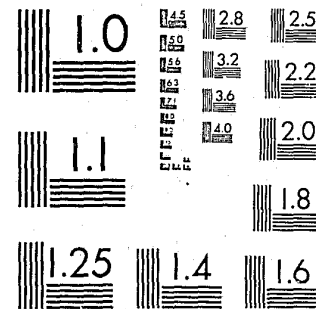


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An Examination of the Proposal for a District Court in Erie County

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Report of the Sub-Committee of the Judiciary Committee to Study Courts of Limited Jurisdiction

Senator James T. McFarland
Chairman, Senate Sub-Committee of the Judiciary Committee
to Study Courts of Limited Jurisdiction

June 4, 1976

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INTRODUCTION

Rapid expansion of the Buffalo suburbs over the last decade precipitated a great increase in the business of Town Justice Courts, and to a lesser extent, Village Courts. This was particularly true with respect to the so-called first ring of towns around the City of Buffalo.

At the same time, the volume of legal business in the Buffalo City Court continued to grow. Civil jurisdiction limitation was increased to \$6,000. The Court handled a great many cases involving non-City residents due to the broad jurisdiction given it by the Uniform City Court Act.

In addition, civil cases pending in the Supreme Court, Erie County, in the \$6,000 jurisdictional limitation, were transferred to City Court by rule of the Appellate Division, Fourth Department.

With all courts shifting their focus to the trial of criminal matters as a result of "speedy trial" court decisions and implementing legislation, civil case backlogs mounted everywhere. The upward surge in traffic matters, prompted in part by renewed law enforcement emphasis on the drinking-related Vehicle and Traffic Law cases, contributed further to the burden of the entire court system in Erie County.

Thus, the call arose in the community for a better way of handling the public's business within our legal structure.

The media criticized court delays. The Bar and the Judiciary discussed ways of dealing with overlapping jurisdiction; alleged inefficiency; inconveniences to the public, and inequitable cost burdens for some segments of government. Questions were raised regarding the ability of the system to deliver substantial justice.

Public interest groups began calling for a "modernization" of the Justices Court system. Then, in 1973, the Temporary State Commission on Judiciary Law (Dominick Commission) issued a report, which among other things, recommended a partial dismantling of the Justices Court and its replacement with District Courts.

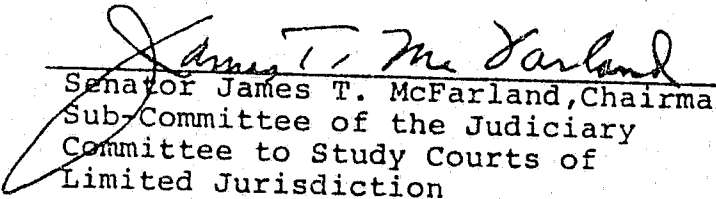
With the new Buffalo City Courthouse having the potential for substantial expansion, the notion of a central court facility had some feasibility. (It should be pointed out parenthetically that some of the gnawing problems of City Court were resolved when the City began drawing jurors from the County juror pool and when vehicle and traffic violations were shifted from City Court to be handled administratively by the State Department of Motor Vehicles).

Finally, in November, 1974, voters in the suburban Buffalo, Town of Amherst rejected the Town Board's recommendations that a third Town Justice be approved to handle

the crushing volume of court business in that rapidly expanding town. Observers report that at least a portion of that result can be attributed to an organized campaign launched by the League of Women Voters against the proposition and in favor of full-time Justices in a different court set-up.

These factors prompted me as Chairman of the State Senate Sub-Committee of the Judiciary Committee to Study Courts of Limited Jurisdiction to investigate the matter. I convened a seminar in Erie County for the purpose of discussing the lower court system, with specific reference to the possibility of establishing an Erie County District Court, and conducted a survey on the financial aspects of the problem. This report contains the results of those efforts.

I appreciate the cooperation and encouragement of the State Senate Judiciary Committee Chairman, Bernard Gordon, in approving the convening of this meeting under the auspices of the sub-committee.


Senator James T. McFarland, Chairman
Sub-Committee of the Judiciary
Committee to Study Courts of
Limited Jurisdiction

REPORT ON THE SEMINAR

The central question is "whether or not a District Court set-up would produce a better system of local jurisprudence."

Subjects discussed at the Seminar all had a bearing on that question.

Court Delays

It was generally reported that at the time of the Seminar, there were essentially no delays in the administration of either civil or criminal justice in the town Justice courts of Erie County with the exception of several semi-rural towns which claimed delays were occasioned by lack of Assistant DA assignments.

