CHAPTER III

Organization of Courts in the Detroit Metropolitan District: Judicial Personnel

SECTION 1. Qualifications of Judges

a. Circuit Court

There are no statutory professional qualifications at present for Michigan circuit court judges. A statute enacted in 1935 required all circuit judges in Michigan to be practicing attorneys with at least eight years' experience in the practice of law. The statute was held unconstitutional in 1937 by the state supreme court on the theory that the "judiciary is an independent department of the State government and the legislature has no power to annex qualifications for circuit judges not found in the Constitution."

The educational and judicial qualifications of the present judges of the Circuit Court of Wayne County are set forth in Tables IV and V.

All the present eighteen judges have been admitted to the Michigan bar.

One judge has for many years taught law at one of the Detroit law schools.

Several judges have had pre-judicial public experience related to their judicial qualifications: thus, one judge served as United States congressman for two years and as state

---

1 602.40 COMP. LAWS (1948); 27.171 MICH. STATS. ANN.
3 At p. 658. For an instance of legislative interference with judicial function, see 602.58 COMP. LAWS (1948), 27.195 MICH. STATS. ANN., requiring that circuit and recorder's court judges sign a statement to the effect that they have their work up to date before receiving their pay checks.
TABLE IV

Legal Education of Judges of the Circuit Court of Wayne County (1948)

<table>
<thead>
<tr>
<th>Name of institution</th>
<th>Number of judges graduated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detroit College of Law</td>
<td>8</td>
</tr>
<tr>
<td>University of Detroit Law School</td>
<td>5</td>
</tr>
<tr>
<td>University of Michigan Law School</td>
<td>5</td>
</tr>
<tr>
<td>Harvard Law School</td>
<td>1</td>
</tr>
<tr>
<td>Boston University Law School</td>
<td>1</td>
</tr>
</tbody>
</table>

TABLE V

Judicial Experience of Wayne County Circuit Court Judges (1948)

<table>
<thead>
<tr>
<th>Judge (designated by number)</th>
<th>Years of judicial service before becoming circuit judge</th>
<th>Years of judicial service as circuit judge</th>
<th>Total years of judicial service</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>24</td>
<td>24</td>
</tr>
<tr>
<td>2</td>
<td>18 (recorder’s)</td>
<td>4</td>
<td>22</td>
</tr>
<tr>
<td>3</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>4</td>
<td>5 (common pleas)</td>
<td>4</td>
<td>9</td>
</tr>
<tr>
<td>5</td>
<td>18</td>
<td>18</td>
<td>18</td>
</tr>
<tr>
<td>6</td>
<td>5 (justice of peace)</td>
<td>28</td>
<td>33</td>
</tr>
<tr>
<td>7</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>8</td>
<td>27</td>
<td>27</td>
<td>27</td>
</tr>
<tr>
<td>9</td>
<td>31</td>
<td>31</td>
<td>31</td>
</tr>
<tr>
<td>10</td>
<td>30</td>
<td>30</td>
<td>30</td>
</tr>
<tr>
<td>11</td>
<td>10 (justice of peace)</td>
<td>27</td>
<td>37</td>
</tr>
<tr>
<td>12</td>
<td>25</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>13</td>
<td>19</td>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td>14</td>
<td>3</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>15</td>
<td>7</td>
<td>7</td>
<td>7</td>
</tr>
<tr>
<td>16</td>
<td>16 (justice of peace)</td>
<td>6</td>
<td>22</td>
</tr>
<tr>
<td>17</td>
<td>5</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>18</td>
<td>8 (traffic)</td>
<td>3</td>
<td>11</td>
</tr>
<tr>
<td>Total</td>
<td>62</td>
<td>263</td>
<td>325</td>
</tr>
</tbody>
</table>

senator for a year, another was state senator for six years, another was circuit court commissioner for six years, still another spent eight years in the office of the prosecutor of
Wayne County, first as assistant county prosecutor and then as prosecutor.

One judge (he who has taught and is teaching law) has served as a school executive, a member of the state school board, and in an executive capacity in public and private social agencies.

b. Probate Court

There are no statutory qualifications, but the actual qualifications of the present Wayne County probate judges, including the judge of the juvenile court are shown in Tables VI-VII. All six judges have been admitted to the Michigan bar.

**TABLE VI**

**LEGAL EDUCATION OF WAYNE COUNTY PROBATE AND JUVENILE COURT JUDGES (1948)**

<table>
<thead>
<tr>
<th>Name of institution</th>
<th>Number of judges graduated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detroit College of Law</td>
<td>2</td>
</tr>
<tr>
<td>University of Detroit Law School</td>
<td>3</td>
</tr>
<tr>
<td>Indiana University Law School</td>
<td>1</td>
</tr>
</tbody>
</table>

**TABLE VII**

**JUDICIAL EXPERIENCE OF WAYNE COUNTY PROBATE AND JUVENILE COURT JUDGES (1948)**

<table>
<thead>
<tr>
<th>Judge (designated by number)</th>
<th>Years of judicial service before becoming probate judge</th>
<th>Years of judicial service as probate judge</th>
<th>Total years of judicial service</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>10 (circuit court)</td>
<td>9</td>
<td>19</td>
</tr>
<tr>
<td>2</td>
<td>15</td>
<td>15</td>
<td>15</td>
</tr>
<tr>
<td>3</td>
<td>15</td>
<td></td>
<td>15</td>
</tr>
<tr>
<td>4</td>
<td>13</td>
<td>13</td>
<td>13</td>
</tr>
<tr>
<td>5</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>6</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>10</td>
<td>55</td>
<td>65</td>
</tr>
</tbody>
</table>
One judge was attorney general of Michigan. The judge who has been on the bench only a year has been an executive of the probate court for fifteen years.

c. Recorder’s Court

There are no statutory or charter qualifications, but the actual qualifications of the present recorder’s court judges are shown in Tables VIII-IX.

### TABLE VIII

**Legal Education of Recorder’s Court Judges (1948)**

<table>
<thead>
<tr>
<th>Name of institution</th>
<th>Number of judges graduated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detroit College of Law</td>
<td>5</td>
</tr>
<tr>
<td>University of Detroit Law School</td>
<td>1</td>
</tr>
<tr>
<td>University of Michigan Law School</td>
<td>3</td>
</tr>
<tr>
<td>Yale Law School</td>
<td>1</td>
</tr>
</tbody>
</table>

### TABLE IX

**Judicial Experience of Recorder’s Court Judges (1948)**

<table>
<thead>
<tr>
<th>Judge (designated by number)</th>
<th>Years of judicial service before becoming recorder’s court judge</th>
<th>Years of judicial service as recorder’s court judge</th>
<th>Total years of judicial service</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>12 (common pleas)</td>
<td>16</td>
<td>28</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>49</td>
<td>49</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>22</td>
<td>22</td>
</tr>
<tr>
<td>4</td>
<td>7 (traffic)</td>
<td>12</td>
<td>19</td>
</tr>
<tr>
<td>5</td>
<td>14 (common pleas)</td>
<td>4</td>
<td>18</td>
</tr>
<tr>
<td>6</td>
<td></td>
<td>17</td>
<td>17</td>
</tr>
<tr>
<td>7</td>
<td>8 (common pleas)</td>
<td>8</td>
<td>16</td>
</tr>
<tr>
<td>8</td>
<td></td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>9</td>
<td>6 (common pleas)</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>10</td>
<td></td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Total</td>
<td>47</td>
<td>145</td>
<td>192</td>
</tr>
</tbody>
</table>
All ten judges have been admitted to the Michigan bar. Several (three at this writing) are teaching in Detroit law schools; others have previously done so.

One judge is a former city editor of the Detroit Free Press, two are former assistant attorneys general of the state of Michigan, two have been assistant county prosecutors of Wayne County, one is a former assistant United States district attorney.

d. Traffic Court

There are no statutory or charter qualifications. Tables X and XI show the actual qualifications.

