FACT RESEARCH IN LAW ADMINISTRATION

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INTRODUCTION

One of the most important recent developments in the field of the law is the greater emphasis now being placed upon the effect of legal rules as instruments of social control of much wider import than merely as determinants of narrow disputes between individual litigants. The ultimate results upon the community of the adoption of certain legal principles rather than others has been but imperfectly understood. Definite data have been lacking as to what business and social habits, practices and customs were actually in vogue and as to their interrelation with current legal rules. In default of such definite information, the courts have at times taken the opinion of experts, have at other times used supposedly learned authorities under the application of the doctrine of judicial notice, but have perhaps more often made deductions based upon their own experiences and beliefs. Such deductions are at best of somewhat questionable value, since they are necessarily based upon knowledge of a limited kind. Often, however, they seem distinctly harmful, for they tend to assume as settled fact something which is either unproven, or at times even presumptively untrue. The protests aroused by some of the judicial opinions on the constitutionality of humanitarian legislation indicate a modern attitude in its refusal to accept as final the dictum of a court on disputed social questions. Judges themselves who have probed the manner and method of judicial decisions have expressed similar questionings. Some of the law schools are making definite overtures in the direction of the social scientists in the hope of help from that quarter. In fact, this need as felt in the law for more adequate social data as to the administration of justice is but part of a general movement in the social sciences to substitute for the vague generalizations of the older economists and philosophers concrete information based on adequate statistical information. To a certain extent it has its counterpart in modern business,

which no longer expects to operate successfully without adequate information of its operations through modern cost accounting and statistical systems.

In spite of this need for more and better information, very little actual research has been attempted by lawyers or law schools. The task is extraordinarily difficult. No adequate technique for it has been developed. Just what is to be examined or how is not clear. In a few quarters an attempt at experimentation is now under way. This paper is a description of one such plan of investigation in the actual operation of our trial courts as shown by the files and records of the cases considered by them.

RESEARCH IN THE FIELD OF COMPLETED COURT CASES

It is believed, and experience so far shows, that this, although almost a virgin field to the social scientist, is one of the most fruitful for this type of investigation. Here are the actual records of the daily and yearly grist of cases passed on by the courts. They are case documents concerning details of some of the most vital problems affecting the lives of the participants; records automatically brought forward by the ordinary court processes and in no way selected or colored by the predilictions of the investigator.

These records are capable of use for at least two important purposes. They may be used to illustrate and to test the efficacy of our rules of procedure and our general methods of administering justice. And they may be used, second, as starting points for the further detail investigation of social problems of many and varied kinds. Thus in the material described below there is information of value on both points. It will be seen that there is material bearing upon the efficacy of trial by jury, indicating for example that in such trials the defendant appears to have a much greater chance of success, and that appeals are, relatively speaking, many times more numerous than in trials to the court. The effect of the harsh remedy of attachment, whereby the defendant's property may be taken at the beginning of the suit to be held to answer to an ultimate judgment, if granted, is brought out apparently justifying the inference that excessive attachments are not unusual. The delays consequent upon the trial of a litigated case, and the limited usefulness of demurrers, motions to correct, and other familiar pleading instrumentalities are also suggested.

In addition to this type of data, we find figures of great importance to students of the divorce problem. In the jurisdiction studied, divorce is not thought to be easily obtainable. The judges take the position, which is well settled in their jurisprudence, that the state is interested in conserving the marriage relation and it is their duty to protect the interests of the state in this regard. Yet we see that out of 1554 uncontested divorces going to final judgment in the period considered, the decree was denied in only 28 cases. In spite of the stated rule of law, divorce seems actually obtainable, in cases not contested by the other party but pressed to judgment, over ninety-eight times out of a possible one hundred. Where the defendant contests the case, the ratio, of course, changes, but even there the chances of success are over three out of four, (266 granted, 84 denied).

Again in the case of negligence actions involving traffic —the automobile injury cases—we find a large number (1352) of cases brought compared to the total of all litigation; about one-quarter, if the uncontested divorce and foreclosure and change of name cases are excluded (5350). Of these cases, however, 887 are withdrawn or settled by stipulation and 231 are discontinued or defaulted. Almost 85 per cent of these cases would, therefore, seem to be cases where the parties use the court machinery to spar for position in order to effect a compromise. Again the large proportion of contract and foreclosure cases (1270, 1443; total 2713) so many disposed of without a contested trial (at least 2511) indicate the important function of the court as a debt collecting agency. This might present the question whether for the somewhat limited requirements of this class of cases the court processes are the most effective and the least expensive possible. For example there might be suggested a consideration of the desirability of enacting the Uniform Mortgage Act (recommended by the Commissioners on Uniform State Laws last year) whereby foreclosure by the court, or court action in foreclosure cases, is not necessary unless required by one of the parties.

