

MAINE STATE LEGISLATURE

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INTRODUCTION

On July 20, 1979, Governor Joseph E. Brennan, at the request of Chief Justice Vincent L. McKusick of the Supreme Judicial Court, appointed a twelve member Select Commission on Court Facilities.^{1/} The Commission was given the task of identifying the needs of Maine courts for improved physical facilities, and recommending sources of funding for these improvements.

John F. Grant, Chairman of the Board of Merrill Bankshares Co. of Bangor, was appointed Chairman of the Commission. The Commission was directed to report back to the Governor, as well as to the Legislature and the Judicial Department by December 15.

The Commission held five meetings between August 21, 1979 and December 5, 1979.

The basic document from which the Commission worked was the Report of the Facilities Committee of the Maine Court System. That Committee was chaired by the Honorable James P. Archibald of the Supreme Judicial Court and is hereinafter referred to as the "Archibald Committee." The Report of the Committee was prepared by the Ehrenkrantz Group with the assistance of Walter H. Sobel, FAIA and Associates, and Stevens Architects of Portland, Maine. The Report is hereinafter referred to as the "Ehrenkrantz Report."

^{1/} The membership of the Commission is as follows: John F. Grant, Chairman, and Catherine Cutler, Public Sector; Supreme Judicial Court Justice James Archibald, Superior Court Justice William McCarthy, and Chief District Court Judge Nicholas Danton, Judiciary; John Doyle, Ralph Lancaster and Charles Abbott, Attorneys; Commissioner of Transportation Roger Mallar and Commissioner of Finance and Administration Rodney Scribner, Executive Department; Senator Gerard Conley and Representative Richard Morton, Legislative Department.

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The report of the Commission follows.

RECOMMENDATIONS ^{2/}

A. Short Term.

1. In order to meet the immediate needs for replacement or renovation of existing court facilities, the Governor should request that the Legislature submit to referendum a \$12 million general obligation bond to be issued as a single issue or serially in smaller amounts for the purpose of accomplishing the seven most critical projects as identified by the Archibald Committee and Ehrenkrantz Report.

It is the expectation of the Commission that these projects be completed by the end of 1985.

B. Long Term

1. The Legislature should give the Chief Justice of the Supreme Judicial Court maximum authority and flexibility in coordination with the Bureau of Public Improvements to negotiate for court facilities, including lease or lease/purchase agreements.

2. The Chief Justice should work with the Governor and the Bureau of Public Improvements to assure that the needs of the court system are addressed in the statewide plan for major capital construction prepared by the Bureau, and that needed capital improvements are included in the annual appropriation for construction, maintenance and repair.

The Commission is aware that the needs of the court system for new or improved facilities have developed over a number of years. It is the hope of the Commission that this situation will not continue and that the responsibility for planning and budgeting will be undertaken as a cooperative effort by the three branches of government.

^{2/} The recommendations included in this section are intended to implement the conclusions which appear in the last two pages of this report.

The Commission identified three primary issues:

1. What are the needs of the courts for new or improved court facilities?
2. What are the preferred methods of funding to meet these needs?
3. In the long-term, who should be responsible for planning court facilities and implementing those plans?

The Commission was aware that the Governor's court reform proposal might have an effect on any court facilities plan. The Governor's staff was directed to inform the Commission of any element of the court reform proposal which would have a significant effect on court facilities. None was reported, and none is anticipated.

The Commission considered the potential relationship between improvements in court facilities and projected improvements in county correctional facilities. While most county facilities are being reviewed and many are being upgraded, these efforts are being undertaken with county funds. The court system is operated by the State, except that Superior Court facilities are provided by the Counties. The trend towards State funding of the court system distinguishes the funding of court facilities from the funding of county correctional facilities. Thus, the Commission concludes that there is no direct relationship between funding improvements to court facilities and projected improvements to county correctional facilities.

FINDINGS

NEED.

The Archibald Committee identified seven existing court facilities which are in critical need of immediate attention.^{3/} The cost of these seven projects was estimated at just under \$10 million, in 1978 dollars.

^{3/} The seven facilities so identified by the Archibald Committee are Androscoggin County Superior Court, Cumberland County Superior Court, Kennebec County Superior Court and the District Courts at Bridgton, Millinocket, Portland and Skowhegan.

The seven projects identified by the Archibald Committee were included in the group which received failing marks in the Ehrenkrantz Report. The Ehrenkrantz Group applied a grading system for courthouse accreditation, developed by adapting to Maine conditions, standards approved by the Institute for Continuing Legal Education, the American Bar Association and the American Institute of Architects. Some other facilities received lower marks in the Ehrenkrantz Report. However, these seven were selected because the shortcomings either threaten life, health or safety, or significantly interfere with the administration of justice in those locations.