### TABLE X

Legal Education of Traffic Court Judges (1948)

<table>
<thead>
<tr>
<th>Name of institution</th>
<th>Number of judges graduated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detroit College of Law</td>
<td>1</td>
</tr>
<tr>
<td>University of Michigan Law School</td>
<td>1</td>
</tr>
</tbody>
</table>

### TABLE XI

Judicial Experience of Traffic Court Judges (1948)

<table>
<thead>
<tr>
<th>Judge (designated by number)</th>
<th>Years of judicial service before becoming traffic court judge</th>
<th>Years of judicial experience as traffic court judge</th>
<th>Total years of judicial service</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>6 (circuit court commissioner)</td>
<td>12</td>
<td>18</td>
</tr>
<tr>
<td>2</td>
<td>12 (common pleas)</td>
<td>3</td>
<td>15</td>
</tr>
<tr>
<td>Total</td>
<td>18</td>
<td>15</td>
<td>33</td>
</tr>
</tbody>
</table>

Both judges have been admitted to the Michigan bar. One judge has served as assistant county prosecutor of Wayne County.
A statute requires that judges be attorneys with four years' experience in the practice of law. Actual qualifications of the present judges are as follows:

**TABLE XII**

**LEGAL EDUCATION OF COMMON PLEAS JUDGES (1948)**

<table>
<thead>
<tr>
<th>Name of institution</th>
<th>Number of judges graduated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detroit College of Law</td>
<td>5</td>
</tr>
<tr>
<td>University of Detroit Law School</td>
<td>1</td>
</tr>
<tr>
<td>University of Michigan Law School</td>
<td>2</td>
</tr>
<tr>
<td>Harvard Law School</td>
<td>1</td>
</tr>
</tbody>
</table>

All nine judges have been admitted to the Michigan bar. One judge has been prosecutor for Wayne County, one has been legal adviser to the governor, one has been an assistant attorney general of the state of Michigan.

**TABLE XIII**

**JUDICIAL EXPERIENCE OF COMMON PLEAS JUDGES (1948)**

<table>
<thead>
<tr>
<th>Judge (designated by number)</th>
<th>Years of judicial service before becoming common pleas judge</th>
<th>Years of judicial service as common pleas judge *</th>
<th>Total years of judicial service</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td>13</td>
<td>13</td>
</tr>
<tr>
<td>5</td>
<td></td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>6</td>
<td></td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>7</td>
<td></td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>8</td>
<td></td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>9</td>
<td></td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>99</td>
<td>99</td>
</tr>
</tbody>
</table>

* Including years of service as Detroit city justice prior to consolidation of justices into common pleas court.
Despite lack of statutory requirements, it is noted that all of the Detroit judges are members of the Michigan bar. Thirty-one out of forty-five judges sitting in Detroit have obtained law degrees from schools in the city of Detroit—twenty-one from Detroit College of Law, ten from the University of Detroit. Eleven judges received law degrees from the University of Michigan. Five judges received law degrees from schools outside the state of Michigan—two from Harvard, one from Boston, one from Yale, one from Indiana.

The average judge had fifteen years of judicial experience at the time the figures were assembled in April of 1948.

f. Qualifications of Judges of Minor Courts in the Metropolitan District outside the City of Detroit

Judges of Flint Act municipal courts are required to be attorneys with five years' experience in the practice of law.

Judges of home rule city courts must be attorneys admitted to practice.

City justices are subject to no statutory qualifications, but some cities impose certain requirements by charter provision. Of the eighteen city justices at present in the metropolitan district, three are members of the bar.

4 For list of such courts in the metropolitan district, see table III, p. 54. Since the Constitution of Michigan, art. VII, § 15, permits the making of legal requirements relative to justices of the peace, this statute and other statutory and charter requirements like it, should survive application of the rule in the O'Neill case, supra n. 2.

5 720.103 COMP. LAWS (1948); 27.3833 MICH. STATS. ANN.

6 For list of such courts in the metropolitan district, see table III, supra p. 54.

7 Melvindale, Ferndale, and Pontiac, for example, require five years' experience. See table III, supra p. 54.

8 According to the State Bar List of the Michigan Bar Association and the 1948 edition of MARTINDALE-HUBBELL'S DIRECTORY OF ATTORNEYS.
ORGANIZATION: JUDICIAL PERSONNEL

SECTION 2. AGE OF JUDGES

The ages of the forty-five judges sitting in the city of Detroit in 1948 are shown in the following table:

**TABLE XIV**

**AGE OF DETROIT JUDGES**

<table>
<thead>
<tr>
<th>Court</th>
<th>30-40</th>
<th>41-50</th>
<th>51-60</th>
<th>61-70</th>
<th>71-80</th>
<th>Over 80</th>
</tr>
</thead>
<tbody>
<tr>
<td>Circuit</td>
<td>4</td>
<td>5</td>
<td>7</td>
<td>2</td>
<td>...</td>
<td></td>
</tr>
<tr>
<td>Probate, Juvenile</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>...</td>
<td></td>
</tr>
<tr>
<td>Recorder’s, Traffic</td>
<td>2</td>
<td>7</td>
<td>1</td>
<td>1</td>
<td>...</td>
<td></td>
</tr>
<tr>
<td>Common Pleas</td>
<td>1</td>
<td>3</td>
<td>2</td>
<td>3</td>
<td>...</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>1</td>
<td>12</td>
<td>15</td>
<td>12</td>
<td>4</td>
<td>1</td>
</tr>
</tbody>
</table>

The age of the median judge is between fifty and sixty.

* * *

There is no retirement plan for Michigan judges at this writing, although a bill to include circuit and recorder’s court judges in the public employees’ retirement annuity plan has been submitted to the last several sessions of the legislature. Michigan is one of seventeen states which do not yet provide for judicial retirement pensions.9

SECTION 3. METHODS OF SELECTING JUDGES

All judges in Michigan are elected. A constitutional provision10 requires all county judicial officers to be elected on a nonpartisan ticket. This covers circuit, probate, and recorder’s court judges, but not common pleas judges, justices of the peace, or successors to justices.11

---


10 CONSTITUTION OF MICHIGAN (1908), art. VII, § 23 as amended.

a. Selection of Circuit Court Judges

Circuit judges in Michigan are elected at state elections held every sixth year. The terms of judges on multi-judge courts are not staggered: the entire circuit bench of the state comes up for re-election at the same time. Vacancies are filled by gubernatorial appointment; the appointment runs until the next county election, at which time the voters select a judge to hold office until the terms of all the incumbent circuit judges expire.

b. Selection of Probate Judges

Probate judges are elected for four-year terms, at county elections. In Wayne County only, the terms of the six judges are staggered three and three. The juvenile court judge is not designated as such by the voters.

c. Selection of Recorder's Court Judges

The number of judges to be elected is determined on the basis of one judge for each 85,000 population or a majority fraction thereof, according to the federal census for the year 1920. The recorder is specially designated on the ballot. All ten judges are elected at a general nonpartisan election for city officers. All judges serve six-year terms, and the terms are not staggered. Vacancies are filled by appointment by the governor until the next municipal elec-

15 701.2 Comp. Laws (1948); 27.3178(2) Mich. Stats. Ann. (Supp.): “In counties having more than 1,000,000 inhabitants there shall be 6 judges of probate, 3 of whom shall be elected at each alternate biennial election for terms of 4 years each.”
tion, when the voters elect a judge to fill each unexpired term.\textsuperscript{16}

d. Selection of Judges of the Traffic and Ordinance Court

Two traffic and ordinance judges are nominated and elected at municipal elections in the same manner as the judges of the criminal division, but "under separate ballot designation of judges of the municipal court—traffic and ordinance division."\textsuperscript{17}

e. Selection of Judges of the Court of Common Pleas of Detroit

Nine common pleas judges are now serving this court; this number constitutes the statutory maximum. Four are elected at a biennial city election; five at the next biennial city election. Each judge serves a six-year term. The present staggering of the terms is the result not of the common pleas court statute but of the fact that when the court was created, the city justices already serving became judges of the court of common pleas, and served out their terms in the new capacity. These justice terms happened to expire at different times.\textsuperscript{18}

