

CITIZENS LEAGUE REPORT

No. 151

**Hennepin County  
Court Reorganization**

**February 1963**

Citizens League  
545 Mobil Oil Building  
Minneapolis 2, Minnesota

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**APPROVED**  
**BOARD OF DIRECTORS**  
**FEB 13 1963**  
DATE

TO: Board of Directors

FROM: Municipal Courts Committee

SUBJECT: Findings and recommendations for court reorganization in Hennepin County.

RECOMMENDATIONS

1. We urge enactment at the 1963 session of the State Legislature of a bill establishing a County Court for Hennepin County. The major provisions of such legislation would include the following:

- a. The District Court, including its juvenile division, and the Probate Court would continue to function as completely separate courts, as at present.
- b. All existing justice of the peace courts and municipal courts in Hennepin County would be abolished and their pending cases and judgments transferred to the new County Court.
- c. The County Court would have countywide jurisdiction of (1) civil actions not exceeding \$3,000, (2) unlawful detainer actions involving land in Hennepin County, and (3) prosecutions for misdemeanors committed within Hennepin County (which at present carry a penalty not exceeding a \$100 fine or 90 days' confinement in a jail or workhouse).
- d. A conciliation court division would be established to handle civil cases for amounts not exceeding \$250, with the right to appeal and trial de novo in the regular civil division.
- e. All jury trial cases would be tried at a central county courthouse. The court would be authorized to establish branch courts and traffic and ordinance violations bureaus at designated places throughout the county.
- f. Appellate review would be exclusively by the Minnesota Supreme Court.
- g. Revenue from traffic and other fines would be returned to the respective prosecuting governmental subdivision after deduction of a set percentage which would be the amount estimated as necessary to cover the costs of handling the criminal case.
- h. The cost of handling civil actions in the County Court would be borne by the taxpayers of Hennepin County. The County Court budget would be submitted to and approved by the County Board of Commissioners.
- i. The judges and other personnel of the Minneapolis Municipal Court would become basic personnel of the new County Court. They would be augmented by such additional judges, probably not less than four nor more than six, and such other court personnel as is found

to be necessary. Present judges of the suburban municipal courts would be given preferential consideration in the initial selection of the additional judges.

- j. County Court judges and other court personnel would be required to be residents of Hennepin County.
- k. Judges would be elected for a term of six years by the voters of Hennepin County.
- l. In the absence of a specific request by the municipality to handle its own prosecution, the County Attorney's office would handle prosecution of criminal cases.

2. As a citizen organization concerning itself with the functioning of government at the local level, we are neither equipped nor the proper agency to undertake a comprehensive review of the need for major court reorganization on a state-wide basis. However, we are deeply impressed with the urgent need for this type of endeavor. It is important that the necessary steps be taken at this time to assure that specific proposals for reorganization of the Minnesota court system will be considered at the 1965 session of the State Legislature. We, therefore, urge action by the State Legislature at the 1963 session to establish an interim commission for the purpose of undertaking an intensive review of the state court organization, and with instructions to report its findings and recommendations to the 1965 session. We likewise urge that an appropriation of funds, in the neighborhood of \$50,000, be provided to assure proper staffing of such a study.

#### SUMMARY OF MAJOR FINDINGS

1. Our review of the existing organization of the courts within Hennepin County has led us inescapably to the conclusion that the existing system is not equipped to meet the demands of our urbanized, complex society and will be totally inadequate for the future. For example, we find the following major weaknesses in our present system:

- a. A substantial part of suburban Hennepin County continues to be served by justice of the peace courts. Almost everything about the j.p. system is totally wrong from a judicial standpoint. Many of the j.p.'s have no legal training whatsoever. They receive no salary and, as a practical matter, are dependent on fees since they can obtain their financial remuneration more readily and speedily by finding defendants guilty than by billing the prosecuting community. This is inconsistent with the basic concept that due process of law demands absolute judicial impartiality and cannot tolerate even a shadow or suspicion of conflict of interest. Trials in the home of the j.p. create a bad public image of our judicial system. The j.p.'s have no staff, few records are kept, and there is almost no review of the cases they handle or the fines they take in.
- b. Most of the municipal courts outside the city of Minneapolis are served by part-time judges who are practicing attorneys, a situation not conducive to the best administration of justice. This results in the judge in one case being an attorney in another, placing both the judge and attorneys practicing before that court in a difficult position. The part-time judge likewise experiences

some difficulty in scheduling court cases at the convenience of the parties involved. Equally important, part-time judgeships limit unduly the field from which municipal judges can be selected.

- c. J.p.'s, with their almost total dependence on fees, and part-time municipal judges serving a single municipality, tend to place excessive emphasis on the revenue which might be produced from fines, rather than imposing the punishment which is soundest for the offense committed.
- d. The diffusion of courts throughout Hennepin County results in duplication of facilities, duplication of services, and inefficient use of the time of judges and court employees, and, in general, imposes an unnecessary financial burden on the taxpayers.
- e. Although almost all civil actions involving the interests of suburban residents are tried in Minneapolis Municipal Court, rather than in the suburban municipal courts, suburban residents are denied the right to participate in the election of the judges who try these civil cases.
- f. The Minneapolis Municipal Court is not compensated directly for the cost of handling civil actions involving suburban residents. This results in continual charges and counter-charges over whether Minneapolis taxpayers are paying a disproportionately high share of the cost.
- g. Minneapolis Municipal Court judges, who must be residents of Minneapolis, are generally given preferential consideration for appointment to the District Court. This places an undue and unnecessary limitation on the field for selection of qualified judges, both to the Minneapolis Municipal Court and to the District Court.
- h. Certain services provided by Minneapolis Municipal Court and needed by suburban courts cannot be provided economically by each municipal suburban court.
- i. The widespread difference in form, procedures, etc., among the numerous courts throughout Hennepin County is confusing to attorneys and to the public, and results in an undue lack of uniformity throughout the county.

2. The proposed County Court for Hennepin County would consolidate the justice of the peace courts and the existing municipal courts in Hennepin County into a single County Court, with essentially the same jurisdiction as all of these courts now have. Neither the jurisdiction nor the composition of the Probate Court, the juvenile division of the District Court, nor the District Court would in any way be affected by establishment of the County Court. Establishment of a County Court for Hennepin County would bring about the following major improvements over the existing system.

- a. All judges would be lawyers.
- b. All judges would serve on a full-time basis. They would be salaried, rather than having to depend on fees or outside law practice for income.

- c. The present emphasis on obtaining revenue for the municipality or compensation to the justice of the peace would be materially reduced, if not completely eliminated.
- d. Uniformity of procedures and forms would be obtained under a single County Court, and attorneys would not be compelled, as they are now, to select the most suitable court among several in which to bring their legal proceedings.
- e. Maximum efficiency could be obtained in the use of the time of judges and other court personnel.
- f. All residents of Hennepin County would be eligible to participate to the same degree in the selection of judges handling cases involving their rights.
- g. Taxpayers throughout the county would be given equitable treatment, since the cost of handling civil cases in the County Court would be financed through a uniform, countywide tax levy.
- h. Hennepin County residents would be getting a far superior court system for less cost than at present.
- i. Lawyers residing in suburban Hennepin County would be eligible for appointment or election to the County Court, thereby broadening substantially the field of selection and encouraging the highest possible caliber of judges.

3. Consideration was given to four other proposals for court reorganization in Hennepin County. These proposals include: (1) A single unified court for Hennepin County. (2) A separate suburban court similar to the Minneapolis Municipal Court. (3) A single County Court for most civil actions. (4) A continuation of the present stopgap arrangement, whereby the County pays the salary of two Minneapolis Municipal Court judges. Following is a brief description of each of these four proposals, and our directional reaction to each:

- a. A single unified court for Hennepin County. Under this proposal, all the justice of the peace courts, the municipal courts, the juvenile division of the District Court, the District Court and the Probate Court would be merged into a single unified court. The unified court would have the jurisdiction now given to all of the various other courts in Hennepin County. The court would be authorized to establish such divisions as it might consider desirable, including, among others, a civil division, a division for motions, a family division, a small claims division, a criminal division, a juvenile division and a traffic division. Judges of the unified court would be elected on a countywide basis, would be required to be residents of Hennepin County, and the costs of handling civil cases would be assessed on a uniform levy basis on taxpayers throughout the county. The state would continue to finance a portion of the unified court costs comparable to its present allocation of funds to the District Court. Revenues from fines and misdemeanors and ordinance violations, after deducting court costs, would be remitted to the municipality where the offense principally occurred.

Comment: We are convinced that a single unified court would be the most economical long-range court organization for Hennepin County. It would offer all of the advantages of the proposed County Court. In addition, it would offer even further economies in the most efficient assignment of judges and other court employees. This ability to assign judges would keep the case backlog at a minimum. In addition, the judges could be appointed directly to the unified court, which would be more attractive to many lawyers who presently are unwilling to accept appointment to the Municipal Court in the hope that at some later time they will be advanced to the District Court.

