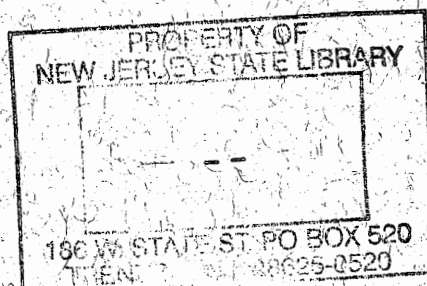


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**REPORT**  
**ON THE**  
**CONSTITUTIONAL COURTS**  
**OF THE**  
**STATE OF NEW JERSEY**

By  
**RALPH R. TEMPLE**



**State of New Jersey**  
**Commission on Revision of the New Jersey Constitution**  
**Trenton**

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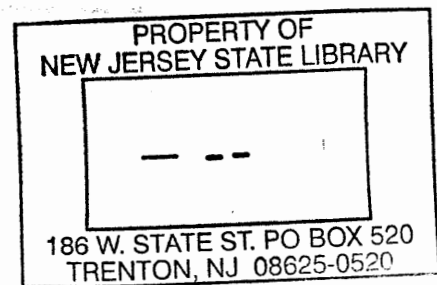
Report on the Constitutional Courts  
of the State of New Jersey

*Submitted to the Commission*

*by*

RALPH R. TEMPLE, J.D., Ph.D.

*Judicial Administration Consultant*



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Trenton, New Jersey

July, 1942



## TABLE OF CONTENTS

	PAGE
LETTER OF TRANSMITTAL .....	5
FOREWORD .....	7
SUMMARY .....	9
<i>Chapter</i>	
I. NEW JERSEY COURT OF ERRORS AND APPEALS .....	17
II. NEW JERSEY COURT OF CHANCERY .....	28
III. NEW JERSEY SUPREME COURT .....	49
IV. NEW JERSEY PREROGATIVE COURT.....	64

### LIST OF TABLES

#### *New Jersey Court of Errors and Appeals*

*Table*

I. Expenditures, Revenue, Personnel and Judicial Business, 1931-1941 .....	22
II. List of Causes Presented, 1932-1941 .....	23
III. List of Motions Presented Before N. J. Court of Errors and Ap- peals, 1938-1941 .....	24
IV. Number of Published Opinions Delivered by Various Members of Court in Law and Equity Cases Decided .....	25
V. Opinions Written and Compensation of Lay Judges of New Jersey Court of Errors and Appeals, 1939-1941 .....	26
VI. Comparative Statistics Regarding Selected Highest State Appel- late Courts, 1938-1941 .....	27
VII. New Jersey Court of Errors and Appeals—Average Expenditures Per Case, 1932-1941 .....	27

#### *New Jersey Court of Chancery*

I. Analysis of Cases Started, 1924-1941 .....	36
II. Percentage of Cases Filed by Types, 1928-1941 .....	37
III. Printed Opinions Handed Down by Vice-Chancellors .....	37
IV. Expenditures, 1931-1941 .....	38-39

*New Jersey Court of Chancery—Continued*

<i>Table</i>	<i>PAGE</i>
V. Expenditures by Fiscal Years, 1931-1941 .....	40-41
VI. Budget Appropriations, Expenditures, Receipts, Cases Started, Final Decrees, Enrollment Fund .....	42-43
VII. Disposition of Advisory Masters' Fees for Fiscal Years, 1940-1941 .....	44
VIII. Advisory Masters' Fees Account, 1939-1941 .....	44
IX. Statement of Trust Receipts and Disbursements, January 1, 1934 to December 31, 1941 .....	45
X. Fees and Costs of Court of Chancery .....	46
XI. Breakdown of Filing Fees and Miscellaneous Costs .....	46
XII. Income, Expenditures and Deficits Per Case, 1931-1941 .....	47
XIII. References to Vice-Chancellors, 1940-1941 .....	48

*New Jersey Supreme Court*

I. Cases Appealed from Lower Courts, 1931-1942 .....	56
II. Number of Appeals from Lower Courts to New Jersey Supreme Court According to Courts, 1941 .....	56
III. Proceedings in Certiorari, Mandamus, Disbarment, Quo Warranto, Etc., 1931-1942 .....	56
IV. Cases at Law Filed, 1932-1942.....	56
V. Cases at Law, Appeals and Other Proceedings Filed, 1932-1942 ..	57
VI. Number of Supreme Circuit, Circuit and Common Pleas Cases Listed for Trial at Fall Term, 1900-1939 .....	57
VII. Supreme Court Circuit Cases Listed for Trial and Disposed, 1932- 1939 .....	58
VIII. Comparison of Intermediate Appellate Courts, 1938-1941 .....	58
IX. Supreme Court Opinions .....	59
X. Breakdown of Opinions Filed in New Jersey Supreme Court Clerk's Office .....	59
XI. Clerk of Supreme Court of New Jersey, Expenditures, 1931-1941 ..	60
XII. Supreme Court of New Jersey, Expenditures, 1931-1941 .....	61
XIII. Budget Appropriations, Expenditures, Receipts, and Litigation, 1931-1941 .....	62
XIV. Income, Expenditures and Deficits Per Case, 1932-1941 .....	63

*New Jersey Prerogative Court*

I. Matters Filed in Prerogative Court of New Jersey, 1932-1941 ....	66
II. Breakdown of Matters Handled in Prerogative Court of New Jer- sey, 1940-1941 .....	66



## LETTER OF TRANSMITTAL

July 30, 1942.

*Honorable Robert C. Hendrickson, Chairman  
Commission on Revision of the New Jersey Constitution,  
State House,  
Trenton, New Jersey.*

DEAR SIR:

I am submitting herewith the report on the constitutional courts of New Jersey, covering the following tribunals: Court of Errors and Appeals, Supreme Court, Court of Chancery, and Prerogative Court.

This survey of the business of the courts does not purport to be exhaustive—the shortness of time available prevented that, but the material assembled should be of great interest to lawyer and layman alike.

I wish to acknowledge my sincere gratitude to the staff of the Department of Governmental Research of the New Jersey State Chamber of Commerce and to the Princeton Surveys for their splendid assistance. I also desire to thank the members of the judiciary and the court clerks who co-operated with me in this study.

Sincerely yours,

RALPH R. TEMPLE, J.D., Ph.D.,

*Judicial Administration Consultant.*



## FOREWORD

### *Scope of Report*

This report is devoted to a survey of the following courts of New Jersey: The Court of Errors and Appeals, the Supreme Court, Court of Chancery, and Prerogative Court. Of necessity, any discussion of these courts involves some reference to some of the other tribunals of the State and accordingly this will be done. However, because of the limited time necessarily imposed upon the staff, it has been impossible to make any other than a cursory reference to the inferior courts. Yet it is to be stressed that a true picture of the administration of justice in this State can be presented only by making a thorough-going survey of all of the courts of the State from the highest to the very lowest.

The material which forms the basis for both the descriptive and analytical statements in this report consists of pertinent constitutional and statutory provisions, published reports of the New Jersey Judicial Council, the Annual Budgets, the Annual Comptroller's Reports, answers to questionnaires which were distributed among the county clerks, Vice-Chancellors and Advisory Masters, printed lists of causes and other published data furnished by the county clerks, articles in Law Reviews and other professional journals, miscellaneous records, dockets, files, reports, books and cases, interviews with various court clerks, members of the judiciary and lawyers, and finally, personal observations.

Although instances occurred when there was an obvious attempt to impede this survey, for the most part however, the utmost co-operation was accorded the staff in the work it had to perform. In all of the courts it was found that recourse to the actual dockets had to be had because there were no published reports dealing with the business of the courts available. In only the Chancery Court was it observed that any attempt had been made to keep any record of the work of the court by the clerk and the Chancellor. However, even in this case, no effort had been made to make it public. The Chancellor indicated that his present system of reports was started in July, 1940, so that consequently, no comparative data was available insofar as his records were concerned. The failure to compile adequate records is open to criticism. It is an elementary principle of administration that control of any organization must be based upon the availability of data of a statistical and other informative nature showing among other things, the condition of business. In various places in this report examples will be shown of the result of this failure to keep adequate records.

The purpose of this survey is to present an administrative and financial picture of the upper courts. The textual material on each court is divided into five parts: (1) general background (structure, organization, and jurisdiction); (2) business; (3) financial aspects; (4) administration and (5) findings and conclusions. All of the statistical data, most of which cover ten-year periods, are also contained in the tables placed at the end of the discussion of each court. Although interpretations showing trends, interstate comparisons, etc., have been made, reference to the tables is suggested for other observations not mentioned in the text. No attempt is made to advance structural recommendations. However, situations which require some remedial action are pointed out. Conclusions are drawn, where possible, from the data presented.

### *General Conclusions*

Although conclusions concerning each of the courts reported in this survey are made at the appropriate places, several over-all statements should be made at this point. The outstanding observation, as a result of this survey, is the startling decrease in the business of all of the courts since 1932; second, the decrease in the revenue of the courts; third, the relatively steady course which expenditures and number of personnel have taken over the ten-year period; fourth, the retention of inadequate judicial and administrative procedures; fifth, the absence of work control records; sixth, the presence of an unusually large court of last resort containing both lay judges and members of courts of lower levels; seventh, the manifold duties of the judges, and finally the lack of co-ordination in the administration of the business of all the courts.

## SUMMARY

This survey of the Court of Errors and Appeals, Court of Chancery, Supreme Court and Prerogative Court, demonstrates that the organization and administration of the business of the courts are completely inadequate. The evidence collected indicates:

1. A costly and inefficient organization of the court system resulting largely from a complete lack of any co-ordination between the several separate courts in the State.
2. A part-time and unusually large court of last resort, whose judges have unfortunate combinations of duties, and whose contribution to the sound administration of justice is therefore largely ineffective.
3. An uneven distribution of the volume of litigation amongst the judges within each court.
4. A lack of adequate control and management of available court facilities, which seriously impairs the judicial standards of service to the public.
5. A wasteful and very uneven use of judicial manpower.
6. A complete lack of a responsible and accountable head of the judicial system.
7. A marked and serious failure within the judicial system to record and report, even in the most elementary fashion, the work data necessary for intelligent public review and control of the judicial services of government.
8. Inflexible expenditures by the court system which do not reflect pronounced decreases in court business.
9. Unsound practices in budgeting, accounting and fiscal procedure prevalent throughout the system.
10. A striking reduction in volume of the business of the courts over the past ten years.

The number of cases in the courts in 1940 was about one-half of the number in 1931. This falling off in the volume of litigation is particularly significant when considered in connection with other findings. In particular, the cost of maintaining the judicial system during the same period has tended to increase, and the average work load of judicial personnel in New Jersey has become constantly lighter.

Courts of New Jersey have been tested, in this survey, to determine whether or not they meet accepted standards of organization and administration. The quality of public service rendered by the courts, the cost of that service to citizens who find occasion to use the courts and the individual capacities of the judicial personnel to render justice are, of course, equally important, but are unfortunately not measurable by any scientific standards presently available. Nor would the time and resources of this survey permit any analysis of the courts beyond the test sample here presented.

### COURT OF ERRORS AND APPEALS

The Court of Errors and Appeals, with sixteen judges, is so large as to impair the usefulness of oral argument. This is a serious weakness as full justice to the clients and to the court is not apt to be done without effective oral argument. Although only 120 motions are presented annually, the court has found it necessary to require, by rule of the court, that all motions in civil cases shall be submitted on briefs alone and not be argued at the bar, except by express leave of court for reasons satisfactory to the court. All oral arguments are discouraged.

A glaring fault in the organization of the Court of Errors and Appeals is its predication upon the notion that the office of judge of the highest court in the State is a part-time job, and that, given a large enough court, the duties of the court can be disposed of between other judicial duties or gainful occupations. Nor can the court's unwieldy size be justified either by the volume of its work or the quantity of its output in any given period of time, both of which are not more than half, per judge, of the same measures in the neighboring States of Connecticut, New York and Pennsylvania.

The volume of cases that the Court of Errors and Appeals has been called upon to decide was in 1941 about one-fourth of the 885 cases in 1932. The six "lay" or special judges of the court (five of whom are lawyers) apparently devoted more time to their judicial duties in 1941 than in 1932, notwithstanding the remarkable decrease in the court's business. Their compensation of \$40.00 per day amounted to \$43,920 in 1932, but increased to \$50,160 in 1941. The whole court averaged only 240 opinions per year, of which almost one-half were "per curiam" opinions, which are brief statements affirming what a lower court has written. In the distribution of the remaining half, the special judges hardly justified their position on the court.

One of the special judges, it was stated, has never been assigned the writing of an opinion since he has been on the court. No opinion written by him was found in the reports of 1939 to 1941 which were examined. An average of about five opinions a year were written by each of the special judges from 1939 to 1941. This does not seem to be a productive output for judges receiving approximately \$9,000 a year. It will be noted that judge "M," who wrote no opinions, received about the same compensation as those who wrote several. In 1941, "P," who wrote two opinions, received \$9,360 as his yearly compensation, whereas "N," who wrote seven, received \$8,600. Cases vary in difficulty and time consumed, of course, but the average case, which is the basis of com-

parison, resolves these differences. It is pertinent, in any event, to review the activity of the special judges if for no other reason than that their compensation is supposedly based upon the actual work they do.

The Chancellor is, under the Constitution, the presiding judge of the Court of Errors and Appeals. As such, his position is unique in that he is automatically disqualified from even considering one-half of the cases that come before the court over which he presides. This peculiar situation results from the fact that as one of his multiple capacities he is the Court of Chancery. This means that Vice-Chancellors according to Chancery theory never decide any cases; they merely advise a decree in the name of the Chancellor which, by another antiquated fiction, is rendered by him. It follows, that in all appeals in Chancery cases, the Chancellor, as a judge of the appellate court, would be sitting in review of his own decrees and he is therefore disqualified. Since the work of the Court of Errors and Appeals is about evenly divided in number of law and equity cases, this leaves the Chancellor entirely out of one-half of the court's business. Not more than four opinions a year by the Chancellor appear in the published reports for the years which were investigated. The division of labor amongst the other judges of the court ranges from the writing of two opinions to the writing of seventeen opinions a year. Table IV, on page 25, of the full survey report, which follows this summary, gives the data in detail.

The system of self-disqualification also usually excludes one or three of the Supreme Court justices who sit on the court from consideration of cases appealed to it from the Supreme Court. Under the Constitution, the Supreme Court could sit *en banc* in its trial or intermediate appellate work and thereby cause all the justices to be disqualified from considering the case in the Court of Errors and Appeals. This would mean that the Supreme Court, instead of the Court of Errors and Appeals, could become the court of last resort because disqualification of all of its justices would leave the theoretical court of last resort without a quorum. The right of appeal could and has been defeated in this way.

Not only does the whole court rarely pass upon appeals before it, but of those appeals it does decide, one-half in number are handed down with "per curiam" opinions which most often means without any opinion. There are also an excessively large number of decisions from which one or more judges dissent without any supporting opinion to inform the bar and the public of the nature of their reasoning. These faults are in part attributable to the fallacious basis of the judicial office, in the case of this court, as a part-time job.

Even mediocre standards of public service will not be achieved so long as trial, intermediate appellate and highest appellate functions are combined in the Supreme Court justices; trial, administrative and highest appellate functions are combined in the office of Chancellor; and pardoning power, gainful occupations and the highest appellate functions are combined in the special judges of the court.

#### COURT OF CHANCERY

The Chancellor, as already mentioned, is, under the Constitution, the Court of Chancery. Investigation fails to disclose, however, any appreciable evidence

of his judicial output in that capacity during the years examined. The present system is designed to facilitate delegation by the Chancellor of practically all of his judicial duties as the Court of Chancery. Pursuant to statute, he appoints ten Vice-Chancellors, at \$18,000 per annum each, and twelve Advisory Masters, at about \$16,000 per annum each. Two of the Advisory Masters, designated as "Standing Advisory Masters," sit at Trenton. One of them hears *ex parte* (non-contested) matters solely, while the other performs administrative services as well as hearing matrimonial matters. The first receives a salary of \$10,000 from the State, whereas the second receives \$7,000 plus fees for handling matrimonial cases, bringing his yearly compensation up to \$16,000. One other Advisory Master acts as a liaison officer between the court and the clerk's office and is carried on the clerk's budget with the title of Chief Agent at a salary of \$3,500. The balance of his yearly compensation, which averages in total about \$16,000, is also made up from matrimonial fees. The other nine Advisory Masters devote their entire time to the handling of matrimonial causes. An Advisory Master's fee of \$50.00 for each matrimonial cause disposed of, \$.75 of which goes back to the clerk, is paid by the litigants. This is in addition to the stenographer's fee of \$10.00 and the clerk's fee of \$25.00 which litigants are also required to pay in this type of case.

In addition to these judicial officers, the Chancellor appoints from amongst members of the Bar an unlimited number of Special Masters. At the present time, there are several hundred Special Masters who are paid by the litigants for their services in matters referred to them from time to time by the court. To these officers of the court, namely the Vice-Chancellors, Advisory Masters, Special Masters and Masters, are in fact delegated the judicial duties of the Chancellor in his capacity as the Court of Chancery.

Only about 8% to 15% of the cases filed in the Court of Chancery are handled by the Vice-Chancellors, the rest being farmed out to Advisory Masters, Special Masters and Masters. The information furnished by the Chancellor shows that there were approximately 308 references made to the Vice-Chancellors from July 1, 1940, to December 31, 1940, of which 232 were disposed of after hearing. In 1941, there were 553 references to the Vice-Chancellors, whereas 605 causes were disposed of. This seeming discrepancy is due to the overlap of matters which might have been referred late in one year and carried over to the succeeding year. The data furnished by the Vice-Chancellors indicate that there was an average of about 65 cases referred to each Vice-Chancellor each year during 1940 and 1941. Most of the Vice-Chancellors stated that they had disposed of almost all of the matters referred to them. Some of them furnished information on the number of motions heard, but the majority of them stated that motions were quite numerous but that no records were kept.

