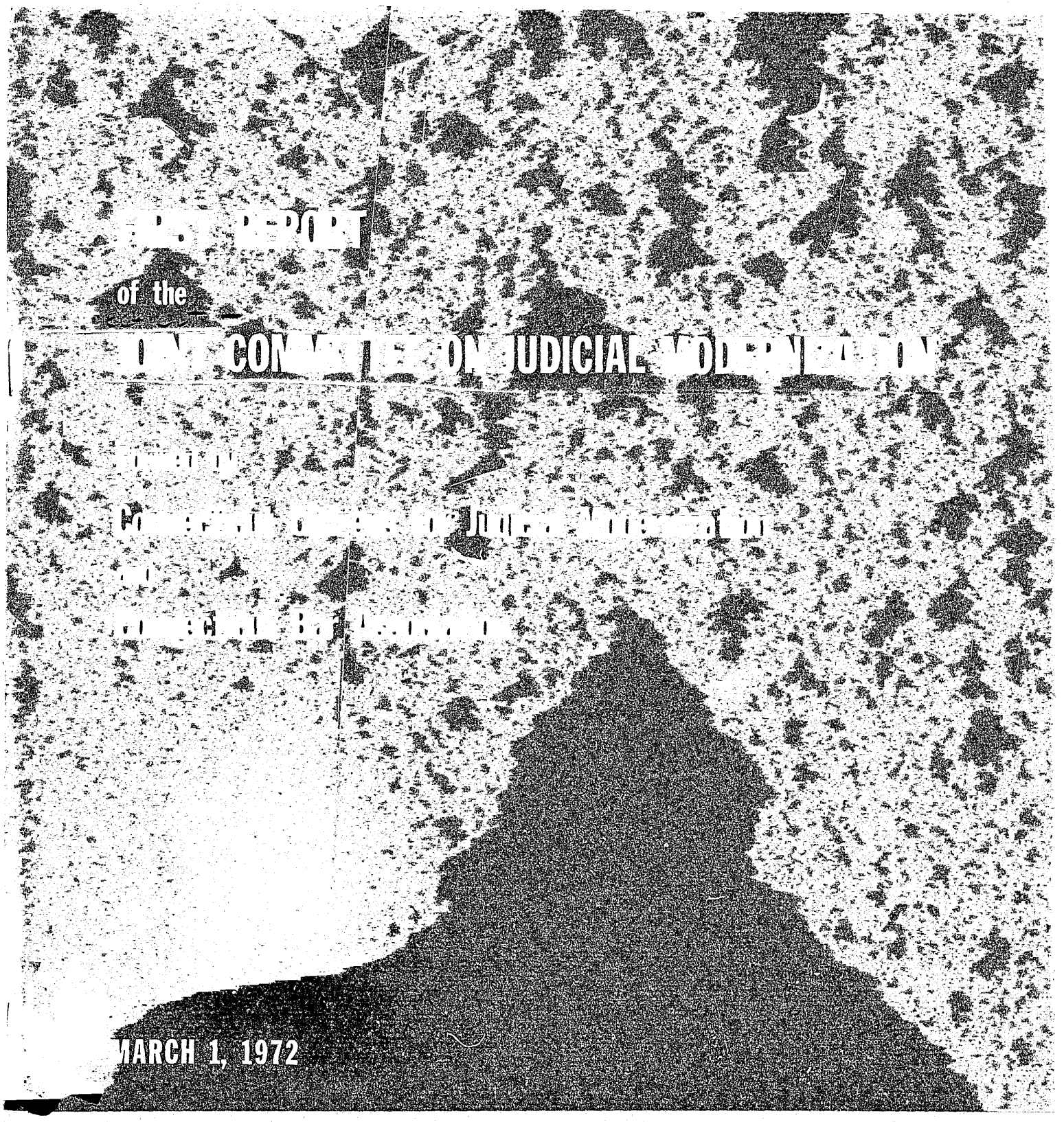


REPORT

of the

CONNECTICUT JUDICIAL MODERNIZATION

MARCH 1, 1972

Prepared and published through the grant assistance of the Planning Committee on Criminal Administration of the State of Connecticut and LEAA.

This report is that of the Joint Committee and does not necessarily reflect the viewpoints of either the Connecticut Citizens for Judicial Modernization or the Connecticut Bar Association to which it is to be submitted for consideration and further action.

THE JOINT COMMITTEE

Members from the Connecticut Citizens for Judicial Modernization

Mr. Raymond F. Sabatella, Jr., Chairman
Southington, Connecticut
Raymond Associates

Mr. Carter Atkins
West Simsbury, Connecticut

Mr. Duane Dow
Wethersfield, Connecticut
Wilson, Haight and Welch

Dr. John H. Felber
West Hartford, Connecticut

Mr. Arthur Johnson
Hartford, Connecticut
Hartford Community Relations Council

Mr. Oliver F. Johnson
Hartford, Connecticut
Bond Press Incorporated

Mrs. Charles Litscher
Shelton, Connecticut

Mr. William J. Pape, II
Waterbury, Connecticut
Waterbury Republican and American

Rev. Charles Pendleton
West Hartford, Connecticut

Mrs. Al Sisk
West Hartford, Connecticut
Sisk Photo Studios

Members from the Connecticut Bar Association

James R. Greenfield, Esq., Chairman
New Haven, Connecticut

Richard A. Bowerman, Esq.
Bridgeport, Connecticut
The Southern Connecticut Gas Company

Allyn L. Brown, Jr., Esq.
Norwich, Connecticut

Francis Cady, Esq.
West Hartford, Connecticut

Anthony V. DeMayo, Esq.
New Haven, Connecticut

Joseph D. Harbaugh, Esq.
West Hartford, Connecticut

Melvin S. Katz, Esq.
Hartford, Connecticut

George F. Lowman, Esq.
Stamford, Connecticut

Norman K. Parsells, Esq.
Bridgeport, Connecticut

Morris Tyler, Esq.
New Haven, Connecticut

EX OFFICIO

Dr. J. Alfred Fabro
Torrington, Connecticut
President, Connecticut Citizens for Judicial Modernization

Carl W. Nielsen, Esq.
Hartford, Connecticut
President, Connecticut Bar Association

FIRST REPORT

of the

JOINT COMMITTEE ON JUDICIAL MODERNIZATION

Formed by

Connecticut Citizens for Judicial Modernization

and

Connecticut Bar Association

Connecticut Citizens for Judicial Modernization
Fifteen Lewis Street, Hartford, Connecticut

TABLE OF CONTENTS

JOINT COMMITTEE REPORT

APPENDICES

PROLOGUE

". . . I have come under precedents established by George Washington and John Adams who both spoke out for the need for judicial reform. And President Lincoln, in his first annual message to the Congress, made an observation that is strikingly current - that, in his words, 'the country generally has outgrown our present judiciary system.' ".

* * *

"Our courts are overloaded for the best of reasons: because our society found the courts willing - and partially able - to assume the burden of its gravest problems. Throughout a tumultuous generation, our system of justice has helped America improve herself; there is an urgent need now for America to help the courts improve our system of justice."

Richard M. Nixon, President of the United States, Address to National Conference on the Judiciary, 1971.

". . . The aggregate of two centuries of experience should be sufficient to afford a basis for a comprehensive reexamination of the methods of selection and tenure of state judges. In saying this, I, of course, intend no reflection whatever on those state systems of limited terms and the many splendid judges in those states.

It may be that the fine quality of judicial work of state judges is in spite of, not because of, the method of selection . . . the very nature of the judicial function calls for some comprehensive studies directed to alternative methods . . . to preserve the virtues of popular choice of judges and at the same time develop a high degree of professionalism, offering an inducement for competent lawyers to make a career of the bench."

Warren E. Burger, Chief Justice of the United States, Address to National Conference on Judiciary, 1971.

BACKGROUND OF THE JOINT COMMITTEE AND ITS OPERATION

The Joint Committee was formed by the Connecticut Citizens for Judicial Modernization and the Connecticut Bar Association in the Fall of 1971. Initially established with seven members from each group, the number from each association was increased to ten in order to broaden the input to the Joint Committee and to make available more Joint Committee members to serve as chairmen of the specific subcommittees.

The Joint Committee has functioned by holding frequent meetings of extended length at which time judges, officers of the local bar associations, members of the staff of the Judicial Department, businessmen and others were invited to express their opinions concerning various problems and their suggestions for improvement. Judges have been most cooperative in answering questions from the members of the Joint Committee. In addition, the Judicial Department has been extremely helpful in providing detailed information concerning personnel, facilities, operations, case statistics and the like.

Following the initial meetings during which the Joint Committee determined certain areas towards which it would initially direct its attention, it established five operating subcommittees comprised of members of the Joint Committee and augmented by the volunteer assistance of members of the Connecticut Bar Association from throughout the State who represented a

broad cross section of legal practice specialities and were familiar with court operations and legislation. These subcommittees were charged with defined areas in which they were to review the present judicial system and possible changes and, to the extent feasible, to draft specific statutory proposals for recommended changes. These subcommittees in turn have met frequently both as a group and in divisions; they have, at this point, presented to the Joint Committee their initial reports which are appended hereto.

THE PRESENT JUDICIAL SYSTEM OF THE STATE OF CONNECTICUT

The Constitution of the State of Connecticut provides a judicial system comprised of the Supreme Court and the trial court of original jurisdiction known as the Superior Court and a Probate Court together with such courts as may be established by the General Assembly. That body has created three courts by statute - - the Common Pleas Court, Circuit Court and Juvenile Court. The jurisdictions of the several courts tend to overlap -- problems relating to the custody of juveniles and their support are spread through Superior, Common Pleas, Circuit, Juvenile and Probate Courts -- with attendant difficulties, with sometimes conflicting decisions and with occasional inability to dispose of all facets of a matter expeditiously.

Although the Circuit Court had been established with an appellate division to hear appeals from the decisions of its trial court division, that

appellate jurisdiction was transferred to the Court of Common Pleas which also receives appeals from state administrative tribunals and from local governmental bodies. The Superior Court, in turn, receives appeals from decisions of the Juvenile Court and from decisions of the Probate Court. Appeals from the decisions of the Common Pleas and Superior Courts are matters dealt with by the Supreme Court. The structure of the present judicial system and the jurisdiction of the several courts are set forth in the chart Appendix A.

Because of the overlapping jurisdictions, litigants can frequently bring civil cases in any one of the Circuit, Common Pleas, and Superior Courts depending upon the amount of damages which they wish to allege. Because of the division of criminal jurisdiction between the Circuit Court and the Superior Court, accused persons are generally initially arraigned in the Circuit Court and then bound over to the Superior Court if the crime is punishable by a sentence of five years or more. Until October 1971, such bindovers from the Circuit Court to the Superior Court could occur when the possible sentence of confinement was only one year or more. Bindover hearings to determine whether the case should be sent to the Superior Court do consume a significant amount of time in the Circuit Court although it is more common for such hearings to be waived due to the necessity for counsel to represent defendants in such proceedings.

Compounding the problems of the present system is an intricate principle known as "venue" which defines the geographic jurisdiction of any given court location. It has been said that the venue of the courts was determined by the "man and horse" rule, -- the reach of the court was the distance covered in x hours of horseriding time. Generally speaking, there are one Superior Court and one Common Pleas Court in each county of the State and their venue extends throughout the county in which they sit. However, in several counties, there is more than one courthouse and a certain degree of election is permitted as to the courthouse where the matter will be tried. Unfortunately, in Waterbury the Judicial District for the Common Pleas Court has borders which do not coincide with those of the Superior Court so that a common jury panel may not be employed for the two courts. Not all courtrooms are in use at all times, particularly in the rural areas. The available court facilities are set forth on the chart Appendix B.

Connecticut has a number of courtroom facilities which are clearly poor environs for the dispensation of justice; this is particularly true of the Circuit Court facilities in the urban centers. In many courtrooms, the accused, the judge, the attorneys and the witnesses cannot be heard by spectators and in some instances by participants. Some courtrooms are too small to provide adequate seating to handle the number of persons scheduled to appear that day. Judges frequently and rightfully complain

that it is impossible for them to maintain a proper judicial attitude under intolerable conditions, and certainly the people who appear in the court have a right to complain of conditions which may be regarded as degrading. Until recent years, the Circuit Court facilities were provided by the towns but the Judicial Department now tends to exert more control over the selection of Circuit Court facilities so that some improvements have been effected. The construction of new Superior Court facilities is hoped to relieve some of the problems of Circuit Court facilities by the turning over of replaced Superior Court facilities to the Circuit Court.

It is not unexpected that the courts in the urban centers tend to be burdened by higher case loads and that the case loads and the nature of the cases vary from location to location. Statistics concerning the case loads of the several trial courts are set forth in the charts Appendices C through G. As can be seen the Circuit Court is burdened by an overwhelming number of cases per judge although many of these cases are disposed of without trial. The costs of operation of the several courts are set forth in the chart Appendix H where it can be seen that the cost per case in the Circuit Court is about $6.00, the costs per case in the other trial courts about $188.00 - $322.00, and the cost per case in the Supreme Court about $1,290.00.

Another feature of the Connecticut judicial system is circuit riding. The judges of the several courts sit in the various locations for a relatively short period of time after which they move on to another location. As a result,

they do not like to start cases at the end of a term since they might not finish the cases in time. Moreover, travelling from home to a distant court location detracts from the length of the court day. The dockets of cases pending in the courts are general dockets for the court locations and not assigned to specific judges except as judges become temporarily responsible therefor when they move to that location. In some other states and in some federal jurisdictions, the cases are directly assigned to individual judges for the complete disposition thereof.

The multiplicity of courts, in turn, provides a multiplicity of systems for administration. Each court has its own rules, its own judges, its own clerks, its own secretaries and its own court supportive services. The Circuit Court has its jury panels; the Superior Court and Common Pleas Court generally tend to share a common jury panel except in the instance of Waterbury.

From the standpoint of prosecution and defense functions, the Superior Court has its own system of state's attorneys and a separate system of public defenders, and the Circuit Court has its own system of prosecutors and its own system of defenders. The state's attorneys are appointed for each county and each state's attorney essentially operates within his own territorial "imperative". He is appointed by the judges of the Superior Court for that county as are his assistants, and the same is true with respect to the public defenders of the Superior Court. There

is no statewide head for either function in the Superior Court although the states attorneys and public defenders of the several counties do tend to cooperate in the solving of common problems and in seeking legislative change.

In the Circuit Court there are a Chief Circuit Court Prosecutor, a Deputy Chief Prosecutor and an Assistant Chief Prosecutor who are responsible for operations of the Circuit Court defender system on a statewide basis. Each of the Circuit Courts in turn has its own prosecutor and assistant prosecutor. Similarly, there is a Chief Public Defender for the Circuit Court responsible for the overall administration of the defender system. Each of the Circuit Courts, in turn, has a public defender and, to the extent necessary, assistant public defenders.

It will be appreciated that there are then two separate systems of defense and two separate systems of prosecution with no true Statewide direction and coordination. Many of the personnel employed in these important functions are part time; the salaries of the defenders are less than the salaries of the prosecution personnel; the salaries are unrealistic. Basic information and the disparity of compensation may be seen in the chart Appendix I.

From the standpoint of judges, all judges with the exception of those of the Probate Court are nominated by the Governor and appointed by the Legislature. As can be seen from the listing of judges currently holding

office (Appendix J) and the analysis of the information thereof (Appendix K) the obvious tendency is for a Governor to appoint judges from his own political party (Governor Ribicoff appointed the initial judges of the Circuit Court in accordance with an allocation agreed upon by the leaders of the two parties). Fortunately, an active political life may sharpen a man's skills and develop the temperament required to be a good judge; thus Connecticut enjoys a reasonably qualified judiciary and some outstanding jurists. However, the present climate of selection and reappointment is basically a political one, and many people lack confidence in this system and the quality of justice which is dispensed because of the aura of politics which surrounds it. Moreover, maintaining judges in a political environment may tend to affect the vigor with which they administer their courts and the discipline with which they deal with counsel before them.

Unfortunately, the present system of selection also produces some judges who are not well qualified for judicial office. Although the Connecticut Bar Association has a Committee on the Judiciary which attempts to evaluate judicial candidates and submits its evaluation to the Governor, that committee has not been able to function as effectively as desirable because too short a period of time frequently has been allowed for its reports and because it does not have independent investigative capability. Moreover, the committee's recommendations are limited to determining whether the nominees are qualified or not qualified; it cannot go out and seek the most qualified persons as candidates for judicial office.

From the standpoint of complaints regarding the performance and conduct of judges, Connecticut has a statutory created Judicial Review Council which has processed only four complaints since its creation in 1969. Its existence is not well known and it has no separate staff. Its powers are limited to recommendation of impeachment to the Legislature and to the Governor.

Lastly, present judicial compensation is not competitive with the incomes of the more successful (and arguably more competent) private practitioners. The judges of the courts do not have adequate supportive services in the form of law clerks, * readily available libraries, secretarial personnel, etc. These inadequacies, among others, tend to make the bench unattractive to many qualified attorneys.

The rulemaking power has not been adequately exercised by the Judiciary. The Superior Court makes its own rules governing its operation and the Supreme Court makes the rules for the statutory Circuit and Common Pleas Courts. It is a frequent complaint that the Rules Committees have been anything but responsive to the need for rules changes and the suggestions for change. Although it is a generally accepted principle of judicial administration that the rulemaking power should be vested in the judiciary, the Legislature of this State has at times exercised the rulemaking power by enacting legislation and it has created a committee to meet with the Rules Committee of the Judicial Department in order to effect rules changes.

* The justices of the Supreme Court each have one law clerk; the Legislature in 1971 authorized a total of five law clerks for the trial courts (95 judges).

