

LEGISLATION

ARBITRATION AND AWARD—STUDY PREDICTS EFFECTS OF INCREASE IN JURISDICTIONAL AMOUNT OF COMPULSORY ARBITRATION

Compulsory arbitration of small claims, instituted in Pennsylvania in 1951,¹ has disposed of more than 41,000 cases in Philadelphia County alone in the past seven years.² The essence of this system is a local-option statute³ authorizing each county to require that a board of arbitrators, composed of members of the bar,⁴ constitute the initial tribunal for trial of all civil actions involving less than 2,000 dollars and not involving title to real estate.⁵ Trial de novo to a jury is still available to either party after arbitration, but only upon payment of the arbitration fees (currently eighty-five dollars in Philadelphia County⁶) or fifty per cent of the recovery sought, whichever is lower.⁷ By 1961 more than fifty of Pennsylvania's sixty-seven counties had adopted the procedure,⁸ Philadelphia County doing so in 1958.

The bar's enthusiastic endorsement of compulsory arbitration has led to proposals⁹ to raise the jurisdictional limits, the most recent being a bill¹⁰ introduced in the Pennsylvania legislature in 1963 to raise the maximum in Philadelphia and Allegheny counties to 3,500 dollars. To ascertain facts necessary for evaluation of this proposal, the *University of*

¹ The legislation enacted in 1951 applied to all counties except Allegheny and Philadelphia, with a jurisdictional maximum of \$1,000. Pa. Laws 1951, No. 590. In 1957 the statute was amended, raising the jurisdictional amount to \$2,000 and extending the option to adopt the procedure to Philadelphia County. The option was granted to Allegheny County in 1959. PA. STAT. ANN. tit. 5, § 30 (1963).

² 1964 Compulsory Arbitration Div., Philadelphia County Court, Ann. Statistical Rep., exhibit IV [hereinafter cited as 1964 Statistical Rep.].

³ PA. STAT. ANN. tit. 5, § 30 (1963).

⁴ PA. STAT. ANN. tit. 5, § 31(VII) (1963).

⁵ In Philadelphia County there is the further requirement that the case be neither an action in equity nor one for the assessment of damages after judgment is entered. PHILADELPHIA MUNIC. CT. ARBITRATION R. I(A).

⁶ LEVIN & WOOLLEY, DISPATCH AND DELAY, A FIELD STUDY OF JUDICIAL ADMINISTRATION IN PENNSYLVANIA 44 n.168 (1961).

⁷ PA. STAT. ANN. tit. 5, § 71(V) (1963).

⁸ See Rosenberg & Schubert, *Trial by Lawyer: Compulsory Arbitration of Small Claims in Pennsylvania*, 74 HARV. L. REV. 448, 453 (1961).

⁹ See, e.g., Elsbree, *The Case for More Arbitration*, 30 PA. B.A.J. 335 (1959); Address by Chief Justice Bell, Philadelphia Bar Association Quarterly Meeting, March 14, 1963, in 1963 Compulsory Arbitration Div., Philadelphia County Court, Ann. Statistical Rep. 1 [hereinafter cited as 1963 Statistical Rep.]; Special Committee, Philadelphia Bar Association, Report, in 1963 Statistical Rep. 2. See also S. 2415, 86th Cong., 1st Sess. (1959), introduced by Senator Scott of Pennsylvania, authorizing arbitration of "certain automobile cases coming before the District Courts of the United States."

¹⁰ Pa. H.B. No. 665, March 19, 1963.

*Pennsylvania Law Review*¹¹ conducted a study of appeals from arbitration decisions in Philadelphia. Questionnaires were sent to the attorneys for litigants in 980 cases selected at random from the records of the office of compulsory arbitration for 1962-1963.¹² Seven hundred fifty of the 1,960 questionnaires were returned.