However, the single unified court has a few significant disadvantages or obstacles. Since the Probate Court is required by the state constitution, the unified court could only be brought about through prior adoption of a constitutional amendment. Also, the District Court is a statewide court. It would not be advantageous to have one District Court organized entirely differently from that of all other districts, which would be the case if a single unified court were established for Hennepin County. Principally, for these two reasons we are not at this time proposing the single unified court plan for Hennepin County.

- b. A separate court for suburban Hennepin County similar to the Minneapolis Municipal Court. Under this proposal, existing justice of the peace courts and municipal courts throughout suburban Hennepin County would be abolished and a single court would be established for suburban Hennepin County. Four separate judicial districts would be created, to correspond to the state senatorial districts, with a judge being elected for each district by the voters of the respective district. The Minneapolis Municipal Court would no longer have countywide jurisdiction. The suburban court would have jurisdiction identical to that of the Minneapolis Municipal Court for its own territory, and appeal would be directly to the State Supreme Court.

Comment: Although suggested legislation establishing a separate court for suburban Hennepin County would accomplish several important objectives, such as the abolition of justice of the peace courts and existing municipal courts, in most major respects the creation of a separate court for suburban Hennepin County would appear to be a step in the wrong direction. Its principal objective is to preserve local autonomy. We regard the fractionalization of the court system in the name of local autonomy as having no place in the administration of justice.

- c. A County Court for most civil actions. This proposal would broaden the residency requirements for judges of the Minneapolis Municipal Court to all of Hennepin County and would have all judges elected by the voters of the county. The salary of Minneapolis Municipal Court judges would be paid by the taxpayers of the county, rather than by taxpayers of the city of Minneapolis, as at present. The governing bodies of municipalities would be authorized by a 4/5 majority of their members to abolish civil jurisdiction, except actions of forcible entry and unlawful detainer, in existing suburban municipal courts. No court established in any city, village or township in Hennepin County after

July 1, 1963, could have civil jurisdiction, except for actions of forcible entry and unlawful detainer.

Comment: None of the provisions contained in this proposal are inconsistent with the direction of needed court reorganization. However, the proposal at best represents a halting step forward, a step far too modest in view of the urgent need for substantial court reorganization in Hennepin County.

- d. Continuation of the present stopgap arrangement. Under this proposal, the salaries of two of the eight Minneapolis Municipal Court judges would be paid by the taxpayers of Hennepin County, and the salaries of the other six would be paid by the taxpayers of Minneapolis. This financing plan would continue the present arrangement, which in the absence of legislative action at the 1963 session will expire July 1, 1963. In addition, the residency requirements for judges of the Minneapolis Municipal Court would be extended to include all of Hennepin County. However, Minneapolis voters would continue to determine the election of judges to the Minneapolis Municipal Court.

Comment: This admittedly stopgap proposal does almost nothing to improve any of the deficiencies in the existing court system in Hennepin County. At most, it gives some relief to Minneapolis taxpayers. Broadening the residency requirements for judges to include all of Hennepin County would leave judges residing in the suburbs in a particularly vulnerable position, since suburban residents could not vote. While this proposal is not a step backward, it seems almost not a step forward, either.

4. Neither this report nor our assignment includes assessment of the need for statewide reorganization of the judicial system in Minnesota. But most if not all of the criticisms we have made of the existing court organization in Hennepin County are at least as applicable to other parts of the state, and we therefore feel compelled to express our general conviction that substantial reorganization of the existing court system in Minnesota is clearly indicated. Success of efforts to reorganize the court system within Hennepin County could well set an excellent example which might provide the spark necessary to stimulate other areas throughout the state to undertake similar endeavors.

5. We have reviewed court reorganization efforts in other states and have been deeply impressed with the success of these efforts during recent years. We are particularly encouraged by the major court reorganization which has taken place in the neighboring states of Wisconsin and Illinois. The comprehensiveness of the change made in these neighboring states has likewise served to reinforce our conviction that court reorganization comes, at best, infrequently and that when a change is made it should accomplish most, if not all, of the revisions which are needed. We are confident that favorable results comparable to those made in other states can be attained in Minnesota and in Hennepin County, if an equal effort is made.

6. We have been impressed with the need for a retirement program for municipal judges comparable to that provided for District Court judges in Hennepin County. At the present time, Municipal Court judges in Hennepin County have no retirement program whatsoever, and they must depend upon elevation to the District Court if any retirement benefits are to accumulate. However, since the issue is not within the scope of our present assignment, this report makes no specific recommendations to implement this conclusion.

### SCOPE OF REPORT

This report concerns itself with reviewing the functioning of the existing court organization in Hennepin County and reporting our findings and recommendations. Because the Citizens League is an organization which examines and makes recommendations for improvement in the functioning of government at the local level, the recommendations contained in this report are of specific application to Hennepin County only. It has been beyond the scope of the committee's endeavor to review the need for court reorganization on a statewide basis. Nevertheless, our findings and recommendations have been weighed in terms of their compatibility with sound principles of court organization, and in terms of being consistent with ultimate organization of the state court system.

The recommendations contained in this report represent the best thinking of the members of the Municipal Court Committee and the Citizens League's Board of Directors. The recommendations have not been molded to fit what we might guess are the politically feasible proposals which are most likely to receive favorable action at the 1963 session of the State Legislature. It is for others to assess the political practicality of proposals for court reorganization.

### SCOPE OF COMMITTEE ACTIVITY

The Municipal Court Committee, comprised primarily of lawyers, has been co-chairmanned by James L. Hetland, Jr., and Philip Neville. Members who have participated actively in committee deliberations and in the formulation of this report include Leavitt Barker, Bruce Blackburn, Judge Donald S. Burris, Judge Edwin P. Chapman, Charles Clay, Frank J. Collins, Judge Herbert W. Estrem, Richard FitzGerald, Dr. Cyrus Owen Hansen, Robert C. Holtze, Stanley D. Kane, Raeder Larson, Clay R. Moore, Judge Dana Nicholson, Rodger L. Nordbye, Kenneth Rahn, Kenneth Strom and Paul Van Valkenburg. The committee has been staffed by Verne Johnson, the League's Executive Director.

The committee was formed in October, 1962, and held its initial meeting just after the first of November. Much of the credit for the ability of the committee to complete its work in so relatively brief a span of time should be given to Dean Johnson and Donald Burris, Co-Chairmen of the Special Committee of the Hennepin County Bar Association. They generously made available to our committee their entire file and material papers, which reduced substantially the amount of work which otherwise would have been required. The ability to obtain this valuable information allowed us to avoid duplicated research and saved our Municipal Court Committee an immense amount of time. We express to these two gentlemen our deepest appreciation for their splendid cooperation.

The Municipal Court Committee has met on a weekly basis since early November. In addition to the wealth of experienced views among members of the committee itself, the views of others were solicited. State Senator Richard Parish appeared before the committee to explain his proposal for the establishment of a separate municipal court for suburban Hennepin County. District Court Judge Dana Nicholson discussed his own proposal for the establishment of a circuit court for Hennepin County. District Judge Lindsay Arthur presented his views in support of a single unified court for Hennepin County. The committee also had the benefit of a personal appearance by Professor Maynard Pirsig of the University of Minnesota Law School, former dean of the Law School and generally recognized as one of the most noted experts in this area on the subject of court organization. Members of the Special Committee of the Hennepin County Bar Association appeared before our committee on several occasions to explain and discuss proposals on which that committee was deliberating.



In addition to seeking the viewpoints of recognized leaders in the field of court organization, the committee reviewed recent court reorganization plans which have been adopted in other states. The committee gave particular attention to substantial changes made during the past year or two in the states of Illinois, Wisconsin and California.

The committee, at its first meeting, agreed to disregard considerations of short-run political expediency and to endeavor to formulate recommendations which would result in the most equitable and most economical justice for residents of Hennepin County. This approach persisted throughout the entire deliberations of the committee, and the recommendations which have been formulated adhere to this basic principle.

The recommendations and major conclusions contained in this report represent the viewpoint of all members who participated actively in the work of the Municipal Court Committee. No minority report is being submitted, and no member of the committee has dissented from any recommendation or conclusion.

#### RECENT DEVELOPMENTS

Criticism has been mounting in recent years about the inadequacy of our present court system in Hennepin County to adapt itself to the larger, urbanized, complex society in which we live. Criticism of this type has been voiced in almost every state in the nation, as well as in Minnesota and Hennepin County. Sweeping court reorganization proposals have been adopted in several states in recent years. Within the past year or two, for example, major lower court reorganization has been accomplished in such states as Illinois, Wisconsin, Los Angeles County in California, North Carolina, Colorado and Idaho. In addition, major changes in the method of selecting judges of state courts have been attained in recent years in Alabama, Alaska, Iowa, Kansas, Missouri, California and Illinois.