It was the Chancellor's opinion that from 10% to 15% of the cases fall by the way between reference and final hearing. He also indicated that a large part of the work of both Vice-Chancellors and Advisory Masters comes from motions and causes not requiring specific references. It was his belief that this comprises "an amount equal to or more than the work specifically referred."



The office of Chancellor, it appears, is in fact if not in law largely administrative rather than judicial. One of the important administrative powers of the office is found in the Chancellor's control of Advisory Masters' fees. A ceiling of \$16,000 per annum has been set by the Chancellor for each Advisory Master's compensation. Accordingly, the clerk, who handles the receipt and disbursement of the fees, will not send a check to an Advisory Master when the latter's compensation for the year has reached the stipulated sum of \$16,000. Instead, the surplus is turned over to the clerk in charge of the Chancery Trust Funds who thereupon deposits it in a separate account. The amount held in reserve is turned over to the Chancellor each year for the most part. As indicated, it is held by him in safe-keeping, and by law is subject to his disposition in any way he desires. In 1941, he saw fit to return the greater part of the accumulated surplus to the General State Fund.

Several comments might be made concerning the Advisory Masters' fees system. First, although an attempt is made to place the work of the Advisory Masters on a salary basis, it would seem to be better fiscal practice to place the fees collected from litigants into the total receipts of the clerk's office and have the Advisory Masters budgeted on a yearly salary basis. This, however, assumes the desirability of retaining the system of having Advisory Masters hear matrimonial matters. Secondly, there is serious question as to the justification of keeping the Advisory Masters' fees for matrimonial causes at the present high level from the standpoint of the litigants.

Another important administrative function of the Chancellor is the custody and investment of trust funds of the court. Approximately one-half million dollars are received and disbursed each year. On December 31, 1941, the total balance of the trust funds amounted to \$2,574,105. The clerk in charge has stated that only about \$25,000 to \$50,000 in cash is available in the banks at any particular time, and that, when it is necessary to pay out larger sums, sufficient securities are sold in the market in order to make up the difference required. A list of the investments made each year and a valuation of the assets of the trust fund was not obtained. An inadequate system of public accounting for the trust funds exists.

General administration of the court is adversely affected by the organization of the office of Chancellor with a multitude of duties. This is plain without attempting to evaluate the administration of any incumbent of the office. For example, the court still retains the ancient system of having persons called "enrollers" laboriously copy or "enroll" into large bound books the various papers in each cause in which a decree is rendered. This device costs the litigants 7 cents per folio of one hundred words, of which 5 cents is used to pay the enrollers, who number fifteen at present. Whether the copying is necessary at all is open to question, and certainly the method could be replaced by one of the many modern facilities for reproduction.

Work controls, similarly, are not adequate for administrative supervision of the court by the Chancellor. Since 1940, the Vice-Chancellors submit reports to the Chancellor through the Standing Advisory Master, thereby enabling the Chancellor to make reassignments in case any particular Vice-Chancellor is incapacitated for any reason. However, there does not seem to be any sufficient

development of control of assignments according to the volume of cases, motions and other work.

An adequate system of control could not be developed unless the existing methods were replaced by comprehensive statistical reporting of all of the business of the Vice-Chancellors and other judicial personnel of the court, to include not only the number of matters referred but the manner of their disposition. The Chancellor recently inaugurated the beginnings of a reporting system, but criticism should be made of the failure to have previously embarked upon a basic system of supervision.

Finally, there has been an almost 50% decrease in the business of the court from 1932, when 26,635 cases were started, to 1941, when only 13,872 cases were started. While the majority of the cases used to be mortgage foreclosures, by 1941 these had fallen to 25.2% of the court's business. Tax foreclosures, on the other hand, jumped from 11% of the total in 1933 to 19.5% in 1941. Divorce and other matrimonial matters made up the largest share of the court's work in 1941, amounting to 37% of the total. This raises a serious question as to whether the system of disposing of matrimonial cases through Advisory Masters who are paid by the litigants, is in the best interests of the public.

#### PREROGATIVE COURT

Closely allied to the Court of Chancery is the Prerogative Court. The Chancellor is, by Constitutional provision, Ordinary or Surrogate-General of this court, and the Vice-Chancellors act as the Vice-Ordinaries of the court by reference of the Ordinary in a manner similar to that of the Court of Chancery. In the Prerogative Court, also like Chancery, it is a regular practice of the Vice-Ordinaries to refer actually litigated matters to a Special Master. About 50% of the business of the court is handled as routine.

Rule 81 provides for special reference of the final hearing of causes in the Prerogative Court, including appeals from the Orphans' Courts, to the Vice-Ordinaries at the discretion of the Ordinary. As a practical matter, the clerk in the office of Secretary of State, who acts as clerk of the court, makes the designations to the various Vice-Ordinaries seriatim as the matters come in. No attempt is made by him to ascertain whether the Vice-Ordinary is overburdened with Chancery matters. No report is made by him for the Chancellor. The control of assignments is automatic and any change apparently must be based upon vociferous complaint of overburdening work by the Vice-Ordinaries to the Ordinary. This system of control is administratively poor.

There is a lack of co-ordination between the activities of this court and the Court of Chancery although the judicial personnel of both tribunals is the same. Assuming the desirability of retaining a separate Prerogative Court, of which there is serious doubt, it would seem more feasible to have the clerk of the Chancery Court also handle the work of the Prerogative Court. The same criticism concerning the lack of available compiled reports on the activity of this court that was made concerning the other courts is appropriate here.

## SUPREME COURT

The Supreme Court consists of an entirely separate, independent judicial organization from that of the Court of Chancery. The Supreme Court is composed of a Chief Justice and eight Associate Justices, and is a court of State-wide jurisdiction. Its justices have trial, intermediate appellate and highest appellate functions. In addition, they are supposed to exercise some supervision of the circuit and common pleas courts in judicial districts to which they are assigned. The latter function only makes for divided responsibility.

The volume of business of the Supreme Court in 1941 has declined to about 45% of what it was in 1932. There has been a progressive decrease in appeals from 1931, when there were 423, to 1941, when there were 236. For the first four months of 1942, 62 appeals were filed.

Inasmuch as the cases at law filed in the Supreme Court are tried by the Circuit Court judges, a grouping of cases started both in the Circuit Courts and in the Supreme Court is desirable for informational purposes. Taking the published figures of the Judicial Council on their face value, it will be seen that the total number of Circuit and Supreme Court cases listed for trial at the fall term has decreased from 13,686 in 1931 to 5,879 in 1939. The number of cases listed for trial in the Courts of Common Pleas has also decreased from 3,514 in 1931 to 1,932 in 1939.

In other words, there were less than half the number of Supreme, Circuit, and Common Pleas cases listed for trial in 1939 than there were in 1931, the figures being 7,811 and 17,200, respectively. The data for the years 1940 and 1941 apparently were not compiled by the Judicial Council. There are no published reports for those years available, and no data has been forthcoming although duly requested from the chairman of the Judicial Council. Questionnaires were sent to each of the county clerks requesting information, and, at the writing of this report, insufficient responses had been made to warrant any intelligent compilation.

The number of actually litigated cases tried is about from one-fourth to one-half the total number disposed of. For example: in 1939, 670 cases were actually tried out of a total of 2,318 disposed. A large proportion of cases is discontinued by the parties as well as marked off the term, in 1939 the number being 1,385. This is about 60% of the total number disposed of. There is reason to believe that the present delay in the disposition of Supreme Court cases at law (delay in Essex County being over two years in tort cases) will be reduced because of the decrease in the number of new cases filed.

With the understanding that any comparison of judicial activities between one State and another is subject to much qualification, an attempt has been made to compare the appellate work of the Supreme Court of New Jersey with that of the four Appellate Divisions of the Supreme Court of New York State. It was found that in 1938 each justice in the Appellate Divisions of New York disposed of an average of 134.3 cases, whereas each New Jersey Supreme Court justice disposed of 50.5. In 1940, each New York justice handled 130.8 appeals while each New Jersey justice handled 28.3. There is a trend downward in the number of appeals handled by each justice in New Jersey because of the decline in the total number of appeals.

Much criticism can be made concerning the administration of the business of the Supreme Court. There is little or no supervision by the Supreme Court justices over the activities of the various circuits. The functions of the Supreme Court justices in the circuits seem to be confined to the charging of the grand jury and the hearing of motions subsequent to judgment. Generally, the Supreme Court justices are occupied principally with their appellate work on the Supreme Court and on the Court of Errors and Appeals. Comment has already been made (see section of report on Court of Errors and Appeals) concerning the undesirability of having the same justices sit on two separate levels of appellate courts.

At Trenton no records are compiled by the clerk concerning the activities of the court. It was only by dint of laborious digging that the material herein presented was assembled. It would be belaboring the point to emphasize the fact that intelligent supervision and control of any organization, be it judicial or executive, must be predicated on a knowledge of the work of the organization. No knowledge as to the activities of the judicial organization can be acquired in the absence of a simple reporting system.

Delegation by the Supreme Court justices of their judicial duties in the trying of cases at law to the Circuit Court judges, along with a division of duties between the Clerk of the Supreme Court at Trenton and the County Clerks, gives rise to poor organization and control of business without a similar delegation of responsibility for reporting the business. For example, cases may be dismissed or discontinued, notice thereof being filed in Trenton. The only way the County Clerks are apprised of these facts is by making inquiry of the Supreme Court Clerk at Trenton since the latter does not formally notify them. The County Clerks of Hudson and Essex have established the commendable device of leaving several hundred printed self-addressed post cards at the Trenton office. When an order of discontinuance is filed at Trenton, a clerk there fills out one of the cards which is in turn mailed back to the County Clerk. The latter then makes a proper notation on his List of Causes and does not include the discontinued case in the subsequent list. Apparently any relief which an overburdened circuit might obtain is dependent upon the strength of complaints by the Circuit Court judges, since no work records are compiled.

Confusion and delay result because each of the three terms of the Supreme Court is held a mere two weeks before each of the respective three terms of the Court of Errors and Appeals meets. Consequently, a case argued at the October term of the Supreme Court is not decided in time for presentation at the October and sometimes even the February term of the Court of Errors and Appeals.

In conclusion, it appears that the courts under examination suffer seriously from lack of any unified administrative authority, from the lack of adequate public reporting of the work of the courts and from the lack of an organization susceptible to the application of effective administrative controls. Detailed findings and conclusions appear in the full survey report which follows.

## CHAPTER I

### NEW JERSEY COURT OF ERRORS AND APPEALS

---

#### I. GENERAL BACKGROUND

##### *Structure and Organization*

The Court of Errors and Appeals, is composed of sixteen members, namely: the Chancellor, the Chief Justice, the eight Associate Justices of the Supreme Court, and six judges specially appointed for terms of six years by the Governor with the advice and consent of the Senate.

The special judges are the only ones who receive separate compensation for their duties on this court, their salaries being on a per diem basis of \$40.00, averaging between \$8,000 and \$10,000 yearly for each judge. As indicated in Table I, the total salaries for the special judges from 1931 to 1941 ranged from \$43,920 to \$54,000. In 1941, they received a total of \$50,160.

The regular judges do not receive any extra compensation for their duties on this court. They receive salaries in connection with their work on the courts with which they are primarily associated, the Chancellor and the Chief Justice receiving \$19,000 each and the eight Associate Justices of the Supreme Court receiving \$18,000 each.

##### *Jurisdiction*

The Court of Errors and Appeals is the highest court in the State. There is no appeal from its decisions except in proper cases, to the Supreme Court of the United States.

Its jurisdiction is wholly appellate. It reviews the adjudications of the Court of Chancery, the Prerogative Court, the Circuit Court, and the Supreme Court in civil cases by appeal; and reviews decisions of the Supreme Court in criminal cases, and of the Court of Oyer and Terminer, in certain cases punishable by death, by writ of error. The Chancellor is the President Judge of the Court of Errors and Appeals.<sup>1</sup> He is not competent to sit in the court on the hearing of an appeal from the Court of Chancery or the Prerogative Court. Similarly, neither the Chief Justice nor any of the Supreme Court Associate Justices are competent to sit in this court on the hearing of any case in which they have rendered or participated in the rendering of the decision appealed from. The court is required to hold at least three stated terms annually; in February, May and October of each year. The Secretary of State is the clerk of the court and maintains offices in Trenton.

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<sup>1</sup> (R. S. 2:7-3; *New Jersey Constitution*, Article VI, Section II).

## II. BUSINESS OF THE COURT OF ERRORS AND APPEALS

Table II indicates the cases contained in the Lists of Causes for the years 1932 to 1941, inclusive. During this span, 4,059 cases were listed for argument out of 4,452 cases which were entered into the dockets. There has been a decided decrease in the number of appeals before this court during this period. From a high of 885 in 1932, the number of cases has decreased to a low of 253 in 1940. In 1941, 273 cases were listed for argument. The table further shows the division of cases according to law and equity, the number of law cases being slightly more than equity ones. There does not seem to be any particular term during which a preponderance of cases is presented, although in some years more cases were listed for argument during the October term than in any of the other two.

Unavailable data made it impossible to enumerate the number of motions heard prior to 1938. However, Table III shows that there was an average of 120 motions presented before the court annually for the years 1938 to 1941. Here, too, the distribution according to terms is quite even. In 1941, 120 motions were presented. By rule of court, motions are not argued at the bar but are submitted on briefs.

Because of the mixed nature of this court, an analysis was made of the opinions handed down by various members for the years 1939 to 1941, inclusive.<sup>1</sup> It should be noted, however, that those with an asterisk after their letters are the specially appointed lay judges. A total of 255, 246, and 223 opinions were delivered by the court in law and equity cases decided during 1939, 1940, and 1941, respectively. The largest proportion of the opinions are "Per Curiam" opinions which are pro forma, brief in content, and based on rulings of the court below. These rulings are either incorporated in the opinion if they have not been published, or are referred to by report volume and page number if published. The issuance of opinions by the judicial members of the court is more evenly distributed than among the special judges. One of the special judges, it was stated, has never been assigned the writing of an opinion since he has been on the court. No opinion written by him was found in the reports of 1939 to 1941 which were examined. An average of about five opinions a year were written by each of the special judges from 1939 to 1941. This does not seem to be a productive output for judges receiving approximately \$9,000 a year. However, it should be pointed out that all of the judges participate in a vote on all cases including those in which a "Per Curiam" opinion is written. They also devote time to examining the law to enable them to participate in a consideration of all of the cases and motions and the vote thereon.

One observation might be made with reference to the activity of the special judges. Apparently the writing of opinions has little effect on the compensation which each receives. In this connection, reference should be made to Table V which shows the opinions written and the compensation of the special judges from 1939 to 1941. It will be noted that judge "M," who wrote no opinions, received about the same compensation as those who wrote several. In 1941, "P," who wrote two opinions, received \$9,360 as his yearly compensa-

<sup>1</sup> See Table IV.

tion, whereas "N," who wrote seven, received \$8,600. This amounts to \$4,680 for each opinion delivered by "P" and \$1,824 for each by "O." Again it should be pointed out that there is a certain amount of unfairness in making any comparisons of this nature since it may take longer to consider one type of case because of its complexity than to consider ten rather simple ones. Throughout this report, as a matter of fact, it should be kept in mind that the statistics are only of a quantitative nature and do not represent an adequate appraisal of the activity of any judge or court without other factors of a qualitative nature being presented. Persons dealing with the courts, because of their experience, are able, in very many instances, to interpret with some reasonableness bare statistics. In any event, the foregoing discussion concerning the activity of the special judges is pertinent if for no other reason but that their compensation is based upon the actual work they do.

Table VI presents comparative statistics concerning the highest appellate courts of New Jersey, New York, Connecticut and Pennsylvania. Several observations might be made. First, the court of last resort in New Jersey contains more than twice as many members as that of New York and of Pennsylvania, and more than three times as many as that of Connecticut. Secondly, each of these courts, other than that of New Jersey, is composed of regular judges whose activities are restricted to that court.<sup>1</sup> Thirdly, the average number of cases handled by each judge is far less for the New Jersey court than for those of the other States. An average of sixteen cases per judge is the yearly work load for the New Jersey judges, whereas it is twenty-eight, forty-three, and ninety-two for the Connecticut, Pennsylvania, and New York judges, respectively. A comparison between the activity of the New York Court of Appeals and the New Jersey Court of Errors and Appeals with regard to the determination of motions reveals an interesting situation. In New York, each judge handled an average of over one hundred motions per year, whereas in New Jersey the average was about seven a year for each judge.

### III. FINANCIAL ASPECTS

As was indicated in Table I, the total expenditures of the New Jersey Court of Errors and Appeals has varied from a low of \$51,345 in 1932 to a high of \$60,976 in 1934. In 1941, the total expenditures amounted to \$57,027. The court receives no revenues. Although the expenditures of the court remained about the same for the period 1932 to 1941 and the number of personnel has not changed, the volume of business has fallen off perceptibly.

An attempt to break down the expenditures according to the number of cases is presented in Table VII. In 1932, 885 cases were listed and the expenditures were \$51,345. Thus, the amount expended per case was \$58.01. In 1941, the number of cases listed was 273 and the total expenditures were \$57,027. Thus, the amount expended per case for that year was \$208.89. In other words, there were four times as many cases listed in 1932 than in 1941, whereas the average expenditure per case was four times as much in 1941 than in 1932. It

<sup>1</sup> In New Jersey, the Chancellor, Chief Justice and eight Associate Justices of the Supreme Court have duties on their respective courts.



should be mentioned that the employees in the office of the Secretary of State who service this court were not included in calculating the expenditures nor were the "regular" judges who are budgeted in estimates of their own courts.