SIGNIFICANT CHANGES MADE IN THE CONNECTICUT JUDICIAL SYSTEM IN THE PAST DECADE

Connecticut was one of the first states to reduce the multiplicity of local courts (municipal, justice of the peace, etc.) dealing with misdemeanors and handling matters of minor civil jurisdiction and it consolidated this activity into a trial court of statewide jurisdiction. The creation of the Circuit Court in 1961 was widely regarded as a significant step forward in improving judicial efficiency. Unfortunately, the problems of this court today are indicative of the need to constantly review the judicial system and make efforts to improve its operation.

Connecticut also was one of the first states in the nation to recognize the need for full-time court administration. The Chief Court Administrator Act in 1965 and subsequent steps to strengthen professional administration of the court system have been very real contributing factors to progressive action within our judicial system.

In 1967 the Legislature passed the Probate Court Reform Act which made significant changes in the operation of the elected Probate Courts and provided judicial administration over the operation of the probate courts in the form of a Superior Court judge designated as Probate Court Administrator. Since that time, practices have been brought into uniformity and steps have been taken to obtain valid information concerning the operation of these courts throughout the State. However, the existence of 125 separate

Probate Court jurisdictions with judges who are elected (many of whom do not have legal background) and most of whom are serving part time, represents a significant impediment to high quality judicial administration.

The Judicial Department is engaged in a long-range program for the construction of improved and new courthouse facilities. The completion of new Superior Court buildings will benefit the Circuit Court if those facilities are made available to the Circuit Court as presently planned. The Legislature has been most helpful in recognizing the needs for greater flexibility in the court system by passing legislation enabling judicial reduction in the number of locations where the Circuit Court must sit, in permitting the transfer of courtroom facilities and in supporting efforts to improve the administration of the system. The Judicial Department is in the midst of an extensive, long range program to computerize information relating to all cases pending within the court which will permit meaningful statistical analyses and in turn better administration of the courts.

Other significant changes have included common jury panels for the Superior and Common Pleas Courts, reduction of the size of the jury from 12 to 6 for most matters, dismissal of unneeded jurors of a panel, requirement of full time service for states attorneys in the Superior Court and consolidation of civil trials in the Circuit Court.

Thus, the committee wishes to make clear that the Judicial Department and the Legislature have made real strides in dealing with some of the problems effecting their judicial system. It is hoped that the interest and work of the Joint Committee and the parent organizations may help the Judicial

Department and the Legislature in providing more efficient and more equal justice for all.

INITIAL RECOMMENDATIONS

Appended to this report are the reports of five subcommittees which have been established to provide in depth analysis and recommendations in specific areas. As previously indicated, these committees have drawn upon the advice and assistance of members of the Judiciary, the staff of the Judicial Department, members of the Legislature and members of the business community and the general public. Only two of the subcommittees have reported specific legislative recommendations although each of the subcommittees has indicated guidelines for substantive changes in the area of its deliberations.

Based upon the reports of the subcommittees and upon its most valuable consultations with and recommendations from members of the Judiciary, the Bar, the business community and the general public, the Joint Committee makes the following recommendations.

MERIT SELECTION OF JUDGES

"The basic consideration in every judicial establishment is the caliber of its personnel. The law as administered cannot be better than the judge who expounds it . . .

"We need judges learned in the law, not merely the law in books but, something far more difficult to acquire, . . . judges deeply versed in the mysteries of human nature and adept in the discovery of the truth in the discordant testimony of fallible human beings; judges beholden to no man, independent and honest and -- equally important -- believed by all men to

be independent and honest; judges, above all, fired with consuming zeal to mete out justice according to law to every man, woman, and child that may come before them and to preserve individual freedom against any aggression of government; judges with the humility born of wisdom, patient and untiring in the search for truth and keenly conscious of the evils arising in a workaday world from any unnecessary delay. Judges with all of these attributes are not easy to find ... Such ideal judges can after a fashion make even an inadequate system of substantive law achieve justice; on the other hand, judges who lack these qualifications will defeat the best system of substantive and procedural law imaginable." *

This statement by the man considered to be father of modern judicial administration aptly describes the need for ensuring a system designed to bring to judicial office the men most qualified to hold that office, not on the basis of their political connections but on the basis of their recognized legal skills and personal characteristics. It is not sufficient to take pleasure in the fact that our present system has good judges despite their political origins -- it is important that the people believe that the men who judge are judges because they are considered to be the best men to judge and that our judges are free from any political taint or obligations.

The report of the Subcommittee on Judicial Merit Selection which is Appendix L sets forth a complete statutory proposal for a plan to select judges of all the trial courts and of the Supreme Court on the basis of merit. The selection will be by a nonpartisan commission composed of the chief justice of the Supreme Court and of one layman and one lawyer from each Congressional district. The lawyer members will be elected by popular vote of all the

* Arthur T. Vanderbilt
THE CHALLENGE OF LAW REFORM - (1955)

lawyers residing in the Congressional district. The lay members will be nominated by the Governor and appointed by the Legislature; no more than one-half of the lay members may be from a single political party and none may hold other public office or any office in any political party.

Although we use the term lay members, it is expected that the non-lawyer members of this Commission will at least in part be selected upon the basis of expertise which they may bring to the process of selecting the best judicial talent. It would be in keeping with the concepts of broad comprehensive membership to include a phychiatrist, a sociologist, a minority group member, a businessman, etc. for the points of view which they might bring.

The terms of the various members of the Commission are for periods of six years in order to ensure continuity. The Commission would have a staff to assist in the investigation of prospective nominees and to help in seeking out and encouraging highly qualified practitioners to become available for consideration as nominees. Membership in the Judiciary should be regarded as the obligation of the most qualified members of the legal profession.

The Commission would submit the names of three nominees for each judicial vacancy, and the Governor would have a choice among the three nominees. A nominee not selected at one time would be available for consideration at a subsequent time. The Commission would also determine whether

a judge seeking reappointment should be recommended for reappointment. Unlike the merit selection plans in many other states, the judges would not run for continuance in office upon a nonpartisan ballot but would continue to serve periods of appointment of eight years each. If the Commission were to determine that a judge was unqualified for reappointment or follow the recommendation of the Commission on Judicial Qualifications in that regard, it would so state and a judicial vacancy would be declared at the end of his term, at which time it would submit the names of three nominees to the to the Governor. The detailed provisions of the comprehensive plan prepared by the subcommittee are set forth in the Appendix and should be studied in detail.

Since merit selection plans have been adopted in all or part of the jurisdictions of nearly 20 states and since these plans have been voluntarily adopted by chief executives in some states, it is respectfully submitted that merit selection is a principle which has come of age for the State of Connecticut. It is a principle which this Committee highly endorses.

RETIREMENT, CENSURE AND REMOVAL OF JUDGES

There is no plan of selection so foolproof as to guarantee against an occasional poor choice for judicial appointment. Moreover, men age, their attitudes change and sometimes they become afflicted mentally or physically. There must be an effective and fair means for taking action with respect to any judge who has become physically or mentally incompacitated or who has acted in a manner not proper for his office. To maintain confidence in the

integrity of our courts the public, lawyers and other judges must have suitable means for the review of complaints as to judges and to take prompt and appropriate action if action is warranted.

The Subcommittee on Judicial Qualifications has studied this matter at length and has reviewed the statutory and constitutional programs adopted in many other states. After discussion with Judge Loiselle and its own independent investigations, it has concluded that the Judicial Review Council established by the State of Connecticut for this purpose is inadequate to the task. It recommends the adoption of a Judicial Qualifications Commission substantially similar to the plans adopted in over 20 states in the past ten years.

Its proposal calls for the establishment of a nonpartisan commission comprised of three judges of the trial court elected by the judges of the trial court, three practicing attorneys selected by the Judicial Merit Commission and three electors who are not lawyers and who hold no public office or employment. The members of the Commission would serve for a period of six years. They would have the power to retire involuntarily any judge found to be permanently physically or mentally incapacitated so as to be unable to perform the duties of his office. Complaints as to judicial conduct would be investigated and the Commission could recommend appropriate action to the Supreme Court which could accept the recommendations of the Commission, modify them or reject them. In addition to censure or

removal by action of the Supreme Court, the present provisions of the Constitution would permit impeachment or removal by adress of both houses of the Legislature.

The proceedings involving any judge would be confidential until such time as a recommendation for disciplinary action were made to the Supreme Court or unless the judge himself chose to make them public. The experience in other states indicates that the majority of complaints are ill founded. The mere existence of the investigative power in a legally constituted body has an extremely beneficial effect in minimizing or ameliorating judicial improprieties and misconduct; such has been the experience everywhere that such a commission exists. Where the complaints have appeared adequate to warrant removal by the Supreme Court, it has been found that the judge will normally voluntarily resign.

The Commission would have staff to assist it in its investigations and it is considered by the Joint Committee that a full time executive director and staff could serve the Judicial Merit and Judicial Qualifications Commissions. It would have the power to subpoena and would be able to command the assistance of other State agencies in its investigations. Its recommendations would be sought by the Judicial Merit Commission as to any judges being considered for reappointment. Thus, the combination of nonpartisan plan of merit selection of the most able legal practitioners to be our judges and a nonpartisan plan to ensure adequate and fair consideration of complaints against our judges should instill and justify public confidence in the judges of our judicial system.

COURT STRUCTURE

The Subcommittee on Court Structure has quoted Professor Karlen to describe the Connecticut court system:

> "Each court has its own fixed jurisdictions, its own judges and its own administration and operates in splendid isolation from its sister courts".

Although Connecticut was an early pioneer in the merging of its local municipal courts, justice of the peace courts and the like into the Circuit Court, it continues to maintain an inefficient, overlapping system of trial courts. Too often the lower trial courts are believed by many to be dispensing inferior justice and the judges of these courts properly become angered when their courts are described as inferior courts. It is unfortunate that the Circuit Court is treated or regarded as an inferior court since it handles more cases than all of the other courts combined -- it projects the image of our judicial system to the great majority of the citizens affected by that system.

The subcommittee has concluded that Connecticut should have a single trial court -- not superior and lower courts. It proposes that all of its trial judges should be eligible to sit on all judicial matters throughout the system so that they can be used to the level of their ability and where their interests may lie. All facilities of the courts would be combined into a single system so that cases, judges and litigants can be assigned expeditiously to make most efficient use thereof.

* Karlen, JUDICIAL MODERNIZATION: WHAT OTHER STATES HAVE DONE, STATE GOVERNMENT AND PUBLIC RESPONSIBILITY (1964 Tufts Assembly on Government).

The subcommittee sets forth the advantages which it feels would result from a unified court. It would eliminate problems of overlapping jurisdiction and gaps in jurisdiction. There will be no wasteful bindover hearings in criminal matters. There would be no inferior and superior judges.

Coupled with this subcommittee's concept of this merger of the trial courts into a unified trial court, there would be established a flexible procedure for the determination of court locations and of the venue of the various court locations based not upon the distance a man can ride upon his horse but rather upon case load, ease of access and judicial efficiency. Certainly greater attention should be given to the provision of adequate parking for jurors, litigants and lawyers.

We agree with the subcommittee that serious consideration should be given to the concept of assigned dockets for judges. By making a judge responsible for the disposition of cases assigned to him, there would be greater incentive for judges to seek early disposition of matters before them. The judge would be more familiar with the case before him and would be more likely to be able to eliminate some of the delays in the disposition of the litigation.

There are many matters which do not require judicial time and expertise for their disposition. In addition to the referees of the court system who are retired judges, there should be greater use of parajudicial

personnel such as magistrates to handle the disposition of minor offenses which do not involve jail sentences, of small claims, and of support and other matters. These parajudicial personnel would be subject to the supervision of the trial court and a party could seek judicial intercession if he so elected. Arbitration should be considered and more widely utilized as a means of disposing of disputes.

We agree with the report of the subcommittee in suggesting that a detailed management system of the proposed court structure should be undertaken. The feasibility of restructuring should be studied as well as the various options for initial implementation, possible venue boundaries and possible economies. To this end, the Joint Committee is negotiating a contract for a complete evaluation with the American Judicature Society and obtaining valuable cooperation and assistance from the Judicial Department.

It is generally well accepted that three judges sitting at one location and performing specialized tasks are able to dispose of at least twice as much business as those three judges might have done were they to have been sitting separately at three separate locations. Equality of justice, efficiency of utilization of judges and facilities and expedition in the dispensating of equal and quality justice require consolidation of our trial courts and a flexible system for operation of the consolidated court.

PROSECUTION AND DEFENSE SERVICES

This subcommittee has directed its initial attention to public defender services and its report is presently directed to proposed legislation relating to the establishment of the office of a chief public defender with

Statewide responsibilities for both the Superior Court and the Circuit Court. Its report is Appendix O.

It is the feeling of the subcommittee and of the Joint Committee that Statewide coordination of defense functions and of prosecution functions is an essential requirement to good administration of the criminal justice system of the state. There is a need to have reasonably uniform practices with respect to the prosecution and defense of cases irrespective of the particular court in which the case may be pending. From the prosecution side, it is considered essential to have an office concerned with statewide criminal activity, business crimes and the like which may tend to fall in the cracks comprising county boundaries.

It is equally important that high quality personnel staff these functions and that they be selected on the basis of merit rather than politics. To obtain competent personnel, we must establish adequate pay scales for public defenders and provide them with the supportive services which presently are inadequate. There should not be part-time public defenders or part-time state's attorneys and prosecutors in our court system -- the task of providing efficient and equal justice for accused and for society is not a part-time responsibility.

The subcommittee has been asked to review immediately whatever bills may be reported by the Committee on the Judiciary of the Legislature and to provide constructive recommendations in keeping with the general

priciples enunciated above. It is expected that the subcommittee will evolve detailed recommendations for this Committee.

RULES AND RULE MAKING POWER

The Joint Committee has received considerable information with respect to the inadequacies of existing rules governing litigation in our courts, to the apparent lack of responsiveness by the rule making bodies of the courts in the adoption of new rules and to the failure of some judges to exercise their powers adequately under existing rules to ensure speedy disposition of cases. The report of the subcommittee on rules is Appendix P.

It is considered a fundamental principle of good judicial administration that the rule making power should be vested in a responsive judiciary so that changes may be effected rapidly in order to be able to efficiently dispense justice.

The Joint Committee has received considerable information regarding the laxity of lawyers in the prompt preparation of cases for trial or their unwillingness to proceed to trial when a case is called is called, presumably in part dictated by their clients. It is believed that adequate rules should be established to ensure performance by lawyers (and by litigants) of their responsibilities to be prepared for trial when a case is called except when there is truly adequate excuse provided. The Subcommittee has reported to us several proposals for rules which would effectively guarantee against lawyer delay and presumably litigant delay.

The Subcommittee has also recommended consideration of novel techniques (at least insofar as Connecticut is concerned) for the taking of testimony of expert witnesses by videotape, for the pretrial examination of witnesses, for the preselection of jurors, for greater use of masters and parajudicial personnel in domestic support matters and in negligence cases and for more streamlined appellate procedures.

The Joint Committee concurs with the Subcommittee in its recommendations that rules changes could materially improve the handling of litigated matters in our court system and has requested the Subcommittee to continue its studies and consultations with members of the Bench and Bar in an effort to evolve specific rules proposals to be submitted to the Judicial Department.

SUMMARY

The Joint Committee is well aware that the five matters specifically reviewed hereabove deal with only a part of the problems which effect the judicial system. The various subcommittees presently established will continue to work in the areas of their initial assignment and in other areas to be agreed upon. It is expected that additional subcommittees will be established to handle newly defined areas.

Although not specifically discussed hereinbefore, it must be recognized that the most qualified personnel for various positions within the Judicial Department cannot be obtained if salaries are inadequate, supportive services are inefficient or non-existent and if public confidence is lacking.

The Joint Committee recommends to its parent bodies, to the Judicial Department, to the Legislature, to the Governor and to the public at large:

1. The adoption of a merit plan for the selection of judges and for the recommendation of judges for reappointment.

2. The adoption of a judicial qualifications commission plan to investigate physical or mental incapacity and to investigate complaints with respect to the conduct of judges. It should have the power to retire for incapacity and the responsibility to recommend disciplinary action to the Supreme Court, the Supreme Court being vested with the power to censure or remove a judge found guilty of misconduct.

3. The development of a trial court structure governed by flexibility to meet changing needs. This proposal is to be studied in greater detail and matured into a statutory and Constitutional plan for change. It is hoped that the Joint Committee will be able to obtain funding for a detailed management study of the feasibility of a proposed new structure and options for implementation.

4. The adoption of statewide coordination of all defender and prosecutor functions by full-time, adequately compensated personnel selected solely on the basis of merit and adequately supported.

