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COMMENTS

THE STATUTORY DISORGANIZATION OF THE INFERIOR COURTS OF NEW YORK CITY

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Little that is good has been said of the statutory organization of the inferior courts of New York City. Those who have had occasion to make a careful study of those courts and the statutes creating them have said that, "the division of business among these courts is haphazard and illogical. . . ."[1] and that "the whole growth of courts in New York City has been unplanned and illogical. . . ."[2] For example, in reference to the Municipal Court, it has been said that "the failure of this court to fulfill the minimum requirements for a satisfactory administration of justice in this city is directly traceable, in a large part, to failure to adjust the structure of this court to modern conditions."[3] It has been quite generally asserted that this present statutory disorganization of the inferior courts of the City of New York deprives the citizens thereof of that efficient, uniform, complete and swift administration of justice to which they are entitled.[4]

Though the proper reorganization of these courts has been the subject of numerous reports and recommendations, and has for some long years been under study by the Temporary Commission on the Courts and the Commission on the Administration of Justice of New York State, there has been no comprehensive reorganization by the New York State Legislature, other than that of a patchwork nature, since 1910 when the present act relating to the inferior courts of criminal jurisdiction of New York City was enacted.

The now ancient errors of our state legislature in fragmenting the jurisdiction of the numerous interrelated human problems arising in our great metropolitan area between a plethora of unrelated inferior and superior courts, has too long resulted in needless delays and waste, and even worse, in frustration and abandonment of legal rights, and loss of respect for courts generally.

In New York City there are a total of sixteen autonomous courts of first instance, each operating as a separate entity and under no central administrative

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1. Final Report of Samuel Seabury, Referee in the Matter of the Investigation of the Magistrates Courts in the First Judicial Department at 165 (1932).

2. Moley, Tribunes of the People 217-18 (1932).

3. Municipal Court Commission of the City of New York, Report to Gov. Alfred E. Smith at 2 (1924).

4. Address of Hon. Francis Martin, Presiding Justice of the Appellate Division, First Dep't, on Unification of the Courts, 95 N.Y.L.J., No. 88, p. 1895, col. 1 (April 15, 1936); Judicial Council of the State of New York, First Annual Report at 20-21 (1935); Commission on the Administration of Justice in New York State, Report, N.Y. Leg. Doc. No. 50 (1934); Ass'n of Bar of City of New York, Year Book at 237 (1932); Citizens' Budget Commission, Report on the Administration of the Courts in the City of New York (1935); Problems Relating to Judicial Administration and Organization, 9 N.Y. State Const. Conv. Comm. 1087 (1933).

head.[5] Some of these are "superior" courts, viz., the Supreme Court,[6] five Surrogates' Courts,[7] the Court of General Sessions[8] and four county courts[9] as well as the City Court.[10] At the base of and as a pedestal for this judicial system, stand four city-wide courts of statutory origin and city-wide but splintered jurisdiction, namely the Municipal Court,[11] the Court of Special Sessions,[12] the City Magistrate's Court[13] and the Domestic Relations Court,[14] which are commonly designated as the "inferior courts" of the City of New York. Each of these four inferior courts has been assigned, by statute, certain separate jurisdictions over the lesser civil, criminal, and family matters and their incidents, on the fallacious legislative assumption that human interrelationships are as readily susceptible of such clear-cut classifications as are those particular fields of the law.

The fact that these courts are designated "inferior courts" by general usage and the statutes creating them, should not conceal the fact of their major importance in the life of the City and its citizens. Nor should this designation lull the state legislature and its commissions into any false sense of a lack of urgency or importance in formulating and enacting the long overdue organizational reform.

By sheer weight of the numbers of persons whose lives they vitally affect and the number of matters determined, these four inferior courts transact the major portion of the judicial business of our City. As has been authoritatively stated: "From the standpoint of respect for law, litigation in the lower courts is of

