COUNTY GOVERNMENT IN MAINE

Proposals for Reorganization

by

Edward F. Dow

Submitted to

Maine
Legislative Research
Committee

Augusta, Maine

October, 1952

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Preface

The following report is primarily a set of recommendations with such facts as seemed necessary to explain the suggestions. The recommendations are based on more extensive data collected for the Legislative Research Committee by the writer.

The boundaries of county government in Maine are somewhat ambiguous, but in this report they are assumed to include agencies supported by county funds, those whose heads are elected by county voters, and bail commissioners.

Although all phases of county government in Maine are in need of a shakeup, major emphasis is placed on the sheriffs and the municipal courts because the writer believes these are the features most in need of change. If suggested changes are made in these two areas, there is then little excuse for not carrying through a complete reorganization. However, many of the suggestions in this report can stand on their own feet as independent measures.

The author wishes to acknowledge his indebtedness to many county officials for their courtesy and helpfulness. He accepts full responsibility for the facts and opinions found in this report.

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Summary of Recommendations

1. Judges of probate should be appointed. They are presently the only elected judges in Maine.
2. Registers of probate and clerks of courts should be appointed by the courts.
3. County attorneys should be replaced by appointed district attorneys.
4. Municipal and trial justice courts should be replaced by district courts.
5. Registers of deeds should be appointed.
6. Sheriffs, county commissioners and county treasurers should be abolished.
7. Jails should be integrated with the state penal system and supplemented by a jail farm.

Table 1

County Officials in Maine

Title	Term	Selected by	Paid by
County Commissioners(3)	Six yrs	Voters	County
Treasurer	Four yrs	Voters	County
Clerk of Courts	Four yrs	Voters	County
Judge of Probate	Four yrs	Voters	County
Register of Probate	Four yrs	Voters	County
Register of Deeds	Four yrs	Voters	County
Sheriff	Two yrs	Voters	County
County Attorney	Two yrs	Voters	State
Medical Examiner	Four yrs	Governor & Council	County
Municipal Judges[1]	Four yrs	Governor & Council	County
Municipal Court Clerks and Recorders[1]	Four yrs	Governor & Council	County
Trial Justices	Seven yrs	Governor & Council	County
Probation Officers	Indeterminate	Governor & Council	County
Bail Commissioners	Indeterminate	Superior Court	Fees

[1]In a few courts judges and recorders are paid by the city, with court costs paid to the city by the county, as in Waterville, Hallowell, Lewiston and Auburn.

COUNTY GOVERNMENT IN MAINE

Some years ago the government of counties in the United States was dubbed "The dark continent of American politics." More recently another writer said, "County government is the last refuge of political incompetency."

In many states the county has been revitalized in recent decades, and is a real force and sometimes a fairly efficient agency serving its inhabitants.

Counties in Maine have followed the New England pattern. Never as active as in other parts of the country, their functions have tended to shrink until they have reached a point where they are top-heavy with elected officials and clerks, and their few functions are concentrated around the administration of justice and the recording of deeds. <u>These matters are essential, but not local - counties act as state administrative agencies carrying out state laws. They enact no policies nor do they carry out any local mandates.</u>

Development of Counties in Massachusetts

Although more than 300 years have gone by since the first English colonists landed in Massachusetts, some of the basic principles of county government brought with them from England have remained practically unchanged. For example, the county sheriff was

modeled on his English counterpart, and the office persists today.

County government in Maine followed the major features of its prototype in the parent State of Massachusetts, where districts, (later to become counties) were first created in 1636 for court purposes. In each of the four districts the court met quarterly, with magistrates at first selected by the General Court[2] but elected locally after 1650. As County business increased, treasurers, registers of deeds and probate courts were established.

The general features of County government in Massachusetts were well established before adoption of the Constitution of 1780, which gave the power of appointing all judicial officers, sheriffs, coroners, and registers of probate to the governor and council. The Constitution was silent as to the method to be used for selecting treasurers and registers of deeds, and later legislation made them elective.

The "Court of the General Sessions of the Peace" usually consisted of a chief justice and two associate justices, appointed by the governor and council. The Court, later known as the County Commissioners, had both judicial and administrative duties. As an administrative body it prepared estimates of county

[2]The General Court of Massachusetts still retains the title, but has lost most of its judicial functions and become merely the state legislature.

expenditures for one year in advance. These estimates were placed before the General Court, which passed upon them, leaving the resulting tax levy to be collected by the town tax collectors. The court authorized the construction of county roads, erected and maintained county jails, and performed all other county duties not delegated to other officials of the county. As a judicial court, it heard and decided upon petitions for the abatement and equalization of taxes. It had jurisdiction over the trial of criminals, could compel witnesses to attend court, and, in general, had all the powers of a court in addition to its administrative duties.

Development and Present Status of Counties in Maine

The General Court of Massachusetts in 1652 chose six Massachusetts commissioners "to adopt Maine" in the words of the historian Williamson. Together with other commissioners elected to represent the various towns in what is now Maine, they met to set up courts and settle affairs as best they could in preparation for county government. The first county to be established was Yorkshire, (later shortened to York), roughly covering the area now the State of Maine. The town of York was its shire town or county seat. Other counties were created from time to time, until

by 1805 there were seven - York, Cumberland, Lincoln, Hancock, Kennebeck, Washington, Oxford. County government developed along the lines of that in the parent state, with offices of clerk, treasurer, register of deeds, sheriff, county attorney, and justices of the peace set up when the need seemed to exist. Courts of (General) Sessions similar to those in Massachusetts were established in each of the seven counties in 1807. In 1811 Circuit Courts of Common Pleas were established. Somerset County was formed in 1809 and Penobscot in 1816. The other seven counties were organized subsequent to Maine's statehood (after 1820.)

The laws enacted by the first legislature of Maine carried on the county system as inherited from Massachusetts, with the register of deeds and county treasurer elected, all other county officials being appointed by the governor and council. County government in Maine as it existed in 1820 indicates that the governor and council, rather than the voters, controlled the selection of most officials. In at least two respects the 1820 structure was superior to the system we have today. Fewer elective offices meant less of a burden on the voter; gubernatorial appointment provided a direct tie and at least some control from the state level over work that was then, as it is today, state rather than local in character.

The present title "County Commissioner," first appeared in 1831, when the legislature provided that the governor should appoint three suitable persons to act as county commissioners "who shall have, exercise and perform ...all the powers, authorities and duties, which are now exercised and performed by the Court of Sessions." Thus the old Court of General Sessions was abolished and replaced by the present system of Commissioners.

The spirit of Jacksonian democracy which swept through the United States in the second quarter of the 19th century abolished this system of centralized control, and substituted direct election for most county positions. The first such measure, enacted in 1842, provided that clerks of courts, county attorneys, and county commissioners should be elected. In 1855 a constitutional amendment placed sheriffs, and judges and registers of probate, under the elective banner.

Since 1855 County government in Maine has seen little structural change. Many officers are elective (see Table 1). The coroner's position was abolished in 1929, being replaced by the medical examiner, appointed by the governor.

Structurally unchanged for nearly a century, Maine counties are today little known to the public, have few powers, and less prestige. What are the reasons for

their lack of power and importance? Four major reasons are:

1. Failure to acquire important functions of local government. The failure of Maine counties to become vigorous units of local government explains much concerning their present situation. Originally established as judicial districts under the control of Massachusetts, they remain essentially judicial districts today, with no real connection with, or part in, local government. This is true throughout New England, and is probably due mainly to the small geographical size of the states, which has made it possible for town, city, and state units to supply most essential services directly without county assistance. Outside New England, on the other hand, the counties have seized and held important functions, such as education and welfare. Doubtless other factors have entered, including economic, political and purely accidental features. Whatever the reasons, it is a fact that today counties are vital, and sometimes efficient, instruments of local government in many states, but not in New England.

2. Failure to develop executive and legislative units. Closely related to their failure to become vigorous units is the lack of county executives or legislatures in the usual sense. Citizens are quite naturally more interested in the color and activity of

mayors, governors, legislatures, and even city councils than they are the routine work of any purely administrative unit. The counties have no true executive -- a board of commissioners with limited powers over other elective offices and almost no authority over the courts can hardly expect to attract much public interest, or to exert much influence. Likewise there is no true legislative body, for the commissioners cannot be so designated --there are no county laws as such; county legislation and county budgets are subject to the state legislature.

In the seventeenth century the Massachusetts legislature provided a so-called "marshal" for the County of York, who was to be the "executive officer of the county" and was elected by the qualified males of the county. This attempt to create a county executive failed to take root. In a few states, notably California, New York, Virginia, and Maryland, the County Manager or County Executive plan has sprung up in the twentieth century, and has achieved some success. Maine counties, as at present constituted, have neither the powers nor the resources required to make such a scheme succeed.

3. Checks on county government. Election of county officials after 1855, without the creation of a true county executive, produced a degree of independence, even irresponsibility, among officeholders that

inevitably led to the imposition of restraints. Elected officeholders, especially those administering justice under state law, needed to be placed under a measure of state control. Various statutes, from 1863 to 1917, put some restraints on treasurers, county attorneys, and sheriffs. Finally in 1917, the 38th amendment to the Constitution of Maine gave the governor and council authority to remove inefficient sheriffs, and by statute in that year similar power was given over county attorneys. The state auditor conducts annual audits of all county financial records, and has authority to install uniform accounting systems. His powers apply to the county treasurer and all other departments of the county.

4. Gradual decline of county authority. Loss of authority has resulted from changing conditions and the expansion of state and local activities. Commissioners and sheriffs have felt these impacts most heavily among county officials.

Commissioners' Court - The so-called County Commissioners' Court has lost ground to judicial courts and to local and state authorities. Its work has shrunk to the point where it scarcely exists at all in some of the smaller counties. It could well be dispensed with altogether, as an outmoded and totally unnecessary agency whose presence would never be missed.

Highway and bridge activities - The control over county roads once exercised by the County Commissioners has dwindled greatly. Even where the County authorizes the work and pays the bills, the actual construction and maintenance has often been taken over by the state.

Fiscal Controls - Boards of Commissioners are relegated to the routine chore of approving bills and doing some purchasing directly, and preparing and presenting the biennial budget of the county to the state legislature. Even in financial matters the actual purchasing may be done by the department concerned; budgets must be approved by the legislature; the state auditor may determine accounting methods and must audit all accounts.

Sheriffs - The sheriffs have lost so much ground that their jobs are kept alive only by diligent political activity and organization. The state police, state liquor inspectors, game wardens of two fish and game departments, and expanded and improved local police forces have obviated the need for police forces at the county level. The work of sheriffs and their deputies in crime prevention and apprehension is giving ground, albeit reluctantly, to better trained and equipped forces. There are persons, both inside and outside the sheriffs' departments, who have been sympathetic to the idea of "improving" sheriffs' staffs through civil

service selection, training, better pay, radio and motor equipment, uniforms, etc. It would be a sad day for the State of Maine if, under the guise of modernization and civil service trappings, it should be saddled indefinitely with an "improved" but expensive and wholly unnecessary county sheriffs organization.

Local and state police agencies are needed, and are with us for the indefinite future. The origin of state police and expansion of local police forces came about in the last few decades, largely because of the traffic problems and added mobility of crime brought by the automobile. Another contriubting factor was the traditional inefficiency of sheriffs and their deputies. We should spend any money we care to put into police expansion and improvement on our local and state police agencies. Coordination, cooperation, and the elimination of duplication and jealousy between local and state police forces is enough of a problem without a third set of competing police forces at the county level.

Should Counties Adopt the Manager Plan?

Success of the manager plan in American cities has led to its use in counties in a few states such as Maryland, Virginia and California. The manager plan is adaptable to counties which have varied activities and considerable sums of money to spend. Maine counties, with small budgets and limited activities, offer no scope for the

manager plan. The manager would be confined almost entirely to financial work now done by the county treasurer, plus purchasing which is now done by department heads and commissioners. He would have no real control over the operation of the departments since their duties are prescribed by law and the department heads are elected officials. Hence he could not be a true administrative head for the county without extensive reorganization of the laws and abolition of the elective system of selecting department heads.

Even more important than the above objections is the fact that our counties are so small that there is not enough work for a manager. In order to get a man worth hiring the counties would have to pay salaries of $5,000 or more, which could not be justified with the limited expenditures and narrow area of authority a manager would have, even if all work in a county came under his direction. In 1950 Cumberland County spent $426,485 and Piscataquis at the other extreme spent only $58,875. The greater part of these funds go for personal services - payments to elected officials and appointed personnel, so that even in the largest counties the manager would not be able to exercise much discretion or control. Total purchases of supplies and materials for all counties put together in 1951 is estimated at between a half and three-quarters of a million dollars. Centralization of purchasing in any one county would not give a manager much opportunity

to save money because of the limited amounts expended. Consolidation of small counties likewise offers little in this connection.