In Amherst, one of the heavily populated suburban Buffalo towns, previously existing court backlogs prompted the call for a third justice. This proposal was turned down in public referendum. The alleged criminal jury trial backlog was thereafter reduced to about six weeks (from the time of arrest to trial). This result was accomplished by one of the judges putting in some five-night weeks.

However, it was reported that there was a two-year backlog in civil cases in the Buffalo City Court. This

lengthy delay would be even more sharply pronounced if it had not been for the imposition of a voluntary arbitration system in civil cases.

It was suggested that the administrative judge in the Appellate Division should have the power to reassign some of backlogged civil cases in Buffalo City Court to another jurisdiction having some connection with the case by reason of residence of one of the parties. In courts having a delay in criminal matters in excess of six weeks, a visiting judge could be assigned until the backlog is cleared up.

Convenience

The general thrust of statements made at the Seminar indicated that the present town and village justice system operates for the convenience of citizens, lawyers, law-enforcement authorities, indigent prisoners, as well as jurors.

If Erie County had a central court system for jury trials, such as Nassau County¹ has, citizens in the

¹Nassau County is the only county in the State to have initiated a district court system. Its 1970 population of 1.4 million persons compares in size to Erie County's 1.1 million persons. In 1975, Nassau County's District Court had operating expenses exceeding \$5.0 million with an additional \$1.1 million expended annually for salaries to the 26 judges in the District Court, each of whom receive \$42,000 a year salary. The Nassau County District Court has no evening sessions and its judges are available only during the normal work week.

outer reaches of the county would have to travel forty-five minutes in good weather and up to an hour and a half in inclement weather to attend a central court. The same would be true for jurors, lawyers, and arresting officers.

It was observed that since indigent prisoners comprise most of the criminal defendant caseload, their indigency would make it difficult for them to present themselves to a central court which may be considerable distance if their residence was in an outlying area of the county.

The present local practice of conducting court sessions in the evening hours operates to the convenience of everyone concerned. Jurors prefer to sit in the evening as an alternative to losing a day's pay for daytime service and there were no complaints registered by lawyers about the court hours of the justice's courts. Police witnesses also do not appear to be inconvenienced by the present set-up because they can usually be made available on a ten-to-fifteen minute notice even if they are on duty. If police officers were required to report to a central court, it has been estimated that absences would force local government to additional, and in some

cases, considerable expense in order to maintain adequate police strength.

Because justices usually are theoretically available on a 24 hour-a-day, seven-day-a-week basis, warrants and arraignments can be handled most expeditiously.

Qualifications of the Justices

It was noted at the Seminar that the Erie County town and village courts have 23 justices who are attorneys, as opposed to 27 who are non-attorney justices. Despite their lack of formal legal education, the mandatory training sessions required for non-lawyer judges has apparently produced a fairly high quality of jurist in the courts of Erie County. It was generally believed that when there were complaints about justices, they fell about evenly on the lawyer judge and the layman judge. One participant at the Seminar observed that "the obtaining of a legal degree does not automatically vest a person with common sense."

In view of growing opinion, it would appear that, at least in the disposition of criminal cases, the trial judge be admitted to practice in New York.

REPORT ON THE SURVEY

As a follow-up to the Seminar, a survey questionnaire was sent to all cities, towns and villages in Erie County to obtain information which could have a bearing on any consideration for a District Court System in Erie County.

The information solicited included the annual operating expenses for the court; the amount of revenues received; the number of matters disposed of; the length of delay between arrest and trial in criminal cases; and length of delay in time or number of cases disposed of in civil matters.

For example, according to the survey, in 1975 the City of Buffalo handled 18,000 criminal cases and 33,000 civil matters with an average delay of three months between arrest and trial in criminal cases, and an average of 18 months in disposition of civil matters.

Administration of the Buffalo City Court cost \$1,175,000 in operating expenses and \$386,000 in justices' salaries.

By comparison, the Town of Amherst in 1974 handled a total of 14,095 matters with an average of four weeks delay in both criminal cases and civil matters. The operating expenses for this town's judicial system was

\$116,055 while its justices' salaries totaled \$26,400.

The Village of Akron, in reporting its 1975 statistics, had a combination of 350 matters that averaged 30 days delay in both criminal cases and civil matters. Akron spent \$2,500 in operating costs and paid \$1,700 for justices' salaries.

The revenue raised in all three cases, including amounts remitted by the State, were:

City of Buffalo, \$350,000 which made the total net court expenses \$1,211,000.