Within Minnesota, the strongest criticism has been leveled at the justice of the peace courts. This dissatisfaction with the functioning of the justice of the peace court system culminated in the overwhelming approval by the voters in 1956 of a state constitutional amendment which abolished the justice of the peace as a constitutional office. However, those who thought that adoption of this constitutional amendment would be followed by the early end of the justice of the peace system were to be disappointed. An Attorney General's opinion and a subsequent Supreme Court decision have held that justice of the peace courts continue until abolished by law. Thus far, a relatively small proportion of the justice of the peace courts have been abolished.

The State Legislature, at the 1957 session, authorized appointment of a State Lower Court Study Commission and gave the commission an appropriation of \$25,000. This commission published a report in 1958 generally proposing a substantial expansion of the jurisdiction of the County Probate Court. The report granted the Probate Court jurisdiction in civil and criminal cases similar to that of justice of the peace and municipal courts. Although the justice of the peace courts were not abolished under the recommendations of this report, the commission doubtless assumed that by expanding the jurisdiction of the Probate Courts the ultimate result would be to abolish justice of the peace courts. The Legislature, thus far, has implemented this recommendation only for counties having a population of less than 30,000. In these small counties, the Probate Courts now have the same jurisdiction as municipal and justice of the peace courts.

The State Legislature, since 1957, has made a few other changes in the judicial system, including, for example: (1) A defendant may now have his case transferred from a justice court to a court in the same county having a salaried judge. (2) The fee system, out of which the justice of the peace receives his compensation, has been standardized. The law provides that the justice of the peace receives \$4.00 for receiving a guilty plea, \$8.00 for conducting a trial, and \$12.00 for a jury trial case. If the defendant is found guilty, the justice of the peace receives his compensation directly from the defendant. If the defendant is found innocent, the j.p. may bill the prosecuting community. As a practical matter, very few bills have been presented to communities thus far. (3) Municipal court judges not already in office must be attorneys, and municipal court judges have been placed on salary. (4) Townships, through action at a town meeting, have been given the power to abolish justice courts. These and other minor changes in the court system have been accomplished during the past few years, but none has approached the sweeping type of court reorganization which many anticipated would follow adoption of the 1956 constitutional amendment.

About a year ago, the Minnesota State Bar Association established a section for the purpose of considering a statewide court reorganization. Apparently, it is the view of this section that a substantial sum of money, probably in the neighborhood of \$50,000, will be necessary to staff such a study. It is our understanding that the State Bar Association will ask the Legislature to appoint an interim committee with an appropriation of approximately \$50,000 to undertake a comprehensive study of the state judicial system and to report back its findings and recommendations to the 1965 session of the State Legislature.

The principal stimulus for court reorganization within Hennepin County occurred at the 1961 legislative session in conjunction with a request for two additional judges for the Minneapolis Municipal Court. Minneapolis elected officials complained that, although almost all of the civil litigation for suburban Hennepin County was being handled by the Minneapolis Municipal Court, Minneapolis taxpayers were bearing most of the cost. In order to obtain legislative approval of the bill adding the two municipal court judges, it was necessary to provide that the salary of these two judges be paid out of county, rather than city, funds. This arrangement for payment of the two judges was to continue until July 1, 1963, and the Hennepin County Bar Association was asked to formulate recommendations for presentation to the 1963 session of the State Legislature. A special committee of the Hennepin County Bar Association has met periodically for the past year or more, but thus far the Bar Association itself has not adopted any specific recommendations.

The Citizens League's Board of Directors, during the past several years, has considered including in its research program a project envisioning a comprehensive review of the functioning of the court system in Hennepin County. Until recently, however, the project was left out of the research program on the primary basis that this is a problem for the Bar Association. It has become increasingly apparent that favorable action leading to substantial reorganization of the court system in Hennepin County will require the active interest and support of broadly-based organizations, such as the Citizens League. Therefore, in September, 1962, the Board of Directors authorized the establishment of a special Municipal Courts Committee, with instructions to report its findings and recommendations to the Board in time for consideration at the 1963 session of the State Legislature.

DISCUSSION OF MAJOR FINDINGS AND RECOMMENDATIONS

Present Court System in Hennepin County

The courts in Hennepin County are: the District Court, the juvenile division of the District Court, the Probate Court, 15 Municipal Courts, the Conciliation Court of Minneapolis and 36 or more Justices of the Peace.

The District Court has 14 judges. These judges must be residents of Hennepin County and they are elected by the voters of Hennepin County. They are state officers. Their annual salaries consist of \$14,500 paid by the State and a \$1,500 supplement paid by Hennepin County. The District Court has original jurisdiction in all civil and criminal cases, except those within the jurisdiction of the Probate Court. As a practical matter, the District Court does not exercise its jurisdiction in unlawful detainer cases and those minor criminal cases which are within the Municipal Court and justice of the peace jurisdictions. The District Court has appellate jurisdiction covering all decisions of the Probate Court, justices of the peace and those municipal courts of Hennepin County other than the Municipal Court of Minneapolis. It also has appellate jurisdiction covering convictions in some criminal cases tried in the Municipal Court of the City of Minneapolis. All of this appellate jurisdiction is exercised by trial de novo.

One of the 14 district judges is elected specially as the judge of the juvenile division of the District Court. The juvenile division has jurisdiction of (1) delinquent children, (2) dependent and neglected children, (3) adoptions, and (4) persons charged with contributing to the delinquency of children.

The Probate Court has jurisdiction over (1) the administration of the estates of deceased, incompetent and minor persons, (2) the appointment and supervision of guardians of the person for incompetent and minor persons, and (3) the commitment of incompetent and mentally ill persons.

The following 15 municipalities in Hennepin County have municipal courts: Minneapolis, Bloomington, Edina, Hopkins, Minnetonka Village, Richfield, St. Louis Park, Wayzata, Golden Valley, Plymouth, Brooklyn Center, St. Anthony, Crystal, Excelsior and Mound. These municipal courts have jurisdiction of (1) any civil action at law to recover an amount not exceeding \$1,000, (2) unlawful detainer actions, and (3) criminal prosecutions for violations of municipal ordinances and state laws where the penalty does not exceed three months' imprisonment or a \$100 fine, as well as jurisdiction to (4) conduct preliminary examinations in felony and gross misdemeanor criminal cases. The Minneapolis Municipal Court maximum civil jurisdiction is \$3,000, rather than \$1,000. Normally, municipal courts hear criminal prosecutions for only those offenses committed within their respective municipalities.

The Conciliation Court of the City of Minneapolis is a separate court, but is manned by the judges and other personnel of the Municipal Court. It has jurisdiction of civil actions to recover amounts not exceeding \$250. Its decisions may be appealed to the Municipal Court of the City of Minneapolis for trial de novo by another judge or by a jury.

Among the major communities in Hennepin County presently served by justices of the peace are: Brooklyn Park, Champlin, Champlin Township, Corcoran, Dayton, Eden Prairie, Hanover, Independence, Loretto, Maple Grove, Maple Plain, Medicine Lake, Medina, Minnestrista, Morningside, New Hope, Orono, Osseo, Robbinsdale, Rockford, Rogers, St. Bonifacius, Shorewood, Spring Park and Woodland. Justices of the peace have the same jurisdiction as the municipal courts, except that their jurisdiction in civil cases is limited to \$100.

MAJOR WEAKNESSES IN THE PRESENT SYSTEM

The more deeply we have delved into the functioning of the court system in Hennepin County, the more firmly convinced we have become that it is not adaptable to meet the needs of a large, urbanized, complex society, and that it will be totally inadequate to meet the needs of the even larger and more complex urban center which Hennepin County will become during the next decade. This is not to say that this system has not served well the essentially rural, agricultural type of society for which it was established many years ago.

Justice of the peace courts - Nearly everyone agrees that by far the weakest link in our present court system is the justice of the peace courts. They have been called an historical hangover from a system designed to handle petty matters in horse and buggy days. Yet even today 25% of the area in Hennepin County continues to be served by j.p. courts.

There is no requirement that a j.p. have any legal training whatsoever, and, in fact, many, if not most of them do not. They are not even required to pass a literacy test as a qualification to become a j.p. Despite this complete lack of legal training, j.p.'s are expected to decide legal issues requiring a knowledge of the law. Professor Maynard Pirsig of the University of Minnesota Law School faculty summed up the criticism of the lack of judicial training of many j.p.'s rather eloquently in a Minnesota Law Review article when he said, "The notion of a layman, ignorant of the law, deciding legal rights of parties in civil litigation and defendants in criminal cases, is hopelessly irreconcilable with the fundamental tenets of our government that justice shall be administered in accordance with established principles of law and not at the whim or caprice or personal notions of justice held by some individual exercising the power of the state. The fact that the amount in litigation is small, or that the crimes charged are minor ones, does not in a democratic society alter the application of this fundamental philosophy."

