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Survey of the Trial Courts of the North Dakota Judicial System

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SURVEY OF THE TRIAL COURTS OF THE NORTH DAKOTA JUDICIAL SYSTEM †

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THE IOWA State Bar Association recently conducted a survey to ascertain the lay opinion of Iowa lawyers, courts and laws. It is interesting but rather alarming and unsatisfying to note the result to the question "If you had a legal claim for damages, do you think you would settle out of court for one-half or less of what you felt you had coming to you rather than go into court and maybe get the full amount?" Of those asked 43 per cent responded in the affirmative while 34 per cent answered they would go to court and 23 per cent were undecided.[1] It would, of course be an oversimplification of a complex problem to attribute all of this reaction or a substantial portion of it to any single factor; however, members of the bar should be sensitive to this lack of satisfaction with the operation of the judicial system and should endeavor to ferret out the factors contributing to this attitude and seek to improve the relation between the public and the legal profession by improving the framework of the system within which the legal profession operates.[2] It was with a desire to effect an improvement in the North Dakota judicial system that the present survey was undertaken and with the objective of examining critically the operation of the present North Dakota system of trial courts.

As any survey must be grounded upon some underlying plan, this survey of the North Dakota judicial system is formulated upon both a statistical [3] and a theoretical analysis of the four major divisions of the North Dakota judicial trial system, *i.e.*, the district court, the county court, the county court of increased jurisdiction and the justice court. The theoretical analysis attempts to determine the origin of the division of jurisdiction and to make a comparative study of the plans adopted in other jurisdictions for the improvement of their judicial systems by means of a unified system of trial

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[1] Riley, *The Lay Opinion Survey of Iowa Lawyers, Courts and Laws,* 33 J. Am. Jud. Soc'y 38 (1949).

[2] The correlation between good public relations by the Bar and prosperity of the legal profession has been recognized; thus, the Minnesota Bar Association has employed a full-time "public relations director."

[3] Due to thte lack of funds, the North Dakota Judicial Council has not been able to make regular compilations of judicial statistics. In about 1943, Mr. Justice Burr of the North Dakota Supreme Court compiled certain statistics concerning the North Dakota judicial system for the period from July 1, 1941, to June 30, 1942, which are used for comparative purposes throughout this survey.

courts. However, at the outset it should be noted that since 1917 there have been many campaigns for state court unification,[4] but for the most part, they have been fruitless despite arguments of economy, convenience and efficiency.

Collection of Judicial Statistics

Much has been written and said concerning the importance of collecting judicial statistics.[5] It is reported that Mr. Sunderland of Michigan explains the delay in improvement of judicial systems to the fact that business men compete with each other in finding more efficient methods of doing business but that no such competition exists among lawyers and since better methods do not directly increase the income of either lawyers or judges there is not the incentive which creates efficiency in business practices. Thus, the real impetus for such reforms must come from public spirited members of the bar and judicial councils.[6]

Mr. T. W. Arnold, former Dean of the University of West Virginia Law School, suggests, "It is impossible to change the old processes of procedure without knowing: First, how the rules are working, and second, whether a change is needed or not, and third, what sort of change is needed. This cannot be discovered by an examination of the one case out of one hundred decided by an appellate court, but can only be found by an examination of cases in the courts of first instance with which every litigant comes in immediate contact." [7]

The need for continual studies with respect to the operation of the judicial system was emphasized by Mr. Chief Justice Vinson of the United States Supreme Court in his speech at St. Louis before the 1949 American Bar Association convention and the Conference of the State Chief Justices in which he said: ". . . That such criticism is valid even today is due, I am convinced, to the fact that many judges and legislators have failed to realize that the administration of the courts is a business, and that effective judicial administration requires the establishment of business-like methods. . . . A successful businessman employs an accountant or business manager, who maintains the records, studies the possible economics, and is

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[4] Winters, *A Century of Progress in Judicial Administration*, 30 J. Am. Jud. Soc'y 22, 28 (1946); Desmond, *How Many Kinds of Courts Do We Need?* 21 N.Y.St.B.A.J. 442 (1949).

[5] For a partial list see Shafroth, *A Short Bibliography of Judicial Statistics*, 38 Law Library Journal 37 (1945).

[6] Arnold, *The Collection of Judicial Statistics in West Virginia*, 36 W. Va. L. Q. 184 (1930).

[7] *Id.* at 190.

able at any time to prepare analyses truly reflecting the financial status of the business." [8]

North Dakota should take immediate steps to formulate a definite policy of collecting judicial statistics and to provide for an annual compilation and publication.[9] The statutory authority has already been granted [10] but has not been effectually carried out previously because of the lack of funds.[11] Judicial statistics should not be limited to the district courts but should be collected from each level of the judicial system. Suggested forms are not reproduced with this survey due to the space limitations and since such forms may easily be obtained from other judicial councils; however, various additional facts would be useful in improving judicial administration if they were collected and published regularly. Examples of the detailed facts collected and published by the Kansas Judicial Council are: the distribution of cases among the various courts, a compilation of the various types of cases, the number of cases pending at the beginning of the year, the number of cases terminated during the year, the number of cases pending at the close of the year, the average number of months from the filing of the complaint to the trial of contested cases, average time for the disposition of demurrers, pretrial motions and posttrial motions.[12] The judicial system should be flexible since the intelligent distribution of judicial personnel can only be achieved by a current knowledge of the distribution of judicial business throughout the various areas of the system.

Description of North Dakota Judicial System

The present North Dakota judicial system consists of a number of justice courts distributed in varying numbers throughout the

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[8] For a brilliant analysis of the business of judicial administration see the entire speech. 9 F.R.D. 185 (1949).

[9] N.D. Rev. Code §27-1507 (1943) provides "The judicial council shall have the power to organize a bureau of statistics for the purpose of gathering information relating to crime and criminal and civil litigation."

[10] The justices of the peace operate with almost no supervision and no single person has a complete list of even the persons exercising that jurisdiction; the county courts are not required to file any statistical reports; in connection with the statistics which are required by statute to be filed by the clerks of district court, seven counties failed to comply with the statute for the 1948-49 period.

[11] While the costs of making a complete survey of the business done in West Virginia courts for the year 1928-29 was estimated to be $6,000, this was an elaborate scheme and it is believed that a satisfactory amount of meaningful judicial statistics could be collected and published each year in North Dakota for a moderate cost. Costs of course will be dependent upon the extent to which detailed facts are collected. The various judicial councils were unable to break down accurately the costs for this work. The Kansas Judicial Council has an annual legislative appropriation of approximately $7,000 and the West Virginia Judicial Council has an annual budget of $12,500, while California employs one full time statistics clerk at $350 per month in addition to the other expensees.

[12] 16th Kansas Judicial Council Bulletin 99 (Oct. 1942).

counties and exercising limited civil and criminal jurisdiction; one county court located in each county of the state exercising original jurisdiction in probate matters except in seven counties, which by popular vote, have increased the jurisdiction of the county court giving it limited original civil and criminal jurisdiction and appellate jurisdiction over justice courts; a group of district courts, by means of whch the state is divided into six judicial districts, and which exercises general original jurisdiction over all matters civil and criminal except probate matters and appellate jurisdiction over justice courts, administrative agencies, and ordinary county courts; and one supreme court composed of five members sitting in Bismarck, North Dakota, which constitutes the state appellate court of last resort.

A. District Court

Under the North Dakota Constitution the district courts of North Dakota ". . . shall have original jurisdiction, except as otherwise provided in this constitution, of all causes both at law and equity, and such appellate jurisdiction as may be conferred at law. They and the judges thereof shall also have jurisdiction and power to issue writs of habeas corpus, quo warranto, certiorari, injunction and other original and remedial writs, with authority to hear and determine the same." [13] This general original jurisdiction is limited only by a subsequent section of the North Dakota Constitution providing for the establishment of a county court in each county which ". . . shall have the exclusive original jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the sale of lands by executors, administrators and guardians, and such other probate jurisdiction as may be conferred by law . . ." [14] Being the court of general jurisdiction the district court is also empowered to exercise authority in naturalization proceedings when sitting in such capacity.[15] No statistics were obtained as to the number of naturalization matters coming before the district courts but by statute they are directed to hold terms for naturalization at such times as will be conducive to obtaining attendance of both the bar and the citizens generally.[16] In addition to the above mentioned duties, the district court serves an extremely important function in its capacity as juvenile court. In this capacity the court attempts to serve in that delicate task of dealing with youthful of-

[13] N.D. Const. §103; N.D. Rev. Code §27-0506 (1943).
[14] N.D. Const. §§110, 111; N.D. Rev. Code §§27-0701, 27-0702 (1943).
[15] 8 U. S. C. A. §701 (1942).
[16] N.D. Rev. Code §27-0515 (1943).

fenders in an effort to rehabilitate them into useful citizens without the use of the normal criminal procedures. Because of the nature of the hearing and the possible variations in the disposition of the cases, it is fair to say that the juvenile cases are more time-consuming than many similar criminal cases involving older offenders. Likewise, the allocation of this function to the district judge seems wise indeed since it calls for the most discreet judicial temperament.[17] The broad jurisdiction of the juvenile court is paraphrased below.[18] To assist in the work of the juvenile court the district judge is permitted to appoint two suitable persons to serve as juvenile commissioners for each county of his judicial district.[19] These juvenile commissioners may be paid either on a per diem basis or a salary up to maximum of $200 or $250 per month dependent upon the population of the county.[20] There is no uniform practice as to the use of juvenile commissioners. Some judges have a full-time commissioner who serves several counties within the judge's judicial district; on the other hand, some counties have juvenile commissioners on a per diem basis and some use no juvenile commissioners.

The state has been divided into six judicial districts each of which has two judges with the exception of districts number 1, 2, and 6 which have three judges each.[21] In appendix A there are shown the counties within each district, the area in square miles, the population, the total civil cases filed in district court from July 1, 1948, to June 30, 1949, and the total criminal cases filed in district court from July 1, 1948, to June 30, 1949.

Judges of the district courts are elected to office for a period of six years by popular vote on a no-party ballot.[22] While the scope of this survey is not intended to enter the entire field of judicial administration, it might be well to note the recommendations

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[17] Because of the wide variations in time consumed by differing types of juvenile cases and the apparent inability to equate the juvenile cases to ordinary civil and criminal cases, no statistics concerning juvenile cases are reported in the appendices.

[18] N. D. Rev. Code §27-1608 (1943) provides, *inter alia*, that the juvenile court shall have original jurisdiction in all cases where a child less than 18 years of age violates any city or village ordinance or law of this state or of the United States and various other miscellaneous conduct of either the child or his parents or associates which would tend to endanger his health, safety or morals and further provides that the juvenile court shall have concurrent jurisdiction with the district court, county court of increased jurisdiction and justice or police magistrate court over any child between the ages of 18 and 21 who has violated any city or village ordinance or any law of this state or of the United States.

[19] N. D. Rev. Code §27-1602 (Supp. 1949).

[20] N. D. Rev. Code §27-1603 (1943).

[21] N. D. Rev. Code §27-0501 (1943).

[22] N. D. Const. §104; N. D. Rev. Code §§27-0502, 16-0801 (1943).

adopted by the American Bar Association for the selection of judicial personnel:[23]

"... in its judgment the following plan offers the most acceptable substitute available for direct election of judges:

(a) The filling of vacancies by appointment by the executive or other elective official or officials, but from a list named by another agency, composed in part of high judicial officers and in part of other citizens, selected for the purpose, who hold no other public office.

(b) If further check upon appointment be desired, such check may be supplied by the requirement of confirmation by the State senate or other legislative body of appointments made through the dual agency suggested.

(c) The appointee after a period of service should be eligible for reappointment periodically thereafter, or periodically go before the people upon his record, with no opposing candidate the people voting upon the question, "Shall Judge Blank be retained in office?"[24]

To be eligible for election as district judge the candidate must be at least twenty-five years of age and "learned in the law."[25] The district judge is compensated for his services by an annual salary of $5,000 and for his actual traveling expenses, which include subsistence while holding court inside his own judicial district but outside of the county in which he resides.[26] The district judge is prohibited from acting as an attorney or counselor at law during the term of his office.[27] Provision is made for the retirement at full pay for the remainder of his term, if a district judge becomes unable, because of permanent disability, to perform the judicial duties of his office during the remainder of his term.[28] Provision is also made for retirement at half pay for life of a district judge who attains the age of seventy after having served eighteen years or more as a judge of the district or supreme court.[29]

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[23] For excellent reading in the field on selection and tenure of judicial officers see Vanderbilt, *Minimum Standards of Judicial Administration* 3-28 (1949).

[24] 62 A. B. A. Rep. 893 (1937).

[25] N. D. Const. §107.

