THE REORGANIZATION OF THE JUDICIARY IN NEW JERSEY

*WILLARD G. WOELPER**

The new judicial system that was established in New Jersey on September 15, 1948, the effective date of the Judicial Article of the new Constitution of 1947,[1] represents the product of many years of struggle for judicial reform. The State's original Constitution of 1776 had been replaced by the Constitution of 1844, and for a period of more than a century the constitutional framework of the judicial structure had remained unchanged, despite valiant efforts made to obtain revisions during the periods from 1894 to 1896, 1900 to 1903, and 1906 to 1909. The final successful drive to achieve constitutional reform began some sixteen years prior to the adoption of the new Constitution.[2]

THE SYSTEM UNDER THE CONSTITUTION OF 1844

By way of background, it will be helpful to consider briefly some of the principal features of the former judicial system. It consisted of some seventeen courts and classes of courts,[3] each of which was substantially independent in matters of administration. Practice and procedure in the courts was governed in part by a great multitude of statutes relating to particular courts or particular proceedings, and in part by rules promulgated by individual courts or judges thereof. The practising lawyer was thus not only under the difficult burden of mastering the many statutes and rules regulating the courts sitting in his own county, but also was confronted with the knowledge that in many instances when he appeared in other counties he would find that the courts or judges sitting there had promulgated different rules governing the practice and procedure before them.

The system was largely decentralized and, while the judicial actions of each court and judge were subject to judicial review, there was virtually no administrative control or supervision, except to a limited extent within certain courts.

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* Willard G. Woelper, A.B. (Penn.) 1932; LL.B. (Harvard) 1935. Administrative Director of the Courts of the State of New Jersey, and of the Faculty of the Law School of the New York University.

[1] N. J. Const. 1947, Art. VI.

[2] For a review of the attempts to achieve constitutional reform see: Charles R. Erdman, Jr., "The Movement for Judicial Reorganization in New Jersey" (1936) 4 *N.J. State Bar Assn. Quarterly* 305; W. W. Evans, "Constitutional Court Reform in New Jersey" (1941) 7 *Univ. of Newart L. Rev.* 1; C. Edison, "How to Wake Up an Old State" (1951) 40 *Nat. Munic. Rev.* 574; J. Kerney, Jr., "The Price of a New Constitution" (1952) 41 *Nat. Munic. Rev.* 14.

[3] Court of Errors and Appeals, Supreme Court, Circuit Court, Court of Chancery, Prerogative Court, Court of Oyer and Terminer, Court of Special Sessions, Court of Quarter Sessions, Court of Common Pleas, Orphans' Court, Surrogate's Court, Juvenile and Domestic Relations Court, District Court, Criminal Judicial District Court, Small Cause Court, Police or Recorder's Court, Justice of the Peace Court.

The great majority of judges were thus completely independent in the administrative phases of their work and aside from the dictates of their own consciences were subject only to the uncertain possibility of failure of reappointment or impeachment, if they did not strictly fulfil their official obligations.

Jurisdictional problems were many and especially troublesome as between the Court of Chancery and the law courts. Litigants who brought proceedings in the wrong court, after long and expensive litigation would sometimes discover that the court lacked jurisdiction and that a new action in the proper court had become barred by a statute of limitations. Controversies involving legal and equitable disputes in many instances could ordinarily only be finally determined by two separate proceedings in different courts.[4]

The calendars in most of the courts were badly congested and long delays in litigation and in decisions were commonplace. While the Practice at Law Act of 1912[5] and the supplemental Chancery Act of 1915[6] had introduced notable reforms in adjective law, particularly in relation to pleading, in the succeeding forty years there had arisen a manifest need for a complete revision and simplification of judicial procedures.

The Court of Errors and Appeals was the court of last resort and consisted of sixteen judges: The Chancellor (who presided, except on appeals from the Court of Chancery); the Chief Justice of the Supreme Court and the eight associate justices; and six lay judges. In addition to their duties in the Court of Errors and Appeals, the justices of the Supreme Court also sat in the latter court in parts made up of three justices each to conduct intermediate reviews of judgments of the law courts and the determinations of administrative agencies. The Supreme Court also had jurisdiction over the prerogative writs, as to which the practice was exceedingly technical and difficult. Finally, each justice had *nisi prius* duties, hearing trial motions, organizing and charging grand juries, and occasionally actually presiding at trials. The lay judges, in addition to their duties on the Court of Errors and Appeals, also sat in the Court of Pardons. Such multiplicity of functions and duties inevitably imposed conflicting burdens which made it most difficult, if not impossible, for such judges to do their most effective work.

THE SYSTEM UNDER THE CONSTITUTION OF 1947

The new system of courts has been greatly simplified and now consists of seven courts: (1) the Supreme Court,[7] with appellate jurisdiction only; (2) the Superior Court,[8] with general state-wide trial jurisdiction, sitting in three divisions — Appellate, Law and Chancery; (3) the County Court,[9] with general trial jurisdiction in each county; (4) the Juvenile and Domestic Relations Court,[10] presided over by the judge of the County Court, except in the five most populous counties; (5) the County District Courts,[11] primarily county courts with civil jurisdiction limited to

[4] For a review of the arguments prevailing for the merger of law and equity courts see *Report of the Special Committee of the Essex County Bar Association Concerning Constitutional Revision of the Judicial Article*, submitted June 5, 1947, and reprinted *Proceedings of the Constitutional Convention* of 1947, Vol. IV, pp. 599-645.

[5] L. 1912, c. 231.

[6] L. 1915, c. 116.

[7] N.J. Const. 1947, Art. VI, Sec. II.

[8] *Id.* Sec. III.

[9] *Id.* Sec. IV.

[10] N.J.S. 2A:4.

[11] N.J.S. 2A:6 (civil) and N.J.S. 2A:7 (criminal).

[12] N.J.S. 2A:8. Two County Traffic Courts are included in this classification.

[13] N.J.S. 2A:5.

$1,000; (6) the Municipal Courts,[12] primarily courts of limited local criminal jurisdiction; and (7) the Surrogate's Court.[13] The Surrogate's duties are primarily ministerial, and such attenuated judicial jurisdiction as is vested in him exists substantially only where the matters are uncontested.

THE RULE-MAKING POWER OF THE SUPREME COURT

The Supreme Court is given complete power to make rules governing the administration of all the courts in the state and the practice and procedure therein.[14] In fulfilling its constitutional obligations in this respect, the Court has promulgated a complete set of rules modernizing and simplifying practice and procedure in all courts and making them uniform throughout the state, and has adopted a comprehensive set of rules governing the administration of all courts. In undertaking this task, the Court recognized that while the ultimate responsibility for making and promulgating the rules must remain its own, a truly enlightened and modern practice could only be attained with the aid and assistance of the entire bench and bar, and by taking advantage of the best experience in the federal system and in our sister states. The effectiveness of advisory groups working with a court had already been demonstrated in the federal system in the preparation and drafting of the Federal Civil and Criminal Rules of Procedure, which in large measure form the basis for the New Jersey rules.