#### IV. ADMINISTRATION

It has already been pointed out that the Chancellor is the President Justice of the Court. Upon the presentation of argument before the full court, with the exception of those who have excluded themselves because of participation in the case in the court below or because of some other interest, the court divides itself into two parts for preliminary consideration of cases. The President Judge then assigns one of the members the writing of the opinion. Final consideration of the cases is heard by the full court followed by an open vote before the public.

Because of the system of having three terms of court, there is a lapse of several months between the notice of argument and the rendering of a decision. A study was made of cases presented before the court for the first half of 1940. The space of time between the filing of the notice of argument and the actual rendering of decision was noted for each of the cases during that period. An average was then struck and revealed that there is an interval of 5.6 months between the filing of notice of argument and the rendering of decision. In many instances, there was a lapse of seven to nine months, and, in two cases a lapse of over ten months was noted. It should be pointed out that, in most cases, this long period of time is explained by the fact that, although there is a three months' interval between the February and May term, there is a four months' interval between the October and February term and a five months' lapse between the May and October term. Naturally, between the May and October term, the vacation period takes place. Although there is a constant tendency for the court to render its decision on the matters heard at the prior term before the opening of a subsequent one, the very nature of the system of having three terms produces the lapse of long periods of time between the notice of argument and the rendering of decisions. The remedy here apparently would be to have ten monthly terms.

From an administrative standpoint, there is not much to be said in favor of having the Secretary of State act as Clerk of the Court. The Clerk of the Supreme Court, it would seem, could readily handle the activities of the Court of Errors and Appeals, especially since the majority of the members of the highest court are also members of the Supreme Court.

The system of self-exclusion by members of the court who have participated in cases heard in courts below gives rise to the possibility of a situation which would make it impossible for a person to get a hearing in the Court of Errors and Appeals if the entire Supreme Court Bench had participated in the hearing in the latter court. This is because the law requires a quorum consisting of the majority of the members. If the nine Supreme Court justices excluded themselves, as occurred once, no quorum would remain in the Court of Errors and Appeals. The possibility of the foregoing situation is obviated by having the Supreme Court hear cases appealed to it with a bench of three jus-



tices. Consequently, usually only those three exclude themselves if and when the particular case is heard before the Court of Errors and Appeals. However, the fact is that, constitutionally, there is a possibility of no effective appeal from the Supreme Court.

One other fact should be pointed out, namely the presence on the court of six special judges. Although the appointment of laymen on this court has an historical basis, the passage of time and the progress and complexity of life have rendered that basis untenable today. A thorough knowledge of the law is a definite requirement for membership on any court. As a matter of fact, recognition of the last statement is had when it is seen that five of the six special judges are members of the bar. The theory of lay judges, in other words, has been nullified by the fact. A further criticism should be made concerning the carrying on of law practice and private business by the special judges in addition to their judicial duties.

## V. FINDINGS AND CONCLUSIONS

The foregoing survey of the Court of Errors and Appeals points to the following findings and conclusions:

1. The court is too large in size, rendering it unwieldy.
2. The presence of special judges is an anachronism.
3. The efficiency of the court is impaired as a result of a disregard of the principle of the administration of justice, which requires the sole devotion of judges to their judicial duties without carrying on a private law practice or engaging in other gainful occupations.
4. Because of the practice of having three terms, too great a lapse of time between the notice of argument and rendering of decision takes place.
5. The volume of business of the court has decreased to about one-fourth of what it was in 1932.
6. The expenditures and the number of personnel of the court have remained about the same over the ten-year period from 1931 to 1941.
7. The largest number of decisions are handed down per curiam which is in effect without opinion.
8. There are a large number of cases in which one or more judges dissent without any supporting opinion.

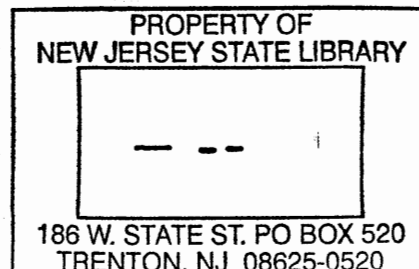


TABLE I  
NEW JERSEY COURT OF ERRORS AND APPEALS  
Expenditures, Revenue, Personnel and Judicial Business <sup>(a)</sup>  
1931-1941

ITEM	1931	1932	1933	1934	1935	1936	1937	1938	1939	1940	1941
SALARIES:											
Lay Judges of Court of Errors and Appeals at \$40.00 per diem .....	\$50,000.00	\$43,920.00	\$45,300.00	\$54,460.00	\$47,200.00	\$52,360.00	\$54,000.00	\$47,920.00	\$49,360.00	\$50,000.00	\$50,160.00
Officers .....	3,500.00	3,500.00	3,500.00	3,343.68	3,500.00	3,500.00	3,500.00	3,500.00	3,500.00	3,573.52	3,500.00
Total Salaries .....	\$53,500.00	\$47,420.00	\$48,800.00	\$57,803.68	\$50,700.00	\$55,860.00	\$57,500.00	\$51,420.00	\$52,860.00	\$53,573.52	\$53,660.00
IMPERSONAL SERVICES:											
Printed or Typewritten Copies of Draft of Opinions of the Lay Judges .....	\$1,649.25	\$2,142.08	\$3,709.20	\$1,937.00	\$2,442.45	\$1,381.70	\$1,527.80	\$1,237.98	\$1,220.10	\$1,598.10	\$1,940.50
Binding State of Cases, Briefs, and Printing Lists of Causes .....	1,093.26	1,783.45	1,461.50	1,236.22	1,478.17	1,531.25	1,139.21	1,493.72	1,281.56	1,202.37	1,426.86
Total Impersonal Services ....	\$2,742.51	\$3,925.53	\$5,170.70	\$3,173.22	\$3,920.62	\$2,912.95	\$2,667.01	\$2,731.70	\$2,501.66	\$2,800.47	\$3,367.36
Grand Total Expended .....	\$56,242.51	\$51,345.53	\$53,970.70	\$60,976.90	\$54,620.62	\$58,772.95	\$60,167.01	\$54,151.70	\$55,361.66	\$56,373.99	\$57,027.36
REVENUES .....	None	None	None	None	None	None	None	None	None	None	None
NUMBER OF PERSONNEL* .....	8	8	8	8	8	8	8	8	8	8	8
CASES LISTED .....	...	885	621	400	357	351	319	295	305	253	273
MOTIONS LISTED .....	...	...	...	...	...	...	...	138	102	113	120

(a) Source: Annual Budgets, Lists of Causes, Lists of Motions and Dockets.

\* Employees in office of Secretary of State not included.

TABLE II  
NEW JERSEY COURT OF ERRORS AND APPEALS  
List of Causes Presented  
1932-1941

YEAR	TERM OF COURT	LAW	EQUITY	TOTAL
1932 .....	February .....	160	111	271
	May .....	...	...	295
	October .....	...	...	319
		...	...	885
1933 .....	February .....	...	...	260
	May .....	...	...	195
	October .....	...	...	166
		...	...	621
1934 .....	February .....	...	...	99
	May .....	...	...	143
	October .....	...	...	158
		...	...	400
1935 .....	February .....	...	...	100
	May .....	...	...	100
	October .....	...	...	157
		...	...	357
1936 .....	February .....	65	36	101
	May .....	65	55	120
	October .....	82	48	130
		212	139	351
1937 .....	February .....	53	50	103
	May .....	58	26	84
	October .....	84	48	132
		195	124	319
1938 .....	February .....	49	45	94
	May .....	57	30	87
	October .....	70	44	114
		176	119	295
1939 .....	February .....	42	42	84
	May .....	74	32	106
	October .....	65	50	115
		181	124	305
1940 .....	February .....	39	34	73
	May .....	56	25	81
	October .....	49	50	99
		144	109	253
1941 .....	February .....	49	49	98
	May .....	46	35	81
	October .....	50	44	94
		145	128	273
Cases filed, entered in Dockets—				
From February, 1932, to April, 1942 .....				4,452
Cases Listed for Argument, 1932-1942 .....				4,059

TABLE III  
NEW JERSEY COURT OF ERRORS AND APPEALS  
List of Motions Presented  
1938-1941

YEAR	TERM OF COURT	NUMBER OF MOTIONS
1938 .....	February .....	44
	May .....	48
	October .....	46
	Total .....	138
1939 .....	February .....	37
	May .....	30
	October .....	35
	Total .....	102
1940 .....	February .....	37
	May .....	37
	October .....	39
	Total .....	113
1941 .....	February .....	40
	May .....	50
	October .....	30
	Total .....	120

TABLE IV

## NEW JERSEY COURT OF ERRORS AND APPEALS

Number of Published Opinions Delivered by Various Members of  
Court in Law and Equity Cases Decided

1939-1941 (a)

MEMBER OF THE COURT	1939			1940			1941		
	LAW	EQUITY	TOTAL	LAW	EQUITY	TOTAL	LAW	EQUITY	TOTAL
A .....	4	0	4	4	0	4	3	0	3
B .....	8	1	9	7	3	10	7(b)	5	12
C .....	2	1	3	1	1	2	..	..	..
D .....	5	8	13	10	3	13	8	6	14
E .....	6	1	7	8	4	12	8(c)	8	16
F .....	10	3	13	11(c)	3	14	8	8	16
G .....	6	4	10	7(c)	3(c)	10	6	5	11
H .....	7	2	9	11	4	15	7(c)	10	17
I .....	5	2	7	8	4	12	4	4	8
J .....	5	6	11	10	2	12	6	2	8
K .....	..	..	..	..	..	..	0	5	5
L* .....	3	2	5	0	2	2	..	..	..
M* .....	0	0	0	0	0	0	0	0	0
N* .....	7	1	8	5	3	8	5	2	7
O* .....	4	2	6	3	5	8	3	2	5
P* .....	3	4	7	2	3	5	1	1	2
Q* .....	3	1	4	8	0	8	7	1	8
R* .....	3	1	4	..	..	..	..	..	..
S* .....	..	..	..	..	..	..	0	4	4
<i>Per Curiam</i> (d) ..	76	59	135	58	53	111	45	42	87
GRAND TOTAL ...	157	98	255	153	93	246	118	105	223

\* Special Judges.

(a) Data compiled from New Jersey Law Reports and New Jersey Equity Reports. Opinion is listed in year when handed down although case may have been argued during previous year. Dashes indicate that the member of the court was not serving.

(b) Two dissenting opinions included.

(c) One dissenting opinion included.

(d) Brief pro forma opinions based on rulings of court below.

TABLE V  
 NEW JERSEY COURT OF ERRORS AND APPEALS  
 Opinions Written and Compensation of Lay Judges <sup>(a)</sup>  
 1939-1941

NAME OF JUDGE	1939			1940			1941		
	SALARY	NO. OF OPINIONS	COMPENSATION PER OPINION	SALARY	NO. OF OPINIONS	COMPENSATION PER OPINION	SALARY	NO. OF OPINIONS	COMPENSATION PER OPINION
L	\$8,840	5	\$1,768	\$8,400	2	\$4,200	....	..	....
M	7,920	0	....	8,040	0	....	\$6,920	0	....
N	8,120	8	1,015	8,200	8	1,025	8,600	7	\$1,228
O	8,720	6	1,453	8,600	8	1,075	9,120	5	1,824
P	8,960	7	1,280	8,360	5	1,672	9,360	2	4,680
Q	3,120	4	780	8,400	8	1,050	9,120	8	1,140
R	3,600	4	900	....	..	....	....	..	....
S	....	..	....	....	..	....	3,400	4	850

(a) Data compiled from published equity and law reports and State Comptroller's records.

TABLE VI  
NEW JERSEY COURT OF ERRORS AND APPEALS  
Comparative Statistics Regarding Selected Highest State Appellate Courts <sup>(a)</sup>  
1938-1941

STATE	POPULATION	NAME OF COURT	NO. OF JUDGES	SALARIES	CASES DISPOSED (c)				NO. CASES PER JUDGE				MOTIONS DETERMINED				NO. OF MOTIONS PER JUDGE			
					1938	1939	1940	1941	1938	1939	1940	1941	1938	1939	1940	1941	1938	1939	1940	1941
New Jersey	4,160,165	Ct. of Errors & Appeals	16	R-\$18,000 L- 9,000	(b) 295	305	253	273	18.4	19.1	15.2	18.2	138	102	113	120	8.6	6.4	7.0	7.5
New York	13,479,142	Ct. of Appeals	7	25,000	677	623	616	...	96.7	89.0	88.0	...	747	760	681	...	106.7	108.6	97.3	...
Conn.	1,709,242	Supreme Court of Errors	5	12,000	152	127	134	...	30.4	25.4	26.8	...	...	...	...	...	...	...	...	...
Penn.	9,900,180	Supreme Court	7	19,500	...	...	...	306	...	...	...	43.7	...	...	...	...	...	...	...	...

(a) Data concerning New York and Connecticut from reports of the Judicial Councils of those States; New Jersey data from dockets, printed lists and reported decisions. Pennsylvania data tabulated by A. S. Faught, Esq., Philadelphia, from published reports. Blank spaces indicate lack of data.

(b) The regular judges (R) receive no extra compensation for their duties on the Court of Errors and Appeals. They are the Chancellor (\$19,000), the Chief Justice (\$19,000) and eight Associate Justices of the Supreme Court (\$18,000 each). The six specially appointed lay judges (L) receive a per diem fee of \$40 (fees amounting to \$8,000-\$10,000 yearly).

(c) In New York these are "entered on the register and disposed of in regular order"; in Connecticut these were "total decided"; in New Jersey these were the number in the printed Lists of Causes but varied in the number of decided cases contained in the published reports—which were 255, 246, and 223 in 1939, 1940 and 1941, respectively; in Pennsylvania these were the number of opinions filed.

TABLE VII  
NEW JERSEY COURT OF ERRORS AND APPEALS  
Average Expenditures Per Case  
1932-1941

YEAR	NO. OF CASES LISTED	TOTAL EXPENDITURES	AVERAGE EXPENDITURES PER CASE	YEAR	NO. OF CASES LISTED	TOTAL EXPENDITURES	AVERAGE EXPENDITURES PER CASE
1932	885	\$51,345	\$58.01	1937	319	60,167	188.61
1933	621	53,970	86.90	1938	295	54,151	183.56
1934	400	60,976	152.44	1939	305	55,361	181.51
1935	357	54,620	152.99	1940	253	56,373	222.81
1936	351	58,772	167.44	1941	273	57,027	208.89

## CHAPTER II

### NEW JERSEY COURT OF CHANCERY

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#### I. GENERAL BACKGROUND

##### *Structure and Organization*

The Court of Chancery consists of a Chancellor appointed by the Governor with the advice and consent of the Senate for a term of seven years. The statute fixes his salary at \$19,000 per annum.

By law the Chancellor appoints not more than ten Vice-Chancellors for terms of seven years. Their salaries, fixed by statute, are \$18,000 each per annum. In addition, the Chancellor appoints the Masters in Chancery, whose number is not limited, and also designates certain of the Masters to be Special Masters in Chancery and to be Advisory Masters of the Court. At the present time there are several hundred Special Masters. There are twelve Advisory Masters, two of whom are designated as Standing Advisory Masters and are stationed at Trenton. One of them hears *ex parte* (non-contested) matters solely, while the other performs administrative services as well as hearing matrimonial matters. The first receives a salary of \$10,000 from the State, whereas the second receives \$7,000 plus fees for handling matrimonial cases, bringing his yearly compensation up to \$16,000. One other Advisory Master acts as a liaison officer between the court and the clerk's office and is carried on the clerk's budget with the title of Chief Agent and a salary of \$3,500. The balance of his yearly compensation, which averages about \$16,000, is also made up from matrimonial fees. The other ten Advisory Masters devote their entire time to the handling of matrimonial causes. Each receives a fee of \$50.00 for each case disposed of, \$.75 of which goes back to the clerk.<sup>1</sup> Special Masters receive compensation from the litigants depending upon the nature of the case handled and their work.

The clerk of the court maintains offices at Trenton in the State House Annex.

##### *Jurisdiction*

The Court of Chancery is a court of State-wide general equity jurisdiction.<sup>2</sup> The writ of habeas corpus may issue from this court. It also has jurisdiction in matrimonial causes and in the determination of the custody of children.

Cases pending in the court are usually referred by the Chancellor to one of the Vice-Chancellors or to a Master for hearing and report. Matrimonial causes are referred to Advisory Masters for hearing. Preliminary applications, motions addressed to the pleadings and other similar matters are usually heard before a Vice-Chancellor or an Advisory Master, depending upon the subject matter, by general order of reference by the Chancellor by rule.

<sup>1</sup> See Rules 284, 285, 177 f of *Rules of Court of Chancery*; also R. S. 2:2-12, 2:2-14.

<sup>2</sup> *New Jersey Constitution*, Article VI, Section IV.



## BUSINESS OF THE COURT OF CHANCERY

There has been a decided decline in the volume of business handled in the Court of Chancery. Table I indicates that the number of cases declined from the high of 26,635 in 1932 to 13,872 in 1941—a decrease of 50%.

Table II shows the percentage of cases filed by types for the years 1929, 1933 and 1941. It indicates a shift in the bulk of cases from foreclosure in 1928 and 1933 to divorce in 1941. In 1928, 57% of the cases were foreclosure, 19% were divorce and 2% were tax foreclosure. In 1933, foreclosures had jumped to 70%, divorce suits had declined to 11% and tax foreclosure cases had increased to 4%. In 1941, another shift occurred. In that year, foreclosures had declined to 25.2%, tax foreclosures had increased to 19.5%, while divorce cases increased to 37%. These three types of cases, plus maintenance cases which lie in the matrimonial field, constituted 83.6% of all of the cases filed in the Court of Chancery for 1941.

