the whole judicial business of this great state was thrown in a confused and perplexing mass into the supreme court. Undoubtedly some evils existed in the administration of justice under the old system:—but they were not owing to defects in the system itself, but rather to abuses which had been engrafted upon it by pettifogging lawyers living by the law's delay: and the evils and abuses could and should have been lopped off without laying the axe at the root of the tree.

And now after an experience of three years, what are the results of the present system—its practical working consequences? Having been recommended by its originators, and adopted by the Legislature, upon the ground that it would greatly facilitate the despatch of business, has it affected that desirable end? This is a question not to be answered by even plausible arguments, nor by specious theoretical speculations, but by facts—downright, stubborn facts, which speak in language not to be misconstrued, or misunderstood.

And for these facts, showing the practical working of the system, and its capacity for despatching business, I refer to the returns from the several counties called for by the resolve, and contained in the tables hereto annexed.

That our judges have worked diligently and laboriously will not, and cannot be denied; and yet the returns show that the experiment has failed; that the existing system has not accomplished the objects it was expected to accomplish: that justice has not been

administered so efficiently, promptly and satisfactorily under the present system, as under the old; that business is accumulating upon the dockets of the several counties; and that great delays are experienced both in the trial of issues of fact, and in the determination of questions of law. And all these difficulties spring from the system itself, and not from any lack of energy or ability in applying the system. Our judges have not been able to go through their arduous duties. The present judicial organization is not competent to exercise all the varied jurisdiction and powers imposed upon it. The existing means are not equal to the end. The system itself is radically bad. And, as was very properly assumed by the legislature in the terms of the resolve, some further provision is required for the proper administration of justice.

And in legislating upon a subject of such great and general interest and importance, coming home as it does to the life, liberty, reputation and property of every man in the community, it is submitted that we can with safety and confidence look back to the systems prepared and recommended by those able men, who more than thirty years ago moulded the institutions of our then infant state. It is believed that no more doubtful experiments are desirable; and that no amendments of the present system would give it that life and energy requisite to a prompt and effectual administration of justice.

With these views, guided by the lights of the past, and conforming to the requirements of the resolve instructing the commissioners "to prepare a bill or bills for the establishment of an additional "court or courts, with such modification of the powers and juris- "diction of the supreme judicial court as they shall deem necessary "and proper," the undersigned has prepared two bills, one entitled "An Act to establish a court of common pleas," the other entitled "An Act to modify and limit the jurisdiction of the supreme "judicial court," which bills accompany this report and are herewith submitted to the legislature.

As the legislature, should they deem the bills worthy of their con-

sideration, will give to them all that critical examination which the importance of the subject demands, it is not thought necessary in this report to go into any very particular explanation of their provisions. The bills will speak for themselves. They are believed to afford a proper and effectual remedy for the existing difficulties. They are based upon those principles of judicial organization which prevailed in this state for thirty years; they are in conformity to that doctrine of a division of labor, which ensures its prompt and faithful despatch; and they recognize and carry out that provision of our constitution, which declares that the judicial power shall be vested in a supreme judicial court and such other courts as the legislature shall establish. It is believed that they avoid, and indeed eradicate all those evils and abuses which sprung up under this system, when formerly in operation. And finally, while to other plans proposed however plausible their general outlines, serious objections arise, and multiply as we look into their details, there is no reasonable doubt that the system herewith submitted will, in its practical operation, promote the interests of the community, and attain in the administration of justice all reasonable despatch.

With much diffidence as to the perfection of their details, but with great confidence in the soundness of their principles, the accompanying bills are submitted to the Legislature.

JOHN RAND, *Commissioner.*

AUGUSTA, MARCH 1, 1855.

