In re Huff

Judicial Power and Democracy (I)

352 Mich 402 (1958)

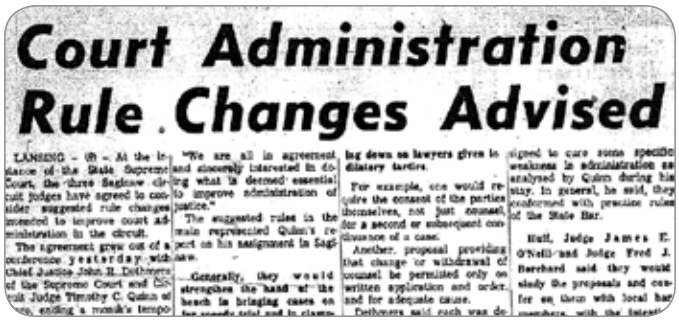
The rising tide of post-New Deal liberalism in both Washington and Michigan had profound constitutional and political effects. In the late 1950s and early 1960s, the United States Supreme Court and the Michigan Supreme Court made bold assertions of judicial power in their constitutional systems. They also used that power to expand egalitarian principles, most significantly by ordering the imposition of a "one person, one vote" standard in legislative apportionment.

In the mid-1950s, demands by African Americans for equality began to have a major impact in national politics. The United States Supreme Court, under Earl Warren, gave the issue great prominence when it held that public school segregation violated the Constitution in the 1954 case of *Brown v Board of Education*.[1] Though initially there was tremendous resistance to, and very little compliance with, the decision, by the mid-1960s its legitimacy had been established, and it came to be seen as a major step in the civil rights movement. The Warren Court subsequently used judicial review to effect profound changes in American politics and society. It prohibited school prayer and generally limited religious expression in public life,[2] nearly prohibited capital punishment,[3] and dismantled much of the policing of morals in areas like obscenity, pornography, contraception, and abortion.[4] It also imposed national standards in criminal procedure through the nearly complete "incorporation" of the Bill of Rights. The United States Supreme Court contributed to a trend that imposed modern, national standards over those of provincial—usually southern white and northern ethnic urban—values. In doing so, it had a powerful impact on American politics and drove results outside the usual political process.[5]

Many state supreme courts followed a similar path.[6] A dramatic confrontation between a Michigan circuit court judge and the state Supreme Court showed a centralization within states as well as among the United States. Circuit courts had been the basic trial courts throughout Michigan's history—indeed, before there was a permanent Supreme Court the circuit court judges constituted a supreme court. The state was divided into 41 judicial circuits. In some rural circuits, one judge sat for several counties; in the urban circuits, several judges sat for one county—Wayne County, for example, had 18 judges. The circuit court judges were elected for six-year terms, and the legislature established new courts as needed.[7]

Image from the Portrait Collection, Archives of Michigan, Lansing

Judge Timothy Quinn was assigned to Huff's courtroom.



Court Administration Rule Changes Advised

LANSING – (AP) – At the instance of the State Supreme Court, the three Saginaw circuit judges have agreed to consider suggested rule changes intended to improve court administration in the circuit.

The agreement grew out of a conference yesterday with Chief Justice John B. Dethmers of the Supreme Court and Circuit Judge Timothy C. Quinn of [illegible], ending a month's tempo[illegible]

"We are all in agreement and sincerely interested in doing what is deemed essential to improve administration of justice."

The suggested rules in the main represented Quinn's report on his assignment in Sag[illegible]

Generally, they would strengthen the hand of the bench in bringing cases on [illegible] ing down on lawyers given to dilatory tactics.

For example, one would require the consent of the parties themselves, not just counsel, for a second or subsequent continuance of a case.

Another proposal provides that change or withdrawal of counsel be permitted only on written application and order, and for adequate cause.

[illegible] signed to cure some specific weakness in administration as analyzed by Quinn during his stay. In general, he said, they conformed with practice rules of the State Bar.