[26] N. D. Rev. Code §27-0503 (Supp. 1949). For a detailed study of comparative judicial salaries of all states at all levels see the First Report of Committee on Judicial Salaries made by the Texas Civil Judicial Council on October 15, 1949. This study indicates that on present salaries only one state, Kentucky, compensates judges of the Supreme Court and the trial court of general jurisdiction at a lower level than does North Dakota. The justices of the Kentucky Supreme Court receive $5,000 per year and the judges of the trial courts of general jurisdiction receive $4,800 per year. However, based upon the highest judicial pay in each state North Dakota's cost per 1,000 of population is $11.16 while the highest is Delaware at $51.66 and the lowest is Ohio at $1.60 and the average at $3.99.

[27] N. D. Const. §117.

[28] N. D. Rev. Code §§27-05031, 27-05032 (Supp. 1949).

[29] N. D. Rev. Code §27-1701 *et seq.* (Supp. 1949).

The value of statistics is increased when they may be analyzed with a series of other comparable statistics; thus, it is dangerous to draw conclusions too heavily from statistics compiled for a single year. However, it may be seen that in the district court during a one year period an average of 242 civil cases per judge and an average of 65 criminal cases per judge was docketed. Thus, it can be seen that in civil cases, districts 1, 4, and 5 had above the average number of civil cases per judge docketed while the other three districts were below the average number of cases per judge docketed. In criminal cases docketed districts 1, 2, 4, and 5 had above the average number of criminal cases per judge while the other two districts fell below the average number of cases per judge. From this it is to be observed that districts 1, 4, and 5 were above the average in both civil and criminal cases. The only other period for which tabulated totals are available is the period from July 1, 1941, to June 30, 1942. During that period there were docketed 4,691 cases and 1,131 criminal cases. This would indicate a decline of 22% in civil cases and a decline of 13% in criminal cases in the district courts for the 1948-49 period as compared with the 1941-42 period.[30] During the 1941-42 period there were 635 divorce cases as compared with 768 divorce cases in the 1948-49 period. This increase in divorce cases may be attributable to the abnormal war conditions which may have delayed certain cases rather than a marked social change in domestic relations. It is significant that during the same period 5,100 marriage licenses were issued by the county judges. Marked changes in economic conditions may be noted in the reduction of foreclosure cases from 725 in the 1941-42 period to 36 in the 1948-49 period and the increase in quiet title actions from 618 in the 1941-42 period to 1341 in the 1948-49 period. Of importance to the subsequent section discussing justice courts, is the fact that despite the criticism of justice courts there is an infinitesimal number of appeals from justice court decisions. During the 1941-42 period there were 15 as compared with 3 during the 1948-49 period.

B. County Court

Under the North Dakota Constitution there ". . . shall be established in each county a county court, which shall be a court of

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[30] Approximately an 8% drop in civil cases was noted in the Kansas statistics from 1947 to 1948 but it was attributed primarily to a large decline in divorce cases. On the other hand there was an increase of approximately 15% in the Kansas criminal cases. 22nd Kansas Judicial Council Bulletin 50 (Oct. 1948).

record open at all times and held by one judge, . . ." [31] Said court having ". . . exclusive original jurisdiction in probate and testamentary matters, the appointment of administrators and guardians,[32] the settlement of accounts of executors, administrators and guardians, and such other probate jurisdiction as may be conferred by law; . . ." [33] In addition to the above jurisdiction of the county court, there are various miscellaneous duties placed on the county judge. These include the issuing of marriage licenses,[34] recommending issuance of driver's licenses to children between fourteen and sixteen years of age,[35] serving as chairman and member of the county insanity board,[36] and issuing certificates of indigence in cases of persons suffering from tuberculosis.[37]

The county judge is elected to office for a period of two years by popular vote on a no-party ballot.[38] The suggestions made for the selection of judicial officers generally which were previously discussed are equally applicable to county judges.[39] The qualifications of the county judge differ from those of the district judge in that the former is not required to be "learned in the law". However, in the event the county judge is an attorney, he is prohibited from acting ". . . as an attorney either for or against a surviving husband or wife, heir, devisee, exeuctor, administrator, guardian or ward, debtor, creditor, or other person in any civil or criminal action or other judicial proceedings which involves or relates to any estate, or to any part thereof, or to any other matter over which he has or may obtain jurisdiction." [40] Further, he may not ". . . counsel or advise as to any such action or proceeding, or contem-

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[31] N. D. Const. §110; N. D. Rev. Code §27-0701 (1943).

[32] Such power of appointment of guardians has no application" . . . to the appointment of a guardian for the special purpose of maintaining or defending the interests of a minor or other party in an action or proceeding in any court of competent jurisdiction." N. D. Rev. Code §27-0707 (1943).

[33] N. D. Const. §111; N. D. Rev. Code §27-0702 (1943).

[34] N. D. Rev. Code §14-0317 (1943) provides *inter alia* "When application is made to any county judge of this state for a marriage license, he shall inquire of the applicant upon oath relative to the legality of the contemplated marriage. He may examine other witnesses upon oath . . ."

[35] N. D. Rev. Code §39-0605 (Supp. 1949) provides, *inter alia* "An operator's license may be issued to any child, who is more than fourteen years of age and less than sixteen years of age, otherwise qualified, upon written recommendation of the county judge of the county in which such child resides. No county judge shall make a recommendation for the issuance of an operator's license to a child who is less than sixteen years of age unless such child accompanied by his parents or guardian, shall appear in person before him, and satisfy such judge that: (1) Such child is at least fourteen years of age; (2) Such child appears to be qualified to operate an automobile safely; and (3) It is necessary for such child to drive his parent's or guardian's automobile without being accompanied by some person over sixteen years of age. . . ."

[36] N. D. Rev. Code §25-0301 (1943).

[37] N. D. Rev. Code §25-0509 (1943).

[38] N. D. Rev. Code §§11-1002, 16-0801 (1943).

[39] See note 5 *supra*.

[40] N. D. Rev. Code §27-0716 (1943).

plated action or proceeding, nor shall he draft or aid in drafting any document or paper relating thereto which he is or may be required by law to pass upon."[41] To accommodate certain counties sparsely populated, it is further provided that in counties having less than 15,000 population but more than 6,000 population the county judge is an ex officio clerk of the district court and in smaller counties having a population of 6,000 or less, the register of deeds becomes the ex officio clerk of district court and county judge.[42] It would seem that if the judicial business of the county court were insufficient to require the full attention of the county judge a wiser selection of additional duties might suggest additional judicial duties rather than duties of a clerical nature thus dissipating legal talent. By virtue of the operation of this consolidation of duties eleven counties have a single officer performing the duties of county judge, register of deeds, and clerk of the district court while in twenty-eight counties a single officer doubles as county judge and clerk of district court and in only fourteen counties is there a full-time judicial officer as county judge.[43]

The county judge is compensated by an annual salary determined by the population of the county. Basically the salaries range from $1,500 per year for counties having a population of 3,000 or less to $1,800 per year for counties having a population of more than 5,000 but less than 7,000; additional compensation is provided for judges in counties having a population of more than 7,000 up to a maximum of $2,700 per year which is obtained in a county having a population of approximately 32,000.[44] However, since 1947 there have been temporary increases in these salaries raising the lowest to $2,400 per year for counties having a population of 5,000 or less to $2,700 per year for counties with a population of 8,000; additional compensation is provided for judges in counties having a population of more than 8,000 up to a maxium of $3,500.[45] There is no provision made for the retirement of county judges.

There is no record of any previous attempt to collect and publish statistics concerning the work of the entire system of county courts. For the period from July 1, 1941, to June 30, 1942, certain information concerning the work of the county courts of Barnes, Bottineau and Grand Forks counties was collected. Both Barnes and Grand Forks counties have shown an increase in county court work based

[41] *Ibid.*
[42] N. D. Const. §173; N. D. Rev. Code §11-1002 (1943).
[43] For a division of the counties showing those with the consolidated offices see Appendix D.
[44] N. D. Rev. Code §11-1010 (1943).
[45] N. D. Rev. Code §11-10102 (Supp. 1949).

upon the figures from these two periods while Bottineau has shown a decrease. In Grand Forks county the number of estates docketed increased from 108 to 125 while the estimated value increased from $815,494 to $1,827,197. This represents approximately a 16% increase in the number of estates docketed and approximately a 34% increase in the number of estates in which wills were probated. The economic increase of roughly 120% may not be as significant in indicating increased business as it is a change in economic values but it is not to be ignored in assessing the sociological importance of the county judge's position in our judicial system. The relation between the total number of civil cases filed in the district courts—3,633—and the total number of estates docketed in the county courts —2,538—may be of interest to the profession in calculating the importance of estate practice in North Dakota. Approximately 26% or one-fourth of all estates docketed during this period presented wills for probate. The questionnaire did not obtain information as to the percentage of these which were contested or information concerning the state of the dockets and average time for settlement of contested and uncontested matters.

C. *County Court of Increased Jurisdiction*

A seemingly wise provision for increasing the jurisdiction as well as the dignity[46] of the county court was made through statutory authority to establish a county court of increased jurisdiction.[47] This change is effected through a vote on the proposition within the county[48] and is deemed carried when it receives a majority of the highest number of votes cast at such election on any proposition whatever.[49] The jurisdiction is then increased to include not only ordinary jurisdiction of the county court but also concurrent jurisdiction with the district court in all civil actions where the amount in controversy does not exceed one thousand dollars and in all criminal actions below the grade of felony.[50] Noteworthy is the North Dakota constitutional provision that the justices of the peace ". . . in counties where no county court with criminal jurisdiction exists . . . shall have jurisdiction to hear and determine

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[46] The double appeal is eliminated. N. D. Rev. Code §27-0824 (1943).

[47] The practice of increasing the jurisdiction of the county probate courts is not uncommon. For a sample of other states following such a practice see Neb. Stat. §24-502 (1943); Okla. Stat. §271 (1943); S.C. Code §77 (1942); Texas Stat. Art. 1949, 1950 and 1955 (Vernon 1948).

[48] The present county courts of increased jurisdiction are effected by vote of the electors of the county. N. D. Rev. Code §27-0801 (1943).

[49] N. D. Rev. Code §27-0803 (1943).

[50] N. D. Rev. Code §27-0820 (1943).

cases of misdemeanor as may be provided by law . . ."[51] Appendix F indicates that this has not been heeded in all counties having county courts of increased jurisdiction, thus justices have continued to handle criminal matters in certain counties where this would be applicable. The county court of increased jurisdiction also acts as an appellate court concurrently with the district court on appeals from justices of the peace, police magistrates, and city justices.[52]

While under the present schedule of salaries the county judge in a court of increased jurisdiction is given an additional amount over the ordinary county judge, the legal maximum payable to any county judge makes this effective only in the smaller counties. There is no provision for retirement of the judges of county courts of increased jurisdiction.

The rules of practice and procedure in the county court of increased jurisdiction [53] and the general powers of the judge [54] in such courts are patterned as closely as practicable to those of the district court. The qualifications of the judge are changed to be the same as those of the district judge, except that he must be a resident of the county at the time of his election.[55] This then requires that the judge of a county court of increased jurisdiction be "learned in the law" and he is forbidden to act as an attorney or counselor at law during the period of his incumbency.[56] Strangely enough however only seven counties, or approximately 15% have adopted this simple plan providing for a degree of unification and are presently operating under it despite the very small added salary. When observed on a broader basis, it probably effects a saving since it clears the district court docket of many of the smaller claims.

A summary of the work done in the county courts of increased jurisdiction for the period from July 1, 1948, to June 30, 1949, is set forth in Appendix E. In connection with the county courts of increased jurisdiction, statistics as to the number of cases docketed during the period from July 1, 1941, to June 30, 1942, were collected and published but it appears that at no other time have statistics been collected and published concerning the work of this branch of the North Dakota judicial system. Due to the fact that statistics are available for only these two years and such factors as a general decrease in litigation and economic prosperity having possibly

[51] N. D. Const. §112. Also see N. D. Rev. Code §33-0108 (1943).
[52] N. D. Rev. Code §27-0821 (1943).
[53] N. D. Rev. Code §27-0824 (1943).
[54] N. D. Rev. Code §27-0823 (1943).
[55] N. D. Const. §111.
[56] N. D. Rev. Code §27-0809 (1943).

played a decisive role in affecting the business of these courts, no general conclusions can be drawn from these statistics as to the general satisfaction with the county court of increased jurisdiction by either the bar or the public. At least since no previous statistics as to the justice of the peace work are available, it is impossible to conclude whether there has been a marked lessening of justice work in these counties or not.[57] For the purposes of comparison Appendix E also sets forth the total number of civil and criminal cases docketed in the county courts of increased jurisdiction during the 1941-42 period.