To the investigators a part of the fascination of the work has been the many uses to which the information may be adapted. New possibilities are constantly occurring. We should be glad of any suggestions along these lines from readers of these pages.

AN EXPERIMENT IN SUCH RESEARCH

The investigation here described is one undertaken by the Yale Law School at the beginning of the school year 1927-28 as a part of a program of research in the field of law administration. It was made possible through the interest of President Angell and the Yale Corporation, by whom four research assistants were added to the staff of the school. These people have been carrying on the investigation under the direction of a committee of the faculty.[1] The work has already brought forth much favorable comment. In view of this and of the valuable information already secured after only five months' work, the following report is presented, even though it must necessarily be incomplete and partial only. It represents the figures compiled and classified up to March 1st, 1928.

The inauguration and initial development of the work was exceedingly difficult. We found nothing in the way of a guide and were therefore forced to work out our own plans and methods. In fact we know of no exactly similar project, covering civil causes. We desired to perfect a plan which would permit of the comparison of the course of law administration in different states and jurisdictions, even in different countries, if means of continuing the project should be available. So a large part of the time has been spent in organizing a system of procedure, in developing work sheets, and in planning tables to picture the results obtained. By the end of this school year, however, statistics will have been gathered covering the civil cases tried in the Superior Courts and Courts of Common Pleas, both general trial courts, and some of the City Courts, of Connecticut, over a two year period. These will not, however, be classified and available for publication until next fall.

THE FIELD COVERED BY THE PRESENT STATISTICS

The figures referred to hereinafter cover all the cases completed by final judgment, withdrawal or discontinuance, or in any manner, during the years 1925 and 1926 in the Superior Courts of new Haven County (at New Haven and Waterbury) and Fairfield County, and for one year only

[1] The research assistants are Miss Ruth A. Yerion, Mr. J. Joseph Smith, Mr. Aaron Nassau and Mr. Warner B. Fuller. The faculty committee is composed of Professors Green, Dodd and Hutchins, with the writer as chairman.

for Hartford County.[2] The superior courts have jurisdiction of all cases in law and equity where the amount in demand is $500 or more, and of various special matters, such as divorce and matrimonial litigation, appeals from probate, from the Workmen's Compensation Commissioner and from city boards and other administrative bodies, and so on. As to ordinary cases in law and equity, they have concurrent jurisdiction in the counties named with courts of common pleas where the matter in demand does not exceed $2,000. Beyond this their jurisdiction is exclusive (except in Waterbury where the Court of Common Pleas has unlimited jurisdiction). The counties covered are the most populous in the state, numbering according to the census of 1920, 1,072,177 people out of a total population of the state of 1,380,631. Included therein are the larger cities of New Haven, Bridgeport, Hartford, Waterbury, New Britain, Meriden and Stamford. It is a highly industrialized district including many world famous factories, and, in Hartford, some of the greatest insurance companies.

In addition the figures cover the Federal District Court for the District of Connecticut for a period of three years. Here comparison with the State courts is somewhat difficult, due to the complexities of many of the federal cases, and the comparatively few cases of a type similar to those considered in the State courts. It would seem, however, that the comparatively simple code procedure of Connecticut has not, however, been successfully transferred to the federal court, even in actions at law where the Conformity Act should govern.

DIFFICULTIES OCCASIONED BY THE COURT FILING SYSTEMS

The difficulties of investigation were greatly increased by the diversities in keeping the court records found in the various clerk's offices. The present figures were collected from the offices of four different clerks, where there were in effect four different systems. This is the more striking since only a single court is involved, and, because of the fact that the superior court judges go on circuit duty about the State, a court where the judges are interchanged. The difficulties were accentuated by the use in all the offices of a filing system with the papers folded, and tied with a

2 Due to divergencies in the methods of keeping records followed by the clerks of courts, the year covered in Hartford County is September, 1925 to September, 1926. The addition of another year in that county will add between 1500 and 1600 more cases but will not appreciably change the relative figures.

ribbon where numerous, instead of the modern flat filing system. But some file their cases according to the year when completed, some according to the original numbers of the case, some according to the manner of termination of the case, and so on. A few comparatively simple changes resulting in a uniform system would reduce the labor of collecting data of this kind very much. We found the clerks uniformly courteous and helpful and greatly interested in the work. Many work under great difficulties of space and equipment. They would undoubtedly be relieved by the installation of improved and uniform filing systems.