Some explanation should be made concerning the handling of these matters by the various personnel in the court. It has been mentioned that the Advisory Masters handled matrimonial causes. In other words, in 1941 they handled 38.9% of the total number of cases filed. The matters listed as "Set Aside Conveyance," "Partition," "Lunacy," and "Quiet Title," representing 2.2% of the cases filed in 1941, are handled by the Standing Advisory Master. Masters handle tax foreclosure cases for the most part, this work constituting 19.5% of all the cases filed in 1941. Of the other miscellaneous matters, which in 1941 amounted to 7.6% of all of the cases filed (a total of 1,034), some are handled by the Vice-Chancellors, some by the Advisory Masters, and some by the Special Masters. Relief, receivership injunction and tax receivership cases are handled by the Vice-Chancellors. This group constituted 6.6% of the total number of cases filed for 1941. The tax receivership cases are routine matters and are disposed of with dispatch. There were 445 of such cases in 1941 comprising 3.2% of the total. In summary, it would appear that only about 8% to 15% of the cases filed in the Court of Chancery are handled by the Vice-Chancellors, the rest being farmed out to Advisory Masters, Special Masters and Masters.

So far as actual numbers of cases are concerned, reference to Table I indicates that since 1936 there was a decrease of 8,000 foreclosure cases, an increase of 1,000 divorce cases, and an increase of about 150 tax foreclosure cases. All of the other types of cases, with the exception of lunacy, decreased, the largest decrease being in the case of tax receiverships which fell off from 743 in 1936 to 445 in 1941.

The total number of final decrees that were filed in 1941 was 19,672, an increase of about 8,000 over 1940 and a decrease of about 319 over 1932. However, this has little reflection on the volume of work inasmuch as the rapidity of enrollment of final decrees is dependent on the number of enrollers and the length of the material that has to be enrolled. More comment on this will be made later in this report.

The information furnished by the Chancellor shows that there were approximately 308 references made to the Vice-Chancellors from July 1, 1940, to December 31, 1940, of which 232 were disposed of after hearing. In 1941,

there were 553 references to the Vice-Chancellors, whereas 605 causes were disposed of. This seeming discrepancy is due to the overlap of matters which might have been referred late in one year and carried over to the succeeding year. The data furnished by the Vice-Chancellors indicate that there was an average of about 65 cases referred to each Vice-Chancellor each year during 1940 and 1941.<sup>1</sup> Most of the Vice-Chancellors stated that almost all of the matters referred to them have been disposed of. Some of them furnished information on the number of motions heard, the majority of them stating that they were quite numerous but that no records were kept.

It was the Chancellor's opinion that from 10% to 15% of cases fall by the way between reference and final hearing. He also indicated that the large part of the work of both Vice-Chancellors and Advisory Masters come from motions and causes not requiring specific references. It was his belief that this comprises "an amount equal to or more than the work specifically referred."

An analysis was made of the opinions handed down by the Vice-Chancellors and published in the New Jersey Equity Reports for the years 1939 to 1941, inclusive. Table III shows this breakdown according to Chancery and Prerogative cases, the names of the Vice-Chancellors being substituted by letters of the alphabet. There were 133, 123, and 111 printed opinions for the years 1939, 1940 and 1941, respectively. The unevenness in the distribution may not necessarily indicate that some of the Vice-Chancellors are performing more work than the others, but may very well reflect the intricacy and complexity of the cases decided. There are many opinions which are not published but which are incorporated in the opinions handed down by the Court of Errors and Appeals.

### III. FINANCIAL ASPECTS

Tables IV, V and VI deal with the expenditures and income of the Court of Chancery and the clerk's office, the last table being a recapitulation of the first two. Over the eleven-year period from 1930 to 1941 the total expenditures of the court and the clerk's office have risen about \$45,000, the expenses for 1930 being \$451,426, while those for 1941 being \$498,251. The expenditures of the court alone have remained substantially the same during this period. In 1941, \$361,710 was expended. The increase in the clerk's disbursements is explained in part by the fact that the clerk's budget now includes the payments for office equipment, whereas heretofore this expense was borne by the State House Commission. In 1941, the clerk's office expended \$136,540. Expenditures for personnel rose slightly in the clerk's office over the ten-year period from 1931 to 1941. In 1941, this disbursement amounted to \$110,708. There have been slight increases and decreases in personnel charges in the Court of Chancery, the expenditure in 1941 for this purpose being \$354,509. The number of persons budgeted in the Court of Chancery is now 56, a rise of five since 1937. In the clerk's office there have been about sixty employees over the ten-year period from 1931 to 1941. The clerk has stated that his office is operating at the present time with 57 regular employees not including enrollers.

<sup>1</sup> See Table XIII.

The fees taken in by the clerk's office rose from \$321,841 in 1931 to \$370,146 in 1940. In 1941, the receipts reached a total of \$481,803, but this includes \$132,383 which was part of the surplus in the Advisory Masters' Fees Account returned to the State General Fund. Deducting that sum from the total receipts, the clerk actually collected \$349,420.

Comment must be made concerning three other types of funds: the Enrollment Fund, Advisory Masters' Fees Account, and Chancery Trust Funds. The Enrollment Fund consists of moneys collected from litigants for the enrollment of selected pertinent papers in a suit. A fee of 7 cents per folio of one hundred words is collected of which 2 cents is retained by the clerk and 5 cents is paid to enrollers who are compensated on a piecework basis per folio. The clerk has stated that at the present time there are fifteen enrollers on his staff. The enrollment of papers is done in long hand and consists of the copying of papers into large dockets. Reference should be made to Table VI which shows the disposition of the receipts and disbursements of that fund. It will be noted that during some years, particularly 1933, 1934 and 1935, over \$160,000 was collected annually. In the fiscal year 1934-1935, \$182,726 was received and \$155,590 was disbursed from this fund. During that year there were over 140 enrollers on the staff who received their compensation according to the amount of work they did. In the fiscal year 1940-1941, \$39,766 was received into this fund and \$38,637 was disbursed. There is no justification for the present procedure of accounting for these funds other than a statutory one.<sup>1</sup> Assuming that the present method of enrollment should be retained, of which there is great doubt, it would seem to be better practice to include the receipts into the general income of the clerk's office and pay the enrollers a straight salary. Further comment concerning enrollment will be made in the next section of this report.

The system of handling Advisory Masters' fees is based upon statute and Rules of the Chancery Court.<sup>2</sup> The sum of \$50 is collected from a litigant in uncontested matrimonial causes and \$60.00 in contested cases. In the latter event, \$10.00 is segregated as compensation for a stenographer. Each Advisory Master receives the sum of \$49.25 (75 cents of each \$50.00 fee goes to the clerk pursuant to Rule 177 f) for each case disposed of. A ceiling of \$16,000 per annum has been set for each Advisory Master's compensation. Accordingly, the clerk, who handles the receipt and disbursement of the fees, will not send a check to the Advisory Master when the latter's compensation for the year has reached the stipulated sum of \$16,000. Instead, the surplus is turned over to the clerk in charge of the Chancery Trust Funds who thereupon deposits it in a separate account. On April 28, 1942, there was \$20,000 on deposit, constituting a surplus in the Advisory Masters' Fees Account. The remaining funds for the fiscal year ending March 31, 1942, had not been turned over to the Chancellor by the court clerk as yet. In July, 1941, the Chancellor deposited the sum of \$132,383, taken from the accumulated surplus, with the Clerk in Chancery who placed it in the receipts which went to the State Fund. The compensation which each Advisory Master received for the fiscal years 1940 and 1941 is indicated in Table VII. It should be noted that some of the Advi-

<sup>1</sup> See R. S. 22:2-16 and 22:2-17.2.

<sup>2</sup> See R. S. 2:2-12; 2:2-14; *Chancery Court Rules* Nos. 284, 285.

sory Masters disposed of slightly more cases than the others, but all were given the same annual compensation of about \$16,000. The amount held in reserve is turned over to the Chancellor each year for the most part. As indicated, it is held by him in safe-keeping, and by law is subject to his disposition in any way he desires. In 1941, he saw fit to return the greater part of the accumulated surplus to the General State Fund.

Table VIII indicates the receipts of Advisory Masters' fees by the clerk, the disbursements to the Advisory Masters as their compensation, the number of cases heard, and the amount held in reserve. During the year from April 1, 1940, to March 31, 1941, \$221,880 was received by the clerk from litigants as Advisory Masters' fees. During the same year, \$168,200 was paid out to the Advisory Masters as their compensation for hearing a total of 3,943 cases. It should be noted that the Advisory Masters were actually paid for disposing of 3,364 cases in order not to exceed the ceiling of \$16,000 which was fixed by the Chancellor. Moreover, the receipts taken in by the clerk include the clerk's commissions, rebates and refunds.

Several comments might be made concerning the Advisory Masters' fees system. First, although an attempt is made to place the work of the Advisory Masters on a salary basis, it would seem to be better fiscal practice to place the fees collected from litigants into the total receipts of the clerk's office and have the Advisory Masters budgeted on a yearly salary basis. This, however, assumes the desirability of retaining the system of having Advisory Masters hear matrimonial matters. Secondly, there is serious question as to the justification of keeping the Advisory Masters' fees for matrimonial causes at the present level from the standpoint of the litigants.

The statutes authorize the Chancellor to supervise the handling of trust funds, that is, moneys placed in the Chancery Court by parties pending the disposition of the case and the determination of the ownership of the moneys.<sup>1</sup> Pursuant to statute, Rules 238 and 239 have been promulgated to govern the handling of moneys deposited in court. The Chancellor has the right to invest the trust funds in government bonds and other legally authorized securities, and to supervise the funds, their investment and their disbursement. The clerk in charge of the funds for the Chancellor has indicated that over 90% of the trust funds are placed in government bonds, the rest being invested in real estate mortgages and other securities. The income of the trust is prorated among the owners of the principal proportionately at the rate of interest decreed by the Chancellor after expenses have been deducted. At the present time the interest amounts to about 2%.

There are four employees in the unit set up by the Chancellor to actually handle the funds, total salaries being about \$13,000, according to the clerk in charge. Other expenditures are for the auditing of the funds by a private accounting firm twice a year.

Table IX presents a statement of the trust receipts and disbursements from January 1, 1934, to December 31, 1941. On January 1, 1934, the total amount of the trust funds on hand was \$2,977,637. For the period 1934 to 1941, a total of \$4,606,784 was received consisting of \$3,988,706 in principal and \$618,078 in income. The disbursements during that period amounted to \$5,010,316 com-

<sup>1</sup> See R. S. 2:29-81, 2:29-82.

prised of \$4,486,927 in principal and \$523,388 in income. The net disbursements of principal for this period were \$498,221 while the net income receipts were \$94,690. Approximately one-half million dollars are taken in and expended each year. On December 31, 1941, the total balance of the trust funds amounted to \$2,574,105. The clerk in charge has stated that only about \$25,000 to \$50,000 in cash is available in the banks at any particular time, and that, when it is necessary to pay out larger sums, sufficient securities are sold in the market in order to make up the difference required.

For purposes of comparison of the differences in fees charged in the clerk's office before and after 1937, Tables X and XI are included in this report. Under the present system,<sup>1</sup> a flat fee is charged for the various types of actions based upon a cost accounting analysis made in 1937 by the clerk. As may be noted in Table XI, the flat charges approximate the average total statutory charges prior to July 1, 1937. No attempt is made in this report to analyze the merits and demerits of the fees charged in this office. Such a study might be made to advantage not only for this court but for all the other courts in the State.

In attempting a breakdown of the expenditures and the income per case in the Chancery Court, various factors have to be considered. It is to be noted from Table VI that, with the exception of the fiscal year 1937-1938 when there was a profit of \$103,886, the court has been running at a deficit of expenditures over receipts. In 1940, this deficit was \$114,425. Although Table VI shows a deficit of only \$16,448 for 1941, if the surplus of the Advisory Masters' fees which amounted to \$132,383 was deducted from the total receipts of the clerk, the deficit would amount to \$148,831 for that year. If the receipts and disbursements of the Advisory Masters' fees were included in the total receipts and expenditures of the court, the same deficit would remain for each year, and consequently the deficit per case would be the same. This is true although adding in this money would make the average expenditure and average income per case higher. Similarly, proper fiscal practice might require the inclusion of the enrollment fund receipts and disbursements. But here too, since approximately the same money is paid out, the effect on the deficit would be insignificant although total costs and receipts would be higher if included. Accordingly, Table XII presents a breakdown of the average net expenditure, net income and deficit per case without the inclusion of the Advisory Masters' fees and the enrollment fees. It will be noted that, since the number of cases started in 1941 was approximately half of that of 1932, and since the expenditures have increased slightly, the average expenditure per case was about twice as high in 1941 than it was in 1932. The 1941 receipts per case were also about half of what they were in 1932. Consequently the deficit per case has risen. No attempt is made here to discuss the many fiscal problems raised by the foregoing material.

<sup>1</sup> See R. S. 22:2-14.

#### IV. ADMINISTRATION

Constitutionally, the Chancellor is the Court of Chancery.<sup>1</sup> The Chancellor has provided by Rule 128 for the reference of cases to Vice-Chancellors and Advisory Masters according to vicinages and types of matters. The actual reference is handled through the office of one of the Standing Advisory Masters at Trenton. There are six vicinages for Vice-Chancellors and four for the Advisory Masters. Since 1940, the Vice-Chancellors submit reports to the Chancellor through the Standing Advisory Master, thereby enabling the Chancellor to make reassignments in case any particular Vice-Chancellor is incapacitated for any reason. However, there does not seem to be any sufficient development of control of assignments according to the volume of work. The basis of a flexible system of administration should be developed to include not only the reassignment of the Vice-Chancellors according to the number of cases referred to them but also according to the number of motions and other work they have to consider. An adequate system of control should be developed by making provision for more comprehensive statistical reporting of all of the business of the Vice-Chancellors to include not only the number of matters referred but the ways by which they are disposed. The Chancellor recently inaugurated the beginnings of a reporting system, but criticism should be made of the failure to have embarked upon a basic system of supervision theretofore.

The entire question of administration of any court system is one which merits much consideration. We have seen how several years ago the Administrative Office of the United States Courts was created as a means to handle this problem. Without attempting to evaluate the time spent by the Chancellor in his administrative duties in the Chancery Court and his other work, some attention should be paid to some of the chief duties assigned him by the Constitution and statutes. The following might be mentioned:

1. Is the Court of Chancery. (*New Jersey Constitution*, Article VI, Section IV.)
2. Is President Judge of Court of Errors and Appeals. (*New Jersey Constitution*, Article VI, Section II; *R. S.* 2:1-3.)
3. Is Ordinary or Surrogate-General—Head of Prerogative Court. (*New Jersey Constitution*, Article VI, Section IV.)
4. Is Member of Court of Pardons. (*New Jersey Constitution*, Article IV, Paragraph 10; *R. S.* 2:10-1.)
5. Appoints Vice-Chancellors, Advisory Masters, Special Masters and Masters. (*R. S.* 2:2-3; 2:2-9.)
6. Appoints his secretary. (*R. S.* 2:2-23.)
7. Appoints stenographic reporter. (*R. S.* 2:2-24.)
8. Appoints additional office stenographer. (*R. S.* 2:2-27.)
9. Appoints a confidential agent. (*R. S.* 2:2-27.)
10. Designates a Vice-Chancellor as a member of the Judicial Council. (*R. S.* 2:17-2.)
11. Appoints guardians of estates of patients committed to State institutions. (*R. S.* 30:4-65.)
12. Appoints receivers or trustees of insolvent corporations. (*R. S.* 14:14-4.)
13. Appoints sergeants-at-arms of court. (*R. S.* 2:2-21.)
14. Ex-officio member of the Board of Commissioners of State Library. (*R. S.* 52:26-1.)
15. Certificates of incorporation of diocesan conventions of Protestant Episcopal Church executed in his presence. (Or of Supreme Court Judge.) (*R. S.* 16:12-18.)
16. Approves compensation of special assistant deputy commissioners of banking and insurance. (*R. S.* 17:4-107; 17:12-73.)

<sup>1</sup> *New Jersey Constitution*, Article VI, Section IV.

17. Determines, upon refusal of Board of Public Utility Commissioners, the compensation payable by street railways laying tracks across municipally owned bridges.
18. Deposits and invests funds brought into Chancery Court. (*R. S. 2:29-81, 2:29-82.*)
19. Fixes payment to Chancery reporter for volumes of chancery reports printed. (*R. S. 2:18-4.*)
20. Power to make general rules to carry out Chapter 2. (*R. S. 2:2-1.*)
21. Power to make rules for Court of Chancery. (*R. S. 2:29-16.*)
22. Writs of error out of Supreme Court in criminal cases punishable with death issued only on order of the Chancellor. (*R. S. 2:195-1.*)

This multitude of duties to perform raises serious question as to whether the organization of this office is inherently good.

With reference to the system of enrolling, the following observations might be made. The device of having persons copy in long hand lengthy records is antiquated in this modern age when other more efficient techniques might be used. Serious consideration should be given to the possibility of installing a system of photographing pertinent papers.

## V. FINDINGS AND CONCLUSIONS

A survey of the Court of Chancery and of the clerk's office points to the following findings and conclusions:

1. There has been an increase in the deficit per case over the ten-year period, 1931-1941.
2. There has been almost a 50% decrease in the volume of business.
3. Expenditures have risen slightly.
4. About 10% of the total business is handled by Vice-Chancellors, the rest being farmed out to Advisory Masters, Special Masters and Masters.
5. Inadequate reporting records are compiled.
6. The system of work assignment and control is not fully developed, although the beginnings have been made.
7. From a fiscal point of view, the accounting of Advisory Masters' fees and enrollment fees is bad.
8. An inadequate system of public accounting for trust funds exists.
9. The Chancellor's duties are multitudinous and embrace too many levels of courts.
10. An inadequate administrative system of the court exists.

