

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

MAINE
TRAFFIC COURT STUDY
SUMMARY REPORT

submitted by
MAINE DEPARTMENT
of
TRANSPORTATION
AUGUSTA, MAINE
JANUARY 31, 1975

STATE OF MAINE
DEPARTMENT OF TRANSPORTATION

STATE OFFICE BUILDING

AUGUSTA, MAINE

04330

mdot

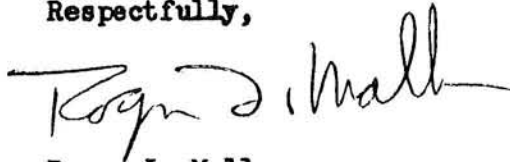
ROGER L. MALLAR
Commissioner

January 31, 1975

TO: Governor James B. Longley and
Members of the 107th Legislature

In accordance with the provisions of Chapter
116 Private and Special Laws 1973, I am pleased to
submit a summary report concerning the need for a
traffic court system and other methods of handling
traffic violations.

Respectfully,



Roger L. Mallar
Commissioner

MAINE TRAFFIC
COURT STUDY

- SUMMARY -

January 1975

Traffic Court Advisory Committee

Roger L. Mallar, Commissioner, Department of Transportation,
Chairman

Fred A. Campbell, Director, Bureau of Safety (representing
chairman)

Ronald Bailey, S.A.D. #9

Hon. F. Davis Clark, Bangor District Court

Richard Cohen, Esq.

Donald Marden, Esq.

William McKenzie, Maine AAA

Hon. Ralph H. Ross, Chief Judge of the District Court

Captain Harold Scribner, Maine State Police

Albert Smith, Chief of Police, Camden

Lewis Vafiades, Esq.

Ralph Willey, Fox and Ginn, Inc.

Charles Wyman, Director, Motor Vehicle Division

MAINE TRAFFIC COURT STUDY
January 1975

Summary

Maine's Traffic Court Advisory Committee was created as a result of the desire to reform the present method of handling traffic violations.

The National Center for State Courts was selected to study the present methods of handling traffic cases and propose improvements.

The Committee discussed, debated, and approved each of the recommendations included in the report.

Part I of this summary consists of the recommendations made in the report. Part II is a synopsis of the problems addressed and the reasoning in support of the recommendations.

Maine Traffic Court Study

I. Recommendations

1. ALL BUT THE MOST SERIOUS TRAFFIC OFFENSES SHOULD BE RECLASSIFIED AS LESSER OFFENSES TO BE KNOWN AS "TRAFFIC INFRACTIONS." THESE OFFENSES SHOULD BE NON-CRIMINAL IN NATURE, PERMITTING NO RIGHT TO TRIAL BY JURY. SANCTION FOR TRAFFIC INFRACTIONS SHOULD NOT INCLUDE INCARCERATION. ... p. 14 *
2. ALTHOUGH TRAFFIC OFFENSES SHOULD BE RECLASSIFIED, ADJUDICATION OF THEM SHOULD REMAIN A FUNCTION OF THE JUDICIAL BRANCH OF GOVERNMENT. MAINE SHOULD ADOPT NEITHER A PARA-JUDICIAL NOR AN ADMINISTRATIVE METHOD OF ADJUDICATION OF TRAFFIC MATTERS. ... p. 20
3. IN ALL TRAFFIC CASES THE COMPLAINT OR INFORMATION AND SUMMONS SHOULD BE IN THE FORM KNOWN AS THE "UNIFORM TRAFFIC TICKET AND COMPLAINT" AND SHOULD BE USED BY ALL STATE AND LOCAL POLICE. THE UNIFORM TRAFFIC TICKET AND COMPLAINT SHOULD BE NUMBERED SERIALY WITH INDIVIDUAL TICKETS IN QUADRUPLICATE WITH DIFFERENT COLORED SHEETS OF SENSITIZED PAPER FOR COMPLAINTS, SUMMONS, POLICE RECORD, AND AN ABSTRACT OF COURT RECORD FOR MOTOR VEHICLE DIVISION. THE TICKET SHOULD BE DESIGNED BY A SPECIAL COMMITTEE.

