

# MAINE STATE LEGISLATURE

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# National Center for State Courts

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FINAL  
REPORT

ADMINISTRATIVE  
UNIFICATION  
OF THE  
MAINE STATE COURTS

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January, 1975

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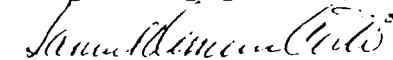
Dear General Brennan:

We are pleased to transmit to you as Chairman of the Maine Trial Court Revision Commission our report, "Administrative Unification of the Maine State Courts," prepared pursuant to the contract between the Trial Court Revision Commission and the National Center for State Courts.

We have prepared a summary of recommendations and proposed statutes and rules to effectuate the recommendations of the report. All must be read in the light of the full supportive documentation included in the report.

It has been a pleasure for us to work with you in the development of this report. We will continue to be available to the Commission for assistance in the presentation of these recommendations.

Very truly yours,



Samuel Domenic Conti  
Regional Director

SDC/ljh

Enclosure

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## FOREWORD

Maine's Trial Court Revision Commission grew out of the desire of the legislative branch to achieve reform of the judicial branch. Since statutory change is required for that reform, a legislative commission was empowered to present analyses and recommendations.

The Commission selection of the National Center for State Courts as its chief counsel combined the legislative perspective with expertise of an independent organization knowledgeable in judicial administration. It is anticipated that this combination will result in a greater awareness by the legislature of the needs of the judiciary and will ease the implementation of necessary reform.

The Commission discussed and selected those recommendations included in this report. Therefore, the recommendations reflect the views of the Commission and not in all instances those of the National Center for State Courts.

Throughout the study, every effort has been made to discuss all options with the judiciary, the bar and other persons included in the judicial process. Special appreciation is extended to the Chief Justice, the Justices of the Supreme Judicial Court and judges of the Superior and District Courts who gave of their time in meetings and discussions.

## ACKNOWLEDGMENTS

During the course of this study we were impressed by the interest in court reform displayed by the persons contacted, and by their willingness to grant interview time during busy schedules. Their candor was beneficial in helping us get to the root of the problems rapidly.

To all the persons we interviewed we express our appreciation and the hope that we have reflected their ideas accurately. Although we have not always agreed, we have developed a great respect for the forthright citizens of Maine.

Those groups which invited us to their meetings and provided beneficial information about the operation of the courts of the State include:

The Supreme Judicial Court, Superior Court, District Court, Judicial Council, Criminal Code Revision Commission, Clerks of Court Association, Maine Bar Association, Traffic Court Revision Commission, County Commissioners Association and Maine Law Enforcement Planning and Assistance Agency.

Although time constraints prohibited interviews with all of the judges, those we spoke with provided valuable assistance in the formulation of the alternatives and recommendations.

Those interviewed include:

Hon. Armand A. Dufresne, Jr., Chief Justice  
Hon. Randolph A. Weatherbee, Associate Justice  
Hon. Charles A. Pomeroy, Associate Justice  
Hon. Sidney W. Wernick, Associate Justice  
Hon. James P. Archibald, Associate Justice  
Hon. Thomas E. Delahanty, Associate Justice  
Hon. James L. Reid, Justice Superior Court  
Hon. Harold J. Rubin, Justice Superior Court  
Hon. Alton A. Lessard, Justice Superior Court\*  
Hon. Lincoln Spencer, Justice Superior Court  
Hon. David G. Roberts, Justice Superior Court  
Hon. William E. McCarthy, Justice Superior Court  
Hon. Lewis I. Naiman, Justice Superior Court  
Hon. James A. Bishop, Justice Superior Court  
Hon. Ian MacInnes, Justice Superior Court  
Hon. Harry P. Glassman, Justice Superior Court  
Hon. Elmer H. Violette, Justice Superior Court  
Hon. Sumner J. Goffin, Justice Superior Court  
Hon. Robert L. Bowne, Justice Superior Court  
Hon. Ralph H. Ross, Chief Judge  
Hon. Simon Spill, Judge District Court  
Hon. F. Davis Clark, Judge District Court  
Hon. Morris, G. Pilot, Judge District Court  
Hon. Paul A. MacDonald, Judge District Court  
Hon. Mark L. Barrett, Judge District Court  
Hon. Bernard M. Devine, Judge District Court  
Hon. Dana Childs, Judge Probate Court

Numerous other persons expressed interest in the revision of the court system. We appreciate the ideas and suggestions presented by these people. Among those interviewed were:

Margaret Anderson	Dept. of Parole and Probation
Earl Banks	County Commissioner, Penobscott
Robert Barter	County Commissioner, Lincoln
Herbert Bennett	Attorney, Portland
Edward Bernstein	Clerk of Courts, Cumberland County
Henry Berry	County Attorney, Cumberland County
Pauline Berry	Clerk of Courts, York

\*Retired, August 1, 1974

Edward Bonney	Maine Bar Association Administrator
Mary K. Burke	Clerk of Probate, Kennebec County
Susan Calkins	Pine Tree Legal Assistance, Inc.
Fred Campbell	Bureau of Traffic Safety
Gene Carter	Attorney, Bangor
William Carter	Sheriff, Lincoln County
Dennis Casey	Maine Law Enforcement Planning and Assistance Agency
Arthur Chapman	County Commissioner, Cumberland County
Verdom Chase	County Commissioner, Lincoln County
Richard Cohen	Deputy Attorney General
George Cowan	Clerk of Courts, Lincoln County
Steve Diamond	Attorney, Portland
Richard Dutremble	Sheriff, York County
Roy Farmer	Register of Probate, Lincoln County
Oscar Fellows	Register of Probate, Penobscot County
Edward S. Godfrey	Professor of Law, Former Dean of the University of Maine Law School, Uniform Code of Probate Commission
Edith Hary	Law Librarian
Dana Haggerthy	Chief Clerk of Superior Court Cumberland County
Vivian Hickey	Clerk of District Court, York County
Thelma Holmes	Clerk of District Court, Penobscot County
Ralph Howard	Clerk of Courts, Aroostook County
William B. Hughes	Clerk of Probate, Cumberland County
Richard Jones	Maine State Police
William Julavits	Associate Professor, Assistant Dean of Law School
John Kelly	Attorney, Portland
William Kolazar	Maine Law Enforcement Planning and Assistance Agency
Ralph Lancaster	Attorney, Portland
Roland Landry	County Commissioner, Androscoggin County
Donald Lowry	Attorney, Portland
Janice Lynch	Attorney, Lewiston
Chester Meservey	Motor Vehicle Division
Peter Murray	Attorney, Portland
Ray Nichols	Parole and Probation
Bert Prunty	Dean, University of Maine Law School
Charles Rodway	Administrative Assistant to Chief Justice
Frank Scanlon	Law Clerk
Robert Stillings	Chief Deputy Sheriff, Lincoln County
Arthur Stilphen	Attorney, Portland
Peter Thaxter	Pine Tree Legal Assistance, Inc.
Herbert Thompson	County Commissioner, Lincoln County

J. Woodrow Vallely  
Sally Wallace

James Wescott  
Daniel Webster  
George Wood  
Charles Wyman  
Barry Zimmerman

Register of Probate, York County  
Deputy Clerk of Courts,  
Penobscot County  
Attorney  
Department of Transportation  
Attorney, Saco  
Director of Motor Vehicles Division  
Attorney, Portland

## PLAN OF OPERATION

To develop this report the National Center for State Courts adopted a four part program. At the outset, the Constitution, statutes, prior studies and articles were reviewed in order for the staff to become acquainted with the legal environment, the data available and the current thinking about the judiciary in Maine.

Interviews of many people in the system were undertaken to determine the perceived problems and strength in the judiciary. Data reports of the Superior and District Courts were collected and analyzed. Reports of the Motor Vehicle Division and records of the clerks of court were checked to gauge the workload of the court.

A comparison of various state court systems throughout the country was made to construct a model for the State of Maine. The National Advisory Commission on Criminal Justice Standards and Goals, Courts, the American Bar Association, Court Organization, and other literature in the field of court administration were compared to develop a set of alternatives for analysis by the Trial Court Revision Commission. Those alternatives were studied by the Commission and final recommendations were selected.

Center staff then prepared those recommendations with explanatory narrative and included proposed legislation for consideration by the Commission. The attached report is the culmination of the efforts of the Commission and the National Center for State Courts.

I. Summary of Recommendations



ADMINISTRATIVE UNIFICATION  
OF THE MAINE STATE COURTS

1. THE CHIEF JUSTICE OF THE SUPREME JUDICIAL COURT NOW DOES AND SHOULD CONTINUE TO BEAR ULTIMATE ADMINISTRATIVE RESPONSIBILITY FOR THE ADMINISTRATION OF THE ENTIRE COURT SYSTEM. THE SUPREME JUDICIAL COURT, THE JUDICIAL CONFERENCE, THE JUDICIAL COUNCIL AND A STATE COURT ADMINISTRATOR SHOULD ASSIST HIM IN HIS POLICY MAKING AND ADMINISTRATIVE DUTIES. (p. 7)

THE CHIEF JUSTICE SHOULD CONTINUE AND EXPAND HIS ADMINISTRATIVE SUPERVISION OF THE COURT SYSTEM. (p. 8)

THE SUPREME JUDICIAL COURT, IN THE DISCHARGE OF ITS RULE MAKING RESPONSIBILITIES, SHOULD ENCOURAGE OPEN DISCUSSION BY ALL MEMBERS OF THE JUDICIAL SYSTEM. BY RULE THE COURT SHOULD CREATE A JUDICIAL CONFERENCE WHICH WILL SERVE AS A FORUM FOR THESE DISCUSSIONS. (p. 8)

- A. BEYOND THE EXISTING RULE MAKING POWER THE SUPREME JUDICIAL COURT SHOULD MAKE ALL RULES AND REGULATIONS NECESSARY FOR THE ADMINISTRATION OF JUSTICE IN ALL THE COURTS OF THE STATE. (p.10)
- B. THE SUPREME JUDICIAL COURT SHOULD APPOINT A CONFERENCE OF JUDGES, INCLUDING REPRESENTATIVES FROM EACH COURT, TO PROVIDE ADVICE CONCERNING THE ADMINISTRATION OF THE JUDICIARY. (p. 11)
- C. THE JUDICIAL COUNCIL SHOULD CONTINUE TO MONITOR THE ACTIVITIES OF THE COURT AND MAKE AN ANNUAL REPORT TO THE CHIEF JUSTICE, GOVERNOR, AND LEGISLATURE. THE COUNCIL SHOULD BECOME A FORUM FOR PRESENTING THE VIEWS OF THE VARIOUS AGENCIES SERVING THE COURT. (p. 12)

2. REGIONS SHOULD BE CREATED BY THE CHIEF JUSTICE TO FACILITATE ADMINISTRATION OF THE COURTS. (p. 16)

JUDICIAL REGIONS SHOULD BE CREATED BY THE CHIEF JUSTICE. AT PRESENT FOUR REGIONS WILL BE SUFFICIENT, BUT SINCE IN THE FUTURE THERE MAY BE REASON TO READJUST THE JUDICIAL DISTRICTS, THEY SHOULD BE CREATED BY ORDER OF THE CHIEF JUSTICE RATHER THAN BY STATUTE. (p. 17)

- A. TO ASSURE AVAILABILITY OF SUPERIOR COURT JUSTICES ON A YEAR-ROUND BASIS, A REGIONAL CENTER SHOULD BE PROVIDED WITHIN EACH REGION, SUPPLEMENTED BY SATELLITE COURTS IN EACH COUNTY. WHEN THE JUDGES OR FACILITIES ARE NOT AVAILABLE IN THE COUNTY OF ORIGINAL FILING, OR IN EMERGENT MATTERS, THE COURT, MAY REMOVE THE CASE TO THE REGIONAL CENTER. HOWEVER, AROOSTOOK COUNTY WOULD REMAIN A SEPARATE REGION FOR VENUE PURPOSES WITH A REGIONAL CENTER WITHIN AROOSTOOK COUNTY. (p. 19)

WITH THE DEVELOPMENT OF JUDICIAL REGIONS AND ADMINISTRATIVE PERSONNEL AVAILABLE TO RAPIDLY TRANSFER CASES FROM COURT TO COURT, RULES SHOULD BE ADOPTED MAKING VENUE IN BOTH CRIMINAL AND CIVIL CASES REGIONWIDE. (p. 20)

- B. THE CHIEF JUSTICE, BY RULE AUTHORITY SHOULD DESIGNATE A PRESIDING JUSTICE FOR EACH REGION; THE PRESIDING JUSTICE SHOULD BE DELEGATED RESPONSIBILITY FOR THE ADMINISTRATION OF JUSTICE IN COURTS WITHIN THE REGION. (p. 22)

THE PRESIDING JUSTICE SHOULD BE AUTHORIZED BY COURT RULE TO DELEGATE CERTAIN RESPONSIBILITIES. (p. 24)

- C. EACH PRESIDING JUSTICE SHOULD BE ASSIGNED POSITIONS TO ASSIST IN THE ADMINISTRATION OF THE COURTS IN THE REGION. STATEWIDE POLICIES SHOULD BE IMPLEMENTED ON A REGIONAL BASIS IN ORDER TO PROVIDE LOCAL RESPONSIBILITY FOR SOLVING PROBLEMS, INITIATING PROGRAMS AND IMPLEMENTING SOLUTIONS. (p. 26)
- D. THE CHIEF JUSTICE IN THE EXERCISE OF PRESENT STATUTORY AUTHORITY OR RULE SHOULD ABOLISH THE ASSIGNMENT OF JUDGES TO TERMS. THE TERM SYSTEM SHOULD BE ABOLISHED IN PRACTICE AS WELL AS LAW. (p. 31)

THE JURY SHOULD SIT IN EACH JUDICIAL REGION OR COUNTY AT THE DIRECTION OF THE PRESIDING JUSTICE OR HIS DELEGATE. (p. 31)

3. TO PROVIDE A STAFF RESPONSIVE TO THE NEEDS AND DIRECTIONS OF THE JUDICIARY, THE CLERKS OF COURT SHOULD BE APPOINTED BY THE JUDICIARY. ALL ASSISTANT CLERKS SHOULD BE HIRED UNDER THE DIRECTION OF AND PAID BY THE JUDICIARY. (p. 33)

TO REDUCE THE POSSIBILITY OF INAPPROPRIATE CHOICES, THE PRESIDING JUSTICE OF THE REGION, AFTER EVALUATING SEVERAL CANDIDATES WITH THE ASSISTANCE OF HIS SUPPORT STAFF, SHOULD RECOMMEND FOR THE APPROVAL OF THE CHIEF JUSTICE THE PREFERRED CANDIDATE FOR CLERK. (p. 36)

4. A CONSTITUTIONAL AMENDMENT SHOULD BE ADOPTED TO LIMIT CRIMINAL JURY TRIALS TO CASES IN WHICH A PENALTY OF INCARCERATION MAY BE IMPOSED. (p. 38)
5. TO INSURE PROPORTIONATE DISTRIBUTION OF JUDICIAL SERVICES AND THE EXPENSE THEREOF, THE JUDICIAL DEPARTMENT SHOULD BE FINANCED ENTIRELY BY STATE FUNDS. (p. 45)

NO JUDICIAL BUDGET REQUEST SHOULD GO TO THE LEGISLATURE UNTIL REVIEWED AND APPROVED BY THE CHIEF JUSTICE.  
(p. 46)

6. AN ADMINISTRATIVE OFFICE OF THE COURTS SHOULD BE ESTABLISHED TO ACTIVELY OVERSEE ALL LEVELS OF COURT. (p. 53)
  - A. THE ADMINISTRATIVE OFFICE SHOULD OVERSEE PREPARATION OF THE BUDGET FOR ALL LEVELS OF COURT. EACH COURT AND OFFICE WOULD PREPARE ITS BUDGET AND SUBMIT IT TO THE PRESIDING JUSTICE OF THE REGION OR THE CHIEF JUDGE OF THE DISTRICT COURT FOR REVIEW, COORDINATION AND APPROVAL. ALL BUDGETS WOULD THEN BE SUBMITTED TO THE CHIEF JUSTICE FOR REVIEW AND FINAL APPROVAL. (p. 62)
  - B. THE COURTS SHOULD DEVELOP A STATEWIDE JUDICIAL PERSONNEL SYSTEM WITH A STANDARD SALARY SCHEDULE, JOB CLASSIFICATIONS AND UNIFORM POLICIES. EACH PERSON WORKING IN THE COURTS SHOULD MEET STANDARD CRITERIA AND BE COMPENSATED ACCORDING TO JOB CLASSIFICATION AND EXPERIENCE. (p. 72)
  - C. BECAUSE SOUND ADMINISTRATIVE DECISION MAKING SHOULD BE BASED ON ACCURATE, RELIABLE AND TIMELY INFORMATION, THE ADMINISTRATIVE OFFICE SHOULD GATHER, ANALYZE AND DISTRIBUTE PERTINENT JUDICIAL INFORMATION. (p. 77)

- D. BECAUSE THE JUDICIARY FUNCTIONS WITH THE COOPERATION AND SUPPORT OF BOTH THE EXECUTIVE AND LEGISLATIVE DEPARTMENTS, CONSTANT COMMUNICATION AMONG ALL DEPARTMENTS AND AGENCIES SHOULD BE MAINTAINED BY THE COURT THROUGH ITS ADMINISTRATIVE OFFICE. (p. 82 )
- E. TO ANTICIPATE CHANGE AND ADJUST TO IT THE COURTS SHOULD ESTABLISH AN ACTIVE PLANNING FUNCTION AS PART OF AN ADMINISTRATIVE SYSTEM. (p. 84 )
- F. TO ELIMINATE CONFUSION CAUSED BY UNNECESSARY LOCAL VARIATIONS, PROCEDURES IN THE SUPERIOR AND DISTRICT COURTS SHOULD BE STANDARDIZED. EVENTUALLY THE CLERKS' OFFICES SHOULD BE CONSOLIDATED TO PROVIDE A CLERK OF COURTS OFFICE AT THE REGIONAL CENTER, AT EACH COUNTY SEAT AND AT SATELLITE LOCATIONS. (p. 87 )
- G. IN-SERVICE TRAINING PROGRAMS FOR ALL PERSONNEL SHOULD BE DEVELOPED TO IMPROVE THE SERVICE TO THE COURTS AND THE PUBLIC. (p. 89 )
- H. THE COURTS SHOULD HAVE PERSONNEL AVAILABLE TO PROVIDE ASSISTANCE IN THE ADMINISTRATION OF AUXILIARY SERVICES. (p. 90 )
- 7. THE SUPREME JUDICIAL COURT SHOULD HAVE FACILITIES SUFFICIENT FOR THE VARIED ACTIVITIES THAT IT MUST PERFORM. A JUDICIAL CENTER LOCATED NEAR THE STATE CAPITOL WOULD PROVIDE A PERMANENT FUNCTIONAL HOME FOR THE JUDICIARY AND CENTRALIZE THE ADMINISTRATION OF JUSTICE IN THE STATE. (p. 91)
- 8. THE JUDICIARY SHOULD RENT FACILITIES NECESSARY FOR 'THE COURTS' BUSINESS. FEES FOR RENTAL OF COUNTY BUILDINGS SHOULD BE NEGOTIATED BETWEEN THE COUNTIES AND THE COURT. IF THE COURT IS UNABLE TO NEGOTIATE FOR RENTAL IN A PUBLIC BUILDING, THE MATTER SHOULD BE ARBITRATED WITH THE ASSISTANCE OF THE CHIEF JUSTICE. (p. 93)
- 9. ALL DISTRICT COURT HEARINGS SHOULD BE RECORDED ON THE SOUND RECORDING EQUIPMENT NOW AVAILABLE. AS SOON AS POSSIBLE, STAFF SHOULD BE PROVIDED TO MONITOR AND LOG THE RECORDINGS; ALL APPEALS TO THE SUPERIOR COURT SHOULD BE ON THE TRANSCRIPT OF THE RECORD SO PREPARED. (p. 96)

## II. Analysis and Recommendations

1. CHIEF JUSTICE AS CHIEF ADMINISTRATOR

It is a generally accepted principle that administrative supervision of the court system as a whole should be exercised by the Chief Justice of the state.<sup>1</sup> In Maine the Chief Justice of the Supreme Judicial Court is head of the judicial system and has responsibility for overseeing its operation. (4 M.R.S.A). With the advice of the Supreme Judicial Court, Judicial Council, and the Chief Judge of the District Court, he sets policy and directs the judicial assignment process. His administrative assistant provides assistance in the development of the Supreme and Superior Court budgets and the collection of information for the Chief Justice. (M.R.S.A. §14).

Due to a lack of time and administrative personnel, the Chief Justice historically has not been active in administration of either the Superior Court or District Court. While the business and personnel of the courts have grown significantly, accommodation to administrative matters by the Chief Justice has not grown apace. As a result the District Court has developed an administrative structure of its own and the Superior Court is attempting to do so.

THE CHIEF JUSTICE OF THE SUPREME JUDICIAL COURT NOW DOES AND SHOULD CONTINUE TO BEAR ULTIMATE ADMINISTRATIVE RESPONSIBILITY

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<sup>1</sup>American Bar Association, Standards relating to Court Organization, Standard 1.33 (p. 81ff) 1974. (Hereafter cited as Court Organization)

FOR THE ADMINISTRATION OF THE ENTIRE COURT SYSTEM. THE SUPREME JUDICIAL COURT, THE JUDICIAL CONFERENCE, THE JUDICIAL COUNCIL AND A STATE COURT ADMINISTRATOR SHOULD ASSIST HIM IN HIS POLICY MAKING AND ADMINISTRATIVE DUTIES.

THE CHIEF JUSTICE SHOULD CONTINUE AND EXPAND HIS ADMINISTRATIVE SUPERVISION OF THE COURT SYSTEM.

However in order to coordinate the various levels of the judiciary, he must have additional input from the several courts as well as from administrative and support staff. He should continue to rely upon the Supreme Judicial Court for consultation and assistance in policy formulation.

THE SUPREME JUDICIAL COURT, IN THE DISCHARGE OF ITS RULE MAKING RESPONSIBILITIES, SHOULD ENCOURAGE OPEN DISCUSSION BY ALL MEMBERS OF THE JUDICIAL SYSTEM. BY RULE THE COURT SHOULD CREATE A JUDICIAL CONFERENCE WHICH WILL SERVE AS A FORUM FOR THESE DISCUSSIONS.

This conference should be representative of each court, the Supreme Judicial Court, the Superior Court and the District Court, and should also include a judge of the Probate Court: it should meet at least four times each year to advise the Chief Justice on policies and procedures in the court system. It is important that this conference be an active body meeting regularly to discuss the problems of the court.

The Judicial Council should continue in its advisory role

apprising the Chief Justice of its perception of problems facing the judiciary.