Almost as serious a criticism of the j.p. system as the lack of judicial training is the fee system under which they operate. Although the Legislature a few years ago authorized j.p.'s to bill the prosecuting municipality a specified amount in cases where the defendant is found innocent, as a practical matter, j.p.'s almost never submit bills to the municipality under these circumstances. There is reason to believe that many j.p.'s are not even aware of this authorization to bill the prosecuting municipality. And, in any event, it is far simpler to collect on the spot from a guilty defendant. It is difficult to imagine any defendant feeling that he has received an impartial trial, when the judge has such a vested financial interest in the outcome. While the vast majority of j.p.'s unquestionably try to decide each case on its own merits, due process of law demands absolute judicial impartiality and cannot tolerate even a shadow or suspicion of conflict of interest.

Most cases are handled by the j.p. in his own home, probably in his living room. The lack of dignity of these unimpressive surroundings gives people a bad image of our court system and tends to lessen respect for all courts.

During the past year or two there have been at least three cases in which j.p.'s have been dismissed from office for failing to remit fines to the municipality within the legally allotted time period. These occurred in Crystal, Robbinsdale and St. Anthony. The most cursory review of the procedures used by j.p.'s makes it easy to see how this could happen. The j.p. has no clerk. He keeps almost no records of cases he handles. There are no records of his earnings from fees. He is required to remit his accumulated revenues from fines periodically, after deducting

his fees, to the prosecuting municipality. Almost no auditing is done of his reported remittances. Many j.p.'s fail to comply with the most elementary requirements of law. For example, the law requires that the j.p. file a surety bond with the Clerk of District Court and a copy with the Secretary of State. In 1961, about half the j.p.'s did not file this bond. J.p.'s are required to report to the County Attorney on cases involving violations of state laws. In 1961, the Hennepin County Attorney received reports from only 11 of some 36 or more j.p.'s in Hennepin County.

Almost everything about the j.p. system is incompatible with sound and equitable judicial procedures. In fact, so little is known for certain about the j.p. system that no one seems certain how many j.p.'s there are in Minnesota. Even more incredible, we have been unable to ascertain for certain how many j.p.'s there are in Hennepin County. Our closest count is 36, but this, at best, represents a close estimate.

Part-time judges - All judges serving the 15 municipal courts in suburban Hennepin County serve on a part-time basis. Their salary is related to the proportion of time they put in as a judge and generally averages somewhat below \$6,000 a year. In almost every instance, these judges are also practicing attorneys. This is not conducive to the best administration of justice for several reasons. Because of the competing demands for the time of a part-time judge, it is frequently difficult to schedule court cases at the most convenient time for all parties concerned. A potentially embarrassing, if not compromising, situation results from a system in which a part-time judge and part-time lawyer opposes in other litigation lawyers who appear before him as legal counsel in the judge's municipal court. A part-time judge obviously will not be as experienced nor as dedicated to his judicial work as would a full-time salaried judge who is making it a career. Likewise, practicing law on a part-time basis is generally not too satisfactory, and as a result the field from which suburban municipal judges are selected is somewhat restricted. There is almost no disagreement with the general conclusion that a court system which functions without full-time salaried judges has, and always will have, serious limitations.

Emphasis on revenue - The present system of j.p.'s dependent on fees for income and part-time judges serving a single municipality clearly has led to an excessive emphasis on the revenue which might be produced from fines, rather than imposing the punishment which is soundest for the offense committed. Take, for example, the case of a driver who is charged with drunken or reckless driving. The j.p. or the municipal judge knows that if he imposes a \$100 fine, both he, in the case of the j.p., and the municipality will benefit financially. If, on the other hand, the defendant is sentenced to 30 days in the workhouse, the municipality would receive no revenue and, in fact, would have to pay about \$4.00 a day for the period of imprisonment. In addition, the suburban area has no workhouse of its own, and the judge or j.p. then has to assure himself that the Minneapolis Workhouse has sufficient capacity to take the defendant. Under these circumstances, every incentive is on the side of imposing a fine, and it is not strange that in the vast majority of cases this is what happens.

Financial burden on the taxpayer - The present system in Hennepin County with 15 separate municipal courts and at least 36 j.p. courts obviously is a costly judicial system. Each municipal court must keep its own records, each must have its own clerk, each its own separate court facilities, etc. A good share of the extra cost of this type of system cannot be accurately measured. For example, how can one calculate the additional cost which results from the necessity to schedule court cases at less than convenient times for lawyers, the parties in interest, witnesses and police officers? Similarly, no one knows the actual cost of the j.p. system. Although the cost of this relatively inefficient system has not been a heavy financial burden on suburban taxpayers thus far, it will become increasingly so as the volume of litigation increases.

Suburban voters disenfranchised - The vast preponderance of civil cases arising in Hennepin County are handled in either the District Court or the Minneapolis Municipal Court. Relatively few are brought in the suburban municipal courts or before j.p.'s. There are a number of reasons why lawyers prefer to bring civil actions in Minneapolis Municipal Court rather than in the suburban court where one or both of the parties in interest reside. For one thing, suburban courts are neither equipped nor do they want to handle civil cases. Many of these require jury trials, and suburban courts have inadequate courtrooms for this type of case. Civil actions are costly to the municipality. From the lawyer's standpoint, perhaps the compelling reason for bringing the action in Minneapolis Municipal Court is the appeal procedure which is made directly to the Supreme Court. An appeal from a verdict or judgment in a suburban municipal court must be made to the District Court and means a complete retrial. This results in an expensive duplication of the trial and merely delays further the possible ultimate appeal to the Supreme Court.

Minneapolis Municipal Court judges are required to be residents of the city of Minneapolis and are elected by the voters of Minneapolis. This means that the suburban litigant is denied the right to participate in the selection of the judge who tries his case. It also means that none of the judges who try cases involving suburban litigants are residents of the suburbs.

Continual city-suburban bickering on fair allocation of court costs - While suburban political leaders complain about the inability of suburban residents to participate in selection of judges of the Minneapolis Municipal Court and the inability of lawyers residing in the suburbs to serve as judges of the Minneapolis Municipal Court, Minneapolis political leaders are equally unhappy about Minneapolis taxpayers having to bear what they believe to be an excessive proportion of the cost of handling civil cases involving suburban litigants. These Minneapolis political leaders contend that nearly all civil cases involving suburban residents are handled by the Minneapolis Municipal Court and that the suburban financial contribution to the cost of handling these cases is inadequate.

Aside from any fees suburban litigants might pay to the Minneapolis Municipal Court, the suburban financial participation in the costs of that court are confined to two areas: (1) The salaries of two of the eight municipal court judges are paid by the County. These salaries total \$28,500 a year. The suburban taxpayers' share of this \$28,500 would be approximately \$10,000, since about 35% of the revenue produced from each mill of property tax levied countywide comes from suburban taxpayers. (2) Under the combined jury pool system now used by the District Court and the Minneapolis Municipal Court, the cost of jurors for both courts is paid by the County. The 1963 County budget estimates this cost at \$341,000. The suburban taxpayers' share of this cost would be approximately \$120,000. There is no budgetary allocation of this total cost to the two separate courts, so it is not possible to measure the exact amount which is attributable to the Minneapolis Municipal Court jury costs. However, an informed guess of roughly 25% for the Municipal Court might not be too inaccurate. Using this rough yardstick, the suburban tax contribution to the Minneapolis Municipal Court would be approximately \$30,000. Minneapolis political leaders contend that this total contribution of \$40,000 or so, plus any fees paid by suburban litigants, is inadequate to meet the full cost of handling civil cases involving suburban litigants. Suburban political leaders counter this charge of inadequate financial participation in the cost of operating the Minneapolis Municipal Court by claiming that substantially more than half the total Minneapolis Municipal Court budget is for handling criminal cases, involving Minneapolis residents almost exclusively; that at least half the jury trials in the Minneapolis Municipal Court are for criminal cases; and that less than 25% of the civil litigation involves suburban residents. In 1962, approximately \$382,500 was appropriated to maintain

the Minneapolis Municipal Court. In addition to this basic appropriation, additional amounts of \$149,000 for police officers assigned to the Municipal Court and \$52,500 for the Probation Office were appropriated. The suburban political leaders also point out that, although suburban taxpayers assume approximately 35% of the cost of maintaining the District Court, substantially less than 35% of the cost of that court is attributable to suburban cases. They cite, for example, appropriations in 1962 of \$506,000 for the Glen Lake Home School for Boys, \$179,000 for the Juvenile Center, and \$828,000 for the Probation Office. Although probably between 80-90% of the persons involved in these facilities and services are residents of Minneapolis, the suburban taxpayer assumes 35% of the cost. Thus, the suburban argument emphasizes that, if court costs are to be allocated between Minneapolis and suburban residents, both courts serving Hennepin County should be considered in arriving at a fair allocation. If this is done, says the suburban official, the suburban taxpayer is at least carrying his fair share of the burden and probably more than that.