*Page number refers to related commentary in final report

COMPOSED OF REPRESENTATIVES FROM AGENCIES INVOLVED WITH TRAFFIC MATTERS. THE TICKET SHOULD BE DESIGNED TO MEET LEGAL AND ADMINISTRATIVE REQUIREMENTS, AND A CONTINUING REVIEW SHOULD BE MADE OF ITS DESIGN AND EFFECTIVENESS. ACCURATE RECORDS MUST BE KEPT OF THE DISTRIBUTION OF TICKETS IN BULK TO POLICE DEPARTMENTS, THEIR ISSUANCE IN "BOOKS" TO OFFICERS, AND THEIR INDIVIDUAL DISPOSITION BY OFFICERS. THERE SHOULD BE AN ANNUAL AUDIT OF SUCH RECORDS BY THE STATE DEPARTMENT OF AUDIT. ... p. 31-32

4. THE STATUTE ALLOWING WAIVER OF COURT APPEARANCE FOR CERTAIN TRAFFIC OFFENSES SHOULD BE AMENDED TO ALLOW WAIVER BY OCCASIONAL OFFENDERS. A POLICY OF ALLOWING WAIVER OF COURT APPEARANCE WHENEVER CONSISTENT WITH HIGHWAY SAFETY SHOULD BE PROMULGATED AND APPLIED UNIFORMLY IN ALL DIVISIONS OF DISTRICT COURT. THERE SHOULD BE PERIODIC REVIEW AND, WHEN NECESSARY, REVISION OF LEGISLATIVE AND JUDICIAL DETERMINATION OF TRAFFIC OFFENSES FOR WHICH COURT APPEARANCE IS MANDATORY.

... p. 41

5. PERSONS CHARGED WITH TRAFFIC INFRACTIONS SHOULD BE ALLOWED TO ENTER PLEAS WHICH (1) ADMIT THE VIOLATION CHARGED; (2) ADMIT THE VIOLATION CHARGED, WITH AN EXPLANATION; OR (3) DENY THE VIOLATION CHARGED, RATHER THAN TRADITIONAL PLEAS NOW UTILIZED IN CRIMINAL PRACTICE.

... p. 46

6. UNIFORM OPERATING RULES AND PROCEDURES SHOULD BE PROMULGATED AND WORKSHOPS SHOULD BE HELD TO AID CLERKS IN THE OPERATION OF TRAFFIC VIOLATIONS BUREAUS. THE RULES AND PROCEDURES SHOULD BE EXPLAINED IN DETAIL IN A CLERKS MANUAL TO BE DISTRIBUTED TO ALL DIVISIONS OF THE DISTRICT COURT. . . . P. 50
7. BY RULE, TRAFFIC INFRACTIONS SHOULD, WHERE POSSIBLE, BE HEARD BY THE COURT IN SEPARATE "TRAFFIC SESSIONS" AND NOT AT THE SAME TIME AS CRIMINAL MATTERS. . . . P. 55
8. THERE SHOULD BE A SIMPLIFIED PROCEDURE, GOVERNED BY PUBLISHED RULES AND UNIFORM THROUGHOUT THE STATE, FOR THE TRIAL OF TRAFFIC CASES. BUT APART FROM MODIFICATIONS RECOMMENDED IN THIS REPORT, DEFENDANTS IN TRAFFIC CASES SHOULD BE ENTITLED TO PROCEDURAL SAFEGUARDS ACCORDED CRIMINAL DEFENDANTS. . . . P. 59
9. ALL DISTRICT COURT TRAFFIC TRIALS SHOULD BE RECORDED ON THE SOUND RECORDING EQUIPMENT NOW AVAILABLE. STAFF SHOULD BE PROVIDED TO OPERATE RECORDING MACHINES AND LOG THE RECORDINGS. GUIDELINES SHOULD BE PROMULGATED FOR THE USE OF SOUND RECORDING AND FOR THE PREPARATION OF TRANSCRIPTS. ALL APPEALS TO THE SUPERIOR COURT SHOULD BE ON TRANSCRIPTS OF THE RECORD SO PREPARED. . . . P. 65