5. The Appellate Divisions do exercise some limited control over some of the activities of some of these courts, such as: (1) the times and places for holding special and trial terms and the assignment of justices to the Supreme Court. N.Y. Const. art. VI, § 2 (1953); N.Y. Judiciary Law §§ 83-84 (1945); (2) the removal for cause of justices of: (a) the Municipal Court, Matter of Levy, 192 App. Div. 550, 182 N.Y. Supp. 792 (1920), aff'd, 229 N.Y. 637, 129 N.E. 939 (1922); (b) the Court of Special Sessions and Magistrates Court. N.Y. City Crim. Cts. Act § 162 (1933); (c) the Domestic Relations Court. N.Y. City Dom. Rel. Ct. Act § 19 (1933); N.Y. Const. art. VI, § 17 (1929); (3) the supervision of referees of the Supreme Court, the City Court and the Municipal Court. N.Y. Judiciary Law §§ 116 (1945), 119 (1939), 121 (1939), 122 (1946); (4) pass upon proposed rules of court of the Municipal Court formulated by the board of justices of that court. N.Y. City Munic. Ct. Code § 8 (1915); (5) supervise the exercise of general administrative power of the presiding justice of the City Court. N.Y. Const. art. VI, § 15 (1952). For an excellent discussion of the lack of proper administrative control, see Ass'n of the Bar of the City of New York, Bad Housekeeping, the Administration of New York Courts (1955).

6. N.Y. Const. art. VI, § 1 (1953).

7. N.Y. Const. art. VI, § 13 (1925).

8. N.Y. Const. art. VI, § 14 (1925).

9. N.Y. Const. art. VI, § 11 (1953).

10. N.Y. Const. art. VI, § 15 (1951).

11. N.Y. City Munic. Ct. Code § 6 (1915).

12. N.Y. Code Crim. Proc. §§ 64 (1904), 64a (1909); N.Y. City Crim. Ct. Act §§ 10 (1915), 31 (1926).

13. N.Y. City Crim. Ct. Act §§ 80, 102 (1933).

14. N.Y. City Dom. Rel. Ct. Act §§ 3 (1933), 61 (1942), 91, 92 (1933); N.Y. Const. art. VI, § 18 (1925).

much more importance than the comparatively small number of actions originating in the higher courts."[15] Every court that passes upon human liberties and relationships is important. To those immediately affected, the determination of the court is of more than consequential significance.

Some idea of the impact of the courts upon the lives of the citizens of our City can be realized from the fact that every year in the New York City Magistrates' Courts more than 1,700,000 defendants are arraigned or tried.[16] Since there is frequently in each of such matters, a complainant as well as a defendant, and since it is the usual practice for both litigants to be accompanied by some members of their families and some friends or neighbors, as well as their witnesses, it can conservatively be stated that the total number of persons who annually appear in this one inferior court is roughly equal to one-quarter of our total population. Litigation in the other inferior courts further increases the annual number of citizens which are affected by these courts. The Domestic Relations Court annually handles a total of 135,000 cases,[17] in each of which there is involved two spouses or at least one child and a parent. The Municipal Courts of the City of New York annually adjudicate more than 60,000[18] small civil suits, each of which involves at least one plaintiff and one defendant, and the Court of Special Sessions receives and disposes of more than 26,000 cases.[19] The grand total of persons affected by these courts is cogent proof of the major importance of these courts in the life of New York City and its citizens.

Most of these persons never see nor have any occasion to have any contact with any of the hierarchy of the higher courts, and probably gain their only concept of our American justice and institutions by what they experience in these inferior courts. This is the reason these inferior courts have been characterized as "The Poor Men's Supreme Court"[20] and "Tribunes of the People."[21] This they are indeed—and here must the people's need for justice be well and truly met and administered.

This need for a true administration of justice at the lower level is heightened by the state of our modern world. Our American democracy is under insidious attack from the constantly present subversive communist conspiracy which stands ever ready to take full advantage of each shortcoming of our democratic order to advance the enslaving ends of Communism. Where democracy breeds resentment because it is unjust, where disaffection festers in our body politic because the forms that are democratic fail to give the people the nourishment of justice, the very strength of democracy becomes an empty shell within which

15. Commission on the Administration of Justice in New York State, Report. N.Y. Leg. Doc. No. 50, at 30 (1934).

16. Annual Report City Magistrates Court, the City of New York (1954).

17. Twenty-second Annual Report of the Domestic Relations Court of the City of New York at 22 (1954).

18. Annual Report of the Presiding Justices for Year 1954 Municipal Court of the City of New York.

19. Court of Special Sessions of the City of New York Annual Report for the Calendar Year 1953.

20. Franklin Matthews, 17 Broadway Magazine, No. 5 (Feb. 1907).

21. Moley, Tribunes of the People (1932).

the communist conspiracy may be expected to extend its cancerous growth. Nor should it be overlooked that the more than two million persons, over one-fourth of this City's population, who annually pass through the inferior courts of New York City include a goodly number of the very persons whom the communist conspiracy seeks to seduce by false promises of a more just order.

