

REPORT OF THE SUPREME COURT OF THE STATE OF IOWA  
ON JUDICIAL REORGANIZATION

TO THE HONORABLE LIEUTENANT GOVERNOR, SPEAKER OF THE HOUSE OF REPRESENTATIVES AND MEMBERS OF THE FIFTY-EIGHTH GENERAL ASSEMBLY OF IOWA:

Chapter 270 of the Laws of the Fifty-sixth General Assembly (Chapter 685, Code, 1958) created the office of Judicial Department Statistician. The final section of this Act provided as follows:

"Sec. 8. The Supreme Court shall, on or before January 15, 1959, report to the General Assembly their findings and recommendations based on the provisions of this act. Such recommendations shall include a comprehensive plan for reorganization of the district courts of Iowa." The pertinent provisions of the act referred to are stated in the following language:

"Formulate recommendations for the improvement of the judicial system with reference to the structure of the system of courts, their organization, their methods of operation, the functions which should be performed by various courts, the selection, compensation, number and tenure of judges and court officials, and as to such other matters as the Chief Justice and the Supreme Court may direct."

Pursuant to the above direction, this Court has conducted a comprehensive study of the Iowa courts and the statistics and information gathered by the judicial department statistician. The Iowa State Bar Association has rendered valuable assistance. Judges and lawyers throughout the State have given this matter intensive study for many years. Ideas and suggestions of many citizens and groups have been received and considered.

The problems of judicial administration are interrelated; the solution of one problem requires consideration of the effect of its solution upon the others. A study of the operation of district courts compels an examination of the inferior courts in their relation to the district court. Such a study also involves a consideration of court personnel, which in turn demands review of the processes for selecting judges, their tenure, retirement, compensation, and retirement benefits. Our study has therefore included all of these matters.

The Court makes the following findings and recommendations for action by the General Assembly:

**FIRST FINDING:** Iowa is fortunate in having only one court of state-wide general original jurisdiction for civil, criminal, probate, juvenile and other miscellaneous matters—the District Court. Such a single district court of comprehensive general jurisdiction and a single appellate court constitutes the most efficient and economical judicial system which has yet been devised. The present constitutional provision for a supreme court for appeals and a district court of inclusive general jurisdiction is basically sound.

**RECOMMENDATION:** That no change be made in this basic structure.

**SECOND FINDING:** Increased efficiency in the prompt disposition of the business of the courts can be realized in the following manner:

1. Vesting the Supreme Court with well-defined supervisory and administrative control over the court system, to be exercised through the Chief Justice.
2. Selection of a Chief Justice on the basis of administrative ability

rather than by rotation, and provision for a substantially longer term than the six-month period now prescribed by statute.

3. Authorizing the Chief Justice to call periodic conferences of judges consider better and more efficient methods of operating the courts.

**RECOMMENDATION:**

1. Adopt a Joint Resolution proposing to amend Section 4, Article V, of the Iowa Constitution, to provide that the Supreme Court "shall exercise a supervisory and administrative control" over the district and all inferior courts. Such recommended Joint Resolution is attached as Exhibit 1.
2. Enact the following:
  - a. A bill requiring the Supreme Court to prescribe rules for the orderly and efficient administration of the courts, report them to the General Assembly for acceptance or rejection and then enforce them. Such recommended bill is attached as Exhibit 2.
  - b. A bill requiring the Governor, on the advice of the Supreme Court, to appoint one of its members as Chief Justice of the State, such appointment to be for the remainder of the appointee's term, but not to exceed eight years. Such recommended bill is attached as Exhibit 3.
  - c. A bill directing the Chief Justice of the State to call periodic conferences of judges to consider ways and means to improve the operation of the courts. Such recommended bill is attached as Exhibit 4.

