

APPENDIX B

*EXCERPTS, REPORT OF SPECIAL COMMITTEE ON MONETARY
JURISDICTION OF APPELLATE COURTS (January 21, 1957)**

As shown by the report of the Appellate Practice Committee published in the August 1956 issue of the *Journal of the Missouri Bar*, a special committee consisting of the undersigned members was appointed to consider and report its recommendations as to the following subject matters:

(1) The advisability of seeking a change of the monetary jurisdictional limits of the supreme court as fixed by Article V, Section 3, of the 1945 constitution for the purpose of equalizing, insofar as possible, the work load of the supreme court and the courts of appeals;

(2) The elimination of the present uncertainties of proper jurisdiction arising out of the phrase "amount in dispute" as used in the aforesaid section of the constitution; and

(3) Any other changes therein that might tend to clarify the other jurisdictional problems that arise under the present provision.

The annual reports of the Judicial Conference of Missouri from 1948 to June 16, 1956 were studied and analyzed. These reports deal with 11 items or categories of judicial work. While all of the categories have been considered, your committee believes that the portion of item 4 showing the cases disposed of with written opinions represents the most time consuming activity of the various appellate courts and furnishes the most reliable single guide to the proper distribution of the work load in our appellate courts.

The annual reports of the Judicial Conference for the past five years are probably more realistic of existing conditions and furnish the most dependable information for the purposes of this inquiry. The tabulations of these reports for the five years of 1952 through 1956 for each court are attached hereto as a reference for more detailed information. The supreme court report and those of the St. Louis, Kansas City and Springfield courts of appeals are identified as Exhibits A, B, C and D respectively.

These reports show the average number of cases disposed of by units of judicial personnel in the various appellate courts to be as follows:

	SUPREME COURT	ST. LOUIS CT. APP.	KANSAS CITY CT. APP.	SPRINGFIELD CT. APP.
Year ending 6-15-56				
Opinions written	288	119	61	72
Average per man	22.15	23.8	12.2	24.0
2-yr. period (1955-56)				
Opinions written	572	212	145	155
Average per man	22.0	21.2	14.5	25.83
3-yr. period (1954-56)				
Opinions written	870	358	229	189
Average per man	22.31	23.9	15.27	21.0
4-yr. period (1953-56)				
Opinions written	1145	465	300	247
Average per man	22.02	23.25	12.0	20.58
5-yr. period (1952-56)				
Opinions written	1464	577	365	290
Average per man	22.52	23.1	14.6	19.33

* On file with Missouri Bar Association, Jefferson City, Mo.

The above figures relating to the supreme court do not reflect other time consuming duties peculiar to the supreme court which cannot be readily or exactly evaluated in terms of opinions written. Item 7 of the Judicial Conference reports, for example, shows that the supreme court processes a great many more applications for "writs" than the various courts of appeals. This largely results from the constitutional grant of jurisdiction to the supreme court to issue and determine original remedial writs (Art. V, Sec. 4) such as applications for prohibition, mandamus and writs of habeas corpus, and also applications for transfers from the various courts of appeals. Art. V, Sec. 10.

The number of these writs processed in the accounting year 1956 was 157 and the average for the five year period is 146 per year. Many of these applications require the examination of extensive briefs and records as well as original investigation and research. They often differ from case assignments only in that a written opinion is not required. Because of the demands of administrative duties upon his time, no writs are ordinarily assigned to the chief justice. All writs are processed by the remaining six judges.

Because of the fact that no writs are assigned to the commissioners, the judges of the supreme court are given a credit of one case for writs and also one case for sitting in banc in the assignment of division cases. In other words, because of writ assignments and sitting in banc the seven judges each receive two less division cases than the commissioners at each session, a total of 14 per session. There are three sessions per year, so by this rule of thumb the writs processed equated in cases amount to 42 "opinions written" per year in the supreme court in addition to those shown in item 4 of the tabulations. This work, peculiar to the supreme court, equated in cases and distributed among the 13 judges and commissioners, would amount to 3.2 cases disposed of with opinion per man during each year in addition to the 22 plus case average shown in the supreme court tabulation. Each of the courts of appeals has some writ work, but it is not comparable in amount to that of the supreme court.

Also the supreme court has numerous other administrative duties, such as supervising the functions of the Board of Bar Examiners and the Advisory Committee of the Missouri Bar and establishing and revising rules of practice and procedure for all courts. For example, when the Criminal Rules were established two members of the court's judicial personnel were relieved of other duties for a considerable period of time and assigned to examining and preparing a report on these rules. A similar task with respect to the Civil Rules will be encountered in the near future. All this is in addition to the consideration and redrafting of individual rules as experience demonstrates the need of revision.

From the above computations, based upon the Judicial Conference reports, it appears that the work load of the various courts of appeals should be more nearly equalized as a preliminary step before consideration can be given to an increase in their monetary jurisdiction.

