

# MAINE STATE LEGISLATURE

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BIENNIAL REPORT

TO

THE GOVERNOR

BY

THE JUDICIAL COUNCIL OF MAINE

FOR THE YEARS 1973 and 1974

Publication Date: April 1975

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MEMBERS OF JUDICIAL COUNCIL OF MAINE DURING 1973-1974

The Honorable Edward I. Bernstein  
Clerk of Courts, Superior Court  
Cumberland County Courthouse  
142 Federal Street  
Portland, Maine 04111

Appointed 1973

The Honorable Robert L. Browne  
Chief Judge, Maine District Court  
142 Federal Street  
Portland, Maine 04111

(Ex Officio)  
Appointed to Superior  
Court 1973

Mrs. Hugh Connor  
Box 125  
Brewer, Maine 04412

The Honorable Thomas E. Delahanty  
Justice, Supreme Judicial Court  
Androscoggin County Courthouse  
Auburn, Maine 04210

Appointed to Supreme  
Judicial Court 1973

James Dineen, Esq.  
Attorney-at-Law  
3 Walker Street  
Kittery, Maine 03904

The Honorable Armand A. Dufresne, Jr.  
Chief Justice, Supreme Judicial Court  
Androscoggin County Courthouse  
Auburn, Maine 04210

(Chairman Ex Officio)

The Honorable Jon A. Lund  
Attorney General  
State House  
Augusta, Maine 04330

(Ex Officio)

The Honorable Hubert Godin  
Clerk of Courts  
Somerset County  
Skowhegan, Maine 04976

Resigned 1973

Dean Edward S. Godfrey  
University of Maine  
School of Law  
Portland, Maine

(Ex Officio)  
Resigned 1973

The Honorable Ronald Hart  
Judge of Probate  
c/o Stinson & Hart  
280 Front Street  
Bath, Maine 04530

Miss Edith Hary  
State Law Librarian  
State House  
Augusta, Maine 04330

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11 Stevens North  
Orono, Maine 04473

The Honorable William E. McCarthy  
Justice, Superior Court  
692 Prospect Avenue  
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Patrick N. McTeague, Esq.  
Ranger & McTeague  
20 Federal Street  
Brunswick, Maine 04011

Appointed in 1973

The Honorable Charles A. Pomeroy  
Justice, Supreme Judicial Court  
Cumberland County Courthouse  
142 Federal Street  
Portland, Maine 04112

Dean Bert S. Prunty  
University of Maine School of Law  
Portland, Maine

Appointed in 1973

The Honorable David G. Roberts  
Justice, Superior Court  
Penobscot County Courthouse  
Bangor, Maine 04401

The Honorable Ralph H. Ross  
Chief Judge, District Court  
36 June Street  
Sanford, Maine 04073

(Ex Officio)

The Honorable Simon Spill  
Judge, District Court  
14 Union Street  
Biddeford, Maine 04005

Appointed in 1974

Executive Secretary:

Peter L. Murray, Esq.  
30 Exchange Street  
Portland, Maine 04111

## INTRODUCTION

Pursuant to the mandate set forth in 4 M.R.S.A. § 452, the Judicial Council of Maine reports to the Governor upon the "work of the various branches of the judicial system".

As of the present time, the judicial system of Maine, established by various laws enacted by the Legislature, consists of the Supreme Judicial Court, the Superior Court, the District Court, and the Judges of Probate in the sixteen counties. It is the official function of the Judicial Council to "make a continuous study of the organization, rules and methods of procedure and practice of the judicial system of the State, the work accomplished and the results produced by that system and its various parts". 4 M.R.S.A. §451

For several years now, the Judicial Council has been engaged very actively in carrying forward this mandate and has undertaken major projects in specific areas affecting the workings of the judicial system and the results produced by that system. To these efforts the Judicial Council has brought to bear the accumulated knowledge, expertise and practical experience of its membership, which is broadly representative of the judicial system and those who are concerned with it on a day-to-day basis. It has also, from time to time as justified by the need and permitted by available resources, retained the assistance of qualified consultants in particular fields.

For many years, it has been evident that administrative

reform in the operation of the Superior Court, in particular, is long overdue. Ever since the 1971 Institute of Judicial Administration study on the operations of the Superior and Supreme Judicial Courts, the Council has advocated to the legislature, the Bar and the public of Maine a thoroughgoing administrative overhaul of the structure and operations of the Superior Court to increase its efficiency in a time of ever-mounting challenges to the judicial system. The specific reforms suggested will be treated in further detail in the discussions of the work of the respective courts and of the Judicial Council.

Finally in 1974-1975, it appears that the cry for reform is being heard, at least in the Maine legislature, which is presently considering a group of bills designed to accomplish most of the administrative reforms sought by the Council. While the ultimate fate of these pieces of legislation is uncertain, it would appear that legislators and members of the public generally are becoming more aware of the importance of an efficiently operating court system in modern society. Hopefully this growing concern will be translated into decisive action which is so badly needed.

This is not to say that the last biennium has seen no progress. Within the office of the Administrative Assistant to the Chief Justice, a new system of statistical reporting on the operations of both the Superior and Supreme Judicial Courts has been instituted and in 1974 a full year of statistics were collected on the caseload of the Superior Court in the various

counties. Legislative efforts to do away with duplicative "trial de novo" in misdemeanor cases in Superior Court produced a 1973 transfer statute which is now in the process of further revision. (See 1975 P.L. Ch. 139, eff. 5/1/75) A legislatively appointed Trial Court Revision Commission, charged with drafting legislation to improve the efficiency of Maine's trial courts and to eliminate duplication and delay, has worked closely with the Judicial Council in urging basic reforms. It is presently co-sponsoring legislation before the 107th legislature in line with Judicial Council priorities.

Because of the fact that statewide court budgeting and financing has not yet become a reality at the Superior Court level (although it has been instituted since 1962 in the District Court), there is no financial information concerning the operation of the courts included in this report. It is hoped, that if the legislature does place the Supreme Judicial and Superior Courts on a statewide funding basis, future reports can contain a summary of the budgetary information for both courts.

The portion of this report dealing with the District Court which the Judicial Council has not treated in depth during the last biennium, will consist of such basic statistical information with respect to its workings as is presently available.