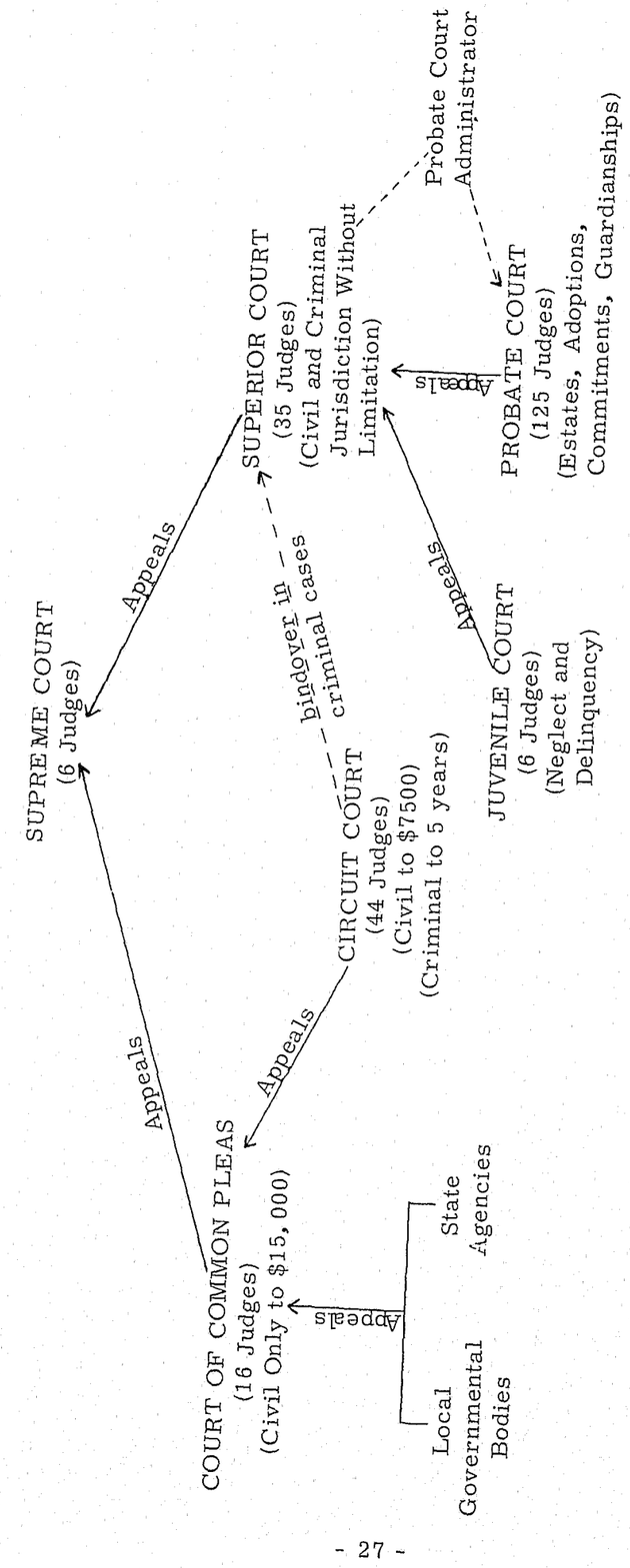
5. The development, adoption and enforcement of effective rules to expedite the disposition of litigated matters and to ensure that society and litigants have an early and effective day in court.

It is recognized that there may not be complete agreement with all of the proposals of this Committee. However, it is hoped that those who would disagree will study the proposals in detail and avail themselves of the opportunity to discuss the proposals with members of this Joint Committee or of the several subcommittees.

As has been frequently stated, "Justice is the concern of all of us". We must recognize the need for change -- we must be ever alert to the development of new problems -- and we must ever strive to project a sincere and valid image of dispensing equal and efficient justice for all regardless of economic status.

Appendix A

STRUCTURE AND JURISDICTION
OF
CONNECTICUT COURTS



COURT FACILITIES

LOCATION		COURTROOMS BY COURT			TOTAL COURTROOMS
County	Town	Superior	Common Pleas	Circuit	
Hartford	Hartford (3)[1]	10 (7)[2]	3 (2)[2]	4 (2)[2]	17 (11)[2]
	New Britain (2)	2 (2)	1 (1)	2 (1)	5 (4)
	West Hartford (1)			1 (1)	1 (1)
	East Hartford (1)			1 (1)	1 (1)
	Manchester (1)			1 (0)	1 (0)
	Windsor (1)			1 (1)	1 (1)
	Bristol (2)			2 (1)	2 (1)
New Haven	New Haven (3)	8 (7)	3 (2)	3 (2)	14 (11)
	Waterbury (2)	2 (2)	2 (1)	2 (1)	6 (4)
	Meriden			3 (2)	3 (2)
	Milford			2 (1)	2 (1)
	West Haven			2 (2)	2 (2)
	Ansonia			1 (1)	1 (1)
Fairfield	Bridgeport (3)	7 (5)	3 (2)	5 (3)	15 (10)
	Stamford (2)	3 (2)	1 (1)	2 (1)	6 (4)
	Danbury (2)	1 (1)		1 (1)	2 (2)
	Norwalk (1)			1 (1)	1 (1)
	Westport (1)			1 (0)	1 (0)
	Stratford (1)			1 (0)	1 (0)
Middlesex	Middletown (2)	1 (1)	1 (1)	2 (2)	4 (4)
New London	New London (2)	1 (1)	1 (1)	1 (0)	3 (2)
	Norwich (2)	1 (1)	1 (1)	1 (1)	3 (3)
	Groton (1)			1 (0)	1 (1)
Tolland	Rockville (2)	1 (1)	1 (1)	1 (0)	3 (2)
	Danielson (1)			1 (1)	1 (1)
	Stafford Springs(1)			1 (0)	1 (0)

[1] Figures in parenthesis as to Town indicate number of locations for court facilities in that town.

[2] Figures in parenthesis as to Courtroom indicate the number of those courtrooms suitable for jury trials.

LOCATION		COURTROOMS BY COURT			TOTAL COURTROOMS
County	Town	Superior	Common Pleas	Circuit	
Windham	Willimantic (2)	1(1)	---	1 (1)	2 (2)
	Putnam (1)	1 (1)	1 (1)		2 (2)
Litchfield	Litchfield (1)	1(1)	1 (1)	---	2 (2)
	Torrington (1)			1 (1)	1 (1)
	Winsted (1)			1 (1)	1 (1)
TOTAL		40 (33)	19 (15)	47 (29)	106 (78)

SUPERIOR COURT STATISTICS [1]

County	Locations	Civil Cases Added During 1969 - 1970 Jury	Civil Cases Added During 1969 - 1970 Non-Jury	Average Time Lapse Between Date of Claiming For Trial and Date of Trial or Disposition (Months) Jury	Average Time Lapse Between Date of Claiming For Trial and Date of Trial or Disposition (Months) Non-Jury	Criminal Cases Disposed of 1969 - 1970
Fairfield	Bridgeport	848	463	19.8	9.7	
	Danbury	76	39			
	Stamford	359	144			
County Total						834
Hartford	Hartford	1,111	580	13.7	9.8	
	New Britain	163	109			
County Total						1,093
Litchfield	Litchfield	133	53	19.7	10.1	81
Middlesex	Middletown	132	37	19.8	17.7	136
New Haven	New Haven	885	379	23.1	6.4	772
	Waterbury	263	161	23.6	32.5	255
New London	New London	226	166	28.4	17.0	214
Tolland	Rockville	162	71	- [2]	- [2]	146
Windham	Putnam	74	45	- [2]	- [2]	152
TOTAL		4,432	2,247			3,683

[1] Based on 22nd Report of the Judicial Council of Connecticut

[2] Number of cases too small to provide basis for determination of time factor

COMMON PLEAS COURT STATISTICS [1]

County	Courtroom Location	Cases Entered--1969-1970 Jury	Cases Entered--1969-1970 Non-Jury	Average Time Lapse Between Date of Claiming For Trial and Date of Trial or Disposition (Months) Jury	Average Time Lapse Between Date of Claiming For Trial and Date of Trial or Disposition (Months) Non-Jury
Fairfield	Bridgeport	576	278	24.2	17.2
	Stamford	204	229		
Hartford	Hartford	1,016	469	14.0	8.5
	New Britain	189	83		
Litchfield	Litchfield	31	50	10.3	7.6
Middlesex	Middletown	33	28	15.6	23.3
New Haven	New Haven	1,172	469	24.6	7.6
	Waterbury	262	120	9.1	11.9
New London	New London	180	111	14.3	12.8
Tolland	Rockville	53	31	- [2]	- [2]
Windham	Putnam	12	2	- [2]	- [2]
TOTAL		3,728	1,870		

[1] Based upon 22nd Report of the Judicial Council of Connecticut

[2] Number of cases too small to provide basis for determination of time factor

CIRCUIT COURT CRIMINAL CASES ENTERED
January 1, 1970 - December 31, 1970

	Circuit	Total Number of Criminal Cases Entered	Motor Vehicle Violations	Other Criminal Cases
1	Stamford	24,501	17,982	6,519
2	Bridgeport	24,615	17,032	7,583
3	Danbury	8,564	6,458	2,106
4	Waterbury	10,274	6,066	4,208
5	Ansonia	9,810	6,797	3,013
6	New Haven	22,119	11,874	10,245
7	Meriden	11,065	7,978	3,087
8	West Haven	7,256	4,722	2,534
9	Middletown	11,437	8,970	2,467
10	New London	18,117	12,500	5,617
11	Danielson	6,815	4,601	2,214
12	Manchester	13,096	9,718	3,378
13	Windsor	7,893	5,911	1,982
14	Hartford	29,946	13,745	16,201
15	New Britain	9,869	6,678	3,191
16	West Hartford	5,858	4,444	1,414
17	Bristol	6,791	4,834	1,957
18	Winsted	7,022	5,231	1,791
	Total	235,048	155,541	79,507

Appendix E

CIRCUIT COURT CIVIL CASES DISPOSED OF
9/1/70 ---- 8/31/71

CIRCUIT	JURY	NON-JURY	TOTAL
1. Stamford	158	5,804	5,962
2. Bridgeport	400	10,966	11,366
3. Danbury	48	2,882	2,930
4. Waterbury	92	3,429	3,521
5. Ansonia	107	2,481	2,588
6. New Haven	181	6,241	6,422
7. Meriden	159	3,504	3,663
8. West Haven	111	2,464	2,575
9. Middletown	85	1,562	1,647
10. New London	106	3,944	4,050
11. Danielson	46	1,610	1,656
12. Manchester	242	4,901	5,143
13. Windsor	81	1,470	1,551
14. Hartford	414	10,221	10,635
15. New Britain	171	3,773	3,944
16. West Hartford	108	2,263	2,371
17. Bristol	86	2,096	2,182
18. Winsted	12	2,386	2,398
TOTAL	2,607	71,997	74,604

Appendix F

JUVENILE COURT

DISPOSITIONS BY DISTRICT

	FIRST		SECOND		THIRD	
	1969	1970	1969	1970	1969	1970
DELINQUENCY DISPOSITIONS						
Judicial	539	854	1,172	1,231	660	857
Non-Judicial	2,853	2,443	3,982	3,881	2,429	2,648
NEGLECT DISPOSITIONS	281	202	282	310	357	301
TOTAL	3,673	3,499	5,436	5,422	3,446	3,806

COSTS OF JUDICIAL OPERATIONS

Court	Cost For Fiscal Year Ending June 30, 1971 (Million Dollars) [1]	No. of Judges	Cost of Operation Per Judge (Dollars)	No. Cases Disposed of 1969 - 1970	Cost of Operation per Case (Dollars)
Supreme	0.4	6	66,666	309	1,291.0
Superior	7.4	35	211,428	22,263	332.0
Common Pleas	1.9	16	118,750	8,572	220.0
Circuit	7.9	44	179,318	373,412 [2]	6.4
Juvenile	2.4 [3]	6	400,000	12,727	188.0

[1] Does not include equipment costs or costs of buildings except for rented facilities

[2] This is total of civil and criminal cases entered for year rather than disposed of

[3] Includes costs of probation and detention facilities

PROSECUTION AND DEFENSE FUNCTIONS

SUPERIOR COURT			CIRCUIT COURT
PROSECUTION			
$1,065,000	Cost		$935,000
(No Statewide Chief)	Personnel		Chief Prosecutor
		Deputy Chief	Assistant Chief
9 States Attorneys (4)[1]			21[2] Prosecutors (13)*
22 Assistant States Attorneys (13)			62 Asst. Prosecutors (45)[1]
$22,000, $24,000 (by statute) (Reduced $5,000 if part time)	Full Time Salary Range		$15,292 - $18,826
1968 - 69 3,683	Total Cases Disposed of	1968 - 69	261,846[3]
1969 - 70 4,487		1969 - 70	271,218[3]
DEFENSE			
$231,000	Cost		$233,000
(No Statewide Chief)	Personnel		Chief Public Defender
9 Public Defenders (7)[1]			23[2] Public Defenders (13)[1]
10 Asst. Public Defenders (7)[1]			18 Asst. Public Defenders (9)
$17,490 , $19,000	Full Time Salary Range		$14,526 - $17,934
1968 - 69 1,775	Cases Disposed of And Handled by Defender	1968 - 69	(not available)
1969 - 70 2,138		1969 - 70	(not available)

1. Figures in parenthesis indicate number who only serve part time.
2. Includes the statewide positions.
3. Includes motor vehicle violations

Appendix I

Appendix J

ROSTER OF JUDGES [1]

NAME, TOWN OF RESIDENCE	AGE 1972	POLITICAL PARTY AFFILIATION	DATE OF APP'T CURRENT POSITION	APPOINTMENTS TO OTHER COURTS: Age at Initial App't	Date of App't	Court	Time This Position
SUPREME COURT							
House, Charles S. Chief Justice Manchester	63	R	4/7/71	45	7/20/53	Superior Court Chief Judge, Superior Assoc. Justice, Supreme	12 yrs. 3 mos. 6 yrs.
Cotter, John P. West Hartford	61	D	7/1/65 Chief Court Adm.	39	10/1/50 3/1/55 7/1/65 7/1/69	Common Pleas Superior Court Assoc. Justice, Supreme & Chief Court Adm. Chief Ct. Adm.	4 1/2 yrs. 10 yrs.
Loiselle, Alva P. Willimantic	62	R	5/14/71	42	6/7/52 4/16/57 4/21/70	Common Pleas Superior Court Chief Judge, Superior	5 yrs. 3 yrs. 1 yr.
Ryan, Elmer Orange	70	Unknown	8/13/66	51	8/31/53	Superior Court	13 yrs.
Shapiro, Louis West Hartford	67	R	4/21/70 Assoc. Justice	48	10/26/53 9/7/66 10/26/69	Superior Court Chief Judge, Superior Judge, Superior	13 yrs. 3 yrs. 6 mos.

[1] Information on party affiliations obtained from town registrars of voters. Other information obtained from records of Judicial Department. When party affiliation not given in registrar's records or place of voter registration not same as residence address, "unknown" is used.

NAME, TOWN OF RESIDENCE	AGE 1972	POLITICAL PARTY AFFILIATION	DATE OF APP'T CURRENT POSITION	APPOINTMENTS TO OTHER COURTS			
				Age at Initial App't	Date of App't	Court	Time This Position
Thim, John R. Hamden	70	R	7/21/66 Assoc. Justice	51	8/17/53 6/1/65	 Chief Judge, Superior	12 yrs. 1 yr.
			SUPERIOR COURT				
Armentano, Anthony J. Hartford		D	9/1/65	46	2/4/63	Common Pleas	2 1/2 yrs.
Barber, Wm. P. Putnam	65	D	5/6/69	50	8/11/57	Common Pleas	4 yrs.
Bogdanski, Joseph Meriden	61	D	5/2/58	44	6/29/55	Common Pleas	3 yrs.
Bracken, John J. Hartford	64	R	1/17/72	57	9/1/65	Common Pleas	6 1/2 yrs.
Cohen, Simon S. West Hartford	63	R	10/4/71	52	1/1/61 1/1/66	Circuit Court Common Pleas	5 yrs. 5 1/2 yrs.
Dannehy, Joseph Willimantic	55	D	9/24/68	44	1/1/61 9/1/65 7/1/67	Circuit Court Common Pleas Chief Judge, Common Pleas	4 1/2 yrs. 2 yrs. 1 yr.
Dube, Norman New Haven	64	D	5/29/63	49	7/1/57	Common Pleas	6 yrs.

NAME, TOWN OF RESIDENCE	AGE 1972	POLITICAL PARTY AFFILIATION	DATE OF APP'T CURRENT POSITION	APPOINTMENTS TO OTHER COURTS			
				Age at Initial App't	Date of App't	Court	Time This Position
Driscoll, Paul J. Norwich	63	D	7/21/66	57		None	
FitzGerald, John Woodbridge	66	D	5/14/71	36	7/1/41 8/11/65	Common Pleas Superior Court	24 yrs. 6 yrs.
George, Louis Danbury	61	R	11/23/69	50	1/1/61 9/1/65	Circuit Court Common Pleas	4 1/2 yrs.
Grillo, Anthony Hamden	57	D	6/5/67	50	5/26/65	Common Pleas	2 yrs.
Healey, Arthur New Haven	52	D	4/6/65	41	10/7/61	Common Pleas	4 yrs.
Klau, Joseph E. Bloomfield	70	D	5/1/59	39	7/1/41	Common Pleas	18 yrs.
LaMacchia, Otto H. Bridgeport	67	R	9/1/65	48	8/24/53	Common Pleas	12 yrs.
Levine, Irving Danbury	63	D	2/5/69	52	1/1/61 6/1/67 4/17/68	Circuit Court Common Pleas Superior Court - Interim	6 1/2 yrs. 10 mos.