Table 2

County Funds Available for 1950 - State Total

Tax commitment =	$1,706,733 =	68%
Court fines and costs =	525,179 =	21%
Fees of Office =	200,263 =	8%
Miscellaneous =	77,749 =	3%
Total =	$2,509,924 =	100%

Miscellaneous Includes:

Rentals =	$ 5,405
Board =	12,974
Sales =	230
Transfer from surplus =	17,875
Other Items =	41,265
	$77,749 = 3%

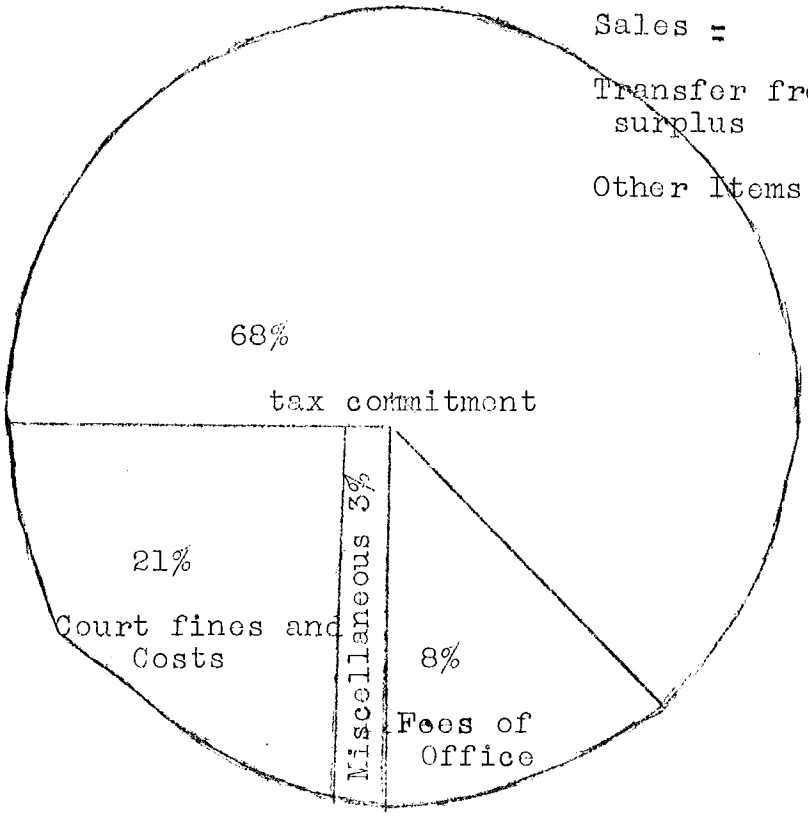
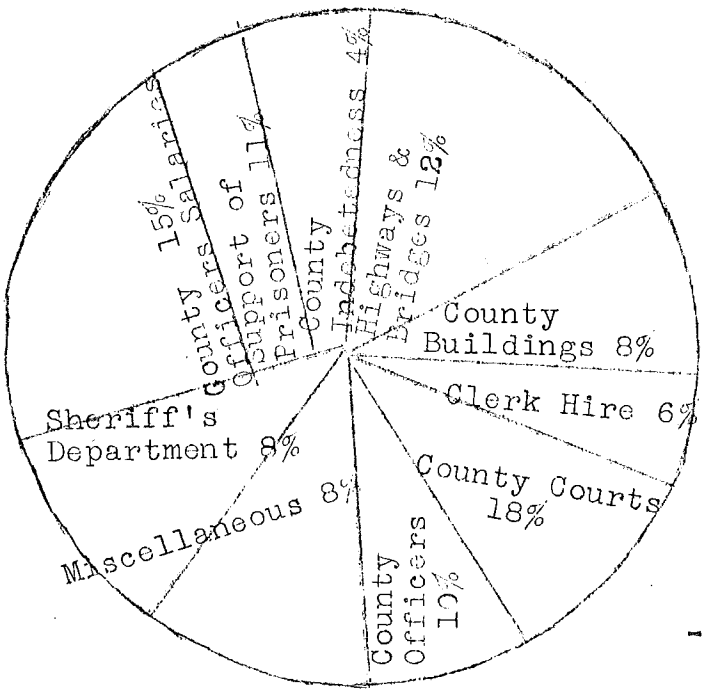


Table 3

County Expenditures 1950 - State Total

County buildings =	$ 189,171	= 8%
Highways and Bridges =	273,711	= 12%
County Indebtedness =	106,759	= 4%
Support of Prisoners =	263,477	= 11%
County Officers' Salaries	352,856	= 15%
Clerk Hire =	145,824	= 6%
County Courts =	443,412	= 18%
County Officers =	213,509	= 10%
Sheriff's Dept. =	183,104	= 8%
Miscellaneous =	204,527	= 8%
Total =	2,376,350	= 100%



Miscellaneous Includes:

Farm Bureau =	$ 53,975
Law Library =	19,095
Indexing =	15,711
Employee's Retirement Fund	39,513
Fire Marshall =	6,505
Transfer to Road Repairs Acct. =	3,900
Transfer to Capital Res. Fund =	20,000
Other Items =	45,828
Total	$204,527

Table 4

PER CAPITA COSTS OF COUNTY GOVERNMENT IN MAINE - 1950

County	Population	Total Costs	Per Capita Cost
Androscoggin	83,594	$ 179,516	$ 2.15
Aroostook	93,039	237,203	2.47
Cumberland	169,201	406,999	2.41
Franklin	20,682	59,694	2.89
Hancock	32,105	105,034	3.27
Kennebec	83,881	145,670	1.62
Knox	28,121	68,410	2.43
Lincoln	18,004	83,678	4.55
Oxford	44,221	131,070	2.96
Penobscot	108,198	316,153	2.92
Piscataquis	18,617	54,905	2.95
Sagadahoc	20,911	56,878	2.72
Somerset	39,785	103,156	2.59
Waldo	21,687	78,275	3.61
Washington	35,187	134,960	3.84
York	93,541	214,749	2.30
State	913,774	$2,376,350	$ 2.60

Proposals for Reorganization of Maine Counties

County as Agent of the State

The interest of the average voter in his county government is slight and his knowledge about it is practically zero. If county elections were separated from state elections, the total votes cast would be pitifully small, in all probability.

We elect a string of county officials, yet we elect no true executive and no real legislature, because the county has neither. It has no executive and no legislative body because it is chiefly an administrative unit, carrying out state laws.

The fact that the county is in reality a state administrative unit is further indicated by numerous state controls over the counties.

For example: --

1. The legislature determines the powers and duties of all county officials.
2. The legislature enacts county budgets.
3. The state pays the salaries of county attorneys.
4. The governor may remove sheriffs and county attorneys.
5. The governor appoints medical examiners, probation officers, trial justices, municipal judges, municipal clerks, and recorders of municipal courts.

The major administrative task of Maine counties is in the field of law enforcement, through the sheriff, jail, county attorney and municipal and probate courts.

In carrying out the administration of justice the county spends four-fifths of its money. Out of a total expenditure of $2,376,350 in 1950, the counties spent 12% for highways and bridges; the bulk of the remainder, or about two million dollars, went for the administration of justice. Although the county is paymaster for the municipal and trial justice courts, it has no real control over them. Our lower courts are in need of drastic reorganization; they should be made an integral part of our state court system, as recommended later in this report.

Judge of Probate, Register of Probate, Clerk of Courts

In the offices of judge of probate, register of probate and clerk of courts we have three elective positions which should be integrated with the state court system through appointment. The probate judge is the only elective judge in the court system of Maine, and while the present system of appointing judges should be improved, it is superior to election. Probate judges should be selected on the same basis as the proposed district court judges.

The register of probate should not be an elective officer, but appointed by and subordinate to the probate judge. The schedule of official fees for this office needs clarification. (R.S. Chap. 140)

Clerks of courts should be appointed by the Chief Justice and subordinate to him.

Recommendations

1. Probate court judges should be appointed in the same manner as district court judges[3], that is, by the chief justice on recommendation of a screening committee. The number of probate judges should be reduced, and the position made a full time, well-paid job.

2. Registers of probate should be placed under the state classified service, and should be appointed by the judges of probate. The number of registry offices should be reduced to conform to the number of probate courts as reorganized.

3. Clerks of courts should be placed under the state classified service, and should be appointed by the Chief Justice.

Note: The powers and duties of probate courts and registers of probate are found in R. S. Chap. 140 as amended.

3 See Page 34

County Attorneys

Term and salary. Elected for two year terms, county attorneys are paid by the state. Salaries are set by legislative act and range from $900 in Piscataquis to $3500 in Cumberland. County attorneys make an annual report to the attorney general, and are subject to him in certain types of cases, notably murder and treason. The attorney general "shall consult with and advise the county attorneys in matters relating to their duties." (R.S. 1944, Chap. 17; Sec. 9)

Duties. The major duties of county attorneys are to prosecute in criminal proceedings and represent the county in civil cases. (R.S. 1944, Chap. 79; Secs.128-141). They are fundamentally state officials, carrying out state laws, paid and partially controlled by the state.

The problem. It is as difficult to secure impartial, competent county attorneys, as it is to get the right kind of municipal judges. There is no valid reason for them to be short-term, elected, poorly paid officials.

Recommendations.

1. The present county attorneys should be replaced by full time district attorneys, one for each of the district court areas recommended in the section of this report dealing with municipal courts.

2. The salary of district attorneys should be the same as for district court judges.

3. Selection should be by a screening committee of prominent attorneys and laymen, who would recommend candidates to the attorney general for an initial four or five year term. If reappointed the incumbent would then have permanent tenure subject to removal for cause.

Relation of district attorney to courts. A district attorney would have the same duties in superior court as the present county attorneys, except that some districts might include two superior courts. His relations with the new district courts would be much closer and more systematized than the present relations of county attorneys with municipal and trial justice courts. This closer relationship would be possible with fewer courts and full time district attorneys, and would be particularly helpful in appealed cases. At present there are too many opportunities for bungling and miscarriage of justice because of the tenuous connections between local courts, county attorneys and superior courts. In the majority of cases it would not be necessary for the district attorney to be present in district court. Whenever a case was appealed and the district attorney was not present at the time, the judge could immediately fill out a form which would give the district attorney needed

information. The present so-called "record" form is a parroting of facts already given in the complaint and warrant and lacks flesh and blood. With the type of district judge envisaged in this report the powers of district attorneys and superior courts to dispose of cases by nol-pros or otherwise by summary procedure should be reconsidered and sharply reduced. In no case should such disposition be made without prior consultation with the lower court judge. Official receipts should be given the lower courts for all bound-over and appeal papers.

The Office of Sheriff

The sheriff as chief law enforcement officer of the county has outlived whatever usefulness he may have had and would have disappeared long ago except for his local political power, aided by public indifference. To create an efficient county police force from the present setup headed by an elected sheriff would be expensive and it is hard to see how it could be effective while remaining a political football. Furthermore, the State of Maine is small, has two sets of police, local and state, and does not require a third competing force. Also, we have a large force of forest wardens, sea and shore wardens, and fish and game wardens, who

carry on work done in the past, in part at least, by deputy sheriffs.

There is considerable friction and jealousy between sheriffs' departments and the state police. The sheriffs in particular feel that the state police encroach upon their rightful province in law enforcement. The state police, on the other hand, claim that they are careful to distribute their force and its activities in accord with the number and effectiveness of the sheriffs' men. The amount of law enforcement done under present conditions varies greatly from county to county and from one sheriff to his successor. In some counties they are quite active, especially in rural areas where there are no full time local police. On the whole it can be said that the work of the sheriff in criminal cases is not important, being overshadowed by the activities of state and local police. As local and state forces have tended to grow rapidly in recent years, the need for the sheriff has consequently dwindled. Recommendation. The office of sheriff should be abolished.

Civil work of sheriff's department. There are about 400 deputy sheriffs in Maine, with the greater part of them (about 350), paid by the day when on criminal law enforcement. In the year 1951 these part-time deputies did not work more than two or three weeks each, on the average, in criminal law work, the remainder of their

official income being derived from fees for serving civil papers for courts and attorneys. How much they earn in this way is not a matter of public record. The fee system, which has been abolished by law in criminal cases, should be abolished likewise in civil cases. Any type of fee system is bound to be abused so long as the employee has a direct interest in the fees. The present system of politically appointed deputies should be replaced by a system of full time salaried process servers, appointed by the Chief Justice from eligible lists prepared on the basis of open competition. Fees of office would revert to the state. The scale of fees should be revised and brought up to date. Wherever possible the U. S. mails should be used to serve papers in order to save travel expense. A relatively small number of process servers could replace the present army of deputies if the system were properly organized and administered.

Recommendation. The present deputy sheriff system should be replaced by a smaller number of professional, full time employees on a salary basis. The fee schedule should be modernized and fees should revert to the state.

County Commissioners and Treasurers

Transfer of county functions concerning law enforcement would relieve the county commissioners and treasurers of their major functions. The only other

county activity which uses much money is highway and bridge work, which accounted for expenditures of $273,711 in 1950. Part of this money is exponded under state supervision, and in some counties there is little expenditure. Counties such as Aroostook and Washington have responsibility for certain road work in unorganized towns that falls upon municipalities elsewhere. Yet the total 1950 county expenditure for the whole state in highway and bridge construction was less than for the city of Bangor, which spent aproximately $300,000 in 1950 on highways. Bangor's population in 1950 was 31,558.

It would seem wise to transfer the remaining highway work now done by counties to the state, since the amounts involved are small and the state could readily absorb what little autonomy the counties now exercise. If this small loss of county power over highways and bridges is of real concern to the public, it can be more than offset by having the legislature give back to the cities and towns some of the control over highways they have forced upon the state in recent years. Strong local government in our municipalities is greatly endangered by voluntary abdications of power to the state when we ask it to assume the cutting of bushes and plowing of snow, and the building and maintencance of more and more of our highway system. To reorganize at the county level in order to place work which is properly chargeable to the state where it belongs would eliminate a structure

which has lost ground to the point where it is utterly unnecessary. We would strengthen democracy by relieving the voters of the need for electing numerous little known county officers, and by concentrating our attention on the strengthening and improvement of local, state and federal government.