These arguments have been detailed for the purpose of showing how complex this issue actually is. It has led to increasing bitterness between Minneapolis and suburban public officials, without any demonstrable way of establishing or disestablishing the contention of either side.

Limited field from which to select judges - The proportion of lawyers residing in suburban Hennepin County, compared with those living in the city of Minneapolis, has increased at least proportionately to the increase in the proportion of the general population living in the suburbs. These suburban lawyers are ineligible to serve as judges of the Minneapolis Municipal Court. In addition, the general practice has been to elevate Minneapolis Municipal Court judges to the District Court when vacancies in that court arise. This severely restricts the selection of qualified judges. The adverse effect of this residence restriction has been felt increasingly during recent years.

Certain court services not provided economically in suburban courts - Each suburban court does not have a sufficient volume of cases to be able to provide at an economical cost a number of needed court services. For example, it is difficult for most municipalities which have, at most, part-time legal services to provide experienced prosecuting attorneys to handle criminal cases. Another example is the lack of probation services in the suburban courts. Suburban courts cannot justify, on an economic basis, having their own workhouse. These are but a few of the examples of ancillary court services which can only be provided at an economical cost in courts handling a sufficiently large volume of cases.

Lack of uniformity among courts - Each of the many courts in Hennepin County establishes its own procedures and each judge applies his own general standard in construing and enforcing the laws. This leads to an undue amount of confusion on the part of lawyers as well as among litigants. It also compels lawyers to select the court among several which they feel is most suitable for the action being brought. If a judge in one of the suburban municipal courts, or perhaps a j.p., establishes a certain reputation in his application of the law, that court is likely either to attract or repel certain types of legal actions. Although this shopping for the most suitable court in which to bring a legal action is clearly undesirable, there is little alternative under the present system.

#### Proposed County Court for Hennepin County

In formulating our findings and recommendations we have attempted to propose a court reorganization plan for Hennepin County which will either eliminate or substantially improve most, if not all, of the major weaknesses which exist in our

present court system. After reviewing intensively a number of proposed ways of reorganizing the courts of Hennepin County, we have put together features from each and have formulated our proposal for the establishment of a County Court of Hennepin County. We urge enactment at the current session of the State Legislature of a bill which would establish such a County Court.

#### PRINCIPAL FEATURES OF THE PROPOSED COUNTY COURT

In general, the proposed County Court of Hennepin County would consolidate the justice of the peace courts and the existing municipal courts in Hennepin County into a single County Court with essentially the same jurisdiction as all of these courts now have. All existing justice of the peace courts and municipal courts in Hennepin County would be abolished and their pending cases and judgments transferred to the new County Court. The District Court and its juvenile division and the Probate Court would function as completely separate courts, as at present.

Jurisdiction and venue - The County Court would have countywide jurisdiction of (1) civil actions not exceeding \$3,000, (2) unlawful detainer actions involving land in Hennepin County, and (3) prosecutions of misdemeanors committed within Hennepin County. Misdemeanors presently carry a maximum penalty of a \$100 fine or 90 days' confinement in a jail or workhouse. This is the jurisdiction which the Minneapolis Municipal Court now has, and we are merely recommending that the new County Court have similar jurisdiction. Venue also would remain the same as it now is for the Minneapolis Municipal Court.

We considered increasing the \$3,000 maximum jurisdiction to as high as \$10,000. It was the opinion of several experienced judges and lawyers that the present \$3,000 maximum is a rather logical breakpoint. Others thought the maximum should be increased in order to reduce the case load in the District Court. It was the consensus of our committee that the maximum should be increased somewhat, but that this issue should be presented specifically and separately rather than being made a part of a general court reorganization proposal of the type we are recommending. It is on the basis of this same reasoning that we are not now recommending that the jurisdiction be broadened to include prosecutions for gross misdemeanors.

Conciliation Court Division - We propose establishment of a Conciliation Court Division of the County Court which would handle civil cases involving amounts not exceeding \$250, with the right to appeal and trial de novo in the regular civil division. This conciliation court would be a division of the County Court, rather than a technically separate court as it is now in relationship to the Minneapolis Municipal Court. In all other respects, the proposed Conciliation Court would function identically with the present Minneapolis Conciliation Court.

The committee heard arguments for increasing the maximum amount above the current \$250. However, the present level appears to be working rather well in the Minneapolis Municipal Court, and it would appear preferable not to attempt to change this maximum in conjunction with a comprehensive court reorganization proposal.

Location of the County Court - At least for the foreseeable future, the County Court would continue to use the courtrooms and facilities presently utilized by the Minneapolis Municipal Court. Use of these facilities should be accomplished without additional rent or other cost to the County. Arrangements for any additionally needed courtrooms at the central courthouse would have to be provided by the Board of County Commissioners in cooperation with the Municipal Building Commission.

All jury trial cases would be required to be tried at the central county courthouse. This would save the considerable expense of providing jury trial court-



rooms in outlying areas. It would also enable the continued use of the common jury pool with the District Court, reducing substantially the cost of jurors.

The Court would be authorized to establish traffic and ordinance violation bureaus and branch courts in outlying locations throughout the County. For example, it seems certain that a number of outlying locations would have to be established for the purpose of receiving payment of traffic and other fines. The committee spent considerable time discussing the merits of centralizing most court proceedings in one court building, as against locating several court facilities at selected locations throughout the suburbs for the handling of non-jury trial cases. While committee members felt that on balance it would be more advantageous to have all cases tried at a central courthouse, there was general agreement that the court itself should be given discretionary authority to decentralize certain court facilities if and to the extent it deems desirable. We would regard it as a serious mistake if the legislative act which establishes the County Court would require the trial of cases in outlying locations.

Appeals - Appellate review would be exclusively by the Minnesota Supreme Court. This is the appellate procedure presently in effect for the Minneapolis Municipal Court. The absence of this right of direct appeal to the Supreme Court from verdicts or judgments of existing municipal courts in the suburbs or the j.p. courts has reduced tremendously the use of those courts for civil actions.

Revenue from fines - Revenue from traffic or other fines would be returned to the respective prosecuting governmental subdivision after deduction of a set percentage which would be the amount estimated as necessary to cover the cost of handling criminal cases. The revenues from fines have become important from an income standpoint to most municipalities. For example, Minneapolis revenue from this source during 1962 exceeded \$1,400,000. The total amount raised from this source among suburban Hennepin County municipalities probably reached \$500,000 last year. The cost of the court system is only a minor fraction of these revenues and, therefore, any proposal to divert these revenues from the prosecuting municipalities would meet with violent opposition.

We can see no particular advantage from a court organization standpoint to transferring from the municipality the net revenue from fines. However, it is important to remove somewhat from the interested municipality the judicial decision of whether and to what extent a fine should be imposed. Our proposal to have all criminal actions within Hennepin County tried by the County Court would provide much greater assurance that each criminal prosecution is handled by a completely disinterested court from two important standpoints. First, there would be no doubt about the complete impartiality of the court. Second, if the court found the defendant guilty, a County Court which is removed from the potential pressures of concerning itself about revenues to the prosecuting municipality could better fit the sentence to the crime. If the most suitable sentence, according to the judge, would be to detain the defendant at the workhouse, this result would be much more likely to occur under the County Court system.

We doubt the feasibility of attempting to specify in the legislation creating the County Court the precise manner in which the court costs involved in handling criminal cases should be determined. We prefer to leave to the discretion of the court itself the determination of an exact proportion of the total fines which would be retained by the County Court.

Tax levy - The expense of handling civil actions in the County Court would be borne by the taxpayers of Hennepin County, and would be defrayed by spreading uniformly throughout the County a levy on property. The cost of handling criminal cases

would be deducted from the revenue from fines. The judges of the County Court, assisted by their staff, would prepare an annual budget which would be submitted to the Board of County Commissioners for its consideration and approval. The Minneapolis Municipal Court is required to submit its annual budget to the Minneapolis City Council. Thus, our proposal that the County Court budget be submitted to the Board of County Commissioners continues this general principle of budget review by the governing body at the affected level of government.

The committee considered transferring the Minneapolis Workhouse to the County. If so, the cost of maintaining the Workhouse would be defrayed by deductions from the revenue from fines. However, we concluded that this is an issue which might preferably be resolved separately, rather than involving it in a proposal to reorganize the lower courts in Hennepin County. The Workhouse, therefore, would continue to be operated by the City of Minneapolis, and its use by non-Minneapolis residents would be on a per diem basis.

Judges and court personnel - It would be both impractical and disadvantageous not to blanket in as employees of the new County Court the judges and other personnel of the Minneapolis Municipal Court. The Minneapolis Municipal Court judges are on a full-time salaried basis and have discontinued the practice of law in favor of a judiciary career. They would be augmented by such additional judges, probably not less than four nor more than six, and such other court personnel as is found to be necessary.