NAME, TOWN OF RESIDENCE	AGE 1972	POLITICAL PARTY AFFILIATION	DATE OF APP'T CURRENT POSITION	APPOINTMENTS TO OTHER COURTS			
				Age at Initial App't	Date of App't	Court	Time This Position
Longo, Joseph Norwich	58	D	8/17/59	43	7/6/57	Common Pleas	2 yrs.
MacDonald, Herbert North Haven	65	R	9/1/57	50		None	
McGrath, James Waterbury	54	D	7/1/67	47	5/20/65	Common Pleas	2 yrs.
Meyers, Milton Waterbury	68	R	10/7/61	49	8/31/53	Common Pleas	8 yrs.
Mulvey, Harold New Haven	58	D	1/1/68	54		None	
Naruk, Henry Middletown	44	D	4/21/70	37	9/1/65 9/24/68	Circuit Court Common Pleas	3 yrs.
O'Sullivan, Thomas Orange	58	D	11/13/69	53	7/1/67	Common Pleas	2 yrs.
Parskey, Leo Bloomfield	57	D	7/1/65	50		None	

NAME, TOWN OF RESIDENCE	AGE	POLITICAL PARTY AFFILIATION	DATE OF APP'T CURRENT POSITION	APPOINTMENTS TO OTHER COURTS			
				Age at Initial App't	Date of App't	Court	Time This Position
Radin, Michael Avon	67	D	9/1/65	54	8/26/59	Common Pleas	6 yrs.
Rubinow, Jay E. Manchester	60	D	7/1/67 Judge, Superior & Probate Court Adm.	48	5/16/60	Chief Judge, Circuit Court	7 yrs.
Saden, George A. Bridgeport	62	R	6/14/71	61		None	
Shea, David M. Hartford	50	D	1/1/66	44		None	
Sidor, Walter J. West Hartford	61	R	1/1/66	43	2/18/54	Common Pleas	12 yrs.
Speziale, John A. Torrington	50	D	4/6/65	39	11/23/61	Common Pleas	3 1/2 yrs.
Tedesco, John A. Torrington	57	Unknown	8/13/66	51		None	
Testo, Robert J. Bridgeport	52	D	7/1/69	49		None	

NAME, TOWN OF RESIDENCE	AGE 1972	POLITICAL PARTY AFFILIATION	DATE OF APP'T CURRENT POSITION	APPOINTMENTS TO OTHER COURTS			
				Age at Initial App't	Date of App't	Court	Time This Position
Tierney, Wm. L., Jr. Greenwich	65	D	1/1/68	57	5/15/65	Common Pleas	2 1/2 yrs.
Wall, Robert A. Harwinton	63	R	1/1/66	49	5/6/58	Common Pleas	7 1/2 yrs.
Wright, Douglass West Hartford	60	D	1/1/66	48	1/1/61	Circuit Court	5 yrs.
Zarrilli, Kenneth Bridgeport	61	D	3/3/71	50	1/1/61 12/30/66 3/8/67 12/30/69	Circuit Court Common Pleas - Int. Common Pleas Superior Court - Int.	6 yrs. 2 mos. 2 1/2 yrs. 2 mos.
			COURT OF COMMON PLEAS				
Aaronson, Lester New Haven	56	D	9/1/65	45	1/1/61	Circuit Couet	4 1/2 yrs.
Casale, John J. Torrington	67	R	1/24/72	56	1/1/61	Circuit Court	11 yrs.
Ciano, Michael Waterbury	68	D	7/1/67	57	1/1/61	Circuit Court	6 1/2 yrs.
DeVita, Henry J. New Haven	60	R	9/1/65	53		None	

NAME, TOWN OF RESIDENCE	AGE 1972	POLITICAL PARTY AFFILIATION	DATE OF APP'T CURRENT POSITION	APPOINTMENTS TO OTHER COURTS			
				Age at Initial App't	Date of App't	Court	Time This Position
Hamill, Edward C. Norwich	62	D	7/1/67	51	1/1/61	Circuit Court	6 1/2 yrs.
Hanrahan, John Stamford	55	D	3/3/71	49	12/30/66 3/8/67 12/30/69	Circuit Court - Int. Circuit Court Common Pleas - Int.	2 mos. 2 1/2 yrs. 1 1/2 yrs.
Levine, Norton New Haven	55	D	11/23/69	50	7/1/67	Circuit Court	2 1/4 yrs.
Martin, Luke F. Thomaston	52	D	7/1/67	41	1/1/61	Circuit Court	6 1/2 yrs.
McGuinness, John J. Bridgeport	52	D	2/5/69	48	4/19/68	Common Pleas - Int.	1 yr.
Mignone, A. Frederick New Haven	65	D	9/1/69	58	9/1/65 9/24/68	Common Pleas Chief Judge, Common Pleas	3 yrs. 1 yr.
Missal, Harold M. Bristol	60	D	11/13/69	49	1/1/61	Circuit Court	9 yrs.
O'Brien, Francis Meriden	53	D	9/1/65	42	1/1/61	Circuit Court	4 1/2 yr.

NAME, TOWN OF RESIDENCE	AGE 1972	POLITICAL PARTY AFFILIATION	DATE OF APP'T CURRENT POSITION	APPOINTMENTS TO OTHER COURTS			
				Age at Initial App't	Date of App't	Court	Time This Position
Santaniello, Angelo New London	48	R	10/4/71	42	1/1/66	Circuit Court	5 3/4 yrs.
Sponzo, Maurice West Hartford	58	D	4/21/70	53	7/1/67	Circuit Court	3 yrs.
Tunick, Archibald Greenwich	65	R	1/1/68	54	1/1/61	Circuit Court	7 yrs.
Williams, Arthur G., Jr. Madison	53	R	1/1/66	42	1/1/61	Circuit Court	5 yrs.

CIRCUIT COURT

NAME, TOWN OF RESIDENCE	AGE 1972	POLITICAL PARTY AFFILIATION	DATE OF APP'T CURRENT POSITION	APPOINTMENTS TO OTHER COURTS			
				Age at Initial App't	Date of App't	Court	Time This Position
Adorno, Joseph Middletown	60	R	1/1/66	53		None	
Alexander, John Windsor	60	R	1/1/61	48		None	
Armentano, Nicholas F. Stafford Springs	62	D	1/1/61	50		None	

NAME, TOWN OF RESIDENCE	AGE 1972	POLITICAL PARTY AFFILIATION	DATE OF APP'T CURRENT POSITION	APPOINTMENTS TO OTHER COURTS			
				Age at Initial App't	Date of App't	Court	Time This Position
Belinkie, Milton Bridgeport	60	D	6/2/69	56		None	
Bernstein, Simon Bloomfield	59	D	4/21/70	57		None	
Bieluch, Wm. Hartford	54	R	8/8/68	49		None	
Callahan, Robert East Norwalk	42	D	2/5/70	39		None	
Chernauskas, Joseph J. Oxford	57	R	1/3/63	47		None	
Corrigan, Thomas Hartford	45	D	11/14/68	41		None	
Cramer, Eli Norwich	63	D	1/1/66	57		None	
Daly, John J. Hartford	49	D	7/1/71 Chief Judge	37	1/1/61	Circuit Court	9 1/2 yrs.

NAME, TOWN OF RESIDENCE	AGE 1972	POLITICAL PARTY AFFILIATION	DATE OF APP'T CURRENT POSITION	APPOINTMENTS TO OTHER COURTS			
				Age at Initial App't	Date of App't	Court	Time This Position
Dean, Harold H. Darien	43	R	11/13/69	39		None	
Dearington, Searls Danielson	69	R	1/1/61	57		None	
DiCenzo, George C. Pine Orchard	68	Unknown	1/1/61	56		None	
Dwyer, Philip M. Mansfield Center	62	D	7/1/65	55		None	
Eielson, Rodney Branford	48	Unknown	1/1/61	36		None	
Weing, Wm. S., Jr. Wethersfield	59	R	1/1/68	54		None	
Goldberg, Henry West Hartford	64	R	5/6/66	58		None	
Henebry, James F. Waterbury	59	D	7/1/67	53		None	

NAME, TOWN OF RESIDENCE	AGE 1972	POLITICAL PARTY AFFILIATION	DATE OF APP'T CURRENT POSITION	Age at Initial App't	Date of App't	Court	Time This Position
Herman, Milton J. Bridgeport	60	D	1/1/66	53		None	
Jacobs, David Meriden	63	R	1/1/61	51		None	
Jacobson, Burton Fairfield	43	R	10/8/71 Interim	41		None	
Kinmonth, George, Jr. Mystic	64	R	1/1/61	52		None	
Lacey, J. Robert Southington	67	D	1/1/61	55		None	
Levister, Robert Stamford	54	R	9/1/65	47		None	
Lexton, Roman J. New Britain	59	D	6/4/67	53		None	
Mancini, Philip, Sr. New Haven	51	R	11/5/70	50		None	

NAME, TOWN OF RESIDENCE	AGE 1972	POLITICAL PARTY AFFILIATION	DATE OF APP'T CURRENT POSITION	APPOINTMENTS TO OTHER COURTS			
				Age at Initial App't	Date of App't	Court	Time This Position
Matzkin, Yale Waterbury	63	R	1/1/61	51		None	
Membrino, John Waterbury	67	D	6/23/69	64		None	
Monchun, Frank Windsor	57	D	1/1/61	45		None	
Maraghan, Howard New Milford	42	D	1/2/70	39		None	
Morelli, Joseph New Britain	56	D	11/23/69	53		None	
Ottaviano, John, Jr. New Haven	55	R	7/1/69	51		None	
Quinn, Francis Jewett City	50	D	9/24/68	46		None	
Reicher, Max H. New Britain	65	D	1/1/61	53		None	
Reynolds, John N. East Haven	60	Unknown	1/1/61	48		None	

NAME, TOWN OF RESIDENCE	AGE 1972	POLITICAL PARTY AFFILIATION	DATE OF APP'T CURRENT POSITION	APPOINTMENTS TO OTHER COURTS			
				Age at Initial App't	Date of App't	Court	Time This Position
Rottman, Alvin Woodmont	47	D	7/1/67	42		None	
Savitt, Max West Hartford	69	R	10/26/67	63		None	
Sicilian, Michael Fairfield	63	R	10/8/64	55		None	
Spallone, Daniel Deep River	51	D	5/16/70	48		None	
Stapleton, Luke Cheshire	59	R	1/1/61	57		None	
Toscano, Alfred New Haven	69	D	8/11/61	58		None	
Yesukiewicz, Stanley Enfield	63	D	1/1/61	51		None	
JUVENILE COURT							
Brenneman, Frederica	46	D	9/1/67	41		None	

NAME, TOWN OF RESIDENCE	AGE 1972	POLITICAL PARTY AFFILIATION	DATE OF APP'T CURRENT POSITION	APPOINTMENTS TO OTHER COURTS			
				Age at Initial App't	Date of App't	Court	Time This Position
Conway, Michael Norwich	45	D	9/1/67	40		None	
Driscoll, Margaret Bridgeport	57	D	4/10/60	45		None	
Gill, Thomas D. Chief Judge West Hartford	64	I	12/26/41	32		None	
Glass, Robert D. Watertown	50	D	9/1/67	44		None	
McLinden, John Waterbury	68	D	4/30/63	59		None	

ANALYSIS OF INFORMATION REGARDING JUDGES

FACTOR	COURTS					
	Supreme Court	Superior Court	Common Pleas Court	Circuit Court	Juvenile Court	All Courts
Age in 1972 (Average)	65 1/2	60	58	58	55	59
Range	61 - 70	44 - 70	48 - 68	42 - 69	45 - 68	42 - 70
Length of Time in Current Positions (Average)	3 1/2 yrs.	5 1/2 yrs.	3 1/2 yrs.	6 1/3 yrs.	10 1/2 hrs.	5 2/3 yrs
Range	9 mos. - 6 1/2 yrs.	2 mos. - 14 1/2 yrs.	1 month - 6 1/2 yrs.	5 mos. - 11 yrs.	4 1/2 yrs. - 30 yrs.	1 month - 30 yrs.
Court of First Appointment						
Supreme Court	0	0	0	0	0	0
Superior Court	4	8	0	0	0	12
Common Pleas Court	2	19	3	0	0	24
Circuit Court	0	8	13	43	0	64
Juvenile Court	0	0	0	0	6	6
Age At Initial Appointment (Average)	46	48	50	50	43 1/2	49
Range	39 - 51	36 - 61	41 - 58	36 - 64	32 - 59	32 - 64
Length of Time in Initial Position (Average)	10 yrs.	6 yrs.	5 yrs.	All still hold this		7 1/2 yrs.
Range	4 1/2 yrs. - 13 yrs.	8 mos. - 24 yrs.	2 mos. - 11 yrs.	position--see above		2 mos. - 30 yrs.
Political Party Registration [1]	(6)	(35)	(16)	(43)	(6)	(106)
Democratic	1	25	11	22	5	64
Republican	4	9	5	18	0	36
Independent	0	0	0	0	1	1
Unknown	1	1	0	3	0	5

[1] Of the judges still holding office, the political affiliations of the judges taking office during the terms of the several governors are as follows:

Gov. Hurley	(D)	(1941 - 43)	3 Democrats	
Gov. Bowles	(D)	(1949 - 51)	1 Democrat	
Gov. Lodge	(R)	(1951 - 55)		7 Republicans
Gov. Ribicoff	(D)	(1955 - 61)	6 Democrats	2 Republicans
Gov. Dempsey	(D)	(1961 - 71)	54 Democrats	25 Republicans
Gov. Meskill	(R)	(1971 -)		2 Republicans

It should be noted that the initial appointment of judges to the Circuit Court was by Governor Ribicoff in 1959 in accordance with an equal division agreed upon by the political leaders and the judges actually took office on January 2, 1961.

INTERIM REPORT OF THE SUBCOMMITTEE ON JUDICIAL MERIT SELECTION

INTRODUCTION

The idea of judicial selection on the basis of merit was conceived by Professor Albert Kales of Northwestern University in 1914. At that time most judges were either elected or appointed to office, and both of these methods of judicial selection involved political processes.

The important change in judicial selection methods proposed by Professor Kales was the creation of a non-political commission, comprised of members of the public and the legal profession, to screen the names of potential appointees. The appointing authority no longer has a wide range of choice under the Kales plan, but, instead, is required to make the appointment from a list compiled by the Judicial Merit Commission.

While the Kales proposal was unpopular at first, it received the endorsement of the American Bar Association and the American Judicature Society, and was ultimately adopted in Missouri in 1940, in California in 1967 and has been either adopted or proposed in many other states as well.

The crucial element of the Kales or Missouri plan is a judicial merit commission which develops a list of nominees after carefully screening the names of prospects who apply for a vacant judgeship or who come to the attention of the commission in its search for the best qualified persons to recommend for judicial office. When a judicial vacancy develops, the commission provides the nominating or appointing authority with a list of names, usually three, from which the nomination or appointment is made.

When the term of office of a judge expires, the Judicial Merit Commission may also consider whether the judge is qualified for reappointment. In some states, the incumbent judge is required to run unopposed in an election in which the only question is whether he should be reappointed. Experience has shown, however, that a judicial merit commission is better able to determine the qualifications of a judge than an uninformed and apathetic electorate. Accordingly, it is recommended that in Connecticut the Judicial Merit Commission be responsible for both appointment and reappointment of judges.

While no two plans for merit selection of judges are the same, inasmuch as the needs and characteristics of the various states are different, it is believed that the attached proposal represents the best plan for Connecticut, and one that should be acceptable to the Governor, General Assembly, the bar, the judiciary, and the citizenry of the State. It is a plan that was endorsed in substance by the National Conference on the Judiciary in Williamsburg in 1971, as it had previously been endorsed at the first national conference on the judiciary in Chicago in 1959.

There will undoubtedly be opposition to a plan of judicial selection on the basis of merit, but if all those concerned citizens, who favor an improvement in the court system in Connecticut, will actively support this proposed bill, its enactment into law, with an accompanying amendment to the Constitution, is assured.

AN ACT CONCERNING A JUDICIAL MERIT COMMISSION

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Sec. 1. Except as otherwise provided in this act, judges of the Supreme Court and judges of the trial court shall be selected, and a vacancy in any such office shall be filled, by nomination by the Governor and appointment by the General Assembly of one of three persons recommended for the office to be filled, in the manner provided in this act, by the Judicial Merit Commission. The Governor shall forward his selection as nominee to the General Assembly within thirty days after the submission of the names of the persons recommended to him by the commission. In the event of the failure of the Governor and General Assembly to make the nomination or appointment within sixty days from the time when the names of the recommended persons are submitted, the chief justice of the Supreme Court shall make the nomination and appointment from the persons recommended by such commission.

Commentary: Under the existing system, the Governor has complete discretion in the nomination of judges. While this system has produced capable judges, the best qualified attorneys have not always been nominated, and, in some instances, unqualified attorneys have been nominated. Moreover, well qualified attorneys have been discouraged from seeking judicial office because they have not had the necessary political affiliations. Since any judicial system requires competent judges, and the confidence and respect of the citizenry, it is submitted

that judicial nominees should be drawn from a panel of candidates selected after a thorough review by a non-partisan and dedicated Judicial Merit Commission.

Sec. 2 (a). The chief justice of the State shall be designated by the Judicial Merit Commission from the membership of the Supreme Court and shall retain said office for a period of five years so long as he shall remain a member of that court, except that a member of the court may resign the office of chief justice without resigning from the court. During a vacancy in the office of chief justice, all powers and duties of said office shall devolve upon the member of the Supreme Court who is senior in length of service on said court. (b) The chief justice of the State shall be the executive head of the judicial system and shall appoint an administrator of the courts of the State. The administrator shall, under the direction of the chief justice, prepare and submit to the General Assembly the budget for the judicial department and perform all other necessary administrative functions relating to the courts. (c) The chief judges of the trial court shall be designated by the Judicial Merit Commission from the members of the trial court and shall retain that office for a period of four years so long as they are a member of said court, except that a member of such court may resign the office of chief judge without resigning from such court. (d) Magistrates of the trial court shall be appointed by the chief justice of the Supreme Court subject to confirmation by the Judicial Merit Commission.

Commentary: As the chief justice, in particular, and the chief judges, to a lesser extent, have an important influence on the effective operation of the court system, the Judicial Merit Commission should have the authority to recommend

the persons to be nominated for these offices. The chief justice should serve for a term of five years in order to allow him sufficient time to implement any ideas that he may have. The chief judges should serve for a somewhat shorter term because rotation of these offices is more desirable. The chief justice and the chief judges should be selected from members of their respective courts to permit the offices to be rotated even when there is no actual vacancy on their courts. It is contemplated that the administrator of the courts would not be a judge, but, instead, an experienced administrator familiar with business procedures. The magistrates would be quasi-judicial personnel, capable of performing certain judicial functions. The qualifications and duties of magistrates would be best known to the chief justice. Leaving the appointment of magistrates to the chief justice, subject to conformation by the Judicial Merit Commission, would allow the commission more time to concentrate on its primary task of recommending qualified persons for judgeships.

Sec. 3. A judge of the Supreme Court or a judge of the trial court holding such office by virtue of appointment persuant to this act or prior statutes, shall, upon expiration of his appointed term, be eligible for renomination and reappointment upon recommendation of the Judicial Merit Commission to the Governor and the General Assembly. In the event of such recommendation for reappointment by the commission, there shall be deemed to be no vacancy in that office unless such recommendation is rejected by the Governor or the General Assembly within sixty days from the date when such recommendation is forwarded to the Governor.

If the Governor or the General Assembly shall fail to make the nomination or appointment, or shall fail to reject such recommendation within sixty days of the submission to him or it, then the chief justice may reappoint such judge.