For a period of approximately nine months prior to the effective date of the new Judicial article the justices-designate of the new Supreme Court were engaged in the arduous task of preparing the rules. Suggestions had been invited from each of the judges, lawyers, and interested citizens in the State and from the State and county bar associations. Chief Justice Arthur T. Vanderbilt wrote to each of the Chief Justices in each of the other states requesting their recommendations and advice on rules and procedures which their experience had proved most helpful.

The State of New Jersey was particularly fortunate in the breadth of the rich experience and training which each of the justices brought to the monumental task of building and completing the judicial structure, on the firm foundation supplied by the Constitution.[15]

Committees of expert draftsmen reviewed the materials gathered and the

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[14] N.J. Const. 1947, Art. VI, Sec. II, para. 3. *Winberry v. Salisbury*, 5 N.J 240, 74 A. 2d. 406 (1950), *cert. den.* 340 U.S. 877, 95 L. Ed. 638.

[15] Chief Justice Vanderbilt came to the Court as an eminent trial and appellate lawyer of almost 40 years of experience. Dean of the School of Law of New York University for five years, and a teacher of law for almost 40; active political leader in one of our largest counties and County Counsel for over 25 years, a dynamic leader in the drive for constitutional reform, the Chief Justice had served as Chairman of the Judicial Council of New Jersey from 1930 to 1940 and a member of the New Jersey State Constitution Revision Commission in 1941-42; President of the American Bar Association; chairman of the committee of lawyers appointed by Attorney General Cummings to draft the bill for the Administrative Office of the United States Courts; member of Attorney General's Committee on Administrative Procedure; Chairman of the Advisory Committee to the United States Supreme Court to draft Federal Rules of Criminal Procedure; Chairman of the Advisory Committee of the War Department on Military Justice; and President of the Institute of Judicial Administration. Justice Clarence E. Case came to the new Supreme Court as a distinguished trial and appellate lawyer with 23 years experience; a County Court Judge for 3 years; and a State Senator for 11 years. He had acquired extensive judicial experience in the trial and appellate levels as a justice of the former Supreme Court for 19 years, during the last two of which he served as Chief Justice. Justice Harry Heher had practised law for 11 years before he was appointed as a justice of the former Supreme Court. He, too, had acquired extensive experience in the trial and appellate levels during his service for 16 years in the former Supreme Court. Justice A. Dayton Oliphant had practised law for 16 years, during which he served for a term as a County Prosecutor, and as a member of the House of Assembly. He had 18 years experience in trial work as a Circuit Court Judge, and three years as Chancellor of the State and presiding officer of the former Court of

many suggestions received from far and wide, and prepared a suggested set of rules for the consideration of the Supreme Court. After extensive revisions had been made by the Court, this was published and distributed to each of the members of the bench and bar as a Tentative Draft of the Rules of Court.

Again the criticisms and suggestions of all concerned were welcomed and for a period of many long weeks the members of the Supreme Court were completely occupied in the preparation of the final draft.[16] While time and space will not permit a discussion of the new rules, it may be noted that on the basis of a detailed national survey New Jersey today ranks first among the States in having established the minimum practical standards of judicial administration adopted by the American Bar Association.[17] In general it may be said that the rules were designed to provide simple procedures for the effective and inexpensive administration of justice on the trial and appellate levels, to avoid surprise by liberal discovery proceedings, and to establish mandatory pretrial conferences in all but matrimonial and criminal cases. Meaningless technicalities and cumbersome procedures were eliminated.

While the rules promulgated were prepared with great care and incorporated the most modern and advanced ideas to expedite justice efficiently and with a minimum of delay and inconvenience to litigants, the Court recognized that the rule-making process must be a continuing one or our practices and procedure would inevitably become once more archaic and obsolete. To this end the rules provide for an annual Judicial Conference made up of all of the judges (with the exception of the magistrates, who are represented by the 21 chairmen of the magistrates' associations of each county), the leaders of the legislature, the attorney-general and county prosecutors, local law school deans, the board of bar examiners, 10 distinguished laymen, the officers and trustees of the State Bar Association, the presidents of each of the county bar associations, and 60 delegates from the county bar associations:

> " . . . to consider the status of judicial business in the various courts, to devise means for relieving congestion of dockets where this may be necessary, to consider improvements of procedure in the courts, and to exchange ideas with respect to the improvement of the administration of justice."[18]

The Judicial Conference which has been held each year since the reorganization of the courts has been most effective in providing a forum where suggestions for improvements in practice and procedure, and in the judicial establishment generally, may be considered and discussed. Each year the Supreme Court has promulgated new rules and amendments to rules emanating from the delibera-

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Errors and Appeals. Justice William A. Wachenfeld had practised as a distinguished attorney for some 35 years, during which time he served for 2 years as the Assistant Prosecutor in our largest county and thereafter as the Prosecutor for 13 years. He served on the former Supreme Court for 2 years before the reorganization of the courts. Justice Albert E. Burling brought to the Court his experience as a practising attorney for 19 years; an instructor at Temple University Law School; a municipal attorney; Assistant Prosecutor in one of our largest counties for 5 years and County Counsel for 3 years. He had served as a State Senator for one term and had trial experience as a Circuit Court Judge for 5 years. Thereafter he was appointed to the former Supreme Court where he served for one year prior to the reorganization of the courts. Justice Henry E. Ackerson, Jr., had practised law for 15 years, during which period he served as County Counsel for a period of 7 years and as a State Senator for 5 years.

[16] See Remarks of Chief Justice Vanderbilt at the Judicial Conference, September 13, 1948, 71 N.J.L.J. 333 (1948).

[17] Charles O. Porter, "Minimum Standards of Judicial Administration: The Extent of Their Acceptance" (1950) 36 *A.B.A. Jour.* 614.

[18] Rules Governing the Courts of New Jersey, Rule 1:7-3(a). For a detailed account of the activities of the Judicial Conference, see Woelper, "The Judicial Conference and its Role in the Rule-making Process" (1951) 5 *Rutgers Law Rev.* 344.

tions of the conference.[19]

In addition the rules provide for an annual judicial conference of all the Magistrates and the Municipal Attorneys.[20] This conference has concentrated its efforts on the particular problems arising in the local courts and especially those relating to traffic offences. The conferences have not only produced many ideas for improvements in the rules of practice and procedure, but have been particularly helpful in making the many municipal courts and magistrates an integral part of the court system.