On paper the county commissioners have many powers; in practice most of these are obsolete or practically so. As one board of commissioners frankly stated, "We are reduced to the function of approving bills for payment."

Recommendation. The offices of county commissioner and treasurer should be abolished and such essential functions as remain transferred to appropriate state or local officials.

Register of Deeds

The register of deeds is a wholly administrative officer, carrying out state laws. Although the law states that he shall be a full time official, the eighteen registry officials (there are two districts in Oxford and two in Aroostook) are in fact part time officials, and the statutes recognize this by allowing them certain private fees: "They may make abstracts and copies from the records and furnish the same to persons calling for them and may charge a reasonable fee

for such service .... Fees charged by them for abstracts and copies shall be retained by them and not paid to the county." (R.S. Ch. 79; Sec. 231). A fee system is always subject to abuse where the official benefits thereby, and it would seem doubly dangerous to allow the official to set his own fees. The schedule of fees which registers of deeds collect for the county itself is set by Ch. 79 above mentioned, as amended by Chap. 380 of the Laws of Maine, 1947, and Chap. 404 of the Laws of Maine, 1949. They are obliged to list and account quarterly to the county treasurer for all fees "received by them or payable to them..." Similar provisions exist concerning clerks of courts and registers of probate, and the statutes appear weak in not requiring a separate official bank account for such office, in which all fees should be deposited promptly and paid to the county monthly. Fees for abstracts, copies, or other so-called "private" work of any such office should not be retained by the official, nor should any fees be left to his discretion. The law, by stating that clerks of courts and registers of deeds and registers of probate must turn over fees paid or payable, indirectly invites continuance of the practice of giving credit on fees, for which credit the official then becomes liable at the end of each quarter, whether he has collected fees due him or not. While this

credit system is a convenience to attorneys, it seems an unsound practice and should not be continued. If all fees had to be deposited in 72 hours in a special bank account and paid into the treasury monthly the present unsound practices would be remedied.

Recommendations.

1. The register of deeds should be appointed by and subject to the official in charge of state records. At present this is the secretary of state. The register of deeds should work full time, be adequately paid, and selected on a merit basis as a career official.

2. All fees collected by registers of deeds, and other fee collecting officers such as the register of probate, should revert to the state treasury. The schedules should be clarified, especially for the probate courts, and extended to include all work done by the officer for the public. All fees should be deposited promptly in special bank accounts.

Bail Commissioners. Bail commissioners are appointed by the superior court and hold office at its pleasure. They receive a fee of "not exceeding the sum of five dollars in each case," and no provision is made for travel costs. This office provides a glaring example of the inadequacies of the fee system. Commissioners usually have other occupations, but what they earn in fees and how often they overcharge is not known. There is considerable dissatisfaction with the way

they operate. The subject should be investigated thoroughly by legislative order.

Recommendation. The legislature should order an investigation of the work and method of remuneration of bail commissioners.

Trial Justice Courts

From information available in the offices of the secretary of state and state auditor, it appears that there were 33 trial justices in Maine on July 1, 1952. Several of these men are entirely inactive, and a number of others hear a very small quota of cases each year. Returns from 19 of these justices indicate a range of case loads from zero to 544 cases, with the majority having had fewer than 100 cases in 1951.

In recent decades the number of trial justices has shrunk. In 1929 there were 117 listed; at present there are six counties which have none at all, and the total is only 33. It is difficult to find adequately trained men, although there has been a trend toward the selection of attorneys where such are available.

Critics have attacked the trial justice courts over a long period of time, claiming that the fee system was subject to great abuse, that justices were often unfit for office, and that their courts were no longer needed in a day of high speed travel and paved roads. In 1947

the Maine legislature placed trial justices on a salary basis, thus removing one of the causes for complaint, but the other arguments are still valid.

In defense of these courts it is urged that they offer a convenience to local and state police, expedite justice, and save time and travel for out-of-town motorists and for local residents ordered into court on a variety of charges.

Various statutes have circumscribed the jurisdiction of the trial justice or extended the powers of municipal courts without providing like extensions for trial justices. Municipal courts were granted exclusive juvenile jurisdiction in 1943, and were later given powers as small claims courts. The civil jurisdiction of municipal courts is greater than that of trial justices, and is also more extensive in larceny cases.

While trial justice courts have suffered from slow attrition, new municipal courts have been established until there are now 49, scattered throughout the state, compared with 43 in 1929.

Recommendation. All trial justice courts should be abolished, effective as soon as a new, unified, municipal court system is available as suggested elsewhere in this report.

Municipal Courts

Our system of justice can rise no higher than the lowest courts in which the bulk of cases are heard. It is here that the average citizen comes in contact with judges, if at all. It is here that public opinion is crystallized at to the quality of justice meted out through the courts. If democracy is to survive, it must have lower courts in which the judges are fair, learned, and wise. There must not be undue delay, nor any sort of favoritism. Only through the highest of standards in the municipal courts can our traditions of freedom, fair play, and equality before the law be maintained.

Number and location of municipal courts in Maine. Maine has 49 municipal courts in 1952, an increase of six since 1929. They are scattered over the whole state, with not less than one nor more than seven in any county. Franklin, Knox, Lincoln, Piscataquis, Sagadahoc and Waldo have one each, while Penobscot has seven. In some areas we find a concentration of courts far beyond any reasonable need, as for example in the Augusta, Gardiner, Hallowell, Winthrop section, with four courts, or in the Bangor, Old Town, Brewer area, with three courts. As a result of such concentration, some courts have relatively little to do, as in Winthrop, Hallowell, and Brewer. For the past five years the Winthrop court

has had an average of 59 cases on its docket annually, little better than one case each week.

Jurisdiction. Each court is established by a special act, which may be amended from time to time. Such acts determine jurisdiction in part, and set salary and other details. The state constitution sets the term of office at four years, and the general laws determine broad questions of jurisdiction and the schedules of court costs. For example, Chapter 96 of the Revised Statutes of Maine, 1944, provides that judges must be members of the Maine bar, limits their law practice to matters not inconsistent with their judicial work, determines general civil jurisdiction, and sets court costs in civil and criminal cases. In 1943 municipal courts were given exclusive juvenile jurisdiction (Chap. 322) and in 1945 (Chap.307) there were made small claims courts.

The special acts, often called "charters," by which our 49 municipal courts were established, and the welter of amendments thereto, plus the general laws such as cited above, create a situation that is confusing. The public makes no attempt to fathom this tangle, is even unaware of its existence, but attorneys, judges, and officers of the law are forced to take cognizance of the fact that no two courts are set up alike, and there is sometimes doubt as to whether a court has jurisdiction. The legislature is burdened with countless petty bills on the subject of jurisdiction,

salaries, clerk hire, etc., which it could well do without. As an example, chosen at random, the Auburn court will illustrate the legislative burden resulting from special laws. The Auburn court was set up by Chap. 135 of the Private and Special Laws of 1875. At least 9 special acts have amended the original law, and there have also been several acts setting the pay of the judge and his staff, the last of these being passed in 1951. There seem to be good reasons for uniform jurisdiction under general laws for all matters pertaining to municipal courts, local pride or individual desires to the contrary.

Judges. According to the Constitution of Maine, municipal judges are appointed by the governor and council for four year terms and they may be re-appointed. The pay is set by special acts of the legislature, and runs all the way from a low of $300 to a top of $3500, attained only in Portland and Bangor. By Chap. 96 of the Revised Statutes of 1944, the judge is severely limited in his outside practice, although the position is a part-time job. There is aboslutely no rational relationship between the salary paid and the work done by a judge. In one court the salary may remain fixed at one point for years, in another it may rise to become several times the amount in the first court, with a comparable work load. Apart from the obvious fact that some judges are much more conscientious and

painstaking than others, there are wide variations in the amount of clerk hire available, if any, and the amount of clerical work done by the recorder, if there is such an officer. The upshot of the whole system is that one judge works several hours for the same pay another judge earns in one hour; one judge labors over detailed routine clerical work while another does no clerical work whatever.

All municipal judgeships in Maine are low paid, part-time jobs of uncertain tenure. They may appeal to the young attorney starting out, the elderly attorney nearing retirement, the unsuccessful attorney of any age, the attorney who wishes to use the job as a stepping-stone to a political or judicial career.

How many first rate attorneys are attracted by this system? And how many of these good men quit at the end of one term, or are refused re-appointment in favor of men more eligible politically? These are questions with no readily available answers, but there exists a rather widespread opinion among both attorneys and laymen that the present setup is far from ideal. Whatever his qualifications may be, the low paid, part-time judge is subjected to pressures which a more independently situated judge could afford to ignore. Many judges are local business men, purveyors of real estate, insurance, etc., and they also expect to practice

law again once their judgeship ends. Thus the pressures are not restricted to payment of political debts, but include past, present and potential customers. To be impartial a judge should be free of all business and political ties. To be free of such ties the judge must be a well-paid official carefully selected and guaranteed tenure so long as he performs his duties faithfully and well.

Recommendations.

1. The constitution should be amended to provide for a system of district or circuit courts to replace the present municipal courts, with all details of the system to be provided by statute.

2. The judicial council provided for by an act of the legislature in 1935 and found in Chap. 100 of the Revised Statutes of 1944, Sections 192-194, should be activated and instructed to study the work loads of existing municipal and trial justice courts. It would then recommend to the legislature the number and boundaries of judicial districts to be established. The chief justice could be given powers of assigning judges and adjusting district boundaries in the light of experience. Judges would travel through their own circuits, with court held successively in stated places in each circuit.

3. Each judge would be paid a substantial salary for full time work. He would be forbidden to practice

law or have any business interests. Under present economic conditions the pay should be at least $10,000 annually, to be paid by the state. Court fines would revert directly to the state treasury each month.

4. Judges should be appointed by the chief justice on nomination of a screening committee, which might be the judicial council referred to above. The chief justice could be given power to remove a judge at any time for cause. After an initial appointment of four or five years, the judicial council would again advise the chief justice, this time as to whether the judge should be given a permanent appointment, subject only to removal for cause by the chief justice.

Recorders and clerks. At least three-fourths of our municipal courts are provided with officials called "recorders," or "clerks." Some of the charters, as in Brewer, require that the recorder must be an attorney; elsewhere there is no such requirement and some of the recorders are not attorneys. In general, recorders have the same powers to hear cases as do judges, whether they are attorneys or not. There is a wide variation in practice as to the number and type of cases heard by recorders, and equally wide variance at to whether the recorder hears cases on certain days or only in emergencies when the judge is not available. Recorders generally receive so little pay (from less than $200 to $2750, with the average below $1000) that it is harder

to get good recorders than to find acceptable judges. A man with a full time job often finds that the recorders job interferes too much with his other work, and employers are loath to allow a valuable worker to break into his day whenever a warrant is needed or an emergency hearing required. Often the recorder does the actual recording or clerical work on all cases, elsewhere there is clerical help available and his task is primarily that of assistant judge, subject to call at all hours. Theoretically the judge is also subject to call at all hours, but practice differs greatly as to the actual accessability and willingness of judges to hear cases or prepare warrants at odd hours. It would seem that the availability of warrants and trial procedure should be somewhat uniform throughout the state. It would also seem that "recorders" should have somewhat similar duties throughout the state.

If a district court system is established as recommended above, with extra judges to fill in when a judge is ill or on vacation, recorders as now constituted will not be needed. For example, suppose ten districts are established, with twelve judges on the court. Ordinarily a judge would reside in and hear cases only in his district. The two extra judges would go where assigned by the chief justice of the supreme court. Junior judges might take their turn at this less

desirable assignment. Emergency criminal trials would be heard in the district where the offense took place. If in term time, they would be taken to the community where the judge was presiding, otherwise to his home community. In rare cases they might need to be tried in the next district. Our municipal and trial justice courts are presently spending over $150,000 annually in salaries and clerk hire. It is believed that the above system would allow expeditious trials, would probably cost no more than the present unsystematic muddle, and would produce far better results and inspire greater public confidence in the courts.

If after reasonable trial it should be found that emergency cases, such as in traffic violations, could not be handled expeditiously, then an assistant judge could be appointed where needed, or the number of districts could be increased with the same result.

Under a district court system recorders would not be necessary. Each court should be given the necessary clerical help to prepare papers and keep records. High pay would not be necessary if fancy titles were avoided. Examinations for these jobs should be given by the state, and the pay scale should also be set by the state. In this way the court employees would have training and pay scales comparable to workers of similar grade in the state service. Present municipal court employees would receive preferential treatment because

of their experience, if they should apply for the new positions. At present only about a dozen municipal courts are allowed money for clerk hire. Clerks are paid on an hourly or weekly basis, with no such thing as "equal pay for equal work." In the majority of municipal courts and in trail justice courts the clerical work is done by the judge, recorder, or trial justice, or he hires it done and pays for it out of his own pocket. Thus an attorney who is a judge may have his own secretary prepare warrants and records.

Recommendation. It is recommended that the system of recorders and clerks be abolished, and that the proposed district courts be furnished with the necessary clerical help as outlined above.

Court procedure and records. Our lower courts leave much to be desired in regard to procedure and records. It would be impossible to cover all weaknesses in a short paper, but the following selection is intended to point out some of the more glaring faults.

