

MAINE STATE LEGISLATURE

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STATE OF MAINE
JUDICIAL COUNCIL

To the Honorable Edmund S. Muskie, Governor of Maine.

The Judicial Council herewith submits its annual report.

In 1956 the Council held meetings at Augusta on April 6 at the request of the Governor, and on November 17 on call of the Chief Justice.

The Council at the April meeting approved a five point program.

- I Under Chapter 167 of the Resolves of 1955, the Council at the request of the Legislature has studied "the problems of common law pleading and court procedure in Maine as they relate to the feasibility and desirability of substituting in Maine the procedure of Federal practice or that of the Code States, so-called; . ." and "the procedural and jurisdictional problems relating to bills of exceptions in both civil and criminal cases with the end in view of eliminating the hardships on the party aggrieved now prevalent under existing statutes; . ."

The study was undertaken by a committee of the Council consisting of Leonard A. Pierce, Chairman, Justice Francis W. Sullivan, Attorney General Frank F. Harding, George A. Barnes and George A. Cowan.

The Council unanimously has accepted their report and adopted their findings set forth in the report attached hereto. Pursuant to the Resolve, the Council will report the result of its findings to the 98th Legislature.

- II Under Chapter 77 of the Resolves of 1955, the Council at the request of the Legislature has studied "the desirability of removing domestic relations problems from the jurisdiction of the Superior Court and placing the same under the jurisdiction of Probate Courts, or elsewhere; to study the desirability of creating a District Court

system integrating the activities of the present municipal court and trial justice system, and to study the desirability of a state-wide uniform probation and parole system; and to prepare specific legislative proposals for presentation to the 98th Maine Legislature, designed to reflect its conclusions, if any, with respect to the aforesaid subjects of domestic relations, municipal court system and probation and parole system."

The study was undertaken by a committee consisting of Justice Harold C. Marden, Chairman, Armand A. Dufresne, Jr., Charles F. Phillips, Orren C. Hormell, Edward I. Gross, Frank E. Southard, Jr. and Mrs. Ashmead White.

After consideration of the report of the committee, the Council took the following action:

(1) Domestic Relations

The Council adopted by a majority vote the conclusion reported by the committee as follows:

"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."

(2) District Court System

The committee submitted a divided report on the District Court question, and the Council took no action thereon. The Council adopted unanimously certain recommendations of the committee (with minor changes not altering the principles thereof) with respect to the Municipal Court system as follows:

- (a) That where the case load justifies it the Judge should be placed on and paid for full time application to his duties.
- (b) That uniform rules of practice, procedure and administration be provided for the Municipal Court system of Maine, and that a statute such as Section 6 of Chapter 106 of the Revised Statutes (1954) be enacted for the Municipal Court Judges.
- (c) That the respective State sub-divisions involved be required to provide quarters and appointments whereby the dignity of the Court may be upheld.

(3) Probation and Parole

The Council unanimously adopted in principle the conclusion of the committee as follows:

"That a State Department of Probation (and Parole, with the idea of consolidating all work in the field under one head) be created, the head of which shall be a person with professional probation and parole field qualifications and responsible to a Probation and Parole Commission consisting of such number and manner of selection as the Council may recommend or the Legislature determine, with Probation Officers to be appointed by the Commission in numbers commensurate to the average case load, from a list of candidates found qualified by the state personnel board upon specifications determined by the Director, to work on a full time basis and in districts assigned them and for compensation fixed and paid by the state, retaining to the Courts however, power to appoint special probation officers in exceptional cases and a provision to protect adequately the training, experience and seniority of present incumbents."

Pursuant to the Resolve the Council will report to the 98th Legislature.

III The proposed study of "reciprocal legislation to enforce support of dependents, and recommendations relative to officials to handle the same and their compensation" has not as yet been completed by the appointed committee.

IV The study of "Pardon procedure in Maine and Recommendations" was undertaken by a committee consisting of George A. Barnes, Chairman, Leonard A. Pierce, Charles F. Phillips, George A. Cowan and Edward I. Gross.

The report and conclusions of the committee were unanimously adopted and approved. The Council makes the following suggestions:

The Council suggests That the way should not be made easier for those who seek to regain their operators' licenses by the Executive - certainly not by the creation

of a Pardons board; and that the Governor and Council hold firm in upholding legislative intent by rejecting all petitions for pardon by those convicted of drunken driving where the principal purpose is to obtain a license under revocation.

It is our feeling that if the present regulations are too harsh, pressure will build up to the point where the Legislature will ameliorate them, and that, in the final analysis, is the only proper way to relieve the harshness of revocation provisions governing operators' licenses of those convicted of drunken driving.

V A study of sentences in the Superior Court has not been undertaken.

Attached hereto are copies of the reports of the committees. It is to be noted that the recommendations of the Council depart somewhat from the recommendations of the committees.

The members of the Council are of the opinion that with the assistance of all interested persons the Council provides a forum for discussion and study of the ever present problems relating to the efficiency and effectiveness of procedures in the administration of justice.

Justice Francis W. Sullivan of the Superior Court and Armand A. Dufresne, Jr., Judge of Probate, ceased to be members on October 4, 1956 upon becoming respectively associate justice of the Supreme Judicial Court and Justice of the Superior Court. They have made a valuable contribution to the Council, and at the request of the Chairman met with the Council at its November meeting and have otherwise participated in the work.

The Chairman and Secretary have been authorized by all members of the Council to affix their signatures hereto and to submit this report in their behalf.

Respectfully submitted:

Robert B. Williamson
Ex Officio Chairman

Frank F. Harding
Attorney General