It is surprising that so few official statistics are required by the state itself. It is an indication that practices which other businesses find indispensable have yet to make themselves fully felt in governmental business. In view of the interest of the clerks in the investigation, it may be hoped that means may be found of providing for such reports.

A GENERAL VIEW OF THE LITIGATION

Table "A" herewith gives the cases reaching final termination during the period investigated together with the manner of their disposition. [Table "A" herein referred to is printed on pages 330 and 331.]

TABLE "A"

CASES TRIED AND DISPOSITION

Superior Courts of Connecticut for New Haven County at New Haven and Waterbury, Fairfield County at Bridgeport for the years 1925-1926, and Hartford County at Hartford for the year 1926.

TYPE OF ACTION	No. of Cases Br'o't	No. of Judgments for Pltf.	No. of Judgments for Def.	No. of Cases Withdrawn	No. of Cases Discontinued	No. of Cases Defaulted	No. of Stipulations for Judgment	No. Where Amount Recovered $2000 or Less	No. Where Amount Recovered over $2000	No. of Cases Where Jury Claimed	No. of Cases Where Jury Had	No. of Cases Appealed
Divorce Uncontested	2016	1526	28	121	341	0	0	0	0	0	0	0
Divorce Contested	478	266	84	48	80	0	0	0	0	0	0	2
Negligence Traffic	1325	197	88	828	212	19	59	117	74	794	141	43
Negligence Non-Traffic	279	35	48	136	60	1	11	22	7	147	38	18
Foreclosure Uncontested	1263	911	1	171	180	0	121	0	0	5	1	0
Foreclosure Contested	180	98	3	46	33	0	22	0	1	2	0	6
Contract, Breach and Debt	1270	327	58	432	453	117	63	162	141	191	47	41
Contract, Specific Performance	68	10	9	24	25	0	0	0	0	2	0	4
Real Property, Equitable Remedy and Injunction	489	272	16	96	105	59	13	6	6	28	0	14
Real Property Other	46	8	5	13	20	0	0	5	1	10	3	4
Receivership, Corporation, Partnership and Accounting	99	57	2	18	22	1	0	3	0	3	0	1

Appeal—Probate	121	18	17	64	22	0	5	1	1	42	10	2
Appeal, Compensation Comm'r.	97	13	38	23	23	1	1	0	0	0	0	20
Appeal, Other Tribunals	174	36	9	102	27	0	32	1	0	0	0	4
Annulment of Marriage	44	22	8	5	9	7	0	0	0	0	0	0
Alienation of Affections	43	1	4	22	16	0	0	0	1	11	1	0
Support	45	7	1	10	27	2	1	0	1	0	0	0
Breach of Promise	11	3	0	6	2	0	0	4	0	11	7	0
Fraud	76	10	8	33	25	0	1	2	3	24	7	7
Mandamus and Special Proceedings	61	19	17	3	22	0	0	0	0	0	0	6
Name—Change of	110	101	3	0	6	0	0	0	0	0	0	0
Assault, Battery, etc.	90	18	11	21	40	2	2	12	5	38	11	1
Slander and Libel	55	3	4	23	25	0	0	3	1	20	6	3
Personal Property Replevin and Conversion	85	16	4	38	27	4	5	5	2	11	0	2
Construction of Wills	17	15	1	0	1	1	2	0	0	0	0	8
Declaratory Judgment	17	9	3	3	2	0	0	0	0	1	0	0
Miscellaneous	186	49	23	36	78	0	9	4	8	10	1	8
Totals	8745	4047	413	2322	1883	214	347	347	252	1350	273	194

Some explanation of the table may be made. The division into types of action is, of course, arbitrarily made by the investigators, since forms of action have been abolished. Divisions along other lines were possible but these were settled on, at least temporarily, as the most suggestive. The uncontested divorces are those where the defendant does not appear and file an answer. In many of the contested divorces—where an answer is filed—there is actually nothing more than a formal contest, or a dispute over other matters such as the custody of children, or a grant of alimony. The "negligence-traffic" cases include all cases for damages for injury to personal property arising on the highway, i. e. automobile and trolley car accident cases. The remaining negligence cases are included in the next subdivision. Uncontested foreclosures are those in which no answer is filed or the case is settled by stipulation. Even in the foreclosures listed as contested, the defense may often have been purely formal.