10. AN EXPRESS POLICY SHOULD BE ADOPTED IN THE SUPERIOR AND DISTRICT COURTS REGARDING THE SENTENCES IMPOSED FOR TRAFFIC OFFENSES. THERE SHOULD BE GREATER CONSISTENCY IN FINES IMPOSED, AND UNUSUALLY HIGH OR LOW FINES SHOULD BE SUPPORTED BY REASONABLE JUSTIFICATION. JUDGES SHOULD BE AUTHORIZED GREATER FLEXIBILITY IN ORDERING TEMPORARY SUSPENSION OF AN OPERATOR'S LICENSE. THOSE APPEALING ADJUDICATIONS FOR TRAFFIC INFRACTIONS IN WHICH TEMPORARY SUSPENSION HAS BEEN ORDERED SHOULD BE ENTITLED TO RETAIN THEIR LICENSES PENDING APPEAL, ABSENT A SHOWING OF GOOD CAUSE WHY THEY SHOULD NOT BE SO ENTITLED. FORMAL PROVISION SHOULD BE MADE TO ALLOW A COURT TO IMPOSE A REDUCED OR SUSPENDED SENTENCE OR TO ALLOW DEFERRED PAYMENT OF A FINE FOR THOSE OFFENDERS DEMONSTRATING INABILITY TO PAY. ... p. 69

11. A MIXED SYSTEM OF BATCH PROCESSING, TELETYPE, AND COMPUTER TERMINAL FACILITIES SHOULD BE IMPLEMENTED TO ENABLE COURTS WITH VARYING TRAFFIC CASELOADS TO RETRIEVE PRIOR OFFENSE DATA FROM MOTOR VEHICLE DIVISION AND TO ASSURE ACCURATE REPORTING OF CONVICTION OR ADJUDICATION BY COURTS TO MOTOR VEHICLE DIVISION. A DRIVER'S RECORD OF PRIOR OFFENSES SHOULD BE CONSIDERED ONLY FOR IMPOSITION OF SENTENCE, AND UNDER

NO CIRCUMSTANCE SHOULD IT BE AVAILABLE FOR CONSIDERATION BY THE COURT BEFORE A FINDING OF GUILTY HAS BEEN ENTERED IN THE CASE THEN BEFORE THE COURT. TO PROTECT DRIVERS FOUND NOT TO HAVE COMMITTED ALLEGED TRAFFIC INFRACTIONS, THE RULE OF EXPUNGEMENT SHOULD BE APPLIED... P. 74

12. THE STATUTE ENABLING A MISDEMEANOR DEFENDANT TO HAVE HIS CASE TRANSFERRED TO SUPERIOR COURT FOR JURY TRIAL SHOULD BE REPEALED. A CONSTITUTIONAL AMENDMENT SHOULD BE ADOPTED TO LIMIT CRIMINAL JURY TRIALS TO CASES IN WHICH A PENALTY OF INCARCERATION OR A FINE OF \$500 OR MORE MAY BE IMPOSED.* THE DISTRICT COURT SHOULD BE GIVEN EXCLUSIVE TRIAL JURISDICTION OF ALL TRAFFIC OFFENSES FOR WHICH NO PENALTY OF INCARCERATION OR A FINE OF \$500 OR MORE MAY BE IMPOSED OR FOR WHICH TRIAL BY JURY HAS BEEN WAIVED.

THE PENALTIES NOW IMPOSED FOR EACH TRAFFIC OFFENSE SHOULD BE REVIEWED AND, WHERE NECESSARY, MODIFIED SO THAT ONLY THOSE OFFENSES DEEMED SERIOUS ARE PUNISHABLE BY MEANS GRAVE ENOUGH TO WARRANT A RIGHT TO TRIAL BY JURY. TRIAL DE NOVO IN SUPERIOR COURT SHOULD NOT BE RE-INSTITUTED, AND APPELLATE REVIEW OF TRAFFIC MISDEMEANORS AND INFRACTIONS SHOULD BE LIMITED TO MATTERS OF LAW. ... p. 81

* This portion of the recommendation corresponds to that approved by the Maine Trial Court Revision Commission.

II. Analysis of Recommendations

Recommendation No. 1 provides for the "decriminalization" of all but the more serious traffic offenses. At present all motor vehicle violations are considered "crimes" in Maine. This situation creates two major problems. First, the average motorist who is only an occasional offender is charged with a criminal offense even when he violates the most minor traffic law. This results in undue inconvenience as well as the stigma of a criminal prosecution. The second major problem created involves the state constitutional right of any defendant in a criminal prosecution to demand a trial by jury. This results in the double processing of many minor traffic matters by both the District and Superior Courts causing delay and wasting manpower.

