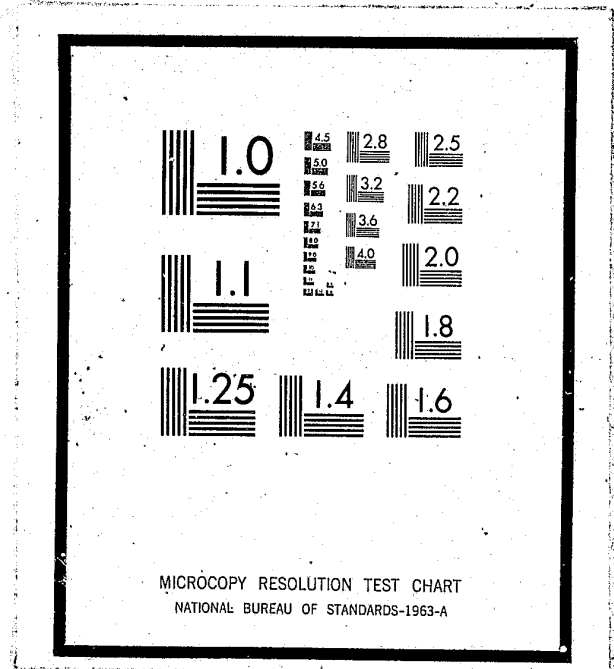


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RESOURCE MATERIALS
ON
COURT CONSOLIDATION

Prepared By the Los Angeles
Municipal Court

Effective October 18, 1973

INTRODUCTION

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INTRODUCTION

Those of us associated with the legal profession sometimes minimize the legitimate, if seemingly simplistic, criticisms leveled at the court system by lay observers. But who among us can argue the present cause of delay, congestion, judicial self-interest, duplication, endless expansion of court facilities and increased numbers of judges, against the cause of reorganization and reform?

To the average citizen-taxpayer-litigant, and even to the more sophisticated but non-legal citizen, a judge is a judge is a judge. No distinction is made in their minds as to whether the judge is municipal, superior, and in many instances appellate!

Their concern is that the "system" is not a 20th Century system. They are not concerned with our self-righteous, self-imposed caste system that seems to be the main obstacle to long overdue and mandated court reform.

It behooves us all in the profession to approach this subject with the same degree of objectivity that we like to ascribe to ourselves in the judicial decision-making process.

Our "court image" would improve immeasurably were we able to recognize legitimate criticism, accept it, and agree to work with interested groups toward an efficient system.

MUNICIPAL COURT
LOS ANGELES JUDICIAL DISTRICT

February 11, 1972

COURT CONSOLIDATION -- THE POSITION OF THE
MUNICIPAL COURT, LOS ANGELES JUDICIAL DISTRICT

The Judges of this Court recommend the consolidation of the Municipal and Superior Courts into a single trial court system with one classification of judge. We are opposed to unification of the lower courts only, and to any merger which would create more than one classification of trial judge.

Advocates of further study or experimentation ignore the long history of studies of the subject recommending court consolidation.

In 1971, the National Conference on the Judiciary, a nationwide group of eminent lawyers, jurists, law enforcement officials and citizens, recommended that there should be only one level of trial court, divided into districts of manageable size, possessing general jurisdiction but organized into specialized departments for the handling of particular kinds of litigation.

State after state in the United States has authorized efficiency studies of their trial court systems, and the usual result is a reduction of multiplicity of jurisdiction. Court reform in the United States has always been in the direction of simplification. California is no exception. The primary goal of the 1950 California Court Reorganization Act was to

eliminate numerous inferior courts of overlapping jurisdiction. Once gradual elimination of multiplicity of courts is accepted, it is obvious that the ultimate in simplicity and efficiency is the single trial court system.

In "California Unified Trial Court Feasibility Study" (Dec. 3, 1971) (page V) Booz-Allen & Hamilton conclude that "A single-level trial court with one type of judge is ultimately the most desirable form of trial court organization."

The idea is not new in California. As early as 1946, the Commonwealth Club of California recommended that the functions of all courts be combined to form one trial court in each county. (See "California Unified Trial Court Feasibility Study", page 46.)

In 1957 Los Angeles municipal judges presented a plan to the Joint Judiciary Committee of the Legislature for a unified trial court system in Los Angeles County. Recently there have been legislative and professional studies, and last year Assemblyman Hayes' bill passed the Assembly.

Consolidation would achieve desirable objectives -- more efficient use of all available judicial manpower, talent and experience; efficient distribution of work load; economy in the administration of our court; savings to litigants and taxpayers; and greater convenience to attorneys and public. It would enable controlled planning and location of future courthouses. It would also provide a vehicle for the generation of further court reform. Finally, it would eliminate

unnecessary duplication of facilities, judicial effort, court personnel, and support services.

Rigid jurisdictional barriers now preclude the maximum use of judicial talents. A judge should be assigned where he is most needed.

The Municipal Court of the Los Angeles Judicial District serves the majority of those who come in contact with the judicial system in our community. It is a court which is currently meeting constitutional and statutory time requirements in criminal cases. It maintains this position despite crime rate increases and being required to handle extraordinary problems encountered in processing numerous mass arrests. Civil nonjury trial dates are available within a month. Civil jury cases may be set within the year. Other Municipal Courts in Los Angeles County are in a comparable condition.