Nearly one-half the contract cases were brought under a statutory form of complaint known as the "common counts" and used only to recover debts or sums substantially liquidated. A large proportion of the remaining cases are likewise brought to recover debts. Probably over three-fourths of these contract cases are therefore collection cases.

The total number of cases brought does not include formal statements filed in the court and not furnishing any actual business, such as layouts of highways and certificates of dissolution of corporations. Nor does it include eight cases transferred to other courts. When cases of the additional year for Hartford County are added, the total cases will number over 10,000. The default judgments and the judgments by stipulation are also included in the judgments for plaintiffs. Deducting these leaves 3,486 judgments for plaintiffs. Adding to this the judgments for defendants and deducting the judgments in the uncontested divorce and foreclosure and change of name cases leaves 1,403 as a possible maximum of contested cases. On this basis judgments for plaintiffs in such cases number nearly three times the judgments for defendants.

The "withdrawn" cases are those terminated by a formal withdrawal; the discontinued cases are those ordered discontinued by the court. Each spring the docket is called by the presiding judge and cases more than one year old are discontinued unless it appears that they will furnish business for the court. Withdrawn cases are there-

fore for the most part cases settled by the parties; discontinued cases would include both cases settled where the formal withdrawal was not filed, and cases which the plaintiff failed to prosecute.

The comparatively small number of jury trials is referred to below. The number of appeals to the Supreme Court of Errors is perhaps not high (183 appeals; 11 reservations; 194). Sixty-one such appeals are in the negligence cases. The reservations are cases reserved for the advice of the Supreme Court on questions of law, without formal decision in the trial court.

LITIGATION IN THE FEDERAL COURT

A summary of the business in the federal court shows quite a different type of cases.

TABLE "AA"

CASES TRIED AND DISPOSITION; U. S. FEDERAL COURT FOR THE DISTRICT OF CONNECTICUT; JANUARY, 1925—DECEMBER, 1927

	No. of Cases	Judgments	Withdrawn	Discontinued
Law	90	28	56	6
Law (Forfeiture)	207	188	13	7
Law (Admirality)	66	28	35	3
Law (Habeas corpus)	14			
Law (Miscellaneous)	11			
Equity	30	15	15	
Equity (Patent)	57			
Equity (Receiverships)	43			
Equity (Naturalization)	58			

The above table covers a three year period. The largest group of cases is that of proceedings for forfeiture of property on behalf of the government. Of the 90 cases at law, 24 were negligence cases, 19 for breach of contract and 27 for debt or quasi-contract, including suits to recover overpaid taxes and suits by the government to recover on bonds. There were 18 judgments for plaintiffs and 10 judgments for defendants, 7 jury trials being had.

TIME CONSUMED IN DISPOSING OF LITIGATED CASES

The following table shows the length of time consumed by the various cases which went to judgment, before judgment was entered.

TABLE "B"

TIME TO JUDGMENT OF CASES IN THE SUPERIOR COURTS OF CONNECTICUT AS IN TABLE A

Type of Action	To 1 month	To 2 months	To 3 months	To 4 months	To 5 months	To 6 months	To 9 months	To 1 Year	To 1 1-2 Years	To 2 Years	To 3 Years	Over 3 Years
Divorce Uncontested	6	10	356	377	261	169	238	60	54	20	7	2
Foreclosures Uncontested	604	135	43	35	30	29	20	10	9	3	4	0
Change of Name	93	12	5	0	2	0	0	0	0	0	0	0
Contract	33	25	10	13	14	13	35	34	46	21	29	19
Negligence	13	12	16	29	19	20	62	35	67	22	15	14
All others	277	98	112	86	69	67	143	127	108	43	15	28
Totals	1026	292	542	540	395	298	498	266	284	109	70	63

The large number of uncontested foreclosures disposed of almost at once may be noted. With the uncontested divorce actions, many decrees are granted shortly after three months: this is explained by the rule that where notice is only by publication and the defendant does not appear, the case must remain on the docket for 90 days. The figures in the negligence cases are most illuminating, for these include some of the most contentious business. The large number of such cases disposed of from 6 to 18 months after action brought and the many after one year indicate that such amount of delay may be expected in many cases. (Uncontested foreclosures from Waterbury were not available for this table.)