Analysts of compulsory arbitration in Pennsylvania have shared an enthusiasm for the procedure's ability to provide both considerable help in reducing congestion in the courts and an inexpensive and speedy mode of disposition of small claims.¹³ Commentators writing in 1961 observed in reference to Philadelphia County:

When compulsory arbitration was instituted, over 7,000 cases were backlogged in that court with the list growing every month. Recent reports indicate that the list is current And this despite the fact that the jurisdictional amount for the Municipal Court was simultaneously raised from \$2,500 to \$5,000.¹⁴

The period between the time a case is ordered for trial and the date of trial is at present approximately two to three years,¹⁵ which was the waiting period before institution of compulsory arbitration in Philadelphia County.¹⁶ However, when considered in light of the increase in jurisdiction of the court from 2,500 to 5,000 dollars¹⁷ and statistics showing that between 1957 (the year before compulsory arbitration was adopted and the jurisdiction of the court expanded) and 1963 the court's case load increased more than 141 percent,¹⁸ the effectiveness of the procedure in relieving the burden on the court is apparent. Another study concluded: "[W]e can say with considerable confidence that the arbitration procedure

¹¹ The *Review* is indebted to the Institute of Legal Research, University of Pennsylvania Law School, for its assistance in this project. Thanks are also due to Frank Zal, Esquire, Arbitration Commissioner of Philadelphia for his cooperation and to Dr. F. E. Brown, Statistics Department, Wharton School of Finance and Commerce, University of Pennsylvania, for his assistance in formulating the questionnaire and selecting the sample for this study. The evaluation of the results was made solely by members of the *University of Pennsylvania Law Review*.

¹² Since the cases were selected by random sampling, some attorneys received more than one questionnaire.

¹³ See, e.g., LEVIN & WOOLLEY, *op. cit. supra* note 6, at 47-49; Rosenberg & Schubert, *supra* note 8, at 446; Swartz, *Compulsory Arbitration: An Experiment in Pennsylvania*, 42 A.B.A.J. 513, 515 (1956); Tucker, *Trial by Lawyer Panel: A Solution to Trial Court Backlogs*, 37 *DICTA* 115, 119 (1960); 8 *STAN. L. REV.* 410, 418 (1956); 2 *VILL. L. REV.* 529, 533-35 (1957). *But see* ZEISEL, KALVEN & BUCHHOLZ, *DELAY IN THE COURT* 214-20 (1959).

¹⁴ LEVIN & WOOLLEY, *op. cit. supra* note 6, at 47-48. (Footnote omitted.)

¹⁵ This figure is based on conversations with the Chief Clerk of that court and attorneys practicing in Philadelphia County. Seven attorneys were interviewed.

¹⁶ 50 *PHILADELPHIA COUNTY COURT ANN. REP.* 346 (1963).

¹⁷ *PA. STAT. ANN.* tit. 17, § 693 (1962) (effective Sept. 1, 1957).

¹⁸ See 47 *PHILADELPHIA COUNTY COURT ANN. REP.* 324 (1960); 50 *PHILADELPHIA COUNTY COURT ANN. REP.* 308 (1963). In 1957, 26,604 suits were brought in the county court, as compared with 64,173 in 1963.

during its first 22 months spared the municipal court between 2,500 and 4,000 trials, a huge savings of judicial energies."¹⁹

The record of speedy disposition is equally impressive. The commissioner of arbitration reported for 1964 that of the 3,372 cases in which an arbitration board filed a report and award, more than twenty percent were disposed of within five months and approximately twenty percent in each of the three months thereafter, so that more than eighty-seven percent were disposed of within eight months.²⁰ During this period 670 additional cases were settled while the arbitration hearing was in progress and 1,159 others were settled or discontinued before the hearing began.²¹

The analysts have also pointed to evidence that compulsory arbitration encourages the institution of small claims that would not otherwise have been brought.²² Although this reduces the procedure's effectiveness in relieving court congestion,

resolution of disputes is a function of society and to the extent that justice demands, which formerly went unredressed because no forum for redress was in fact available, are now being brought and adjudicated . . . there is a societal gain, regardless of any change in reports of backlog.²³

Agreement among the analysts ends when they evaluate proposals to increase the jurisdictional limit of compulsory arbitration.²⁴ All leading studies of the procedure were careful to suggest that there are limitations inherent in it which could preclude its usefulness for larger claims.²⁵ It has been argued that increase in the amount in controversy will have several effects. First, the complexity of the dispute may similarly increase, making nonjudicial resolution less acceptable to the parties and their attorneys. Second, losing parties are less likely to reconcile themselves to the decision of an informal board of arbitration rather than of a court hallowed by centuries of tradition and attended by all the proper trappings. While they might be willing to trust an intern to remove a splinter,

¹⁹ Rosenberg & Schubin, *supra* note 8, at 462.

²⁰ 1964 Statistical Rep. 4.