**THIRD FINDING:** Iowa now has over 1,400 courts of limited jurisdiction. These are the courts with which citizens most frequently come in contact and they are also the courts in which the poorest quality of justice is administered. The presiding officers are not required to have special training, and are without supervision. Such presiding officers usually depend for their compensation on the fees which they collect. The fee system of paying judicial officers is in universal disrepute. A constitutional amendment terminating such courts at a fixed time after the effective date of the amendment would focus the attention of the General Assembly and the public upon this important problem. Studies should continue with the view to proposing legislation designed to insure speedy, efficient and uniform justice in minor cases. This Court and the Iowa Bar will continue to study and work toward these objectives.

**RECOMMENDATION:** Adopt the Joint Resolution (Exhibit 1) which in Section 18 provides "that after the expiration of four years from the effective date of this Amendment all courts inferior to the District Court shall terminate unless otherwise provided by law."

**FOURTH FINDING:** The reports which have been prepared by the judicial department statistician on the work of the Iowa courts for the years 1956 and 1957 show that there is a wide variation in the workload of the District Court from district to district and from county to county within districts.

In attempting to equalize judicial workloads, many factors other than the number of cases and matters currently handled must be considered. These include trends in volume of litigation, population changes and distribution, the transition from an agricultural to an agricultural-industrial economy, local needs and travel requirements.

Available judicial statistics are not sufficient to establish long range trends. Future needs cannot yet be determined.

**RECOMMENDATION:** That no attempt be made at this time to change the composition of the existing judicial districts of the District Court.

**FIFTH FINDING:** Any revision of the Iowa judicial structure should be accomplished with a minimum of constitutional change and a maximum use of legislative authority. A constitutional amendment is required to accomplish necessary changes in our judicial system of the following particulars:

1. Selection and Tenure of Supreme and District Court Judges. A competent and stable judiciary is vital to our political existence. Any judicial system is only as good as its judges. The best judicial system is the one which attracts and retains the most capable judges. The increasing complexity of our civilization demands the highest judicial capacity. It is even now becoming most difficult to induce capable men to accept judicial office for the following reasons:
  - a. Men competent to be judges are reluctant to surrender the security of their established practices for judgeships which may be terminated by a political election involving issues totally unrelated to judicial ability and service.
  - b. Judicial salaries have not kept pace with the cost of living and are unrealistic.
  - c. Present judicial retirement benefits are inadequate.

The judges of the Federal courts are appointed by the President and the judges of many state courts are appointed by the Governors. From a study of the plans of court reorganization and the experience of other states, we find the best method of selection of judges to be their appointment by the Governor from nominees submitted to him by nonpartisan nominating commissions. The most workable plan of accomplishing the above objective is expressed in the terms of the proposed amendment to the Constitution (Exhibit 1) referred to in the recommendation which follows.

2. Mandatory Retirement of Judges. To achieve maximum efficiency of the Supreme and District Courts, the General Assembly should fix an age at which retirement of judges would be mandatory. Judges beyond retirement age who are physically and mentally able to give additional service in the disposition of crowded dockets and extraordinary cases should be subject to call for assignment by the Chief Justice. It follows that adequate retirement benefits must be provided. The provisions of the present judicial retirement system should be examined and equitably adjusted.

**RECOMMENDATION:** Adopt the Joint Resolution (Exhibit 1) proposing to amend the Constitution by repealing Sections 3, 5, 9 and 11 and adding new Sections 15, 16, 17 and 18 to Article V of the Constitution.

For convenience, we attach hereto, as Exhibit 5, Article V of the Constitution of Iowa as it will appear if the amendment herein recommended is adopted. The underlined portions indicate the new matter and the deletions are marked.

### CONCLUSION

The members of this Court are unanimous in the recommendations herein contained and urge the adoption of each of them as an essential part of one single comprehensive program for the improvement of the administration of justice in the State of Iowa.

## CERTIFICATE

I, T. G. Garfield, do hereby certify that the foregoing Findings and Recommendations were adopted and approved by the Supreme Court of Iowa for reporting to the Fifty-eighth General Assembly of Iowa, pursuant to Sec. 8, Chap. 270, Laws of the Fifty-sixth General Assembly, by delivering the same to the Secretary of the Senate and to the Chief Clerk of the House of Representatives.