Employees of the Minneapolis Municipal Court would automatically become county employees, including such ancillary court employees as those in the Minneapolis Probation Office. All existing pension rights would be protected by providing that court employees at the time the court is established would have the option to continue as members of the Minneapolis Employees Retirement Association. Employees hired after the County Court is established would automatically become members of the same retirement system as other county employees.

The County Court obviously would require judges and other personnel in addition to the number required to operate the Minneapolis Municipal Court. Judges of the 15 suburban municipal courts should be given preferential consideration in filling the initial additional judgeships. The act establishing the County Court should provide that the first appointments to the newly-created judgeships should be limited to present suburban municipal court judges, at least to the extent they would be interested in filling these positions. It is possible that many of them would decline because none of the suburban municipal judges presently serve on a full-time basis. This would assure that some of the judges would be suburban residents from the outset. It might be further provided that the appointment of judges to the newly-created judgeships be restricted to suburban residents. It has been suggested that this type of limitation might pose some constitutional question, but we are confident that a way can be found to assure compliance.

We have made no exhaustive study to determine the exact number of additional judges which would be required to handle the caseload of the proposed new County Court. Based on the evidence presented to our committee, it would appear that three additional judgeships would be the minimum requirement. The general consensus of experienced viewpoints is that if four or more judgeships are added, then the backlog of pending cases could be reduced somewhat.

Election procedures - Judges of the proposed new County Court would be elected for a six-year term on a staggered basis. Judges must be residents of Hennepin County, must be lawyers eligible to practice in Minnesota, and would run for office on a countywide basis.

These proposed election procedures are similar to those for the present Minneapolis Municipal Court, except for the broadened area of residence and voting. The Governor would continue to fill vacancies on the County Court in the same manner as he now does for the Minneapolis Municipal Court and existing suburban municipal courts. We gave some consideration to the possibility of changing election procedures to correspond more nearly to the so-called Missouri Plan, but it was the consensus of the committee that this type of issue should more properly be considered in conjunction with a statewide reorganization of the court system.

Criminal prosecutions - In the absence of a specific request by the municipality to handle its own prosecution, the County Attorney's office would handle prosecution of criminal cases coming before the County Court.

Most suburban communities, without the benefit of full-time attorneys, find it somewhat difficult to provide at an economical cost experienced lawyers to prosecute criminal cases. This is not necessarily the case in Minneapolis with a permanent staff of lawyers under the City Attorney. We recommend that, in the absence of a request by the community, the County Attorney's office should handle the prosecution of criminal cases. This would provide more experienced prosecuting attorneys at a much more economical cost to the taxpayer. At the same time, any municipality could provide its own prosecuting attorney where it deemed it desirable.

#### MAJOR IMPROVEMENTS OF COUNTY COURT OVER PRESENT SYSTEM

It has been our objective in formulating the proposal to establish a County Court of Hennepin County to correct most, if not all, of the weaknesses inherent in our present system. We have rejected overly timid or partial solutions which have been suggested. Changes in the organization of our court system come, at best, most infrequently. For this reason, it is important to accomplish simultaneously the vast majority, if not all, of the needed revisions. Our proposed County Court represents what we consider to be the best long-range court organization for Hennepin County which (1) can be established through action of the State Legislature without the prior adoption by the voters of Minnesota of a constitutional amendment, and (2) is completely consistent with and compatible with both the present and likely future organization of courts in Minnesota on a statewide basis. Our proposed County Court also, in our opinion, remedies completely or substantially improves every one of the major weaknesses which we have found in the existing system in Hennepin County.

Judges trained in law - Under our proposed County Court every judge in Hennepin County would be required to be a lawyer eligible to practice in Minnesota. This will assure that legal disputes will be decided before a judge who has the necessary background to decide the case on the legal points in issue. This objective would be accomplished within 60 days after the establishment of the County Court, since all j.p. courts would be abolished as of that date.

Full-time salaried judges - All judges in Hennepin County would be full-time career judges on a salary. They need not concern themselves with obtaining outside income, either from the practice of law or some other occupation. Nor would there be the potential conflicts which presently arise because of the part-time judge, part-time lawyer. Under a single County Court, judges would doubtless specialize, to a substantial degree, in handling certain types of cases. With the elimination of the fee system, litigants could have complete confidence that any decision reached by the court was based on an impartial and disinterested weighing of the facts in dispute.

Less emphasis on revenue from fines - The elimination of part-time municipal judges serving a single municipality and the abolition of j.p.'s dependent on fees for their income should reduce substantially the emphasis on revenue in the case

of criminal prosecutions. If the judge of the County Court is convinced that the most suitable sentence for the offense committed is imprisonment rather than a fine, it is far more likely that this will be the sentence imposed than would be the case under our present system.

Uniformity in procedures - Under a single County Court, lawyers no longer will be compelled to shop around for the court which is most suitable for the type of action being brought. He will have only two choices, the County Court and the District Court. Court procedures and forms will be uniform. There will be greater uniformity in the interpretation and enforcement of laws. Judgments will be recorded in a single central place.

Reduced court costs - It is not possible to estimate accurately the total cost of the separate municipal and j.p. courts throughout Hennepin County. But a single County Court will, without question, provide a far superior judicial system at less cost. The proposed County Court will likewise provide a judicial system superior to the suggested separate court for suburban Hennepin County and at substantially less cost to county taxpayers.

Suburban residents given the right to vote - Under the proposed County Court, suburban residents would be able to participate to the same degree as residents of Minneapolis in the selection of the judges who decide cases affecting their interest. Suburban lawyers would no longer be barred from appointment or election to the court before which suburban residents must have their cases tried. And with all judges of the County Court elected by the voters of the entire county, and with the suburban population approaching that of Minneapolis, we see little prospect that any city vs. suburbs controversy would ever arise, either in the trying of cases or in the determination of procedural and financial issues.

More equitable treatment for county taxpayers - Under the proposed County Court, most of the bickering between Minneapolis and suburban political leaders should be eliminated. The cost of handling criminal cases would be deducted from the revenues from fines. In this way, the municipality which makes use of the court would pay for the cost of the services. Included in these costs would be all ancillary services such as the Probation Office, police officers assigned to the County Court, costs of prosecution, etc.

The cost of handling civil actions in the County Court would be financed, at least until some other source of revenue is provided, by the property tax levied uniformly throughout the county. Based on current total property valuations in the suburbs, suburban taxpayers would pay approximately 35% of the total cost of handling civil actions. Since no records are kept showing the proportion of litigants using the Minneapolis Municipal Court who reside in the suburbs, and since it is not possible to estimate the increased use by suburban litigants of the proposed County Court, no precise estimate can be made of the likely use of the County Court. However, a recent random sample of about 1,000 municipal court cases showed that about 1 out of 3 defendants had a non-Minneapolis residence. In any event, we have reason to believe that the proportion of the total cost to be borne by Minneapolis taxpayers, as against that paid by suburban taxpayers, would not be greatly out of line with the likely use of the County Court services and facilities.

The total cost of the proposed County Court obviously will be somewhat higher than the present cost of operating the Minneapolis Municipal Court. The best general estimates of how much higher indicate an increase of probably not more than 25%. This 25% increase would be offset, at least substantially and perhaps totally, through the elimination of all existing suburban municipal courts and j.p.'s. Thus,

the Minneapolis taxpayer will pay about the same, or perhaps even slightly less than at present, for a court system which is superior to the one he now has. The suburban taxpayer will get a far superior court system than he now has or he could obtain under a single separate consolidated suburban court and at about the same cost as at present and at substantially less cost than he would have to pay for the suggested separate suburban court. On this basis, both the Minneapolis and the suburban taxpayer will benefit by establishment of the County Court.

Broadened field for selection of judges - At present a preponderance of the lawyers who practice in Hennepin County courts live in the suburbs. These lawyers are disqualified by residence from becoming judges of the Minneapolis Municipal Court. The prospects of these lawyers becoming District Court judges are rather remote because of the general practice of elevating Minneapolis Municipal Court judges to the District Court whenever a vacancy occurs. This artificial and unnecessary disqualification of the majority of lawyers practicing before Hennepin County courts from becoming judges is not only unsound, but is harmful to the best interests of a sound judicial system by arbitrarily excluding qualified lawyers who otherwise would be willing to serve as judges. Under the proposed County Court, any lawyer residing in Hennepin County would be eligible for election or appointment to the County Court.

#### CONSIDERATION BY THE LEGISLATURE OF PROPOSED CREATION OF A COUNTY COURT

If the proposed County Court for Hennepin County is to be established, it must be accomplished by act of the State Legislature. Any bill designed to implement our recommendations would likely be classified as a local bill, since it would apply only to Hennepin County. It is the general practice to process local bills applying to Hennepin County through what is known as the Hennepin County Legislative Delegations. Hennepin County state senators and representatives form separate delegations for the purpose of hearing and considering these local bills prior to their actual introduction and referral to the appropriate legislative committee. If all, or nearly all, of the members of the Hennepin County Legislative Delegation are in favor of the proposed bill, then the bill almost never encounters difficulty in obtaining legislative approval. On the other hand, as a general rule, if the proposed bill becomes controversial within the Hennepin County Delegations, then its prospects for favorable action by the Legislature become rather remote.