General Procedure. As in many other matters, there is a wide range of procedure and appearance among our lower courts. They are often criticized on the following points:

1. Procedure too brief and summary to allow due consideration to the facts - respondents often feel they have been given the "bum's rush."
2. Judge fails to explain the law and penalties involved.
3. Judge fails to protect defendant's rights by

informing him of his rights or by providing counsel or allowing time to consult counsel.

4. Judge supports officers in improper practices, or fails to reprove them, as when they have been unnecessarily rough, or abusive.

5. Procedure too informal and lacking in dignity and decorum; undue levity on part of officers or judge.

6. Carelss appearance of officers.

7. Careless appearance of judge.

8. Dirty, shabby, or littered courtroom.

9. Respondents browbeaten by judge.

10. Discourteous judge.

By no means universally applicable, there is enough truth in the above criticisms to provide further support for the district court idea, uniform rules of procedure, and attention to the physical appearance of courtrooms and officials.

Recommendation. Uniform rules of procedure for the proposed district courts should be prepared by the court judges and the state judicial council. After approval by the chief justice they should be placed in effect, subject to periodic revision.

Informing the public. The public is woefully ignorant concerning our lower courts, and consequently prejudiced against them at the outset. There should be prepared a

simple leaflet telling respondents how the court operates and its place as a bulwark of protection for the average citizen in a democracy. A copy of the leaflet could be given to every respondent while he is waiting for his case to be heard.

Costs of Court. No phase of court work is more mysterious to the layman than the "costs of court." Why do they exist, how are they determined, and where does the money go; these are questions which arise in the lay mind. Unfortunately, the answers are neither easy nor logical. The costs of court are supposed to represent a forced contribution toward the maintenance of law enforcement, a set of "service charges," so to speak. In times past some of these charges went directly to the judge and others to the officers. This was the "fee system," a thoroughly discredited and now almost wholly abandoned practice. The officer was paid so much for making an arrest, another fee for appearing in court, and some more for "travel," and the judge was paid by fee for hearing the case and making out the papers and recording them. With the disappearance of the fee system as a means of paying judges and officers, one of the original reasons for a cost schedule has been outlived. It might be said that the county, municipality and state, among whom the fees are now divided by an elaborate system of bookkeeping, need the fees to help support the courts and officers. A slight increase in the average fine

would bring about the same result much more easily and fairly. Besides, the present schedule of court costs is obsolete in that it bears no real relation to the actual cost of operating the courts and paying officers.

The unfairness of court costs is evident when one respondent who happens to live some distance from court may have a bill of costs of forty or fifty dollars to pay while a second person guilty of the same violation of law may have a bill of costs of less than five dollars because he lives near the court and the travel costs are light. Mileage of the officer at ten cents a mile mounts rapidly with distance. If a judge tries to equalize the result somewhat by means of a smaller fine when costs are high, the system of penalties is thrown out of gear. Another unfair feature of the cost system results from the various methods of interpreting the schedules of fees, so that the costs are not uniformly assessed throughout the state.

A judge may suspend the costs, and there is a slight trend in this direction, but the majority of judges feel that so long as costs are provided they should be assessed and collected. Until or unless all judges act uniformly there is an evident unfairness in the present system if certain courts make a practice of suspending court costs, while others continue to

collect costs.

Respondents are generally confused as to what costs are for and where they go after collection. Many violators are firmly convinced that the judge and the officers share the "loot" after court sessions are over.

Perhaps the best reason for abolishing costs in criminal cases is a practical one: -- there would be a vast saving in time and clerical work. The court records and reports would be greatly simplified if bills of costs and their elaborate bookkeeping entries were eliminated. In routine cases there are at least six cost items which have to be assessed by the judge or recorder, computed, and collected. They are entered on the back of the warrant, and later transferred to the docket book and cash book. After the respondent has paid his money he may get an official receipt which indicates the amount of the fine and the costs. In taking his money the court official has to make change, since costs rarely come to even dollars, and to do this an ample supply of change must be kept on hand by the court. At the end of each month a detailed "cost sheet" on legal size stationery is filled out for each case and forwarded to the county treasurer, and if the case is appealed, another cost sheet goes with the appeal papers to the clerk of courts. Costs also appear on various special reports, as to the state highway commission in all motor vehicle cases, and likewise to the

secretary of state. The computing and checking of costs does not end with the courts, for the county treasurer has to make careful records and distribute the costs to the proper state and local agencies. Finally the state auditor must check all of these records in the courts and other agencies. If we could compute the whole cost of assessing and collecting court costs, we should doubtless find that we had spent a large slice, perhaps as much as one-half of the proceeds, in the process.

Recommendation. Costs of courts in criminal cases should be abolished for the reasons outlined above.

Court records. Through the years municipal court records have increased in number and complexity. As new requirements have been added, old ones have remained unchanged, until the courts are virtually swamped in paper work. Much of this paper work is repetitious, obsolete, or otherwise unnecessary. Abolition of bills of costs would be a good start toward modernization of court records. Further steps could well be taken to modernize forms through streamlining, thus shortening clerical labor and rendering filing and handling simpler. Appeal papers are an example of cumbrous, outmoded procedure. When a respondent appeals conviction to the superior court and furnishes bail for his appearance thereat, the municipal court must supply a set of four legal size documents to the clerk of courts. These consist of a

copy of the warrant, a recognizance (bail paper), record of the case, and cost sheet. All of this information could be placed on the copy of the warrant, if it were properly re-designed for that purpose. Careful study would reveal other opportunities to eliminate unnecessary record keeping. Besides saving money it would enable courts to keep their records up-to-date and in better shape than sometimes is done. Most of our municipal and trial justice courts keep cash books in which to record all receipts and disbursements of fines and costs. Although the state auditor approves of this practice, it would seem entirely practicable to design a docket book to include this information, since much of it is a repetition of the cash book. There would seem to be no danger in such a practice provided other proper fiscal safeguards are used, such as pre-numbered receipts.

Recommendation. Forms, record books and filing systems used in municipal courts should be streamlined and simplified.

Modern fiscal procedures. Our courts are gradually adopting proper fiscal procedures at the suggestion of the state auditor. There are two such procedures which should be made mandatory. Not over half of our eighty courts use pre-numbered official receipts. These

are valuable as a fiscal safeguard, and also impart a greater sense of confidence in the public mind. When a respondent is handed an official receipt which shows his name and the sums he has paid he is less likely to suspect that the money may go astray.

As of July 1952 only three Maine courts were using pre-numbered warrants. Numbering warrants does not impose any additional bookkeeping burdens on the courts, but does furnish another check on court procedures and proceeds. For example, it prevents the quiet disposal of cases by the judge or recorder without any public record of their disposition being made, or any record that a complaint and warrant were issued in a given case.

Recommendation. All lower courts should be required to use: (a) pre-numbered receipts, and (b) pre-numbered warrants.

Schedule of fines. The schedule of fines provided by statute is in need of revision. Some of the fines have been on the books a long time, and the value of the dollar has changed so much that they are now unrealistic. For example, if one hundred dollars was a reasonable minimum fine in drunken driving cases twenty years ago, the minimum should now be at least $200. Fines which have been added in recent years do reflect inflation, to some extent at least. An example is found

in Chap. 323 of the Laws of Maine, 1951, which sets up a schedule of minimum fines for violation of maximum weight limits for commercial vehicles. Starting at $20, these fines go to $500 at the top, and provide a fine of $150 and costs when the overweight violation is 4000 to 5000 pounds, and at least $350 and costs when the excess is 10,000 pounds or over. Furthermore, these overwieght fines and costs may not be suspended. It appears that a four thousand pound overload is considered more serious than the usual drunken driving case which ordinarily draws a fine of $100 and costs, and either fine or costs or both may be suspended, although it is not customary. Another example of what may be termed a lack of proper relationships among penalties is found in the provisions concerning night hunting. The 1951 revision of the fish and game laws provides that any person convicted of hunting wild birds or animals between ½ hour after sunset and ½ hour before sunrise (Sec. 67) "....shall be punished for the first offense by a fine of not less than $200 and costs, nor more than $400 and costs, which fine and costs shall not be suspended, and an additional penalty of not more than 30 days in jail, at the discretion of the court; and for a second or subsequent offense, by a fine of not less than $400 and costs, nor more than $800 and costs, and 30 days in jail, which fine, costs and jail

sentence shall not be suspended, and an additional penalty of not more than 60 days in jail, at the discretion of the court." Are some penalties unduly ferocious, or are others unduly lenient? In defense of the legislature it should be pointed out that various penalties were enacted at various dates and with no attempt at correlation of different subject matter, but the results are not happy. The night hunting legislation quoted above is typical of a recent trend, in its attempt to handcuff the courts by removing their discretion. It is very doubtful if the courts operate as well when they are so severely limited by law; at any rate judges generally resent penalties which may not be mitigated by the court. Extreme penalties are also said to encourage lax law enforcement and to create a tendency to acquit the guilty if they are apprehended.

Recommendation. The legislature should order a study of criminal law penalties in order that a modernized and better coordinated plan for such penalties be available for action at the 1955 legislative session.

Application of penalties. Under the present system of short term judges and numerous courts it is not strange that the penalties of the law are applied with wide divergence. There are no standards which the courts apply with reasonable uniformity. New judges work out their own philosophy of punishment, often slowly and painfully.

A unified district court system as outlined previously in this report could go a long distance toward correction of the extremes now practiced which too often make our lower courts appear casual and unpredictable in their penalties. It could collect and analyze statistics showing the penalties being assessed, and should attempt to bring harmony of treatment among the different districts.

Publicity on court decisions. In order to avoid gross injustice to some and undue favoritism to others, it seems that courts, police, and newspapers should adopt definite and consistent policies concerning press releases. While it is recognized that court cases vary greatly as to news value, there seems no excuse in a democracy for the common practice of suppression of certain cases while others no more newsworthy are highlighted. Almost equally bad is the practice of burying some cases in obscure corners with important facts omitted or glossed over, while playing up others where the parties concerned have no "influence."

MAINE JAILS

Origins of the Jail Problem

The jail is a very old institution, going far back in history. At first it was a place of detention for those awaiting trial; those convicted were put to death, fined, lashed or otherwise punished, but not imprisoned. As time passed and physical punishments were abandoned or made less severe, the use of imprisonment came to be common as a punishment for all kinds of crimes.

At the time this country was settled the county jail in England was run by the sheriff, and our colonial ancestors accepted this system without question. We continue to accept this system without question, while the situation has changed in England and to a lesser degree, in some of our sister states. The evils of English jails led to the jail act of 1877, which closed some jails and placed the remainder under the central government, which gradually closed most of them.

Early seventeenth century jails in America were made of logs, but brick and stone came into use in the 1700's. The first Virginia law on the erection of jails was passed in 1642, and jails multiplied as counties were created; the same thing happened in

other states. As in England, jails were first used for detention of persons waiting to be tried, and for debtor's prisons. The growth of jails followed the English pattern, and they came to be used for punishment as well as for detention.

What are the Objectives of our Jails?

The functions and objectives of jails have changed through the centuries. First the jail was a place of detention for those awaiting trial and a means of exacting payment for debt or taxes. Then the idea of punishment became the prevailing theory, and finally, the reformation of the prisoner became a leading objective. Theorists differ among themselves, and the public certainly has no very clear view of why we have jails, or whether they attain their goals, but we may say that present-day objectives include:

1. Protection of society
2. Punishment of offender to deter him from crime
3. Deterring others by example
4. Reforming the offender

The trouble with these objectives is that they are not attained and cannot be attained by methods used for hundreds of years with but little improvement.

1. Is society protected? Society is protected only for such time as the criminal is behind bars, which is less than thirty days for most offenders. Most jail inmates are not hardened criminals, but petty offenders who are in many instances steady customers. Society does not require any great protection against the majority of people in jail.

2. Does punishment prevent repetition? Punishment as a deterrent has failed. In spite of the disagreeable and monotonous character of jail life, repeaters make up a large proportion of the jail population. The percent of repeaters in the U. S. jails has been found to be as high as 60%. Although figures for Maine are not available, the number is undoubtedly large. People are not restrained by jail sentences from committing further misdemeanors.

3. Do jails prevent crime? There is no evidence that they do. Ignorance of the law and ignorance concerning jails is so widespread among those who are arrested that it is very doubtful if jails prevent crime.

4. Does jail reform the prisoner? Few intelligent persons believe that confinement can contribute at all to reform. All factors and conditions are

combined to prevent reform, and the chances are that the average person sent to jail will come out worse than when he went in. Those who have not seen the inside of a jail, - any jail, in Maine or elsewhere, - could not expect it to "reform" anyone. By its traditions, and by its very nature, the jail cannot be used as a means of reform.

What are the End Results?

The large number of repeaters and the utter lack of any constructive program for the inmates seems to indicate that nothing good has been added to the man, and, as a rule, none of the evil taken out. On the contrary, he has leisure in which to brood over the alleged injuries done him by society and to learn criminal ideas and attitudes from the warped minds and bodies of his companions. For some types of prisoners a kind of "social security" is given for which they neither pay nor work. For the first time offender, or the person awaiting trial and unable to secure bail, jail experience may permanently warp his outlook, or leave him so resentful and soured that any reform is impossible. This is particularly likely when he has committed some trivial offense for which he cannot pay a fine, and

for which many others are not even arrested. His sin is in getting caught, and the moral is to be more shrewd next time, so as not to be caught. He leaves the jail wiser, so he thinks, but completely unrepentant.