Common pleas justices are not county judicial officials, and hence are not covered by the nonpartisan election requirement imposed on such officers.\textsuperscript{19} Vacancies are filled by appointments by the governor, which run until the next city election, when voters select judges to fill out each unexpired term.\textsuperscript{20}

\textsuperscript{16} 725.1; Comp. Laws (1948); 27.3941 Mich. Stats. Ann. See O'Hagan, \textit{op. cit.}, pp. 12, 13, for a complete legislative history and collation of the various public and private acts and charter provisions.
\textsuperscript{17} 725.8 Comp. Laws (1948); 27.3948 Mich. Stats. Ann. O'Hagan, \textit{loc. cit.}
f. Selection of Judges in Home Rule Cities

These judges are elected “in the manner the mayor of the city is nominated and elected” for a six-year term.\textsuperscript{21}

g. Selection of Judges in Flint Act Cities

Judges in Highland Park and Dearborn are elected at city elections for four-year terms.\textsuperscript{22}

h. Selection of City Justices

In cities not under home rule or covered by special statute, justices are elected as other city officers are.

i. Selection of Township Justices

There may be four justices in each township. Township elections occur biennially. When a justice’s term has expired, or where the voters wish to elect another justice in territories already served by less than four justices, as many justices as necessary to bring the number up to four may be elected at any biennial township election. Each justice serves four years. Vacancies may be filled by the township board, pending the next township election.\textsuperscript{23}

j. Comment on Methods of Selecting Judges

The nonpartisan election requirement demonstrates a desire to free the judiciary from the disadvantages of political machination. In the case of the Detroit and Wayne County judges, it is pointed out by court personnel that the size of the electorate and the unfamiliarity of the average voter with the professional records of candidates result in a practical disadvantage: where the party leaders pick

\textsuperscript{21} 117.28 COMP. LAWS (1948); 5.2107 MICH. STATS. ANN.
\textsuperscript{22} CONSTITUTION OF MICHIGAN, art. VII, § 15.
\textsuperscript{23} 85.5 COMP. LAWS (1948); 5.1627 MICH. STATS. ANN.
the candidates, at least there is some preliminary screening. The nonpartisan ballot in Detroit has nourished the development of a phenomenon known locally as "name" candidacies—the running of unknown persons who have names identical with or confusingly similar to those of persons with established records. It is felt that a record of good performance on a bench may avail a candidate little under the nonpartisan system in an area containing a city the size of Detroit.

The system of having the governor fill vacancies raises another problem in Detroit. The political machinations banished by the partisan ballot may re-enter here; in a community the size of the Detroit area they would be difficult to detect, and almost impossible to stop.

The existence of multi-judge benches which are not staggered as to term is striking in Detroit. Regarded as very bad by some scholars, this system is defended by court personnel on the pragmatic ground that where the terms are not staggered, the routine of the court is less often interrupted, and the judges subjected to less unwholesome political pulling and hauling, than would otherwise be the case. In the city of Detroit, for instance, the entire benches of three courts—eighteen judges on the circuit court, ten on the recorder's court, two on the traffic and ordinance court—and some of the probate and common pleas judges come up for re-election at the same time. Although the circuit judges are elected at a county election, and the recorder's court judges at a city election, the elections actually take place at the same time, in the same year, in Detroit, in the spring. The elected judges take office the following January.

We are informed by members of the bar and the bench

in Detroit that it is occasionally difficult, during election year, to obtain the undivided attention of the court personnel for the disposition of litigation.

Scholarly comment on the efficacy of various plans for the selection of judges is abundant.\textsuperscript{25}

\textbf{SECTION 4. COMPENSATION OF JUDGES}

\textbf{a. Compensation of Circuit Judges}

All circuit judges receive a monthly salary from the state of Michigan. In addition, they are permitted by a constitutional provision to receive from their respective counties whatever sum is found appropriate by the board of supervisors thereof, provided the sum be the same for all judges in the same county.\textsuperscript{26} A statute placed a ceiling of $13,500 per annum on the total sum which Wayne County judges might receive from all sources, but the statute is regarded as in contravention of the constitutional power of the county to pay what it sees fit.\textsuperscript{27}

All circuit judges throughout the state receive $7,000 a year from the state. Until 1947 it was $6,000. At this writing the Michigan legislature is considering a bill which will again raise the annual salaries of circuit judges.

The total salary of each Wayne County circuit judge in 1947 was $16,500. In 1921, each received a total of $11,500; in 1924, $13,500; in 1929, $14,500; in 1941, $15,500. In New York, judges of comparable jurisdiction received $25,000 in 1947; in Chicago, $17,000.

The total salary of each Oakland County circuit judge


\textsuperscript{26} \textit{Constitution of Michigan} (1908), art. VII, § 12.

b. Compensation of Probate Court Judges

Under the 1947 statute, the basic annual salaries of probate judges, which differ in counties of different population, were as follows: Macomb County, $5,000; Oakland County, $6,000; Wayne County, $8,400. Probate judges are paid entirely by the county. The statute further provides that each county may pay its probate judges, in lieu of fees, additional amounts in salary.28

In 1947, the total salary paid to each probate judge in Wayne County was $13,500.

c. Compensation of Juvenile Court Judge

Wayne County is the only county in the metropolitan district with a separate juvenile court judge; in 1947 he received $13,500.

d. Compensation of Recorder's Court Judges

Recorder's court judges are paid $7,000 annually by the county for services rendered in felony cases, and are per-

28 701.4 COMP. LAWS (1948); 27.3178(4) MICH. STATS. ANN. (Supp.).
"Said annual salary shall be, for counties having a population of 300,000 and upwards, $8,400.00; for counties having a population of 250,000 and less than 300,000, $6,000 . . . for counties having a population of 100,000 and less than 150,000 $5,000 . . . ," et cetera.
". . . in addition thereto the judges of probate in each county, excepting counties having more than 3 judges of probate, shall receive for their services as judges of juvenile court, in addition to their regular salary, the sum of $300.00 per annum for each 15,000 inhabitants . . . in their respective counties . . . ."
"The board of supervisors of any county may . . . give such additional salary to the judge of probate . . . as shall be deemed just by such board." Right to fees, see 701.17 COMP. LAWS (1948); 27.3178(17) MICH. STATS. ANN. In all three counties in the Detroit metropolitan district, the county pays its probate judges, in lieu of fees, a salary in excess of the statutory base, as above set forth. Fees, therefore, in the district, are paid in to the county after collection by the court.
mitted to receive additional amounts from the city.\textsuperscript{29} The total salary in 1947 of the recorder's court judges was $16,300 each, in addition to which the recorder receives an additional $2,000 from the city.

The recorder's court judges' salaries have recently been equalized with those of the Wayne County circuit judges. In 1921, recorder's court judges received $11,500 apiece; in 1930, $12,500. In 1941, they were raised to $13,500, but did not immediately receive the benefits of that or of the later increase because of a constitutional provision prohibiting any public officer except a circuit judge from receiving an increase in emolument during incumbency.\textsuperscript{30}

e. Compensation of Traffic and Ordinance Court Judges

Traffic and ordinance judges are now paid the same amount as the recorder's court judges in the criminal court. They formerly received less than half as much from the city as their colleagues, but have recently been placed on an equal basis.\textsuperscript{31}

f. Compensation of Common Pleas Judges

There is no statutory provision regulating these salaries. The city council, which paid its common pleas judges

\begin{footnotesize}
\textsuperscript{29} 725.13 \textbf{COMP. LAWS} (1948); 27.3953 \textbf{MICH. STATS. ANN.}, which is a portion of the Municipal Court Act, provides that each judge is to be paid \textit{by the city} an annual amount equal to that paid to circuit judges by the state, and such additional salary as the common council may see fit. This section, however, was not adopted by referendum, and thus the law in force is the original section, which provides that each judge shall receive \textit{from the county} an amount equal to the amount paid by the state to circuit judges, together with an additional sum from the city as fixed by the common council. See O'HAGAN, \textit{op. cit.}, pp. 1-8, for the legislative history.