²¹ Compare 1964 Statistical Rep. exhibits I & VII (containing cumulative figures through 1964), with 1963 Statistical Rep. exhibits I & VI (containing yearly figures for 1961, 1962 and 1963), and 1960 Philadelphia Arbitration Comm'n Ann. Statistical Rep., exhibit B (containing cumulative figures through 1960) [hereinafter cited as 1960 Statistical Rep.].

²² See, e.g., LEVIN & WOOLLEY, *op. cit. supra* note 6, at 48-49; INSTITUTE OF JUDICIAL ADMINISTRATION, COMPULSORY ARBITRATION AND COURT CONGESTION—THE PENNSYLVANIA COMPULSORY ARBITRATION STATUTE 24-25 (Supp. 1959); Rosenberg & Schubin, *supra* note 8, at 463.

²³ LEVIN & WOOLLEY, *op. cit. supra* note 6, at 49.

²⁴ Compare Elsbree, *supra* note 9, with LEVIN & WOOLLEY, *op. cit. supra* note 6, at 59-63, and 2 VILL. L. REV. 529 (1957).

²⁵ See, e.g., LEVIN & WOOLLEY, *op. cit. supra* note 6, at 52-61; Rosenberg & Schubin, *supra* note 8, at 467-71.

they demand a "real doctor" to excise an appendix.²⁶ Closely related is the notion that any unfairness in the results caused by actual bias²⁷ on the part of the arbitrators is less objectionable the smaller the amount in question.

The weightiest argument against extension of jurisdiction is that it would lead to an increased number of appeals—the greater the number of appeals the less the success of the system in reaching its goals of quick disposition and relief of the courts. Over the past seven years the percentage of appeals has been considerably higher for awards of 1,000 to 2,000 dollars than for smaller awards: in the period 1961 to 1964 the frequency of appeal was 13.1 percent for awards of less than 1,000 dollars²⁸ as compared with 40.9 percent for awards exceeding this amount.²⁹ These figures suggest that the frequency of appeal from awards of 2,000 to 3,500 dollars would be even higher than the current rate in the upper range of the present jurisdiction. Eighty-one percent of the 750 responses to the study expressed this opinion.³⁰ Of those who commented on their answers, 86.9 percent indicated that the most important consideration in deciding whether to appeal is the ratio of the amount in controversy to the cost of appeal.³¹ Sixty-five percent reasoned that, since this cost will be less of a deterrent as the amount involved is increased, an even higher frequency of appeal will result in the new cases.³² Thirteen and one-half percent stated that most appeals are taken by some

²⁶ LEVIN & WOOLLEY, *op. cit. supra* note 6, at 59.

²⁷ Although the attorneys participating in the study were not asked to comment on the fairness of the reports and awards, some responses were volunteered. The following is one of the five statements making specific reference to a problem of bias on the part of the arbitrators:

In my opinion the arbitration system unfairly assists plaintiffs in that a very substantial proportion of the arbitrators are lawyers whose practices consist largely of plaintiffs' personal injury cases, with the result that, consciously or otherwise, there is a noticeable bias in the results.

²⁸ For the period 1961-1964 there were 8,129 awards of \$1 to \$1,000 entered from which 1,067 appeals were taken. These figures are taken from the Arbitration Commission's yearly statistical reports. *Compare* 1964 Statistical Rep., exhibit VII (containing cumulative figures through 1964), *with* 1960 Statistical Rep., exhibit B (containing cumulative figures through 1960).

²⁹ For the period 1961-1964 there were entered 1098 awards exceeding \$1,000 from which 449 appeals were taken. These figures are taken from the Arbitration Commission's yearly statistical reports. *Compare* 1964 Statistical Rep., exhibit VII (containing cumulative figures through 1964), *with* 1960 Statistical Rep., exhibit B (containing cumulative figures through 1960).

³⁰ Five hundred eighty-four responses answered affirmatively the question whether "appeals from arbitration results [will] be filed with greater frequency as the amount in issue is higher."

³¹ One hundred ninety-one of the responses that expressed the opinion that the rate of appeal would increase also commented on their answer. One hundred sixty-six considered this factor most important.