It seems crucial to inquire: Who needs the help? Which existent court will benefit most from unification? Booz-Allen and Hamilton states "the increasing backlog of cases in the Superior Courts is the primary work load problem in the trial courts today." (p.20).

It is reasonable to assume that consolidation would provide additional experienced personnel to reduce the case backlog and congested calendars which now burden the Superior Court.

Although we are confident that consolidation will result in substantial economic savings to the taxpayer, the precise

financial implications are beyond our competence. Undoubtedly this will be carefully analyzed by the Legislature and governmental finance committees. Savings should result from simplified procedures, a single clerk's office, the same organization furnishing bailiffs and court services, common library facilities, single jury panels, and uniform court forms.

Attorneys and the public will enjoy greater convenience and less confusion in a unified trial court. The choice of proper court and appropriate forms for separate courts will be eliminated.

As differences between the Municipal Court and the Superior Court gradually erode and jurisdictional distinctions blur, the practical need for one court is evident. The present trend extends the power of the Municipal Court into matters previously reserved to the Superior Court. For example, the Municipal Court may now grant legal relief based on equitable theories. Presently, over half of the civil verdicts in the Superior Courts result in judgments for less than \$5,000. In 1971, 434 civil cases commenced in our court were transferred to the Superior Court, and many of these ultimately were retransferred to the Municipal Court for trial. Such dilatory gyrations, only possible under the present two-court system, are vexatious and costly.

As a result of Penal Code Section 17(b)(4), thousands of felonies which formerly occupied the time of the Superior

Court are now being prosecuted as misdemeanors in the Municipal Court. In a recent three-month period 2,323 felonies were filed as misdemeanors in Municipal Courts in Los Angeles County. Moreover, the magistrate, with the concurrence of the defendant, may require that a crime punishable either as a felony or misdemeanor be tried as a misdemeanor. The exercise of this power has made further inroads on the Superior Court's criminal load.

Handling felony charges in a merged court would save substantial judicial time. A department of a unified court could conduct a preliminary hearing and then accept a submission for a determination of guilt or innocence, eliminating the duplication of judicial effort and the need for preparation of transcripts, and permitting the factual determination to be made and sentence to be imposed by the judge who heard the evidence. This is impossible under the present system of two separate trial courts. It has been estimated that approximately 63% of the felony cases decided in the Los Angeles Superior Court are submitted on the preliminary transcript. ("A Study of the Preliminary Hearing in Los Angeles," Graham and Letwin, 1969, p. 143.)

The Unified court system is most conducive to experimentation and testing of proposed court reforms and innovations. A single court with common facilities, forms and procedures provides a statewide basis for comparison and projection.

The Booz-Allen & Hamilton report expresses the concern that some Municipal Court judges may not have sufficient courtroom experience to handle complex cases.

Realistically, the complexity of factual and legal issues is rarely related to artificial lines of jurisdictional demarcation. Nor are such speculative anxieties supported by the facts. As Booz-Allen & Hamilton point out, 47% of our Superior Court judges come from the Municipal Courts. Moreover, a lawyer without extensive trial experience may be appointed to the Superior Court, but a Municipal Court judge appointed to the Superior Court has necessarily had trial experience.

Many Municipal Court judges serve pro tem as Superior Court judges. In San Francisco, Municipal Court judges are given blanket assignments to serve pro tem as Superior Court judges. Long Beach has a similar practice.

Whether tested by law school education, experience as attorneys or experience as judges, Municipal Court judges are as distinguished and competent as judges of any bench in the country. In the Los Angeles Judicial District, all but four of the judges have ten years or more experience as attorneys or judges, and thus are eligible for immediate elevation to the Superior Court. Those four will be eligible in 1973.

The fear that senior judges might be compelled to handle minor judicial matters is more fancied than real. It is reasonable to assume that presiding judges, as they do now, would consider the experience, ability, and interest of the individual judge in making specific assignments.

There is no need for a gradual consolidation. The creation of different classifications of judges in the same court would merely perpetuate and emphasize the very evil sought to be eliminated. The climate is ripe -- the need for reform apparent. The Municipal and Superior Courts should be merged now.

ADVANTAGES OF A SINGLE TRIAL COURT SYSTEM

A single trial court system will reduce the need for additional judges to handle increased caseloads by making it possible for a single judge, rather than the two presently required, to handle the following matters:

1. ARRAIGNMENTS

Felony defendants must now be arraigned in both the Municipal and Superior Courts.

2. APPOINTMENT OF COUNSEL

Public Defenders and assigned counsel appointed to represent felony defendants in the lower courts must now be re-appointed in the Superior Court.

3. BAIL MOTIONS

Motions to reduce bail may now be made in both the lower and Superior Courts.

4. MOTIONS TO LIMIT PRE-TRIAL PUBLICITY

Motions to limit pre-trial publicity in felony prosecutions, which are granted in the lower courts, must be renewed in the Superior Court.

5. DISCOVERY MOTIONS

Discovery motions in felony prosecutions may be made in the lower courts and renewed in the Superior Court.

6. FAMILY LAW MATTERS

Dissolution, paternity, assaults on spouses, failure to provide for minors, contributing to their delinquency and juvenile proceedings are substantively related but procedurally divided between lower and Superior Courts.