The statistical information is quite persuasive that eventually additional judicial personnel will have to be furnished to the St. Louis and Springfield Courts of Appeals. The figures indicate that these courts are working at or near effective capacity.

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We have also given consideration to Item 2 of the subject matter submitted to this committee, being the elimination of present uncertainties arising out of the phrase "amount in dispute" as used in the constitution. We realize that much effort is spent by the appellate judges in determining this jurisdictional question that might otherwise go into a consideration of the merits. Often the lack of jurisdiction is not disclosed until the court is well along the road to a disposition of the case on the merits.

The problem seems to inhere in such a jurisdictional provision and we have found no feasible plan to reduce the present uncertainties arising out of the phrase "amount in dispute." However, we recommend a continued study of the problem.

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January 21, 1957.

EXHIBIT A

CASES IN THE SUPREME COURT
FOR THE PERIOD FROM JUNE 16, 1951 TO JUNE 16, 1956

(Compiled from the Annual Reports
of the Judicial Conference of Missouri)

<i>For Period June 16 of preceding year to June 15 of</i>	1956	1955	1954	1953	1952
1. Cases pending June 16 of preceding year	304	302	301	309	324
2. Appeals and other cases filed during period	604	570	584	562	528
3. Total cases	908	872	885	871	852
4. Cases disposed of during period:					
With opinion	288	284	298	275	319
Without opinion	301	284	318	295	224
5. Total cases disposed of during period	589	568	616	570	543
6. Cases pending at end of period	319	304	269	301	309
7. Writs applied for	157	147	152	142	131
Number issued	36	33	38	12	27
Number denied	121	114	114	135	104
8. Motions for rehearing	123	107	114	103	134
Sustained	9	2	5	5	4
Overruled	114	105	108	102	123
9. Cases transferred					
From Division to Court en Banc	12	16	17	16	16
On order of Supreme Court					
from Court of Appeals	7	7	6	9	12
10. Other motions	347	298	321	313	306
Sustained	266	220	233	248	236
Overruled	46	54	50	33	35
11. Number of cases pending under submission	66	60	75	74	68

The annual reports for four additional years, going back to 1948, are available and have been examined. However, these previous years have not been reproduced above because of space limitations. It also appears that the five years shown above furnish more reliable information for present purposes.

The tabulation below deals with the cases disposed of by written opinions, Item 4 above, because that activity is the most time consuming and probably furnishes the best basis for comparison even though it does not portray the entire work load of the court.

Averages of cases disposed of by written opinion
by the Supreme Court (7 judges and 6 commissioners).

Opinions written during year ending 6-15-56	288
Average opinions per man during period	22.15
Opinions written during two year period (1955-56)	572
Average per man during period	44.0
Average per man per year	22.0

Opinions written during three year period (1954-56)	870
Average per man during period	66.92
Average per man per year	22.31
Opinions written during four year period (1953-56)	1145
Average per man during period	88.08
Average per man per year	22.02
Opinions written during five year period (1952-56)	1464
Average per man during period	112.61
Average per man per year	22.52

EXHIBIT B

CASES IN THE ST. LOUIS COURT OF APPEALS
FOR THE PERIOD FROM JUNE 16, 1951 TO JUNE 16, 1956

(Compiled from the Annual Reports
of the Judicial Conference of Missouri)

*For Period June 16 of preceding
year to June 15 of*

	1956	1955	1954	1953	1952
1. Cases pending June 16 of preceding year	185	161	200	172	182
2. Appeals and other cases filed during period	280	265	260	255	256
3. Total cases	465	426	460	427	438
4. Cases disposed of during period:					
With opinion	119	93	146	107	112
Without opinion	163	148	153	120	154
5. Total cases disposed of during period	282	241	299	227	266
6. Cases pending at end of period	183	185	161	200	172
7. Writs applied for	22	14	24	13	14
Number issued	9	10	17	7	5
Number denied	12	4	7	6	7
8. Motions for rehearing	57	44	81	59	59
Sustained	2	2	7	4	6
Overruled	54	41	73	50	41
9. Cases transferred to Sup. Ct.					
Lack of jurisdiction	8	9	7	4	8
Certification and on motion	4	6	2	3	7
10. Other motions	138	173	155	124	138
Sustained	113	143	125	100	117
Overruled	20	28	22	21	14
11. Number of cases pending under submission	29	38	29	55	37

The annual reports for four additional years, going back to 1948, are available and have been examined. However, these previous years have not been reproduced above because of space limitations. It also appears that the five years shown above furnish more reliable information for present purposes.

The tabulation below deals with the cases disposed of by written opinions, Item 4 above, because that activity is the most time consuming and probably furnishes the best basis for comparison even though it does not portray the entire work load of the court.

Averages of cases disposed of by written opinion by the
St. Louis Court of Appeals (3 judges and 2 commissioners).