TABLE I  
COURT OF CHANCERY  
Analysis of Cases Started: Selected Years 1924-1941

TYPE	1924	1928	1932	1936	1937	1940	1941
Foreclosure .....	3,057	11,539	18,159	11,496	9,123	4,538	3,463
Divorce .....	3,351	3,927	3,422	4,249	4,829	4,554	5,127
Tax Foreclosure .....	148	388	1,077	2,556	2,758	3,031	2,708
Relief .....	671	799	894	195	65	6	....
Receivership .....	284	480	747	274	372	229	213
Injunction .....	369	350	417	272	410	272	255
Maintenance .....	312	353	345	304	317	263	263
Set Aside Conveyance .....	29	205	177	134	112	50	49
Partition .....	257	226	152	121	137	98	98
Lunacy .....	104	109	83	90	95	99	110
Quiet Title .....	201	257	103	93	100	84	91
Tax Receivership .....	....	....	....	743	439	255	445
Miscellaneous .....	1,231	1,350	1,059	1,120	1,164	1,242	1,034
Total .....	10,014	19,983	26,635	21,647	19,921	14,571	13,872
Number of Decrees Filed* .....	4,457	9,142	20,053	16,872	16,015	11,791	19,672

\* Does not include orders of dismissal. Last dismissal order number on April 17, 1942, was 24,016 in series begun in 1938.





SEN. ROBERT C. HENDRICKSON  
CHAIRMAN  
WOODBURY

WALTER J. FREUND  
RIDGEWOOD

JAMES KERNEY, JR.  
TRENTON

SEN. CRAWFORD JAMIESON  
TRENTON

DR. JOHN F. SLY  
PRINCETON

ARTHUR T. VANDERBILT  
NEWARK

JUDGE WALTER D. VAN RIPER  
NEWARK



COMMISSION ON REVISION  
OF THE  
**NEW JERSEY CONSTITUTION**  
150 EAST STATE STREET  
TRENTON, N. J.

CHARLES R. ERDMAN, JR.  
SECRETARY

August 3, 1942

Senator Lloyd L. Schroeder, Chairman  
Joint Legislative Committee constituted by SCR No. 19 (1942)  
State House  
Trenton, New Jersey

Dear Senator Schroeder:

I am transmitting herewith the report of an administrative survey of the constitutional courts of New Jersey. This survey was made by Dr. Ralph R. Temple at the direction of the Commission on Revision of the New Jersey Constitution.

Dr. Temple was selected by the Commission because of his wide practical experience as a practicing lawyer and as a teacher and investigator of judicial administration in other jurisdictions. He brought to this study a comprehensive knowledge of the principles of the administration of justice and a record of successful accomplishments in this field.

The Commission afforded Dr. Temple complete independence in the conduct of his inquiry and in the determination of his findings and conclusions. The report, therefore, represents the results of a thorough study made independently, and does not necessarily set forth the views of the Commission.

Since our Revision Commission has already made its report, I am submitting the results of Dr. Temple's work, separately printed, for the record and information of your Committee, and to the Governor, the Legislature and the public generally.

I would respectfully suggest that this impartial and scholarly report be given the careful consideration of all persons who are sincerely interested in the improvement of our constitutional courts as presently organized and administered.

Sincerely yours,

ROBERT C. HENDRICKSON, Chairman  
Commission on Revision of the New  
Jersey Constitution

RCH/T

TABLE II  
COURT OF CHANCERY  
Percentage of Cases Filed by Types  
Selected Years 1928-1941

TYPE	1928 %	1933 %	1941 %
Foreclosure .....	57.0	70.0	25.2
Divorce .....	19.0	11.0	37.0
Tax Foreclosure .....	2.0	4.0	19.5
Relief .....	4.0	3.3	0.1
Receivership .....	2.4	2.0	1.5
Injunction .....	1.7	1.3	1.8
Maintenance .....	1.7	1.1	1.9
Set Aside Conveyance .....	1.0	0.9	0.3
Partition .....	1.1	0.5	0.6
Lunacy .....	0.5	0.4	0.7
Quiet Title .....	1.2	0.3	0.6
Tax Receivership .....	...	0.3	3.2
Miscellaneous .....	8.4	4.9	7.6
Total .....	100.0	100.0	100.0

TABLE III  
COURT OF CHANCERY  
Printed Opinions Handed Down by Vice-Chancellors  
1939-1941

VICE- CHANCELLOR	1939		1940		1941	
	CHANCERY	PRE- ROGATIVE	CHANCERY	PRE- ROGATIVE	CHANCERY	PRE- ROGATIVE
A .....	20	1	20	..	16	5
B .....	6	4	3	5	1	3
C .....	7	..	6	..	5	..
D .....	8	1	10	..	4	..
E .....	22	1	17	2	14	1
F .....	4	..	3	..	..	..
G .....	15	2	19	..	12	1
H .....	11	..	10	1	10	..
I .....	15	3	15	2	21	2
J .....	13	..	10	..	7	..
K .....	..	..	..	..	9	..
Total	121	12	113	10	99	12

TABLE IV  
NEW JERSEY COURT OF CHANCERY  
Expenditures 1931-1941—(Fiscal Years)

ITEM	1931	1932	1933	1934	1935
<b>SALARIES:</b>					
Chancellor .....	\$19,000.00	\$19,000.00	\$18,923.34	\$19,000.00	\$19,000.00
Vice-Chancellors (10) .....	180,000.00	177,000.00	177,856.45	180,000.00	179,600.00
Secretaries to Vice-Chancellors ..	18,693.56	19,666.60	20,000.00	19,999.93	20,000.00
Secretary to Chancellor .....	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00
Sergeants-at-Arms (10) (a) .....	24,755.00	24,056.24	26,447.09	31,920.00	34,965.00
Advisory Masters and Stenogs. (b)	58,032.20	79,980.10	91,718.21	39,450.70	28,185.00
Stenographic and other services (c)	45,265.98	45,262.11	44,866.26	45,000.00	45,000.00
Law Assistants to Vice-Chancellors .....	.....	.....	.....	.....	.....
Total Salaries .....	\$347,746.74	\$366,965.05	\$381,811.35	\$337,370.63	\$363,750.00
<b>MATERIALS AND SUPPLIES:</b>					
Stationery and Office Equipment..	\$3,197.52	\$2,998.94	\$3,819.07	\$3,901.03	\$2,982.67
Vehicular Transportation Supplies .....	.....	.....	.....	.....	.....
Library Supplies .....	.....	.....	.....	.....	.....
Postage and Miscellaneous .....	1,500.00	1,500.00	2,250.00	386.00	1,000.00
Rent, etc., of Chambers .....	22,703.00	1,692.39	.....	1,000.00	.....
Total Materials .....	\$27,400.52	\$6,191.33	\$6,069.07	\$5,287.03	\$3,892.67
<b>IMPERSONAL SERVICES:</b>					
Repairs to Equipment .....	.....	.....	.....	.....	.....
Travel Expenses for Casual Court Attendants and Sgts.-at-Arms ..	.....	.....	.....	.....	.....
Miscellaneous .....	.....	.....	.....	.....	.....
Total Impersonal Services ...	.....	.....	.....	.....	.....
<b>EXTRAORDINARY EXPENDITURE:</b>					
(Chancery Investigation) .....	.....	.....	.....	.....	\$35,000.00
Grand Total Expended .....	\$375,147.26	\$373,156.38	\$387,880.42	\$342,657.66	\$402,732.67
Number of Personnel .....	.....	.....	.....	.....	.....

\* Dr. 1,000.

(a) Includes casual sergeants-at-arms and court attendants.

(b) Does not include compensation of advisory masters paid out of fees.

(c) Pursuant to R. S. 2:2-25 and 2:2-28. Does not include compensation to enrollment clerks paid out of Enrollment Fund (R. S. 22:2-16; 22:2-17.2).

TABLE IV—Continued

NEW JERSEY COURT OF CHANCERY

Expenditures 1931-1941—(Fiscal Years)

1936	1937	1938	1939	1940	1941
\$19,000.00	\$19,000.00	\$19,000.00	\$19,000.00	\$19,000.00	\$19,000.00
180,000.00	180,000.00	180,000.00	180,000.00	180,000.00	179,564.53
19,999.98	19,999.91	22,299.95	22,400.00	22,399.93	22,399.96
2,000.00	2,000.00	2,500.00	2,500.00	2,499.88	2,500.00
34,997.93	34,997.93	41,152.00	40,240.00	40,240.00	38,115.00
22,000.00	22,000.00	22,980.00	22,980.00	22,980.00	22,980.00
52,666.67	53,000.00	54,500.00	54,500.00	55,333.34	55,500.00
.....	.....	12,611.75	15,800.00	15,050.00	14,450.00
<u>\$330,664.58</u>	<u>\$330,955.07</u>	<u>\$355,043.70</u>	<u>\$357,420.00</u>	<u>\$357,503.15</u>	<u>\$354,509.49</u>
\$3,324.00	\$3,772.90	\$4,736.32	\$3,785.98	\$4,724.29	\$4,941.51
.....	.....	.....	.....	.....	453.61
.....	.....	2,665.75	1,370.50	1,487.12	1,492.48
1,000.00*	600.00	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
<u>\$4,324.01</u>	<u>\$4,372.90</u>	<u>\$7,402.07</u>	<u>\$5,156.48</u>	<u>\$6,271.41</u>	<u>\$6,887.60</u>
.....	.....	\$85.56	\$88.86	\$28.00	\$26.68
.....	.....	.....	.....	1,454.45	108.85
.....	.....	133.44	220.00	.....	177.96
.....	.....	<u>\$219.00</u>	<u>\$308.86</u>	<u>\$1,482.45</u>	<u>\$313.49</u>
.....	.....	.....	.....	.....	.....
<u>\$333,988.59</u>	<u>\$335,327.97</u>	<u>\$362,664.77</u>	<u>\$362,885.34</u>	<u>\$365,257.01</u>	<u>\$361,710.58</u>
52	51	55	56	56	56

TABLE V  
CLERK IN CHANCERY  
Expenditures by Fiscal Years  
1931-1941

ITEM	1930-1931	1931-1932	1932-1933	1933-1934	1934-1935
Clerk in Chancery .....	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00
Chief Clerk .....	5,500.00	5,500.00	5,500.00	5,500.00	5,500.00
Law Clerks (2) .....	7,100.00	7,100.00	7,100.00	7,100.00	7,100.00
Compensation of Assistants .....	77,800.00	83,840.00	76,334.44	74,915.98	74,840.00
Stationery and Supplies .....	8,452.46	10,000.00	4,970.40	6,187.52	6,122.14
Other Materials and Supplies .....	815.34	475.00	716.51	.....	.....
Bookkeeping Equipment .....	.....	4,000.00	.....	.....	.....
Telephone and Telegraph .....	505.47	358.78	150.70	.....	.....
Premium on Surety Bonds .....	300.00	475.00	250.00	460.00	210.00
Miscellaneous Expenses .....	.....	.....	.....	.....	.....
Total Expenses of Clerk .....	\$106,473.07	\$117,748.78	\$101,022.05	\$100,163.50	\$99,772.14
Number of Employees** .....	78	78	103	206	61

\* Includes items that were heretofore furnished by State House Commission for furniture, etc.; also items necessary for equipment and supplies used for the conduct of WPA projects. Actually general supplies are the same or less than heretofore.

\*\* Figures from 1930 to 1934 include enrollers. Actual number of employees from 1920 to 1941 was about 60; in 1942, it was 57.

TABLE V—Continued

CLERK IN CHANCERY

Expenditures by Fiscal Years

1931-1941

1935-1936	1936-1937	1937-1938	1938-1939	1939-1940	1940-1941
\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00
5,500.00	5,500.00	5,740.00	5,500.00	5,500.00	5,500.00
7,100.00	6,446.77	7,340.00	7,100.00	7,100.00	7,100.00
75,275.52	75,625.00	89,971.20	89,392.22	90,054.51	92,108.00
7,197.42	6,691.39*	9,904.84*	10,211.14*	9,438.32*	7,601.73
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
460.00	460.00	460.00	460.00	460.00	460.00
.....	.....	.....	789.87	763.33	795.22
<hr/>	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
\$101,532.94	\$100,723.16	\$119,416.04	\$119,453.23	\$119,316.26	\$136,540.94
59	59	59	59	59	60

## TABLE VI

COURT AND CLERK IN CHANCERY <sup>(a)</sup>

Budget Appropriations, Expenditures, Receipts,  
Cases Started, Final Decrees, Enrollment Fund  
Fiscal Year July 1st to June 30th

1930-1941

ITEM	1929-1930	1930-1931	1931-1932	1932-1933	1933-1934	1934-1935
<b>BUDGET (Original Approp.):</b>						
Court of Chancery .....	\$361,566.86	\$368,700.00	\$377,500.00	\$356,500.00	\$343,000.00	\$329,500.00
Clerk in Chancery .....	102,088.00	110,210.00	114,140.00	105,360.00	105,175.00	105,600.00
Total .....	\$463,654.86	\$478,910.00	\$491,640.00	\$461,860.00	\$448,175.00	\$435,100.00
<b>EXPENDITURES (Actual):</b>						
Court of Chancery .....	\$351,922.31	\$375,147.26	\$373,156.38	\$387,880.42	\$342,657.66	\$367,732.67
Clerk in Chancery .....	99,503.98	106,473.27	117,748.78	101,022.05	100,163.50	99,772.14
Total .....	\$451,426.29	\$481,620.53	\$490,905.16	\$488,902.47	\$442,821.16	\$467,504.81
<b>RECEIPTS:</b>						
Fees .....	\$253,885.18	\$321,841.68	\$318,716.56	\$359,212.10	\$355,133.50	\$362,091.71
Deficit .....	\$197,541.11	\$159,778.67	\$172,188.60	\$129,690.37	\$87,687.66	\$105,413.10
<b>ENROLLMENT FUND:</b>						
Receipts .....	.....	\$100,639.81	\$126,096.19	\$166,301.45	\$191,409.53	\$182,726.62
Disbursements .....	.....	23,358.50	20,754.95	29,466.52	75,012.31	155,590.06
Balance .....	.....	\$77,281.31	\$105,341.24	\$136,834.93	\$116,397.22	\$27,136.56
(Calendar Years)	1929	1930	1931	1932	1933	1934
Total Number of Cases Started ....	23,622	24,368	23,856	26,635	26,029	24,829
Total Number of Final Decrees ....	14,924	16,704	16,320	20,053	19,585	19,683

\* New Fee System started.

\*\* Includes part of surplus in Advisory Masters' Fees Account (about \$100,000) returned to State General Fund.

(a) Source: Comptroller's Annual Reports, Annual Budgets and Case Dockets.



TABLE VI—Continued

COURT AND CLERK IN CHANCERY <sup>(a)</sup>Budget Appropriations, Expenditures, Receipts,  
Cases Started, Final Decrees, Enrollment Fund

Fiscal Year July 1st to June 30th

1930-1941

1935-1936	1936-1937	1937-1938	1938-1939	1939-1940	1940-1941	1941-1942	1942-1943
\$335,000.00	\$335,500.00	\$368,403.44	\$362,920.00	\$365,370.00	\$365,956.00	\$365,420.00	\$365,420.00
101,700.00	102,660.00	119,580.00	119,610.00	119,720.00	122,240.00	121,160.00	.....
\$436,700.00	\$438,160.00	\$487,983.44	\$482,530.00	\$485,090.00	\$488,196.00	\$486,580.00	\$365,420.00
\$333,988.59	\$335,327.97	\$362,664.77	\$362,885.34	\$365,257.01	\$361,710.58	.....	.....
101,532.94	100,723.16	119,416.04	119,453.23	119,316.26	136,540.94	.....	.....
\$435,521.53	\$436,051.13	\$482,080.81	\$482,338.57	\$484,573.27	\$498,251.52	.....	.....
\$325,549.94	\$307,322.62	\$585,967.55*	\$391,543.90	\$370,147.58	\$481,803.17**	.....	.....
\$109,971.59	\$128,728.51	\$103,886.74 (Profit)	\$90,794.67	\$114,425.69	\$16,448.35	.....	.....
\$84,818.36	\$49,558.72	\$60,123.31	\$45,840.21	\$41,161.07	\$39,766.35	.....	.....
78,099.85	46,491.35	58,435.45	45,073.10	39,605.80	38,637.50	.....	.....
\$6,718.51	\$3,067.37	\$1,687.86	\$767.11	\$1,555.27	\$1,128.85	.....	.....
1935	1936	1937	1938	1939	1940	1941	
23,836	21,647	19,921	16,459	15,631	14,571	13,872	
19,300	16,872	10,015	14,444	12,500	11,791	19,672	

TABLE VII  
ADVISORY MASTERS' FEES  
Disposition in Fiscal Years 1940 and 1941

ADVISORY MASTER	CASES HEARD		CHECKS SENT		HELD IN RESERVE	
	NO. OF CASES	AMOUNT	NO. OF CASES	AMOUNT	NO. OF CASES	AMOUNT
<i>April 1, 1939, to March 31, 1940</i>						
A .....	377	\$18,552.00	326	\$16,048.15	51	\$2,510.85
B .....	367	18,066.50	326	16,047.70	41	2,018.80
C .....	386	19,001.70	325	15,998.45	61	3,003.25
D .....	382	18,805.10	325	15,999.80	57	2,805.30
E .....	365	17,964.55	323	15,898.30	42	2,066.25
F .....	338	16,636.60	326	16,046.20	12	590.40
G .....	393	19,344.30	325	15,997.70	68	3,346.60
H .....	383	18,861.70	325	16,005.20	58	2,856.50
I .....	314	15,458.50	314	15,458.50	..	.....
J(a) .....	194	9,551.95	186	9,157.95	8	394.00
K(b) .....	256	12,603.80	263	12,456.05	3	147.75
Totals	3,755	\$184,853.70	3,354	\$165,114.00	401	\$19,739.70
<i>April 1, 1940, to March 31, 1941</i>						
A .....	333	\$16,643.85	325	\$16,250.00	8	\$393.85
B .....	345	17,236.20	327	16,350.00	18	886.20
C .....	398	19,843.30	325	16,250.00	73	3,593.30
D .....	377	19,304.55	329	16,450.00	48	2,854.55
E .....	418	21,369.75	326	16,300.00	92	5,069.75
F .....	445	22,600.90	326	16,300.00	119	6,300.90
G .....	466	23,189.60	325	16,250.00	141	6,939.60
H .....	397	19,795.40	325	16,250.00	72	3,545.40
I .....	325	16,250.00	325	16,250.00	..	.....
J(a) .....	195	9,743.70	187	9,350.00	8	393.70
K(b) .....	253	12,650.00	253	12,650.00	..	.....
Totals	3,943	\$198,177.25	3,364	\$168,200.00	579	\$29,977.25

(a) Receives \$7,000 in addition from State Fund.  
(b) Receives \$3,500 in addition from State Fund.

