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FINAL REPORT
OF THE
SUPREME JUDICIAL COURT
RELOCATION COMMISSION

JANUARY 1987

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I. BACKGROUND

A. Legislative History

In his February 6, 1985 "State of the Judiciary" report to the 112th Legislature, Chief Justice Vincent L. McKusick stated that the Supreme Judicial Court had concluded that it ought to be located in Augusta along with the Administrative Office of the Courts and the Chiefs of the Superior and District Courts. He cited three reasons for this decision:

- Being located at the seat of state government would advance the Policy of the Three C's - comity, communication and cooperation;
- The consolidation could improve the management of the court system; and
- The consolidation would free up space for use by the trial courts at six courthouses.

The 112th Legislature, during the First Regular Session (1985), considered three legislative documents concerning the relocation of the Supreme Judicial Court;

- L.D. 519, "An Act to Locate the Supreme Judicial Court in the City of Augusta". (Sponsored by Representative Foster of Ellsworth; Cosponsored by Senator Trafton of Androscoggin) This bill proposed to establish a relocation commission which would report to the Second Regular Session (1986). This L.D. was replaced by L.D. 1395.
- L.D. 688, "An Act to Relocate the Supreme Judicial Court and Related Functions to the State Capitol at Augusta". (Sponsored by Representative Foster of Ellsworth; Cosponsored by Sen. Trafton of Androscoggin). This bill proposed to establish Augusta, Maine as the location for the Supreme Judicial Court and appropriate \$8,000,000 to construct a new facility. This L.D. was indefinitely postponed.
- LD 1395 "An Act to Study the Location of the Supreme Judicial Court in the City of Augusta" (New Draft of L.D. 519). This bill created the Supreme Judicial Court Relocation Commission and required a report to the 113th Legislature's First Regular Session (1987). This L.D. was enacted as Private and Special Laws of 1985, Chapter 60. A copy can be found in Appendix B.

The Governor's capital improvements budget for the Fiscal Year 1986-87 biennium included \$8,736,600 at the request of the Judicial Department for a "State Judicial Center - Augusta". The Governor identified this item in his third tier of statewide priorities. This item was not recommended for funding by the Governor (only the first two tiers were funded).

B. Current Supreme Judicial Court Situation

Maine's Supreme Judicial Court, sitting as the Law Court, meets every other month to hear oral arguments, for a total of six terms each year. Four of those terms are usually held in Portland at the Cumberland County Courthouse, while two terms are usually held in Bangor at the Penobscot County Courthouse. After the Law Court concludes a term, the justices return to their home offices, spread throughout the state, to write their opinions. While writing opinions, any questions a justice may have for his peers concerning a particular case usually take place over the telephone.

The Supreme Judicial Court shares courtroom space with the Superior Courts in Portland and Bangor. Most of the support staff for the Supreme Judicial Court maintain offices at the Cumberland County Courthouse. The Administrative Office of the Courts, which provides support services for all of Maine's courts, leases office space in Portland.

In the Cumberland County Courthouse the Supreme Judicial Court occupies 5,735 square feet of the total 51,049 square feet (approximately 11% of the total area). The breakdown of the space is as follows:

	<u>Net Square Feet</u>
Justice Offices and Support Staff (includes Chief Justice McKusick, Associate Justice Glassman and Active Retired Justice Wernick; 4 law clerks, 2 secretaries and 1 messenger).	2,474
Courtroom and Conference Area (courtroom shared with Superior Court)	2,402
Clerk of the Law Court (1 Clerk).	<u>859</u>
	5,735

In 1985, Cumberland County voters approved a \$6.6 million county bond issue, \$4 million to improve their courthouse and \$2.6 million to add a parking facility. Funds are to be spent to add space for the Superior Court, Administrative Court, District Court and parking. No additional space is planned for the Supreme Judicial Court.

Listed below is the existing space used by the Supreme Judicial Court by location (expressed in net square feet). This list includes the office space for all personnel and the functional space for a courtroom, conference room and support services.

<u>Location</u>	<u>Net Square Feet</u>
Androscoggin County Courthouse	1,818
Aroostook County Courthouse	1,276
Cumberland County Courthouse	5,735
Kennebec County Courthouse	912
Knox County Courthouse	842
Penobscot County Courthouse	<u>1,135</u>
Total	11,718

This space is provided to the Supreme Judicial Court lease-free by the counties. The Administrative Office of the Courts leases 6,405 square feet in a private building in Portland at a cost of \$66,439 in Fiscal Year 1986 and a projected cost of \$68,014 in Fiscal Year 1987.

When in Portland, law library services available to the justices and law clerks include the Cleaves Library in the Cumberland County Courthouse and the Donald L. Garbrecht Law Library at the University of Maine School of Law. The Cleaves Library provides approximately 3,200 shelf-feet of research materials for the justices and their staff. This compares to a collection of approximately 7,350 shelf-feet at the Statehouse's Law and Legislative Reference Library. On-line data bases, such as LEXIS and Westlaw, are also available.

C. Other Organizations Involved in Study

There are three governmental or quasi-governmental bodies whose authority overlaps the activities of the Relocation Commission. Their areas of authority and responsibility are discussed in this section.

1. Capitol Planning Commission

5 MRSA Chapter 14-A establishes a Capitol Planning Commission. The duties of this Commission can be paraphrased as follows:

Establish and maintain a master plan for the orderly development of future State buildings in the Capitol area. This plan shall take into consideration the needs of the State relative to locations and general design of buildings to be constructed and the ordinances, plans, etc. of the City of Augusta. The objective shall be that the

development of the Capitol area shall proceed with economy, careful planning, aesthetic consideration and due regard for the public interests involved. The Commission shall adopt rules and regulations governing height, setback, locale of driveways, exterior design and materials, location of parking and ratio of parking area to building area. The master plan should be submitted to the Legislature for adoption and additions and amendments should be submitted as necessary. This plan shall guide future expansion of the State in Augusta. No construction shall be initiated without the approval of the Commission, the Legislative Council and the Bureau of Public Improvements.

Because of this mandate, the Supreme Court Relocation Commission contacted the Capitol Planning Commission at an early stage in its work. It was determined that the major thrust of the Capitol Planning Commission in recent years has been on developing rules and regulations and reviewing plans submitted relative to these rules. The last master plan was developed in 1969. The Relocation Commission proceeded on the basis of being aware of these regulations and keeping the Capitol Planning Commission apprised of its activities.

2. Bureau of Public Improvements

5 MRSA 1742 gives the Bureau of Public Improvements:

- a. the responsibility of approving selection of architects and engineers for State construction;
- b. the responsibility of controlling and maintaining Capitol Park;
- c. the responsibility of approving plans, specifications and contracts for all public improvements involving State buildings.

3. The Supreme Judicial Court

4 MRSA 53 gives the Supreme Court the power to determine the location of its sessions. Section 17 of Title 4 gives to the State Court Administrator the responsibility for examining the arrangements for the use of Court facilities.

II. METHOD

In preparing for this study, staff researched previous State legislation, read newspaper clipping files, contacted the appropriate national associations and reviewed the following documents: State of the Judiciary Message, 1985, by Chief Justice McKusick; and The Maine Supreme Judicial Court, Nov. 1981, The Institute of Judicial Administration. Excerpts of the latter document are in Appendix C. However, as is standard in studies of this type, the major portion of the Commission's findings came from a series of public meetings which were conducted in the time period November, 1985 to December, 1986, seven in Augusta and one in Portland.

Representatives of the Bureau of Public Improvements and the Administrative Office of the Courts attended all hearings and the Commission is indebted to Leighton Cooney, Arvah Lyon, Dana Baggett and Jeffrey Krattenmaker for their valuable assistance. The following is a list of other persons attending one or more meetings:

Peter Thompson, Mayor of Augusta
Peter Jordan, Development Director, City of Augusta
Cathy Fuller, Planning Department, City of Augusta
Ann Pierce, State Court Library Supervisor
Jon Oxman, Chairman, Capitol Planning Commission
Vincent McKusick, Chief Justice, Supreme Judicial Court
Elmer Violette, Associate Justice, Supreme Judicial Court
James Russell Wiggins, Publisher, Ellsworth American
Ruth Foster, State Representative
Elizabeth Socec, Legislative Chairman,
Kennebec Valley Garden Club
Minna Pachowsky, Legislative Chairman,
Garden Club Federation
Richard Hewes, Cumberland County Commissioner
Kinvin Wroth, Dean, University of Maine School of Law
Walter Sobel, President,
Walter Sobel & Associates (Court Planners)
Suzanne Harland, Executive Director,
Maine Trial Lawyers Association

The Commission kept the Capitol Planning Commission apprised of its activities.

III. FINDINGS

A. Reasons For and Against Moving the Court from its Present Location to Augusta

The great predominance of evidence submitted to the Relocation Commission favored the move of the Supreme Judicial Court from its present location(s) to Augusta. The driving force behind the testimony in favor of the move was that the Supreme Judicial Court should be located in Augusta, the seat of Maine State Government, along with the Executive and Legislative branches. That is, the idea of having the court in Augusta was dominant, as opposed to moving the court from where it is to some other location. Also, a key fact in the testimony of those making the recommendation to move to Augusta was the provision that this move would be to a building suitable to the prestige and stature of the court. Thus, this report combines the issues of whether to move, where to move, and the facility into which to move, into one issue.

The reasons given for the proponents of the move are:

1. It would put the court in the same city with the other two branches of government. Currently, Maine is one of only two states with their Supreme Court in a city other than the State Capital.
2. A move to the State Capital and into its own suitable building would be consistent with the prestige, stature and dignity that needs to be associated with the State's highest court.
3. The move to Augusta would allow better communication and a closer working relationship with the other two branches of government.
4. Though not specifically exclusive to a move to Augusta, moving into suitable new quarters would allow Superior Court Justices, the Chief Justice of the Superior Court, the Chief Judge of the District Court and the Administrative Office of the Courts to all be in the same building. This would offer major advantages in communication and efficiency of operation.

The list of the arguments against moving the court to Augusta follows. However, it should be again stressed that the Commission heard virtually no testimony in opposition to moving the court to Augusta.

1. The cost.
2. The fact that the majority of the population and, even more so, the legal profession, is in the Portland area.
3. Arguments by those with a particular interest in Portland.
4. Arguments that take the opposite position on three of the benefits given by the proponents of moving; namely,
 - a. That the justices can keep better in touch with the people by maintaining their chambers where they reside;
 - b. That the desired separation of powers is better maintained with geographic separation.
 - c. That the justices can write better draft opinions when separated from the day-to-day influence of the other justices.

Although there was no direct testimony on the subject, the Commission was aware of some sentiment for moving the court to the old Customs Building in Portland. The Commission did not pursue this issue for two reasons: it was learned that the present occupants (as represented by the federal General Services Administration) had no desire to vacate the building; and, the Commission did not feel that a move to another location in Portland would bring with it the major advantages sought in the proposed move.

Among those supporting the move of the Court to Augusta who had more than a local interest (e.g., the City of Augusta) were:

- The Supreme Judicial Court (see Appendix D for Supreme Judicial Court statement on proposed relocation)
- The Maine Trial Lawyers Association
- The Institute of Judicial Administration

There was no non-local group who opposed the move.

James Russell Wiggins of the Ellsworth American shared with Chief Justice McCusick the role as the original force behind the introduction of legislation to move the Court. The remainder of the State's newspapers were divided on their positions on the move, with the dissenters generally being concerned with the cost. A sample of newspaper coverage and opinion is included as Appendix E.

B. Proposed Court Facility

At the Commission's earliest meetings, the Judicial Department, through its Administrative Office of the Courts, recommended a new Supreme Judicial Court facility that would include:

- A courtroom, hearing rooms and conference areas
- Chambers for the Chief Justice of the Supreme Judicial Court, the Associate Justices, the Chief Justice of the Superior Court and the Chief Judge of the District Court;
- Office space for law clerks and secretaries
- Office space for Administrative Office of the Court's employees
- Law Library
- Clerk of the Law Court

The projected space requirements, by function, can be found in Appendix F.

Based on current needs, the facility would house approximately 51 employees as follows:

• Supreme Judicial Court		
Justices	7	
Law Clerks	11	
Secretaries	7	
Messenger	<u>1</u>	26
• Clerk of the Law Court		
Full-time	2	
Part-time	<u>2</u>	4
• Superior Court		
Justice	1	
Secretary	<u>1</u>	2
• District Court		
Judge	1	
Secretary	<u>1</u>	2
• Administrative Office of the Courts		
Full-time	14	
Part-time (project staff)	<u>3</u>	
Total Personnel		<u>51</u>

The projected space requirement does not provide office space for any future growth in the number of the justices or AOC staff.

The Relocation Commission concurred with the Court's recommendations on the centralization of these functions but deferred the matter of specific space requirements pending the completion of the proposed program study (discussed on page 16 of this report.)

On-site parking will be needed for the facility. The Judicial Department strongly recommends the use of underground or isolated on-site parking for the justices. The provision of tightly controlled parking was viewed as an important security measure necessary to protect the justices. The Capitol Planning Commission, the land-use control agency responsible for Augusta's capitol complex, recommends one parking space for every 250 square feet of building. At that rate, a new Supreme Judicial Court facility located in the capitol complex would require approximately 230 parking spaces.

Regardless of where a new court facility could be located, the Commission concurred with the Judicial Department that a working library would be needed. With the statehouse Law and Legislative Reference Library located close by, however, the Commission has stated its concern that an SJC facility library minimize duplication of services. Appendix G provides a list of the resources on which a library would be based.

C. Augusta Sites

Since initial hearings indicated that the pivotal issue before the Commission would be not whether to move the court but whether to move it at a given cost, the Commission elected to consider the cost of relocating in its study. This decision quite logically led to the subject of site, since various sites in Augusta would have varying costs. The decision to become involved in a recommended site was further supported by the importance of the site in securing many of the benefits desired from the move (i.e., prestige, equality with the other branches, etc.).

Since the Commission saw siting a building as requiring talents that the Commission did not possess, it asked the Bureau of Public Improvements to have a team of architects make preliminary site recommendations. The Commission gave two specific preferences to this group, i.e., that the site be within easy walking distance of the State House and that it be on State-owned land.

A history of the site selection process appears in Table 1. A map indicating the more important sites is shown in Exhibit A and a map detailing the Capitol Park site is shown in Exhibit B. Committee commentary on most of the leading sites is included as Appendix H. Summarizing the most important aspects, the architects committee's top recommendations were:

1. The so-called Master Plan Site. This name was derived from the last master plan of the Capitol developed in 1969 by Frank Grad Associates. This site is in Capitol Park on its south side about one-third of the way between State Street and Park Drive and easterly from the Human Services building on the opposite side of Union Street.
2. Wade and Grove Site. This intersection is southwest of the parking garage and northwest of the Blaine House.
3. The State Capitol Park Site. This is at the eastern end of the park at the end of the row of trees which line up with the State House. Specifically, this site is to the east of the park's sidewalk that connects Union and Capitol Streets, and to the north of the Enoch Lincoln monument.

A copy of the Site Evaluation Committee's report can be found in Appendix I.

The Commission eliminated the Master Plan Site. It was felt that this site was excessively intrusive, required purchase of private property and didn't offer the presence of the other two sites.