A State Court Administrator and a central administrative office must provide administrative support for the Chief Justice. All the administrative responsibilities of the Chief Justices cannot be discharged by him alone. The availability of professional administrative personnel is critical to the sound administration of the court.

A. SUPREME JUDICIAL COURT

The Supreme Judicial Court acts to aid the Chief Justice in the administrative decision-making process. It also has the responsibility to prescribe general rules for the District and Superior courts, and to make rules of criminal and civil procedure. (4 M.R.S.A. §§7,8,9,9a)

A review of constitutional and statutory authorities fails to disclose any explicit power in the court to adopt general rules applicable to the activities at each level of court. Rules have been promulgated by the Supreme Judicial Court under the doctrine of inherent power. Continuance of that practice is in keeping with the concept of separation of powers and independence of the judiciary. The Superior Court should not be authorized to make rules for the operation of that Court, M.R.S.A. T 4 §114.



BEYOND THE EXISTING RULE MAKING POWER THE SUPREME JUDICIAL COURT SHOULD MAKE ALL RULES AND REGULATIONS NECESSARY FOR THE ADMINISTRATION OF JUSTICE IN ALL THE COURTS OF THE STATE.

This should include the power to make the rules and regulations in all civil and criminal cases for all courts relating to the process, practice, procedure and appeals, as well as those dealing with the administration of the courts generally.

The Supreme Court has begun to take a more active role in the development of rules of court. As the administrative functions continue to emerge, rules of court should be developed to promulgate and enforce policies and procedures. When the court does not act, the legislative branch does and statutes are written. Court rules are more consistent with the doctrines of separation of powers, and are efficient means of administering the judiciary.

B. JUDICIAL CONFERENCE

There is now no formal forum for the interchange of ideas and the discussion of problems among the various courts. In order to provide for a unified voice from the judiciary, an opportunity should be provided for representatives of the courts to meet periodically and discuss their mutual and separate problems and make recommendations to the Supreme Judicial Court for improvement.

THE SUPREME JUDICIAL COURT SHOULD APPOINT A CONFERENCE OF JUDGES, INCLUDING REPRESENTATIVES FROM EACH COURT, TO PROVIDE ADVICE CONCERNING THE ADMINISTRATION OF THE JUDICIARY.

The Judicial Conference should consist of one Supreme Court Justice, and not fewer than four Superior Court Justices, four District Court Judges, and one Probate Court Judge. The Chief Justice should be ex officio chairman of the conference. The State Court Administrator should act as secretary to the conference. In addition to the judicial conference, the Court should schedule periodic meetings with the Presiding Justices and the Chief Judge of the District Court for discussion of administrative matters. Furthermore, the Court should exercise its power to create such advisory committees as are necessary for the proper administration of justice.

Judicial conferences have been used successfully by a number of states throughout the country to allow for participation by the various courts in administrative decision making.<sup>2</sup> The Judicial Conference differs from the Judicial Council in that it is limited to judges and does not represent the views of other branches of government or agencies.

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<sup>2</sup>Court Organization, Standard 1.32, p.76 ff.

C. JUDICIAL COUNCIL

A judicial council composed of judges and lay people appointed by the governor, as well as ex officio members, including the Chief Justice who acts as council chairman is provided for by 4 M.R.S.A. §451. Over the years the Judicial Council has not been active in aiding the courts in setting policy or in advising either the judiciary or the governor. However, recently the Judicial Council has become somewhat more active and has made recommendations to the Governor, Legislature and Chief Justice and has also proposed legislation in a variety of areas.

THE JUDICIAL COUNCIL SHOULD CONTINUE TO MONITOR THE ACTIVITIES OF THE COURT AND MAKE AN ANNUAL REPORT TO THE CHIEF JUSTICE, GOVERNOR, AND LEGISLATURE. THE COUNCIL SHOULD BECOME A FORUM FOR PRESENTING THE VIEWS OF THE VARIOUS AGENCIES SERVING THE COURT.

The Judicial Council having been constitutionally created should be prepared to expand and more actively pursue its stated objectives. Such a council, forming a nexus between the judiciary and the executive and legislative branches of government, is in a position to apprise the other branches of the activities being undertaken in the courts. In addition,

the council should serve both to gauge reaction to judicial proposals to the legislature and to propose policy changes which might be considered by the courts. Furthermore, the council is the appropriate forum wherein those not formally a part of the judiciary (i.e., probation and the bar) and the public may present their views and reactions, as well as make suggestions for the improved operation of the system.

D. STATE COURT ADMINISTRATOR

The judiciary has no single administrator responsible for the administration of justice in all parts of the judiciary. The administrative assistant to the Chief Justice performs some administrative functions and the administrative assistant to the Chief Judge of the District Court performs the function of overseeing the activities of the administrative office of that court. There is no coordinated effort to unify the administrative procedures and eliminate duplication of effort within the courts.

A State Court Administrator should assist the Chief Justice with his statewide administrative duties. The administrator, appointed by the Chief Justice and serving at his pleasure, should implement administrative programs and be responsible for supervision of all judicial support functions.

The state court administrator must be a qualified and experienced administrator with a working knowledge of the environment of the court. He must be adept at bringing together several diverse groups and organizations and be able to develop a coordinated work force. He must have a working knowledge of fiscal affairs, personnel training, information systems, data processing, calendar management, space management and the myriad of activities that the judicial department encounters on a day to day basis.<sup>3</sup>

The search for the state court administrator should be nationwide in order to find the best possible person for the job. Although this person will be primarily responsible to the judicial branch of government, he must be able to work with the executive and legislative branches. The administrator must be able to develop a staff that unifies the administration of the judicial department and must be sensitive to the needs of the personnel as that staff is developed. The administrator must have the ability to perceive the judiciary as a separate, independent branch of government.

Specific discussion of the several duties to be discharged by the State Court Administrator is included in section seven.

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<sup>3</sup>Court Organization, Standard 1.41, p. 87 ff.

2. JUDICIAL REGIONS

The heart of the judicial problem in Maine and the basic cause of the difficulties in the system is the loose and sometimes non-existent administrative control of court operations.<sup>4</sup>

With Superior Court justices traveling to the various counties, there is no continuous administrative control of the court operation. This occurs because there is no continuous presence of judicial management leadership. The practices suitable to one judge are often altered by his successor on circuit. The clerks therefore construct systems unrelated to a judicial presence or ones which, subject to constant readjustment, are unduly flexible. The District Court judges having little contact with the Superior Court administer their courts independently even though cooperation with the Superior Court is perceived as desirable. With the growth of the Superior Court to a total of fourteen judges and the continued increase in the caseload and business of both courts, the administrative responsibility has outgrown the capabilities of any one person.

In the absence of firm administrative directions, county attorneys have grasped control of criminal calendars, clerks have either set their own policies or, worse, operated

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<sup>4</sup>Institute of Judicial Administration, The Supreme Judicial Court and the Superior Court of the State of Maine, 1971, p.8.

with no stated policy at all, and the civil bar in an effort to create an effective system for the prompt dispatch of civil cases has attempted to control the calendar.

REGIONS SHOULD BE CREATED BY THE CHIEF JUSTICE TO FACILITATE ADMINISTRATION OF THE COURTS.

The development of judicial regions with the attendant variables possible will provide the kind of administrative control that is required for the proper functioning of the courts. With the development of regional venue, cases can be moved throughout the region as the workload demands and can, therefore, be heard readily. The assignment of a Presiding Justice to each region will facilitate local administration by a person who is working with the counties and the personnel in those counties on a day to day basis. Appointment of administrative support personnel for the Presiding Justice will provide needed manpower. In the selection of administrative personnel, it is important that they possess expertise in modern management techniques required by the courts. Another benefit will accrue from the establishment of the regional administration base. In combination with the elimination of the term system, Presiding Justices will be able to provide judicial personnel in each of the counties in the regions as the caseload demands.

JUDICIAL REGIONS SHOULD BE CREATED BY THE CHIEF JUSTICE. AT PRESENT FOUR REGIONS WILL BE SUFFICIENT, BUT SINCE IN THE FUTURE THERE MAY BE REASON TO READJUST THE JUDICIAL DISTRICTS, THEY SHOULD BE CREATED BY ORDER OF THE CHIEF JUSTICE RATHER THAN BY STATUTE. (See Map and Listed Counties, Appendices 1 and 2, pp. 143-144)

All regions should be composed of two or more counties; the judicial administrative authority therein being delegated by the Chief Justice to a Presiding Justice.

The regional centers will be located in central court facilities providing access for the greatest number of persons in the region. A maximum of one hour's travel time has been the criteria for selecting the regional center. There are a few outlying communities which are beyond that one hour maximum. The caseload in those communities is such that the number of persons having to travel to the judicial center will be minimal. Inasmuch as the sixteen existing county courthouses will continue to be used, there may be no need for any citizen to travel any farther than he now must for judicial service.

Under this system the Superior Court justices will be assigned to the county by the Chief Justice as in the past. District Court judges and those available at large will be assigned by the Chief Judge. The Presiding Justices, in conjunction with the Chief Judge of the District Court, will then be responsible to supervise the administration of justice in



their respective regions and divisions and will be permitted to reassign the judges within their regions and divisions to meet varying workload. The presiding justice will remain in the regional center and administer the region from that office: however, as needs arise, he can handle matters in the outlying counties or parts of the region and still maintain his administrative duties in the region.

Although the Superior Court justices will be assigned primarily to one region, the geography of the state and the residences of the present and future judges may make it impossible to assign them within the region of their residence at all times. The judges may be required to travel among the counties of the region and sometimes across regional boundaries, although ideally the majority of the judges will be within easy commuting distance of their homes.

Aroostook County will be treated as part of region four because it is financially impractical to assign a Presiding Justice and all administrative personnel and support services to a county with approximately 7% of the caseload. It is feasible to administer "The County" from the judicial center in Bangor.

A. REGIONAL VENUE

Any justice of the Superior Court can transfer civil cases between counties on a case-by-case basis on motion

(14 M.S.R.A. §508). Criminal cases before the Superior Court are generally tried in the county of the alleged offense (M.R. Crim. P., Rule 18); such cases within the jurisdiction of the District Court must generally be tried in the division in which the offense occurred (4 M.R.S.A. §155). But trial of a criminal case in the county of the alleged offense is not mandated by the State Constitution. M.R.S.A. Const., Art. 1, §6, which confers on any criminal defendant the right to trial "by a jury of the vicinity," was construed in State v. Longley, 119 Me. 535, 112 A. 260 (1921) which held that the word "vicinity" means "neighborhood," and not "county." An unduly restrictive view of venue requirements has limited the ability of the court to utilize available judges and facilities.

TO ASSURE AVAILABILITY OF SUPERIOR COURT JUSTICES ON A YEAR-ROUND BASIS, A REGIONAL CENTER SHOULD BE PROVIDED WITHIN EACH REGION, SUPPLEMENTED BY SATELLITE COURTS IN EACH COUNTY. WHEN THE JUDGES OR FACILITIES ARE NOT AVAILABLE IN THE COUNTY OF ORIGINAL FILING, OR IN EMERGENT MATTERS, THE COURT MAY REMOVE THE CASE TO THE REGIONAL CENTER. HOWEVER, AROOSTOOK COUNTY WOULD REMAIN A SEPARATE REGION FOR VENUE PURPOSES WITH A REGIONAL CENTER WITHIN AROOSTOOK COUNTY.

WITH THE DEVELOPMENT OF JUDICIAL REGIONS AND ADMINISTRATIVE PERSONNEL AVAILABLE TO RAPIDLY TRANSFER CASES FROM COURT TO COURT, RULES SHOULD BE ADOPTED MAKING VENUE IN BOTH CRIMINAL AND CIVIL CASES REGION-WIDE.

Initial filing should be in the district or county in which the matter originated with the case thereafter being available for transfer to any other locality in the region. Application for change of venue should be made on the motion of the court in the absence of agreement by the parties. Any Superior Court justice should be empowered, following the approval of the Presiding Justice to, by his own motion, transfer any case before him for the convenience of the parties, the witnesses, the court itself, or otherwise in the interest of justice. See M.R.Ct.1974, M.R.Crim. P., Rules 21 and 18, M.R.Civ. P., Rules 82 and Dist. Ct. Crim. Rule 21. Within each region a center will be available to all litigants or parties who request that a case be heard in the regional center if personnel or facilities are not available in the court of original filing. Aroostook County would have a regional center (although not all administrative services) in Houlton for venue purposes.

B. PRESIDING JUSTICE

Problems of the Superior Court have been due to a management vacuum. There also exists a noticeable lack

of direction from the Chief Justice to the District and Probate courts. The management of this statewide court system has become too formidable to be undertaken singlehandedly. As policies have been promulgated throughout the state, there has been diversified implementation with no consistent guidance in and monitoring of the operation of those policies.

The District Court is currently administered by a Chief Judge whose headquarters is Bangor and whose home is in York County. With the increasing burden of the administration of these courts and the increasing judicial caseload due to the retirement and illness of several judges, this job is difficult for one person to accomplish. For example during 1974, fifteen building leases must be negotiated, a new judge has to be trained, new legislation, including the expungement statute, must be implemented, and the budget must be adjusted to meet inflation.

Even with the present competent Chief Judge, aided by an administrative staff, the geographical constraints and added duties are overwhelming.

The Superior Court has no administrative direction or office staff to solve its local or statewide problems. The Chief Justice uses part of his time to make assign-

ments and reassignments when needed and his administrative assistant helps with travel expenses for the Superior Court justices. However with the great demands of his three functions (as clerk to the Law Court, reporter of decisions and administrative assistant), his time is limited. Furthermore, the fourteen Superior Court justices have no official spokesman, although they defer to the senior justice or express their concerns through various organizations such as the judicial section of the Maine Bar Association.

THE CHIEF JUSTICE, BY RULE AUTHORITY, SHOULD DESIGNATE A PRESIDING JUSTICE FOR EACH REGION: THE PRESIDING JUSTICE SHOULD BE DELEGATED RESPONSIBILITY FOR THE ADMINISTRATION OF JUSTICE IN COURTS WITHIN THE REGION.

A Presiding Justice will be empowered to administer activities of the Superior Court and all other judicial agencies within the region, including, but not limited to, the Probate Court, clerks of the various courts, bail commissioners, all judicial employees, or any other judicial support agencies which may be created or come into existence. The Chief Judge of the District Court will, for the time being, continue to supervise the administration of the District Courts.

Judges who have demonstrated an interest in or shown an ability to handle management problems should be appointed to the position of Presiding Justice; seniority, rotation or prestige should not be the criteria for

these appointments. The Presiding Justice should be the appointee of the Chief Justice designated to serve at his pleasure. Presiding Justices and the Chief Judge of the District Court should meet with the Chief Justice and State Court Administrator at least quarterly for direction and administrative coordination. Furthermore, the Chief Justice and state court administrator should be available to the Presiding Justices and the Chief Judge at other times.

According to the National Advisory Commission on Criminal Justice Standards and Goals, Courts, Standard 9.2 the Presiding Justice should set local administrative policy for the operation of the courts within the region and within guidelines established by the Chief Justice and the Supreme Judicial Court.<sup>5</sup>

The Presiding Justice subject to the directions of the Chief Justice and the Supreme Judicial Court is responsible for the administration of justice and the administration of Superior and Probate Courts within his region. Constant coordination with the administration by the Chief Judge is essential. The duties of the Presiding Justice as enumerated by rule should include, but not be limited to:

1. supervision of judges sitting in the region;

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<sup>5</sup>See also Court Organization, Standard 1.33(b) p. 88ff "Standards Relating to the Office of Trial Court Chief Judge" National Conference of Metropolitan Courts. 1973.

2. supervision of all court clerks, and other officers and employees of or serving the courts in the region;
3. assignment of cases to judges and the designation of the courts within the region in which the cases are to be heard;
4. overall supervision of the calendars of courts within the region;
5. representation of the judicial branch of government with all other agencies in all matters affecting the operation of the judiciary in the region including budgets, personnel, facilities and such other judicial support services as may be necessary or desirable;
6. supervision of all fiscal matters including the budget, accounts and auditing, as well as procurement and disbursement;
7. coordination and evaluation of the information system;
8. the selection and supervision of all grand and petit jurors, and the organization and operation of grand juries empaneled in the region;
9. coordination of all policy decisions and implementation of policies and directives of the Chief Justice, Supreme Judicial Court and State Court Administrator, continual evaluation of the effectiveness of the court in the administration of justice and the recommendation and implementation of changes in those functions as needed.<sup>6</sup>

THE PRESIDING JUSTICE SHOULD BE AUTHORIZED BY COURT  
RULE TO DELEGATE CERTAIN RESPONSIBILITIES.

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<sup>6</sup> See Court Organization, Standard 1.33(a), (b) p. 81ff  
Rule Governing the State of New Jersey 1:33-3(a).

In order for the Presiding Justice to efficiently and effectively discharge the wide range of administrative responsibilities conferred upon him it will be necessary to grant him broad powers of delegation. A broad grant of authority to other judges or key administrative personnel should be with the approval of the Chief Justice. However delegation of administrative responsibility to auxiliary personnel not exercising direct management functions ought to be within the sole power of the Presiding Justice.



C. REGIONAL ADMINISTRATIVE COORDINATION

Because the Superior Court justices ride circuit from county to county and because the caseload requires that the Superior Court in some counties be in session only for selected months, there is no between-session supervision of the business of those courts. Furthermore, because of the rotation system, there is no continuity of supervision. With the overwhelming responsibilities of the Chief Judge of the District Court and his staff, there is little opportunity for continuing and coordinated administration of the District Courts. Consequently, there is no single person in any county who is responsible for the necessary administration of all the courts at the local level.

EACH PRESIDING JUSTICE SHOULD BE ASSIGNED POSITIONS TO ASSIST IN THE ADMINISTRATION OF THE COURTS IN THE REGION. STATEWIDE POLICIES SHOULD BE IMPLEMENTED ON A REGIONAL BASIS IN ORDER TO PROVIDE LOCAL RESPONSIBILITY FOR SOLVING PROBLEMS, INITIATING PROGRAMS AND IMPLEMENTING SOLUTIONS.

The appointment of Presiding Justices to each region will facilitate the administration of justice. However since the background and training of most judges does not lend itself to the day to day management, it is imperative that sufficient and competent administrative personnel be provided.

Key regional support personnel should be appointed by the Presiding Justice with the assistance of the State Court Administrator and upon the approval of the Chief Justice. They should be selected on the basis of their special professional administrative ability and their understanding of the complex environment of the courts. Administrative support personnel would be primarily responsible to the Presiding Justice and would serve at his pleasure, implementing policies and procedures at his direction. They should also report to the State Court Administrator.

While the Presiding Justice is responsible for the administration of the judiciary it will be the responsibility of the support personnel to gather data, prepare reports, present options for decision-making by the Presiding Justice, and implement policy. Another task of administrative personnel is to coordinate all parts of the regional administrative system in accordance with guidelines promulgated by the Chief Justice, State Court Administrator, Presiding Justice and the Chief Judge of the District Court.

D. TERM SYSTEM

In essence, the term system has been eliminated in the Superior Court since the legislature repealed the statute which set terms of court and assigned that responsibility to the Chief Justice (4 M.R.S.A. §§110 and 111). Circuit riding judges are now assigned to counties on the basis of past experience. Even though caseloads vary from year to year, there is very little flexibility of reassignment. Even if the county has an excess of cases during a particular month, the judge leaves at the end of his term and the work waits for the next judge. Judges having completed bench duties assigned during term are expected to decide reserve matters and write opinions. Early completion of specified obligations at present frees the judge to pursue independent objectives.

An inherent problem of the term system is loss of flexibility. Reassignment of a judge to another county with an uncompleted caseload is a cumbersome procedure that inhibits requests for reassignment. Furthermore, the present system offers no provision for equalizing the workload of Superior Court justices.

Presently, at the beginning of each term, valuable time is lost since administrative matters must be completed before

the hearing of any judicial matters. Because each judge handles these administrative tasks differently, the clerks await the arrival of the judge to set the calendars and make administrative decisions.

Many of the judges travel on Monday morning and Friday afternoon resulting in a considerable loss of time and reducing, in some cases, the work week to four days. The loss in terms of judicial time and dollars was documented by the Maine Judicial Council in 1968. The results of that study were adopted by the Institute of Judicial Administration in its 1971 report. In 1968 approximately seventeen percent of judge time was spent in traveling. Interviews disclose that this percentage has not changed significantly since that time.

The Chief Justice has, for 1975, made considerable progress by assigning judges to counties near their homes. Six judges are assigned to counties located no more than one hour's drive from their homes; two more are assigned to three counties more than one hour away. The manner of assignment will reduce judge commuting time, and should increase available court time.

Several problems still exist with the term system. An avalanche of grand jury indictments is presented in the first week of each term in smaller counties. With limited time for preparation and trial, there is often inordinate pressure to enter pleas in cases that should be tried. Mass plea bargaining by one lawyer with many cases often works an injustice to the litigant, state and court. (Pre-trial conferences in civil cases are abandoned due to lack of time.) Since most judges stay in a county for two months, they usually set a short period between trial and sentencing. While speed at this stage is desirable, adequate time for the preparation of thorough pre-sentence investigations is not available; in fact, many sentences are imposed without benefit of a formal pre-sentence investigation. There is seldom any follow-up of cases between terms since the judge has been moved to another county.

Since judges rotate through the counties, there exists a vacuum in the administration at each courthouse. Personnel who try to execute the procedures required by one judge find the next judge operates in a different manner. When procedures are implemented there is no follow-up to insure the continued operation of those proceedings.

THE CHIEF JUSTICE IN THE EXERCISE OF PRESENT STATUTORY AUTHORITY OR RULE SHOULD ABOLISH THE ASSIGNMENT OF JUDGES TO TERMS. THE TERM SYSTEM SHOULD BE ABOLISHED IN PRACTICE AS WELL AS LAW.

THE JURY SHOULD SIT IN EACH JUDICIAL REGION OR COUNTY AT THE DIRECTION OF THE PRESIDING JUSTICE OR HIS DELEGATE.

With the development of judicial regions with supervision by a Presiding Justice, the necessity for the term system is eliminated. The two main arguments for the term system have been that 1) it prevents parochialism by providing judges with statewide exposure and 2) it provides attorneys with a wide selection of judges. Both of these objectives can be met through the efficient use of the judicial regions. With the Presiding Judge's awareness of the needs in each region, there should be opportunity for reassignment as necessary.

Maximum flexibility can be attained by maintaining the county grand jury and creating regional grand juries. The county grand jury would meet at the direction of the Presiding Justice to hear matters originating in the county. Expanded use of the county grand jury should be made to reduce congestion during each session and

provide prompt processing of matters to be presented. Superior Court justices can be made available to receive indictments and presentments.

