

**IN THE  
SUPREME COURT  
OF ILLINOIS**

**REPORTS BY**

**ALBERT J. HARNO,  
Court Administrator, and  
JOHN C. FITZGERALD,**

**Deputy Court Administrator for Cook County.**

Bearing on the administration of various courts of the State. The reports include comments and statistical data.

**June 25, 1962**

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*To the Honorable, the Chief Justice and the Justices of  
the Supreme Court of Illinois:*

I have the honor of presenting to you the Report of the Court Administrator, including factual materials and comments on law administration in Illinois for the calendar year 1961. Included also is a Report by Mr. John C. Fitzgerald, Deputy Court Administrator for Cook County.

### **SOME PERSPECTIVE OBSERVATIONS**

The mills of the courts grind slow, and not even the most loyal supporter can contend that they grind "sure". The critical problem in law administration involves delays in the disposition of cases. To the casual observer this problem may appear to be simple. The docket of any given court will show the cases pending in that court. A further calculation will indicate the time-lapse between the filing of cases and their termination. From the premise of these data the conclusion may be drawn that there is delay in the adjudication of cases in that court. But if delay there be, what is it that caused the delay? From the point of view of seeking remedial measures, that is the crucial question. And here we find a multiplicity, and often a confusion of factors, each contributing in varying degrees to the result we term "delay". What is more, the weight of the delaying causes will vary in emphases from court to court.

What are some of the principal contributing factors to delay? Industrialization in some areas of the State, together with rapid growth and concentration of population, motorization of transportation and rapid travel on streets and highways, have resulted in many accidents and personal injury actions which are promoting ever increasing litigation and inordinate case loads and delay in case adjudications. To meet the challenge of this ever-changing scene the courts, because of the rigidity of constitutional restrictions, have been unable to make ready and adequate adjustments. The progress of a case may be delayed in its initial stage through the neglect of an attorney in filing an action in court. This factor is rarely mentioned in discussions on delays, but from the point

of view of the client, who is the individual concerned, this may be critical. There are no statistical data on this subject. Statistics would be difficult to get and a remedy for this type of delay, short of disciplining the attorney, is even more elusive. Often cases are filed by attorneys without adequate investigation and screening of facts basic to a cause of action. A prominent cause of delay relates to the filing of cases which attorneys never intend to bring to trial. These cases clog the dockets and are time consuming. What is more, their number on the docket of a court tends to give a misleading impression to the statistics bearing on cases pending in that court. According to Chief Justice Reardon of the Massachusetts Superior Court, there is no basic intention of either party that there will ever be a trial "in the large majority of the cases on our dockets". Much toward the lessening of delays has been accomplished through conferences between counsel and the judge, and, in recent years, through pretrial procedures, but as Harry D. Nims has pointed out, the salutary accomplishments of these conferences are seriously restricted. "They are not effective with cases in which, from the beginning, there has been no intention to have a trial. \* \* \* Until courts", he goes on to say, "possess effective and practical methods of dealing with these so called 'hard core' cases promptly, delay will continue." Nims, *The Law's Delay: The Bar's Most Urgent Problem*, 44 A.B.A. J.27, 90 (1958). Promising results are being accomplished in this area by some judges in Illinois through strictly enforced periodic docket clearings.

Closely related to the foregoing are various dilatory practices resorted to by some attorneys. This often is evidenced in cases in which attorneys are unprepared to proceed with their cases or for trial. The usual results are that continuances are granted, but the court's time has been taken up with these cases and there are delays in their disposition. More flagrant examples occur in those cases in which the attorneys are staving off trial while they seek favorable settlements short of going to trial. Here it is common for attorneys to resort to various dilatory procedures. It is an accepted fact that these practices cause time-consuming delays, but beyond the recognition of that fact and the making of estimates, it is difficult to secure accurate data on the time wasted on these cases. What is more, delay begets delay. Wit-



nesses disappear or become otherwise unavailable or forget pertinent evidence, parties or counsel die and so ad infinitum.

Serious delay is often caused through ineffective administrative procedures. Some courts have eliminated these difficulties to a substantial degree, but in many these shortcomings are apparent in various phases of the judicial procedures. The processes most commonly involved are calendaring and pretrial, the disposition of motions, the scheduling of cases for trial, and the assignment of judges. The effectiveness of calendaring procedures varies from court to court. Calendaring presents complex problems, and particularly in metropolitan areas. These problems may involve the efficient use of courtrooms, having cases ready for trial, having juries in readiness in jury-trial cases, the notification of judges, attorneys, litigants and witnesses of the time and place of trial. A failure in any one of these steps may disrupt the orderly flow of cases for trial. Obviously, poor techniques in this complex may cause difficulties, confusion and delays.

One of two types of procedures is ordinarily involved in calendaring. One is the *individual assignment* system under which cases as filed are assigned in rotation respectively to the trial judges, each of whom administers the cases under his control. The other is a *central or master* calendar system, under which one judge makes all of the assignments. There are arguments for and against each of these procedures, but the weight of the argument appears to favor central assignments in multiple court systems. The over-all view, however, is that either system can operate successfully when efficiently administered and that either will work badly when poorly handled. The Illinois courts present a diffused picture. Both individual and central assignments are in use. Some individual assignment practices are well administered and some are not, and likewise, some central assignment systems are effectively operated and some are poorly administered.

Other causes of delay (their number would appear to be legion) are: insufficient judicial personnel, unavailability of courtrooms and courtroom facilities, jury selections, jury instructions, motions—before and during trial—and post-trial motions, cases taken under advisement

by the court, and cases reversed and remanded by appellate courts. But of all the forces that accentuate delay, none is more time consuming and frustrating than that produced by the impediments and restrictions of antiquated and paralyzing legal procedures. This has been the most patent and baffling obstacle to procedural and judicial improvements and reform in Illinois. The Illinois courts have been operating under the restrictions of an outmoded constitutional structure for many years. Now the prospects for substantial improvement through the enactment of a new Judicial Article appear to be bright. The critical decision rests with the voters. If the voters approve the pending Judicial Article, multiple courts will be eliminated, the court system will be unified and a judicial framework will be established which should open the way for constructive measures of court administration and for improvement in the operation of our judicial system. Under the proposed Article the method of judicial selection would remain faulty, the judicial tenure would be improved.

A perplexing problem in law administration relates to insufficient and inadequate courtroom facilities. The unavailability of enough courtrooms tends not only to retard the holding of trials by judges of the jurisdiction in which this condition exists but it checks the assignment of judges from other jurisdictions of the State to that particular court. This, in some areas of the State, is a serious impediment to law administration. In a few jurisdictions new courthouses have been constructed, and in others court buildings have been reconditioned, but moves of this sort are sporadic, and particularly so since the erection and equipment of courthouses are the responsibility of the separate counties of the State. A shortage of courtrooms has been a definite obstacle to the scheduling of court proceedings in and the assignment of judges to Cook County. Cook County now has definite plans for the erection of a new courthouse with adequate facilities. The tentative date given for its completion is 1964.

## **ARE WE ALERT TO THE PERILS THAT CONFRONT THE LAW?**

### **Some Constructive Measures**

In the long pages of history the law has passed through many perilous stages. Literature is replete with

deprecatory statements on the law. In ancient Greece Diogenes attributed to Solon the statement that "Laws were like cobwebs—for that if any trifling or powerless thing fell into them, they held it fast; while if it were something weightier, it broke through them and was off". Shakespeare's Hamlet lists among the tribulations mortal man must bear "the law's delay". In 1926 Professor Sunderland published an illuminating article entitled *Hundred Year's War for Legal Reform in England*. This "war" resulted in the passage of the English Judicature Act. A comment in that article is enlightening, and I may add, startling. "England", wrote Sunderland, "has just completed a century of struggle for procedural reform, and it is to the energy and determination of the public, and not to the leadership of the bar, that the credit for the present English practice is due". It must not be taken that the bar was merely passive during that long period. With a few notable exceptions, the members of the bar strenuously opposed this reform. "There would seem to be something in the profession of law", charged the *London Times*, "which blinds its votaries to the defects of any system which they are called upon to administer \* \* \* the example of their fathers, the tone of the treatises from which their knowledge is derived, the authority of the judges, the atmosphere in which they practice—all are calculated to withdraw the minds of lawyers from any endeavor to reform the law".

In 1848, after shocking delays in law administration in New York, a Civil Code of Procedure was adopted in that state. This code was the product of the work and perseverance of a lawyer—David Dudley Field. The Field Code became the model for civil procedure reforms in twenty-four states. Following the advent of the Field Code, however, two major measures aimed to reform the criminal law—one the Livingstone Code of 1873 in Louisiana and the other the English Draft Code of 1879—failed in adoption. At the beginning of the present century the organized bar in America, a sleeping giant, began to rub its eyes. Some believe it was shocked into wakening through an address before the American Bar Association by Roscoe Pound. His subject was *The Causes of Popular Dissatisfaction with the Administration of Justice*. Until Pound struck that spark, in the often quoted but significant words of Wigmore, "the profession was a complacent, self-satisfied, genial fellow-

ship of individual lawyers—inactive to the shortcomings of our justice, unthinking of the urgent demands of the impending future, unconscious of their potential opportunities, unaware of their collective duty and destiny”. In the early 1930’s a committee of the Bar drafted the Illinois Civil Practice Act. This was enacted by the legislature in 1933, over the bitter opposition of many lawyers.

Today, we are enveloped in a changed atmosphere. To be sure, and regrettably so, there still are many judges and lawyers who are “inactive to the shortcomings of our justice, unthinking of the urgent demands of the impending future”, but the organized bar is alert and active and there are many individual judges and lawyers who are keenly aware of the reefs among which our ship of justice is attempting to navigate and who are issuing clarion warnings of the imminent dangers with which “our ship” is confronted. “This gradual development of professional awareness of responsibility for putting the law in order”, commented Arthur T. Vanderbilt, one of the great apostles for action, “born perhaps of a sense of impending crisis in the law and in civilization, finds expression among a relatively small but growing group of devoted judges and lawyers and alert laymen. They are”, he went on to say, “the new leaders of the legal profession, who have gone steadily about the work of strengthening the law and the courts as essential elements in our civilization. Through their fine work more has been accomplished in improving the administration of justice in the last sixteen years than in the entire preceding century.” Chief Justice Vanderbilt spoke these words in 1955.

The problems of court delays and faulty judicial administration are nation-wide. Writers on this subject commonly refer to Illinois, pointing at Cook County, as the example horrific. See Banks, *The Crisis in the Courts*, December, 1961, issue of Fortune Magazine. It is true, as the data published in this Report show, delays in Cook County are extremely bad. What the commentators do not mention are the achievements for law improvement that have been brought about, in recent years, in Illinois through the dedicated work of committees and members of the organized bar, of the Illinois Judicial Conference and through the enactment of progressive and substantive rules of the Supreme Court. Even so, much more imaginative and constructive work must be done before

the avalanche is stemmed, and beyond that, may it ever be remembered that law improvement and procedural change are tasks without end.

But, and this is a fact to be noted, no other state has enacted more progressive measures in recent years, aimed to improve the law and its administration, whether through legislation or court rules, than Illinois. And so we have this paradox: the Bench and the Bar of Illinois must acknowledge with humility that they have not accomplished enough toward the improvement of the law and its procedures to meet the urgent demands of our time, and they can take pride in the fact that the State of Illinois has taken more progressive steps in recent years toward law improvement than any other state. It should also be noted that some of the measures recently established in Illinois have not reached their full potentialities for law improvement, and this is true particularly of the new Judicial Article, which, though it has been approved by the General Assembly, awaits final approval by a vote of the people.

What are some of the measures? At the last, 1961, session of the Illinois General Assembly, three major measures were enacted: the new *Commercial Code*, a stupendous composition of legislation—the product of the work of many dedicated individuals. The enactment of this Code was secured through the labors of a group of devoted lawyers, legislators and interested laymen; a new *Criminal Code*, the result of years of study and research by a committee of the organized bar; and a new *Judicial Article*. This Article, which as previously indicated, awaits the endorsement of the voters of the state. Achievements of this magnitude in a single session of a legislature are rare, indeed.

*Seventeen additional judges* for the Superior Court of Cook County were authorized in a special, 1961, session of the legislature. These judges will be elected next November. A committee of the Probate and Trust Section of the Illinois State Bar Association drafted *Uniform Rules of Probate Procedure*. These Rules were approved in 1961 by the Board of Governors of the Illinois State Bar Association and by the Illinois County and Probate Judges Association, and under an Illinois statute that authorizes probate Judges to make rules, they have to date been adopted by probate courts in a substantial

number of the counties of the State. Also in 1961, a committee of the Illinois State Bar Association, after years of devoted labor, completed the drafting of the new *Uniform Circuit Court Forms for Use in Civil Cases in Illinois*. These forms, after receiving the approval of the Executive Committee of the Illinois Judicial Conference, were distributed by my office to all of the Circuit and Superior Court judges of the state. The forms represent a complete revision of forms for the use of circuit court clerks throughout the state. A significant feature is that they are written in concise language. All archaic verbiage is eliminated from them. There has been wide acceptance and use of these forms throughout the state.

Many progressive measures have been introduced through rules enacted by the Supreme Court. A series of these deal with *Pretrial, Discovery, Depositions, Written Interrogatories*, and related procedures. The salutary procedural potentialities of some of these rules have not yet been attained by some courts and the practicing bar. In Pretrial, for example, some judges are getting excellent results with this procedure, other judges resort to it but without favorable results, and some judges do not employ it at all.

Three rules of recent enactment hold forth promise for procedural improvement. These rules deal with *Voir Dire Examination of Jurors, Pattern Jury Instructions*, and *Impartial Medical Experts*. They will be discussed later in more detail but they merit brief mention here. The *Voir Dire Examination Rule* provides that the "judge shall initiate the voir dire examination of jurors in civil and criminal causes" by identifying the parties and their respective counsel and that he shall outline the nature of the case and put to the jurors questions touching their qualifications to serve as jurors. Counsel for the parties are given "reasonable" opportunity to supplement the examination. This Rule has promoted clarity in the examination of jurors and has materially reduced the time in making jury selections, and thus it has tended to eliminate a delay factor. The appraisal of the trial judges of this Rule is favorable and enthusiastic.

One of the first issues that came before the Illinois Judicial Conference after its organization was the troublesome question of jury instructions. In 1954 the Conference appointed a committee to study that problem.

Subsequently, in making its report to the Conference, that Committee emphasized the very significant fact that of all cases reversed in the Appellate Courts of Illinois and in the Supreme Court, 38% were reversed, in whole or in part, because of errors in the instructions of the trial courts. In 1955 the Judicial Conference passed a resolution to invite the assistance of the Supreme Court in seeking a remedy on the jury-instruction problem. The Supreme Court, in acting on that resolution, took the unusual step of appointing a committee consisting of judges, lawyers and law teachers, with Gerald C. Snyder of Waukegan as its chairman, to study this problem and to report its findings and conclusions to the Supreme Court. The Committee dedicated itself to this undertaking, worked for four years, and in 1960, in its reports to the Supreme Court, presented a tentative copy of *Illinois Pattern Jury Instructions*. These instructions are now printed and published in a volume of xxvi, 591 pages. The Supreme Court, after evaluating the proposed instructions, enacted a Rule which provides:

“Whenever Illinois Pattern Jury Instructions (IPI) contains an instruction applicable in a civil case, giving due consideration to the facts and the prevailing law, and the court determines that the jury should be instructed on the subject, the IPI instruction shall be used, unless the court determines that it does not accurately state the law \* \* \*.”

There now is near complete acceptance of the *Pattern Jury Instructions* by the courts throughout the state. Through their use the time consumed in settling and giving instructions has been materially reduced and the indications are that reversals because of errors in instructions will be substantially reduced, if not eliminated. The Pattern Jury Instructions are a highly note-worthy step in the advancement of law administration. The Illinois Instructions have become a model for studies elsewhere. Recently the Supreme Court appointed a committee to make a study and report on similar pattern instructions for criminal cases.

Last year the Supreme Court adopted a Rule on *Impartial Medical Experts* in personal injury cases. This is another progressive Rule, the inception of which was stimulated by the Illinois Judicial Conference. It should be mentioned, however, that some attorneys were opposed

to the Rule and are critical of it now. The Rule went into effect last September and experience with it to date has been limited. It will be discussed more in detail later in this Report.

One of the most progressive agencies for law improvement, as shown through its accomplishments to date, and through its potentialities, had its inception when the Supreme Court by Rule established the *Illinois Judicial Conference*. "There shall be", reads the opening paragraph of the Rule, "a Judicial Conference to consider the business and the problems pertaining to the administration of justice in this State, and to make recommendations for its improvement." Thus, an organization came into being which is part of the official machinery of justice. This Rule welded into a unit the separate parts (the individual judges) of the judicial machinery.

Under the Rule the Supreme Court appoints an Executive Committee to assist the Court in planning the programs of the Conference, and this Committee recommends to the Court the appointment of various committees to further the objectives of the Conference. The membership of the Conference consists of the Judges of the Supreme Court, the Appellate Court, and the Circuit and Superior Courts. The Executive Committee ordinarily meets once a month; the Conference holds annual meetings.

The *Judicial Conference*, working through its various committees for law improvement, is a very active and alert organization. Several measures, aimed to improve the law and its procedures, that have been enacted into statutes and rules of court, originated in studies made by committees of the Conference. Some indication of the work of the Conference can be gathered from the assignments to its committees. Among the committees working on matters of law improvement during the current year are the following: *Abuse of Discovery and Deposition Procedure*; *Comparative Negligence*; *Court House and Jury Facilities*—two committees, one for Cook County and the other for Downstate; *Appellate Review of Sentence*; *Change of Venue*; *Impartial Medical Testimony*; *Legislation*; *Split Trials*; *Wider Use of Jury Commissioners*; three separate committees on the *Judicial Article*; *Committee to Study Less than Unanimous Ver-*



*dict and Use of Less than 12 Jurors; What's New in Pretrial; Search and Seizure.*

This is a panoramic view of the actions now in progress in Illinois aimed to improve the administration of justice. We have new tools and modern machinery for expediting justice, but it must be noted that often the Bench and the Bar are not making full use of them. It is true that several of the measures described have been so recently initiated that their impact on the improvement of the respective judicial processes has not yet been demonstrated. The crucial questions are: Are we doing enough and will we continue to labor with unabated energy? At the moment, judges, members of the bar, law teachers and public spirited citizens are focusing their attention on the new Judicial Article. That is a needed basic reform of the highest order. But it would be a grievous error to assume that the Judicial Article, if approved, will solve all of our difficulties. Many problems will remain for solution, and, above all, we should constantly bear in mind that law reform and the improvement of its procedures are tasks without end.

#### **APPRAISAL OF MEASURES RECENTLY INITIATED TO IMPROVE AND EXPEDITE LEGAL PROCEDURES**

Mention was made earlier in this Report of some measures that have been initiated recently to improve and expedite law administration. In a recent discussion of this subject at a meeting of the Executive Committee of the Judicial Conference, Justice Arthur J. Murphy of the Appellate Court undertook the responsibility of sending out a questionnaire to all the Circuit and Superior Court judges of the State for an evaluation of the following measures: *Voir Dire Examination; Illinois Pattern Jury Instructions; State-wide Uniform Circuit Court Rules; Impartial Medical Testimony, and Juror Handbooks.* Pursuant to this, Justice Murphy sent out 103 questionnaires. At the time this is being written, Justice Murphy has received 87 replies. Eighty-three questionnaires were returned and four judges replied that they were not qualified because of the work they are now doing to answer the questions.

Justice Murphy has indicated an intention to make use of the data secured through these questionnaires in the context of a broader study he has in contemplation.

He has generously consented to permit me to use these returns for brief appraisals in this Report.

*Voir Dire Examination of Jurors (Supreme Court Rule 24-1).* The appraisal of this Rule by the judges, based on the replies received, was very favorable. The judges now have had the experience of selecting many juries, in a wide variety of cases, under it. Several of the judges indicated that they had selected juries under the Rule in over 100 cases. Some of the judges said that they had made only a limited number of jury selections under it. The judges were asked to make their appraisals separately on civil and criminal case jury selections. A summary of the replies from the judges on various questions follows:

### VOIR DIRE EXAMINATION OF JURORS

	Civil		Criminal	
	1. From your experience is the Rule satisfactory?	Yes	79	Yes
	No	0	No	0
2. Do you enforce the Rule?	Yes	72	Yes	58
	No	0	No	0
	Strictly	45	Strictly	34
	Leniently	25	Leniently	26
3. Do you favor its retention?	Yes	76	Yes	61
	No	0	No	1
4. Do you believe the lawyers are in favor of the Rule?	Yes	70	Yes	50
	No	4	No	14
5. Do you believe the lawyers are more or less favorable now than when the Rule was first promulgated?	More favorable	75	More favorable	58
	Less favorable	0	Less favorable	3
6. Your appraisal of the Rule:	Favorable	78	Favorable	68
	Unfavorable	0	Unfavorable	0

Practices vary on the manner in which the individual judges give effect to the Rule. Some indication on this can be gathered from the answers given to question 2 in the chart. All of the judges answered that they "enforce the rule". In civil cases 45 of the judges said they enforce it "strictly" and 25 indicated "lenient" enforcement of it. In criminal cases 34 gave strict and 26 lenient enforcement. This variation in the practices becomes even more apparent from the reading of the personal comments of the judges. We might rationalize these by concluding that here we are dealing primarily with a

human factor. The crucial observations are that the judges are unanimously in favor of the Rule, and that all are seeking to enforce it.

The judges were asked to indicate the time spent on jury selections, both before and after the Rule. An estimate on the time saved, based on the replies received, is that the time occupied in jury selections prior to the Rule has been cut by one-half under the Rule. This is also borne out by the personal comments of the judges. Several wrote to the effect that the Rule "has reduced selection time by one-half", and some said "by one-half or more".