Bearing in mind the above facts, it is difficult indeed to understand the callous indifference evinced by the leaders of the Bar and our Albany legislators to all of the numerous recommendations for the reorganization of these important inferior courts.[22]

Those who seek relief in the inferior courts of New York City are, for the most part, the poor. Though they be citizens of the richest of cities, they usually possess but limited means. They are frequently forced, however inarticulate, to plead their own cases; an adequate fee for the legal services which lawyers might render is such a budgetary impossibility as to completely bar all legal relief which the learned profession might otherwise provide. And they come into these inferior courts in such numbers as to engulf a hundred Legal Aid Societies as now constituted (though due recognition must be given to the magnificent work done by those estimable organizations within the budgetary support it receives from the legal profession and the community). Near destitution does not free them from nor minimize their legal troubles and ills. The thinness of their purses and the narrowness of their impoverished lives all too frequently turns a controversy, which to others more fortunate might seem but small, into a matter which actually or seemingly involves the poor litigant's all. Hence the controversies of these litigants frequently assume, in their minds, an all-engrossing importance which is out of proportion to the amount or relationship involved. Too often that issue has long festered and found expression in some outburst of violence, breach of the peace or crime, before a court's attention is first directed to the issues and the litigants, by the necessary intervention and chaperonage of an arresting police officer.

If the aid of the courts is sought by the needy litigant, it is necessary for him to choose the right court from which he will seek relief. The proper choice of a court among the hodgepodge of courts is often confusing to the skilled practicing attorney who is frequently confounded by the fragmentary distribution of jurisdiction. This bewilderment is vastly greater in the case of poor, uncounselled parties, untutored as they are in the intricacies of the law and the confusion of jurisdictions of the courts. They do not possess that considerable perspicacity to choose the right court in New York City which has that jurisdiction to render the desired relief.

Consider the confusion of the impoverished uncounselled citizen who sets out to seek judicial help in some domestic difficulty, when he must choose his court from the confusion of jurisdictions over family matters which our New York City tribunals present. "Neglect and delinquency reach the Children's Court. Support claims may involve the Supreme Court or the Family Court or the

22. There are a few notable exceptions such as the Hon. Harrison Tweed, Chairman, The Temporary Commission on the Courts, and the Hon. Arthur T. Vanderbilt, Chief Justice of the New Jersey Supreme Court.

Court of Special Sessions. Desire to modify or dissolve the marital status leads to the Supreme Court. Disputes concerning custody of children go to the Supreme Court or in some circumstances to the Children's Court. Adoptions are primarily the concern of the Surrogate's Court, though the Children's Court also possesses a measure of jurisdiction. Intra-family disorderliness becomes a problem for the Home Term of the Magistrate's Court. . . ."[23] Nor is this citizen's choice of a proper tribunal any easier if his legal ills relate to some small property claim or landlord-tenant controversy which has reached that stage, as they so frequently do, where some breach of the peace or worse has occurred. The disorderly outburst is within the jurisdiction of the Magistrate's Court, the Court of Special Sessions or the Court of General Sessions, depending upon the gravity of that outburst. The controversy between the tenant and the landlord may be within the jurisdiction of the State Rent Control Office, the Municipal Court or the Magistrate's Court, depending upon whether it involves the fixing of a reasonable rent, dispossess proceedings, or a withholding of services. A controversy as to property may be within the jurisdiction of the Municipal Court or the Magistrate's Court depending upon whether there has been a fraudulent withholding, in which case the latter has jurisdiction, or a civil wrong, in which case the former has jurisdiction.

To force such a choice of tribunals upon the poor uncounselled citizen of New York City is all too often such an effectual discouragement as to deny to him any and all relief in our courts.

If and when the choice of court has been made by the indigent litigant, that court to which the case is first brought may well turn out to be the wrong court. If by some happy chance it should prove to be the right court for one facet of his legal troubles, that right court can all too often give only partial relief to a situation or relationship which manifests itself in several segments, each of which can be treated only in different and other courts.