Town of Amherst, \$111,057 which made a total net court expense of \$31,398.

Village of Akron, \$1,827 which made the total court expenses \$2,373.

In reviewing the statistics submitted by three cities, 23 towns and 12 villages, it would appear that the large municipalities in each of the three categories had the longest delays in criminal cases and civil matters.

The average delay for criminal cases among the three cities was five weeks while the average delay in civil matters was 18 weeks, but this average is hardly a true indication since the delay in civil matters in the City of Buffalo was reported at 18 months while the City of Tonawanda reported no delay and Lackawanna

reported a delay of only two weeks.

It should be pointed out, however, that Buffalo handled 33,000 civil matters, a number roughly equal to the total reported by the other 37 municipalities.

The Town of Wales, in reporting for 1974, had difficulty in its handling of criminal cases when its jury list was invalidated. Therefore, in that year, the average delay in Wales between arrest and trial in criminal cases, was seven months.

DISTRICT COURT ADMINISTRATION

Based on the information obtained at the Seminar and through the mail Survey, a potential plan for Erie County could be visualized.

Erie County

With a district court set-up, it would be anticipated that inadequate court facilities which now exist would have to be replaced. Because of the geographic factors and traveling distances in Erie County, it would be assumed that a central court for the disposition of criminal matters would be unrealistic.

Thus, it would be necessary to have three districts, tentatively organized as follows: one for the south half of the County, one for the north half of the County, and one for the City of Buffalo or part thereof.

This would probably require three administrative sections, with the new court facility at the City Court of Buffalo being a central repository of records. The assembling of jurors probably would have to be decentralized as well.

Presumably, library facilities would have to be decentralized as well for the use of the judiciary, legal clerks, court clerks and the Bar. Overnight lock-up facilities would be required due to the inavailability

of around-the-clock arraignment capabilities now offered by the justice court system.

Jurisdictional questions, especially with reference to civil court matters, would have to be clarified so the most convenient forum could be selected. Judges' salaries would probably have to be fixed at more realistic levels, something probably in mid-\$30,000 range, in order to attract the full-time lawyer-justices a district court would envision.

The Constitution limits District Court judicial terms to six years and monetary jurisdiction to \$6,000. In light of today's economics, a Constitutional Amendment raising the monetary jurisdiction would appear realistic. Some consideration would also have to be given to increasing the six-year term by Constitutional Amendment. This would require passage of a resolution by two successive, separately elected state legislatures.

Undoubtedly, new facilities would have to be constructed to accommodate the number of justices required to absorb the volume of business now handled by the justices courts. This would entail capital construction investment by the County. Some priorities would have to be established, in as much as a full-time daylight

operating court (if such were the case) would be competing for lawyer's services with the Supreme, County and Federal Courts.

Financial Considerations

Taking latest available figures from town and village courts serving the County of Erie, the total salary expenditures were approximately \$742,000. Salaries in the Buffalo City Court alone for one Chief Judge and eleven Associate Judges amount to \$386,000 per year.

According to the Temporary State Commission on Judiciary Law Report (Dominick Commission), at least twenty-two justices would be necessary should a District Court be implemented in Erie County. At \$42,000 per Justice, (the Nassau County pay scale) this would mean a cost to Erie County in the vicinity of \$1 million dollars per year in salaries for the District Court Justices. This burden would be shifted to the County of Erie which would receive some reimbursement from the State for judicial salaries. If the District Court system were adopted, state aid of \$10,000 per annum per judge would be available. Presently, no state aid is available for reimbursement of Justices salaries although the City of Buffalo does

receive reimbursement for its City Court Judges.

In addition to Justices' salaries, expenditures for administrative personnel, clerks, stenographers, etc. are included in total operating expenses. The figures obtained from the lower courts in Erie County, including the Buffalo City Court, show the total operating expenses in excess of \$2 million.

CONCLUSION

When all considerations were made in the areas of convenience to citizens, lawyers, law enforcement officers and jurors; administrative burdens resulting from establishing three separate divisions of the District Court in Erie County; and the added expense indicated by the experience of Nassau County, it would appear that the imposition of a District Court system for Erie County would not be appropriate at this time.

Presently, with some administrative adjustment, any backlogs in cases appear controllable. Most of all, the size of Erie County makes the Courts of Limited Jurisdiction more practical for dispensing quick, efficient justice to all citizens of the county without undue disruption of their lives.