*Illinois Pattern Jury Instructions.* The Supreme Court Rule on the Illinois Pattern Jury Instructions (Rule 25-1) is another new measure in law administration, and one that has salutary potentialities. Though new, it has been used extensively by the judges. The first of the inquiries addressed to the judges on this subject related to the number of cases in which the Pattern Instructions had been used by the individual judges. It is difficult, on the basis of the replies received, to state accurate figures. Some of the judges replied that they had used the Instructions in all civil jury cases. A few of the judges indicated that they had had no experience with them. Sixty-three judges reported on the number of cases in which they had used Pattern Instructions. The number varied among the individual judges from 5 to 100 cases. The over-all number of cases reported in which the instructions were used was 1701. The average for the 63 judges was 27.

The judges were asked to appraise the Pattern Instructions as *favorable*, *satisfactory*, or *unfavorable*. Seventy of the judges indicated a *favorable appraisal*, 4 recorded *satisfactory*, and no judge appraised them unfavorable. Seventy-six judges indicated that the attitude of attorneys in the cases in which the Instructions were used was *favorable*. No judge reported an unfavorable attitude on the part of the attorneys. On the question: "Does the use of IPI save trial time?", 76 judges said "yes", and 1 said "no".

The comments of the judges on the Instructions were extensive and revealing. These comments varied, as might be expected, in emphases. A few stated reservations. Some examples of this were: "Very valuable so

far as they go. Need to be extended to particular situations such as condemnation.”; “I don’t like the form of the verdict. I alter it to add the name of the plaintiff, defendant, counterclaimant, etc. It’s less confusing to a juror. They have less difficulty when names are used.”; “Generally very good.”; “Excellent, although a few legalisms get in the way of simplicity.”

In the main, the comments were favorable to enthusiastic. There was considerable emphasis on time saved through using the Instructions. The following comments are typical: “They are highly favorable to all experienced trial lawyers, and save at least half the time formerly used.”; “Probably the greatest trial help developed during my time.”; “Big improvement. Attorneys 96% favorable.”; “Best thing done in this respect in 50 years of my experience.”; “Excellent. A great time saver.”; “I consider Rule 25-1 to be one of the most valuable rules ever adopted by our Supreme Court.”; “Using IPI instructions the Court, for the first time, actually instructs the jury as to the law applicable to the case being tried. He no longer assists the lawyers in arguing their case. In my opinion, they are the greatest step forward in the trial of jury cases that we have seen for many years.”; “In most cases the majority of instructions given are requested by both sides, thus reducing the possibility of error.”; “Saves much time. Attorneys are reluctant to appeal on grounds of error in instructions. The best thing that’s happened to a trial judge since passage of the Civil Practice Act. I am looking forward to Pattern Instructions in criminal cases.”

*State-Wide Uniform Circuit Court Rules.* One of the questions bearing on the State-Wide Uniform Circuit Court Rules that was addressed to the judges invited them to make an appraisal of the Rules. Seventy-one judges gave a favorable appraisal, and 3 were unfavorable. Nine judges indicated that amendments to the Rules had been made in their jurisdictions since 1959, and 46 recorded that no amendments had been made since that date. A few of the judges, in their comments, said that little or no use was being made of the Rules in their jurisdictions. The comments of the judges vary extensively and are revealing.

Some typical comments are the following: “Generally favorable, but small counties best served by local

rules.”; “Some of the Rules are not of particular import in a rural area. It is, however, good to have them if needed.”; “Extremely helpful. Should be followed with consistency.”; “Think all counties should adopt without any modification. Modification destroys uniformity.”; “No amendments since they were originally adopted. Rules were adopted in this Circuit with modification.”; “Very few lawyers in our Circuit are acquainted with the fact that State-Wide Uniform Circuit Court Rules are in existence. My experience indicates that fairness to all attorneys and consistency in one’s rulings bring about the proper expedition of court proceedings without having to thumb through a book of rules.”; “The Rules contain too many provisions applicable only to Cook County. Rule 9.2 is awkward in cases of multiple parties. Rule 12.1 is meaningless in most downstate Illinois. Rule 11.2 can hardly be enforced in very small counties.”; “Although we have adopted the Uniform Circuit Court Rules, they have seldom been invoked and I doubt if many of our attorneys are familiar with them. I am afraid our attorneys practice by custom.”; “These Rules have really clarified many situations and expedited the work of the courts.”

*Impartial Medical Testimony.* The Impartial Medical Experts Rule (Supreme Court Rule 17-2) was adopted by the Supreme Court on June 1, 1961. It became effective on September 5, 1961. The Rule reads:

“When in the discretion of a trial court it appears that an impartial medical examination will materially aid in the just determination of a personal injury case, the court, a reasonable time in advance of the trial, may on its own motion or that of any party order a physical or mental examination of the party whose mental or physical condition is in issue. The examination shall be made without cost to the parties by a member or members of a panel of physicians chosen for their special qualifications by the Illinois State Medical Society. The court administrator and the deputy court administrator are charged with the administration of this Rule.

“A copy of the report of examination shall be given to the court and to the attorneys for the parties. Should the court at any time during the trial find that compelling considerations make it advisable

to have an examination and report at that time, the court may in its discretion so order. Either party or the court may call the examining physician or physicians to testify, also without cost to the parties. Any physician so called shall be subject to cross examination. The court shall determine the compensation of the physician or physicians.”

This Rule (though procedures similar to it have been adopted and have been in use for some time in a number of jurisdictions, including federal courts) is in an experimental stage in Illinois. Since its adoption in Illinois it has been used in only eleven cases, seven in Cook County and four in Downstate jurisdictions. In Downstate it is administered by the Court Administrator from the Springfield Office; in Cook County it is administered by the Deputy Court Administrator for Cook County whose office is in Chicago. Immediately after its adoption, the Court Administrator drafted procedures for its use in Downstate courts. In the preparation of these procedures the Administrator consulted with the officers of the Illinois State Medical Society, and particularly with the attorney for the Society, with a number of judges and some attorneys. Upon the completion of the procedures and forms to be followed, they, together with instructions, were distributed to the various circuit judges and the clerks of the circuit courts. The Deputy Court Administrator, also after extensive consultation, drafted the procedures and forms for use in the superior and circuit courts of Cook County. The procedures in Cook County, principally because of geographical factors, vary somewhat from those established for Downstate. Mr. Fitzgerald, the Deputy Court Administrator, will explain the Cook County procedures in more detail in his Report.

Impartial medical testimony is commonly resorted to, in jurisdictions which have established this procedure, in pretrial of personal injury cases when the court is confronted with a wide divergence between the parties (each supported by his own expert witness) on the nature and extent of the injury and damages claimed. The reasons for the need of impartial expert testimony is well-stated in a report made in 1956 to the Section of Judicial Administration of the American Bar Association by the Section's Committee on Impartial Medical Testimony. "We may accept with a certain equanimity," said the committee,

“the controversies, presented as to the facts of how an accident happened and who was to blame. Such controversies cannot be avoided or eliminated, and can as well be resolved by a representative body of the community as by any other means. It is disturbing, however, indeed discouraging, to find such variations as frequently exist on the professional plane of medical testimony. Unfortunately, we have developed a fashion of employing doctors as well as lawyers as advocates \* \* \*. Because of the scientific nature of medical evidence the jury is more often confused than enlightened by such presentation of that evidence, and is left without adequate insight to determine the facts or pass upon the credibility of the contesting experts. Experts are frequently sought and retained more for a cultivated art of testifying than for basic competence and essential integrity. The best corrective for this condition is rather apparent. It is to bring into the medical inquiry neutral experts of unquestioned competence and honesty, doctors of the highest professional qualifications who have no interest other than the elicitation and presentation of objective truth.”

Under the procedures in Illinois, the Illinois State Medical Society has the responsibility to establish screened panels of medical experts in the various medical specialties relating to personal injuries. These panels have been established both for Cook County and Downstate. If the party injured lives outside of Cook County but relatively near Chicago, resort, for the convenience of travel, may be had to a panel expert in Chicago. The procedures established for procuring the services of an impartial expert are relatively simple. If it appears to a trial court “that an impartial medical examination will materially aid in the just determination of a personal injury case”, the Court may, on its own motion or that of any party, order a medical examination of the party whose condition is in issue. The Court will thereupon sign a memorandum which lists the title and number of the case, the name of the party to be examined, and which briefly describes the nature of the disputed injury and the type of specialist desired. This memorandum is transmitted to the Court Administrator. Immediately on receipt of the memorandum, the Administrator telephones to the officer of the State Medical Society, who has custody of the panels of ex-

perts, and procures from him the name, address and telephone number of an expert in the specialty involved. The Administrator thereupon makes contact by telephone with the specialist designated to determine the day, hour and place for the examination. These steps can ordinarily be taken within the course of one day. Following this the Administrator notifies the Clerk of the Court in which the action is pending and he, in turn, notifies the party who is to be examined and the attorneys for the plaintiff and the defendant of the time and place for the examination.

After the completion of the examination, the expert submits a statement of his fees to the Clerk of the Court. Upon approval of the fees, the Court signs an order for their payment. A copy of this order is sent to the Court Administrator who, in turn, certifies the statement on the fees to the Illinois Bar Foundation for payment. A fund for the payment of impartial medical experts' fees intended to cover a period of two years has been raised through the efforts of the Illinois State Medical Association and is administered by the Illinois Bar Foundation. The procedures followed by the Deputy Court Administrator for Cook County in administering the Impartial Medical Expert Rule, while they are similar, in the main, to those here described, vary somewhat in detail.

The information on Impartial Medical Testimony returned by the judges on the questionnaire submitted to them by Justice Murphy was not extensive. Eleven impartial medical experts have been appointed. One of this number was appointed on motion of the court, three on motions of the attorney for the plaintiff, five on motion of the attorney for the defendant, and two were appointed on the joint motion of the attorneys for the plaintiff and the defendant. Seven motions for the appointment of impartial medical experts were denied by the courts. The information on the progress and disposition of cases in which impartial medical experts made examinations that has come to the Court Administrator's Office indicates that two of these cases have been settled and that none has gone through trial.

Most of the judges in their answers to the questionnaire commented that they had had no experience with the Rule and had no opinion on it. One potential of the Rule with salutary implications was disclosed in some of



the comments. The fact that we have the Rule and that it may be employed has a tendency to promote settlements. "In several cases", said one judge, "my suggestion that an impartial medical expert should be appointed has been effective in producing a settlement of the case." Commented another judge: "The Rule has helped to settle two cases just before trial." Another judge said: "Some discussion in one case, but no motion was made. Case settled before trial."

Some of the judges in Cook County are of the opinion the Rule is not applicable there. The following comment is typical: "Under our assignment system, we try cases the days we get them. Any other system becomes a modified judge's own calendar system and it is only practical to keep one system or the other." Several judges indicated that the trial lawyers are opposed to the Rule. The following comments are indicative: "Most attorneys do not favor the Rule."; Attorneys trying cases in this County, "where about 99% of the cases in this Circuit are tried, do not appear to favor the Rule. \* \* \* However, I have recently heard complaints from a few plaintiffs' attorneys about one doctor in particular who has been testifying on behalf of defendants, and, if these complaints persist, I will appoint on motion of the Court." A few of the judges from Downstate areas expressed the view that there is little or no need for impartial medical testimony in their jurisdictions. "We are a rural area," wrote one judge, "and impartial medical, in my opinion, will be the exception rather than the rule. \* \* \* This is not intended as a criticism of the Rule. I would retain it." Commented another judge: "The doctors in our community are ethical and we do not have the so-called 'professional witness' type."

The views stated by the judges who commented on the Rule were, in general, favorable, although a few judges added reservations. These are typical statements: "I consider it a good rule."; "I am in favor of the Rule. Its existence tends to reduce fraudulent testimony. However, I feel that medical experts should be used sparingly."; "It shouldn't be held out as a panacea for reducing backlogs or saving trial time. It is one more tool that is provided for our use in 'searching after the truth'. If used wisely, it can be of great value in this search. It also contains some dangers."

*Juror Handbooks.* The questionnaire sent to the judges on Juror Handbooks contained six questions bearing on the distribution and use and an appraisal of handbooks for jurors in civil and criminal cases and of handbooks for grand jurors. The following chart lists the number of judges who gave affirmative or negative answers to each of the questions submitted to them.

### JUROR HANDBOOKS

	Civil		Criminal		Grand	
	Yes	No	Yes	No	Yes	No
1. Have you been distributing the handbooks to the jurors?	51	16	45	14	35	17
2. Have you had any serious objections to the use of the handbooks by lawyers?	6	54	4	48	2	40
3. Do you mail the handbooks to prospective jurors with the jury summons?	15	44	13	41	9	33
4. Do you use the handbook in addressing the full jury panel?	23	35	24	34	16	26
5. Do the jurors read the handbooks?	48	5	45	3	39	4
6. Do you favor continuing the use of juror handbooks?	55	4	50	4	39	2

The chart tells the story. The judges are favorable, with some exceptions, to the use of juror handbooks. It is on the time for distribution of the handbooks and on the method of their use that variety appears. The varying individual practices of the judges are portrayed in their comments. The following are typical: "The clerk hands out the books at the start of the term and the jury has one hour to read them and they respond favorably."; "As to 4 (Do you use the handbook in addressing the full jury?) I try to give a thumbnail synopsis and suggest they read it in full. As to 3 (Do you mail the handbooks to prospective jurors with the jury summons?), it's a waste of these books to mail them to jurors who are subsequently excused \* \* \*. After the panel is complete on the first day of the service, the bailiff hands one to each juror. \* \* \*"; "Juror Handbooks are always mailed to prospective jurors prior to the date on which they are scheduled to report."; "I believe the handbooks should be compulsory reading for all jurors on their first day of service, but I do not believe they should be taken into the jury room during deliberation of a case, as they tend

to distract from the judge's instructions and from the issues of the case. \* \* \* ”; “I use the handbook in the preparation of my own voir dire examination statement.”; “In my own case my instructions are fuller than those in the book.”

### **ASSIGNMENT OF JUDGES**

Section 23k of Chapter 37 (Ill. Rev. Stats., 1961) reads:

“Upon determining that necessity or convenience so require, the Supreme Court may assign any judge of any court of record to serve in any other court of record, with the consent of a majority of the judges of the court to which he is assigned, to perform the duties assigned to him by the latter court \* \* \* .” (Also relevant is Sec. 72.30 of Chap. 37).

Section 23g of the same Chapter provides:

“The Court Administrator shall, under the direction and supervision of the Supreme Court: \* \* \*

- (c) Make recommendations to the Chief Justice of the Supreme Court relating to the assignment of judges to courts found to be in need of assistance and carry out the directions of the Supreme Court for the assignment of judges in such cases; \* \* \* .”

The assignment of judges has become a flourishing business in the Court Administrator's Office, and this, if we were to speculate, is but a forewarning of what may lie ahead if the Judicial Article is enacted. The data here presented deal only with assignments for the calendar year, 1961. Through an arrangement under which the three judges of the Fifth Circuit alternated services in the Circuit Court of Cook County, Judge Robert F. Cotton served in that court for thirteen weeks in 1961; Judge Harry I. Hannah for seven weeks, and Judge John F. Spivey for four weeks.

The following circuit court judges also served on assignments to the Circuit and Superior Courts of Cook County:

Judge Robert S. Hunter of the 8th Circuit, in the Circuit Court of Cook County, indefinite period;

Judge John T. Reardon of the 8th Circuit, in the Circuit Court of Cook County, for 2 weeks;

Judge Leonard Hoffman of the 13th Circuit, in the Circuit Court of Cook County, period indefinite;

Judge Marvin F. Burt, 15th Circuit, in the Superior Court of Cook County, for 2 weeks.

The following Circuit Court judges served on assignment in Downstate circuits:

Judge Harold L. Zimmerman of the 1st Circuit, in the 20th Circuit, period indefinite;

Judge Creel Douglass of the 7th Circuit, in the 11th Circuit, period indefinite;

Judge David E. Oram of the 12th Circuit, in the 14th Circuit, one week;

Judge Albert S. O'Sullivan of the 17th Circuit, in the 12th Circuit, period indefinite.

(Judge O'Sullivan, while his assignment was executed in 1961, performed his services in 1962).

It should be observed that the assignments dealt with in this Report include only those made pursuant to orders of the Supreme Court and executed by the Court Administrator. More informal procedures involving Interchange of Judges under section 72.29 of chapter 37 (Ill. Rev. Stats., 1961) have been in use for some time. The Court Administrator may learn about these over a "cup of coffee", but his office has no record of them.

Several county judges served in jurisdictions other than their own under orders of assignment executed by the Supreme Court in 1961. County Judge Charles E. Jones served in the Superior Court of Cook County for four weeks; Judge Alvin Lacy Williams of Jefferson County, served seven weeks in the Superior Court; Judge Trafton Dennis of Saline County served for two weeks in Cook County, also in the Superior Court; and Judge J. E. Richards of Stark County, has performed extended services over an indefinite period in the Circuit Court in Peoria. We may conjecture, in view of the restriction placed on the practice of law by county judges in the case of *Bassi, trustee, et al. vs. Langlos*, 22 Ill. 2d 190, and

also because of the salary provision of section 355b, chapter 37 (Ill. Rev. Stats., 1961), both of which will become effective as to county and probate judges after the November elections on December 3, 1962, that more county and probate judges will become available for assignments in the future.

The most extensive service on assignment was contributed by city, municipal, town and village judges. Twenty-three of these judges served in the Superior and Circuit Courts of Cook County during the calendar year 1961 for a cumulative total of 2,122 days. A number of these judges also served on assignment to various Downstate circuit courts for a cumulative total of 205 days.

## **THE TREND OF CIVIL CASES IN THE SUPERIOR AND CIRCUIT COURTS DURING 1961**

### **Introductory Statement**

On January 1, 1961, there were 49,142 jury cases pending in the Superior and Circuit Courts of Illinois. On December 31, 1961, this number had increased by 8 per cent to 53,038. In downstate Circuits 1 through 20 the increase was from 9,360 to 9,771 cases, an increase of 4½ per cent, and in Cook County the number of jury cases increased from 39,782 to 43,267, an increase of almost 9 per cent.

There were 51,469 non-jury cases pending in the Superior and Circuit Courts of the State on January 1, 1961. On December 31, 1961, this number had grown to 52,101, an increase of 1.2 per cent. The number of non-jury cases pending in downstate Circuits 1 through 20 grew from 25,884 to 26,160 during 1961, an increase of 1.1 per cent. In Cook County the number of pending non-jury cases grew from 25,585 to 25,941 during the year, an increase of 1.4 per cent.

Thus, it appears quite clearly that the backlog of the courts of this State is growing and is ever increasing rapidly in the jury area.

Seventy-three per cent of Cook County's dispositions were uncontested, while 60 per cent of the dispositions in downstate Circuits 1 through 20 were uncontested. During 1961, 47,259 civil cases were begun or reinstated in Cook County compared to 32,985 civil cases

in downstate Circuits 1 through 20. During the same period the Circuit and Superior Courts of Cook County disposed of 43,418 civil cases, while the downstate circuits disposed of 32,298 civil cases.

### **First Circuit**

While this Circuit is about average in size, it has much less population than the average downstate circuit. It has nine counties, two of which have more than 40,000 people each. Each of the other seven counties is considerably less populous. This Circuit experienced a 12% loss in currency of jury cases<sup>1</sup> and a 12% loss in currency of non-jury cases during 1961. Of 35 jury cases reaching verdict during 1961, 11 were filed prior to 1960, 13 in 1960, and 9 in 1961. This Circuit had a less than average<sup>2</sup> proportion of jury cases that were filed before 1960. Most of the cases involving court trials were filed in 1960 and 1961. This would indicate little delay in this area. There appears to be no serious problem of delay in this Circuit.

### **Second Circuit**

While this Circuit has a somewhat less than average population for a downstate circuit, it is 133 miles from the county seat of its northernmost county to the county seat of its southernmost county, and it contains more counties (12) than any other circuit. The Second Circuit had a 14% loss of currency of jury cases, slipping from 18th to 17th place in relative size of jury backlog during the year. This Circuit, however, showed a slight gain in the non-jury area. There were 32 jury cases which reached verdict during 1961, most of which were filed in 1960 or 1961, but 34% of which were filed prior to 1960, a less than average percentage.<sup>2</sup> In view of this Circuit's small jury backlog, it completed a relatively high number (32) of jury trials during 1961. There were 600 trials by the court without a jury during 1961, the vast majority of which involved cases that had been filed in 1960 or 1961. While the judges of this Circuit are obviously required to do considerable traveling, there appears to be no serious problem of delay.

<sup>1</sup> Stated differently, there was a 12% increase in the backlog of jury cases.

<sup>2</sup> Forty per cent of the jury cases reaching verdict in downstate Illinois had been filed prior to 1960, and comparison is made to this figure as "average" throughout this analysis.

### **Third Circuit**

Considerably smaller than average in size, this Circuit also has somewhat less than average population. It consists of Bond County, a very small county, and Madison County, the fifth most populous county in Illinois. The Third Circuit showed a net gain in currency for the year since its 1% loss of currency of non-jury cases was more than offset by a 3% gain of currency of jury cases. This Circuit, though it ranked 6th in size of jury backlog, completed more jury trials than any other down-state circuit except the 19th Circuit. This is a commendable achievement. While more than half of the jury trials completed during 1961 were filed in either 1960 or 1961, a higher than average percentage were filed prior to 1960. The vast majority of court trials conducted during 1961 involved cases which had been filed during 1961. This record speaks well for the master calendar procedure in effect in populous Madison County whereby cases are tried in the order filed unless there are compelling reasons for a continuance.

### **Fourth Circuit**

While this Circuit is quite large in size, it has less than average population. During 1961 it had only a 0.4% loss of currency of non-jury cases and a 4% loss in currency of jury cases. The Fourth Circuit had 52 jury trials reaching verdict in 1961, a very high number considering its relatively low backlog of jury cases. Nineteen of these 52 cases, a lower than average proportion, had been filed prior to 1960, 23 in 1960, and 10 in 1961. While this Circuit has a relatively light case load, the judges have considerable traveling to do and are doing a good job in keeping up with their case load.

### **Fifth Circuit**

This Circuit has a substantially less than average population and is about average in size. The Fifth Circuit had a loss of currency of 26 jury cases, almost a 10% loss. This can be accounted for by a heavy loss of currency in Vermilion County, its largest county. On the other hand, the Circuit showed a 9% gain of currency in the non-jury area, because of a heavy gain in currency in Vermilion County. Of the jury cases reaching verdict during 1961, only 13% were filed prior to 1960, compared

to the downstate average of 40%. The number of jury cases (75) that reached verdict during 1961 is quite high in view of the Circuit's small jury backlog. It would appear, therefore, that this Circuit is working vigorously to keep its jury backlog manageable even though it sustained a small loss of currency of jury cases during the year. Its non-jury gain in currency of over 100 cases is encouraging.