Hull, Judge James E. O'Neill and Judge Fred J. Borchard said they would study the proposals and confer on them with local bar [illegible]

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The Saginaw County circuit had had two judges since 1888, and by the 1950s appeared to need a third. The Republican legislature, however, was reluctant to create a new judgeship, because the Democratic governor, G. Mennen Williams, would likely appoint a judge from his party's ranks, and the judge's incumbency would be a great advantage when the first election for the post was held. As with the Michigan Supreme Court, though the office was elective, temporary appointments were often more important than elections. To facilitate the creation of a third judgeship, the governor finally agreed to appoint a Republican probate judge to the circuit judgeship and a Democratic judge to fill the probate vacancy.[8]

Others, members of the bar and bench—lawyers and judges familiar with the court—believed that the Saginaw circuit didn't need an additional judge, but rather needed more efficient judges. They noted that the caseload in Saginaw was well below the state average, and the Supreme Court noted the "dilatory tactics of a few lawyers" in the circuit.[9] State court administrator Meredith Doyle persuaded the Supreme Court to order Presiding Judge Eugene Snow Huff of the Saginaw circuit to move temporarily to the very busy Wayne County circuit, and to bring in Timothy Quinn from a neighboring circuit to clean up Judge Huff's backlog of cases in Saginaw. This presented a personal and cultural clash. Where Huff was regarded as mild and gentlemanly, conducting his court in a leisurely and humane fashion, Quinn was reputedly a "martinet," who administered a court with ruthless, "assembly-line" efficiency. Indeed, Quinn immediately announced a new set of court procedures to speed up business. This provoked a protest from the Saginaw County Bar Association, led by Robert J. Curry.

The bar association asserted that the voters who had elected Judge Huff had a right to his service, and denounced the "mania for speed" that had turned much of Michigan into "the quick justice state."[10]

Although he initially agreed to accept his reassignment, the protest convinced Huff to defy the order and remain in his court. On May 12, 1958, when Judge Quinn appeared to take his place, Huff refused to step aside. Emphasizing the humane qualities that had endeared him to his constituents, he declared, "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." Quinn warned Huff that he was defying orders of the Supreme Court, and had an explicit order from the Court served on Huff later that day.[11]

The next day, Judge Quinn ordered the court clerk, Frank Warnemunde, to remove the court's files from Huff's court to a room in which Quinn was setting up court. Curry urged Warnemunde not to do it, employing a revealing analogy: "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!"[12] Curry painted the conflict as between genteel manners and modern efficiency, between Saginaw and Lansing, and likened it to that between the Confederacy and the Union, at a time when white southerners were again engaged in "massive resistance" against the United States Supreme Court's order to desegregate their schools. The governor of Arkansas, Orval Faubus, had defied what he regarded as an unconstitutional decision and refused to allow black students admission to Central High School in Little Rock. President Eisenhower had sent in the National Guard to enforce the order, and the case was being litigated at the same time as the Huff standoff.

On May 16, responding to an order to show cause why he should not be cited for contempt of court, Huff appeared before the Michigan Supreme Court. Chief Justice Dethmers admitted that there had been "division of this court before the order entered"—apparently Justices Edwards and T. M. Kavanagh had not wanted to order Huff to move to Wayne County—but the Court was unanimous in defending its power to do so.[13] The hearing was tense and dramatic. The justices pleaded with Huff to comply. "This Court is even now patient and indulgent," Dethmers said, "Will you still persist?" Huff remained steadfast, and his lawyer, Robert Curry, stood defiant. Using images and rhetoric reminiscent of William Jennings Bryan, he warned, "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."[14] The Court had no choice but to find Huff guilty of contempt, fining him $250.