Dated December 24, 1958.

THE SUPREME COURT OF IOWA,  
/s/ T. G. GARFIELD,  
*Chief Justice.*

## ATTEST:

/s/ HELEN M. LYMAN,  
*Clerk of the Supreme Court of Iowa.*  
(Seal)

## ACKNOWLEDGMENT

I, Richard Berglund, Secretary of the Senate of the State of Iowa, hereby acknowledge delivery to me on the 29th day of December, 1958, of the foregoing report of the Supreme Court pertaining to the matter of Court re-organization.

RICHARD W. BERGLUND,  
*Secretary of the Senate,*  
*Fifty-eighth General Assembly of Iowa.*

Exhibit 1

\_\_\_\_J. R.  
By:

## \_\_\_\_ JOINT RESOLUTION

A Joint Resolution proposing to amend Article V of the Constitution of the State of Iowa relating to the qualifications, selection, tenure, compensation, powers and duties of judicial nominating commission members, judges and other judicial officers; to the mandatory retirement with compensation of judges of the supreme court and district court and to the termination of all courts inferior to the district court unless otherwise provided by law.

*Be It Resolved by the General Assembly of the State of Iowa:*

Section 1. An amendment to the Constitution of the State of Iowa as it appears in the Code of Iowa 1958 is proposed as follows:

Article Five (V) is amended in the following manner:

1. Section four (4) is amended by striking from lines eight (8) and nine (9) of such section the words, "exercise a supervisory" and inserting in lieu thereof the words, "shall exercise a supervisory and administrative".

2. Sections three (3), five (5), nine (9) and eleven (11) are repealed.

3. Article Five (V) is further amended by adding the following sections:

Section 15. Vacancies in the Supreme Court and District Court shall be filled by appointment by the Governor from lists of nominees submitted by the appropriate judicial nominating commission. Three nominees shall be submitted for each Supreme Court vacancy, and two nominees shall be submitted for each District Court vacancy. If the Governor fails for thirty days to make the appointment, it shall

be made from such nominees by the Chief Justice of the Supreme Court.

Section 16. A. Supreme Court Commission. The State Judicial Nominating Commission shall make nominations to fill vacancies in the Supreme Court. There shall be not less than three nor more than eight appointive members, as provided by law, and an equal number of elective members on such Commission, all of whom shall be electors of the State. The appointive members shall be appointed by the Governor subject to confirmation by the Senate. The elective members shall be elected by the resident members of the Bar of the State. The judge of the Supreme Court who is senior in length of service on said Court, other than the Chief Justice, shall also be a member of such Commission and shall be its chairman.

B. District Court Commissions. There shall be a District Judicial Nominating Commission in each judicial district of the state. Such commissions shall make nominations to fill vacancies in the District Court within their respective districts. There shall be not less than three nor more than six appointive members, as provided by law, and an equal number of elective members on each such commission, all of whom shall be electors of the district. The appointive members shall be appointed by the Governor. The elective members shall be elected by the resident members of the bar of the district. The district judge of such district who is senior in length of service shall also be a member of such commission and shall be its chairman.

C. General Qualifications. Due consideration shall be given to area representation in the appointment and election of Judicial Nominating Commission members. Appointive and elective members of Judicial Nominating Commissions shall serve for six year terms, shall be ineligible for a second six year term on the same commission, shall hold no office of profit of the United States or of the State during their terms, shall be chosen without reference to political affiliation, and shall have such other qualifications as may be prescribed by law. As near as may be, the terms of one-third of such members shall expire every two years.