However, the Seminar and the Survey did bring into focus some matters which could help the existing court system in Erie County and other municipalities throughout New York State.

Legislative Recommendations

Conflict of Interest The information gathered indicates that the Second Class Towns Law should be amended to avoid the conflict of interest situation which occurs where a justice is also a member of the town board and may be called upon to decide an issue in his court which also came before the town board. Senator Gordon's bill, S 4173, would bar a justice from serving on the town board.

Layman Justices To forestall mounting criticism and the possible overturning of decisions in criminal cases handled by layman justices, the law should be amended to provide that the trial of such cases be handled only by attorney judges. For those municipalities which are sparsely settled and have low taxing capabilities, it is suggested that legislation be introduced permitting the amalgamation of such towns for the purpose of having their town boards elect a joint town criminal justice. This would be an attorney whose compensation could be fixed by joint assessment of the towns participating in such a program. The joint town criminal justice would be the candidate receiving the highest vote at

a meeting of the town boards involved. The local Bar Association could make recommendations from a panel of lawyers resident in the involved towns who evince an interest in the position.

Such a joint town criminal justice would ride a circuit and be available for the acceptance of pleas in criminal cases and a trial of both jury and non-jury criminal cases. Arraignments could still be handled by a layman-justice.

Assignment of Extra Justices The law requiring a referendum on the issue of adding a third or fourth justice in busy towns should be amended to permit the administrative judge of the Appellate Division in which a town is located to invest and assign a visiting town justice to a town which has more than a two-month backlog in disposition of criminal cases or civil cases.

Reassignment of Jurisdiction With respect to the civil case backlog in Buffalo City Court, it is recommended that the Appellate Division be authorized to reassign and refer the trial of such matters to a town having jurisdiction of at

least one of the parties and having the capabilities of promptly disposing of the matter.

Respectfully submitted by

Senator James T. McFarland
59th Senate District
Chairman, Senate Sub-Committee
of the Judiciary Committee to
Study Courts of Limited
Jurisdiction

APPENDIX

NEW YORK STATE CONSTITUTION

ARTICLE VI §16

a.) The legislature may, at the request of the board of supervisors or other elective governing body of any county outside the City of New York, establish the DISTRICT COURT for the entire area of such county or for a portion of such county consisting of one or more cities, or one or more towns which are contiguous, or of a combination of such cities and such towns provided at least one of such cities is contiguous to one of such towns.

b.) No law establishing the district court for an entire county shall become effective unless approved at a general election on the question of the approval of such law by a majority of the votes cast

SURVEY QUESTIONNAIRE

In connection with the proposal for a District Court System for the County of Erie, the following information was requested from all cities, towns and villages in Erie County.

1) The operating expense for the local court, for the calendar year, 1974 or for the municipality's fiscal year with the amount earmarked for justices' salaries specifically set forth.

2) The amount of revenues realized from the operation of the local court including the amounts remitted by the state.

3) The total number of matters disposed of in the local court.

4) The length of any delay between the time of arrest and trial in a criminal matter.

5) The statement as to the length of any delay in the disposition of civil matters either by time or by number of cases indisposed of at the end of the year.

SURVEY RESULTS

Name	a.Total Operating Expense-Court b.Justices' Salaries	Amount of Revenue real- ized(including amount remitted by State)	Total # of Matters Disposed	Time Delay between Ar- rest and Trial of Criminal Matter	Delay in Disposition of Civil Matters
<u>CITIES</u>					
Buffalo *	a)\$1,175,000.00 b)\$ 386,000.00	\$350,000.00	18,000 Crim. 33,000 Civil	3 mos.	18 mos.
Lackawanna	a)\$ 73,709. 00 b)\$ 30,100. 00	\$ 24,053.00	1720 Crim. 284 Civil	2 weeks	2 weeks
Tonawanda	a)\$ 42,694.00	\$ 52,329.00	3,774	45 days	None
<u>TOWNS</u>					
Amherst	a)\$ 116,055.00 b)\$ 26,400.00	\$111,057.00	14,095	4 weeks	4 weeks
Getz	a)\$ 11,438.00 b)\$ 7,000.00	\$ 4,715.00	847	2 months	1 month
Boston	a)\$ 5,500.71 b)\$ 4,110.00	\$ 4,293.50	774	None	Not Available
Grant	a) b)				
Neektowaga*	a)\$ 109,780.00 b)\$ 31,200.00	\$ 81,480.00	12,000	2-3 mos.	1 month
Clarence	a)\$ 36,329.06 b)\$ 17,200.00	\$ 53,916.00	5,280	6 weeks to 6 mos.	None
Golden	a)\$ 4,226.83 b)\$ 4,000.00	\$ 4,738.50	680	60 days	Not Available
Collins*	a)\$ 8,293.30 b)\$ 8,000.00	\$ 3,731.00	Not Available	Not Available	Not Available
Concord*	a)\$ 14,918.20 b)\$ 12,806.63	\$ 5,065.50	Not Available	Not Available	Not Available
Eden*	a)\$ b)\$ 9,400.00	Not Available	Not Available	3 mos.	1 month
Elma	a)\$ 15,880.38 10,200.00	\$ 13,822.00	1,724	2 mos.	Not Available