About the best that can be said for the jail is that it keeps some persons "out of circulation" as the police say, and protects society for the period of their sentence. Since most jailbirds are petty offenders, not a real menace to society, the "protective" angle is greatly exaggerated. For the occasional really dangerous criminal who may be lodged in jail awaiting trial or for other reasons, most of our jails are not secure, and society is poorly protected.

The alcoholic, always present in large numbers in our jails, can be sobered up during sentence and is safe from traffic hazards or other accidents which might befall him on the outside. However, jail is no cure for addiction, and repeated sentences for recidivists may hasten complete demoralization.

Why Isn't Something Done About Jails?

The answer is that the "best people" are not interested, because the situation is not brought home to them. Their children keep them up-to-date about the schools, but they do not get daily reports on the jails. Their interest is elsewhere, and they are

woefully ignorant about the inhabitants of our jails and what happens to them there and after they are released. On the other hand, active defenders of the jails will be found among certain officeholders and their relatives and political friends. Jails mean jobs, influence, and votes to a certain element in the population.

Physical Condition and Administration of Maine Jails

A. Physical condition. The physical plant of our Maine jails presents an almost uniformly dismal picture. Over-age buildings of brick, stone and wood, badly arranged, dark, hard to heat and ventilate, damp and musty in summer, with antiquated equipment; they are usually in need of repair and often lacking paint. Plumbing fixtures in many jails are in poor condition, and usually inadequate. As large a jail as that of Cumberland County still relies on the antiquated "bucket-system," which consists of a chemical slop bucket toilet in each cell. Proper facilities for storing and preparing food are uncommon. Dirty mattresses and bedding are all too common.

There have been some improvements in Maine jails in recent decades. These have embraced such matters as structural improvements, new equipment, more

frequent painting, greater cleanliness of buildings and inmates, greater security against escape of prisoners, and better food. The credit for these betterments, which have been uneven and slow to come, rests in part on federal and State authorities, who have carried out inspections and given oral advice. The Federal government also provides a free manual on jail administration. State parole officers who carry out state inspections for the Department of Institutional Service, often suggest improvements.

Credit also goes to certain sheriffs and their deputies who have striven for improvement. In a few counties the commissioners have taken an active interest in the jail problem, while in certain others the sheriffs charge that they are not allowed funds for necessary improvements, equipment, repairs, or food.

Federal and State inspection reports make instructive reading. In 1951 the Federal Bureau of Prisons sent its inspector to seven Maine jails: Androscoggin, Aroostook, Cumberland, Hancock, Kennebec, Knox, and York. Five of these were given over-all ratings of "fair" on the following question in the ten page reports: "Compared with a good jail, what single adjective best describes jail?" One jail was rated "Fair minus" and the other "Poor." No jail was rated

fairly good, good, very good, or excellent, nor was any given the lowest category of "bad." The Franklin and Waldo jails have had no Federal inspection since 1943, and the remaining five jails were given their latest Federal inspection in 1939.

Annual state reports are provided by Section 15 of Chapter 23 of the Revised Statutes of 1944, which requires that the Commissioner of Institutional Service report annually on the condition of the jails to the Governor and council. These reports are prepared by the chief parole officer and his staff.

B. Administration. The management of Maine jails by elected amateurs is about what we should expect.

Qualifications of Sheriff as Jailer. As an elected official the sheriff is seldom prepared for the task of running a jail; few have had any experience or training in the administration of such institutions. This is one of the most serious defects of our jail system, and so long as the sheriff has to come up for reelection every two years no lasting improvement can be expected. From early English days the sheriff has been the police head for the county, but the job has long since outgrown his feeble efforts.

and he is in the process of being supplanted by more effective state and local police forces. The sheriff is no more fitted to head the jails than he is to be the chief law enforcement officer. His deputies and other appointees are usually his political assistants, friends, or whoever is available at the pay offered, and they have few qualifications for jailers and guards. This is an illustration of the failure of the old theory, still cultivated by some politicians, that any citizen is capable of filling any public office.

The Poor Jailer.

The sheriff and his jail staff have a thankless and difficult task. Forced to handle some of the filthiest and lowest types in the population, using outworn equipment, obsolete buildings, denied adequate funds, working for a fickle electorate on a two-year basis, the sheriff and his aides have little incentive to do a good job. Even though they do as good a job as possible with the tools at hand, the rehabilitation of prisoners without work and recreational facilities would prove impossible, and the proper treatment of the ill and the alcoholic without psychiatry and medical facilities would be impossible. The sheriff is a prisoner in his own jail.

Feeding Prisoners on a Fee Basis.

The small size of some of our jails is a poor excuse for continuing the ancient and thoroughly discredited fee or contract system for the feeding of prisoners. Some centuries ago in England the sheriff was expected to enrich himself on human misery by starving his prisoners and keeping most of the fees. The system was abandoned there, but has died hard in the United States, and only after major scandals in some states. In at least five counties the sheriff feeds prisoners on a fee or contract basis, at a fixed amount per day which is $1.20, $1.25 and $1.35 in 1952 in three counties. In two other "contract" counties the amount paid per day was not disclosed. Seven counties feed prisoners on a cost basis and the other two did not disclose their method. The amounts involved in these five small jails are not great§, but the fee system is subject to so many abuses that it should be abolished at once by the county commissioners.

Prisoners' Diet

While we are making great strides in feeding our poultry, hogs, cattle, and pets a balanced diet

§The largest sum reported for 1951 was $6031.35 paid to the Waldo County sheriff for feeding prisoners.

containing minerals, proteins, and vitamins in exactly the right proportions, we feed our jailbirds starches and fats, and little else. Dieticians show us how to provide balanced, palatable meals at low cost, but due to the apparent lack of such knowledge, the lack of adequate refrigeration and storage space, and the financial policy of some county commissioners, our jail meals present a sorry spectacle. The small population of most jails also militates against buying in quantity and variety, and some jails have no permanent cook.

A glance at the menus collected by the state inspectors in 1951 gives a picture of a monotonous, unbalanced diet, almost totally lacking in milk, fruits, vegetables, and meat. The menus for August, 1952 were about the same as reported in 1951. Following are samples received from sheriffs in August, 1952.

Sample 1. Breakfasts are the same each day and consist of bread, molasses, two doughnuts each and coffee with milk and sugar. Molasses served every meal. Inmates may have all bread, molasses, tea, coffee and cocoa they wish.

Wed., August 6, 1952 - Dinner: Baked Kidney Beans, bread, water

Supper: Serving of Beans, bread and cocoa

Sample 2. August 5, 1952
Breakfast: Bread, molasses and tea
Dinner: Beans, molasses and bread
Supper: Bread, molasses and tea

Sample 3. August 6, 1952
Breakfast: Hot oatmeal, biscuit, molasses, coffee, milk, sugar
Dinner: Baked beans, biscuit, molasses, fresh cucumbers, tea, milk, sugar
Supper: Baked beans, biscuit, molasses, fresh cucumbers, tea, milk, sugar

Size of the Jails.

The size of Maine jails is a major factor in their poor management. They are too small to operate efficiently, having an average population in 1951 and 1952 of about 28 persons. The seven smallest jails averaged about 9 inmates, with the smallest jail (Piscataquis) averaging only three inmates in 1951.

If counties provided large sums of money to spend, small jails could be well built and properly equipped and maintained. Even a small institution would need to have a variety of equipment and diversified talent to handle the great variety of human beings which come its way. If this equipment and staff should be available, the jail would require a larger number of prisoners in order to operate economically.

Other Administrative Weaknesses.

Many administrative faults can be found in the Federal and State jail inspection reports, or seen by observation. Supervision and rules are generally

inadequate and poorly carried out, records may be sketchy and lack uniformity, staffs are too small and often poorly paid. Matron service is lacking or inadequate. Cleanliness of jails and prisoners could be bettered. Some jails are not guarded adequately against escape. Provisions for visitors, for reading, for religious services, and for recreation are noticeably ppor or lacking.

The Remedy.

What will jail authorities say to the above criticisms? After claiming that they are exaggerated and unrealistic, it will be argued that if the public is willing to pay for better food, supervision, equipment, and buildings they will be only too happy to oblige. If we are to continue a disproven and inadequate system at all, a higher standard of living and better treatment of inmates certainly seems called for. But is a higher standard of living the answer? Will steel and cement fireproof cages turn out a better product, or merely provide more security against a few dangerous prisoners? Is there any evidence to support the view that our best state jails (best is an unfortunate word to use in this connection) do any better job at curing such ills as drunkenness than our poorest jails?

The proposals which follow attempt to strike at the root of the problem. They are not wild, visionary, extreme, sentimental, impractical. Every suggestion is working successfully somewhere today, and is the result of years of study and experimentation on the part of leading scholars and public minded citizens, prison associations, public officials, and legislatures.

A major fault of our Maine jail system is that too many persons are in jail who should not be there. Definite steps can and should be taken to reduce our jail population by keeping people out of jail.

Here are some practical ways by which it can be done:

1. Probation, parole, and indeterminate sentences. Establish a state supervised probation and parole system, which would allow more convicted misdemeanants, both men and women, to be placed on probation, and through the indeterminate sentence, allow persons to be freed on parole when deemed wise by the parole authorities. Probation is the best step which can be taken to keep people out of jail. At present we have four counties with full-time probation officers, in all the others probation is on a part-time basis. As a whole our probation system is entirely inadequate. Even where we have full-time staffs, heavy case loads, low pay, absence of established standards, lack of uniform methods, and a tendency to use the agents as collection men for fines and family support payments are facts which render the situation far from ideal.

2. Bail. When a respondent appeals to the Superior Court from a municipal court judgment, he must furnish cash bail or acceptable bondsmen, or wait in jail until court time, which

may be several months away. For example, in Penobscot County he might appeal in April and wait in jail five months for the September term of court to hear his case. The ease with which bail may be secured varies greatly from court to court, and from respondent to respondent. The individual judge has his own philosophy about granting bail, although he is likely to be inconsistent in its application. The respondent who is well known to the judge, or who can produce one or more bondsmen known to the judge, may stand a better chance of getting bail at a reasonable rate than otherwise. If the judge had more information as a result of pre-trial work by the police or the probation officer, he might grant lighter bail terms or release on personal recognizance instead of jailing the respondent for lack of bail.

3. Personal Recognizance. This should be made clearly available by law, so that the judge at his discretion might allow the release of a respondent instead of requiring bail. This is especially true in a small state like Maine, where the judge or his investigators (police and probation officer) would be likely to know nearly everyone, and could tell whether the particular individual would appear when and where directed. Recognizance is a form of credit with no security except the word of the respondent and the belief that he will live up to his agreement.

4. Shorten time spent in jail by bound-over and appealed cases. Many persons are jailed, from a few hours to five months, while awaiting trial. If the offense is bailable, the accused may secure his release at any time that he can secure satisfactory sureties to guarantee his appearance in court. If he cannot secure bail he can only hope that if he is convicted the judge will take the time served into consideration in promouncing sentence. If he should be acquitted he has no recourse for his enforced incarceration. A number of these persons would be

helped by the carrying out of recommendations previously made concerning bail and recognizance. For others it seems likely that some adjustment of court terms may be needed. Possibly definite provisions for reducing sentences by the amount of time such persons are held in jail should also be placed in the law.

5. Installment payment of fines. Installment methods are used in our courts and are provided for by law through the use of probation officers as collection agents. The law should be further changed to allow the judge to collect on the installment plan without resort to probation procedure. At present this can be done through the fiction of continuances, a process which would be improved by the above change. A state-wide probation system would also help in the collection of fines through probation officers. At present a considerable number of jail inmates serve time for non-payment of fines.

The Jail Population in Maine.

No social institution of any kind has been more critically denounced by reformers and public commissions than the American jail, but after centuries of criticism it still withstands assault. We should recognize that the jail is strongly located politically, and that it is a hard nut to crack. Yet throughout the country it is steadily losing strength. In many states there have been special institutions and services which reduce the jail population. For example, jail farms for misdemeanants, hospitals for alcoholics, and homes for aged derelicts have been established in a good many states. In Maine the jail population

would be larger except for our state schools for boys and girls, reformatories for men and women, and certain other state institutions. We are making greater use of probation for both juveniles and adults, and juveniles have practically disappeared from our jails. These indirect attacks on the jail problem are all to the good, but do not imagine for a minute that the problem is solved in our state. There were 6083 commitments to our jails in 1951. The following table shows that the problem has been, and still is, a major one.

TABLE 1 -- Number of commitments to the 14 county jails of Maine, for the ten-year period, 1942-51.

Year	Total Commitments for Year
1942	5526
1943	4915
1944	4942
1945	5614
1946	6260
1947	6276
1948	6574
1949	7181
1950	6603
1951	6083
Total for 10-year period	59974
Average for 10 years	5997

The jail population stays high because judges do not know what else to do with convicted misdemeanants who lack money or influential friends. Jail is predominantly the poor man's institution.

Our jail population is preponderantly adult, male, native-born. The largest single group is in for drunkenness, many of them being "repeaters." Although no study of this point appears to have been made in Maine, the ratio of "normal" to "defective" minds among jail inmates in some states is as low as 1 to 4, which is to say that only one-fifth of the inmates are of normal intelligence; studies in other states using somewhat different classification methods have found 30 to 40 per cent with average or superior mentality; 60 to 70 per cent ranging from "dull" to "feeble-minded." Our jails contain a large per cent of alcoholics, mental defectives, and recidivists. A large proportion of our jail inmates are from the unskilled, low-income group of the population.

