

# EUGENE SNOW HUFF V. THE SUPREME COURT OF MICHIGAN

*Speech given by Gene Mossner at the Annual Luncheon of the Michigan Supreme Court Historical Society on April 1997.*

## INTRODUCTION

Thank you, Wally, for that kind introduction. It was much nicer than the one I received about ten years ago when I was President of the State Bar of Michigan, and was asked to speak to the Defense Trial Lawyers Association. At that time, the Chairman for the evening, knowing that I was a plaintiffs' personal injury lawyer, said to the assembled attorneys, "I only know two things about Gene Mossner — He's never been in jail; and I don't know why!"

I certainly am very honored to be invited to present the historical vignette concerning our Supreme Court this afternoon, and to be in the company of the distinguished jurists and legal educators who have preceded me on this rostrum over the past several years. I only hope that I can do justice to the subject matter of today's talk, which deals with the landmark case, nearly forty years ago, of *In Re Huff*, which is reported at 352 Michigan Reports at page 402, and which originated in Saginaw County, when I was a young fledgling lawyer of six months, fresh out of the Army and just starting practice in my home town.

The subject matter of the *Huff* case, of course, deals with the power of superintending control of the Supreme Court over the lower courts and judges of the state. Today, in 1997, no one in the legal profession really questions that power anymore; indeed, the power and authority of the Supreme Court has probably increased tenfold over the years, but back in 1958, that authority was questioned in what turned out to be one of the most tense and dramatic episodes that has ever taken place in the history of Michigan jurisprudence.

It is not my intention today to debate who was right or who was wrong in the struggle, or to pass judgment on the wisdom of the decision which was ultimately made. Let me just say that had the matter perhaps been handled a little differently or deftly, the whole disagreement might well have been settled in a more peaceful manner.

Never before in the history of the Supreme Court had it instituted a contempt action against a lower court judge. Never before had an elected jurist been summoned from his bench to answer in Lansing, for disobeying the Court's instructions, and caught in the middle of this turbulent, emotional storm, were the Saginaw County Bar Association and one of the most popular circuit court judges ever to serve in Saginaw — Eugene Snow Huff, whose uncle, Ernest Snow, incidentally had himself served on the Michigan Supreme Court in the 1920s.

## BACKGROUND

First, a little background.

Since 1888, Saginaw County had been served by only two circuit judges. Over the years, as legal work and caseloads increased, both the lawyers and judges came to the conclusion that a third judge was needed, and beginning in 1956, the Saginaw County Bar Association began lobbying strongly in the Legislature for an additional judge. At first, the Legislature — which was solidly Republican at the time — was reluctant to approve an additional judge because G. Mennen Williams — a Democrat — sat in the Governor's chair and would do the appointing. Eventually, the Bar was successful in having the needed legislation passed; however, the bill calling for the third judge contained a provision to the effect that the judge was not to be appointed, but instead a special election would be held to fill the post. Governor Williams [who we all

know later went on to become a Chief Justice of our Supreme Court] promptly vetoed the bill. So, it was back to the drawing boards.

There was a good deal of behind the scenes maneuvering at this point, but to make a long story short, the Republican lawyers of Saginaw and the Democratic lawyers made a “deal” to the effect that if the Republican legislature would pass the bill again, this time giving the Governor the power to appoint the judge, the Democratic lawyers would agree and urge that the Governor appoint a Republican, then Probate Judge Fred Borchard, to the circuit bench, and in turn the Governor would then appoint a Democrat, Glenn Jordan, to the probate bench, replacing Borchard.

By the spring of 1958, all of this had been agreed upon; Saginaw was to get its third circuit judge and everyone was awaiting the appointment by the Governor. However, there proved to be “a fly in the ointment,” as the saying goes.

## THE PROTAGONISTS

At this point, let me list some of the key players in this little drama, because you will find none of this in the reported decision of the Supreme Court in your law libraries.

Meredith Doyle, who was then the Court Administrator for the State, had strongly opposed the third circuit judge for the Saginaw Circuit, and had testified before the legislative committees that there was no need for a third judge. All that was needed, according to Doyle, was for the Saginaw judges to work harder and handle their dockets more efficiently. Doyle was strongly supported in this view by Justice Eugene F. Black of Port Huron — himself a very hard working justice and former circuit court judge.