Commentary: Rather than submit the question of reappointment to the electorate, as is done under the Missouri Plan, it is suggested that reappointment be handled by the Judicial Merit Commission. It is believed that the Judicial Merit Commission can scrutinize a judge more carefully than an uninformed and apathetic electorate. Moreover, judges should prefer to have their records and qualifications reviewed by an impartial commission rather than submit to an election in which politics, instead of merit, may be determining factors. A time limit is placed on the authority of the Governor and General Assembly to act, and authority vested in the chief justice to reappoint in default of action by the Governor and General Assembly, so that the judicial department can remain at full strength to meet its heavy work load.

Sec. 4. In the event of vacancies occurring during a period when the General Assembly is not in session, the Governor shall make an interim appointment from the persons recommended by the Judicial Merit Commission within sixty days after receipt from the commission of the names of the persons recommended. The name of the interim appointee shall be submitted as a nomination to the General Assembly promptly after it next convenes for action as to permanent appointment for the unexpired term within thirty days thereafter. In the event of the failure of the Governor or the General Assembly to act within the specified

time periods, the chief justice of the Supreme Court may make the appointment from such recommended persons or of such interim appointee.

Commentary: This section provides for the prompt filling of unexpected vacancies for an unexpired term by interim appointment, so that judicial offices will remain vacant for the shortest possible period of time, even though the General Assembly is not in session.

Sec. 5. The office of a judge of either the Supreme Court or the trial court becomes vacant upon expiration of his term of appointment if the Judicial Merit Commission does not recommend reappointment, or upon rejection of a recommendation for reappointment by the Governor or the General Assembly.

Commentary: This section explains how a vacancy is created.

Sec. 6. Judges of the Supreme Court and of the trial court shall hold office for a term of eight years from the date of appointment, or interim appointment when confirmed by the General Assembly, or from date of appointment by the chief justice upon failure of the Governor or the General Assembly to act within the time prescribed, unless sooner retired or removed from office. Interim appointees shall hold office until confirmation or rejection of their interim appointment. Judges and justices holding office pursuant to prior statutes shall hold office until the expiration of their existing appointed terms unless sooner retired or removed from office.

Commentary: This section establishes the term of office for judges. As it is hoped that there will be a single trial court, the term of office is set at eight years, as now provided for judges of the Supreme Court and Superior Court,

rather than four years, as now provided for judges of the lower courts. The establishment of a separate commission to consider retirement and removal of judges will eliminate the risk that disabled, incompetent or corrupt judges will remain in office for their unexpired term. If a judge's term of office is too short, his conduct on the bench may be affected by his apprehension concerning reappointment, while a longer term will permit him to establish his reputation as a competent judge.

Sec. 7. The Judicial Merit Commission shall be comprised of the chief justice of the Supreme Court, one attorney admitted to practice law in the State of Connecticut and residing in each congressional district elected by vote of the attorneys admitted to practice law in the State of Connecticut and residing in that district, one elector resident in each congressional district who is not a graduate of a law school and who is nominated by the Governor, and confirmed by the General Assembly, provided not more than one half of the electors shall be from the same political party.

Commentary: The chief justice, with his wide acquaintance with judges and his understanding of judicial qualifications, would be a valuable and respected member of the Judicial Merit Commission. Attorneys, with representation from each congressional district, would possess information concerning the qualifications of individual candidates for judicial office and also an understanding of the qualities required of a judge. Lay members of the commission would contribute an objective point of view to counteract the opinions of attorneys who might tend to be hypercritical and too subjective in their judgments. The lay members of the commission

would give assurance to members of the general public that they have a voice in the selection of judges who may some day decide their fate. It is believed that the bar and the laity should be equally represented to prevent dominance of one point of view over another. Confirmation of lay appointees is desirable in order to prevent a Governor from dictating the selection of judicial candidates through his power to choose the lay members of the commission. While it is arguable that laymen should constitute a majority of the commission, the possibility of gubernatorial domination of the commission requires not only that laymen constitute less than a majority of the commission but also that the Governor's appointments to the commission be confirmed by the General Assembly. In order to minimize the impact of politics on the operation of the commission not more than one-half of the citizen members of the commission should be from the same political party. Considering the method of selection of attorney members of the commission, it would not be possible to impose a similar restriction on the attorney members of the commission. It is recommended that no judges other than the chief justice be members of the Judicial Merit Commission, but that judges be represented on a separate commission to consider the retirement and removal of judges.

Sec. 8. If any of the above appointments of electors be made during a recess of the General Assembly, they shall be subject to confirmation by the General Assembly at its next session. The term of office for an elected or appointed member of the Judicial Merit Commission shall be six years, except that, of the members first elected and appointed, two attorney members and two

elector members shall each serve for two years, and two attorney members and two elector members shall each serve for four years. Thereafter, the term of office of each member shall be for six years, except that vacancies shall be filled for the unexpired term in like manner. The chief justice of the Supreme Court shall serve ex officio. No member of the Judicial Merit Commission, except the chief justice, may hold any other office or position, whether paid or unpaid, under the United States or the State of Connecticut or any town, city or borough or any political subdivision or board, agency, authority or similar body created by the United States, the State of Connecticut, or any town, city or borough or any political subdivision thereof, or any official position or any office in any political party whether paid or unpaid. Notwithstanding the foregoing, no person shall be ineligible to serve on the Judicial Merit Commission who is a member of the faculty of any State college or university. The Judicial Merit Commission shall adopt rules governing its procedure and shall act by concurrence of a majority of its members present and voting, and according to the rules which it adopts. Each member of the commission shall have one vote.

Commentary: This section assures that all elector members of the Judicial Merit Commission will be confirmed by the General Assembly, so that a Governor, who enjoys long tenure in office, cannot exercise undue control over the selection of judges by selecting the elector members of the commission. Staggered terms of office for commission members will assure continuity of commission operation. The section is also intended to assure non-partisan and unbiased exercise of judgment by commission members, so that the nominees for judgeships will represent

the best qualified persons, regardless of political affiliations. The commission should have authority to adopt its own rules as an autonomous body, and should not be subject to the rule-making power of the Supreme Court.

Sec. 9. Attorney members of the Judicial Merit Commission shall be admitted to practice law in the State of Connecticut, residing and practicing within the State. Nominations of attorney members shall be made in writing, filed in the office of the clerk of the Supreme Court by January 30, 197 , and thereafter on or before October first of each odd-numbered year. Each nomination of an attorney shall be accompanied by a written consent of the nominee to serve as a member of the Judicial Merit Commission, if elected. At least two qualified attorneys from each congressional district must be nominated and, if insufficient nominations are made, the chief justice of the Supreme Court, within ten days after the last day for filing nominations, shall nominate additional candidates for said position so that there shall be two qualified candidates for each position. The clerk of the Supreme Court shall then mail a ballot, with the names of each nominee, to attorneys admitted to practice law in the State of Connecticut and residing in such congressional district, designating a date, at least ten days and not more than twenty days after such date of mailing by the clerk of the Supreme Court, when said ballots will be opened and counted. Said ballot shall be counted by a board consisting of the clerk of the Supreme Court, the Secretary of the State, and the Attorney General, or by their designated alternates. The clerk of the Supreme Court shall insure that said election is conducted so as to maintain the secrecy of said ballot and the validity of the

results. Upon the election of any attorney member to the Judicial Merit Commission, the clerk of the Supreme Court shall promptly certify his election to the Governor and the Secretary of State.

Commentary: It is submitted that the attorneys in the State of Connecticut can best be represented on the Judicial Merit Commission by election of one attorney from each congressional district. This will insure adequate geographical coverage, and should not be affected by the "one man one vote" rule inasmuch as the Judicial Merit Commission is not a governing body. Attorney members of the commission should be admitted to practice law in Connecticut, and should reside and practice within the State to assure their familiarity with the practicing bar in their congressional district. Although the proposed bill does not require that an attorney member of the commission reside and practice in the congressional district from which he is elected, it is unlikely that the attorneys residing in a particular congressional district would elect a member of the commission who practices outside that congressional district. In defining eligibility to vote in such an election, any definition is to some extent arbitrary, yet it is submitted that residence in a congressional district, rather than office location, constitutes the best criterion for eligibility to vote.

Sec. 10. Each year, on or before September first, the clerk of the Supreme Court shall determine what, if any, vacancies exist on the Judicial Merit Commission and shall report the status of the Judicial Merit Commission to the Governor. Vacancies relating to any member of such commission appointed by the Governor and General Assembly shall be filled promptly, by interim

appointment by the Governor if the General Assembly is in recess subject to confirmation of appointment, for the unexpired term. Vacancies of attorney members of the Judicial Merit Commission shall be filled promptly by a special election for the unexpired term, conducted by the clerk of the Supreme Court in the manner applicable to regular election of attorney members of said commission.

Commentary: This section merely provides for the filling of unforeseen vacancies for an unexpired term.

Sec. 11. The members of the Judicial Merit Commission shall elect a chairman and vice-chairman from among their members who shall serve for a term of two years. The chairman and vice-chairman shall not be eligible to succeed themselves, but the vice-chairman shall be eligible for election to chairman. The chairman, or vice-chairman in his absence, shall preside at all meetings and shall be entitled to vote. An attorney member of the commission shall not be eligible for judicial appointment for a period of three years from the date of termination of his term of service on the commission.

Commentary: It is intended that the chairmanship should rotate so that no single member will be able to dominate the commission throughout his term. It is clearly implied that the chief justice of the Supreme Court shall be eligible for the chairmanship, and shall be entitled to vote. The proposed bill purposely leaves the adoption of rules of procedure to the commission itself in order to preserve flexibility in commission operation.

Sec. 12. In the event of a judicial vacancy, the chief justice of the Supreme Court shall advise the chairman of the Judicial Merit Commission of such vacancy. The chairman shall set a time and place for the first meeting of such commission, which meeting shall be held within fifteen days after the chairman is advised of such vacancy. The chairman shall thereupon notify each commission member in writing of the time and place of said meeting, and shall also cause appropriate notice to be published by the news media of the time, place and purpose of the meeting of said commission, and of the interest of said commission in receiving information relating to qualified candidates for said judicial vacancy. The Judicial Merit Commission shall make such independent investigation and inquiry as it considers necessary or expedient to determine the qualifications of candidates for the judicial vacancy, and shall take such action as it deems necessary or expedient to encourage qualified persons to be considered for judicial office. State agencies shall cooperate fully with the commission in its investigations and provide all information requested by the commission.

Commentary: When a vacancy occurs in the judiciary, the Judicial Merit Commission should act promptly to fill the vacancy, and the general public should be given the opportunity to make its views known at a closed session of the commission. It is submitted that a public hearing is not necessary or desirable as a preliminary step in the filling of a judicial vacancy. In fact, a public hearing could prove to be detrimental to potential nominees and to the judicial system in the event that witnesses make unfounded statements and scurrilous remarks.

Any and all suggestions and remarks can be received informally by the commission, and thus the identity and reputation of potential nominees preserved. In some instances, an attorney may not wish his interest in a judicial appointment revealed to his clients or associates in the event that he is never recommended by the commission for nomination. Moreover, in the event that an attorney is recommended by the commission and nominated by the Governor, the general public will have an opportunity to appear and speak when the Committee on Judiciary and Governmental Functions of the General Assembly conducts its public hearing on the nomination. Finally, many attorneys may be reluctant to seek public office, because they dislike the publicity of public hearings or prefer to maintain their private practice, and, therefore, it may be necessary for the Judicial Merit Commission to seek out well qualified attorneys and persuade them to be considered for judicial office.

Sec. 13. Any judge of the Supreme Court or the trial court who desires to continue in office for an additional term shall communicate his desire in writing to the chief justice of the Supreme Court on or before August first immediately preceding the expiration of his term in office. He shall include in his communication a request that the chief justice submit to the Judicial Merit Commission the question of his retention in office for an additional term.

Commentary: This section establishes the procedure to be followed by an incumbent judge who seeks reappointment.

Sec. 14. With respect to any judge requesting consideration for renomination and reappointment, the chairman of the Judicial Merit Commission shall

promptly set a time and place for the first meeting of such commission with respect thereto, which meeting shall be held within fifteen days after the chairman is advised by the chief justice as provided in the preceding section. The chairman shall thereupon notify each commission member in writing of the time and place of said meeting, and shall also cause appropriate notice to be published by the news media of the time, place and purpose of the meeting of said commission, and of the interest of said commission in receiving information relating to said judge. Any member of the public shall be entitled to attend the meeting to express, either orally or in writing, his views concerning said judge. After the meeting, the commission shall hold such additional meetings as it determines to be necessary. Additional information may be submitted in writing to the commission at any time prior to its rejection or recommendation of said judge for reappointment. The Judicial Merit Commission shall make such independent investigation and inquiry as it considers necessary or expedient to determine the qualifications of said judge for reappointment. State agencies shall cooperate fully with the commission in its investigations, and the files and records of the commission on retirement and removal of judges shall be available to and received by the Judicial Merit Commission in the course of its deliberations.

Commentary: Prompt action by the Judicial Merit Commission is necessary when a judge seeks reappointment, because even though the commission may recommend reappointment, this recommendation may be rejected by the Governor or the General Assembly, thus requiring the commission to seek three qualified candidates to recommend to the Governor for nomination and appointment before the

particular judicial office becomes vacant. In the case of reappointment, as distinguished from the filling of a judicial vacancy, a public hearing is necessary to permit anyone with evidence relevant to reappointment to be heard, and in order to assure the general public that it has a voice in the judicial process. The commission must be prepared to protect the integrity of the particular judge and the judicial department against unwarranted criticism from disappointed litigants and others who may bear a grudge against the particular judge. The value of a public hearing in this situation, however, outweighs the right of the particular judge to immunity from public criticism. The latter is a risk that he assumes when he accepts a judgeship. To assist the Judicial Merit Commission in deciding the question of reappointment, it is vital that all files and records concerning the particular judge in the possession of the commission on retirement and removal of judges be examined by the Judicial Merit Commission, with proper safeguards to assure no breach of confidentiality.

Sec. 15. It shall be unlawful for any person or organization, and a breach of ethics for any judge, public or lawyer, to influence or attempt to influence the Judicial Merit Commission in any manner and on any basis except by presenting facts and opinions relevant to the judicial qualifications of the proposed nominees at the times and in the manner set forth herein. Violation of this section shall be considered contempt of the trial court within and for the county wherein the violation occurs, and shall be treated as contempt of court as by law provided. In the event any member of the bar violates this

section, such violation shall be immediately reported to the grievance committee in the county wherein the offense occurs for appropriate disciplinary action.

Commentary: This section is intended to relieve the Judicial Merit Commission from outside pressures in the selection of the best qualified nominees for the bench. There is a question as to the appropriate remedy for a contempt committed by a non-lawyer outside the presence of the court, and therefore, the procedure for punishing this type of contempt is stated in general terms rather than attempting to delineate the complicated law of contempt in Connecticut.

Sec. 16. All records made, maintained, or kept on file, all communications to or from, and all records of votes taken by the Judicial Merit Commission or its members arising out of the discharge of its and their duties under this Act, except the records made and communications received at any duly called public hearing, shall be confidential and otherwise excepted from the provisions of Section 1-19. Such records and communications shall be privileged from use in any legal action except one charging misconduct in office by a member of said commission, or one involving contempt of court or misconduct of an attorney based on a communication to the said commission, in which case the court may admit the same, after examination of the document, upon such terms as it deems just and proper.

Commentary: The purpose of this section is to render all records and communications confidential, except records made and communications received at public hearings. Such records and communications are also intended to be privileged

except as provided in the last sentence of the section. This section has been drafted in conformity to Sec. 1-19 through 1-21 of the General Statutes, and Public Acts 193 and 499 of the 1971 General Assembly.

Sec. 17. The Judicial Merit Commission shall have an executive secretary and such clerical assistance as may be required. Its reasonable expenses of operation shall be included within the budget of the judicial department. Members of the Judicial Merit Commission shall not receive compensation for their services as members of the commission, but they shall be entitled to be reimbursed for actual expenses necessarily incurred in attending meetings and in performance of official duties.

Commentary: This section assures the commission of sufficient funds and personnel to operate effectively.

Sec. 18. In any proceeding pertaining to the chief justice of the Supreme Court, he shall be disqualified from participation in the deliberations of the Judicial Merit Commission, and shall be excluded from private or confidential meetings relating to him.

Commentary: This section excludes the chief justice from any proceedings relating to his reappointment as judge or chief justice.

STATEMENT OF PURPOSE: To establish a Judicial Merit Commission responsible for the appointment and reappointment of judges, including the selection of the chief justice and the chief judges of the trial court.

Respectfully submitted,

Francis C. Cady, Chairman
West Hartford, Connecticut

Myron R. Ballen, Esq.
Bridgeport, Connecticut

George T. Calder, Esq.
Bristol, Connecticut

Robert M. FitzGerald, Esq.
Litchfield, Connecticut

G. Sarsfield Ford, Esq.
Bridgeport, Connecticut

John F. Holian, Esq.
Newtown, Connecticut

Isadore M. Mackler, Esq.
Stamford, Connecticut

W. Bradley Morehouse, Esq.
Bridgeport, Connecticut

John F. Murphy, Jr., Esq.
Hartford, Connecticut

J. Read Murphy, Esq.
Hartford, Connecticut

Howard T. Owens, Jr., Esq.
Bridgeport, Connecticut

Rev. Charles Pendleton
West Hartford, Connecticut

Mr. Raymond F. Sabatella, Jr.
Southington, Connecticut

Samuel V. Schoonmaker, Esq.
Stamford, Connecticut

Max H. Schwartz, Esq.
New Haven, Connecticut

Abraham S. Ullman, Esq.
New Haven, Connecticut

Edward B. Winnick, Esq.
New Haven, Connecticut

Martin Wolman, Esq.
Hartford, Connecticut

Appendix M

INTERIM REPORT OF THE SUBCOMMITTEE ON JUDICIAL QUALIFICATIONS COMMISSION

As matters presently stand there is no provision under the Constitution and laws of this State for the removal of unqualified persons from the bench except by impeachment or through address to the Governor of two-thirds of each house of the General Assembly. (Art. 5 § 2 Constitution of 1965). For permanent physical disability, a judge can be retired on his own application or by an application of the chief justice to a committee set up under §51-49.