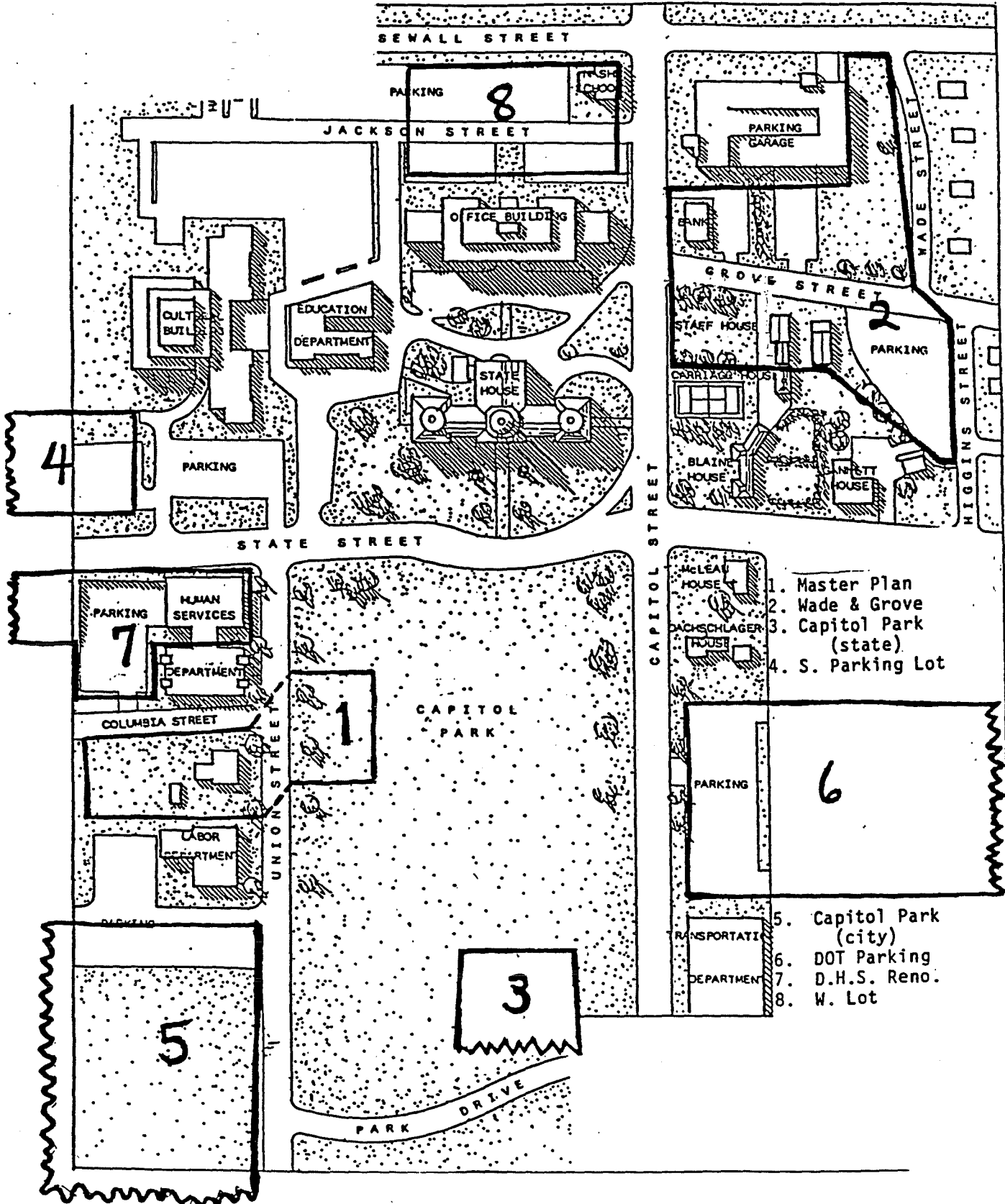
Concerning the two remaining sites, the arguments in favor of the State Capitol Park Site were that it did the best job in meeting the objectives of prestige and dignity which were prominent in site criteria. It was also felt by some that it brought a logical completion and balance to the Capitol complex. Finally, it was seen as providing a certain desirable distance from the Capitol relative to the concept of separation of powers. The arguments against the park site were that it would destroy the open character of the park, a character that was in keeping with the State, that its highly visible location makes it intolerant of any but the best architectural design, that the court building would only change the character of the park site, while it would enhance the character of the other sites, and that there would be a considerable walk to the State House, especially in bad weather.

Table I

SITE ALTERNATIVES				
<u>Original BPI List</u>	<u>Original Commission List</u>	<u>Capitol Planning Commission List</u>	<u>Professional Advisors'* List</u>	<u>Final Commission List</u>
City of Augusta Capitol Park	Capitol Park State Owned	1. Capitol Park State Owned	1. Master Plan Site	1. State/Capitol Pk
Capitol Park State Owned	State Street South of Capitol	2. Capitol Park City Owned	2. Wade & Grove St. Site	2. Wade/Grove Sts.
State Street, South of Capitol	Grove Street NE of Pkg. Garage	3. State Street Pkg. Lot	3. Capitol Park State	
DOT Maintenance & Operations Yard	State Office Bldg. Pkg. Lot W/SW SOB		4. So. Parking Lot State St.	
Grove Street Site	Dept. Human Svcs. Bldg.		5. Capitol Park City Owned	
A & B Rotary Locations			6. Capitol St. DOT Parking Lot	
Augusta Civic Center			7. Dept. Human Svcs. Renovation	
Augusta Mental Health Institute			8. West Parking Lot	

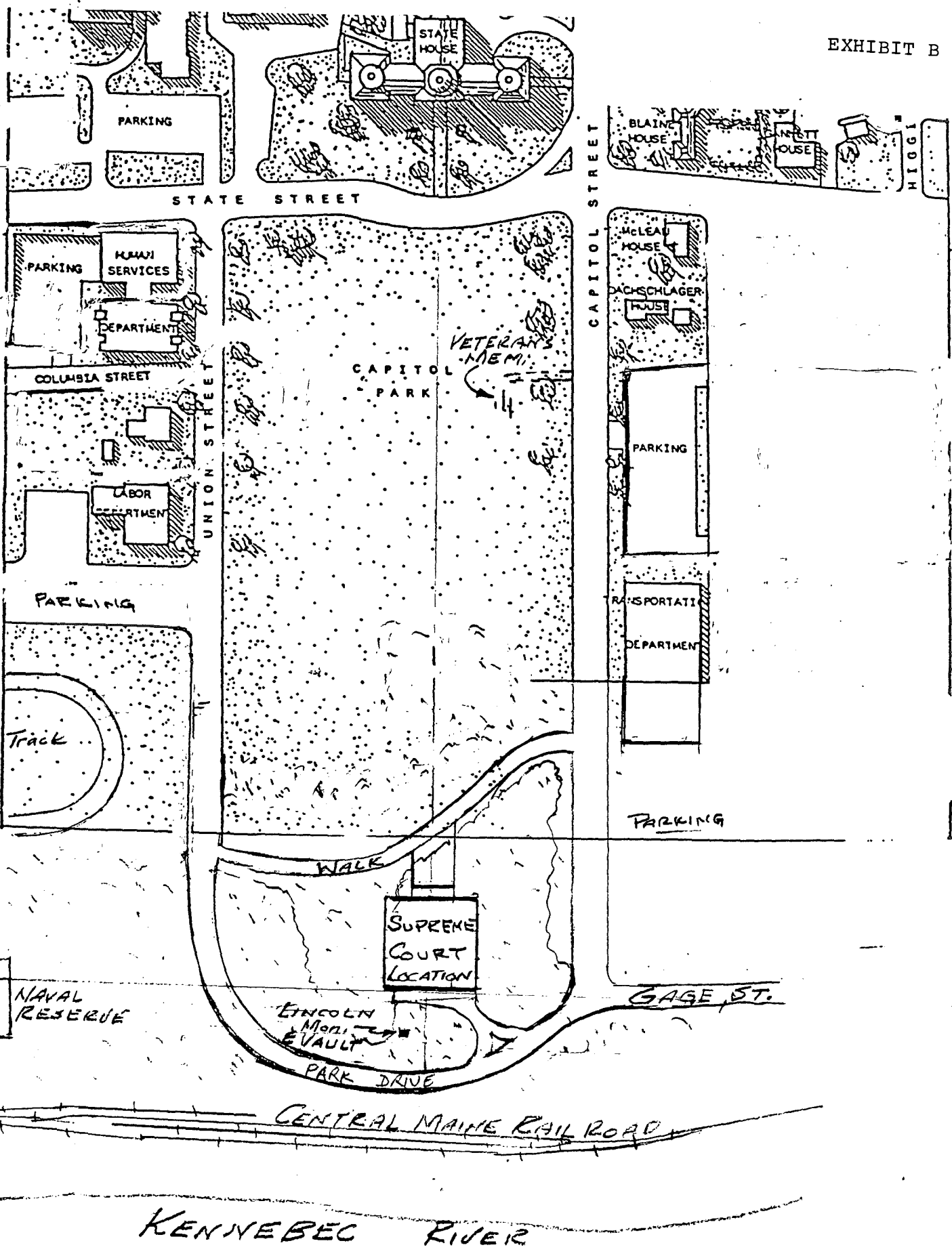
* Andrew DeHayes, Harriman Associates
 Dr. Frank Locker, Portland Design Team
 Arvah Lyon, Bureau of Public Improvements
 John Weinrich, Moore/Weinrich

EXHIBIT A



- 1. Master Plan
- 2. Wade & Grove
- 3. Capitol Park (state)
- 4. S. Parking Lot

- 5. Capitol Park (city)
- 6. DOT Parking
- 7. D.H.S. Reno.
- 8. W. Lot



SCALE 1" = 200'

The arguments for the Wade and Grove site were that:

1. It would enhance a somewhat unattractive site near the Capitol;
2. It would be an attractive extension to the Capitol grounds;
3. It would be within easy walking distance.

The Capitol Park site was preferred by the Capitol Planning Commission. In principle, the Capitol Park site is acceptable to the State's garden clubs, but they reserved the right to revise this approval as plans and designs become available.

The garden clubs indicated that they would actively support the move to the Capitol Park site if the following conditions were included in the legislation for the move.

1. That as little of the Park as possible be taken and as few trees as possible be removed.
2. That there be no vehicular road between the Court building and State Street.
3. That the Court building be the last building to be placed in the park.
4. That the design of the building be such as to complement the State House.
5. That the building be well landscaped.

D. Court Building Costs

Prior to the establishment of the Relocation Commission, preliminary work had been done on the space needs of the court and the costs associated with constructing a new building. A cost estimate of \$8,000,000 was established based on this preliminary work. As the Relocation Commission proceeded with its study it requested the Administrative Office of the Courts, with the assistance of Walter Sobel, FAIA & Associates, to review the estimate and the figure was subsequently revised to \$9,200,000. However, as the Commission became site specific and in other ways dealt more closely with other specifics of the move, the Commission, the Bureau of Public Improvements and the Administrative Office of the Courts became concerned with their ability to develop an accurate cost figure. Among the items of concern were specific issues such as: site preparation costs at the two final sites; parking for the new facility; design and engineering expenses; the cost of meeting local regulations and desires of special interest groups (e.g., the Capitol Planning Commission and various garden clubs); and inflation adjustments up to the actual construction date. Appendix J is a summary of the cost estimate prepared by Walter H. Sobel, FAIA & Associates.

There are several national firms that specialize in court planning. The two foremost such firms are Walter Sobel, FAIA & Associates of Chicago and Space Management Consultants (Michael Wong) of Seattle. Both firms provided preliminary advice to the Administrative Office of the Courts on a gratis basis in the preparation of material for the Commission. Walter Sobel is currently on retainer to the Administrative Office of the Courts.

It is the recommendation of the Bureau of Public Improvements and the Administrative Office of the Courts that a planner be hired to develop accurate cost figures for the final site, rather than use current estimates. The cost of the planner's work would not exceed \$130,000 (see Part IV, Section E on page 16). It should be noted that, as a step in developing the cost estimates, the planner will be preparing the building program, a task which will eventually be needed for building design. Thus, bringing in the planner at an early stage does not result in a net additional cost to the project.

E. Court Planning and Design

1. Planning

It is general practice in the construction of major court buildings to involve both a court planner and an architectural firm. The involvement of the planner is generally at one of three levels. The client can bring in the planner at the beginning of the project to develop the program for the facility to which the architect, to be selected later, will design. The planner's involvement can be ended at that point or he can be involved through the design and/or construction phase. The third alternative is for the architectural firm to be required to utilize the services of a court planner.

2. Design

There are two major avenues available for the selection of an architectural firm to design a building of the significance of the one under consideration.

- a. Standard Bureau of Public Improvements procedure for procuring architectural services
- b. Design competition

The major difference between these two methods is that in the former the architect is selected based on his philosophy, qualifications and experience, while in the latter the architect is selected based on actual designs submitted for the building to be built. In the former, the selection is made by a Committee of five to seven persons

associated with the project on the basis of either program or administrative responsibilities. In the latter, the selection is made by a jury of three, five or seven members, with the majority being persons from an architecturally related profession and the remainder being members whose professional responsibilities give them some direct involvement with the outcome of the project. In either process the architect can be required to employ specific specialists on a consultant basis such as court planners, engineers, architects specializing in courts or government buildings, or nationally recognized architects.

The design competition can be open to any architect, limited geographically or on other bases, or limited to those specifically invited to participate. The competition can be one stage or two stage. A two stage competition affords leading competitors a chance to develop their initial designs and all those selected for the second stage are compensated for their efforts. A two stage competition is generally used for complex projects. The winning firm may or may not be the firm chosen as the architect for the building. (In the case of State buildings, the eventual architect must be registered in Maine.) Whether the winning architect will become the commissioned architect should be specified in the competition rules or may be left up to the jury, which should also be specified. A professional advisor is generally retained to plan, organize and run a design competition. A design competition requires the availability of a project program to which the designers are to design.

The design competition has the advantages of providing maximum publicity to the project, of affording the widest degree of design exploration and of providing to the project the sound judgment and advice of the juried panel. It is, however, more time consuming (one year versus six months for the regular architect selection process), and requires approximately \$200,000 to implement.

The design competition could either be started while waiting for the vote on the bond issue or after the bond issue is voted on. The advantages of the former are that the competition could be virtually over by the time of the bond vote, that those voting on the bond would have some idea of the eventual design and that the publicity might assist the passage of the bond. The disadvantage of having the competition prior to the bond vote is that, should the issue fail, the money for running the competition would be ill-spent.

F. Project Schedule

The Commission assumed the following time-frame in order to guide its decision-making:

<u>Activity</u>	<u>Months</u>	<u>Calendar Dates</u>
Legislature Approves Funds for Court Planner	NA	Jan. 1987
Court Planner Prepares Firm Cost Estimate	6	Jan. -June 1987
Legislature Approves Bond Issue	NA	June 1987
Public Approves Bond Issue	NA	Nov. 1987
Design Competition	12	Jan. 1988 - Dec. 1988
Construction	24	July 1989 - June, 1991

G. Method of Funding

The Commission evaluated a variety of options for financing the construction of a Supreme Judicial Court facility. Although a number of options were considered, the Commission focused on the two listed below:

- General Obligation Bond Issue

This type of bond pledges the "full faith and credit of the State" and has state revenues appropriated or allocated specifically to pay its debt service. One advantage for this option cited by Commission members is that it requires the approval of the Maine voters.

- Establishment of a "Maine Court Facilities Authority"

A Maine Court Facilities Authority would be authorized to issue revenue bonds to finance court construction statewide. One advantage for this option cited by Commission members is that it provides a mechanism to meet the capital construction needs of the Judicial Department on an ongoing basis.

A detailed summary of other financing options considered by the Commission can be found in Appendix K.

IV. CONCLUSIONS AND RECOMMENDATIONS

NOTE: All recommendations were the unanimous recommendation of the Commission except section C, to which there was one dissent.

A. Moving The Court to Augusta

The Commission recommends that the Supreme Court be moved to Augusta to its own building. As an essential part of the move to Augusta, it further recommends the court building in question be of a design and in a location suitable to the dignity and prestige of the court as the State's highest court and as one of the three branches of government.