#### Reaction to Other Court Reorganization Proposals

Prior to formulating our proposal for the establishment of a County Court for Hennepin County, we gave careful consideration to four other specific proposals for reorganizing the court system in Hennepin County. The fact that we have proposed creation of a County Court, rather than giving our support to one or more of these four specific proposals, does not necessarily reflect any basic disagreement with them. We merely believe that, for reasons which either have been or will be discussed in this report, establishment of a County Court represents a preferable way of overcoming the inadequacies of our present system.

#### A SINGLE UNIFIED COURT FOR HENNEPIN COUNTY

On Page 7 of this report we have explained what is meant by a single unified court and have commented in sufficient detail to require only slight further amplification. Stated simply, we are most sympathetic to this proposal. Our failure to propose it at this time, rather than the County Court we have recommended, reflects no criticism or disagreement on our part. As we have stated, we regard the single unified court as clearly the best and most economical court organization for

Hennepin County. However, we are convinced that nearly every important advantage of the unified court can be obtained under the County Court which we propose. The single unified court requires prior adoption by the voters of the state of a constitutional amendment, because the Probate Court is required by the state constitution. The proposed County Court would only require favorable action by the State Legislature. This is an important consideration, both from the standpoint of how soon the court can be established and in terms of the uncertainty that such a constitutional amendment will be proposed to the voters and subsequently acted upon favorably. The other factor of decisive influence in our decision to recommend the County Court, rather than a single unified court for Hennepin County, relates to the generally undesirable situation of having one state District Court totally different from every other District Court. This would be the case if the single unified court were established in Hennepin County, at least until some future date when or if the unified court system was established on a statewide basis. It would seem that the single unified court system, if it is to be established, should more properly be a part of a statewide reorganization proposal. Nothing in the County Court plan which we propose would be inconsistent with an ultimate adoption of the unified court system in Minnesota. In fact, it would be a relatively simple matter to merge the County Court, the District Court and the Probate Court into a single unified court.

SEPARATE COURT FOR SUBURBAN HENNEPIN COUNTY SIMILAR TO THE MINNEAPOLIS MUNICIPAL COURT

The purpose and practical effect of this proposal would be to divide Hennepin County into two separate lower court jurisdictions, with one municipal court handling Minneapolis litigation and another municipal court handling litigation for suburban communities in the county. The Minneapolis Municipal Court would continue as at present, with the one exception that its jurisdiction would be narrowed to the city rather than the county limits. A separate municipal court for suburban Hennepin County would be created. This court would be patterned similarly in most respects to the Minneapolis Municipal Court. A significant difference would be that each of the four suburban municipal judges would be elected by state senatorial districts and would hold court and handle cases in his own particular district. None of the four judges would run on a suburbanwide basis. All existing suburban municipal courts and all j.p. courts in Hennepin County would be abolished.

Advantages over the present system - The proposal for a separate suburban court would bring about a number of significant improvements over the present system. All suburban judges would be required to be lawyers eligible to practice in Minnesota. All judges would be on a full-time salaried basis. There would be only one municipal court for suburban Hennepin County, rather than the numerous courts that exist today. It is likely there would be some lessening of the present overemphasis on revenues from fines. There would be greater uniformity in procedures and forms and at least some lessening in the duplication of effort which presently exists among the various courts. Suburban residents would be given the right to participate in the selection of judges handling cases involving their interests.

Disadvantages of the separate suburban court proposal - Although the suburban court proposal offers several significant advantages over the present system, it has no advantages over the County Court for Hennepin County and, in fact, it offers a clearly inferior judicial system at substantially greater cost to the taxpayer. The suburban court proposal would be far more expensive than either the present system in suburban Hennepin County or the proposed County Court. The four suburban courts would be compelled to set up court room facilities to handle civil litigation arising in the suburbs. This would require a court room in which jury trials could be handled. It would also mean that separate jury panels would have to be

designated in each of the four suburban court districts and the jurors would have to be paid out of suburban tax funds. Experience has shown that separate jury pools are extremely costly, not to mention the waste of the time of jurors. Four suburban courts would very likely be "petty" courts in the sense of the type of actions which would be brought in those courts, which would make it difficult to attract outstanding lawyers willing to serve as judges. There is reason to believe that the requirement that suburban civil litigation be tried in a separate suburban court would tend to further jam the District Court calendar, and the lack of countywide jurisdiction in either the Minneapolis Municipal Court or the suburban court would be most undesirable from a legal standpoint.

In most respects, the creation of a separate court for suburban Hennepin County would be a step in the wrong direction. Its principal objective is to preserve local autonomy. We regard the fractionalization of the court system in the name of local autonomy as having no place in the administration of justice.

This proposal, which has been suggested by State Senator Richard Parish, is admitted by all to be nothing more than an attempt to compromise in the hope that some progress can be made. It is further felt by some that if this first step could be taken now, then at some later date the two separate municipal courts could be consolidated into a single County Court of Hennepin County. If a single County Court is logical later, it is equally desirable now. Further, we have serious doubts that establishment of a separate suburban municipal court will necessarily even be a step toward ultimate creation of a single County Court. One only has to look at the totally outdated and largely discredited j.p. system to recognize that, despite criticism of the system from almost every direction over a period of many years, it has continued to survive. It is likely that a new separate court would be equally difficult to abandon at some later date.

#### COUNTY COURT FOR CIVIL ACTIONS

This proposal is based on a recognition that the vast preponderance of civil actions is now handled by the Minneapolis Municipal Court rather than suburban municipal courts. It would allow suburban residents to participate in the selection of judges to the municipal court and would make lawyers residing in the suburbs eligible for appointment or election to the court. All costs of operating the court would continue to be paid by the taxpayers of Minneapolis, except the salaries of the judges which would be financed on a countywide basis. It would abolish civil jurisdiction, except for actions of forcible entry and unlawful detainer, in any new suburban court which might be established after July 1, 1963. It would also authorize the governing bodies of municipalities to abolish the civil jurisdiction presently authorized within their municipality.

This proposal is based almost completely on the political assessment that the most logical court organization plan for Hennepin County cannot obtain legislative approval and that this represents at least progress in bringing about an improved court system. It is also argued that this is a step in the direction of an ultimate single county or unified court. We would tend to agree that the provisions of this proposal do constitute at least a modest step in the right direction. However, the proposal seems unnecessarily timid in terms of the need for more substantial court reorganization, and perhaps even in terms of what can be obtained politically at this time.

#### EXTENSION OF THE PRESENT STOP GAP ARRANGEMENT

This proposal would continue the present stopgap arrangement, whereby the salaries of two judges of the Minneapolis Municipal Court are paid by the County, and

would add the feature of allowing judges of the Minneapolis Municipal Court to reside in the suburbs. Suburban residents would not become eligible to vote for judges of the Minneapolis Municipal Court.

The most that can be said in favor of this proposal is that it would be preferable to the alternative of allowing the act which expires automatically on July 1, 1963 to lapse, thereby returning to the previous situation. We would regard it as most unfortunate if this is all that can be accomplished at this time in the way of much needed reorganization of the court system in Hennepin County.

#### SUMMARY CONCLUSIONS

We have found almost unanimous agreement among lawyers in Hennepin County that the soundest ultimate court organization for Hennepin County is either a single unified court or a single County Court of Hennepin County. We have found no sympathy for a continuation of the present system. The support for other less substantial changes from the present system is based almost entirely on what the proponents believe it is possible to attain politically at this time. With this unanimity of viewpoint on what is the proper solution on the merits, it seems both unfortunate and unnecessary to dissipate so much time and energy on clearly interim proposals. Experience has shown that court reorganizations, at best, come very infrequently. Under these circumstances, the logic favoring the creation at this time of a single County Court of Hennepin County appears compelling.

#### Court Reorganization on a Statewide Basis

As a citizen organization concerning itself with the functioning of government at the local level, the Citizens League avoids issues which are either primarily or exclusively of statewide significance. It is on this basis that the Municipal Court Committee was given the limited assignment of reviewing the existing court organization in Hennepin County. It is therefore beyond the scope of this report to present recommendations for improvement of the court system throughout the state. However, the criticisms we have made of the present court system in Hennepin County apply equally, if not even more so, to courts elsewhere in the state.