In 1969 in an attempt to broaden the scope of supervision over the conduct of judges was made by the creation of a Judicial Review Council. This body consists of a judge of the Supreme Court, a judge of each of the lower courts and the Juvenile Court and three persons not actually engaged in the practice of law in this State appointed by the Governor. The members of this eight-man body were to serve a term of four years (51-51a). Their duties and powers were to:

> "** investigate all complaints, submitted in writing against any judge appointed by the Governor and may establish rules of ethical conduct for employees of the judicial department and undertake investigation of conduct which may violate the canons of professional or judicial ethics."

Other sections of the Act provided for hearings on complaints and the filing of a report on the results thereof with the Governor and the Joint Standing Committee on Judiciary and governmental functions with the council's recommendations as to reappointment or retirement for physical disability.

This method of review of the judiciary was felt to be much too restrictive and to be unsatisfactory for the further reason that five out of the eight members of the council were themselves judges who would be sitting in judgment

of their peers. And the remedy remained the cumbersome procedure of impeachment or address.

To remedy this situation the subcommittee of the Joint Committee for Judicial Modernization has drafted a bill which would create a commission on judicial qualifications.

This bill which would be sanctioned by a constitutional amendment, follows the general form of similar statutes in some dogma states where the "Commission Method" of reviewing the work of the judiciary is in force. The commission would consist of nine members of whom three would be judges of the trial courts, one from each is presently constituted, three lawyers chosen by the Merit Selection Commission and three electors who are not lawyers and hold no public office or employment. They would serve for six years.

The bill would give the commission power to censure or to recommend for removal or retirement as the case might be whenever, through the investigation of complaints or on their own initiative, they found a judge (1) physically or mentally incapacitated permanently (2) refusing persistently to carry out his duties (3) or who was intemperate (4) was convicted of a felony or a crime involving morale turpitude or (5) whose conduct was damaging to the image of the Judiciary or (6) transgressed the canons of Judicial Ethics.

The report of the American Judicature Society examined by the subcommittee indicates that in other jurisdictions having the commission system has had beneficial effects and has influenced the conduct of the judges in disposing of court business.

The investigation and all proceedings short of formal recommendation would be conducted and held in the strictest confidence so as to prevent any damage to reputation until a recommendation was to be made. This protects the judge from any harm arising from baseless accusations. Also, it gives the judge under investigation ample opportunity to retire before the commission acts if complaints are well founded.

This has the further beneficial effect of restoring the confidence of the public in the judicial system and of instilling respect for the court system.

AN ACT CONCERNING RETIREMENT, REMOVAL AND DISCIPLINE OF THE JUDICIARY

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Sec. 1. Judges of the supreme court and of the trial court, collectively referred to hereinafter as "judges", shall hold office for the term appointed unless sooner retired or removed pursuant to the provisions of this act or of the Connecticut Constitution.

Sec. 2. On attaining the age of seventy years, a judge shall be retired by operation of law from active membership on any court except that he shall be eligible thereafter for special assignment by the chief justice.

Sec. 3. A judge shall be retired for incapacity after a hearing and determination by the judicial qualifications commission that the judge is so physically or mentally incapacitated as to be unable to carry out his duties and if it appears that

he will not be able to resume the normal duties of a judge within a reasonable period. The commission shall certify to the chief justice of the supreme court to the governor that such incapacity exists. The commission may take testimony relative to the incapacity and may engage medical practitioners to examine the judge. Upon certification to the governor and chief justice, the commissioner shall enter an order retiring said judge.

Sec. 4. Any judge retired pursuant to the provisions of Section 3 of this act shall receive retirement pay to be determined as provided by Section 51-50 of the general statutes.

Sec. 5. A judge shall be subject to censure, discipline or removal from office, or to censure, discipline and removal from office by order of the supreme court after due notice and hearing if: (a) he is hereafter convicted of a felony under Connecticut law or federal law, or, convicted of an offense committed in another jurisdiction which would have been punishable as a felony under Connecticut or federal law; (b) he is convicted of any crime which involves moral turpitude under Connecticut law or federal law, or the law of any other jurisdiction; (c) he willfully and persistently fails to perform his judicial duties; (d) he is habitually intemperate; (e) his conduct, both in the performance of his judicial duties and in his personal demeanor, is prejudicial to the administration of justice; (f) he is incompetent and neglectful in the performance of his duties; or (g) he violates any Canon of Judicial Ethics or amendments or changes thereto made effective hereafter.

Sec. 6. A judge who is a member of the judicial qualifications commission, or any justice of the supreme court, shall be disqualified from participating in such capacity in any proceedings involving his own censure, discipline, retirement or

removal, and in any proceedings involving the censure, discipline, retirement or removal of any judge with whom he has, or has had in the past, a personal relationship which would be sufficient to disqualify him from hearing a case of that person in a Connecticut court of law.

Sec. 7. A judge is disqualified from acting as a judge, without loss of salary, while there is pending (a) a charge against him for a crime punishable as a felony under Connecticut or federal law or the law of any other jurisdiction, or a charge against him in another jurisdiction which would be punishable as a felony under Connecticut or federal law; or (b) a charge against him for a crime under the law of any jurisdiction which involves moral turpitude under Connecticut law; or (c) a recommendation to the supreme court by the judicial qualifications commission for his censure, discipline or removal.

Sec. 8. On recommendation of the judicial qualifications commission or on its own motion, the supreme court shall suspend a judge from office without salary when in any jurisdiction he pleads guilty or no contest to, or is found guilty of, a crime punishable as a felony, or of any other crime that involves moral turpitude under Connecticut or federal law. If his conviction subsequently is reversed, his suspension shall terminate and he shall be paid his salary for the period of suspension. If he is suspended and his conviction becomes final, the supreme court shall remove him from office.

Sec. 9. The judicial qualifications commission may investigate on its own motion, and shall investigate upon the complaint of any person, any alleged instance of misconduct, criminal conduct, intemperate behavior, incompetence, neglect,

prejudicial behavior, failure to perform his judicial duties, or the like, on the part of any judge; and it shall investigate any indication of incapacity to perform judicial duties at the request of a judge, or upon information received from any other person.

Sec. 10. Procedures for the investigation of matters and for the recommendation of action, if any, to be taken involving judges shall be adopted by the judicial qualifications commission and shall become effective upon adoption by the supreme court pursuant to its rule-making power. Procedures shall accord the respondent judge the right to cross-examination of witnesses and those rights accorded to an accused in judicial proceedings under the criminal law of the state of Connecticut. Records and proceedings shall be confidential except upon the written request of the respondent judge, or upon a recommendation to the supreme court for censure, discipline or removal, or upon request of the judicial merit commission which shall maintain the confidentiality thereof.

Sec. 11 (a) The judicial qualifications commission shall have the power to issue subpoenas to compel appearance of persons and documents before it. (b) Improper conduct before the judicial qualifications commission shall be punishable as contempt by the supreme court.

Sec. 12. All state agencies of the state of Connecticut shall be subject to the subpoena power of the judicial qualifications commission and shall cooperate fully with the commission and provide it with all assistance which it reasonably requests in the performance of its duties persuant to this act.

Sec. 13. In the event of permanent removal of a judge pursuant to Sections 5 and 8 of this act, he shall be ineligible for retirement benefits provided his contributions shall be returned to him within 60 days from his final removal from office, together with interest at the rate per annum provided by law.

Sec. 14. Sections 5 and 8 of this act shall be applicable to any justice or judge serving a time of appointment commencing on or after the effective date of this act.

Sec. 15. The judicial qualifications commission shall be comprised of three judges, one from each of the three trial courts, elected by a majority of the judges of each such court, three attorneys engaged in the active private practice of law in, and resident of, the state of Connecticut, to be appointed by the merit selection commission, and three elector residents of this state who have never held judicial office or been licensed to practice law in any state or federal court, to be nominated by the governor and confirmed by both houses of the legislature. If any such appointments of electors are made during a recess of the legislature, they shall be subject to confirmation of the legislature at its next session. Should the legislature eliminate any of such trial courts, the chief judge of the highest trial court shall appoint that number of judges from any of the remaining trial courts necessary to fill the three appointments of judges from the trial courts, which appointment shall not affect the right and duty of the judges of the lower, remaining trial court to elect one judge from such trial court to the judicial qualifications commission.

Sec. 16. The term of office for a member of the judicial qualifications commission shall be six years, except that of the members first appointed or elected, one attorney member, the judge selected from the highest trial court, and one elector member shall each serve two years, one attorney member, the judge of the next highest trial court and one elector member shall each serve four years, and one attorney member, the judge of the remaining trial court, and one elector member shall each serve six years. Thereafter, appointments and elections shall be made for six-year terms except that vacancies shall be filled for unexpired terms in the same manner in which the original appointment is made. No member of the judicial qualifications commission, except a judge, may hold any other office or position of compensation with the United States or the state of Connecticut. The judicial qualifications commission shall act by concurrence of a majority of its members present by voting. The commission shall make rules and regulations governing its action which shall become effective upon their approval by the supreme court.

Sec. 17. The members of the judicial qualifications commission shall elect a chairman and vice-chairman from among their members who shall serve for a term of two years. The chairman and vice-chairman shall not be eligible to succeed themselves but the vice-chairman shall be eligible for election to chairman. The chairman, or vice-chairman in his absence, shall preside at all of its meetings and shall be entitled to vote.

Sec. 18. It shall be unlawful for any person or organization to attempt to influence improperly the judicial qualifications commission in any manner and on

any basis. Violation of this section shall be considered as contempt of the supreme court of the state of Connecticut and shall be punishable as for contempt or by appropriate discipline with respect to any member of the bar or any judge involved in any such unlawful or unethical conduct.

Sec. 19. All communications between members of the judicial qualifications commission and between any member of said commission and any judge, and all other communications with members of the commission shall be confidential except as otherwise provided herein and shall be privileged from use in any legal action except one charging misconduct in office of a member of the judicial qualifications commission or one involving contempt of court, or misconduct of an attorney based on said communication.

Sec. 20. The judicial qualifications commission shall have a salaried executive secretary and such clerical assistance as may be required. Its reasonable expenses of operation shall be included within the budget of the judicial department. Members of the judicial qualifications commission shall not receive compensation for their services as members of the commission, but they shall be entitled to be reimbursed for actual expenses necessarily incurred in attending meetings and in the performance of official duties.

Sec. 21. Section 51-49 of the general statutes is hereby repealed.

Sec. 22. This act shall take effect upon the approval and adoption of the proposed amendment to the constitution concerning retirement, censure, removal and discipline of the judiciary.

STATEMENT OF PURPOSE: To establish a procedure for retirement, censure, removal and discipline of the judiciary in conformity with the proposed constitutional amendment concerning the judiciary.

Respectfully submitted,

Morris Tyler, Chairman
New Haven, Connecticut

Dana C. Ackerly, Esq.
New Canaan, Connecticut

Michael J. Dorney, Esq.
New Haven, Connecticut

Joel Ellis, Esq.
Hartford, Connecticut

Mr. Arthur Johnson
Hartford, Connecticut

James W. Littlefield, Esq.
Hartford, Connecticut

Edward G. Mascolo, Esq.
Waterbury, Connecticut

Irving H. Perlmutter, Esq.
New Haven, Connecticut

Peter J. Preisner, Esq.
Hartford, Connecticut

John E. Silliman, Esq.
Hartford, Connecticut

Mrs. Al Sisk
West Hartford, Connecticut

Joseph T. Sweeney, Esq.
Hartford, Connecticut

John E. Tener, Esq.
Hartford, Connecticut

INTERIM REPORT OF THE SUBCOMMITTEE ON COURT STRUCTURE

Scope of Study

The Joint Committee has asked the Subcommittee to consider various aspects of the structure and operation of the Connecticut judicial system and various proposals for effecting changes in that structure and for better utilizing judicial personnel in order to facilitate the dispensing of justice more equally and effectively.

General Review of Present System

The present Connecticut judicial system employs three principal trial courts: the Superior Court which is the court of general jurisdiction over both civil and criminal matters; the Common Pleas Court which is primarily a civil court; and the Circuit Court which handles both civil and criminal matters. In addition, the Juvenile Court handles delinquency and certain aspects of child custody and the Probate Court handles administration of decedents' estates, the appointment of conservators for incompetents and the administration of their estates, commitments, adoptions, and certain other matters. Appeals from the Probate Court and Juvenile Court are taken to the Superior Court. Appeals from the Circuit Court now are taken to the Common Pleas Court. Appeals from the Common Pleas and Superior Courts are taken to the Supreme Court. There is a great deal of overlapping jurisdiction between the three trial courts in the civil area. There are both gaps and overlapping jurisdiction among all five courts in the handling of matters affecting juveniles.

There are presently assigned to the Supreme Court 6 justices. There are assigned to the Superior Court 35 judges; to the Common Pleas Court 16 judges; to the Circuit Court 44 judges; and to the Juvenile Court 6 judges. All of these judges are full time, appointed by action of the Governor and Legislature and paid by fixed salary. There are 125 elected judges of Probate who devote varying amounts of time to their duties as Probate judges depending upon the load in their Probate District. Their income is dependent upon fees collected upon the cases before them.

The Superior Court presently has 40 courtrooms in 17 locations, 33 of which are equipped for handling jury cases. The Court of Common Pleas presently has 19 courtrooms in 14 courthouses, of which 15 are equipped for handling jury cases. The Circuit Court has 48 courtrooms in 30 court locations, 28 of which are equipped to handle jury cases.

It has been frequently observed that the court facilities in the urban centers are overcrowded whereas court facilities in the more rural areas are comparatively little used. The Circuit Court facilities in many of the urban centers including New Haven, Hartford and Bridgeport are in what might be considered disgraceful condition.

Judges of the Superior, Common Pleas and Circuit Courts ride circuit, i.e., they are reassigned from one court location to another on a periodic basis. Cases pending before a court are on a master list and are assigned to specific judges for handling only at the time of trial, or at the time of a motion or other matter requiring judicial attention. In rare instances, a case may be assigned

to a specific judge for handling throughout a significant portion of the pretrial activity as well as trial. "Trial calendars" are printed for each of several days during the week and the attorneys must appear in court for the morning call to find out if their cases on the calendar will be reached. Cases are often called and adjourned because one of the attorneys is engaged in a trial in another court. As stated by Dean Roscoe Pound:

> "What are the general principles that should govern in the reorganization which will in reality be an organization of our courts? The controlling ideas should be unification, flexibility, conservation of judicial power, and responsibility. Unification is called for in order to concentrate the machinery of justice upon its tasks, flexibility in order to enable it to meet speedily and efficiently the continually varying demands made upon it, responsibility in order that some one may always be held, and clearly stand out as the official to be held, if the judicial organization is not functioning the most efficiently that the law and the nature of its tasks permit. Conservation of judicial power is a sine qua non of efficiency under the circumstances of the time. There are so many demands pressing upon the government for expenditure of public money that so costly a mechanism as the system of courts cannot justify needless and expensive duplications and archaic business methods. Moreover, waste of judicial power impairs the ability of courts to give to individual cases the thoroughgoing consideration that every case ought to have at their hands." [1]

The observation of another observer would certainly be applicable to the present Connecticut court system:

> "Each court has its own fixed jurisdiction, its own judges, and its own administration and operates in splendid isolation from its sister courts." [2]

Our court locations and the geographic boundaries of the jurisdiction of each court were long ago determined on the basis of the horse and buggy--how far could the lawyer and his client ride in their horse and buggy in a reasonable

1. Organization of Courts, 275 (1940)
2. Karlen, Judicial Modernization: What Other States Have Done, State Government and Public Responsibility (1964 Tufts Assembly on Government)

length of time to reach the place where the court sits. To some extent, court locations also have been dictated by the political influence of legislators from the particular town. Yet Connecticut is now interlaced by express highways and most of its citizens are readily able to transport themselves reasonable distances by car to places where the court might sit on a permanent basis full time. Instead, our judicial system presently functions by transporting judges, clerks, bailiffs, court reporters, etc. to a myriad of places throughout the state at considerable expense in order to preserve the horse and buggy jurisdictions.

Major Changes in Past Decade

The Judicial Department has undergone a number of significant changes over the past decade, most of which have contributed significantly to its improved operation. The most significant change in the past two decades would appear to be the Circuit Court Act which eliminated and consolidated the many minor courts that had existed until that time. In 1967, the Legislature passed the Probate Court Reform Act which provided judicial administration of the Probate Courts, and this has resulted in greater uniformity and in greater reliability. In 1965, the chief court administrator act was passed and this has made a most significant contribution in providing full-time management supervision over our extensive court system by a justice of the Supreme Court and a professional staff. The reduction in the size of the jury from 12 to 6 in 1972 has proven highly advantageous and has permitted the excusing of excess jurors to result in substantial economies.

Recent statutory changes permitting a reduction in the number of locations where the Circuit Court sits and permitting consolidation of the circuits for trial of civil matters have proven extremely beneficial in permitting the disposition of cases pending before the Circuit Court. An extensive courthouse construction program in some locations will alleviate the courtroom congestion and improve the facilities. Vacated Superior Court buildings may now be made available for use by the Circuit Court to make possible further consolidation of greater expedition of business before the Circuit Court. A computer program is being utilized in the Superior and Common Pleas courts to keep track of all the civil cases which are pending before those courts and has also been extended to include traffic matters before the Circuit Court. This will enable the Judicial Department to analyze the pending cases in a manner not feasible with the prior manual record retrieval system to permit statistical reporting and analysis. Various other beneficial changes have been made either by statute or by judicial action. However, a reorganization of the jurisdiction of the three principal trial courts in 1971 has resulted in a greatly increased work load for the Circuit Court without additional personnel being provided, and it has tended to further increase the problems of overlapping jurisdiction by providing the Common Pleas Court with criminal jurisdiction by reason of its being given appellate jurisdiction over the Circuit Court.