B. Centralization of Certain Court Functions

The Commission recommends that all justices of the Supreme Judicial Court, the Chief Justice of the Superior Court, the Chief Judge of the District Court, and the Administrative Office of the Court have their chambers in the new Supreme Judicial Court facility. It further recommends that this new facility have a library adequate to the daily needs of the Court but that in planning the library, consideration be given to the existence of the Law and Legislative Reference Library in the Statehouse.

C. Site Selection

The Commission recommends that the court building be located at the far eastern end of State Capitol Park in Augusta generally in a line with the State House.

D. Site Restrictions

The Commission recommends that the design of the building incorporate the following provisions:

1. It retain as much of the park space and as many of the trees as possible.
2. It be of a design and scale compatible with the park and the State House.
3. There be no vehicular road between the Court building and State Street.
4. That this be the last building placed in the park.
5. That no park space be taken for parking except that which is in the ravine at the far end corner of the park.
6. That the building be as far east in the park as possible.

E. Court Planner

The Commission recommends that \$130,000 be appropriated to the Judicial Department on an emergency basis at the earliest possible date in the First Regular Session of the 113th Legislature. Given the Commission's desire to introduce financing legislation prior to the end of the First Regular Session, it is recommended that the AOC contract with Walter Sobel Associates under their current retainer with the State to develop the program that is required for reliable design and construction cost estimates. This firm will be directed to provide as accurate a cost estimate as possible in sufficient time for bond legislation to be submitted during the first session of the 113th Legislature. In addition to preparing the program, this planning firm should continue with the project at least through the architectural design phase.

F. Supreme Court Plan & Design Commission

The Commission recommends the formulation of a commission to oversee the planning, design and construction of the court building and that \$10,000 be appropriated to cover the Commission's expenses. Because of the changing nature of the tasks involved, the membership of this Commission should be considerably different from the one involved in the issuance of this report. Membership of this new Commission would be large in order to include all the interests involved, the talents required and the need for maximum support of this project with the voting public. The following 15-member composition is recommended for the Commission:

- A Senator - chosen by the President of the Senate
- A Representative - chosen by the Speaker of the House
- A designee of the Chief Justice
- An architect not a candidate for the court design - chosen by the Governor with the advice of the Maine chapter of the American Institute of Architects
- A building contractor not a candidate for the court construction - chosen by the Governor with the advice of the Associated General Contractors (Trade Association)
- An architectural critic from a State newspaper or magazine - chosen by the Maine Arts Commission
- A representative of the Capital Planning Commission - chosen by that Commission
- A representative of the City of Augusta - chosen by the Mayor
- A representative of the state's garden clubs - chosen by the Governor with the advice of the Garden Club

- Federation of Maine and the Kennebec Valley Garden Club
- A representative of the Maine Arts Commission - chosen by that Commission
- A representative of the Maine Trial Lawyers Assn. - chosen by that group
- A representative of the Maine Bar Association chosen by that group
- A representative of the general public chosen by the Governor
- A scholar in an architecturally related discipline from the State's major public and private universities and colleges - chosen by the Governor with the advice of the schools.
- A landscape architect - chosen by the Governor with the advice of the Maine Chapter of the American Society of Landscape Architects.

G. Selection of Court Designer

The Commission recommends that the court building be designed by an architect selected through a two-stage competition with no geographic limitation on the entrants. The architect selected should be required to work in collaboration with the court planner and should be required to associate with an architect of national stature, the definition of the latter to be developed by the Plan & Design Commission.

The Commission feels it to be generally desirable that the winning architect be given the commission to develop the design. However, if after study, the Plan & Design Commission finds that there are certain peculiarities to this competition, it should make different arrangements. (It should be noted that a Maine registered architect is required to be the commissioned architect. Therefore, a non-Maine architect winning the competition would have to associate with a Maine architectural firm or register in Maine). The commissioned architect should continue his association with the project through construction.

A knowledgeable expert should be employed or contracted with to assist in planning, organizing and running this competition. The \$130,000 General Fund appropriation recommended for the court planner in Section E will provide sufficient resources for this service.

It is recommended that the competition be judged by a jury composed of a subcommittee of the Plan & Design Commission consisting of three, five or seven members, the majority of whom should be from an architecturally related profession. If necessary to reach this majority, a non-commission professional should be added to the jury.

It is recommended that, prior to the bond referendum, the court planner make all necessary arrangements for the design competition that do not involve cost. The competition should begin as soon after the bond issue is approved as is possible.

H. Funding

The Commission unanimously recommends that a new Supreme Judicial Court facility be financed with a General Fund bond issue. It is the members' opinion that the relocation of the Supreme Judicial Court needs to go before the voters for their approval. A General Fund bond issue, to be presented at a statewide election, would allow, in effect, Maine's voters to approve or disapprove the Court's relocation to Augusta.

As described in section E, the amount of the bond issue will be developed by the court planner, reviewed by the proposed Plan and Review Commission, and presented to the Legislature before the end of their First Regular Session of the 113th Legislature. It is the Commission's intention that the bond issue be presented to the voters at the statewide election in November 1987.

I. Proposed Legislation

In order to implement the recommendations cited above, the Commission has drafted legislation to:

- Create a Supreme Judicial Court Plan and Design Commission;
- Fund a court planner to develop a building "program" and cost estimate;
- Fund a design competition;

The draft legislation can be found in Appendix L.

APPENDIX:

- A. Transmittal Memo from Supreme Judicial Court Relocation Commission to Legislative Council
- B. Copy of Relocation Commission's Enabling Legislation
- C. "The Future of the Appellate Process in Maine" (an excerpt), The Institute of Judicial Administration, Nov. 1981.
- D. Supreme Judicial Court statement on relocation, "Construction of a Supreme Judicial Court Building in Augusta"
- E. Newspaper Clippings
- F. Supreme Court Projected Space Requirements
- G. Proposed Facility Library Needs
- H. Comments on Proposed Sites
- I. Report of the SJCRC's Site Evaluation Committee
- J. Facility Cost Estimate
- K. Option Paper: Financing the Construction of a Supreme Judicial Court facility
- L. Draft Legislation: RESOLVE concerning the Proposed Supreme Judicial Court Facility

APPENDIX A

APPENDIX A

January 6, 1987

Honorable Charles P. Pray
President, Maine Senate

Honorable John L. Martin
Speaker, House of Representatives

Dear President Pray and Speaker Martin:

Please find enclosed the final report of the Supreme Judicial Court Relocation Commission. Included in the report is draft legislation that the Commission will be introducing for consideration by the 113th Legislature's First Regular Session.

Listed below are the recommendations of the Commission:

- The Supreme Judicial Court, the Chief Justice of the Superior Court, the Chief Judge of the District Court and the Administrative Office of the Courts should be relocated to the City of Augusta;
- The site for the new facility should be at the eastern end of State Capitol Park;
- Funding for a court planner should be secured in January 1987 at the First Regular Session. The planner will develop the new facility's "program" (i.e., space requirements and design guidelines) and a cost estimate for the State Capitol Park site;
- The new facility should be designed using a design competition. The competition would not take place until financing for the building had been secured;
- The new facility should be financed with a General Fund bond issue to be enacted by the Legislature in the First Regular Session, to be presented to the voters at the November 1987 statewide election; and

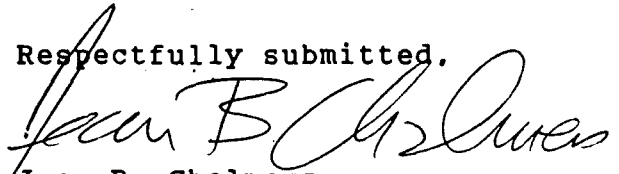
APPENDIX A (cont'd)

- 2 -

- A commission to succeed the Relocation Commission be established during the First Regular Session. The primary purpose of this Commission would be to oversee the work of the court planner and supervise the design competition.

The Supreme Judicial Court Relocation Commission has fulfilled its obligation as directed by Private and Special Laws of 1985, Chapter 60.

Respectfully submitted,



Jean B. Chalmers,
Chairperson

APPENDIX B

APPROVED

JUN 27 '85

BY GOVERNOR

CLERK

(6)

P & S LAW

STATE OF MAINE

—
**IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-FIVE**

—
H.P. 973 - L.D. 1395

**AN ACT to Study the Location of the Supreme
Judicial Court in the City of Augusta.**

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

Sec. 1. Relocation commission established. There is established the Supreme Judicial Court Relocation Commission. The commission shall consist of 9 members to be appointed as follows: Two members of the Senate appointed by the President of the Senate, one a member of the Joint Standing Committee on Judiciary and one a member of the Joint Standing Committee on State Government; 3 members of the House of Representatives appointed by the Speaker of the House, one a member of the Joint Standing Committee on Judiciary, one a member of the Joint Standing Committee on State Government and one a member of the Joint Standing Committee on Appropriations and Financial Affairs; 2 members appointed by the Chief Justice of the Supreme Judicial Court; and 2 members of the public appointed by the Governor.

The commission shall request the Chief Justice of the Supreme Judicial Court or his designee to serve as advisor to the commission.

Sec. 2. Duties of commission. The commission shall investigate any possible consolidation of existing functions and personnel of the Supreme Judicial Court and the disposition and acquisition of court facilities.

APPENDIX B (cont'd)

Sec. 3. Report. The commission shall report its findings together with any implementing legislation to the First Regular Session of the 113th Legislature.

Sec. 4. Assistance. The Office of Legislative Assistants and the Legislative Finance Office shall provide assistance to the commission in carrying out its duties. The commission shall request from the Judicial Department any assistance it needs from that department.

Sec. 5. Compensation. The members of the commission shall receive no compensation, but shall be reimbursed for all necessary expenses.

Sec. 6. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	<u>1985-86</u>	<u>1986-87</u>
<u>LEGISLATURE, DEPARTMENT OF</u>		
Supreme Judicial Court Re- location Commission		
All Other	\$2,300	\$4,400

APPENDIX C

APPENDIX C

THE MAINE SUPREME JUDICIAL COURT
THE FUTURE OF THE APPELLATE PROCESS
IN MAINE
FINAL REPORT, NOVEMBER 1981



The Institute of Judicial Administration, Inc.
ONE WASHINGTON SQUARE VILLAGE
NEW YORK, NEW YORK 10012

APPENDIX C (cont'd)

THE FUTURE: LONG TERM OBJECTIVES

It is recommended that the Maine Supreme Judicial Court:

- Seek to be relieved by the Legislature of the duty to act as nisi prius judges. Maine may be the only state in the United States in which Supreme Court Justices are still assigned to what is called "single justice work," work as trial judges. Although the practice was common in the early days when appellate workloads were light, such assignments are seldom made today in appellate courts. They are inappropriate when they interfere with the judges' principal duties. The Maine Supreme Judicial Court should look to be exclusively, an appellate court.

- Seek to establish procedures in lawyer discipline matters after sanctions are imposed by an appropriate bar or other constituted agency or commission, and to serve only as the court of final appeal in these matters. The Maine Supreme Judicial Court should look to be, exclusively an appellate court.

- The Institute has suggested that panels be created within the framework of the Superior Court to hear appeals from the District Court. This approach can provide the model for a future intermediate appellate court, which will be a necessity should this court's workload continue to escalate as it has in 1980 and 1981. This system can also ultimately provide review of criminal sentences. A three-judge bench made up of Superior Court judges could serve the sentence review function. Naturally, no judge would participate in the review of his own sentence albeit he may be consulted. Review should be in the Superior Court with certiorari to the Supreme Judicial Court in criminal and in civil cases.

- Anticipate acquiring a building of its own and direct some thought to this end. Maine's Supreme Judicial Court is a homeless court. It has no real headquarters. For five out of six terms, the Court sits in Portland, one term in Bangor. Some Justices reside in Portland, and at least four reside in various other locations. During most of their opinion writing time the Justices are not in the position to confer daily or pass tentative drafts around. This court does not have preargument conferences, but it is the Court's practice to conference cases immediately after the oral argument. There are no regular conferences following the case conference immediately after oral argument. The comments of

APPENDIX C (cont'd)

the Justices on written opinions are circulated to all of the justices but the geographic distances cause additional time to be consumed.

- Should the time come when the creation of an intermediate appellate court is a necessity, the Institute has set forth its concepts on the effective proven way to constitute such a court. See May, 1980 Preliminary Report at 43-46. Essentially, they are:

The intermediate appellate court should be a unified central legislative court sitting for the state as a whole. Maine is not like Texas, New York or California where separable geographic areas and huge populations are thought to require independent district courts of appeal.

The court's jurisdiction should cover the lesser cases that in meantime may have been heard in divisions as recommended.

The court's decisions, should, in almost all cases, be final, not reviewable by the top court. Two appeals in the lesser appeals are not called for. One appeal is enough.

The most serious cases, identified by an announced classification, supplemented by judicial discretion, should go directly to the top court. In general, these would be the cases that were being heard by the court's entire bench, while the lesser cases were being decided by the divisions. All of these major cases would be heard by the Supreme Judicial Court en banc.

The number of judges of the new court might be three or five authorized to sit in three-judge panels on a staggered basis, but with legislative authority to increase the number if the docket requires. Panel membership should rotate, not be permanent. Close coordination with the top court should be maintained, so that cases could, occasionally, be assigned back and forth, if new issues are discovered.

The method of selecting judges for the new court should be the same as the method of selecting the justices of the Supreme Judicial Court. These judges should be full time appellate judges.

In substance, although the Justices of Maine's Supreme Judicial Court have achieved a high degree of collegiality, the absence of a single headquarters where the

Justices have adjoining or nearby offices must impair to some extent the benefits of interchange as well as consume a substantial amount of time.

To quote the Institute's May, 1980 Revised Preliminary Report at 17:

"Judge George Rose Smith has pointed out, both in writing* and in many appearances before groups of appellate judges, that much judicial time can be saved by writing and circulating opinions promptly, while oral arguments and conference discussions are still fresh on judges' minds. The necessity for going back and starting over again in the study of a case is one of the worst judicial time-killers in any court. If the Supreme Judicial Court of Maine could develop a practice -- and it may have moved in that direction already -- of expecting the opinion in every case submitted in a given term to be circulated before the next term commences, each writing Justice would have substantial time, and each Justice to whom it is circulated could do a faster or a better job of reviewing it.

A companion problem, not necessarily involving a saving of time, has to do with opinion conferences. The Maine Court does not regularly schedule them. Most good courts do. A court does not act collegially in approving an opinion unless the judges together consider it. Individual conferences with the author do not bring out group reactions. The author can often dominate individual conferences, and something close to one-judge opinions can result. That is not good."

For a period of months in 1981, Maine's Supreme Judicial Court functioned with only five members of its seven member bench. Nevertheless the productivity of the court remained high. For the year ending August 31, 1981, 318 opinions were produced, and average per judge far beyond

* Smith, The Appellate Decisional Conference, 28 Ark. L. Rev. 425 (1975).

the 35 opinions accepted by experts as a desirable maximum per judge. This includes the Chief Justice who, additionally, is heavily burdened with administrative matters.

It is recommended that the court, in due course, adjust its internal operations along the lines suggested. It is hoped that the Maine Legislature and the Governor will recognize the problems confronting its busy Supreme Judicial Court and act accordingly.

APPENDIX D

CONSTRUCTION OF A
SUPREME JUDICIAL COURT BUILDING IN AUGUSTA

The Supreme Judicial Court makes this statement at the request of the Supreme Judicial Court Relocation Commission created by the 112th Legislature.