Implementation of this recommendation would alleviate these problems. The average motorist would be able to take advantage of the simplified procedures recommended and thereby eliminate much of the inconvenience now caused by court appearances and other criminal proceedings. The stigma associated with a criminal prosecution would no longer exist. However, multiple and serious offenders would still be dealt with by the criminal process, facing the possibility of incarceration and entitled to the protection of applicable constitutional safeguards. Those accused of minor traffic violations would no longer have the right to a trial by jury but would retain other rights. Much of the delay and manpower wastes caused by dual processing would thereby be eliminated. Defendants in danger of losing their licenses or not willing to pay

finers would not as easily be able to use the delay tactic of transferring their case to the Superior Court for jury trial.

Recommendation No. 2 insures that although most traffic offenses would be decriminalized the authority to adjudicate them would remain with the courts. At present the District Court's criminal docket consists mainly of traffic cases. The judicial workload is not overburdening, but that for the court clerks is increasing. Appeals and transfers from the District Court compose the bulk of the Superior Courts traffic caseload. A backlog is building in the Superior Court partially because of the large number of minor traffic matters which are sent there. The Motor Vehicle Division of the Department of State receives court abstracts following the adjudication of traffic cases as well as conducting administrative hearings concerning suspensions and revocations. With respect to court abstracts the Motor Vehicle Division in fact does not know if it is receiving records of all dispositions.

The problems stated are not of significant magnitude to justify the adoption of a para-judicial or an administrative method of adjudicating traffic matters. Recommendations concerning decriminalization and simplified procedures would help to alleviate the problems now found in the District and Superior courts. Implementation of the uniform traffic ticket and complaint would simplify the problems of the Motor Vehicle

Division. Although the para-judicial and administrative adjudication methods have been successful in Detroit and New York, respectively, the scale and resulting costs of implementing either of these methods in Maine would be prohibitive.

Recommendation No. 3 calls for the implementation of the uniform traffic ticket and complaint by all state and local police. At present there is a great deal of variation among police jurisdictions regarding tickets. The tickets themselves differ in size, color, format, and in information desired. The police departments vary in their management of ticket supply, issuance, and disposition. The accused motorist often does not know what offense he allegedly violated or what procedure to take once the ticket has been issued, because of the design of the ticket.

Statewide implementation by state and local police of the uniform traffic ticket and complaint would eliminate these variations as well as simplify communication between and procedures within the police departments, the courts and the Motor Vehicle Division. The "court officer" now used to verify complaints by the police department might not be necessary. Police records of a case would be kept on their copy of a ticket. The courts could use the summons as a standard means of notifying the defendant of the procedures concerning court appearance and waiver. The courts might also be able to use their ticket control sheets,

(records of tickets distributed to police departments) as a simplified traffic docket. One copy of a ticket would be sent to the Motor Vehicle Division in place of the court abstract upon disposition of the case, and serial numbering of tickets would facilitate more accurate recordkeeping. The motorist would, on the summons copy, be notified of the exact charge allegedly violated.

Recommendation No. 4 suggests the creation of a uniform waiver of court appearance for certain traffic offenses to allowing waiver by occasional offenders of minor violations.

Local policies concerning waivers are inconsistent among the divisions of the District Court. In addition, court clerks have difficulty identifying repeat offenders. The result has been an inability for police, drivers and court clerks to determine which traffic offenders are entitled to waive and which are not. Some courts allow waiver of appearance where it is waivable by statute, while others require court appearance for virtually all traffic offenses.

Presently, every motorist cited for a traffic offense (except a first offense) is required to appear in court. This includes occasional violators whose offense is minor, and who are otherwise law-abiding citizens. A decrease in such required appearances by motorists cited for traffic offenses will help to remove numerous cases from the workload of the District Court. A uniform waiver policy can allow the judges

to spend more time in the performance of other judicial duties. Currently, too large a part of a judge's bench time is spent receiving guilty pleas from motorists who have committed minor offenses.

Further aid to uniform application of a waiver policy will be given by the implementation of a Uniform Traffic Ticket and Complaint. Identification of repeat offenders can be assisted by introduction of improved telecommunications between each District Court division and the Motor Vehicle Division's record keeping facilities.