Regional grand juries, selected from the entire region should be empanelled to hear emergent matters when county grand juries are not otherwise sitting. Their purpose would be to process cases rapidly when the county grand jury is not in session.

### 3. APPOINTED CLERK OF COURTS

Political selection of the clerks of courts hardly ensures competency in the position. At the Superior Court level, the clerk of courts is elected in the county election. This year, eleven of the sixteen clerks stood for re-election; if all were defeated for some reason, a major retraining effort would have been required. In fact, ten clerks were re-elected.

One clerk of courts has not been in the office more than four or five times in the last ten months. Since this clerk is elected, the judiciary is not in a position to remove him from office, and yet the county must continue to pay his salary while the judiciary is deprived of the services of a vital official.

Although only one of the clerk positions is by statute full time, some of the clerks, although paid on a part-time basis, work full time in order to accomplish the work. Other clerks are in the office periodically but serve full time when the court is in session; however, their services are not always available when emergencies arise or their deputies need assistance.

The expense of running for office is considerable in terms of the salary of the clerks and the time demanded in the election process, while re-election efforts often reduce the effectiveness of the clerk.

It has been reported that on one occasion a judge directed an elected clerk to follow a certain policy, the clerk responded that he was responsive to the electorate and not to the policies and procedures set down by the court. Although this kind of response is rare, the potential harm to the efficient operation of the court is evident.

TO PROVIDE A STAFF RESPONSIVE TO THE NEEDS AND DIRECTIONS OF THE JUDICIARY, THE CLERKS OF COURT SHOULD BE APPOINTED BY THE JUDICIARY. ALL ASSISTANT CLERKS SHOULD BE HIRED UNDER THE DIRECTION OF AND PAID BY THE JUDICIARY.

The popular election of clerks of courts cannot be justified on the basis of the work performed. They are not



policy makers whose choices of programs must be made subject to voter approval. The public has little means to rationally measure the work of the elected clerk of courts and therefore has little basis on which to determine whether or not the clerk is performing efficiently and well. Some oppose the appointment of clerk of courts as an erosion of county responsibility and power. The clerk's office is an entity apart from other political offices. The clerks appoint their own staff, but the positions should not be a source of political patronage. The judicial system cannot tolerate favoritism or the appearance of favoritism that is associated with the election process. Campaign funding from sources which may be directly associated with the adjudicatory process and the administration of justice can lead to the appearance of impropriety. It should not appear that persons who have contributed to the campaign of a clerk receive some favored treatment because of that close association or support.

"Emancipating the clerical work of the courts from politics and patronage and putting control of it where it ought to be, namely, in the courts themselves, must be an important item in any program of improving the administration of justice. To specify but one item, the system, or rather want of system, which prevails generally is a prolific source of needless expense in the courts. ...Decentralization of courts was carried so far in the last century that the clerks were made independent functionaries, not only by legislative provisions and limitation. No one was charged with supervision of this part of the work of the courts. It was no one's business to look at it as a whole, seek to find how to make it more effective, and to obviate waste and expense, and promote improvement. There is much unnecessary duplication, copying and recopying, and general

prolixity of records in the great majority of our courts. In the clerical no less than on the judicial side, most of our courts are like Artemus Ward's proposed military company in which every man was to be an officer and the superior of every other. The judiciary is the only great agency of government which is habitually given no control of its clerical force. Even the pettiest agency has much more control than the average state court. But scientific management is needed in a modern court no less than in a modern factory. With no one responsible, there is no incentive to progress in the clerk's office. Much that could be done to reduce costs in litigation and the expense of operating the courts remains undone because it is no one's business to see it done, and also, one cannot deny, because court houses, as distinguished from courts, are likely to be deep in politics, and reorganization of the clerical work might interfere with patronage. Organization, control, simplification, and general improvement are demanded here no less than in the judicial business of the courts. It is becoming especially important to reduce the cost of the courts so far as it can be done consistently with making them as efficient as we can succeed in making them. Today there are many new claims pressing upon government which made little demand in the days when preserving order and administering justice were held the main, if not the sole, task of politically organized society. Many competing ends of government make increasing drains upon public revenue. The established institutions of the past can maintain their claims to appropriations, in the face of this competition, only if they use to the best advantage the money appropriated to them. The courts cannot so use it as they are organized today. So long as the administrative officers of importance are elected independently, have sole control of their offices, and are responsible only to the electorate, the courts will not be able to improve their conduct of this side of their work. None the less, improvement must come. Organization of the non-judicial administrative business of the courts calls for complete and efficient supervision, under rules of court, which is best to be obtained by unification of the judiciary as a whole, with responsible headship, charged with supervision of the subordinate supervising and superintending officers." Pound, Organization of the Courts 285-287 (1940).

Because the appointment system does not guarantee that the best clerks will always be provided, careful consideration of each candidate should be given throughout the appointment procedure.

TO REDUCE THE POSSIBILITY OF INAPPROPRIATE CHOICES, THE PRESIDING JUSTICE OF THE REGION, AFTER EVALUATING SEVERAL CANDIDATES WITH THE ASSISTANCE OF HIS SUPPORT STAFF, SHOULD RECOMMEND FOR THE APPROVAL OF THE CHIEF JUSTICE THE PREFERRED CANDIDATE FOR CLERK.

The clerk should serve at the pleasure of the Chief Justice and be subject to regular evaluation of his performance.

At its 1974 annual meeting, the Clerk of Courts Association voted unanimously to support the proposal that the clerks of courts be appointed by the Chief Justice. The clerks find the elective process time consuming and feel it is a personal hardship, partly because of the expense of campaigning.

Frequently, a political party finds it difficult to field a candidate to challenge the incumbent clerk and resorts to nominating a person who may not be interested in the position. There have been occasions when those reluctant nominees have been elected; the courts have borne the burden.

Several dedicated clerks of courts, elected to part-time positions, have found it necessary to devote full time to

the performance of their duties. The benefit which accrues to the court by the availability of full-time clerks demonstrates the advisability of requiring appointed clerks to serve full time.

4. RIGHT TO TRIAL - TRANSFER

For a number of years there has been considerable criticism of the trial de novo system for lesser offenses in Maine and elsewhere.<sup>7</sup> This system gives the defendant in lawyer vernacular "two bites at the apple;" in other words, the opportunity to ascertain the strength of the prosecution's case at the District Court trial and prepare a defense for a jury trial in the Superior Court. Since November, 1973, 15 M.R.S.A. §2114 has provided for immediate transfer of such cases from the District to Superior Court for jury trial. That statute has not solved the problem. As an example, seventy percent of the cases filed in the Cumberland County Superior Court during May, 1974, had been transferred from District Court.

The result of transferring to the Superior Court has been to clog the Superior Court calendar with cases that the Superior Court is not prepared to handle. At least some of the cases that are transferred are punishable by fine only.

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<sup>7</sup>See Dufresne, Armand A., Jr. "Maine's Judicial Machinery at the Crossroads," 24 Maine Law Review 35 (1972); Robertson, J. and O. Walker, "Trial de Novo in the Superior Court--Should It Be Abolished?--Two Views," 56 Mass. Law Quarterly 347 (1971).

Many are punishable by both fine and incarceration, although incarceration is rarely imposed.

A CONSTITUTIONAL AMENDMENT SHOULD BE ADOPTED TO LIMIT CRIMINAL JURY TRIALS TO CASES IN WHICH A PENALTY OF INCARCERATION MAY BE IMPOSED.

Removal of these cases from the Superior Court would result in reduction in the number of cases in the Superior Court.

To reserve to the citizens of Maine access to appellate review, a less circuitous and burdensome technique can be developed. (See Section X, Sound Recording, p. 96, infra.)

5. ASSIGNMENT

Notwithstanding the 1971 recommendation of the Institute of Judicial Administration that "the ultimate goal should be a reservoir of judicial manpower which could be flexibly deployed to do whatever needed to be done, wherever and whenever needed," the Commission has agreed to withhold any recommendations for cross-assignment at this time. (See American Bar Association, Standards of Judicial Organization, Standard 1.11(b) and Commentary.)

6. STATE FINANCING

In Maine it is often the lack of financial resources that have limited the capacity of the court to perform its functions. In several counties cases are not heard, not because judicial manpower is unavailable, but because the counties have not provided needed facilities. In some instances, qualified clerical personnel have left low paying county jobs to take state positions. One county commissioner noted the effort of county commissions to keep down expenses by maintaining low salaries. Finding and keeping qualified persons under adverse financial conditions is difficult. Efficiency of the system, beyond a critical point, must not be impaired by a desire for financial restraint. District Court personnel, paid on a statewide uniform salary schedule, generally receive better salaries for the same kind of work done by Superior Court clerks who are county employees. The resulting disparity leads to inequities among the support staff of the two courts.

As a separate branch of state government, the judiciary should present its funding needs to the legislature. The Supreme Judicial Court and the Superior Court as well as the District Court are funded by the legislature; however,

the two budgets are presented separately. Thus, the legislature cannot review the total, documented needs and priorities of the judiciary in one document. With each county preparing a separate budget reflecting the needs of the Superior Court, it is even more difficult for the legislature to perceive comprehensive programming in the courts. As the branch responsible for fiscal support of the government, the legislature should require one complete budget document depicting the program of the courts. With the present separate funding scheme, the legislature tends to provide adequate funding for the court which produces significant revenue while other courts face financial constrictions.

Budget figures for 1973 show the total cost of the operation of the judiciary at \$4,746,414 with a revenue of \$3,420,503. The net cost to the state would amount to \$1,325,911 if the state were assigning all fines, cost and revenue to the general fund and funding all costs of the judiciary. See annual reports of the county commissions 1973.



Expenditures

Supreme Judicial Court (County)	\$	3,660	
Supreme Judicial Court and Superior Court (State)		1,180,004	
Superior Court (County)		1,407,105	
District Court (State)		1,627,819	
Clerk of Courts (County)		447,916	
Law Library (County)		<u>79,910</u>	
TOTAL			\$4,746,414

Revenue

Superior Court Fines and Costs (County)	\$	237,938	
Clerk of Court Fees (County)		23,591	
District Court Revenues (State and County)		<u>3,158,974</u>	
TOTAL			<u>\$3,420,503</u>
	Net Cost		\$1,325,911

Dedicated revenue is transferred from the gross receipts of the judiciary to various state agencies such as the Departments of Transportation and Fish and Game (4 M.R.S.A. §§163 and 173). These payments from the District Court fund amounted to \$365,173 in FY 1973 with no figures available from the Superior Court.

State funding of the courts has been advocated by some county officials. A reason for this advocacy may be that in 1973 it cost the counties \$577,062 more to operate the courts than was received.

County Expenditures

Supreme Judicial Court	\$	3,660	
Superior Court		1,407,105	
Clerk of Courts		447,916	
Law Library		<u>79,910</u>	
TOTAL			\$1,938,591

County Revenue

Superior Court (Fines & Costs)	\$	237,938	
Clerk of Court (Fees)		23,591	
District Court (Distribution)		<u>1,100,000</u>	
TOTAL			<u>\$1,361,529</u>
	Net Cost	\$	577,062

Periodically, counties receive a share of the excess funds of the District Court, which share in FY 1973 amounted to \$1,100,000. However, that amount represents a decrease from the \$1,949,880 distributed in FY 1971. Absent a change in the fines, fees and cost schedules, the amounts available for distribution are likely to decrease as District Court expenses increase and as the legislature continues to dedicate funds to specific state agencies. With distribution reduced, the counties can be expected to request state takeover of more judicial expenses. A legislative research committee [Report on County Government and State Funding of the Court to the One Hundred and Sixth Legislature, January 1973 Publication 106-19, p. 5488] states "...most County Commissioners feel that there should be some financial relief to the counties..." It also reported, "A number of counties have, over the past few years, found themselves in serious financial problems because of mounting court costs." p. 56. The report recommended that the state should be required to pay the cost of the operation of juries, witness fees, officers' fees, professional fees, state lab fees, appointed counsel and indigent defense costs; leaving the counties to pay the cost of facilities, personnel, supplies, furnishings and equipment.

While this would relieve some of the expenses to the counties, there would be little direct benefit to the judiciary as a co-equal branch of government. The courts

must be provided with a means of assuring the availability of personnel responsive to their needs, space necessary to handle the work load, and materials sufficient to their proper functioning. Were the recommendations of the "County Government and State Funding of the Court Report" to be implemented, the limited result would be for the state to assume mandated costs but not the variable costs of day-to-day operation of the court.

TO INSURE PROPORTIONATE DISTRIBUTION OF JUDICIAL SERVICES AND THE EXPENSE THEREOF, THE JUDICIAL DEPARTMENT SHOULD BE FINANCED ENTIRELY BY STATE FUNDS.

Authorities on judicial administration advocate state funding of courts in preference to local funding or any combination of state and local funding. The American Bar Association Commission on Standards relating to Court Organization, Standard 1.50, asserts, "Responsibility for the financial support of state court systems should be assumed by state government." The ABA Commentary states at page 99, "The capacity of the court system to perform its functions is determined by the financial resources available to it."

The separation of powers provided for in the Maine Constitution is best served by having the legislature fund the judiciary using one budget document prepared by the judiciary. Long-range planning of vital court programs can best be initiated when presented in one package. The three methods presently used to fund the courts must be changed.

Full state funding will allow the judiciary to submit a single budget to the legislature, including requests for Supreme, Superior and District Courts. Because of differences in funding of Superior and District Courts, two budgets go to the legislature: there is no screening of the whole judicial branch budget by a single responsible judicial official before submission to the legislature. Superior Court budgets go to the legislature through sixteen county budgets with little judicial input.

NO JUDICIAL BUDGET REQUEST SHOULD GO TO THE LEGISLATURE UNTIL REVIEWED AND APPROVED BY THE CHIEF JUSTICE.

One budget request with full state funding is not a big step. The District Court already submits a single budget

and the most recently available figures (FY 1972) show that Maine already funds 62.2 percent of judicial expenditures at the state rather than the local level.<sup>8</sup> This is a commendable movement toward the ideal. In only nine states does the state government carry a higher percentage of this fiscal burden. Thus Maine is already closer than most states to having a system of full state funding. To achieve the substantial advantage of full state funding, the final step in the transition will add less to the state budget than in any other state now considering similar legislation.<sup>9</sup> However, with the diversity of funding sources, none of the advantages of State funding are being realized by either the judiciary or the legislature.

General state funding of the court system is not an uncommon practice in New England. Connecticut and Rhode Island fund their court systems entirely by state funds. New Hampshire does not, but that state has no state court administrator. Such an official exists in the other two states, and ensures that the judiciary properly administers the state funds, and

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<sup>8</sup>U.S. Bureau of the Census, "Expenditure and Employment Data for the Criminal Justice System 1971-72," State and Local Government Special Studies, No. 66, p. 26 (January, 1974).

<sup>9</sup>Baar, Carl, The Limited Trend Toward State Judicial Financing, MS., p. 2, National Center for State Courts, (October, 1974).

submits an adequate and fully justified budget to the legislature. Massachusetts funds its court system largely from local sources, a pattern which is characteristic of the larger and more urbanized states. The ten most populous states in the United States all fund their courts predominantly from local sources, primarily because some authorities believe that state funding in large states is unwieldy. Maine's population is sufficient to make state funding workable and practical. Alaska and Hawaii are the only states in which the judicial branch is funded entirely by the state. In Colorado, Delaware, and North Carolina, all general and most limited jurisdiction trial courts are fully state funded, as is recommended in Maine. South Dakota voters approved full state funding in 1972 and Alabama voters did so in 1973; these two states are now making the transition to this system. Both South Dakota and Alabama approved such changes even though their court systems were largely (over 70 percent) locally funded; the change places a larger potential burden on the state treasury than a similar change in Maine. A state commission in New York recommended full state funding of that state's courts in 1973; and a 1973 study of Massachusetts courts by the American Judicature Society made a like recommendation. Colorado adopted a system of state-funded courts in the late 1960's because

the constitutional position of the courts in that state prevented the counties from exercising discretion over important parts of the judicial budget. Commissioners in one county had sought to change the salary scale of the court's clerical employees. The judges in that county questioned the authority of the commissioners to take such action. In Smith v. Miller (153 Colo. 35, 384 P.2d 738(1963)) the Colorado Supreme Court upheld the lower court, deciding that the court's status as an independent branch of the state government precluded local authorities from lowering the salaries of court supporting personnel. Since county commissioners could no longer control salary levels, they endorsed a state takeover of judicial expenditures, and the legislature approved shortly thereafter.

In Maine, there is no such restriction limiting the authority of county commissioners. However, the Supreme Judicial Court, in a 1970 case (District Court for District IX v. Williams, 268 A.2d 812(1970)) ruled that personnel decisions cannot be reviewed by an executive body.

State funding allows the flexibility necessary to apply modern management techniques to the operation of courts. It allows courts to be more efficient in their use of public funds. It can facilitate state court reorganization and reform. Additional reforms require administrative



leadership within the judiciary willing to take advantage of the opportunity which state funding provides, and implement changes that increase the efficiency of the courts. In this model, the courts can move to use the budget as a planning and evaluation tool rather than solely as a control mechanism.

7. CENTRAL ADMINISTRATIVE OFFICE

The judicial system is without effective full-time administrative management. The formal structure establishes the Chief Justice as head of the judicial branch with assignment authority over the Superior Court and authority to appoint the Chief Judge of the District Court to serve at his pleasure. Along with the other justices of the Supreme Judicial Court, the Chief Justice carries almost a full judicial work load. With the other duties assigned to him as Chief Justice, he has little time for the administration of the Superior Court and District Court.

The administrative assistant to the Chief Justice allocates the greatest percentage of his time to being Clerk to the Supreme Court and Reporter of Decisions. He has responsibility for the Superior Court justices' travel expenses and the assignment and expenses of the court reporters. Federal grants to the court are supervised through his office as are data collection and certain fiscal matters. The administrative assistant is not the manager of the judicial branch of government. The Superior and District Court judges resist his intrusion into the administrative affairs of their courts.

Each of the fourteen Superior Court justices must administer the Superior Court of the county in which he is sitting that month. Those courts which do not have a Superior Court justice assigned for a period are without effective administration for that time. Because the Superior Court justices have no centralized administration to insure uniformity of functions, there has been little administrative coordination.

The District Court has a Chief Judge with an administrative staff that functions very well. Throughout the state, administrative policies and procedures have been provided, and they are generally implemented by the judges of the various districts. The Chief Judge is required to visit the districts and ensure that the policies and procedures are being followed. The duties of the administrative staff confine them to a central office most of the time. There are no formal lines of communication and little coordination of activities between the District Court and the Superior Court.

The lack of uniformity in court practices among the three courts and throughout the state illustrates that there is no strong central authority to coordinate policies or to resolve differences that develop in the day-to-day operation of the court. The judges of the state meet annually as part of the Maine Bar Association judicial section, where they discuss mutual problems and determine some policies.

The Superior Court justices meet several times during the year. The District Court judges meet with the Chief Judge periodically. However, no single set of operating procedures has evolved from these meetings, and the available administrative staff has not been able to implement and oversee any suggested changes.

The management of the court system in the State of Maine is growing too complex to be handled by one person; yet this is what the present administrative design requires. The result has been that the resident judge system fails to ensure the efficient operation of the Superior Court.

AN ADMINISTRATIVE OFFICE OF THE COURTS SHOULD BE ESTABLISHED TO ACTIVELY OVERSEE ALL LEVELS OF COURT.

The most important need of the Maine judiciary is the creation and development of a capable and efficient administrative system which would unify the judicial branch. Administrative coordination can be accomplished even among courts financed by both state and local governments and employing personnel paid by both state and local governments. Efficient judicial administration under any budget or personnel scheme requires the creation of a centralized court administrative office. The Commentary to the ABA Standards is relevant here:

"In this respect, court systems resemble such other modern organizations as professional firms of lawyers, doctors, or accountants, and of universities and hospitals. Like them, court systems now depend for their survival on vigorous administrative direction to guide and coordinate effort, to monitor what the system is doing, and to maintain satisfactory working relationships with external organizations."<sup>10</sup>

Having an effective court system with capable and efficient administrative personnel is as important as having competent judges. Although the ultimate authority for the administration of the judiciary rests with the Chief Justice and the Supreme Court, the exercise of much of this responsibility should be delegated to a central administrative office.

The administrative office should be headed by a state court administrator who establishes administrative policies and guidelines under the guidance of the Chief Justice. The administrator employs a competent staff to aid in implementing those policies and guidelines.

In order to provide for a unified structure, it is important that the central administrative office be organized by function with specialists in each function. These functional groups should include:

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<sup>10</sup>Court Organization, Standard 1.33, p. 82 ff.

1) Budget

In order to present to the legislature a single coordinated unified budget for the entire state, the budget officer would coordinate presentation from the individual courts and offices through the final preparation and submission to the legislature. This department should incorporate the current accounting and auditing program in the District Courts.

2) Personnel

The administrative office should establish uniform personnel policies and procedures governing recruitment, hiring, evaluation, promotion, in-service training, discipline, removal and compensation of all non-judicial personnel in the court system. It would also coordinate the personnel activities of the Supreme Judicial, Superior, District and Probate Courts.

3) Judicial Management Information System

The administrative office would develop a statewide information system to provide uniform requirements for records, information, and statistics. At least annually, the office should issue an official report on the judiciary indicating in both statistical and narrative form the developments and activities of all the courts during the preceding year.

#### 4) Liaison with Other Departments

Inasmuch as the courts are constantly functioning in conjunction with numerous other departments of the state, it is essential that the administrative office develop open lines of communication between the judiciary and the legislature and executive branches and with law enforcement, corrections, local governments, and the public.

#### 5) Planning

The process of determining objectives and analyzing potential programs prior to their implementation is an important aspect of any managerial office. The courts must decide among possible projects and develop multi-year plans for needed programs. This function should relate to all parts of the central administrative office; however, one person should be responsible for coordinating new programs. Anticipating needs of the future would be an aspect of the planning function.

#### 6) Clerk of Courts

A constant effort should be made to update the policies, standardize the procedures and oversee the activities of all the clerks' offices within the state with an effort toward unification of those offices in the future.

#### 7) Research

Consideration by the Supreme Judicial Court of proposed rules and proposed legislation should be augmented by careful research and drafting by the central office.

8) Training

Administrative staff should aid in designing and conducting ongoing in-service training for all personnel in the system including judges, clerks, and other support personnel.

9) Auxiliary Services

It is important that the central administrative office provide coordination for the development of new projects, and expanding auxiliary services including programs such as the new juvenile intake service.