Section 17. Members of all courts shall have such tenure in office as may be fixed by the legislature, but terms of Supreme Court Judges shall be not less than eight years and terms of District Court Judges shall be not less than six years. Judges shall serve for one year after appointment and until the first day of January following the next judicial election after the expiration of such year. They shall at such judicial election stand for retention in office on a separate ballot which shall submit the question of whether such judge shall be retained in office for the tenure prescribed for such office and when such tenure is a term of years, on their request, they shall, at the judicial election next before the end of each term, stand again for retention on such ballot. Present Supreme Court and District Court Judges, at the expiration of their respective terms, may be retained in office in like manner for the tenure prescribed for such office. The legislature shall prescribe the time for holding judicial elections.

Section 18. Judges of the Supreme Court and District Court shall receive salaries from the state, shall be members of the bar of the state and shall have such other qualifications as may be prescribed by law. Judges of the Supreme Court and District Court shall be ineligible to any other office of the state while serving on said court and for two years thereafter, except that District Judges shall be

eligible to the office of Supreme Court Judge. Other judicial officers shall be selected in such manner and shall have such tenure, compensation and other qualification as may be fixed by law, provided that after the expiration of four years from the effective date of this Amendment all courts inferior to the District Court shall terminate unless otherwise provided by law. The legislature shall prescribe mandatory retirement for Judges of the Supreme Court and District Court at a specified age and shall provide for adequate retirement compensation. Retired judges may be subject to special assignment to temporary judicial duties by the Supreme Court, as provided by law.

Sec. 2. The foregoing proposed amendment to the Constitution of the State of Iowa is hereby referred to the General Assembly to be chosen at the next general election and the Secretary of State is directed to cause the same to be published as provided by law for three months previous to the time of making such choice.

Exhibit 2

\_\_\_\_\_ File  
By:

A BILL FOR

An Act relating to rules by the supreme court for the operation of inferior courts.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. The supreme court shall adopt and enforce rules for the orderly and efficient administration of the courts inferior to the supreme court, which rules shall be executed by the chief justice. Such rules shall be adopted in the manner provided in Section six hundred eighty-four point nineteen (684.19), Code 1958.

Exhibit 3

\_\_\_\_\_ File  
By:

A BILL FOR

An Act relating to the appointment, term and authority of the chief justice of the State.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section six hundred eighty-four point four (684.4), Code 1958, is hereby repealed and the following enacted in lieu thereof:

"The Governor shall, after seeking the advice of the supreme court, select one of the judges thereof to be chief justice, to serve as such throughout the remainder of his term, but not to exceed eight years. He shall be eligible for reappointment. The chief justice shall appoint one of the other members of the court to act in his place and stead in case of his absence or inability to act, or during a vacancy in the office of chief justice, and, when so acting, such member shall have all the rights, duties and powers given by law to the chief justice."

## Exhibit 4

\_\_\_\_\_ File  
By:

## A BILL FOR

An Act relating to judicial conferences.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. The chief justice may from time to time order conferences of members of the courts on matters relating to the administration of justice. Expenses shall be allowed to court members attending such conferences, subject to the limitations expressed in Section six hundred five point two (605.2), Code 1958.

## Exhibit 5

CONSTITUTION OF THE STATE OF IOWA  
ARTICLE V.  
JUDICIAL DEPARTMENT

**COURTS.** Section 1. The Judicial power shall be vested in a Supreme Court, District Courts and such other Courts, inferior to the Supreme Court, as the General Assembly may, from time to time, establish.

**SUPREME COURT.** Section 2. The Supreme Court shall consist of three Judges, two of whom shall constitute a quorum to hold Court. (Sec. 10 permits increase).

**\*ELECTION OF JUDGES—TERM.** Section 3. (This section requires election of Supreme Court judges for six year terms, and is repealed by the proposed amendment).

**JURISDICTION OF SUPREME COURT.** Section 4. The Supreme Court shall have appellate jurisdiction only in cases of chancery, and shall constitute a Court for the correction of errors at law, under such restrictions as the General Assembly, may, by law, prescribe; and shall have power to issue all writs and process necessary to secure justice to parties, and shall exercise a supervisory and administrative control over all inferior Judicial tribunals throughout the state.