Consider the plight of the justice sitting in that court to which this needy person has finally brought his case. That justice is not insensitive to the great courage and even desperation that has motivated the litigant to appear in person without counsel to prevent the case and to plead for relief from the court. With great sympathy and understanding and frequently with the aid of interpreters, both sides of the controversy have been dug out of the none too articulate complainants and defendants. Without the aid of any pleadings or the most scanty of pleadings to frame the issue, the basic evidentiary facts have been established. The root cause of all the trouble has finally been identified, together with each of its possible ramifications and violent manifestations. No great judicial acumen is required to resolve the controversy in its entirety. The rules of law are usually simple, and readily, almost routinely, applicable. The parties, now greatly relieved that at long last they have had their say to a judge, expectantly look to that justice for a final determination and end of that which, though small, has so greatly harassed and disturbed them.

How cruel and unjust are those statutory organizational limitations upon the jurisdiction of that court which grants but some splinter, be it criminal or

23. Gellhorn Report, Children and Family in the Courts of New York at 382 (1954).

domestic relations or civil, but never the whole of that general jurisdiction, which would enable that court to dispose in its entirety of the small controversy in that manner in which the litigants and the judge alike know the matter should be determined.

Much too often the justice of an inferior court of New York City must advise the expectant litigants: "I am sorry, but that phase of this matter is beyond the jurisdiction of this court—you are in the wrong court." The rest of the explanation and instructions as to what phases of the controversy must be settled by what other court falls upon ears deafened by disillusionment or worse. These sudden transmutations of expressions upon the litigants' faces from one of high expectation of a final solution, to one of bewildered disillusionment, should not pass unnoticed by those who are aware of the exploitation to which all social tensions are currently being turned to attack our democratic order.

Of course, the conscientious justice of that inferior court of New York City tries and often succeeds, in spite of the statutory strait jacket limiting the jurisdiction of his court, in performing feats comparable to that of King Solomon and the babe, even though much of the controversy may lie outside the limited jurisdiction of his particular court. But there are limitations of propriety for judicial improvising to overcome statutory deficiencies.

I. Need for Legislation

Legislative reorganization alone can provide the indicated remedy. The fundamental fact which must be faced by those legislators or legislative commissioners who undertake the formulation of the reorganization of the lower courts of New York City is this: whether the specific issue arising out of the relations of the parties, which is presented to the court, be criminal, civil or domestic by the form of the pleadings, there usually exists a central cause or root. A proper disposition by the court requires that the whole fabric of that relationship between the parties with all the involved facets, be they offense or crime, tort or contract, property claim or domestic relations controversy, be viewed and treated as an integrated whole, and in one tribunal. And that one tribunal must be empowered with the jurisdiction to apply the indicated judicial surgery of a final adjudication to the root cause as well as the necessary judicial antiseptic of punishment to the offense or crime which is but a symptomatic outburst of that root cause.

In short, a properly organized inferior court for the citizenry of New York City must have a general jurisdiction in the sense that it can finally determine minor criminal matters, minor civil matters, and most if not all family controversies of the indigent. Such limitations on this jurisdiction by way of amount in controversy, or seriousness of offense or crime, may be imposed as are indicated by careful study of the needs for a proper poor man's court—but within such limitations such one court should have a jurisdiction which includes authority to finally determine in one hearing each facet of the relationship and controversy, irrespective of whether it fall within the abstract legal classification of criminal, civil, or domestic relations law. Those abstract classifications of the law, in which all lawyers and most legislators are trained to think from law school days, do not fit the realities of interrelated everyday human affairs which

have a very human faculty of blurring through the abstract barriers into which we are accustomed to cast our legal thinking. To put it more directly, the everyday human relationship or controversy which is brought before our inferior courts is not infrequently part civil and part criminal, or in part a family controversy with outcroppings of either civil or criminal issues, or a melange of all three. Since inferior courts are instituted to adjudicate such small controversies, it would seem unwise to deny any part of that jurisdiction required to determine with finality, in one hearing and in one court, the entire small controversy in all its phases.