### **Sixth Circuit**

The Sixth Circuit is substantially above average in population and about average in size. It has 2 counties of over 100,000 in population (Champaign and Macon). It is one of 3 circuits having 4 judges each. Primarily because of a heavy loss of currency in Champaign County, this Circuit experienced a 28% loss of currency of jury cases, the heaviest percentage loss of any downstate circuit except the Eighth. This Circuit also sustained a 5% loss in currency of non-jury cases. Compared with the other circuits, on January 1, 1961, the Circuit had the 10th largest backlog of jury cases; on December 31, 1961, it had the 7th largest jury backlog. Thus it lost ground badly in comparison with the other circuits. This Circuit, in view of the size of its backlog, completed very few jury trials (34), ranking only 14th among the circuits. However, 26 of these 34 cases had been filed in 1960 and 1961, indicating less than average delay in reaching trial in most of the cases that were tried. There was little delay in court cases reaching trial. It would appear that this Circuit, especially in Champaign County, should give more emphasis to the trial of jury cases.

### **Seventh Circuit**

This is a medium-sized Circuit with a higher-than-average population and four Circuit Judges. The Circuit showed a 7% gain in currency of jury cases and a 2½% gain in currency of non-jury cases. This was due primarily to a clearing of the docket in Sangamon County in July. Twenty-nine of the 66 jury cases that reached verdict during 1961, a higher than average proportion, were filed prior to 1960. This indicates more than average delay in reaching trial. On the other hand, there appears to be no appreciable delay in the trial of the vast majority of court cases.



### **Eighth Circuit**

About average in size, this Circuit has a population of 148,888, a smaller population than any other circuit in the State. It is not surprising, therefore, that this Circuit had fewer new cases filed during 1961 than any other circuit. The Eighth Circuit showed a loss of currency of 39 jury cases or 44%. While this was the highest percentage loss in the State, this Circuit's jury backlog of 127 cases is still smaller than any other circuit's backlog except for the 15th Circuit. The Eighth Circuit had a slight gain in currency of non-jury cases. Of the 6 jury cases reaching verdict during 1961, 4 had been filed in 1960 and 2 in 1961. Of the 486 cases involving court trials, the great majority were filed in 1960 and 1961. This Circuit has the lightest case load in the State and should have no difficulty in regaining the ground that it has lost in the jury area.

### **Ninth Circuit**

While the Ninth Circuit is about average in size, it is considerably less than average in population. This Circuit had the best overall percentage gain of currency in the State. It had a 3% gain in currency of jury cases and a 13% gain in non-jury cases, the latter being primarily due to a clearing of the docket in Knox County. While this Circuit completed fewer jury trials than any other circuit except the Eighth, it had one of the smallest jury backlogs (148) in the State on December 31, 1961. Of 11 jury cases reaching verdict, one was filed in 1959, 7 were filed in 1960, and 3 in 1961, which indicates less than average delay in reaching trial. This Circuit has made a commendable gain in its non-jury backlog without neglecting its jury cases.

### **Tenth Circuit**

This Circuit is relatively small in size, but much higher than average in population since it contains populous Peoria and Tazewell Counties. It had a one-half of one per cent gain in currency of jury cases and a 4% gain in currency of non-jury cases during 1961, due primarily to a clearing of the docket in Peoria County. The Tenth Circuit had 21 jury trials reaching verdict during 1961, a very low number in view of its backlog of more than 1,100 jury cases. The Circuit has a larger backlog than any other downstate circuit except the Nineteenth

Circuit. By way of contrast, the Nineteenth Circuit completed 106 jury trials from a backlog of 1,333 jury cases; the Twentieth Circuit completed 85 jury trials from a jury backlog of 946; and the Sixteenth Circuit completed 89 jury trials from a jury backlog of 656. Of the 21 jury cases reaching verdict in the Tenth Circuit during 1961, 3 were filed prior to 1957, 8 in 1958, 9 in 1959, and 1 in 1960, indicating a delay of about 2 years in the trial of jury cases. Ninety-five per cent of the jury cases reaching verdict in the Circuit, a higher percentage than any other circuit in the State, were filed prior to 1960. The Tenth Circuit completed more court trials than any other downstate circuit except the Nineteenth. Most of the court cases tried in 1961 had been filed in 1960 and 1961, indicating no appreciable delay in the trial of those cases. Since the 1960 census, this Circuit is entitled by statute to a fourth Circuit Judge. An additional judge is needed, especially to conduct jury trials. A better calendaring procedure is suggested.

#### **Eleventh Circuit**

This Circuit is about average in size, but much less than average in population compared with the other downstate circuits. It had a 0.4% loss in currency of jury cases and a 6% loss in currency of non-jury cases. The Eleventh Circuit shows a comparatively high proportion of uncontested dispositions, there being more than 4 uncontested dispositions for each contested disposition during 1961. Twenty-five of the 30 jury cases reaching verdict during 1961, a much higher than average proportion had been filed in 1960 and 1961. This indicates little delay in jury cases reaching trial. The court trials were also promptly conducted. There would appear to be no problem of delay in this Circuit.

#### **Twelfth Circuit**

While this Circuit is average in size, it is the fourth most populous circuit in the state. It had a 9½% loss in currency of jury cases because of a heavy loss in Will County, and a 2½% gain of currency of non-jury cases due primarily to a clearing of the docket in Kankakee County during January. In relation to its backlog of jury cases, this Circuit completed a high proportion of jury trials (78) during 1961. It ranked 6th in number of jury trials and 11th in jury backlog. Slightly more

than half of the jury cases tried in 1961 were filed prior to 1960. This indicates a delay of about 1½ years in reaching trial. On the other hand, there was little delay in non-jury cases reaching trial. Since the 1960 census this Circuit is entitled by statute to a fourth Circuit Judge. Until a fourth judge can be elected, the temporary assignment of another judge is suggested.

### **Thirteenth Circuit**

About average in size, this Circuit has 77,000 less people than the average downstate circuit. Its largest county is LaSalle. The Circuit had a 14% gain in currency of jury cases during 1961, the highest percentage gain in the State. It also had a 4% gain in the currency of non-jury cases. Of 17 jury cases reaching verdict during 1961, 4 had been filed before 1960 and 13 during 1960. This indicates that there was no serious problem of delay. There was even less delay in bringing non-jury cases to trial. This Circuit's outstanding gain in currency of jury cases is commendable.

### **Fourteenth Circuit**

About average in size and 30,000 above average in population, this Circuit's largest county is Rock Island. It experienced a 27% loss in currency of jury cases due primarily to a heavy loss of currency in Rock Island County. This Circuit's percentage loss of currency of jury cases was exceeded only by the Sixth and Eighth Circuits. There was a very slight loss of currency in the non-jury area. This is the only circuit that had more contested dispositions than uncontested dispositions. Thirty of the 38 jury cases that reached verdict during 1961 were filed in 1960 and 1961, which would indicate less than average delay in jury cases reaching trial. Since the 1961 figures show that the loss in currency is mainly composed of jury cases, it appears that more emphasis should be given to the trial of jury cases.

### **Fifteenth Circuit**

This Circuit is about average in size but contains less population than any other circuit except the Eighth. The Fifteenth Circuit<sup>1</sup> showed a 15% loss of currency of jury cases and a 23½% loss of currency of non-jury cases. It experienced a greater percentage loss of cur-

rency in the non-jury area than any other downstate circuit. Of 13 jury cases reaching verdict during 1961, 7 were filed in 1960 and 6 in 1961, indicating very little delay in reaching trial. Cases involving court trials were likewise disposed of without much delay. Since this Circuit has one of the lightest case loads in the State (only 953 civil cases were begun or reinstated during 1961), it should have no difficulty in recovering from its recent loss of currency.

### **Sixteenth Circuit**

This Circuit is smaller than average in size but is 30,000 larger than average in population. Due primarily to a clearing of the docket in Kane County in May, this Circuit had a gain in currency of jury cases during 1961 of 53, the highest numerical gain of any circuit in the State. It also had a 3% gain in currency of non-jury cases. The Sixteenth Circuit ranked fourth in number of jury trials reaching verdict and 5th in size of jury backlog, which indicates that it had a relatively high number of jury trials in relation to the size of its jury backlog. Of the 89 jury cases reaching verdict, 13 had been filed prior to 1959, 41 in 1959, 27 in 1960, and 8 in 1961. This shows much more than average delay in jury cases reaching trial. As of April, 1962 there was a 12-15 month delay in the trial of jury cases. There seems to be little delay, however, in non-jury cases reaching trial. The substantial progress of this Circuit in the jury area is commendable.

### **Seventeenth Circuit**

This Circuit, consisting of only two counties, is comparatively small in size and less than average in population. One of its counties, Winnebago, has over 200,000 population and the other, Boone, has about 20,000 people. The Circuit had a 23% loss in currency of jury cases during 1961. Only three other downstate circuits had higher percentage losses in currency of jury cases. It had less than a 3% loss of currency of non-jury cases. In proportion to its jury backlog, this Circuit completed a high number of jury trials, ranking 10th in number of jury trials and 15th in size of jury backlog. Of 43 cases in

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<sup>1</sup> Excluding relatively small Jo Daviess County, for which figures are not available.

which juries reached verdicts, 11 were filed prior to 1960. This indicates less than average delay in reaching trial. Interviews with attorneys in Rockford reveal that they are able to obtain trial as soon as they are ready. Under the calendaring procedures in effect in this Circuit (where 2 judges try jury cases simultaneously) 4 to 6 jury cases are set for each day and any cases not tried during the week in which they were set are carried over until the next setting. Thus, the first case set on Monday is always the first case to be tried that week unless it is settled. The Circuit ranked fourth in number of contested court trials completed during 1961, the vast majority of which had been filed in 1960 and 1961. While this Circuit had a substantial number of jury cases reaching verdict during the year, it lost considerable ground in the jury area. However, its backlog of jury cases is still relatively small.

#### **Eighteenth Circuit**

This Circuit, consisting of one county adjacent to Cook, is the smallest in size in the State, but it is over 65,000 above average in population. While it had a 3% gain in currency of jury cases, it had a 15% loss in currency of non-jury cases—a percentage loss exceeded only by the 15th and 20th Circuits. In view of its backlog of jury cases, this Circuit completed a relatively small number of jury trials, ranking 11th in number of jury trials and 7th in the size of its jury backlog. Of 42 cases reaching jury verdicts during 1961, 10 were filed prior to 1959, 16 were filed in 1959, 13 in 1960 and 3 in 1961. This indicates a much more than average delay in the trial of jury cases. Over 50% of the contested court trials involved cases which had been filed prior to 1961. By way of contrast, the downstate average shows that only 34% of the contested court trials were filed prior to 1961. This indicates that the 18th Circuit has more than average delay in reaching court trials. It would accordingly appear that more effort is needed in this Circuit to keep up with its case load and to lessen the delay in the trial of cases.

#### **Nineteenth Circuit**

The Nineteenth Circuit, though it is comparatively small in size, is the most populous circuit, excepting Cook County, in the State. One of its counties, Lake, has 46,000 more people than the average downstate circuit. Its other county, McHenry, has a population of 84,210.

This Circuit had a gain in currency of 489, the highest numerical gain in currency in the State. Its percentage gain in currency of 11% was surpassed only by the 9th Circuit. Almost all of the gain in currency was in the non-jury area. Bolstered by its large number of dismissals for want of prosecution in June (555), this Circuit had the largest number of uncontested dispositions in downstate Illinois. It also had the highest number of contested dispositions and the highest number of jury trials in the downstate area. Of 106 jury cases reaching verdict, 17 were filed prior to 1959, 36 were filed in 1959, 36 in 1960, and 17 in 1961. This would indicate more than average delay in this area. There appears to be no undue delay in the trial of non-jury cases. In view of its extremely heavy workload, this Circuit made remarkable progress during 1961.

### **Twentieth Circuit**

This Circuit, though average in size, has a greater population than any other downstate circuit except the 19th Circuit. The Circuit includes one county (St. Clair) with a metropolitan center and four less populous counties. It is one of the three circuits in Illinois having 4 circuit judges. It had the greatest numerical loss in currency of jury cases (139) and the greatest numerical loss in currency of non-jury cases (568) in downstate Illinois. Almost all of this loss occurred in St. Clair County. Despite the fact that the 20th Circuit has 4 judges, 10 downstate circuits, 8 of which have only 3 judges each, had more dispositions during 1961. This Circuit has the fourth largest backlog of jury cases among the circuits of the State and was fifth highest in the number of jury cases tried. Of the 85 jury cases which reached verdict, 5 were filed prior to 1959, 28 in 1959, 49 in 1960 and 3 in 1961. There is a delay of about 15 months between the time of filing a jury case and the time of reaching trial. Of 579 non-jury cases in which trials were completed, only 11 were filed prior to 1960, 120 were filed in 1960, and 448 in 1961. This would indicate little delay in the trial of non-jury cases. The heavy loss in currency during 1961 may well result in increased delay in the trial of cases. If courtroom facilities are available, the services of an assigned judge from another jurisdiction is suggested.

## Summary

The most serious problem of delay in the trial of cases is in Cook County. However, problems of lesser magnitude are in evidence in several of the other circuits. For example, the highest percentage loss in currency of jury cases was experienced, not in Cook County, but in the 8th, 6th, 14th and 17th Circuits, with losses of 44%, 28%, 27% and 23%, respectively. The 8th Circuit's extremely heavy percentage loss is accounted for by its very low backlog (88) at the beginning of the year and a moderate loss in currency (39). In the non-jury area the highest percentage loss of currency was in the 20th, 15th, 18th and 1st Circuits with losses of 24%, 23½%, 15% and 12%, respectively. By way of contrast, Cook County had only a 1½% loss in currency of non-jury cases.

In general, the delay in the trial of court cases in downstate Illinois was small. Nearly 89% of the cases tried by the court during 1961 were filed in either 1960 or 1961. Even in Cook County most court cases were tried in the same year in which they were filed. Delay in the trial of jury cases was greater throughout the State than delay in the trial of court cases. The least delay was experienced in the 8th and 15th Circuits, neither of which tried any cases during 1961 which had been filed prior to 1960. In the downstate area the greatest delay in the trial of jury cases was experienced in the 10th Circuit, where the delay was about 2 years from time of filing to verdict.

On the average, 40% of the downstate jury cases reaching verdict during 1961 had been filed prior to 1960. This indicates at least a one year delay in 40% of the cases. The law-jury cases reaching verdict in Cook County during the period of September 1, 1961 - March 31, 1962, took an average of 5 years and 11 months from the date of filing to the date of verdict. By way of contrast, the law-jury cases reaching verdict in Cook County during the period of September 1, 1960 - April 30, 1961, took an average of 5 years, 6½ months, from filing to verdict. Thus, it takes 4½ months longer, on the average, for a law-jury case to reach verdict during the current court year than it did the year before.

Table 1

## THE TREND OF CIVIL CASES IN THE CIRCUIT AND SUPERIOR COURTS DURING 1961

	Jury	Jury	Gain or loss in		Non-jury	Non-jury	Gain or loss in		Population (1960)
	Cases Pending, Jan. 1, 1961	Cases Pending, Dec. 31, 1961	Gain	Loss	Cases Pending, Jan. 1, 1961	Cases Pending, Dec. 31, 1961	Gain	Loss	
Circuit Court, Cook County .....	26,076	28,989		2,913	12,450	12,019	431		
Superior Court .....	13,706	14,278		572	13,135	13,922		787	
<b>Total for Cook County..</b>	<b>39,782</b>	<b>43,267</b>		<b>3,485</b>	<b>25,585</b>	<b>25,941</b>		<b>356</b>	<b>5,129,725</b>
<b>First Circuit</b>									
Alexander .....	5	8		3	223	240		17	16,061
Jackson .....	49	53		4	197	232		35	42,151
Johnson .....	7	12		5	14	41		27	6,928
Massac .....	17	14	3		86	79	7		14,341
Pope .....	7	7	0	0	12	14		2	4,061
Pulaski .....	13	14		1	109	123		14	10,490
Saline .....	60	57	3		229	220	9		26,227
Union .....	19	26		7	97	122		25	17,645
Williamson .....	101	120		19	206	246		40	46,117
<b>Total for Circuit.....</b>	<b>278</b>	<b>311</b>		<b>33</b>	<b>1,173</b>	<b>1,317</b>		<b>144</b>	<b>184,021</b>
<b>Second Circuit</b>									
Crawford .....	15	18		3	95	82	13		20,751
Edwards .....	10	11		1	84	70	14		7,940
Franklin .....	80	76	4		282	328		46	39,281
Gallatin .....	7	11		4	80	81		1	7,638
Hamilton .....	11	15		4	53	47	6		10,010
Hardin .....	11	13		2	35	42		7	5,879



Jefferson .....	51	52		1	311	329		18	32,315
Lawrence .....	6	13		7	155	149	6		18,540
Richland .....	10	13		3	173	128	45		16,299
Wabash .....	12	8	4		111	111	0	0	14,047
Wayne .....	6	17		11	146	162		16	19,008
White .....	7	11		4	168	145	23		19,373
<b>Total for Circuit.....</b>	<b>226</b>	<b>258</b>		<b>32</b>	<b>1,693</b>	<b>1,674</b>	<b>19</b>		<b>211,081</b>
<b>Third Circuit</b>									
Bond .....	7	13		6	39	40		1	14,060
Madison .....	656	628	28		1,201	1,218		17	224,689
<b>Total for Circuit.....</b>	<b>663</b>	<b>641</b>	<b>22</b>		<b>1,240</b>	<b>1,258</b>		<b>18</b>	<b>238,749</b>
<b>Fourth Circuit</b>									
Christian .....	64	56	8		167	129	38		37,207
Clay .....	11 <sup>1</sup>	12		1	55 <sup>1</sup>	61		6	15,815
Clinton .....	19	21		2	42	57		15	24,029
Effingham .....	31	37		6	72	101		29	23,107
Fayette .....	32	28	4		81	57	24		21,946
Jasper .....	5	4	1		40	36	4		11,346
Marion .....	59	67		8	91	127		36	39,349
Montgomery .....	37	42		5	77	87		10	31,244
Shelby .....	23	26		3	85	58	27		23,404
<b>Total for Circuit.....</b>	<b>281</b>	<b>293</b>		<b>12</b>	<b>710</b>	<b>713</b>		<b>3</b>	<b>227,447</b>
<b>Fifth Circuit</b>									
Clark .....	10	5	5		67	86		19	16,546
Coles .....	78	53	25		232	300		68	42,860
Cumberland .....	14	15		1	125	152		27	9,936
Edgar .....	31	36		5	102	105		3	22,550
Vermilion .....	138	188		50	577	359	218		96,176
<b>Total for Circuit.....</b>	<b>271</b>	<b>297</b>		<b>26</b>	<b>1,103</b>	<b>1,002</b>	<b>101</b>		<b>188,068</b>

<sup>1</sup> No January or February reports, so March 1 figures used.

**THE TREND OF CIVIL CASES DURING 1961—Cont.**

	Jury Cases Pending,		Gain or loss in currency of jury cases		Non-jury Cases Pending,		Gain or loss in currency of non-jury cases		Population (1960)
	Jan. 1, 1961	Dec. 31, 1961	Gain	Loss	Jan. 1, 1961	Dec. 31, 1961	Gain	Loss	
<b>Sixth Circuit</b>									
Champaign .....	279	388		109	498	523		25	132,436
DeWitt .....	9	14		5	76	135		59	17,253
Douglas .....	21	37		16	65	110		45	19,243
Macon .....	132	136		4	711	652	59		118,257
Moultrie .....	10	9	1		72	89		17	13,635
Piatt .....	20	20	0	0	42	31	11		14,960
<b>Total for Circuit.....</b>	<b>471</b>	<b>604</b>		<b>133</b>	<b>1,464</b>	<b>1,540</b>		<b>76</b>	<b>315,784</b>
<b>Seventh Circuit</b>									
Greene .....	30	22	8		30	46		16	17,460
Jersey .....	23	27		4	77	86		9	17,023
Macoupin .....	152	141	11		315	420		105	43,524
Morgan .....	37	47		10	120	145		25	36,571
Sangamon .....	244	216	28		1,593	1,380	213		146,539
Scott .....	7	7	0	0	24	27		3	6,377
<b>Total for Circuit.....</b>	<b>493</b>	<b>460</b>	<b>33</b>		<b>2,159</b>	<b>2,104</b>	<b>55</b>		<b>267,494</b>
<b>Eighth Circuit</b>									
Adams .....	49	69		20	154	143	11		68,467
Brown .....	1	4		3	25	27		2	6,210
Calhoun .....	8	5	3		17	16	1		5,933
Cass .....	4	7		3	53	40	13		14,539
Mason .....	13	14		1	77	72	5		15,193
Menard .....	5	5	0	0	28	47		19	9,248
Pike .....	6	12		6	66	61	5		20,552
Schuyler .....	2	11		9	2	4		2	8,746
<b>Total for Circuit.....</b>	<b>88</b>	<b>127</b>		<b>39</b>	<b>422</b>	<b>410</b>	<b>12</b>		<b>148,888</b>

<b>Ninth Circuit</b>								
Fulton .....	63	54	9		150	169	19	41,954
Hancock .....	3	6		3	105	129	24	24,574
Henderson .....	14	17		3	60	73	13	8,237
Knox .....	42	43		1	468	310	158	61,280
McDonough .....	15	11	4		109	91	18	28,928
Warren .....	16	17		1	94	86	8	21,587
<b>Total for Circuit.....</b>	<b>153</b>	<b>148</b>	<b>5</b>		<b>986</b>	<b>858</b>	<b>128</b>	<b>186,560</b>
<b>Tenth Circuit</b>								
Marshall .....	9 <sup>1</sup>	13		4	58 <sup>1</sup>	57	1	13,334
Peoria .....	821	807	14		1,284	1,167	117	189,044
Putnam .....	13	14		1	54	58	4	4,570
Stark .....	8	13		5	71	74	3	8,152
Tazewell .....	264	262	2		386	424	38	99,789
<b>Total for Circuit.....</b>	<b>1,115</b>	<b>1,109</b>	<b>6</b>		<b>1,853</b>	<b>1,780</b>	<b>73</b>	<b>314,889</b>
<b>Eleventh Circuit</b>								
Ford .....	32	32	0	0	82	71	11	16,606
Livingston .....	33	36		3	155	175	20	40,341
Logan .....	52	55		3	167	203	36	33,656
McLean .....	380	379	1		32	55	23	83,877
Woodford .....	32	29	3		73	36	37	24,579
<b>Total for Circuit.....</b>	<b>529</b>	<b>531</b>		<b>2</b>	<b>509</b>	<b>540</b>	<b>31</b>	<b>199,059</b>
<b>Twelfth Circuit</b>								
Iroquois .....	43	29	14		121	111	10	33,562
Kankakee .....	112	83	29		582	504	78	92,063
Will .....	269	352		83	532	589	57	191,617
<b>Total for Circuit.....</b>	<b>424</b>	<b>464</b>		<b>40</b>	<b>1,235</b>	<b>1,204</b>	<b>31</b>	<b>317,242</b>

<sup>1</sup> Figures not available for January, February or March, so April 1 figures given.