**\*DISTRICT COURT AND JUDGES.** Section 5. (This section requires election of District judges for four year terms, and is repealed by the proposed amendment).

**JURISDICTION OF DISTRICT COURT.** Section 6. The District Court shall be a court of law and equity, which shall be distinct and separate jurisdictions, and have jurisdiction in civil and criminal matters arising in their respective districts, in such manner as shall be prescribed by law.

**CONSERVATORS OF THE PEACE.** Section 7. The Judges of the Supreme and District Courts shall be conservators of the peace throughout the state.

**STYLE OF PROCESS.** Section 8. The style of all process shall be, "The State of Iowa", and all prosecution shall be conducted in the name and by the authority of the same.

\*Deletion.

**\*SALARIES.** Section 9. (This section is repealed because it prohibits increasing or decreasing judges' salaries during their terms. This subject is covered in new Section 18).

**JUDICIAL DISTRICTS.** Section 10. The state shall be divided into eleven Judicial Districts; and after the year Eighteen hundred and sixty, the General Assembly may re-organize the Judicial Districts and increase or diminish the number of Districts, or the number of Judges of the said Court, and may increase the number of Judges of the Supreme Court; but such increase or diminution shall not be more than one District, or one Judge of either Court, at any one session; and no re-organization of the districts, or diminution of the number of Judges shall have the effect of removing a Judge from office. Such re-organization of the districts, or any change in the boundaries thereof, or increase or diminution of the number of Judges, shall take place every four years thereafter, if necessary, and at no other time. (Modified by Amendment of 1884).

"Amendment 2. At any regular session of the General Assembly the state may be divided into the necessary Judicial Districts for District Court purposes, or the said Districts may be reorganized and the number of the Districts and the Judges of said Courts increased or diminished; but no re-organization of the Districts or diminution of the Judges shall have the effect of removing a Judge from office."

**\*JUDGES—WHEN CHOSEN.** Section 11. (This section requires that Supreme and District Court judges be chosen at the general election and is repealed in the proposed amendment).

**ATTORNEY GENERAL.** Section 12. The General Assembly shall provide, by law, for the election of an Attorney General by the people, whose term of office shall be two years, and until his successor shall have been elected and qualified.

**COUNTY ATTORNEY.** Section 13. The qualified electors of each county shall, at the general election in the year 1886, and every two years thereafter elect a County Attorney, who shall be a resident of the county for which he is elected, and shall hold his office for two years, and until his successor shall have been elected and qualified. (Replaced original provision regarding District Attorney. See Amendment 4 of 1884.)

**SYSTEM OF COURT PRACTICE.** Section 14. It shall be the duty of the General Assembly to provide for the carrying into effect of this article, and to provide for a general system of practice in all the Courts of this state.

**SELECTION OF JUDGES.** Section 15. Vacancies in the Supreme Court and District Court shall be filled by appointment by the Governor from lists of nominees submitted by the appropriate judicial nominating commission. Three nominees shall be submitted for each Supreme Court vacancy, and two nominees shall be submitted for each District Court vacancy. If the Governor fails for thirty days to make the appointment, it shall be made from such nominees by the Chief Justice of the Supreme Court.

**JUDICIAL NOMINATING COMMISSIONS.** Section 16.

A. Supreme Court Commission. The State Judicial Nominating Commission shall make nominations to fill vacancies in the Supreme Court. There shall be not less than three nor more than eight appointive members,

\*Deletion.

as provided by law, and an equal number of elective members on such Commission, all of whom shall be electors of the state. The appointive members shall be appointed by the Governor subject to confirmation by the Senate. The elective members shall be elected by the resident members of the Bar of the state. The judge of the Supreme Court who is senior in length of service on said Court, other than the Chief Justice, shall also be a member of such Commission and shall be its chairman.