\textsuperscript{30} \textit{Ibid.}, for complete history of the successive stages in the financial development as related to judges' salaries. CONSTITUTION OF MICHIGAN (1908), art. XVI, § 3.

\textsuperscript{31} O'HAGAN, \textit{op. cit.}, p. 6, for the legislative history. A previous statute provided for a smaller salary for each traffic and ordinance judge. The present statute is without this discriminatory language, so that judges of the traffic and ordinance division are now paid in the same manner as those on the criminal side of the bipartite tribunal.
\end{footnotesize}
$6,000 in 1921, increased their salaries to $8,000 in 1926, to $8,500 in 1927, to $10,500 in 1945, and to $12,500 in 1947. Since the judges have ascended the bench at various times, and since they are covered by the constitutional prohibition against receiving an increase during a term of office, the present judges receive amounts varying from $8,000 to $12,500 from the city of Detroit. 32

g. Compensation of Judges of Minor Courts in the Area outside the City of Detroit

Judges of Flint Act city courts 33 are paid salaries fixed by the city charter, 34 and judges of home rule city courts 35 are paid salaries fixed by the governing body of the city. 36 The fees collected are paid into the city or county treasury. 37 City justices in some cities 38 are paid salaries, in others the fee system prevails. 39 Township justices are paid fees as fixed by statute. 40

h. Comment on Compensation of Judges

The rapid successive increases in salary received by judges sitting in Detroit parallel the rapid increase in population of the city and in the case load of the courts located in that city.

32 Constitution of Michigan (1908), art. XVI, § 3.
33 For list of courts, see table I, p. 6.
35 See table I, p. 6, for list of courts.
37 Ibid.
38 For example, Hamtramck, Wyandotte, Melvindale, Ferndale, Birmingham, Clawson.
39 For example, Utica, Center Line, Oak Park (although it has a home rule court), Berkeley, Pleasant Ridge, Huntington Woods, Ecorse, Grosse Pointe.
40 Civil: 677.1 Comp. Laws (1948); 27.3431 Mich. Stats. Ann.—e.g., $2.00 a day for trying a cause, 25¢ each for docket entries.
Criminal: 775.2 Comp. Laws (1948); 28.1239 Mich. Stats. Ann.—e.g., $1.50 for a guilty plea, $5.00 a day for a full trial.
Judges sitting in Detroit draw from $12,500 to $16,500, although some of the common pleas judges are still actually receiving less than $10,000 because of the constitutional provision. The highest salary outside Detroit is $12,000 for Oakland County circuit judges.

Section 5. Organization of Judicial Personnel in Multi-Judge Courts

a. Nature of the Problem

When a court has more than one full-time judge, the methods it adopts for division of labor and for co-operation in administrative matters have a large influence upon the character and efficiency of the tribunal. The existence of the multi-judge courts in the Detroit area gives rise to many of the problems which differentiate metropolitan from nonmetropolitan courts.

The problems of multi-judge courts do not arise where independent justices share the business in an area. In Ecorse, Grosse Pointe, and Hamtramck in Wayne County, and in East Detroit in Macomb County, the system of independent justices still obtains. Although in at least some of these places (Hamtramck and Ecorse, to our knowledge), the justices co-operate to the extent of sharing a clerk and a place for records, they do not experience the difficulties which occur when the business and responsibility of a single tribunal must be distributed among several judges and the performance of the judges checked for speed and quality.

Nor do such problems arise where a judge is supplied with a part-time associate. In Highland Park (a Flint Act court), an associate judge is used rather than two full-time judges with equal authority. In this court, the associate judge is an alternate who relieves the judge when his presence is impossible, and who is available in case of a

41 Constitution of Michigan (1908), art. XVI, § 3.
suddenly jammed docket. In River Rouge, Wyandotte (both in Wayne County), Birmingham, Oak Park (Oakland County), and Mt. Clemens (Macomb County), all of which have Home Rule Act city courts, associate judges are provided for the purpose of insuring availability of a judge in case of the absence or incapacity of the judge himself. In like manner, associate justices of the peace, who are alternates in function, are attached to the respective justices of the peace of Berkeley and Ferndale, both in Oakland County.42

A number of courts in the metropolitan district are tribunals having several judges with equal authority. This requires them to deal with organizational and procedural problems which are common to multi-judge courts and which do not occur elsewhere—e.g., the use of administrative judges, the development of machinery for handling dockets, the development of specialized judges, divisions, and intracourt departments, the promulgation and enforcement of policy decisions with respect to the qualitative disposition of cases, and others.

Table XV lists the multi-judge courts in the Detroit metropolitan district.

All of the courts in Detroit are multi-judge courts except the juvenile court, a specialized division of the probate court which has become separated from the parental tribunal.

There are four courts sitting in Detroit with more than four judges each, and such courts occur nowhere else in the district. All the circuit courts in the district are multi-judge courts, but the only municipal court outside Detroit which has more than one judge is Dearborn, a geographic continuation of Detroit.

42 730.301—730.302 COMP. LAWS (1948); 27.4061—27.4062 MICH. STATS. ANN. (Supp.) (“Substitute Municipal Judges”); 730.321—730.328 COMP. LAWS (1948); 27.4071—27.4078 MICH. STATS. ANN. (Supp.) (“Associate Justices or Associate Judges”).
Table XV

Multi-Judge Courts in the Detroit Metropolitan District (1948)

<table>
<thead>
<tr>
<th>Court</th>
<th>Number of judges</th>
</tr>
</thead>
<tbody>
<tr>
<td>Courts sitting in Detroit:</td>
<td></td>
</tr>
<tr>
<td>1. Circuit court</td>
<td>18</td>
</tr>
<tr>
<td>2. Recorder's court</td>
<td>10</td>
</tr>
<tr>
<td>3. Common pleas court</td>
<td>9</td>
</tr>
<tr>
<td>4. Probate court</td>
<td>5</td>
</tr>
<tr>
<td>5. Traffic and ordinance court</td>
<td>2</td>
</tr>
<tr>
<td>Court in Wayne County outside Detroit:</td>
<td></td>
</tr>
<tr>
<td>6. Dearborn city court</td>
<td>2</td>
</tr>
<tr>
<td>Court in Oakland County outside Detroit:</td>
<td></td>
</tr>
<tr>
<td>7. Circuit court</td>
<td>3</td>
</tr>
<tr>
<td>Court in Macomb County:</td>
<td></td>
</tr>
<tr>
<td>8. Circuit court</td>
<td>2</td>
</tr>
</tbody>
</table>

b. Methods Employed in the Several Multi-Judge Courts in the Detroit Metropolitan District

State-wide organization of circuit judges and recorder’s court judges

All circuit judges in the state of Michigan belong to a group which annually elects a presiding circuit judge for the entire state. This judge has directory power to apportion the work of the several circuits among the circuit judges of the state. This authority may, at the request of the governor, be extended to include a designation by the state presiding judge of one or more judges to hold court in the various circuit courts and recorder's courts in the state whenever necessary to relieve congested conditions in said courts.43

Formerly, Wayne County was a substantial beneficiary: in 1931, a total of 1,729 court days were spent by visiting judges in Wayne County; in 1932, 2,028 court days; in

In 1934, visiting circuit court judges accounted for 272 days in the Circuit Court of Wayne County, and recorder's court judges spent 375 court days on assignment in the circuit court—a total of 647 court days from outside judges.\footnote{SIXTH ANNUAL REPORT OF THE JUDICIAL COUNCIL OF MICHIGAN (May, 1936), tables V and VI, p. 54.}