Tentative Recommendations

1. Consolidation of the courts:

This Subcommittee recommends the merger of the Superior Court, Court of Common Pleas, Circuit Court, Juvenile Court and Probate Court into a unified trial court system because such a merger would create a streamlined system of uniform justice which would fully utilize existing judicial personnel, court structures and jury panels. The unified trial court system will consist of three components; the Criminal Court, the Civil Court and the Family Court with certain divisions thereunder staffed by parajudicial personnel.

Crimes which may be punished by more than five years in prison are within the jurisdiction of the Superior Court under the existing system, and all other crimes are within the jurisdiction of the Circuit Court. The Circuit Court staff is paid substantially less than Superior Court personnel and has fewer people to dispose of a greater number of cases. The Circuit Court buildings are grossly inadequate, while the Superior Court facilities border on the adequate. Any person who is subject to the deprivation of his liberty by confinement in jail is entitled to the highest standard of justice, which is not realized under the present separate and unequal criminal court system. Parity for all persons subject to possible confinement may be accomplished by the creation of one criminal court of original jurisdiction.

A single criminal court also benefits the offices of the clerk, state's attorney (or prosecutor) and public defender because each can combine its

services and thereby better utilize its manpower. A similar benefit is realized by the more effective utilization and perhaps more humane treatment of jurors because a single panel will be selected for the trials of all criminal matters pending in a judicial district. Indirect benefits will include some uniformity in the exercise of state's attorney's (and prosecutor's) discretion, in judicial sentencing and to a lesser degree in the jury's determination of cases.

Criminal matters not included for trial in this consolidated Criminal Court will be offenses not punishable by confinement. These offenses would include most motor vehicle matters and many of the petty crimes and violations. As this system proves effective, the number of crimes in this category could be increased by amendment of the Penal Code. These lesser offenses will be tried to parajudicial personnel (magistrates) authorized to make findings of guilty and to impose any sentence provided by law. An accused desiring a jury trial may remove his case from the parajudicial division prior to hearing, by petitioning for removal to the Criminal Court docket in a manner similar to that presently used in removing civil matters from the Small Claims Court to the regular docket of the Circuit Court. Such removal petitions will be rare if the accused can anticipate the same treatment in the Criminal Court as he expects in the parajudicial division. The establishment of this division will remove thousands of petty matters from the Criminal Court and should increase the quality of justice for both petty matters and serious offenses because more time and consideration will be given individual matters.

A single Civil Court of original jurisdiction will hear all civil cases except small claims and uncontested matters regarding the administration of probate estates. This single court will hear all actions now returned to the Superior Court, the Court of Common Pleas and the Circuit Court, and those contested matters relating to the administration of estates which are now initially heard in the Probate Court. The benefits gained by this consolidation include the more effective utilization of judicial and court personnel, as well as the increased availability of jurors and attorneys.

The small claims division of the Civil Court will hear claims for money damages of not more than $750. These matters will be tried to parajudicial personnel from whose decision no appeal will lie. The litigant may exercise his right to a trial by jury or in a court of record by petitioning for the removal of the matter to the Civil Court docket in the same manner as now provided.

The probate division of the Civil Court will have the same jurisdiction as the present probate courts with the following two exceptions: (1) Al contested matters in which the litigants now have a right to a trial de novo in the Superior Court will be returned to the Civil Court; and (2) All custodial matters, such as commitment, custody, legal guardianship, and conservatorship will be heard in the Family Court. The direct referral of contested matters to the Civil Court eliminates the unnecessary expense of trying a matter twice, while the Family Court's jurisdiction of all custodial matters gives the litigants the benefit of that court's special expertise in such matters and eliminates the present overlapping jurisdiction and gaps in jurisdiction.

The Civil Court, with the concurrence of the litigants, may refer matters to state referees authorized to invoke the powers of the judges of the Civil Court and from whom an appeal may be taken. The Civil Court, with the concurrence of the parties, may also refer the matter to an arbitration division which will be staffed by parajudicial personnel from whose decision an appeal may not be taken. The continuation of the state referee system recognizes the valuable services currently performed by these retired judges in disposing of time-consuming matters which could seriously delay the disposition of other civil matters. The reference of cases to an arbitration division incorporates the arbitration system into the judicial system and further expands the concepts in utilizing the services currently rendered by the state referees.

All domestic relations, juvenile and custodial matters will be brought to the Family Court. Domestic relations in this context is limited to disputes between husband and wife, while custodial matters include custody of children, commitment proceedings, appointment of legal guardians and conservators. Juvenile matters include all cases within the jurisdiction of the existing juvenile court. The consolidation of these related proceedings into a single court should guarantee more uniform and just disposition of these matters. A single agency will investigate the total family problems and use its expertise to recommend dispositions to the court.

The elimination of the conflicting jurisdiction presently resting in the Probate, Circuit, Juvenile, Common Pleas and Superior Courts in custody proceedings will be one of the prime benefits derived from the Family Court.

Under the present system, the Superior Court determines custody of children as an incident to a divorce proceeding, but the Probate Court determines custody when the parents do not elect to institute divorce proceedings. The Juvenile Court determines custody matters for delinquent children. One can easily imagine the custody of a single child being considered at different times in his life by each of these courts. This conflicting and overlapping jurisdiction is without reason and will be eliminated by combining the functions within the Family Court.

The Family Court will have a support division to which all matters of support of children and alimony will be referred. The agency will conduct informal inquiries into the financial position of the parties and issue orders for alimony and support which may be enforced by contempt proceedings in the Family Court. An appeal from the order of the support division may be taken to the Family Court within seven days of the issuance of the order, but such an appeal will not automatically stay the order.

The Criminal Court, Civil Court and Family Court will constitute three divisions of a single court of original jurisdiction from which appeals may be taken to an Appellate Court. This Committee recommends that the Supreme Court hear all appeals and that no intermediate appellate court should be established. The Supreme Court's present case load is manageable, and the elimination of the appellate jurisdiction of the Court of Common Pleas should increase the Supreme Court's cases by less than eighty per year. In the event the number of appeals increases substantially, the Supreme Court could be

divided into a panel system whereby three judges rather than five judges hear a case. Any further substantial increase may be remedied by the addition of judges to the existing Supreme Court rather than the creation of an intermediate appellate court.

2. Assignment of judges:

All trial court judges will have equal status and may be assigned to any court in the unified system. It is anticipated that some judges will prefer to specialize in certain courts. Specialization will create expertise and is one of the major benefits of the system. The equal status of all trial judges also eliminates the caste system and the appearance of inferior justice.

3. Parajudicial personnel:

There are a number of areas in our court system where judges can readily be relieved of extraneous burdens so that they can concentrate their abilities and energies on their main task of presiding over trials of contested cases. Thus, in a Small Claims Division and in a Traffic Division, such as referred to above, the issues ought to be resolved by qualified persons functioning under the control of our judges but operating with reasonable autonomy. In Domestic Relations cases, the great majority of issues relating to temporary alimony, temporary support of minor children and custody of minor children can and should be resolved without the intervention of a judge; parenthetically, this would avoid some of the terribly overcrowded courtrooms we now see in our larger counties and would save the time not only of judges but of litigants and lawyers, since such cases could then be handled by a routine schedule outside of courtrooms. At least

equally helpful in affording relief to courts and judges might be the setting up of mechanics for arbitration of smaller tort cases; members of the Bar would certainly be more than willing to function, as they now do on uninsured motorists cases under auto policies, as arbitrators without compensation or with minimal compensation, in order to achieve prompt disposition of such cases without taking up the time of the courts.

The federal courts now employ magistrates to perform such parajudicial functions and magistrates are also being employed effectively in some other states.

4. Improved court facilities:

In addition to the need, already adverted to, for improvements in the physical aspects of our courthouses and courtrooms, there is a pressing need for better personnel assistance for our judges. A start has been made by a recent statutory provision for some law clerks for our Superior Court trial judges, but more are needed, as are more secretaries, in order to enable the judges to function most efficiently. Furthermore, particularly in our smaller counties, the library facilities in courthouses must be vastly improved if they are to furnish the necessary research assistance.

5. Computerization:

Our Chief Court Administrator has already made an impressive start in computerizing the assignments of civil court cases for trial in the Superior and Common Pleas Courts. Hopefully, this can be extended so that not only cases but

judges, courtroom facilities and trial counsel will be assigned by means of the computer so as to insure maximum efficiency in all areas.

6. Flexible assignment and venue:

By giving our Chief Court Administator the necessary powers and the necessary support of modern management techniques, we would be able to move away from "horse and buggy" venue which limits trial assignments by our ancient county lines. With our modern superhighways and other rapid means of transportation, cases should be assigned, where necessary or advisable, to trial at the place where they can be most expeditiously and efficiently disposed of in the light of all of the operative factors such as availability of courtroom space, judges, trial counsel, witnesses, and jury pools.

7. Assigned dockets for judges:

It is the sense of this Subcommittee that the phenomenon of circuit riding by judges from place to place periodically has by now lost most of its usefulness. While there are advantages in our present arrangements whereby judges sit successively in various parts of the State, those are by now outweighed considerably by such disadvantages as requiring judges to spend a substantial portion of their time in travel and the inability of judges to commence trials toward the end of the term during which they are sitting in a particular location. Moreover, many positive accomplishments can be reached by turning to an assigned docket of cases for each judge, as is effectively done in some Federal and State Courts. With that type of system it will be necessary for only one judge to familiarize himself with the issues in a particular case, and, since that case

will be his responsibility, the burden will be his to find means of simplifying the issues and, if at all possible, settling the case.

8. Ongoing review:

By now we all recognize that today's improvements can be tomorrow's detriments in any human system. Therefore, the need exists not only to recognize today's problems and find remedies, but also to establish a mechanism or mechanisms which will constantly and vigilantly review all aspects of the operations of our courts in order to identify deficiencies promptly and remedy them with all due diligence. Our Chief Court Administrator has afforded us a tremendous start in this area and he must be provided with every practical managerial support so that the operation of our courts can reach and remain at the finest level of efficiency.

Further Action

The following actions should be taken before these tentative recommendations are submitted for final evaluation:

1. This Subcommittee will now begin to study the detailed aspects of the proposals herein and to develop a comprehensive proposal program for the implementation thereof.

2. The report should be submitted to all employees of the Judicial Department for their comments and suggestions.

3. A statistical analysis should be prepared which would compare the number of court personnel necessary to dispose of cases under the present and proposed systems.

4. A pilot program, incorporating all of the suggested changes permissible under existing statutes, should be considered for possible implementation in Hartford County for a nine-month period commencing in September 1972.

5. Appropriate legislation should be drafted.

6. Constitutional problems should be researched and appropriate amendments drafted.

Respectfully submitted,

Melvin S. Katz, Chairman
Hartford, Connecticut

Thomas J. Groark, Jr.
Co-Chairman
Hartford, Connecticut

Stewart L. Bohan, Esq.
Meriden, Connecticut

Daniel E. Brennan, Jr., Esq.
Bridgeport, Connecticut

William R. Davis, Esq.
Hartford, Connecticut

Mr. Duane Dow
Wethersfield, Connecticut

Mr. Oliver F. Johnson
Hartford, Connecticut

Joseph M. Kaye, Esq.
Greenwich, Connecticut

John F. Lambert, Esq.
Greenwich, Connecticut

C. Harold Schwartz, Esq.
Bridgeport, Connecticut

Alan H. W. Shiff, Esq.
New Haven, Connecticut

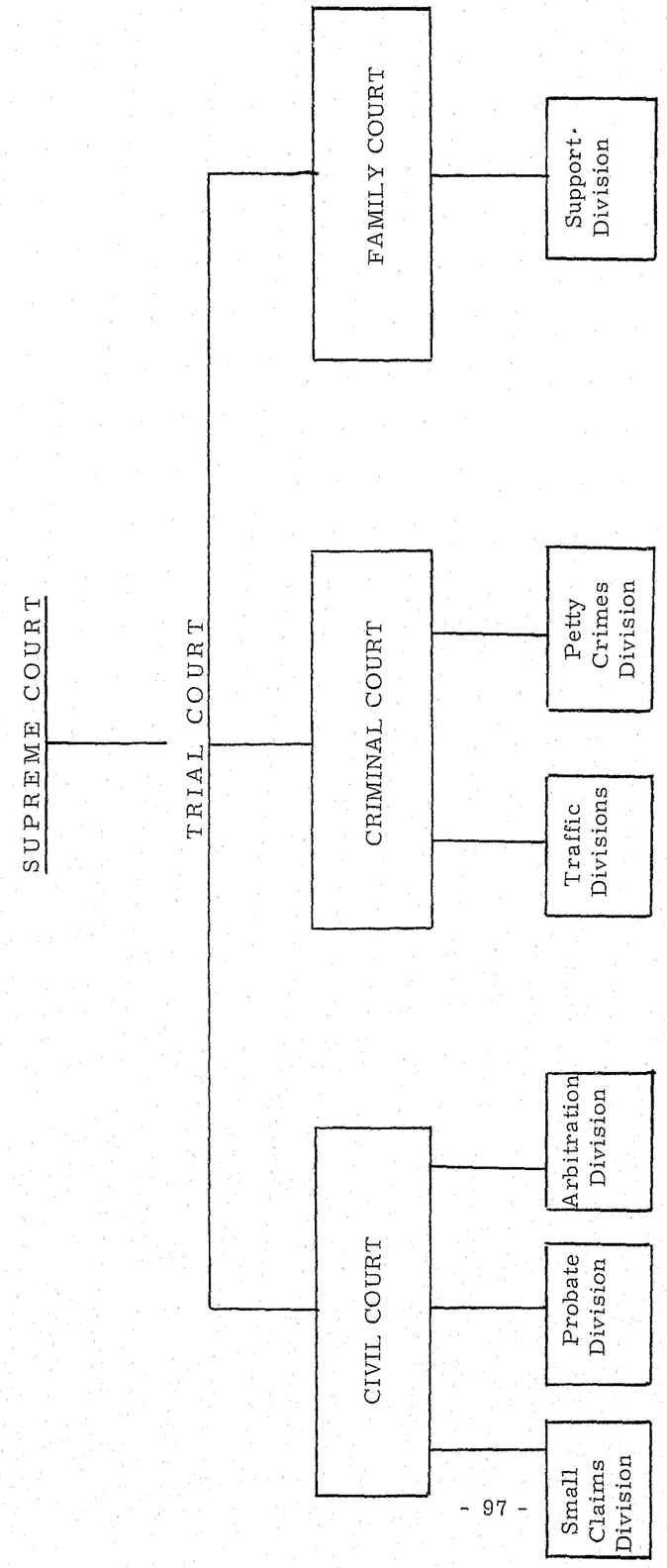
H. William Shure, Esq.
New Haven, Connecticut

Abram W. Spiro, Esq.
Danbury, Connecticut

David B. Tilley, Sr., Esq.
Litchfield, Connecticut

Burton M. Weinstein, Esq.
Bridgeport, Connecticut

Timothy F. Woodbridge, Esq.
Hartford, Connecticut



INTERIM REPORT OF THE SUBCOMMITTEE ON PROSECUTION AND DEFENSE

The subcommittee has met on several occasions and has concentrated its attention on public defender services. We have considered General Assembly Bill No. 1 introduced by the Judiciary Committee and substitutes for it. We have recently been informed that a special subcommittee of the Judiciary Committee plans to introduce a new bill in this area within the next two weeks. Therefore, the Prosecution and Defense Subcommittee's recommendations must remain tentative at this time.

The following recommendations coincide in substantial part with the recommendations of the Connecticut Bar Association Executive Committee, Section on the Administration of Criminal Justice, as approved by the Connecticut Bar Association Board of Governors on February 14, 1972:

1. The subcommittee tentatively recommends that the bill should provide for a Defender Service Commission consisting of 12 members selected as follows:

> Two by the Speaker of the House of Representatives; two by the minority leader of the House of Representatives; two by the President Pro Tempore of the Senate; two by the minority leader of the Senate; two by the President of the Connecticut Bar Association; one by virtue of his position as Dean of the Yale Law School; and one by virtue of his position as Dean of the University of Connecticut Law School, and their terms of office shall be as follows: of those by elected officials, one for six years and one for eight years, of those by the President of the Connecticut Bar Association, both for two years, of those by virtue of their position as Dean, for as long as they hold their office. [This action refers to §1 of Bill No. 1].

2. The subcommittee tentatively recommends that the bill should authorize the commission to select a full-time Chief Public Defender who shall be a practicing member of the Connecticut Bar for at least five years and should be appointed for six years and serve until the qualification of his successor. The reference in Bill No. 1 regarding the obligation of the Chief Public Defender to annually report on the "control of crime" should be deleted. [This action refers to Section 2 and Section 3(b) of Bill No. 1].

3. The subcommittee tentatively recommends that the bill should authorize the commission to employ other personnel and contract for facilities, as may be necessary, after receiving recommendations of the Chief Public Defender. In particular, the subcommittee tentatively recommends that the bill specifically include provisions for the employment of Chief Investigator and sufficient assistant investigators who shall receive a salary comparable to county detectives. [This action refers to §1(f) of Bill No. 1 .]

4. The subcommittee tentatively recommends that the bill should provide for the appointment of a Public Defender for each county and the District of Waterbury and as many assistants as the commission deems necessary and appropriate, without reference to the court in which the public defender will serve. [This action refers to §4 of Bill No. 1.]

5. The subcommittee tentatively recommends that the bill should provide that the commission appoint the public defenders for each county and the District of Waterbury and the assistants after receiving recommendations from the Chief Public Defender. [This action refers to §4 of Bill No. 1.]

6. The subcommittee tentatively recommends that the bill provide that the term of office for the public defender for each county and the District of Waterbury and the assistants be for five years. [This action refers to §4 of Bill No. 1.]