7. N.G.I. PLEAS IN MISDEMEANOR PROSECUTIONS

The N.G.I. phase of a misdemeanor prosecution must now be tried in the Superior Court.

8. PRESENT SANITY

The present sanity of a criminal defendant in the lower court must now be determined by the Superior Court.

9. JUVENILES

When it appears that a criminal defendant in the lower court is a juvenile, the case must be referred to the Superior Court.

10. INEBRIATES

Although most alcohol-related crimes are handled by the lower courts, the commitment of an inebriate for treatment can only be done by the Superior Court.

11. NARCOTIC ADDICTS

When it appears that a criminal defendant in the lower court is addicted, or in danger of becoming addicted, to narcotics, the defendant must be referred to the Superior Court for commitment to the California Rehabilitation Center.

12. MENTALLY DISORDERED SEX OFFENDERS

Although most sexually oriented crimes fall within the jurisdiction of the lower courts, proceedings to determine whether or not a defendant is a Mentally Disordered Sex Offender can only take place in the Superior Court.

13. TESTIMONIAL IMMUNITY

Witnesses in criminal proceedings in the lower courts can only be granted immunity by the Superior Court.

14. PRELIMINARY HEARINGS AND PENAL CODE §995 MOTIONS

Penal Code Section 995 could, and should, be abolished under a single trial court system.

15. PRELIMINARY HEARINGS AND SUBMISSIONS ON THE TRANSCRIPT

It has been a common practice in some counties to try felonies by submitting the transcript of the preliminary hearing to a Superior Court judge. Under a single trial court system, the submission could be made to the same judge who sat as a magistrate at the preliminary hearing without the expense and delay of preparing a transcript.

16. FELONY SENTENCES

Under the present system, a defendant who pleads guilty to a felony in a lower court must be referred to the Superior Court for the imposition of sentence.

17. PLEA BARGAINS

Under the present system a defendant who has separate misdemeanor and felony cases pending against him cannot consolidate them for disposition by a single judge pursuant to a plea bargain.

18. MULTIPLE CIVIL ACTIONS ARISING FROM SAME TRANSACTION

Individual filings above and below \$5,000 must now be filed in separate courts. And too often the parties do not cross-complain for the larger claim in the Municipal Court so it can be transferred to the Superior Court. This results in two separate trials and no consolidation can be made.

19. COMPLAINT UNDER \$5,000 AND CROSS-COMPLAINT OVER \$5,000

Requires waiver of excess or transfer from lower to Superior Court.

20. PERSONAL INJURY CASE PENDING IN SUPERIOR COURT; PROPERTY DAMAGE CASE PENDING IN MUNICIPAL COURT

Example: Plaintiff sues defendant for \$5,000 or more for personal injuries in Superior Court. Plaintiff's insurance carrier pays off a damage claim, is thereby subrogated, and brings a property damage action against defendant for less than \$5,000 in the Municipal Court. Defendant answers in both cases alleging same liability issue and defenses.

(CCP 1048 allows consolidation only if both actions are filed in one court. This results in two separate trials, often both by jury.)

21. ACTION BY COLLECTION AGENCY ON COMMON COUNT IN MUNICIPAL COURT FOR LESS THAN \$5,000; TORT CASE FILED IN SUPERIOR COURT IN EXCESS OF \$5,000.

Example: A medical bill due and owing assigned to a collection agency that sues defendant in the Municipal Court; defendant is the plaintiff in the Superior Court in a malpractice case against the doctor=assignor.

(Here again, very often the defendant in the Municipal Court action does not cross-complain in malpractice; and two separate trials are required.)

22. UNLAWFUL DETAINER ACTIONS IN MUNICIPAL COURT; TITLE OR OTHER ACTIONS IN SUPERIOR COURT.

Example: Unlawful detainer involves right to possession only; when issue of title arises as between vendor-vendee, option to

purchase, foreclosures, or pursuant to general equitable problems between the parties, the Superior Court alone may decide most of these frequently recurring issues.

(The Municipal Court can only try issues in direct de-
raignment of title; cross-complaints are not allowed;
this leaves a large area of serious issues of title,
where the possessory rights must be settled in one
court and the title issues in the Superior Court.)

23. PROBLEM CREATED BY FORCED ELECTION OF COURT.

Attorney may risk denial of costs if case filed in Superior Court and recovery is less than \$5,000 per CCP 1032 (discretionary with the Court).

24. TRANSFER PROBLEMS CREATED BY LIMITED EQUITY JURISDICTION IN MUNICIPAL COURTS.

Example: Plaintiff sues for specific performance of contract, for goods and/or services valued at less than \$5,000. Case must be transferred to the Superior Court because the nature of the cause of action is jurisdictional.

(Curiously, the defendant may, however, cross-complain for specific performance.)

25. CONTRACTOR'S BOND ACTIONS PURSUANT TO BUSINESS & PROFESSIONS CODE 7071.5.

Example: Contractor posts \$3,000 bond, multiple creditors file against same in amounts above and below \$5,000 jurisdictional amount, and often in separate counties. This creates havoc with usually no right to consolidate which increases the Court's time over and above the separate filings and the necessary time for each of them.

26. CLAIM AND DELIVERY ACTION WHERE AMOUNT DUE AND OWING IS UNDER \$5,000, BUT THE PERSONAL PROPERTY HAS A VALUE IN EXCESS OF \$5,000, REQUIRES A TRANSFER SINCE THE VALUE OF THE PROPERTY CONTROLS THE JURISDICTIONAL DETERMINATION (CCP 89).

