

editorial opinion

Gag law ignores state constitution, reality

News people have no real argument with Farmington District Judge Michael Hand over his suppression order in the morals case last week of a clergyman, Judge Hand, as reasonable a man as one can find in these parts, is the man in the middle.

The fault is with the infamous Sec. 520k of the 1974 Michigan Criminal Sexual Conduct Act. This bizarre section provides that on the request of the accused, the defense lawyer or the victim, the judge "shall order" that the names of the victim and the accused and details of the alleged offense be "suppressed until such time as the actor (accused) is arraigned (in circuit court), the charge is dismissed, or the case is otherwise concluded, whichever occurs first."

IN OTHER WORDS, the judge has no discretion. The Michigan Legislature has effectively given the accused the power to require a court order suppressing all important information about the case.



Judge Hand (right) had no discretion—he had to issue the gag order sought by defense attorney James Lawson. (Staff photo by Gary Friedman)

That isn't even "coddling" a defendant. It's an attempt to give the defendant the power of a judge and to let him use that power over the news media.

Naturally, news people won't stand for anything of the sort. The news was reported.

Some legal scholars think Sec. 520k is unconstitutional. We think they're right. The Michigan Constitution provides that "The supreme court, the court of appeals, the circuit, the probate court and other courts designated as such by the legislature shall be courts of record, and each shall have a common seal."

The wording is definite: "shall be courts of record." There's no qualifying phrase to suggest that district courts need not be courts of record when processing certain kinds of morals cases, or that the record may be suppressed for a week or two. The legislature had no business bending the constitution with Sec. 520k.

THE WORDLY NAIVETE of the legislature and the defense attorney in the current case bother us.

"The life of the law," Justice Oliver Wendell Holmes used to say, "has not been logic; it has been experience. The felt necessities of the time, the prevalent moral and political theories, intuitions of public policy, avowed or unconscious, even the prejudices which judges share with the fellow men, have had a good deal more to do than syllogism in determining the rules by which men should be governed."

Experience would tell any person of ordinary intelligence—excluding legislators and defense attorneys—that when you have a morals arrest following a half-dozen murders of children, and when you have dozens of highly competitive news persons covering the story, one or more will ignore a gag order and blurt out the name of the accused.

The legislature seems to have drafted a law for a rural state served by a collection of weekly sheets. It fails to understand that news is transmitted coast-to-coast by electronic means in minutes to points that are outside a district judge's jurisdiction.

The law is in contempt of the constitution and of experience.



The Stroller

The values of sports

By W.W. EDGAR

Any time a fellow has a chance to listen to Bo Schermebecher making a speech, he expects to hear the University of Michigan football coach extol the virtues of his team, scoff at those who would rank it No. 1 even before the season opens, and answer critics of his lack of a passing offense.

That's what The Stroller expected when he attended the annual press day which opened the Wolverines' fall practice. But Bo turned the tables. True, he spoke of his team and prospects for the coming campaign, but then he tossed a verbal lateral-pass by opening fire on the school officials throughout the state for attempting to eliminate sports and many special programs every time there is a bit of a pinch for money.

He made it clear he was not taking to the stump to plead for passing of property tax millage requests. Instead he emphasized his concern with the curtailing of any programs in the schools that would deny a young student a chance to improve his talents, whether it be football for the boys or music for the girls.

It was a new role for Bo—but a serious one.

POINTING TO many metropolitan communities engaged in urban renewal programs, Bo said, "What good will it do to rebuild the areas if we don't help to build the young people who will live in them? I certainly don't attempt to build a football team in that manner."

"We can't build one part and neglect the other. But that is what they are doing when school officials lose no time, in a money pinch, to announce a cut in the sports program and special courses. They're really building the mind and body on a partial basis."

Strangely, he was not partial to football. He cited the same thing happening to young girls who would relish a chance to improve their musical talents and their voices through the winning of scholarships. These chances would not be there if the special programs were eliminated.