Opinions written during year ending 6-15-56	119
Average opinions per man during period	23.8
Opinions written during two year period (1955-56)	212
Average per man during period	42.4
Average per man per year	21.2
Opinions written during three year period (1954-56)	358
Average per man during period	71.6
Average per man per year	23.9
Opinions written during four year period (1953-56)	465
Average per man during period	93.0
Average per man per year	23.25
Opinions written during five year period (1952-56)	577
Average per man during period	115.4
Average per man per year	23.1

EXHIBIT C

CASES IN THE KANSAS CITY COURT OF APPEALS
FOR THE PERIOD FROM JUNE 16, 1951 TO JUNE 16, 1956
(Compiled from the Annual Reports
of the Judicial Conference of Missouri)

<i>For Period June 16 of preceding year to June 15 of</i>	1956	1955	1954	1953	1952
1. Cases pending June 16 of preceding year	110	122	108	111	116
2. Appeals and other cases filed during period	155	164	199	155	166
3. Total cases	265	286	307	266	282
4. Cases disposed of during period:					
With opinion	61	84	84	71	65
Without opinion	94	92	101	87	106
5. Total cases disposed of during period	155	176	185	158	171
6. Cases pending at end of period	110	110	122	108	111
7. Writs applied for	17	9	10	11	19
Number issued	6	3	6	7	10
Number denied	8	6	3	4	9
8. Motions for rehearing	30	57	38	31	33
Sustained	1	4	0	1	2
Overruled	29	53	38	30	31
9. Cases transferred to Sup. Ct.:					
Lack of jurisdiction	3	1	3	4	4
Certification and on motion	2	1	2	2	0
10. Other motions	69	87	74	112	84
Sustained	42	76	61	101	44
Overruled	27	11	13	11	40
11. Number of cases pending under submission	17	12	16	11	7

The annual reports for four additional years, going back to 1948, are available and have been examined. However, these previous years have not been reproduced above because of space limitations. It also appears that the five years shown above furnish more reliable information for present purposes.

The tabulation below deals with the cases disposed of by written opinions, Item 4 above, because that activity is the most time consuming and probably furnishes the best basis for comparison even though it does not portray the entire work load of the court.

Averages of cases disposed of by written opinion by the
Kansas City Court of Appeals (3 judges and 2 commissioners).

Opinions written during year ending 6-15-56	61
Average opinions per man during period	12.2
Opinions written during two year period (1955-56)	145
Average per man during period	29.0
Average per man per year	14.5
Opinions written during three year period (1954-56)	229
Average per man during period	45.8
Average per man per year	15.27
Opinions written during four year period (1953-56)	300
Average per man during period	60.0
Average per man per year	12.0
Opinions written during five year period (1952-56)	365
Average per man during period	73.0
Average per man per year	14.6

EXHIBIT D

CASES IN THE SPRINGFIELD COURT OF APPEALS
FOR THE PERIOD FROM JUNE 16, 1951 TO JUNE 16, 1956

(Compiled from the Annual Reports
of the Judicial Conference of Missouri)

<i>For Period June 16 of preceding year to June 15 of</i>	1956	1955	1954	1953	1952
1. Cases pending June 16 of preceding year	89	97	53	59	30
2. Appeals and other cases filed during period	96	112	113	100	100
3. Total cases	185	209	166	159	130
4. Cases disposed of during period:					
With opinion	72	83	34	58	43
Without opinion	46	37	35	48	28
5. Total cases disposed of during period	118	120	69	106	71
6. Cases pending at end of period	67	89	97	53	59
7. Writs applied for	3	5	11	8	3
Number issued	1	4	8	5	3
Number denied	2	1	3	3	0

	1956	1955	1954	1953	1952
8. Motions for rehearing	14	23	13	30	22
Sustained	2	0	0	2	1
Overruled	12	22	12	28	21
9. Cases transferred to Sup. Ct.:					
Lack of jurisdiction	2	2	3	1	1
Certification and on motion	2	3	4	4	2
10. Other motions	25	33	30	25	22
Sustained	15	18	18	13	10
Overruled	10	15	12	12	12
11. Number of cases pending under submission	10	21	29	0	6

The annual reports for four additional years, going back to 1948, are available and have been examined. However, these previous years have not been reproduced above because of space limitations. It also appears that the five years shown above furnish more reliable information for present purposes.

The tabulation below deals with the cases disposed of by written opinions, Item 4 above, because that activity is the most time consuming and probably furnishes the best basis for comparison even though it does not portray the entire work load of the court.

Averages of cases disposed of by written opinion
by the Springfield Court of Appeals (3 judges).

Opinions written during year ending 6-15-56	72
Average opinions per man during period	24.0
Opinions written during two year period (1955-56)	155
Average per man during period	51.66
Average per man per year	25.83
Opinions written during three year period (1954-56)	189
Average per man during period	63.0
Average per man per year	21.0
Opinions written during four year period (1953-56)	247
Average per man during period	82.33
Average per man per year	20.58
Opinions written during five year period (1952-56)	290
Average per man during period	96.66
Average per man per year	19.33