Because there is no useful information about their activities readily at hand, the Probate Courts are omitted from this report. The Probate Courts were the subject of an in-depth study by the Institute of Judicial Administration in 1969. The report of that study contains the most recent statistics available on the

operations of the Probate Courts. Implementation of the 1967 constitutional amendment providing for a different probate court system with full-time judges has not been provided by the legislature. The workings of the Probate Court are again the subject of study in connection with the review of the Uniform Probate Code currently being undertaken by a special legislatively chartered commission.

Section 4 of this report treats in some detail the work of the Judicial Council during the biennium 1973-1974.

## Section 1

### The Work of the Supreme Judicial Court.

The Maine Supreme Judicial Court consists of six Justices, one of whom is Chief Justice. The Supreme Judicial Court sits principally as "The Law Court" and hears appeals from decisions of the Superior Court and indirectly from the Probate Courts and the District Court. It also hears appeals from certain state administrative agencies such as the Public Utilities Commission and the Board of Environmental Protection. Sittings of the court for the hearing of arguments of appeals are held during eight months of the year at Portland, Maine. Almost all of the decisions of the Maine Supreme Judicial Court are set forth in written opinions.

The 1973-1974 biennium saw the Maine Supreme Judicial Court face an ever increasing caseload of appeals and the beginnings of a potentially serious judicial backlog problem.

Attached hereto as Appendix No. A is a ten-year statistical survey of the number of appeals filed in the Supreme Judicial Court by county on an annual basis from 1964 - 1974. From this tabulation it is apparent that there has been a startling increase in the caseload of the Supreme Judicial Court over this period of time. For example, the total number of appeals filed in the Supreme Judicial Court during 1964 amounted to 65 cases. In 1974 the six Supreme Judicial Court Justices faced 223 new appeals. Much of this increasing caseload is

due to the burgeoning volume of criminal appeals. There has also been a very significant increase in the number of appeals in civil cases, particularly in appeals relating to review of governmental agencies. Many of these originate in Kennebec County from which the number of appeals cases has increased by 140% over the last 10 years and almost 40% in the last two years alone.

The six justices of the Supreme Judicial Court are increasingly unable to keep up with this volume of new appellate business. The Maine Supreme Judicial Court is the only truly appellate court in the state and every litigant from every court in the state has the right to have his case at some point heard on appeal by the Maine Supreme Judicial Court.

Before the 107th Legislature is a bill with an emergency preamble to increase the number of justices on the Supreme Judicial Court from six to seven. If authorized by the legislature this increase will give the court some long overdue additional manpower to cope with an ever-increasing case burden.

In early 1973, the Supreme Judicial Court, acting upon the recommendation of the Judicial Council, appointed an Advisory Committee of seven distinguished Maine lawyers chaired by retired Chief Justice Robert B. Williamson for the purpose of studying and drafting a comprehensive set of Rules of Evidence for use in the various courts in the state of Maine. Enabling legislation, clarifying the authority of the Supreme

Judicial Court to promulgate Rules of Evidence, was obtained at the 1974 Special Session of the 106th Legislature. Since its appointment the Committee has diligently pursued its task and late in 1974 published a Tentative Draft of Rules of Evidence patterned on the recently enacted Federal Rules of Evidence and the proposed Uniform Rules of Evidence of the National Commissioners on Uniform State Laws. The Rules have been given wide dissemination among the Bar and the public. At the present time, the comprehensive set of proposed rules are under consideration by the Supreme Judicial Court with a view to promulgation later on this year.

Such Rules of Evidence, if promulgated, will provide to Maine a modern comprehensive code of Evidence Rules to govern proceedings in the courts of this state.

## Section 2

### The Work of the Superior Court.

The Superior Court is Maine's trial court of general jurisdiction. It hears in the first instance serious criminal cases (felonies) and also hears misdemeanor cases transferred from the District Court under the transfer statute. It has unlimited jurisdiction in civil cases. Jury trials take place in the Superior Court. The Superior Court hears appeals from the District Courts and the Probate Court. The Superior Court also hears appeals from most state and local administrative agencies. There are 14 Superior Court Justices who hold sittings in all of the 16 counties of the state.

The expenses of the Superior Court are borne partially by the state and partially by the various counties. The personnel of the Superior Court similarly is divided between county (clerks and clerical employees, courtroom employees) and state (judges and court reporters). This organizational system stymies any meaningful administrative reorganization or reforms, particularly reforms which involve regionalization of court facilities and a more even spreading of the load of judicial business among the buildings and personnel available to handle it. Legislation before the 107th Legislature providing for abolition of traditional county notions of venue and the take-over of Superior Court finances by the State would pave the way for true administrative reform in the workings of the Superior Court.

Starting with the year 1974 the Chief Clerk of Courts, Mr. Dana Hagerthy, has compiled by county on a monthly basis statistics relating to the workload of the Superior Court. Detailed monthly reports of the number, nature and disposition of civil and criminal cases handled by the Superior Court in each county are made by the respective Clerks of Courts and compiled in the office of the Administrative Assistant to the Chief Justice. These reports provide a great deal of useful information as to the nature of the workload of the Superior Court. Attached hereto as Appendix B is a summary of the case flow of the various counties for the year 1974.

Significant is the fact that judicial backlog is becoming a reality in Maine. On the civil docket of the various counties, there was a net increase in cases pending of 245 during 1974. This means that the number of cases filed in the Superior Court exceeded the number which the Court was able to dispose of during the year so that there is a backlog of pending cases developing.

The situation is far more serious on the criminal side of the Superior Court. The number of criminal prosecutions pending in the Superior Court increased from 2,620 at the beginning of the year to 4,100 at the end of the year, an increase of over 50%. Analysis of these cases indicates that the great majority of the increased backlog is as a result of the transfer statute whereby District Court cases are transferred to the docket of the Superior Court, presumably

for jury trial, before any proceedings are had in these cases in the District Court. This explosion in the criminal docket and the crippling backlog that it portends is of critical significance. At the present time pending before the 107th Legislature are various measures designed to reduce this backlog of transfer cases by having more of the proceedings in such cases take place in the District Court with a possible transfer to the Superior Court only for the extent necessary to preserve the constitutional right of trial by jury.

Also under consideration both in and out of the 107th Legislature are proposals to amend the Maine Constitution to provide that persons accused of certain minor offenses are not entitled to trial by jury. Action on these reform proposals is vital if the compounding problem of criminal backlog in the Superior Court is to be successfully met.