*1975 Figures

c.

SURVEY RESULTS (cont.)

Name	a.Total Operating Expense-Court b.Justices' Salaries	Amount of Revenue real- ized(including amount remitted by State)	Total # of Matters Disposed	Time Delay Between Ar- rest and Trial of Criminal Matter	Delay in Disposition of Civil Matters
Evans*	a)\$ 23,725.80 b)\$ 12,400.00	\$ 15,606.00	1,647	3 mos.	1 month
Grand Island	a)\$ 24,068.15 b)\$ 15,400.00	\$ 14,913.50	2,048	3 weeks to 3 mos.	30 days
Hamburg	a)\$ 103,993.00 b)\$ 24,000.00	\$ 62,097.00	9,657	2 weeks to 6 mos.	30 days
Holland	a)\$ 7,766.25 b)\$ 5,600.00	\$ 4,204.50	648	3 mos.	2 weeks
Lancaster	a)\$ 32,409.32 b)\$ 14,000.00	\$ 20,729.50	5,800	25 days	Not Available
Marilla	a)\$ 6,929.43 b)\$ 5,800.00	\$ 1,311.00	206	3 mos.	3 weeks
Newstead	a)\$ 7,800.00 b)\$ 5,600.00	\$ 8,316.00	1,318	1 month	1 month
North Collins	a)\$ 7,257.08 b)\$ 5,400.00	\$ 3,824.84	770	21 days	30 days
Orchard Park	a)\$ 28,250.00 b)\$ 15,200.00	\$ 31,990.00	3,393	30 days	None
Tonawanda*	a)\$ 77,236.00 b)\$ 25,762.00	\$ 87,148.00	6,795	None	None
Wales	a)\$ 6,094.02 b)\$ 5,000.00	\$ 2,282.00	288	7 mos.**	None
West Seneca	a) Not Available b)\$ 19,530.00	Not Available	5,000	2-4 weeks	2 weeks
<u>VILLAGES</u>					
Akron*	a)\$ 2,500.00 b)\$ 1,700.00	\$ 1,827	350	30 days	30 days
Alden	a)\$ 2,067.45 b)\$ 1,424.99	Not Available	752	60 days	2 weeks

*1975 Figures

SURVEY RESULTS (cont.)

Name	a.Total Operating Expense-Court b.Justices' Salaries	Amount of Revenue real- ized(including amount remitted by State)	Total # of Matters Disposed	Time Delay Between Ar- rest and Trial of Criminal Matter	Delay in Dispositio: of Civil Matters
Angola	a)\$ 2,637.12 b)\$ 1,934.26	\$ 5,624.00	431	1 wk.- Several mos.	None
Blasdell	a)\$ 5,748.60 b)\$ 4,350.00	\$ 7,725.00	1,353	2 mos.	30 days
Depew	a)\$ 15,973.73	\$ 18,392.00	3,031	2 weeks	None
Farnham	a)\$ 750.00	\$ 520.00	65	6 mos.	6 mos.
Hamburg	a)\$ 8,645.10 b)\$ 4,375.00	\$ 8,149.00	863	None	None
Kenmore	a)\$ 20,618.66 b)\$ 9,735.18	\$ 36,613.00	3,184	None	None
Lancaster	a)\$ 11,331.94 b)\$ 10,011.60	\$ 10,569.00	906	4 weeks	None
Orchard Park	a)\$ 4,087.00 b)\$ 3,100.00	\$ 3,751.00	726	None	None
Williams- ville	a)\$ 6,241.00 b)\$ 2,970.00	\$ 14,610.00	1,276	Not Available	Not Available
Sloan	a)\$ 4,350.00 b)\$ 2,700.00	\$ 3,500.00	360	30-90 Days	None

* 1975 Figures
** Delay due to invalidation of jury list

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