THE CHIEF JUSTICE—ADMINISTRATIVE HEAD OF ALL THE COURTS

Under the new Constitution the Chief Justice is made the administrative head of all the courts in the State[21] and is given broad powers to assign judges from court to court and county to county as the status of judicial business may require.[22]

In vesting in the Supreme Court the power to make rules of practice and procedure, and administration governing all courts and judges in the State, and in making the Chief Justice the administrative head of the entire judicial system, the Constitution has provided the additional framework for a truly integrated court system. Under these provisions the Chief Justice and the Supreme Court must accept the responsibility of making certain that approved and effective practices and procedures are followed in all judicial proceedings throughout the State, and in addition are charged with the duty of fixing standards governing the administrative aspects of the work of the judges and all other personnel in the judicial system. With that responsibility and duty is conferred power to correct abuses by the enactment and enforcement of rules, and, indeed, provision is made in the Constitution to vest powers in the Supreme Court to remove judges for cause, although this provision has not yet been implemented by the Legislature.[23]

The effectiveness of such a system may be easily demonstrated by a simple illustration. The Supreme Court has provided by rule that the conduct of all judges in our State shall be governed by the Canons of Judicial Ethics adopted by the American Bar Association.[24] In New Jersey, all judges are selected under an appointive system, and accordingly under the Canons all judges are barred from engaging in any partisan political activity.[25] Shortly after the new court system was established, a report came to the attention of the Supreme Court that one of the local magistrates was campaigning actively for the office of mayor in his community. Under the former system, the more reputable members of the bench and bar would have disapproved of such conduct, but the magistrate could not have been impeached or compelled to withdraw. How was the problem handled under the new system? When it became apparent, after inquiry, that the magistrate was knowingly violating the rule, the Supreme Court entered an order directing the Magistrate to show cause why he should not be held in con-

[19] 72 N.J.L.J. 373 (1949); 73 N.J.L.J. 407 (1950); 75 N.J.L.J. 9 (1952); 75 N.J.LJ. 417 (1952).
[20] Rule 8: 13-5.
[21] N.J. Const. 1947, Art. VI, Sec. VII, para. 1.
[22] N.J. Const. 1947, Art. VI, Sec. VII, para. 2; N.J. Const. 1947, Art. XI, Sec. IV, para. 5.
[23] N.J. Const. 1947, Art. VI, Sec. VI, para. 4.
[24] Rule 1: 76.
[25] Canon 28, Canons of Judicial Ethics of the American Bar Association.

tempt.[26] Thereupon the Magistrate, apparently realizing that the Court expected to enforce its rule, promptly submitted his resignation upon the return day. There can be little doubt that this one proceeding quickly became known to all members of the bench and bar throughout the State, and that the action taken was most effective in preventing any recurrence of such conduct elsewhere. Where it is known that a power exists which will be used promptly to punish abuses, such abuses are much less likely to arise.

Another aspect of the integration is found in the jurisdiction vested in the Supreme Court "over the admission to the practice of law and the discipline of persons admitted."[27] Here again the Court has by rule provided that the Canons of Professional Ethics adopted by the American Bar Association shall govern the conduct of all members of the bar of this State.[28] Official ethics and grievance committees have been appointed by the Court in each county, and procedures have been established for the proper processing of all complaints against members of the bar with provisions for review by the Supreme Court itself.[29]

THE ADMINISTRATIVE OFFICE OF THE COURTS

Provision is made under the new Constitution for the appointment of an Administrative Director by the Chief Justice to serve at his pleasure.[30] Thus New Jersey has become the first state to follow the example set in the Federal system by establishing an Administrative Office of the Courts. The outline of the broad rule-making and administrative powers of the Supreme Court and the Chief Justice which has already been presented in the foregoing description of the new judicial system will have already indicated to the reader the need for such an office. Obviously such powers can not be exercised effectively and intelligently unless the Chief Justice and Supreme Court have the aid of an administrative staff which can devote its full time and energies to the task of keeping them advised as to the status of judicial business, and which can execute the details of the basic policies which have been established by them. It will be observed that the Supreme Court has as its principal duty and function the consideration and disposition of appeals as the court of last resort, and the record of its performance in this respect compared with its predecessor, the former Court of Errors and Appeals, has been most impressive. During the past four years the new court has disposed of an average of 20% more appeals each year than the former court,[31] but, even more important, decision have been handed down in an average of 30 days from date of argument to date of decision, compared with the average of 105 days existing in 1946-47.[32] In each of the four years when the Supreme Court rose for the summer recess every appeal ready for argument had not only been heard, but decided.

Another method of highlighting the magnitude and variety of the potential administrative problems inherent in the new judicial system is to refer briefly to the volume of judicial business and the number of personnel. During the past court year 1951-52 the courts in New Jersey disposed of some 60,000 civil cases alone. On the criminal side the Municipal Courts disposed of 619,233 traffic cases. In appraising this volume, it should also be noted that the Chief Justice

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[26] *In re Christopher J. Healey, Recorder of the Borough of East Newark.*
[27] N.J. Const. 1947, Art. VI, Sec. II, para 3.
[28] Rule 1: 7-6.
[29] Rule 1: 9-1 through 1: 9-8.
[30] N.J. Const. 1947, Art. VI, Sec. VII, para. 1.
[31] Comparison based on record of Court of Errors and Appeals in last typical year 1946-47.
[32] See Tables A, A-1 and A-2 in the Annual Reports of the Administrative Director of the Courts of New Jersey for the court years 1948-49; 1949-50; 1950-51; and 1951-52.

has under his supervision a total of 579 full-time and part-time judges, not to mention the clerks, sergeants-at-arms, stenographic reporters and a host of others working in the courts. Finally it should be kept in mind that there are approximately 8,500 licensed attorneys in the State, of which number it is estimated that at least 6,000 are engaged in the active practice of the law.

SOME OTHER ASPECTS OF JUDICIAL ADMINISTRATION

The necessary foundation for all sound administrative decisions must be the factual data relating to the problems under consideration, and accordingly the collection and analysis of current statistical data on the work of the judges and the status of judicial business has been the major undertaking of the Administrative Office. The emphasis has always been twofold: (1) to obtain operational figures—such as any board of directors of a business concern would want in directing the operations of a corporation; and (2) to obtain figures reflecting the current status—for an analysis of figures reflecting operations long since passed will have little operational value, albeit they may have historical interest. Statistics have been gathered and analyzed in New Jersey on a weekly, monthly and quarterly basis and in general the basic inquiries for each period have been: (1) what matters have been disposed of during the period, in comparison with past periods; (2) what additional matters have been added during the period; and (3) what matters await disposition at the end of the period and how long they have been pending. This basic approach was made necessary by the large arrearages that existed on many court calendars at the time of the reorganization of the courts, and was particularly essential to enable the Chief Justice to utilize the available judicial manpower at maximum efficiency.