TABLE VIII  
COURT OF CHANCERY  
Advisory Masters' Fees Account, 1939-1941 <sup>(a)</sup>

PERIOD	RECEIPTS BY CLERK IN CHANCERY (b)	DISBURSEMENTS AS COMPENSATION TO ADVISORY MASTERS (c)	NO. OF CASES HEARD	AMOUNT HELD IN RESERVE (d)
April 1, 1939, to March 31, 1940 ....	\$204,941.95	\$165,114.00	3,755	\$19,739.70
April 1, 1940, to March 31, 1941 ....	221,880.37	168,200.00	3,943	29,977.25

- (a) Source: Clerk's Records.  
(b) Includes clerk's commissions, rebates and refunds.  
(c) The sum of \$50.00 is fixed by the Chancellor as the compensation of the Advisory Master for hearing and disposing of each matrimonial case. However, a ceiling of \$16,000 per annum has been set for each Advisory Master. R. S. 2:2-12; 2:2-14; *Chancery Court Rules* 284, 285.  
(d) Turned over to the Chancellor for safe-keeping. In July, 1941, the Chancellor deposited the sum of \$132,383.47, taken from the accumulated surplus, with the Clerk in Chancery who placed it in the receipts which went to the State Fund. On April 28, 1942, the Chancellor had \$20,001 on deposit as surplus in the Advisory Masters' Fees Account. The remaining funds for the fiscal year ending March 31, 1942, had not been turned over to him by the clerk as yet.

TABLE IX

IN CHANCERY OF NEW JERSEY TRUST FUNDS  
Statement of Trust Receipts and Disbursements <sup>(a)</sup>

January 1, 1934 to December 31, 1941

YEAR	RECEIPTS			DISBURSEMENTS			CUMULATIVE BALANCE OF TRUST
	PRINCIPAL OF TRUST	INCOME OF TRUST	ANNUAL TOTAL OF TRUST	PRINCIPAL OF TRUST	INCOME OF TRUST	ANNUAL TOTAL OF TRUST	
Balance on Jan. 1, 1934 ..	\$2,657,967.71	\$319,669.60	\$2,977,637.31				
1934 .....	354,887.72	114,810.82	469,698.54	\$467,906.45	\$90,772.57	\$558,679.02	\$2,888,656.83
1935 .....	628,737.05	93,977.86	722,714.91	676,080.95	79,751.92	755,832.87	2,855,538.87
1936 .....	389,794.93	83,709.76	473,504.69	455,304.38	66,885.51	522,189.89	2,806,853.67
1937 .....	262,600.85	75,280.42	337,881.27	366,641.15	53,931.51	420,572.66	2,724,162.28
1938 .....	506,468.02	74,746.76	581,214.78	568,832.80	78,245.03	647,077.83	2,658,299.23
1939 .....	891,398.39	64,846.45	956,244.84	426,053.62	52,985.43	479,039.05	3,135,505.02
1940 .....	719,148.82	58,014.55	777,163.37	1,131,939.46	58,395.36	1,190,384.72	2,722,283.67
1941 .....	235,670.22	52,692.30	288,362.52	394,118.87	42,421.46	436,540.33	2,574,105.86
Totals for Period 1934-1941	\$3,988,706.00	\$618,078.92	\$4,606,784.92	\$4,486,927.58	\$523,388.79	\$5,010,316.37	.....
Grand Total .....	\$6,646,673.71	\$937,748.52	\$7,584,422.23	\$4,486,927.58	\$523,388.79	\$5,010,316.37	\$2,574,105.86
Net Principal Disbursements for Period 1934-1941 .....			\$498,221.58				
Net Income Receipts for Period 1934-1941 .....			94,690.13				
Balance of Trust Funds on December 31, 1941 .....			2,574,105.86				

(a) Data furnished by Chancery Trust Fund Clerk.

TABLE X  
FEES AND COSTS OF COURT OF CHANCERY\*  
(Prior to July 1, 1937, and thereafter)

TYPE OF CASE	FILING		TAXING COSTS	COPIES OF PLEADINGS	CHANGES UNDER NEW SYSTEM	
	FEES AND MISC. COSTS	ENROLLMENT			TOTAL	(R. S. 22:2-14)
Foreclosure .....	\$17.85	\$5.22	\$0.40	\$0.90	\$24.37	\$25.00
Divorce .....	16.75	2.65	1.50	2.20	23.10	25.00
Tax Foreclosures .....	18.10	4.90	1.50	1.90	26.40	25.00
Relief .....	16.19	7.52	1.50	1.60	26.81	25.00
Receivership .....	23.75	8.75	1.50	2.40	36.40	35.00
Injunction .....	15.06	8.00	1.50	1.90	26.46	25.00
Maintenance .....	16.75	2.60	1.50	2.20	23.05	25.00
Set Aside Conveyance ...	15.15	5.55	1.50	1.50	23.70	25.00
Partition .....	25.41	7.70	1.50	1.00	36.61	35.00
Lunacy .....	15.63	3.40	1.50	1.00	21.53	25.00
Quiet Title .....	15.14	4.30	1.50	1.00	21.94	25.00
Tax Receivership .....	No Charge					
Miscellaneous .....	16.00	4.00	1.50	1.50	23.00	25.00

\* All figures are approximate based upon average cases, calculated on a basis of 1,000 cases of each class on fees paid to the clerk for the use of the State.

NOTES: The charges for filing fees and miscellaneous costs in some instances may run from 10 to 30 cents less for some cases and in many instances will run to 50 cents to one dollar more.

The enrollment costs in each case are practically a minimum. The average case in the court will run from 55 to 60 folios which at a charge of 7 cents a folio, will cost the solicitors from \$3.85 to \$4.20. In very few cases will the enrollment shown go down more than 25 cents to 35 cents but in many cases it will go from \$1.00 to \$4.00 higher, with wide savings in special cases to \$40.00 or \$50.00.

Taxing costs are made on application. In some instances, no requests are made and therefore there are no charges. It is presumed that the charge is as stated.

Charges for certified copies of bills, petitions, orders, final decrees and other pleadings are approximate. In many instances, first copies of orders and decrees are furnished free, where the solicitor furnishes the clerk with the copy. In other cases a charge is made of 25 cents to 50 cents for certification. In many cases, copies of pleadings are not a necessity; in others the charges run considerably higher than shown. The figures in this column represent average charges for cases investigated.

TABLE XI  
CLERK IN CHANCERY  
Breakdown of Filing Fees and Miscellaneous Costs  
(Prior to July 1, 1937)

TYPE OF CASE	PETITION OR BILL	FINAL DECREE	POSTAGE AND MISC.	TOTAL
Foreclosure .....	\$5.00	\$12.50	\$0.35	\$17.85
Divorce .....	5.00	11.40	.35	16.75
Tax Foreclosure .....	5.00	12.50	.60	18.10
Relief .....	5.00	9.75	1.44	16.19
Receivership .....	10.00	12.50	1.25	23.75
Injunction .....	5.00	9.75	.31	15.06
Maintenance .....	5.00	11.40	.35	16.75
Set Aside Conveyance .....	5.00	9.75	.40	15.15
Partition .....	10.00	14.50	.91	25.41
Lunacy .....	5.00	10.25	.38	15.63
Quiet Title .....	5.00	9.75	.39	15.14
Tax Receivership .....	No Charge	No Charge	No Charge	
Miscellaneous .....	5.00	10.00	1.00	16.00

TABLE XII  
NEW JERSEY COURT OF CHANCERY  
Income, Expenditures and Deficits Per Case\*  
1931-1941

YEAR	NO. OF CASES STARTED	TOTAL NET INCOME	AVERAGE NET INCOME PER CASE	TOTAL NET EXPENDITURES	AVERAGE NET EXPENDITURES PER CASE	TOTAL NET DEFICIT	AVERAGE NET DEFICIT PER CASE
1931 .....	23,856	\$318,716	\$13.35	\$490,905	\$20.57	\$172,188	\$7.22
1932 .....	26,635	359,212	13.48	488,902	18.78	129,690	5.30
1933 .....	26,029	355,133	13.64	442,821	17.01	87,687	3.37
1934 .....	24,829	362,091	14.58	467,504	18.82	105,413	4.24
1935 .....	23,836	325,549	13.65	435,521	18.27	109,971	4.62
1936 .....	21,647	307,322	14.19	436,051	20.14	128,728	5.95
1937 .....	19,921	585,967	29.41	482,080	24.19	103,886(b)	5.22(b)
1938 .....	16,459	391,543	23.78	482,338	29.30	90,794	5.52
1939 .....	15,631	370,147	23.68	484,573	31.00	114,425	7.32
1940 .....	14,571	349,420(a)	23.98	498,251	34.19	148,831	10.21
1941 .....	13,872	.....	....	486,580(c)	35.07	.....	....

\* Income, expenditures and deficits according to fiscal years; number of cases according to calendar years; Advisory Masters' fees, and enrollment fees not included.

(a) Does not include \$132,383 of surplus of Advisory Masters' fees turned over by Chancellor to State Fund.

(b) Profit.

(c) Original budget appropriation.

TABLE XIII  
NEW JERSEY COURT OF CHANCERY  
References to Vice-Chancellors <sup>(a)</sup>  
1940-1941

VICE- CHANCELLOR	1940		1941		
	TOTAL REFERENCES	TOTAL DISPOSED	TOTAL REFERENCES	TOTAL DISPOSED	TOTAL PENDING
A .....	47	38(b)	41	35	9
B .....	62	48(d)	64	48(d)	25
C .....	62	..(e)	71	..(e)	..(e)
D .....	81	81	79	74	5(fa)
E .....	57	57	45	36	9
F .....	86	70	59	89	8
G(g) .....	..	..	81	81	21(b)
H(i) .....	..	..	..	..	..
I .....	81	67	72	79	15
J .....	80	..(e)	72	..(e)	..(e)
Totals	556	361	584	442	92
Average No. ....	69.5	60.1	64.8	63.1	13.1

- (a) Information supplied by Vice-Chancellors—Include Prerogative Court matters in several instances.  
(b) Final hearings.  
(c) Awaiting final hearing—April 25, 1942.  
(d) Approximation—Of a total of 191 cases referred in 1939, 1940 and 1941, 145 were disposed.  
(e) Information not supplied.  
(f) Number of 1941 cases tried but awaiting decision.  
(g) Appointed in 1941.  
(h) Final hearings held in many of these.  
(i) Appointed in 1942.

### CHAPTER III

## NEW JERSEY SUPREME COURT

### I. GENERAL BACKGROUND

#### *Structure and Organization*

The Supreme Court is composed of a Chief Justice and eight Associate Justices appointed by the Governor with the advice and consent of the Senate for terms of seven years. Their salaries, which are fixed by statute are \$19,000 for the Chief Justice, and \$18,000 for each of the Associate Justices.

The court may be held by the Chief Justice or any of the Associate Justices, and, in some instances, jurisdiction over certain matters is vested in the Chief Justice and the various Associate Justices in their official capacities as such and not as representatives of the court. In the exercise of its original jurisdiction the court usually sits in circuits in the various counties, there being one circuit for each county. By statute, the court is required to divide the State into nine judicial districts each consisting of one or more counties, and the Chief Justice or one of the Associate Justices is assigned to each of these districts and presides over the circuit or circuits comprising the specific judicial district.

Cases at the circuits have for many years been tried before a judge of the Circuit Court or a judge of the Court of Common Pleas sitting in the Supreme Court by reference of the justice presiding over the circuit.

The Chief Justice and the Associate Justices are ex-officio judges of the Courts of Common Pleas, the Orphans' Courts, the Courts of Oyer and Terminer, the Courts of Quarter Sessions, and the Circuit Courts of the various counties.

In the exercise of its appellate jurisdiction the court sits *en banc* at Trenton usually in three parts, that is, it divides itself into three sections of three justices each, all of which sit concurrently for the expedition of the transaction of business.<sup>1</sup> Three stated terms of the Supreme Court are required to be held annually. None of these terms extends beyond three or four days after the opening of the term. Motion days are set each year by each justice—usually Saturdays of each month excepting during July and August. The places for the hearing of motions are designated in the various counties.

The Clerk of the Supreme Court is appointed by the Governor with the advice and consent of the Senate. His salary of \$6,000 is fixed by statute. The clerk's office is maintained in Trenton.

#### *Jurisdiction*

The Supreme Court is a court of State-wide jurisdiction. Its processes issue to any county in the State and its judgment are liens upon lands in any part of the State. It has original jurisdiction in all real, personal and mixed actions

<sup>1</sup> *Supreme Court Rule No. 150.*

at the common law as well as in criminal cases. It has appellate jurisdiction in cases of the inferior courts of civil and criminal jurisdiction, that is, the Circuit Courts, the Courts of Common Pleas, the Courts of Oyer and Terminer, the Courts of Quarter Sessions, the Courts of Special Sessions, and the District Courts. The Supreme Court also has extraordinary jurisdiction exercised through the prerogative writs including the writs of certiorari, mandamus, and quo warranto through which it regulates and supervises the proceedings of inferior tribunals and others and superintends civil corporations. The writ of habeas corpus may issue out of this court. It also has other important statutory jurisdiction, both original and appellate, in various matters. Errors in this court are reviewable in civil cases by appeal to the Court of Errors and Appeals, and in criminal cases by writ of error from the Court of Errors and Appeals.

The Court has power to make general rules for the Supreme Court, the Circuit Courts, and the Courts of Common Pleas, and also to regulate the pleading and practice in such courts.

The members of the Supreme Court also sit on the Court of Errors and Appeals.

## II. BUSINESS OF THE SUPREME COURT

The volume of business of the Supreme Court in 1941 has declined to about 45% of what it was in 1932. Table I shows the cases appealed from the lower courts. There has been a progressive decrease in appeals from 1931, when there were 423, to 1941, when there were 236. For the first four months of 1942, 67 appeals were filed.

Table II shows a breakdown of appeals from lower courts according to the court from which appealed for the year 1941. Of the 235 cases filed, 108 were appealed from the District Courts, 39 from the Common Pleas Courts, 20 from the Court of Quarter Sessions, and 15 from the Circuit Courts. Twenty-two cases were appealed from the Workmen's Compensation Bureau.

Table III indicates the proceedings in certiorari, mandamus, disbarment, quo warranto, etc., filed in the Supreme Court for the years 1931 to 1942. There has been a relative evenness in the distribution of these matters over the period of three years although 1941 showed a decrease of 55 over 1940. There were 332 proceedings filed in 1940 and 277 in 1941. For the first four months of 1942, 62 matters were filed.

Table IV shows the number of cases at law filed during the years 1932 to 1942. It is to be noted that these cases are rarely tried by the Supreme Court Justices; they are usually tried by the Circuit Court judges. Here, too, is evidence of a tremendous decline of business. In 1932, 12,013 cases were filed whereas in 1941, 4,653 were filed. For the first three and a half months of 1942, 1,365 cases were filed. Table V is a recapitulation of the material found in Tables I, III and IV. It shows very conclusively the downward trend from 1932, when the total litigation of all types consisted of 12,800 cases, to 1941 when it was 5,166 cases. In 1942, up to April 14 thereof, a total of 1,494 matters of all types were filed.



Inasmuch as the cases at law filed in the Supreme Court are tried by the Circuit Court judges a grouping of cases started both in the Circuit Courts and in the Supreme Court is desirable for informational purposes. This is shown in Table VI which also indicates the number of Common Pleas cases listed for trial at the fall term. A word of caution is necessary in analyzing the statistics. The figures were taken from Lists of Causes by the Judicial Council for the years 1900 to 1939, inclusive. There is the possibility that, in some of the counties, cases are listed in the printed books term after term although they might have been dismissed or abandoned without the clerk being informed about it. Consequently, there may be a great deal of duplication. Whether this situation is true of all of the counties can be ascertained only after observation of their practices. Taking the figures on their face value, however, it will be seen that the total number of Circuit and Supreme Court cases listed for trial at the fall term have decreased from 13,686 in 1931 to 5,879 in 1939. The number of cases listed for trial in the Courts of Common Pleas has also decreased from 3,514 in 1931 to 1,932 in 1939. In other words, there were less than half the number of Supreme, Circuit and Common Pleas cases listed for trial in 1939 than there were in 1931, the figures being 7,811 and 17,200, respectively. The data for the years 1940 and 1941 apparently were not compiled by the Judicial Council. There are no published reports for those years available, and no data has been forthcoming although duly requested from the chairman of the Judicial Council. Questionnaires were sent to each of the county clerks requesting information, and, at the writing of this report, insufficient responses had been made to warrant any intelligent compilation. However, some index as to the continuance of the downward trend is evidenced by the number of cases listed for trial in Essex County in 1941. In that year there were 633 Circuit Court cases and 647 Supreme Court cases listed for trial, a total of 1,280. Since Essex County usually gets about one-fourth of the business of the entire State, a rough calculation would indicate there were slightly more than 5,000 Circuit and Supreme Court cases listed for trial during 1941.

