

The Un-Trained Local Judge

Most New Officials And Jurists Get Some Kind
Of Help,
But A New Municipal Judge May Walk In
Cold

A freshman congressman starts at the bottom of the seniority list and has to be re-elected several terms before he can gain much influence or a committee chairmanship.

A city manager, at least nowadays, has usually put in an apprenticeship under an old hand before he gets "a city of his own."

A city councilman or township board member generally has senior members to learn from.

"But a municipal judge?

MAYBE HE'S EXPERIENCED in that kind of law—and maybe he isn't.

Maybe he has an older judge around to train him—and maybe he doesn't.

He didn't get a course in law school on how to be a judge.

There are seminars a judge may attend after he's elected, but no formal, required training program before he gets to the bench.

Despite these structural weaknesses, a group of judges interviewed by Observer Newspaper reporters and editors feel the men on the bench, at least in this part of the metropolitan area, are pretty good.

Nevertheless, they tended to react affirmatively to the suggestion that there ought to be a formal training program for lower court judges before they go on the bench.

"It doesn't sound like a bad idea," said State Sen. Robert L. Richardson, R-Saginaw, chairman of the Senate Judiciary Committee. "It's something we can include when we get into lower court reorganization this fall."

He referred to plans, under the new state constitution, to replace both the municipal court and justice of the peace systems with a series of "district" courts having full-time judges.

"I think seminars such as you suggest will occur, and the court will probably help," Richardson said, "but we would prefer to have them done voluntarily. . . . However, if for some reason the group can't find the money, I'm sure the Legislature would consider any program that would benefit the administration of justice."

THE INTERVIEWS conducted by Observer staffers tended to promote the idea of pre-training for new judges, but the real credit for pushing the plan belongs to a national newspaper, the Christian Science Monitor.

At the end of a 13-part copyrighted series last summer, CSM correspondent Howard James suggested, among other things, that legislatures "provide funds for judicial education and require all judges to attend a seminar of one or two weeks minimum before taking the bench. Also require a new judge to sit with an experienced judge before presiding over trials, as is done in Delaware."

No set of statistics or legal citations was more eye-opening, however, than one CSM anecdote about a new judge. The inexperienced judge sat at the bench and waited for the attorneys to open the case. The puzzled attorneys waited for the judge, who didn't know it was up to him to start the proceedings.

That hasn't happened here in the western Detroit metropolitan suburbs—at least, none of the judges interviewed in Livonia, Plymouth and Farmington told such a tale.

Michigan has four levels of courts: The State Supreme Court, operating at the state level; the Court of Appeals, operating on a three-district level; circuit and probate courts, operating usually at the county level; and municipal and justice of the peace courts, operating at a local level.

Municipal and JP courts in a nutshell, try misdemeanor cases and small lawsuits, and they conduct preliminary examinations in felony cases to determine whether an accused person should be bound over to circuit court for trial.

(Detroit splits the job of municipal courts between the common pleas and recorders courts. The Observer area suburbs, however, are under the municipal court and JP systems.)

HOW MUCH ACTUAL municipal court experience do local judges actually have? Plymouth's newly-appointed Judge Dunbar Davis estimates that, as an attorney, he tried an average of 100 cases a year for 30 years in the court over which he now presides.

Davis also points out that law schools are doing more to educate students in the ways of the bench than when he got his own law degree at the University of Michigan in 1937. Example: Closed-circuit television brings Washnaw Court Circuit Court cases into the U. of M. classrooms.

THIS REPORT represents a team effort by five Observer Newspapers writers: Don Hoen-shell and Ralph Reed of the Livonia staff; Fred DeLano of Plymouth; Henry Teutsch of Farmington; and Sunday Editor Tim Richard, who coordinated the project.

Livonia's Judge James R. McCann practiced as little as possible in that court as a lawyer, but he did practice in other Wayne County courts, and as a Livonia councilman for nine years he served as chairman of the committee which wrote most of the ordinances directly affecting the court.

McCann said he did little criminal law work until recently. Now, with courts being required to appoint attorneys for every criminal case defendant who doesn't have his own lawyer, and with fees being based on reasonable amounts, lawyers are accepting more criminal cases, giving them broadened experience, he said.

Farmington's young, Associate Municipal Judge Dennis Phenehy is the son of the late judge, and he was trained by the now senior judge, Michael Hand.

But Phenehy said that before going onto the bench, he had never practiced in that court; as an attorney, he had handled mainly contract, probate and corporation cases, doing most of his work outside the courtroom. He went on the bench in September of 1965, only a year and a half after graduating from law school.

Like older judges, Phenehy felt that a judge ought to be a lawyer, should have had at least some trial experience, should be well-versed in the rules of evidence—and have common sense, patience, and a ability to absorb experience.

Wayne County presiding Circuit Judge, Joseph A. Sullivan told of a youngster fresh out of law school who was elected to fill out an unexpired three-month term in Detroit's recorder's court, whose jurisdiction is mainly criminal cases.