This suggested centralization in one court of jurisdiction over minor civil, criminal, and family matters is not novel. Many of the principal metropolitan centers, other than New York City, have such an inferior court of centralized jurisdiction over most, if not all, minor civil and criminal cases and some domestic relations matters. The first of such courts was the Municipal Court of Chicago created by constitutional amendment[24] and legislative enactment in 1905.[25] Its criminal jurisdiction enables it to finally try all misdemeanors. Its civil jurisdiction extends to all contract, tort and property matters where the amount in controversy does not exceed $1,000. It has a limited jurisdiction over some family matters. The administration of this great lower court is placed in the chief judge who is given wide scope in the organization of the court into parts to handle special types of cases. This power has been fully utilized and numerous specialized parts have been established as the changing needs of that city have required. In each such part, a panel of judges, specialized in that particular field, has been developed. By 1911 a Domestic Relations Part, similar in many respects to that recommended by the recent and excellent Gellhorn Report, had been organized within this Chicago Municipal Court. To this part matters in which the issue is predominantly a family controversy are regularly assigned and determined by one of a panel of judges who are specialists in that field. If some property or criminal issue is also involved, the judge of this Domestic Relations Part is not helpless, nor are the litigants subjected to the runaround of being sent to another and different court. The judge of that part may properly exercise the full jurisdiction of that court over the related small civil or minor criminal matters.

Other specialized parts of this Chicago Municipal Court were organized as the need arose. A Boys Part was organized in 1914 to deal with the then new problem of juvenile delinquency, and a special technique and panel of specialized judges was established. A Small Claims Court to expeditiously settle property claims under $500 was created in 1916. A Morals Part was formed to deal with the ever present problem of prostitution and a Speeders Part was created to meet the new problems presented by the motorist. While this court has proved to have great flexibility to meet the diverse judicial problems of a great

24. Ill. Const. art. IV, § 34 (1904).

25. Ill. Laws 1905, at 157, adopted by voters at election held Nov. 7, 1905. Address by Herbert Harley on the Municipal Court of Chicago delivered to the Louisiana State Bar Association on May 8, 1915, republished by the American Judicature Society 1915. Willoughby, Principles of Judicial Administration 282 (1929); Cahill, Ill. Rev. Stat. c. 37, §§ 356-426 (1927).

metropolitan area, the statutes creating it failed to grant that complete centralization of jurisdiction over all minor family matters which its administrators found desirable. An effort to correct these small but troublesome omissions of jurisdiction and to create a proposed Metropolitan Court of Chicago to replace the Central Municipal Court was defeated in 1922. However, to Chicago must go the honor of establishing the first great unified court for a metropolitan area, equipped with centralized jurisdiction over minor criminal and civil cases and some domestic relations matters, and to provide its poor with a single court equipped with jurisdiction to award in one hearing, the complete remedy the law affords.

The Ohio Legislature copied the model of the Chicago Municipal Court and established such courts for the Cities of Cleveland in 1912[26] and Cincinnati in 1913.[27] Detroit established such a court of unified general jurisdiction over minor civil, criminal and family matters in 1920 under the name of the Recorders Court of Detroit.[28] Various other metropolitan districts have followed, among them Philadelphia, Los Angeles, San Francisco, and Puerto Rico[29] to name but a few.

Even the Legislature of New York State has seen fit, for various upstate cities, to create this type of inferior court with limited jurisdiction over minor civil and criminal matters. The first such court of unified civil and criminal jurisdiction was created for the City of Buffalo in 1909 and is known as the City Court of Buffalo.[30] This has subsequently served as a model, with improvements and variations, for a goodly number of other upstate City Courts of unified but limited civil and criminal jurisdiction over all minor matters.[31] It should be noted that most of these upstate City Courts have only limited jurisdiction in family matters and this field of jurisdiction still remains splintered among the various superior and inferior courts.

It was the admitted purpose of the New York State Legislature in creating

26. Throckmorton, Ohio Code 1936, para. 1579, c. 5A, Municipal Courts.

27. Throckmorton, Ohio Code 1936, para. 1558-1 c. 4A, Municipal Courts.

28. 5 J. Am. Jud. Soc'y 163 (1922).

29. Willoughby, Principles of Judicial Administration (April 1929) Brookings Institute, Philadelphia, Pa. act approved July 12, 1913, P.L. 711 of 1913 which granted to the Municipal Courts of Philadelphia civil and equity jurisdiction to the limit of an amount in controversy not to exceed $2,500; criminal jurisdiction of all offenses and misdemeanors, but not felonies; desertion and non-support, delinquent children, adoption, etc. Puerto Rico Act of July 24, 1952. See Clark & Rogers, New Judiciary Act of Puerto Rico, 61 Yale L.J. 1147 (1952). The cities of San Francisco and Los Angeles Municipal Courts have state-wide jurisdiction in civil cases involving $2,000 or less, and county-wide jurisdiction over misdemeanors. 12 Biennial Report Judicial Council of California (Dec. 31, 1948).