A. BUDGET

The State of Maine has made significant progress toward a model court system by creating a state funded, full time District Court. That court controls its own budgetary process. Each of the District Court divisions submits a separate request to the administrative office of the District Court, itemizing facilities and equipment needs. Those needs are added to the budget as prepared by the budget officer and a single budget for the entire District Court is prepared. The budget document is then submitted by the court to the state's Bureau of the Budget, an office in the Executive Branch. Although the District Court is treated as a state agency, the budget is seldom cut by the Executive Branch before it is sent with recommendations to the Legislature's appropriations committee. The



budget as finally approved provides for three categories: "personnel," "capital expenditures," and "all others." Within each category the court is not restricted to line-item expenditures but is allocated a lump sum to be expended at the discretion of the court.

The Superior Court was created to serve a few very busy counties with the Superior Court justices traveling statewide to serve those counties. Thus, each county prepared the budget and paid the expenses of the Superior Court. However, the legislature must approve and may revise the county budgets, so even the county does not have final control of judicial support services. Judge and court reporter salaries and expenses are paid by the state and thus are not affected by this procedure.

The budgets for the Supreme Judicial Court and the personnel (judges and court reporters), travel expenses of the Superior Court and administrative assistant to the Chief Justice, are submitted to the executive branch for inclusion in the budget message to the legislature. Although the Governor has the opportunity to revise the budget request, he makes no changes. In response to a 1972 national survey, the Maine budget director reported that "Judicial budget requests are given only minimal review because it is a separate branch under the Constitution...The detailed review

that is given the executive branch budgets is not given to the judicial branch budgets." (National Center Budget Study Survey, 1973.) With a budget review conducted by the Chief Justice and within a state court administrative office, a more thorough analysis and coordination can be undertaken than is now possible. Budget preparation is based upon previous years expenditures and anticipated costs of continuation of those activities already funded. No long range planning takes place in the preparation process. There is continuing effort to keep the expenditures to a minimum in an effort to improve the salaries of the judges.

The Judicial Department is funded by three diverse methods, with only the Supreme Judicial Court budget meeting the criteria of separation of powers. Even in that system, the executive branch has an opportunity for involvement in the judicial budget (on one occasion the entire state budget was reduced ten percent by the executive prior to submission to the legislature. The judicial budget was reduced along with those of executive agencies.)

The Superior Court budget as prepared by the counties allows for very little control by either the judiciary or the

county and even less planning. Since no one judge is responsible for each county, the county commissioners and court clerks receive divergent and sometimes conflicting suggestions from the judiciary. Generally, the county treasurer prepares the budget based upon previous years' expenditures. The county commissioners then have the first chance to cut the budget requests. Although vital programs may have been requested, there is no formal opportunity for the judiciary to meet and provide justification. The next steps in the process have the same inherent problems.

Much of the planning and cutting that is done is meaningless since the Superior Court expenses are mandated. If the court has a heavy jury trial schedule the county must pay the expenses regardless of the budgeted amount. Following recent United States Supreme Court ruling on assigned counsel,<sup>11</sup> there was an increase in the cost of assigned counsel fees that had not been planned for in the budget process. These expenses had to be paid.

On occasion assigned counsel costs are allocated by the judges based upon the ability of the county to pay, not upon the fair compensation to attorneys for services rendered. One attorney, who was paid \$600 for a case that he felt was worth \$1200, asked the judge why and was told that the county did not have enough money. Some expenditures

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<sup>11</sup>Argersinger v. Hamlin, 407 U.S. 25 (1972).

have been made based upon the immediate needs of the judiciary when no provisions have been made in advance. When a lengthy jury trial exhausts the funds allocated for jurors, jury trials are not discontinued; the county must ask for more money.

Non-judicial expenses are often placed in the county's judicial budget. Prosecution witness fees, a legitimate prosecution cost, should not be charged to the judiciary but in some counties are. Prisoner transportation, a legitimate sheriff's department cost, should not be charged to the judiciary. There being no standard some counties charge prisoners' fees to the judiciary and some to the sheriff. Under a unified budget system there must be a standard system of costs since these payments will come from separate funding sources.

The District Court is entirely state financed and has a system which could be adopted by both the Supreme Judicial court and Superior Court. However, the revenue is being treated in several ways. All fines, bail forfeitures and fees collected by the District Court are deposited in the general fund of the State Treasurer. From these funds certain fines and fees are paid out to specified state agencies. (See Appendix B). Expert witness fees are paid out of the gross revenue. In conformity with the budget the expenses of the court are paid out of the gross

revenue. Any funds remaining after these costs are paid are distributed to the counties.

Since the District Court revenues are greater than the expenses many agencies see a source of support that does not directly affect taxes. (When the municipal courts were abolished and the District Court was created, the counties received compensation for loss of revenue.)

As new agencies are created and authorized to receive dedicated funds from the District Court revenue and as court costs continue to rise, the counties will continue to receive less.

All fines collected by the District Court go to the State while all fines collected by the Superior Court are deposited in the county. When a defendant is fined in the District Court, the fine goes to the State. However, if he appeals or requests transfer to the Superior Court any fine imposed goes to the county. Therefore, shifts in policy, procedure or law directly affect the revenue of the county. State agencies receive those designated fines when a case is transferred or appealed to the Superior Court or bail is forfeited.

THE ADMINISTRATIVE OFFICE SHOULD OVERSEE PREPARATION OF THE BUDGET FOR ALL LEVELS OF COURT. EACH COURT AND OFFICE WOULD PREPARE ITS BUDGET AND SUBMIT IT TO THE

PRESIDING JUSTICE OF THE REGION OR THE CHIEF JUDGE OF THE DISTRICT COURT FOR REVIEW, COORDINATION AND APPROVAL. ALL BUDGETS WOULD THEN BE SUBMITTED TO THE CHIEF JUSTICE FOR REVIEW AND FINAL APPROVAL.

The budget process is a crucial administrative function for the planning of the court's future and for the operation of the courts. The National Advisory Commission on Criminal Justice Standards and Goals, Courts, Standard 9.1, page 176, states, "A budget for the operation of the entire court system of the State should be prepared by the State Court Administrator and submitted to the appropriate legislative body." The ABA assigns to the central administrative office the "financial administration of the system, including budget preparation and administration, accounting and auditing."<sup>12</sup>

The creation of a central administrative office within the judicial branch allows the courts to take responsibility for preparation and submission of its budget, as well as general administration. The courts can implement the fiscal control devices characteristic of all government agencies--approval for transfers across budget

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<sup>12</sup>See also Court Organization, Standard 1.4(a)(ii)(b).

categories, establishment of allotments to assure adequacy of funds throughout the fiscal year, development of appropriate accounting systems, voucher audit, and other techniques of internal auditing. All of these controls should be used with care but with sufficient flexibility to ensure that funds are expended efficiently as well as according to law. To ensure flexibility in these procedures, lump sum allocation (unallocated funds) can be provided by the legislature for the Supreme Judicial Court and Superior Court as now is done in the District Court.

Control of expenditures can also be given more emphasis. Present judicial budget practices reduce responsibility and accountability. Judges at the local level are required to take responsibility for expenses which are incurred by county government, without the time or interest to adequately review and question such expenditures.

If this task can be handled by professional administrators, and reviewed by central administrative office officials, the possibility of adequate screening and evaluation is increased. Justices of the Superior Court are regularly asked by county officials to sign vouchers without being able to verify the legitimacy of those vouchers. In one county a judge will authorize payment of fees that are assigned to the Sheriff or Prosecutors in other counties. With no statewide policy or direction, each judge acts to the best of his ability in this matter.

By overseeing judicial budget preparation, the Chief Justice with the assistance of the court administrative office can place appropriate limits on the whole range of judicial expenditures. The limits would be more meaningful than at present because both Superior and District Court expenditures would be subject to review outside those two courts yet still within the judicial branch. The development of budgetary competence within the judicial branch will also allow the court system to operate independently of executive authority and control.

Executive branch review and supervision of the judicial budget process is a constitutional anomaly. The executive branch supervises the preparation of the state budget because most of that budget is devoted to state executive departments and agencies. However, if the bureau of the budget were to become active in reviewing and revising the judicial budget, as with other state agencies, the separation of powers principle would be in jeopardy. If the bureau of the budget continues its policy of non-revision, then new programs needed by the court and not requested may never be funded. It is possible to satisfy both constitutional requirements of judicial independence and the requirements of sound budget practice with competent judicial control.



By removing the executive branch from the judicial budget process, the legislature may then deal directly with the court system. The judicial branch has independent access to the legislature, because the executive branch cannot revise judicial budget requests before they are submitted to the legislature. Some 18 states have statutory or constitutional provisions which limit executive branch authority over judicial budgets. These provisions usually require that the judiciary send a copy of its proposed budget to the executive branch, so that the executive budget office can make recommendations if it wishes. However no changes should be made in the judicial budget which is submitted to the legislature.

The development of an integrated internal judicial branch budget process will be advantageous to the legislature. One budget rather than two or more will be presented for review. That single budget will have already been screened at regional and state levels, and will have been prepared in light of guidelines for format and justification. Thus the judicial budget will be presented in a form which facilitates legislative review; it will be easier to understand and interpret, since some of the legislature's comments and criticisms will have been anticipated during the screening process.

While additional funds will necessarily be allocated for salaries of new administrative personnel (initially from federal assistance but eventually from state funds),

these new personnel will be in a position to exercise the kind of budget review that can cut out unnecessary costs. Chief Justice Edward Pringle of Colorado, in a speech in 1972, said that many trial courts in his state had more difficulty obtaining state funds through the state court administrative office than they ever had with county commissioners. In that same year, the Colorado court administrator's budget staff "reduced the amount requested by \$900,000, which is no insignificant amount in a \$20 million budget,"<sup>13</sup> before the budget document was even submitted to the legislature. He concluded, however, that "no judicial system can really carry out its administrative function in an efficient and economical manner without full state funding." Colorado's total judicial budget of about \$20 million is much higher than in Maine, because the state is larger and its court system has a wider range of responsibilities, including probation and some correctional facilities. Whatever the final budget figure, with internal budget control the judicial budget is more likely to be spent on items which contribute to effective administration of justice.

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<sup>13</sup>Pringle, Edward E., Chief Justice, Fiscal Problems of a State Court System, Address to the Conference of Chief Justices, August 10, 1972.

Contemporary public budget practice indicates that the process be used for management and planning. The management function of budgeting centers on matters of efficiency: for example, what are the relative costs of calling fewer jurors than at present? The management function of budgeting requires analysis of competing ways of performing the same task within a work situation. The planning function centers on matters of policy: for example, should there be six-person rather than twelve-person juries, or use no juries at all in some cases? The planning function of budgeting requires multi-year projections to examine the fiscal impact of different policy recommendations.

Planning for facilities utilization has not been coordinated among the levels of court. The Supreme Court offices are located in Portland while the District Court moved to Bangor with no possibility of sharing space and personnel. Efforts by individual counties and judges to acquire MLEPAA funds for building renovation do not take into consideration the limited supply of funds and the diverse needs of the courts at all levels. Construction projects for one or two courts have been proposed by individual counties that would expend all of the court share of those funds without planning for other needs of the court.

One of the purposes of having a budget and fiscal officer in the central court administrative office is to facilitate management and planning in the budget process.

Thus the budget officer would provide technical assistance to local courts so that they could evaluate management practices in cost-effectiveness terms, and could provide information to the legislature on the costs of present and proposed policies affecting courts.

The implementation of a unified judicial budget system which performs management and planning functions will not be costly. Only one employee, a budget and fiscal officer in the central administrative office, is needed. Initially, with some assistance from personnel now working with the Administrative Assistant and the District Court budget officer, the new fiscal office will be able to perform the task. Colorado's court system operates with one such officer. Many budget-related tasks will be performed by others in the system, but these others are either already performing similar tasks, or will perform budgetary tasks in conjunction with their other administrative responsibilities. The budget and fiscal officer will spend only part of the year preparing the unified budget for submission to the legislature, and the other part of the year assisting in evaluation of the cost-effectiveness of current practices and the cost of future policy alternatives. In addition he will be responsible for purchasing and internal audit control. The individual selected for this position should

have had previous experience in responsible positions in the budgeting field, preferably with a public agency.

Full state funding will provide the economy of scale necessary for budget review functions to be carried out within the judicial branch. Once the state pays all the bills, it would then be economical to appoint a full-time budget officer for the central administrative office. The position of full-time budget officer would be only a minor change in the task assignments required by transition to full state funding. The state court administrator and regional support personnel recommended elsewhere in this report would share a large part of the budget preparation and review responsibilities, but their primary responsibilities are managerial and not fiscal.

B. PERSONNEL

The judicial system is unique in its needs to rely on various agencies to help in the performance of its tasks. The prosecution, police and probation are all part of other state agencies. Those personnel that the court depends upon most and works with most closely, clerks, court officers and other professional personnel, must be part of the judicial personnel system. Currently non-judicial personnel of the court system are employed under three separate systems.

The administrative assistant to the Chief Justice is appointed by and serves at the pleasure of the Chief Justice. Personnel on his staff are employed by the court and paid by the state. There are no regulations for the hiring, advancement or dismissal of these people.

Superior Court personnel are paid by the county. The clerks of court hire all clerk personnel while the sheriff hires attendants and security personnel. All salaries are set and paid by county commissioners. Political patronage is a very real benefit to elected officials according to one county sheriff. With each county desiring to keep the costs low, salaries are often inadequate to hire and keep qualified persons, while those who stay on are either dedicated to their work

and grossly underpaid, or are incompetent.

The District Court personnel system meets many of the standards set by both ABA and the National Advisory Commission.<sup>14</sup> All persons are hired by the immediate supervisor or head of office and placed in the state judicial personnel system. Uniform job classification standardizes salary structure and pay throughout the system. This system has been a great help to the District Court clerks in setting standards for hiring and in providing adequate salaries to attract qualified persons.

THE COURTS SHOULD DEVELOP A STATEWIDE JUDICIAL PERSONNEL SYSTEM WITH A STANDARD SALARY SCHEDULE, JOB CLASSIFICATIONS AND UNIFORM POLICIES. EACH PERSON WORKING IN THE COURTS SHOULD MEET STANDARD CRITERIA AND BE COMPENSATED ACCORDING TO JOB CLASSIFICATION AND EXPERIENCE.

Non-judicial personnel of the Maine courts, except for the State Court Administrator and selected support staff personnel, should be selected, supervised, and promoted by the court system in accordance with personnel regulations adopted by the Supreme Judicial Court. The uniform personnel policy for all non-judicial employees should include:

- (a) uniform job classification;
- (b) standard recruitment policies and procedures;

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<sup>14</sup> Court Organization, Section 1.42

- (c) open and competitive application, examination and appointment;
- (d) definitive promotion and incentive award program;
- (e) uniform procedures for periodic performance evaluation;
- (f) definitive discipline and discharge procedures;
- (g) standard grievance procedure;
- (h) establishment of an Equal Employment Opportunity program;
- (i) orientation and in-service training programs;
- (j) a basic compensation plan of pay ranges for specific classes of positions with progressive steps from minimum to maximum;
- (k) conditions of employment, sick leave, vacation time, and benefits;
- (l) integration with the state personnel system to provide transferability between executive and judicial branches.

The State Court Administrator and certain administrative support personnel including judges' secretaries, law clerks and clerks of court should serve at the pleasure of the Chief Justice, Presiding Justice of the judicial district, Chief Judge of the District Court or individual judges (in the case of secretaries and law clerks) and should therefore be placed in the unclassified service. It is desirable that judges be provided with a confidential staff, having special professional competence. These sensitive positions must be occupied by individuals who can maintain that status or be readily replaced.

Just as the federal government personnel practices provide that each of the three branches of government



manage its own personnel system entirely independent of the others, the Maine judicial system should oversee its personnel. It is very difficult for a system to operate when those employees are recruited, paid and promoted by another branch of government.

A unified personnel system facilitates the establishment of a salary structure that will attract qualified applicants to like jobs throughout the state. Employees who are doing a job in one court should be on the same salary scale as people doing the same job in other parts of the state. Uniformity throughout the state provides the opportunity for inter-court transfer to ease the workload and provides opportunity for employees to move without loss of position or benefits. It also provides a career ladder for the employee. Many employees who are well qualified have left the Superior Court to work in state jobs for security and higher pay. One well qualified clerk, forced to choose between clerkships in the Superior or District courts, chose the latter because of significantly higher pay and more job security.

Court reporters are currently part of the state personnel system as are judges. The positions of court messengers and jury commissioner should be abolished as recommended in the IJA report of 1971 (see page 53.)

Deputy sheriffs assigned to the Superior Court are generally older persons who usually are able to be of service to the public. However, most of them would be of little use if a disturbance were to break out in the courtroom. The role of these people needs to be analyzed. If the cost of these positions is to be charged to the court, then the responsibility for their assignment should be left to the court. On a day that only chambers work was to be done, one judge requested that no deputy sheriffs be assigned to the court. Upon his arrival, he discovered that four deputies were assigned anyway, since the sheriff wanted them to be paid. This is an unnecessary expense charged to the court and borne by the taxpayers. With sporadic court sessions in many small counties, it is impossible to hire full time employees for these jobs yet there is a need for a secure courtroom. This problem will require further study.

Implementation of a judicial personnel system should not cause great problems, since the District Court is already operating a similar system. Job descriptions, salary schedules and job classifications must be created and merged with the present system. The District Court and the Supreme Judicial Court staff who are operating their respective systems, can aid in the development of the Superior Court personnel system. Ultimately these should be combined into one judicial personnel system.

The support staff of the Presiding Justices will be available to help with the start-up procedures.

C. INFORMATION SYSTEM

The judiciary has limited its information system to the gathering of some basic data. At the District Court level, this includes the expenditures and revenues for the year and the number of cases filed and disposed of in various categories throughout the year. The Superior Court compiles data indicating the number of civil cases and criminal cases in each court during each month. This information is submitted to the chief clerk who in turn reports the information to the Chief Justice. All of the information gathered is compiled at the end of the year and submitted as an annual report to the Judicial Council.

The data that is gathered is not timely enough to aid in the decision-making process; therefore, little use of this material is made in the allocation of judicial and non-judicial personnel, substantiation of the need for reallocation of personnel and evaluation of the production of the various judges and clerks. The information that is gathered is not useless in that it provides in retrospect an indication of the work load of the various courts; however, its primary purpose is not being accomplished

in that it is not used to help in the decision making process and to provide ongoing evaluation of the activities of the court. For instance, when one particular county continually has fewer criminal cases heard month after month, it would be desirable to analyze the activities of that court to determine the cause.

BECAUSE SOUND ADMINISTRATIVE DECISION MAKING SHOULD BE BASED ON ACCURATE, RELIABLE AND TIMELY INFORMATION, THE ADMINISTRATIVE OFFICE SHOULD GATHER, ANALYZE AND DISTRIBUTE PERTINENT INFORMATION ABOUT THE JUDICIARY.

ABA Standards suggest that it is the duty of the central administrative office to promulgate and administer uniform requirements concerning records and information systems as well as statistical compilations and controls.<sup>15</sup>

A lack of uniformity from one court to another makes comparison of their operations impossible. The National Advisory Commission on Standards and Goals on Courts, Standard 9.1, recommends an information compilation and dissemination system:

"The state court administrator should develop a statewide information system. This system should include both statistics and narrative regarding the operation of the entire state court system. At least yearly, the state court administrator should issue an official report to the public and the legislature, containing information regarding the operation of the courts."

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<sup>15</sup> Court Organization, Standard 1.41, p. 87ff.

Following the passage of the transfer statute by the legislature in late 1973, the Chief Justice directed that the chief clerk of the Superior Court gather monthly statistics on a number of cases transferred from the District Court to the Superior Court. The data was gathered for the specific purpose of indicating the effect of the statute on the operation of the courts. The information has indicated the number of transfers being requested and the effect upon the Superior Court caseload. This has enabled judges to re-evaluate their position on the transfer statute and points up defects to those people advocating the transfer of cases.

The data that is being gathered in the State of Maine for both the District and Superior Courts has been helpful in reviewing the increasing caseload over the years, but little effort has been made to integrate that information into the administrative decision making process of the court. All of the information for the courts is manually gathered and transmitted in the form of monthly reports to the District Court office or the chief clerk of the Superior Court and finally to the Chief Justice.

The ABA Standards recommend the "promulgation and administration of uniform requirements concerning records and information systems and statistical compilations and

controls." <sup>16</sup> The courts, in the design of a management information system, must determine to what use they will put that system, and then determine what information is relevant to achieve these ends. Thereafter they must determine what information is available and what other data must be gathered and at what cost. Judges and support personnel should be surveyed to determine what information would be valuable in the discharge of their duties. Although the existing rudimentary information system is understood by most users, it should be subject to full documentation. This will be partially accomplished in the preparation of a clerks' manual that is currently underway.

An accurate statistical portrait of the judicial system should be prepared by gathering the following kinds of information: (1) the number and type of cases filed; (2) the length of time between each step in the adjudicatory process; (3) the total time from filing to final disposition; (4) the time from original arrest or filing of complaint through final disposition; (5) the number of non-jury and jury trials; (6) the cost of operating the court system; (7) the kinds of cases filed in the various courts.

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<sup>16</sup> Court Organization, Standard 1.41(a)(ii)(c).

The Chief Justice, the Presiding Justice, and the Chief Judge of the District Court will need to have at hand necessary and relevant information in a usable form in order to make administrative decisions and to take effective action to provide adequate judicial manpower in the courts. For the longer term, accurate information is necessary for the analysis of changing conditions in the courts, preparation of the court budget, and projection of future court needs.

The information and analysis required in administering the courts include two general types. The first is information required in direct management of the court's caseload: the number, types and age of cases pending in the court; the status of cases at various stages in their process; trial schedules, judicial manpower availability, and number of jurors needed; and similar data. Information of this sort is required both for daily and weekly caseload management, in the form of summaries and projections, for future planning, short run and long run, concerning case load levels and requirements for judicial and auxiliary manpower. The second type of information is required for financial and administrative management of the court: disbursement and control of payroll and other expenditures, maintenance of personnel records, equipment inventories, etc. This information, too, is required both for current operations and for preparation of budgets, projections of future financial requirements, and evaluation of priorities among needs anticipated in the future.<sup>17</sup>

At present, statistics gathered by the courts are not adequate for management purposes and are insufficiently controlled for accuracy. The court should obtain

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<sup>17</sup>Court Organization, Standard 1.60 Commentary, p. 108ff.

statistics about judicial operations that are complete, timely, accurate and easily interpreted. Without correct and sufficient statistics, other administrative objectives are more difficult to achieve.

D. LIAISON WITH OTHER DEPARTMENTS

Many of the difficulties faced by the courts can be traced to poor liaison with the legislature and executive agencies. It has been a long standing tradition with the courts in Maine to carry the concept of judicial independence to almost complete non-involvement with the legislature. This non-involvement has had three results. First, the legislature has had no formal input from the judiciary and thus feels that the judiciary either does not want anything or has no needs that they can speak for in a unified voice. Second, the individual judges and justices speak to individual legislators and request support for projects, giving the impression that the judiciary does not have a plan that all can stand behind. Third, even though the District Court Chief Judge presents an annual request to the legislature, the other courts are not so represented.