The Supreme Judicial Court favors the construction of a central facility to provide a courtroom for the Supreme Judicial Court and chambers not only for the Chief Justice and Associate Justices of that Court, but also chambers for the Chief Justice of the Superior Court and the Chief Judge of the District Court, as well as quarters for the Administrative Office of the Courts, for the following reasons:

1. Need to Establish a Central Facility. The Supreme Judicial Court is presently without any central facility of its own, designed to accommodate and support its work as the final state appellate court and the governing body of the state Judicial Branch. Maine is the only state without such a facility. The Court presently comes together to hear appellate arguments on cases before it, sitting as the Law Court, six times a year in terms of about three weeks' duration each. It utilizes the Cumberland County Courthouse in Portland for four terms and the Penobscot County Courthouse in Bangor for two terms each year. In addition, the justices hold at least one administrative meeting during each term of the Law Court. Often there are also administrative responsibilities that require the justices to assemble at least once in each month between terms. After the Law Court in term time hears oral arguments and holds a preliminary conference on each case, the seven justices return to their homes throughout the state and work at nearby courthouses where chambers are maintained for each of them. Draft opinions are circulated to colleagues by mail, and matters that require discussion are the subject of telephone conference calls and numerous exchanges of memoranda. The Clerk of the Law Court maintains an office in Portland and all appellate cases are filed there. The Court has no special facilities in the Cumberland County Courthouse, however, other than a magnificent ceremonial courtroom which is used by the Superior Court for jury trials when the Supreme Judicial Court is not sitting. Most of the justices live too far away to commute from their homes to attend terms of the Law Court and administrative meetings of the Supreme Judicial Court; they thus must stay in local motels at state expense when the Court is in session.

Bringing the Supreme Judicial Court together in one courthouse on a permanent basis with chambers, conference rooms, a library, a courtroom, and related facilities will provide more effective and collegial working conditions, better communication among the justices, and a more efficient use of resources. It will make possible face-to-face conferences of the justices promptly as the need arises, rather than waiting until the justices are assembled for a term of the court or depending upon telephone conference calls or exchanges of memoranda by mail. By enhancing the efficiency of the Supreme Judicial Court, this move may well postpone indefinitely or eliminate any need to consider the creation of an intermediate appellate court to handle the growing caseload, a costly addition that has become necessary in other states.

Permanently locating the court in its own facility, together with the establishment of an administrative headquarters of the Judicial Department, will insure a close working relationship among the Court as the governing body of the Judicial Department, the Chief Justice of the Supreme Judicial Court as the chief executive officer, and the Department's administrative components, the chief judges of the trial courts and the State Court Administrator. At present, the Chief Justice of the Supreme Judicial Court, the Chief Justice of the Superior Court, and the Chief Judge of the District Court maintain their chambers at locations close to their places of residence, which generally are not in the same city. As the incumbents change, the locations of their offices also change. Likewise, the Administrative Office of the Courts moved from Auburn to Portland when the present Chief Justice succeeded former Chief Justice Dufresne of Lewiston, to facilitate a close working relationship with the State Court Administrator who reports to him.

2. Augusta Location. As both a courthouse for the Supreme Judicial Court and administrative headquarters for the Judicial Department, it is appropriate that such a building be located in Maine's capital city, in close proximity to the State House. The Judicial Department is one of the three great branches of state government, and the Supreme Judicial Court is the only court established by the people in the Constitution of 1820. It is fitting that its facilities be located in Augusta, the seat of state government.

3. Free Up Space in County Courthouses. All of the seven justices of the Supreme Judicial Court now have chambers in county courthouses close to their places of residence, a custom that has been handed down from a past era. This practice arbitrarily affects various courthouses, depending upon the home towns of the justices and their length of service on the court. Much-needed courthouse facilities are taken away from use by the Superior Court, the only jury trial court of general jurisdiction in the state; an unprecedented volume of case filings aggravates space

conditions in aging county courthouses already hard-pressed to accommodate the modern-day needs of Maine's courts. Consolidating the Supreme Judicial Court at a central facility not only will provide it with space better suited to its needs, but also will free up more than 11,000 square feet of space these justices are utilizing in the several courthouses for use by the Superior Court. This move to a central facility will help to forestall the need for the construction of additions to these or other courthouses in the future.

APPENDIX E

Bangor Daily News

A. Mark Woodward, Editorial Page Editor
Wayne Relly, Assistant Editor

491 Main St., Bangor, Maine 04401
Tel. (207) 942-4881

Editorial

Courting the people

Lawmakers will be faced with deciding whether top state judiciary offices should be moved to a new central location in Augusta as recommended by an advisory panel. If they decide affirmatively, they will be forwarding a building bond issue to voters for which estimates range as high as \$14 million.

The move would centralize offices for Maine Supreme Court justices, top Superior and District Court judges, and court administrative offices currently located in Portland. The rationale is that it will provide better interaction among Supreme Court justices, and better communications among the three branches of government.

Citizens are told an Augusta presence for the court system also would symbolize the co-equal status of the judicial branch with the other two branches. It would "enhance the image" of the court system, according to Jean Chalmers, chairman of the Supreme Judicial Court Relocation Commission.

The commission is in favor of the move. So are the individual Supreme Court justices. So far little opposition has been heard, although there have been rumors that a coalition of garden clubs might rise to protest the location of the building in a park near the State House, or that a group of Portland lawyers who do business with the court might protest.

But taxpayers have the biggest stake here, and they have been quiet. Rumors of a \$14 million price tag should make them question the wisdom of such a move, especially when it has yet to be demonstrated that the court system is inefficient in its present form in any measurable way. Meanwhile, there are some good arguments in favor of continued decentralization.

Currently, the justices' offices are scattered around the state, and deliberations are held four times a year in Portland and twice a year in Bangor. This is a good arrangement because people in different parts of the state gain more accessibility to

the court's proceedings, and the justices have more of an opportunity to stay in touch with people.

In an era of telephones, computer modems and overnight mail geography should no longer be a major issue when the justices are working apart. Televised conference hookups are the next step technologically. They already are used in Maine's educational institutions and hospitals to bring people together, and should be studied as an alternative to this project for the Supreme Court. Meanwhile, it should not be forgotten that physical proximity can generate as much dissension as cooperation depending on the mix of personalities. Witness the divisions on the U.S. Supreme Court.

As for the judiciary's image, there's no doubt that it has a problem. The pomp and circumstance of a new building is not the answer, however. Judicial inaccessibility and secrecy verging on arrogance has wrapped the judicial process in mystery. And when judges do prove to be mortal men, committing crimes or ethical sins, they are allowed to step down with pay, which is even more mystifying.

Meanwhile, the court establishment continues to pound away on the one judge who is clearly in touch with his constituency, District Court Judge John Benoit. He is the Maine judge who has done the most to demystify his courtroom and give lawbreakers what they deserve. It's no accident that Judge Benoit's bench is located in Skowhegan, in the heartland of Maine far from the Augusta bureaucracy and the Portland lawyers.

No one has demonstrated that the Maine Supreme Court is operating inefficiently. If it is, communications can be improved with better use of technology. If it is a better public image the judiciary wants, there are better ways to achieve it than by building a palace in Augusta. They can begin by conducting business in a more public fashion, and by listening closely to the public mood.



PA
BY THE BANGOR DAILY NEWS

Callin

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Maine Sunday Telegram

The wrong move *12/14/66*

□ Persuasive arguments can be raised for and against moving the state Supreme Court to Augusta. But we've yet to hear any argument that justifies imposing a courthouse on Augusta's Capitol Park.

The park, a rare ribbon of green in the state's capital city, provides an open vista from the State House to the Kennebec River. It also provides an appropriately meditative setting for Maine's Vietnam Veterans Memorial.

What, by contrast, does Capitol Park offer a courthouse? The answer appears to be proximity to other branches of state government and cheap land.

Given that balance, the park should be left just the way it is.

That's not the view of the Supreme Judicial Court Relocation Commission. Meeting in Augusta last week, the commission reaffirmed its advocacy for a new consolidated courthouse in Capitol Park. The courthouse would provide facilities for the Maine Supreme Court and top judicial officials.

The seven Supreme Court justices currently work out of offices in county courthouses, meeting collectively as the law

court four times a year in Portland and twice in Bangor. What's wrong with that? And is enough wrong to justify construction already pegged as high as \$14 million?

We doubt it.

Spreading justices out over the state, despite any inconveniences involved, keeps them in touch with Maine people, rural and urban. Centering them in an Augusta enclave does not. That difference is important.

The working men and women of Maine, the elderly and youngsters currently being educated are the court's real constituency. It is their acceptance of the rule of law on which the judiciary depends.

Moving the state's highest court to Augusta places the judiciary closer to the governor and Legislature, not to Maine people. That may be a defensible move, but it is far from compelling.

Placing a courthouse in Capitol Park — despite a promise of no further construction there — has even less to recommend it. Such promises are made to be broken. If not, no one would be trying now to impose a building on a park set aside for Maine's Capitol.

Moving the Supreme Court

The Supreme Judicial Court Relocation Commission meets today to discuss its report to the Legislature on the proposal to move the Court from Portland to a new court building in Augusta.

The Commission, in our view, has proceeded to carry out its charge with great devotion to duty, with skilful use of other state agency expertise, with a thorough understanding of the judicial problems involved, and with a careful solicitation of statewide opinion. It has been all that the Legislature might ask of such a commission.

Its report, if it reflects the previous proceedings of the body, will recommend a Supreme Court building on Capitol Park opposite the state capitol building, and in appropriate juxtaposition to the other two major branches of state government.

The new Legislature, we hope, will accept its recommendations and begin the process of placing the Supreme Judicial Court in a building and on a site that reflects the importance of our judicial system in our scheme of government, and that gives the high court appropriate architectural dignity.

Editorials

Court I/ Not in Capitol Park

PPH

10-2-86

While there may be a measure of sense in a legislative panel's recommendation that the Maine Supreme Court move from Portland to Augusta, there is none at all in the proposal that a new building for the court be constructed in Capitol Park.

The 20-acre state park that runs like a green ribbon between the State House and the Kennebec River exists as a rare bit of natural beauty in a landscape overwhelmed by government buildings now. Simply put, the park is more important than any state building that might shortsightedly be placed upon it.

For one thing, the serenity of the park is part of the Vietnam Veterans Memorial, where sun and shade play in soldiers'

silhouettes. For another, the park is part of the State House itself, its greenery completing the elegant sweep of open space that leads from the river to the dome.

Active Retired Justice Elmer Violette, who advised the panel, says the proposed structure "would not, in fact, destroy the beauty of Capitol Park, but would provide the state with a beautiful park between those structures."

We're more inclined to accept the assessment of State Finance Commissioner Rodney L. Scribner, who said this summer, "The character of the park is very important and probably nothing should intrude."

Indeed it shouldn't. Not on the memorial and not on the park itself.

Editorial

Highest court needs a home in Augusta

Maine's three branches of government — legislative, executive and judicial — are supposed to be relatively equal, but some think the judiciary gets less than equal treatment.

As far as the the Supreme Judicial Court is concerned, they probably are right. The court is without a home, and efforts to provide it one are running into all sorts of roadblocks.

They have run into conflict with garden clubs, Gov. Joseph E. Brennan and an array of penny-pinchers who are more formidable these days than they used to be.

The Supreme Judicial Court Relocation Commission is pretty well agreed that the high court should sit in Augusta along with the other organs of the governmental triad, but it's having some trouble settling on a spot that's agreeable and even more trouble finding the money to pay for a high temple of law at a time when the state's wish list has a total far in excess of its tax list.

What brought the issue to a head was a suggestion by Chief Justice Vincent L. McKusick that the court could exercise its responsibilities more efficiently if it were permanently in the capital instead of bouncing back and forth between shared quarters in Portland and Bangor. The commission, headed by Sen. Jean Chalmers, D-Rockland, was named to look into the matter and make a recommendation to the Legislature next winter.

The spot the commission and a majority of judges and state officials seem to like is on the east end of Capitol Park, looking up toward the State House. Local garden clubs don't like it because some members fear it would be the beginning of the end of the park's open

space. Area strollers don't like the idea because they fear it would infringe upon their peace and quiet. Brennan, in a burst of parsimony, has favored remodeling the old Custom House in Portland to provide a permanent home for the jurists. He says he sees no advantage in moving the court to Augusta.

Brennan's opposition to a new Augusta supreme courthouse isn't a serious hurdle. Come next winter he'll either be a congressman in Washington or just another lawyer in Portland, and the clout will be with a new governor, whoever he or she may be.

But the garden clubbers have to be taken seriously. They carry a lot of weight with the politicians in the Legislature who will make the decision on what plan, if any, is submitted to the voters for the ultimate decision.

We think they may be overreacting to the opposition. Capitol Park was created as a mall toward which future state buildings might face, and having the home of the law interpreters looking up toward the home of the lawmakers seems most appropriate.

Brennan's dissent notwithstanding, there seems to be wide support for McKusick's proposition that his court should sit permanently in Augusta. Only one other state sits its high court apart from the other two branches of government.

There's still a little time to examine and discuss possible sites before the commission has to make its recommendation, and we hope the park site is kept in the running.

It should be possible to landscape around a Supreme Court building in a manner that would enhance the park's charm, not detract from it.

Proposed high court site raises opposition

APPENDIX E
(cont'd)

By KIM CLARK
Guy Gannett Service

AUGUSTA — Alternately described as a "once-in-a-statehood chance" for grandeur or the ruination of a unique park, a proposal to move the state Supreme Court to a wooded park here is already raising hopes and hackles statewide.

But the project itself is in a sort of political limbo, awaiting the election of a new Legislature and governor in November.

The idea of erecting an impressive \$8 million to \$10 million building for the state's highest court near the Capitol has won near-unanimous praise from Democrats, Republicans, judges, lawyers and local residents in recent months.

But a few influential opponents' questions about need, funding and siting are proving troublesome, those involved in the project said last week.

The Supreme Judicial Court Relocation Commission, a group of 11 lawmakers, state officials and attorneys assigned to study the proposal, has informally agreed to recommend the move, said panel chairwoman Sen. Jean Chalmers, D-Rockland.

But the committee is wondering how to fund the project, Chalmers said.

And the panel's favorite site for a new building, a small forest at the end of Capitol Park, is proving controversial.

Mike "Burnsie" Burns, who runs a popular take-out sandwich shop near the State House, said scores of local residents have asked him to oppose the selection of the park site.

Burns, a member of a special zoning panel for the Capitol area, said many local residents like the idea of moving the court from Portland and Bangor to Augusta, but fear a building might harm the park.

"A lot of people come in here and say, 'You know what is going to happen. Once they have broken tradition and allowed a building,' others will want to build in the open space."

"I live right behind the park. . . . I always marvel how beautiful it is to walk around the park," he said.

Court FROM PAGE ONE

"I live right behind the park. . . . I always marvel how beautiful it is to walk around the park," he said.

Minna Pachowsky of Waterville, the legislative chairwoman for the Garden Club Federation of Maine, said the garden clubs are concerned but are "just listening" at this point.

The garden clubs want to "save as much park area as possible" and will scrutinize the proposed design of the building and the proposed parking areas, she said.

She said the garden clubs in the past have opposed any building in the park.

The commission's second and only other site choice, a parking lot behind the governor's mansion, would not be as nice, and would likely require the removal of the Blaine House tennis court, Chalmers said.

Gov. Joseph E. Brennan does not play tennis, but he said he does not like the idea of moving the Supreme Court to Augusta.

"There is no need for it in Augusta. The Legislature and governor ought to be here, but there is no real big reason to have the court here. They don't get the laws until years later," he said.

"For a long time I have advocated moving the Supreme Court to the Custom House on Commercial Street in Portland. It is a beautiful old building. I am not sure we can build them like that any more," he said.

Relocation committee member Rodney Scribner, commissioner of the state's Finance Department, said he supports the move, but warned members not to take such opposition lightly.

The garden club members alone are formidable opponents, he said.

"They haven't lost anything yet, and they have been here a long time," he said.

Most state officials and judges say they like the idea of a courthouse in the park because "if landscaped properly, it would be magnificent. . . . It is a beautiful piece of land and a perfect spot,"

said Richard Barringer, director of the State Planning Office.