³² One hundred twenty-four responses contained comments similar to the following:

The cost of appeal must be balanced against the amount involved and the attorney's and client's time involved on retrial. On verdicts of \$500.00 or less, unless the award is clearly erroneous or unless the appellant believes that the appellee will not be able to produce the necessary evidence at trial, it is senseless to appeal. As the amount of the award increases (which should go along with an increase in the jurisdictional limits) there will be a greater number of cases which justify an appeal

insurance companies for purposes for delay and to force settlement at a lower figure,³³ so that the change in the ratio of cost of appeal to amount in controversy will cause these companies to appeal with even greater frequency. An additional 8.4 percent said that some insurance companies view compulsory arbitration as an inexpensive discovery mechanism and will exploit the procedure in this fashion more often as the ratio of cost to amount involved changes in their favor.³⁴

Although the comments by the attorneys who do not expect an increase in the frequency of appeal do not fully rebut the above arguments, they do support the view that any increase over the rate of appeal in the upper ranges of the current jurisdiction would be negligible. In reference to appeals taken either as a means of obtaining an inexpensive discovery or for the purpose of delay,³⁵ these attorneys said that the ratio of cost of appeal to amount in controversy is favorable enough in the upper ranges of the current jurisdiction that there will be few instances of appeals taken from an award of 2,000 to 3,500 dollars that would not have been taken if the amount had been 1,500 to 2,000 dollars. In addition there was evidence in the responses that certain insurance companies appeal as a matter of course whenever the award against them exceeds a certain amount, generally 900 to 1,200 dollars.³⁶ As to appeals taken "on the merits," as distinguished from appeals taken for purposes of delay or discovery, the same reasoning was advanced—in few cases would the eighty-five dollars be too expensive at 1,500 to 2,000 dollars but not so if

³³ Twenty-six responses contained comments similar to the following: "It has been our experience in motor vehicle cases that the great majority of appeals have been taken by a small group of insurance companies which take these appeals merely for the purpose of delay in order to squeeze a reduction in the amount of the award."

³⁴ Sixteen responses contained comments of the following nature:

It has been our experience that cases involving small sums of money are almost always disposed of at the arbitration level. However, in cases involving larger sums of money the loser very frequently feels he can improve his position by appealing. He gets a second chance with very little to lose and *arbitration becomes an elaborate discovery proceeding.*

(Emphasis added.)

This office handles many, many accident cases. At the present time the cost of taking an appeal . . . is merely \$85. It is therefore possible for an insurance company attorney to bring a court reporter to the arbitration hearing, make the plaintiff present his entire case (plaintiff pays doctor and witnesses, not defendants) and then merely file an appeal.

³⁵ One of the questions in the *University of Pennsylvania Law Review* study asked the participants why the appeal was taken in the case involved. Seventy-two of 125 plaintiffs' attorneys thought that delay was an important factor in the defendant's decision to appeal. Forty-eight thought delay was the only reason. Even 11 of 76 defendants' attorneys who had taken appeals admitted that delay was a factor in their decision to appeal.

³⁶ The following is a typical response of this nature:

My experience has been that in all personal injury cases where the defendant is represented by an insurance company, the defendant will appeal if the verdict is more than \$1,000. The basic reason is to delay the plaintiff and have the plaintiff incur more expense in bringing the doctors and witnesses again.

Indeed twenty-five of the 191 comments by lawyers expecting an increase in the rate of appeal, see note 32 *supra*, cited this practice.

2,000 to 3,500 dollars are involved. However, since the cost of appeal will exceed eighty-five dollars when a trial de novo is required to resolve the dispute,³⁷ the merit of this argument is limited as applied to such cases.

Considerable support for this analysis of the likely frequency of appeals is found in statistics showing that, since the first three years of compulsory arbitration in Philadelphia County, appeals from awards of 1,500 to 2,000 dollars have increased only 20.7 percent while the rate of appeal from all reports and awards more than doubled.³⁸ In the upper range the rate of appeal was 41 percent in 1958-1960 inclusive,³⁹ 43.3 percent in 1961,⁴⁰ 37.8 percent in 1962,⁴¹ 47.4 in 1963,⁴² and 49.5 in 1964.⁴³ Moreover, since 1961 the difference in frequency of appeal between awards of 1,000 to 1,500 dollars and awards of 1,500 to 2,000 dollars was only 8.8 percent.⁴⁴

The frequency of appeal in the highest category is so great, however, that it may be thought inadvisable to increase the jurisdictional limit even if appeals from the new class of cases would be no more frequent.⁴⁵ If so, it might be more appropriate for the legislature to lop off the top of the present jurisdictional range. Even if the appeal ratio is acceptable for that class of cases, the addition of the new group would reduce the system's overall efficiency in disposing of cases since the rate of appeal from all reports and awards would be increased. The effect of this would be not only to increase the amount of attorney time necessary for service as arbitrators, but also perhaps to undermine the confidence of the bar in the system. If that confidence were lost, it would be hard to obtain

³⁷ In addition to payment of the arbitrators' fees, there will be the additional costs of witnesses and further attorney's fees.