In 1944, visiting circuit court judges spent 20.5 court days in the Circuit Court of Wayne County. No recorder's court judges were assigned to the Circuit Court of Wayne County in 1944 or since. In 1946, a total of 112 court days were spent in the Circuit Court of Wayne County by visiting circuit judges. In 1947, four court days were spent in the Circuit Court of Wayne County and thirty-three court days in the Traffic and Ordinance Court of Detroit, making a total of thirty-seven courtroom days spent in 1947 by visiting circuit court judges in Wayne County.\footnote{FIFTEENTH ANNUAL REPORT OF THE JUDICIAL COUNCIL OF MICHIGAN (October, 1945), tables VI and VII, p. 46; SEVENTEENTH ANNUAL REPORT OF THE JUDICIAL COUNCIL OF MICHIGAN (October, 1947), table VIII, p. 57; and EIGHTEENTH ANNUAL REPORT OF THE JUDICIAL COUNCIL OF MICHIGAN (September, 1948), table VI, p. 49.}

The decline and present disuse of outstate judges for duty in courts sitting in Wayne County suggests the recognition of distinctive court problems in the central city of the metropolitan district.

**Circuit Court of Wayne County**

*Presiding judge.* A statute provides that in any circuit where there are more than two judges, the judges shall, from term to term, designate one of their number to act as presiding judge. The presiding judge has authority to "assign and apportion the business" of the court.\footnote{602.53—602.54 COMP. LAWS (1948); 27.189—27.190 Mich. Stats. Ann.}
have been elected. The present presiding judge of the Circuit Court of Wayne County has been presiding judge for eighteen years.

A court rule defines his duties as follows:

"He shall have entire administrative control of the work of the court, supervision and charge of the calendar. He shall classify the cases, and make regulations governing the calendar, the calling and setting of cases for trial and the dismissal of cases in which no progress has been made for more than a year. Criminal cases shall always have precedence. He shall hear and determine all motions and matters arising under this delegation of authority. He shall also have immediate control and direction of the Assignment Clerk and staff."

The presiding judge keeps close control of the assignment and progress of cases; "no progress" cases are docketed separately and called before him once a month. He hears and determines motions for saving such cases. Appeal cases, also separately docketed, are called before the presiding judge daily, so that such cases may have docket priority. Motions for adjournment and for discontinuance of called cases are heard and determined by the presiding judge.

The presiding judge arraigns all defendants in criminal cases, assigns these cases for trial, and pronounces sentence on convicted offenders. This enables the criminal docket to obtain precedence.

Employees of the court are either under the supervision of the courtroom judge, if courtroom employees, or of the county clerk or assignment clerk. In practice, the county clerk clears matters touching upon employment with the

47 Rules of the Circuit Court for the Third Judicial Circuit of Michigan (Wayne County), revised to April 1, 1948, part I, no. 4, p. 2.
48 Ibid., part I, no. 4, pp. 2-3.
49 Ibid., part I, no. 3, p. 2; part II, nos. 1, 2, see also no. 5.
presiding judge. The assignment clerk is, as stated in the rule, directly responsible to the presiding judge.\textsuperscript{51}

The presiding judge superintends the selection of jurors and has custody of the jury box. He assigns chancery reference matters to circuit court commissioners, and may require reports from the commissioners as to any aspect of their work.\textsuperscript{52}

He presides at the regular monthly judges’ dinner meeting, and there distributes to the judges monthly summaries of their attendance and performance record, which have been checked twice daily by the assignment clerk in person. The presiding judge assembles records, reports, and statistics on the work of the court, personally and through his immediate staff.

In general, then, the entire machinery of the circuit court is under the immediate control of the presiding judge of the Circuit Court of Wayne County, who bestows particularly minute attention upon the assignment, progress, and disposition of cases.

The present presiding judge does not devote all his time to the discharge of his duties in that capacity. He has the chancery pre-trial docket, also, and in addition carries a share of the work of trying cases. In January of 1947, for instance, he tried 103 divorce cases.\textsuperscript{53}

\textit{Pre-trial judges}. The pre-trial hearing, as an American procedural device, originated in the Circuit Court of Wayne County. It is currently used as a required preliminary to the trial of all chancery and law cases in the Circuit Court of Wayne County. Chancery and law cases, when at issue, are placed respectively upon the chancery pre-trial docket or the law pre-trial docket, which are called daily before the pre-trial judges. These judges have authority to enter a

\textsuperscript{51} Information supplied by county clerk.
\textsuperscript{52} \textit{Ibid.}, part I, nos. 2, 21.
\textsuperscript{53} Computed from photostatic copies of assignment clerk’s monthly report.
judgment, a nonsuit, or a dismissal at the pre-trial hearing, on any cases so called. There are two pre-trial judges: one for chancery, one for law cases.

The purpose of the pre-trial hearing is to obtain settlement where possible, to dispose of preliminary motions, to frame issues, and in general to clear the way for the trial. The pre-trial judge frequently takes the attorneys for the opposing parties (and sometimes the clients) into chambers, where they discuss the nature of the issues, the number of witnesses to be called, the nature of documentary proof, the amount of relief which should be offered or accepted, and the like.

When preliminary questions have been determined and the issues are clear, the pre-trial judge dictates a "pre-trial statement" embodying the results reached. This document becomes a part of the record, and is binding upon the parties at the trial.

If at first conference the parties are unable or unwilling to clarify the issues so that a pre-trial statement can be drafted, the hearing is continued. Sometimes more than one continuance is necessary before the statement can be completed. A pre-trial statement is included as Appendix A.

Criminal cases are not handled by pre-trial hearing. After pre-trial hearing, the case is never assigned to the judge who conducted the hearing. This policy is thought by Wayne County judges to account to some extent for the efficacy of the technique. In any but a multi-judge court, the pre-trial hearing presents the delicate problem of the extent to which counsel and judge can advantageously disclose their views upon matters which will ultimately be tried before that same judge. In Washtenaw County, which is a one-judge circuit adjoining the metropolitan district, the pre-trial conference is used in a less formal manner, and

54 Rules, op. cit., part II, nos. 1, 4.
no written statement is made of the results of the hearing. The conference consists essentially of an oral discussion among counsel and judge with a view to disposing of such preliminary matters as will facilitate the course of the trial.

The judges who conduct the chancery pre-trial hearings and the law pre-trial hearings do not spend all their time in these capacities. In addition to this work, both judges carry their shares of regular trial assignments. For instance, in November of 1947, the assignment clerk's report shows that the chancery pre-trial judge (who happens to be the presiding judge of the court) disposed of four appeals, of ten criminal cases without trial, granted seventy divorces, discontinued eighty-two divorce cases, and denied one divorce, in addition to his work on the two specialized assignments. The law pre-trial judge (who happens to be the presiding judge of the state circuit judges) heard two motions, tried one criminal case and disposed of one criminal case without trial, tried a civil case, presided over a civil jury trial, granted four divorces and denied one divorce, in addition to his specialized assignments.

The compulsory use of the pre-trial conference in the Circuit Court of Wayne County is an outstanding practice of that court. According to the judicial council report for 1947, 77.21 per cent of the cases ready for trial in Wayne County were finally disposed of at the pre-trial hearing.\(^55\) The annual average from 1935 to 1947 was 59.81 per cent.