Asked what he would do in similar surroundings if there were a pinch in the purse at the elementary and high school levels, Bo answered quickly: "Well, I would not eliminate them. There must be other ways to save money than to cut out sports

and special courses for others to make a living after leaving school."

And knowing Bo as a rather stubborn individual, The Stroller would be willing to venture a small wager that the Wolverine mentor would find a way.

LISTENING TO HIM expound his opinion of the educators reminded The Stroller of a chat he had with H.O. (Fritz) Crisler, the former Michigan athletic director, one hot summer afternoon regarding the curtailing of sports at the high school.

"The educators who make such suggestions," Crisler said, "are overlooking the fact that the athletic field is the last bastion of discipline. A coach can get a boy to do most anything in his desire to 'make the team.' Boys will attend practice regularly. They'll meet all dress requirements—even haircuts and clean faces—if that is what the coach asks. They are willing and eager to agree to that type of discipline."

"Take that away," Fritz concluded, "and you possibly have lost the boy at an age when he could be steered on the right road. And if you lose him here, you'll never get him back."

"That's why I think it is a terrible mistake to make sports the victim when there is a money pinch in our school systems."

There you have it, from two men who have spent years helping to build bodies and character. Their voices should not go unheeded.

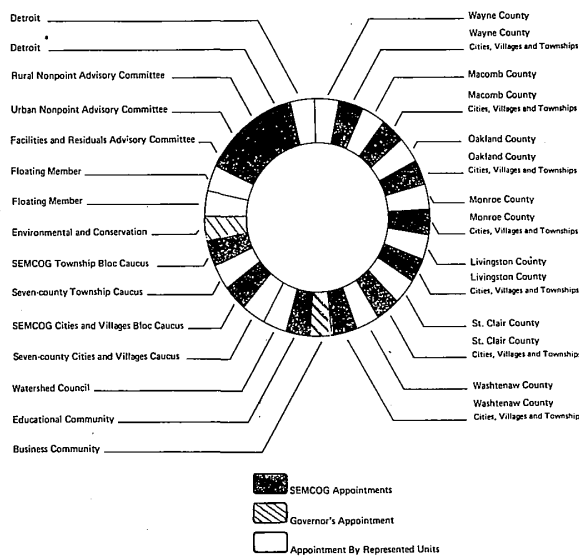
Schools robbing Labor Day from families

Labor Day weekend used to mark the end of the summer, a three day respite when the family could have one last fling together before facing school and football weekends.

Summer is more than a season; it is an attitude. It seems to be more family oriented than the other seasons. It offers more recreation opportunities for family participation.

Business is usually slower, so fathers have more free time.

MEMBERSHIP OF THE AREAWIDE WATER QUALITY BOARD



SEMCOG can keep water plan free of parochialism

Delegates to the Southeast Michigan Council of Governments have three plans before them for monitoring and coordinating water pollution control programs in the seven-county region.

One plan makes no sense at all. Another plan is fairly good. The third is excellent.

The plan which makes no sense at all is to assign the matter to the state Water Resources Commission. According to all the testimony we have heard, the WRC is ill-equipped to do the kind of detailed job of water sampling, monitoring of 300 local agencies in the region and resolving of conflicts required in this urban area.

The notion of making this state agency, with little representation from southeast Michigan, the water quality body here was hatched by a few politicians with a paranoid fear of SEMCOG. The Water Resources Commission plan has, therefore, little support among SEMCOG delegates, and we are confident they will reject it.

THE PLAN WHICH is fairly good would create a so-called "Area Water Quality Board." This would be a new agency housed in SEMCOG offices and dipping into SEMCOG data. Its staff and board members would be local—a major advantage.

The task of coordinating water pollution control plans among our seven counties is mandated by the 1972 federal Clean Waters Act, a landmark piece of legislation. This act recognizes that making our waters swimmable and fishable by 1983 can't be done by purely local efforts because virtually every locality is upstream or downstream from every other locality.