Many cases are withdrawn during the first month or two after being returned to court. These indicate that compromise or settlement has been reached. Cases discontinued by the court on the other hand are by rule at least one year old; they may have been settled some time before, or it may be that the plaintiff has simply failed to press the case. Withdrawn and discontinued cases have, therefore, been omitted from this table.

Due to the few cases in the Federal Court, no definite conclusions as to the time consumed in litigation in that court are perhaps permissible. The cases in question seem to have taken a relatively longer time than as disclosed by the above table for the state courts.

THE USE OF THE JURY

The figures given above in Table A indicate that the jury is not excessively used in Connecticut. They indicate that the jury is claimed in about one-sixth (1,350) of the total cases brought and had in about one-fifth (273) of the cases where claimed (due presumably to the settlement or withdrawal of many cases). But in a great many of these cases a jury trial may not be had as of right. An estimate from the type of action of the number of cases brought where jury trial might have been claimed indicates a total of about 3,317 cases.

The following table indicates the use of the jury:

TABLE "C"

COMPARISON OF JURY AND COURT CASES GOING TO JUDGMENT, SUPERIOR COURTS OF CONNECTICUT, AS IN TABLE "A"

	Cases Tried	Judgments for Plaintiff	Judgments for Defendant	Appeals (Excluding Reservations)	Negligence Cases	Same, Judgments for Plaintiff	Same, Judgments for Defendant	Same, Appeals	Contract Cases	Same, Judgments for Plaintiff	Same, Judgments for Defendant	Same, Appeals
With Jury	232	137	95	61	157	94	63	34	37	24	13	16
Without Jury	1495	1139	356	122	173	105	68	24	252	209	43	22
Totals	1727	1276	451	183	330	199	131	58	289	233	56	38

Additional cases with jury (disagreements, new trials, withdrawals, etc.) 41; cases tried as above, 232; total, 273.

Cases tried in which jury trial might have been claimed, approximately 600.

The above figures are of value both as to the use made of the jury and as to its relative effectiveness. The item "Cases Tried" is exclusive of the uncontested divorce, foreclosure and change of name cases. The figures do not include judgments upon motion and hence vary somewhat from those in Table A. It appears, therefore, that jury trials are had in about 13 per cent of the cases and in about 38 per cent of such cases where they could have been claimed. Yet 27 per cent of the jury cases are appealed, as against slightly over 8 per cent of the court cases. Of the appeals in jury cases, 56 per cent are in the negligence cases. Judgments for defendants are given in approximately 41 per cent of the cases tried to the jury, as compared to 23 per cent in cases tried to the court; or if the additional figure of 41 disagreements, new trials, etc., is added, the results in the jury cases are judgments for plaintiffs, 50 per cent; for defendants, 35 per cent; disagreements, etc., 15 per cent.

From figures of the clerks we have learned that the actual jury trials were from two to three times as long, as the same number of court trials. The figures suggest, therefore, the more expensive and time consuming form of trial as leading to the less certain results; results more likely to be attacked on appeal.

The small number of jury trials and the large number of jury-waived cases is remarkable when compared with figures from a State like New York. Comparative figures would seem to indicate that rules of form as to the waiving of jury trial may affect the result to a very considerable extent. In Connecticut the English practice is followed that a jury trial is waived, unless affirmatively claimed in writing by one of the parties within a stated period. Inertia of counsel leads inevitably to a court trial. In New York perhaps the more usual rule in this country has been followed that a jury trial is not waived by an appearing party in general except by some affirmative act, such as a written waiver.[3] The jury case automatically goes on the jury calendar. But in the First Department in New York City the pressure of jury cases has been ever increasing. At the end of 1926 there were on the General Term Calendar nearly thirty thousand jury cases, an increase of nearly four thousand that year. The court was almost two years behind the calendar. These conditions did not obtain with respect to the court cases. When the Civil Practice Act was

[3] The statutes are classified in a book on Code Pleading by the writer hereof to be published by the West Publishing Company in July, 1928.