In his battle against the third judge for Saginaw County, Doyle had accused the Saginaw judges of mismanaging their court and causing a serious backlog of nearly 400 cases which were more than two years old. He argued that while the state wide average was 750 cases per judge, Saginaw’s case load was only 718. He also argued that in Wayne County the average was 985 cases per judge, and in Washtenaw County, where they had only one judge, James Breakey, disposed of 1,410 cases per year. Saginaw lawyers had argued that Doyle’s figures were old and out of date and did not represent the true picture of the docket in Saginaw. They also contended that more cases were tried in Saginaw than in other counties, and consequently, Doyle’s statistics were skewed. Further, they argued, the aim or objective of the court system was not speed, but justice. Several of them, who had experience with Judge Breakey in Ann Arbor, reported that he often tried cases on the weekends, held court on Christmas Eve, and sometimes did not even take lunch breaks. In short, they did not want this kind of “assembly line procedure” in Saginaw.

Once the bill authorizing a third circuit judge had been passed in the Legislature and signed by Governor Williams, Doyle announced that Saginaw’s case load would drop dramatically and that therefore their judges would be required to “lend a hand elsewhere.”

When Doyle came to Saginaw on April 28, 1958, along with Justice Eugene F. Black and Chief Justice John R. Dethmers, and advised Judge Huff that he was being assigned to Wayne County beginning May 12 for a one month period, and that Circuit Judge Timothy Quinn would replace him during that month as presiding judge, “the fat was in the fire.”

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Circuit Judge Eugene Snow Huff was a handsome, popular, studious and well regarded circuit judge who had been elected to the bench in Saginaw in 1947, shortly after he had returned from service in World War II. Before the war, he had briefly served as a municipal judge before being drafted into the Army. Entering as a private, he had emerged a captain, having served with General MacArthur in the Philippines, and having earned two battle stars for combat in New Guinea. Legal blood flowed in his veins. His father had been Saginaw’s first Friend of the Court. An uncle, Byron Snow, had also been a Saginaw Circuit Judge, and another uncle, Ernest Snow, had served as a Justice of the Michigan Supreme Court in the

1920s. In 1952, Saginaw County Republicans had promoted Judge Huff himself as a candidate for the Michigan Supreme Court, but at the Judge's insistence had withdrawn his name from consideration at the convention. On the bench, he was mild mannered and soft spoken, courteous and considerate, but as people were soon to find out, he also had in him a streak of dogged determination that ultimately set him on a collision course with the Supreme Court of Michigan.

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Timothy Quinn, who also played a lead role in this drama, was at the time the Circuit Judge of Tuscola and Lapeer Counties. He had gained a well deserved reputation among attorneys for being somewhat of a martinet on the bench, but was regarded by Justice Black, Meredith Doyle and Chief Justice John Dethmers as an effective "troubleshooter," assisting other circuits with their docket problems. Saginaw lawyers, on the other hand, regarded him rather as a "troublemaker" and an interloper in local affairs, who was intruding on their domain.

Judge Quinn had announced new circuit court rules which he had prepared for Saginaw County:

- (1) First, with regard to adjournments of motions and cases set for trial, he would require signed affidavits, containing written consent from all parties and their attorneys that a continuance was agreed to.
- (2) Secondly, emergency requests for adjournment of matters, even those including illness or death in the family, would have to be supported by the same type affidavits.
- (3) Third, those cases which were adjourned and not tried on the dates scheduled would go to the bottom of the trial list.
- (4) Finally, no court time would be allowed to discuss settlement.

Further, under Quinn's rules, as soon as one case was disposed of, the next case would be called and parties and their witnesses had to be ready. Under this procedure no one knew whether their case would be tried on a particular day and as a consequence, lawyers and their clients and their witnesses would have to wait around in the halls of the courthouse not knowing if their case would be tried that day, the next day or the next week.

