

MAINE STATE LEGISLATURE

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STATE OF MAINE

JUDICIAL COUNCIL

ANNUAL REPORT

1959

To the Honorable John H. Reed, Governor of Maine

The Judicial Council herewith submits its report for 1959.

Following through the recommendations in its 1958 Report the Council presented legislation re the support of dependents and a comprehensive revision of the statutes re juvenile offenders to the 1959 Legislature. Each received favorable consideration. Reference is made to 1959 P.L. Chapter 75, "An Act Clarifying the Laws Relating to Support of Dependents," and to 1959 Public Law Chapter 342, "An Act Relating to Juvenile Offenders."

Committees of the Council are now carrying forward studies in several other fields.

I. MISSION AND ORGANIZATION: to examine the statutory authority of this Council and of other similar bodies to determine if provisions re membership are adequate and the scope of its duties sufficiently expressed.

II. DIVORCE: Attached hereto is a copy of the report of this sub-committee dated November 14, 1959 together with so much of a report of the Council dated January 30, 1957 as relates to domestic relations. The matter remains under consideration by the entire Council with a view to a further report.

III. COURT BUSINESS AND STATISTICS: to analyze the reporting requirements now made of the various courts with a view to simplifying forms and reports and securing useful statistical data on the business of the courts.

IV. CRIMINAL PROCEDURES AND PENALTIES: to study the apparent inconsistencies of some penalties imposed by our criminal statutes.

V. ADMINISTRATIVE PROCEDURE: to discuss the problem of representation of the collective public interest before state administrative tribunals.

The Council held meetings in Augusta in August and November.

The present membership is:

		Term Expires (ex officio member)
Frank E. Hancock Attorney General	Ogunquit	
Harold C. Marden Justice, Superior Court	Waterville	April 7, 1962
Armand A. Dufresne, Jr. Justice, Superior Court.	Lewiston	July 31, 1961
Frank E. Southard, Jr. Judge, Municipal Court	Augusta	April 7, 1962
Sidney W. Wernick Judge, Municipal Court	Portland	August 21, 1961
Louis C. Stearns, III Judge, Probate Court	Bangor	July 31, 1961
George A. Cowan Clerk of Courts	Damariscotta	April 7, 1962
Leonard A. Pierce Member of Bar	Portland	April 7, 1962
George B. Barnes Member of Bar	Houlton	April 7, 1962
Orren C. Hormell Layman	Brunswick	April 7, 1962
Mrs. Alyce M. Connor Layman <i>(in place of Mrs. Doris White Sargent)</i>	Bangor	Sept. 16, 1963
Miss Edith L. Hary Layman	Hallowell	March 25, 1963
Robert B. Williamson Chief Justice, Supreme Judicial Court	Augusta	(ex officio chairman but not a member of the Council)

A summary of the work of the Council since its reactivation in 1954 is appended to this Report.

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

Respectfully submitted:

Ex officio chairman

Secretary

March 11, 1960

JUDICIAL COUNCIL SUB-COMMITTEE REPORT

To the Chief Justice, Supreme Judicial Court of Maine, Chairman of the Judicial Council:

The sub-committee of the Council to which on August 7, 1959 was assigned consideration of divorce procedures having studied and conferred and by majority beg leave to report as follows:

With relation to divorce procedures and service of process it is felt that the advent of the new rules for civil procedure may well remedy the cause for present criticism and further suggestion should await a trial of the new rules. Relative to the suggestion advanced for a waiting period required before hearing and after hearing and before a final decree the committee is not convinced that the Maine situation calls for such a waiting period and at this time makes no recommendation.

With relation to domestic litigation in general and particularly with relation to problems of custody of children and supervision of the same, the report of a similar sub-committee to the Council for the year 1956 to which report in the records of the Council reference is hereby made, is affirmed. It will be remembered that such report advocated the transfer of the civil phases of domestic controversies to the Probate Court system and a measure was presented to the Legislature to bring that about. The measure was not adopted. The pros and cons of the proposition remain unchanged and the full Council is invited to review the reference report for a current re-evaluation of the same.

Respectfully submitted,

Louis C. Stearns, III
Chairman

George B. Barnes Esq. concurs
in principle.