The statistics have been gathered principally from reports submitted by the judges themselves and by the clerks of the various courts. The Supreme Court has provided by rule[33] that each judge shall submit a weekly report in duplicate to the Administrative Director. The reports are in general so designed that they show the number of hours the judge presided on the bench, the cases heard, the nature thereof and the outcome. Each judge also reports on any cases or motions submitted to him, but which are pending undecided.

These reports are received on Monday and a brief summary and analysis of the major items is submitted to the Chief Justice on the next day. The reports disclose to what extent the judge has been occupied in court, and will immediately reveal any deficiencies in the manner in which the calendar is being managed. Investigations occasioned by such reports disclosed in many instances that valuable trial time of some of the judges was being lost by adjournments or settlements, without any real attempt to keep the judge advised in advance or without any adequate means of substituting other ready cases. A special Committee on Pretrial Conference and Calendar Control was appointed by the Supreme Court to study the problem and as a result of its recommendations improved procedures on the methods of handling the calendars were prescribed. In the larger counties, where sometimes as many as eight judges of the Superior Court and County Courts are sitting under the local supervision of a judge of the Superior Court designated as the Assignment Judge, any such calendar problems will be taken up by the Administrative Director, at the direction of the Chief Justice, with the Assignment Judge. It is the responsibility of this supervisory judge to manage the trial calendars in such a fashion that sufficient cases are called for trial each day to enable all of the judges in his county to keep fully occupied. In some of

[33] Administrative Rule A 14.

the smaller counties where only one judge may be sitting, or in courts or divisions where a single judge is charged with the problem of running his own calendar, the Administrative Director will confer with the judge in question directly.

On the other hand, when less than the standard number of hours are being spent on the bench,[34] an investigation of the report may indicate that the deficiency is not caused by improper handling of the calendar locally, but rather by a calendar which is so current and light that it is insufficient to keep the judge or judges working on it fully occupied. This will serve then to inform the Chief Justice that such judge or judges are available for assignment to other counties or divisions where the calendar is more congested.

Finally, the weekly reports have proved invaluable as a means of bringing to the attention of each judge at the end of the week the status of his own work. Where cases or motions are pending heard and undecided because counsel have failed to submit briefs, the judge will be reminded to take action to secure their prompt compliance. Under Rule A13 of the Rules of Administration, it is provided as follows:

> "As a matter of routine, all motions heard by the trial courts in any week shall be decided at or before the opening of the court the next week. As a matter of routine, all cases submitted to trial courts shall be decided within four weeks after submission."

Where the weekly report indicates that motions or cases have been pending undecided for a longer period of time the Chief Justice directs the Administrative Director to communicate with the judge in question to obtain a special report on the status of such matters. Such reports will ordinarily indicate that the matter pending was particularly involved or difficult but will be disposed of within a short time, or that the judge has been overburdened with other matters and requires assistance. Occasionally, the report will indicate the matter is being held pending an appeal or binding disposition in a related or test case, or for other special circumstances. Where a judge has been unable over a long period of time to meet the general standards in a major portion of his cases, his failure will suggest that he is not well qualified for the work to which he is assigned. Experience has demonstrated that many extremely able trial judges on the law side are relatively poor in performance in appellate or chancery work, and the converse has been equally true. Effective judicial administration demands that to the extent possible judges be assigned to the work for which they are most suited.

In any event, the weekly report with the administrative "follow-up" has been completely successful in solving the problem of long-delayed decisions which existed in this State under the former system, and which has plagued many other judicial systems. Under the former system the judge in this respect was accountable only to himself, for all practical purposes. Litigants and lawyers were not in a position to insist upon prompt disposition, since they would fear that such conduct would only result in possible prejudice and a prompt adverse decision. The quarterly and annual reports published by the Administrative Director present a summary of the record of each judge based upon his weekly reports. For the last court year ending August 31, 1952, it will be noted that of the 60 judges serving in the trial divisions of the courts of general jurisdiction, as of the end of the period, 56 had decided all motions heard and only 4 had any motions pending heard and undecided, the oldest hearing date being June

[34] Administrative Rule A 1.

27, 1952. Similarly, out of 60 judges, 50 had disposed of all cases heard and only 10 had any cases pending heard and undecided, and here the oldest hearing date was May 1, 1952. The record in the local courts where matters customarily are less involved and move more quickly is, of course, even better in this respect.

Supplementing the weekly reports submitted by the judges, the Administrative Director receives a monthly report from the clerks of each of the courts or divisions showing the status of each of the calendars therein. The calendar reports generally show the total number of cases pending at the beginning of the month, the number disposed of during the month, the number of new cases added during the month, and the total awaiting trial at the end of the month. The figures indicate the number of cases which are on the military list and therefore not available for trial, and in addition a break-down is given of the total number of active cases pending at the end of the month, showing the periods in which they were instituted by the filing of the complaint. Customarily, from time to time the Chief Justice announces a "target" for each division and a date by which it is hoped that all cases started before a specified date will be disposed of. At the end of the period judges with cases still pending instituted prior to the target date are requested to submit special reports as to the circumstances which made trials and disposition impossible. This procedure has been based on the philosophy that the expedition of trials is a public responsibility of the courts. When litigants resort to the courts they must expect to proceed promptly to a disposition. Delays caused by lawyers and litigants for their own personal reasons all too frequently are forgotten at a later date when criticism of the law's delays is voiced to the detriment of the reputation of the entire judicial system. Complaints from litigants received in the Administrative Office shortly after the reorganization revealed that all too frequently delays were caused by requests for adjournments and postponements by counsel for their own convenience and not that of their clients.

By the analysis of these basic statistics the Administrative Director is enabled to advise the Chief Justice and the Supreme Court at all times as to the current status of the judicial work in each court and county, and the situation of each judge. Where the calendar of a particular judge is light, his availability for assignment elsewhere is noted. Where a calendar is congested and a judge is falling behind, the need for assistance immediately becomes apparent.