*Presiding miscellaneous judge.* All ex parte orders, except habeas corpus writs and applications for injunctions in proceedings at law in the nature of a judgment creditors' bill, are issued by the judge presiding in the miscellaneous division. This judge hears the *pro confesso* divorce cases and determines miscellaneous motions. One judge acts in this capacity for a period of two weeks, at the end of which

\(^{55}\text{Table XIII, and see pp. 215-216.}\)
time the presiding judge selects another judge to serve for the succeeding two weeks. Each miscellaneous presiding judge selects an alternate to perform the duties and exercise the powers of such judge should he be absent or unavailable.56

Judge acting as "one-man grand jury." During the period of observation, a Michigan statute was in force authorizing any judge to act as a "one-man grand jury" to investigate an alleged criminal offense, after the filing of a complaint.57 It had been held that a judge acting in this capacity was exercising a judicial function.58 Shortly after completion of the first draft of this survey, the statute was amended to require three judges, and to disqualify from other judicial work judges serving in this capacity.59 Under the rules obtaining at time of writing, which related to the earlier one-man statute, petitions were received by the presiding miscellaneous judge and presented by him to the full bench, which by majority vote decided whether to call a grand jury and if so, designated a judge to sit as grand juror.60

Judicial committees. Judicial committees are appointed from time to time as necessary or convenient. At present, the standing committees include ways and means (three judges); rules (three judges); Friend of the Court (three judges); probation (three judges); library (three judges); and legislation (three judges).

Probate Court of Wayne County

Presiding judge. A statute provides that in Wayne County, the presiding judge shall be chosen by his colleagues, or if no judge receives a majority vote, by gubernatorial

56 RULES, op. cit., part I, no. 5, p. 4.
57 767.3—767.4 COMP. LAWS (1948); 28.943—28.944 MICH. STATS. ANN.
58 In re Slattery, 310 Mich. 458 (1945) (at 465: "a judicial inquiry of the most ancient lineage").
59 P.A. 1949, no. 311.
60 RULES, op. cit., part I, no. 5 (c), p. 5.
appointment. The statute further provides that the presiding judge shall be selected within fifteen days after the commencement of each year, and shall act for the full calendar year. His statutory authority is restricted to "the power of nomination, appointment and removal of the several employes . . . and the general direction and control of the business of such court, including the division of the work between the judges. . . ." 61

The current organization is set forth in a memorandum issued October 19, 1943, by the presiding judge to the register and employees of the probate court, containing the following provisions:

"The judges are the final authority on all matters in the court—not only judicial, but also administrative and policy-making. . . . Each judge's secretary, court clerk and court reporter . . . are responsible only to the Judge they serve.

"The Probate Register is responsible directly to the Judges. . . . He is held accountable for the efficient and smooth operation of every department of the court.

"All women employees . . . are under the direct supervision of the secretaries of the Probate Judges acting jointly.

"The foregoing schedule of organization applies only to the division of the Probate Court which is housed in the Wayne County Building, and does not include the Juvenile Division. The organization of the Juvenile Division is entirely under the jurisdiction of the Juvenile Judge."

The statutory control vested in the presiding judge of probate over personnel is largely dissipated in practice in Wayne County, first by the fact that the probate court personnel is under county civil service, and second by the agreed court policy that each judge controls his own staff. Responsibility for calendar, docket, and case disposition

is placed upon the register. There are no standing committees, no regular judges' meetings, no local rules established by the probate bench as a whole. The juvenile judge does not participate in the selection of a presiding judge.

**Juvenile court judge.** The judge of the juvenile court is selected by the entire probate bench. Only Wayne County has a full-time juvenile court judge. The present judge was first elected to the Wayne County Probate Court in 1935, and was at that time assigned to the juvenile division, where he has remained ever since. He has separate quarters in a different building from the probate court. The only contact between the juvenile court judge and the probate judges is the assignment of a probate judge to spend three half-days a week at the juvenile court, where he hears juvenile traffic cases in order to relieve the congested juvenile traffic docket.

Juvenile court functions and operations are not discussed by other members of the probate court, but have crystallized into a rigid form regarded by both divisions as separate and distinct from the problems of the probate court.

**Recorder's Court**

**Presiding judge.** The act which created the present recorder's court provides for a presiding judge to be chosen by the members of the court for not longer than three months. It further provides as follows:

"The presiding judge shall not be chosen to succeed himself. . . . The presiding judge shall exercise all the powers and privileges possessed by other members of the court, and in addition thereto shall be charged with the general supervision and superintendence of the work of the court. He shall preside at all meetings of the judges and shall assign the members of the court to the different divisions

---

62 The Michigan court rules apply.

63 He did at one time, but the practice was discontinued several years prior to the field work for this study. But subsequently, in 1950, the juvenile court judge was acting as presiding judge of the entire probate bench.
thereof and to particular kinds of work in such divisions in accordance with the rules. . . .”

In practice, the office of presiding judge, like assignments to the misdemeanor division, rotates each month by court rule. Choice of presiding judge and of judges to try misdemeanor cases and to conduct examinations in the misdemeanor division is made not by the presiding judge, as contemplated by statute, but by the clerk, who prepares a schedule conforming to a regularly established sequence. This schedule is approved by a judges’ meeting, after which it is published and posted under the signature of the presiding judge. The only deviation from the sequence occurs when the occasional unavailability of one or more of the judges—as by illness or grand jury duty—necessitates interruption of the pattern.

The real responsibility of the recorder’s court presiding judge, currently, is the control of the felony docket. Each morning the day’s felony cases are called, case by case, before the presiding judge. Those ready for trial are assigned by him to judges sitting in the felony division for the current month. As each case is assigned, the parties concerned depart from the presiding judge’s courtroom and go to the courtroom of the judge to whom the case has been assigned.

Arraignments on information are made by the presiding judge prior to the formal opening of his court, each day, for those cases requiring that step. Motions and miscellaneous matters relative to the progress of any felony case not already assigned for trial are determined by the presiding judge. All motions for adjournment, for nolle
prosecution, and all guilty pleas must be heard by the presiding judge. A plea to a lesser included offense, if made before jeopardy attaches, must be sent back to the presiding judge for final disposition. Motions for new trials go before the presiding judge, as do motions for habeas corpus. 67

The jury panel on duty for the month is under the charge of the presiding judge. 68 Although he may, if time permits, try nonjury cases while serving as presiding judge, he is prohibited from trying jury cases while presiding. 69 This, like the monthly rotation system, is designed to guard against corrupt prearrangement for trial of any case before a particular judge or juryman. 70

The presiding judge receives petitions for one-man grand juries, but although the rules authorize him to designate a judge to act in this capacity, in practice judicial grand jurors are selected by the full bench. 71 This rule has not been changed since the 1949 amendment, but in practice it is thought that few if any grand juries will be called.

By court rule, the presiding judge presides at judges' meetings, which are held regularly on the last Tuesday of the month, and when specially called. 72

The monthly rotation of this office is thought not only to guard against corrupt prearrangement for a certain judge or juryman, but also to guard against the establishment of cliques among the judges. In the view of the court staff, these advantages outweigh the development of specialized administrative skill and possible increased efficiency in docket handling which might result from a longer term for the presiding judge.

68 Rules, op. cit., rule 33.
69 Loc. cit.
70 See infra, pp. 121-122, for a description of the mechanical handling of the jury.
71 Rules, op. cit., rules 4 and 19.
72 Ibid., rule 9.
Executive judge. There is also an executive judge, elected for a year by a special judges’ meeting. The court rules provide for wide supervisory power in this judge. In actual practice, however, all serious decisions about the various departments of the court, their personnel, and their operation, are made by a full judges’ meeting.

Recorder. The recorder of Detroit, historically, was a city officer who was a member of the common council and on occasion a vice-mayor. The title survives as a judge designated on the ballot as “recorder,” who is selected as such by the voters, and whose salary from the city is $2,000 more per year than that of the other judges. The recorder is a member of the Detroit Election Commission, and signs the official journals for all work done by the court except condemnation matters. Otherwise, the title is honorary.