D. Justice Court

Despite the fact that the justice of the peace may be either a village,[58] city,[59] township,[60] or county [61] officer and that he is required to keep his office and hold his court within the political area responsible for his election,[62] the territorial jurisdiction of the present North Dakota justice of the peace is commonly considered coextensive with the county.[63]

The division of counties into congressional townships was originally a surveyor's unit whereby the counties were divided into townships of six miles square.[64] Having made this geographical division it was only a natural result that such a unit should become a governmental unit and the statutes of 1895 provided for the establishment of civil townships "whenever a majority of the legal voters of any congressional township . . . containing twenty-five legal voters petition the board of county commissioners to be organized as a township . . ." [65] With the improvement of roads and the increased importance of the county as a fundamental government unit, there has been a growing tendency to depart from the use of township as a unit of governmental operation.

Mr. Lancaster further points out in his book on rural governments that "over large parts of the country practically the only thing that keeps the township alive is the fact that it is responsible for the care of minor roads." [66] But he concludes that even for road main-

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[57] An outstanding documented analysis of the justice courts with special consideration given to the Michigan justice courts is contained in the 15th Annual Report of Michigan Judicial Council 53 (1945).
[58] N. D. Rev. Code §40-0708 (1943).
[59] N. D. Rev. Code §§40-1401, 40-1501 (1943).
[60] N. D. Rev. Code §58-0503 (1943).
[61] N. D. Rev. Code §11-1002 (1943).
[62] N. D. Rev. Code §33-0101 (1943).
[63] N. D. Rev. Code §§40-1001, 40-1802, 58-1001 (1943).
[64] Lancaster, Government in Rural America 71 (1937).
[65] N. D. Rev. Code §2526 (1895).
[66] Lancaster, Government in Rural America 75 (1937).

tenance such a system is unsuccessful since "the township is too small an area either to afford skilled superintendents or to use road equipment economically." [67] Further studies by Lancaster concerning the appropriateness of the township as a unit for health or welfare service indicated that such a unit was undesirable. A similar conclusion was reached by Professors Fairlie and Kneier in which they summarize "with larger population and with improved roads and means of transportation larger units of government are possible and desirable." [68] They reason that by transferring the township functions to a more central and larger governmental unit not only would money be saved but a more satisfactory performance of the functions would also result.[69] Regardless of agreement on the above argument for elimination of township governmental units entirely, it seems clear that such a unit no longer has a continued usefulness for judicial purposes under a modern judicial system. It is obvious that such a unit was not originally established because of the volume of judicial business within such an area but because of the convenience of having in each local area a person authorized to hear and determine common minor legal controversies.[70] However, convenience may not be measured by the single factor of space since accessibility must also include the factor of "time." Thus a system which does not assure that the justice will be at a particular place at the particular time, that is, maintain regular hours, does not assure convenience to the public. Hence, the multiplicity of justices which is the logical result of the township system spreads the judicial business so thin that no justice has sufficient judicial business to make his justice work a regular profession which results in defeating the very end which was hoped to be accomplished.[71]

Although it is difficult to estimate the population necessary for the maintenance of a minor court with a full time judge, Professor Sunderland concluded from his study of the Michigan judicial system that a full time staff of one judge and one clerk exercising civil jurisdiction up to $500 could adequately dispose of the judicial business in an urban center of from 10,000 to 20,000 people. The

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[67] *Ibid.*

[68] Fairlie and Kneir, County Government and Administration 468 (1930).

[69] For an impressive example of financial savings see Professor Sunderland's Study of Michigan's justices of the peace in which he points out that in Illinois it was estimated that the elimination of township governments reduced the number of elective officials by about 4,000 thus saving the taxpayers (mostly farmers) $5,000,000. 15th Annual Report of Michigan Judicial Council 71 (1945).

[70] The number of justices to be elected in each township has not been changed since the original Code was adopted in North Dakota. N. D. Code §2541 (1895).

[71] Appendix F lists the number of justices in each county and the number of civil and criminal cases docketed in the justice courts during the period from July 1, 1948, to June 30, 1949.

following summary of the per county population distribution indicates that 87% of the North Dakota counties have populations in excess of 5,000 and that 47% of the North Dakota counties have populations in excess of 10,000.[72]

Population of County	Number of Counties
5,000 or less	7
5,000 to 10,000	21
10,000 to 15,000	11
15,000 to 20,000	6
More than 20,000	8

In attempting to determine the rationale back of the present distribution of jurisdiction among our courts it would appear that no single factor is entirely responsible, but rather it is a combination of factors. First, there apparently was an effort to try the matters of a more substantial nature in the district court. Thus, the justice court was established as a court of limited jurisdiction [73] and while the qualifications for district judge require that the person be ". . . learned in the law . . .",[74] no such qualification was made for the office of the justice of the peace. Secondly, there was a general American tendency to rely heavily upon the English system of jurisprudence which was a factor in the failure to establish a single court of general jurisdiction.[75]

In Professor Sunderland's study of the Michigan judicial system he concluded that the development of so-called "inferior" and "superior" courts in the English system was due primarily to the difference in the ability of clients to pay the costs of litigation. However, if we are to assume that it is one of the duties of a democratic government to provide for its citizenry a medium for the settlement of their disputes through an adequate system of justice by law, it would seem that if the division of our judicial powers between the justice of the peace courts and the district courts is based upon such a reason, it does not rest on a tenable basis.[76] The fee system of compensation for judicial officers on any level has been severely criticised. Under a newly adopted plan in Missouri the justice is elevated in dignity by eliminating the fee system and providing compensation by an annual salary.[77]

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[72] The population of each county based upon the 1940 official United States census and preliminary 1950 census is shown in Appendix A.

[73] Melville, Dakota Justice Court Practice 1 (1886).

[74] N. D. Const. §107, as adopted Oct. 1, 1889.

[75] For a general discussion of the English Courts of Justice see Jenks, The Book of English Law 70-74 (1928).

[76] 15th Annual Report of Michigan Judicial Council 53, 85 (1945).

[77] Mo. Rev. Stat. C. 11 Art. VIII, §2753 and C. 11 Art. XI, §2 (Supp. 1944).

Some real doubt as to the validity of the fee system was created by a case in the United States Supreme Court which held that it was a denial of due process for a defendant to be tried in a criminal case involving his liberty or property before a judge having a direct, personal, substantial interest in convicting the defendant based upon the fact that the judge received no fee unless the defendant was convicted.[78] One widespread criticism of the present justice court system is the fee system which has caused some to refer slurringly to the court as "judgment for the plaintiff court." [79] In West Virginia statistics for the year 1947 concerning civil cases in the justice courts resulted in the following summary: [80]

1. Approximate percentage of cases disposed of after contest (including all cases which proceeded as far as the taking of any testimony on contested issues, irrespective of whether the trial was completed or was terminated by settlement or dismissal or discontinuance) 33%
2. Approximate percentage of cases disposed of without contest 67%
3. Approximate percentage of cases in which one or more plaintiffs recovered judgment 76%
4. Approximate percentage of cases in which an attorney appeared for one or more of the parties 14%

In connection with the criminal cases before justices of the peace in West Virginia for the year 1947, it appeared that only approximately 7% of the defendants were represented by an attorney. An even more striking picture is illustrated by Professor Sunderland's report in which he refers to a study made of six counties in Michigan. Out of some 933 civil judgments 99.2% were for the plaintiff while only 0.8% were won by the defendant.[81] A sampling of seven representative counties of North Dakota indicates that 77% of the civil cases docketed resulted in judgment for the plaintiff and that 92% of the criminal cases docketed resulted in the defendant being fined or sentenced. While there are variations, a marked number of the questionnaires indicate that an extremely high percentage of civil cases resulted in judgment for the plaintiff and criminal cases resulted in the defendant being fined or sentenced.

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[78] Tumey v. Ohio, 273 U.S. 510 (1927).

[79] For a scathing condemnation of the justice courts see Kennedy, *The Poor Man's Court of Justice*, 23 J. Am. Jud. Soc'y 221 (1940).

[80] 6th Annual Report of West Virginia Judicial Council 33 (1947).

[81] 15th Annual Report of the Judicial Council of Michigan 107 (1945).

In Warren's scholarly discussion of the justice of the peace,[82] he demonstrated the marked change in the general qualifications of the justice and sharp decline in the care of his selection. To illustrate, he refers to several cases where domestic or farm animals bearing human names were elected; [83] while the questionnaires returned in this present survey have stated that certain justices actually were elected as write-in candidates as a bar room joke. Because of the absence of qualifications necessary for election to the office of justice of the peace, it is expected that numerous abuses of judicial power may have taken place as the result of lack of legal experience on the part of the justice and which will never come to light unless by accident. This is particularly true because of the general tendency for the justice court cases to be tried without the assistance of lawyers and the almost negligible number of appeals from the decision of the justice. One case where a justice had granted a divorce was brought to light only recently when one of the parties inquired of the district judge as to where he should pay his alimony.

Out of the 861 persons elected and eligible to perform the functions of justice of the peace a substantial number did not even take the trouble to qualify. Although a 100% return of questionnaires is impossible when dealing with some 861 justices of which some had no desire to be elected or to serve if elected, it appears that 87% of those replying handled no civil matters and 80% handled no criminal matters. An analysis of the justice questionnaires would indicate that the litigants are not taking advantage of the local justice but are driving to the urban centers; this is probably due to the fact that the urban center justices are more likely to maintain certain hours, and distance is only a minor factor on the present improved highways. Warren also berated the fact that in many states there was no adequate supervision of the justices including no complete list of the justices and that some lived in neighboring states. North Dakota was one of these states.[84]

A critique of the justice courts must necessarily consider the validity of the limitations on justice court jurisdiction and for this purpose it is desirable to divide the subject matter into the various areas where the jurisdiction may now be limited so the present jurisdiction may be appraised and consideration given to the matter as to whether a change in jurisdiction would be feasible. The

[82] Warren, Traffic Courts 188 (1942).
[83] *Id.* at 191.
[84] *Id.* at 193.

major limitations of justice court jurisdiction in North Dakota are: (a) limitation based upon pecuniary amount; (b) equity jurisdiction; (c) actions relating to land where title to land is involved; (d) criminal jurisdiction.

Since the adoption of the North Dakota Constitution in 1889 [85] and the adoption of the original Code on 1895 [86] the same pecuniary limitation of $200 has applied to the justice courts. Thus the present constitutional provision provides: "The justices of the peace herein provided for shall have concurrent jurisdiction with the district court in all civil actions when the amount in controversy, exclusive of costs, does not exceed two hundred dollars . . ." [87] This jurisdiction is concurrent also with the seven county courts of increased jurisdiction. It has been suggested that if a minor court system is maintained, it would be advisable to enlarge the jurisdiction of the minor court by increasing the pecuniary limitation since the present maximum is obviously more confining than cases valued at less than $200 more than a half century ago. As the result of a survey made in California, the California Judicial Council recommended to the state legislature that the pecuniary amount be raised to $500.[88] Such a tendency has been demonstrated in our county courts of increased jurisdiction where the pecuniary limitations is $1,000; however, such an increase in jurisdiction would be ill-advised unless a corresponding increase is made in the qualifications of the justices. On the other hand, the amount must not be so large as to absorb the work which should because of its economic or social significance be tried in the district court.

The rationale of denying any equity jurisdiction to the justice courts stems from a decision involving the county courts of increased jurisdiction. Thus, in the *Mead* case [89] the North Dakota Supreme Court held that the county court of increased jurisdiction had no equitable jurisdiction despite the constitutional authority to exercise jurisdiction "concurrent with the district court in all civil actions where the amount in controversy does not exceed $1,000." The court placed emphasis upon the pecuniary amount in determining that the framers of the Constitution intended to confer jurisdiction in cases formerly designated actions at law as distinguished from suits in equity not withstanding the reform procedure abolishing the forms of actions and providing for one form

[85] N. D. Const. §112, adopted October 1, 1889.
[86] N. D. Rev. Code §6623 (1895).
[87] N. D. Const. §112.
[88] 12th Biennial Report of the Judicial Council of California 18 (1948).
[89] Mead v. First National Bank of Lansford, 24 N. D. 12, 138 N. W. 365 (1912).

of action know as a civil action. In the *Palmer* case [90] it was argued before the Supreme Court that the court's expressions in the *Mead* case that ". . . it will not be contended that such language confers on justices of the peace jurisdiction in equity cases," was merely dictum and not controlling. While the court found it unnecessary to pass on the merits of this argument, it seems clear that the reasoning of the *Mead* case is no longer seriously questioned and thus the limitation is equally applicable to the justice of the peace courts.