While those kinds of rules, or similar rules, may be fairly common today, they were unheard of forty years ago when litigation was conducted at a much more leisurely pace than it is today, and adjournments were rather routinely granted upon the representation of a lawyer that one was needed.

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When word got around that Judge Huff was, in effect, being removed as Presiding Judge and sent to Detroit for a month, and that a "foreign judge" [as they referred to him] from an adjoining county was replacing him, and that new rules were replacing long standing local rules, the leaders of the Bar Association and virtually all of the lawyers became indignant. Not only were they irked that they had not been consulted about any problems which may have existed in the circuit, but they were convinced beyond a shadow of a doubt that Doyle was retaliating against Saginaw for having obtained a third judge over his vehement objection. They reasoned that if Huff could be ordered to leave his bench for thirty days, he could be ordered to leave for six months, or a year, or conceivably for the entire term of office to which he had been elected. While judges had, from time to time, assisted in other circuits in cases of illness for death or other emergency situations, the lawyers contended that it was the intent of the judicial article of the State Constitution that citizens in any given county were entitled to the services of a judge from their own county.

On the evening of May 7, 1958, the Saginaw County Bar Association held a meeting at the old Bancroft Hotel in downtown Saginaw. The meeting room was packed with lawyers, young and old. Nearly 100 of its 150 members at the time were present. It was a highly emotional meeting. Judge Huff acknowledged during the course of the evening that: "There is no doubt that cases can be tried faster, but the real question is: Should they be? Statistics do not necessarily show that justice is being done. Saginaw tries more cases than do other counties, and we do not do so on an assembly line basis."

The high point of the evening was a stirring and passionate speech by the “Dean” of the Saginaw Bar, white-maned 69-year old Robert J. Curry, a lawyer of the old school, who was one of the most effective orators I have ever heard. For nearly 45 minutes, he held the floor, eloquently evoking biblical and historical images, and invoking good natured humor at times, he urged his fellow attorneys to stand with Judge Huff against this intrusion from on high. At one point, he roared like a lion: “Men have always had to stand up against organized government to obtain and defend their rights, and now is such a time; let us not shirk our duty.”

Referring to Judge Quinn’s new rules, he assailed them as an indictment of the integrity of the Saginaw County Bar and questioned the right of this “foreign judge” to come in and “make rules for us to follow in a county where not a single ballot was cast, making him our ruler.”

He added: “Why, if I passed away next week, I wonder if any of you would be allowed to attend my funeral if it was on one of Judge Quinn’s court days!”

A standing ovation greeted Curry when he finished, and following this, a resolution was unanimously passed urging Judge Huff to respectfully decline the assignment to Wayne County and to stay and hold court in the county which had elected him.

The full text of that resolution is rather lengthy but I would like to quote just a few of the more choice phrases to give you a little flavor of the document.

It began by outlining how the State Court Administrator had ordered Judge Huff to leave his bench in Saginaw County and go to Detroit for a one month period and “that a judge not elected by the voters of Saginaw County would take over the duties of our judge, even to the extent of being presiding judge of our circuit court.”

It went on:

“The Saginaw County Bar Association has given to this great state, and to the nation, many great jurists and many great lawyers. We live in Saginaw County. We belong to the people of Saginaw. Here many of us were born. In many cases, our parents, our brothers and our sisters have labored and worked in factories and on the farm to enable us to get a legal education. We share with the people of Saginaw the common tragedies of life. We have stood beside them at the graves of mutual friends. We have worked side by side with them in building schools, hospitals and churches. We worship the same God. Our children play with their children. Many of us have fought in the battles of freedom beside their sons and fathers. We represent them with all the ability and courage which the Almighty has seen fit to bestow upon us. The real purpose of law and administration of it is to enable people to live in harmony with each other and with their Creator. We know the temper of our own people.

We have always been ready and willing to cooperate with the Supreme Court, with the Court Administrator, with our local judges, and court officers . . . to further the administration of justice. And we stand ready and willing to do so now. We wish to live in harmony with all the branches of the government concerned with the administration of justice.”

It continued:

“In the convention which drafted our Constitution there were delegates who proposed that the State of Michigan be made into one judicial circuit so that any circuit judge could be sent to serve in any part of the State, regardless of the county in which he was elected. Their proposals were defeated in the convention . . .