During the 1973-74 biennium, the operations of the Superior Court came in for detailed study and evaluation by the Trial Court Revision Commission, which was established by the 106th Legislature for the purpose of drafting legislation to improve the operational efficiency of the District and Superior Courts and to eliminate duplication and trials de novo. Acting with the assistance of the National Center for State Courts and in cooperation with the Judicial Council and the Maine Law Enforcement Planning and Assistance Agency, the Trial Court Revision Commission, chaired by the Honorable Joseph E. Brennan, now Attorney General of the State of Maine, concluded that administrative restructuring of the Superior Court

and its operations is a reform overdue. The Trial Court Revision Commission adopted and is co-sponsoring the legislative recommendations of the Judicial Council for:

1. Liberalizing traditional county notions of venue in both criminal and civil cases to make possible some regionalization of court facilities and court sessions.
2. State responsibility for complete budgeting and funding of the operations of the Superior Court.
3. Appointment rather than election of Clerks of Courts.

These legislative recommendations are presently embodied in bills being considered by the 107th Legislature.

Various other reforms in the Superior Court's operations were also recommended by the Trial Court Revision Commission. They include introduction of full-time professionally trained court administrators in judicial regions throughout the state to work with presiding Superior Court justices in each region to handle the scheduling and efficient processing of judicial business around the state. The Chief Justice of the Supreme Judicial Court applied for and received authorization from the Maine Law Enforcement Planning and Assistance Agency to hire at LEAA expense a central court administrator and four regional administrators to put a plan of court regionalization into effect.

If the legislative reforms that are proposed are put into practice, the Maine Superior Court will be able to function more

efficiently and handle its judicial business with greater dispatch.

One important area of court operations in which much remains presently to be done is the provision of adequate court facilities. In the more populous counties such as York, Cumberland, and Kennebec there is a crying need for additional courtroom facilities so that more than one court sitting may be conducted at a time. The Superior Court in these counties frequently is forced to resort to makeshift courtrooms, grand jury rooms and other inadequate and inefficient quarters. While the regionalization concept will provide for a more even usage of presently existing court facilities throughout the state, in the urban centers there is a strong need for additional physical facilities for the Superior Court.

Both practical experience and careful study by qualified experts have repeatedly demonstrated that the judicial branch of Maine's government cannot continue to function in the 1970's without additional attention from the other branches. New demands imposed upon our courts by present day practices require that new resources be brought to bear. The Judicial Council, the Trial Court Revision Commission and others have made both specific and general recommendations on how some of the problems facing Maine's courts, and the Superior Court in particular, can successfully be met. The response by the leadership of the 107th Legislature and by the Governor so far has been encouraging.

We hope that the State of Maine will carry through with the reforms that are needed today to insure the quality of justice in the State of Maine for tomorrow.

### Section 3

#### The Work of the District Court.

The Maine District Court has been functioning since the early 1960's as a statewide court of modern organization and practice. Like the Superior Court, it confronts a ballooning caseload and a relative shortage of judicial resources. However, it has the advantages of statewide organization and budgeting and modern court administrative practices. It operates under the administrative control of the Chief Judge, (presently Ralph H. Ross, Sanford, Maine,) is housed in most cases in its own quarters, has its own personnel system, and in many ways is a good example of administrative efficiency that could be followed on the Superior Court level.

The District Court exercises a large criminal jurisdiction over misdemeanors, hearings for probable cause in felony cases, pleas of guilty in felony cases, all traffic cases, and miscellaneous other criminal proceedings. The District Court is also the juvenile court and hears committments to mental institutions. The District Court also has a broad civil jurisdiction up to \$20,000 and an active jurisdiction in domestic relations, civil disclosures and similar matters. It consists of 20 district judges, of whom one is the Chief Judge.

Financially, the District Court operates under a unified state budget prepared and submitted by the Chief Judge of the District Court. In the past the revenues from fines, filing fees, forfeitures, and the like, have caused the District Court to operate at a substantial surplus of up to 2.2 million dollars annually. Recently increasing costs in the District Court have pared this

surplus to approximately \$900,000 in the most recent fiscal year. As of the present time, applicable law requires the District Court, after making provision for its own expenses and the District Court Building Fund, to turn over a large portion of its surplus to the respective counties.

Inasmuch as the District Court has not been the subject of an exhaustive study or evaluation in the last biennium, this report will not go into the operations of the District Court in any further detail. It should be mentioned, however, that since its inception, the District Court has kept careful statistical records of its operation and its growing caseload. Its statistical summaries are contained in the annual reports of the Chief Judge of the District Court to the Chief Justice of the Supreme Judicial Court. Since the District Court is operated and funded by the state, it operates on a fiscal year basis. The statistics kept on the caseload of the District Court are likewise kept on a fiscal year basis from July 1 through June 30 in each year. Attached hereto as Appendix C is a copy of the Annual Report of the Chief Judge of the District Court for the fiscal year July 1, 1972 to June 30, 1973. Because of the change from Chief Judge Browne to Chief Judge Ralph H. Ross, the Annual Report for the fiscal year July 1, 1973 through June 30, 1974 has not yet been published. Included however in Appendix C to this report are statistical summaries of caseload processed in the District Court for both fiscal years included in the most recent biennium.

## Section 4

### The Work of the Judicial Council 1973-1974.

During the 1973-1974 biennium the full membership of the Judicial Council met on January 12, March 2, September 28, and November 30, 1973, and on March 29, May 31, September 27, and November 22, 1974. In addition, there were various meetings of committees and smaller groups of the Council.

During this biennium the Council undertook several different projects. A recurrent theme throughout the Council's activity has been its efforts to secure implementation of the basic organizational reforms for the Superior Court which were originally recommended in the Judicial Council sponsored Report of the Institute for Judicial Administration which was published in 1971. At each session of the legislature since 1971, the Judicial Council has sponsored one or more bills designed to accomplish some or all of these reforms, including state financing of the Superior Court, liberalization of venue in the Superior Court to pave the way for regionalization, and appointment rather than election of Clerks of Courts.

A recurring problem which has occupied the attention of the Judicial Council frequently during the last 12 years is that of providing defense council services for indigent persons accused of crime. In 1973 the Judicial Council determined to support a proposal to provide a combined assigned counsel-public defender program for Maine. A bill to that effect was supported before the 106th Legislature although it failed of

passage.

Also in 1973 the Judicial Council was requested by Governor Curtis to investigate the effect of pardons under Maine law and what measures should be enacted to improve the situation. The Judicial Council, through a research assistant at the University of Maine, School of Law prepared a brief report to the Governor, which was also made available to the Attorney General's office, upon the policy and law of pardons.