27. MUNICIPAL COURT HAS NO ORIGINAL JURISDICTION OF DECLARATORY RELIEF ACTION, BUT SAME CAN BECOME ISSUE IF DEFENDANT RAISES IT IN A CROSS-COMPLAINT.

(This creates misunderstandings amongst litigants and attorneys.)

28. MUNICIPAL COURT CASE PENDING WHEREIN ARBITRATION IS REQUESTED.

Case is in limbo where defendant files plea in abatement; Municipal Court has no power to order arbitration, and a

Superior Court action must be filed to effect arbitration.

29. PARTNERSHIP DISSOLUTION CASES.

Too often such dissolutions start out in the Superior Court and end up in one or more follow-up actions in the Municipal Court. This is a reverse proceedings (moving to the Municipal Court) that should be retained in the first jurisdiction and would except for the artificial jurisdictional amount.

FELONIES -vs- MISDEMEANORS

According to the 1973 Report of the Administrative Office of the California Courts, 36.5 percent of all felonies filed in Los Angeles County during fiscal year 1971-72 were disposed of in the municipal and justice courts.

The same report indicates that 50.4 percent of felony defendants in Superior Court receive misdemeanor sentences.

SUPERIOR COURT SURVEY - I

A survey of judges of the Los Angeles Superior Court was conducted by the Los Angeles Municipal Court in June, 1973.

The judges of the Superior Court were asked to indicate their individual attitudes toward the concept of a single trial court system and to do so anonymously.

Out of a total of 98 judges who expressed an opinion on the subject, 29 indicated that they favored the concept of a single trial court system.

63 of the responses were from Superior Court judges who had previously served on the Municipal Court. Of these, 24 indicated that they favored the concept of a single trial court.

SUPERIOR COURT SURVEY - II

During the first six months of 1972, 33% of the money judgments in Los Angeles Superior Court were for \$5,000 or less.

SUPERIOR COURT SURVEY - III

A survey of a representative sample of Los Angeles Superior Court civil cases which were settled during the month of February, 1973, disclosed that 50% were settled for \$5,000 or less.

ARBITRATION

In its 1973 Report to the Governor and the Legislature, the Judicial Council addressed the problem of congestion in the civil courts.

One of the conclusions reached by the Judicial Council was that there is a trend toward filing civil cases in the Superior Court regardless of the amount in controversy. The result, according to the Report, is that the 18 Superior Courts with five or more judges account for 95% of the civil backlog in the State.

In order to relieve the congestion in the Superior Court, the Judicial Council recommended a compulsory arbitration system, with an award limit of \$7500, for the State of California.

A voluntary arbitration plan, with the same limit recommended by the Judicial Council, has been in effect for personal injury cases pending in the Superior Court of Los Angeles since 1971. Although the arbitrator under this plan is limited to a maximum award of \$7500, the parties may stipulate in advance to a higher maximum. In 13 cases the parties stipulated to a possible maximum award of \$25,000. Despite these limits, the median of 103 awards to date is only \$3300.00.

What the Judicial Council is saying in effect is that, since litigants are ignoring the jurisdictional limitations of the present multiple level trial court system, we ought to add still another level (arbitration) to the system. Why not eliminate the limitations on jurisdiction by creating a single trial court system?

ASSIGNMENT OF MUNICIPAL COURT JUDGES

TO ASSIST THE SUPERIOR COURT

The Superior Courts frequently request the assistance of Municipal Court judges.

In Los Angeles and other counties, such requests are made on an "as needed" basis but, in San Francisco, Sacramento, Long Beach and Marin Counties, the Judicial Council has made "blanket assignments" of Municipal Court judges to the Superior Court.

In a story appearing in the San Francisco Examiner on August 16, 1972, the assistance of Municipal Court judges was credited with reducing the number of criminal cases pending in San Francisco Superior Court by half.

WHAT THE AUTHORITIES HAVE TO SAY

1. "The aims of court organization can be most fully realized in a court system that is unified in its structure and administration, staffed by competent judges, judicial officers, and other personnel, and that has uniform rules and policies, clear lines of administrative authority, and a unified budget.

"The structure of the court system should be simple, preferably consisting of a trial court and an appellate court, each having divisions and departments as needed. The trial court should have jurisdiction of all cases and proceedings. It should have specialized procedures and divisions to accommodate the various types of criminal and civil matters within its jurisdiction. The judicial functions of the trial court should be performed by a single class of judges, assisted by legally trained judicial officers (commissioners, associate judges, magistrates and similar officials) assigned to such matters as preliminary hearings, non-criminal traffic cases, small claims and responsibilities usually discharged by lower court judges, referees, or hearing officers."

A.B.A. Commission on Standards of
Judicial Administration 1973

2. "All trial courts should be unified into a single trial court with general criminal as well as civil jurisdiction."

National Conference on Criminal Justice 1973

3. An "Honor Roll" of those jurisdictions which have unified their courts, both structurally and administratively, appeared in the March 1973 issue of Judicature Magazine. California was not among the twelve jurisdictions on the "Honor Roll".