**THE TREND OF CIVIL CASES DURING 1961—Cont.**

	Jury Cases Pending, Jan. 1, 1961	Jury Cases Pending, Dec. 31, 1961	Gain or loss in currency of jury cases		Non-jury Cases Pending, Jan. 1, 1961	Non-jury Cases Pending, Dec. 31, 1961	Gain or loss in currency of non-jury cases		Population (1960)
			Gain	Loss			Gain	Loss	
<b>Thirteenth Circuit</b>									
Bureau .....	49	58		9	78	86		8	37,594
Grundy .....	23	16	7		40	36	4		22,350
LaSalle .....	215	172	43		265	246	19		110,800
<b>Total for Circuit .....</b>	<b>287</b>	<b>246</b>	<b>41</b>		<b>383</b>	<b>368</b>	<b>15</b>		<b>170,744</b>
<b>Fourteenth Circuit</b>									
Henry .....	44	42	2		129	165		36	49,317
Mercer .....	13	8	5		46	41	5		17,149
Rock Island .....	193	268		75	622	619	3		150,991
Whiteside .....	22	28		6	168	144	24		59,887
<b>Total for Circuit .....</b>	<b>272</b>	<b>346</b>		<b>74</b>	<b>965</b>	<b>969</b>		<b>4</b>	<b>277,344</b>
<b>Fifteenth Circuit</b>									
Carroll .....	16	14	2		51	54		3	19,507
JoDaviess .....		Not Available							21,821
Lee .....	37	44		7	112	125		13	38,749
Ogle .....	26	23	3		94	126		32	38,106
Stephenson .....	25	39		14	156	205		49	46,207
<b>Total for Circuit .....</b>	<b>104<sup>2</sup></b>	<b>120<sup>2</sup></b>		<b>16<sup>2</sup></b>	<b>413<sup>2</sup></b>	<b>510<sup>2</sup></b>		<b>97<sup>2</sup></b>	<b>164,390</b>
<b>Sixteenth Circuit</b>									
DeKalb .....	64	85		21	210	209	1		51,714
Kane .....	612	533	79		933	904	29		208,246
Kendall .....	33	38		5	72	68	4		17,540
<b>Total for Circuit .....</b>	<b>709</b>	<b>656</b>	<b>53</b>		<b>1,215</b>	<b>1,181</b>	<b>34</b>		<b>277,500</b>

<sup>2</sup> Not including JoDaviess County.

<b>Seventeenth Circuit</b>							
Boone .....	20	27	7	80	90	10	20,326
Winnebago .....	252	307	55	1,505	1,538	33	209,765
<b>Total for Circuit .....</b>	<b>272</b>	<b>334</b>	<b>62</b>	<b>1,585</b>	<b>1,628</b>	<b>43</b>	<b>230,091</b>
<b>Eighteenth Circuit</b>							
DuPage .....	565	547	18	1,391	1,600	209	313,459
<b>Total for Circuit .....</b>	<b>565</b>	<b>547</b>	<b>18</b>	<b>1,391</b>	<b>1,600</b>	<b>209</b>	<b>313,459</b>
<b>Nineteenth Circuit</b>							
Lake .....	1,094	1,087	7	2,134	1,781	353	293,656
McHenry .....	258	246	12	833	716	117	84,210
<b>Total for Circuit .....</b>	<b>1,352</b>	<b>1,333</b>	<b>19</b>	<b>2,967</b>	<b>2,497</b>	<b>470</b>	<b>377,866</b>
<b>Twentieth Circuit</b>							
Monroe .....	21	21	0	48	43	5	15,507
Perry .....	26	22	4	115	126	11	19,184
Randolph .....	43	53	10	174	228	54	29,988
St. Clair .....	706	841	135	2,033	2,573	540	262,509
Washington .....	11	9	2	48	37	11	13,569
<b>Total for Circuit .....</b>	<b>807</b>	<b>946</b>	<b>139</b>	<b>2,418</b>	<b>3,007</b>	<b>589</b>	<b>340,757</b>
Downstate Total .....	9,360	9,771	411	25,884	26,160	276	4,951,433
Cook County .....	39,782	43,267	3,485	25,585	25,941	356	5,129,725
<b>State Total .....</b>	<b>49,142</b>	<b>53,038</b>	<b>3,896</b>	<b>51,469</b>	<b>52,101</b>	<b>632</b>	<b>10,081,158</b>

Table 2

**THE NATURE OF THE DISPOSITION OF  
CIVIL CASES IN THE CIRCUIT AND  
SUPERIOR COURTS DURING 1961**

Circuit	Total No. of Dispositions	No. of Uncontested Dispositions	No. of Contested Dispositions
Cook .....	43,418	31,815	11,603
First .....	923	502	421
Second .....	1,461	823	638
Third .....	1,668	1,072	596
Fourth .....	973*	672*	301*
Fifth .....	1,248	661	587
Sixth .....	1,842	968	874
Seventh .....	2,006	1,207	799
Eighth .....	730	497	233
Ninth .....	1,186	695	491
Tenth .....	2,604	1,590	1,014
Eleventh .....	773	623	150
Twelfth .....	1,905	1,276	629
Thirteenth .....	1,139	649	490
Fourteenth .....	1,545	715	830
Fifteenth .....	860	487	373
Sixteenth .....	2,126	1,440	686
Seventeenth .....	2,006	1,112	894
Eighteenth .....	1,957	1,099	858
Nineteenth .....	3,836	2,456	1,380
Twentieth .....	1,510	846	664
Downstate Total .....	32,298	19,390	12,908
State Total .....	75,716	51,205	24,511

\* Clay County's January and February dispositions and Christian County's March dispositions not included.

**Table 3**  
**AGE OF CONTESTED CASES TRIED IN THE**  
**CIRCUIT AND SUPERIOR COURTS DURING 1961**

Circuit	Total Jury Trials	Filed before 1955	Filed in 1955	Filed in 1956	Filed in 1957	Filed in 1958	Filed in 1959	Filed in 1960	Filed in 1961	Total Court Trials
Cook .....	388	106	179	7	8	17	24	31	16	9,142
1st .....	35	1			1	4	6	13	9	386
2nd .....	32	1				1	9	15	6	600
3rd* (Madison) .....	94	3	5	10	3	5	17	36	15	463
4th .....	52 <sup>1</sup>		1	1	3	2	12	23	10	249 <sup>1</sup>
5th .....	75				2	2	6	46	19	512
6th* (Champaign and Macon)	34				1	2	5	21	5	838
7th* (Sangamon) .....	66		1	2	2	3	21	32	5	733
8th .....	6							4	2	226
9th .....	11						1	7	3	486
10th* (Peoria and Tazewell)	21	1	1	1		8	9	1		993
11th .....	30				1		4	16	9	120
12th* (Will) .....	78	2	1		1	6	30	37	1	551
13th* (LaSalle) .....	17					1	3	13		473
14th* (Rock Island) .....	38					3	5	23	7	792
15th .....	13							7	6	360
16th* (Kane) .....	89	1	1	2	2	7	41	27	8	597
17th* (Winnebago) .....	43	1				2	8	20	12	851
18th* (DuPage) .....	42	2		1	2	5	16	13	3	816
19th* (Lake) .....	106		2	1	6	8	36	36	17	1,274
20th* (St. Clair) .....	85		1			4	28	49	3	579
Downstate Total .....	967	12	13	18	24	63	257	439	140	11,899
State Total .....	1,355	118	192	25	32	80	281	470	156	21,041

\* Denotes circuits containing counties of over 100,000 population, with names of such counties in parentheses.

<sup>1</sup> Clay County's Jan. and Feb. reports and Christian County's March report were not available and so not included.



Filed before 1955	Filed in 1955	Filed in 1956	Filed in 1957	Filed in 1958	Filed in 1959	Filed in 1960	Filed in 1961	Circuit's Relative Position in No. of Jury Trials	Circuit's Relative Position in Backlog of Jury Cases on Jan. 1, 1961	% of Total Jury Dispositions That Reached Verdict	% of Jury Cases Reaching Trial in 1961 That Had Been Filed Prior to 1960
114	107	58	100	378	1,747	2,959	3,679	1	1	3½	88
1	1	1	2	2	19	89	271	13	14	18	34
9	2	4	9	21	45	228	282	15	18	23	34
3		2	11	6	18	41	382	3	6	21	46
	3		2	5	32	85	122	9	13	27½	36½
7		1	8	12	30	187	267	7	17	38	13
4	1	2	1	13	62	202	553	14	10	11	23½
14	5	2	7	11	38	184	472	8	9	24	44
3			2	2	11	73	135	21	21	10½	0
19	3	4	9	15	32	134	270	20	19	11	9
10	2	5	6	22	67	280	601	17	3	4	95
2			2	2	11	45	58	16	8	17	17
3	1	4	8	20	37	198	280	6	11	25	51
1				5	20	119	328	18	12	7	23½
30	7	10	13	16	32	156	528	12	15	16	21
		1	2	4	14	71	268	19	20	13	0
3	2	2	4	13	49	203	321	4	5	23	61
1				3	12	297	538	10	15	25	25½
1	1	3	3	24	83	304	397	11	7	10	62
25	6	12	25	83	86	400	637	2	2	17	50
2		1		2	6	120	448	5	4	19	39
138	34	54	114	281	704	3,416	7,158			17	40
252	141	112	214	659	2,451	6,375	10,837			8	54

## CRIMINAL CASES IN THE CIRCUIT COURTS AND THE CRIMINAL COURT OF COOK COUNTY

There were 978 criminal cases pending in Cook County on January 1, 1961, compared to 759 cases on December 31, 1961, showing a 22% gain of currency during the year. Downstate Circuits 1 through 20 had 2,827 cases pending on January 1, 1961, compared with 3,201 cases pending on December 31, 1961. This showed a 13% loss in currency. While Cook County had 274 more cases begun or reinstated during 1961 than the combined number for downstate Circuits 1 through 20, Cook County disposed of 866 more cases than the downstate circuits.

The 20th Circuit, which had the largest backlog of criminal cases in downstate Illinois, sustained the greatest numerical loss in currency in the State during 1961. This Circuit also had the largest number of criminal cases begun or reinstated during 1961 and the highest percentage (84.18%) of convictions.<sup>1</sup> The 6th Circuit, however, disposed of the largest number of criminal cases during the year, and the 17th Circuit had the largest number of defendants tried by juries.

No serious delays were noted in the trial of criminal cases. For example, in 1961, 6,654 cases were disposed of. The total number of cases pending at the end of each month during the year varied only from 4,123 to 3,666, indicating, on the average, a fairly rapid disposal of criminal cases in this State.

Of the 6,654 criminal cases terminated in the State during the year, 43½% were disposed of in the 20 circuits outside of Cook County and 56½% by the Criminal Court of Cook County. There were 416 defendants tried by juries in the State during the year, 36% of whom were acquitted and 64% of whom were convicted. Of 1,357 defendants tried before courts without juries, 41% were acquitted and 59% were convicted.

Of the 416 defendants tried by juries during the year, 55% were tried in Cook County and 45% downstate. Of

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<sup>1</sup>The 19th Circuit had 84.14% convictions and the 11th Circuit, 83.7%.

those tried in Cook County, 32% were acquitted, while 41% of those tried downstate were acquitted. Of 1,357 defendants tried by the court without a jury, 83% were tried in Cook County and 17% downstate, which indicates a much greater emphasis on court trials in Cook County than downstate. Of the 1,124 trials by the court without a jury in Cook County, 41% were acquitted. In the 20 circuits outside Cook, 43% of the 233 cases tried by court were acquitted.

In Cook County 1,074 defendants were not convicted and of that number the cases against 545 defendants or 51% were dismissed. In downstate Circuits 1 through 20, 83% of the 1,026 cases against defendants not convicted were dismissed.

In Cook County, of 2,713 defendants who were convicted and sentenced during 1961, 70% pleaded guilty. By way of contrast, 90% of the defendants who were convicted and sentenced in the 20 downstate circuits pleaded guilty. This would indicate that downstate defendants are in general more likely to plead guilty than those in Cook County. In the 3rd Circuit 100% of the defendants who were convicted and sentenced had pleaded guilty, while in the 7th Circuit only 64% pleaded guilty. This was the lowest percentage of any circuit in the State.

In Cook County, of 2,713 defendants convicted, 76% were sentenced to imprisonment. In downstate Circuits 1 through 20, 57% of the defendants convicted were sentenced to imprisonment. Most of the remaining defendants were granted probation, but a much higher percentage of the defendants in downstate Circuits 1 through 20 received probation than in Cook County. Less than 2% of the defendants in the State received only fines.

**Table 4**  
**THE TREND OF CRIMINAL CASES DURING 1961**

Circuit	No. of Cases Pending on Jan. 1, 1961	No. of Cases begun or reinstated in 1961	No. of Cases Disposed of in 1961	No. of Cases Pending Dec. 31, 1961	Gain or Loss in Currency Gain      Loss
Cook County....	978	3,541	3,760	759	219
1st .....	229	117	136	210	19
2nd .....	206	127	95	238	32
3rd .....	108	119	123	104	4
4th .....	166	186*	145*	204	38
5th .....	211	136	140	207	4
6th .....	139	255	262	132	7
7th .....	217	245	219	243	26
8th .....	28	83	74	37	9
9th .....	141	134	142	133	8
10th .....	146	210	178	178	32
11th .....	45	137	124	58	13
12th .....	31	126	127	30	1
13th .....	26	152	122	56	30
14th .....	142	197	158	181	39
15th .....	55	114	127	46	9
16th .....	74	159	125	108	34
17th .....	73	188	178	83	10
18th .....	87	126	138	75	12
19th .....	280	138	121	297	17
20th .....	423	318	160	581	158
Downstate Total	2,827	3,267	2,894	3,201	374
State Total .....	3,805	6,808	6,654	3,960	155

\* Jan. and Feb. reports for Clay County and March report for Christian County not included in totals.

**Table 5**  
**DISPOSITION OF DEFENDANTS IN CRIMINAL CASES TERMINATED DURING 1961**

CIRCUIT	Total No. of Defendants	NOT CONVICTED				CONVICTED AND SENTENCED				TYPE OF SENTENCE		
		Total	Dismissed	Acquitted by Court	Acquitted by Jury	Total	Plead Guilty	Convicted by Court	Convicted by Jury	Imprisonment	Probation	Fine Only
Cook County ...	3787	1074	545	456	73	2713	1889	668	156	2055	614	44
1st .....	170	42	40	1	1	128	125		3	94	34	
2nd .....	105	43	41	1	1	62	57	1	4	48	14	
3rd .....	152	52	50		2	100	100			40	59	1
4th .....	187 <sup>1</sup>	50 <sup>1</sup>	47 <sup>1</sup>		3 <sup>1</sup>	137 <sup>1</sup>	129 <sup>1</sup>	4 <sup>1</sup>	4 <sup>1</sup>	91 <sup>1</sup>	40 <sup>1</sup>	6 <sup>1</sup>
5th .....	135	58	54		4	77	65	5	7	43	32	2
6th .....	283	77	66	3	8	206	190	7	9	92	113	1
7th .....	244	50	42	3	5	194	125	54	13	111	74	9
8th .....	76	14	14			62	60	2		44	18	
9th .....	186	43	42	1		143	137	5	1	68	71	4
10th .....	242	123	119		4	119	112		7	75	44	
11th .....	123	20	12	4	4	103	91	8	4	54	48	1
12th .....	162	52	40	8	4	110	91	11	5	50	53	7
13th .....	81	19	18	1		62	60		2	35	27	
14th .....	211	76	68	3	5	135	124	2	8	77	58	
15th .....	134	34	31	2	1	100	94	3	3	57	39	4
16th .....	169	46	42	1	3	123	118	1	4	100	22	1
17th .....	262	75	50	4	21	187	147	10	30	87	100	
18th .....	202	101	96	2	3	101	98	2	1	57	40	3
19th .....	145	23	16	3	4	122	113	5	4	52	70	
20th .....	177	28	25		3	149	134	13	2	96	53	
Downstate Total	3446	1026	913	37	76	2420	2170	133	111	1371	1009	39
Cook County...	3787	1074	545	456	73	2713	1889	668	156	2055	614	44
State Total ....	7233	2100	1458	493	149	5133	4659	801	267	3426	1623	83

<sup>1</sup> Clay County's January and February dispositions and Christian County's March dispositions not included.

## COUNTY AND PROBATE COURTS

The information that my office sought from the county and probate clerks in my last questionnaires to them called for substantially more data than were previously requested from them. The pressing reason for this was to obtain a more accurate and comprehensive insight into the work loads of the county and probate courts and also to secure data on which to base invitations to the judges of these courts to serve on assignments in other courts. In drafting the questions for these reports we had the helpful assistance of some of the judges and clerks of these courts. I wish to express my appreciation to the various clerks for the cooperation we have had from them and to express the hope that the difficulties some of them encountered with the questionnaires this year will be lessened in the future.<sup>1</sup>

In most of the counties of the State the County Judges administer probate matters as well as the other responsibilities assigned to county judges. The counties of Cook, Kane, DuPage, Lake, LaSalle, Madison, McLean, Peoria, Rock Island, Sangamon, St. Clair, Vermilion, Will and Winnebago have separate probate courts. Champaign and Macon counties are scheduled to elect probate judges in December of this year.

### THE TREND OF CRIMINAL CASES IN THE COUNTY COURTS DURING 1961

There were 5,590 criminal cases pending in the county courts on January 1, 1961. By December 31, 1961, this number had increased by 26% to 7,057. Most of this increase was downstate. There was very little loss of currency in Cook County. There were thirty-five counties in each of which the court disposed of less than 50 criminal cases during 1961. The five county courts having the highest number of criminal dispositions were Vermilion, 1,206; St. Clair, 1,010; Winnebago, 817; Franklin, 476; and Champaign, 414. The average number of cases disposed of per county was 131. The five county courts having the largest backlogs of criminal cases on December 31, 1961, were Rock Island, 482; Kane, 454; St. Clair, 425; Champaign, 332, and Vermilion, 322.

<sup>1</sup> The clerks for a few of the counties have not made reports and some of the reports were partially incomplete or inaccurate. The clerks of the following counties have not reported: Clay, Hardin and Lake. Reports from the clerks of the following counties were incomplete or partially inaccurate: Adams, Christian, Clark, Crawford, Cumberland, DuPage, Franklin, Henderson, Jersey, Macoupin, Marion, Marshall, McHenry, Peoria, Union, Whiteside, Winnebago and Will.

## THE TREND OF CIVIL CASES IN THE COUNTY AND PROBATE COURTS DURING 1961

On January 1, 1961, there were 20,048 civil cases (other than probate) pending in the county courts of Illinois. On December 31, 1961, this number had increased by 20% to 23,996. In the downstate counties the increase was from 11,374 to 14,492 cases, an increase of 27%, and in Cook County from 8,674 to 9,504, an increase of 10%.

The greatest percentage loss of currency was in the area of jury cases. There was a 66% loss in currency of jury cases, a 62% loss in currency of proceedings involving taxes and special assessments, a 31% loss in currency of common-law proceedings, but a 1% gain in currency of proceedings involving mental illness or deficiency and a 13% gain in currency of proceedings involving families and children.

Only 16 counties showed a gain in currency during the year, with Sangamon County showing the largest gain (651 cases). Cook County, on the other hand, had the greatest loss of currency (830 cases). Several other counties showed serious losses in currency: Champaign, 498 cases; Jefferson, 423 cases; St. Clair, 300 cases; Madison, 258 cases; Kane, 248 cases; and Stephenson, 172 cases.

Table 2 reveals a wide disparity in the workloads of the county courts. Except for Cook County, DuPage County had the highest number of cases begun or reinstated (2,876) during 1961, and Champaign County was next with 1,631 cases begun or reinstated. On the other hand, Putnam County had the fewest number of cases (10) begun or reinstated during 1961, and 26 of the 102 counties in the State each had less than 50 cases begun or reinstated during 1961.

Of the 43,789 civil cases (other than probate) begun or reinstated in Illinois during 1961, 29% were proceedings involving taxes or special assessments, 26% were proceedings involving mental illness or deficiency, 25% were proceedings involving families and children, 19% were common-law cases and 4½% were jury cases.<sup>1</sup> Seven per cent of the cases begun or reinstated in Cook County were jury cases.