³⁸ By the end of 1960 there had been 9,668 reports and awards filed, 797 of which were appealed, a rate of appeal of 8.2%. See 1960 Statistical Rep., exhibit B. In 1964 there were 2,688 reports and awards filed, 444 of which were appealed, a rate of appeal of 16.5%. Compare 1964 Statistical Rep., exhibit VII (containing cumulative figures through 1964), with 1963 Statistical Rep., exhibit VI (containing yearly figures through 1963), and 1960 Statistical Rep., exhibit B (containing cumulative figures through 1960).

³⁹ In 1958-1960 inclusive there were 138 reports and awards of \$1,500 to \$2,000, 58 of which were appealed. See 1960 Statistical Rep., exhibit B.

⁴⁰ In 1961 there were ninety reports and awards of \$1,500 to \$2,000, 39 of which were appealed. See 1963 Statistical Rep., exhibit VI.

⁴¹ In 1962 there were 82 reports and awards of \$1,500 to \$2,000, 31 of which were appealed. See 1963 Statistical Rep., exhibit VI.

⁴² In 1963 there were 116 reports and awards of \$1,500 to \$2,000, 55 of which were appealed. See 1963 Statistical Rep., exhibit VI.

⁴³ In 1964 there were 97 reports and awards of \$1,500 to \$2,000, 48 of which were appealed. Compare 1964 Statistical Rep., exhibit VII (containing cumulative figures through 1964), with 1963 Statistical Rep., exhibit VI (containing cumulative figures through 1963), and 1960 Statistical Rep., exhibit B (containing cumulative figures through 1960).

⁴⁴ From 1961 to 1964 there were 713 reports and awards ranging from \$1,000 to \$1,500, 276 of which were appealed, or 38.7%. For this same period there were 385 awards exceeding \$1,500, 183 of which were appealed, or 47.5%. See 1963 Statistical Rep., exhibit VI; 1964 Statistical Rep., exhibit VII.

⁴⁵ The rate of appeal in the upper range of the current jurisdiction is presently three times greater than the rate for all cases (49.5% compared to 16.5%), see text accompanying note 43 *supra*; note 38 *supra*, and, since the early years of arbitration, the rate from all awards has doubled, see *ibid.*

arbitrators, and the arbitration system would be likely rapidly to lose its effectiveness as a resolver of issues of any significance to the parties.

On the other hand, one factor offsets significantly both the increasing frequency of appeal⁴⁶ and the substantially higher rate of appeal in the higher recovery range:⁴⁷ although the records are incomplete, settlements before trial on appeal seem both to be concentrated in the upper range and to be increasing rapidly. In 1958, the only year for which complete records are available, 52.8 percent of the reports and awards appealed required a trial de novo.⁴⁸ For the period 1962-1963 estimates can be made from information obtained in the *University of Pennsylvania Law Review* study.⁴⁹ Of the 413 responses concerning cases in which an appeal had been filed from the report and award, 276 related to cases which had been finally resolved. Only sixty-seven of that 276, 24.3 percent, were not settled and thus required a trial de novo. Interviews with attorneys currently practicing in Philadelphia indicated that once an appeal is filed, settlement is not likely to occur until trial is imminent.⁵⁰ Because the time of resolution is unlikely to be substantially different whether a case is resolved by settlement or by trial, the as-yet-unresolved cases also should have about a seventy-five percent rate of settlement. Even if for some reason the remaining cases require twice as high a percentage of trials de novo, the percentage of all surveyed cases requiring such trials will be only 32.3,⁵¹ still a marked decrease from 1958.

Moreover, only 18.9 percent of the resolved cases in which the plaintiff recovered some damages required a trial de novo,⁵² the trial de novo rate declining to 15.2 percent when plaintiff's recovery exceeded 1,000 dollars.⁵³ Therefore, it would be surprising if more than 24.3 percent of the appeals

⁴⁶ See note 45 *supra*.

⁴⁷ *Ibid*.

⁴⁸ Records available only in the office of the commissioner of arbitration show that of 199 appeals taken in 1958, 105 required a trial de novo, 82 were settled without trial, 11 were stricken, and one remains unresolved.