Judges assigned to specialized work in the misdemeanor division. A certain amount of judicial specialization is provided for by means of special dockets prepared each month by the clerk, approved by the judges in meeting, and posted and published. These dockets cover work to be done in the misdemeanor division of the court: They consist of (1) preliminary examinations, and (2) “early sessions,” or misdemeanor cases to be tried. When the misdemeanor docket is large, as is the case more often than not, it is divided into two dockets differentiated by subject matter of cases: one judge is assigned to “early sessions—domestic,”

---

73 Ibid., rule 10, provides: “He shall supervise and have general control of the work of the Court, not otherwise controlled by statute or rule, nor vested in the Presiding Judge, and not within the individual discretion of the Judges. He shall make monthly reports to the bench of the work, of not only the court, but all its branches—Probation Department; Psychopathic Clinic; Office of the Clerk of the Court etc., for the preceding calendar month. He shall also make periodic recommendations to the Judges for their consideration.”

In practice, no such reports are made by the executive judge, since reports are made directly from the various court departments to the judges’ meeting.

74 O’HAGAN, op. cit., p. 6.
to try domestic quarrels, neighborhood disputes, cases involving cruelty to children, and the like, while another judge handles "early sessions—general," involving misdemeanors committed by degenerate offenders—e.g., gambling, intoxication, prostitution, et cetera.

When the misdemeanor docket is light, a single judge handles it, but an attempt is made to segregate "domestic" from degenerate offenders. All of the misdemeanor judges, if they finish their special assignments on time, are supposed to send word to the presiding judge that they can take felony assignments for the rest of the day.

*Judges acting as "one-man grand juries."* Until the 1949 amendment, the frequent use of judicial grand juries caused frequent shortages of judicial manpower at the recorder's court. During observation, three different judges at the court were engaged, each for a period of several months, in the capacity of grand jurors. The present requirement that three judges serve, together with the disqualification provision, will necessarily greatly reduce the number of judicial grand juries called. When called, such juries were approved by a full judges' meeting after petition to the presiding judge. The judges' meeting also selected one of their number to serve in the capacity of judicial grand juror.

Standing committees are: office of clerk, probation department, ways and means, rules and library, building, psychopathic clinic, and docket. Ordinarily there are three judges on each committee.

*Traffic and Ordinance Court*

The statute provides that "Said judges shall have the power to apportion the business of said court between themselves." In their default, the chief deputy clerk is authorized to distribute the work by assigning to the judges

75 See *supra* p. 80 and p. 84.
cases which are ready for trial. Traffic judges, the statute states, "shall not participate in the organization or operation of the other division" of the court—i.e., recorder's court. 76

The two judges, in actual practice, take turns acting as presiding judge for a month. When they disagree, the clerk of the recorder's court, who is ex officio clerk of the traffic and ordinance court also, 77 is asked to break the tie, by current custom.

Some of the work of the court is done without court action, through the work of referees, which is described elsewhere. 78 Some is done through the receipt by mail of fines imposed for minor traffic violations.

**Court of Common Pleas**

There is no statutory provision governing judicial organization in this court.

By court rule, the judges elect one of their number to serve for six months as presiding judge. It is further provided that no judge after serving shall again be eligible until each of the others has served. The presiding judge designates a presiding judge pro tem to serve one month, "and thereafter the Presiding Judge Pro Tempore shall rotate monthly among the trial judges." 79 The presiding judge assigns the small criminal docket to each of the judges in monthly rotation, and presides at the monthly judges' meetings. He receives daily reports on hours spent and cases disposed of by each judge.

The presiding judge pro tem presides over the daily call which takes place each morning in the clearing room. The

76 725.18 COMP. LAWS (1948); 27.3958 MICH. STATS. ANN.
77 725.19 COMP. LAWS (1948); 27.3959 MICH. STATS. ANN.
78 Infra pp. 101-106.
79 *Rules for the Common Pleas Court of the City of Detroit*, effective May 15, 1946, rule 3.
judge stands at a counter at the side of the assignment clerk, who calls out the name of the judge who is to try each case assigned. Litigants report to the clearing room, and each litigant, when his case is assigned, goes to the courtroom of the trial judge. By rule, the presiding judge pro tem has charge of the conciliation docket, but in fact there have been no conciliation cases for several years. 80

By present custom, there is also a daily presiding judge selected by the presiding judge. From observation, it is concluded that the special duty of the daily presiding judge, as such, is to be accessible throughout the entire business day.

*Present disuse of specialized conciliation judge.* In 1932, the common pleas judges provided by court rule for the establishment of a conciliation division 81 and provided for the filing therein of claims not to exceed $35. A specialized judge was assigned to this division in addition to his other duties.

In carrying out the work of the division, the judge noticed that workingmen who had accumulated several judgment debts had every wage payment garnished. There were large numbers of such debtors. As an experiment, the judge held conferences between the parties with the view of obtaining waivers of rights to garnish, on condition that defendants would make voluntary partial payments to the court, which impounded the file in order to insure that garnishments would cease. 82

80 *Ibid.*, rule 35. Any controversy amounting to $35 or less may be voluntarily submitted by the parties to the court. During the depression, the conciliation division was very active. In 1947–1948, the closest thing to conciliation is the provision whereby, under rule 36, a garnishment may be stayed once only by a court order permitting partial payments to be made to the court. Partial payment matters are heard by any judge to whom they may be assigned.


To provide leverage against a single unco-operative plaintiff among many holding judgments against the same defendant, a statute was enacted in 1933 providing that voluntary partial payments made to the clerk of the common pleas court under a court order would stay the issuance of any garnishments during the period in which the defendant was in compliance with such order to make payments. The conciliation judge was assigned to handle partial payment motions, which thus became part of the conciliation division.

Up to January 1, 1935, it was reported that 21,595 claims had been entered in the division, that 55,320 payments had been made amounting to $108,069.06, and that the average payment was $3.26. Better than 90 per cent of these payments were made on judgments under the partial payment plan. In 1935 the judge estimated that about 10 per cent of the work of the division consisted of handling the small claims under $35. At that time there were approximately 5,600 open claims with payments being made by defendants to plaintiffs, through the court, out of their weekly or bi-weekly pay. Many people had six, eight, and ten judgments against them.

The judge found that it was necessary in many cases to protect defendants against illegal charges and interest made part of default judgments. "In checking one concern, it was found that in 47 cases they had charged an illegal $2.00 locating charge, and in 41 other cases they had charged excessive interest. Many attorneys have failed to credit the docket, and also charged for garnishments that were not completed, or for a previous suit which had been dismissed for lack of progress."

Established during the depression, the conciliation division handled 11,115 partial payment cases as late as 1938,
and 12,609 in 1939. At that time the cases began to taper off as economic conditions eased. There were also changes in the personnel of the court.

In 1946, a total of 3,168 partial payment orders were entered. In January of 1948, 3,679 such cases were started, and 2,064 orders for partial payment were vacated for a missed payment.

The court staff advises that there have been no true conciliation cases (claims under $35) for several years, and that partial payment cases are assigned to each of the judges in turn. Under present practice, the granting of a motion for partial payment does not stay a pending garnishment, and only one partial payment order is made for each defendant, which is suspended by a single default in payment.

In short, there is currently no conciliation division at the court. While the shift in the economic cycle accounts in part for the decline in the operation of this specialized division, it is clear that the collapse of the division and the departure from the court of the judicial personnel which was interested in the conciliation division are not unrelated.

The contrast in the conciliation and partial payment practices in 1935 and in 1946 constitutes a striking example of the variation in use of specialized judges which results from a shift in public pressure and in judicial personnel, even where the machinery of statute and court rule remains unaltered.

Outlying courts in the district

Experiments with questionnaires and letters led to the decision that in fairness to the courts and to this study, no information other than simple quantitative statements (such

---

84 Information supplied by clerk of the common pleas court.
85 Ibid.
86 Information supplied by various judges in consultation.
as number of judges, statutory jurisdiction, and the like) would be included unless rounded out by observation and discussion with judges and court executives. Field work was concentrated in Detroit because the courts sitting there display essential differences from nonmetropolitan courts. While, therefore, some material has been included for outlying courts, no analysis of the organization of such courts has been made. In subsequent pages, the classification "outlying courts" will be omitted without further comment.

c. Use of Specialized Judges and Administrative Judges in Detroit

All the multi-judge courts have some provision for an administrative, or presiding, judge, to control the flow and distribution of business. This machinery has been used to the fullest extent in the Circuit Court of Wayne County, and the operation of this court exhibits the active exercise of the authority of the presiding judge in all departments of the court.