**THE TREND OF CRIMINAL CASES IN THE  
COUNTY COURTS IN 1961—Cont.**

County	Cases Pending 1/1/61	Cases Begun or Reinstated During 1961	Cases Disposed of During 1961	Cases Pending 12/31/61
Lee .....	4	63	58	9
Livingston .....	0	207	207	0
Logan .....	16	60	55	21
Macon .....	120	387	367	140
Maccoupin .....	0	157	75	82
Madison .....	287	228	230	285
Marion .....	60	83	46	97
Marshall .....	3	32	30	5
Mason .....	116	44	34	126
Massac .....	28	171	166	33
McDonough .....	80	55	52	83
McHenry .....	0	198	178	20
McLean .....	16	184	162	38
Menard .....	5	10	15	0
Mercer .....	24	94	80	38
Monroe .....	0	6	4	2
Montgomery .....	5	46	46	5
Morgan .....	85	49	110	24
Moultrie .....	4	42	33	13
Ogle .....	2	128	99	31
Peoria .....	55	105	87	73
Perry .....	4	11	10	5
Piatt .....	0	50	42	8
Pike .....	10	72	58	24
Pope .....	0	9	5	4
Pulaski .....	101	85	97	89
Putnam .....	0	0	0	0
Randolph .....	40	137	79	98
Richland .....	5	48	36	17
Rock Island .....	310	570	398	482
Saline .....	68	196	129	135
Sangamon .....	28	332	231	129
Schuyler .....	70	20	20	70
Scott .....	16	20	19	17
Shelby .....	1	44	34	11
Stark .....	0	5	5	0
St. Clair .....	200	1,235	1,010	425
Stephenson .....	19	96	85	30
Tazewell .....	182	80	162	100
Union .....	0	43	43	0
Vermilion .....	109	1,419	1,206	322
Wabash .....	0	122	99	23
Warren .....	82	110	70	122
Washington .....	5	31	23	13
Wayne .....	394	56	411	39
White .....	35	80	65	50
Whiteside .....	38	170	151	57
Will .....	99	339	359	79
Williamson .....	24	311	295	40
Winnebago .....	266	865	817	314
Woodford .....	6	45	35	16
Downstate Total.....	5,336	14,094	12,631	6,799
Cook County.....	254	259	255	258
State Total .....	5,590	14,353	12,886	7,057



Table 2

**THE TREND OF CIVIL CASES (OTHER THAN PROBATE) IN THE COUNTY COURTS IN 1961**

County	Cases Pending 1/1/61	Cases begun or Reinstated during 1961	Cases Terminated during 1961	Cases Pending 12/31/61	Gain or loss in currency	
					Gain	Loss
Cook	8,674	21,513	20,683	9,504		830
Adams		37				
Alexander	0	203	155	48		48
Bond	42	85	18	109		67
Boone	7	50	48	9		2
Brown	0	16	12	4		4
Bureau	36	155	145	46		10
Calhoun	0	20	7	13		13
Carroll	7	64	60	11		4
Cass	6	112	103	15		9
Champaign	366	1,631	1,133	864		498
Christian	132	226	195	163		31
Clark	0	53	20	33		33
Clay						
Clinton	83	46	32	97		14
Coles	0	164	116	48		48
Crawford	93	109	30	172		79
Cumberland	0	25	25	0	0	0
De Kalb	57	142	87	112		55
De Witt	37	123	110	50		13
Douglas	0	114	93	21		21
Du Page		2,876				
Edgar	15	147	77	85		70
Edwards	9	26	29	6	3	
Effingham	14	71	57	28		14
Fayette	662	84	88	658	4	
Ford	16	40	31	25		9
Franklin	84	265	125	224		140
Fulton	253	97	56	294		41
Gallatin	7	38	25	20		13
Greene	35	123	88	70		35
Grundy	10	254	242	22		12
Hamilton	28	112	25	115		87
Hancock	44	60	48	56		12
Hardin						
Henderson	42	29	16	55		13
Henry	378	193	324	247	131	
Iroquois	37	278	273	42		5
Jackson	74	304	267	111		37
Jasper	9	18	18	9	0	0
Jefferson	396	572	149	819		423
Jersey	31	167	50	148		117
Jo Daviess	18	49	47	20		2
Johnson	11	22	13	20		9
Kane	1,225	1,082	834	1,473		248
Kankakee	85	336	284	137		52
Kendall	51	63	53	61		10
Knox	26	269	223	72		46
Lake						
La Salle	146	520	482	184		38
Lawrence	3	42	27	18		15
Lee	21	72	44	49		28
Livingston	69	114	123	60	9	

The number of common-law cases begun or reinstated during 1961 in downstate Illinois ranged from none in several counties to 482 in Will County. The number of proceedings involving families and children begun or reinstated during 1961 ranged from one each in Calhoun, Hamilton and Monroe Counties to 430 in Peoria County. The number of proceedings involving mental illness or deficiency ranged from none in several counties to 547 in Madison County. The number of proceedings involving taxes or special assessments ranged from none in several counties to 1,866 in DuPage County. Finally, the number of jury cases begun or reinstated during 1961 ranged from none in many counties to 84 in Will County.

Of 36,815 civil cases (other than probate) disposed of in Illinois, 91% were uncontested and only 0.7% involved jury cases reaching verdict. Sangamon County had the largest number of cases terminated (1,347), while Calhoun County had the fewest number of cases terminated (7). Thirty-four counties each had less than 50 cases terminated during 1961.

The number of probate cases begun in downstate Illinois ranged from 767 cases in St. Clair County to 14 cases each in Calhoun and Pope Counties. The number of probate cases terminated in downstate Illinois ranged from 734 cases in Lake County to 5 in Mason County. Thirty-three counties each terminated less than 50 probate cases during the year. Cook County sustained a loss in currency of 2,273 probate cases. Of these 2,273 cases, 1,209 involved loss in currency of estates of decedents, 611 involved guardianships, and 453 conservatorships. The downstate counties had a loss in currency of 4,286 probate cases. Of these, 2,595 involved loss in currency of estates of decedents, 799 involved guardianships, 702 conservatorships and 190 other probate proceedings.

It is apparent that the vast majority of the probate cases involved estates of decedents. There were about twice as many guardianships as conservatorships and a few "Other Probate" proceedings.

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<sup>1</sup> Most of the jury cases were also classified under one of the other categories.

**Table 2a**  
**NUMBER OF CIVIL CASES (OTHER THAN**  
**PROBATE) BEGUN OR REINSTATED**  
**DURING 1961**

	Common Law	Families and Children	Mental Illness or Deficiency	Taxes of Any Kind	Jury Cases
Downstate ...	5,009	6,196	4,809	5,786	479
Cook .....	3,185	4,618	6,764	6,946	1,485
State Total...	8,194	10,814	11,573	12,732	1,964

**Table 3**  
**THE NATURE OF DISPOSITION OF CIVIL CASES**  
**(OTHER THAN PROBATE) IN THE COUNTY**  
**COURTS DURING 1961**

County	Total Dispositions	Uncontested Dispositions	Jury Verdicts	Non-jury Contested Dispositions
Cook .....	20,683	20,320	91	272
Adams .....				
Alexander .....	155	150	5	
Bond .....	18	14	2	2
Boone .....	52	42	3	7
Brown .....	12	12	0	0
Bureau .....	145	126	2	17
Calhoun .....	21	21	0	0
Carroll .....	60	48	1	11
Cass .....	103	103	0	0
Champaign .....	989	972	5	12
Christian .....	195	168	1	26
Clark .....	20	20	0	0
Clay .....				
Clinton .....	32	31	1	0
Coles .....	116	103	0	13
Crawford .....	30	14	0	2
Cumberland .....				
DeKalb .....	87	77	2	8
DeWitt .....	110	110	0	0
Douglas .....	93	62	3	15
DuPage .....				
Edgar .....	77	62	0	15
Edwards .....	29	27	1	1
Effingham .....	57	57	0	0
Fayette .....	89	87	1	1
Ford .....	31	31	0	0
Franklin .....				
Fulton .....	56	56	0	0
Gallatin .....	24	23	0	1
Greene .....	88	85	2	1
Grundy .....	242	234	0	8
Hamilton .....	25	25	0	0
Hancock .....	48	18	0	30
Hardin .....				
Henderson .....	16	11	1	4
Henry .....	315	293	8	14
Iroquois .....	273	273	0	0
Jackson .....	267	176	3	88
Jasper .....	18	18	0	0
Jefferson .....	144	138	0	6
Jersey .....	146	145	1	0
Jo Daviess .....	47	47	0	0
Johnson .....	13	4	0	9
Kane .....	834	759	4	71
Kankakee .....	284	269	3	12
Kendall .....	53			
Knox .....	223	219		4
Lake .....				
LaSalle .....	482	464	6	12
Lawrence .....	27	23	0	4

**THE NATURE OF DISPOSITION OF CIVIL CASES  
(OTHER THAN PROBATE) IN THE COUNTY  
COURTS DURING 1961—Cont.**

County	Total Dispositions	Uncontested Dispositions	Jury Verdicts	Non-jury Contested Dispositions
Lee	44	34	0	10
Livingston	123	115	2	6
Logan	79	78	0	1
Macon	746	629	8	109
Macoupin				
Madison	1,071	1,034	4	33
Marion				
Marshall				
Mason	186	186	0	0
Massac	117	96	3	18
McDonough	465	350	0	115
McHenry	150	130	2	8
McLean	475	437	1	37
Menard	23	21	0	2
Mercer	70	68	0	2
Monroe	13	13	0	0
Montgomery	102	101	1	0
Morgan	265	253	1	11
Moultrie	9	9	0	0
Ogle	79	0	0	79
Peoria				
Perry	63	59	0	4
Piatt	30	30	0	0
Pike	54	53	1	0
Pope	10	10	0	0
Pulaski	152	151	1	0
Putnam	3	3	0	0
Randolph	20	16	4	0
Richland	25	24	0	1
Rock Island	1,017	101	5	911
Saline	53	52	1	0
Sangamon	1,347	1,340	3	4
Schuyler	15	15	0	0
Scott	27	27	0	0
Shelby	39	38	0	1
Stark	47	43	0	4
St. Clair	835	75	15	745
Stephenson	176	174	2	0
Tazewell	277	271	5	1
Union				
Vermilion	308	190	8	110
Wabash	35	33	0	2
Warren	51	34	2	15
Washington	46	41	0	5
Wayne	160	112	2	46
White	72	0	0	72
Whiteside				
Will	534	498	16	20
Williamson	209	151	0	58
Winnebago	364	244	11	109
Woodford	53	51	1	1
Downstate Total	16,132	13,007	154	2,934
Cook County	20,683	20,320	91	272
State Total	36,815	33,327	245	3,206

Table 4

**REPORT ON PROBATE PROCEEDINGS IN THE  
COUNTY AND PROBATE COURTS IN 1961**

County	Number of Cases begun in 1961	Number of Cases terminated in 1961
Cook	11,505	9,232
Adams	427	260
Alexander	63	34
Bond	58	44
Boone	100	18
Brown	27	38
Bureau	204	190
Calhoun	14	21
Carroll	122	77
Cass	54	63
Champaign	500	333
Christian	211	
Clark	94	74
Clay		
Clinton	92	91
Coles	250	222
Crawford	88	79
Cumberland	47	44
DeKalb	246	185
DeWitt	112	110
Douglas	132	125
DuPage	559	370
Edgar	144	103
Edwards	54	22
Effingham	108	14
Fayette	131	105
Ford	90	76
Franklin	164	119
Fulton	367	232
Gallatin	23	20
Greene	107	38
Grundy	70	67
Hamilton	144	20
Hancock	141	142
Hardin		
Henderson	51	41
Henry	248	222
Iroquois	184	149
Jackson	161	94
Jasper	52	30
Jefferson	125	57
Jersey	69	6
Jo Daviess	140	146
Johnson	20	25
Kane	636	534
Kankakee	151	303
Kendall	61	6
Knox	317	13
Lake	652	734
LaSalle	449	366
Lawrence	61	
Lee	140	106

## REPORT ON PROBATE PROCEEDINGS IN THE COUNTY AND PROBATE COURTS IN 1961—Cont.

County	Number of Cases begun in 1961	Number of Cases terminated in 1961
Livingston	241	183
Logan	139	104
Macon	428	436
Macoupin	308	233
Madison	539	532
Marion	165	88
Marshall	108	31
Mason	73	5
Massac	82	48
McDonough	151	139
McHenry	334	321
McLean	456	342
Menard	47	47
Mercer	129	105
Monroe	80	56
Montgomery	228	218
Morgan	180	339
Moultrie	82	13
Ogle	162	165
Peoria	646	508
Perry	67	10
Piatt	77	62
Pike	94	84
Pope	14	14
Pulaski	36	19
Putnam	17	20
Randolph	121	109
Richland	67	47
Rock Island	546	425
Saline	85	16
Sangamon	763	497
Schuyler	46	40
Scott	37	42
Shelby	156	101
Stark	58	50
St. Clair	767	693
Stephenson	238	123
Tazewell	273	171
Union	46	46
Vermilion	329	293
Wabash	66	41
Warren	137	107
Washington	68	54
Wayne	73	60
White	91	30
Whiteside	324	200
Will	435	331
Williamson	255	80
Winnebago	732	
Woodford	136	118
Downstate Total	18,250	13,964
Cook County	11,505	9,232
State Total	29,755	23,196

**Table 5**  
**PROBATE PROCEEDINGS**

	No. of Cases Begun During 1961			
	Estates of Decedents	Guardian- ships	Conser- va- torships	Other Probate
Downstate .....	13,739	2,023	1,860	628
Cook County .....	7,582	2,397	1,026	0
Total for State.....	21,321	4,920	2,886	628

	No. of Cases Terminated During 1961			
	Estates of Decedents	Guardian- ships	Conser- va- torships	Other Probate
Downstate .....	11,144	1,224	1,158	438
Cook County .....	6,373	2,286	573	0
Total for State.....	17,517	3,510	1,731	438



**THE AGE OF CIVIL CASES (OTHER THAN PROBATE) PENDING IN THE COUNTY COURTS  
ON DECEMBER 31, 1961**

The figures in Table 7 show that the common-law cases tend to remain pending longer than the other classes of cases. Next are the cases involving mental illness or deficiency. The tax cases, on the other hand, tend to remain pending for less time than the other classes of cases.

Of the downstate counties exceeding 100,000 in population, Kane County had the greatest percentage (88) of mental cases that were over 6 months of age on December 31, 1961.<sup>1</sup> Macon County, however, had the highest percentage (100) of tax cases exceeding 6 months of age. Will County had the next highest percentage (92) of tax cases exceeding 6 months of age, then Peoria County with 82% and Sangamon County with 80%. In the area of jury cases Kane County had the highest percentage (90) of cases exceeding 6 months of age. Madison County was next highest with 82%, then Rock Island County with 71% and Macon County with 70%.

Kane County also had the highest percentage (92) of common-law cases exceeding 6 months of age. Macon County was next highest with 87%, then Tazewell and Madison Counties with 84% and 83%, respectively, Champaign and St. Clair Counties each with 81% and Will County with 74%. Rock Island County followed with 69% of its pending common-law cases in excess of 6 months of age and then Sangamon County with 55%.

Kane County also had the highest percentage (91) of proceedings involving families and children in excess of 6 months of age. Macon County again placed second highest (87½%) and Madison County again placed third (86%). St. Clair County was next with 70% and then Rock Island County with 67%.

While Kane County had the highest percentage of pending cases exceeding 6 months of age in every category except tax cases, an interview with a deputy clerk

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<sup>1</sup> Except for Will County, which had only one mental case pending, hardly a fair number to determine a percentage.

revealed that most of the pending cases were inactive and probably would never be tried.

Macon County also had a high percentage of cases exceeding 6 months of age and a loss of currency of 136 cases. The election of a probate judge in November of this year will undoubtedly relieve these problems.

Madison County also had a high percentage of cases exceeding 6 months of age and a heavy loss of currency during the year (258 cases). It would appear from these figures that more effort is required in this county.

Champaign County had the greatest loss of currency in downstate Illinois (498 cases) and 81% of its common-law cases were in excess of 6 months of age. This county's difficulties should be substantially alleviated by the election of a probate judge, for which plans have been made.

Similar to Champaign County, 81% of St. Clair County's common-law cases were in excess of 6 months of age. St. Clair had a loss in currency of 300 cases. This county would also appear to be in some difficulty.

The report from the County Court of Cook County shows that 80% of its pending civil cases (other than probate) were in excess of 6 months of age. While these figures were obviously based on estimates, they tend to show (to the extent that they are accurate) considerable delay in this court. This, coupled with a loss in currency of 830 cases during the year, would indicate that more effort is required in this court.

Table 7

**THE AGE OF VARIOUS CATEGORIES OF CIVIL  
CASES (NOT INCLUDING PROBATE) PENDING  
ON DECEMBER 31, 1961 IN THE COUNTY  
COURTS OF ILLINOIS**

	Percentage Under 6 mos. of Age	Percentage 6-12 mos. of Age	Percentage 1-2 yrs. of Age	Percentage 2-3 yrs. of Age	Percentage Over 3 yrs. of Age
Common Law Proceedings....	21	20	24	18	17
Proceedings involving families and children.....	25	20	23	18	15
Proceedings concerning mental illness or deficiency.....	23	20	24	20	13
Proceedings involving taxes of any kind or special assess- ments .....	32	20	21	14	13
Cases in which a jury trial was demanded.....	25	24	24	17	10

## **CITY, TOWN AND VILLAGE COURTS AND MUNICIPAL COURTS IN COOK COUNTY OUTSIDE OF CHICAGO**

Your Honors will observe that the tabulations are grouped first for the courts in Cook County (outside of Chicago) and then for the courts in the separate circuits. It was my thought that this separation would be helpful in identifying the areas in which these courts are located. Further, this arrangement may be useful in determining the aid (actual or potential) these courts offer toward relieving the congestion in the various downstate circuit courts and in the Circuit and Superior Courts of Cook County. This study might also raise a question, in relation to jurisdictions in which the Circuit Courts are not congested, on whether City Courts are needed in some areas.

The reports from 28 downstate judges show that the judges spent, on the average, 70 days, or about 1/3 of the court days of the year, in Cook County. Five of the 28 judges each spent 210 days or more, or essentially full time, in the Cook County courts.

Most of the City, Town and Village Courts (but not the three Municipal Courts) are essentially domestic relation courts since 62% of the 5,780 cases begun during 1961 and 63% of the 4,924 cases disposed of were divorce or separate maintenance actions.

During 1961 the downstate courts involved in this study had a gain in currency of 455 cases, while the Cook County courts sustained a loss in currency of 107 cases. There were 159 jury trials, almost 1/3 of which were held in East St. Louis and over 1/3 of which were held in Cook County.

**Table 1**  
**PROCEEDINGS IN THE CITY ETC. COURTS**

Table 1

## PROCEEDINGS IN THE CITY ETC. COURTS—Cont.

Circuit	City Court	Civil Cases Pending	Common-law suits	Common-law suits	Divorce and Sep. Main.	Divorce and Sep. Main.	Appeals from	J. P. Appeals	Other Civil Cases Filed	Other Civil Cases	Dismissals for want	Dismissals by Agreement	Default Judgments	Judgments by	Judgments by	Trials by Jury	Trials by Court	Civil Cases Pending	No. days judge spent in	No. days judge spent in
		Jan. 1, 1961	begun in 1961	disposed of in 1961	suits filed in 1961	suits disposed of in 1961	J. P. Courts	disposed of	Disposed of	of prosecution	by Agreement	Confession	Agreement	Confession	Agreement	Dec. 31, 1961	Cook County Courts	Other Courts		
99	Cook County	Calumet City .....	440	23	168	600	561			7	7	156	5	4	2	1		24	317	225
		Chicago Heights .....	136	101	53	367	342	2	1	9	11	10	17	8	19	1	4		191	118
		Blue Island .....	72	16	6	401	377	2	1				4	1	4			3	88	5
		Maywood <sup>1</sup> .....	109	78	31	64	65			39	24		31		5	6			159	221
		Skokie <sup>1, 2</sup> .....		509	159	18	16			11	6	1	114	9	6	5	15	3	369	196
		Cicero <sup>1, 2</sup> .....	1150	310	385	327	130	1		41	9		170	3	6	16	2	550	782	181
		Oak Park .....	155	96	73							1	43	5	4	2	5	13	178	23
		Evanston <sup>2</sup> .....	142	469	399							6	168	4	13		34	189	212	
		Elmwood Park .....	15	12	4					14	7		6	1	4				30	77
		Total .....	2219	1614	1278	1777	1491	5	2	121	64	174	558	35	63	31	60	782	2326	1046
1st	Harrisburg .....	10			64	62	2	1									15	21	45	27
	Herrin .....				2	2												2	48	4
	Johnston City .....	5	3	2	3	9	1	1	1	1							13	5	57	4
	Marion .....	10			1	1	1	1									1	10	47	3
	Eldorado .....	14			16	16			1	1			13				17	13	36	35
	Carbondale .....	10	3	3	35	28							3				31	7	20	25
Total .....	49	6	5	126	118	4	3	2	2			16				77	58	253	98	
2nd	Benton .....				7	6											6	1	61	23
	W. Frankfort .....	16	1	2	9	8	2	2	1	2	10	4				1	3	5	16	5
	Total .....	16	1	2	16	14	2	2	1	2	10	4				1	9	6	77	28

3rd	Alton .....	189	151	39	138	109	9	6	25	20	3	61	3	31	4	23	28	187	12	
	Granite City .....	328	67	78	230	165	3		23		2	34	2	5	14	10	6	12		
	Total .....	517	218	117	368	274	12	6	48	20	5	95	5	36	18	33	34	199	12	
4th	Litchfield .....	8	5	5	65	64	3	1		1		1		2			2	13		
	Pana .....	8	6	3	61	54	1		1	1		1		8			2	7	80	6
	Total .....	16	11	8	126	118	4	1	1	2		2		10			4	20	80	6
5th	Charleston .....		1	1	1	1													6	20
	Mattoon .....	35	37	16	95	71			3	3	6	16	20	12	16	1	5	35	215	1
	Total .....	35	38	17	96	72			3	3	6	16	20	12	16	1	5	35	221	21
8	Beardstown .....	3	3	3	13	10					2			3				5	40	
	Canton .....	107	1		38	40					2	4						126	220	
13	Spring Valley .....																		210	5
	Kewanee .....	60	4	2	25	26			2	2				2					29	1
14th	Moline .....	127	12	14	203	192		2	51	73		2	12	6			249	102	20	
	Sterling .....	92	7	4	59	53	3	1	10	3	2	20	2	4			29	83	220	
	Total .....	279	23	20	287	271	3	3	63	78	2	22	14	12			278	214	446	21
16th	Aurora <sup>2</sup> .....		104	71	149	119	5	7			46	24	9		8				220	
	DeKalb .....	17	4	2	19	21			4	4	1	1		1			6	10	25	6
	Elgin .....	113	19	5	88	53	1	1	29	43		13	3	15		6	402	150	14	
	Total .....	130	127	78	256	193	6	8	33	47	47	38	12	16		14	408	160	259	6
20th	Zion .....	21			42	31			3	1							31	34	10	8
	DuQuoin .....	14	2	1	10	5	1	1	2	1			2				3	19		
	E. St. Louis <sup>2</sup> .....	997	379	479	419	488	10	2	46	22	311	196	12	88	19	50	22	853	143	
	Total .....	1011	381	480	429	493	11	3	48	23	311	196	14	88	19	50	25	872	143	0
	Downstate Total .....	2184	809	730	1797	1634	42	26	206	182	381	373	81	177	53	99	871	1729	1959	205
	Total for State .....	4403	2423	2008	3574	3125	47	28	327	246	555	931	116	240	84	159	1653	4055	3005	205

<sup>1</sup> Town Court

<sup>2</sup> A Two-judge Court

## **RULES OF PRACTICE OF THE CIRCUIT COURT OF WILL COUNTY, 1962—Two Quotations**

Mention is made in this Report of the troublesome problem of "dead wood" cases that clog the calendars. This Report does not discuss the procedure known as "split trials", though reference is made to the fact that a committee of the Judicial Conference is studying this proposal. The Rules of Practice of the Circuit Court of Will County (effective March 1, 1962) set up suggestive procedures on these two subjects respectively. With the permission of Judge James V. Bartley of the 12th Judicial Circuit, the following Rules are quoted.