Chief Justice Dethmers wrote an extensive opinion for a unanimous Court in this unprecedented case. Echoing the Declaration of Independence, Dethmers noted that "A proper regard for understanding by the bench and bar and the public generally of the authority under which this Court moved and the reasons which impelled it to do so requires their announcement through formal opinion."[15] The Michigan Constitution stated that "The Supreme Court shall have a general superintending control over all inferior courts."[16] Several legislative acts, like the 1952 Court Administrator Act, had provided specific powers to manage the circuit courts, including the creation of the office of court administrator, with the specific power to transfer circuit judges. "It does not comport with our system of administration of justice that an inferior court shall review the determinations of this Court," Dethmers wrote. "Even though the propriety or validity of our order be questioned, it should be obeyed until this Court has vacated it."[17] The Court also defended its power to enforce these orders through contempt citations. Summary punishment for contempt was "inherent and a part of the judicial power of constitutional courts, cannot be limited or taken away by act of the Legislature nor is it dependent on legislative provision for its validity or procedures to effectuate it."[18]

The wounds from the altercation seem to have healed quickly. Judge Huff soon decided to comply with the order to go to Wayne County, paid his fine, won four more six-year terms in the Saginaw Circuit, and retired in 1980. Judge Quinn was later elected to the newly created Michigan Court of Appeals. Justice Dethmers smoothed ruffled feathers by saying that the Supreme Court planned "no tyrannical control of the courts."[19] The Michigan Supreme Court had established its supremacy in the state judicial system.

The new constitution of 1963 confirmed and augmented this power. The shift in wording was subtle but significant. Whereas the 1908 constitution stated that "the judicial power shall be vested in one Supreme Court, circuit courts, probate courts, justices of the peace and such other courts…as the Legislature may establish," the

In *Cooper v Aaron* [358 U.S. 1 (1958)], which came in the wake of *Brown v The Board of Education of Topeka* [347 U.S. 483 (1954)], the United States Supreme Court ruled that states are bound by the Court's decisions and cannot choose to ignore them. Shortly after the *Brown* decision, the Little Rock, Arkansas school district began planning to implement desegregation. Other Arkansas districts, however, opposed segregation and began looking for ways to get around the ruling. The Arkansas State Legislature responded by amending the state constitution in a way that discouraged desegregation and allowed white children to choose not to attend desegregated schools. At issue in *Cooper* was whether, under constitutional law, Arkansas officials were bound by the Court's prior decision in *Brown*, or if, instead, they were entitled to resist a Supreme Court order to desegregate schools. Relying on the reasoning that the United States Supreme Court is the "supreme law of the land," the Court ruled that Arkansas officials were bound by the *Brown* decision.[1] Though *Cooper* played out on the federal level, the principles in the case were similar to the principles at issue in *Huff*. Since the 1908 Michigan Constitution stated that "The Supreme Court shall have a general superintending control over all inferior courts," the Michigan Supreme Court ruled that lower courts were constitutionally bound to abide by orders it issued.

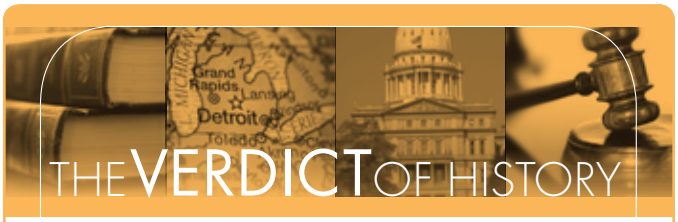
1. 4LawSchool, *Constitutional Law Case Briefs* <http://www.4lawschool.com/conlaw/coop.shtml> (accessed January 24, 2009).

new constitution provided that "the judicial power of the state is vested exclusively in *one court of justice* which shall be divided" along similar lines. It abolished the antiquated system of fee-paid justices of the peace, permitted the legislature to create new district courts to try minor offenses and small claims, and, most significantly, created a new court of appeals. Heretofore the Supreme Court had been the only court of appeals, and the justices were overwhelmed by the volume of cases brought to it. Now the Supreme Court would have greater control over its docket, and could concentrate on the most significant cases. As a result, its size was reduced from eight to seven justices. The new constitution generally promoted modernization and efficiency in state government, precisely the values that Huff resisted and the Court vindicated. But, if there was any doubt about the matter, it did provide that "the Supreme Court shall not have the power to remove a judge."[20]