Counties.	No. of actions pending in Sup. Jud. and Dist. Courts, Jan. 1, 1852.	No. of actions pending in Sup. Jud. Court, Jan. 1, 1855.	Whole No. of Entries in years 1849, '50 and '51.	Whole No. of Entries in years 1852, '53 and '54.
York County, .	721	868	2938	2328
	Law 25	Law 37		
	Crim. 36	Crim. 69		
Cumberland, .	808	714	4387	2990
	Law 50	Law 56		
	Crim. 26	Crim. 55		
Oxford, . . .	518	365	2168	1407
	Law 14	Law 28		
	Crim. 25	Crim. 32		
Franklin, . .	242	162	998	640
	Law 6	Law 6		
	Crim. 27	Crim. 12		
Androscoggin, .		129		118
		Law 9		66 transf'd.
		Crim. 15		
Sagadahoc, . .		271		358
April 4, 1854.		Law 33		
		Crim. 13		
Lincoln, . . .	1260	748	4678	2882
	Law 58	Law 38		
	Crim. 19	Crim. 23		
Kennebec, . .	1066	1024	5007	3251
	Law 70	Law 86		
	Crim. 30	Crim. 47		
Somerset, . .	1070	544	2433	1579
	Law 34	Law 30		
	Crim. 42	Crim. 72		
Piscataquis, .	163	169	787	425
	Law 3	Law 4		
	Crim. 11	Crim. 11		
Penobscot, . .	2008	1966	5717	4508
	Law 111	Law 73		
	Crim. 136	Crim. 44		
Waldo, . . .	no returns received.			
Hancock, . .	419	320	1706	1318
	Law 10	Law 11		
	Crim. 7	Crim. 6		
Washington, .	605	353	2501	1842
	Law 33	Law 33		
	Crim. 31	Crim. 24		
Aroostook, . .	no returns received.			

Whole number of actions pending January 1, 1852, (old system,)	8880
Law pending January 1, 1852, (old system,)	414
Whole number of actions pending January 1, 1855, (present system,)	7634
Law pending January 1, 1855, (present system,)	444
Whole number of entries 1849–50 and –51, (old system,)	33320
Whole number of entries 1852–53 and –54, (present system,)	23646

Of the whole number of actions entered in 1849–50 and –51, 27 *per cent.* remained on the docket January 1, 1852.

Of the whole number of actions entered in 1852–53 and –54, 32 *per cent.* remained on the docket January 1, 1855.

Of the whole number of actions entered in Kennebec county, in 1849–50 and –51, (under the old system,) 21 *per cent.* remained on the docket January 1, 1852.

And of the whole number of actions entered in same county in 1852–53 and –54, (under the present system,) 32 *per cent.* remained on the docket January 1, 1855.

Of the whole number of actions entered in Penobscot county in 1849–50 and –51, (under the old system,) 35 *per cent.* remained on the docket January 1, 1852.

And of the whole number of actions entered in same county in 1852–53 and –54, (under the present system,) 44 *per cent.* remained on the docket January 1, 1855.

Applying the same principle to Cumberland and to York counties, it will appear that in Cumberland, (under the old system,) 18 *per cent.* remained on the docket January 1, 1852, and (under the present system,) 24 *per cent.* remained January 1, 1855; and in York, (under the old system,) 25 *per cent.* remained on the docket January 1, 1852; and (under the present system,) 37 *per cent.* remained January 1, 1855.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND FIFTY-FIVE.

AN ACT to establish a Court of Common Pleas.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECTION 1. There shall be, and hereby is established a court of common pleas, which shall consist of a chief justice and three associate justices; each of whom shall be an inhabitant of this State, of sobriety of manners and learned in the law, appointed and commissioned as prescribed in the constitution; and, as vacancies occur, they shall be filled in the manner provided by the constitution, so that there shall always be one chief justice, and three other justices of the said court.

SECT. 2. The justices of the said court shall establish a seal for the said court; and all writs and processes issuing from the said court, shall be in the name of the State of Maine, shall be in the form now

in use, shall bear the teste of one of the justices of said court, shall be under the seal of said court, and signed by the clerk thereof in the county where the writ or process may be returnable; and shall have force and be obeyed and executed throughout the State.