A major project during the 1973-1974 biennium was the Judicial Council sponsored Comparative Study of the ABA-LEAA Standards for Criminal Justice. This LEAA-funded project was undertaken by the Judicial Council with the assistance of Professors Arthur Lafrance, and Melvin Zarr of the University of Maine Law School, as project director. A comprehensive comparison of criminal justice as practiced in the State of Maine with the proposed standards of the American Bar Association and the Law Enforcement Planning and Assistance Administration was published late in 1974.

The Judicial Council also cooperated closely with the Trial Court Revision Commission in its efforts to produce legislation to streamline Maine Superior Court operations. On several occasions consultants to the Trial Court Revision Commission from the National Center of State Courts met with the Council and individual members of the Council to coordinate the work of both bodies.

The Council kept in close touch with the progress of the Evidence Rules Advisory Committee on the drafting and

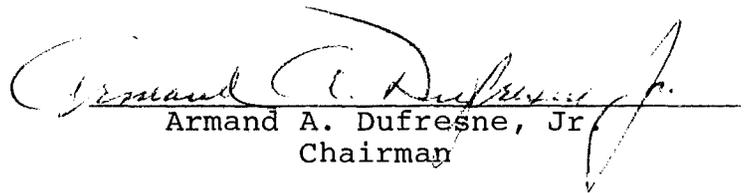
considering of comprehensive Rules of Evidence for Maine patterned on the Federal Rules of Evidence. This project had originally been recommended by the Judicial Council in 1972 and was implemented efficiently by the Supreme Judicial Court and its Advisory Committee in 1973.

The biennium wound up with the Council committed to a strong effort, in cooperation with the Trial Court Revision Commission and the State Bar Association to sponsor legislation aimed at administrative reform in the Superior Court. While the Judicial Council is not a lobbying body it does have a responsibility to recommend changes when changes are seen as appropriate and necessary. To this end the Council has drafted legislation, the Secretary of the Council has met with the Bar Association, the Criminal Law Revision Commission and other groups involved with judicial reform, and the Secretary has appeared before numerous legislative committees in support of the Council's recommendation.

In addition to the major projects heretofore mentioned, during the 1973-1974 biennium the Council has also considered minor problems affecting the workings of the courts including legislation touching the courts, the proposals of various individuals and organizations affecting the courts and developments in other states and jurisdictions having a bearing on the administration of justice in Maine. Correspondence has been carried on with judicial councils and similar groups in other states and jurisdictions and with the Maine State Bar Association and other interested groups in Maine.

The Judicial Council is fully aware of its role as a state agency particularly concerned with the improvement of justice in the courts of Maine and the relationship of the courts to the people of the State of Maine. The Judicial Council continues to stand ready to undertake new projects that may be suggested to it by the Legislature, the Governor, or any other responsible state agency or by its own membership for the purpose of improving the administration of justice in the courts of Maine.

Respectfully submitted

  
Armand A. Dufresne, Jr.  
Chairman

CASES FILED IN MAINE SUPREME JUDICIAL COURT SITTING AS THE LAW  
COURT BY COUNTY AND YEAR FROM 1964 TO END OF 1974.

YEAR	64	65	66	67	68	69	70	71	72	73	74	TOTALS
ANDROSCOGGIN	3	11	5	7	6	8	14	12	15	9	18	108
AROOSTOOK	1	3	4	4	5	8	4	7	3	4	11	54
CUMBERLAND	20	20	20	22	28	28	42	27	25	45	44	321
FRANKLIN	1	1	2	1	0	3	1	5	1	0	2	17
HANCOCK	1	3	0	5	5	4	1	7	5	6	9	46
KENNEBEC	20	18	12	18	21	22	27	34	32	35	48	287
KNOX	3	6	4	7	4	7	5	5	9	15	16	81
LINCOLN	0	1	2	1	1	2	3	7	5	7	8	37
OXFORD	4	4	6	3	5	7	3	3	4	1	10	50
PENOBSCOT	3	4	9	8	13	11	16	12	19	32	16	143
PISCATAQUIS	2	0	2	3	0	0	2	1	3	3	2	18
SAGADAHOC	0	3	1	1	3	0	2	1	2	4	5	22
SOMERSET	2	4	2	3	2	4	9	6	4	5	4	45
WALDO	3	1	1	0	5	2	3	4	4	5	7	35
WASHINGTON	0	1	1	3	2	2	6	6	0	1	4	26
YORK	2	9	7	9	10	4	15	8	19	14	19	116
TOTALS	65	89	78	95	110	112	153	145	150	186	223	1406
												TOTAL CASES FILED
CASES FINISHED	57	75	80	81	99	102	125	112	122	125	133	

SUMMARY OF CLERKS MONTHLY

REPORT TO THE CHIEF JUSTICE

FOR YEAR ENDING DECEMBER 31, , 19 74

CIVIL DOCKET

COUNTY	AND	AR	CUM	FR	HAN	KEN	KNO	LIN	OX	PEN	PIS	SAG	SOM	WAL	WAS	YOR	TOTALS
Cases Pending at Beginning of Year	971	347	1898	121	279	887	285	111	211	612	65	147	204	118	167	726	7149 <i>7014</i>
Cases Entered During Year	512	321	1070	75	239	568	189	113	142	540	75	153	143	108	117	454	4819
Cases Finished During Year	456	310	1078	52	245	574	152	113	112	520	52	112	100	96	130	468	4574
Cases Pending At End of Year	1027	354	1890	144	273	881	322	111	241	632	88	188	247	130	154	712	7394
Increase or Decrease of Pending Cases At End of Year	+56	+7	-8	+23	-6	-6	+37	—	+30	+20	+23	+41	+43	+12	-13	-14	+245

CRIMINAL DOCKET

Cases Pending at Beginning of Year	110	158	712	73	161	388	24	40	63	301	27	81	57	113	149	163	2620 <i>2705</i>
Cases Entered	547	724	2073	286	629	701	310	294	440	1193	126	365	398	342	391	966	9785
Cases Finished	560	566	1829	250	543	423	258	310	350	974	116	351	306	331	440	698	8305
Cases Pending at End of Year	97	316	956	109	247	666	76	24	153	520	37	95	149	124	100	431	4100
Increase or Decrease of Pending Cases at End of Year	-13	+158	+244	+36	+86	+278	+52	-16	+90	+219	+10	+14	+92	+11	-49	+268	+1480

ANNUAL REPORT TO CHIEF JUSTICE ARMAND DUFRESNE  
OF THE MAINE SUPREME JUDICIAL COURT  
ON  
THE ACTIVITY OF THE MAINE DISTRICT COURT  
FISCAL YEAR 1972-1973

Submitted by

ROBERT L. BROWNE, CHIEF JUDGE, MAINE DISTRICT COURT

In accordance with the Maine Revised Statutes, Title 4, Section 164, Paragraph 9, I submit the annual report of the Maine District Court for the Fiscal Year July 1, 1972 through June 30, 1973.