Classified on the basis of the cause of commitment, our jail inmates are found to be largely misdemeanants: Those persons convicted of offenses for which the maximum punishment is less than a year's incarceration. If the offense is punishable by imprisonment for over a year it is a felony, and the convict is usually sent to the state prison. In addition to the sentenced misdemeanants, there

are several other groups found in our jails. These include:

A. Debtors - We send a considerable number to jail for debt, or more accurately, for refusal to disclose their assets. Two hundred and eight commitments for "debt" occurred in 1951; Penobscot County led with 78 debtors jailed.

B. Non-support cases - Similar to debtors is a smaller group of men jailed for failing to support their families. There were 112 of them in 1951.

Treatment of civil cases - Debtors and other civil cases such as non-support and alimony cases may be out of place in a jail.

Recommendation - It is suggested that the Legislature direct the Legislative Research Committee to study the problem in order to determine:

1. Whether or under what circumstances such persons should be ordered confined.
2. If confined, where and under what conditions confinement should take place.

C. Persons awaiting trial - A considerable number of accused persons are held in jail while waiting for the Superior Court to meet, which may mean several months of waiting. These are usually men who have appealed from the sentence of a municipal court but lack property or propertied friends and thus cannot secure bail. There are also "bound over" persons awaiting grand jury action on serious charges preferred in municipal courts where "probable cause" was found against them, i.e., evidence sufficient to warrant presentation to a grand jury by the county attorney, who will ask for an indictment.

Some of our county jails are used in lieu of local lockups. People arrested and awaiting trial in municipal courts are often detained by the police, either because they are intoxicated or cannot furnish bail. Local lockups are commonly used for the detention of these people, but if lacking, the jail may become the house of detention. They are said to be in the jail for "safe-keeping."

Misdemeanants and their treatment.

Classified as to the "crimes" they have committed, we find that about 45% of the inmates are serving time for intoxication, or 2786 cases in 1951. Liquor also figures in many of the decisions where the record

does not so indicate, especially in motor vehicle cases, charges of being idle and disorderly, and crimes against persons, such as assault and battery.

Drunkenness itself is not a crime. Under certain instances it may become a crime, as when committed in a public place, or when accompanied by disorderly conduct even though in a private home. Not all public drunkards are picked up by the police. Much depends on the local officers and the state of public opinion in the community. Thus a man, undeniable drunk, might be arrested and fined or jailed in one Maine town, but ignored, or shown home, or held until sober and released if arrested in another town. The wide variation in enforcement practices might lead to the conclusion that the police are over-zealous in one town or else hopelessly inefficient in another. It is sometimes charged that the official policy in certain municipalities is to send vagrants to jail (most commonly as being drunk) in order to get them off the streets and force the county to pay their board. Out-of-town cases are sometimes threatened with jail if they do not promise to leave town. Local cases may be sent to jail so they will not become a public charge on the town.

The police pick up all classes of drunkards in all stages of inebriation. The occasional drunkard usually gets off with a small fine, but repetition eventually leads the culprit to jail. It is apparent that drunkenness, even though it is not always an offense against the law, or punished as such, is always a medical problem. We have not yet decided how to reconcile the idea of punishment with the need for cure, but all authorities agree that the problem is a difficult one and of tremendous size. The drunk who is not a chronic alcoholic might well be sent to a state farm or industrial school.

For the chronic alcoholic there should be a state hospital established for this particular class. There would be a clear recognition that alcoholism is a disease rather than a crime, and the regime would not be penal in character. Sentences to this institution should be on an indeterminate basis rather than the revolving door or cumulative basis now used. Only by some such procedure can we prevent our jail alcoholics from gradually descending to the level of complete degradation found in some of our repeaters who are almost if not quite permanent jail inmates. It is not

uncommon for a man to be released and to return to jail the same day for intoxication, under our present setup.

In a certain Maine county there appeared in local court a youngish man who was convicted of intoxication for the 100th time in a few years. He was given a jail sentence, appealed, was released on bail, and was arrested the next day in the next town for his 101st conviction. The jails do not pretend to do anything for such a person except to sober him off temporarily. Soon he is back - the jail is a revolving door through which he passes endlessly until one day he is found dead - "of natural causes" - in the medical examiner's words. Another instance concerned a young man who was mentally unstable and dangerous while under the influence. Although he drove two cars off the road and threatened his relatives when drunk, he could only be given a short jail term after fines had failed to quell him. He could not be given the hospital care he needed because he was not considered "crazy" enough to be sent to a state hospital.

Recommendation.

The Legislature should set aside enough money from state liquor profits to build and equip a

separate building at the Augusta or Bangor State Hospital for the treatment of alcoholics. Staff and maintain this building from liquor profits. Allow courts to commit men for indeterminate sentences, with the proviso that those fit for work be made to work.

Mental and physical defectives.

A certain number of misdemeanants who come before the lower courts are mental or physical defectives, (sometimes both). Under present conditions it is not always possible to find proper institutional care for such cases. Jail is no place for them and neither is probation the answer.

Recommendation.

A law should be passed to allow such cases to be committed to an appropriate institution on an indeterminate sentence, with release to be contingent on action by the superintendent of the institution and the state parole board.

The custodial group.

Our jails have many men broken in health, practically unemployable, sometimes old, and often addicted to alcohol. These derelicts should be housed in a state institution where they could do light work and receive proper care and supervision.

Some of them might have been saved at an earlier stage, many of them will show definite improvement in the proper type of institution, but they are a greater liability to society if allowed to roam about between jail sentences than if sent to a state institution.

Recommendation.

A law should be enacted to allow commitment oi such cases to appropriate state institutions on indeterminate sentences. Each case should be studied to determine whether financial aid is available from old age assistance, veteran's benefits or private sources. The physical condition of the individual and financial resources available to him would determine final disposition of his case.

Women Prisoners.

Women constitute but a small fraction of our jail population. In August, 1952, there were only 15, scattered among 6 jails. Women have no place in a man's jail, and they cannot be properly segregated and supervised under present conditions in most of our county jails. The expense of providing proper facilities for so few would be excessive.

Recommendation.

A law should be enacted forbidding the commitment of women to jails, and substituting the Women's

Reformatory whenever the judge deems confinement essential. The law should allow the judge to commit to a mental hospital for observation those cases he believes require mental treatment, with transfer to Skowhegan the next step if the hospital authorities decide the patient is not mentally ill.

Other Misdemeanants.

Having taken various groups out of the jails, we would still have the able-bodied men convicted of misdemeanors. For these the greatest curse of our jails is idleness.

For most of our jail inmates, complete, demoralizing idleness is the rule. There are no jail industries or jail farms in Maine. Only a few trusties are usable in cleaning, in kitchen work, or about the grounds. Little exercise or recreation is available; some reading takes place. There is no opportunity for education - except in crime.

Our statutes provide§ for the employment of prisoners in jails, but the laws are ignored. This appears to be due to the opposition of organized labor and employers - the first complain of loss of work, the second loss of trade; both fear the real

§See Revised Statutes of Maine, 1944, Chap. 79.

or alleged competition of convict labor. For these reasons the broom shop of the Penobscot County jail has not been used for many years, and similar situations exist in other counties.

Those prisoners young and physically fit should in most instances be sent to a state farm, forestry camp, or industrial school, where they will receive some training and improve their chances for rehabilitation through useful work. The vast majority of our jail inmates are unskilled, and this often accounts for their entry into petty crime. Lacking education and thus in a low income group, frequently unemployed, the chance that such a man will drift into petty crime is enhanced by his background.

Older men who are physically able should also go to a state institution such as a farm or forestry camp, where hard but healthful labor will be substituted for the demoralizing idleness of jail.

Recommendation.

It is suggested that the Legislature request the Legislative Research Committee to make a two-year survey and recommend to the 1955 Legislature the size, type and location of a suitable state farm or forestry camp for misdemeanants, together with cost estimates.

Closing the jails.

Lincoln and Sagadahoc counties have no jails. Seven of the fourteen remaining jails could be closed, with resulting economies. Generally the smallest jails are the poorest in facilities and administration.

The better jails should be modernized and used as detention centers for persons held awaiting trial.

Local lockups, which are sometimes lacking in guards, may not be fireproof, and are sometimes quite primitive, should in most cases be closed, also. Where it is necessary to hold a prisoner for trial, he should either be held in a former jail, used as a detention center, or in one of a few carefully selected and state supervised local lockups.

Recommendation.

An act should be passed placing all jails under the administration of the Commissioner of Institutional Service.

The act should provide that jails in Franklin, Hancock, Knox, Oxford, Piscataquis, Somerset and Waldo should be used only as detention centers for persons awaiting trial.

The Commissioner of Institutional Service should be directed to cooperate with the Legislative Research Committee to determine which jails and local lockups should continue to be used for detention centers after 1955, and recommend a program to the ninety-seventh legislature which would provide for state renovation and administration of jails as detention centers, and state supervision of local lockups so used. All sentenced prisoners would gradually be taken out of the jails under previous recommendations in this report. By 1957 the program should be in complete operation. Sheriffs would administer jails under state supervision in 1953 and 1954.

Synopsis of Jail Report

What is wrong with Maine jails?

1. A major weakness of our jails is that many are jailed who should not be. The reasons for this fault go back to our laws, customs, and court procedures.

2. Most important is the almost complete, demoralizing idleness for all prisoners except a few "trusties." Theoretically, the county commissioners and sheriffs are at fault, since the law requires that prisoners be worked. Actually, the practical difficulties and pressures from labor and business render any work plan impracticable under the present statutes. There is little or no provision even for proper exercise.

3. Educational and vocational opportunities are wholly absent.

4. The jails are too small for efficient operation. This is true even in the largest jails, due to the wide variety of prisoners received.

5. Inadequate medical services. Entrance examinations, medical service, and hospital facilities are either lacking or inadequate.

6. Maine jails are not constructed, staffed, and administered so as to allow proper segregation of the various classes and types of prisoners.

7. Prisoners' diets are generally monotonous, unbalanced and inadequate. This is the joint responsibility of county commissioners and sheriffs.

8. The jail staff is chosen by election and personal appointment, poorly paid in most instances, consequently insecure and untrained. After an election a whole new staff may come in to administer a jail.

The following criticisms apply in varying degree to Maine jails:

1. Structural faults:

   A. Fire hazards are considerable in some jails. Buildings are old, and contain wood and wood trim. Wiring and heating systems may also present dangers.

   B. Some jails are not secure against escape.

   C. Poor arrangement is common, often due to inherent structural faults.

   D. Sanitary facilities not adequate in some jails.

   E. Lighting and ventilation not good.

   F. Adequate facilities for women prisoners are uncommon.

2. Administrative faults, due to poor administration, lack of funds, or both:

   A. Inadequate matron service for women prisoners.

B. Inadequate supervision.

C. Inadequate rules and enforcement policies.

D. Inadequate records.

E. Too small a staff.

F. Jail not scrupulously clean.

G. Prisoners' cleanliness not secured and maintained.

H. Inadequate provisions for religious service.

I. Inadequate provisions for visitors.

J. Inadequate security provisions.

Summary of Recommendations.

1. Keep people out of jail through:

   - a state-wide probation system.
   - shortening the time spent in jail by appellants and bound-over cases.
   - greater use of bail and recognizance.
   - use of parole system for misdemeanants.
   - extension of the use of indeterminate sentence to misdemeanants.
   - installment payment of fines.

2. Study the possibilities for a different method of handling civil cases.

3. Allow the commitment of the aged and the ill, women, and other special groups to state institutions.

4. Build a state hospital building for the treatment of alcoholics.

5. Set up a state farm or forest camp for able-bodied inmates.

6. Turn all jails over to the state:

   - convert some of them to detention

centers for those awaiting trial.

-close the others.

7. Supervise local lockups and close those unfit for use.

APPENDIX I

Jail Standards

1. A jail should be under the direct management and control of a person qualified by training and experience to supervise and control prisoners. As many persons as are necessary to provide constant supervision over the prisoners should be employed and be under the authority of the head official. Salaries should be sufficient to attract persons of high caliber.

2. Jail officials should have a set of policies and regulations for the operation of the jail, for the employees and for the inmates.

3. The building should be structurally sound, secure, fire-resistant, properly heated, ventilated, and lighted. Windows should be screened. There should be a good locking system and the devices should be in operating order.

4. All parts of the jail should be kept immaculately clean.

5. Kangaroo courts or similar inmate organizations should be prohibited. No prisoner should be allowed to have authority over any other prisoner. Employees should fulfill their own responsibilities and not turn them over to prisoners.

6. Brutal treatment by employees or prisoners should be prohibited. No prisoner should be permitted special privileges. Trusties, so called, should be under the supervision of employees.

7. A competent physician should be available to take care of the medical needs of the prisoners and to give each prisoner a medical examination when admitted to the jail.

8. Juveniles should not be held in jails, but if committed should be definitely segregated and well supervised.

9. Prisoners with contagious diseases, hardened criminals, and the sexes, should be segregated.

10. Women prisoners should be under the supervision of a matron at all times. No male employee should have keys to the women's quarters or be permitted to go there unless accompanied by a matron. Male prisioners should never be permitted to go to the women's quarters to bring food or for any other purpose.

11. Prisoners should be fed three times each day. The food should have the proper nutritive value and be prepared and served in a wholesome and palatable way. The eating utensils should be returned to the kitchen and washed with soap and scalding water after each meal.