adopted in 1920, there had been support for a change in the rule of jury waiver and it was recommended by the Board of Statutory Consolidation, authorized to recommend a new practice code. But the legislature did not adopt this recommendation. In 1927, however, upon report of the Special Calendar Committee in the First Department, it did change the law for New York and Bronx counties, so that since May 1, 1927 an affirmative demand for jury trial must be filed and served.[4] The calendar fee was also increased from $3.00 to $20.00 and a jury fee of $12.00, payable on making the claim, was imposed. The effect of this change is striking as shown by the following figures. During the year preceding May 1st, 1927, 20,282 causes were placed upon the calendar, all of which were entitled to trial by jury. During that period, 11,951 cases were disposed of by trial, settlement, dismissal, etc. Of these 3,925 were disposed of by actual trial or inquest and out of these only 174 were tried without a jury, the right being waived. From May 1st, 1927 to March 1st, 1928, 4,380 causes were added to the calendar, (a decrease of 11,092, or about 72 per cent from the corresponding period of the previous year). Of these 3,111 or approximately 71 per cent were cases of jury trial claimed by making the necessary affirmative demand and 1,269 or approximately 29 per cent of waiver by failure to do so.[5] Very likely this latter figure will be increased when the time of actual trial arrives. Further study of the operation of these rules in New York and Connecticut and elsewhere would seem to be profitable.

THE USE OF ATTACHMENTS

Connecticut is one of the few states where attachment of the property of the defendant, to answer to a claim money judgment, can be had practically as a matter of course at the institution of suit. Such attachment is made by a sheriff upon writ signed by a commissioner of the superior court. Since all attorneys at law are commissioners, in practice the attachment is ordered by the plaintiff's counsel in such amount as he sees fit. The only remedies of the defendant for an excessive or illegal attachment are

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4 See amendment of 1927 to N. Y. C. P. A. sec. 426; Report of the Special Calendar Committee appointed by the Appellate Division, Supreme Court, First Dept., made June 20, 1927.

5 We are indebted to Hon. Edwin M. Coe, Trial Term Calendar Clerk, for these figures. See also Hon. Charles H. Tuttle, Reforms in Federal Procedure, 14 A. B. A. Jour. 37, 41 (1928).

application to a judge for reduction or release of attachment and a possible claim for damages for malicious abuse of process where that can be proven. The plaintiff's counsel may perhaps be subjected to disciplinary proceedings. And the defendant may also substitute a bond if he can procure one with a responsible surety. Undoubtedly this drastic remedy proves efficacious in collection matters where the defendant has property.

The following table shows the use of this remedy and a comparison between the attachments as ordered and the judgments as recovered.

TABLE "D"

THE USE OF ATTACHMENTS
SUPERIOR COURTS OF CONNECTICUT, AS IN TABLE "A"

TOTAL CASES	No. of Cases Attachments Ordered	No. of Cases Attachments Had	Attachments Had and no Money Recovery	Attachments Had and Cases Discontinued or Withdrawn	Difference Between Amount Recovered and Attachment made						
					$1 to $100	$100 to $200	$200 to $500	$500 to $1000	$1000 to $2000	$2000 to $5000	Over $5000
8,461	2,627	1,607	132	1,082	12	10	59	61	60	64	68

The large number of cases where the attachments seem grossly excessive will be noted. The actual value of the property attached in each case cannot be stated, since the sheriff simply makes return to the fact of making the attachment and does not pass upon the effectiveness of his act. A few cases from the early part of the year 1925 from Hartford and the cases from Waterbury have not been available for this table.)

Outside of the matters here stated no judgment upon the Connecticut law of attachment is here attempted.

THE USE OF DEMURRERS, PLEAS AND MOTIONS TO CORRECT

In Connecticut the code reform of procedure became effective January 1st, 1880. The code was largely the work of the late Simeon E. Baldwin, and being drafted at a comparatively late date, incorporates many of the best features of the English practice and avoided some of the pitfalls of the usual code procedure. Among other matters, the incorporation in the practice act of many simple suggested forms of pleading served to furnish the bar with models which they could follow. The Connecticut practice act has proven one of the most successful in this country.[6]

This seems to be borne out by the following table, which does not indicate an excessively large number of decisions on purely procedural points.

[6] See Ch. I of the writer's book on Code Pleading, n. 3 *supra*.