For 1959, 1960, and 1961 there is no record of ultimate disposition on appeal for a substantial number of cases, 22.5%, 28.1%, and 68.3% respectively. Records available only in the office of the commissioner of arbitration show no record of ultimate disposition for 84 of 374 appeals taken in 1959, 69 of 245 taken in 1960, and 349 of 511 taken in 1961. Of the cases for which there was record of ultimate disposition, 64%, 58%, and 67% required a trial de novo. In 1959, 172 of 268 appeals required a trial de novo; in 1960, 94 of 161; and in 1961, 93 of 138. The figures for trial settlement for 1959 to 1961 are of limited value. It is believed that most of the cases for which there is no record are ones which were settled without notification to the office of the commissioner of arbitration. According to Frank Zal, Philadelphia Commissioner of Arbitration, most of the 1959-1961 appeals for which there is no record of ultimate disposition at the end of 1964 have had a chance for trial, and if a trial had occurred his office would have record of it.

⁴⁹ See text accompanying notes 11-12 *supra*.

⁵⁰ See note 15 *supra*.

⁵¹ Forty-eight and six-tenths percent of the 137 unresolved cases, 66.6, added to the 67 cases reported to have required a trial de novo, is 133.6 cases, 32.3% of 413.

⁵² Thirty-nine of the 206 cases reported resolved required a trial.

⁵³ Seventeen of the 112 cases reported resolved required a trial.

from cases that would be added by the proposed bill required trials de novo.⁵⁴

Because so many appeals are disposed of without trial, compulsory arbitration's ability to relieve court congestion will continue relatively strong even at high figures. However, the goal of providing an inexpensive, speedy mode of settling small claims is jeopardized by these appeals whether the ultimate resolution of the case is by trial or settlement, especially because settlement is not likely to occur until just before trial time.⁵⁵ The legislature has not defined its goals in adopting the procedure.⁵⁶ In the case upholding the constitutionality of compulsory arbitration,⁵⁷ Chief Justice Bell spelled out the duality of purpose in dictum⁵⁸ which has been interpreted by some to mean that "solicitude of dispatch in small cases was perhaps a more urgent goal than rolling back delay in major courts."⁵⁹ Other analysts have taken a contrary position.⁶⁰

Whatever the legislature's purpose in adopting and expanding compulsory arbitration in the past, it should consider its objectives before deciding to expand the jurisdiction further. Any increase in the jurisdictional maximum must be justified solely by the effect it will have in rolling back delay in the county court, for the rate of appeals is likely to frustrate the chances of speedily disposing of cases involving more than 2,000 dollars. Furthermore, the legislature must weigh the likely gain in relieving court congestion against the danger that the high frequency of appeals will undermine the bar's confidence in the procedure, with the result that arbitration will fail to perform any function except, ironically, further delay.

⁵⁴ That many appeals from awards in the higher brackets are taken by defendants for purposes of delay and forcing settlement receives further support from statistics showing that 40% of all appeals from arbitration decision on liability in favor of defendants required a trial de novo, whereas only 18.9% of appeals from judgments in favor of plaintiffs on that point were pressed to trial. Twenty-eight of the 70 appeals from arbitration findings in favor of the defendant required a trial. Thirty-nine of the 206 appeals from arbitration findings in favor of the plaintiff required a trial.

⁵⁵ See text accompanying note 50 *supra*.

⁵⁶ PA. STAT. ANN. tit. 5, § 30 (1963); Pa. Laws 1951, No. 590.

⁵⁷ Application of Smith, 381 Pa. 223, 112 A.2d 625, *appeal dismissed sub nom.* Smith v. Wissler, 350 U.S. 858 (1955).

⁵⁸ It is clearly designed to meet the situation which prevails in some communities of jury lists being clogged to a point where trials can be had only after long periods of delay. . . . Removing the smaller claims from the lists not only paves the way for speedier trial of actions involving larger amounts, but, what is of equal or perhaps even greater importance, makes it possible for the immediate disposition of the smaller claims themselves, thus satisfying the need for prompt relief in such cases.

Id. at 229, 112 A.2d at 629.

⁵⁹ Rosenberg & Schubert, *supra* note 8, at 454.

⁶⁰ See, e.g., 8 STAN. L. REV. 410, 417-18 (1956); 2 VILL. L. REV. 529, 533-35 (1957).