    (The above material was taken from: "Manual of Jail Management," United States Department of Justice, Bureau of Prisons, Washington, D. C., April, 1948; pp. 5-6).

12. Adequate bathing and toilet facilities should be available, and water, soap, towels, and tooth brushes should be supplied to prisoners.

13. Convicted prisoners should be kept employed. An ingenious jail official can find many ways to occupy the prisoners working for the state or city or county, without interfering with private industry or free labor. They can work on salvaging government property, repair automobiles, trucks,and other items, paint bridges; some of them can work on the highways under proper supervision and perform other useful jobs. They should also be required to keep their own quarters and other sections of the jail clean. This work should be done under the supervision of an employee. Prisoners who have not been convicted should be given the opportunity to work within the jail confines if they are willing to do so.

14. There should be good reading material available. Outdoor exercise should be required, and provisions made for education and religious instruction.

15. Prisoners' legal rights should be protected and they should be given every reasonable opportunity to confer with their attorneys, but the jail officials should see that they are not fleeced or exploited by unscrupulous persons.

16. Regular visiting by the family and friends of the prisoners should be permitted under reasonable conditions and under supervision.

Jail Records

An accurate and complete set of jail records kept current by daily posting is essential for proper jail administration. Such records are the property of the county or city maintaining the jail and should be preserved as official historical documents.

Records pertaining to prisoners should include their personal and criminal history and description; offense; date of commitment and discharge and authority for same, with name and title of officer delivering or receiving; record of temporary absences from jail and authority therefor; record of escapes; record of mail sent and received, giving dates and names and addresses of correspondents; lists of cash and other valuables taken from prisoners on commitment; itemized records of prisoners' expenditures and receipts while in custody; record of visitors' names and addresses and dates of visits; medical records of prisoners' physical condition on admission, during confinement, and at discharge; record of misconduct and punishment administered.

Adequate records should be maintained pertaining to the management of the jail, including itemized records of operating expenses, copies of daily menus, and population and commitment figures differentiated at least as to age, race, and sex.

(The above material from "Manual of Jail Management," United States Department of Justice, Bureau of Prisons, Washington, D. C., April, 1948; pp. 6-8).

APPENDIX II

Jails. The state correctional system, whether it is a fully coordinated system or an institutional

system only, should have jurisdiction over all jails and other institutions (work-houses, houses of correction, etc.) for sentenced short-term prisoners; these are now usually under city or county jurisdiction. Facilities for the temporary detention of persons awaiting trial or other disposition of their cases should be provided in these institutions. If it is also necessary to maintain detention facilities under local auspices near the court served, the state correctional system should have authority of inspection and regulation over such local facilities and over police lockups, with power to close those not meeting satisfactory standards. Every effort should be made to consolidate small institutions for short-term prisoners into state or regional institutions of farm type.

American jails, most of which are operated under county auspices, are recognized by authorities in the correctional field as the worst of all our penal and correctional institutions, and the least likely to benefit the prisoners committed to their charge, many of whom - the alcoholics, for example - require highly specialized care. Our jails have been denounced in lurid terms for many years, and the findings of federal and state inspectors, revealing appalling conditions of filth, neglect, graft, and corruption, have been given widespread publicity. Yet the public is generally ignorant of jail conditions and apathetic toward them. Among the chief results are that most jails have poor physical plants, personnel that is constantly changing and incompetent if not corrupt, and programs that do not even meet the minimum requirements of secure custody under decent and humane conditions for prisoners awaiting action, still less the requirement that they accomplish the rehabilitation of as many sentenced prisoners as possible.

General Conditions. Conditions which characterize the vast majority of county jails include an almost total lack of classification and segregation, even of those with contagious diseases from the well, the young from the old and the beginner from the hardened offender; idleness, except for the few prisoners who can be used in maintenance work; non-existent or inadequate medical service; overcrowding and unsanitary conditions; long hours of confinement in cells and bull pens; insufficient and poorly prepared food for those who lack money and better food for those who can afford to pay for it; and absence of any

significant efforts toward the rehabilitation of the offender through medical treatment, education, and vocational training, placement or guidance at the time of release, or social case work of any type.

The jails are usually administered by politically appointed sheriffs and deputies who are constantly changing. Many jails are run on the fee system, which means that it is to the financial interest of the sheriff to operate the jail as cheaply as possible and to spend the minimum amount on food, clothing, medical services, and other necessities. Finally, because of the inadequacy of the staffs and their ignorance of proper methods of administering such institutions, the prisoners are very often permitted to organize a "kangaroo court" and to enforce rules of their own making. This practice not only results in the prisoners being allowed to run the jail to suit themselves, but also in all sorts of illegal, corrupt and brutal actions.

Location. The institution should be located outside the limits of a fair-sized community and within easy bus distance of its business center. If it meets the above requirements, it is logical to select the county seat or the leading community of the most populous county to be served by the institution. Main highways should run close to but not through the site chosen.

The size of the institution site depends in part on the extent and nature of the farm operations to be carried on. The Federal Prison System standard for institutions whose farms are operated to meet the institutions' needs is 1000 acres for a 1000-man institution, but more acreage per prisoner is needed by a short-term institution because it is less likely to have extensive industries and will use a larger percentage of its population for farm work.

Program

The program that should be carried on in a state or regional jail farm differs in extent and emphasis rather than in kind from the program suggested for prisons and adult reformatories in this Manual. The program should include the following essential elements:

1. Classification, going beyond mere segregation on rudimentary grounds and involving individualized study and treatment of the individual.

2. Medical services, with adequate provision for routine examination of newly admitted prisoners, preventive and corrective work as well as treatment of ordinary illnesses, segregation and treatment of contagious and infectious cases, expert attention to sanitation, food, etc., psychiatric services, special provisions for the treatment of alcoholics, and so on.

3. Education, with special emphasis on vocational training in short units.

4. Varied employment, including farm work and other outdoor work, industries of the type in which frequent turn-over is possible, maintenance activities with training value, and work that is planned chiefly for its therapeutic value.

5. Varied recreation, both indoors and outdoors, under trained supervision.

6. Library services, equipped and staffed to provide wholesome recreation and to serve as an agency of direct and indirect education.

7. A religious program under the leadership of able and sincere chaplains and so conducted as to affect the spiritual life of the individual as well as of the whole group.

8. A disciplinary system that aims at the development of self-reliance and self-control rather than mere conformity to institution rules. The combination of general laxity in daily discipline and excessive severity in punishing infractions of the rules characteristic of county jails should be replaced by strict but not over-severe enforcement of the sensible and reasonable rules necessary to ensure the orderly operation of the institution and safeguard the welfare of its inmates. The rules should be enforced by the officials, not by the prisoners. The vicious "kangaroo courts," also characteristic of county jails, should never be allowed to gain a foothold in institutions under state control.

(The above material taken from various pages of: Manual of Suggested Standards for a State Correctional System, The American Prison Association, New York, 1946.)

Digest of Certain Constitutional and Statutory Provisions Regarding Maine Counties§

Judges and Registers of Probate

Clerk of Courts

County Attorney

Sheriff

County Commissioners

County Treasurer

Register of Deeds

Bail Commissioners

Municipal Courts

Medical Examiners

County Audit

Judicial Council

Prison Employment

§References are to Revised Statutes of Maine, 1944, Laws of Maine, and Constitution of Maine, 1951 edition.

Judges and Registers of Probate

Constitution of Maine

Article VI. Sec. 7.

Judges and registers of probate shall be elected by the people of their respective counties, by a plurality of the votes given in, at the biennial election on the second Monday of September, and shall hold their offices for four years, commencing on the first day of January next after their election. Vacancies occurring in said offices by death, resignation or otherwise, shall be filled by election in manner aforesaid at the September election, next after their occurrence; and in the meantime, the governor, with the advice and consent of the council, may fill said vacancies by appointment, and the persons so appointed shall hold their offices until the first day of January next after the election aforesaid.

For powers and duties of judges and registers see R.S. 1944, Chap. 140, as amended.

Clerks of Judicial Courts

R.S. '44, c. 79, Sec. 111-240, pp. 1370-1401.

Clerks of the judicial courts are elected for four-year terms with salaries fixed by statute. Other conditions of their election, etc., are the same as those provided for county commissioners.

Duties:

1. Record civil and criminal cases.
2. Account to county treasurer for moneys received.
3. Receive and discharge fines and costs voluntarily paid.
4. May administer oaths.
5. Record certificates of discharge of U. S. servicemen.
6. Preserve and file all copies of the state paper forwarded to him by the publisher.
7. Act as register of deeds in case of vacancy or when the register is removed for misconduct or incapacity.

County Attorneys

R.S. '44, c. 79, Sec. 128-141, pp. 1374-1378; Sec. 262, p. 1406.

Except for the length of term, which is two years, other conditions of election, the filling of vacancies, and the entering of office for the position of county attorney are the same as provided for county commissioners. They must be residents of the county and attorneys admitted to general practice in the state. A county attorney may be removed from office by the governor and council upon complaint, due notice, and hearing whenever he is found to have violated any law or to have neglected his duties. In such case they may appoint another attorney to complete the remainder of the term. County attorneys receive salaries fixed by statute.

Summary of duties:

1. Represent the county in all suits in which the county is an interested party.
2. Attend all criminal terms held in his county.
3. Dismiss civil or criminal cases.
4. Enforce collection and payment of fines, costs, etc., accruing to the state.
5. Enforce the faithful performance of their duties by sheriffs and constables.
6. Represent the state with the attorney-general in all state cases from his county.
7. Make annual business report to the attorney-general.

Removal of County Attorney

R.S. '44, c. 79, Sec. 128. R.S. c. 93, Sec. 15. 1933, c. 15.

Whenever the governor and council, upon complaint and due notice and hearing, shall find that a county attorney has violated any statute or is not performing his duties faithfully and efficiently, they may remove him from office and appoint another attorney in his place for the remainder of the term for which he was elected.

Sheriffs

Constitution of Maine
Article IX. Sec. 10.

Sheriffs shall be elected by the people of their respective counties, by a plurality of the votes given in on the second Monday of September, and shall hold their offices for two years from the first day of January next after their election, unless sooner removed as hereinafter provided.

Whenever the governor and council upon complaint, due notice and hearing shall find that a sheriff is not faithfully or efficiently performing any duty imposed upon him by law, the governor may remove such sheriff from office and with the advice and consent of the council appoint another sheriff in his place for the remainder of the term for which such removed sheriff was elected. All vacancies in the office of sheriff, other than those caused by removal in the manner aforesaid shall be filled in the same manner as is provided in the cases of judges and registers of probate.

R.S. '44, c. 79, Sec. 158-213, pp. 1381-1394;
c. 134, Sec. 4, p. 1919.

County sheriffs are elected for two year periods. Each sheriff is required to answer for the neglect and misdoings of the deputies he appoints. Salaries are fixed by statute and include free living quarters with heat and light, and travel expenses.

Duties of the sheriffs:

1. Have custody of jail and prisoners or delegate the duty to a deputy.
    a. Live at jail with family if conditions suitable.
    b. Keep jail clean and healthy (Sic)
    c. Furnish Bibles to literate prisoners and religious instruction for all.
    d. Keep exact record of all prisoners committed.
    e. Keep record of conduct of each convict.
    f. Give assistance, at county expense, to discharged prisoners.
    g. Separate debtors, minors, and first offenders from prisoners charged with felony, adult prisoners, and recidivists.

2. Serve and execute all writs and precepts committed to him.
3. Enforce all laws of the state and ordinances of towns through arrest and detention of persons caught in the act.
4. Obey orders of the governor relating to law enforcement.
5. Collect legal fees and account for same to the county treasurer.

R.S. '44, c. 134, sec. 4. Arrests without warrant; liability. R.S. c. 145, Sec. 4.

Every sheriff, deputy sheriff, constable, city or deputy marshall, or police officer shall arrest and detain persons found violating any law of the state or any legal ordinance or by-law of a town until a legal warrant can be obtained, and they shall be entitled to legal fees for such service; but if, in so doing, he acts wantonly or oppressively, or detains a person without a warrant longer than is necessary to procure it, he shall be liable to such person for the damages suffered thereby.

County Commissioners

R.S. '44, c. 79, Sec. 1-109, pp. 1345-1370; Sec. 244, p. 1402; Sec. 251, p. 1403; Sec. 252, p. 1404; c. 57, Sec. 40; Laws of Maine 1949, p. 948; Laws of Maine 1951, pp. 61, 260, 83, 108.

Three commissioners for each county are elected one at each biennial September election for six-year terms, except when there is a vacancy in which case he is appointed by the governor with the advice and consent of the council, to serve until January following the next September election. The commissioners must be residents of the county. Their salaries are fixed by statute. Regular sessions of the board for each county meet in the shire-town at the times fixed by statute and informal meetings are held more often.

Following are some of the powers and duties of the commissioners:

1. Make county estimates and cause taxes to be assessed.
2. Examine, allow, and settle accounts of county receipts and expenditures.
3. Have the care of county property.
   a. Provide and repair court house, jail, fire-proof buildings for records and any other necessary buildings in the county seat.

b. Care for files and records and copies of records.