Recommendation No. 5 suggests the changing of the traditional pleas now utilized in criminal practice for persons charged with traffic infractions, allowing motorists either to (1) admit the violation charged, (2) admit the violation charged, with explanation, or (3) deny the violation charged.

Defendants may now enter only the traditional pleas authorized in criminal practice for traffic offenses, because such offenses are now classified as crimes. The entry of a plea of guilty may often be in direct conflict with the defendant's feelings that he has not committed an offense against society of the sort to brand him a "criminal." The present system does not always allow the defendant to plead guilty and to present circumstances that he feels may have justified or excused his behavior, or that might at least mitigate punishment.

The opportunity for a defendant to offer an explanation for his action, a procedure that is already being used with success in New York's administrative hearing sites (as well

as in one District Court division in Maine, where it is used informally) should help motorists feel they are being considered fairly and as individuals. It will help diminish a popular feeling that many courts are being operated in an impersonal "assembly-line" fashion.

This recommendation acts in support of Recommendation 1. Changing the plea structure to the one recommended here will help to reinforce the characterization of traffic offenses as non-criminal.

Recommendation No. 6 provides that traffic violations bureaus be operated under uniform rules and procedures with workshops to educate clerks as to their operation. For five years it has been statutorily mandated that such bureaus be set up in the District Courts. Violations clerks are authorized to accept written appearances, waiver of trial, plea of guilty and payment of fine and costs in traffic cases. While traffic violations bureaus are called for by statute, their use is not as effective as was probably intended by the Legislature. Clerks of court remain uncertain about procedures for operating traffic violations bureaus, with the result that no two courts manage their traffic violations bureaus in the same fashion.

Implementation of this recommendation and others concerning the uniform traffic ticket and complaint and waiver of court appearance would significantly reduce the burdensome amount of traffic case paperwork that District Court clerks must perform. Since many clerks do not understand how to

set up or operate traffic violations bureaus, workshops and a clerks manual should be of great assistance. Properly administered, such a bureau should also minimize the inconvenience to motorists concerning waivers, appearances, and payments.

Recommendation No. 7 suggests the creation of separate "Traffic Sessions" for the purpose of hearing traffic infractions.

In all divisions of the District Court, traffic matters are docketed, calendared, and heard together with non-traffic criminal matters.

The large volume of traffic cases bears witness to the fact that more persons appear in court for traffic matters than for any other reason, and their opinion of the courts and justice is formed by the way the court is conducted. Because of the volume, hearing time for traffic offenders is limited and may cause some defendants to view their constitutional safeguards as nothing more than shallow formalities.

The present system also has an adverse affect on those defendants awaiting hearings on non-traffic criminal matters. Judge time for these matters is also cut short because of the large number of traffic cases that tend to fill the docket.

The scheduling of traffic matters in separate traffic sessions will resolve several of the problems now present in all divisions of the District Court. Separate traffic sessions will reinforce the reclassification of traffic infractions as non-criminal offenses. Waiting time for drivers and police will be reduced.

This recommendation is in keeping with those made by the National Conference of Commissions on Uniform State Laws and the American Bar Association Committee on the Traffic Court Program.

Recommendation No. 8 provides for implementation of uniform rules and procedures for the trial of traffic cases, with defendants entitled to procedural safeguards accorded criminal defendants apart from modifications recommended in the report and discussed in this summary. Some District Court judges now relax the rules of criminal procedure in order to expedite case processing or in fairness to persons not represented by counsel. But this sometimes leads to lack of procedural consistency from court to court or from defendant to defendant.

Certain criminal rules and procedures are desirable in traffic cases. Included should be the right to engage counsel and a right of appeal, among others. Also, to assure efficient disposition of traffic cases, continuances should be granted only when necessary and then only for a reasonable period. Finally, as in criminal matters, the State should bear the burden of proving beyond a reasonable doubt that a driver committed a traffic infraction.

Recommendation No. 9 suggests the installation of recording machines in the District Court and requires no legislative action. Sound recording has been acquired through a MLEPAA grant and is currently available for all district courts.

By court rule, electronic sound recording of all cases is required in District Court; however, not all courts have installed such units because of acoustical problems in some courtrooms and the absence of personnel trained to operate the machines during a court session. The result is the unavailability of the record for many traffic cases in the District Court.