"This is a once-in-a-statehood chance. The state's highest court should not be tucked away on a side street" he said.

"They should be co-equal branches of government, both physically and legally," he said.

The study panel feels the Supreme Court, which currently splits its time between Portland and Bangor, ought to be moved to the capital to centralize state government, Chalmers said.

Only one other state, Louisiana, keeps its highest court outside of the capital, she said.

The panel's recommendations will go to the Legislature for action in January.

Funding will likely have to be approved by the voters in the form of a bond issue, she said.

House Minority Leader Thomas Murphy, R-Kennebunk, said the idea to relocate the court has won bipartisan backing, but predicted the money issue will be sticky.

All plans probably will be on hold until the next governor is elected in November, he said.

Chief Justice Vincent L. McKusick proposed the relocation of the court last year, saying it would improve communications between the judiciary and the other two branches of government.

Court Administrator Dana Baggett said the justices blame their distance from the capital for legislative budget cutbacks that have forced austerity measures.

"Out of sight, out of mind. We are not at hand to be consulted. (Our distance) may contribute to the impression that the court is aloof and disdainful of the goings-on in Augusta. And that is not the case at all," Baggett said.

For each of the past several years, the Legislature has failed to give the Judicial Department its full budgetary request, forcing the courts to come back and ask for more money.

This year, the courts suspended divorce mediation services for

several months until the Legislature appropriated extra money.

"They (lawmakers) don't believe our budget requests are authentic. They think they are padded and subject to cut," he said.

McKusick has said the move likely would improve the productivity of the court by bringing all the justices to work together for the first time.

Currently, the justices convene only to hear oral arguments. They work out of offices in county courthouse buildings around the state.

Also, moving the Supreme Court and court administrators to a new capital building would free up badly needed space for the crowded trial courts, he said in a speech to the Legislature last year.

McKusick has said he wants the new court building erected in Capitol Park "as much because of the symbolism as anything else," Baggett said.

McKusick likes the symbolism of placing the new court building at the end of a long, graceful sward of green between the Capitol dome and the Blaine House, Baggett said.

A member of the relocation study panel, Rep. Don Carter, D-Winslow, said he too likes the idea of moving the court, but doubted the relocation would change the courts' budget.

"This could improve relations" among the three branches of government, said Carter, who chairs the Legislature's powerful Appropriations Committee.

"But distance isn't the problem. . . . It is due in part to attitudes. . . . The bottom line is there has been a breakdown in communications revolving around that old chestnut 'separation of powers,'" Carter said.

Brennan agreed that the move probably would not change the court's budget, saying reductions in funding requests are part of the dynamics of government, and necessary to restrain spending.



Kittle Cargoes

By Mike Brown

The Public Be Damned

To hear the Augusta bureaucrats and all the performers in the Maine court system, one would think that the entire Supreme Judicial Court and all its trappings had already moved to the mall in front of the State Capitol.

It hasn't, but who's going to stop it?

A little history.

Chief Justice Vincent McKusick is the motivation force behind moving his court to Augusta from its present digs in Portland. In 1985, Ruth Foster introduced a bill in the 112th Legislature asking \$6 million for such a relocation. It went nowhere. But she did get through a committee appropriation which would study the matter and come back with a recommendation in January, 1987.

During this period, Justice McKusick has appeared before the commission twice to push for the move. It's also very obvious that other justices and judges and "friends of the court" are behind the scenes playing pressure games on anybody who will listen that such a move is in the "best interests of the citizens of Maine." Include lame duck Governor Joseph E. Brennan with that crowd.

McKusick, Brennan and the rest of the lobbying pack cite a gamut of vested reasons why the court should be on the Capitol Mall, including, as they put it, "to improve communications" between the three branches of government — executive, legislative, and judiciary.

This is baloney, for every junior high school student learns in civic class that the three branches are intended to be separate but equal. At least that's what the boys in Philadelphia made clear that the rules should be.

The commission deck is loaded, no doubt about it. Those appointing people to the commission were Speaker of the House, President of the Senate, Governor and Chief Justice. Their appointments were, Speaker — Rep. Don Carter, Rep. Elaine Lacroix and Rep. Patrick Parady. Senate President — Sen. Walter Hichens, Sen. Jean Chalmers. Governor — David Flanagan, Comm. Rodney Scribner. Chief Justice — Peter Rubin, Prof. Eugene Mawhinney.

If you can pick a negative vote from that group, I'll buy you a can of Maxie.

Leighton Cooney is director of the Bureau of Public Improvements. He claims to "only be responding" to

recommendations or suggestions that the court be located in Augusta. However, he describes the Capital Mall as a "quiet beautiful site" and apparently has no problem putting the high court of justice on the capitol lawn.

Cooney did say that depending on the specific site, there might be some parking displacement and a new parking garage erected. But he insisted that the rumored \$8 million move would not go a penny over that, excluding the parking garage, of course.

The commission has even gone so far as to employ an out-of-state architect, an expert in court design from Chicago named Walter Sobel, to design such a court complex. Supposedly, it was he who came up with the \$8 million figure.

Cooney claims that his department, which approves and classifies such public buildings, has slapped a "desirable" label on such a new court building.

If built, and again, who's to stop it?, it will house the courtroom, administrative offices, chambers for all the Supreme Court justices plus those for the chief justice of the Superior Court and chief judge of the District Court. A veritable court factory, if you will.

The chairman of this committee is Sen. Jean Chalmers of Rockland. She is also a prime mover of intergrating the probate system of Maine into the criminal court system which is one of the more idiotic suggestions to improve the judicial system that has been advanced in a century. Her ideas, incidentally, are identical to Chief Justice McKusick's on that probate merger.

This committee will meet again on August 7 at 9 a.m. in Room 124 of the State Office Building. It is open to the public and I challenge the attorneys I have talked with, and who oppose this move, to attend that meeting and honestly express their views. And any other citizens and taxpayers who will be paying for this marble and unneeded edifice over the next decades.

The galling part of this whole thing is that the judicial big shots and legislators and bureaucrats have never asked the public if it wants this court in Augusta where it doesn't belong. Their premise is that the public is going to get it, anyway.

Makes you want to cry sometimes, doesn't it?

Concept to move offices gets enthusiastic response

By BOB DATZ
Capital Bureau

KJ 2/7/85 pg. 1
Preliminary signals indicate Augusta would be an eager host should the Maine Supreme Judicial Court and state judiciary offices be established here.

The concept described Wednesday by Vincent McKusick, chief justice of the state high court, would end the Portland-based court's circuit-riding tradition. It also would physically unite state government branches for the first time since the capital was switched from Portland to Augusta in 1832.

"Excellent and long overdue," said state Rep. Patrick Paradis, D-Augusta, after McKusick spoke. He is a member of the Legislature's Judiciary Committee, which is likely to consider bills by Rep. Ruth Foster, R-Ellsworth, to accomplish the move. The bills don't specify how to pay for it.

"That would be just superb," said

Courts
Mayor Peter Thompson. "We have been talking for some time about trying to encourage such a move."

McKusick told lawmakers the state supreme court justices favor the idea to improve coordination with the rest of state government and internal court efficiency.

There is no specific location considered for the move, which the judiciary has studied in the past. But the legislative initiative and support for the concept from Gov. Joseph Brennan are more recent developments.

"I definitely favor it when the current facility is no longer useful," said Rep. Donald Sproul, R-Augusta. "It belongs in Augusta."

"The issue ought to be the central location of state government," Paradis said.

But he noted the economic impact of attorneys and clients coming to

See: AUGUSTA
Back page this section

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Augusta

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(Continued from page 1)

town for the 500-case annual load the court now carries. The move would also lead some Portland law firms to open offices in Augusta, he predicted.

The activity would more than outweigh the fact that the estimated \$8 million court-office facility would be exempt from city property taxes, he said.

Kennebec Valley Chamber of Commerce Executive Director C. Wayne Mitchell said, "We're talking about middle and upper income people relocating here. Our economy's small enough that any kind of move like that we would feel significantly."

But one lawyer predicted it wouldn't start a stampede of lawyers out of Portland, whose metropolitan area was found to have more attorneys for its size than any other in the country.

"My impression is the attorneys are in Portland because it's the demographic and commercial center. There is also the federal district court here," said Joel Martin, a partner in the eight-attorney firm of Petruccielli Cohen Erler & Cox.

But the head of the state's largest law firm, Attorney General James Tierney, saw a larger impact for his Augusta-based office.

"I think that's a great idea in concept, but it's a question of finances," Tierney said.

"It makes infinite sense for us. We argue before the supreme court more

than any other office. We're there once a day."

The state high court has shared space in the Cumberland County Courthouse with the county's Superior Court since the lower court system was established in 1930. The higher court's seven justices sit periodically in Bangor and occasionally in Augusta, maintaining a tradition of movement dating from the 19th century, when there was no fixed base of operations.

But McKusick said after his speech there could be greater efficiency in moving the court and the Administrative Office of the Courts "under one roof." The court's support staff presently occupies rented office space near the Portland courthouse.

About a dozen people work in the Administrative Office of the Courts, which runs the entire state court system, according to State Court Administrator Dana Baggett.

"The court, if it had full-time chambers here, would hear all of its cases there," said Baggett.

Five of the seven justices currently work from offices in their home counties except for hearings. "This really would change the nature of the court from a non-resident court," the administrator said.

"Right now if they want to talk about a case they have to do it over the phone."

APPENDIX E (cont'd)

Maine's Supreme Court

EA 2/14/85 sec. 2 pg 1

Chief Justice Vincent McKusick's message to the legislature last week brought forcibly to the attention of the whole state the need to move the Supreme Court from Portland to Augusta. The legislature, we hope, will act early in the session, either on a bill to direct the move, or on one to direct a study of the proposal. Representative Ruth Foster of this district has introduced a bill to direct the move and one to establish the study.

The change is long overdue. The failure of the legislature to provide for this move in the past is very remarkable. It is a failure that has militated against the full recognition of the Supreme Court as a co-equal branch of the government of Maine. Chief Justice McKusick has raised the recognition of the court by his skillful advocacy of its cause and his firm leadership of the judicial establishment. Nevertheless, a symbol of the court's dignity, identity, and power in our system,

ought to be built in Augusta where it can command the attention of the citizenry of this state.

Courts of last resort have their setting in the state capitals of all the states excepting only Maine and Louisiana. In 43 states the high court sits in only one location regularly but may sit in other locations in eight of them. In nine states, the high courts function in more than one location: in Oregon, Maine, Alaska, California, Idaho, Illinois, Nevada, Pennsylvania, and Tennessee.

It is to be hoped that the recommendation of the Chief Justice will have the support of Governor Joseph Brennan and of the Legislature. It is, to be sure, a time when many other financial needs occupy the state government. That has been true in the past. It is likely to be just as true in the future. It will be as convenient to authorize and direct this change now as it ever will be in the future.

APPENDIX F

APPENDIX F: Projected Space Requirements*

<u>Functional Areas</u>	<u>Net Square Feet</u>
1. Courtrooms and Related Areas	
• Appellate Courtroom	2,400
• Appellate Hearing Room	1,600
• Attorney Conference Rooms (4)	880
• Control Area to Private Sector	300
• Judicial Conference Rooms (3)	<u>2,300</u>
	7,480
2. Chief Justice's Area	
• Chambers with restroom	750
• Secretary (including reception and files)	450
• Law Clerk Area	<u>400</u>
	1,600
3. Associate Justice's Area (6)	
• Chambers with restroom	3,600
• Secretary (including reception and files)	1,800
• Law Clerk Area	<u>1,400</u>
	6,800
4. Chief Justice of Superior Court	
• Chambers with restroom	600
• Secretary (including reception and files)	<u>300</u>
	900
5. Chief Judge of the District Court	
• Chambers with restroom	600
• Secretary (including reception and files)	300
• Joint Conference Area	<u>500</u>
	1,400

*Based on information provided to the Supreme Judicial Court Relocation Commission by the Administrative Office of the Courts, as updated by Walter H. Sobel, FAIA and Associates.

APPENDIX F (cont'd)

6. Clerk of the Law Court		
• Office Area	2,400	
7. Supreme Judicial Court Library		
• Workspace and Stack Area	4,000	
8. Administrative Office of the Courts		
• Office Space	6,500	
9. Record and Storage Area		
• Joint Use Areas	3,000	
10. Public Area		
• Public Lobby and Restrooms	<u>920</u>	
TOTAL - NET SQUARE FEET		35,000
GROSS SQUARE FEET		57,390

APPENDIX G

PROPOSED LIBRARY
SUPREME JUDICIAL COURT

Factors involved in planning space for a Supreme Judicial Court Library include:

1. size of the basic collection
2. allowances for extra space and for the growth of the collection
3. work space for library users
4. a computer area, with appropriate wiring
5. a librarian's office, and
6. a common, or entry area.

Resources used in determining specific needs included:

1. American Association of Law Libraries' "Standards for Appellate Court Libraries".
2. Sobel, The American Courthouse
3. conversations with:

The Hon Elmer Violette, Judicial Liason to the Supreme Court Relocation Committee
James Chute, Clerk of the Law Court
Law Clerks of the Supreme Judicial Court

Summary of basic space requirements:

1. Stack area	2,880 sq ft.
2. Reference area	270 " "
3. Work space for library users	480 " "
4. Computer area	100 " "
5. Librarian's office	70 " "
6. Common area	200 " "

Total proposed space 4,000 square feet

APPENDIX G (cont'd)

SPECIFICS BY CATEGORY

STACK AREA		2,880 sq ft
Basic AALL collection (App. A)	3,200 shelf feet	
allowance for work space on shelves	300 " "	
growth factor (5%/yr x 10 yrs.)	1.600 "	
TOTAL shelf feet	5,100	
Total shelves (3"/shelf)	1,700	
Total stacks (84 shelves/ standard 6-range stack)	20	
See App. B for minimum recommended dimensions		
2. REFERENCE AREA		270
Shelving for ready reference materials; table and chairs for users		
3. WORK SPACE FOR LIBRARY USERS		480
Based on minimum space requirements of 30 sq ft/user		
4. COMPUTER AREA		100
Work space and appropriate wiring for Computer Assisted Legal Research		
5. LIBRARIAN'S OFFICE		70
Space would also be used for cataloging and acquisitioning collection		
6. COMMON AREA		200
Includes entry way, card catalog area, microfilm collection		

TOTAL SQUARE FEET: 4,000

APPENDIX G (cont'd)

AMERICAN ASSOCIATION OF LAW LIBRARIES STANDARDS
FOR
APPELLATE COURT LIBRARIES

shelf space in feet

A. Publications of or for special use in the state in which the library is located	
1. Published decisions of all courts (Me Reports, Reporter, advance sheets)	28
2. Current statutes	6
3. Older statutory compilations 1820 - 1954	6
4. Complete set of session laws	20
5. State Digest	3
6. Maine Shepard's	1
7. All significant local textbooks and treatises, AG's opinions, State Bar Reports, Form & Practice books	6
8. Legal periodicals published in the state: includes Maine Law Review, Maine Bar Journal, Criminal Law Review, Maine Trial Practice, Maine Lawyer	6
9. Legislative materials (LDs, Legislative Record)	27
10. State Administrative Code	
11. State & Judicial Conference reports, court rules, recommendations state law revision commissions	6
B. Publications concerned with federal law	
1. Official US Reports	110
2. USCA or USCS	30
3. Statutes at large; USCC&AN	30
4. Supreme Court Digest	15
5. Federal Digests	30
6. Federal Register and CFR	50
7. US and Federal Shepard's	8
C. General US Publications	
1. Published reports of decisions of courts of last resort, prior to the National Reporter System	768
2. Complete National Reporter System	1149
3. Complete American Digest System	120
4. ALR 1,2,3,4, Federal	115
5. Current State Statutes for other New England States and New York	50
6. Basic selection of legal periodicals, with index	50
7. Restatements	14
8. Basic collection of legal texts and treatises	50
9. One legal, one general dictionary, thesaurus, general encyclopedia	10
10. Shepards for all units of reporter system	20
11. AJ2d or CJS	20
12. US Law Week, Criminal Law Reporter	6
13. Sets of loose-leaf or equivalent services in corporations, securities, commercial law, trade regulations, and state and federal legislation	12
14. Words & Phrases	15
15. US Government Manual	
16. Uniform Laws Annotated	3
17. ABA Standards and Professional Ethics Opinions	3

APPENDIX H

APPENDIX H

SUPREME COURT RELOCATION COMMISSION
COMMENTS ON PROPOSED SITES
(From Meeting of March 24, 1986)

A. City of Augusta Capitol Park

- city-owned property.
- If the Supreme Judicial Court (JJC) relocated there, would the State lease the land from the city? Unknown.
- Site presently occupied by U.S. Naval Reserve Center (only one-half occupied) and city's recreation/athletic fields. Finding another site for the athletic fields that offer as much as the existing site would be difficult (i.e., in-town location, walking distance for children, etc.)