On matters of particular interest, the judiciary has been able to make its needs known to the legislature through contacts with individual legislators who transmit these requests to the entire body. A number of



legislators who were interviewed said that they would prefer that the courts in a unified voice present their needs in a coherent fashion.

The administrative assistant to the Chief Justice has had limited access to the legislature. He does not speak for all the courts and there is resistance on the part of the legislature to hear from him.

BECAUSE THE JUDICIARY FUNCTIONS WITH THE COOPERATION AND SUPPORT OF BOTH THE EXECUTIVE AND LEGISLATIVE DEPARTMENTS, CONSTANT COMMUNICATION AMONG ALL DEPARTMENTS AND AGENCIES SHOULD BE MAINTAINED BY THE COURT, THROUGH ITS ADMINISTRATIVE OFFICE.

"Liaison for the court system as a whole with the legislature and the chief executive, and with the bar, the news media, and the general public" is the responsibility of a central administrative office and subordinate administrative personnel subject to the supervision of the Chief Justice, according to the American Bar Association.<sup>18</sup>

The National Advisory Commission on Standards and Goals, Standard 9.1 recommends that the state court administrator maintain close relations with the legislative and executive branches, as well as private organizations,

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<sup>18</sup> Court Organization, Standard 1.41 (e).

labor and management, the public and the media.

In an effort to monitor changing developments which relate to the judiciary, the state court administrator should maintain an open line of communication with the other two branches of government. Liaison will require the court administrator to follow legislation pertaining to the courts and advise the legislature of the position of the judiciary on the legislation and of the effect upon the courts of enactment. At present the single group most actively involved with the court is the Bar Association, which can be a source of great help to the court in making changes to improve court operations. The public has a right to a complete and unbiased understanding of the operations of the court. It is important that the central administrative office, under the direction of the Chief Justice, make regular reports to the public through the media to keep the public informed.

E. PLANNING

There is no single office or person assigned to plan and evaluate the various activities of the court. Since, for the most part, the District Court operates independently from the Superior and Supreme Judicial Court, there is little opportunity for the coordination of their activities. For example, while the District Court Chief Judge may be arranging for new and better District Court facilities, there is no coordinated consideration of the facility needs of the Superior Court. With proper integrated planning, counties may be able to provide

adequate facilities for the District Courts in a location with the Superior Court and save both confusion, time and money.

TO ANTICIPATE CHANGE AND ADJUST TO IT THE COURTS SHOULD ESTABLISH AN ACTIVE PLANNING FUNCTION AS PART OF THE ADMINISTRATIVE SYSTEM.

Planning refers to the process of setting goals and objectives and analyzing of alternatives. Legislative enactments, changes brought about by court decisions and new programs advanced by state agencies must be considered by the courts in a planning process. The courts must make decisions about overall directions and priorities. The Courts must not only react to programs developed by others but must create programs of their own.

Although some planning is done annually with the preparation of the budget, the court must make more of an effort to develop a multi-year plan. Subsequently, each new program must be evaluated in light of the multi-year program and both the multi-year program and the new plans must be modified as new experiences and more evaluation dictate.

The National Advisory Commission Criminal Justice Standards and Goals recommends that the judges and court

personnel participate in the planning activities of the entire criminal justice system, not only to disseminate information about the court system, but also to further the objectives of the various agencies. "Few situations can bring courts into greater disrepute than all these demonstrations of lack of cooperation with other agencies of the criminal justice system. Such situations not only create resentment on the part of the other agencies, but suggest to the general public that the courts are either disinterested or unsympathetic with the goals and programs of other agencies, such as the police and correctional authorities."<sup>19</sup> Judicial independence does not require that personnel of the courts remain aloof from or separate from the planning of other agencies.

F. CLERK OF COURTS

The clerks of courts perform functions which are vital to the successful operations of every court. The clerk's office keeps track of the work of the court from initial filing to final disposition and organizes that work in a manner that expedites the efficient operation of the court. In Maine there are three levels of clerks' offices.

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<sup>19</sup> Court Organization, Standard 10.5 and commentary, p. 207.

The clerk to the Supreme Court, also the administrative assistant to the Chief Justice, receives all appeals from the lower court and distributes them to the various members of the Supreme Court. In another capacity, he is reporter of decisions. The clerk is appointed by the Chief Justice and is paid by the state from the judicial budget.

The clerk of courts of the Superior Court, an elected official, is paid by the counties. As such the clerks are responsive to the electorate and their staffs are appointed by the clerk and paid by county government. In some instances, the clerks have not been responsive to the courts since they are not under the direct control of the judicial branch. In some instances the chief clerk of the Superior Court has established procedures to be followed by all the clerks of court only to discover later that some clerks failed to implement them.

As judges travel from county to county they find different procedures followed in each county; to some extent this is necessary to meet local needs. However, some standardization of procedures can be established. Standardization also facilitates comparison of the jurisdictions throughout the state. Some clerks seek assistance in setting up procedures that have worked in other parts of the state and are anxious for the guidance that could be provided in a unified system.

Recently, the chief clerk of the Superior Court implemented a useful color-coded flat file system for each type of case handled in the Superior Court. More procedures of this type can and should be implemented.<sup>20</sup>

The District Court clerk's office is directly under the Chief Judge of the District Court. A former clerk oversees the procedures throughout the state and lends assistance as it is required in the individual clerks' offices. The District Court has made an effort to upgrade the calibre of support personnel in the courts; nevertheless, there is a need to provide further assistance in upgrading procedures and training personnel.

TO ELIMINATE CONFUSION CAUSED BY UNNECESSARY LOCAL VARIATIONS, PROCEDURES IN THE SUPERIOR AND DISTRICT COURTS SHOULD BE STANDARDIZED. EVENTUALLY THE CLERKS' OFFICES SHOULD BE CONSOLIDATED TO PROVIDE A CLERK OF COURTS OFFICE AT THE REGIONAL CENTER, AT EACH COUNTY SEAT AND AT SATELLITE LOCATIONS.

Improvement in the court system cannot come about without the participation and cooperation of the clerk's office. If the judiciary is to improve itself, it must have control over those functions which directly serve it. All personnel hired to serve in the clerk's office should be appointed by the judiciary or under judicial authority.

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<sup>20</sup>Standardization is ideally achieved by reliance of clerks on manuals which can be used in conjunction with training programs. Such manuals are now being designed by the National Center for State Courts.

Furthermore, job descriptions and salary schedules must be defined. The operations of the courts should be flexible yet should follow standard procedures developed in accordance with sound judicial management policy as promulgated statewide by the central administrative office. Each clerk should be responsible to a Presiding Justice's office, thus providing immediate local assistance.

There is little hope that significant administrative or operational reform can be accomplished without a revision in the structure of the clerks' offices, and without direct input at the local level by Presiding Justices and support staff.

G. TRAINING

Training of judicial employees in Maine is an informal procedure at best. When new judges are appointed, they are assigned a case load equal to that of an experienced judge. The Superior Court justices will spend months in the various counties without having extensive contact with other judges; the District Court judges are even more isolated from their brothers on the bench.

New clerks elected for the Superior Court or appointed for the District Court are trained by the subordinate staff with the assistance of the chief clerk of the Superior Court or the clerk specialist in the District Court.

Subordinate personnel are at best given a brief orientation by their superiors. Employees may be trained for the specific tasks that they have to perform, but are not acquainted with other tasks within the office or the overall purpose of the office. For instance, one court clerk, who resigned, had failed to train the deputy clerk to perform all the functions that were required and consequently there was a lapse in the performance of many functions.

IN-SERVICE TRAINING PROGRAMS FOR ALL PERSONNEL SHOULD BE DEVELOPED TO IMPROVE THE SERVICE TO THE COURTS AND THE PUBLIC.

The central administrative office should be responsible for the in-service training of all judicial employees as well as orientation procedures for new employees. The operation of the judicial department is unique. Training programs for judicial and non-judicial personnel are scarce. The central administrative office should arrange training programs to develop individuals equipped to handle specific jobs. Each year, the judiciary does send a Superior Court justice to the National College of the State Judiciary for training; however, only half of the judges have attended. Periodically, judges are selected to attend seminars throughout the country. There is no systematic program for including all judges in as many various kinds of seminars as is possible.



Although new judges are not appointed frequently, a program should be provided for their orientation and a period set aside for their training prior to their assuming bench duties. One Superior Court justice reflected that he had presided over a murder case within the first month of his appointment.

#### H. AUXILIARY SERVICES

The management of the jury commission and the law libraries is left to the judges as they rotate among the counties and to local county officials. Inasmuch as juries are a major expense of the court and more importantly, represent significant contact with the public, they must be managed efficiently. The county law libraries are funded in a number of ways yet are a responsibility of the court.

THE COURTS SHOULD HAVE PERSONNEL AVAILABLE TO PROVIDE ASSISTANCE IN THE ADMINISTRATION OF AUXILIARY SERVICES.

As the court continues to develop its auxiliary services, it is essential that an organized plan for the supervision and control of all auxiliary services be developed. As an example, although the probation officers currently are part of the Department of Probation and Parole, plans should be made to provide a service directly responsive to the courts for the preparation of presentence investigations. This, along with bail services

and other direct and indirect judicial functions belong to the auxiliary services function of the central administrative office.

8. JUDICIAL CENTER

The Supreme Judicial Court sits in Portland, where it maintains a courtroom, chambers for two Supreme Court Associate Justices, and the offices of the administrative assistant to the Chief Justice, the chief clerk, as well as offices for support personnel. When the court is in session, the justices travel from throughout the state to Portland and stay in motels or drive to their residences during the duration of the term. The Superior Court has no central office or headquarters.

The District Court headquarters is in Bangor and consists of three offices and a conference room for the Chief Judge. This space is available for the administrative assistant and support personnel. The Chief Judge spends several days each month in his office but otherwise administers the District Court from the other court locations where he assists in holding court.

There is minimal contact between the administrative offices of the Supreme Judicial and Superior Courts because of the great distance.

THE SUPREME JUDICIAL COURT SHOULD HAVE FACILITIES SUFFICIENT FOR THE VARIED ACTIVITIES THAT IT MUST PERFORM. A JUDICIAL CENTER LOCATED NEAR THE STATE

CAPITOL WOULD PROVIDE A PERMANENT FUNCTIONAL HOME FOR THE JUDICIARY AND CENTRALIZE THE ADMINISTRATION OF JUSTICE IN THE STATE.

The primary recommendations of this report relate to the administrative unification of the judiciary. Since the executive and legislative branches have their headquarters in the state capitol which is centrally located and has a relatively large population, it is appropriate to provide a judicial center as well. A central facility will provide a tangible focus for judicial activity in the state. In addition, the proximity to the capitol would provide improved liaison with the legislature and executive.

A permanent base with adequate facilities for the Supreme Judicial Court would not only add dignity but provide facilities that are functional for the varied operations of the Supreme Judicial Court. Vacating the offices and the courtroom in Cumberland County would provide additional space for the Superior Court which is in need of another Superior Court room. One of the first tasks of the state court administrator should be to investigate the possibilities of developing a judicial center in Augusta. A technical assistance grant could be requested from LEAA to analyze

the possibility of renovating an existing building in Augusta, or constructing a new building within the Civic Center.

9. FACILITIES RENTAL

Superior Court facilities provided by the county are supported by the local tax base. Some of the facilities are less than adequate although all are clean and well kept. The counties have been reluctant to provide additional space. In some instances the backlog of the courts is due to the lack of an additional courtroom.

County control of the court facilities has caused some difficult times in the past for the court. One county commissioner locked the judge out of his chambers at five o'clock because he did not want the county facilities open after that hour. Some clerks have indicated that they are not permitted to work overtime because the custodian locks the building.

THE JUDICIARY SHOULD RENT FACILITIES NECESSARY FOR THE COURTS' BUSINESS. FEES FOR RENTAL OF COUNTY BUILDINGS SHOULD BE NEGOTIATED BETWEEN THE COUNTIES AND THE COURT. IF THE COURT IS UNABLE TO NEGOTIATE FOR RENTAL IN A PUBLIC BUILDING, THE MATTER SHOULD BE ARBITRATED WITH THE ASSISTANCE OF THE CHIEF JUSTICE.

A critical area of judicial administration has to do with the provision of courthouse facilities. The courts know best the kind of physical and space layout that is necessary to support their operations. While the county may be required to erect the building, the court should have veto power over the size, quality, and location of facilities. The fact that the county may use some of the space for other than courtroom purposes does not alter the need for court control. Convenience of the clientele of the court, including lawyers as well as litigants, is a primary consideration. Clientele considerations are paramount in the effective administration of justice.<sup>21</sup>

Under state funding the courts should be authorized to lease facilities from the county or rent alternate facilities. In most instances, the county facilities would be rented; however, other facilities may be necessary.

The procedures for lease agreements must be thoroughly understood by both the judiciary and the county commissioners. Courts require unique spaces not readily adaptable to other uses. Therefore, it is not likely that the courts would seek other than county buildings. In the existing courthouses the county also maintains its county offices.

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<sup>21</sup> Friesen E., Gallas E., Gallas N., Managing the Court, Bobbs-Merrill Company, Indianapolis, (1971) p.105.

The cost of rental of the facilities would be best determined by ascertaining the annual cost to maintain the courthouse and computing an equitable share of that cost as a rental charge to the judiciary for the use of the facilities. Current policy on renting court facilities does not demand that the square footage used by the judiciary be divided by the total available square footage of the building to determine the percentage of the cost. Some counties have provided rooms that are oversized, exceeding the demands of modern court proceedings. Some buildings are in disrepair and contain inadequate furnishings. In the computation of rental costs, the courts should share in capital as well as maintenance costs of the building. All of these factors must be considered in ascertaining the appropriate rental costs.

To arrive at a fair rental cost, the county commissioners should propose an amount for annual rental to the Presiding Justice of the region who after thorough analysis with his administrative support staff, should come to a tentative agreement. Prior to acceptance the State Court Administrator should be notified for final approval. If an acceptable agreement cannot be reached, the matter should be brought before the Chief Justice for arbitration.

#### SOUND RECORDING

Through a MLEPAA grant the District Court has acquired sound recording machines for each court. However,

because acoustic levels in some courtrooms are unacceptable, units have not yet been installed in all courts. A more serious concern is the lack of trained personnel to operate the machines during a court session when the clerks have other duties in the clerks office.

ALL DISTRICT COURT HEARINGS SHOULD BE RECORDED ON THE SOUND RECORDING EQUIPMENT NOW AVAILABLE. AS SOON AS POSSIBLE, STAFF SHOULD BE PROVIDED TO MONITOR AND LOG THE RECORDINGS; ALL APPEALS TO THE SUPERIOR COURT SHOULD BE ON THE TRANSCRIPT OF THE RECORD SO PREPARED.

The District Court should provide for the immediate installation of sound recorders in every courtroom. These sound recorders should be in operation while the court is in session even though sufficient personnel are not available to log the tapes. With the approval of the Supreme Judicial Court the state court administrator should prepare and promulgate guidelines for the use of sound recordings and the preparation of transcripts.

The judge can announce each case and the names of the defendants and other participants in order to keep a record. The value of sound recording is indicated by the following. A disgruntled defendant complained to the Chief Judge about the manner in which his case was handled and not until after extensive meetings with the defendant, counsel and the judge was the matter settled. The judge indicated that if there had been a sound recording machine in operation, the recording

would have indicated that the matter was handled properly. A second purpose of sound recording is to provide an accurate record of the disposition of every case. On occasion records can be misplaced or transcribed incorrectly and a review of the sound recording will indicate the decision. Another reason for utilizing sound recording is for appeals on the record to the Superior Court. If all cases were recorded, and logged properly, appeals could be transcribed and decided on the record at the Superior Court, saving trial de novo, much expense and time at the Superior Court.

Even if no logs are maintained initially, the appeal can be on the record as transcribed. Only if the transcription is illegible (because of recording deficiencies) should the matter be tried de novo. The state court administrator should prepare and promulgate guidelines for the use of sound recording and for the preparation of transcripts.



III. Proposed Constitutional Amendments and Statutes

AN ACT Defining the Administrative Authority  
of the Supreme Judicial Court and the  
Chief Justice over the Judicial Department

BE IT ENACTED by the People of the State of Maine, as follows:

Sec. 1. R.S., T. 4, Section 1 amended. Section 1  
of Title 4 of the Revised Statutes is amended as follows:

~~Sec. 1. Constitution of the Court.~~

Sec. 1. Constitution of the Court; Administrative  
Responsibilities of the Court and the Chief Justice.

a. The Supreme Judicial Court, as heretofore  
established, shall consist of a Chief Justice and ~~5~~6  
associate justices and such Active Retired Justices  
as may be appointed and serving on said court, learned  
in the law and of sobriety of manners.

b. The Chief Justice shall be the head of the  
Judicial Department of the State. In the event of  
his disability for any cause, the senior associate,  
not under disability, shall perform any and all of  
his duties.

c. The Supreme Judicial Court shall have general

administrative and supervisory authority over the  
judicial department and shall make and promulgate  
rules, regulations and orders governing the administration  
of the judicial department.

d. The Chief Justice, as the head of the judicial  
department, shall, in accordance with the rules,  
regulations and orders of the Supreme Judicial Court,  
be responsible for the efficient operation of the  
judicial department and for the expeditious dispatch  
of litigation therein and for the proper conduct of  
business in all courts. The Chief Justice may require  
reports from all courts in the state and may issue  
orders and regulations necessary for the efficient  
operation of the judicial department and the prompt  
and proper administration of justice.

Sec. 2, R.S., T. 4, Section 114 amended. Section  
114 of Title 4 of the revised is hereby amended.

The Superior Court may administer all necessary oaths,  
render judgment and issue execution, punish for contempt  
and compel attendance; ~~make all such rules and regulations,  
not repugnant to law, as may be necessary and proper for~~

~~the-administration-of-justice-promptly-and-without-delay;~~  
and the provisions of law relative to the jurisdiction of  
the Supreme Judicial Court in each of said counties over  
parties, the arrest of persons, attachment of property, the  
time and mode of service of precepts, proceedings in court,  
the taxation of costs, the rendition of judgments, the issuing,  
service and return of executions and all other subjects apply  
to the Superior Court in all respects, except so far as they  
are modified by law, and the Superior Court is clothed with  
all the powers necessary for the performance of all its  
duties.

AN ACT to Provide a Judicial Conference  
to Consult with and Advise the  
Supreme Judicial Court and the Chief Justice.

BE IT ENACTED by the people of the State of Maine, as follows:

Sec. 1. R.S., T. 4, additional. Title 4 of the Revised Statutes is amended by adding Chapter 10 and Section 454 to read as follows:

CHAPTER 10

JUDICIAL CONFERENCE OF MAINE

Sec. 454. Judicial Conference of Maine.

There shall be a Judicial Conference of Maine composed of judges and justices who shall advise and consult with the Supreme Judicial Court and the Chief Justice on matters affecting the administration of the judicial department.

No member of said conference shall receive any compensation for his services, but said conference and the several members thereof shall be allowed, out of judicial appropriation, such expenses for clerical and other services and travel incidentals as the State Court Administrator shall approve.

AN ACT to Provide for an Administrative

Assistant to the Chief Justice

BE IT ENACTED by the People of the State of Maine, as follows:

Sec. 1. R.S., T. 4, Sec. 11 amended. Section 11 of Title 4 of the Revised Statutes is amended as follows:

Appointment

The Chief Justice of the Supreme Judicial Court ~~shall~~ may appoint an administrative assistant who shall serve at the pleasure of the Chief Justice. He shall devote full time to his official duties to the exclusion of any profession for profit.

Sec. 1. R.S., T. 4, Sec. 14 amended. The last two subsections are repealed and replaced by Sec. 1, R.S.T. 4, Sec. 54, as amended, the remainder of Sec. 1, R.S.T. 4, Sec. 14 is amended as follows:

Duties

The administrative assistant, under the supervision and direction of the Chief Justice shall

~~±--Duties~~ perform such duties as may be assigned by the Chief Justice.

2.--Clerk-of-Law-Court.--Act-as-clerk-of-the  
law-court;

3.--Reporter-of-Decisions.--Act-as-reporter-of  
decisions-

AN ACT to Provide for the Clerk of  
the Law Court who Shall also Act  
as Reporter of Decisions.

BE IT ENACTED by the People of the State of Maine, as follows:

Sec. 1. R.S., T. 4, Sec. 54 amended. Section 54 of  
Title 4 of the Revised Statutes is amended as follows:

The Chief Justice of the Supreme Judicial Court  
shall appoint a clerk of the law court to serve at his  
pleasure and shall, from time to time, designate one or  
more of the clerks of court or some competent person or  
persons who shall act as additional clerks of the law court.  
The clerk of the law court shall receive such salary as the  
Chief Justice shall determine and shall devote full time  
to his duties. The clerk of the law court shall also act  
as reporter of decisions. The Chief Justice or in his  
absence the senior justice present shall allow to the county  
in which any law term is held such expense as may be incurred  
on account of such law term which shall be paid by the State.  
The dockets of the law court shall be made from time to  
time and kept as the court may direct.



AN ACT to Provide for the Division  
of the State into Judicial Regions, Regional  
Judicial Centers, a Regional Presiding Justice or  
Each Region and the Assignment of  
Justices to Trial Terms.

BE IT ENACTED by the People of the State of Maine, as follows:

Sec. 1. R.S., T. 4, additional. Title 4 of the  
Revised Statutes is amended by adding Subchapter I-B  
and sections 15 and 16, as follows:

SUBCHAPTER I-B

JUDICIAL REGIONS: ASSIGNMENT OF

JUSTICES AND JUDGES

Sec. 15. Creation of Judicial Regions, Regional Court  
Centers and Regional Presiding Justices; Duties.

The Chief Justice of the Supreme Judicial Court shall  
by order divide the state into judicial regions for  
administrative and venue purposes, each judicial region  
to contain one or more counties, but in no event shall counties  
be divided for the creation of judicial regions.

The Chief Justice shall designate within each region a location to be the regional court center. Provided, that there shall be a regional court center at a location within the county of Aroostook whether or not Aroostook be designated a separate region. The regional court center shall contain the principal offices of the superior and district courts within each region and the Chief Justice shall assign at least one superior court justice to the regional court center throughout the year.

Regional Presiding Justices shall be appointed by, serve at the pleasure of and be responsible to the Chief Justice of the Supreme Judicial Court for the operation of the Superior Court and for the administration of justice within each region. The duties of the Presiding Justices shall be determined by rule of the Supreme Judicial Court.

Sec. 2. R.S., T. 4, Section 110 amended. Section 110 of Title 4 of the Revised Statutes is amended as follows:

The Chief Justice of the Supreme Judicial Court shall assign the justices of the superior court to each of the judicial regions as the caseload requires.