30. N.Y. Sess. Laws c. 570 (1909), enacted pursuant to N.Y. Const. art. VI, § 18 (1926). From its creation it has had extensive though limited jurisdiction in both civil and criminal matters. Both its jurisdiction and the volume of business have been increased over the years since it was first created.

31. There are fifty-three cities in New York State which have such City Courts each created by a separate act of the legislature. Commission on the Administration of Justice in New York State, Draft of a Uniform City Court Act, Including the Statutory Organization of Courts in Cities Exclusive of New York City. N.Y. Leg. Doc. No. 50 (L) (1934).

each of these upstate City Courts, to provide both a court and method of procedure which would do away with formality and technicality, and to promote the speedy and inexpensive administration of justice by enabling these City Courts to cope with the flood of litigation over small civil and criminal matters which develop in such cities.[32] In most such upstate urban centers this City Court is the only court of inferior jurisdiction,[33] but even where there may still survive a justice of the peace court, a recorders court or a police court, these City Courts of upstate New York urban centers are the "poor man's court" for each of those areas. In these courts the indigent litigant can present his own case and in one hearing and in this one court, obtain that complete relief which the law affords to his case, whether the matter be part civil and part criminal or in certain cases even part family matter.

Generally these upstate City Courts have jurisdiction over all civil matters where the amount in controversy does not exceed a specified amount from $200 to $2500. They have criminal jurisdiction over misdemeanors, but not over felonies. Within these general limitations these upstate City Courts have specific legislative grants of jurisdiction over a very wide variety of matters,[34] such as summary proceedings to recover real property; to try cases and impose fines and penalties for offenses arising out of violations of ordinances, charters or codes; to recover a chattel; to foreclose a lien; to determine paternity; actions to state or determine an account; breach of contract actions; tort actions; all powers of magistrates and courts of special sessions over misdemeanors. These are but a sample of the wide grants of civil and criminal jurisdiction which have heretofore been conferred upon upstate City Courts by the New York State Legislature.

Why, the citizens of New York City may well ask, has this advantage been denied to New York City, when many metropolitan units of this country and of upstate New York have been granted the advantage of a single court of unified jurisdiction over all minor civil and criminal matters? Are the justiciable problems arising out of the human relations of this greatest of metropolitan areas so much simpler and more readily susceptible to classification and proper assignment to a variety of inferior courts, each with watertight assortments of haphazard jurisdictions, than are those problems of upstate cities or of other

32. Judge v. Milligan, 131 Misc. 925, 229 N.Y. Supp. 287 (1928). If our Albany legislators recognized that modern conditions in upstate urban centers developed a "flood of litigation" of a minor criminal or civil nature, just how have they overlooked the veritable ocean of such matters which developed in New York City?

33. The City Court is the only court in thirty-two of these upstate cities—Binghamton, Buffalo, Canandaigua, Cortland, Fulton, Geneva, Glen Cove, Glens Falls, Gloversville, Hornell, Hudson, Ithaca, Kingston, Lackawanna, Long Beach, Mechanicville, Middletown, Mount Vernon, New Rochelle, Norwich, Ogdensburg, Oneonta, Plattsburg, Poughkeepsie, Rensselaer, Rochester, Salamanca, Saratoga Springs, Sherrill, Watertown, Watervlient and White Plains.

34. For an excellent analysis and comparison of the jurisdiction conferred upon the various City Courts for upstate cities, see Commission on the Administration of Justice in New York State, Draft of a Uniform City Court Act Including the Statutory Organization of Courts Exclusive of New York City. N.Y. Leg. Doc. No. 50 (L) (1934).

metropolitan areas? The same need exists for the expeditious and final adjudication of small controversies in their entirety in a single hearing and in a single court in New York City as in those cities which have such a court.