TABLE "E"

USE OF DEMURRERS, PLEAS AND MOTIONS

Superior Courts of Connecticut as in Table A

TYPE OF PLEADING	No. Filed	No. Sustained	No. Overruled	Judgments next after ruling	Appeals following	Withdrawn or Discontinued after ruling	Re-pleading after ruling	Re-pleading without ruling	Withdrawn or discontinued without ruling
Demurrers	363	109	142	25	4	76	155	59	52
Pleas in Abatement or to the Jurisdiction	85	12	17	6	2	9	14	34	22
Motions for a more specific Statement	450	150	44	5		30	123	137	71
Motions to Expunge, Erase, Strike or Quash	107	38	44	2		27	36	11	14
Totals	1005	309	247	38	6	142	328	241	159

It may seem from this table that these famous pleading instruments, though they may prove effective in isolated cases, have little effect in the great bulk of the cases. Where employed, they seem to affect the course of the case very little, except somewhat to delay it. The most usual course seems to be a repleading, either after or without waiting for a decision of the court. (The item "Repleading without Ruling" is actually larger than as shown here; repleadings by the *same* party were not available from New Haven).

In Connecticut, unlike most code jurisdictions the plea in abatement or to the jurisdiction is retained. The yet more modern tendency is even to abolish the demurrer. It would seem a proper question for further consideration whether the comparatively little aid towards a solution of the case afforded by these forms of pleading justifies their retention in view of the fact that they can be successively used by a single perverse and obstinate litigant. There is a high number of duplications of these pleadings in a single case. In New Haven, for example, there were 59 duplications in 33 cases in one year; occasionally as many as 8 of these pleadings occurred in a single case. In Hartford County for the year involved there were 154 such pleadings filed in 115 cases, of which duplications, ranging from two to four in number occurred in 32 cases having a total of 71 such pleadings. At the present time the total number of duplications for the three counties is not available, but it seems apparent that they occur in one-quarter to one-third of the cases where such pleadings appear at all. It is clear therefore that a resort to these devices successively by a single litigant is not unusual. The possible gain may seem not worth the opportunity afforded for such dilatory tactics.[7]

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[7] A table now being compiled indicates strikingly how the rules may afford opportunity for delay. The rules of court provide that a motion must be filed within 15 days after the return day of the writ, and a demurrer or answer within 20 days, but by statute, Acts of 1923, ch. 123, no penalty may be imposed except for violation of an order of court entered after notice and a hearing. Hence a defendant may delay filing his pleading until the court orders him to plead. In the years 1925 and 1926 in the Superior Court at New Haven answering pleadings (answer, motions or demurrers) were filed in 1281 cases as follows: within 20 days in 353 cases (27.6%); within 45 days, in 403 more (31.5%); within 3 months in 226 more (17.6%); and after 3 months in the remaining 299 cases (23.3%). Corresponding figures for the Court of Common Pleas at New Haven were: total cases 1408; answering pleading filed within 20 days in 308 cases (21.9%); within 45 days in 312 more (22.2%); within 3 months in 372 more (26.4%), and after 3 months in 372 more (26.4%); and after 3 months in the remaining 416 cases (29.5%).

The relatively few cases in the Federal Court may make it again unfair to attempt deductions as to the use of demurrers, pleas and motions in that court. Here, also, the use seems relatively much in excess of that in the state courts.

A PROGRAM FOR FUTURE RESEARCH

The present plan of the school is to continue the investigation here undertaken, extended to other jurisdictions, for a period of five years. This period should be sufficient to permit of the acquiring of important comparative data from several jurisdictions, and of a determination whether the work should be indefinitely continued.

It is proposed next year to extend our investigations to a study of the records of criminal cases and to extend and complete the investigation of civil causes in Connecticut. A beginning will be made in acquiring similar figures from other states, probably first from New York and Massachusetts. Later the investigation will be extended to still other jurisdictions, perhaps those with somewhat different forms of procedure from our own, in order to afford a proper standard of comparison. It would seem especially desirable to acquire such data from England and from the continental countries, such as France and Germany, which have quite different methods of law administration. It is felt that the limits of possible investigation of this kind are only set by the capacities of the investigators. Thus it may be possible eventually to go behind the court records and to trace somewhat the potential law suits which never come into court. Possibly other institutions may be able to institute like investigations. This is much to be desired, for the more data available for comparison the more accurate will be the results.