B. Capitol Park

- State-owned property.
- Would new SJC facility negatively impact the park's existing features? Could it be located at the far end of the park so as to provide proximity to other state buildings yet blend with the rest of the park?

C. State Street (just north of Public Utilities Commission Building)

- State-owned property.
- Present use is a parking lot for State Library-Museum-PUC-Department of Human Services.
- SJC facility would displace many parking spaces. To use this site would require that some sort of parking garage be constructed.

D. DOT Maintenance and Operations Yard (Capitol St.)

- State-owned property.
- Presently used by Maine Department of Transportation for maintenance and operations.
- Relocating SJC to this site would require MDOT to incur a major relocation expense.
- Prominent site for SJC on a main Augusta artery.

APPENDIX H (cont'd)

- E. Grove Street (near the former "Jonathan's Restaurant")
- Some state-owned property (would require acquisition of some private residences in immediate area as well).
 - Traffic congestion in State Complex area may ensue as some city streets might need to be altered.
 - increases parking problem.
- F. Memorial Circle (western-side rotary)
- Private property (would take taxable property away from city; decreased property tax revenues to Augusta).
 - A site on the rotary may be appropriate if a multi-story building was constructed (3-4 floors, similar to Casco Bay Bank building).
- G. Augusta Civic Center
- City-owned property.
 - Good access to Rt. 95.
 - Undesirable location vis-a-vis the State Complex.
- H. Augusta Mental Health Institute Complex (eastern side of Kennebec River)
- State-owned property.
 - Large campus (room for new facility).
 - Follows a visual line from Capitol.
 - Too far from State Complex.
- I. Other Possible Sites
- State Office Building Parking Lot (west of State Office Building; South of Nash School; corner of Capitol St. and Sewall St.).
- State-owned property.
 - Site could provide underground access to rest of State Complex.
 - Parking garage below surface with 2-3 story building on top.

APPENDIX I

APPENDIX I

REPORT TO THE SUPREME JUDICIAL COURT RELOCATION COMMISSION
ON RECOMMENDATIONS FOR
LOCATING THE SUPREME JUDICIAL COURT
AT THE CAPITOL
June 18, 1986

SITE EVALUATION COMMITTEE:

Andrew DeHaies, Landscape Architect, Harriman Associates, Auburn
Dr. Frank Locker, Architect, Portland Design Team, Portland
Arvah Lyon, Civil Engineer, Bureau of Public Improvements, Augusta
John Weinrich, Architect, Moore, Weinrich & Woodward, Brunswick

COMPILED BY:

Leighton Cooney, Director, Bureau of Public Improvements

APPENDIX I (cont'd)

EVALUATION

CHARGE FROM THE SUPREME JUDICIAL COURT RELOCATION COMMISSION:

Analyze five (5) sites selected by the Commission and compile findings in a report to the Commission. Consideration shall include, but not be limited to aesthetics, site related cost considerations, court function and relationships, and other information deemed to be valuable to the Commission's deliberations.

APPENDIX I (cont'd)

THE SITE EVALUATION COMMITTEE:

In an effort to respond to the important charge from the Commission within the short time frames, broad concept needs, and cost constraints, the following individuals were selected.

1. Andrew DeHayes, Landscape Architect from Harriman Associates in Auburn: Mr. DeHayes has a long experience as a practicing landscape architect and has worked on an extremely wide variety of projects. Harriman Associates is one of the largest firms in the State, with virtually all professional and technical skills handled in-house. The firm handles the widest possible variety of projects throughout the Northeast, allowing Mr. DeHayes particularly wide ranging opportunities and experiences. Mr. DeHayes also wrote his thesis on the Augusta Greenbelt project which proposed development of the entire East bank of the Kennebec River from Augusta's downtown South past the Augusta Mental Health Institute. He, therefore, brings some unique understandings of Augusta and its topography to this project.
2. Dr. Frank Locker, Architect, Portland Design Team in Portland: Dr. Locker is a principal in his firm. As an architectural firm, Portland Design Team is relatively young, but has distinguished itself with a number of award winning designs and substantial number of public commissions by a variety of State owners. Dr. Locker has also provided design services for a study of a possible Economic Development Center at the Capitol, as well as a State Computer Center. Both projects have required the investigation of sites in and about the Capitol. A number of the sites studied are on the Commission's list. Dr. Locker has also attended recent Capitol Planning Commission meetings and has an up-to-date understanding of the Capitol's Master Plan and current planning issues.
3. Arvah Lyon, Civil Engineer, Bureau of Public Improvements in Augusta: Mr. Lyon has had a successful career as a Civil Engineer with 20 years of service at the Department of Transportation and most recently 5 years of service at the Bureau of Public Improvements. Mr. Lyon has an understanding of the physical conditions and constraints in the Capitol Areas including such issues as traffic, parking, utilities, and soil conditions.
4. John Weinrich, Moore, Weinrich & Woodward: Mr. Weinrich is a principal in the firm of Moore/Weinrich. Mr. Weinrich and his firm are relatively young, but has distinguished itself with a number of award winning designs. Among these are projects for the University, public school districts, and B.P.I. Mr. Weinrich and his firm have distinguished themselves as creative and effective designers. The firm is currently designing the new Augusta City Hall.

APPENDIX I (cont'd)

BRIEFING THE SITE EVALUATION COMMITTEE:

John Knox, Jim Clair, and Leighton Cooney met with the Committee to provide information and direction. After approximately an hour-and-a-half of discussion and review of documents presented to the Supreme Judicial Court Relocation Commission, the Capitol Area Master Plan, the five sites selected by the Commissioners, the designers developed a simple one page evaluation form to assist them in reviewing the five selected sites. Two additional sites were added to the list in an effort to give the Committee the greatest possible opportunity to understand siting issues in the Complex and provide maximum information to the Commissioners. An eighth site was added during the Committees visits to the other sites. An asterisk will mark those sites designated for review by the Supreme Judicial Court Relocation Commission. The "Grove and Wade" site and the "City's Capitol Park" site were added by the Site Committee in their meeting with staff. Their final addition for consideration is noted as the "Master Plan's site".

APPENDIX I (cont'd)

CRITERIA:

Following the introductory discussion, staff allowed site Committee members time to develop the criteria summarized on the evaluation sheet. (See Appendix) The Committee developed four basic areas of consideration with three to four subcategories in each section. The subcategories were then rated on a one to three (1-3) basis with three (3) as the highest score for any subcategory. Each category was then weighted as indicated below:

1. Image - 50% weight. The Committee felt the key considerations were those that went beyond functionality, cost, or other similar considerations. The Committee strongly felt that the dignified presence and the clear public recognition of a Supreme Judicial Court building were the primary considerations. The three subheadings in this category were:
 - a. Public visibility/appropriateness to use.
 - b. Physical presence/stature of the Court.
 - c. User orientation to context.

2. Planning and function - 20% weight. This category, while related to that above, deals with more objective considerations of program and building as they related to the site. The four sub-headings in this category were:
 - a. Size/scale.
 - b. Access to existing facilities (pedestrian).
 - c. Traffic to site.
 - d. Expansion possibilities.

3. Development difficulty - 20% weight. This category deals with the practical considerations of cost, especially as impacted by the dislocation of and creation of parking for the project, as well as impact on State and community issues. The three sub-headings in this category were:

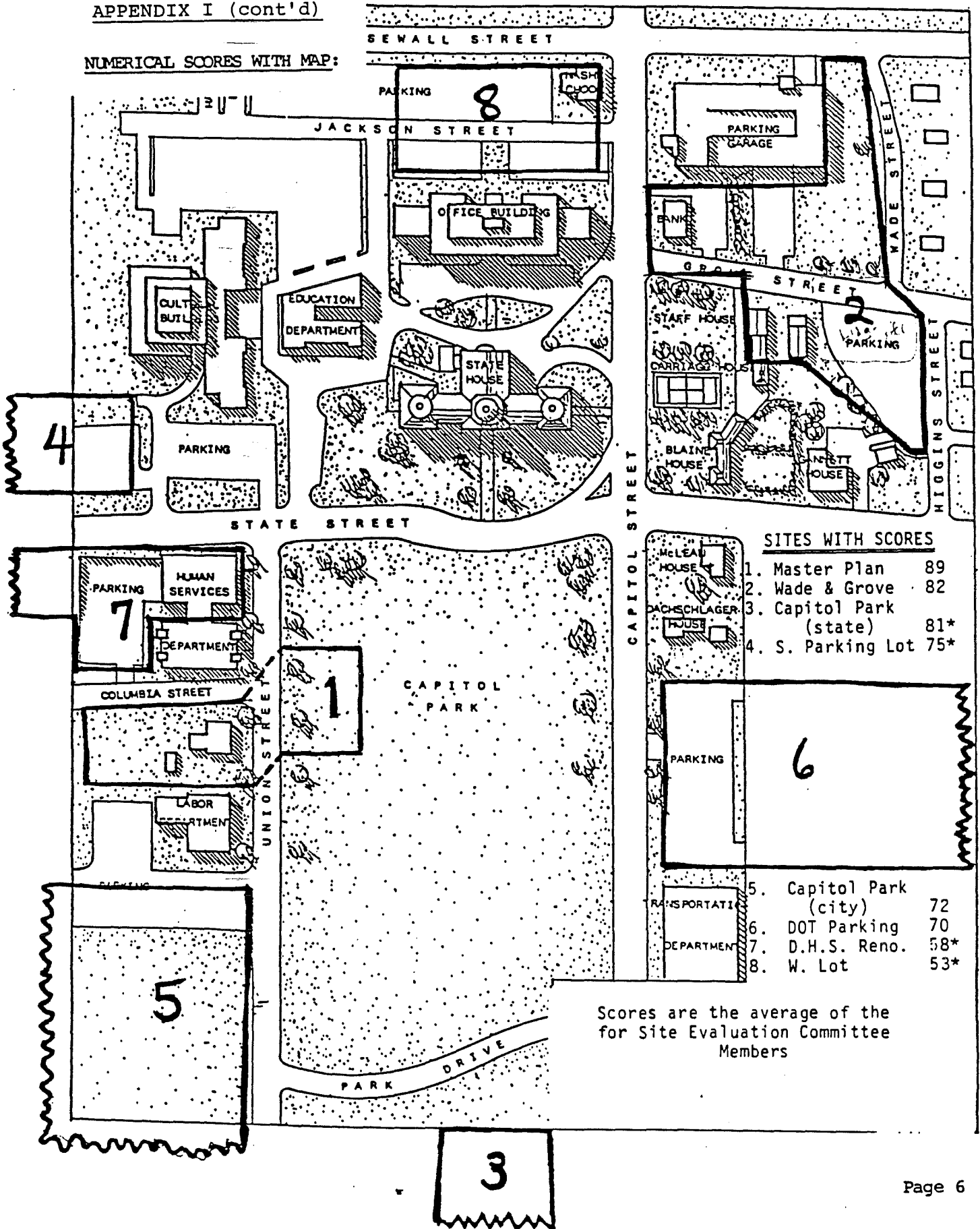
APPENDIX I (cont'd)

- a. Cost.
 - b. Planning decisions.
 - c. Community disruption.
4. Technical and site - 10% weight: This is an issue best investigated in later stages of project development. Nevertheless, preliminary professional evaluation can often identify serious technical and site deficiencies. The three sub-headings this category were:
- a. Topography.
 - b. Soils.
 - c. Solor orientation.

NOTE: Weighting was done in discussion between Committee members and staff. There was absolutely no disagreement on the weighting formula used in the final evaluation. Since there was a general high rate of agreement among Committee members, weighting would be unlikely to dramatically change scores or Committee recommendations. Scores are the average of the four Site Evaluators.

APPENDIX I (cont'd)

NUMERICAL SCORES WITH MAP:



SITES WITH SCORES

1. Master Plan	89
2. Wade & Grove	82
3. Capitol Park (state)	81*
4. S. Parking Lot	75*
5. Capitol Park (city)	72
6. DOT Parking	70
7. D.H.S. Reno.	58*
8. W. Lot	53*

Scores are the average of the for Site Evaluation Committee Members

NUMERICAL SCORES WITH COMMENTARY IN ORDER OF COMMITTEE EVALUATION:

1. Master Plan Site (89) - This site was the first choice of the Committee. The site first came into the discussion as Committee members reviewed the concepts and the specifics of the Capitol Area Master Plan developed by the Frank Grad Associates for the Capitol Planning Commission in 1969.

Then, as Committee members moved between the City's Capitol Park site and the Department of Human Services site, all agreed to evaluate the prime site of the 1969 Master Plan. Committee members see the Master Plan site as a "grand opportunity" or "big idea" site. This site is clearly the most sensitive to the Master Plan. While this site is not as classical as the State's Capitol Park site, (opposite the Capitol at the East end of the State's Capitol Park) it is nevertheless a site that strongly supports, and in fact compels the master planning vision of the Grad Plan. The site allows for the development of an axis on the Eastwest line of the South side of the park that will balance the Eastwest line of the North side of the park. This site allows for great planning flexibility in developing a building that could be virtually omni-directional with two or three floors.

Committee members felt that a building in an Eastwest direction, pursuant to the Master Plan proposal, could work especially well in this site. Location of a Courtroom, public entrance, Judge's chambers, library, and general offices hold the greatest opportunities on this site. There is some risk to developing a site of this prominence, but

APPENDIX I (cont'd)

the paybacks for good planning and design make the risk well worth taking.

A new Court in this facility would have an excellent adjacency to the Capitol and other branches of the government as well as the Law Library. The building can also serve to mask the less than outstanding architecture of the two existing office buildings on Union Street.

Cost and technical considerations are generally more favorable than average except where four private properties, which are surrounded by State Land, would probably be the subject of acquisition. Committee members feel the shingled house on the park would be a candidate for relocation and note that two of the other properties are small dwellings with a fourth available for purchase at this time. This land acquisition could provide for necessary parking. The cost would be greater than that for development of open space, but substantially less than that required for parking garage construction.

Since the private property in this particular area are completely "government locked", Committee members felt a certain inevitability to the acquisition of these properties. Some street and traffic work may be required.

2. Wade and Grove Street Site (82 Points): This is the second "big idea" site. It has strong axial, classical possibilities, although not quite as strong as the East Capitol Park location. This, however, is the biggest risk site, as a number of "strings" must be pulled simultaneously

most
proper
enclosed
site
like a University
Quadrangle

APPENDIX I (cont'd)

to insure success. This site envisions the development of the axis between the Cultural Building and the general Wade and Grove Street area and the Capitol and the Office Building. It is the most pedestrian-oriented of all sites and is close to the Capitol and the Law Library. Among the "strings" that must be pulled are:

- a. The elimination or relocation of the bank at the corner of Capitol and Grove Street.
- b. Closing Grove Street from Capitol to Wade.
- c. Removal of the Governor's staff house, and relocation of the Governor's driveway and tennis court.
- d. Removal of the pronounced embankment forming a line between the North end of the garage and the back yard of the Gannett House.