Table VII is a compilation of data taken from the statistics contained in the Judicial Council reports for 1932 to 1939. It shows the disposition of Supreme Court cases at law for selected years within that period. It is interesting to note that there has been a slight decrease in the total number of cases disposed of during 1939 from those in 1932, the numbers being 2,318 and 2,861, respectively. The table also indicates the method of disposition of the cases. The number of actually litigated cases tried is about from one-fourth to one-half of the total number disposed of. For example: in 1939, 670 cases were actually tried out of a total of 2,318 disposed. A large proportion of cases is discontinued by the parties as well as marked off the term, in 1939 the number being 1,385. This is about 60% of the total number disposed of.

There is reason to believe that the present delay in the disposition of Supreme Court cases at law (delay in Essex County being over two years in tort cases) will be reduced because of the decrease in the number of new cases filed.

With the understanding that any comparison of judicial activities between one State and another is fraught with dangers, an attempt, however, is made in Table VIII to compare the appellate work of the Supreme Court of New Jersey with that of the four Appellate Divisions of the Supreme Court of New York State. In 1938, there were 3,761 appeals decided in New York, whereas in New Jersey 455 were decided. In 1940, the figures for New York were 3,665 and for New Jersey 253. Inasmuch as there were 28 justices sitting in the four Appellate Divisions in New York and only nine in New Jersey, a breakdown was then attempted to ascertain the average number of appeals handled by each justice. It was found that in 1938 each justice in the Appellate Divisions of New York disposed of an average of 134.3 cases, whereas each New Jersey Supreme Court justice disposed of 50.5. In 1940, each New York justice handled 130.8 appeals while each New Jersey justice handled 28.3. Figures for 1941 in New York were not available at the time of the writing of this report. However, it was ascertained that each justice of the New Jersey Supreme Court during that year handled an average of 26.2 appeals.<sup>1</sup> There is a trend downward in the number of appeals handled by each justice in New Jersey because of the decline in the total number of appeals.

The greater volume of work handled per New York justice in other proceedings of an appellate nature is also noticeable. For New Jersey, the matters listed under "other proceedings" include certiorari, mandamus, disbarment, and quo warranto, etc., but not motions heard in the various counties. For New York, this category includes motions of an appellate nature and disciplinary proceedings. In New York there was a total of 4,649, 4,647, and 4,528 matters handled during the years 1938, 1939 and 1940, respectively. In New Jersey, the number of proceedings were 458, 348, 332 and 277 for the respective years 1938, 1939, 1940 and 1941. Dividing these numbers by the number of justices, it was found that each New York justice handled about four times more matters than the New Jersey justices. In 1940, each justice of the Appellate Division in New York disposed of 161.7 proceedings other than appeals, while each New Jersey justice of the Supreme Court disposed of 36.8. In 1941, each New Jersey justice handled 30.7 proceedings.

Tables IX and X deal with the opinions of the New Jersey Supreme Court. In Table IX is listed the number of opinions filed for the years 1931 to 1941. Over one-third are written by lower court justices and filed in the Supreme Court. The number of opinions written has remained fairly constant from 1931, when it was 557, to 1941, when it was 598. There is an overlapping in the issuance of these opinions which accounts for discrepancies in Table X. In that table an attempt is made to break down the opinions filed in the Supreme Court Clerk's office for 1941. Of the 408 opinions actually filed, 133 were memorandum opinions, almost all of which were written by lower court justices, and 58 were per curiam opinions which were generally brief and consisted of an affirmation of the lower court's ruling. The distribution of opinions among the justices is fairly even.

<sup>1</sup> Reference should be made to the section of this report dealing with the Court of Errors and Appeals, and especially to Tables IV and VI therein where the work of the Supreme Court Justices on the Court of Errors and Appeals is outlined. Table IV showed that the number of opinions delivered by each Supreme Court Justice averaged 8.2, 10, and 10.7 for 1939, 1940 and 1941, respectively.

### III. FINANCIAL ASPECTS

The expenditures for the administration of the Supreme Court remained fairly constant over the period from 1931 to 1941, whereas the receipts declined in 1941 to about one-third of what they were in 1931. Tables XI, XII and XIII deal with the expenditures and receipts of the court, the last one being a recapitulation of the first two. Table XI shows that the expenditures of the clerk's office have remained about the same level for the ten-year period 1931-1941. In 1941, there was a total of \$58,264 expended in the clerk's office, whereas in 1931, \$58,709 was spent. The number of personnel increased in 1932 to 26 from 23 in 1931. Since 1932, it has remained at 26.

Table XII shows the expenditures of the Supreme Court. Here, too, the expenditures have remained about the same although there has been a slight increase in personnel. In 1931, the sum of \$424,402 was expended for a personnel of 33, whereas in 1941, \$426,606 was spent for a total of 40. It is to be noted that among the expenditures for salaries are included those for the Circuit Court judges and the Board of Bar Examiners. This is a proper inclusion because the personnel constituting these groups handle Supreme Court business.

Table XIII indicates very clearly the trend in expenditures, receipts, personnel and litigation for the years 1931 to 1941. There is not included in this table as receipts the sum which is turned into the State Fund by the County Clerks from Circuit Court revenues and labeled as "judicial fees" in the State Comptroller's reports. However, they are included in Table XIV. In 1941, this source amounted to about \$15,000, a decline from \$38,950 in 1932. It should be noted in Table XIII that the receipts listed are comprised of those from searches, litigation and copies, and bar examination fees. The first and third comprise about one-fourth of the total. In 1931, the sum of \$227,078 was taken in as receipts which steadily declined to \$91,094 in 1941. The court has been running at a deficit of expenditures over receipts for many years. During the ten-year period, 1931 to 1941, the deficit increased from \$256,033 to \$393,777. The decline in revenue is, of course, a reflection in the decrease in the volume of business, and naturally, the rise in the deficit is a consequence of the decrease in receipts and slight increase in expenditures. In trying to arrive at a breakdown of income expenditures and deficits per case, it was deemed advisable to include as income the moneys turned over to the State from Circuit Court fees inasmuch as, theoretically, this is done to compensate the State in part for salaries paid to the Circuit Court judges. It should be observed, of course, that the figures are only rough ones since the Supreme Court judges perform service on the Court of Errors and Appeals and the Circuit Court judges try Supreme Court issues as well as Circuit Court cases. This overlapping of duties and varied ways of budgeting make these calculations susceptible of criticism. With these qualifications in mind, a breakdown is made in Table XIV. It shows that the average net expenditures per case rose from \$37.66 in 1932 to \$93.86 in 1941; the average net income per case remained about the same during this ten-year period, being \$20.22 in 1931 and \$20.57 in 1941; and the average net deficit per case increased from \$17.44 in 1931 to \$73.32 in 1941. No attempt is made here to discuss the problems engendered by this data.

#### IV. ADMINISTRATION

Much criticism can be made concerning the administration of the business of the Supreme Court. There is little or no supervision by the Supreme Court justices over the activities of the various circuits. The duties of the Supreme Court justices in the circuits seem to be confined to the charging of the grand jury and the hearing of motions subsequent to judgment. To all intents and purposes, the Circuit Court judges perform all of the work essential in the trial of Supreme Court issues, even hearing motions addressed to the pleadings. Generally, the Supreme Court justices are occupied principally with their appellate work on the Supreme Court and on the Court of Errors and Appeals. Comment has already been made (see section of report on Court of Errors and Appeals) concerning the undesirability of having the same justices sit on two separate levels of appellate courts. At Trenton no records are compiled by the clerk concerning the activities of the court. It was only by dint of old-fashioned digging that the material herein presented was assembled. It would be belaboring the point to emphasize the fact that intelligent supervision and control of any organization, be it judicial or executive, must be predicated on a knowledge of the work of the organization. Any knowledge as to the activities of the organization can be readily compiled by setting up a simple reporting system.

Delegation by the Supreme Court justices of their judicial duties in the trying of cases at law to the Circuit Court judges, along with a division of duties between the Clerk of the Supreme Court at Trenton and the County Clerks, give rise to poor organization and control of business without a similar delegation of responsibility for reporting the business. For example, cases may be dismissed or discontinued, notice thereof being filed in Trenton. The only way the County Clerks are apprised of these facts is by making inquiry of the Supreme Court Clerk at Trenton since the latter does not formally notify them. The County Clerks of Hudson and Essex have established the commendable device of leaving several hundred printed self-addressed post cards at the Trenton office. When an order of discontinuance is filed at Trenton, a clerk there fills out one of the cards which is in turn mailed back to the County Clerk. The latter then makes a proper notation on his List of Causes and does not include the discontinued case in the subsequent list. Apparently any relief which an overburdened circuit gets is dependent upon the vociferousness of complaint by the Circuit Court judges—no work records being compiled.

Confusion and delay result because each of the three terms of the Supreme Court is held a mere two weeks before each of the respective three terms of the Court of Errors and Appeals meets. Consequently, a case argued at the October term of the Supreme Court is not decided in time for presentation at the October and sometimes even the February term of the Court of Errors and Appeals.

## V. FINDINGS AND CONCLUSIONS

On the basis of the foregoing survey of the Supreme Court, the following findings and conclusions may be made:

1. The volume of business of the Supreme Court, both cases at law and appellate work, has declined more than 50% over the ten-year period of 1931 to 1941.
2. The system of having three terms prevents the more rapid disposition of cases on appeal.
3. No reporting system exists at the clerk's office to apprise both the Chief Justice, the Legislature, and the public, as to the administration of the court.
4. The expenditures of the court have remained the same over the ten-year period of 1931 to 1941, whereas the revenues have declined, thereby resulting in an increase of the deficit of expenditures over revenues.
5. Cases at law are not tried by the Supreme Court justices but by Circuit Court judges.
6. Inadequate supervision of the activities of the lower courts by the Supreme Court justices exists.
7. There is a division of administrative responsibility inherent in the organization of the Supreme Court.
8. The appellate duties of the Supreme Court justices in both the Supreme Court and the Court of Errors and Appeals makes for a complicated structure and the possibility of making the Supreme Court the tribunal of last resort. This is due to the possibility of the Supreme Court justices excluding themselves in the Court of Errors and Appeals because of participation in a case at the lower level.

TABLE I

SUPREME COURT OF NEW  
JERSEY  
Cases Appealed from Lower  
Courts\*  
1931-1942

YEAR	NO. OF APPEALS
1931 .....	423
1932 .....	465
1933 .....	444
1934 .....	403
1935 .....	328
1936 .....	326
1937 .....	244
1938 .....	455
1939 .....	327
1940 .....	253
1941 .....	236
1942 (April 14th) .....	67

\* Including certiorari from lower courts.

TABLE III

SUPREME COURT OF NEW  
JERSEY  
Proceedings in Certiorari,  
Mandamus, Disbarment,  
Quo Warranto, Etc.  
1931-1942

YEAR	NUMBER
1931 .....	335
1932 .....	322
1933 .....	367
1934 .....	389
1935 .....	313
1936 .....	305
1937 .....	304
1938 .....	458
1939 .....	348
1940 .....	332
1941 .....	277
1942 (April 14th) .....	62

TABLE II

SUPREME COURT OF NEW  
JERSEY  
Number of Appeals Filed  
According to Courts  
1941

NAME OF LOWER COURT	NO. OF CASES
District Courts .....	108
Common Pleas Courts .....	39
Circuit Courts .....	15
Juvenile & Domestic Relations Courts .....	7
Recorder's Courts .....	15
Quarter Sessions Courts .....	20
Justices' Courts .....	2
Prerogative Court .....	2
Oyer and Terminer Courts .....	6
Workmen's Compensation Bureau ...	22
Total .....	236

TABLE IV

SUPREME COURT OF NEW  
JERSEY  
Cases at Law Filed  
1932-1942

YEAR	NO. OF CASES
1932 .....	12,013
1933 .....	9,754
1934 .....	7,270
1935 .....	7,634
1936 .....	6,215
1937 .....	6,441
1938 .....	4,073
1939 .....	5,421
1940 .....	4,347
1941 .....	4,653
1942 (April 14th) .....	1,365

TABLE V

## SUPREME COURT OF NEW JERSEY

Cases at Law, Appeals and Other Proceedings Filed. <sup>(a)</sup>

1932-1942

YEAR	CASES AT LAW	APPEALS	VARIOUS PROCEEDINGS	TOTALS
1932 .....	12,013	465	322	12,800
1933 .....	9,754	444	367	10,565
1934 .....	7,270	403	389	8,062
1935 .....	7,634	328	313	8,275
1936 .....	6,215	326	305	6,846
1937 .....	6,441	244	304	6,989
1938 .....	4,073	455	458	4,986
1939 .....	5,421	327	348	6,096
1940 .....	4,347	253	332	4,932
1941 .....	4,653	236	277	5,166
1942* .....	1,365	67	62	1,494

\* To April 14th.

(a) Source: Case Dockets.

TABLE VI

## NUMBER OF SUPREME CIRCUIT, CIRCUIT AND COMMON PLEAS

## CASES LISTED FOR TRIAL

Fall Term, Selected Years, 1900-1939 <sup>(a)</sup>

YEAR	SUPREME CIRCUITS	CIRCUIT	TOTAL CIRCUIT AND SUPREME	COMMON PLEAS	GRAND TOTALS
1900(b) .....	553	626	1,179	172	1,351
1910(c) .....	735	832	1,567	107	1,674
1920 .....	1,747	1,520	3,267	422	3,689
1930 .....	7,669	4,518	12,187	2,408	14,595
1931 .....	8,749	4,937	13,686	3,514	17,200
1932 .....	8,926	4,822	13,748	3,505	17,253
1933* .....	10,294	2,212	12,506	3,689	16,195
1934 .....	5,894	1,482	7,376	2,837	10,213
1935 .....	4,930	1,092	6,022	2,015	8,037
1936 .....	4,440	1,077	5,517	1,752	7,269
1937 .....	4,495	1,310	5,805	1,959	7,764
1938(d) .....	3,806	936	4,742	1,969	6,711
1939(e) .....	5,089	790	5,879	1,932	7,811

\* Supreme and Circuit Court issues grouped together in Middlesex County for 1933 only, and in Essex County from 1933 to 1939, inclusive.

(a) Source: New Jersey Judicial Council Reports.

(b) Cumberland, Hunterdon, Middlesex, Sussex and Warren Counties not listed.

(c) Cumberland and Hunterdon Counties not listed.

(d) Atlantic, Middlesex and Monmouth Counties not listed.

(e) Middlesex County not listed.

TABLE VII  
SUPREME COURT CIRCUIT CASES LISTED FOR TRIAL AND DISPOSED <sup>(a)</sup>  
Selected Years, 1932-1939 <sup>(b)</sup>

YEAR	No. of actually litigated cases tried excluding Items 2, 3, and 4	No. of uncontested cases tried excluding Items 3 and 4	No. of cases involving infant plaintiffs submitted upon agreed settlement	No. of cases tried involving assessment of damages only	No. of cases where Jury disagreed	No. of cases dismissed by the court	No. of cases discontinued by the parties	No. of cases marked off term	No. of weeks that court was held	Total number of cases disposed of	No. of cases listed for trial
	1	2	3	4	5	6	7	8	9*	10	11
1932 .....	1,066	185	158	43	39	128	847	395	303	2,861	8,926
1933 .....	979	122	107	22	16	53	521	596	257	2,416	10,294
1938(c) ....	631	63	75	29	11	75	992	322	295	2,198	3,806
1939 .....	678	51	83	24	13	84	992	393	392	2,318	5,089

\* In most counties time is divided between Supreme and Circuit Court issues.  
(a) *Source:* Judicial Council Reports.  
(b) From fall term of prior year to August 1st of stated year.  
(c) Atlantic, Middlesex and Monmouth Counties not listed.

TABLE VIII  
COMPARISON OF INTERMEDIATE APPELLATE COURTS, 1938-1941 <sup>(a)</sup>  
NEW YORK —Appellate Divisions of Supreme Court—28 justices <sup>(b)</sup>  
NEW JERSEY—Supreme Court — 9 justices

YEAR	APPEALS		NO. OF APPEALS PER JUSTICE		OTHER PROCEEDINGS <sup>(c)</sup>		NO. OF OTHER PROCEEDINGS PER JUSTICE	
	N. Y.	N. J.	N. Y.	N. J.	N. Y.	N. J.	N. Y.	N. J.
1938 .....	3,761	455	134.3	50.5	4,649	458	166.0	50.8
1939 .....	3,664	327	130.8	36.3	4,647	348	165.9	38.6
1940 .....	3,665	253	130.8	28.3	4,528	332	161.7	36.8
1941 .....		236		26.2		277		30.7

(a) Data for New York from New York Judicial Council Reports; data for New Jersey from dockets.  
(b) This is the total number for the four departments of the State and include four temporarily assigned justices (1937).  
(c) For New Jersey this includes proceedings in certiorari, mandamus, disbarment, quo warranto, etc., but not motions heard in the various counties. For New York this includes motions of an appellate nature and disciplinary proceedings.



TABLE IX  
SUPREME COURT OPINIONS

YEAR	NO. OF OPINIONS
1931 .....	557
1932 .....	543
1933 .....	581
1934 .....	509
1935 .....	511
1936 .....	468
1937 .....	444
1938 .....	482
1939 .....	425
1940 .....	441
1941 .....	598
1942 (April 15th) .....	129

TABLE X  
BREAKDOWN OF OPINIONS FILED IN NEW JERSEY  
SUPREME COURT CLERK'S OFFICE—1941

JUSTICE	NO. OF OPINIONS
Memorandum(a) .....	125
Per Curiam(b) .....	58
A .....	22
B .....	28
C .....	27
D .....	26
E .....	21
F .....	31
G .....	33
H .....	13
I .....	14
J .....	2
K(c) .....	4
L(c) .....	1
M(c) .....	2
N(c) .....	1
	408

- (a) Almost all written by lower court judges.  
(b) Affirmation of lower court ruling—generally brief.  
(c) Circuit Court judges.