It has been the practice in New Jersey for the Chief Justice to review the status with the Administrative Director at least once each month, and more frequently if necessary. The Chief Justice determines which courts and counties shall be given the help of additional judges and which courts and counties do not need their full complement. Except where special circumstances compel the assignment of a particular judge to a particular court or county, an effort is made to arrange temporary assignments with a minimum of personal inconvenience to the individual judge. The Administrative Director will ordinarily advise the judge in question that the Chief Justice is contemplating assigning him to temporary duty in another court and county for one or two weeks in the forthcoming month. The trial judge is then in a position to advise, for example, that he is not readily available during the first week because of a scheduled full-week murder trial in his own county, but that his second week could be made readily available by minor calendar adjustments. These matters are reported to the Chief Justice and the assignment order is usually entered three or four weeks in advance. At the other extreme, on several occasions the Administrative Director has been advised at 8.30 a.m. on a Monday morning that one of the three regular judges assigned to a part of the Appellate Division will not be

able to sit at 10 a.m. that day by reason of illness. This would mean that the other two judges of the Part, and the many lawyers scheduled to present arguments on appeals and motions listed for that day would be seriously inconvenienced. In such a situation, after telephone conferences with the Chief Justice and some of the trial judges, an immediate temporary assignment order is prepared transferring one of the trial judges to the Appellate Division for that day. The extent to which the temporary assignments are used is illustrated by the schedule published each year in the Annual Report of the Administrative Director. During the court year ending August 31, 1952, it will be noted that 31 different judges were given temporary additional assignments for periods totalling approximately 830 man days. Most of this time would have been lost to the State, but for effective administration. Under the former system, a conscientious judge confronted with a calendar breakdown had no real alternative other than to adjourn to his chambers for possible research, or if he were not so conscientious to less productive activities. No agency or official was charged with the responsibility of supervising his activities and calendars for the public benefit.

THE MERGER OF LAW AND EQUITY

The members of the bench and bar of Australia will be particularly interested in the success which the new system has enjoyed in connection with the abolition of the former separate Court of Chancery. Prior to September 15, 1948, the Court of Chancery consisted of the Chancellor, who was aided by 10 Vice-Chancellors hearing general equity and 11 Advisory Masters hearing matrimonial matters.

Under the new Judicial Article substantially all of the jurisdiction and powers of the former Court of Chancery is vested in the Superior Court.[35] The Superior Court is divided into an Appellate Division, a Law Division and a Chancery Division consisting of such parts and such number of judges as may be provided by rules of the Supreme Court.[36] The Chief Justice is given power to assign judges of the Superior Court to the Divisions and Parts of the Superior Court and may from time to time transfer judges from one assignment to another, as need appears.[37] The Constitution further provides as follows:

> "Subject to rules of the Supreme Court, the Law Division and the Chancery Division shall each exercise the powers and functions of the other division when the ends of justice so require, and legal and equitable relief shall be granted in any cause so that all matters in controversy between the parties may be completely determined."[38]

The Supreme Court promulgated the following rule in accordance with this provision of the Constitution:

> "3:40-2. *Actions in the Chancery or Law Division.*—All actions which were on September 14, 1948, maintainable in the Court of Chancery or before the Chancellor, or in the Prerogative Court or before the Ordinary, shall be brought in the Chancery Division, and all other actions in the Superior Court shall be brought in the Law Division; but this rule shall not apply to any appeal or matter which is cognizable in the Appellate Division. All causes on habeas corpus, other than those having to do with the custody of children, shall be brought in the Law Division. If the primary right of the plaintiff is equitable or the principal relief sought is equitable, the action is to be brought in the Chancery Division, even though legal relief is

[35] N.J. Const. 1947, Art. XI, Sec. IV, para.3.
[36] N.J. Const. 1947, Art. VI, Sec. III, para. 3.
[37] N.J. Const. 1947, Art. VI, Sec. VII, para. 2.
[38] N.J. Const. 1947, Art. VI, Sec. III, para. 4.

demanded in addition or as an alternate to equitable relief."[39]

Being aware that troublesome problems might arise if cases were transferred back and forth repeatedly between the two Divisions, the Supreme Court also adopted the following rule:

> "3:40-3. *Transfer of Actions.*—Motion to transfer an action from one of the trial divisions to the other trial division shall be made within 10 days after the pleadings are closed, and unless so made, an objection to the trial of the action in the division appearing on the complaint is waived; but the court on its own motion may make such a transfer at or before the pretrial conference. The transfer of actions is a matter lying within the discretion of the court, and an order for the transfer shall not be reviewable except for an abuse of discretion. Cases once transferred shall not be retransferred."[40]

The last sentence of this rule is particularly significant, since under its terms a case can only be transferred once and cannot be retransferred.

Under the Constitution and the rules it is clear that there was no intent to follow the pattern set in some states where one court is vested with both legal and equitable jurisdiction and the distinctions between law and equity procedure are abolished. It is equally clear that once a case is before a judge in the Law Division he has full power and authority to grant any equitable relief that may be appropriate. The New Jersey system accordingly preserves the advantages of specialization for judges. The rules of practice and procedure relating to the Superior Court apply generally to both the Law Division and to the Chancery Division and in this sense there is no separate equity procedure. Particular sections of the rules are sometimes only applicable to certain types of proceedings, and if these are such that they would ordinarily only be considered in the Chancery Division, it might be said that there is a special equity procedure in this sense. By the same token, moreover, certain sections of the rules relate to special proceedings which would ordinarily only be had in the Law Division. Since, however, either Division in appropriate cases may exercise the powers and functions of the other, the rules apply equally to both Divisions.

One of the first cases to come before the new Supreme Court involving the jurisdiction of the Law Division and Chancery Division was *Steiner v. Stein.*[41] There an action was brought in the Chancery Division to redeem certain papers and instruments relating to real estate from a lawyer's lien asserted by the defendant and for other equitable relief. The defendant filed a counterclaim for the reasonable value of his services. After disposing of the equitable issues the court ordered the cause transferred to the Law Division. On appeal the Supreme Court reversed. After referring to the constitutional provisions and rules above quoted, Chief Justice Vanderbilt, for a unanimous Court, held:

> "Were the trial judge in whichever division he is sitting not to hear the entire case once he has assumed jurisdiction, all of the confusion and waste of judicial effort which the framers sought to eliminate would reappear. The trial of an entire case before the same judge conforms, moreover, to the practice in many jurisdictions, including the federal courts.
>
> "Some confusion seems to have arisen concerning Rule 3 : 40-3 dealing with the transfer of actions, but it disappears if that rule be read in conjunction with Rule 3 : 40-4 relating to the trial calendar. The labelling of a case for trial in the Law Division or the Chancery Division is entrusted to the attorney for the plaintiff, just as under our practice, though not in every

[39] Rule 3: 40-2.
[40] Rule 3: 40-3.
[41] 2 N J. 367, 66 A. 2d 724.