The Blaine House should dictate much of the scale for this site with special sensitivity to strengthening the landscaped grounds of the Blaine House. Blaine House vehicular and service access should be developed from the North, possibly through the existing Gannett House driveway and staff house function should be relocated and augmented in the Gannett House or Merrill House.

Committee members feel the Supreme Judicial Court building should be moved away from the existing parking garage and separated by dense plantings of trees and other landscaping.

Members see this building as being somewhat more vertical than other locations with as many as five stories possible on this site. Approx-

APPENDIX I (cont'd)

imately half of this height would likely go below the existing Blaine House lawn grade with the other half forming an architectural prominence for the court building and its more important activities.

Some existing parking will undoubtedly be utilized by the footprint of the building, however, the ability to develop a parking deck below existing Blaine House grades allows for excellent parking and access at costs that are greater than land developed spaces, but less than a multi-level parking garage.

A project in this location would form a clear definition between the private neighborhood to the North and the Capitol Complex to the South.

Many members believe that this site has an extremely high potential for excellence for the Supreme Judicial Court and the Capitol Complex, but that this is only possible if all the "strings" are pulled with strength and sensitivity.

3. Capitol Park (State) (81 Points:) This site is at the far east end of the Capitol Park on a line with the center of the portico of the State House. It is clearly the most classical of all sites and can only be considered as a site for a building of the prominence of the Supreme Judicial Court.

Many members do not see a size and mass for a building being defined by the site, but rather the site being the most important consideration.

Committee members believe the Supreme Court building should be a "quiet" building and that this site is especially good in this regard.

APPENDIX I (cont'd)

This site would have the least negative impact on parking in the rest of the Complex and might be the only site that could win a parking variance from the Capitol Planning Commission. Parking could be developed under and behind the building sufficient to meet the Court's needs, but clearly not great enough to meet the Capitol Planning Commission regulations.

Committee members believe that this site may generate the most "polar" opinions. On the one hand will be the argument that the Supreme Judicial Court demands a site of this prominence and on the other will be the argument that this is particularly sacred ground and has a uniquely natural feel that should be preserved.

Some consideration will have to be given to the orientation of the building as classical siting would face the building toward the State House, but consideration for the park would discourage roadways and parking to the west. Therefore, access to the front of the building for occupants and visitors would be a particular architectural challenge.

There was some concern among Committee members that this site would be disruptive of the beautiful green, soft views of the park from the State House. A counterpoint is offered that the State House and the alley running toward the proposed site invite an architectural statement to the East.

This is one of the best, but highest risk sites available to the Commission.

4. South Parking Lot, State Street (75 points): A clear drop in score occurs between the top three scores and the fourth through sixth sites analyzed.

Committee members saw this as an average site for a non-average building. Members saw a relationship between the State House and Blaine House and the court on Capitol Street. All three would be located in an orderly and equal line. But the committee found this to be a less than compelling consideration when reviewing the specific site considerations. The site is extremely close to State Street and therefore cannot be considered a quiet site. It is, in fact one of the two noisiest sites.

If one allowed sufficient landscape buffer between the Cultural Building and the new Court Building, the building would likely be a "billboard" along State Street with a substantial parking garage necessary to provide for the Court and displaced parking.

The site is, however, convenient to the Capitol and the Law Library. The tight Eastwest dimensions of the site will likely require a building on a North South access of approximately three stories. Such a structure would provide clear prominence and visibility for the Court, but would have to be developed with sensitivity so as not to deter the view and prominence of the State Capitol from the South.

5. Capitol Park (City Owned) (72 points):- Committee members felt that this large and potentially available land area provided some unique planning and siting opportunities.

APPENDIX I (cont'd)

This is clearly the largest potential site available in the Capitol area. It has clear advantages of views, quiet, siting flexibility, and low cost parking.

Commission members were very aware of the community impact implications and would only consider this site as viable if a well planned and harmonious purchase could be arranged with the City of Augusta. Many members, however, were unable to feel a clear and compelling relationship between this site, the State's Capitol Park, and the Capitol Building. They noted a difficult progression from a possible Supreme Judicial Court Building to the existing Department of Labor and Department of Human Services buildings.

Committee members felt that this was an important site for future State consideration, but might be better used for long-term general development needs.

Acquisition costs for this site would probably be \$750,000 or more and this would offset some of the planning and space advantages of this open site vs. other available sites for the Supreme Judicial Court.

6. Capitol Street DOT Parking Lot (70 points):- This site was added by the Committee as being somewhat consistent with the original Master Plan with generally good adjacency to the State House and Law Library. It would also have the benefit of moving parking away from Capitol Park. It would have some clear conveniences for users and visitors, but it would be difficult to site in relationship to the large mass of the DOT

APPENDIX I (cont'd)

building and the residential scale of the Daschlager and Merrill houses. The building would likely have an Eastwest orientation parallel to the Capitol Park that would make it difficult to differentiate the Court from the Department of Transportation Building. The building would probably be two to three stories and would be difficult to establish as a "foreground" building. This site would require the development of a parking garage for the Court and the Department of Transportation to the North on existing State owned land. This area is a hillside and ravine and could lend itself to a parking garage in an area that would be extremely difficult to develop for any conventional office building or parking lot use.

Committee members felt that this site was possible. It was best reserved for "another building" with a less prominent mission.

7. Department of Human Services Renovation (58 points) - Committee members found it difficult to conceive of a renovation of the Department of Human Services building that would adequately meet the high standards that would be important to the Supreme Judicial Court if it is to move to Augusta. Cost savings are doubtful as only the outer walls and roof would be reusable. While proximity to the Capitol and Law Library were very good this is also an extremely noisy site and would require the relocation of a major State department at some additional cost to the taxpayers. The combined cost of the renovation, along with the required location of the Department of Human Services could be expensive, especially if the Department of Human Services were relocated in and about the Complex where additional parking would have to be created.

APPENDIX I (cont'd)

8. West Parking Lot (53 Points) - This was the first site reviewed by the Committee and was viewed as an acceptable location. It paled, however, in comparison as sites for the Supreme Judicial Court were visited.

This was viewed as something of a "backyard" to the State House and would form a particularly hard barrier with the residential area to the West of Sewall Street.

This was viewed as having the most severe traffic planning consideration. It would displace substantial parking and require the development of a substantial garage, even with parking below the building.

Committee members saw the possibility for a building of approximately three stories, running from North to South with a strong people space between the existing office building and the new structure. It was difficult to determine what building face should be developed as the front and it may be possible to develop a multi-faced building.

Committee members felt the Nash School was in the way and should be removed if this site is to be developed.

This site has the only clear tunnel link possibilities with the existing office building State House tunnel, but this advantage fails to compensate for the cost or siting deficiencies of this site.

SUPREME JUDICIAL CT 17 JUNE 86.

Frank Locker

IMAGE

- PUBLIC UTILITY/APPROPRIATENESS TO USE
- PHYSICAL PRESENCE/STATURE OF CURB
- USER ORIENTATION TO CONTEXT

VALUE ~~30~~ 20%

PLANNING/FUNCTION

- SIZE/SCALE
- ACCESS TO EXIST FACILITIES (PEDESTRIAN)
- TRAFFIC TO SITE
- EXPANSION

SITE RE INTERNAL USE VALUE 20%

DEVELOPMENT DIFFICULTY

- COST
- PLANNING DECISIONS
- COMMUNITY DISRUPTION

SACRED SITE - RISK VALUE 20

TECHNICAL/SITE

- TOPOGRAPHY
- SOILS
- SOLAR ORIENTATION

VALUE 10%

WEST PARKING LOT	GROUND WARE	DOT LOT	CAPITAL PARK	CITY PARK	HUMAN SERVICES	SOUTH PARK LOT
1	2	2	3	2	2	2
1	2	1	3	2	1	2
2	3	2	3	2	1	3
<u>4</u>	<u>7</u>	<u>5</u>	<u>9</u>	<u>6</u>	<u>5</u>	<u>7</u>
20	35	25	45	30	35	35
(2)	(3/2)	(2 1/2)	(4 1/4)	(3)	(2 1/2)	(3 1/2)
3	3	3	3	3	3	2
3	3	2	2	2	3	3
1	3	3	3	3	3	2
2	3	3	3	3	3	2
<u>9</u>	<u>12</u>	<u>11</u>	<u>11</u>	<u>11</u>	<u>12</u>	<u>9</u>
1	2	2	3	3	1	2
(1.8)	(2.4)	(2.2)	(2.2)	(2.2)	(2.4)	(1.8)
1	2	1	3	3	2	1
2	2	2	3	3	1	2
3	3	3	2	3	3	2
<u>6</u>	<u>8</u>	<u>6</u>	<u>8</u>	<u>9</u>	<u>6</u>	<u>5</u>
(1.2)	(1.4)	(1.2)	(1.6)	(1.2)	(1.2)	(1.0)
3	3	3	3	3	2	3
3	2	2	2	3	3	3
3	3	3	2	2	2	2
<u>9</u>	<u>8</u>	<u>8</u>	<u>7</u>	<u>9</u>	<u>7</u>	<u>8</u>
(.7)	(.8)	(.8)	(.7)	(.7)	(.7)	(.8)
59	81	67	90	79	58	71

Frank Locker

SUPREME JUDICIAL CT 17 JUNE 86.

(VALUE OF 1 TO =)

IMAGE

- PUBLIC UTILITY / APPROPRIATENESS TO USE
- PHYSICAL PRESENCE / STATURE OF COURT
- USER ORIENTATION TO CONTEXT (FROM W. SIDE ST.)

VALUE 50

PLANNING / FUNCTION

- SIZE / SCALE
- ACCESS TO EXIST FACILITIES (PEDESTRIAN)
- TRAFFIC TO SITE
- EXPANSION

VALUE 20

DEVELOPMENT DIFFICULTY

- COST
- PLANNING DECISIONS
- COMMUNITY DISRUPTION

VALUE 20

TECHNICAL / SITE

- TOPOGRAPHY
- SOILS
- SOLAR ORIENTATION

VALUE 10

	WEST PARKING LOT	TROVE W/ WADE	DOT LOT	CAPITOL PARK	CITY CAPITOL PARK	HAYDEN SECOND	SPRING ST
	2	2	2	3	2	1	2
	1	3	3	2	1 1/2	1	2
	2	3	2	3	2	2	2
	<u>5</u>	<u>8</u>	<u>8</u>	<u>8</u>	<u>5 1/2</u>	<u>4</u>	<u>6</u>
	25	40	40	40	27 1/2	20	30
	2	3	3	1	1	1	2
	3	3	2	1	1	2	3
	2	2	2	3	3	2	2
	3	3	2	3	3	1	2
	<u>10</u>	<u>11</u>	<u>7</u>	<u>7</u>	<u>7</u>	<u>6</u>	<u>9</u>
	20	22	18	14	16	12	15
	2	2	1	2	3	1	2
	2	2	-	3	2	1	2
	1	3	3	3	3	3	3
	<u>5</u>	<u>7</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>5</u>	<u>7</u>
	10	14	12	16	16	10	14
	3	3	2	2	3	2	3
	3	2	1	2	2	3	3
	3	3	3	1	2	3	3
	<u>9</u>	<u>8</u>	<u>6</u>	<u>5</u>	<u>6</u>	<u>8</u>	<u>9</u>
	9	8	6	5	6	8	9
	64	24	76	77	65 1/2	50	71

Andrew DeHayes

SUPREME JUDICIAL CI 17 JUNE 86.

IMAGE

Diagram

- PUBLIC UTILITY / APPROPRIATED TO USE
- PHYSICAL PRESENCE / STATUE OF COURT
- USER ORIENTATION TO CONTEXT

wt. VALUE 5

PLANNING / FUNCTION

- SIZE / SCALE
- ACCESS TO EXIST FACILITIES (PEDESTRIAN)
- TRAFFIC TO SITE
- EXPANSION

wt. VALUE 2

DEVELOPMENT DIFFICULTY

• COST

Related PLANNING DECISIONS

- COMMUNITY DISRUPTION

wt. VALUE 2

TECHNICAL / SITE

- TOPOGRAPHY
- SOILS
- SOLAR ORIENTATION

wt. VALUE 1

W. Port. Lot	Good E. Wood	DOT Lot	Loc. (3 ft)	Cap. City	Hum. Serv. Cent	So. Part. Lot
2	3	2	2	2	1	2
2	2	1	1	2	1	2
2	2	2	2	2	2	2
<u>6</u>	<u>7</u>	<u>5</u>	<u>6</u>	<u>6</u>	<u>4</u>	<u>6</u>
30	35	25	30	30	20	30
1	1	3	2	3	3	2
3	3	3	1	2	3	3
3	3	2	1	2	3	3
3	3	3	3	3	2	3
<u>10</u>	<u>12</u>	<u>12</u>	<u>9</u>	<u>10</u>	<u>11</u>	<u>11</u>
20	20	22	14	20	22	22
1	2	1	3	3	2	2
1	3	3	2	2	1	2
2	3	3	3	3	3	3
<u>4</u>	<u>8</u>	<u>7</u>	<u>8</u>	<u>8</u>	<u>6</u>	<u>7</u>
8	16	14	18	16	12	14
3	3	3	3	3	3	3
3	2	1	1	1	3	3
3	3	2	2	3	3	3
<u>9</u>	<u>8</u>	<u>6</u>	<u>6</u>	<u>7</u>	<u>9</u>	<u>9</u>
67	79	69	70	73	65	75
8	11	5	5	7	7	4

Final comparison =
Arvah Lyon

IMAGE

- PUBLIC UTILITY / APPROPRIATENESS TO USE
- PHYSICAL PRESENCE / STATURE OF CURB
- USER ORIENTATION TO CONTEXT

VALUE 5

PLANNING / FUNCTION

- SIZE / SCALE
- ACCESS TO EXIST FACILITIES (PEDESTRIAN)
- TRAFFIC TO SITE PARKING *
PARKING OFF SITE **
- EXPANSION

VALUE 2

DEVELOPMENT DIFFICULTY

- COST
- PLANNING DECISIONS
- COMMUNITY DISRUPTION

VALUE 2

TECHNICAL / SITE

- TOPOGRAPHY
- SOILS
- SOLAR ORIENTATION

VALUE 1

WEAT. PARKING LOT.	GRASS & WALK	DOT LOT.	CAP. F SITE	CAP. P CIT	HUM. SERV	SOFT U	MS
1	3	2	2	1	1	3	3
2	3	2	3	2	2	2	3
2-3	2	2	3	2	2	2	3
4	8	4	2	5	5	7	7
20	40	30	40	25	25	35	4
2	3	3	3	3	1	3	3
3	3	2	2	2	3	3	3
2	2	2	2 ⁺	3	2	3	3
3	3	3	3	3	3	3	3
10	11	10	10	11	9	12	1:
20	22	20	20	22	18	24	2
2-3	2	1-2	3	2	1	2	3
2	2	2	3	3	12	2	3
2	3	3	3	2 3	2	3	3
6	7	6	9	7	4	7	6
12	14	12	18	14	8	14	1:
3	3	3	3	3	1	3	3
3	2	1	2	2	3	2	3
3	3	3	3	3	2	3	3
9	8	7	8	8	6	9	9
2	8	7	8	8	6	9	9
61 #6	84 #3	67 #5	86 #2	69 #5	57 #7	82 #4	

JOHN WEINRICH

APPENDIX J

APPENDIX J: Facility Cost Estimate*

• Construction (57,390 gross square feet x \$91.48 per square foot average)	\$5,249,900
• Site Development	500,000
• Service (Geotechnical, Soil Services, Testing, Inspection)	50,000
• Parking (50 spaces)	200,000
• Furniture and Furnishings	1,200,000
• Art/Sculpture	<u>60,000</u>
	\$7,259,900
• Architectural Engineering Consultant Fee (10%)	<u>725,000</u>
	7,984,900
• Design Contingency (5%)	<u>399,000</u>
	8,383,900
• Construction Contingency (10%)	<u>838,000</u>
	\$9,221,900

*NOTE: This cost estimate was prepared by Walter H. Sobel, FAIA and Associates in conjunction with the Administrative Office of the Courts. Construction costs are based on 1986 average square foot costs for Portland, Maine. The estimate does not include any site specific costs for the East Capitol Park site, nor does it include an inflation factor to accommodate an actual building date.