### **Rule 29**

#### **Dormant Calendar**

"Section 1. The Court in its discretion may place any cause on a Dormant Calendar. Such calendar shall be maintained by the Clerk. Any cause may be removed therefrom upon motion of any party thereto supported by affidavit that the same will be disposed of when reached for trial. No cause will thereafter be placed on the Dormant Calendar a second time.

"After a cause has been on said calendar a period of one year, the Clerk shall call said cause to the attention of the Court, and the Court shall summarily dismiss said cause for want of prosecution. The Clerk shall give 10 days prior notice in writing by ordinary mail to parties or attorneys setting forth the day and hour such cause will be presented to the Court for action hereunder."

### **Rule 33**

#### **Jury Trials**

"Section 1. When a jury case is called for trial, the Court in its discretion or upon motion of any party thereto may order that the issue of liability be tried first and separately from the issue of damages.

"Section 2. If the jury finds in favor of a plaintiff or counter-plaintiff on the issue of liability, but not otherwise, the Court will then proceed as soon as is practicable thereafter to try the issue of damages. Any such issue of damages shall be submitted to the same jurors or alternate jurors who heard the issue of liability."



## THE MASTER CALENDAR

Judge Richard T. Carter of the 20th Circuit presented an informative statement on the Master Calendar before the Illinois Judicial Conference at its annual, 1961, meeting (1961 Annual Rep. Ill. Jud. Conf., p. 76). In view of the fact that the 3d Judicial Circuit has followed the lead of the 20th Circuit in adopting the Master Calendar, it occurred to me that it would be informative to the Judges of the other circuits of the State to have an expression from the Judges of the 3d Circuit on their experiences with the Master Calendar. The following statement was prepared by Judge James O. Monroe, Jr., in consultation with his colleagues in the 3d Circuit, Judges Joseph J. Barr and Harold R. Clark.

### ONE YEAR WITH "AUTOMATIC SETTINGS"

What goes on in Illinois trial courts: types of cases, how they are called, delayed, or disposed of, and with what degree of efficiency or justice, are questions of vital importance. Just as vital are how much we know about these things, how they should be studied or measured, how they reflect on our system or our personnel, how the findings could be used in a given court or elsewhere, and what we could do about any deficiencies found.

Courts of review have been lavishly studied, but we still know ironically little about the trial courts grinding out the nation's justice.<sup>1</sup> This is a digest of a longer but yet incomplete analysis of one trial court operation,<sup>2</sup> especially its experience with "automatic settings." It attempts to deal pragmatically with Dean Harno's question: "What is it that is clogging the wheels of justice?"<sup>3</sup> It may or may not be helpful elsewhere.

### REPORT

The court has three judges working five days per week, in a new circuit of about 265,000 people and two counties (one 250,000, one 15,000). One judge goes one day a week to the small county, leaving 14 of the 15 judge days per week for the court studied. When the circuit was formed in 1957, three first-term judges were elected, one with a year of experience under vacancy appointment, one with six years as probate judge, one with no civilian judicial experience. They found some 2,700 untried civil cases.

Improvements were undertaken. Court rules were revised. The law library was renovated. Jury panel selection was made strict and systematic. Flat filing was instituted. Trials became more frequent. Statistics were gathered. Political influence was curtailed. Administrative defects were recognized and some were remedied. Staff personnel were added.

Still the backlog continued, because 1) intense activity made the court look like a "forum conveniens", and cases from far outside the county were filed; 2) some lawyers formerly using county and city courts came to use the circuit court more; and 3) the county had grown nearly 30 per cent in ten years and become more urban, more industrial and hence more litigious.

Hard work and informality, rather than system as such, made a great initial cut in the backlog, but then new filings matched disposals for a stable docket of about 1,800 cases (600 jury and 1,200 non-jury) by January 1, 1961. A kind of currency was reached too, with most cases, if properly prepared, ready and requested, triable in considerably less than a year. It was, however, despite all court efforts, a currency based on preference, serving diligent (not to say aggressive) plaintiff counsel and ingenious (not to say dilatory) defense counsel. Old cases got older. Claim lawyers tried their good cases, slighted their bad ones and blamed the delay on the court; defenders dragged small cases to put off big ones. There was only a kind of setting order, a kind of currency.

So, after the pioneering work in a neighboring county,<sup>4</sup> and modifying its plan and rules only slightly, an "automatic setting" system, suggested by the bar and worked out by the court, was adopted. It was designed to eliminate dead wood, and preference unfairness, end the delay injustice of lost evidence, assure lawyer attention, assure readiness, provide a setting "pace", save bar-court-jury time, assure order, and end unwarranted continuances.

The rules<sup>5</sup> provided simply for a master calendar booklet of all pending cases at issue, in order as filed, with setting notices referring to the booklet, and cases called in order, oldest first. Friday pre-trial docket calls before a Monday jury setting were used to encourage settlements, accommodate counsel and save jury time the first half-day.

The following table<sup>6</sup> and graph show the results of the first year's experience with "automatic settings" in the law jury cases, which Dean Harno calls "the main cause of congestion".

**DISPOSITION OF 987 CIVIL JURY CASES, MARCH 1, 1961, TO MARCH 1, 1962, UNDER AN "AUTOMATIC SETTING" SYSTEM**

	1 TJ	2 S	3 Dft	4 Dism	5 Rem	(3, 4 & 5)	6 Tot Disp	7 Cont	8 Other	9 Tot Non Disp	10 Tot Called
Mar.	14	36	16	34	1	(51)	(101)	51	4	(55)	156
April	14	14	1	13	2	(16)	(44)	60	1	(61)	105
May	17	21		16	5	(21)	(59)	23	7	(30)	89
June	6	31	3	7		(10)	(47)	21		(21)	68
July											
Aug.											
Sept.	19	34	1	4		(5)	(58)	71	6	(77)	135
Oct.	14	19	1	3	(2)	(6)	(39)	69	1	(70)	109
Nov.	5	9					(14)	53	1	(54)	68
Dec.	7	14		1		(1)	(22)	28	3	(31)	53
Jan.	9	42		3	6	(9)	(61)	59	5	(63)	124
Feb.	11	12					(23)	50	7	(57)	80
<b>Total</b>	<b>116</b>	<b>232</b>	<b>22</b>	<b>81</b>	<b>16</b>	<b>(119)</b>	<b>(468)</b>	<b>485</b>	<b>35</b>	<b>(519)</b>	<b>987</b>

With two circuit court jury rooms, two judges hear jury cases, while the third "presides": pre-calls cases Friday, impanels juries and calls cases Monday, hears motions Wednesday, goes to the small county Thursday, hears divorces and citations Friday, handles general administration, and catches up on his own advisement cases. This is a typical jury week work division. From September through June, jury trials average three out of four weeks per month; jury trials attempted in July or August were abandoned because of vacations, lawyer dispersals, and inadequate hot-weather facilities.

The next table shows the judicial work division in the year covered, for civil jury cases only, and of these only those tried all the way to verdict, not those settled. It does not show the criminal case work (sometimes

trivial, sometimes very demanding), nor a heavy non-jury load including much routine commercial and mortgage paper, many routine domestic relations matters, some critical injunctions, considerable industrial commission certiorari work, and administrative reviews (sometimes a tremendous burden). It does not show work outside the county studied.

### CASES TRIED THROUGH TO VERDICT:

#### Division of Judicial Work in Civil Jury Cases for One Year Under an "Automatic Setting" System

Judge:		A	B	C	Other	Total	Presiding
1961	March .....	5	4	5		14	A
	April .....	6	5	3		14	C
	May .....	3	6	8		17	B
	June .....	1	2	2	1	6	A
	Sept. ....	6	8	4	1	19	B
	Oct. ....	1	6	7		14	A
	Nov. ....	4	1			5	C
	Dec. ....	2	1	4		7	B
1962	Jan. ....	3	4	2		9	A
	Feb. ....	7	4			11	C
		38	42	34	2	116	

The judges, varying in politics, religion, geography, personality and temperament, are of the same average age (43) and Midwest American background, and have many common interests. They work in close friendly harmony with each other and with the court clerk and staff.<sup>7</sup> The bar has been helpful with suggestions.

The average for each judge is about 4 jury trials per month during the ten months of jury work. Since jury weeks are about three per month, this is about 1.3 jury trials per judge per week.<sup>8</sup>

The backlog as of March 1, 1962, was 1,882 civil cases, 659 jury and 1,223 non-jury. The backlog remains stable. But after one year with "automatic settings", there is a greatly improved currency: *all* cases filed as recently as

February, 1961, not just those ready, requested and preferred, have been called for jury trial. This currency thus involves slightly more delay for what would formerly have been preferred cases, but much less for most cases, and approaches an *absolute currency* of about one year.

### Comment

Simply going over a thousand docket sheets throws glaring light on a court's operations, provides priceless insights, discloses defects, and suggests remedies. There is space for a few of these.

Docket sheets, books and entries could be greatly simplified and improved. Files should by all means be flat, misfiling of papers by all means eliminated.

The master calendar list involved great time, typing, money and manpower. It did not provide accurate predictability or pace, nor eliminate lengthy periodic setting notices. It did not provide accurate case disposition records.

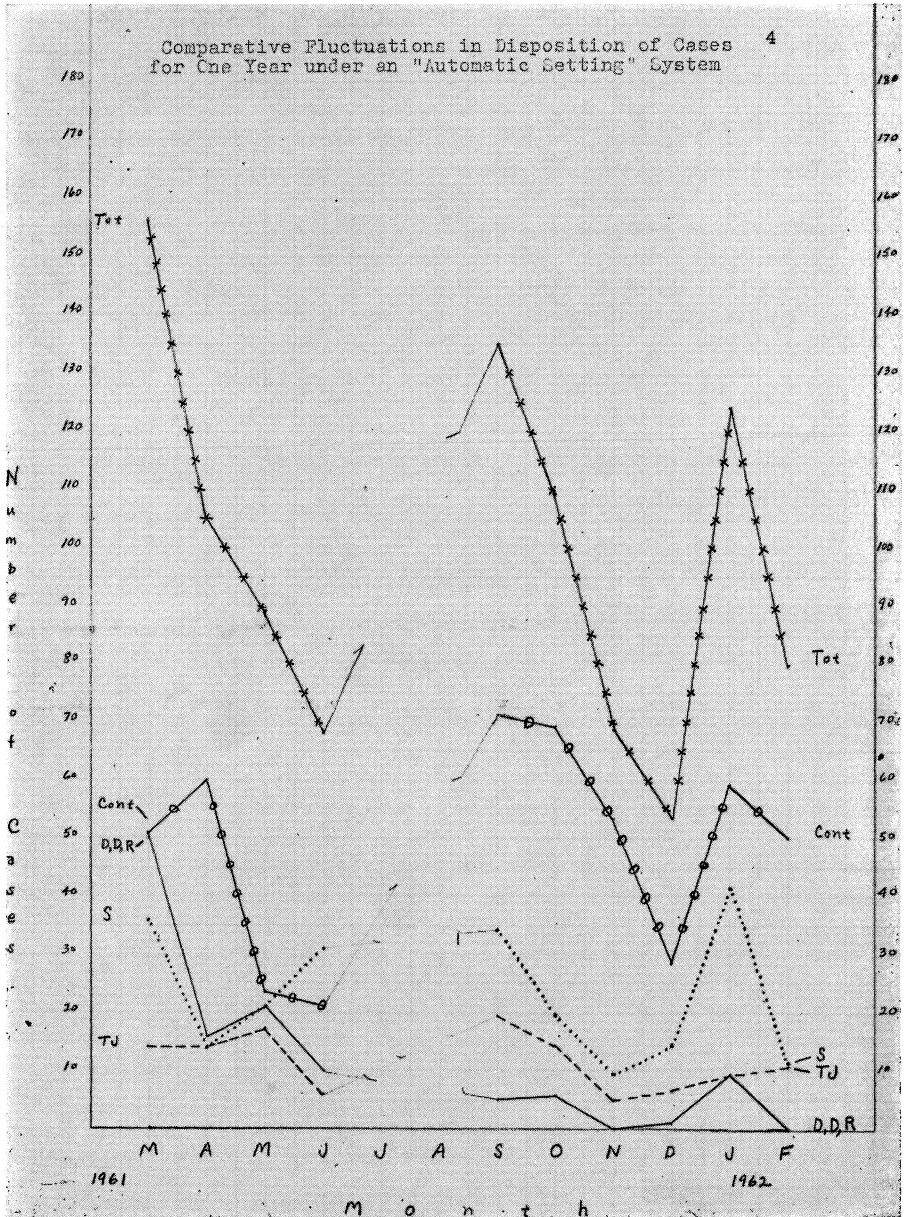
Something that might would be a kind of "overview docket". This would be a record of all cases filed, showing for each only its number, style, type, filing date, arrival at issue, and then its continuances on successive calls, if any, and its disposition. All this could be on one line, giving a capsule history of the case for 24 months. If it got older, another 24 months could be shown on a supplement page slipped in. One such page could include 25 cases. Forty such pages in a large flat book would include 1,000 cases. One book each for law, chancery, and criminal cases would show the court's whole business.

With this, the master calendar preparation and printing perhaps could be avoided. The overview docket, just one, hand-entried by one competent clerk, could provide accurate records, show a pace, and guide settings.

Two lines of such a docket would look about like this:<sup>9</sup>

No.	Plf	Def	Type	J	Jan	Feb	Mar	Apr	Nov	Dec	Jan	
62148	Cox	Boyd	PI-PD	NJ	J	F	M	MDen	Ans	C	C	S

### Comparative Fluctuations in Disposition of Cases for One Year under an "Automatic Setting" System



Simple, clear, short-form case settings could provide better guides for court and counsel.

Strict order and non-preference, strict elimination of dead wood cases from the docket can now be achieved only with something like an overview docket. Complete automation would also do this, and may be essential for Chicago, but would be too vast, intricate, and expensive for most downstate courts.

July-August jury trials are unfeasible without good air-conditioning; the months can be better used for non-jury, clean-up calls, advisement and administrative improvements. Effort must be made to curtail the loss of court days for holidays, bar meetings, judicial meetings, and other occasions, especially in November and December, which seem to be "bad" months.

The filing of cases in circuit court which could be filed in the county court, small claims, felony cases, likely probation matters, condemnation cases, justice court appeals, should be discouraged.

Staff personnel could be improved, in efficiency if not in caliber.

Lawyers should investigate cases more fully before filing, and screen them for settlement at all points before or after filing till trial. Plaintiffs' pleadings should be made simple and motion-proof. Courts should grant fewer pleading extensions. Defendants should use fewer motions, then only for real cause. Discovery should be earlier, less at arms-length, more professional yet (or hence), more informal. Settlement should be constantly encouraged. Continuances should be avoided. Trial preparation should be improved, and completed before trial time. Lawyer decorum should be made much more professional, and enforced strictly by the court. Docket entries can be shortened, clarified and made more understandable.

Pattern instructions have greatly improved trials and saved much time; much more time can be saved with timely accurate preparation, and counsel conferences as to who will prepare which. Summary judgment is a neglected remedy. Split trials for liability and damages, and impartial medical witnesses, have not been tried here. Formal pre-trial conferences have been tried and found little desired or used by the bar.

## Conclusion

Summarizing, this study shows, despite hard work, some confusion, delay, and frustration, with inefficiency, waste and possibilities of injustice. These deficiencies rise from both system and personnel. In varying measure, the bench, the bar, and the staff are all responsible: all should work for improvement. The total judicial manpower and facilities of the county<sup>10</sup> are not fully or efficiently used at present. Some major improvements in trial court administration here from 1957 through 1960, with intensive effort, caused some improved currency, but after a considerable initial impact could not achieve complete currency because of increased numbers of cases filed and consequent work load. Experimentation with "automatic settings" showed gratifying results and further improved currency. This could be further improved with an overview docket of complete simple disposition records and setting guides. Further court administration improvements could be made in systems, facilities and practices. These findings are exploratory, and much more data, analysis and reports on trial court administration would be desirable.

The problems of trial court administration in a growingly complex society present the bench and the bar and court staffs with great responsibilities which must be met.

## Notes

\* Circuit Judge, Third Illinois Circuit. Judges Joseph Barr and Harold Clark, colleagues in the circuit, were consulted and may concur generally, but are not responsible for findings, comments or language.

1. Review courts deal with probably less than 2 per cent of the country's litigation; trial courts have it all.

2. In the Circuit Court of Madison County, Illinois, Edwardsville. Data may be verified or further explained by correspondence or call to the writer.

3. Harno, Report of the Illinois State Court Administrator, June 1, 1961, p. 3.

"Justice delayed is justice denied," of course. But a caution is in order: *disposition* deferred may be consistent with ultimate justice; *disposition* unduly hastened may "rock the boat" (e.g., further a domestic dispute made tolerable under temporary orders or as a legal stand-off) or preclude a *just* disposition (e.g., cause premature findings regarding injuries not fully shown as ascertained, aggravated, or mitigated). The assumptions in this report are of course for the many cases in which delay serves no purpose but to frustrate justice.



4. Circuit Court of St. Clair County. Thanks are due Judges Richard Carter, Harold Farmer, Joseph Fleming, and Quinten Spivey.

5. Available from Hon. Willard Portell, Circuit Clerk, Edwardsville, Illinois.

6. Space does not permit the lengthy description of statistical method and categories, nor discrepancy explanations. No criminal or non-jury cases are shown, only civil jury cases. Most are law, few chancery. Most are personal injury or property damage cases, but there are some others.

The designations briefly are: TJ—trials to judgment. S—settlements. Dflt—defaults. D.—dismissals. Rem—removals from dockets. Tot Disp—total dispositions. Cont—continuances. Other—transfers to non-jury, other venue, or federal courts; and 22 cases of lost records. Tot Non-Disp—total non-dispositive handlings, leaving them on the backlog. Tot Called—total the court was ready to hear, a vital figure, since it affects so materially the other results (see graph).

The 22 "lost" docket sheets have been found, but the data have not been revised, because the situation is itself of note.

The cases are all those called or to have been called from March 1, 1961, to March 1, 1962. Each is shown when it was reached on the call, even though it was settled or tried previously, so as to maintain a uniform statistical method. This credits the first two months with a few more settlements and trials than occurred "at" these calls. There is, however, a compensating discrepancy for the last few months: a few trials *before* March 1, 1962, of cases to have been called later, are *not* shown.

7. Since one judge may be on one long case while another is trying several short ones, not the slightest inference should be drawn from the table that one judge among these three works any more, any less, or with varying efficiency than another.

8. Most such cases run two or three days, some less, a few up to five days or longer.

9. The designations are: Plf or—plaintiff. Def or—defendant. J—jury. NJ—non-jury. F—filed. M—motion filed. Dec—decided. Den—denied. All—allowed. C—continued. Dis—dismissed. S—settled. Dflt—defaulted. Rem—removed. T—tried. J—judgment entered. Reset—reset for remaining parts, or after mistrial, post-trial motion granted or remandment from appeal. Other designations for types of cases would be standard lawyer shorthand: e.g., PI—personal injury, Eq—equity, HC—habeas corpus.

Sheets of the type discussed are being worked out by the court here and may be secured on request when ready. Copyright 1962, James O. Monroe, Jr.

10. We have 7 major judges (3 circuit, 2 city, 1 county, 1 probate), 18 magistrates, and 5 justices; with 6 major court rooms and 23 minor forums.

## **REPORT ON JUSTICE OF THE PEACE COURTS FOR THE MONTH OF JANUARY, 1962**

The legislation that established the Office of the Court Administrator, as enacted in 1959 (Chap. 37, Secs. 23c-23n, Ill. Rev. Stats. 1961), listed the duties of the Court Administrator to be performed "under the direction and supervision of the Supreme Court." The duties, insofar as they related to courts, were restricted to courts of record. Through legislation enacted by the General Assembly in 1961, the responsibilities of the Court Administrator were extended to certain duties involving Justices of the Peace.

One of these Acts (Chap. 43, Sec. 435, Ill. Rev. Stats. 1961) provides in part as follows:

"The county board may provide and designate a place or places for the holding of court by justices of the peace in accordance with reasonable minimum standards which shall be prescribed by the Court Administrator. Such standards shall be substantially the same as those generally accepted in court rooms as to general furnishings, arrangements of bench, tables and chairs, cleanliness and any other matter relating to the physical appearance of the court room."

Another statutory provision, also enacted in 1961 (Sec. 164c, Chap. 79), provides:

"Each justice of the peace shall report to the county board of his county and the Court Administrator the following information:

- (1) The number of civil and criminal cases filed in his court;
- (2) The number of civil and criminal cases pending in his court;
- (3) The number of civil and criminal cases disposed of;
- (4) The amount of fees, costs and other emoluments received for services performed in his official capacity as justice of the peace.