The task of the Commission was to determine whether the recommendations of the Archibald Committee should be followed in assessing funding needs and priorities. In order to make this determination the Commission was divided into subcommittees which visited those facilities identified by the Archibald Committee as being in the most critical need. The findings reported to the Commission and adopted by the Commission for inclusion in this Report are as follows:

Bridgton District Court. The report of the Archibald Committee indicated that the major failings of the Bridgton District Court were inadequate clerical space, lack of attorney/client conference areas, lack of waiting space for people with court business which has not yet been reached on the docket, and violations of life/safety codes. Since the report of the Archibald Committee, additional space has been made available to the Clerk and space has also been made available for attorney/client conferences. However, the life/safety code violations have not been corrected and there remains inadequate waiting room space. The Commission agrees with the finding of the Archibald Committee that the facility should be replaced.

Portland District Court. The District Court in Portland is located in the basement of the County Courthouse. There is no waiting room for people with

business before the court except a hallway where defendants and plaintiffs, victims and offenders, adverse parties to litigation are often forced to spend substantial periods of time together in a small space. Furthermore, there is no place where attorneys can have confidential discussions with their clients. The Commission finds that the situation in Portland is totally unsatisfactory and, with specific regard to the District Court, the situation appears to be beyond improvement. Again, the Commission adopts the recommendations of the Archibald Committee to replace the Portland District Court facility.

Millinocket District Court. The Millinocket District Court was also described as totally inadequate in terms of filing, conference and clerical work space. The Commission finds that this facility is in need of total renovation or replacement.

Skowhegan District Court. The District Court at Skowhegan was also described as totally inadequate, and the subcommittee and the full Commission, agreeing with the Archibald Committee, find the facility in need of immediate and major work.

Kennebec Superior Court. The Kennebec Superior Court must be relocated. The courtroom itself is extremely handsome and the Commission investigated the possibility of saving this courtroom while improving storage areas, waiting facilities and jury facilities. However, the cost of such renovations is prohibitive. The Commission recommends that this facility be replaced.

Cumberland Superior Court. The court room in Cumberland is also well appointed. However, the complex surrounding the courtroom is inadequate. The location of the jury room is such that jury deliberations are interrupted by traffic flow, and the jury cannot be segregated from litigants and witnesses. The judges' chambers are improperly located, and the Clerk's Office has insufficient space. The Superior Court has only one court room available exclusively to it for jury trials; it uses the courtroom of the Law Court for jury trials when the Law Court is not in session. This court needs an additional jury court room. It also has only one non-jury hearing room that it has to share with other courts for hearings and other court purposes.

This shortage of

courtroom space is hampering scheduling of trials in Cumberland County, which has about 19 per cent of the statewide Superior Court caseload. It is possible that, if the District Court in Portland were removed from the County Courthouse, the Superior Court could expand to use the present District Court facilities as an interim step, but further, long-term relief will be required.

Androscoggin Superior Court. The Androscoggin Superior Court was reported to be old but satisfactory. The courtroom itself needs more efficient air conditioning because the room has no windows or other ventilation, but otherwise is entirely adequate. The remainder of the complex needs renovation and reorganization to limit the problem created by traffic flow, particularly around the chambers of the presiding justice. The problem in Androscoggin County is complicated by the fact that at this time there are two resident justices and two active retired justices who have offices in the court complex. This leaves only a small chamber for the presiding justice which is inadequate for that use. In addition, there is inadequate space for the Clerk's office and especially for storage of documents and evidence. The Commission recommends that this facility be substantially renovated.

The actual courtroom space in most of these facilities is at least adequate, and in some cases, very comfortable. However, the areas around the courtrooms are so inadequate that they significantly interfere with the administration of justice: evidence is improperly preserved; non-judicial personnel are cramped and cannot do their jobs; attorney-client confidentiality cannot be maintained; and time and effort which should be spent disposing of cases is wasted instead because of inadequate design or insufficient space for judicial and non-judicial functions.

FUNDING.

The second major issue identified by the Commission was the method of funding these improvements. Alternatives considered were a direct appropriation from the General Fund, the issuance of bonds for major construction projects, and lease or lease/purchase of facilities from public and private owners.

Included in this discussion was an analysis by members of the Commission of probable reactions to these alternatives by the Executive, the Legislature and the voters.

In terms of direct appropriations from the General Fund, the Commission was aware that the appropriation requested by the Judiciary in the First Regular Session of the 109th Legislature was cut by 90% and still failed to pass. That appropriation would have been applied to major capital construction.

There is another procedure established by the Bureau of Public Improvements for requesting small repairs and improvements through the Statewide Improvement and Repair Fund. This fund receives an appropriation from the Legislature based on a plan of projected improvements presented by the Bureau of Public Improvements. The courts should be included in this process.

Issuance of bonds presents a more complex problem. The \$10 million price tag established by the Archibald Committee was updated by the Department of Finance and Administration. When inflation factors are considered, the Department estimates that the same projects will cost approximately \$12 million. There are four options for issuing bonds.

A general obligation bond could be authorized as a separate issue in the amount of \$12 million to be applied only to court facilities or could be combined with other statewide capital construction needs in a larger bond issue. In either case, the bond issue must be approved by the Legislature and sent to the voters for approval by the majority of those voting.