jurisdiction, he is entrusted with the issuing of the summons. If he makes a mistake, that mistake may be rectified by an appropriate motion within ten days after the pleadings are closed, or by the court on its own motion at or before the pretrial conference. It is at these points of time that the attorneys and the trial court respectively are most informed as to the nature of the issues in the case. The transfer by the court is discretionary and not reviewable except for an abuse of discretion. Thus, the transfer of a cause of action plainly legal from the Law Division to the Chancery Division or vice versa would be an abuse of discretion. Finally, the rule provides that cases once transferred shall not be retransferred. The two rules taken together outline a simple procedure for the assignment of cases to the trial divisions and provide for the judicial correction of any errors of counsel and safeguard all parties from any improper attempt to select a division or a judge, at the same time protecting the litigants from the mistake of a judge without developing a flood of litigation over a simple problem of which division and which judge is to try a case."[42]

The problem came before the Supreme Court again in *O'Neill v. Vreeland*.[43] An action had been brought to compel the specific performance of a contract to sell a business and for other equitable relief. The suit was begun in the former Court of Chancery prior to the reorganization, and a motion to dismiss for failure to state a cause of action was pending on the reorganization date. The trial judge thereafter transferred the cause to the Law Division on the ground that the action was one cognizable in law, but not in equity. After a jury was selected and plaintiff had completed his opening, the defendant moved for a dismissal, which was granted by the court on the ground that the action was cognizable only at law. On appeal the Supreme Court reversed. Chief Justice Vanderbilt, for a unanimous Court, held:

"Once the plaintiff's case had been transferred from the Chancery Division to the Law Division, it was incumbent upon the Law Division to try the case. For that division to have even once permitted the plaintiff's case to come on for trial without adjudicating it on the merits is directly contrary to the intent of both the Constitution and the rules of court. No action is to be dismissed merely because it has been brought in or transferred to the wrong division. Whenever a case comes on for trial in either of the trial divisions of the Superior Court it shall be disposed of on its merits as the nature of the case may require. The shuttling of cases from law to equity and back again without affording a party a hearing on the merits of his case constituted one of the principal evils of our former judicial system which the Constitution of 1947 and Rule 3:40-3 were designed to obviate (see Comment on the Tentative Draft of Rule 3:40-3). It was never intended and it is not to be countenanced that the elimination of this shuttling from one court to another would be accomplished by depriving a plaintiff of his day in court. Accordingly, it is clear that the plaintiff here was entitled to have his case heard when it came on for trial in the Law Division.

"Whether the plaintiff was entitled to have his case heard before a jury is another question. As has previously been pointed out, only those issues of fact triable as of right by a jury are to be submitted to a jury for determination, Rule 3:39-2, unless the court submits them to an advisory jury,

[42] 2 N.J. 377, 66 A. 2d 724.
[43] 6 N.J. 158, 77 A. 2d 899 (1951).
[44] 6 N.J. 169, 77 A. 2d 904.

or the parties consent to having them heard by a jury as if triable as of right by a jury, Rule 3 : 39-1. The issues in the instant case, being equitable in nature, are not triable as of right by a jury."[44]

An action was brought in *Poulos v. Dover Boiler and Plate Fabricators*[45] in the former Court of Chancery to enjoin the defendants from closing a roadway on the ground that it would interfere with an easement. The trial court stated:

"Prior to the adoption of the 1947 Constitution of the State of New Jersey, such an action would not have been maintainable in the Court of Chancery. The rule then was that where the prayer for equitable relief was based upon the alleged existence of an easement over lands of another, and the existence thereof was in substantial dispute between the parties, it was essential for the plaintiff to first establish by a suit at law the validity of his claim in order to justify the interference of a court of equity. The reason for this rule was that the question as to whether or not such an easement existed was purely a legal one, which must be settled in a court of law, and not determinable by a court of equity. Indeed, counsel could not, by mere silence or by express consent, confer upon courts of equity the power to determine litigated matters, which, under our judicial system, must be settled in a court of law; or, stated in another way, strip the law courts of jurisdiction conferred upon them under the constitution and transfer it to courts of equity. However, in an appropriate case, the bill in equity would have been retained and the issue of fact sent to a law court for trial."[46]

After reviewing the provisions of the new Constitution and the relevant rules, the court concluded:

"In the instant matter, no objection to trial before the Chancery Division was made by any of the parties within the time specified, and the matter proceeded to final hearing without objection. Therefore, by virtue of the constitution and the rules, this court is vested with authority to grant 'legal and equitable relief' in this cause, so that 'all matters in controversy between the parties may be completely determined.' "[47]

Another aspect of the problem was presented in *City of Camden v. South Jersey Port Com'n*,[48] where an action was brought seeking to have an agreement adjudicated illegal and void, and for other equitable relief. Defendant filed a counterclaim for damages. The trial court held:

"It must be now conceded that where the primary right of the plaintiff or the principal relief sought by plaintiff is equitable, the action must be brought in the Chancery Division, but that legal relief may as well, in addition thereto, be obtained in that division. Superior Court Rules 3 : 40-2."

* * * *

"That there was under the Constitution of 1844 a restriction on the right of the Court of Chancery to award unliquidated money damages in an action brought before it must be conceded. . . .

"We are not presently concerned with the limitations of the 1844 Constitution, but rather with the accomplishment of the suggestion made in the above cited case, as evidenced by the 1947 Constitution. The then existing constitutional limitation has now been changed so that in furtherance of granting complete relief whenever the ends of justice require it, the Chan-

[45] 2 N.J. Super. 473, 64 A. 2d 468 (Ch. Div. 1949).
[46] 2 N.J. Super. 476, 64 A. 2d 470.
[47] 2 N.J. Super. 477, 64 A. 2d 470.
[48] 2 N.J. Super. 278, 63 A. 2d 552 (Ch. Div. 1949).

cery Division of the Superior Court may try and determine not only the primary equitable cause of action, but a legal cause of action as well, whether by way of complaint or counterclaim.

"The ascertainment of defendant's damages is a simple arithmetic computation. To grant complete relief the liquidated damages as well may be determined by the Chancery Division. The form of the action is not the important feature. What is of moment is whether the ends of justice require that all matters in controversy between the parties be completely determined. It is plain that to finally dispose of the matters in difference between the parties it is vital that this problem be solved. To now refuse would result only in a relegation of the defendant to the Law Division of the Superior Court for an affirmative suit for damages. Therefore, whether we consider the defendant's claim in the nature of a counter-suit for damages or as a counterclaim as part of the accounting prayed for by the plaintiff, defendant is entitled to a judgment for the money which plaintiff has thus far failed to advance."[49]

It is believed that the foregoing problems raised in connection with the abolition of the separate Court of Chancery were in large part attributable to the transition to the new court system, and it is confidently expected that with the guidance of the decisions above referred to there will be little difficulty hereafter.