4. The Municipal Court Presiding Judges Committee 1972-73 of the Conference of California Judges adopted a resolution on June 11, 1973 supporting unification of the trial courts.

5. "Backlogs in criminal courts also have been reduced, thanks to a new system of jointly processing criminal cases in Municipal and Superior Courts (in San Francisco)."

Chief Justice Donald R. Wright

6. "The ultimate desirability of a single level and unified trial court for each county in California is self-evident."

Booz, Allen & Hamilton Unified Trial
Court Feasibility Study, 1971

7. "Based upon the extensive information and recommendations furnished by Booz, Allen & Hamilton the Committee has concluded that a unified trial court system is necessary in California and so recommends."

Select Committee on Trial Court Delay

8. "As a result (of court unification), Illinois now finds its court system being studied by judges and court administrators from our sister states and foreign countries. All who observe this unified structure in operation depart with the hope and expectation of duplicating it within their own jurisdiction."

Notre Dame Lawyer, December 1971

9. In 1970, the New York Legislature created the Temporary Commission on the New York State Court System. On January 1, 1973, that Commission called for restructuring the courts into a "unified" system, with a merger of the five major trial courts -- State Supreme Court, Family Court, Surrogate's Court, County Court and Court of Claims -- into a single "Superior Court".

10. "There should be only one level of trial court, divided into districts of manageable size. It should possess general jurisdiction, but be organized into specialized departments for the handling of particular kinds of litigation. Separate specialized courts should be abolished."

Consensus of the National Conference on
the Judiciary held at Williamsburg, Va. 1971

11. "While in some states successful court reform has created courts able to meet new demands, in many states the entire court structure continues to reflect an earlier age. There is a multiplicity of trial courts without coherent and centralized administrative management. Jurisdictional lines are unnecessarily complex and confusing...The Commission recommends: States should reexamine their court structure and organization and create a single, unified system of courts subject to central administrative management within the judiciary."

President's Commission on Law Enforcement
and Administration of Justice 1967

12. "It is interesting to note, that although Puerto Rico, New York and New Jersey did not adopt the single-trial-court plan, the experts in studying the organization problems of courts in these jurisdictions referred to the single-trial-court plan as the 'ideal court system'."

33 So. Cal. L.R. 117 (1960) Dorothy Nelson

13. "Weighing all considerations, the conclusion must be that the single-trial-court plan will answer the unique judicial needs of Los Angeles County."

33 So. Cal. L.R. 117 (1960) Dorothy Nelson

14. In a 1972 poll conducted by the Conference of California Judges, a majority of those members responding to the question favored the single trial court system.

15. On March 3, 1973 the Judicial Efficiency and Economy Committee of the Conference of California Judges recommended approval of the concept of trial court consolidation.

STATES WHICH HAVE A UNIFIED COURT SYSTEM

According to the May, 1973 issue of Judicature Magazine, the following states now have unified court systems:

1. Alaska
2. Arizona
3. Colorado
4. Connecticut
5. Delaware
6. Florida
7. Hawaii
8. Idaho
9. Illinois
10. Iowa
11. Kansas
12. Maine
13. Maryland
14. Michigan
15. Missouri
16. New Hampshire
17. New Jersey
18. North Carolina
19. Oklahoma
20. Pennsylvania
21. Rhode Island
22. Wyoming
23. District of Columbia

According to the same article, Idaho, Nebraska, New York and South Carolina all have court unification legislation pending.

PENDING LEGISLATION IN CALIFORNIA

Assembly Constitutional Amendment No. 71 and Assembly Bill No. 1900 were introduced by Assemblyman Jack Fenton on April 30, 1973, and have been referred to the Assembly Committee on Judiciary.

Assembly Constitutional Amendment No. 71 permits the Board of Supervisors or the voters of a county, or of more than one contiguous county, to establish a single trial court. It also permits the Legislature to establish a single trial court in every county and to provide that the same single trial court may serve one county or more than one contiguous county.

The Constitutional Amendment also provides that, in those counties with a single trial court, such court shall have appellate jurisdiction in causes prescribed by statute.

Assembly Bill No. 1900 provides that, on and after the operative date of a single trial court within a county, each judge of a superseded municipal court and each judge of a superseded justice court who is a member of the State Bar shall be a judge of the single trial court, and each judge of a superseded justice court who is not a member of the State Bar shall be a commissioner of the single trial court. The assembly bill also provides that commissioners, referees, other attaches and employees of superseded courts shall hold the same or similar positions in the single trial court. The bill further provides that, in those counties which have a single trial court, such court shall have appellate jurisdiction over any action or proceeding which would have been within the jurisdiction of a superseded municipal or justice court.

AMENDED IN ASSEMBLY JUNE 20, 1973

CALIFORNIA LEGISLATURE—1973-74 REGULAR SESSION

Assembly Constitutional Amendment No. 71

Introduced by Assemblyman Fenton

April 30, 1973

REFERRED TO COMMITTEE ON JUDICIARY

Assembly Constitutional Amendment No. 71—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 4 of, and repealing Section 5 of SECTIONS 5, 10, AND 11 OF, AND ADDING SECTIONS 5a, 5b, AND 5c TO, Article VI thereof, relating to courts.

LEGISLATIVE COUNSEL'S DIGEST

ACA 71, as amended, Fenton (Jud.). Courts.