H. C. Marden

Nov. 14, 1959

APPENDIX

SUMMARY OF ACTIVITIES

1954-1959

1954 STUDIES

- 1) Process by indictment - a study to expose or refute any prevalent inability or failure of legal prosecutors in our State validly to indict respondents and any undue formalism upon the part of our courts.
- 2) The Maine Court system in relation to juveniles - extent to which system can be made uniform and statewide; creation of larger than county districts for hearing delinquent cases; qualifications of probation officers and the area they shall serve.
- 3) Pardon procedures in New England.

These three "Reports of Judicial Council, 1954" reproduced by the Legislative Research Committee, June, 1955. 19p. mimeo.

REPORT

First report of the Judicial Council to the Governor. December 1, 1954. 14p. typewritten.

1957 LEGISLATION

1955 Resolves Chapter 77. Requesting the Judicial Council to study the desirability of removing domestic relations problems from the jurisdiction of the Superior Court to the Probate Court, or elsewhere; to study the desirability of creating a District Court system integrating the activities of municipal courts and trial justices; to study the desirability of a state wide uniform probation and parole system: reports and specific legislation to be presented to the 98th Legislature.

1955 Resolves Chapter 167. Requesting the Judicial Council to study problem of common law pleading and procedure; to study the procedural and jurisdictional problems re bills of exceptions in civil and criminal cases: \$2,000 appropriated; results to be reported to the 98th Legislature.

1956 STUDIES

- 1) Pardon procedures, particularly petitions in cases of drunken driving convictions. Report, November 17, 1956. 7p. typewritten
- 2) Study of common law pleading and procedure.
- 3) Study of procedural and jurisdictional problems re bills of exceptions.
- 4) Desirability of removing domestic relations problems from the jurisdiction of the Superior Court to that of the Probate Court.
- 5) Desirability of creating a District Court system integrating the activities of municipal courts and trial justices.
- 6) Desirability of a statewide uniform probation and parole system.

REPORT

Annual report to the Governor. December 14, 1956.
4p. mimeo.

1957 REPORTS

- 1) Report to the 98th Legislature, dated January 7, 1957 pursuant to the provisions of Chapter 167 of the Resolves of 1955 re common law pleading and bills of exceptions. 5p.
- 2) Report to the 98th Legislature, dated January 30, 1957 pursuant to Chapter 77 of the Resolves of 1955 requesting the Judicial Council to study certain problems. 13p. (Includes draft of "An Act transferring domestic relations problems from superior to probate courts.")

LEGISLATION

L.D. 457 (S.P.178) "An Act Empowering the Supreme Judicial Court of Maine to Prescribe Rules" - proposed by the State Bar Association and endorsed by the Judicial Council as meeting its recommendations re uniform rules of practice and procedure. Enacted as 1957 Public Law Chapter 159.

1957 LEGISLATION

L.D. 193 (S.P.83) "An Act Establishing a State Probation and Parole System" - endorsed by the Judicial Council as expressing the substance of its recommendations. Enacted as 1957 Public Law Chapter 387, "An Act Creating a State Administered Probation and Parole Law."

L.D. 404 (S.P.151) "An Act re Approval of Expenses of Judicial Council." Enacted as 1957 Public Law Chapter 50.

L.D. 1137 (S.P.404) "Resolve Appropriating Money for Preparation of Court Rules" 1957 Resolves Chapter 148.

1958 STUDIES

1) Examination of the law practice pertaining to the enforcement of support of dependents. Report, November 29, 1958. 7p. mimeo.

2) Study of the statutes re juvenile offenders.

REPORT

Annual report to the Governor. December 19, 1958. 2p. typewritten.

1959 REPORT

Supplemental report to the Governor, February 3, 1959, re legislation re juvenile offenders. 1p. mimeo.

LEGISLATION

Tentative draft of a "Chapter on Juvenile Offenders" 18p. mimeo.

L.D. 904 (S.P.328) "An Act re Juvenile Offenders" Enacted as 1959 Public Law Chapter 342.

L.D. 745 (S.P.283) "An Act Clarifying the Laws Relating to Support of Dependents" Enacted as 1959 Public Law Chapter 75.

APPROPRIATIONS

1955/56	\$2000.	1955 Resolves Ch. 167
1956/57		
1957/58	\$2000.	1957 Private & Special Ch. 182
1958/59	\$2000.	" " " " " "
1959/60	\$2000.	1959 Private & Special Ch. 161
1960/61	\$2000.	" " " " " "