We contend that there is no authority in the Supreme Court or the Court Administrator to set aside or nullify any provision of our State Constitution . . .

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It is our opinion that a judge has the right under both the State and Federal Constitutions to occupy the office to which he has been elected by the people. And it is also our opinion that the people of Saginaw County have the right under the State and Federal Constitutions to have the service of the judges whom they have elected.

The Magna Charta in 1215 A.D. guaranteed the right to justice without unreasonable and unnecessary delay. That is a sound judicial policy, and through the centuries great jurists have pursued it. We endorse that policy. If justice be the goal, speed in the disposition of litigation is commendable, but, if speed be the goal, the rights of free men under the law will soon perish.

A few years ago, in the field of criminal law the courts of our state developed a mania for speed. Men were arrested, tried, convicted, sentence, and on the way to prison within a few hours. The Supreme Court of the United States set us right. Many of these cases were ordered retried. We became known as the 'quick justice' state.

In the field of civil practice, we trust that it will never be necessary for the Supreme Court of the United States to save us from a similar mania. We are not impressed by statistics from which it is inferred that our judges should hear and decide cases at the average of one every 60 minutes."

Copies of the Bar's Resolution were sent to all of the bar associations in the state and to all circuit judges in the state in an attempt to rally their support. While there may have been others who sympathized with Judge Huff and his plight, and Robert Curry claimed that he had received numerous telephone calls of support from judges who did not wish to be named, only two spoke out publicly: Judges Lucien Sweet and Raymond Fox of Kalamazoo.

There were, however, many voices raised in support of their judge by the ordinary and prominent citizens of Saginaw. The Saginaw News' "Peoples Forum" was swamped with letters to the editor, expressing their outrage at the Supreme Court's action, and insisting that they had a right to have a judge whom they had elected sit in judgment of their cases.

Some taxpayers were even preparing a protest to Lansing, saying they were being charged \$20.00 a day for Judge Quinn's services, even though they had not invited him to come. They calculated that the total bill to the citizens would exceed \$1,000.00 for his time and expenses.

The following day, May 8, the Judge wrote a polite but firm letter to the Court Administrator, Meredith Doyle, declining reassignment to Wayne County, and informing him that on Monday, May 12, he would continue to hold court in Saginaw County.

On Friday, May 9, Doyle received the letter and a hastily convened conference of the Supreme Court was held later that day. It was decided that a formal court order from the Supreme Court would be entered requiring Judge Huff to go to Wayne County on Monday. It was reported that two justices dissented, Justice George Edwards and Justice Thomas M. Kavanagh.

Over the weekend, Judge Huff confirmed that he had received a telephone call from Chief Justice Dethmers late Saturday afternoon advising him that the Court expected him to be in Detroit on Monday morning.

Judge Quinn, on Saturday, asked to comment on the situation in Saginaw, said flatly: "If there is going to be trouble, I am ready for it."

## CONFRONTATION DAY

Monday, May 12, 1958, was motion day in Saginaw County. Court was held in the stately old red brick courthouse at the corner of South Michigan Avenue and Court Street. Mondays were usually busy days with many lawyers and litigants roaming the hallways, but on this day the place was packed. Many citizens of Saginaw, having read of developments over the weekend in the newspaper, wanted to see what was going to happen.

I was also present that morning, having a couple of minor motions to present in the courtroom across the hall from Judge Huff — before the Honorable James E. O’Neill, our other circuit judge at the time, who, incidentally, having been asked to comment on the situation, was quoted in the press as saying: “The decision to assign Judge Quinn to out circuit was not made on my account.”

Court usually opened at 9:30 a.m. on Mondays, but knowing that Judge Quinn intended to be present, Judge Huff arrived one hour early, at 8:30 a.m. and promptly took his customary seat on the bench. In the ensuing hour, his large courtroom began to fill with spectators, lawyers, court house personnel and ordinary citizens. Around 9:00 a.m. Judge Huff read a prepared statement from the bench in which he said, in part:

“I have tried to lead a Christian way of life, living in harmony with the people of Saginaw. If a judge must be mean, inconsiderate, unmindful of the inconvenience of others, callous to the suffering and misfortunes which bring men and women before the court, I am not the man to serve you.