Consideration of this limitation leads to the conclusion that it is arbitrary and not based upon any sound reason if the minor court is to be manned by a competent person of proper judicial temperament. There are equitable remedies in certain cases (such as specific performance of a contract of limited value and cancellation or reformation of a contract of limited value) which require no more legal skill than a complicated tort case and which have no great economic, social or political significance. The court's reasoning in the *Mead* case might be questioned in that they reached their decision based upon the assumption that "it would not be contended that the justice courts had equitable jurisdiction" because of the pecuniary limitation and thus the county court of increased jurisdiction likewise had no equitable jurisdiction because of their monetary limitation. The query may well be put however as to why this assumption was made which tended to maintain the distinction between law and equity when the legislature had so clearly indicated that they desire the distinction abolished. While it is true that equity principles tend to obliterate a pecuniary limitation, certain cases would not do so and thus it might seem that the primary reason was the reluctance to place the equitable power within the hands of a lay judge; this argument would be without force in the case of the county courts of increased jurisdiction. Hence, if a system of minor courts were established and competent judicial officers were selected, it would seem that at least limited equitable jurisdiction might be safely entrusted to the minor court. While equity cases, especially those involving injunctive relief, defy an easy pecuniary estimation as to their value, such a matter is not insurmountable since the United States District Courts are required to determine their pecuniary worth despite the injunctive relief requested when deciding the existence of federal jurisdiction in diversity and federal question cases.

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[90] Palmer v. Donovan, 44 N. D. 348, 175 N. W. 866 (1919).

By virtue of the North Dakota Constitution it is provided that " . . . in no case shall said justice of the peace have jurisdiction when the boundaries of or title to real estate shall come in question." [91] Section 33-0106 of the North Dakota Revised Code provides "A question of title or boundary of real property cannot be determined in a justice court, and when such question arises upon a material issue joined as prescribed in this title, or when such question arises by controversy in the evidence as to a fact materal to the determination of the issue in action, the justice must discontinue the trial and forthwith must certify and transmit to the district court of his county all the pleadings and papers filed with him in such action." [92] In Professor Sunderland's study of this phase of the problem it was concluded that such a limitation was based upon the historical position accorded to land titles by the English system of jurisprudence.[93] Hence, it would seem that if the minor court were manned by an individual with competent legal talent and judicial skills, there would be no sound reason for transferring all cases involving questions of title or boundaries to land to the district court unless their pecuniary value itself made it of sufficient economic interest since a person competent to conduct the trial in complicated tort cases and criminal matters is equally as competent to try a case involving the principles of land titles.

The criminal jurisdiction of the justice as provided by statute is ". . . to prevent the commission of public offenses, to institute searches and seizures, to require the arrest and detention of persons charged with crime, to require and accept bail, and otherwise act as magistrates in matters of crime . . . . In each county where no county court with criminal jurisdiction exists, each justice court has jurisdiction and authority co-extensive with the county to hear, try, and determine every criminal action in which the offense charged is punishable by fine of not more than one hundred dollars,or by imprisonment in the county jail for a period of not more than thirty days, or by both fine and imprisonment, and in every other criminal action in which jurisdiction is conferred by law." [94] It would seem wise to reserve the district court calendar for the trial of cases involving serious matters such as felonies; indeed, the county courts of increased jurisdiction are handling presently

[91] N. D. Const. §112.

[92] State v. Crum, 70 N. D. 177, 292 N. W. 392 (1940); Vinquist v. Siegert, 58 N. D. 295, 225 N. W. 806 (1929).

[93] 15th Annual Report of Judicial Council of Michigan 92 (1945).

[94] The statutory authority in criminal cases is more restrictive than was necessarily required by the Constitution which in §112 would have permitted authority to try all misdemeanors. N. D. Rev. Code §33-0108 (1943).

a large number of criminal matters below the grade of a felony. Such a minor court assures the accused a speedier trial without sacrificing the important aspects of fairness which are so essential in maintaining respect for criminal sanctions. The existing limitation on the criminal jurisdiction of the justice courts no doubt stems from the same philosophy that restricts the justice jurisdiction in other areas and justifies a trial de novo on appeal; basically it is a lack of confidence in the quality of the result obtained if either party raises an objection to that result. In enforcing any penal statutes one must be mindful that the object of such statutes is not merely punishment of the offender but rather the protection of society from future transgressions. In connection with the less serious crimes, the punishment is correspondingly light; however, respect for law, even in connection with these minor offenses, should not be minimized. Accordingly, an important function falls upon the judicial officer dealing with these offenders to impress them with the seriousness of all violations of the law. Such an end cannot be obtained unless the court has sufficient dignity to command respect of the citizens coming before it. For effective results the punishment must not only be adapted to the crime but also to the offender; this calls for keen exercise of discretion on the part of the judicial officer.[95]

Appendix F is a collection of statistics concerning the civil and criminal work done by the justices of the peace during a period from July 1, 1948, to June 30, 1949. This table shows that no county has elected the maximum number of persons to positions qualifying them to exercise the jurisdiction of justice of the peace; however, there were elected for this period a total of 861 persons to such office. While it is true that many of those elected never exercised this jurisdiction, their election illustrates forcefully the archaic nature of the system and its inherent potential weakness since after election there is no assurance that anyone of them will undertake to serve. 67% or 77% of the justices completed and returned a relatively simple questionnaire. It had been hoped that more detailed information could be obtained concerning the work of the justices but the failure of a large number of the justices to complete and return the questionnaires militated against it. While some of the justices were prompt in completing and returning the questionnaires, it required mailing questionnaires as many as five times to

[95] Glueck, *Principles of a Rational Penal Code*, 41 Harv. L. Rev. 453 (1928). In this article Professor Glueck investigates the theories back of punishment and discusses critically the use of stereotyped punishment.

many of the justices to obtain the 77% return. Even so, 18% failed to respond to as many as five requests; there seemed to be no correlation between punctuality in completing the questionnaire and the amount of judicial business transacted since some of the busiest justices were at opposite ends of the scale of punctuality. A 100% return was achieved in twelve counties. These questionnaires indicate that 87% of the justices handled no civil cases, slightly less than 11% handled fewer than 10 civil cases and slightly less than 3% handled more than 11 civil cases during the 1948-49 period. Eight counties reported no civil cases docketed in the justice courts. The justices were advised to exclude all municipal and village ordinance violations from the criminal cases; thus, of the justices answering questionnaires, 80% handled no criminal cases, 11.5% handled fewer than 10 criminal cases and 8.5% handled more than 11 criminal cases during this same period. Two counties reported no criminal cases in the justice courts. However, it is apparent that a sizable amount of legal business comes before justices of the peace and therefore a large segment of the public has its only direct contact with the North Dakota judicial system through the media of the justices of the peace. It is possible that during this one year period parties (the exact number of persons cannot be ascertained) in as many as 4515 cases had their impression of the judicial system influenced by the cases represented in Appendix F. While the combined number of cases is relatively large, they must necessarily be spread so thinly due to the large number of justices that few justices acquire much judicial experience. Thus, if the same facts are true in North Dakota as in West Virginia, and inquiries to North Dakota attorneys have indicated in the affirmative, in only a small number of these cases are the parties represented by a member of the bar. Therefore, it is possible that many of these matters are being decided without any contact with a person having a legal education.

Survey Recommendations

It would appear that the problem of devising an adequate judicial system for a state having a population with such common interests as North Dakota would entail no great difficulty since it could be accomplished by applying simple scientific standards and techniques. Thus, it would be necessary to determine the amount of judicial business within various categories and then to divide the state into geographical territories assigning sufficient judicial personnel to adequately process this judicial business. However,

the problem is not capable of such a simple solution. There are various unstable factors which defy the complete use of scientific standards. First, it is not an easy problem to determine the exact amount of judicial business done in the various categories and this may be affected by various economic and social trends of the state; secondly, there are historic traditions in the established system coupled with the self-interest of groups and persons in the maintenance of the status quo. [96]

The recommendations of this survey may be less specific than desired or expected by some members of the profession. However, because of the wide divergence of ideas and proposals offered by members of the profession, it was considered sound to attempt to outline a broad program upon which discussion might be centered with the hope that some area of agreement might be reached. Once such areas are discovered the legislative bill drafting phase should not prove difficult with living examples existing in sister states. A delayed effective date of any change should be considered so that a smooth transition between programs could be accomplished.

From the available data, it is recommended that the North Dakota Judicial Council and the North Dakota Bar Association give its attention to the following recommendations which may be pursued either as a single combined move or as separate reforms.[97] Based upon the facts disclosed by this survey, it is recommended that the judicial system of North Dakota trial courts be revised by abolishing the present system of justice courts, county courts and county courts of increased jurisdiction and in their stead provide for the establishment of a system of district courts by dividing the state into smaller judicial districts and adding eighteen additional district judges. In a few of the larger counties such as Burleigh, Cass, Grand Forks, and Ward two judges would have their chambers in those counties.[98] This system of district courts would be supplemented by a system of minor county courts in each coun-

[96] Opposition from this area was recognized by Judge Charles E. Clark in the study and recommendation of changes for the Connecticut judicial system. Final Report of Survey Unit No. 18, Connecticut Commission on State Government Organization 2 (1949).

[97] The wisdom of a bold step in reform was expressed by Judge Clark as ". . . since any change is likely to promote active opposition from the beneficiaries of the system as it is, half-way proposals are likely to receive, as they deserve, only half hearted support from those interested in true reform, while they are just as disturbing to the believers in the status quo as more effective proposals." Final Report of Survey Unit 18, Connecticut Commission on State Government Organization 2 (1949).

[98] The number of judicial districts is not too important but it is suggested that they should be smaller than the present districts. With the above suggested twenty-seven areas of which twenty-three would have one judge and four would have two judges, a total of thirty-one judges would be needed. The two additional judges can be allocated to any judicial district where experience indicates additional personnel will be needed.

ty to be known as the county justice court. The district courts, manned by approximately thirty-three district judges with the same qualifications now required for district judges, would have general original jurisdiction in all matters civil and criminal including probate and juvenile jurisdiction and appellate jurisdiction from the county justice courts and administrative agencies. The county justice courts, manned by a person "learned in the law" would have concurrent jurisdiction with the district court to try small claims in the nature of civil actions involving law and equity limited to a specific pecuniary amount and to try criminal matters below the grade of a felony.

A. Proposed Unified District Court

The first phase of this program would consist of establishing a suitable number of unified courts of general jurisdiction which would effectively consolidate the jurisdiction of the district court and the county court into a single judicial tribunal readily accessible in each county with a resultant conservation of judicial talent. Such a system is presently in effect in Montana and various other states.[99] It has been held that the district court of Montana considering a probate matter is not the probate court of territorial days and therefore is not an inferior court, but is a court of record exercising general jurisdiction granted to it by the Constitution of 1889.[100]

Because of the limited population in North Dakota, establishing an ideal court system presents some special problems not encountered in other states with a greater and more uniformly distributed population. The sparseness of population, however, would seem a strong argument for court unification; thus, as a small population tends to limit specialization in legal practice, it would follow that the amount of legal business which arises in the rural areas of North Dakota would not support specialized types of courts. Such a statement was expressed by several members of the Montana Bar in response to questionnaires concerning their opinion of the uni-

[99] Mont. Rev. Code §8829 (1935) provides: "The district court has original jurisdiction in all cases at law and in equity, including all cases which involve the title or right of possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine, and in all cases in which the debt, damages, claim, or demand, exclusive of interest, or value of the property in controversy, exceeds fifty dollars; and in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for; of actions of forcible entry and unlawful detainer; of proceeedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate; of actions of divorce, and for annulment of marriage; and of all such special actions and proceedings as are not otherwise provided for . . ." Also see Ariz. Const. Act. 6, §6; Ind. Stat. §1376 (Burns 1926); Iowa Code §§604.1 to 604.4 (1946); Nevada Const. Art. 6, §6; Utah Rev. Stat. §20-3-3 (1933).

[100] Thelen v. Vogel, 86 Mont. 33, 281 Pac. 753 (1929).

fied court of Montana. A Montana district judge, who formerly practiced in North Dakota and therefore had experience under both the divided court and unified court system, expressed a definite preference for the unified court system. Because of the parallel between the state of Montana and North Dakota an elaboration seems justified.[101] Montana has a population of 559,456 for an area of 147,138 square miles with an average population of 3.8 persons per square mile. as compared with the North Dakota population of 641,935 for 70,054 square miles and an average population of 9.2 persons per square mile. Montana has six cities with a population of over 10,000 and has twenty counties with a population of less than 5,000, seventeen counties with a population between 5,000 and 10,000, one county with a population between 10,000 and 20,000, and six counties with a population of more than 20,000. Hence, the problem of vast and sparsely settled areas is more acute in Montana than it is in North Dakota. Montana, with a total of fifty-six counties, handles its judicial business by dividing the state into 18 judicial districts of which six have two judges and twelve have one judge or a total of twenty-four district judges. The judicial districts are comprised of a varying number of counties with two judicial districts having but a single county, five districts having two counties, five districts having three counties, three districts having four counties, two districts having five counties, and one district having seven counties. The division of the state into judicial districts is based upon the amount of judicial business which in turn is related directly to population plus a factor of area. The population of the judicial districts divided by the number of judges assigned to the district is as follows: two districts having between 12,000 and 15,000 per judge, five districts have between 15,000 and 20,000 per judge, five districts have between 20,000 and 25,000 per judge, three districts have more than 30,000 per judge. The minimum population per judge is 12,791 and the maximum is 32,283.