Of major significance, at least to this writer, is the fact that the Administrative Offices of the Court were moved from Portland to Bangor. The weekly travel for one and a half years either to hold Court or to the offices in Portland became quite burdensome. For many reasons, however, it was not possible to move the offices at an earlier date. First, because the personnel who were employed at the Portland office could not move to Bangor, it was necessary that they be given an opportunity to secure other employment. Second, it was necessary to secure adequate facilities at the Bangor location. When the facilities at the District Court building in Bangor became available in January 1973, they required some renovations in order to accommodate us. We, therefore, determined that our move could be made in June, when the work load would be less affected by the necessary interruptions of business at the time of moving. To compound the problem during this period it was necessary to employ temporary help to keep the functions of the office current.

It was during this unsettled period that Judge Varney, our first retiree, notified this office that he would be retiring as of July 1, 1973. It became necessary, then, for the Chief Judge to hold Court for several weeks during the move to and adjustment into the new location.

Since moving to Bangor, I have added an accountant to our staff which even in a short time has proven most beneficial in improving the monthly reporting and the flow of information from the Courts to this office, as well as the improved handling of all Court records. Because of the increased demands on this office, and the Courts increased work load generally, we have also added to the staff a new assistant to handle personnel. We now have the capacity to meet an emergency in the field. In the event of a vacancy in the office of clerk in any of our Courts this office has the capacity to fill in and administer the Court until permanent arrangements can be made.

#### CASE LOAD

The case load of the District Court continued to increase in the Fiscal Year 1972-73 at a substantial rate, surpassing the previous year by 14.4%, or 23,500 cases.

Total case load for Fiscal Year 1971-1972 was 138,887 cases as compared to 162,267 cases in the year 1972-1973. All 13 districts showed an increase for the year. The Court experienced an increase in the case loads on both the criminal and civil sides. Traffic was up by 17.4%, which is probably understandable with increased travel. Surprisingly, other criminal violations increased by 18.9% which is not so easily accounted for.

On the civil side of the Court, Juvenile cases increased by 33.8%, divorces were up by 6.7%. Motions associated with divorces were up by 18.8% and there was an increase of 35.7% in money judgments. Interestingly enough, small claims were down by 18% and regular civil work was down by 9%. For a more specific detailing of the statistics discussed herein, see Schedule I.

Whereas it may very well affect the case load with reference to juveniles in the coming year and because it will contribute to the problems of the Court in administering the juvenile law, I believe it is worthwhile to discuss briefly Chapter 522, passed in the 1973 Regular Session. This is an Act Relating to Commitment of Juvenile Offenders. It reads as follows: "The Juvenile Court shall not commit a juvenile to the Men's Correctional Center, the Women's Correctional Center, the Boys Training Center or the Stevens School if the offense or act committed by the juvenile would not be an offense under the criminal statutes of this State if committed by a person 18 years of age or over." I wish to explain that I have no quarrel with this new legislation except insofar as it fails to provide for an alternative disposition.

What this chapter concerns itself with are those offenses which are commonly referred to as status offenses such as truancy; danger of falling into habits of vice and immorality; and runaways. Although the Court still retains the authority to commit these children to the Department of Health and Welfare for foster home care, the experience in the past has been that

there are not a large number of foster homes available, particularly for children with behavioral problems. Probation offers no real solution if a child is to remain in an environment twenty-four hours a day to which he refuses, cannot, or will not adjust.

I doubt that there is a judge who would commit a first offender in any of these categories, except in most unusual or unique circumstance. However, the possibility was always available and became useful for its deterrent value if for no other reason. I am certain at least that once it becomes generally known that one may not be committed for this type of offense, the deterrent value of this capability will become non-existent. I foresee the possibility that if those who are responsible for initiating juvenile complaints feel that they have little or no effective control, they will avoid prosecuting these cases. When the parents, superintendents and other school officials discover that they have little or at least less help in solving these problems, it is to be anticipated that the Court will be assigned a portion of the blame.

This also means that many of these children will not be seen except or unless they have committed a violent or willful act. Only then will their problems, frustrations and inner turmoils be brought to the attention of the Court. This may be unfortunate insofar as the Court has frequently been the vehicle which has directed the child into rehabilitation or re-education prior to serious involvement.

## MAINE DISTRICT COURT

## COMPARISON OF NUMBER OF CASES FOR THE YEAR 1972-1973

	Case Load FY - 1972	Case Load FY - 1973	Net Increase or Decrease	Percentage Net Increase or Decrease
TRAFFIC	77993	94497	16504	17.4
OTHER	27416	33821	6405	18.9
TOTAL CRIMINAL	105409	128318	22909	17.8
REGULAR CIVIL	11310	10285	(1025)	(9.0)
JUVENILE	2203	3381	1178	34.8
DIVORCES	4941	5300	359	6.7
DIVORCE MOTIONS	2403	2959	556	18.8
MONEY JUDGMENTS	2106	3279	1173	35.7
SMALL CLAIMS	10515	8583	(1932)	(18.3)
RSC SUPPORT	-0-	162	162	100.0
TOTAL CRIMINAL	33478	33949	471	1.3
TOTAL CASES	138887	162267	23380	14.4

ELECTRONIC RECORDING

The 105 Legislature authorized the use of electronic recording equipment in the District Court. For the past couple of years, therefore, this office has been evaluating the use of electronic recording; its potential as a recording method as well as the availability of equipment sufficient for courtroom use. It is not the province of this report to present an evaluation of electronic recording. It is suffice to say that this office is impressed that electronic recording is gaining wide acceptance nationally as a supplement to a Court's capacity to make records of its proceedings. Some national companies, including Lockheed, Baird Electronic, Dictaphone and others, recognizing the potential market, are devoting some of their productive ingenuity and capacity to meeting the demands of this market. New and more sophisticated equipment will be available for market this fall; equipment which is designed specifically for courtroom use. This office has ordered seven machines for Fall delivery.