"The report shall be filed with the county board and Court Administrator not later than the 15th day

of each month and shall cover the period of time represented by the calendar month next preceding each report date.

“The report shall be made on a form designed by the Court Administrator. The county clerk shall furnish such forms to the justices of the peace of such county clerk’s county at the expense of the county.”

Shortly after these statutes were enacted, I drafted, in compliance with Section 435 of Chapter 43 (quoted above), standards for court rooms and court facilities for justices of the peace and distributed copies of these standards to the various county clerks for transmission to their respective county boards. I shall not discuss this subject further in this Report, except to state that a substantial number of justices of the peace have expressed dissatisfaction with the court rooms and court facilities provided for them by their respective county boards.

This statement will deal primarily with the stipulations in Section 164c of Chapter 79 (quoted above) relating to the reports of the justices of the peace. This is the first time, so far as I can determine, that a state-wide compilation of case activities in the justice of the peace courts has been attempted. This Report collates the data submitted by the justices of the peace for one month only—the month of January, 1962. It does not include information on Cook County. The justice of the peace program in that County is administered somewhat differently.

The aim was to cover in this study 101 counties (all counties except Cook), but the record is not complete. At the time this statement is being prepared, reports (for January, 1962) have not been received from the justices of the peace in Williamson County, and one or more justices of the peace in 35 counties have failed to make their reports. Table 1, that follows, sums up the information received (pursuant to the requirements of Sec. 164c, Chap. 79) in the Office of the Court Administrator.

**Table 1**  
**SUMMARY OF REPORTS, JANUARY 1962, FROM**  
**100 COUNTIES**

**309 of 363 Justices of the Peace Reporting**

	CIVIL		CRIMINAL		TOTAL	
	Number of Cases	Average for JPs reporting	Number of Cases	Average for JPs reporting	Number of Cases	Average for JPs reporting
Cases filed (Jan. 1962).....	2,608	8.4	7,271	23.5	9,886	32.0
Cases decided (Jan. 1962).....	2,457	8.0	7,448	24.1	9,911	32.1
Cases pending (Jan. 31, 1962).....	3,442	11.1	3,514	11.4	6,973	22.6

An examination of the reports received reveals that in the more populous counties the justices of the peace are exceeding the state-wide average for cases filed and decided. Only 50 of the 65 justices of the peace in the ten most populous counties reported to the Court Administrator. Table 2 contains a summary of these reports.

**Table 2**  
**SUMMARY OF REPORTS, JANUARY 1962, FROM**  
**THE 10 MOST POPULOUS COUNTIES**  
**50 of 65 Justices of the Peace Reporting**

	CIVIL		CRIMINAL		TOTAL	
	Number of Cases	Average for JPs reporting	Number of Cases	Average for JPs reporting	Number of Cases	Average for JPs reporting
Cases filed (Jan. 1962).....	1,486	29.7	2,635	52.7	4,121	82.4
Cases decided (Jan. 1962).....	1,343	26.9	2,788	55.8	4,131	82.6
Cases pending (Jan. 31, 1962).....	1,364	27.3	1,480	29.6	2,844	56.9

Table 3 compiles the returns for the remaining 90 counties that reported to the Court Administrator.

**Table 3**  
**SUMMARY OF REPORTS, JANUARY 1962, FROM**  
**90 LESS POPULOUS COUNTIES**  
**259 of 298 Justices of the Peace Reporting**

	CIVIL		CRIMINAL		TOTAL	
	Number of Cases	Average for JPs reporting	Number of Cases	Average for JPs reporting	Number of Cases	Average for JPs reporting
Cases filed (Jan. 1962).....	1,122	4.4	4,636	19.2	5,765	22.5
Cases decided (Jan. 1962).....	1,114	4.3	4,660	18.8	5,780	23.1
Cases pending (Jan. 31, 1962).....	2,078		2,034	7.9	4,129	12.2

Although averages have been established in the first three tables, what should be considered as an average case load or norm for the justices of the peace is more difficult to determine. Differences in population, area of the county, salary paid to and accessibility of each individual justice of the peace, enter and affect the picture. Because of the statutory requirement that each county must elect at least 3 justices of the peace, an individual justice may be elected for an area with as few as 1,350 persons (Pope County), or as many as 52,600 persons (St. Clair County—with 5 justices of the peace). He may have no business at all (16 reported no case activity) or he may dispose of 476 criminal and quasi-criminal cases in a month (Kane County), or 191 civil cases (St. Clair County), or perform 60 marriages (Lake County—in addition to disposing of 171 civil and 36 criminal and quasi-criminal cases).

Table 4 shows variations in the number of justices of the peace elected in separate counties and the largest and smallest counties in population having the same number of justices of the peace. Pope County, already mentioned above, is the smallest county in which 3 justices were elected while Kankakee County is the largest. No comment nor reason is advanced in regard to the number elected since this appears to be a matter solely for the local county government, subject to statutory limitations.

**Table 4**  
**NUMBER OF JUSTICES OF THE PEACE AND**  
**POPULATION VARIATIONS PER JUSTICE**  
**OF THE PEACE**

Number of JPs	Smallest County in Population	Largest County in Population
3	Pope (4,061)	Kankakee (92,063)
4	Pulaski (10,490)	Sangamon (146,539)
5	Gallatin (7,638)	St. Clair (262,509)
6	Rock Island (150,991)	Lake (293,656)

Will County with a population of 191,617 has seven justices of the peace; Kane County with 208,246 has eight; and DuPage with a population of 313,459 has fourteen justices of the peace. Area, likewise, furnishes no clue to a reason for electing a particular number of justices of the peace. A justice of the peace, for example,

may represent an area, as in DuPage County, that consists of 23.64 square miles, or an area of 391 square miles, as in McLean County.

The variance of case activity among justices of the peace not only exists among the counties but also among justices in a single county where a justice of the peace in a heavily populated center may bear the burden while the justices in a rural part of the county may have much lighter case loads. No investigation was made of the use counties have made of their authority to transfer justices from one district to another in order to balance case loads. From correspondence and personal knowledge, this has been attempted in some counties.

It is commonly stated that the case loads of justices of the peace are substantially affected by the existence (or non-existence) of state highways in their districts. This has not been clearly established by the reports this Office has received. The case loads of justices of the peace from county to county and from district to district, according to the information filed in this Office, appear to be related, primarily, to populations.

Table 5, that follows, is arranged by counties in the order of their population. An asterisk indicates that either the form used in the county does not correspond with that prescribed or that certain miscalculations or errors appear in the reports. The first column, following the population of the county, indicates the number of justices of the peace in each county, and is followed in the next column by the number who have reported.

Table 5

ARRANGED BY COUNTIES IN ORDER OF POPULATION, AND SHOWING NUMBER OF JPs IN EACH COUNTY; NUMBER WHO REPORTED; CASES FILED AND DISPOSED OF IN JANUARY, 1962; AND CASES PENDING JAN. 31, 1962

Counties	Population	Number of JPs	Number Reporting	Civil			Criminal			Total		
				Cases Filed	Cases Disposed of	Cases Pending	Cases Filed	Cases Disposed of	Cases Pending	Cases Filed	Cases Disposed of	Cases Pending
Pope*	4,061	3	2	4	0	0	17	18	17	21	18	17
Putnam	4,570	3	3	0	1	3	2	3	18	2	4	21
Hardin	5,879	3	3	13	13	0	2	6	2	15	19	2
Calhoun	5,933	3	3	0	0	0	1	2	0	1	2	0
Brown	6,210	3	3	9	8	9	6	6	1	15	14	10
Scott	6,377	3	3	0	1	2	18	14	7	18	15	9
Johnson	6,928	3	3	1	0	1	47	47	0	48	47	1
Gallatin	7,638	5	4	3	0	6	2	2	0	5	2	6
Edwards	7,940	3	3	4	4	0	4	3	1	8	7	1
Stark	8,152	3	3	3	3	0	5	5	0	8	8	0
Henderson	8,237	2	2	3	3	11	27	9	26	30	12	37
Schuyler	8,746	3	3	1	1	0	20	21	3	21	22	3
Menard*	9,248	3	3							7	6	2
Cumberland	9,936	3	2	9	12	10	0	0	0	9	12	10
Hamilton	10,010	3	3	3	6	2	25	25	1	28	31	3
Pulaski	10,490	4	4	2	2	53	32	30	11	34	32	64



Jasper	11,346	3	3	2	2	0	28	29	3	30	31	3
Marshall	13,334	3	1	0	0	2	4	4	0	4	4	2
Washington	13,569	3	3	1	0	2	25	28	31	26	28	33
Moultrie	13,635	3	3	0	0	4	15	15	3	15	15	7
Wabash	14,047	3	3	3	0	4	21	22	0	24	22	4
Bond	14,060	3	1	0	0	0	0	0	0	0	0	0
Massac	14,341	3	2	5	5	2	12	14	0	17	19	2
Cass	14,539	3	3	2	2	0	2	36	2	4	38	2
Piatt	14,960	3	3	7	6	9	33	28	11	40	34	20
Mason	15,193	3	3	1	2	7	16	19	0	17	21	7
Monroe	15,507	3	3	2	2	1	18	18	0	20	20	1
Clay	15,815	3	3	2	1	7	11	12	2	13	13	9
Alexander	16,061	4	4	3	6	0	95	88	7	98	94	7
Richland	16,299	3	3	0	0	3	7	9	2	7	9	5
Clark	16,546	3	3	0	0	0	87	74	81	87	74	81
Ford	16,606	3	3	4	2	5	47	47	8	51	49	13
Jersey	17,023	3	3	2	3	1	62	57	50	64	60	66
Mercer	17,149	3	2	22	13	16	11	15	31	33	28	47
DeWitt	17,253	3	3	11	12	3	62	58	15	73	70	18
Greene	17,460	3	3	11	7	5	23	22	11	34	29	16
Kendall	17,540	3	3	47	15	54	51	41	18	98	56	72
Union	17,645	3	3	0	2	0	132	131	2	132	133	2
Lawrence	18,540	3	2	6	6	1	39	40	1	45	46	2
Wayne*	19,008	3	3	0	0	0	19	6	22	19	6	22
Perry	19,184	3	2	4	4	0	20	20	7	24	24	7
Douglas	19,248	3	3	8	6	6	58	58	13	66	64	19
White	19,373	5	3	1	1	0	32	31	4	33	32	4
Carroll	19,507	3	3	3	4	0	59	61	5	62	65	5
Boone	20,326	3	2	4	5	0	55	55	0	59	60	0
Pike*	20,552	3	3	0	0	0	8	7	1	8	7	1
Crawford	20,751	3	3	0	0	8	19	20	10	19	20	18
Warren	21,587	3	2	6	6	0	7	7	2	13	13	2
Jo Daviess	21,821	5	4	15	17	11	79	78	17	94	95	28
Fayette	21,946	3	2	0	0	0	12	16	2	12	16	2
Grundy	22,350	4	4	16	15	4	79	74	17	95	89	21

**ARRANGED BY COUNTIES IN ORDER OF POPULATION, AND SHOWING NUMBER OF  
JPs IN EACH COUNTY; NUMBER WHO REPORTED; CASES FILED AND DISPOSED  
OF IN JANUARY, 1962; AND CASES PENDING JAN. 31, 1962—Cont.**

Counties	Population	Number of JPs	Number Reporting	Civil			Criminal			Total		
				Cases Filed	Cases Disposed of	Cases Pending	Cases Filed	Cases Disposed of	Cases Pending	Cases Filed	Cases Disposed of	Cases Pending
Edgar .....	22,550	3	1	0	0	0	3	3	0	3	3	0
Effingham .....	23,107	3	3	2	2	8	8	8	6	10	10	14
Shelby .....	23,404	3	3	4	3	22	35	34	10	39	37	32
Clinton .....	24,029	4	4	1	3	5	20	21	10	21	24	15
Hancock .....	24,574	3	3	0	5	2	67	67	24	67	72	26
Woodford .....	24,579	2	1	2	2	0	5	5	0	7	7	0
Saline .....	26,227	3	3	4	1	6	21	19	6	25	20	12
McDonough .....	28,928	2	2	1	0	2	32	32	2	33	32	4
Randolph .....	29,988	3	3	8	3	8	35	35	5	43	38	13
Montgomery .....	31,244	4	4	1	8	3	87	85	68	88	93	71
Jefferson .....	32,315	1	1	12	3	28	36	36	0	48	39	28
Iroquois .....	33,562	4	3	1	1	0	60	62	0	61	63	0
Logan .....	33,656	3	3	13	10	12	110	110	15	123	120	27
Morgan .....	36,571	3	2	6	6	1	110	108	9	116	114	10
Christian .....	37,207	3	3	19	17	8	77	64	30	96	81	38
Bureau .....	37,594	4	4	6	4	11	69	46	75	75	50	86
Ogle .....	38,106	3	3	12	10	26	120	89	142	132	99	168
Lee .....	38,749	5	5	34	29	25	126	171	106	160	200	131

Franklin .....	39,281	3	3	2	1	14	36	35	5	38	36	19
Marion .....	39,349	3	3	26	21	6	72	66	6	98	87	12
Livingston .....	40,341	4	4	11	8	7	89	91	11	100	99	18
Fulton .....	41,954	3	3	13	13	11	119	122	166	132	135	177
Jackson .....	42,151	4	4	5	6	1	63	62	18	68	68	19
Coles .....	42,860	3	2	17	15	4	30	30	5	47	45	9
Macoupin .....	43,524	5	4	10	5	18	33	35	10	43	40	28
Williamson .....	46,117	3										
Stephenson* .....	46,207	3					14			55		
Henry .....	49,317	3	3	39	25	33	35	37	20	74	62	53
DeKalb .....	51,714	3	2	57	32	62	148	156	51	205	188	113
Whiteside .....	59,887	5	2	11	11	0	61	49	12	72	60	12
Knox .....	61,280	3	3	46	37	11	35	32	12	81	69	23
Adams .....	68,461	3	3	30	40	31	84	87	19	114	127	50
McLean .....	83,877	3	1	1	1	1	15	14	3	16	15	4
McHenry .....	84,210	4	4	63	43	105	168	157	53	231	200	158
Kankakee .....	92,063	3	3	35	23	29	134	154	59	169	177	88
Vermilion .....	96,176	5	4	32	36	17	128	133	8	160	169	25
Tazewell .....	99,789	4	4	48	40	118	185	191	119	233	231	237
LaSalle .....	110,800	5	2	37	30	11	24	25	12	61	55	23
Macon .....	118,257	4	4	146	364	1134	320	376	223	466	740	1357
Champaign .....	132,436	5	5	83	58	40	366	382	252	449	440	292
Sangamon .....	146,539	4	3	43	22	75	296	445	104	339	467	179
Rock Island .....	150,991	6	5	54	50	100	102	86	128	156	136	228
Peoria .....	189,044	5	4	69	57	55	182	168	185	251	225	240
Will .....	191,617	7	6	197	191	388	142	133	139	339	324	527
Kane .....	208,246	8	5	256	162	168	580	660	218	836	822	386
Winnebago .....	209,765	5	2	46	50	4	96	100	6	142	150	10
Madison .....	224,689	5	4	292	240	73	219	165	136	511	405	209
St. Clair .....	262,509	5	3	245	242	93	84	88	42	329	330	135
Lake .....	293,656	6	4	166	188	174	244	256	215	410	444	389
DuPage .....	313,459	14	14	118	141	240	690	687	304	808	828	544

*Some errors in the Reports.* The returns from the justices of the peace contained a number of errors. It is not feasible in this Report to deal with each separate error. A few of the more prominent ones related to the following:

1. Many justices of the peace included the fines collected and some also indicated the disposition made of the fines. This report form is designed exclusively for fees and costs collected and any reference to fines should not appear though they must be reported to the county board on another form to be furnished by the county clerk.

2. Frequently the distinction between "fees in cases before me" and "fees in cases not pending before me" has been the subject of misunderstanding. This division of fees is based on statutory language dividing the fees of justices of the peace into the two categories and has no bearing on whether a case was pending at the end of the month or had been decided. See Section 59 of Chapter 53, Ill. Rev. Stats., 1961.

3. The justices of the peace from a few counties are not using forms that comply with the one designed by the Court Administrator and some are forwarding more materials than are required of them by the statute. The problem of assembling, sorting and storing these materials makes it necessary that no extra material be forwarded to this Office.

*Police Magistrates.* Section 164c of Chapter 79 of the statutes provides that justices of the peace shall report information specified in that section to their respective county boards and to the Court Administrator. That section makes no reference to police magistrates, and it is not clear whether they are required to report to the Court Administrator. Fifty-three of a total of 419 police magistrates have made reports to this Office.

Respectfully submitted,

June 25, 1962

*Albert J. Harro*

**Report by John C. Fitzgerald, Deputy Court Administrator for Cook County**

*To the Honorable, The Chief Justice and the Justices of the Supreme Court of Illinois:*

It is my privilege to report herein to the Court on several matters concerning the status of the administration of justice in Cook County.

Two preceding reports, the first in January 1960 and the second in June 1961, stressed that the most urgent problem in the administration of justice in Cook County was the accumulation in the Circuit and Superior Courts of an inherited backlog of unreasonably delayed law-jury cases, coupled with the inability of the two courts to break even with the current intake of law-jury filings. That this continues to be the most urgent problem is evident from the following tabulations, the first showing the various categories of cases pending in the two courts as of March 31, 1962, and the second a classification by year of filing of the law-jury cases pending in the two courts on the same date. The tabulations indicate that all categories of cases other than law-jury are relatively current.

**CASES PENDING IN THE CIRCUIT AND SUPERIOR COURTS OF COOK COUNTY AS OF MARCH 31, 1962**

Law Jury .....	43,477
Law Non-Jury .....	8,131
Chancery .....	2,670
Divorce .....	7,039
Tax .....	8,328
Total .....	69,645

**CLASSIFICATION BY YEAR OF FILING OF LAW-JURY CASES PENDING AS OF MARCH 31, 1962**

1954 and prior .....	216
1955 .....	717
1956 .....	3,220
1957 .....	4,452
1958 .....	5,115
1959 .....	6,578
1960 .....	8,214
1961 .....	11,470
1962 .....	3,495
Total .....	43,477

Since the most urgent problem is the processing of law-jury cases, the initial report recommended changes whereby the judges of the two courts could by their own action, without legislation, immediately increase the

judge-days allocated to the processing of law-jury cases principally by reassignment of judges, extension of the court day and year, limitation of vacations, use of jury facilities for jury trials, and summer pre-trials of cases to be assigned out for trial in the fall. Although the initial recommendations were partially followed, the objective of assigning five additional resident judges to law-jury work was not attained, principally because death and disabling illnesses by September 1960 had reduced the number of resident judges available for all the general civil trial work of the two courts from over thirty to twenty-six.

The second report to the Court grew out of the monthly reports of the law-jury trial judges and the supporting reports of the Clerks of the two courts. These reports made it possible to measure with some degree of precision the number of resident judges needed to break even with the current intake of law-jury cases and the number of visiting judges needed temporarily to process the backlog. Based on these facts the second report recommended the creation of a law-jury division of not less than thirty-five resident judges to attain the break-even goal—a step requiring legislative action—and the temporary manning by visiting judges of an additional ten jury-courtrooms to roll back the inherited backlog.

### **THREE EVENTS**

Three events have occurred since the spring of 1961 which warrant optimism for the future of the administration of justice in Cook County despite the huge backlog and heavy intake of law-jury cases. The General Assembly in June 1961 approved the proposed Judicial Article which will be submitted to the voters in November 1962. The General Assembly in its special session in the fall of 1961 provided for seventeen new judgeships to be added to the Superior Court in November 1962. The Cook County plans for the new Civic Center Courthouse reached the ground-acquisition, ground-breaking stage. These three events, each indispensable, promise Cook County the organizational structure, the judicial manpower, and the physical facilities essential for a modern efficient judicial system.

## **A SUBSTANTIALLY ENLARGED AND MORE TIGHTLY ORGANIZED LAW-JURY DIVISION**

But a modernized organizational structure, additional judgeships, and adequate physical facilities do not by themselves terminate law-jury cases. The bench and the bar are now challenged to erect and operate a law-jury trial division that will terminate law-jury cases at the rate necessary to achieve currency in the reasonable future. No one will assert that the creation and management of a law-jury division of not less than thirty-five resident judges and of an additional ten temporary jury-courtrooms is an easy task. Intimate and selfless cooperation between the two courts is demanded. Furthermore, the solution of more judges hearing more law-jury cases requires lawyers to change working habits and office practices that have become meshed in with a state of delay. The community has provided the weapons for the frontal attack, but only judges and lawyers can use the weapons. In short, the optimism for the future of the administration of justice in Cook County is well founded but all concerned are aware of the strenuous never-ending effort required to attain and retain currency, to erect and maintain a substantially enlarged and more tightly organized law-jury division.

### **ANCILLARY MEASURES**

The emphasis placed on the frontal attack of more judges trying more law-jury cases is not intended to minimize the many ancillary measures devised to increase the rate of termination of law-jury cases. The annual reports of the Illinois Judicial Conference describe many such measures. No stage in the processing of a case has reached the ultimate of perfection. Each measure has its advocates, each its share of validity, each generates enthusiasm. The report of the Judicial Advisory Council of Cook County of January 1931, for example, contained the promise that the increase in 1930 of the jury-claim fee “. . . had the effect of doing away with trials by jury in at least one-third of the cases commenced, and this proportion is constantly on the increase . . .” (p. 29) and the same report proclaimed that the adoption at that time of the note of issue requirement “. . . has resulted in remedying the evil of congested calendars. . .” (p. 29). However, recent surveys of the Pennsylvania referee system (*Small Claims in Pennsylvania*, 74 Harvard Law Re-

view 448-471, 1961) and of the Massachusetts auditor system (*Auditors in Massachusetts as Antidotes for Delayed Civil Courts*, 110 University of Pennsylvania Law Review 27-56, 1961) lend support to the general conclusion of the New York Judicial Conference that the "... procedural methods designed to alleviate congestion and delay initially achieve a degree of success which, however, tends to diminish in time" and "are, at best, temporary expedients. . ." (*State of New York, The Judicial Conference, Seventh Annual Report*, 1962). Preliminary studies warn against any assumption that the proposed automobile accident commission plans will provide the permanent answer to the problem. The Cook County program for relief is not built upon temporary expedients or upon an amputation of the adversary judge-jury system but upon the rock of more judges hearing more law-jury cases.