While the amount of judicial business in Montana is unknown, assuming that it is in the same proportion to population as it is in North Dakota, it can be seen that Montana is handling its judicial business with less personnel per unit of judicial business than is North Dakota. North Dakota has approximately 15% more population than does Montana yet North Dakota has fifteen full

[101] Nevada with a population of 110,247 and an area of 110,540 square miles and only one city of more than 10,000, which is Reno, is less comparable to North Dakota than is Montana. Never the less, Nevada handles its judicial business with 10 district judges despite the fact that Nevada has a known higher proportion of judicial business per population due to the high number of domestic relations cases.

time district judges and fourteen full time county judges plus thirty-nine part time county judges as compared with 24 district judges in Montana. Based upon the experience in Montana, North Dakota would be able to dispose of its judicial business with twenty-eight full time judges for the unified court. The North Dakota system of divided courts uses twenty-nine full time judges plus thirty-nine part time judges. In addition Montana has the added problem that its area in square miles is over twice that of North Dakota which factor would ordinarily require more judicial personnel per unit of judicial business. This factor of area was obviously responsible for the assignment of three judges to the sixth judicial district of North Dakota, since it is lower in judicial business per judge than any other district.

A unified court consolidating the county court and the district court into a single court of general jurisdiction would eliminate the division of authority on a single matter involving probate of a will where there arises a question which must be determined by the district court because it is outside the jurisdiction of the probate court. Thus, where the testator died leaving a will which was suppressed and destroyed by his wife until the subscribing witnesses were dead, a bill seeking to hold the property under the will in trust for the petitioners was held not to be a matter within the jurisdiction of the probate court but within the general equity jurisdiction of the court of general jurisdiction notwithstanding the fact that the probate court had equity jurisdiction in cases involving fraud in the execution of wills and exclusive jurisdiction over probate and intestate matters.[102] Dean Roscoe Pond suggests that there are two general criticisms in the modern organization of probate courts.[103] The above cited case raises one criticism voiced by Dean Pound in that there has been uncertainty as to the jurisdiction between the probate court and the district court at certain points. A brief glance at the Dakota Digest would seem to bear out such an argument.[104] When an experienced able lawyer cannot determine which court has jurisdiction where his client claims to be entitled to the estate of the intestate decedent by virtue of a contract made by the intestate to adopt him and where no statutory adoption proceedings were had, it would seem that a convincing reason is made out for consolidation of the jurisdiction of the dis-

[102] Harris v. Tisereau, 52 Ga. 153 (1874).
[103] Pound, Organization of Courts 136 - 40 (1940).
[104] Muhlhauser v. Becker, 74 N. D. 103, 20 N. W. 2d 353 (1945); Talcott v. Bailey, 54 N. D. 19, 208 N. W. 549 (1926); Goodin v. Casselman, 51 N. D. 543, 200 N. W. 94 (1924); Finn v. Walsh, 19 N. D. 61, 121 N. W. 766 (1909).

trict and county courts. This problem may arise more frequently in the future and although doubt as to the jurisdiction of the courts may be clarified by judicial statements, efficient administration of justice would dictate that one judicial officer should be permitted to dispose of the entire controversy. A second criticism suggested by Dean Pound, speaking generally about probate courts, is that because of the usually low and inadequate salaries and short terms these courts have not been manned by the strongest type judge. Thus, he reasons that as a consequence the legislature has given little finality to their decisions and has generally provided for an appeal with trial de novo and a subsequent appeal to the Supreme Court.[105] This survey intends to level no blanket criticism at the calibre of the present North Dakota county judge and it is reasonably expected that some of the present county judges would fill the positions of the newly created district courts. Yet, it is obvious that the clerical position of district court clerk and register of deeds would call for a person of different training, skills and techniques from those required for the position of county judge. The selection now being made may be based upon qualifications not most suited for selection of a full time judicial officer. Accordingly, the North Dakota statutes have provided for a trial de novo in the district court thus indicating a lack of finality attached to their deliberations.[106]

In fairness to the present North Dakota system of county courts it might be contended that the nature of probate work calls for specialized skills and techniques and a degree of expertise is developed by handling such matters. Such argument lies at the root of the present increasing tendency to remove other areas of formerly considered judicial business to quasi-judicial agencies; however, such an argument falls as shown by the fact that in approximately 73% of the counties the office is combined with other non-judicial duties. It would seem better to become a specialized judicial officer of varied types of cases rather than a semi-specialized probate officer with a multitude of miscellaneous clerical duties. The economic importance of the work presently being done by the county courts is obvious from a review of Appendix D. It is noted that during a one year period a total of 2,538 estates were filed of which 671 or approximately 26% involved the probating of a

[105] An article in the Kansas Judicial Council Bulletin considering the Kansas probate courts concluded: "So long as the judge of the county court is not required to be a lawyer, trial de novo on appeal to the district court is considered necessary." 22nd Kansas Judicial Council Bulletin 48 (Oct. 1948).

[106] N. D. Rev. Code §30-2623 (1943).

will. While it is difficult to arrive at any general average value of the estates, the figures reported seem to justify an average value in excess of $10,000 per estate or a total worth in excess of $25,000,000. Appendix D, with nine counties not answering the questionnaire as to estimated value of the estates docketed, totals an estimated value of $21,270,962. The problems involved in administering these estates are legal problems and of such significance that they demand an officer with legal training.

It is interesting to note that in 1949 the Idaho Legislative Interim Committee for Reorganization of State Government reported "Inferior courts, such as probate and justices of the peace, have been the subject of discussion at many sessions of the Legislature, and it is the consensus that consolidation and elimination of some of the lower courts are in order" and that the Committee suggested that the Idaho Constitution be amended to permit ". . . a change in the probate and justice of the peace courts to shift such duties as the Legislature may direct to district or other courts thus established."

While a general change in the method of selection of all judicial officers may be desirable,[107] until such change is made the district judge would be selected by popular vote on the no-party ballot in the district he serves for a term of six years. While advances in salaries to the district judges seem reasonably necessary due to the low relative rank of North Dakota's salaries the comparative costs under this survey are based upon a continuation of the same salary for district judges. North Dakota can afford this system of unified courts; in fact, it would appear that it might even result in some savings since the smaller judicial districts might reduce the expenditures for travel and subsistence. It is obvious that under the present system with only fifteen district judges and chambers in fifteen counties, travel and subsistence expenses are required automatically for work in at least thirty-eight counties whereas with chambers in twenty-seven counties, automatic travel and subsistence expenses would be reduced to twenty-six counties. Travel expenses for the district judges for a one year period from July 1, 1948, to June 30, 1949, was $9,497.03. The largest allowance to any single judge was $1,733.18 and the smallest was $77.96 while eight of the judges had travel expenses in excess of $500 for this period.

[107] A complete analysis of this particular problem is contained in a book published under the auspices of the National Conference of Judicial Councils. Haynes, Selection and Tenure of Judges (1944).

Based upon the salaries paid to the present fifty-three county judges during the month of March, 1950, the total monthly expense was approximately $7,667.00 or $92,004 on a yearly basis. These figures are computed by adding the full monthly salary of the fourteen full time county judges, one-half of the salary of the twenty-eight county judges who are combined with the office of clerk of district court, and one-third of the salary of the eleven county judges who are combined county judge, clerk of district court and register of deeds.[108] If this amount were used to establish additional full time district judges of a unified court at a salary of $5,000 per year, it would be sufficient to provide eighteen additional judges. These eighteen judges plus the present fifteen district judges or a total of thirty-three judges would seem to be sufficient to handle the work based upon the experience of Montana with 24 judges. Reducing this to the North Dakota situation based upon population it would provide a district judge for approximately every 19,453 persons whereas under the present plan there is a district judge for approximately every 42,795 persons.

B. The Proposed County Justice Court

The second phase of the program would abolish the present system of justice courts[109] and there would be established in each county a justice court manned by a competent, law trained, justice to act as a committing magistrate and to try small claims and minor criminal matters including traffic cases. In addition the county justice would perform the miscellaneous duties now assigned to the office of the county judge such as hearings in the tuberculosis cases and insanity cases, issuance of marriage licenses and recommendations on issuance of driver's licenses to certain children.[110] Such a court would satisfy the public demand for a "poor man's court", would handle criminal matters expeditiously, and could be recognized with pride as a part of the North Dakota judicial system. This program would require the outright abolition of the present township justices and city justices, restrict the number of county justices, and would remove the ex officio justice of the peace jurisdiction of the village

[108] This would seem justified since at least this proportion of the salary must be considered as compensation for his judicial duties as county judge.

[109] By virtue of §112 of the North Dakota Constitution it would appear that this might be done by legislative action except for the ex officio justice jurisdiction conferred on police magistrates by §113 of the North Dakota Constitution.

[110] In Montana some of these administrative functions such as insanity hearings are heard by the district court; but, they are primarily county matters and it would be wise to leave them in a county office.

justice and the police magistrate. Undoubtedly the framers of the Constitution envisioned the abolition of the present justices of the peace since it was provided that "The legislative assembly shall have the power to abolish the office of justice of the peace and confer that jurisdiction upon judges of county courts, or elsewhere." [111] Despite the fact that some non-lawyer justices are doing competent justice work, the fact that the justice was "learned in the law" would increase the likelihood of efficient judicial work in this office.[112] Although the number of justices necessary to adequately handle this work depend on several factors, experience in other jurisdictions indicates that it normally directly related to population. Thus, a single justice with some clerical assistance should be able to handle the work for the suggested jurisdictional limits in a county having a population up to 20,000; there should be an additional justice for each additional 20,000 population or fraction thereof.

The control of traffic is one of the most serious domestic problems facing our society today.[113] Since it is reported that the nation's annual cost due to traffic mishaps is over 30,000 persons killed, 1,250,000 crippled and injured and over $1,500,000,000 in direct economic loss,[114] the handling of traffic violation cases is of the utmost importance. This is true because various studies have indicated that effective enforcement of traffic regulations results in a decreased accident rate. An important phase of this enforcement is the responsibility of the judicial branch of government; much can be accomplished if the defendants appearing before the court are impressed with the necessity of future compliance with the regulations of the road. However, this impression can be created only through enforcement of traffic cases in courts which demand the public's respect. It was on this basis that Warren in his study of the traffic courts concluded with the recommendation that ". . . the justice of the peace should be replaced for the trial of traffic cases by a state-wide system of regular courts with trained personnel . . ." [115] In the final proposals made for a model traffic court, Warren enumerated the following seven qualities: (1) good personnel, (2) impartiality, (3) availability, (4) speedy procedure, (5) dignity, (6) predictabil-

[111] N. D. Const. §112.

[112] Kennedy, *Justice Satirized in Poor Man's Court*, 23 J. Am. Jud. Soc'y 221, 224 (1940) in which it is suggested that "Like a malignant growth, ruthless surgery seems the only choice, even though some healthy cells are sacrificed in the process."

[113] For a short summary of accomplishments in improvements in traffic courts see Frost, *The Traffic Court Improvement Program*, 33 J. Am. Jud. Soc'y 166 (1950).

[114] Warren, Traffic Courts 2 (1942).

[115] *Id.* at XXVI.

ity, and (7) accountability.[116] Through the establishment of the proposed single justice court in each county with a law trained justice, the possibilities of achieving these objectives are greatly increased.

The vast number of minor violations which may be satisfactorily disposed of by a competently manned tribunal is illustrated by the county court of increased jurisdiction in Cass county as shown in Appendix E. During a one year period, this single judge had docketed some 514 criminal matters below the grade of a felony which is 13% of all the criminal matters docketed by the 678 justices answering the questionnaires. Another illustration of the case-handling potentialities of a competently manned tribunal is illustrated by the office of Police Magistrate of Grand Forks which is manned by a law trained officer.[117] During the one year period of 1949 this tribunal disposed of some 5,502 cases or an average of 460 cases per month. While parking violations accounted for 3,541 or approximately 62% of these cases, drunkenness was the charge in 1,264 or about 23% of the cases. The remainder was made up of disorderly conduct, reckless driving, drunken driving, leaving the scene of an accident, and other miscellaneous violations. Total fines or bails forfeited amounted to $16,291.18 or slightly less than $3.00 per case.