At the same time we are training personnel in this office, not only in the mechanical function and capacity of the machines to record, but also in the problems of maintaining a library of tapes and the proper reproduction of a record so that when these machines are available to us we will be able to obtain the product they are designed to produce. Unquestionably, the capacity of this Court to provide adequate records of its proceedings is going to be of immeasurable benefit to the Court, to the Bar and to all parties who have occasion to use the Court's services.

## FACILITIES

A continuing and nagging problem for this Court is the acquisition of adequate facilities. We have a few very good facilities, to wit; Madawaska, Presque Isle, Bangor and Augusta, but some of our major courts are operating under very shabby conditions, to wit; Lewiston, Portland, Saco, and Sanford. Most of the other courts, with few exceptions, approach minimal standards only.

We have entered into one contract this year to renovate the Kittery Court. The expected completion date is some time in December 1973.

This office has continued to investigate and evaluate every potential improvement presented in the Lewiston area. There is still a glimmer of hope that the municipality of Lewiston may participate in obtaining new facilities in the event legislative approval is obtained. I am impressed with current interest expressed by both the local Bar in the Lewiston-Auburn area, as well as some of the municipal officers in Lewiston.

There has been some local interest evidenced by either the Bar and/or the municipal officers in up-grading facilities in the communities of Livermore Falls, Saco and Sanford. As yet, however, there has been no movement locally to improve or assist in the improvement of our Portland court. This Court is working under most difficult conditions. It experiences the largest percentage of growth in the State and the potential for expansion for hearing rooms or for housing additional personnel has reached the absolute limit.

The District Court Building Fund which is to be used "...solely for the building, remodeling and furnishing of quarters for the District Court..." accrues at the rate of three thousand dollars per month. Although the language is broad enough to authorize the building of, as well as the remodeling of, and furnishing of quarters, the amount of money accumulating is so minimal that it is not practical for the Court to consider building facilities. Twelve years ago when the Court was created, a three thousand dollar monthly contribution to the Building Fund was much more realistic than it is today.

Based on today's construction costs and labor, the \$36,000.00 a year, more or less limits the Court to redecorating facilities rather than renovating.

As our work load increases and the resulting demands on the available space continues to increase, the problem of acquiring sufficient facilities will become more acute, and, will for some time to come be a matter of major concern for this office.

#### NEW LEGISLATION

The last session of the legislature passed four major pieces of legislation which the District Court was very much interested in; and, which will ultimately improve the efficiency of the Court in general. The Court was authorized one new Judge-at-Large. It is expected that this position will be filled soon. The last (19th) judge that we were authorized

was nearly six years ago. At that time, our case load for the Court was just over 100,000 cases per year. As previously indicated, our case load for the year ending June 30, 1973, was something over 162,000 cases. If this rate of growth is to continue, it is not unreasonable that we shall have to again turn to the legislature for more judges.

The Chief Judge was given the authority to appoint deputy clerks of court. These appointments will be made in the larger courts and should be a substantial improvement over the clerk pro temp appointments made in the absence of the clerk. Under the deputy clerk system, problems of administration of a court can be shared under the direction of the clerk.

The Chief Judge was given the authority to appoint the Complaint Justices. My report for last year indicated the problems experienced in this area, and we have every hope that we can improve the service to the Court from that office.

The legislature also spelled out in some detail the authority of the governor and council to appoint a retired district court judge to an active/retired status. Although this vehicle is not intended to meet the problems of a substantially increased case load, it will permit some flexibility in meeting the day-to-day emergencies.

#### EXPENDITURES FOR THE YEAR

Schedule 2, following, explains in some detail a comparative

summary of expenditures for the years 1972 and 1973, and, generally, needs no explanation. Most categories show either a normal increase or decrease, depending upon our needs from year to year. There are four major categories which account for a very substantial portion of the overall increase which probably require some comment.

Salaries and Wages The increased salaries and wages of the employees are the result of legislative enactment. This increase represents first, a minimal cost of living raise for all Court employees and, two, a few additional employees in the year 1973.

Representation of Indigents Court appointed attorneys account for an increase of almost \$61,000 between years 1972 and 1973. In Fiscal Year 1972 we spent for this item \$53,319.04. In Fiscal Year 1973 the cost for this item increased to \$114,224.94. The combination of two factors accounts for this substantial increase. First, there was an increase in the number of cases handled by the Court. Second, there was an increase in the minimum payment to attorneys for representing indigents. However, the last increase in payment to attorneys did not go into effect until January 1, 1973. Therefore, this figure only includes six months at the top rate of pay. It is to be expected, then, that next year this figure will show an additional increase over 1973 even if our case load remains the same.

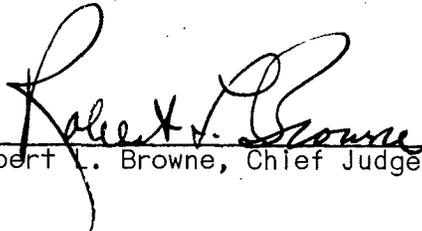
Rent of Buildings The increase in rental from 1972 to 1973 was \$25,000. There will continue to be, at least, some increase in this expenditure as leases are renegotiated because of the actual increase

in costs of services provided the Court. If, however, we are fortunate enough to acquire some new and adequate facilities in the many areas which are now in serious need of better quarters, it should be anticipated and expected that the acquisition of adequate facilities will require a reasonably substantial increase in rental costs in the years to come.

Grants to Cities and Towns This is an area of expenditure over which the Court has no control. The authority and direction for this payment is the subject of legislative enactment and needs only to be initiated by the municipality and the Court can only respond. It is somewhat precarious at this time to estimate our expenditures in this category for the coming year because we have only one year's experience with the present law as amended. I suspect that 1974 will show a normal increase in this category but not as substantial as last year.

#### REVENUE

The gross revenue which flowed into the Court was up something over 10% for Fiscal Year 1973. The gross receipts were \$3,179,182.41, as compared to \$2,830,812.51 in Fiscal Year 1972. This increase is normal when evaluated in light of the substantially increased case load for the same period. As was discussed earlier, traffic cases were up 17.4% and all other criminal violations were up by 18.9%. It must be concluded, then, that although there is a relationship between revenue and case load, that the revenue does not necessarily keep pace with the increased demand for services of the Court.