A county can issue bonds with the approval of the voters within the county. The bond rating of the counties would permit this type of financing. Cumberland County, because of its size, was considered as a potential jurisdiction for the issuance of county bonds for court facilities purposes. However, the Commission rejects the option of county bonds as inconsistent with the goal of total State funding of the Court system and as an unfair burden on County property taxpayers.

Bonds could also be issued through a Court Facilities Building Authority. Bonding authorities exist in state government (e.g. Maine Guarantee Authority, Maine

State Housing Authority) and the State Museum and Library complex was funded by bonds sold by an authority created for just that purpose. The attraction of the Court Facilities Building Authority is that it could also act as a planning board, relieving the Chief Justice of the burden of having to plan for the improvement of court facilities. The disadvantages of the Court Facilities Building Authority are that (1) bonding authorities are not favored by rating houses, and (2) bonds issued by bonding authorities are sold at approximately 1% higher interest than general obligation bonds.

The final option for funding the construction of major improvements of court facilities is to allow a private or public entity to build the structure which the State could pay for over time, through a lease or lease/purchase agreement. This is one mechanism used by the federal government, and in some cases by the state government, as in the case of a number of State liquor stores.

The Commission opts for the issuance of \$12 million in general obligation bonds as the most efficient method of funding needed construction.

PLANNING AND BUILDING

The third major consideration of the Commission was the delegation of the long-term planning and building function. While it was thought desirable that the court, and particularly the Chief Justice, participate in the planning function with regard to court facilities, the Commission concludes that the day-to-day supervision of any construction project need not necessarily be conducted by a member of the bench or of the court staff. Alternatives considered were: 1) a Court Facilities Building Authority; 2) participation in the procedure established by the Bureau of Public Improvements for statewide capital construction projects.

The planning and building function within the court system has traditionally been the province of the Chief Justice of the Supreme Judicial Court with regard to the Supreme Judicial Court and the Superior Court and of the Chief Judge of the District Court for the District Court. The courts have acted independently respecting their separate function in government as established by the Constitution. This has kept them out of the mainstream of capital construction. As a result, court

facilities have been inadequately funded over a long period of time.

The first question addressed by the Commission was whether the judges should be responsible for planning court facilities. One alternative is to establish a Court Facilities Building Authority which would take on the planning function in consultation with members of the bench and others who use the court system.

Another mechanism which is already in place and which could be used by the court systems is that of the Bureau of Public Improvements. The Bureau receives requests for capital construction and major repairs from departments of state government and prepares a five-year building plan which is updated annually. That plan lists projects requested by departments in order of priority established by the Bureau of Public Improvements. It is submitted to the Governor who is free to adopt the plan as it stands or reorder the items, and who recommends projects to the Legislature for funding. Once a project has been funded, the Bureau of Public Improvements acts as a technical advisor much in the way an architect works with a client on any private construction building project. This process is available to the court system. The request to the Bureau of Public Improvements can be made directly by the Chief Justice or by any other person or group designated by the Court or the Legislature.

The courts can either continue to function separately through the office of the Chief Justice or through a Court Facilities Building Authority. Alternatively, the courts can be integrated into the system used for the remainder of state government, again, either by use of a Court Facilities Building Authority or by the Chief Justice or his designee.

The Commission opts for integration into the state system through the Chief Justice of his designee.

CONCLUSIONS

The Commission reached the following conclusions:

A. Need.

1. The findings of the Archibald Committee, as reported in the Ehrenkrantz Report, are generally accurate and are adopted by the Commission.

2. Estimated cost for accomplishing those seven projects identified as the most critical will be approximately \$12 million.

3. In the long-term a more efficient way of addressing the problems of court facilities and court facilities improvements must be developed.

B. Sources of Funding.

1. A general obligation bond in the amount of \$12 million should be presented to the Legislature and the voters for approval, either as a separate item or in a package with other statewide capital construction needs.

2. Immediate needs for minor construction and repair work should be addressed to the Bureau of Public Improvements for inclusion in its requested appropriation for the Minor Repairs and Improvement Fund.

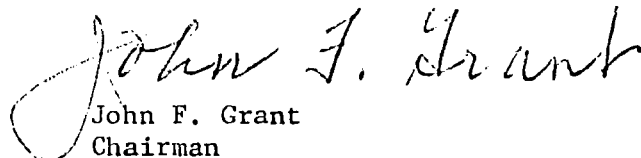
C. Long-term Building and Planning Function.

1. The planning function should remain with the Chief Justice who should identify and project court facilities needs.

2. The Bureau of Public Improvements should be utilized by the courts to meet these needs. The Chief Justice, or his designee, should work on a continuing basis with the Governor and the Bureau of Public Improvements to assure adequate attention to court facilities on a statewide level.

3. The funding of a statewide court system should be from the State General Fund or other State sources. The counties should be fairly and equitably reimbursed by the State for facilities which are being used by the court system. The State should move as soon as practicable toward the ultimate goal of assuming the total financial responsibility for providing, maintaining and operating all court facilities. Further, bonds for improvements of court facilities should be issued by the State as general obligation bonds of the State.

SELECT COMMISSION ON COURT FACILITIES


John F. Grant
Chairman