~~Vests judicial power of state in Supreme Court, courts of appeal, and superior courts, rather than Supreme Court, courts of appeal, and superior, municipal, and justice courts.~~

~~Repeals provision providing for division of each county into municipal and justice court districts and requirement that Legislature prescribe the jurisdiction and officers and employees for such courts.~~

Permits the board of supervisors or voters of one or more contiguous counties to establish a single trial court as described to be known as the superior court. Makes such establishment operative on the date specified by the Legislature in ratifying legislation.

Permits the Legislature to establish such a single trial court in every county with the same court serving one or more

contiguous counties.

Makes related changes.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

1 Resolved by the Assembly, the Senate concurring, That
2 the Legislature of the State of California at its 1973-74
3 Regular Session commencing on the eighth day of
4 January, 1973, two-thirds of the members elected to each
5 of the two houses of the Legislature voting therefor,
6 hereby proposes to the people of the State of California
7 that the Constitution of the state be amended as follows:

8 ~~First—That Section 1 of Article VI be amended to read:~~
9 ~~SEC. 1. The judicial power of this state is vested in the~~
10 ~~Supreme Court, courts of appeal, and superior courts. All~~
11 ~~are courts of record.~~

12 ~~Second—That Section 5 of Article VI be repealed.~~

13 ~~First—That Section 5 of Article VI be amended to read:~~

14 SEC. 5. Each county ~~shall~~ may be divided into
15 municipal court and justice court districts as provided by
16 statute, but a city may not be divided into more than one
17 district. Each municipal and justice court shall have one
18 or more judges.

19 There shall be a municipal court in each district of
20 more than 40,000 residents and a justice court in each
21 district of 40,000 residents or less. The number of
22 residents shall be ascertained as provided by statute.

23 The Legislature shall provide for the organization and
24 prescribe the jurisdiction of municipal and justice courts.
25 It shall prescribe for each municipal court and provide for
26 each justice court the number, qualifications, and
27 compensation of judges, officers, and employees.

28 ~~Second—That Section 5a is added to Article VI, to read:~~

29 SEC. 5a. Notwithstanding any other provision of this
30 article, one or more contiguous counties may establish a
31 single trial court to encompass the county or counties,
32 provided each county individually approves such
33 establishment by a majority vote of its board of
34 supervisors or a majority vote of county voters
35 participating in an election. Such court shall be known as

1 the superior court of the county or counties so approving.
2 A single trial court approved by one or more counties
3 shall not become operative until the date specified by the
4 Legislature in legislation ratifying the establishment of
5 the single trial court.

6 Third—That Section 5b is added to Article VI, to read:

7 SEC. 5b. Notwithstanding any other provision of this
8 article, the Legislature may establish a single trial court
9 in every county. The same single trial court may serve
10 one or more entire counties provided the counties are
11 contiguous. Every single trial court shall be known as the
12 superior court of the county or counties which the court
13 serves.

14 Fourth—That Section 5c is added to Article VI, to read:

15 SEC. 5c. Upon the establishment of a single trial court
16 in a county pursuant to either Section 5a or Section 5b,
17 there shall be one class of judges in such county known
18 as superior court judges, which shall include (1) judges of
19 the superior court, and (2) judges of other courts in the
20 county as designated by statute by the Legislature.
21 Pending actions, trials, and all pending business of
22 existing municipal or justice courts in such county shall be
23 transferred to and become pending in the superior court
24 of the county. All records of such superceded courts shall
25 be transferred to, and thereafter be and become records
26 of, the superior court. The Legislature may enact such
27 statutes as are necessary to effectuate the purpose of this
28 section.

29 Fifth—That Section 10 of Article VI be amended to
30 read:

31 SEC. 10. The Supreme Court, courts of appeal,
32 superior courts, and their judges have original
33 jurisdiction in habeas corpus proceedings. Those courts
34 also have original jurisdiction in proceedings for
35 extraordinary relief in the nature of mandamus,
36 certiorari, and prohibition.

37 Superior courts in counties with a single trial court
38 have original jurisdiction in all causes, including those
39 given by statute to other trial courts. Superior courts in
40 all other counties have original jurisdiction in all causes

1 except those given by statute to other trial courts.

2 The court may make such comment on the evidence
3 and the testimony and credibility of any witness as in its
4 opinion is necessary for the proper determination of the
5 cause.

6 *Sixth—That Section 11 of Article VI be amended to*
7 *read:*

8 SEC. 11. The Supreme Court has appellate
9 jurisdiction when judgment of death has been
10 pronounced. With that exception courts of appeal have
11 appellate jurisdiction when superior courts have original
12 jurisdiction and in other causes prescribed by statute.

13 *Superior courts in counties with a single trial court*
14 *have appellate jurisdiction in causes prescribed by*
15 *statute. Superior courts in all other counties have*
16 *appellate jurisdiction in causes prescribed by statute that*
17 *arise in municipal and justice courts in their counties.*

18 The Legislature may permit appellate courts to take
19 evidence and make findings of fact when jury trial is
20 waived or not a matter of right.