TABLE XI  
CLERK OF SUPREME COURT OF NEW JERSEY  
Expenditures 1931-1941\*

ITEM	1931	1932	1933	1934	1935	1936	1937	1938	1939	1940	1941
<b>SALARIES:</b>											
Clerk of Court .....	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00	\$6,000.00
Chief Clerk .....	5,500.00	5,500.00	5,500.00	5,500.00	5,499.84	5,500.00	5,499.84	5,500.00	5,500.00	5,500.00	5,500.00
Assistants .....	38,685.00	39,191.82	39,955.00	39,595.00	39,319.92	39,320.00	39,319.92	45,080.00	44,450.00	42,410.00	42,782.06
Total Salaries .....	\$50,185.00	\$50,691.82	\$51,455.00	\$51,095.00	\$50,819.76	\$50,820.00	\$50,819.76	\$56,580.00	\$55,950.00	\$53,910.00	\$54,282.06
<b>MATERIALS AND SUPPLIES:</b>											
Stationery and Office Supplies	\$4,499.80	\$4,814.12	\$2,064.95	\$2,729.28	\$2,316.80	\$2,786.31	\$3,096.08	\$3,389.59	\$3,211.55	\$3,192.39	\$2,848.54
Other Materials and Equip- ment .....	2,831.66	665.31	352.00	387.26	394.05	386.20	384.15	396.34	371.29	399.91	324.16
Total Supplies .....	\$7,331.46	\$5,479.43	\$2,416.95	\$3,116.54	\$2,710.85	\$3,172.51	\$3,480.23	\$3,785.94	\$3,582.84	\$3,592.30	\$3,172.70
<b>IMPERSONAL SERVICES:</b>											
Telephone and Telegraph ....	\$196.45	\$299.26	\$75.95	.....	.....	.....	.....	.....	.....	.....	.....
Miscellaneous .....	996.99	1,000.99	869.68	\$896.75	\$845.40	\$866.20	\$885.02	\$812.94	\$797.81	\$799.07	\$810.00
Total Impersonal Services	\$1,193.44	\$1,300.25	\$945.63	\$896.75	\$845.40	\$866.20	\$885.02	\$812.94	\$797.81	\$799.07	\$810.00
Grand Total Expended .....	\$58,709.90	\$57,471.50	\$54,817.58	\$55,108.29	\$54,376.01	\$54,858.71	\$55,185.01	\$61,178.88	\$60,330.65	\$58,301.37	\$58,264.76
Number of Personnel .....	23	26	26	26	26	26	26	26	26	26	26

\* Fiscal Year from July 1 to June 30.  
Source: Annual Budgets.

TABLE XII  
SUPREME COURT OF NEW JERSEY  
Expenditures 1931-1941 <sup>(a)</sup>

ITEM	1931	1932	1933	1934	1935	1936	1937	1938	1939	1940	1941
<b>SALARIES:</b>											
Chief Justice .....	\$19,000.00	\$19,000.00	\$16,701.45	\$19,000.00	\$19,000.00	\$19,000.00	\$19,000.00	\$19,000.00	\$19,000.00	\$19,000.00	\$19,000.00
Associate Justices (8) .....	144,000.00	143,453.23	142,472.63	144,000.00	144,000.00	144,000.00	144,000.00	143,372.72	144,000.00	144,000.00	143,500.58
Circuit Court Judges (14) ....	220,526.91	224,000.00	211,352.72	223,250.17	218,844.32	210,458.74	224,000.00	223,666.70	218,233.73	224,000.00	224,000.00
Assistants .....	2,000.00	2,000.00	2,000.00	1,874.86	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00	1,938.76	2,000.00
Board of Bar Examiners* ....	17,150.00	17,150.00	17,150.00	17,150.00	17,000.00	16,941.66	17,150.00	17,150.00	17,150.00	17,150.00	17,100.00
Secretaries to Supreme Court Justices** .....	16,000.00	15,989.25	16,442.38	18,000.00	18,000.00	18,000.00	18,000.00	17,817.26	18,000.00	18,000.00	17,944.52
Other Personal Services .....	332.96	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total Salaries .....	\$419,009.87	\$421,592.48	\$406,119.18	\$423,275.03	\$418,844.32	\$410,400.40	\$424,150.00	\$423,006.68	\$418,383.73	\$424,088.76	\$423,545.10
<b>MATERIALS AND SUPPLIES:</b>											
Stationery and Office Equip- ment .....	\$500.00	\$119.83	\$362.99	\$200.00	\$392.82	\$184.68	\$382.99	\$394.96	\$299.55	\$264.09	\$313.79
Office Equipment Replacement .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	201.14
Library Supplies .....	.....	.....	.....	.....	.....	.....	.....	.....	506.25	128.25	167.14
Total Supplies .....	\$500.00	\$119.83	\$362.99	\$200.00	\$392.82	\$184.68	\$382.99	\$394.96	\$805.80	\$392.34	\$682.07
<b>IMPERSONAL SERVICES:</b>											
Board of Bar Examiners' in- cluding Disbarment Proceed- ings .....	\$624.00	\$2,563.72	\$1,846.79	\$3,428.61	\$2,872.35	\$3,121.75	\$2,121.75	\$2,708.28	\$2,326.34	\$2,065.17	\$2,379.65
Miscellaneous Expenses .....	4,268.68	352.78	550.65	.....	.....	.....	.....	.....	.....	.....	.....
Total Impersonal Services .....	\$4,892.68	\$2,916.50	\$2,397.44	\$3,428.61	\$2,872.35	\$3,121.75	\$2,121.75	\$2,708.28	\$2,326.34	\$2,065.17	\$2,379.65
Grand Total Expended .....	\$424,402.55	\$424,628.81	\$408,879.61	\$426,903.64	\$422,109.49	\$413,706.58	\$426,654.74	\$426,109.92	\$421,515.87	\$426,546.27	\$426,606.82
Number of Personnel .....	33	39	40	40	40	40	40	40	40	40	40

\* Salary of three members, secretary, assistant secretary and messenger.

\*\* R. S. 2:4-13.

(a) Source: Annual Budgets. Fiscal year July 1 to June 30.

**TABLE XIII**  
**NEW JERSEY SUPREME COURT AND SUPREME COURT CLERK'S OFFICE**  
**Budget Appropriations, Expenditures, Receipts, and Litigation <sup>(a)</sup>**  
**(Fiscal Year—July 1 to June 30)**  
**1931-1941**

ITEM	1931	1932	1933	1934	1935	1936	1937	1938	1939	1940	1941
<b>Budget (Original Approp.):</b>											
Supreme Court .....	\$429,150.00	\$436,650.00	\$424,550.00	\$423,350.00	\$427,550.00	\$426,850.00	\$428,050.00	\$427,550.00	\$426,450.00	\$427,550.00	\$428,150.00
Clerk of Supreme Court .....	58,817.00	58,601.00	56,632.00	56,480.00	56,480.00	55,120.00	55,370.00	55,870.00	60,500.00	60,550.00	58,910.00
Total .....	\$487,967.00	\$495,251.00	\$481,182.00	\$479,830.00	\$484,030.00	\$481,970.00	\$483,420.00	\$483,420.00	\$486,950.00	\$488,100.00	\$487,060.00
<b>EXPENDITURES (Actual):</b>											
Supreme Court .....	\$424,402.55	\$424,628.81	\$408,879.61	\$426,903.64	\$422,109.49	\$413,706.58	\$426,654.74	\$426,109.92	\$421,515.87	\$426,546.27	\$426,606.82
Clerk of Supreme Court .....	58,709.90	57,471.50	54,817.58	55,108.29	54,376.01	54,858.71	55,185.01	61,178.88	60,330.65	58,301.37	58,264.76
Total .....	\$483,112.45	\$482,100.31	\$463,696.19	\$482,011.93	\$476,485.50	\$468,565.29	\$481,839.75	\$487,288.80	\$481,846.52	\$484,847.64	\$484,871.58
<b>RECEIPTS:*</b>											
Searches .....	\$14,499.53	\$12,245.64	\$10,012.41	\$7,200.66	\$8,576.90	\$7,308.40	\$6,589.39	\$5,563.22	\$4,851.10	\$4,153.73	\$4,220.92
Litigation and Copies .....	180,219.42	182,011.30	174,882.62	149,023.89	130,396.01	108,629.55	99,499.03	93,916.79	85,460.36	77,700.08	73,743.24
Bar Examination Fees .....	32,360.00	25,600.00	24,845.00	26,360.00	23,460.00	24,505.00	23,480.01	20,240.00	20,565.00	16,035.00	13,130.00
Total .....	\$227,078.95	\$219,856.94	\$209,740.03	\$182,584.55	\$162,432.91	\$140,442.95	\$129,568.42	\$119,720.01	\$110,876.46	\$97,888.81	\$81,094.16
DEFICIT .....	\$256,033.50	\$262,243.37	\$253,956.16	\$299,427.38	\$314,052.59	\$328,122.34	\$352,271.33	\$367,568.79	\$370,970.06	\$386,958.83	\$393,777.42
<b>PERSONNEL:</b>											
Supreme Court .....	33	39	40	40	40	40	40	40	40	40	40
Clerk of Supreme Court .....	23	26	26	26	26	26	26	26	26	26	26
<b>LITIGATION:</b>											
All Supreme Court Cases Filed	....	12,800	10,565	8,062	8,275	6,846	6,989	4,986	6,096	4,932	5,166
Supreme Court Cases at Law Listed for Trial .....	....	8,749	10,294	5,894	4,930	4,440	4,495	3,806	5,089	....	....
Circuit and Supreme Court Cases at Law Listed for Trial	....	13,748	12,506	7,376	6,022	5,517	5,805	4,742	5,879	....	....

(a) Source: Annual Budgets, Comptroller's Annual Reports, Case Dockets, Judicial Council Reports, and Clerk's Records.

\* Figures from 1931 to 1938 from Clerk's Records; figures from 1939 to 1941 from Annual Budgets.

# TABLE XIV

## NEW JERSEY SUPREME COURT

### Income, Expenditures and Deficits Per Case <sup>(a)</sup>

1932-1941

YEAR	NO. OF SUPREME COURT CASES FILED (b)	TOTAL EXPENDITURES (c)	AVERAGE NET EXPENDITURES PER CASE	SUPREME COURT INCOME	CIRCUIT COURT INCOME (d)	TOTAL INCOME	AVERAGE NET INCOME PER CASE	TOTAL DEFICIT	AVERAGE NET DEFICIT PER CASE
1932 .....	12,800	\$482,100	\$37.66	\$219,856	\$38,950	\$258,806.00	\$20.22	\$223,294	\$17.44
1933 .....	10,565	463,696	43.89	209,740	25,226	244,966.00	23.19	218,730	20.70
1934 .....	8,062	482,011	59.79	182,584	27,520	210,104.00	26.06	271,907	33.03
1935 .....	8,275	476,485	57.58	162,432	34,833	197,265.00	23.84	279,220	33.74
1936 .....	6,846	468,565	68.44	140,442	26,579	167,021.00	24.40	301,544	44.04
1937 .....	6,989	481,839	68.94	129,568	24,923	154,491.00	22.10	327,348	46.84
1938 .....	4,986	487,288	97.73	119,720	19,423	139,143.00	27.91	348,145	69.82
1939 .....	6,096	481,846	79.04	110,876	18,716	129,592.00	21.26	352,254	57.78
1940 .....	4,932	484,847	98.31	97,888	18,842	116,730.00	23.67	368,117	74.64
1941 .....	5,166	484,871	93.86	91,094	15,003	106,097.00	20.57	378,774	73.32

(a) Source: State Comptroller's Annual Reports, and Dockets.

(b) Includes cases at law, appeals, and various proceedings. See Table V.

(c) Includes Circuit Court Judges' salaries.

(d) Listed as "Judicial Fees" in State Comptroller's Annual Reports.

## CHAPTER IV

### NEW JERSEY PREROGATIVE COURT

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#### I. GENERAL BACKGROUND

##### *Structure and Organization*

The Judge of the Prerogative Court is the Chancellor who acts as the Ordinary or Surrogate-General while sitting in that court.<sup>1</sup> The Vice-Chancellors act as the Vice-Ordinaries of the court by reference of the Ordinary in a manner similar to that of the Court of Chancery. The Chancellors and the Vice-Chancellors receive no extra compensation for their duties on this Court.

The adjudications of this Court are reviewable by appeal to the Court of Errors and Appeals. There are no stated terms held, the Court being open throughout the year. The rules of the Prerogative Court and of the various Orphans' Courts are made and promulgated by the Ordinary.

The Clerk of the Court is the Secretary of State, who, when so acting, is known as the Register of the Court. The clerk's office is maintained in Trenton.

##### *Jurisdiction*

The Prerogative Court is a court of State-wide original probate jurisdiction which includes the probate of wills, the granting of letters of administration and guardianship, and the hearing and final determination of all disputes arising thereon, together with any matters involved in the settlement and administration of estates. It also exercises jurisdiction conferred by statute in various matters such as the hearing of appeals from determinations of the State Tax Commissioner in transfer inheritance tax cases.

The court has appellate jurisdiction from the orders and decrees of the Orphans' Courts and from certain adjudications of the Surrogates.

#### II. BUSINESS OF THE PREROGATIVE COURT

There has been no appreciable change in the volume of business in the Prerogative Court since 1939. Table I indicates the number of matters filed in that court from 1932 to 1941. In 1932 there were 190 matters filed which increased to 314 in 1939. The number of matters filed in 1939, 1940 and 1941 was 314, 308, and 297, respectively.

Table II is a breakdown of the matters handled in the Prerogative Court during 1940 and 1941. Of the 297 cases handled in 1941, 82 were for letters of administration ad prosequendum which are summarily granted in order to enable next of kin to bring action for wrongful death in the law courts; 63 matters involved exemplified copies of papers— a routine clerical job; 43 matters consisted of appeals from the Orphans' Courts and Surrogates; 43 were probate matters; 19 were administration matters; and 47 involved inheritance taxes. In other words, 145 matters (ad pros and exemplified copies) were more or less routine affairs. The work of the court does not appear to be too burdensome to be adequately disposed of by its personnel.

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<sup>1</sup> *New Jersey Constitution*, Article VI, Section IV.

### III. FINANCIAL ASPECTS

Inasmuch as the judicial personnel of the Prerogative Court is the same as that of the Court of Chancery, no separate enumeration of the expenditures of this court can be made. It should be noted that, similarly, it is difficult to segregate the expenditures of the office of the Secretary of State, who is the clerk of this court, from its total expenditures.

### IV. ADMINISTRATION

Rules 80 and 81 of the Rules of the Prerogative Court provide for references to the Vice-Ordinaries. Rule 80 indicates that motions and applications in the Prerogative Court, including applications for the probate of wills and for the granting of administration or guardianship, are referred to the Vice-Ordinaries without special reference. Rule 81 provides for special reference of the final hearing of causes in the Prerogative Court, including appeals from the Orphans' Courts, to the Vice-Ordinaries at the discretion of the Ordinary. As a practical matter, the clerk in the office of Secretary of State, who acts as clerk of the court, makes the designations to the various Vice-Ordinaries seriatim as the matters come in. No attempt is made by him to ascertain whether the Vice-Ordinary is overburdened with Chancery matters. No report is made by him for the Chancellor. The control of assignments is automatic and any change apparently must be based upon vociferous complaint of overburdening work by the Vice-Ordinaries to the Ordinary. This system of control is administratively poor.

There is a lack of co-ordination between the activities of this court and the Court of Chancery although the judicial personnel of both tribunals is the same. Assuming the desirability of retaining a separate Prerogative Court, of which there is serious doubt, it would seem more feasible to have the Clerk of the Chancery Court also handle the work of the Prerogative Court.

The same criticism concerning the lack of available compiled reports on the activity of this Court that was made concerning the other courts is appropriate here. Fortunately, the volume of business is small and the number of dockets few. Consequently, the compilation of information indicated in this report did not require excessive time.

### V. FINDINGS AND CONCLUSIONS

A survey of the Prerogative Court and the Clerk's office point to the following findings and conclusions:

1. There has been a slight decrease in the number of matters filed since 1939.
2. About 50% of the matters handled are routine.
3. No reports are compiled and furnished to the head of the court or the public.
4. The system of work assignment and control is inadequate.
5. There is poor co-ordination between the activities of this court and the Court of Chancery although the judicial personnel is the same.
6. The advisability of retaining a separate Prerogative Court is questionable.

TABLE I  
PREROGATIVE COURT OF NEW JERSEY  
Matters Filed in 1932-1941

YEAR	NO. OF MATTERS
1932 .....	190
1933 .....	188
1934 .....	219
1935 .....	243
1936 .....	258
1937 .....	280
1938 .....	249
1939 .....	314
1940 .....	308
1941 .....	297

TABLE II  
PREROGATIVE COURT OF NEW JERSEY  
Breakdown of Matters Handled, 1940-1941 (a)

YEAR	APPEALS	ADMINISTRATION		PROBATE	EXEMPLIFIED COPIES	INHERIT- ANCE TAX	TOTAL
		AD PROS.*	OTHERS				
1940 .....	39	90	30	44	45	60	308
1941 .....	43	82	19	43	63	47	297

\* Administrators ad prosequendum bring actions for wrongful death. Letters of administration for this purpose are summarily granted.  
(a) Source: Case Dockets.