We do not profess to know whether the type of County Court we are recommending for Hennepin County would prove of equal value in other counties. We are convinced, though, that substantial reorganization of the existing court system in Minnesota is clearly indicated. If this type of needed court reorganization is to take place on a statewide basis in the near future, then immediate steps must be taken to assure that the necessary review of the present system and foundation of recommendations for its revision get under way. A section of the Minnesota State Bar Association has attempted to launch such a study, but is finding that to do an effective job will require a substantial financial appropriation for the hiring of the staff necessary to assist committee members. It is our understanding that the State Bar Association will press for action at the current session of the State Legislature either to establish an interim commission for the purpose of making this study or to provide the necessary financing to enable the judicial council of the State Bar Association to undertake the study. The Bar Association will ask that an appropriation of approximately \$50,000 be granted, in order to adequately staff this type of study. It is expected that the findings and recommendations resulting from the interim commission's or the judicial council's study would then be presented to the 1965 session of the State Legislature.

We are convinced that establishment of this type of interim commission with a suitable appropriation is the most practical, if not the only, way of giving



reasonable assurance that major reorganization of the state court system might be attained within the next several years. We therefore strongly urge that the Legislature take this type of action at the current session.

#### SUCCESS OF COURT REORGANIZATION PROPOSALS IN OTHER STATES

During the course of formulating our recommendations for court reorganization in Hennepin County, we have reviewed court reorganization efforts in other states. We have been deeply impressed at how successful most of these efforts have been during recent years, despite the fact that most of the proposals have been quite ambitious in terms of the changes proposed. In fact, some leading lawyers have called the results of court reorganization proposals submitted to the voters in November, 1962, "a landslide for judicial reform!" On November 6, 1962, voters in six states - North Carolina, Illinois, Nebraska, Colorado, Idaho and Washington - adopted constitutional amendments for statewide judicial reform. Similar statewide judicial reforms were achieved during the preceding 12 months by vote of the people in Iowa and New York, and by legislative enactment in Maine. The specific form of the various proposals which were approved during 1962 could be categorized generally as follows: (1) Statewide reorganization in North Carolina, Illinois, New York and Colorado. (2) Statewide minor court reform in North Carolina, Illinois, Colorado, Idaho and Maine. (3) Major judicial selection and tenure reform in Iowa, Nebraska and Illinois. (4) Major court administration reform in New York, North Carolina, Illinois, Colorado and Washington.

The only defeat of a judicial reform proposal at the November 1962 election was rejection by the voters of a minor court reform proposal in Montana that lost by such a narrow margin that first reports listed it among the winners. In all other states, judicial reform proposals were approved by substantial majorities. We are confident that favorable results comparable to those made in other states can be attained in Minnesota and in Hennepin County if an equal effort is made.

#### NATURE OF RECENT COURT REORGANIZATIONS IN OTHER STATES

During the course of the committee's deliberations we reviewed the type of changes being made in other states. We have selected three for brief summary here, for the purpose of showing what has been done in those states. We have selected the states of Wisconsin and Illinois, here in our region, and Los Angeles County in California.

Wisconsin - CIRCUIT COURT (General Trial Court - has original jurisdiction in civil and criminal matters, except special areas such as probate. THE COUNTY COURT (General Trial Court). The County Court has exclusive jurisdiction over probate, juvenile and adoption matters and concurrent jurisdiction with the Circuit Court over criminal actions, paternity actions, actions for damages in which \$25,000 or less is demanded, and all other civil matters without limitation as to amount or value involved. In counties with a population of 500,000 or more (Milwaukee) one branch of the County Court will be designated as the children's court branch, one as the traffic court branch, one as the misdemeanor court branch, two as probate branches, and six as civil branches. Each judge runs for the branch in which he will serve. Salary - one half of the judge's salary is to be paid by the county, the other half by the state. CONSTITUTIONAL JUSTICE OF THE PEACE - The constitutional j.p. has not been abolished, but their jurisdiction has been severely limited. They still have jurisdiction over actions involving battery and disorderly conduct. They have no jurisdiction over actions to recover forfeitures (such as traffic violations). These cases are now presided over by the County Court or the Municipal Justice Courts. The constitutional j.p. has civil jurisdiction over actions up to \$200,

except for garnishment, attachment, unlawful detainer or ordinance violations. MUNICIPAL JUSTICES - Any city or village which is willing to pay a justice of the peace a salary may provide for a municipal justice of the peace who will have the same jurisdiction as a police justice. They have the jurisdiction to hear traffic violations and all other forfeitures and actions to recover personal property (up to \$200). They have criminal jurisdiction over crimes involving amounts under \$200 or six months in prison.

Illinois - In Illinois, there is a Supreme Court, an Appellate Court, and a Circuit Court. The Circuit Courts are now the only trial courts in Illinois. All justice of the peace courts are abolished and their jurisdiction is transferred to the Circuit Courts. There are 22 judicial circuits, with one Circuit Court for each circuit. There are three types of judges: The Circuit judges, the Associate judges, and the Magistrates. The Circuit judges and the Associate judges are both elected, while the Magistrates are appointed by the Circuit judges. They all have final judgment, and appeal goes to the Appellate or Supreme Court. Election of judges - All judges are to be nominated by party convention or primary, and are elected at a general election. Each is elected in his particular judicial district. They serve a 6-year term and are re-elected according to the Missouri Plan. JURISDICTION OF THE CIRCUIT COURT - The Circuit Courts have unlimited original jurisdiction. The Probate Courts and other inferior courts have been abolished. There are, however, specialized divisions, such as family courts, probate courts, and criminal courts, which are presided over by one of the two classes of elected circuit judges already mentioned. Only the circuit judges have the power to select magistrates and to select or serve as chief judge. Associate judges have no such power. The Chief Circuit Judge has final power to assign judges to the special divisions of the Circuit Court.

Los Angeles County -

1. Jurisdiction of Superior Court (General Trial Court)
  - A. Civil jurisdiction
    1. Exclusive jurisdiction over matters over \$3,000.
    2. Concurrent jurisdiction with Supreme Court and District Court of Appeal on special writs, such as mandamus, prohibition, etc.
    3. Exclusive jurisdiction over probate and guardianship, domestic relations, conciliation, adoptions, mentally ill, juvenile court.
      - (a) A special department of Superior Court handles these matters.
    4. Ten branch courts, in addition to Los Angeles City Branch.
  - B. Criminal jurisdiction
    1. Exclusive original jurisdiction over felonies.
    2. Jurisdiction over all misdemeanors, except those covered by lower courts.
  - C. Appellate jurisdiction.
    1. Appeals from the Municipal and Justice Court
2. Jurisdiction of Municipal Courts.

(There are 21 districts in Los Angeles County, each with a municipal or justice court. In each district over 40,000 population there is a municipal court, in each district under 40,000 there is a justice court.)

  - A. Civil jurisdiction
    1. Jurisdiction over matters under \$3,000 (except concerning jurisdiction over the legality of a tax or assessment when the court apparently has no limit on jurisdiction).

2. Small claims court. The municipal or justice court may sit as a small claims court judge (\$100 or less). There is a right of appeal de novo to the Superior Court.
  3. Municipal courts also have equitable jurisdiction involving sums of \$3,000 or less.
- B. Criminal jurisdiction
1. Exclusive jurisdiction over misdemeanors and traffic offenses, if the charge is a violation of a city ordinance where the court sits.
  2. Municipal court has jurisdiction to hear felony preliminaries.
  3. Traffic violations (no jurisdiction over juvenile matters) for state and county violations.
3. Jurisdiction of Justice Courts
- A. Civil jurisdiction
1. Jurisdiction over actions involving \$500 or less  
(a) Same jurisdiction on small claims matters as municipal court.
  2. Equitable jurisdiction of \$500 or less.
- B. Criminal jurisdiction
1. Jurisdiction over all misdemeanors other than traffic up to \$1,000.
  2. May hear preliminary hearings for felony cases.
  3. Exclusive traffic jurisdiction for violation of ordinance of city where the court sits.
- C. Traffic violations
1. Same as Municipal Court.
4. Selection  
(Every Municipal and Justice Court judge must be elected within his own district - not on a countywide basis. Superior Court judges are elected on a countywide basis. The terms are for 6 years.)

#### Need for a Retirement Program for Municipal Judges

At the present time, municipal court judges in Hennepin County have no retirement program whatsoever, and they must depend upon elevation to the District Court if any retirement benefits are to accumulate. The absence of any retirement program for municipal judges in Minneapolis has resulted more from an inability to reach agreement on the type of program to be provided than from any basic disagreement that such a program should be provided. Some believe that municipal court judges should be included under the same retirement program as other Minneapolis municipal employees. Others have been equally insistent that a program established separately and similar to the retirement program of District Court judges should be set up. As a practical matter, the general practice of elevating municipal court judges to the District Court and the fact that nearly all municipal court judges have reached the District Court level prior to reaching retirement age has softened the negative aspects of the failure to provide a retirement program for municipal court judges. However, we cannot be assured that this type of automatic elevation will always take place in the future.

We urge the early establishment of a retirement program for municipal judges comparable to that provided for District Court judges in Hennepin County. However, this report makes no specific recommendations to implement this conclusion, nor should our general remarks be construed as support for any of the alternative ways of providing such a program, since the issue is not within the scope of our present assignment.