B. District Court Commissions. There shall be a District Judicial Nominating Commission in each judicial district of the state. Such commissions shall make nominations to fill vacancies in the District Court within their respective districts. There shall be not less than three nor more than six appointive members, as provided by law, and an equal number of elective members on each such commission, all of whom shall be electors of the district. The appointive members shall be appointed by the Governor. The elective members shall be elected by the resident members of the bar of the district. The district judge of such district who is senior in length of service shall also be a member of such commission and shall be its chairman.

C. General Qualifications. Due consideration shall be given to area representation in the appointment and election of Judicial Nominating Commission members. Appointive and elective members of Judicial Nominating Commissions shall serve for six year terms, shall be ineligible for a second six year term on the same commission, shall hold no office of profit of the United States or of the state during their terms, shall be chosen without reference to political affiliation, and shall have such other qualifications as may be prescribed by law. As near as may be, the terms of one-third of such members shall expire every two years.

TENURE OF JUDGES. Section 17. Members of all courts shall have such tenure in office as may be fixed by the legislature, but terms of Supreme Court Judges shall be not less than eight years and terms of District Court Judges shall be not less than six years. Judges shall serve for one year after appointment and until the first day of January following the next judicial election after the expiration of such year. They shall at such judicial election stand for retention in office on a separate ballot which shall submit the question of whether such judge shall be retained in office for the tenure prescribed for such office and when such tenure is a term of years, on their request, they shall, at the judicial election next before the end of each term, stand again for retention on such ballot. Present Supreme Court and District Court Judges, at the expiration of their respective terms, may be retained in office in like manner for the tenure prescribed for such office. The legislature shall prescribe the time for holding judicial elections.

GENERAL PROVISIONS. Section 18. Judges of the Supreme Court and District Court shall receive salaries from the state, shall be members of the bar of the state and shall have such other qualifications as may be prescribed by law. Judges of the Supreme Court and District Court shall be ineligible to any other office of the state while serving on said court and for two years thereafter, except that District Judges shall be eligible to the office of Supreme Court Judge. Other judicial officers shall be selected in such manner and shall have such tenure, compensation and other qualification as may be fixed by law, provided that after the expiration of four years from the effective date of this Amendment all courts inferior to the District Court shall terminate unless otherwise provided by law. The legislature shall prescribe mandatory retirement for Judges of the Supreme Court and District Court at a specified age and shall provide for adequate

retirement compensation. Retired judges may be subject to special assignment to temporary judicial duties by the Supreme Court, as provided by law.

#### PROOF OF PUBLICATION

Published copy of Senate File 68 and verified proof of publication of said bill in The Cedar Rapids Gazette on January 10, 1959, was filed with the Secretary of the Senate prior to the time said bill was placed on passage in the Senate.

RICHARD W. BERGLUND,  
*Secretary of Senate.*

#### BILLS ASSIGNED TO COMMITTEE

President McManus announced the assignment of the following bills to committee:

S. F.	60	Tax revision
S. F.	61	Labor
S. F.	62	Judiciary 2
S. F.	63	Compensation of public officers and employees
S. F.	64	Labor
S. F.	65	Governmental affairs
S. F.	66	Ways and means
S. F.	67	Social security
S. F.	68	Judiciary 2
S.J.R.	1	Judiciary 1
H. F.	18	Judiciary 2

#### REPORT OF COMMITTEE

Senator Byers submitted the following report:

MR. PRESIDENT: Your committee on judiciary 2 to which was referred Senate File 32, a bill for an act to legalize and validate the proceedings for the organization and establishment of the boundaries of the Charles City Community School District, in the Counties of Floyd and Chickasaw, State of Iowa, and declaring said district a duly and legally organized corporate body as provided by law, begs leave to report it has had the same under consideration and recommends the same **do pass**.

FRANK C. BYERS, *Chairman.*

Ordered passed on file.

#### AMENDMENT FILED

- 1 Amend Senate File 29, section 3, line 3, by striking the
- 2 period following the word "inclusive" and inserting the
- 3 following "and (subsection 15)."

JOHN A. WALKER.

On motion of Senator Schroeder, the Senate adjourned until 10:00 a.m., Thursday.