~~The Chief Justice of the Supreme Judicial Court~~  
The regional presiding justices shall establish the times and places for holding terms of the Superior Court in each county of the state, within their respective regions, shall specify schedule the business within the jurisdiction of the Superior Court to be conducted at such terms and shall specify the term or terms in each county at which when the grand jury shall be summoned. A grand jury may be specially summoned at any time by order of a Justice of the Superior Court.

AN ACT Relating to the Administrative Responsibilities  
of the Chief Judge of the District Court.

BE IT ENACTED by the People of the State of Maine, as follows:

Sec. 3. R.S., T. 4, Section 164 amended. Section 164  
of Title 4 of the Revised Statutes is amended as follows:

Section 164. Duties of Chief Judge.

The Chief Judge shall be responsible to and under the  
supervision of the Chief Justice of the Supreme Judicial  
Court for the operation of the District Court and shall serve  
as Chief Judge at the pleasure of the Chief Justice. To this  
end the Chief Judge shall:

\* \* \* \* \*

6. Records and reports. Prescribe, subject to the  
approval of the Chief Justice or his delegate, the records  
to be kept and destroyed and the reports to be made by each  
district judge;

7. Statistics. Collect ~~and-publish~~ such statistics and  
other information pertaining to the business of the District  
Court as ~~he-deems-desirable~~ are requested by the Chief Justice  
or his delegate;

8. Budget. Prepare and submit ~~an~~ a proposed annual  
budget for the District Court to the Chief Justice or his  
delegate;

\* \* \* \* \*

12. Traffic Violations Bureau.

\* \* \* \* \*

B. ~~Offenses~~ Infractions within the authority of violations clerk; schedule of fines. The Chief Judge shall by order, which may from time to time be amended, suspended or repealed, designate the traffic ~~offenses~~ infractions within the authority of the violations clerk. Such offenses shall not include:

\* \* \* \* \*

(17) Passing on hills and curves;

(18) A second or subsequent moving traffic offense within a twelve month's period.

\* \* \* \* \*

C. Plea and payment of fines and costs. Any person charged with any traffic ~~offense~~ infraction within the authority of the violations clerk may file an appearance in person or by mail before the violations clerk and enter a plea ~~of guilty~~ admitting the infraction charged and waiver of trial and pay the fine established for the ~~offense~~ infraction charged, and costs. Any person so ~~pleading guilty~~ entering a plea admitting the infraction charged shall be informed of his rights including the right to stand trial, that his signature to a plea ~~of guilty~~ admitting the infraction charged will have the same effect as a judgment of the court and that the record of ~~conviction~~ adjudication will be sent to the Secretary of State.

D. Procedure after one or more convictions, or adjudications within a twelve month's period. Any person who has been found guilty of or who has signed a plea of guilty to, or who has been found to have committed or who has signed a plea admitting or admitting with an explanation, one or more previous traffic offenses subject to this subsection within a twelve month's period shall not be permitted to appear before the violations clerk unless the Court shall, by order, permit such appearance. Each waiver of hearing filed under this subsection shall recite on the oath or affirmation of the offender whether or not he has been previously found guilty or to have committed or has previously signed a plea of guilty to, admitting, or admitting with an explanation one or more traffic offenses: within a twelve month's period. Any person swearing falsely to such statement shall, upon conviction, be guilty of a misdemeanor and subject to a fine of up to \$50.

E. Chief Judge to authorize procedures. The Chief Judge, following notification to the Chief Justice of the Supreme Judicial Court or his delegate, may authorize such forms and procedures as he deems appropriate to carry out the provisions of this section.

13. Additional Duties. The Chief Judge of the District Court shall perform such additional duties as may be assigned by the Chief Justice of the Supreme Judicial Court.

14. Powers reserved to the Supreme Judicial Court. Powers not herein enumerated but necessary or desirable for the proper administration of the courts may, from time to time, be promulgated and assigned, by rule of the Supreme Judicial Court.

Rules Providing for Regional Presiding Justices

The Supreme Judicial Court should by rule, establish regional presiding justices. Suggested language for this rule is:

Regional Presiding Justices: Appointment and Powers.

For each judicial region there shall be a regional presiding justice, appointed from among the justices of the superior court by the Chief Justice to serve at his pleasure, who shall be responsible for the efficient administration of the superior courts within his region. The regional presiding justice for each region shall be permanently assigned by the Chief Justice to the region's regional court center. The presiding justice shall be provided with such personnel to assist him in his administrative capacity as the Chief Justice shall by order provide.

AN ACT Relating to Venue in the Superior Court

BE IT ENACTED by the People of the State of Maine, as follows:

Sec. 1. R.S., T. 14, Chapter 201, repealed and replaced.  
Chapter 201 of Title 14 of the Revised Statutes is repealed and replaced by the following new chapter:

Chapter 201. Venue. Section 501. Venue by Rule.

The Supreme Judicial Court is authorized to prescribe by rule or order the venue of civil actions and other proceedings of a civil nature, commenced in the District or Superior Court. Rules enacted by the Supreme Judicial Court governing venue shall supersede and automatically replace any inconsistent statutory provisions relating to the place in which civil actions and other proceedings of a civil nature may be brought. The Supreme Judicial Court is also authorized to provide by rule for change of venue or transfer of cases or proceedings already commenced.

Sec. 2. R.S., T. 15, Section 1 amended. Section 1 of Title 15 of the Revised Statutes amended by the addition of the following second paragraph:

Criminal prosecutions within the jurisdiction of the Superior Court shall be brought either

(a) within the county where the offense was allegedly committed; or

(b) if the Supreme Judicial Court has, by rule, established and designated administrative regions for the Superior Court, each such region consisting of a single county or a reasonably compact group of counties, at any court location within the administrative region within which the offense was allegedly committed.

A criminal prosecution may be transferred to another location where it could have properly been brought on the motion of the defendant, of the state, on the court's own motion, or by order of the Chief Justice of the Supreme Judicial Court, and shall be so transferred when desirable to assure speedy trial or to relieve court congestion.

Venue in criminal prosecutions shall not be jurisdictional. The Supreme Judicial Court may by rule provide for conduct of



criminal prosecutions at locations other than those specified herein with the consent of the defendant.

Sec. 3. R.S., T. 4, Section 155 repealed and replaced.  
Section 155 of Title 4 of the Revised Statutes is repealed and replaced with the following new section:

Sec. 155 Venue.

1. Juvenile Proceeding or Criminal Prosecution. A juvenile proceeding or criminal prosecution, including traffic, shall be brought in the division in which the offense charged took place, but if the proceeding involves two or more offenses committed in different divisions, it may be brought in any one of them.

2. Civil Actions. The Supreme Judicial Court may by rule provide for the venue of civil actions and other proceedings of a civil nature commenced in the District Court and for change of venue or transfer of cases or proceedings already commenced.

Sec. 4. R.S., T. 14, Section 2604 repealed. Section 2604 of Title 14 of the Revised Statutes is repealed.

(venue for trustee process)

Sec. 5. R.S., T. 14, Section 2605 repealed. Section 2605 of the Title 14 of the Revised Statutes is repealed.

(venue for trustee process)

Sec. 6. R.S., T. 14, Section 2610 amended. The last sentence of Section 2610 of Title 14 of the Revised Statutes is hereby deleted:

(venue for nonresident trustee)

Sec. 7. R.S., T. 14, Section 1901 amended. The first sentence of Section 1901 of Title 14 of the Revised Statutes shall be amended to read as follows:

Any appeal shall be taken from the District Court to the Superior Court ~~for the county embracing the division in which the judgment was rendered~~ within ten days after judgment.

Sec. 8. R.S., T. 4, Section 401 amended. The second sentence of the first paragraph of Section 401 of Title 4 of the Revised Statutes is amended to read as follows:

Any person aggrieved by any order, sentence, decree or denial of such judges, except the appointment of a special administrator, or any order or decree requiring any administrator, executor, guardian or trustee to give an additional or new official bond, or any order or decree under Title 18, Section 1705, or any order or decree removing a guardian from office, may appeal therefrom to the Supreme Court of Probate ~~to be held within the county~~, if he

claims his appeal within twenty days within the date of the proceeding appealed from; or if, at that time, he was beyond sea, or out of the United States and had no sufficient attorney within the State, within days after his return or the appointment of such attorney.

Sec. 9. 5 M.R.S.A. Section 2451 amended. The first sentence of paragraph 1 of Section 2451 of Title 5 of the Revised Statutes is amended to read as follows:

1. Procedure. The appeal must be instituted by filing a complaint in the Superior Court at ~~Kennebec County~~ within 30 days after service and the final decision of the Hearing Commissioner.

Sec. 10. R.S., T. 23, Section 157 amended. The first sentence of Section 157 of Title 23, of the Revised Statutes is amended to read as follows:

The commission or any party or parties aggrieved by an award of the Land Damage Board may appeal therefrom to the Superior Court ~~in the county where the land is situated~~ within 30 days after the date of the receipt by the appellant of the notice of award.

Sec. 11. R.S., T. 23, Section 2058 amended. The first sentence of Section 2058 of Title 23 of the Revised Statutes is amended to read as follows:

Any person aggrieved by the estimate of damages by the county commissioners, on account of the laying out or discontinuing of a way, may appeal therefrom, at any time within 30 days after the commissioners' return is made, to the Superior Court, ~~in the county where the land is situated~~, which court shall determine the same by a committee of reference if the parties so agree, or by a verdict of its jury, and shall render judgment for the damages recovered, and judgment for costs in favor of the party entitled thereto, and shall issue execution for costs only.

Sec. 12. R.S., T. 23, Section 3005 amended. The second sentence of Section 3005 of Title 23 of the Revised Statutes shall be amended to read as follows:

Any person aggrieved by the estimate of such damages may have them determined as provided in Section 2058, by written complaint to the Superior Court, ~~in the county where the land lies~~, within 60 days from the date of the establishment, alteration, or discontinuance by such way by the town at the town meeting.

Sec. 13. R.S., T. 19, Section 691 amended. The first paragraph of Section 691 of Title 19 of the Revised Statutes shall be amended to read as follows:

A divorce from the bonds of matrimony may be decreed ~~in the the county where either party resides at the commencement of proceedings~~, for causes of adultery, impotence, extreme cruelty,

utter desertion continued for three consecutive years next prior to the filing of the complaint, gross and confirmed habits of intoxication from the use of intoxicating liquors, opium or other drugs, cruel and abusive treatment, or, on the complaint of the wife, where the husband being of sufficient ability or being able to labor and provide for her, grossly or wantonly or cruelly refuses or neglects to provide suitable maintenance for her, provided the parties were married in this state or cohabited here after marriage, or if the plaintiff resided here when the cause of divorce accrued, or had resided here in good faith for six months prior to the commencement of proceedings, or if the defendant is a resident of this state. When there is collusion between the parties to procure a divorce, it shall not be granted. Either party may be a witness. Condonation of the parties shall not be an absolute defense to any action for divorce but shall be discretionary with the court. The crimination shall be a comparison rather than an absolute defense in a divorce action. The Superior Court has jurisdiction of actions for divorce in all counties.

Sec. 14. R.S., T. 19, Section 284 repealed. Section 284 of Title 19 of the Revised Statutes is repealed.

(venue in paternity cases)

Sec. 15. R.S., T. 14, Section 5503 amended. The first sentence of Section 5503 of Title 14 of the Revised Statutes is hereby amended to read as follows:

The proceeding shall be commenced by filing with the clerk of the Superior Court ~~in the county where the conviction took place~~ an original petition with two copies thereof address to the Superior Court which shall have jurisdiction thereof.

Sec. 16. R.S., T. 26, Section 1194 amended. The first sentence of paragraph 9 of Section 1194 of Title 26 of the Revised Statutes is amended to read as follows:

9. Appeal. Within 15 days after the decision of the commission has become final, any party aggrieved thereby may appeal by commencing an action in the Superior Court of Kennebec County against the commission for the appeal of its decision, in which action any other party to the proceedings before the commission shall be made a defendant.

Sec. 17. R.S., T. 26, Section 1221 amended. The fourth sentence of paragraph E(1) of Section 1221 of Title 26 of the Revised Statutes is hereby amended to read as follows:

The employer shall be promptly notified of the commission's denial of his application, or the commission's redetermination, both of which shall become final unless within 15 days after mailing of the notice thereof to his last known address or in the absence of mailing, within 15 days after the delivery of such notice, an appeal is taken by filing a complaint in the Superior Court of Kennebec County, State of Maine.

The last sentence of paragraph E(1) of Section 1221 of Title 26 of the Revised Statutes is hereby amended to read as

follows:

An appeal may be taken from the decision of the Superior Court of Kennebec County to the Supreme Judicial Court of Maine in the same manner, but not inconsistent with this chapter, as is provided in civil actions;

Sec. 18. R.S., T. 26, Section 568 amended. The first sentence of the second paragraph of Section 568 of Title 26 of the Revised Statutes is hereby amended to read as follows:

Any such order of the board or any rule or regulation formulated by the board shall be subject to review by the Superior Court by an appeal taken within 30 days after the date of such order ~~to the Superior Court held in and for the county in which the operation is located~~ at the instance of any party in interest and aggrieved by said order or decision.

Sec. 19. R.S., T. 35, Section 8 amended. The third sentence of Section 8 of Title 35 of the Revised Statutes is amended to read as follows:

Any forfeiture or penalty shall be recovered and suit therefore be brought in the name of the state in the Superior Court ~~in the county where the main office of the public utility is located or in Kennebec County.~~

Sec. 20. R.S., T. 35, Section 303 amended. The third and fourth sentences of Section 303 of Title 35 are hereby amended to read as follows:

The results shall be certified by the clerk of the law court or the clerk of the commission and to a clerk of the Superior Court ~~for Kennebec County~~, the prevailing party to recover costs to be taxed by such Superior Court in accordance with the law for the taxation of costs on appeal in civil actions. Execution for such costs shall be issued from the Superior Court ~~of Kennebec County~~ in the same manner as in actions originating therein.

Sec. 21. R.S., T. 39, Section 103 amended. The first sentence of Section 103 of Title 39 of the Revised Statutes is hereby amended to read as follows:

Any party in interest may present copies, certified by the clerk of the commission, of any order or decision of the commission or of any commissioner, or of any memorandum of agreement approved by the Commissioner of Labor and Industry, together with all papers in connection therewith, ~~to the clerk of courts for the county in which the accident has occurred; or if the accident occurred without the state, to the clerk of courts for the County of Kennebec~~ to a clerk of courts of the Superior Court.

Sec. 22. R.S., T. 29, Section 781 amended. The third sentence of paragraph 2 of Section 781 of Title 29 of the Revised Statutes is hereby amended to read as follows:

Any person aggrieved by an order or act of the Secretary of State under this subchapter may, within 30 days after notice thereof,

appeal by filing a complaint in the Superior Court of the county in which one of the parties resides, and if both plaintiff and defendant are nonresidents, then within the county where the accident occurred.

Sec. 23. R.S., T. 14, Section 6653 amended. The first sentence of Section 6653 of Title 14 of the Revised Statutes is hereby deleted. (Venue in action to quit )

Sec. 24. R.S., T. 14, Section 6103 amended. The first sentence of Section 6103 of Title 14 of the Revised Statutes is hereby amended to read as follows:

In all cases where a debtor has mortgaged real and personal estate to secure the performance of a collateral agreement or undertaking, other than the payment of money, and proceedings have been commenced to foreclose said mortgage for alleged breach of the conditions thereof, but the title of redemption has not expired, any person having any claim against the mortgagor and having attached said mortgagor's interest in said estate on said claim may file a complaint in the Superior Court in the county where such agreement has to be performed, where the owner of such mortgage resides or where the property mortgaged is situated, alleging such facts and praying for relief.

Sec. 25. R.S., T. 14, Section 7302 amended. The first sentence of Section 7302 of of Title 14 of the Revised Statutes is deleted.

(venue in replevin)

Sec. 26. R.S., T. 14, Section 3101 amended. The first sentence of Section 3101 of Title 14 of the Revised Statutes is amended to read as follows:

When a trustee process is issued by a District Court the summons shall be substantially in the form used in the Superior Court and be served seven days before the return day in the same manner as in the Superior Court; and shall be brought in the division where either of the supposed trustees resides.

Sec. 27. R.S.T. 14, Section 3105 repealed. Section 3105 of Title 14 of the Revised Statutes is hereby repealed.

(venue in trustee process)

Sec. 28. R.S., T. 26, Section 1312, amended. The second sentence of paragraph 2 of Section 1312 of Title 26 of the Revised Statutes is hereby deleted.

(venue of action to recover minimum wage)

Sec. 29. R.S., T. 30, Section 3713 amended. The first sentence of paragraph 4 of Section 3713 of Title 30 of the Revised Statutes is hereby amended to read as follows:

4. Appeal. Any person, firm or corporation aggrieved by a decision of the Forest Commissioner revoking a registration may, within 30 days after notice thereof from the Forest Commissioner appeal therefrom to the Superior Court ~~in any county where the appellant has a regular place of business, or if the appellant has no such place of business within the state to the Superior Court in Kennebec County.~~

Sec. -30. R.S., T. 14, Section 5944 repealed. Section 5944 of Title 14 of the Revised Statutes is hereby repealed.

(venue for application for arbitration)\_\_\_\_\_

#### COMMENTARY

This bill abolishes statutory provisions determining the county in which civil actions may be brought in the Superior Court and authorizes the Supreme Judicial Court to make these determinations by court rule. It also amends the statute on the location of criminal prosecutions to enable some regionalization of criminal proceedings. These changes are necessary prerequisites so that the Supreme Judicial Court may increase the operating efficiency of the Superior Court by a measure of regionalization of its operations across county lines.

(Endorsed by Maine Judicial Council)

AN ACT Relating to the Appointment of  
Clerks of the Judicial Courts.

BE IT ENACTED by the People of the State of Maine, as follows:

Sec. 1. R.S., T. 4, §551, repealed and replaced. Section 551 of Title 4 of the Revised Statutes, as last repealed and replaced by section 1 of chapter 229 of the public laws of 1969, is repealed and the following enacted in place thereof:

§551. Appointment; tenure

The clerks of the judicial courts shall be appointed by and serve at the pleasure of the Chief Justice of the Supreme Judicial Court. It shall not be a requirement for appointment as a clerk of the judicial courts that the appointee be an attorney at law.

Sec. 2. Intent. It is the intent of the Legislature that clerks of the judicial courts shall continue in office until the expiration of their present terms.

COMMENTARY

The purpose of this bill is to provide that clerks of the judicial courts shall be appointed by the Chief Justice of the Supreme Judicial Court rather than elected by popular vote.

A RESOLUTION Proposing Amendments to Sections  
Six and Seven of Article I of the  
Constitution Limiting the Right to Trial by  
Jury in Criminal Prosecutions to only those  
Instances in which an Accused may be Imprisoned  
or Suffer Loss of Liberty or be Fined more  
than Five Hundred Dollars.

BE IT RESOLVED by the Legislature of Maine, as follows:

Sec. 1. Section Six of Article I of the Constitution Amended. Section Six of Article I of the Constitution is amended by adding the following paragraph:

An accused charged with a criminal offense which is not punishable by imprisonment or other loss of liberty and for which there is no fine or the maximum fine may not exceed five hundred dollars regardless of other penalties shall not be entitled to a jury trial but shall be tried in the manner prescribed by law.

Sec. 2. Section Seven of Article I of the Constitution Amended. Section Seven of Article I of the Constitution is amended by adding the following paragraph:

The right to trial by jury shall be governed by section six of article I of this constitution.



AN ACT to Provide for State Financing  
of the Judicial Department and to  
Create a Statewide Personnel System  
for Employees of the Judicial Department.

BE IT ENACTED by the People of the State of Maine, as follows:

Sec. 1. R.S., T. 4, additional. Title 4 of the Revised Statutes is amended by adding Subchapter I-D sections 19, 20, and 21 as follows:

SUBCHAPTER I-D

COURT PERSONNEL AND FINANCES

Sec. 19. State Responsibility for Court Finances.

Beginning with the fiscal year commencing July 1, 1976, the legislature shall appropriate funds for the expenses of the judicial department.

Sec. 20. Court Personnel and Compensation.

The Supreme Judicial Court shall prescribe by rule a personnel classification plan for all courts in the judicial department.

Sec. 21. Operating Budgets.

a. The state court administrator shall, subject to the approval of the chief justice, prepare biennially a consolidated operating budget for all courts in the state to be known as the judicial department operating budget. He shall be assisted in this task by the regional presiding justices and the Chief Judge of the District Court.

b. The state court administrator shall prepare the consolidated court budget according to procedures prescribed by the state budget officer. Budget requests and other additional information as requested shall be transmitted to the state budget officer on or before September 1st of the even numbered years. The governor shall include in the budgeted submission the judicial budget without revision but with such recommendations as he may deem proper.

c. The state court administrator subject to the approval of the chief justice, shall prescribe the financial management procedures to be used in all courts of the judicial department.

## Judicial Personnel Rule

The Supreme Judicial Court should promulgate rules for the operation of a personnel plan for the judicial branch. The rules should include provisions for the following elements of a comprehensive personnel system.

- i. a basic compensation plan of pay ranges to which classes of positions shall be assigned and may be reassinged;
- ii. qualifications for all nonjudicial positions and classes of positions which shall include education, experience, special skills, and legal knowledge;
- iii. an outline of duties to be performed in each position and class of positions;
- iv. the procedures for and regulations governing the appointment and removal of nonjudicial personnel;
- v. the procedures for and regulations governing the promotion of nonjudicial personnel; and
- vi. the amount, terms, and conditions of sick leave and vacation time and fringe benefits for court personnel, including annual allowance and accumulation thereof, and hours of work and other conditions of employment.
- vii. The Supreme Judicial Court, in promulgating rules as set forth in this section, shall take into account the compensation and classification plans, vacation and sick leave provisions, and other conditions of employment

applicable to the employees of the executive and  
legislative departments. The chief justice shall be  
aided by the administrative office of the courts in  
the implementation of this section.

### Judicial Finance Rules

The statutory scheme for state financing of the expenses of the Superior and Supreme Judicial Courts as prepared by the Judicial Council is in general well conceived. The Commission suggests, however, that the discharge of most of the described functions should be the responsibility of the state court administrator as designee of the Chief Justice. Such an allocation of responsibility will reduce the amount of time which the Chief Justice must devote to administrative duties. Final control will of course reside in the Chief Justice at whose pleasure the state court administrator serves.