SECT 3. Each of the justices of said court shall receive an annual salary of eighteen hundred dollars, which shall be paid to them out of the treasury of the State, in equal quarterly payments.

SECT. 4. The several clerks for the time being of the supreme judicial court, in the several counties, shall also be the clerks of the court of common pleas for said counties, and shall perform all the duties of clerks of said court of common pleas, and shall be entitled to receive for their services the same fees and compensation which now are, or hereafter may be allowed by law to the clerks of the supreme judicial court for similar services.

SECT. 5. The said court of common pleas shall have original and exclusive jurisdiction of all civil actions, in which the debt or damage demanded does not exceed three hundred dollars; excepting actions

in which municipal or police courts, or justices of the peace have original jurisdiction, real actions, and actions between towns. And shall have original and concurrent jurisdiction with the supreme judicial court in all the above named actions in which the debt or damage demanded exceeds three hundred dollars.

SECT. 6. The said court of common pleas shall have original and exclusive jurisdiction of all offenses, crimes and misdemeanors, except murder, rape, burglary and arson, and those cognizable by municipal or police courts or justices of the peace.

SECT. 7. The said court of common pleas shall also have appellate jurisdiction of all civil actions, and of all crimes and offenses, where an appeal may by law be made from the judgment or sentence of a justice of the peace, municipal or police court.

SECT. 8. The said court of common pleas is hereby fully authorized to administer all necessary oaths, render judgment, and award execution; make all such rules and regulations not repugnant to law, as may be necessary and proper for conducting the business of the court and administering justice promptly

and without delay; and is hereby clothed with all the powers necessary for the performance of the duties imposed upon it by the laws of the State.

SECT. 9. Whenever it shall so happen that no justice of said court shall attend at the time and place, at which said court by law, or by adjournment, ought to be held, the sheriff of the county may by oral proclamation, adjourn the said court from day to day, until a justice shall attend.

SECT. 10. If in any action originally commenced in said court of common pleas, the plaintiff shall not recover more than twenty dollars debt or damage, he shall not be entitled to recover, for costs, more than one-quarter of the amount of the debt or damage so recovered; *provided, however*, that in actions between towns, full costs may be taxed for the prevailing party.

SECT. 11. There shall be no appeal from any judgment of the court of common pleas upon the verdict of a jury.

SECT. 12. The said court of common pleas, at any time before rendering judgment, may set aside the verdict, and grant a new trial of any action, for any

cause, for which by law a new trial may be granted, or when in the opinion of the court, justice has not been done between the parties, on such terms and conditions as the court may think proper to impose.

SECT. 13. Any party aggrieved by any opinion, direction or judgment, of said court of common pleas in any matter of law, may allege exceptions thereto; which being reduced to writing in a summary mode and presented to the court before the adjournment thereof without day, and being found conformable to the truth, shall be allowed and signed by the presiding judge; but no trial before a jury shall be prevented or delayed by the alleging or allowance of such exceptions, but said trial shall proceed until a verdict is rendered.

SECT. 14. The party excepting shall, within such time as the court shall order, recognize with sufficient surety or sureties, to the adverse party, in such sum as the court shall order, to prosecute his exceptions with effect, and pay all intervening damages and costs.

SECT. 15. The party alleging the exceptions shall enter the action in the supreme judicial court at the

next law term thereof holden within and for the district embracing the county in which said action is pending, and produce all the papers in the cause; and said supreme judicial court shall have cognizance of the cause, and decide the questions of law raised therein, and render judgment, or grant a new trial at the bar of said court, and cause such other proceedings to be had as to law and justice shall appertain.

SECT. 16. If the party alleging the exceptions shall fail to duly enter the action, and to produce the papers required by law, the supreme judicial court shall, upon the complaint of the adverse party, affirm the former judgment, and increase the damages, if any, by adding legal interest thereon, and award double costs against the excepting party.