The Michigan Supreme Court also made a strong statement of the "inherent powers" doctrine—that courts can command resources needed for their operations, usually by issuing orders to state fiscal authorities. In 1968, the judges of the Wayne County Circuit Court sued the Board of County Commissioners (in their own court) to compel the Board to hire more personnel for clerical support. The case was moved to the Oakland County Circuit Court, and the judges prevailed—including a formal order compelling the county to pay for the lawyers that the judges retained to bring the suit. The Supreme Court, after attempting a compromise settlement, affirmed the judgment in 1971.[21] On the same day, the Supreme Court held that a judicial district was not bound by a collective bargaining agreement that the county had negotiated with its employees.[22] These decisions actually limited the inherent-powers doctrine and empowered the state court administrator, but they also effectively asserted judicial independence and the central control of the judiciary by the state Supreme Court. Constitutions and legislatures could control the effects of judicial abuse of the inherent-powers principle, and voters could check the abuse of this power by elected judges. In fact, one Alpena County judge lost his seat through the electoral process after making an inherent-powers assertion.[23]

FOOTNOTES

1. *Brown v Board of Ed of Topeka, Shawnee County, Kan,* 347 US 483; 74 S Ct 686; 98 L Ed 873 (1954).
2. *Engel v Vitale,* 370 US 471; 82 S Ct 1309; 8 L Ed 2d 627 (1962).
3. *Furman v Georgia,* 408 US 238; 92 S Ct 2726; 33 L Ed 2d 346 (1972).
4. *Roth v United States,* 354 US 476; 77 S Ct 1304; 1 L Ed 2d 1498 (1957); *Griswold v Connecticut,* 381 US 479; 85 S Ct 1678; 14 L Ed 2d 510 (1965); *Roe v Wade,* 410 US 113; 93 S Ct 705; 35 L Ed 2d 147 (1973).
5. Powe, Jr, *The Warren Court and American Politics* (Cambridge: Harvard Univ Press, 2000).
6. Galie, *The other Supreme Courts: Judicial activism among State Supreme Courts,* 33 Syracuse L R 731 (1982); Hagan, *Patterns of activism on State Supreme Courts,* 18 Publius 97, 97–115 (1988).
7. Joiner, *The judicial system of Michigan,* 38 U Det L J 513, 513–514 (1961).
8. Mossner, *Eugene Snow v The Michigan Supreme Court,* 77 Mich B J 266 (March 1998). Mossner was a young lawyer beginning practice in Saginaw, and provides a unique and invaluable first-hand account of the case.
9. *In re Huff,* 352 Mich 402, 411; 91 NW2d 613 (1958).
10. Mossner, *Eugene Snow, supra* at 268.
11. *Id.* at 270.
12. *Id.*
13. *In re Huff, supra* at 619; Mossner, *Eugene Snow, supra* at 270.
14. Mossner, *Eugene Snow, supra* at 271.
15. *In re Huff, supra* at 615.
16. Const 1908, art VII, § 4.
17. *In re Huff, supra* at 415.
18. *Id.* at 416–417.
19. Mossner, *Eugene Snow, supra* at 272.
20. Const 1908, art VII; Const 1963, art VI; Danhof, *Shaping the judiciary: A framer traces the constitutional origins of selecting Michigan's Supreme Court justices,* 80 Mich B J 19 (May 2001); Dunbar & May, *Michigan: A History of the Wolverine State,* 3d ed (Grand Rapids: Eerdmans, 1995), pp 569–771.
21. *Wayne Circuit Judges v Wayne City,* 386 Mich 1; 190 NW2d 228 (1971).
22. *Judges of the 74th Judicial District v Bay County,* 385 Mich 710; 190 NW2d 219 (1971).
23. Baar, *Judicial Activism in State Courts: The Inherent-Powers Doctrine, in State Supreme Courts: Policymakers in the Federal System,* eds Porter & Tarr (Westport: Greenwood, 1982), pp 131–135.



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