II. Proposals

It is to be hoped that our legislators in Albany and their commissions studying the reorganization of New York courts will give most serious consideration to this suggestion of a single court with unified jurisdiction over all minor civil and criminal cases and over family problems which commonly beset the poor citizens of New York City. This court, for lack of a better name, might be known as the Metropolitan Court of New York City. It would in fact probably be a unification of the present inferior courts of the city, namely, the Municipal Court, the Magistrates Court, the Court of Special Sessions and the Court of Domestic Relations. To their consolidated jurisdictions should be added such enlarged jurisdiction over domestic matters as may be found necessary to end the existing deplorable fragmentation of jurisdiction over the family. These enlarged grants of jurisdiction over matters affecting the family should not be exclusive, but should complement and supplement those same jurisdictions retained by the superior or other courts now having such jurisdictions. Since the poor family has much the same domestic troubles as the rich family, the proposed poor man's court should be equipped with that jurisdiction to give the same judicial aid in those family difficulties susceptible of judicial relief as are provided to the rich in the superior courts. The jurisdiction of the unified court in family matters should be limited in the amount it could award for support or other maintenance to a sum not to exceed, for example, $1,000 or some similar amount in any one year.[35]

If such a unification would result in a large court with a very considerable number of judges,[36] it would not be of disproportionate size to the great mass of small controversies which it would be required to adjudicate. Administration of such a court would be a problem of no mean proportion, but much less than that recently proposed for the centralized administration of all the courts of

35. This writer, for one, deplores the current agitation to limit the unification of jurisdiction in a new court to the unification of only all domestic relations jurisdiction in a new Family Court. This is apparently the recommendation of the Gellhorn Report, Children and Families in the Courts of New York City (1954). Though this is truly a most excellent study, it was limited by the terms of the generous grant, which made it possible, to "a study of the family in the courts of this city." It is therefore a study of but one phase of the overall problem of general reorganization of the courts, and does not purport to deal with or cover that larger problem. Its recommendation is but a step in the right direction, and would achieve but a part of the desired goal to be attained in the reorganization of the courts of our city and state. The difficulties of the normal human family are not susceptible of being confined within the abstract concepts of domestic relations law and jurisdictional boundaries of only domestic relations law. The use of this report to limit the indicated reorganization of the courts to only a new Family Court, is in fact to use that report to perpetuate in part at least the very fragmentation of overall jurisdiction which the report so cogently condemns.

36. There are presently 67 Municipal Court Justices, 50 Magistrates, 21 Justices of Special Sessions and 21 Domestic Relations Justices.

New York State which it is suggested be assigned to the State Judicial Conference and its administrative office.[37]

Considerable flexibility of organization into parts or terms should be allowed to permit such court to meet the various problems which presently exist and will develop in the future, and to fully utilize the special knowledge and talents of its judges in those various parts. These separate terms should in part at least be housed in separate buildings, not only because of the present absence of a single adequate structure, but because the separate parts of the court (though unified in jurisdiction) may function better if physically disjoined. The assignment of a particular controversy to the appropriate part of such a centralized court would become a matter of administrative routine to be performed by trained clerks in conformity with rules formulated by the board of administrative judges. The proper assignment to parts or terms of this court would cease to be a matter of confounding confusion to litigant and lawyer as is the present choice of a proper court. The judge hearing the case in the appropriate part or term could adjudicate not only the root cause of the controversy but also any of its related outcroppings, since he would be empowered to exercise the full jurisdiction of the court and there would be no necessity for sending the case to other and different courts. The entire small controversy and all its related issues could be determined in one hearing and in one court. This should make for the expeditious administration of justice in all small justiciable matters and tend to reestablish public respect for our courts.

It was profoundly observed in a report to Governor Alfred E. Smith as long ago as 1924:

"The development of a properly functioning judicial unit may possibly take years. Judicial business does not differ from other businesses in that it has special functions. Experience alone can teach the changes required to adjust judicial machinery to modern conditions. This is the history of other businesses and should be anticipated here."[38]

These businesses which have best adjusted to modern conditions are the large centralized enterprises which have, within the unified venture, assigned particular functions to special subdivisions under a centralized administrative control, be that business unit a department store, a bank, a railroad, a manufacturing or industrial corporation, a large advertising agency, law office or other business unit. If the lower court structure in New York City is to be adjusted to the requirements of the modern conditions of its citizens, our legislators and their commissions would do well to ponder the sage advice of the Alfred E. Smith Commission.

It is respectfully suggested that the proposed reorganization of the courts of New York State should provide New York City with a new Metropolitan Court

37. Ass'n of the Bar of the City of New York, Bad Housekeeping, The Administration of New York Courts (1955).

38. In 1923 Gov. Alfred E. Smith appointed a special commission to investigate the Municipal Courts of New York City. The Report of the Municipal Court Commission of New York City, from which the above is quoted, contains a great many provocative suggestions which unfortunately were not spelled out in the specific recommendations to the Governor. See N.Y. Leg. Doc. No. 77 (1924).