SECT. 17. Any person convicted of an offense in the court of common pleas, thinking himself aggrieved by any opinion, direction or judgment of the court in any matter of law, may allege exceptions thereto, in the manner provided in section thirteen; and the person alleging the exceptions, shall recognize with sureties, as the court shall direct, to produce the necessary papers, and prosecute his exceptions before

the supreme judicial court, and abide the sentence and order of said court, or, if the cause should be remanded, of the court of common pleas; and the supreme judicial court shall have cognizance thereof, and may affirm the verdict in the court of common pleas, or grant a new trial and enter judgment, or remand the cause to the court of common pleas, as justice may require. If he shall fail to enter and prosecute his exceptions, the court may sentence him to such punishment as the court of common pleas might have inflicted, and issue all necessary process therefor, or adjudge the recognizance forfeited, or both, as justice may require.

SECT. 18. Final judgments in the court of common pleas, either in civil actions, or in criminal cases, may be re-examined upon a writ of error, and reversed or affirmed in the supreme judicial court held within and for the district embracing the county where such judgment was rendered; and when the judgment in any civil action shall be reversed, the supreme judicial court shall render such judgment as the court of common pleas should have rendered.

SECT. 19. No stipulation or agreement, reserving

the right to waive the pleadings or statement of the case in the court of common pleas, and plead anew in the supreme judicial court, shall be allowed; and no issue of law joined in the court of common pleas shall be waived by consent of parties after the entry of the action in the supreme judicial court.

SECT. 20. Grand and traverse jurors shall be drawn and returned in the manner provided by law, to serve at the terms of said court of common pleas; and the grand jurors so returned shall serve at every term of said court throughout the year.

SECT. 21. The several county attorneys shall be required to attend the several terms of the court of common pleas in their respective counties, and act for the State and for such county in all cases in which the State or the county may be a party.

SECT. 22. All indictments shall be found and returned by the grand jurors attending the court of common pleas; and whenever an indictment shall be there found and returned for the crime of murder, rape, burglary or arson, if the person accused be not in custody, process shall be forthwith issued from the court of common pleas to arrest him, but the party

charged shall not be arraigned nor tried in that court; but the original indictment shall be transmitted to the supreme judicial court at the next term thereof, holden in or for the county where said indictment was found, to be there heard, tried and determined, as if the said indictment had been found and returned in said supreme judicial court.

SECT. 23. The presiding justice shall hear and determine all causes whatsoever, without the intervention of a jury, when both parties shall have so agreed, and entered such agreement on the docket.

SECT. 24. The court of common pleas shall be held annually, by one of the justices thereof at the places and times hereinafter mentioned, that is to say,

At Alfred, within and for the county of York, on the first Tuesday of January and second Tuesday of July.

At Portland, within and for the county of Cumberland, on the first Tuesdays of March and September.

At Paris, within and for the county of Oxford, on the second Tuesdays of February and August.

At Farmington, within and for the county of Frank-

lin, on the third Tuesday of April and fourth Tuesday of October.

At Auburn, within and for the county of Androscoggin, on the first Tuesdays of April and October.

At Bath, within and for the county of Sagadahoc, on the second Tuesdays of April and November.

At Norridgewock, within and for the county of Somerset, on the fourth Tuesdays of March and September.

At Augusta, within and for the county of Kennebec, on the third Tuesday of January and first Tuesday of September.

At Wiscasset, within and for the county of Lincoln, on the first Tuesdays of March and October.

At Belfast, within and for the county of Waldo, on the fourth Tuesdays of April and October.

At Bangor, within and for the county of Penobscot, on the second Tuesdays of February and September.

At Machias, within and for the county of Washington, on the third Tuesdays of January and August.

At Ellsworth, within and for the county of Hancock, on the third Tuesdays of April and November.

At Houlton, within and for the county of Aroostook, on the first Tuesdays of January and August.

At Dover, within and for the county of Piscataquis, on the first Tuesdays of May and November.

SECT. 25. Except so far as is inconsistent with the express provisions of this act, the said court of common pleas shall have jurisdiction and cognizance of all matters that were cognizable by the late district court at the time it was abolished.