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I do not defy the Supreme Court. I intend to live within the framework of our Constitution. Within that framework, I stand ready to assist the Supreme Court in every way, as I have always done.

I cannot ignore the protests of the people who elected me and the attorneys who practice before me daily.

Now that protests have been made, I cannot in good conscience, carry out the directive of the Court Administrator — Meredith Doyle — to exchange judges for a period of one month commencing today.

Until the legality of this order is determined in orderly process in court, I intend to continue to serve as the Presiding Judge of the Saginaw Circuit.”

At this point, the courtroom erupted with loud applause and cheers by the spectators.

At about 9:30 a.m., Judge Quinn walked through the massive swinging doors of Judge Huff’s courtroom and announced in a clear and confident voice that he was there by order of the Supreme Court to take charge as presiding circuit judge of the 10<sup>th</sup> Judicial Circuit. He warned Judge Huff that if he refused to leave, he faced not only a contempt citation, but also possible removal from the bench and ultimate disbarment.

Turning his head in the direction of Judge Quinn, Judge Huff, with a smile on his face, announced politely that he was the Presiding Judge of Saginaw County for a 12 month period ending in December 1958, and that he intended to remain as such. He added that there was plenty of judicial business to do, and that he would be pleased to assign work to Judge Quinn.

Judge Quinn, of course, declined, saying: “Inasmuch as I am the presiding judge of this circuit, I cannot accept cases from you.”

He then walked out of the courtroom and telephoned Chief Justice Dethmers. A few minutes later, he returned to tell Huff that a formal order from the Supreme Court was on its way and added the warning that, “You are to consider whether your actions in court today will be valid.”

Judge Huff proceeded to handle motions during the balance of the morning, each time advising the attorneys that there could be some question about his authority or jurisdiction, and leaving the choice to them as to whether to proceed, but all of the lawyers were willing to go forward.

Because no formal written order had yet been served on Judge Huff, the Supreme Court hastily pre-

pared a written order signed by six of the eight judges [Thomas M. Kavanagh and George Edwards still dissenting] requiring Judge Huff to leave Saginaw and go forthwith to Wayne County. Two state troopers were then dispatched to serve the order, which they did at approximately 2:30 p.m.

During the noon hour, Judge Huff did not go home for lunch as was his custom, but instead sent out for a sandwich and a carton of milk which he consumed at the bench.

After the troopers served the official order on Judge Huff, he recessed court, left the bench and went into his chambers. A few minutes later he emerged and announced that he would continue to sit as the Presiding Judge in Saginaw County. The still packed courtroom again erupted wildly with applause.

It was reported that Judge Huff had expected to receive a writ of prohibition, preventing him from sitting on the bench, but instead the Supreme Court had simply ordered him, in writing, to go to Detroit.

On Monday evening, the Saginaw County Bar Association held another emergency meeting. Because all of the regular meeting rooms at the Bancroft Hotel were booked, the lawyers crowded into the coffee shop area and once again held forth for several hours, discussing what should be done next. In the end, they adopted another resolution supporting their embattled judge and urged him to hang tough. They also voted to attempt to enter the legal dispute as an *amicus curiae*. There were only two dissenting votes this time, from Circuit Judge James E. O'Neill and Attorney Joseph J. Manolfi [then County Democratic Chairman] who wanted to pass the dispute on to the State Bar of Michigan for a factual study and for a compromise recommendation to resolve the dispute.

On Tuesday morning, May 13, Judge Quinn again appeared in Judge Huff's courtroom along with Frank Warnemunde, long time circuit court clerk, who referred to himself throughout this tense struggle as "Mr. In Between." He too had received an order from the Supreme Court to the effect that Judge Quinn was now presiding judge of the Saginaw Circuit, and that he, Warnemunde, was to take instructions from him. He was caught between a rock and a hard place.