3 71 45 20

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AMENDED IN ASSEMBLY JUNE 20, 1973

CALIFORNIA LEGISLATURE—1973-74 REGULAR SESSION

ASSEMBLY BILL**No. 1900**

Introduced by Assemblyman Fenton

April 30, 1973

REFERRED TO COMMITTEE ON JUDICIARY

An act to repeal Title 8 (commencing with Section 68070) of,
and to add Title 8 (commencing with Section 70000) to,
ADD CHAPTER 5.5 (COMMENCING WITH SECTION
70500) TO TITLE 8 OF *the Government Code, relating to*
courts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1900, as amended, Fenton (Jud.). Trial court reorgani-
zation.

Provides for the transfer of personnel of all municipal and
justice courts to the superior court in counties which establish
a single trial court with the approval of the Legislature.

Makes provisions for jurisdiction, venue, sessions, person-
nel, fees, and revenue of superior courts which are single trial
courts, and for construction of other statutory references to
municipal and justice courts and to various personnel of
courts.

Permits counties which establish a single trial court to also
establish with the approval of the Legislature, a marshal's
office to assume the functions of the sheriff with respect to the
court.

To become operative only if ACA No. 71 is adopted, and at
the same time as ACA No. 71 becomes operative.

2 1900 20 31

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Repeals provisions for courts and provides that the provisions added by this act shall prescribe the basic organization of the courts of this state.

Vote: majority. Appropriation: no. Fiscal committee: no yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Title 8 (commencing with Section 68070) of the Government Code is repealed.

SEC. 2. Title 8 (commencing with Section 70000) is added to the Government Code, to read:

TITLE 8. COURTS

DIVISION 1. GENERAL PROVISIONS

CHAPTER 1. ORGANIZATION AND APPLICATION

70000. This title prescribes the basic organization of the courts of this state.

SECTION 1. Chapter 5.5 (commencing with Section 70500) is added to Title 8 of the Government Code, to read:

CHAPTER 5.5. THE SUPERIOR COURTS IN COUNTIES WITH A SINGLE TRIAL COURT

Article 1. General Provisions

70500. Notwithstanding any other provision of law, this chapter shall apply to all counties which establish a single trial court pursuant to Section 5a of Article VI of the California Constitution.

70501. (a) Any reference in this or any other code to a municipal court or judge, commissioner, or referee thereof shall be deemed to refer also to the superior court of a county with a single trial court or a judge, commissioner, or referee thereof.

(b) Any reference in this or any other code to a justice

1 court shall be deemed to refer also to the superior court of a county with a single trial court.

(c) Any reference in this or any other code to a municipal or justice court officer, attaché, or employee in such a county who is not specifically provided for in this chapter shall be deemed to refer to one of the officers, attachés, or employees provided for in this chapter.

(d) The above constructions shall be made only where consistent with the provisions of this chapter.

70502. On and after the operative date of a single trial court within a county, the following shall apply:

(a) Each judge of a superseded municipal court and each judge of a superseded justice court who is a member of the State Bar on such operative date, shall be a judge of the superior court of the county for the remainder of his term.

Upon the expiration of his term, each such judge shall stand for election in a judicial election district which is identical to the district in which he was required to be elected immediately prior to such operative date. When a vacancy occurs in his office, the successor shall be selected as otherwise provided by law.

(b) Each judge of a superseded justice court who is not a member of the State Bar on such operative date shall be a commissioner of the superior court of the county. Unless removed by the county court for cause, he shall be entitled to serve as a commissioner for the remainder of the term of office to which he was previously elected or appointed. Upon the expiration of that period of time, such a commissioner, if he has not reached the age prescribed for mandatory retirement under the public employees retirement law, may continue to serve as a commissioner until reaching that age unless removed for cause.

(c) Each court commissioner, traffic commissioner, referee or similar officer of a superseded municipal court shall hold the same position in the superior court of the county with no reduction in salary.

(d) Each officer, attaché, or employee of the superior court or a superseded municipal or justice court shall hold

1 the same or similar position in the superior court of the
2 county with no reduction in salary.

3
4 Article 2. Jurisdiction and Venue
5

6 70510. Superior courts in counties with a single trial
7 court have original jurisdiction in all causes, including
8 those given by statute to other trial courts.

9 70511. In accordance with Section 77 of the Code of
10 Civil Procedure, there shall be an appellate department
11 in each superior court which shall have appellate
12 jurisdiction over any action or proceeding which would
13 have been within the jurisdiction of a superseded
14 municipal or justice court prior to the operative date of
15 the court as a single trial court.

16 70512. Municipal and justice court district boundaries
17 in effect immediately prior to the operative date of a
18 single trial court in a county shall continue to apply for
19 the purpose of determining venue within the county.

20
21 Article 3. Sessions
22

23 70515. The superior court shall hold at least one
24 session in each judicial district in which a municipal court
25 was authorized and functioning immediately prior to the
26 operative date of the court as a single trial court.

27
28 Article 4. Personnel
29

30 70520. (a) In accordance with the needs of the
31 superior court in each county with a single trial court, the
32 Judicial Council shall prescribe job titles and pay rates
33 subject to subdivision (d) of Section 70502, and may
34 establish appropriate schedules therefor, for each officer,
35 attaché, or employee of the superior court.

36 (b) On and after one year after the operative date of
37 a single trial court in a county, there shall be such number
38 of officers, attachés, and employees of the superior court
39 in the county as may be prescribed by the Legislature
40 upon the recommendation of the Judicial Council.