4. Manage county business.
5. Represent the county.
6. Provide for employment and welfare of prisoners in county jails.
   a. Provide workshops, fences, and other suitable accomodations for prisoners.
   b. Authorize healthy male prisoners to work on highways.
   c. Examine the prison and furnish necessary supplies.
7. Appoint agent to convey county real estate.
8. Publish financial report.
9. Lay out, alter, or discontinue all county roads and fix road boundaries.
10. Take care of petition proceedings etc., concerning drainage of swamps and marshes.
11. Establish ferries and order them maintained.
12. Maintain toll bridges.
13. Erect and maintain meridian lines.
14. Keep books and accounts in form and manner approved by state department of audit.
15. Collect and preserve plans of townships.
16. Approve liquor licenses in unorganized territory.
17. Provide for civil defense activities as provided by law within respective counties.
18. Perform all other duties required by law.

County Treasurers

R.S. '44, c. 79, Sec. 145-153, pp. 1379-1381; Laws of Maine 1947, Sec. 7, p. 8; Laws of Maine 1945, Sec. 2, p. 544.

Each county treasurer, elected by the county voters for a four-year term, must be a resident of the county. His salary is fixed by statute.

General duties are as follows:

1. Keep books and accounts in form and manner approved by state auditor.
2. Use county moneys received by him to defray county expenses.
3. Deposit, if he sees fit, extra moneys in bank approved by county commissioners or invest it in U. S. bonds or notes maturing not more than a year later.
4. Receive costs in favor of the state.
5. Publish annual financial statement with the county commissioners.
6. Pay specified annual amounts to county law library association.
7. Prepare and deliver to clerk of county commissioners his account as treasurer.

8. Receive for the county the money paid by U. S. for use of and keeping of prisoners in county jail.
9. Collect amounts due counties.
10. Certify tax list to state tax assessor.
11. Act, with state and municipal treasurer as custodian of federal income tax withheld from salaries.

Registers of Deeds

R.S. '44, c. 79, Sec. 228-256, pp. 1397-1404.

A register of deeds is elected for each county and registry district to serve a four-year term with an annual salary fixed by statute.

Duties:

1. Copy and record all deeds submitted for registration, collect fees for same, and certify time when each deed was received and filed; keep alphabetical index.

2. Appoint a clerk for whose actions he is responsible.
3. Send copies of transfers of land in unorganized territory to the state tax assessor.
4. Record:
   a. All certificates in equity and other miscellaneous records.
   b. Plans showing allotment of lands in cities and towns.
   c. Lien notices for internal revenue taxes.

Bail Commissioners

R.S. '44, c. 113, p. 1809. Sec. 34. Bail Commissioners appointed by court; limitations. R.S., c. 113, Sec. 34. 1935, c. 68.

The superior court sitting in each county shall appoint from the number of justices of the peace resident in the county, one or more bail commissioners, who shall hold office during the pleasure of the court. All bail commissioners acting under an appointment by a justice of the supreme judicial court shall continue in office during the pleasure of the superior court.

No judge, clerk, or recorder of any municipal court, or any trial justice, who is also a bail commissioner, shall act in his capacity as bail commissioner in any case wherein the process is made returnable to his court.

Sec. 35. Commissioners admit to bail persons committed for not finding sureties. R.S. c. 113, Sec. 35. When a person is confined in a jail for a bailable offense, or for not finding sureties on a recognizance, except when a verdict of guilty has been rendered against him for an offense punishable in the state prison, and except when such person is committed pending decision on report or exceptions as provided in section 29 of chapter 135, any such commissioner, on application, may inquire into the case and admit him to bail, and exercise the same power as any justice of the supreme judicial court or superior court can; and may issue a writ of habeas corpus, and cause such person to be brought before him for this purpose, and may take such recognizance; provided, however, that during a term of the superior court, a bail commissioner is not authorized to admit to bail any person confined in jail or held under arrest by virtue of a precept returnable to said term; and when a person is confined in jail for a bailable offense, or for not finding sureties on a recognizance, and the amount of his bail has been fixed by a justice of the supreme judicial court or of the superior court, or by a judge or recorder of a municipal court, a bail commissioner is not authorized to change the amount of such bail. Such bail commissioner shall receive not exceeding the sum of $5 in each case in which bail is so taken, the same to be paid by the person so admitted to bail; but the person admitted to bail shall not be required to pay other fees or charges to any officer for services connected with the giving of such bail.

No attorney at law who has acted as bail commissioner in any proceeding shall act as attorney for or in behalf of any respondent for whom he has taken bail in such proceeding; nor shall any attorney at law who has acted as such attorney for a respondent in any offense with which the respondent is charged or for not finding sureties on a recognizance growing out of such proceeding.

Municipal Court Judges

R.S. '44, c. 96. Sec. 2. Qualifications of judges. R.S. c. 144, Sec. 2. 1933, c. 118, Secs. 1,4.

No person shall be eligible for appointment as judge of any municipal court unless he shall be a member of the bar of this state and a resident of the county in which such court is located.

Sec. 4. Jurisdiction of municipal courts. R.S., c. 97, Sec. 10. 1933, c. 118, Sec. 1. 1937, c. 114.

A municipal court shall not have jurisdiction in any civil matter unless a defendent resides within the county in which such court is established, or is a non-resident of the state and has personal service within the county, or a party summoned as trustee resides within the county, or property of the defendant is attached within the county in which such court is established; but in case of such personal service, trustee, or attachment, such court shall have jurisdiction concurrent with the superior court and with all other municipal courts in the same county wherein it is established of all civil actions in which the debt or damages demanded do not exceed $300; any action in which a judge of such municipal court may be interested, either by relationship, as counsel, or otherwise, may be brought by such judge before any other court, superior or municipal, in the same county in the same manner and with like effect as other actions therein.

Sec. 8. Judge not to act in cases within jurisdiction of his court or in his county. R.S. c. 97, Sec. 33. 1933, c. 118, Sec. 1. 1943, c. 337.

No judge of any municipal court shall act as counsel or attorney in any case, cause, matter, or thing which depends upon or relates to any cause exclusively cognizable by the court over which he presides or act as counsel or attorney in any case, cause, matter, or thing, either in the municipal court over which he presides or in any other municipal court in his county.

Medical Examiners

R. S. '44, c. 79, Sec. 258-267, pp. 1405-1408.

Medical examiners are appointed by the governor with the advice and consent of the council and serve for four years or during the pleasure of the governor and council. The examiners must be men qualified in medicine, and residents of the county for which they are appointed. Compensation is paid upon the basis of the figures stated in c. 79, Sec. 267, plus travel, upon rendering an account approved by the county attorney and county commissioners.

Duties:

Examine any body found in his county of a person supposed to have met death by violence or unlawful act.

1. Prepare written description of all important facts before moving the body.
2. Make autopsy, if authorized by county commissioners or the attorney-general, to determine the cause of death.
3. May call in chemist or other expert aid for examination of body.
4. Take charge of personal effects found upon or near body.
5. Summon witnesses for inquest.
6. Preside at inquest and report conclusions.
7. Dispose of dead body after proceedings.
8. Render expense account of each case to the county attorney.

Powers and Duties of State Dept. of Audit in Respect to Counties

R.S. '44, c. 16. Sec. 3. General powers and duties. 1931, c. 216, Art. VI, Sec. 3. 1937, c. 206, Sec. 2. 1941, c. 27. 1943, c. 345, Sec. 1. The department of audit shall have authority:

II. (1937, c. 206, Sec. 2) (1941, c. 27) To install uniform accounting systems and perform annual post-audits of all accounts and other financial records of the several counties, or any departments, or agencies thereof, the expenses of such audits to be paid by the counties and reports of such audits shall accompany the county estimates submitted to the legislature as provided by section 14 of chapter 79, and shall be published in the county reports next following the completion of such audits.

IV. (1941, c. 27) To install uniform accounting systems and perform post-audits for the clerks of superior courts, judges and recorders of municipal courts, trial justices and probation officers, the expenses of such audits to be paid as follows: 50% by the county where the audit is performed, 30% by the state highway department, and 20% by the department of inland fisheries and game.

Judicial Council

R. S. '44, c. 100. Sec. 192. Judicial Council established. 1935, c. 52. 1937, c. 151. A judicial council, as heretofore established, shall make a continuous study of the organization, rules, and methods of procedure and practice of the judicial system of the state, the work accomplished, and the results produced by that system and its various parts. Said council shall be composed of the attorney-general; 2 justices of the superior court; 2 judges of the municipal courts of the state; 1 judge of a probate court in this state; 1 clerk of the judicial courts of this state; 2 members of the bar; and 3 laymen, all to be appointed by the governor with the advice and consent of the executive council. The appointments by the governor shall be for such periods, not exceeding 4 years, as he shall determine.

Sec. 193. Reports. 1935, c. 52. The judicial council shall report annually on or before the 1st day of December to the governor upon the work of the various branches of the judicial system. Said council may also from time to time submit for the consideration of the justices of the various courts, such suggestions in regard to rules of practice and procedure as it may deem advisable.

Sec. 194. Expenses. 1935, c. 52. No member of said council shall receive any compensation for his services; but said council and the several members thereof shall be allowed, out of any appropriation made for the purpose, such expenses for clerical and other services, travel, and incidentals as the governor and council shall approve. The chief justice shall be ex-officio chairman of said council, and said council may appoint one of its members or some other suitable person to act as secretary for said council.

Prison Employment

R.S. '44, c. 79, p. 1349. Sec. 18. May provide workshops, etc., for prisoners. R.S. c. 92, Sec. 12. The county commissioners may make such additions in workshops, fences, and other suitable accomodations, in, adjoining, or appurtenant to the jails in the several counties as may be found necessary for the safe-keeping, governing, and employing of offenders committed thereto by authority of the state or the United States; and, for the better employing of such offenders, they may lease or purchase necessary lands or buildings anywhere within their respective counties and may authorize the employment on such lands for the benefit of the county or of dependent families of prisoners committed for crime, as provided in section 25 hereof. Whenever the county commissioners shall determine that the use of such land and buildings is unnecessary for such use, they may sell and dispose of the same in the manner required by law. The county commissioners may raise by loan of their several counties, or otherwise, a total sum not exceeding $5,000 to make such purchases, alterations, and improvements, and may expend so much thereof as is necessary.

Sec. 19. c. 79, p. 1379. To provide for employment of prisoners. R.S. c. 92, Sec. 13. The county commissioners shall, at the expense of their several counties, unless county workshops are therein established, provide some suitable place, materials, and implements for the breaking of stone into suitable condition for the building and repair of highways, and shall cause all persons sentenced under the provisions of section 26 of chapter 124 to labor at breaking stone; and they may, at the expense of their several counties, provide suitable materials and implements sufficient to keep at work all persons committed to either of such jails, and may from time to time establish needful rules for employing, reforming, and governing the persons so committed, for preserving such materials and implements, and for keeping and settling all accounts of the cost of procuring the same, and of all labor performed by each of the persons so committed, and may make all necessary contracts in behalf of their several counties.

Sec. 20. c. 79, p. 1349-51. Able-bodied male prisoners may be put to work on highways. R.S. c. 92, Sec. 14. County commissioners may authorize the

keepers of jails to put able-bodied male prisoners to work on the building or repairing of highways within their county. They shall make rules and regulations and appoint overseers and keepers needful for the direction and safe-keeping of prisoners so employed, and such overseers and keepers shall have all authority conferred by law on masters of houses of correction and shall be responsible for the safe-keeping and return to jail of all prisoners in their custody, and shall be subject to the provisions of section 211. No prisoner shall be so employed who has been exempted therefrom by the magistrate imposing sentence, or if in the judgment of a physician expressed by a certificate he is unfit for such labor. The county commissioners shall supply all prisoners with all necessary and suitable clothing of such description as will not materially distinguish them from other workmen; they shall also furnish said prisoners with the required tools and implements and may employ such other labor and purchase such other material and equipment as may be necessary to properly carry out the objects of this section, and shall keep account of all expenses incident to such employment. Section 25 does not apply to this section and the three following sections.

Sec. 21. Application for services of prisoners. R.S. c. 92, Sec. 15. The state highway commission and municipal officers of towns may make application for the services of prisoners as aforesaid and may enter into an agreement as to the cost and compensation to be paid to the county for such services, and the sum agreed on may be paid out of moneys appropriated for highway purposes. All labor shall be under the general direction of the board or persons charged with the work.

Sec. 22. Voters may request employment of prisoners. R.S. c. 92, Sec. 16. When a written petition signed by at least 3% of the voters in any county, as determined by the number of votes cast therein for governor at the last preceding election, is presented to the county commissioners of said county requesting the employment of prisoners as above provided, said commissioners shall act thereon and shall designate the prisoners available for work under the conditions provided in section 20.

Sec. 23. Contracts subject to cancellation or suspension. R.S. c. 92, Sec. 17. Any contract for

the employment of prisoners not provided for in the three preceding sections, which may be made by the county commissioners of any county with any person, firm, or corporation, shall be made subject to the right of the said county commissioners to withdraw, cancel, or suspend said contract in whole or in part.

Sec. 25. To examine the jails and may authorize employment of prisoners for benefit of their families. R. S. c. 92, Sec. 19. At the commencement of each session required by law, the county commissioners shall examine the prison, take necessary precaution for the security of prisoners, for the prevention of infection and sickness and for their accomodation; they may authorize the employment for the benefit of the county, or of dependent families, of prisoners committed for crime, in some suitable manner not inconsistent with their security and the discipline of the prison, and may pay the proceeds of such labor, less a reasonable sum to be deducted therefrom for the cost of maintenance of said prisoners, to the families of such person or persons as may be dependent upon them for support.