Quinn ordered Warnemunde to remove the files from Judge Huff's bench and to take them to the Board of Supervisors Room, where he was setting up his own courtroom. Caught in the middle, and not wishing to have himself held in contempt of court, Warnemunde rather reluctantly walked to Judge Huff's bench and took a stack of files in his arms.

As he was about to leave the courtroom, once again old Robert J. Curry, pulled himself close to his old friend, looked him straight in the eye, and stated with scorn dripping from his lips: "You know, Frank, at another time in history, when Robert E. Lee was faced with a similar choice as you, he stuck with his people!"

Frank Warnemunde simply shrugged his shoulders and walked with the files and Judge Quinn to the newly established, temporary courtroom down the hall.

Before proceeding to hear cases, Judge Quinn read, in open court, some remarks of his own. They were a scathing denunciation of the Saginaw County Bar Association and the lawyers who were its members. He assailed the actions of the Bar as "The sorriest indictment it has ever been my displeasure to witness," and stated that the lawyers had brought disgrace and dishonor to themselves as officers of the court and to their profession. Having heard that some were planning to boycott his courtroom, he warned the lawyers to appear or face the consequences.

The Bar Association had scheduled a trip to Washington, D.C., the following week so that a number of them could be sworn in to practice before the Supreme Court of the United States. Their admission was to be moved by then Secretary of the Army, Wilbur Brucker, a Saginaw native. Many members of the Bar had made arrangements for the train trip and had hotel reservations. When Judge Quinn heard of "this junket," as he called it, he said: "I am sorry that my appearance conflicts with those plans, but if the choice is between working the day a case is set and the trip to Washington, they had better be here!"

While Judge Quinn presided down the hall, Judge Huff remained in his courtroom for most of the day and for several hours engaged himself in signing orders disposing of 432 cases which were on the "no-

progress docket” — mostly divorce cases where the parties had long since reconciled and also some bad check cases and other minor criminal matters that the prosecutor was no longer interested in pursuing. Thus, the large “backlog of cases” to which the Court Administrator Doyle had referred, disappeared with emphatic strokes of the pen.

That evening, at his home on bond Street, Judge Huff was served with a second Supreme Court order by Supreme Court Crier, C.E. Sprague. It was an order requiring him to show cause at a hearing to be held on Friday, May 16, why he should not be held in contempt of court.

During the ensuing days, Wednesday and Thursday, Judge Huff and his attorneys prepared their defense. The Judge also released another statement saying: “I feel like a man being led with bared back to a whipping post while the crowd watches with anticipation. But, the principle involved here reaches to the very foundations of our elective system of justice.”

On Wednesday, May 14, the Detroit newspapers reported that the Wayne County judges, themselves under fire by the Supreme Court for not working hard enough and for taking too much vacation time, had voluntarily agreed to cut their vacations to four weeks a year.

## HEARING BEFORE THE SUPREME COURT

On Friday, May 16, 1958, the halls of the State Capitol Building in Lansing, where the Supreme Court was then located, were crowded with legislators, state officials, lawyers, friends of Judge Huff, and curious onlookers. The courtroom itself was packed — mostly by 50 lawyers from Saginaw who had journeyed to Lansing to give Judge Huff moral support. What they witnessed that day had all the tension and drama of theater tragedy.

Just before the proceeding began, Judge Huff was heard to comment to one of his counsel: “Walking up that aisle to the bench, I’ll know how a doomed convict feels taking the 13 steps to the gallows.”

Promptly at 10:00 a.m., the eight stern faced Justices of the Supreme Court took the bench and sat down. Chief Justice Dethmers announced that the Motion For Adjournment, previously filed, and the Motion To Intervene, filed by the Saginaw County Bar Association, were both denied. He ordered Judge Huff to continue standing for questioning. When Huff’s attorney Robert J. Curry attempted to speak on Huff’s behalf, he was ordered to sit down and was told that he could be heard later. Dethmers ordered Judge Huff to speak for himself.

The hearing lasted for about an hour and a half, with the Court strongly urging the Saginaw jurist to purge himself of contempt. Judge Huff maintained that he was there on a matter of principle. The Saginaw News reported that “He stood there with dignity and told the black robed justices quietly, but firmly: ‘This is a very important matter. I take the position that I cannot abdicate my office for the purpose of letting another judge take my place. I would like to have this issue decided by the highest available court.’”