7. The subcommittee tentatively recommends that the bill provide that the Chief Public Defender shall receive a salary equal to the salary of a Superior Court Judge and that all other public defenders and assistant public defenders receive a salary under regulations established by the commission based on training, experience, length of service, not less than salaries for states attorneys and assistant states attorneys with similar qualifications, and that assistant public defenders need not have any specific number of years of practice to qualify. [This action refers to §4 of Bill No. 1.]

8. The subcommittee tentatively recommends that full-time public defenders and assistant public defenders as of October 1, 1972, who so desire, shall have their names included among the initial recommendations made by the Chief Public Defender for commission's consideration. All public defenders and assistant public defenders shall be employed on a full-time basis. [This action refers to §4 of Bill No. 1.]

9. The subcommittee tentatively recommends that the bill provide that the initial determination of eligibility be made by a public defender upon forms approved by the commission at the time of arrest or formal charge. [This action refers to §10 and §11 of Bill No. 1.]

10. The subcommittee tentatively recommends that the bill not provide for the public defenders to have any responsibility for collecting funds from their former clients or those who sought their services. [This action refers to §14, §15 and §16 of Bill No. 1.]

11. The subcommittee tentatively recommends that the bill provide that a public defender cease representing a client only upon order of court if an appearance has been filed. [This action refers to §18 of Bill No. 1.]

12. The subcommittee tentatively recommends that the bill provide that services rendered to a minor shall be deemed necessities, the fair value of which the parents shall be liable in an action by the state. [This action refers to §20 of Bill No. 1.]

13. The subcommittee tentatively recommends that the bill provide that public defenders may represent in collaterial proceedings indigents facing loss of liberty. [This action refers to §10 and §11 of Bill No. 1.]

The subcommittee will review these recommendations after the new bill is introduced in the General Assembly. In addition, the subcommittee will begin considering prosecution services in the near future.

Respectfully submitted,

Joseph D. Harbaugh, Chairman
West Hartford, Connecticut

Sherwood L. Anderson, III, Esq.
Bristol, Connecticut

Mr. Carter Atkins
West Simsbury, Connecticut

Robert Basine, Esq.
Hartford, Connecticut

Courtney B. Bourns, Esq.
Hartford, Connecticut

George F. Carroll, Esq.
Norwalk, Connecticut

David J. Frauenhofer, Esq.
Torrington, Connecticut

Maurice R. Gersten, Esq.
Hartford, Connecticut

Mrs. Charles Litscher
Shelton, Connecticut

Charles A. Pulaski, Jr., Esq.
New Haven, Connecticut

INTERIM REPORT OF THE SUBCOMMITTEE ON RULES

The function of this subcommittee is to explore, study and make recommendations concerning the existing rules of court with the purpose in view of improving the operation and efficiency of the courts, thereby making the whole court system more responsive to the needs of the people who are served. The subcommittee is dealing with matters which fall primarily within the present existing rule-making power of the court and which do not require legislative change. It is certainly the feeling of the subcommittee that an imaginative approach to changes in the existing rules combined with adequate research and study by the subcommittee, implemented by a progressive approach thereto by the judges responsible would go far in modernizing and improving our courts and might result in solving some of the areas of just criticism of the public.

The matters that are within the purview of the subcommittee are largely technical in nature and, therefore, the majority of the members of this subcommittee are attorneys, two laymen being assigned to the subcommittee. The subcommittee has only had an opportunity to have one extensive meeting, which was productive of many valuable ideas. In addition to that, the various members of the subcommittee have circularized and interviewed many of the trial bar in the State to obtain their ideas in this field and many excellent suggestions have been received.

The following subjects have been considered by the subcommittee and by other members of the trial bar and may, in part at least, form the basis of

substantial improvement in the existing rules. Reference is to sections of the present practice book.

1. Much of the public feels that it can get no satisfaction from illegal or unprofessional actions by lawyers. Present grievance procedures (Section 18-25) are inadequate and ineffective to satisfy the complaint of the public and to adequately discipline offending lawyers. An effective Statewide procedure with adequate staff including investigators should be provided by rule.

2. Many law suits which clog the docket of the courts never should have been brought. If the responsibility for all court costs were placed on the plaintiff's attorney, fewer unjustified law suits would be brought and defendants put to the expense of defending such suits would more likely be partially compensated for the expense to which they have been put by being named defendants in such suits (Section 29).

3. Many attorneys, even though highly competent, are so busy that pleadings are often neglected. Rule changes which would provide for the automatic advancement of pleadings by the court should result in more up-to-date dockets. In the Federal District Court, such procedures seem to result in more expeditious handling of the court business (Chapter 5).

4. For a long period of time, responsible segments of the Connecticut Bar have urged the adoption of the Federal rules. Proponents feel that many cases will be disposed of by settlement once the evidence is available by deposition and disclosure under the broader requirements of Federal procedure (Chapter 8). In many types of cases, such as negligence actions, automatic

uniform disclosure motions might well be provided for to save paper work for clerks and attorneys alike and further to provide for more expeditious receipt of desired information (Form Section 166-170). The power to take depositions of all prospective witnesses should be provided, thus ensuring that there will be no delay when the case comes on for trial because of the unavailability of various witnesses (Section 184-188).

5. Part of the problem of court congestion revolves around methods of assigning cases for trial (Section 202-210). Present methods have failed to move court business as fast as it should be moved and new approaches should be considered and experimented with. One of the problems which causes and adds to court congestion is the fact that, in many cases assigned for trial, an attorney is unavailable being busy in another court. This is, in part, because certain law firms and certain attorneys apparently undertake to represent parties in too many cases. A possible way of eliminating this cause of delay might be to impose financial sanctions against any attorney who is unavailable because he is busy in another court (Section 212). Disposition of motions prior to the time of trial should move automatically ahead and not wait for claims for the short calendar list by counsel (Section 215).

6. One of the chief problems in negligence cases which prevents their expeditious disposition is often times the unavailability of medical and other witnesses. Research and experiment should be undertaken to determine whether or not video tape devices could be used to take the depositions of such witnesses so that when the matter is reached for trial, it need not be continued pending the

availability of otherwise unavailable witnesses. The expense of depositions, of course, is substantial where the services of a court reporter are used. Here again, experiments should be carried out to determine whether electronic equipment could be used as a substitute for court reporters who are, in general, in short supply and expensive to use (Section 228).

7. One of the greatest wastes of time in civil litigation involves the methods which are being used to choose juries during time which otherwise could be spent in the introduction of evidence. Preselection of juries by a clerk or nonjudicial officer at a time other than on regular trial days should be considered (Section 238-210). Such preselection procedures would result in a substantial saving of judge and court time. While efforts have been made to pretry cases, more definite procedures designed to result in more effective pretrials should be developed.

8. The declaratory judgment procedure should be enlarged either by court decision, rule or legislation to permit decisions relative to coverage questions by the insurance companies involved in tort and other types of litigation. Many cases in the negligence field are difficult to settle because of the fact that the insurers of the individuals involved deny coverage. If the coverage questions were settled, the parties called upon to pay (the insurance companies) would be more realistic than they are where there are coverage questions unresolved (Section 308).

9. In the past few months, a program has been instituted by the Judicial Department to use computer science in the assignment and handling of various

cases on the docket. With the help of practicing lawyers, this program should be aggressively implemented and broadened to simplify and expedite all of the operations of the clerks office as far as the various files of the cases pending are concerned (Chapter 13).

10. While statutory changes in the last session of the Legislature provided for increases to a limited degree of allowable court costs either by rule or otherwise, costs should be further increased to more nearly reflect the expense of the parties involved. From the point of view of the public, the party in litigations who is in the right should have most of its expenses paid by the party who is in the wrong. Increasing costs to make them more nearly those actually expended by the parties should have the result of cutting down on unwarranted litigation and might well assist in the settlement of legitimate cases (Chapter 14).

11. Recently in the Federal District Court, two lawyers were selected to act jointly as masters in attempting adjustment of certain civil cases. This experiment was found to be successful and by rule should be probably attempted in the Connecticut State courts, in the domestic relations and negligence fields. Because of the very substantial amount of judge time which is expended in these two areas, the use of masters either on an unpaid or compensated basis would seem to be worthy of investigation. This, if effective, would substantially relieve competent judges so that they would have more time for other matters (Chapter 17).

12. In the past 10 years, largely because of various United States Supreme Court decisions, procedures have become very complicated and time consuming in the handling of criminal business. As a result, there has been a

substantial increase in the amount of time which judges have had to expend on criminal matters, thus taking them away from the expeditious handling of civil matters. All of the rules relating to criminal procedures should be reviewed and revised to streamline all procedures to more expeditiously dispose of criminal business (Chapter 21-22).

13. There are current substantial efforts being made to simplify the procedures used on appeals to the Supreme and other courts (Chapter 25-39). These efforts should be implemented to expedite the ultimate decision rendered as well as to reduce the costs to the litigants (Chapter 25-39).

14. There is a great deal of public criticism with respect to the Circuit Court and to delays incident in the handling of its business. A review of the rules with respect to more expeditious handling of civil and criminal business in the Circuit Court and a simplification of procedures should be considered.

In addition to the above, there has been discussion in the subcommittee concerning a possible constitutional amendment to vest the rule-making power in the Judicial Department as to all courts and to provide a means for insuring effective response by the Judicial Department to needs for rules changes. No final conclusion, of course, has been reached on any of the proposals enumerated above. It is obvious that every suggestion must be carefully weighed and considered. Before any significant changes in the rules can be effectively suggested, the form of the change must be thoroughly worked out after extensive study and discussion. The subcommittee has not had an opportunity to go into depth on any of the proposals to this point.

It is the feeling of the subcommittee that before expending the effort which would be necessary to implement recommended suggestions that there be some indication from the rule-making authority that suggestions would be seriously considered if they were properly developed and prepared in detail. It would seem appropriate at this time that communication with the responsible judges with the help and encouragement of the entire Joint Committee would be the next logical step to be taken. We also realize that there are judicial, legislative and other groups working on proposed rules changes. The subcommittee would, of course, be glad to assist or collaborate with any such group.

Respectfully submitted,

Allyn L. Brown, Jr., Chairman
Norwich, Connecticut

David D. Berdon, Esq.
New Haven, Connecticut

William J. Doyle, Esq.
New Haven, Connecticut

George L. Eastman, Esq.
New Haven, Connecticut

Ralph G. Elliot, Esq.
Hartford, Connecticut

Dr. John H. Felber
West Hartford, Connecticut

Brian L. Hollander, Esq.
Bloomfield, Connecticut

Emanuel Margolis, Esq.
Stamford, Connecticut

Bruce Mayor, Esq.
Hartford, Connecticut

Mr. William J. Pape, II
Waterbury, Connecticut

Robert P. Scholl, Esq.
Westport, Connecticut

Howard L. Slater, Esq.
Hartford, Connecticut

Robert P. Volpe, Esq.
Hartford, Connecticut

Herbert Watstein, Esq.
Bristol, Connecticut

RESOLUTION PROPOSING A CONSTITUTION AMENDMENT CONCERNING APPOINTMENT, RETIREMENT, REMOVAL AND DISCIPLINE OF THE JUDICIARY.

Resolved by this Assembly:

That the following be proposed as an amendment to the constitution of the state, which, when approved and adopted in the manner provided by the constitution, shall become a part thereof:

Article Fifth of the constitution is amended by repealing section 6 and adding sections 6, 7, 8, 9, 10 and 11 as follows:

Sec. 6 (a) A vacancy in the supreme court or any trial court shall be filled by nomination of the governor from a list of at least three candidates presented to him by the judicial merit commission and by appointment of the legislature. If the governor should fail to make a nomination or interim appointment from the list within sixty days from the day it is presented to him, the nomination or interim appointment shall be made by the chief justice or the acting chief justice from the same list. In the event of the failure of the legislature to act on the nomination within thirty days from the submission of the nomination to it, the chief justice shall make the appointment. (b) Upon expiration of his appointed term, a justice of the supreme court or judge of any trial court may be renominated and reappointed upon recommendation of the judicial merit commission to the governor and legislature, with the nomination and appointment being in the manner specified in subsection (a). The judicial merit commission shall not be required to furnish the names of any other nominees together with that of the incumbent justice or judge whose nomination and reappointment is recommended.

In the event of failure of the governor and legislature to reappoint or reject the nomination within sixty days from the day it is submitted, the reappointment shall be made by the chief justice or the acting chief justice. (c) Magistrates shall be selected by the chief justice of the supreme court subject to confirmation by the judicial merit commission. They shall be subject to discipline and removal in accordance with rules adopted by the supreme court. (d) To be eligible for nomination as a justice of the supreme court or judge of the trial courts or to be appointed as a magistrate, a person must be domiciled within the state, a citizen of the United States and licensed to practice law in the courts of the state. (e) Justices and judges holding judicial office at the time of adoption of this section shall continue to hold office for their appointed terms and shall thereafter be eligible for renomination and reappointment in the same manner as justices and judges first appointed pursuant to this section.

Sec. 7 (a) Every justice and judge shall retire at the age specified by statute at the time of his appointment, but that age shall not be fixed at less than sixty-five years. The chief justice is empowered to authorize retired judges to perform temporary judicial duties in any court of the state. (b) A justice of the supreme court or judge of the trial courts may be retired by the judicial qualifications commission after appropriate hearing and upon certification to the governor and to the chief justice that such justice or judge is so incapacitated as to be unable to carry on his duties, and that the disability is, or is likely to become, of a permanent character. (c) (1) A justice of the supreme court or judge of the trial courts is disqualified from acting as a judge, without loss

of salary, while there is pending a charge against him for a crime punishable as a felony under Connecticut or federal law, or a recommendation to the supreme court by the judicial qualifications commission for his removal or retirement. (2) On recommendation of the judicial qualifications commission or on its own motion, the supreme court may suspend a justice or judge from office without salary when in the United States he pleads guilty or no contest or is found guilty of a crime punishable as a felony under Connecticut or federal law or of any other crime that involves moral turpitude under that law. If his conviction is reversed, suspension terminates, and he shall be paid his salary for the period of suspension. If he is suspended and his conviction becomes final, the supreme court shall remove him from office. (3) On recommendation of the judicial qualifications commission the supreme court may censure, remove or otherwise discipline a justice or judge for action occuring not more than six years prior to commencement of his current term that constitutes willful misconduct in office, willful and persistent failure to perform his duties, habitual intemperance, imcompetence or neglect in the performance of his judicial duties, or conduct prejudicial to the administration of justice that brings the judicial office into disrepute or violation of any Conon of Judicial Ethics or amendment or change thereto made effective hereafter. (4) In a proceeding involving proposed removal or censure of a justice of the supreme court, such justice shall be disqualified from sitting on said court during consideration of the recommendations of the judicial qualifications commission. (d) A justice or judge retired for incapacity shall be considered to have retired voluntarily. A justice or judge removed by the supreme court is

ineligible for judicial office and, pending further order of the court, he is suspended from practicing law in this state. (e) The legislature may enact legislation establishing the statutory framework as specified herein and the judicial qualifications commission and the supreme court shall make rules implementing this section and providing for confidentiality of proceedings.

Sec. 8. No justice, judge or magistrate shall, during his term of office, engage in the practice of law. No justice, judge or magistrate shall, during the term of his office, run for elective office, or directly or indirectly make any contribution to, or hold any office in, a political party or organization, or take part in any political campaign.

Sec. 9 (a) The chief justice of the state shall be selected by the judicial merit commission from the members of the supreme court and shall retain said office for a period of five years, except that a member of the court may resign the office of chief justice without resigning from the court. During a vacancy in the office of chief justice, all powers and duties of said office shall devolve upon the member of the supreme court who is senior in length of service on said court. (b) The chief justice of the state shall be the executive head of the judicial system and shall appoint an administrator of the courts of the state. The administrator shall, under the direction of the chief justice, prepare and submit to the legislature the budget for the court of justice and perform all other necessary administrative functions relating to the courts. (c) The chief judges of the several divisions of the trial court shall be selected by the judicial merit commission from the members of the trial courts and shall retain that office

for a period of four years except that a member of a court may resign the office of chief judge without resigning from the court.

Sec. 10. There shall be a judicial merit commission consisting of the chief justice of the supreme court of the state, one attorney admitted to practice law in the state of Connecticut and residing in and elected from each congressional district by vote of the attorneys admitted to practice law in the state of Connecticut and residing in that congressional district, one elector resident in each congressional district who is not a graduate of law school and who is nominated by the governor and confirmed by the legislature. Not more than one-half the elector members shall be from a single political party. Other than the chief justice, the members of the judicial merit commission shall hold office for six years, except that those members first elected shall hold office for staggered terms as provided by statute so that not more than one-third of the commission shall thereafter be elected or appointed in any two-year period. No attorney or elector member of the judicial merit commission shall hold any other public office or office in a political party or organization except that membership on the faculty of a state college or university shall not be considered disabling employment and he shall not be eligible for a state judicial office so long as he is a member of the commission and for a period of five years thereafter.

Sec. 11. There shall be a judicial qualifications commission consisting of three judges one from each of the three principal divisions of the trial courts elected by a majority of the judges of each such court; three attorneys engaged in the active practice of law in, and resident of, the state of Connecticut appointed by

the judicial merit commission and three electors resident in the state of Connecticut who have never held judicial office or been licensed to practice law in any state or federal court and who are nominated by the governor and confirmed by the legislature. Other than the chief justice, the members of the judicial qualifications commission shall hold office for six years, except that those members first elected shall hold office for staggered terms as provided by statute so that not more than one-third of the commission shall thereafter be elected or appointed in any two-year period. No attorney or elector member of the judicial merit commission shall hold any other office or position of compensation with the United States or state of Connecticut.

RESOLVED: That the foregoing proposed amendment to the constitution be continued to the next session of the general assembly elected at the general election to be held on November 7, 1972 and published with the laws passed at the present session, or be presented to the electors at the general election to be held on November 7, 1974, whichever the case may be, according to article twelfth of the constitution.

END