"Yes, it was a very short term," said Sullivan, "but it could as well have been for the full six years."

WHAT KIND OF TRAINING is available to men already on the bench? Experience seems to be the main teacher.

Someone once defined a judge as "a law student who grades his own examination papers," and Judge Phenehy points out that the man on the bench is helped by the fact that opposing counsel do the hard research work.

Furthermore, it's not difficult for a party aggrieved by a municipal court decision to appeal to the circuit court at the county seat. The circuit judge can tell the lower court judge pretty quickly if he has done something wrong.

"Municipal courts in Wayne County are very well handled, very well manned," says chief Circuit Judge Sullivan. "We meet periodically with the municipal judges and also with the Justice of the Peace Association to discuss mutual concerns. The complaints we receive about our municipal judges are very minor."



MUNICIPAL COURT jurisdiction is not only traffic cases but small lawsuits and preliminary examinations in felony cases.

For the circuit judge, Sullivan said, there is a training program at the University of Nevada, in Reno. There's no similar program anywhere, however, for municipal judges, but Sullivan thought the university might be interested.

"I think such a program would be helpful, perhaps using experienced circuit judges as lecturers."

Bar associations have many seminars, several of the judges pointed out, and the Institute for Continuing Legal Education at the University of Michigan is working on a program of seminars for judges at various levels.

State Appeals Court Judge John Fitzgerald, himself a former JP and state senator, was sure most lower court judges "would welcome a seminar" before ascending the bench. "When a man first goes on the bench, it's a pretty scary experience."

Fitzgerald said seminars for state supreme and appeals court judges are held each summer at New York University.

Livonia's Judge McCann says that city has a practice, now being incorporated into the proposed new city charter, that a new judge sit and observe with the presiding judge before taking office. McCann did that himself, without pay, from the time he was elected in an April vote until he took office in July. He thinks other cities could well adopt that practice.

AN ADVOCATE of compulsory, state-funded training programs is Hamtramck Municipal Judge Walter A. Paruk, past president of the Michigan Municipal Judges Association.

Current practice of the association is to hold two sessions a year of two or three days each. A recent session, for example, was devoted to the new breathalyzer tests for drunken driving.

Attendance is voluntary, said Paruk. In practice, about half of the judges attend. His

2 Cool
On Open
Housing

Any effort by Gov. Romney to get an open housing bill through the Legislature will run into trouble, say two suburban representatives.

State Reps. Raymond Baker, Farmington Republican, and James Tierney, Garden City Democrat, told this newspaper they saw little support for such legislation coming from suburban and rural lawmakers.

"MOST LEGISLATORS outside Detroit," said Baker, "aren't taking this very seriously. . . . especially around the fringes of Oakland and Wayne Counties."

"And the agricultural areas couldn't care less," he added. "A terrible time right now," said Tierney. "A lot of people out this way have a lot of fear because of the high crime rate."

"I WAS DOWNTOWN to a meeting with the House and Senate Education committees, at Wayne State University. One of the speakers on the cause of the riot was this Rev. Albert Cleage." Cleage has associations with Black Power groups.

"This man was just dripping with hate against the white people," Tierney said. "He's as bad against whites as the Ku Klux Klan is against the colored."

"He made a statement I don't like: The riots and burnings were a Godsend because they will drive the white people out and let the Negroes take over the big cities."

EARLY AMERICAN FOR TODAY'S AMERICAN HOMES

Beauty and comfort in
any size ... for every budget.



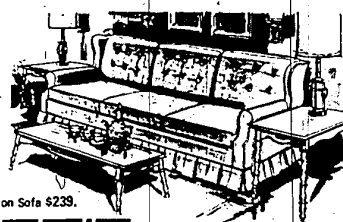
35" High Wing T-Cushion Chair \$99.50

FABRICS . . . A dazzling collection of fabrics to choose from, many SCOTCH-GARDED . . . custom fashioned in vibrant plains, artist-palette prints and rich, tweedy textures.



52" long, 2-Cushion Love Seat \$149.50
70" long, 2-Cushion 4 length Sofa \$169.95

CONSTRUCTION . . . Frames of dry hardwoods, mostly ash, double-cone coils, trouble-free deck construction.



30" long, Wing 3 Cushion Sofa \$219.

83" long, Wing 3 Cushion Sofa \$239.

BERRY'S
DISCOUNT FURNITURE

DIVISION OF BERRY'S HOME SUPPLY

25950 W. SIX MILE ROAD
PH. KE 2-5933

DECORATING HELP . . . This selection of pieces makes it easier—but questions always arise . . . "how can I be different . . . ?" "I've never done this." Berry's decorating talent will help you . . . and at no extra cost!

Sunday Edition

Sunday, October 15, 1967

Page 18

OBSERVER NEWSPAPERS



THE CHAIR is ready for the new municipal judge, but the question may be: Is the judge ready for the chair?