When Lawyer Curry was finally given the opportunity to speak, he strongly implied that the court had already made up its mind. The Chief Justice warned him to drop that line of argument, but Curry continued: “You are the tribunal that makes the charges, proceeds to hear them, and then pronounces the sentence. Never, in all my forty years as a lawyer have I experienced anything like this.”

Then, as a sort of per-oration, he concluded in typical Curry style: “You can lock the jail doors and put guards around him . . .but all the water that has flowed since Pontius Pilate put his hands in the bowl will not wash out the stain of what you do today.”

The Chief Justice again pleaded with Judge Huff to change his mind: “This court is even now patient and indulgent. Will you still persist?”

Judge Huff asked for a brief recess before giving his final response. The court granted him 15 minutes. As the justices filed out, Huff huddled with his lawyers and then sat down at the table and began writing. A few minutes later, the court crier banged his gavel and the justices filed back onto the bench. Judge Huff

arose and read from a legal pad: "I accept the consequences which may result to me personally and professionally. I will be sentenced by this court."

Huff's attorneys had told him privately that they hoped the Supreme Court would sentence him to jail, for then they could bring a proceeding requesting a writ of habeus corpus and ultimately get the matter before the Supreme Court of the United States.

The Supreme Court, perhaps foreseeing this plan, did not oblige. Chief Justice Dethmers announced that the court had determined that Judge Huff should be fined \$250.00, and added that he would be in continuous contempt until he went to Detroit as ordered.

Judge Huff and his attorneys left the Capitol Building that afternoon without paying the fine. Huff told reporters outside that he "did not have the means" to pay such a fine, but the real reason for not immediately paying the fine was that if it was paid, any hope for appeal to the Supreme Court of the United States would have been rendered moot, and Huff's lawyers stated strongly that they would make every effort to appeal.

## AFTERMATH

The end of the *Huff* case ultimately proved to be rather anti-climatic. Over the weekend, Judge Huff pondered his fate and determined that he had made his point, deciding that he would go to Wayne County while his attorneys continued to explore the possibility of an appeal.

On Monday, May 19, Judge Huff was warmly greeted in Detroit by Presiding Judge Frank Fitzgerald, who was quoted in the Detroit Free Press as saying that he had not requested any outside help from the Supreme Court.

During the one month period which Judge Quinn spent in Saginaw, the first actual case to come before Judge Quinn for trial was one in which I was personally involved, along with Peter F. Cicinnelli, a lawyer with whom I was associated at the time. The case was *Rogalski v. the Township of Buena Vista*. It involved the alleged wrongful discharge of the Township's building inspector who had been abruptly fired from his job after about four months. We had alleged that Rogalski had a contract of employment, and that it had been breached, entitling him to damages. The matter was a non jury case, assigned to Judge Huff. As things turned out, it ended up in front of Judge Quinn. Our opponent in this litigation was Walter Martin, who at the time was President of the Saginaw County Bar Association, and who himself had issued some fairly strongly worded statements about the Supreme Court orders and Judge Quinn. In addition, before the trial began, Walter made a statement on the record questioning Quinn's authority to sit in the case, and making it very clear that he was proceeding under protest.

Pete and I thought we had it made. In addition to having what we felt was a pretty strong case on the merits, our opponent was one of the leading spokesmen for Judge Huff, in opposition to the man now sitting on the bench. How wrong we were! Every time we made an objection, we were promptly overruled. Every time Walter objected to something we did, he was sustained. It soon became crystal clear to us that Judge Quinn was leaning over backwards to show just how fair he could be to the President of the Saginaw Bar. Still, we thought we had a good chance at ultimately winning the case. However, after both sides had rested, and scarcely taking time for a breath, Judge Quinn announced a verdict of No Cause for Action, commenting that "Due to the very able cross examination of the plaintiff by defendant's counsel, Mr. Rogalski had been thoroughly discredited to the point where his credibility was destroyed utterly and completely." We were completely devastated.