The process of appeal is affected by the present situation in some district courts. Absence of a sound recording necessitates an agreed statement of the evidence or proceedings being prepared from the best available means, usually the recollection of the parties concerned.

Use of the sound equipment by all the divisions of the District Court will eventually enable appeals from the District Court to the Superior Court to be heard on the record and will eliminate the necessity for a trial de novo. The Superior Court can rule on the case with confidence that the record before it is accurate. Sound recordings also eliminate the time and expense involved in trial de novo.

Recommendation No. 10 calls for the adoption of an express policy regarding sentences for traffic offenses, one with greater rationality in fines imposed, and more flexibility for judges to order temporary suspension of an operator's license.

Statistics compiled by the Motor Vehicle Division from reports by the Superior and District Court reveal a vast difference in fines imposed for the same offense by different courts. Fines in some courts were six times higher than fines in other courts for the same offense, and fines for the same offense even varied within the individual court itself from year to year.

Motorists are well aware of the inconsistencies and, in some instances, this has led to "judge shopping." Many traffic offenders not able to pay fines have failed to appear at hearings, sometimes resulting in their being incarcerated. The vast majority of transfers to the Superior Court are believed to be a delay tactic to postpone the payment of a fine. Courts themselves have not only been inconsistent in the imposition of sentences, they have not been consistent in their handling of this problem. Some frequently grant continuances to allow defendants time to gather money, while others suspend execution until payment can be made, and some allow partial payment even though the clerical staff dislikes it.

Members of the public have expressed their difficulty comprehending why fines are so inconsistent from court to court, reflecting a feeling that courts do not treat all people fairly. The adoption of a uniform policy by the District Court will create a greater respect for justice in the traffic courts. "Judge shopping" may be reduced.

Recommendation No. 11 provides for the implementation of a mixed system of computerized communication facilities for communications between the courts and the Motor Vehicle Division. Their interdependence necessitates continuous coordination concerning the details of a driver's record.

Means to check quickly whether drivers coming before the court have prior records would enable court clerks to determine which drivers cannot waive court appearance. They would also enable judges to know which drivers should be penalized as repeat offenders. Access to computerized records can be limited. Traffic violations clerks can be allowed access to a motorist's prior record only upon entry of a plea admitting the violation charged. A procedure can be developed whereby judges would have access to drivers' prior offense records only after conviction or adjudication, for sentencing purposes. Also, the expungement rule can be applied to non-criminal traffic violations. A computerized system of communications together with implementation of the uniform traffic ticket and complaint would enable the Motor Vehicle Division to receive regular and timely reports of all traffic convictions. The communications system would involve a mixture of techniques due to the variations in caseloads among the District Courts.

Recommendation No. 12 suggests a constitutional amendment that would repeal the statute enabling a misdemeanor defendant to have his case transferred to Superior Court for jury trial, limiting criminal jury trials to cases in which a penalty of incarceration or a fine of \$500 or more may be imposed, and giving the District Court exclusive trial jurisdiction over all traffic offenses not calling for incarceration or fines of \$500 or more or for which trial by jury has been waived.

The "transfer problem" has created a caseload so large in number for the Superior Court that reliance on negotiated pleas, or the dropping of cases altogether, has become inevitable, without any ruling on the merits. Those transfer cases that do appear before the Superior Court almost always find defendants changing their pleas to guilty on or just before the time of hearing, often at great expense to the county involved because of its having called and empanelled a jury for the particular case. Few traffic cases go forward to trial, with or without a jury, at the Superior Court level. This has created an undue burden on Superior Court judges and clerical staff.

An amendment to the Maine constitution would limit the right to jury trial for criminal cases with a penalty of incarceration. The decriminalization of many traffic

offenses to "traffic infractions" would take these offenses out of the category of "criminal cases" thereby not necessitating a jury trial and still allowing the defendant to a trial by jury in all criminal cases as is his right under the United States Constitution.

By giving the District Court exclusive jurisdiction over all traffic offenses for which no penalty of incarceration or fine of \$500 or more may be imposed, along with the repeal of the transfer amendment, the transfer problem that now exists in the Superior Court would be eliminated thereby freeing that Court to deal with other matters. Traffic cases that have contributed to the overload of Superior Court dockets could be handled by trial in District Court.