Something of the public relations value of the traffic court as a media for creating a general public impression of justice in action is illustrated by the vast number of traffic violations. Pursuant to North Dakota statutes the cases were reported for the year 1949 to the North Dakota State Highway Department and a summary is set forth in the margin below.[118] The Highway

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[116] *Id.* at 238.

[117] Grand Forks Herald, Jan. 8, 1950 p. 12.

[118] N. D. Rev. Code §39-0619 (Supp. 1949) provides that ". . . upon finding any licensee guilty of a misdemeanor under the provisions of this chapter, or of the laws of this state relating to the highways, or upon finding any licensee guilty of any city ordinance defining the offense of driving a motor vehicle while under the influence of intoxicating liquor, or reckless driving . . . shall detach a card from the license and report the same to the commissioner." The summary of such reports is:

Offense	Patrol Arrests	Other	Total
Drunken driving	281	399	680
Unlicensed driving	152	38	190
Reckless driving	423	463	886
Improper registration	26	0	26
Thru Stop Sign	59	26	85
Drink in Public	98	15	113
Open Bottle in Car	211	39	250
Overload	136	1	137
Hit and Run	50	5	55
Speeding	201	535	736
Improper parking	11	4	15
Miscellaneous	201	87	288
Total	1849	1612	3461

Department has no definite policy as to where these cases will be tried; accordingly, they may find their way into either the district court or the justice courts. Two classifications of crimes in Appendix C, which had large number of cases were: drunken driving — 254, and reckless driving — 102. Accordingly, many of the offenders must have been brought to trial before the justice courts. The necessity of a speedy procedure is obvious from the very bulk of traffic cases; thus, a system must be provided whereby the routine cases may be disposed of rapidly so that the court can give more attention to the serious violations such as drunken driving, reckless driving and other similar violations. Warren has made a careful study of the advisability of using tickets or summons prepared in the form of a complaint for traffic violators. The conclusion seems reasonable that such a procedure which would indicate to the violator the nature of the offense together with the date of return on the ticket would be the most expeditious method of dealing with the procedural aspects of the traffic court.[119]

One of the main arguments in favor of the present justice court system is that "justice is close at hand" and the litigants need not travel great distances to have their cases litigated. The questionnaires returned by the justices would seem not to justify the maintenance of a justice at every crossroad since at present the bulk of the justice business is being handled by the justices located in the larger towns and usually by those located in the county seats. Undoubtedly this results from the fact that certain county seat justices receive a large share of the minor criminal work in the county from the office of the state's attorney which results in the justice necessarily devoting a greater proportion of this time to justice work. In fact he may become a "regular" justice in the sense that he will establish regular office hours. Accordingly, this justice becomes known throughout the county, and the cycle of justice work continues to increase. The fact that the township justice is not used was emphasized as repeated attempts to obtain completed questionnaires from certain justices were unsuccessful and the assistance of the state's attorneys was solicited. These offices suggested that the bulk, if not the entire amount of justice work in the county, was handled by only a few justices. This is substantiated by Appendix F. Under the present system there is no assurance of a geographical distribution of the county justices since all elected may live at the

[119] Warren, Traffic Courts 35-48 (1942).

county seat. The argument might be advanced that the proposed county justice court would require litigants in some counties to travel excessive distances and this would be felt most acutely in the traffic cases. Such a criticism has not been voiced seriously against the county court of increased jurisdiction despite the identical effect of channeling all criminal matters other than city and village ordinance violations into a court at the county seat. An acceptable solution would be to permit the justice to hold court at regular intervals in the larger towns throughout the county dependent upon the demands of the judicial business. The alternative is the maintenance of additional courts throughout the county; however, this returns to a major criticism of spreading the judicial business too thin. The analogous doctrine of *forum non conveniens* cannot be considered as requiring a court in every litigant's township. It is conceded that such a plan of a single justice court is not without hardship cases, such as where a litigant whether civil or criminal is in the outermost reaches of the county, a balance between efficiency and convenience for each possible litigant must necessarily strive to accomodate the general rather than the exceptional. No doubt extreme examples of hardship might be found on cases falling slightly above the present justice jurisdictional limitations and justice is no nearer than the county seat.

In a study of the Connecticut judicial system by Mr. Judge Clark, as a part of his recommendations he suggested a minor court system with criminal jurisdiction of petty offenses and civil jurisdiction, whether legal or equitable, up to either $500 or $1,000. While the judges would be assigned to particular counties and would sit at a specific city on specific occasions they would sit in various convenient locations throughout the county.

Until a general change in the method of selecting all judicial officers is made,[120] the justice would be elected in the county by popular vote for a term of two years. There would be no objection to the justice also hold the office of village justice or police magistrate since it would be expected that the justice would maintain his office in the county seat and for this purpose the county should be obligated to furnish suitable quarters in the county court house in order to assure availability and an appropriate atmosphere for a judicial hearing. As has been previously suggested it is not desirable to compensate any judicial officer on a fee basis; thus, it is recommended that the justice be

[120] Note 67 *supra.*

placed upon a salary.[121] It would seemingly follow that the justice would be prohibited from acting as an attorney during his tenure of office or at least prohibited from acting as an attorney to prosecute or defend any action or judicial proceeding for any person in relation to any matter over which the justice may have acquired or exercised jurisdiction.

C. The Proposed Michigan Minor Court System

Subject to the foregoing suggestions, the general pattern of a minor court proposed for Michigan by Professor Sunderland[122] might serve as a guide for the type of county justice court recommended as the result of this survey. The salient features of the proposed act[123] may be summarized as providing a system of county courts of record with a seal which would be established in each county following a majority affirmative vote favoring such a plan in that county. These courts would be manned by a person who was a member of the Bar of Michigan and who was elected by popular vote in the county for a term equal to that of the circuit judge. During the term of his office the county judge would not be eligible to engage in the practice of law. The number of justices within any one county may be increased by the resolution of the county commissioners upon recommendations by the county circuit judge. The county judge was to be compensated by a salary of $3,500 per annum in counties having a population of not more than 10,000 persons and an additional $500 for each additional 10,000 persons or fraction thereof with a maximum limitation of $6,000. Michigan has sixty-two counties with a population in excess of 10,000 and twenty-one counties with a population of less than 10,000. In the event of disqualification of the sole county judge, the circuit judge was authorized to appoint an active member of the Bar of that county to sit in that case and he was to be compensated at a rate of 1/200 of the annual salary of the judge for each day of service. The county was required to provide a suitable office and court facilities at the county seat and to furnish miscellaneous supplies for the county court. The court is deemed to be in continuous session. Provision is made for the appointment of a clerk and such de-

[121] Should the fee system be continued, the marked reduction in the number occupying the position of justice would materially reduce the present abuse of justice shopping. The fee system presently in effect should be revised to provide for a certain flat fee and not the myriad of charges such as 10¢ for administering oath to witness, etc.

[122] A year after the study of the justice courts was made by Professor Sunderland, the Michigan Judicial Court requested that he prepare a draft of an act to bring about the gradual elimination of the justice courts in Michigan.

[123] A copy of the proposed act may be found in the 16th Annual Report of the Michigan Judicial Council 67 (1946).

puties as may be needed for the proper maintenance of records and other non judicial functions. The sheriff was authorized to perform the same functions for the county court as for the circuit court. In the Michigan study there seemed to be no serious criticism of the present criminal jurisdiction of the justice of the peace; thus, in the proposed act the jurisdiction to try all offenses arising within the county punishable by a fine not exceeding $100, or punishable by imprisonment in the county jail not to exceed three months, or punishable by both fine and imprisonement, was left substantially unchanged.[124] In addition the court would have jurisdiction of offenses against charters and ordinances of those cities and villages within the county which did not have a municipal judge who was compensated by a salary in lieu of fees and was a member of the Michigan Bar. The court's civil jurisdiction was to extend to all civil actions including jurisdiction in equity but excluding actions affecting marital status where the value of the damages or property sought to be recovered did not exceed the sum of $500. Included was authority to try actions for damages resulting from disturbance of easements and actions in which title to land was an issue. Objections to the jurisdiction of the court, if valid, were not to result in a dismissal of the action but it was to be removed to the proper court. The circuit courts, in reviewing judgments and decrees of the county court, were to remove the case " . . . as nearly as may be, provided by general law for removal by certiorari of judgments rendered by justices of the peace . . . but no general appeal upon the merits may be had." This review is to be based upon a record made by the parties and settled by the judge. A schedule of fees to be paid by the plaintiff when commencing an action is set forth in the proposed act and is based upon the pecuniary amount involved; thus, in a matter where less than $50 is in controversy the fee is $2.00 and the fee is increased $2.00 for each additional $50 in controversy up to a maximum fee of $8.00 for demands of $200 or more.

D. The Virginia Trial Justice System

Another plan for the effective elimination of the criticized justice of the peace courts has been in successful operation in Virginia for more than ten years.[125] The plan which was started experimentally in the larger urban areas of Virginia has now grown into a state-wide system and provides for the appoint-

[124] Mich. Comp. L. §774.1 (1948).
[125] Kingdon, *The Trial Justice System of Virginia*, 23 J. Am. Jud. Soc'y 216 (1940).

ment of a trial justice in every county for a term of four years by the judge of the circuit court of that county.[126] The maximum and minimum limits of the salaries are set by statute and range from a maximum of $1,100 in a county of less than 5,000 population to $5,000 in a county having a population of 40,000 or more. Counties having a population between 10,000 and 20,000 have a maximum of $2,640 and counties with a population between 20,000 and 25,000 have a maximum of $3,300.[127] The trial justice has criminal jurisdiction over offenses classified as misdemeanors arising within the county and has exclusive civil jurisdiiction over all cases in law or equity for any claim to specific personal property or to any debt, fine, or other money, or damages for breach of contract or for injury done to property, real or personal, or for any injury to the person where the amount claimed does not exceed $200, and concurrent jurisdiction with the circuit courts which are the courts of general jurisdiction, when the amount exceeds $200 but not $1,000.[128] Provision is made for the appointment of an additional trial justice in the larger counties upon petition of the circuit judge by the board of county supervisors for such action.[129] In the less populous counties provision is made for the combining of two or more counties and the appointment of one trial justice for these combined counties.[130] This action is taken upon petition from the board of county supervisors to the circuit judge. The trial justice is prohibited from appearing as counsel in connection with any other matter before his court which is a limitation substantially the same as the provision applicable to the present North Dakota county judge. The county is required to furnish the trial justice with suitable equipment and supplies and a convenient place for holding hearings. Hearings are normally held in the county seat and the trial justices sit daily at the county seat, but, subject to the supervision of the circuit judge, the trial justices may move the place of hearing to another place within the county if it suits the convenience of the litigants.[131] The circuit courts of the county are empowered " . . . to adopt reasonable rules and regulations as may be deemed necessary to exercise supervisory power over the trial justice . . . ." [132]

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[126] Va. Code §4987 a (1942).
[127] Va. Code §4987 e (Supp. 1948).
[128] Va. Code §4987 f 1 (Supp. 1948).
[129] Va. Code §4987 a (1942).
[130] Va. Code §4987 c (1942).
[131] Va. Code §4987 h (Supp. 1948).
[132] Va. Code §4987 k (1942).

Two shortcomings of the Virginia statute are that it does not require that the trial justice be an attorney and on appeal from a judgment or decree of the trial justice a trial de novo is granted. However, with respect to the first objection, a member of the Bluefield, West Virginia Bar writing in praise of the trial justice system suggests that "I have not come into contact with any appointee who is not an attorney."[133] And in the same article, the author suggests that the general satisfactory nature of the work of the trial justices has done much to eliminate the necessity of appeals.[134]

E. Miscellaneous Recommendations

Many North Dakota lawyers and judges have given the matter of court unification serious consideration and have suggested plans for improvement of the judicial system of trial courts. The merit of these suggestions is recognized but they were not adopted by the writer as the recommendations of this survey since they did not go far enough; it was believed that the facts justified a more far-reaching change. However, it is advisable to enumerate and record these suggestions since they represent the considered judgment of some of the most able and experienced members of the profession.[135] In so far as there seems to be an almost universal agreement that the present justice courts should be abolished or marked changes should be adopted concerning the qualifications and duties of the justices, [136] and since the justice court reforms can be effected as an independent phase, the suggestions hereinafter enumerated deal solely with the district and county courts.

1. Adopt county courts of increased jurisdiction in all counties by legislative action rather than by local county option. Such a plan would carry with it the automatic advantage that future county judges would be "learned in the law" and would result in funneling the judicial business of the area into a single court thus increasing the status of the county court and providing increased judicial experience for the county judge. However, the criticism of the jurisdictional problems would only partially be solved.