AN ACT to Provide for State Financing of the  
Expenses of the Superior and Supreme Judicial Courts

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R.S., T. 4, Sec. 4, amended. The last 2 sentences of section 4 of Title 4 of the Revised Statutes are amended to read as follows:

~~The counties wherein such justices reside, have their offices or are holding court shall receive from the State the expenses necessarily incurred by such justices for postage, stationery, express and telephone tolls.~~ Each justice of said court shall be reimbursed by the State for expenses actually and reasonably incurred by him for clerical assistance, postage, stationery, express and telephone tolls, and any other reasonably necessary expenses, upon presentation to the State Controller of an itemized statement of such expenses. The Chief Justice of the Supreme Judicial Court or his designee may prescribe regulations for the submission of such itemized statements through his office and for the advance approval by him of such other reasonably necessary expenses.

Sec. 2. R.S., T. 4, Sec. 102, amended. The last sentence of section 102 of Title 4 of the Revised Statutes, as repealed and replaced by section 1 of chapter 472 of the public laws of 1965 and as amended, is further amended to read as follows:

Section 4, relating to reimbursement of Justices of the Supreme Judicial Court for expenses incurred by them, shall apply to Justices of the Superior Court, including reimbursement for expenses incurred in employing clerical assistance but ~~which in the aggregate shall not exceed a total sum of \$13,000 per year for all~~ the Chief Justice of the Supreme Judicial Court or his designee may specify by order a maximum amount to be expended by any justice for such clerical assistance.

Sec. 3. R.S., T. 4, Sec. 113, repealed. Section 113 of Title 4 of the Revised Statutes, as amended, is repealed.

Sec. 4. R.S., T. 4, Secs. 115-117, additional. Title 4 of the Revised Statutes is amended by adding 3 new sections, to read as follows:

Sec. 115. Place for holding court; suitable quarters.

In each county, the place for holding court shall be located in a state, county or municipal building designated by the Chief Justice of the Supreme Judicial Court or his designee, who, with the advice and approval of the Bureau of Public Improvements, is empowered to negotiate, on behalf of the State, the leases, contracts and other arrangements he considers necessary, within the limits of appropriations and other funds available to the Supreme Judicial and Superior Courts, to provide suitable quarters, adequately furnished and equipped, for the Supreme Judicial or Superior Court in each county.

The facilities of the Superior Court in each county, when that court is not in session, shall be available for other judicial purposes. Arrangements for such use shall be made by the Chief Justice or his designee.

If the Chief Justice or his designee is unable to negotiate the leases, contracts and other arrangements as provided in the preceding paragraph, he may, with the advice and approval of the Bureau of Public Improvements, negotiate on behalf of the State the leases, contracts and other arrangements he considers necessary, within the limits of the budget and funds available to such court, to provide suitable quarters, adequately furnished and equipped for the Supreme Judicial or Superior Court in privately owned buildings.

Sec. 116. Funds of court.

All revenue received by the Supreme Judicial or Superior Court from fines, forfeitures, penalties, fees and costs shall accrue to the State, except as otherwise provided under Title 12, sections 3055 and 4508; Title 23, section 1653 and Title 29, section 2302.

Sec. 117. Other expenses of the court.

Within the limits of the appropriations available to the Superior and Supreme Judicial Courts, the Chief Justice of the Supreme Judicial Court or his designee may authorize the expenditure of funds for such other expenses and capital improvements as are reasonably necessary for the efficient operation of said courts.

Sec. 5. R.S., T. 4, Sec. 501, amended. The first sentence of section 501 of Title 4 of the Revised Statutes is amended to read as follows:

In all cases in the Supreme Judicial or in the Superior Court in which the court appoints one or more persons, not exceeding three, as referees, masters or auditors, to hear the same, their fees and necessary expenses, including stenographic services upon a per diem basis, shall be paid by the county State on presentation of the proper certificate of the clerk of courts for ~~that~~ the county in which such case is pending, or by such of the parties, or out of any fund or subject matter of the action, which is in the custody and control of the court, or by apportionment among such sources of payment, as the court shall direct.

Sec. 6. R.S., T. 4, Sec. 554, amended. The last sentence on section 554 of Title 4 of the Revised Statutes is amended to read as follows:

They shall account quarterly under oath to the ~~county-treasurer~~ State Auditor for all fees received by them or payable to them by virtue of the office, except fees collected by them in naturalization proceedings, specifying the items, and shall pay the whole amount of the same to the ~~treasurers-of-their-respective~~ counties Treasurer of State quarterly on the 15th days of January, April, July and October of each year.

Sec. 7. R.S., T. 4, Sec. 556, amended. The first and last paragraphs of section 556 of Title 4 of the Revised Statutes are amended to read as follows:

The clerk shall keep a true and exact account of all moneys which he receives or is entitled to receive for services by virtue of his office as clerk of the Superior or Supreme Judicial Courts and shall pay the same to the ~~county-treasurer~~ Treasurer of State ~~for-use-of-the-county-in-the-manner-required by-law.~~ All other moneys belonging to the county or State respectively shall be paid in 30 days after they are received by him. If in either case he neglects to do so, he shall pay 25 percent interest thereon until paid. ~~The-county-treasurer shall-notify-the-Treasurer-of-State~~ Upon the county treasurer's or Treasurer of State's notice of any such delinquency and, the clerk's bond shall then be sued.

Whenever any of said funds are ordered by the court to be paid to a person entitled to same, 1/2 of the accrued interest, if any shall be paid to the ~~county-treasurer~~ Treasurer of State ~~for-the-of-the-county~~, and the other 1/2 paid to the claimant unless otherwise ordered by the court. Whenever any of said funds remain unclaimed for 20 years from the date when payable under said court judgment or decree, the clerk shall obtain an



order from the court under whose judgment or decree said funds were placed in his custody that a comprehensive abstract of the facts be advertised for 3 weeks successively in a newspaper of general circulation published in the county, and if no one appears to claim said funds within 60 days after date of the last publication, the same shall become forfeited to the ~~county treasurer~~ Treasurer of State for-the-use-of-the-county. The portion of this section providing for the forfeiture of unclaimed funds shall apply to funds held by the clerk of courts for 20 years or more prior to September 16, 1961.

Sec. 8. R.S., T. 4, Sec. 562, amended. The 3rd sentence of section 562 of Title 4 of the Revised Statutes is amended to read as follows:

Before entering upon his official duties, each deputy shall be sworn and shall give a bond to the clerk, approved by ~~the-county commissioners~~ said Chief Justice or his designee and lodged in the office of the ~~county-treasurer~~ State Auditor, in the sum of \$8000, conditioned that he will faithfully perform all the duties required of his office.

Sec. 9. R.S., T. 4, Sec. 562, amended. The 4th sentence of the 2nd paragraph of section 562 of Title 4 of the Revised Statutes is amended to read as follows:

Before entering upon his official duties, each special deputy shall be sworn and if the clerk deems it advisable, he shall give bond to the clerk, approved by ~~the-county-commissioners~~ said Chief Justice or his designee and lodged in the office of the ~~county-treasurer~~ State Auditor, in the sum of \$8000, conditioned that he will faithfully perform the duties of his office.

Sec. 10. R.S., T. 4, Sec. 567, amended. Section 567 of Title 4 of the Revised Statutes is amended to read as follows:

Sec. 567. No recording officer to be attorney or sue in own court nor draft or aid in drafting paper to be recorded.

No clerk, register or recording officer of any court of the State shall be attorney or counselor in any civil action or matter pending in such court; neither shall he commence actions to be entered therein, nor draft nor aid in drafting any document or paper which he is by law required to record, in full or in part, under a penalty of not more than \$100, to be recovered by indictment for the benefit of the ~~county~~ State. Notwithstanding provisions of this act clerks may aid litigants in the preparation of small claims filings. Nothing shall prevent the clerk from rendering assistance of a general nature to the bar or the public.

Sec. 11. R.S., T. 4, Sec. 651, amended. The first sentence of the 2nd paragraph of section 651 of Title 4 of the Revised Statutes is amended to read as follows:

Official Court Reporters appointed by the Chief Justice of the Supreme Judicial Court shall receive from the ~~county-in which the court or proceeding is held~~ State, when the court or proceeding is held, their expenses when in attendance upon such court or proceeding away from their place of residence but not otherwise.

Sec. 12. R.S., T. 4, Sec. 652, repealed and replaced.  
Section 652 of Title 4 of the Revised Statutes is repealed and the following enacted in place thereof:

Sec. 652. Approval and payment of reporter's expenses.

All expense statements of Court Reporters pursuant to the 2nd paragraph of section 651 shall, after being approved by the presiding justice, be submitted to the office of the Chief Justice of the Supreme Judicial Court, and shall be further approved by him or his designee before payment by the Treasurer of State.

Sec. 13. R.S., T. 14, Sec. 1252, amended. The last paragraph of section 1252 of Title 14 of the Revised Statutes is amended to read as follows:

Said salaries shall be paid by the ~~respective-counties~~ State in ~~quarterly~~ monthly payments on the last day of each ~~quarter~~ month, and their expenses shall be paid from time to time by the ~~respective-counties~~ State on bills approved by ~~a-Justice-of-the-Superior-Court~~ the Chief Justice of the Supreme Judicial Court or his designee.

Sec. 14. R.S., T. 14, Sec. 1255, amended. The last paragraph of section 1255 of Title 14 of the Revised Statutes, as enacted by section 2 of chapter 510 of the public laws of 1967, is amended to read as follows:

The With the approval of the Chief Justice of the Supreme Judicial Court or his designee, the jury commissioners may employ or engage an executive secretary such as the clerk of courts or other qualified person to assist the commissioners in carrying out ~~its~~ their functions. Any such person shall receive such compensation as may be established ~~and-paid-for~~ by the ~~county commissioners~~ Chief Justice or his designee ~~from-county-funds~~ and actual necessary expenses incurred in the performance of his duties, to be paid by the State.

Sec. 15. R.S., T. 15, Sec. 1941, amended. Section 1941 of Title 15 of the Revised Statutes is amended to read as follows:

Sec. 1941. Duties of clerks as to bills of costs and certificates of fines.

Clerks of court shall attest duplicate copies of all bills of costs allowed therein and certificates of all fines and forfeitures imposed and accruing to the ~~county-before-the-rising of-the-court-immediately-after~~ State at such intervals as the Chief Justice of the Supreme Judicial Court or his designee may direct, and deliver one of said copies and certificates to the ~~county-treasurer~~ Chief Justice and retain one ~~for-the-use-of-the county-commissioners~~ in his office. After approval by the Chief Justice or his designee, one of said copies and certificates shall be forwarded to the Treasurer of State and the treasurer shall pay the witness fees and other proper expenses noted thereon.

Sec. 16. R.S., T. 15, Sec. 1943, amended. Section 1943 of Title 15 of the Revised Statutes is amended to read as follows:

Sec. 1943. Fines, costs and forfeitures in Superior Court.

Every clerk of a Superior Court shall render under oath a detailed account of all fines, costs and forfeitures upon convictions and sentences before him, on forms prescribed by the State Department of Audit, and shall pay them into the ~~treasury-of-the-county-where-the-offense-is-prosecuted~~ State Treasury on or before the 15th day of the month following the collection of such fines, costs and forfeitures. ~~The-county treasurer,-upon-approval-of-the-county-commissioners,-shall-pay to-the-State,-town,-city-or-persons-any-portions-of-the-fines, costs-and-forfeitures-that-may-be-due~~ Any person who fails to make such payments into the ~~county-treasury~~ State Treasury shall forfeit, in each instance, double the amount so neglected to be paid over, to be recovered by indictment for the persons entitled to such fines, costs and forfeitures, and in default of payment, according to the sentence of the court, such persons shall be punished by imprisonment for not more than 6 months.

Sec. 17. R.S., T. 15, Sec. 1981, amended. The first 2 paragraphs of section 1981 of Title 15 of the Revised Statutes are amended to read as follows:

Sheriffs, jailers and constables who by virtue of their office receive any fines, forfeitures or bills of costs, ~~except debts-and-costs-received-upon-executions-in-favor-of-the-State~~ shall forthwith pay them to the Treasurer of ~~the-county-in-which they-accrued~~ State.

If any such officer neglects to pay over such fine, forfeitures or costs for 30 days after the receipt thereof; or if he permits any person, sentenced to pay such fine, forfeiture or bill of costs and committed to his custody, to go at large without payment, unless by order of court, and does not within 30 days after such escape pay the amount thereof to the county Treasurer of State, he forfeits to the county State double the amount. The county Treasurer of State shall give notice of such neglect to the county-attorney Attorney General, who shall sue therefor in a civil action in the name of such treasurer.

Sec. 18. R.S., T. 15, Sec. 1983, amended. The first paragraph of section 1983 of Title 15 of the Revised Statutes is amended to read as follows:

Each sheriff, as often as every 3 months, shall deliver to the Treasurer of ~~his-county~~ State all securities taken by him for fines and costs, on the liberation of poor convicts from prison pursuant to law.

Sec. 19. R.S., T. 15, Sec. 2031, amended. Section 2031 of Title 15 of the Revised Statutes is amended to read as follows:

Sec. 2031. Fees claimed within 3 years.

Sums allowed to any person as fees or for expenses in any criminal prosecution and payable from the ~~county-treasury~~ State Treasury may be claimed by such person of the ~~county-treasurer~~ Treasurer of State at any time within 3 years after the allowance, and not afterwards.

Sec. 20. R.S., T. 15, Sec. 2032, amended. Section 2032 of Title 15 of the Revised Statutes is amended to read as follows:

Sec. 2032. Schedule of securities.

A schedule of all securities with the amount due on each, received by the ~~county-treasurer~~ Treasurer of State from the sheriff pursuant to section 1983, shall ~~be-by-him-laid-before the-county-commissioners-at-their-next-session,-to~~ be filed by the sheriff with the clerk. The ~~county-commissioners~~ clerk, from time to time, shall examine such securities, and, where he deems appropriate, shall request that the court order the ~~county-attorney~~ Attorney General to take such measures for their collection as ~~the-judge~~ are deemed expedient or authorize the treasurer to compound and cancel them on such terms as ~~they-direct~~ may be ordered.

Sec. 21. R.S., T. 15, Sec. 2033, amended. Section 2033 of Title 15 of the Revised Statutes is amended to read as follows:

Sec. 2033. Treasurer's annual report to court.

The Treasurer of State shall, on or before the 20th day of November, annually, make a report to the Supreme Judicial Court and Attorney General showing the amount paid out of his office during the year ending on the first day of said November for costs of prosecutions in the Superior Court; to grand jurors and traverse jurors in terms of court held for criminal business; and the amount received from fines, costs and forfeitures in said courts from judges, jailers and other officers.

The county treasurer shall, on or before the 20th day of November, annually, make a report to the Supreme Judicial Court and Attorney General showing the amount paid out of his office during the year ending on the first day of said November for costs allowed by county commissioners for support of prisoners in jail; and to grand jurors and to traverse jurors at terms of court held for criminal business; and the amount received from fines, costs and forfeitures in said courts from judges, jailers and other officers.

Neglect to make and forward such a report is a breach of his official bond, and for every day of such neglect he forfeits \$5 to the State, and the Attorney General shall bring an action on such treasurer's official bond to recover such forfeiture.

The obligation of county treasurers under this section shall continue, after the effective date of this Act, with respect to moneys received by them during that portion of the year prior to the effective date of this Act; and thereafter, only with respect to such moneys as continue to be paid out or received for the benefit of the county.

Sec. 22. R.S., T. 16, Sec. 252, amended. The 2nd sentence of section 252 of Title 16 of the Revised Statutes is amended to read as follows:

Whenever any fines or penalties are imposed by any court in any proceeding in which such a police officer or constable is a complainant or a witness, said court may tax costs for such complainant or witness in the usual manner to be paid by the ~~county-treasurer~~ Treasurer of State upon approval of the county commissioners to the municipality employing such police officer or constable; such costs shall not exceed his actual expenses, paid by the municipality for his travel to and attendance at the court.

Sec. 23. R.S., T. 27, Sec. 222, amended. The first sentence of section 222 of Title 27 of the Revised Statutes is amended to read as follows:

The treasurer of each library association, under the direction of the trustees, shall apply all moneys received of the county treasurer, of the Treasurer of State and all bequests and gifts, to form a law library under the appointed regulations.

Sec. 24. R.S., T. 27, Sec. 224, amended. The first and last paragraphs of section 224 of Title 27 of the Revised Statutes, as last repealed and replaced by chapter 255 of the public laws of 1971, are repealed and the following enacted in place thereof:

The Treasurer of State shall pay annually to the treasurer of the Law Library Associations of the several counties for the uses and benefits of the county law libraries as follows:

The treasurer of each Law Library Association shall account to the State Auditor and the Supreme Judicial Court for all receipts and disbursements made under this section. All such receipts and disbursements shall be subject to audit.

Sec. 25. R.S., T. 30, Sec. 2, amended. The first paragraph and the last 2 paragraphs of section 2 of Title 30 of the Revised Statutes are amended to read as follows:

The county commissioners, ~~clerks of the judicial courts and their deputies~~ county treasurers and their deputies, sheriffs, registers of deeds, judges of probate and registers of probate in the several counties shall receive annual salaries from the county treasury in weekly or monthly payments as follows, except that clerks of judicial courts and their deputies, bailiffs and other court and jury officers required, the county attorneys and their assistants shall receive annual salaries from the State Treasury in monthly payments on the last day of each month in a sum which will, in the year's aggregate, most nearly equal the annual salary, as follows, and no other fees, costs or emoluments shall be allowed them:

The salaries mentioned in this section shall be in full compensation for the performance of all official duties by said officers and judges. County commissioners shall allow to said officers, excepting clerks of court, all office expense, clerk hire and travel which are necessary, just and proper to

the performance of their official duties. Without limiting the generality of the foregoing they shall allow to sheriffs the costs of boarding, guarding and transporting prisoners, whether awaiting trial, during trial or after conviction, and whether acting within or outside the county. The Chief Justice of the Supreme Judicial Court or his designee shall allow to clerks of courts, for payment by the State, their office expense, clerk hire and travel which, in his opinion, are necessary, just and proper to the performance of their official duties. Clerks shall secure approval of such expenses at such time and in such manner as the Chief Justice of the Supreme Judicial Court or his designee shall direct.

All fees and charges of whatever nature, except charges for the publication of notices required by law, which may be payable to any county officer, except clerks of court, shall be payable by them to the county treasurer for the use and benefit of the county, but preserving the right of sheriffs and their deputies to receive fees for the service of civil process and of sheriffs and their deputies not on a salary or per diem basis to receive fees for service of criminal process, and no county officer shall receive a private benefit from the labor of any person in the employ of the county. The fee payable to clerks of courts shall be payable by them as elsewhere provided by law; or in the absence of express provision, to the State. Fees chargeable by sheriffs and their deputies for service of civil process shall be collected by them exclusively from the litigants. Fees chargeable by sheriffs and deputies not on salary or per diem for service of criminal process shall be approved by the respective county attorneys, and paid by the respective county treasurers.

Sec. 26. R.S., T. 30, Sec. 53, repealed. Section 53 of Title 30 of the Revised Statutes is repealed.

Sec. 27. R.S., T. 30, §301, amended. Section 301 of Title 30 of the Revised Statutes is amended by amending the first sentence, and by adding at the end a new sentence, to read as follows:

The county commissioners shall, in the shire town of their county, provide and keep in repair courthouses pursuant to Title 4, section 115 with a suitable room in each for the county law library; fireproof buildings of brick or stone for the safekeeping of records and papers belonging to the offices of registers of deeds, and of probate and insolvency, and of the clerk of courts, with separate fireproof rooms, and suitable alcoves, cases or boxes for each office, and any other necessary buildings.

\* \* \* \* \*

Any violations of such ordinances shall be traffic infractions.

Sec. 28. R.S., T. 30, Sec. 751, amended. Section 751 of Title 30 of the Revised Statutes, as amended by chapter 326 of the public laws of 1967, is further amended to read as follows:

Sec. 751. Accounts; enforcing payment of taxes.

The treasurer shall keep his books and accounts on such form and in such manner as shall be approved by the State Department of Audit and shall apply all moneys received by him for the use of the county toward defraying its expenses, as the county commissioners ~~and the Supreme Judicial or Superior Court~~ by their written order direct. Each treasurer shall account with the commissioners of his county for all receipts and payments. He may enforce payment of taxes in the manner prescribed for the Treasurer of State. ~~No term of Superior Court shall adjourn until the presiding justice shall certify to the county treasurer that all expenses incurred during such term have been submitted for payment.~~

Sec. 29. Effective date.

1. Except as provided in subsection 2, this Act shall become effective July 1, 1976.

2. The authority of the Chief Justice, under Title 4, section 115 as added by this Act, to negotiate leases shall be effective January 1, 1976, but the term of such leases may not commence prior to July 1, 1976.

COMMENTARY

This bill provides for the assumption by the State of the operational expenses of the Superior Court presently borne by the 16 counties, such as the cost of jurors, witnesses, assigned counsel for indigent defendants and the like.

This will permit the Supreme Judicial Court to make more efficient allocation of our judicial resources and to provide better judicial facilities on a statewide basis.



AN ACT to Provide an Administrative Office of  
the Courts directed by a State Court Administrator

BE IT ENACTED by the People of the State of Maine, as follows:

Sec. 1. R.S., T. 4, Subchapter I-A repealed and replaced. Subchapter I-A, sections 11, 13, and 14 are hereby repealed and replaced as follows:

SUBCHAPTER I-A

ADMINISTRATIVE OFFICE OF THE COURTS

Sec. 11. Administrative Office of the Courts; Appointment of State Court Administrator.

There shall be an administrative office of the courts, directed by a state court administrator who shall be appointed by and serve at the pleasure of the Chief Justice of the Supreme Judicial Court. Said administrator shall devote full time to his official duties to the exclusion of any profession for profit.

Sec. 13. Assistants and Employees of State Court Administrator.

With the approval of the Chief Justice and within the limits of appropriations made therefore the state court administrator may appoint such assistants and other employees and purchase or lease such equipment, services and facilities

as may be needed for the performance of the duties of said administrator.

These personnel shall have qualifications as prescribed by the Supreme Judicial Court.

Sec. 14. Duties of State Court Administrator.

The state court administrator under the supervision of the Chief Justice of the Supreme Judicial Court shall:

(1) Carry on a continuous survey and study of the organization, operation, condition of business, practice, and procedure of the judicial department and make recommendations to the chief justice concerning the number of judges and other judicial personnel required for the efficient administration of justice. Assist in long and short range planning.

