

MAINE STATE LEGISLATURE

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BIENNIAL REPORT 1965-1966

of the

JUDICIAL COUNCIL OF MAINE

MEMBERS OF THE JUDICIAL COUNCIL OF MAINE

CHAIRMAN, THE CHIEF JUSTICE:

Robert B. Williamson

RETIRED JUSTICE, SUPREME JUDICIAL COURT:

Francis W. Sullivan*

JUSTICES OF THE SUPERIOR COURT:

Randolph A. Weatherbee**

Thomas E. Delahanty

ATTORNEY GENERAL:

Richard J. Dubord

CHIEF JUDGE, DISTRICT COURT OF MAINE:

Richard S. Chapman

DISTRICT COURT JUDGE:

Robert L. Browne

JUDGE OF PROBATE:

Allan Woodcock, Jr.

CLERK OF COURTS:

George A. Cowan

DEAN, UNIVERSITY OF MAINE SCHOOL OF LAW:

Edward S. Godfrey

MEMBERS OF THE BAR:

George B. Barnes

Ralph I. Lancaster, Jr.

LAY PEOPLE:

Miss Edith Hary

Mrs. Hugh Connor

Professor Eugene MaWhinney

* Deceased 1967

** Appointed Supreme Judicial Court 1966

LIST OF COMMITTEES:

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George A. Cowan
Justice Thomas E. Delahanty
Dean Edward S. Godfrey
Edith Hary

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Committee on Probate Courts

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Committee on District Court

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Mrs. Hugh Connor
Judge Allan Woodcock, Jr.

BIENNIAL REPORT JUDICIAL COUNCIL OF MAINE 1965-1966

To the Honorable Kenneth M. Curtis, Governor of Maine:

The Judicial Council of Maine herewith submits its report for the biennium 1965-1966.

The Judicial Council of Maine held seven regularly scheduled meetings during this biennium. For the first time in its history the Judicial Council employed during this biennium a part-time paid Executive Secretary. Bruce W. Chandler, Esq. of Waterville was appointed to this position by the Judicial Council in the fall of 1964. It is believed that the addition of a part-time Executive Secretary will, in the years to come, enable the Council to better fulfill its function of "making a continuous study of the organization of 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" as our statutes direct.

The first meetings of the Council in 1965 were directed mainly towards formulating recommendations for legislature changes and statutes concerned with the operation of the judicial system of the State to the 102nd Legislature. The Council considered many proposed changes, revising some, discarding others, and at length unanimously approving legislation designed to accomplish the following:

- 1) A change in the membership of the Judicial Council itself with the addition of the Dean of the University of Maine Law School, an active or retired justice of the Supreme Judicial Court, and the

Chief Justice of the Supreme Judicial Court as a regular member and chairman rather than ex-officio as previously designated. The Chief Judge of the District Court was also to be specifically designated by statute as one of the two members of the District Court to serve on the Council.

2) An increase in the appropriation for clerical help for the Superior Court from \$4,500.00 a year to \$9,000.00 per year.

3) An increase in the number of court reporters from eleven to twelve.

4) Approval of the appointment of the Assistant County Attorney for Kennebec County by the resident justice in Kennebec County rather than by the Chief Justice.

5) An increase in the appropriation for criminal appeals by indigent persons from \$5,000.00 to \$10,000.00.

6) A change in the opening day of some terms of court from the second Tuesday to the first Tuesday of September and January.

7) Restriction of the District Court jurisdiction in small claims matters to the division in which the defendant lives.

8) An increase in the number of Superior Court justices from nine to ten.

9) A change in the statute regarding challenges to jurors in criminal cases to conform with the procedure outlined in the New Rules of Criminal Procedure.

10) A provision to have the District Court system audited by the State Auditor.

The recommendations endorsed by the Council were all enacted

into law either at the regular session of the 102nd Legislature or at the special session called by the Governor.

A great deal of the time of the Council during this biennium has been utilized pursuant to an order passed by both houses of the 102nd Legislature as follows: "That the Judicial Council is requested to study the comparative merits of the Public Defender System and assigned legal counsel for indigent defendants and the desirability of introducing either into the judicial system of the State and to report the results of its study to the 103rd Legislature." A copy of the Council's report to the 103rd Legislature pursuant to that order is attached hereto and made a part of this Biennial Report. Suffice it to say in the body of this report that the Council, after an extended study of the Public Defender System, the present assigned counsel system and other types of defender systems utilized to secure equal rights to indigent persons accused of crime, determined that the present assigned counsel system best meets the needs for the State of Maine. Suggested modifications of the present system are outlined in the Report, including the recommendation for a state appropriation to cover compensation of counsel assigned to defend indigent persons in all courts of the State, rather than the present system of having the district court pay from its budget for counsel assigned in the district court, each county paying for counsel assigned at the superior court level, and payment for counsel on appeal being made from a state appropriation.

The Committee on Probate Courts was established by the Council

for the first time during the past biennium. This Committee is presently engaged in preparing a summary report for the Council which will reflect any changes brought about by the 103rd Legislature. The Council may then engage upon a study in depth of the probate court system in Maine with possible recommendations for improvements. Meanwhile, the Council has endorsed legislation which would provide for the appointment of probate court judges by the Governor and Council rather than the present system of the election of such judges.

The Committee on Courts of the Council has studied in some detail the problems which arise from the common law right of a citizen to resist by force an arrest which he believes is unlawful or unauthorized. The Council's interest in this subject and endorsement of a statutory change limiting this right has been communicated to the Governor's Committee on the Administration of Criminal Justice.

A temporary committee on zoning appeals was established by the Council. This committee is to study problems involved with appeals from decisions of local boards of zoning appeals and will report to the Council during the next biennium with suggested recommendations for the Council's consideration.

The Council has also approved the use of revised reporting forms by which the clerks of the various superior courts report statistical information. The chairman of the Council and Dean Godfrey of the University of Maine School of Law have worked as a committee of two during the past biennium to revise these forms.

It is contemplated that the next biennial report of the Judicial Council will include in tabular form statistical information regarding the work of the district courts, the superior courts and the Supreme Judicial Court.

The Council anticipates that the increased interest in the judicial system, as evidenced by articles in popular magazines and increased activity by many laymen's groups and individual citizens, particularly with regard to the administration of criminal justice, will result in recommendations and suggestions from many sources as to the work of the Judicial Council in the coming biennium. The Council welcomes all such suggestions and recommendations and looks forward to further opportunities to be of service to the State under the mandate of the enabling statute.

Respectfully submitted,

Bruce W. Chandler
Executive Secretary
Judicial Council of Maine