2. Adopt county courts of increased jurisdiction in those counties

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[133] Kingdon, *The Trial Justice System of Virginia*, 23 J. Am. Jud. Soc'y 216, 217 (1940).
[134] *Id.* at 220.
[135] No recognition of the proponents of these plans is made since some of the suggestors desire to remain anonymous; however, the writer is deeply appreciative of the numerous thoughtful suggestions advanced by members of the profession.
[136] Numerous unsolicited suggestions for abolition of the justice courts came from justices of the peace, state's attorneys, lawyers and judges. Some of the severest criticism of the justice courts came from the justices themselves.

where the county judge is not presently a separate full time office. This proposal would effect county courts of increased jurisdiction by legislative action in all counties except Barnes, Burleigh, Cass, Grand Forks, McLean, Morton, Pembina, Ramsey, Richland, Stark, Stutsman, Walsh, Ward and Williams counties. In the named counties the adoption of the county court of increased jurisdiction would be left to local option.[137] This plan would be more limited in its accomplishments than the preceeding plan and of course would be subject to the same desirable features and same infirmatives; but in support of the division it was argued that the named counties must necessarily have a full time judicial officer as county judge at the present time.

Adoption of either of these plans would require some realignment of judicial districts since it would reduce some of the work being done by the district court at the present time.

3. *Adopt a procedure whereby all contested probate cases would automatically be transferred to the district court.* This plan would leave intact the present division of the district and county courts but would seek to remedy several shortcomings of the present division of jurisdiction between the county and the district court. First, it would eliminate the necessity of a double appeal and secondly, it would place the troublesome jurisdictional problems into a court which would have full authority to settle all contested matters.

Conclusions

Just as the present system has been subjected to criticism from several quarters, it is obvious that the recommendations submitted as the result of this survey will meet with varying degrees of approval and opposition. Many of the ideas of this survey are admittedly not unique but rather represent substantially an adaptation of the thoughts and practices of others drawn in terms of the North Dakota situation. In drawing any plan for a system of courts, it is reasonable to expect that there will be wide differences of opinion since the courts affect such a large number of persons thus encompassing many human problems. Nevertheless, discussions and explorations around this survey may be made and from these, areas of agreement should evolve among the members of the Bench and Bar. These areas of agreement may be reduced to legislative improvements. If this survey calls for such a discussion it will have served its purpose.

[137] Some of the named counties have adopted county courts of increased jurisdiction.

APPENDIX A

Judicial District	County	Total Civil Cases	Total Criminal Cases	1940 Population	1950 Population	Area in Square Miles
Dist. No. 1—						
	Barnes *	100	35	17,814	16,822	1,486
	Cass	379	42	52,849	57,903	1,749
	Grand Forks	259	86	34,518	39,190	1,438
	Griggs	32	17	5,818	5,414	714
	Nelson	31	17	9,129	8,065	997
	Steele	25	10	6,193	5,131	710
	Traill	33	30	12,300	11,330	861
	TOTAL	859	237	138,621	143,855	7,955
Dist. No. 2—						
	Benson	58	4	12,629	10,618	1,412
	Bottineau	41	20	13,253	12,091	1,699
	Cavalier	47	3	13,923	11,693	1,513
	McHenry	64	39	14,034	12,556	1,890
	Pembina	79	14	15,671	13,842	1,124
	Pierce	38	13	9,208	8,259	1,053
	Ramsey	106	57	15,626	14,334	1,214
	Renville	24	13	5,533	5,388	901
	Rollette	41	32	12,583	11,094	913
	Towner	40	12	7,200	6,329	1,044
	Walsh	122	17	20,747	18,801	1,287
	TOTAL	660	224	140,407	125,005	14,050
Dist. No. 3—						
	Dickey	52	6	9,696	9,066	1,144
	Emmons	28	4	11,699	9,694	1,546
	LaMoure	52	4	10,298	9,471	1,137
	Logan	22	5	7,561	6,345	1,003
	McIntosh	40	11	8,984	7,591	993
	Ransom	55	9	10,061	8,838	863
	Richland	91	22	20,519	19,738	1,450
	Sargent	33	11	8,693	7,568	855
	TOTAL	373	72	87,511	78,311	8,991
Dist. No. 4—						
	Burleigh	243	69	22,736	25,252	1,648
	Eddy	36	6	5,741	5,361	643
	Foster	42	7	5,824	5,301	648
	Kidder	58	11	6,692	6,154	1,377
	McLean	66	66	16,082	18,770	2,289
	Sheridan	28	2	6,616	5,226	955
	Stutsman	72	20	23,495	24,039	2,274
	Wells	42	8	11,198	10,384	1,300
	TOTAL	587	189	98,384	100,487	11,134
Dist. No. 5—						
	Burke	30	18	7,653	6,597	1,121
	Divide	40	8	7,086	5,977	1,303
	McKenzie	57	9	8,426	6,840	2,810
	Mountrail	89	12	10,482	9,399	1,900
	Ward	292	82	31,981	34,631	2,048
	Williams	128	49	16,315	16,402	2,100
	TOTAL	636	178	81,943	79,846	11,282
Dist. No. 6— *						
	Adams	33	9	4,664	4,891	990
	Billings	13	0	2,531	1,789	1,139
	Bowman	30	7	3,860	3,999	1,170
	Dunn	45	1	8,376	7,212	2,068
	Golden Valley	24	9	3,498	3,487	1,014
	Grant	47	2	8,264	7,109	1,672
	Hettinger	20	20	7,457	7,079	1,135
	Mercer	0	0	9,611	8,676	1,092
	Morton	135	16	26,184	19,242	1,933
	Oliver *	12	1	3,859	3,077	720
	Sioux	37	1	4,419	3,711	1,124
	Slope	25	3	2,932	2,308	1,226
	Stark	51	14	15,414	16,121	1,319
	TOTAL	472	83	95,069	88,681	16,602
	COMBINED TOTALS	3,633	985	641,935	616,185	70,054

* Although these counties are not included within these districts in page iv of volume 75 of the North Dakota reports, the writer has so included them.

APPENDIX B CIVIL CASES DOCKETED IN DISTRICT COURT
7-1-48 to 6-30-49

County	Total Civil Cases	Recovery Money	Damages	Foreclosure	Quiet Title	Divorce	Appeal from J. P.	Appeal from Adm. Agency	Adoption	Recovery Personal Property	Discharge Real Estate Mortgage	Other Civil Actions
Adams	33	6	1	0	16	3	0	0	3	0	2	2
Barnes	100	11	8	4	37	23	1	2	7	0	0	7
Benson	58	3	1	0	26	10	0	1	3	0	8	6
Billings	13	0	0	0	10	0	0	1	0	0	0	2
Bottineau	41	5	0	0	15	6	0	0	8	0	2	5
Bowman	30	1	1	0	19	4	0	0	4	0	1	0
Burke	30	0	0	0	16	7	0	0	3	0	0	4
Burleigh	243	32	20	3	85	59	0	5	19	2	3	15
Cass	379	65	42	9	66	125	1	2	29	0	8	32
Cavalier	47	6	1	1	25	3	0	0	3	3	0	5
Dickey	52	0	2	0	29	3	0	0	4	7	0	7
Divide	40	3	1	0	26	4	0	0	5	0	0	1
Dunn	45	2	0	0	27	8	0	3	2	1	0	2
Eddy	36	6	2	2	19	5	0	0	2	0	0	0
Emmons	28	1	4	0	16	2	0	0	2	2	0	1
Foster	42	8	0	1	26	3	0	0	2	0	1	1
Golden Valley	24	1	1	0	14	5	0	1	1	0	0	1
Grand Forks	259	30	48	4	43	101	0	14	0	0	0	19
Grant	47	5	0	0	38	1	0	0	0	0	3	0
Griggs	32	7	1	0	13	5	0	0	2	0	2	2
Hettinger	20	2	5	0	4	2	0	0	2	3	0	2
Kidder	58	1	1	0	45	2	0	1	2	0	4	2
LaMoure	52	7	0	0	36	6	0	0	0	0	0	3
Logan	22	1	0	0	13	3	0	0	0	0	0	5
McHenry	64	5	0	0	49	5	0	0	4	0	0	1
McIntosh	40	---	---	---	---	---	---	---	---	---	---	---
McKenzie	57	5	0	1	34	7	0	1	0	1	7	1
McLean	66	17	8	0	18	6	0	1	7	1	0	8
Mercer	36	---	---	---	---	---	---	---	---	---	---	---
Morton	135	30	13	2	59	17	0	0	5	0	7	2
Mountrail	89	1	13	1	48	12	1	0	5	2	0	6
Nelson	31	11	1	0	13	3	0	0	1	0	0	2
Oliver	12	3	0	0	4	1	0	0	0	0	2	2
Pembina	79	9	2	0	34	14	0	0	6	2	9	3
Pierce	38	5	1	0	16	7	0	0	2	1	4	2
Ramsey	106	23	9	0	18	32	0	0	10	4	6	4
Ransom	55	8	5	0	18	9	0	0	4	2	5	4
Ranville	24	0	0	0	16	5	0	0	1	0	2	0
Richland	91	14	10	0	32	14	0	0	0	2	13	6
Rollette	41	0	4	0	16	13	0	0	3	0	5	0
Sargent	33	9	5	1	7	3	0	0	0	0	4	4
Sheridan	28	6	3	1	11	3	0	0	2	0	0	2
Sioux	37	2	0	0	20	14	0	0	0	0	0	1
Slope	25	1	0	0	18	13	0	0	0	0	0	3
Stark	51	8	0	0	29	10	0	0	0	0	0	4
Steele	25	0	0	1	7	2	0	1	7	0	0	7
Stutsman	72	8	9	0	34	12	0	0	5	0	0	4
Towner	40	14	0	0	7	11	0	0	2	0	5	1
Traill	33	1	4	0	9	6	0	0	5	0	4	4
Walsh	122	32	18	1	25	27	0	2	0	1	5	11
Ward	292	46	37	2	58	100	0	3	19	1	0	26
Wells	42	10	1	1	18	6	0	0	2	0	2	2
Williams	128	15	4	1	59	26	0	2	8	0	11	2
TOTAL	3,633	486	286	36	1,341	768	3	40	201	35	125	236

APPENDIX C — CRIMINAL CASES DOCKETED IN DISTRICT COURT — 7-1-48 to 6-30-49

County	TOTAL	Adultery	Arson	Assault and Battery	Bastardy	Burglary	Buying Stolen Property	Drunken Driving	Embezzlement	False Pretences	Forgery	Failure to Stop	Illegitimacy	Indecent Liberties	Kidnapping	Larceny	Lottery	Liquor Law Violation	Malicious Mischief	Manslaughter	Murder	Non-support	Perjury	Prostitution	Rape	Robbery	Reckless Driving	Other Crimes
Adams	9	0	0	0	1	0	0	1	0	5	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	1	0
Barnes	35	0	1	3	1	0	0	14	1	0	1	1	0	1	0	2	0	0	0	2	0	0	0	0	0	1	6	1
Benson	4	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	1	1
Billings	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Bottineau	20	0	0	1	0	0	0	4	0	4	1	0	0	0	0	5	0	2	0	0	0	1	0	0	0	0	1	1
Bowman	7	0	0	1	0	0	0	1	0	0	2	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	1
Burke	18	0	0	0	0	1	0	2	0	0	0	0	0	0	0	0	0	1	1	0	0	2	0	0	0	0	5	6
Burleigh	59	0	0	1	0	2	0	7	0	11	0	0	4	1	0	12	0	0	0	0	0	6	0	0	2	2	8	3
Cass	42	0	1	2	0	5	0	0	3	6	7	0	0	0	0	5	0	1	0	0	0	2	0	1	3	4	0	2
Cavalier	3	0	0	0	0	0	0	0	0	0	0	1	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0
Dickey	6	0	0	0	0	0	0	2	0	1	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1	0	0	1
Divide	8	0	0	0	0	1	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	4	1
Dunn	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0
Eddy	6	0	1	0	0	0	0	0	0	1	0	0	0	0	0	2	0	0	0	1	0	0	0	0	0	0	0	1
Emmons	4	0	0	0	0	0	0	2	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0
Foster	7	0	0	0	0	0	0	2	0	0	1	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	1	0
Golden Valley	9	0	0	1	0	1	0	3	0	0	1	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	1
Grand Forks	86	0	1	1	3	11	0	11	1	0	4	0	0	3	0	13	0	0	0	0	1	13	0	0	3	3	10	8
Grant	2	0	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Griggs	17	0	0	0	0	0	0	12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	3	1
Hettinger	20	0	0	0	0	0	0	7	1	0	0	0	0	0	0	3	0	0	0	0	0	1	0	0	1	0	1	6
Kidder	11	0	0	0	1	1	0	6	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0
LaMoure	4	0	0	1	0	0	0	0	0	0	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	1
Logan	5	0	0	0	0	0	0	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
McHenry	39	0	0	5	0	0	0	18	0	0	0	0	0	2	0	5	0	0	0	0	0	2	0	0	0	0	2	5
McIntosh	11	0	1	0	1	0	0	5	0	0	0	0	0	0	0	3	0	0	0	0	0	0	0	0	0	0	0	1
McKenzie	9	0	0	0	0	1	0	4	0	0	0	0	0	0	0	2	0	0	0	0	0	1	0	0	0	0	0	1
McLean	66	0	0	3	0	0	0	14	0	9	0	0	0	2	0	6	0	0	0	1	0	2	0	0	2	0	22	5
Mercer	12	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Morton	16	0	0	0	1	0	0	5	0	1	2	0	0	0	0	1	0	0	0	1	0	0	0	0	0	0	4	1