  
Robert L. Browne, Chief Judge

DISTRICT COURT FUND  
ADMINISTRATION  
COMPARATIVE SUMMARY OF EXPENDITURES

	<u>1973</u>	<u>1972</u>	<u>Increase or Decrease</u>
Salaries and Wages	\$ 969,786.30	\$ 889,192.92	\$ 80,593.38
Court Appointed Attorneys	114,224.94	53,319.04	60,905.90
Miscellaneous Professional Fees	3,012.88	3,614.32	(601.44)
Travel Expense	37,226.58	32,390.93	4,835.65
Telephone and Telegraph	24,570.64	19,956.91	4,613.73
Rent of Building	117,647.65	92,596.69	25,050.96
Repair Equipment	5,897.32	6,371.05	(473.73)
Repair Building	1,129.12	526.05	603.07
Postage	19,711.13	21,311.25	(1,600.12)
Printing and Office	28,221.49	30,814.36	(2,592.87)
Miscellaneous Supplies	1,485.01	2,898.64	(1,413.63)
Grants to Cities and Towns	126,405.00	62,765.00	63,640.00
Pensions Under Law	16,125.00	11,076.94	5,048.06
Equipment	15,815.07	17,530.94	(1,715.87)
Complaint Justice Fees	5,236.49	4,530.00	706.49
Health Insurance	6,018.69	4,307.79	1,710.90
Transfer to Bldg. Fund	36,000.00	36,000.00	-0-
Contribution to Retirement	43,521.42	42,843.00	678.42
Transfer to Fund (Auditing Services)	34,526.76	27,245.27	7,281.49
	\$ <u>1,606,561.49</u>	\$ <u>1,359,291.10</u>	\$ <u>247,270.39</u>

DISCTRICT COURT - REPORT OF TOTAL CASES - YEAR ENDING, JUNE 30, 1973

	TRAFFIC	OTHER	JUVENILE	TOTAL CRIMINAL	CIVIL	MOTIONS DIVORCES	MONEY JUDGMENTS	SMALL CLAIMS	RSC SUPPORT	TOTAL CIVIL	TOTAL CASES
DISTRICT 1											
Caribou	1596	753	148	2497	207	175	61	180	9	632	3129
Ft. Kent	1100	517	84	1701	-	-	-	-	-	-	1701
Madawaska	546	315	44	905	148	64	68	340	-	620	1525
Van Buren	353	199	33	585	-	-	-	-	-	-	585
	3595	1784	309	5688	355	239	129	520	9	1252	6940
DISTRICT 2											
Houlton	3439	891	47	4377	126	46	54	189	3	418	4795
Presque Isle	2273	1099	110	3482	506	189	209	258	22	1186	4668
	5712	1990	157	7859	634	235	263	447	25	1604	9463
DISTRICT 3											
Bangor	7327	1681	317	9325	661	576	199	485	74	1995	11,320
Newport	2249	376	52	2677	92	228	94	160	-	574	3,251
	9576	2057	369	12002	753	804	293	645	74	2569	14,571
DISTRICT 4											
Calais	920	869	123	1912	61	91	19	377	-	548	2,460
Machias	1356	453	41	1850	79	106	35	134	-	354	2,204
	2276	1322	164	3762	140	197	54	511	-	902	4,664

DISTRICT COURT - REPORT OF TOTAL CASES - YEAR ENDING, JUNE 30, 1973

	TRAFFIC	OTHER	JUVENILE	TOTAL CRIMINAL	CIVIL	MOTIONS DIVORCES	MONEY JUDGMENTS	SMALL CLAIMS	RSC SUPPORT	TOTAL CIVIL	TOTAL CASES
DISTRICT 5											
Ellsworth	2170	901	66	3137	266	205	61	537		1069	4206
Far Harbor	661	459	44	1164	145	76	26	107	9	363	1527
Belfast	1512	731	182	2425	206	124	102	363	-	795	3220
	4343	2091	292	6726	617	405	189	1007	9	2227	8953
DISTRICT 6											
Bath	1729	575	30	2334	236	179	53	199	16	683	3017
Rockland	1350	842	105	2297	373	298	247	441	-	1359	3656
Wiscasset	1221	512	40	1773	239	165	114	182	15	715	2488
	4300	1929	175	6404	848	642	414	822	31	2757	9161
DISTRICT 7											
Augusta	4477	1719	163	6359	858	584	304	401	-	2147	8506
Waterville	3075	1051	29	4155	799	416	321	215	5	1756	5911
	7552	2770	192	10514	1657	1000	625	616	5	3903	14,417
DISTRICT 8											
Brunswick	2452	631	47	3130	124	214	29	227	-	594	3724
Lewiston	7702	2477	244	10,423	941	727	352	508	3	2531	12954
	10154	3108	291	13,553	1065	941	381	735	3	3125	16,678

DISTRICT COURT - REPORT OF TOTAL CASES - YEAR ENDING, JUNE 30, 1972

	TRAFFIC	OTHER	JUVENILE	TOTAL CRIMINAL	CIVIL	MOTION DIVORCES	MONEY JUDGMENTS	SMALL CLAIMS	ASC SUPPORT	TOTAL CIVIL	TOTAL CASES
DISTRICT 9											
Bridgton	1414	761	44	2219	54	99	20	167	-	340	2559
Portland	16412	6177	262	22851	2390	1536	209	535	-	4670	27,521
	17826	6938	306	25070	2444	1635	229	702	-	5010	30,080
DISTRICT 10											
Saco	7760	1665	137	9562	407	484	54	404	-	1349	10,911
Sanford	2585	1164	67	3816	143	259	15	176	-	593	4,409
Wittery	3704	955	156	4815	153	153	19	124	-	340	5,355
	14049	3784	360	18,193	703	896	79	704	-	2482	20,675
DISTRICT 11											
Livermore Falls	1022	188	28	1,238	51	53	4	86	-	194	1,432
Rumford	1669	871	105	2,645	72	149	59	263	-	543	3,188
South Paris	1024	371	52	1,447	95	93	52	101	-	341	1,788
	3715	1430	185	5,330	218	295	115	450	-	1078	6,408
DISTRICT 12											
Farmington	2277	560	54	2,891	133	164	43	310	6	656	3,547
Esowegan	4356	1464	188	6,008	408	384	231	397	-	1420	7,428
	6633	2024	242	8,899	541	548	274	707	6	2076	10,975