APPENDIX K

APPENDIX K

Supreme Judicial Court
Relocation Commission
June 26, 1986

OPTION PAPER

FINANCING THE CONSTRUCTION
OF A NEW SUPREME JUDICIAL COURT FACILITY

I. BACKGROUND

There are a variety of ways to finance capital projects in Maine State Government, ranging from some traditional approaches to those more innovative in nature. Given the variables involved in any capital project there is no financing option that is clearly the optimum, regardless of circumstances. Rather, the financing must be tailored to the specific needs of the individual project - How soon is the financing needed? How much financing is needed? What are the political implications of financing a capital project in a certain way?

The common denominator linking all of the financing options to be discussed is that they require the approval of the Legislature. In this regard the political factor becomes extremely important in selecting a particular financing option.

Listed below are eight financing options. The list is not exhaustive but does represent those options that might reasonably be expected to gain legislative approval. Each option includes a brief description along with an assessment of its advantages and disadvantages.

II. OPTIONS

A. General Fund Appropriation

There are basically two ways to seek a General Fund appropriation for a multimillion dollar capital project. First, the Governor can include in his proposed biennial budget certain "capital construction" projects. These are one-time, extraordinary capital expenses rather than ongoing, departmental capital needs. In fact, Governor Brennan included in his proposed 1986-1987 budget \$8.7 million in his third tier of capital construction priorities for a "State Judicial Center - Augusta". The 112th Legislature, having sufficient funding only for the first two tiers of priorities, did not appropriate funds for this purpose. Given that the Supreme Judicial Court Relocation Commission, in all likelihood, will not have concluded its study prior to the Governor developing his 1988-1989 capital priorities, this alternative might be difficult to implement.

The second method to seek a General Fund appropriation for a project of this size (\$8-10 million) is to introduce legislation specifically for that purpose. If the

legislation can proceed through the legislative process to enactment in the Senate, the bill will then be placed on the "appropriations table" to compete with other requests for funding.

A third method would require the Appropriations Committee to amend a budget bill to add funding for the project. However, this method usually proceeds on an informal, ad hoc basis and might prove to be an unreliable method for the Relocation Commission.

PRO

- Funds are available upon effective date of legislation. (i.e. "quickest" source of funding).

CON

- Difficult to garner sufficient legislative support for a General Fund appropriation of this size.

B. General Obligation Bond

This type of bond pledges the "full faith and credit of the State" and has state revenues appropriated or allocated specifically to pay its debt service. During the Second Regular Session and Second Special Session of the 112th Legislature, \$66 million in general obligation bond issues were enacted and now await voter approval in November. Examples of the capital projects these bond issues would authorize include: \$7.7 million for the University of Maine, \$16 million for improvements to the Corrections System and \$12 million for sewer treatment plants.

PRO

- "Conventional" approach to funding multi-million dollar capital project.
- Legislative and voter familiarity with this approach.

CON

- Would the voters approve the use of general obligation bonds for a new Supreme Judicial Court facility?

C. Self-Liquidating Bond

This type of bond finances a project that will generate its own revenue in order to pay all debt service. An example would include a \$6.6 million bond issue for Cumberland County to construct a courthouse addition and parking facility whereby new parking fees would be used to pay off the bonded debt (see Private and Special Laws 1985, Chapter 50).

In the context of a new Supreme Judicial Court facility, two financing options involving self-liquidating bonds emerge:

1. Combining the proposed State Computer Center and proposed Supreme Judicial Court into one facility.

Each proposal needs 50,000 square feet of space. Each has a "security" concern. The concept of having the computer operations function below ground has been discussed in other plans.

By combining the two projects, Central Computer Services would increase its billing rate to state departments by an amount sufficient to pay the debt service over the bonding period.

PRO

- Economy of scale in reducing two construction projects to one.
- General Fund appropriations to pay debt service not required.

CON

- State Computer Center and Supreme Judicial Court might be functionally incompatible such that two buildings are necessary.
- Analysis needed to gauge whether debt-financing via CCS user charges would be burdensome to departments.
- Judicial Department will require increased General Fund appropriations for "lease payments".
- Voter approval required.

2. Increasing court fees and dedicating the marginal revenue for the new facility's debt service.

All court fees presently accrue to the General Fund. However, legislation could be drafted that would increase those fees by an amount to pay annual debt service. This assumes that the marginal court fees would be, for the first time, "dedicated".

PRO

- General Fund appropriations to pay debt service not required.

- Includes Judicial Branch in the management of the debt-financing.

CON

- Court fees, along with any proposed increase, represent a politically-sensitive issue.
- "Dedicating" a portion of General Fund revenues would set a precedent that would concern many involved in the process.
- Voter approval required.

D. Lease-Purchase Agreement

This option authorizes a department to enter into a lease agreement with a private individual or firm with the purchase of the facility being optional or mandatory at the end of the lease period. The private individual or firm constructs the facility and, in return, receives the benefits of the lease payments and certain tax advantages. It is this option that will be used to construct the new State Computer Center (see PL 1985, C. 761, Part G, section 20).

PRO

- Requires no significant "down-payment" by the State.
- With proper planning and preparation, this option enables quick execution of the project.

CON

- Judicial Department will require increased General Fund appropriations to pay lease once facility is constructed.

E. Appropriations from "Maine Rainy Day Fund"

The First Regular Session of the 112th Legislature established a Rainy Day Fund (see 5 MRSA §1513). One of the two authorized uses of the fund is to provide funds for "major construction" (defined in statute as any single project with a total cost over \$500,000).

PRO

- New SJC facility fits statutory definition of "major construction".

CON

- 2/3 vote of the Legislature needed for appropriation.
- At this time, the Rainy Day Fund does not have sufficient resources to fund the SJC facility.

F. Establishment of a "Supreme Judicial Court Building Fund"

This option would require the greatest patience from those anxious to relocate the Supreme Judicial Court. It would create, in effect, a savings account into which sums of money would be deposited on an annual basis.

Two approaches to implementing this option would be possible. First, a non-lapsing account could be created in the Judicial Department to which would be appropriated an established amount on an annual basis. Second, the State Controller could be authorized to establish a "SJC Building Fund" and transfer set amounts from the Unappropriated Surplus of the General Fund to the fund at the close of each fiscal year.

PRO

- Does not require large outlay of funds.

CON

- Would take a significant amount of time to develop the "SJC Building Fund" to necessary level.
- While fund is growing, cost of construction would continue to increase.
- Annual deposits to fund could vary depending on financial status of Judicial Department or General Fund Unappropriated Surplus.

G. Establish a "Maine Court Facilities Authority"

This option would establish an independent organization, similar to the Health and Higher Education Facilities Authority or Maine Turnpike Authority, that would be authorized to issue revenue bonds to finance court construction statewide.

PRO

- Would require very little, if any, General Fund support.

CON

- Would establish a new organization of the state requiring employees, office space, etc.
- Would require additional appropriations to the Judicial Department for lease payments (which would pay debt service).
- The 112th Legislature considered a bill (ld 1504) which would have implemented this option. Both houses accepted the committees "Ought Not to Pass" report.

H. Combination of Options A - G

The advantages and disadvantages of any option listed above indicate that a combination of two or three options might offer the best solution. For example, a General Obligation bond issue of \$5 million, a General Fund appropriation of \$2 million and a \$1 million appropriation from the Maine Rainy Day Fund might be attractive to those parties dissatisfied with one particular approach.

PRO

- May be useful as a "compromise" approach.
- Lessens the impact on any one funding source.

CON

- If one part of the funding combination fails it endangers the remaining part(s).

APPENDIX L

APPENDIX L: Draft Legislation - Resolve, Concerning the
Proposed Supreme Court Facility

FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document No.
Submitted by the Supreme Judicial Court Relocation Commission
Pursuant to Private and Special Laws of 1985, Chapter 60

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY SEVEN

Resolve, Concerning a Proposed Supreme Court Facility

Emergency preamble Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas it is desired to have the Supreme Judicial Court of the State of Maine located in its own building in the State Capitol of Augusta; and

Whereas, it is desired to begin to receive the benefits of such a move at the earliest possible time; and

Whereas, it is desired that an expense of this magnitude be presented to the voters of the State; and

Whereas, a Court Planner is necessary to develop a building program from which a definitive cost estimate and architectural design can be developed; and

Whereas, it is desired to select the design of the building through a major design competition; and

Whereas, a Commission is necessary to oversee planning and design of the new Supreme Judicial Court facility; and

APPENDIX L (cont'd)

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Supreme Judicial Court to be located in Augusta. Resolved: That at the earliest possible time a building of prestige and dignity which is compatible with the Capitol and the Park shall be constructed at the far eastern end of Capitol Park generally in line with the path of trees which extends toward the Capitol building. This building shall house the courtroom for the Supreme Judicial Court; chambers for all justices of the Supreme Judicial Court and for the Chief Justice of the Superior Court and the Chief Judge of the District Court; space for the Administrative Office of the Courts and a working law library. In determining the library needs consideration shall be given to the existence of the Law & Legislative Reference Library in the Capitol Building; the building shall be the last structure to be built or placed in the park; and be it further

Resolved: That work on a project program for the construction of a Supreme Court in Augusta shall be initiated in January, 1987 by a nationally recognized court planner. This planner shall be required to have available in sufficient time to be included in legislation presented to the first session of the 113th Legislature, a cost estimate of sufficient accuracy as to be suitable for a request for funding to completely cover all aspects of the construction of this court facility; and be it further

Resolved: That selection of the design for the construction of this court facility shall be by means of a two-stage design competition with no geographic limitation as to entrants. There shall be affiliated with this design competition in some manner an architect of national stature, as determined by the Plan and Design Commission. The design competition shall be judged by a subcommittee of 3, 5 or 7 members under the auspices of the Plan and Design Commission. The competition shall be planned, organized and run by the court planner for the project or by some other knowledgeable expert from outside State government.

All preparation for the design competition that does not require funding shall be completed by November, 1987. No funding shall be expended for the design competition until the bond issue approving funds for the construction of the court facility is ratified by the voters; and be it further

Resolved: That there is established the Supreme Judicial Court Plan and Design Commission.

APPENDIX L (cont'd)

Membership: The Commission shall consist of 15 members to be appointed as follows: One member of the Senate appointed by the President of the Senate; one member of the House of Representatives to be appointed by the Speaker of the House; one member appointed by the Chief Justice of the Supreme Judicial Court; six members to be appointed by the Governor as follows: one of whom shall be a representative of the Garden Club Federation of Maine or the Kennebec Valley Garden Club selected with the advice of those organizations, one of whom shall be a licensed architect selected with the advice of the Maine chapter of the American Institute of Architects, one of whom shall be a building contractor selected with the advice of Associated General Contractors, one of whom shall be a landscape architect selected with the advice of the Maine chapter of the American Society of Landscape Architects, one of whom shall be a scholar in an architecturally related discipline selected with the advice of Maine's colleges and universities, and one of whom shall be a member of the public; one member of the Capitol Planning Commission appointed by the chairman of that Commission; one member of the Maine Arts Commission appointed by the chairman of that Commission; one representative of the City of Augusta to be appointed by that city's mayor; one member of the Maine Trial Lawyers Association to be appointed by that group; one member of the Maine Bar Association to be appointed by that group; and one architectural critic from a state newspaper or magazine selected by the Maine Arts Commission. All appointments shall be made no later than 30 days following the effective date of this legislation. The Executive Director of the Legislative Council shall be notified by all appointing authorities once their selections have been finalized.

The Chairman shall select a chair from among its members.

Duties of the Commission: The duties of the Commission shall be the following:

1. Oversee the work of the Court Planner;
2. Present to the first session of the 113th Legislature a report containing the construction cost estimate of the Court Planner together with legislation to fund construction of the court facility through a bond issue approved by a voter referendum; and
3. Set up a jury to oversee and evaluate the design competition. This jury may be completely composed of members of the Commission and only one member shall not be a member of the Commission. The majority of the members of the jury shall be from an architecturally related profession.

Report. In addition to other reports required in this section, the Commission shall report to the Legislature at the completion of each stage of the design competition and prior to the initiation of construction.

APPENDIX L (cont'd)

Assistance. Assistance from the legislative staff shall be requested from the Legislative Council.

Compensation. The members of the Commission shall receive no compensation, but shall be reimbursed for all necessary expenses; and be it further

Resolved: That the following funds are appropriated from the General Fund to carry out te purposes of this Act.

1986-87

1987-88

ADMINISTRATION, DEPARTMENT OF

Bureau of Public Improvements -
Administration

All Other

\$200,000

Provides funds for a design competition for the proposed Supreme Judicial Court facility. In the event that the legislative document proposing a Supreme Judicial Court facility bond issue is not enacted by the Legislature and, subsequently, the bond issue is not ratified by the voters, this appropriation shall lapse to the General Fund.

JUDICIAL DEPARTMENT

Courts - Supreme, Superior,
District and Administrative

All Other

\$130,000

Provides funds to contract with a court planner to provide assistance to the Supreme Judicial Court Plan and Design Commission. Specific responsibilities shall include the development of a "program" for the proposed court facility and a final cost estimate. These funds shall not lapse but shall remain in this account until expended for the purposes described above.

\$130,000

APPENDIX L (cont'd)

LEGISLATURE

Supreme Judicial Court Plan and Design Commission		
All Other	\$10,000	
Provides funds for the meeting, advertising and report printing costs of the commission. These funds shall not lapse but remain in this account until expended for the purposes described above.		
	<hr/>	<hr/>
	\$10,000	
TOTAL APPROPRIATIONS	\$140,000	\$200,000

Emergency Clause: In view of the emergency citation in the preamble, this resolve shall take effect when approved.

FISCAL NOTE

This legislation appropriates \$140,000 from the General Fund in FY 1987 in order to fund the Supreme Judicial Court Site and Review Commission and a court planner. \$200,000 is appropriated in FY 1988 to fund a design competition only if the bond issue financing the proposed facility is ratified by the voters.

STATEMENT OF FACT

This resolve calls for the construction of a Supreme Judicial Court facility at the eastern end of Capitol Park in Augusta at the earliest feasible date. The Legislature is to fund in January, 1987 the preparation of a project program by a professional court planner, and that planner is to have a cost estimate available so that bond legislation can be submitted to the first session of the 113th Legislature. The design of the facility is to be developed by a design competition, not by the regular Bureau of Public Improvements procedure. No expense is to be incurred on the design competition until the passage of the referendum for the construction of the facility. A Plan & Design Commission is to be established to oversee the work of the Court Planner, submit bond legislation to the first session of the 113th Legislature, and provide for a subcommittee to supervise and act as a jury for the design competition.

The new court facility is to be of a design and construction consistent with the dignity and prestige of the Court and compatible with the Capitol building and the Park. It is to be as far east in the park as feasible and as much in line with the trees leading to the Capitol as feasible. It is the intent of the Commission that this building be the last building constructed or placed in the park.

This resolve requires an appropriation of \$130,000 for the Court Planner in 1986-87, \$200,000 for the design competition in 1987-88 and \$10,000 for the Plan & Design Commission.