### **A NORM OF JUDICIAL PRODUCTIVITY**

There are five other items of interest concerning the administration of justice in Cook County worthy of the attention of the Court at the present time. The first, and the most closely related to the program of a frontal attack on the delayed law-jury cases in the Circuit-Superior Courts, is the evolution of a norm of productivity for law-jury trial judges. Judicial statistics, at best a hazardous undertaking, have not reached the point of growth of making feasible any national norm of judicial productivity. Professional habits, procedural practices, and court organizations vary too substantially to warrant the use of one measuring rod for the many diverse jurisdictions. Such a norm would have many advantages, however. It would demonstrate statistically the need of additional judges to process a case overload. It would stimulate the equal distribution of the work load of a multiple-judge court. It would serve the interests of judges anxious to satisfy fully their duties to their community. It would make visible the extent to which judges were being diverted to other tasks. It would allay the suspicion that the absence of a norm is designed to cloak the indolent or the incompetent. Perhaps its chief advantage would be to remove the whole matter of judicial production out of the realm of the mysterious and reduce it to known and communicable terms. Because of these advantages and because of the absence of any national norm of judi-



cial productivity, we think it worthy of the Court's attention that the law-jury trial judges of the Circuit and Superior Courts through the irksome task of compiling monthly reports of law-jury work have continued to make an approach to a norm possible in Cook County. Here follows, therefore, a statement based upon the Monthly Report of Law-Jury Trial Judges showing the evolution of a norm of judicial productivity in the processing of law-jury cases in Cook County.

During the six month period of September 1961 through February 1962, the Circuit-Superior Courts of Cook County terminated 6,689 law-jury cases. Of these 4,168 were credited to the assignment judge and to the motion judge, and 1,317 to six pre-trial judges. The remaining 1,204 cases were terminated by forty-one different judges, twenty-three of whom were resident judges and eighteen of whom were visiting judges. Due to death, resignation, reassignments, and other reasons, only nine of the resident judges had service in the law-jury trial division not substantially interfered with by other judicial duties during the period. These nine resident judges reported 527 law-jury terminations.

Recalling the fact that all categories of cases are reasonably current except that of law-jury and that there are over 40,000 law-jury cases pending, it is of grave portent that only nine resident judges can be said to have been processing law-jury cases as a primary duty during the six month period. The need of a substantially expanded and more tightly organized law-jury trial division, recommended in the report to you of June 1961, was never more evident. It will be recalled that during the period of September 1960 through November 1961 seven vacancies occurred in the Superior Court and were not filled until April 10, 1962. For the purpose of illustrating the evolution in Cook County of a norm of judicial production in the processing of law-jury cases, here follows a tabulation of the law-jury work of the nine resident judges whose law-jury duties were not substantially interfered with during the six month period of September 1961 through February 1962, a projection of that work for the entire present court year of September 1961 through June 1962; and, for purposes of comparison, a tabulation of the law-jury work of ten resident judges from September 1960 through June 1961.

**THE LAW-JURY RECORD OF THE NINE RESIDENT JUDGES WHOSE SERVICE IN THE LAW-JURY TRIAL DIVISION WAS NOT SUBSTANTIALLY INTERFERED WITH BY OTHER JUDICIAL DUTIES FOR THE SIX MONTH PERIOD OF SEPTEMBER 1961 THROUGH FEBRUARY 1962.**

	Verdicts	Jury settlements	Part jury settlements	Settlements without jury	Mis-trials	Total cases terminated	Total cases processed	Law-jury days	Other dispositions*
Total . . . . .	123	86	29	289	12	527	539	660	1,763
Maximum . . . . .	25	21	15	44	4	90	92	99	393
Minimum . . . . .	6	2	0	18	0	44	45	53.5	59
Average .. . . .	13.7	9.6	3.2	32.1	1.3	58.6	59.9	73.3	195.9

\* Principally default divorces.

In sum, without fractions, the nine resident judges averaged 13 verdicts, 58 law-jury terminations, and 73 law-jury days. Projected for the entire court year of September 1961 through June 1962, the above averages would become 22 verdicts, 97 law-jury terminations, and 122 jury days.

**THE LAW-JURY RECORD OF THE TEN RESIDENT JUDGES WHOSE SERVICE IN THE LAW-JURY TRIAL DIVISION WAS NOT SUBSTANTIALLY INTERFERED WITH BY OTHER JUDICIAL DUTIES DURING THE COURT YEAR OF SEPTEMBER 1960 THROUGH JUNE 1961.**

	Verdicts	Jury settlements and mistrials	Law-jury terminations	Law-jury days	Other dispositions*
Total . . . . .	179	136	802	909	3,878
Maximum . . . . .	40	37	123	198	657
Minimum . . . . .	9	6	44	47	118
Average . . . . .	17.9	13.6	80.2	90.9	387

\* Principally default divorces.

In sum, without fractions, the ten resident judges from September 1960 through June 1961 averaged 17 verdicts, 80 law-jury terminations, and 90 law-jury days.

To sharpen the above comparison between the court year 1960-1961 and the projected court year 1961-1962, the above averages for the two periods are placed in juxtaposition below:

Averages	Verdicts	Terminations	Jury days
1960-1961	17	80	90
1961-1962 (projected)	22	97	122

Judges need not be reminded of the significance of an increase in productivity per trial-judge court-year. Trial judge verdicts have been levering out, or pressuring out, law-jury terminations (through the entire complex of assignment, motion, pre-trial, and trial judges) at the ratio of about 25 to 1. If the above projection for the court year 1961-1962 materializes, it will represent a substantial gain in judicial productivity. Judges experienced in depth in law-jury processing in the Circuit-Superior Courts of Cook County have suggested, as an acceptable norm of individual minimum judicial productivity in the processing of law-jury cases by a trial judge in a standard court year, 25 to 30 verdicts and 100 to 125 law-jury terminations. This suggestion is premised, of course, upon a joint central assignment system operating with a minimum of gaps and not upon individual trial calendars. Under individual trial calendars many of the terminations not requiring substantial judge time and presently credited to assignment, motion, and pre-trial judges would, of course, be credited to trial judges.

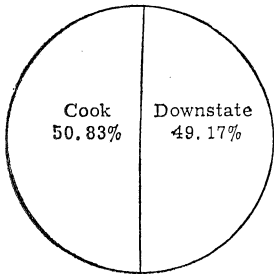
In sum, the cooperation of the law-jury trial judges of the Circuit-Superior Courts has made possible a promising approach to a norm of judicial production in the processing of law-jury cases. As experience continues the judges will create for their own benefit, out of their own experience, for conditions obtaining in their own courts, effective guide lines for judicial productivity.

## **A COMPARISON BETWEEN COOK COUNTY AND DOWNSTATE**

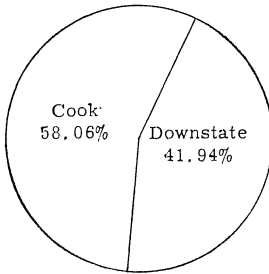
The second matter worthy of your interest at the moment is the following set of charts comparing, for the period given, populations, filings, and the number of Circuit and Superior Court judges, between Cook County and Circuits 1 to 20 (Downstate). The basic imbalance indicated by the charts will be removed by the addition of the seventeen new judges to the Superior Court of Cook County in November 1962.

**CIRCUIT AND SUPERIOR COURTS OF COOK COUNTY  
 COMPARED WITH THE CIRCUIT COURTS 1 TO  
 20 (DOWNSTATE) FOR THE PERIOD AUGUST  
 1, 1960, TO DECEMBER 31, 1960, IN RESPECT  
 OF LAW JURY, AND NON-JURY, CHAN-  
 CERY, DIVORCE, AND TAX CASES**

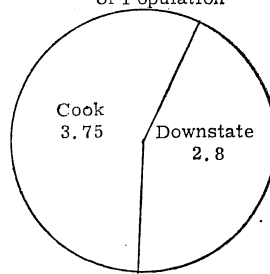
Population Served



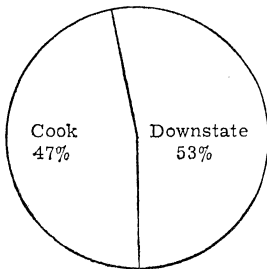
Total Filings



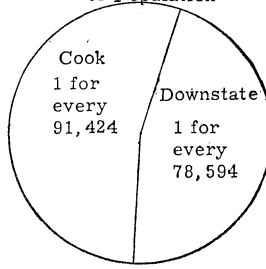
Filings per 1000 of Population



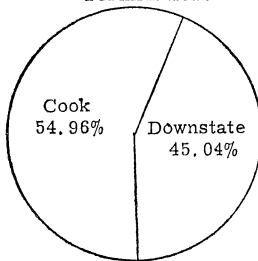
Number of Judges



Ratio: Judges to Population



Total number of Terminations \*



	Cook	Downstate
Resident Judges .....	56	63
Population .....	5,129,725	4,951,433
Filings .....	19,240	13,896
Terminated .....	15,196*	12,454

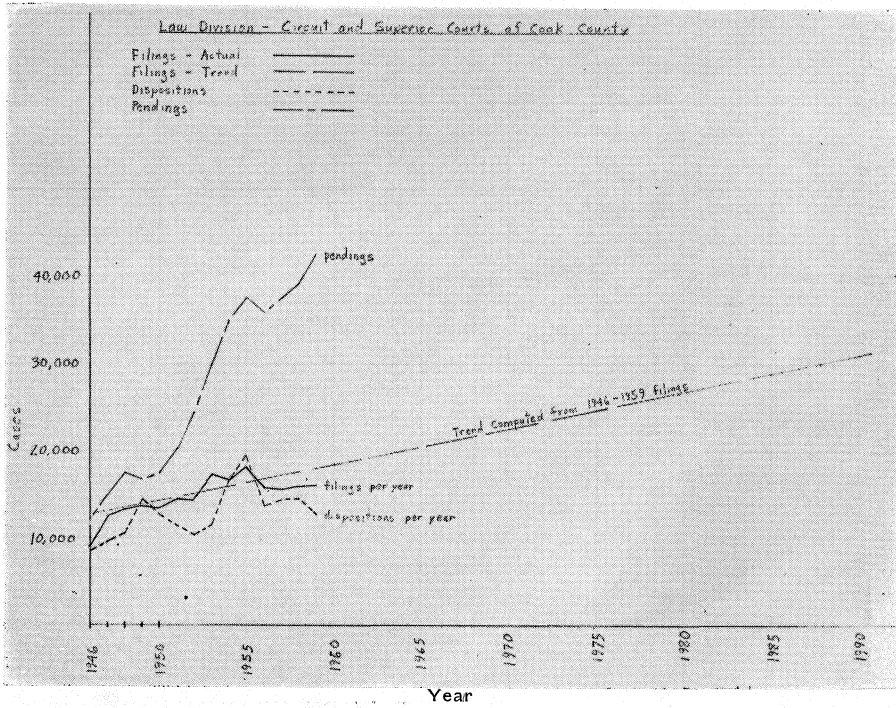
Sources: 1960 Census; June 1961 Report of the Court Administrator to the Illinois Supreme Court.

Period: August 1, 1960, to December 31, 1960. Earlier downstate statistics are not available.

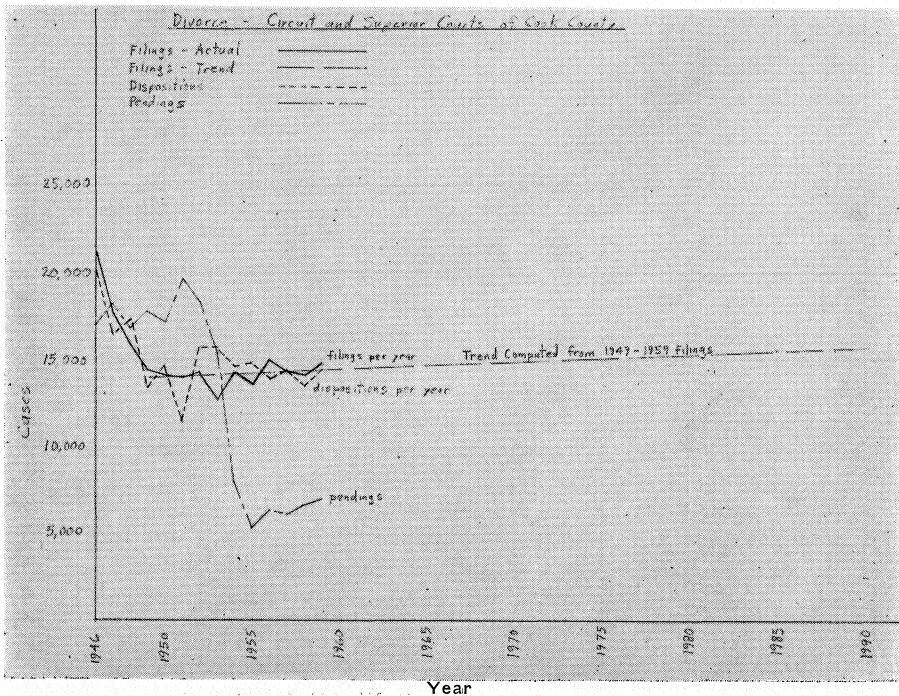
\* With assistance of visiting judges.

## UNTIL 1990

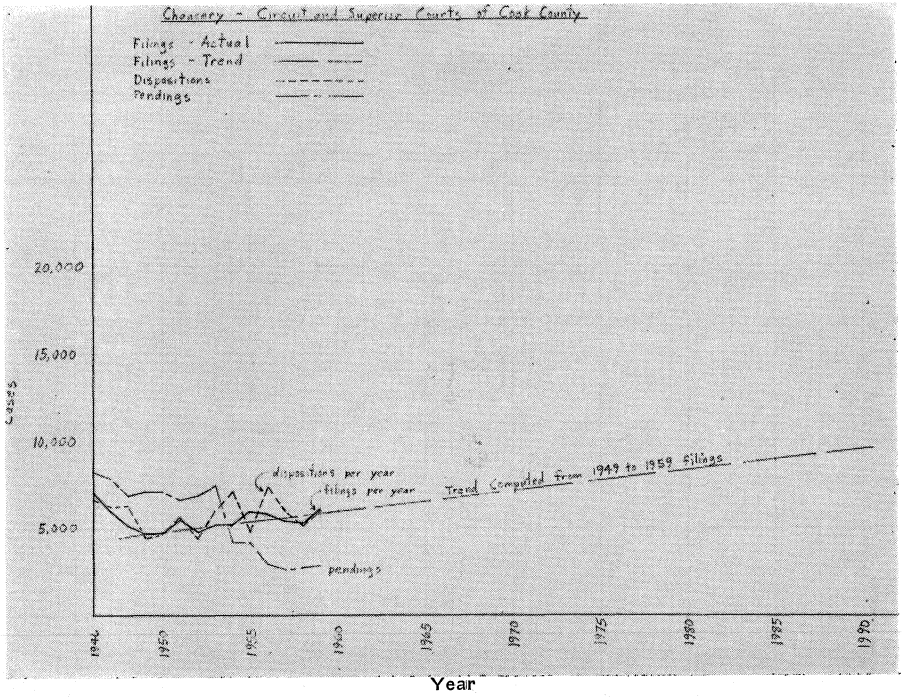
The third matter of current interest is a prediction of the trend of civil business in the Circuit-Superior Courts of Cook County until 1990. The filing, termination, and pending statistics used in the following four charts were supplied to the Public Building Commission of Chicago which is constructing the new Civic Center Courthouse. The trend lines were computed by engineers of the Commission and used in predicting the courtroom space needs of the future. While the state of the world makes any prediction as to 1990 not only hazardous but presumptuous (the private use of motor vehicles, the use of contingent fees, the issuance of casualty insurance, civil juries; all may be moot by 1990), blue-prints must be drafted, space must be allocated, predictions must be made. The law pending statistics appearing below, with respect to the Circuit Court component, include both law-jury and law non-jury cases. The law chart indicates in striking fashion the growth of the huge inherited backlog of unreasonably delayed law-jury cases. The sharp contrast between the processing of law cases throughout the period and of divorce cases after 1953 will be noted.



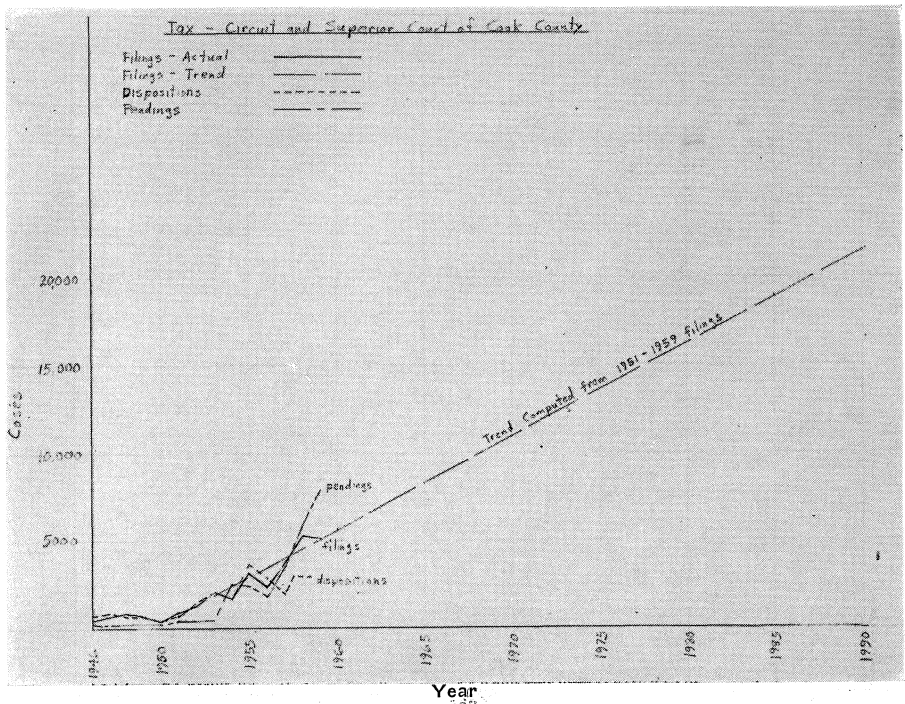
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 Public Building Commission of Chicago  
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## **THE INCREASE IN JURY FEES OF THE MUNICIPAL COURT OF CHICAGO**

The fourth matter is the increase in jury demand fees in the Municipal Court of the City of Chicago. Upon the recommendation of the judges of the Municipal Court, and pursuant to Sec. 197 A-1, as amended, of the Municipal Code of Chicago, effective May 1, 1961, the fees in jury cases were increased from \$6 to \$50 for a six-man jury and from \$12 to \$100 for a twelve-man jury. This increase was sustained as constitutional and a petition for rehearing was denied in March 1962 (The People of the State of Illinois ex rel. Alice Flanagan vs. Joseph J. McDonough, Clerk of the Municipal Court of Chicago, 24 Ill. 2d 178, 180 N.E. 2d 486, Docket No. 36800). The jury-demand fee remained at \$12 in the Circuit-Superior Courts. Ill. Rev. Stat. 1961, Chap. 53, Sec. 51.

This disparity in jury claim fees in different courts within one community raised speculation on the extent to which law-jury filings would shift from the Municipal Court to the Circuit-Superior Courts. Jury demands in the Municipal Court did fall substantially from a high of 1,362 in April 1961 to a low of 374 in March of 1962. The extent to which the volume of personal injury filings as distinguished from jury demands has been effected is not, however, clear at the time of writing this report. The anticipated shift of law-jury filings to the Circuit-Superior Courts has not, however, occurred to date. Speculation must continue as speculation until further reports from the several courts indicate some definite trend. No court in Cook County is an island, however, and if the proposed Judicial Article is adopted in November 1962, a jury fee policy, if sound, will prevail throughout the one Circuit Court of Cook County.

## **IMPARTIAL MEDICAL EXAMINATION**

The close physical proximity in Cook County of courtrooms, offices of lawyers and doctors, and of the Chicago Office of the Illinois State Medical Society, and the addition to the Office of the Deputy Court Administrator for Cook County of an administrative assistant, attorney Carl H. Rolewick, make it possible to administer Rule 17-2 in Cook County on a basis approaching that of the Office of Impartial Medical Officer in the New

York Supreme Court. This, in turn, made it possible to reduce the State-wide instructions and forms to one page of instructions and four forms for use in Cook County. Following a series of conferences with judges, lawyers, and representatives of the Illinois State Medical Society, the procedures and forms for Cook County were issued on April 16, 1962. Since the effective date of the Rule in September 1961, Cook County judges have made seven references under the Rule. No further reference will be made in this report to the Rule in view of Dean Harno's report and the fact that a report on the operation of the Rule is on the agenda for the Judicial Conference in June.

In closing this report, may I revert to the optimistic note with which the report began and add a word of caution. If the Judicial Article is approved in November, the legislators, lawyers, and judges of this State will have the opportunity to build a new temple of justice, an opportunity afforded to few generations. If their experience, wisdom, and insight is harnessed to the task, the Illinois Judicial Article of 1962 may become the exemplar of the administration of justice in the free world. This State is slowly emerging from a statistical void, however. For years men of goodwill and devoted interest in the improvement of the administration of justice have had their efforts dissipated and their opinions slighted because their communications were not framed about meaningful and authoritative statistics. Many experiments intended to increase judicial productivity have not had enduring value because of inadequate record keeping. As the courts are reorganized under the Judicial Article, it is essential that the records of each activity be so maintained and distributed that the experience, wisdom, and insight harnessed to the task will be recorded, and the history of the present will in fact become the prologue of the future.

Finally, may I again acknowledge my total indebtedness to the judges, clerks, and lawyers who are willing to be harassed to promote the common good, and to a staff of two whose dedication cannot be measured statistically.

Respectfully submitted,

A handwritten signature in cursive script, reading "John Fitzgerald". The signature is written in dark ink and is positioned below the typed name.

