DISTRICT COURT - REPORT OF TOTAL CASES - YEAR ENDING, JUNE 30, 1973

	TRAFFIC	OTHER	JUVENILE	TOTAL CRIMINAL	CIVIL	MOTIONS DIVORCES	MONEY JUDGMENTS	SMALL CLAIMS	RSC SUPPORT	TOTAL CIVIL	TOTAL CASES
DISTRICT 13											
Dover-Foxcroft	1935	1328	142	3405	101	142	60	222	-	525	3930
Lincoln	1532	381	60	1973	98	73	64	293	-	528	2501
Millinocket	1299	885	137	2321	111	107	110	202	-	530	2851
	4766	2594	339	7699	310	322	234	717	-	1583	9282

TOTALS FOR THE YEAR

TRAFFIC	OTHER	JUVENILE	TOTAL CRIMINAL	CIVIL	DIVORCES	MOTIONS JUDGMENTS	MONEY	SMALL CLAIMS	RSC SUPPORT	TOTAL CIVIL	TOTAL CASES
94,497	33821	3381	131,699	10285	5300	2959	3279	8583	162	30,568	162,267

Total Case Load For 1973	162,267	109.0
Total Case Load For 1972	<u>138,887</u>	<u>85.6</u>
Total Case Load Increase	23,380	14.4
Total Criminal Cases Pending	1,095	
Total Civil Cases Pending	<u>9,772</u>	
Total Cases Pending 6-30-73	10,867	

MAINE DISTRICT COURT - REPORT OF TOTAL COMPLETED CASES FOR THE FISCAL YEAR ENDING JUNE 30, 1974

	Traffic	Other	Total Criminal	Civil Ordinary	Juvenile	Separations, Motions & Divorces	Money Judgments	Small Claims	Mental Health	RSC Support	Total Civil	Total Cases
DISTRICT 1												
Caribou	1534	633	2167	109	175	205	89	191	-0-	5	774	2941
Fort Kent	1082	532	1614	-0-	54	-0-	-0-	-0-	-0-	-0-	54	1668
Madawaska	602	260	862	256	22	64	95	244	-0-	-0-	681	1543
Van Buren	393	150	543	-0-	40	-0-	-0-	-0-	-0-	-0-	40	583
	<u>3611</u>	<u>1575</u>	<u>5186</u>	<u>365</u>	<u>291</u>	<u>269</u>	<u>184</u>	<u>435</u>	<u>-0-</u>	<u>5</u>	<u>1549</u>	<u>6735</u>
DISTRICT 2												
Houlton	3853	758	4611	174	126	104	98	155	-0-	-0-	657	5268
Presque Isle	2094	1027	3121	689	141	190	366	402	-0-	5	1793	4914
	<u>5947</u>	<u>1785</u>	<u>7732</u>	<u>863</u>	<u>267</u>	<u>294</u>	<u>464</u>	<u>557</u>	<u>-0-</u>	<u>5</u>	<u>2450</u>	<u>10182</u>
DISTRICT 3												
Bangor	7660	1711	9371	664	358	539	201	334	40	-0-	2136	11507
Newport	2603	326	2929	111	70	196	122	124	-0-	-0-	623	3552
	<u>10263</u>	<u>2037</u>	<u>12300</u>	<u>775</u>	<u>428</u>	<u>735</u>	<u>323</u>	<u>458</u>	<u>40</u>	<u>-0-</u>	<u>2759</u>	<u>15059</u>
DISTRICT 4												
Calais	923	917	1840	73	127	117	32	399	-0-	-0-	748	2588
Machias	1380	548	1928	120	48	112	31	165	-0-	-0-	476	2404
	<u>2303</u>	<u>1465</u>	<u>3768</u>	<u>193</u>	<u>175</u>	<u>229</u>	<u>63</u>	<u>564</u>	<u>-0-</u>	<u>-0-</u>	<u>1224</u>	<u>4992</u>
DISTRICT 5												
Bar Harbor	707	375	1082	44	18	65	9	119	-0-	1	256	1338
Belfast	1597	755	2352	238	147	143	91	304	-0-	-0-	923	3275
Ellsworth	2016	991	3007	242	88	204	45	377	-0-	-0-	956	3963
	<u>4320</u>	<u>2121</u>	<u>6441</u>	<u>524</u>	<u>253</u>	<u>412</u>	<u>145</u>	<u>800</u>	<u>-0-</u>	<u>-0-</u>	<u>2135</u>	<u>8576</u>

MAINE DISTRICT COURT - REPORT OF TOTAL COMPLETED CASES FOR THE FISCAL YEAR ENDING JUNE 30, 1974

	Traffic	Other	Total Criminal	Civil Ordinary	Juvenile	Separations, Motions & Divorces	Money Judgments	Small Claims	Mental Health	RSC Support	Total Civil	Total Cases
DISTRICT 11												
Livermore Falls	865	131	996	60	16	57	32	87	-0-	-0-	252	1248
Rumford	1326	549	1875	141	78	155	82	314	-0-	-0-	770	2645
South Paris	830	287	1117	40	50	127	41	163	-0-	-0-	421	1538
	<u>3021</u>	<u>967</u>	<u>3988</u>	<u>241</u>	<u>144</u>	<u>339</u>	<u>155</u>	<u>564</u>	<u>-0-</u>	<u>-0-</u>	<u>1443</u>	<u>5431</u>
DISTRICT 12												
Farmington	2061	653	2714	171	92	203	95	307	-0-	-0-	868	3582
Skowhegan	4283	1294	5577	542	212	365	355	256	-0-	1	1731	7308
	<u>6344</u>	<u>1947</u>	<u>8291</u>	<u>713</u>	<u>304</u>	<u>568</u>	<u>450</u>	<u>563</u>	<u>-0-</u>	<u>1</u>	<u>2599</u>	<u>10890</u>
DISTRICT 13												
Dover Foxcroft	1865	1406	3271	149	149	144	53	281	-0-	-0-	777	4047
Lincoln	1866	363	2229	99	78	58	72	298	-0-	-0-	605	2834
Millinocket	1384	733	2117	72	92	83	128	193	2	-0-	570	2687
	<u>5115</u>	<u>2502</u>	<u>7617</u>	<u>320</u>	<u>319</u>	<u>285</u>	<u>253</u>	<u>772</u>	<u>2</u>	<u>-0-</u>	<u>1952</u>	<u>9568</u>
GRAND TOTAL FOR YEAR	97651	30774	128425	10261	3943	8333	4245	7949	113	15	34859	163284