The problem with the Area Water Quality Board, as we see it, is—well, look at the organizational chart above. The AWQB chart looks like the pre-Napoleonic Estates-General. It looks like a Rube Goldberg mousetrap. With all its little pockets of power and obscure caucuses, it has a strong potential for a muddy brand of provincial politics.

Worse, the structure inhibits citizen surveillance. You can call your city hall or township office and find out who your SEMCOG delegate is (if your community is a SEMCOG member), but how would you as a citizen get a handle on the Area Water Quality Board?

THE BEST SOLUTION, by far, is for SEMCOG itself to be the water quality overseer and ombudsman.

SEMCOG is a voluntary association of governments which, for the past decade, has been engaged entirely in planning. Indeed, the federally required water quality plan is SEMCOG's work.

What better solution than for SEMCOG itself to implement the regional section of the plan? It would make little sense for SEMCOG to draft a plan and then have another agency, potentially torn by parochial politics, do much mischief in implementing it.

SEMCOG committees already review major federal grant applications. It already works with local units of government, in a helpful rather than authoritarian way, to make applications that will be successful.

SEMCOG already has an administrative structure. There would be no need to create a new, single-purpose agency. Indeed, we have too many single-purpose regional agencies floating around, and it's about time we began bringing them under a single head and holding them accountable.

THERE WILL BE objections to designating SEMCOG as the water quality body. Those objections hold little water, if you will pardon the pun.

One objection is that not every unit of government belongs to SEMCOG. Something like 120 of the 300-plus units in the seven counties are members.

On the other hand, those 120 units have more than 90 per cent of the population. In fact, all 400,000 persons who read Observer & Eccentric Newspapers live in one SEMCOG member government or another. Moreover, SEMCOG has been known to appoint persons from non-member governments to its working committees; it has a policy of being nice to non-member governments in hopes of winning them over.

The other major objection is that SEMCOG has always been a planning agency, never an operating agency. SEMCOG's leaders, though nice fellows and ladies, tend to quake whenever there's a chance they will be accused, rightly or wrongly, of turning SEMCOG into a (shudder!) regional government. A mere handful of shrill cries makes them quaver.

It's time for SEMCOG's leaders and delegates to quit being scaredy-cats. Designating an experienced planning agency such as SEMCOG as the regional water quality coordinator makes eminent good sense.

SEMCOG is certainly our first choice.

Eccentricities

by HENRY M. HOGAN, JR.



Since the kids are not involved in school activities, they are more willing to devote time to family outings.

BUT NOW the educational system is trying to take some of this away from us.

The school year was designed with agriculture in mind. The kids were freed from classes in the summer to help with the crops.

Summers off also meant schools didn't have to be air-conditioned, although it was always considered an economic waste to have school buildings sit idle for a third of the year.

School always started after Labor Day. But then colleges decided it was foolish to start the school year in mid-September, take a two-week break at Christmas and finish the semester in January.

Some went on a trimester system so they could utilize their facilities better. To get a semester out of the way before Christmas so that they

could slip in a spring and summer semester, meant starting before Labor Day.

This meant the older kids had to leave home for college before the holiday weekend.

NOW SOME OF THE high schools and grammar schools have started early so they can finish up earlier in June or take January off to save fuel.

While it seems very practical for education, it raises the devil with family life.

It also affects the tourist industry. Michigan's number two industry after the automotive industry.

The summer season is about 10-weeks long, starting just before the Fourth of July and ending after Labor Day. Summer tourism, to make a go of it, must maximize this short time.

Knocking off a week reduces the season by 10 per cent.

College and high school kids make a good part of the tourism work force. Early school causes a problem because the workers have to leave early, cutting down their ability to earn summer money for school. They can't start earlier because the season doesn't start in May when they are available to work.

This is the problem: Educators ask, "Do you want us to be more efficient and save taxpayers' money? If so, we should start earlier."

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