SECT. 26. This act shall take effect and be in force from and after the thirty-first day of May next; and all acts and parts of acts inconsistent with the provisions of this act, be, and the same are hereby repealed, from and after said thirty-first day of May; *provided, however*, that the repeal of said acts and parts of acts shall not in any way effect any suits, petitions, proceedings, or prosecutions pending when this act shall take effect.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND FIFTY-FIVE.

AN ACT to modify and limit the jurisdiction of the Supreme Judicial Court.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows:

SECTION 1. The supreme judicial court, from and after the thirty-first day of May, in the year of our Lord one thousand eight hundred and fifty-five, shall have original and concurrent jurisdiction with the court of common pleas of all real actions, and actions between towns, and of all other civil actions in which the debt or damage demanded exceeds three hundred dollars; and shall have jurisdiction and cognizance of the crimes of murder, rape, burglary, and arson, and shall have exclusive jurisdiction of all suits in equity.

SECT. 2. If in any personal action, other than actions between towns, originally commenced in said supreme judicial court, the plaintiff shall not recover more than three hundred dollars, as debt or damage, he shall not recover any costs.

SECT. 3. For the purpose of having and determining all questions of law or equity which may arise in any mode, the State is hereby divided into three judicial districts, which shall be denominated the western, middle and eastern districts. The western district shall be composed of the counties of York, Oxford, Cumberland, Franklin and Androscoggin. The middle district shall be composed of the counties of Lincoln, Sagahahoc, Kennebec and Somerset. The eastern district shall be composed of the counties of Penobscot, Piscataquis, Hancock, Waldo, Washington and Aroostook.

SECT. 4. The supreme judicial court shall be annually holden, by at least a majority of the justices thereof, for the hearing and determining questions of law or equity, at the several places and times as follows:

At Portland, within and for the western district, on the second Tuesday of May.

At Augusta, within and for the middle district, on the second Tuesday of June.

At Bangor, within and for the eastern district, on the second Tuesday of July.

SECT. 5. The several clerks of the supreme judicial courts for the counties of Cumberland, Kennebec and Penobscot, for the time being, shall also be the several clerks of the western, middle, and eastern districts respectively, and they shall severally keep a docket for each district, upon which shall be entered all cases at law or in equity, pending in any county in the district, and removed to and entered at the law term, in the order of counties as follows:

Franklin, Oxford, Androscoggin, York, and Cumberland, in the western district.

Somerset, Sagadahoc, Lincoln, and Kennebec, in the middle district.

Aroostook, Washington, Piscataquis, Waldo, Hancock and Penobscot, in the eastern district.

SECT. 6. All cases, civil or criminal, in which a question of law shall be raised or reserved, and all cases in equity when ready for hearing, shall be respectively marked "law," on the docket of the county

where they are pending, and shall be continued on the same until the determination of the questions arising, shall be respectively certified by the clerk of the district, to the clerk of such county.

SECT. 7. The judgment, orders or decrees, of the court at the law term, shall, if made in term time, be entered by the district clerk on his docket, or if pronounced at any term held for the trial of causes by a jury in any county, the same shall be certified by the clerk of such county, to the clerk of the district in which the same is pending, who shall enter such judgment, order or decree, on his docket, and shall certify the same to the clerk of the county where the same is pending, and such further proceedings shall there be had, and such judgment shall be entered up, as the order or decree of the court shall require.

SECT. 8. In case said suits, civil, criminal, or in equity, and thus marked "law" and continued on the dockets of the supreme judicial court, for each county respectively, shall not have been entered at the next succeeding law term within the district, by the party whose duty it was so to have entered them, then upon motion and proof thereof, the presiding justice, at

the next, or the second succeeding term after the law term, in which they should have been entered, shall enter up such decree, or render such judgment by nonsuit, default or judgment on the verdict, or other mode, as to law and justice shall appertain.