Attorneys Robert Curry and Walter Martin journeyed to Washington, D.C., and were admitted to practice before the United States Supreme Court. It was reported in the Saginaw News that while they were in the nation's capitol, they had conferred with some imminent appellate counsel and had finally concluded that the Supreme Court would never agree to hear a case involving a \$250.00 fine, and so all efforts to appeal were ultimately abandoned.

Judge Huff, after serving in Detroit for nearly a month, came back to Saginaw and resumed his bench – a bench to which he was re-elected in 1959 and three more times thereafter, until he retired in 1980 at the age of 71. No one ever challenged him at the polls.

Following Judge Huff's return to Saginaw, it was reported that Chief Justice Dethmers and Meredith Doyle had met with the three judges of Saginaw County and that an agreement was reached "to consider" a few rule changes to improve the flow of cases. The Chief Judge emerged from the conference saying: "We are all in agreement and sincerely interested in doing what is essential to improve the administration of justice."

The three judges announced that they would "study" the proposals of Doyle and Dethmers and confer with local bar association members about them.

One month later – on July 18, 1958 – the Supreme Court issued a statement to the effect that it planned "no tyrannical control of the courts." An article in the Detroit News indicated that the statement had been issued after eleven circuit judges from Lansing, Flint, Ionia, Owosso, Alma and Hastings had asked to meet with the court and had expressed their grave misgivings over the whole affair involving Judge Huff.

Chief Justice Dethmers stated: "The Supreme Court has no disposition to flex its muscles, or to show how powerful we are, or to be tyrannical. We conceive of ourselves as leaders of a judicial team whose goal is to improve judicial process in this State..."

On August 15, 1958, Judge Huff reported that he had mailed a check for \$250.00 to the Supreme Court, after the appeal period had expired. He indicated that the Supreme Court had never requested it or reminded him that he still owed it.

Ten years later, under a different court administrator, the Michigan Supreme Court was urging a fourth circuit judge for the Saginaw Circuit, and today we have five.

## CONCLUSION

Virtually all of the participants in this struggle of nearly forty years ago are gone now: Chief Justice Dethmers, Justices Leland Carr, Harry Kelly, Eugene Black, Talbot Smith, George Edwards, John Voelker and Thomas M. Kavanagh, as well as Meredith Doyle, Judge Quinn and Attorney Bob Curry. Even the old red brick courthouse where much of this drama occurred has been torn down and replaced with a new modern structure. Judge Huff, however, has outlived them all. He still lives today in the house where he was born on Bond Street, just eight blocks from the Courthouse. I visited with him for a couple of hours just the other day. At 88, he is having a few problems with his eyes, having just undergone cataract surgery a few weeks ago, but his mind is still as sharp as ever, and he exhibited the same warm, gracious hospitality to me that has always been his trademark.

As we visited, he told me another little anecdote about this case which I had not heard before. It seems that during the month in which he served in Detroit, he was invited as a guest to a banquet by Judge Fitzgerald with a large number of Wayne County judges and attorneys in attendance. Also in attendance as a guest that evening was Justice Talbot Smith, who, of course, had sat on the Huff case just a week or two before. With a smile on his face, Judge Huff remarked that when Justice Smith was announced as a guest he was given the customary round of polite applause; but, when Judge Fitzgerald announced that they also had another very special guest, Judge Eugene Snow Huff from Saginaw, the assembled judges and lawyers leaped from their seats with loud applause and gave him a standing ovation which lasted for several minutes, while Talbot Smith sat in his chair in bewilderment.

As I left him and walked down the front porch steps and made my way to my car, the thought came to my mind which was expressed by Rodney King when he said, a few years ago: "Why can't we all just get along?"

Later on, in preparing for this talk, I came across two other statements that seemed to fit in quite nicely

as a conclusion. The first is from Justice Felix Frankfurter, when he said in a speech in 1946, commenting on the issue of swift justice: “Mere speed is not a test of justice. Deliberate speed is. Deliberate speed takes time. But it is time well spent.”

The second statement was made by Edward L. Wright, President of the American Bar Association in 1971. He said at that time: “The law will never move as rapidly as a bullet . . . Justice should be reasoned, and reasoning takes a certain length of time.”

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