Mountrail	12	0	0	1	0	0	0	3	0	0	0	0	0	0	0	3	0	0	0	0	0	1	0	0	0	0	3	1
Nelson	17	0	0	0	0	0	0	6	0	2	2	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	4	2
Oliver	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Pembina	14	0	0	0	0	1	0	6	0	0	1	0	0	0	0	1	0	0	0	0	0	3	0	0	0	0	1	1
Pierce	13	0	0	1	0	0	0	5	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	3	1
Ramsey	57	0	1	0	0	1	0	23	0	3	4	0	0	0	0	5	0	0	0	0	0	4	0	0	1	0	5	10
Ransom	9	0	0	1	0	0	0	0	0	0	4	0	0	0	1	0	0	0	0	0	0	1	0	0	0	0	0	2
Renville	13	0	0	0	0	0	0	3	0	2	0	1	0	1	0	3	0	0	0	0	0	2	0	0	0	0	0	1
Richland	22	0	0	0	0	0	0	10	0	3	1	0	0	1	0	3	0	0	0	0	2	1	0	0	0	0	0	1
Rollette	32	3	0	1	0	0	0	17	0	0	0	0	1	0	0	2	0	0	0	0	0	3	0	0	2	0	0	3
Sargent	11	0	0	0	1	0	0	4	0	0	0	0	0	0	0	2	0	0	0	0	0	1	0	0	0	0	3	0
Sheridan	2	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0
Sioux	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0
Slope	3	0	0	0	0	0	0	1	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Stark	14	0	0	0	0	0	1	1	1	0	2	0	2	0	0	5	0	1	0	0	0	0	0	0	0	0	1	0
Steele	10	0	0	0	0	0	0	2	0	0	1	0	0	0	0	1	0	2	0	0	0	0	0	0	0	0	4	0
Stutsman	20	0	1	1	5	0	0	0	0	0	1	0	0	0	0	5	0	1	0	1	0	4	0	0	0	0	0	1
Towner	12	0	0	0	0	0	0	7	0	0	0	0	0	0	0	2	0	0	0	0	0	0	0	0	0	0	0	3
Traill	30	0	0	0	1	0	0	16	0	3	2	0	0	0	0	3	0	0	0	0	0	0	0	0	1	0	1	3
Walsh	17	0	0	0	0	1	0	7	0	0	0	0	0	0	0	4	1	0	0	0	0	0	0	0	2	0	0	2
Ward	82	0	0	7	0	3	3	0	2	10	5	0	0	0	0	16	0	2	2	1	0	6	0	0	2	4	3	16
Wells	8	0	0	0	0	1	0	0	0	1	2	0	0	0	0	0	0	0	0	0	1	2	0	0	1	0	0	0
Williams	49	0	0	2	1	1	0	13	1	10	5	0	0	0	0	6	0	0	1	0	0	1	0	0	2	0	3	3
TOTAL	985	3	8	34	16	31	4	254	11	75	51	4	7	11	1	131	1	10	4	8	5	64	0	1	25	14	102	98

APPENDIX D SUMMARY OF BUSINESS OF COUNTY COURT 7-1-48 to 6-30-49

County	Number of Estates Filed	Value of Estates Docketed	Number of Wills Probated	Number of Guardians Appointed	Number of Insanity Hearings	Number of T. B. Hearings	Marriage Licenses
Adams ††	40	$ 371,944	14	2	5	0	33
Barnes	70	1,051,050	18	10	25	4	147
Benson †	38	303,260	8	10	6	4	67
Billings ††	9	47,506	3	1	0	0	12
Bottineau †	45	*	11	4	13	1	85
Bowman ††	20	106,795	10	2	2	0	37
Burke †	35	267,519	6	6	4	3	34
Burleigh	62	447,285	21	1	23	6	258
Cass	190	2,677,092	67	41	101	10	502
Cavalier †	62	615,725	15	16	3	5	90
Dickey †	32	294,698	9	2	12	2	63
Divide †	29	315,287	3	2	9	3	47
Dunn †	26	196,269	7	2	5	0	45
Eddy ††	24	61,177	5	5	7	1	50
Emmons †	24	*	5	6	1	0	66
Foster ††	18	177,571	7	1	7	4	50
Golden Valley ††	17	169,566	6	0	1	1	30
Grand Forks	125	1,827,197	47	37	30	11	317
Grant †	25	133,651	4	3	3	1	49
Griggs ††	25	154,930	5	4	8	3	30
Hettinger †	36	499,832	7	3	3	1	69
Kidder †	37	106,860	4	3	8	2	54
LaMoure †	37	295,596	10	4	4	2	79
Logan †	23	143,912	1	7	4	1	49
McHenry †	70	314,901	10	5	11	1	76
McIntosh †	21	177,522	7	7	6	1	83
McKenzie †	62	*	13	10	8	3	40
McLean	62	433,900	18	6	12	5	123
Mercer †	20	274,632	7	10	7	3	88
Morton	78	767,829	22	12	3	2	214
Mountrail †	45	*	15	7	11	2	65
Nelson †	25	224,305	7	7	10	5	43
Oliver ††	16	75,163	2	2	2	0	15
Pembina	71	835,100	17	12	7	5	99
Pierce †	52	582,081	12	7	4	2	117
Ramsey	71	1,237,674	26	10	17	5	126
Ransom †	37	798,354	3	3	23	2	47
Renville ††	33	*	11	3	5	0	42
Richland	94	1,237,300	26	7	18	3	150
Rollette †	49	407,457	11	14	11	1	80
Sargent †	45	*	13	4	8	1	34
Sheridan †	26	98,556	2	5	0	1	43
Sioux ††	10	66,266	3	1	2	0	26
Slope ††	22	199,646	8	3	2	0	8
Stark	50	*	6	9	20	0	197
Steele †	45	263,418	5	6	11	1	29
Stutsman	88	*	29	13	53	6	175
Towner †	32	367,000	7	6	10	2	48
Traill †	68	1,067,189	21	2	9	5	57
Walsh	73	807,832	24	16	12	4	131
Ward	117	*	34	17	39	10	446
Wells †	51	306,949	9	5	9	4	95
Williams	56	463,166	10	7	16	3	140
TOTAL	2,538	$21,270,962	671	387	630	142	5,100

* Indicates no figure reported.
† Indicates office of county judge combined with clerk of district court.
†† Indicates office of county judge combined with clerk of district court and register of deeds.

APPENDIX E COUNTY COURTS OF INCREASED JURISDICTION

County	Number of Civil Cases Docketed		Number of Criminal Cases Docketed	
	1948-49	1941-42	1948-49	1941-42
Benson	1	19	87	98
Cass	244	311	514	442
LaMoure	5	16	43	17
Ransom	45	134	23	19
Stutsman	16	25	0	35
Ward	13	58	127	244
Wells	12	28	33	35
TOTAL	336	591	827	888

APPENDIX F SUMMARY OF CASES DOCKETED IN JUSTICE COURTS 7-1-48 to 6-30-49

County	Total Justices †	County Justices	Township Justices	Village and City Justices and Police Magistrates	Number Answering Questionnaires	Number Having No Civil Cases	Number Having 1 to 10 Civil Cases	Number Having More Than 11 Civil Cases	Total Civil Cases	Number Having No Criminal Cases	Number Having 1 to 10 Criminal Cases	Number Having More than 10 Criminal Cases	Total Criminal Cases †††
Adams	10	3	4	4	7	7	0	0	0	5	1	1	28
Barnes	27	4	12	14	23	22	0	1	16	18	2	3	231
Benson ††	22	2	14	9	19	18	1	0	1	17	1	1	27
Billings	2	0	2	0	2	1	1	0	6	1	1	0	9
Bottineau	36	2	22	14	27	24	2	1	16	21	5	1	31
Bowman	5	2	2	3	5	4	1	0	3	3	1	1	106
Burke	20	2	9	10	15	14	1	0	1	11	4	0	15
Burleigh	14	2	8	4	10	8	2	0	9	9	1	0	2
Cass ††	41	4	23	15	34	31	2	1	290	34	0	0	0
Cavalier	21	1	20	1	15	14	1	0	1	14	1	0	4
Dickey	16	0	10	6	12	10	1	1	13	9	1	2	26
Divide	5	0	5	1	5	4	1	0	6	3	1	1	72
Dunn	7	2	0	5	4	2	2	0	4	2	2	0	7
Eddy	2	2	0	1	2	0	2	0	10	0	1	1	29
Emmons	10	3	2	5	5	5	0	0	0	2	2	1	17
Foster	5	3	0	3	5	2	3	0	9	2	2	1	28
Golden Valley	9	1	5	3	5	4	1	0	5	4	0	1	14
Grand Forks	43	5	27	12	39	35	2	2	76	30	3	6	405
Grant	11	4	7	3	6	5	1	0	1	3	1	2	55
Griggs	13	3	11	2	10	9	1	0	2	8	0	2	79
Hettinger	14	2	9	3	14	10	4	0	18	11	0	3	158
Kidder	8	2	1	5	3	3	0	0	0	1	2	0	5
LaMoure ††	23	0	15	8	10	9	1	0	8	8	2	0	10
Logan	4	2	0	3	4	4	0	0	0	1	3	0	14
McHenry	26	0	16	10	10	10	0	0	0	9	1	0	2
McIntosh	10	2	0	6	7	6	1	0	10	2	3	2	98
McKenzie	13	3	9	3	9	6	3	0	10	7	1	1	54
McLean	22	2	13	7	19	15	4	0	7	14	2	3	222
Mercer	9	5	0	4	9	3	5	1	28	3	3	3	78
Morton	14	2	3	9	8	7	1	0	1	4	3	1	23
Mauntrail	12	3	6	4	8	7	1	0	10	5	3	0	7
Nelson	22	3	17	3	18	17	1	0	1	16	2	0	8
Oliver	2	2	0	0	2	0	1	1	18	0	2	0	6
Pembina	26	3	16	10	22	20	3	0	4	19	1	4	103
Pierce	9	2	5	4	7	5	2	0	5	6	0	1	56
Ramsey	17	3	8	7	13	11	1	1	15	11	1	1	327
Ransom ††	16	1	11	4	14	12	2	0	10	13	1	0	4
Renville	17	1	12	4	11	9	1	1	31	10	0	1	13
Richland	37	1	27	9	33	33	0	0	0	30	2	1	148
Rollette	11	2	4	7	10	10	0	0	0	9	0	1	24
Sargent	8	3	2	5	5	4	1	0	1	3	1	1	45
Sheridan	5	2	0	4	5	4	1	0	5	3	1	1	28
Sioux	7	4	3	1	6	4	2	0	9	4	0	2	123
Slope	3	3	0	0	2	1	1	0	2	0	2	0	13
Stark	5	4	0	2	5	2	2	1	31	1	1	3	148
Steele	17	1	12	5	16	15	1	0	1	15	1	0	1
Stutsman ††	9	3	0	7	8	4	3	1	29	4	2	2	268
Towner	5	5	0	0	5	4	1	0	4	3	1	1	28
Traill	29	3	22	4	26	24	1	1	14	23	2	1	126
Walsh	31	1	18	14	25	24	1	0	7	22	2	1	141
Ward ††	46	0	34	12	41	39	2	0	16	41	0	0	0
Wells ††	13	0	6	7	11	11	0	0	0	9	2	0	6
Williams	52	2	34	18	40	38	1	1	29	38	1	1	253
TOTALS	861	----	----	----	678	591	73	14	790	541	78	59	3,725

† The column *total justices* indicates the number of persons occupying the position of justice. Some of thesee individuals may be both a county justice and police magistrate, etc.

†† Indicates counties with increased jurisdiction in county court.

††† Questionnaires advised justices not to report violations of city or village ordinances.