(2) Examine the status of dockets of all courts so as to determine cases and other judicial business that have

been unduly delayed. From such reports, the administrator shall indicate which courts are in need of additional judicial personnel and make recommendations to the chief justice concerning the assignment or reassignment of personnel to courts that are in need of such personnel. The administrator shall also carry out the directives of the chief justice as to the assignment of personnel in these instances;

(3) Investigate complaints with respect to the operation of the courts;

(4) Examine the statistical systems of the courts and make recommendations for a uniform system of judicial statistics. The administrator shall also collect and analyze statistical and other data relating to the business of the courts;

(5) Prescribe uniform administrative and business methods, systems, forms, docketing and records to be used in all state courts;

(6) Implement standards and policies set by the chief justice regarding hours of court, the assignment of term parts, judges and justices;

(7) Act as fiscal officer of the courts and in so doing:

(i) maintain fiscal controls and accounts of funds appropriated for the judicial department;

(ii) prepare all requisitions for the payment of state monies appropriated for the maintenance and operation of the judicial department;

(iii) prepare budget estimates of state appropriations necessary for the maintenance and operation of the judicial department and make recommendations with respect thereto;

(iv) collect statistical and other data and make reports to the chief justice relating to the expenditures of public monies for the maintenance and operation of the judicial department;

(v) develop a uniform set of accounting and budgetary accounts for all courts in the judicial department and serve as auditor of the judicial department.

(8) Examine the arrangements for the use and maintenance of court facilities and supervise the purchase, distribution, exchange, and transfer of judicial equipment and supplies thereof;

(9) Act as secretary to the Judicial Conference;

(10) Submit an annual report to the chief justice, legislature, and governor of the activities and accomplishments of the office for the preceding calendar year;

(11) Maintain liaison with the executive and the legislative branches and other public and private agencies whose activities impact the judicial department;

(12) Prepare and plan for the organization and operation of clerical offices serving the superior and district courts within each county. Provide for a central clerk of court office at each county seat with satellite clerk in each court;

(13) Develop and implement pre-service and in-service educational and training programs for judicial and non-judicial personnel of the judicial department.

(14) Perform such other duties and attend to such other matters consistent with the powers delegated herein assigned to him by the Chief Justice and the Supreme Judicial Court.

AN ACT to Provide for Appeals  
from the District to the Superior Court on  
the Record and Abolishing Trial De Novo.

BE IT ENACTED by the People of the State of Maine, as follows:

Sec. 1. R.S., T. 4, Section 156 amended. Section 156 of Title 4 of the Revised Statutes is amended by deleting subsection 1 in its entirety and substituting in its place the following:

1. Appeals from the District Court shall be on questions of law only and shall be determined by the Superior Court on the record.

Sec. 2. R.S., T. 4, Section 651 amended. The last paragraph of Section 651 of Title 4 of the Revised Statutes is amended as follows:

The Supreme Judicial Court ~~may~~ shall prescribe rules, requirements and regulations, not inconsistent with this Title or other laws of the State, which will insure the production of a readable record of proceedings before the District Court by stenographic methods or any other suitable means ~~of~~ including but not limited to electronic recording equipment.

#### IV. Appendix

Appendix 1  
List of Counties by Regions

Region 1

Cumberland--Circuit Center

York

Region 2

Androscoggin--Circuit Center

Oxford

Sagadahoc

Lincoln

Franklin

Region 3

Kennebec--Circuit Center

Somerset

Waldo

Knox

Region 4

Penobscot--Circuit Center

Piscataquis

Washington

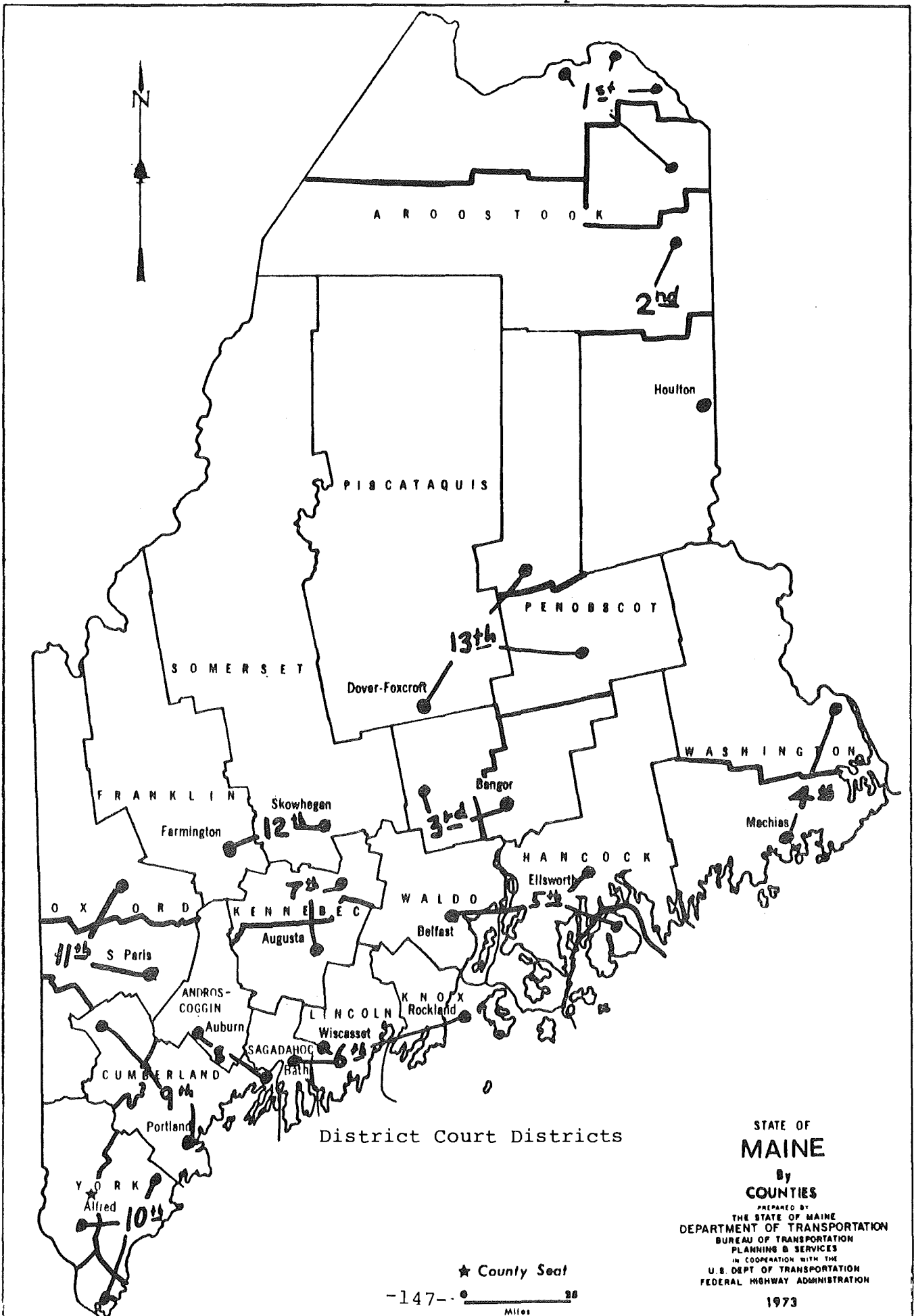
Hancock

Aroostook





Appendix 3  
Map of District Court Districts



District Court Districts

STATE OF  
**MAINE**

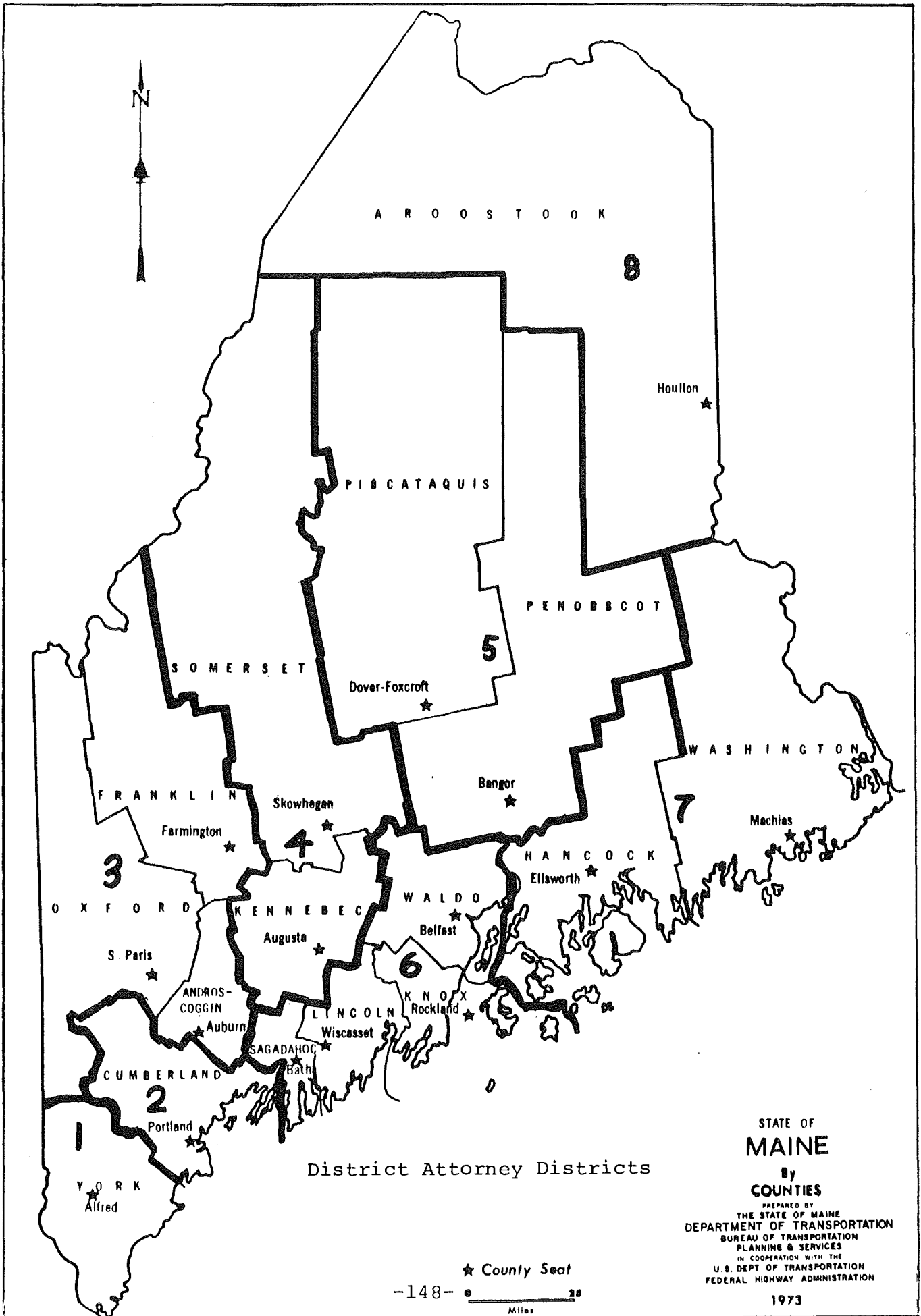
By  
**COUNTIES**

PREPARED BY  
THE STATE OF MAINE  
DEPARTMENT OF TRANSPORTATION  
BUREAU OF TRANSPORTATION  
PLANNING & SERVICES  
IN COOPERATION WITH THE  
U.S. DEPT. OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION

★ County Seat

-147- 0 38 Miles

1973



District Attorney Districts

STATE OF  
**MAINE**  
 By  
**COUNTIES**

PREPARED BY  
 THE STATE OF MAINE  
 DEPARTMENT OF TRANSPORTATION  
 BUREAU OF TRANSPORTATION  
 PLANNING & SERVICES  
 IN COOPERATION WITH THE  
 U.S. DEPT. OF TRANSPORTATION  
 FEDERAL HIGHWAY ADMINISTRATION

Appendix 5  
Table of Administrative Personnel

Table of Administrative Personnel

State Court Administrator	-	New - 1
Secretary		New - 1
Clerk to Law Court and Reporter of Decisions	*	Now serving the Supreme Judicial Court
Judicial Support Personnel	-	New - 4
Secretaries		New - 4
Fiscal Manager	*	New - to be hired when program permits
Personnel Officer	*	New - to be hired when program
Chief of Judicial Manage- ment Information System	-	New - to be hired when program permits
Superior Court Clerks	*	All now elected - to be appointed
District Court Clerks	*	All now appointed
Support Personnel	*	Most Secretaries and clerks are now serving the Supreme Judicial Court and the District Court.

\* Denotes personnel already employed in the Judicial System.

SUPREME JUDICIAL COURT

Original

- 4 §105 - Single justice exercising Superior Court jurisdiction in non-jury or jury waived civil actions.
- 14 §5301 - Original jurisdiction concurrent with Superior Court in proceedings in habeas corpus, prohibition, error, mandamus, quo warranto and certiorari.
- 4 §851 - Any justice upon application may issue a rule requiring an attorney to appear to show cause why name should not be stricken from roll of attorneys. Decision final.

Appellate

- Const. Art. VI. §1 - Judicial power vested in a Supreme Judicial Court and in such other courts as legislature shall establish.
- Const. Art. VI. §3 - The Justices of the Supreme Judicial Court obliged to give opinion upon important questions of law and solemn occasions when required by Governor, Senate or House of Representatives.
- 4 §7 - General jurisdiction according to common law and not inconsistent with the Constitution or any Statute.
- 4 §57 - Jurisdiction; cases on appeal from Superior Court or single justice; questions of law arising on reports of cases; agreed statement of facts; cases presenting a question of law; all questions arising in cases in which equitable relief is sought; motions to dissolve certain injunctions; questions arising from cases brought under 14 §5301; questions of State law certified by the Federal Courts.
- 4 §401 - Appeals from Probate Court by agreement of parties.

- 14 §1851 - Appeals from Superior Court by any aggrieved party in any civil case.
- 15 §2115 - Appeals by defendants in criminal cases.
- 15 §2141 - Appellate division of Supreme Judicial Court for review of certain sentences.
- 15 §2667 - Appeals from Superior Court on questions of law from decisions of juvenile courts.
- 35 §303 - Appeals from final decisions of Public Utilities Commission on questions of law.
- 35 §305 - Appeals from Public Utilities Commission on justness or reasonableness of a rate, toll or charge or constitutionality of any ruling or order.
  
- Rule 80B of Me. Rules - Appeals from Superior Court of actions by govern-  
Civ. Pro. - mental agencies on questions of law.
- 38 §487 - Appeals from any aggrieved person by any order of Board of Environmental Protection for actions under Article 4.
- 39 §103 - Appeals from proforma, decrees of Superior of decisions of Workmen's Compensation Commission.

SUPERIOR COURT

Original

- 4 §101 - Constitution of court; assignment of justices including justices of Supreme Judicial Court.
- 4 §105 - Full powers of court of general jurisdiction exclusive of jurisdiction of Supreme Judicial Court sitting as a law court.

- 4 §152 - Original jurisdiction concurrent with District Court of certain civil and criminal matters (see District Court below).
- 4 §165 - Original jurisdiction concurrent with District Court of all crimes and offenses not punishable by imprisonment in State Prison; complaints for desertion and non-support.
- 4 §252 - Equity jurisdiction concurrent with Probate Court of all matters and cases relating to administration of estates.
- 14 §6051 - Exclusive jurisdiction of certain equity proceedings.
- 14 §5301 - Original jurisdiction concurrent with Supreme Judicial Court in proceedings in habeas corpus, prohibition, error, mandamus, quo warranto, and certiorari.
- 15 §2114 - Jury waived criminal actions.
- 15 §2551 - Original jurisdiction concurrent with District Court of certain offenses and acts not within jurisdiction of juvenile court.
- 15 §2554 - Exclusive jurisdiction of juveniles bound over by juvenile court for grand jury.
- 32 §754 - Exclusive jurisdiction to enjoin violations or threatened violations of Maine Securities Act.
- 32 §1062 - Jurisdiction to enjoin violations of statutes relating to Dentists and Dental Hygienists.
- 32 §1455 - Original jurisdiction concurrent with District Court for violations of rules, regulations or statutes relating to funeral directors and embalmers.
- 32 §1954 - Original jurisdiction to enjoin violations relating to tree specialists.
- 32 §2106 - Original jurisdiction concurrent with District Court for all prosecutions of violations relating to nurses.

- 32 §2107 - Exclusive jurisdiction to enjoin any person from committing any act declared to be a misdemeanor in Chapter 31.
- 32 §3284 - Exclusive jurisdiction for hearing on revocation or suspension of licenses of physicians.

Appellate

- 4 §152 - Appeals from District Court in remanded actions for divorce or annulment.
  - 4 §401 - Supreme Court of Probate.
  - 15 §2111 - Appeal of an aggrieved defendant from District Court.
  - 15 §2114 - Appeals by defendants of questions of law from District Court in all judgments of conviction.
  - 15 §2661 - Appeals from juvenile court.
  - 5 §2451 - Appeals from aggrieved parties of cases from Administrative Court or District Court when exercising same jurisdiction under 5 §2401 (s).
- Rule 80B of  
Me. Rules - Review by appeal of any action by governmental  
Civ. Pro. agency.
- 32 §2283 - Appeals from Board of Registration in Medicine.
  - 32 §1953 - Appeals to Superior Court of Kennebec County from license revocation or suspension by Arborist Examining Board.
  - 32 §2592 - Appeals from final determinations of Board of Osteopathic Examination and Registration of license revocation.
  - 32 §3839 - Review of certain actions of Board of Examiners of Psychologists.
  - 32 §3992 - Review of any order of Board of Accountancy.
  - 32 §4452 - Appeals by adverse rulings of Forest Commissioner.
  - 38 §415 - Appeals by any aggrieved person of Board of Environmental Protection.
  - 38 §594 - Appeals by any aggrieved person by any order or ruling of Board of Environmental Protection for actions under Chapter 4.



DISTRICT COURTS

Original

- 4 §152 - Original jurisdiction concurrent with Superior Court of all civil actions not in excess of \$20,000 nor equitable relief demanded; actions for divorce, annulment or separation; proceedings under Title 19 (domestic relations) and original jurisdiction concurrent with Probate Court of actions for separation; exclusive jurisdiction of remands of divorce or annulment from Superior Court under agreement of the parties; original jurisdiction concurrent with Superior Court to receive certain pleas of guilty in felony cases.
  
- 4 §165 - Original jurisdiction concurrent with Superior Court of all crimes and offenses not punishable by imprisonment in State prison; complaints for desertion and non-support.
  
- 14 §6651 - Original jurisdiction concurrent with Superior Court in proceedings to quiet title.
  
- 14 §7452 - Small claims procedure.
  
- 15 §2114 - Jury waived criminal actions.
  
- 15 §2551 - Original jurisdiction concurrent with Superior Court of certain offenses and acts not within jurisdiction of juvenile court.
  
- 5 §2401(s)- Jurisdiction to hear complaints brought under administrative code when hearing Commissioner disqualified.
  
- 32 §1455 - Original jurisdiction concurrent with Superior Court for violations of rules, regulations or statutes relating to funeral directors and embalmers.
  
- 32 §2106 - Original jurisdiction concurrent with Superior Court for all prosecutions of violations relating to nurses.

Juvenile Division

- 15 §2502 - Designation of juvenile court when exercising jurisdiction over juveniles.
- 15 §2551 - Exclusive original jurisdiction over all juveniles of offenses and acts as defined in 15 §2552.
- 15 §2553 - Exclusive original jurisdiction over all petitions brought under the Uniform State Compact of Juveniles.

PROBATE COURT

- 4 §152 - Original concurrent jurisdiction with District Court of actions for separation.
- 4 §201 - Courts of record.
- 4 §251 - General jurisdiction to probate wills, grant letters testamentary or administration; jurisdiction of all matters relating to settlement of estates; adoptions of children; change of name; appointment of guardian; jurisdiction of persons under guardianships.
- 4 §252 - Equity jurisdiction concurrent with Superior Court of all matters and cases relating to administration of estates.

ADMINISTRATIVE COURT

- 5 §2301 - To adjudicate contested cases of certain state agencies specified in 5 §2301 (1). Jurisdiction may be exclusive or concurrent depending upon agency.
- 32 §64 - Appeals from State Board of Licensure of Administrators of Medical Care Facilities other than hospitals.
- 32 §75 - Appeals from decisions of Department of Health and Welfare in licensing of ambulance services.
- 32 §352 - Hear all cases brought pursuant to rules and regulations of State Board of Barbers.

- 32 §503 - Hear all cases brought pursuant to rules and regulations of Board of Chiropractic Examination and Registration.
- 32 §562 - Hear all cases brought for failure of Department of Health and Welfare to issue certificate of registration for any cosmetic preparation.
- 32 §578 - Appeals from decisions of Credit and Collection Board.
- 32 §1091 - Revocation, suspension or refusal to renew license of any dentist.
- 32 §1100 - Revocation or suspension of dental hygienists for use of certain lists.
- 32 §1155 - Suspension or revocation of license of any licensed electrician.
- 32 §1455 - Hear complaints filed by State Board of Funeral Service.
- 32 §1553 - Suspension or revocation of licenses for hairdressers and beauticians.
- 32 §1658K - Concurrent jurisdiction in Department of Health and Welfare for refusals to issue or renew licenses for hearing aid dealers and fitters.
- 32 §2355 - Suspension or revocation of oil burner licenses.
- 32 §2581 - Exclusive jurisdiction in State Board of Optometry to suspend or revoke licenses.
- 32 §2856 - Revocation or suspension of a certificate of a registered pharmacist.
- 32 §3655 - Revocation or suspension of license to practice podiatry.
- 32 §3937 - Revocation or suspension of license to practice psychology.

SELECTED  
ADMINISTRATIVE AGENCIES

- 29 §53 Exclusive jurisdiction in Secretary of State in administration of laws relative to vehicle and operators of same.
- 29 §351 Original jurisdiction with Secretary of State to suspend, revoke or refuse to renew license.
- 32 §1356 - Exclusive jurisdiction of State Board of Registration for Professional Engineers of revocation or non-reissuance of licenses.
- 32 §1688 - Exclusive jurisdiction of State Board of Registration for Land Surveyors of revocation or non-reissuance of licenses.
- 32 §1802 - Exclusive jurisdiction in Commissioner of Agriculture for revocation or suspension of manufacturers and bottlers of non-alcoholic beverages licenses.
- 32 §2581 - Exclusive jurisdiction in State Board of Optometry to issue or renew licenses.
- 32 §2591 - Exclusive jurisdiction in Board of Osteopathic Examination and Registrative to revoke or suspend licenses.
- 32 §3053 - Exclusive jurisdiction in Board of Examiners in Physical Therapy for refusal, suspension or revocation of license to practice as physical therapist.
- 32 §3284 Exclusive jurisdiction in Board of Registration in Medicine to revoke, suspend, put on probation or censure license of any physician.
- 32 §3991 - Exclusive jurisdiction in Board of Accountancy to revoke or suspend licenses.
- 32 §4197 - Exclusive jurisdiction in Board of Social Worker Registration to revoke, reissue registration of a registered or associate social worker.
- 32 §4452 - Exclusive jurisdiction in Forest Commissioner to revoke registration to cut Christmas trees.