SECT. 9. The justice presiding at terms holden for jury trials, shall hear and determine all causes whatsoever, without the intervention of a jury, when both parties shall have so agreed, and entered such agreement on the docket.

SECT. 10. All appeals from the decrees of the judge of probate, except such as by law are tried by a jury, which shall be tried as heretofore, and all petitions for review, may be heard and determined by the presiding justice, at any term held for the trial of jury causes, subject to exceptions to any matter of law by him so decided and determined.

SECT. 11. When a capital trial is to be had in any county, a majority at least of the justices shall be present.

SECT. 12. When any suit in equity shall be pending in the supreme judicial court, any one of the justices thereof may, as well in vacation as in term time,

make all such interlocutory orders and decrees as may be necessary or proper to prepare the case for a final hearing.

SECT. 13. When any question of law shall arise in any cause, civil or criminal, at law or in equity, before the said court when held by one justice, he may upon the motion of either party reserve the same for the consideration of the full court, and report the case or so much thereof as may be necessary for a full understanding of the question.

SECT. 14. No vacancy hereafter occurring in the office of an associate justice of the supreme judicial court shall be filled by a new appointment until the number of associate justices shall be reduced to three; and the supreme judicial court shall thereafter consist of a chief justice and three associate justices.

SECT. 15. The supreme judicial court shall be held annually by one of the justices thereof, for the trial of jury causes and for such other matters as are by law cognizable by one justice thereof, at the several places and times, as follows:

At Alfred, within and for the county of York, on the second Tuesday of September.

At Portland, within and for the county of Cumber-
9 land, on the first Tuesday of November.

At Paris, within and for the county of Oxford, on
11 the second Tuesday of October.

At Farmington, within and for the county of Frank-
13 lin, on the fourth Tuesday of September.

At Bath, within and for the county of Sagadahoc,
15 on the second Tuesday of December.

At Auburn, within and for the county of Andros-
17 coggin, on the fourth Tuesday of December.

At Norridgewock, within and for the county of
19 Somerset, on the first Tuesday of December.

At Augusta, within and for the county of Kenne-
21 bec, on the first Tuesday of November.

At Wiscasset, within and for the county of Lincoln,
23 on the fourth Tuesday of November.

At Belfast, within and for the county of Waldo, on
25 the third Tuesday of December.

At Bangor, within and for the county of Penobscot,
27 on the fourth Tuesday of November.

At Machias, in the county of Washington, for the
29 counties of Washington and Aroostook, on the second
30 Tuesday of October.

At Ellsworth, within and for the county of Hancock, on the fourth Tuesday of September.

At Dover, within and for the county of Piscataquis, on the third Tuesday of September.

SECT. 16. All actions commenced, and all appeals from the judgment of a municipal or police court, or justice of the peace taken, and all criminal proceedings or process within the jurisdiction of the court of common pleas, pending prior to the time when this act shall take effect, but not at that time entered in court, shall be entered at, and have day in, the first term of the court of common pleas held within and for the same county not less than fourteen days after this act shall take effect.

SECT. 17. This act shall take effect, and be in force from and after the thirty-first day of May next: and the sixteenth, thirty-fifth, and thirty-sixth sections of chapter ninety-six of the revised statutes,—also an act passed April 9, 1852, entitled "an act concerning the supreme judicial court and its jurisdiction," excepting the second section thereof,—and all acts and parts of acts inconsistent with the provisions of this act, be, and the same are hereby repealed from and

after said thirty-first day of May. *Provided however*, that the repeal of said acts and parts of acts shall not in any way affect any suits, petitions, proceedings, or prosecutions pending in court when this act shall take effect; and the repeal of the act aforesaid passed April 9, 1852, shall not revive any acts repealed by that act.

STATE OF MAINE.

IN SENATE, March 3, 1855.

ORDERED, That the foregoing Reports be laid upon the table, and 600 copies be printed for the use of the Legislature.

LOUIS O. COWAN, *Secretary.*