1 70521. The seniority of each person described in
2 subdivision (d) of Section 70502 shall be reckoned from
3 his first permanent appointment to employment with the
4 superior, municipal, or justice court, or the county or the
5 city and county, and as to their respective positions such
6 employees shall have preference over all other
7 employees of the state. The employment rights of such
8 employees shall be fully protected at the time of the
9 transfer authorized by this chapter.

10 These rights and benefits include, but are not limited
11 to, probationary or permanent status; retention of
12 employees' positions on existing subdivisional and
13 departmental promotional and eligible lists, as long as
14 they are in effect; no less than the same wage and salary
15 range for comparable classes; overtime and shift
16 premium pay whenever and wherever applicable; paid
17 sick leave, paid vacation, paid overtime, and paid
18 retirement; retention of vacation and sick leave balances
19 which such employees have when they become
20 employees of the state; waiver of residence
21 requirements; and retention of the option to continue
22 any present health insurance and group life coverage,
23 and retention of existing union rights.

24 Notwithstanding any other provisions of this title to the
25 contrary, all officers, attachés, and employees of the
26 superior court shall have the salaries, employment
27 conditions, rights, and benefits, which shall be no less
28 than those received by any officer, attaché, or employee
29 with the same classification in the superior, municipal or
30 justice courts immediately prior to the operative date of
31 a single trial court. Any officer, attaché, or employee who
32 is a member of any state or county retirement system on
33 such operative date may elect to remain in such state or
34 county retirement system or transfer to another
35 appropriate retirement system. Any employee desiring
36 to transfer to another county agency or to be placed on
37 a county layoff list may do so within six months of such
38 operative date and shall retain all county civil service
39 rights and benefits.

40 70522. Each person whose status is changed by

1 subdivision (d) of Section 70502, and who is in
 2 employment and a member of a county retirement
 3 system other than one provided by contract with the
 4 Public Employees' Retirement System on the date of
 5 such change, shall become eligible for membership in the
 6 Public Employees' Retirement System in accordance
 7 with the Public Employees' Retirement Law with
 8 respect to his employment thereafter, and shall be
 9 subject to the reciprocal benefits provided by such
 10 systems.

11 However, any such employee may elect to continue in
 12 membership of such county retirement system with
 13 respect to such employment thereafter, in which event
 14 the same appropriations and transfer of funds shall be
 15 made to the retirement fund of the county system for
 16 such employee as those required of the county under the
 17 county retirement law, and such amounts shall be legal
 18 charges against the state. The election authorized by this
 19 section shall be made no later than the date preceding
 20 the date upon which his status is changed in accordance
 21 with this part, which shall allow at least 30 days to make
 22 the election. The election once made may not be
 23 rescinded. An employee who does not elect to continue
 24 membership in the county system shall be deemed to
 25 have discontinued county employment for purposes of
 26 the county system at the close of the day preceding the
 27 date upon which his status changes.

28
 29 Article 5. Marshal
 30

31 70525. (a) The board of supervisors of a county which
 32 has approved the establishment of a single trial court may
 33 establish the office of marshal of the superior court to
 34 assume the powers and duties imposed by law upon the
 35 sheriff with respect to proceedings in the superior court.
 36 Where the single trial court includes more than one
 37 county, the board of supervisors of each included county
 38 shall approve the establishment of the office of marshal.
 39 The office shall have one marshal who shall be
 40 appointed by, and serve at the pleasure of, a majority of

1 the judges of the court.

2 (b) The establishment of an office of marshal shall not
 3 become operative until the date specified by the
 4 Legislature in legislation ratifying such establishment
 5 and providing for the number and compensation of the
 6 marshal, deputy marshals, and any other employees.

7 (c) The operative date of the office of marshal of a
 8 superior court may be the same date specified by the
 9 Legislature as the operative date of the court as a single
 10 trial court. If the two operative dates are the same, the
 11 provisions of subdivision (d) of Section 70502 and Section
 12 70520 shall apply.

13
 14 Article 6. Official Reporters
 15

16 70530. If an action or proceeding in a superior court
 17 would have been within the jurisdiction of a superseded
 18 municipal or justice court prior to the operative date of
 19 the superior court as a single trial court, and if the
 20 services of an official reporter would not have been
 21 required during the action or proceeding in the
 22 superseded court, then the services of a reporter shall not
 23 be required during the action or proceeding.

24
 25 Article 7. Fees and Revenue
 26

27 70535. The fee schedules in effect in a superseded
 28 municipal or justice court immediately prior to the
 29 operative date of a single trial court in a county shall
 30 apply to any action or proceeding in the superior court
 31 which would have been within the jurisdiction of the
 32 superseded municipal or justice court prior to such
 33 operative date.

34 70536. All fines, forfeitures, deposits in court,
 35 unclaimed bail, and any other moneys which a
 36 superseded municipal or justice court was authorized to
 37 receive immediately prior to the operative date of a
 38 single trial court, shall be received by the superior court
 39 after such date and disposed of as provided in Sections
 40 1463, 1463.1, and 1463.3 of the Penal Code, Sections 42200,

1 42201, and 42203 of the Vehicle Code, or any other
2 applicable provision of law.
3 SEC. 2. This act shall become operative only if
4 Assembly Constitutional Amendment No. 71 of the
5 1973-74 Regular Session is adopted by the people, in
6 which event it shall become operative at the same time
7 as Assembly Constitutional Amendment No. 71.

END