REVIEW OF ACTIONS OF ADMINISTRATIVE AGENCIES

The New Jersey courts, succeeding to the prerogative writ jurisdiction of the King's Bench of England, have always maintained a high degree of supervision over the official actions of subordinate bodies, and in more recent times over the actions of the administrative agencies. This common law jurisdiction has been greatly developed in New Jersey and has been a most effective means of safeguarding individual rights against actions of some governmental officials and bodies. Long prior to the present reorganization, and indeed in colonial times, the limited original common law utility of the writ of certiorari in New Jersey had been expanded by the simple but far-reaching device of permitting the taking by depositions of evidence dehors the record, thus making the writ of certiorari a much more effective means of correcting the mistakes of the justices of the peace than it would have been if confined solely to the formal record brought up by the writ. Eventually this procedural change provided the means for enlarging the scope of the writ far beyond the mere review of the judicial action of inferior courts so as to reach official misconduct in many fields. The scope of the writ was thus extended to include review of quasi-judicial, quasi-legislative and administrative action of all kinds, including the abuse of administrative discretion. Similarly the writ was put to use in a variety of civil and criminal matters.[50]

Under the reorganization of the courts the practice in this field has been further strengthened and improved. Review by such proceedings under the new Constitution is now a matter of right in all civil cases, and is no longer merely discretionary,[51] and by the new rules the difficult technicalities and formalities of the practice relating to the prerogative writs have been eliminated, and effective procedures have been established to eliminate troublesome delays.

In seeking a prompt judicial review of the actions of certain officials or

[49] 2 N.J. Super. 305, 63 A. 2d 567.

[50] See *Ward v. Keenan*, 3 N.J. 298, 70 A. 2d. 77 (1949), where recently Chief Justice Vanderbilt reviewed the history.

[51] N.J. Const. 1947, Art. VI, Sec. V, para. 4.

administrative agencies, litigants in many jurisdictions have been blocked by the rule that a litigant must first exhaust his administrative remedy. This rule has been strictly applied in the Federal courts and in many of the state courts.

In promulgating the new rules in New Jersey, the Supreme Court clearly indicated that the rule would continue to be subject to important qualifications in this State. Rule 3 : 81-14 provides:

> "Except where it is manifest that the interests of justice require otherwise, proceeding under Rule 3 : 81 [Procedure in Lieu of Prerogative Writs] shall not be maintainable, so long as there is available judicial review to a county court or inferior tribunal or administrative review to an administrative agency or tribunal, which has not been exhausted."[52]

Judicial definition of the exceptions which will be made under the phrase "except where it is manifest that the interests of justice require otherwise" has been handed down by the Court in two recent decisions.

In *Ward v. Keenan*[53] it appeared that the plaintiff, a police officer, had been suspended without pay pending a hearing for removal on charges. Prior to the hearing the plaintiff instituted an action in the courts claiming that the charges were insufficient in law and obtained a summary judgment vacating his suspension and directing his reinstatement. The defendant appealed, arguing that before the plaintiff could properly seek judicial review, he must first exhaust his administrative remedies, *i.e.* by the hearing before the Director and by the review thereafter before the Civil Service Commission.

The Supreme Court affirmed the court below and in holding that the doctrine of the exhaustion of administrative remedies should not be applied in such a case, in a unanimous opinion written by the Chief Justice, stated:

> "The doctrine that a litigant must exhaust his administrative remedies before he may resort to the courts dates back to the advent of the Interstate Commerce Commission. . . . Intended as a simple rule of orderly procedure designed to provide uniformly that administrative bodies might perform their statutory functions without preliminary litigation in the courts, *United States v. Sing Tuck*, 194 U.S. 161, 24 Sup. Ct. 621, 48 L. Ed. 917 (1904); 1 *Vom Baur, Federal Administrative Law*, 207-229 (1942), the rule insisting on the exhaustion of administrative remedies has been highly provocative of litigation that shows no sign of abating from year to year or of producing the intended simplicity and uniformity; *cf., e.g.*, 1943 *Annual Survey of American Law*, 107; 1944 *Id.* 188-189; 1945 *Id.* 201-205; 1946 *Id.* 217-224; 1947 *Id.* 237-238; 1948 *Id.* 160-163, for current instances of the waywardness of Federal decisions under the rule. Without attempting to comment on all the cases, we will content ourselves with referring to *Myers v. Bethlehem Shipbuilding Corporation*, 303 U.S. 41, 58 Sup. Ct. 459, 82 L. Ed. 638 (1938), holding that the doctrine of exhausting administrative remedies applies even to cases where the administrative agency has to pass on the question of its own jurisdiction. This holding has been recently reaffirmed in *Securities and Exchange Commission v. Otis & Co.* 70 S. Ct. 89, where the United States Supreme Court reversed without opinion a decision of the United States Court of Appeals for the District of Columbia to the contrary, 176 F. 2d 34 (1949). Where the question of jurisdiction depends, as it often does, on questions of fact, and where the Federal courts apply their version of the 'substantial evidence' rule, which often signifies

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[52] Rule 3: 81-14.
[53] 3 N.J. 298, 70 A. 2d 77 (1949).

something falling far short of the weight of the evidence, the ultimate benefits of judicial review of the question of jurisdiction may be of little more than *pro forma*, *cf. National Labor Relations Board v. Hearst Publications*, 322 U.S. 111, 64 Sup. Ct. 851, 88 L. Ed. 1170 (1940). This point of view is at variance with the Rule of Law as enforced in this State, *cf. Mulhearn v. Federal Shipbuilding & Dry Dock Co.*, 2 N.J. 356, 364 1949)."[54]

The Court after reviewing the authorities concluded:

"When do the interests of justice require the use of a proceeding in lieu of prerogative writ before exhausting the remedies specified in Rule 3: 81-14? Under the former practice there were two generally recognized exceptions to the rule: first, when the jurisdiction of the statutory tribunal was questioned on persuasive grounds a writ of *certiorari* might be allowed the challenging party in advance of the hearing before the statutory tribunal for the obvious reason that if the question of jurisdiction were resolved against the statutory tribunal the parties would be spared the vexation of a useless hearing; second, when the statutory tribunal had jurisdiction but the charges asserted before it were so palpably defective that its jurisdiction was merely colorable, a writ might likewise be allowed in advance of the hearing before a statutory tribunal, *Mowery v. Camden*, 49 N.J.L. 106, 109-110 (Sup. Ct. 1886). . . . Upon such a review of the pertinent cases we are of the opinion that the two exceptions discussed in the *Mowery case* are sound and much to be preferred to the Federal rule of exhaustion of administrative remedies discussed *supra* and they should, all other things being equal in any particular situation, be treated as exceptions to Rule 3 : 81-14."[55]

The Court defined another exception to the rule in *Nolan v. Fitzpatrick*,[56] where a proceeding had been brought to compel county officials to provide funds for the plaintiff highway commissioners. The Court there held:

" . . . whenever the rule of exhausting of remedies is asserted as a defence in a proceeding in lieu of prerogative writ Rule 3 : 81-14 both expressly and in spirit calls for a determination as to whether or not the interests of justice require an exception.

"What are the requirements of justice in the instant case? The question presented in this case is solely one of law. Any determination of that question either by the Director of the Division of Local Government, N.J.S.A. 40 : 2-53, or by the Division of Local Government, N.J.S.A. 52 : 27BB, would clearly be subject to judicial review, N.J.S.A. 40 : 2-53 and N.J.S.A. 52 : 27BB-20. On such judicial review of a question of law the opinions of these administrative tribunals would not be persuasive as they would be on questions of fact within their purview. The only result of requiring an exhaustion of administrative remedies where only a question of law is in issue would be useless delay, and this in the interest of justice cannot be countenanced. The case thus presents another instance (*i.e.*, where the disposition of the matter depends solely on the decision of a question of law) in addition to the two situations specifically stated in *Ward v. Keenan* where under Rule 3 : 81-14 the interests of justice do not require the exhaustion of administrative remedies. But it is not to be implied that a case falls within the exception to Rule 3 : 81-14 only if it fits into one of these three

[54] 3 N.J. 302, 70 A. 2d 78.
[55] 3 N.J. 308, 70 A. 2d 82.
[56] 9 N.J. 477, 89 A. 2d 13 (1952).
[57] 9 N.J. 486, 89 A. 2d 17.

classes, for they are not intended to be exclusive. In every case the court should determine whether it is in the interest of justice to dispense with the requirement that the plaintiff exhaust other judicial or administrative remedies, bearing in mind, however, that Rule 3 : 81-14 itself dictates that the interest of justice is ordinarily best served by requiring the plaintiff to first exhaust his other remedies and that it is only in special circumstances that the interest of justice will require otherwise."[57]

PRACTICAL SUCCESS OF THE NEW SYSTEM

The record of achievement during the past four years has established the complete practical success of the new judicial system.

The Supreme Court and the Appellate Division have together disposed of an average of 537 appeals for each year, in an average of 25 days from date of argument to date of decision. The comparable courts in the former system during the last typical year of operations (1946-47) disposed of 292 appeals, in an average of 109 days from date of submission to date of decision. Our new appellate courts have thus disposed of an average of 84% more appeals each year and in an average of 77% fewer days between date of submission and date of decision.

The flexibility of the new system is well illustrated by a recent case which arose in an election dispute.[58] On Monday, September 29, 1952, a candidate for the office of Register of Deeds, who had been nominated in the preceding primary, died. The next day the Hudson County Democratic Committee designated a successor to be put on the ballot. On October 1, 1952, an opposing faction instituted a proceeding in lieu of prerogative writ in the Superior Court attacking the designation and seeking to keep the new man's name off the ballot. The trial court heard the matter and decided it on October 7, 1952. An appeal was taken to the Appellate Division, which heard and decided the appeal on October 15, 1952, but one judge dissented. The parties thereupon appealed to the Supreme Court, which heard the argument and decided the appeal on October 20, 1952. An editorial in one of our leading newspapers commented:

> "Only three weeks were required to dispose of an important issue that, under the state's old judicial system, might have consumed a year to 18 months. Jersey justice is once more operating with the swift certainty for which it was long famous."[59]

The combined record of the disposition of cases on the law side in the trial divisions of the Superior Court and County Courts (the trial courts of general jurisdiction) is equally distinguished. During the past four years these courts have disposed of an average of 12,577 cases per year compared with the disposition of 6,406 cases by the predecessor courts in 1947-48. With the average disposition of cases thus virtually doubled, it is not surprising that at the end of the third court year under the new system it was possible to announce that the number of cases awaiting trial in these courts had been reduced to the smallest number that had existed in this State for a period of more than 20 years. This year the total number of cases awaiting trial has increased over last year not by reason of any decrease in the number of cases disposed but by an increase in the number of new cases instituted.

More important than the size of the list is the fact that virtually all of the cases thereon are of very recent origin. Of the 7,738 cases awaiting trial on

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[58] *Kilmurray et als. v. County Clerk of Hudson*, decided October 20, 1952, not yet reported.
[59] *Newark Evening News*, November 1, 1952.

August 31, 1952, 51.2% were less than five months old; 28% were between five and eight months old; and only 4% antedated July 1, 1951. In appraising these figures, it should be emphasized that the age of a case is dated from the date of the filing of the original complaint and that the normal time required for the filing of answering pleadings, discovery proceedings, and the holding of a pre-trial conference requires a minimum of approximately three months. In complicated cases where the pleadings are involved, or where extensive discovery is necessary, the period required to perfect a case for trial is frequently considerably longer. The record presents a most favourable picture in contrast with the ages of the 9,445 cases which were awaiting trial on September 15, 1948, the effective date of the new Judicial Article. At that time 29% of the total cases pending were more than 20 months old and 107 cases were more than eight years old.

In both parts of the Chancery Division the lists are current despite the fact that only 7 judges are assigned to hear general equity causes, and only 7 are assigned to hear matrimonial causes as compared with 11 and 9 respectively under the former system. In the general equity list 63% of the cases were less than 8 months old as of August 31, 1952, and in the matrimonial list 68% were under this figure.

In the County District Courts 56% of the list of active civil causes pending were less than two months old, and in the local criminal courts the calendars are completely current.

The statistical picture makes it perfectly plain that litigants in New Jersey may now obtain a prompt hearing in every court in the State, and that justice will not in fact be denied them by long delays which in the past have made litigation sometimes most burdensome. The statistics are only a small portion of the overall picture, however, and cannot convey the new spirit which has imbued the entire bench and bar and the public generally. All have come to know that there is now an agency which is charged with the responsibility for making the judicial machinery operate effectively. They realize that the Supreme Court and the Chief Justice have not only accepted this responsibility, but are continually engaged in fulfilling all of its many implications. Judges and lawyers, like other individuals, did not welcome regulation, but all will now admit that the new integrated system has far surpassed the old in performance and efficiency, and that nonetheless independence in judicial matters has been scrupulously preserved. The term "Jersey Justice" has again regained its connotation of a high standard of justice and is no longer a term of derision.