In the recorder's court, also, the presiding judge exercises extensive administrative powers, and elaborate precautions are taken to prevent the continuous exercise of this responsibility by the same judge for more than a short period of time. These functions of the presiding judge are of vital significance to the operations of the court.

In contrast, the other courts make far less use of their presiding judges.

There is obviously a certain relationship between the extent of the administrative authority exercised by the judge and the number of judges on the bench: The circuit court and recorder's court, with eighteen and ten judges respectively, have more judges than the other courts, and they are the courts which make the most effective use of a presiding judge.
On the other hand, the court of common pleas has a large judicial personnel of nine judges, and yet there has been only a slight development of real docket control or of personnel administration by the presiding judge. Apparently other factors besides the size of the judicial staff exercise an influence upon the problem under discussion, such as the size and character of the case load, the amount of public pressure for increased efficiency, and the personal interest of the judges in administrative organization.

In the recorder's court, which is of course a specialized court itself, being exclusively a criminal tribunal,87 the judges are alert to the dangers of overspecialization, against which they constantly guard by the monthly rotation system, and by referring all matters of importance to a full judges' meeting.

The statute creating the present recorder's court gave the judges wide latitude to establish specialized divisions: "... the members of the court or a majority thereof may establish and maintain specialized branches or divisions. ... Insofar as possible, the business of the court shall be so arranged that minors shall be kept separate and apart from other offenders."88 In practice, the cases affecting minors are not in any way differentiated from other cases. The only observable progress toward the development of specialized divisions is the creation of the misdemeanor dockets for the purpose of separating the degenerate elements from the domestic disputes.

Specialized divisions have a tendency to develop into separate courts. The traffic and ordinance court is an excellent example of the assumption, by what was originally a specialized division of recorder's court, of independent existence as a separate court. Another example of the same

87 With the trifling exception of the city condemnation cases.
tendency of specialized divisions or judges to pull away from the parent court is the juvenile court. The completeness with which the juvenile court is divorced from the probate court is a disadvantage to both courts.

Section 6. Extent of Judicial Services Rendered

a. Hours of Service of Judges

Circuit Court of Wayne County judges

Court is held from 10:00 A.M. until 12:30 P.M. and from 2:00 P.M. until 4:30 P.M. each weekday except Saturday. On Saturday, the presiding miscellaneous division judge and the judge hearing alimony motions hold single sessions of court from 10:00 A.M. until 12:00 P.M. In July and August court hours are subject to change by court order. 89

Attendance of judges is taken twice daily by the assignment clerk personally, and the results noted down on a form prepared for the purpose. Once a month, the total attendance and work done by each of the eighteen judges is tallied and reported to the presiding judge. Photostated copies of this report, which includes the individual record of each judge, identified by name, are distributed by the presiding judge at the monthly meeting of judges. In this way each of the judges is fully informed at all times as to his comparative status in courtroom days and cases disposed of. 90

During the calendar year 1947, the eighteen judges of the Circuit Court of Wayne County worked, respectively,

89 Rules of the Circuit Court for the Third Judicial Circuit of Michigan (Wayne County), revised to April 1, 1948, part I, no. 1. Under the 1941 rules, court opened at 9:30 A.M. on weekdays and the Saturday session closed at 12:30 P.M.

90 Each page covers one week. The names of the judges appear at the left of the page, running from top to bottom. Across the top of the page appear the days of the week, and then the following classifications: “Law; Chan.; Misc.; Crim.; App.; Pres.; Chan. Pre-trial; Law Pre-trial; Days.”
the following number of total full courtroom days: 223, 221, 220, 219, 217, 217, 216½, 216, 211, 210, 198, 191½, 190, 174, 173, 162, 95, 25. 91 One judge died during the year, another suffered serious illness. Average: 175.5 days; median: 210 days.

Recorder's Court judges

The court operates on a six-day week. The presiding judge and the judges trying misdemeanor cases, however, are the only ones to hold court on Saturdays. It is estimated by the clerk that each judge is in court on Saturdays for about two months in a calendar year. A statute sets the court hours as from 9:30 A.M. to 12:30 P.M. each secular day, from 2:00 P.M. to 4:00 P.M. each secular day, and permits the court to fix additional hours as deemed necessary. 92

The hours are announced each month by the presiding judge in the schedule posted to display the assignments of the various judges. The presiding judge and the judges holding misdemeanor trials—i.e., "early sessions"—formally open court at 9:00 A.M., although judges on these assignments actually begin their work before court opens. 93 When a jury is out, or when he is on grand jury duty, or for some other reason, a judge may stay after court hours. On the other hand, a judge on examinations or early sessions may leave when his portion of the work of the misdemeanor division has been finished, instead of sending to the presiding judge for a felony assignment to round out the day.

91 Information supplied by the assignment clerk.
92 725.5 COMP. LAWS (1948); 27.3945 MICH. STATS. ANN.
93 The judges on early sessions go over the day's arrest tickets with a police officer, and sign warrants for those whom the judge decides to hold for court action. The presiding judge goes over the current group of arraignments each day with the prosecutor, and makes arraignments on information, prior to actually taking the bench.
During observation, one judge stayed until 6:30 P.M. for a jury to come in, another conducted examinations until 2:00 P.M. without a break and then left for the day, still another (on grand jury duty) was reported to have worked until 11:30 P.M. one night. "Early sessions" usually is completed by 11:30 A.M., with one midmorning adjournment of ten or fifteen minutes. Occasionally on a heavy day, such as Monday, the sessions will run until 1:00 P.M. or 1:30 P.M. During October, 1948, a check of misdemeanors from the court sheets shows that the two judges on early sessions that month took some felony trials during a majority of the working days in the month, in addition to the misdemeanor assignment.

The court sheet, comprising a daily report of all work done and money collected by each judge, is the only record made by the recorder's court of the activity of its judges. It serves, however, as an attendance record. Each day this court sheet is turned in to the clerk of the court by the courtroom clerk of each judge. During the calendar year 1947, the number of courtroom days spent by the several recorder's court judges were respectively as follows: 274, 240, 236, 234, 233, 223, 221, 207, 186. Average: 228.5; median: 232. The court sheets do not differentiate between full days and partial days.94

Common Pleas judges

By court rule, sessions are held from 10:00 A.M. to 12:30 P.M., and from 2:00 P.M. until 4:00 P.M. daily, except Saturday.95 Each judge reports his daily and hourly attendance to the clerk of the court, who tabulates the information for inclusion in the presiding judge's annual report to

94 Information furnished by the clerk.
95 Rules for the Common Pleas Court of the City of Detroit, effective May 15, 1946, rule 2.
the Common Council of the city of Detroit. During the year 1947, the several judges reported their working days and hours as follows—days: 254, 244, 244, 239, 234, 228, 216, 180, 73; hours: 1235, 1500.5, 1492, 1432.5, 1492, 1314.5, 1440, 1045.5, 434.\(^{96}\) Average: 217 days; median: 234 days.

**Judges of Traffic and Ordinance Court, Probate Court, and Juvenile Court**

The clerks of these courts advised that no records are kept of attendance as such, and that it would not be practical to compute the information from other records.

**Comment on hours of service**

There were about 251 working court days during 1947, Saturdays omitted. In the three courts for which data regarding the judges' working days were available, each judge worked on an average about 207 days.

b. Case Load per Judge

On a court-by-court basis, the case load of courts sitting in Detroit is much greater than anywhere else in Michigan. The growth of multi-judge courts in the most densely populated part of the metropolitan district raises a double-barreled question: Does each judge in the metropolis handle a heavier yearly case load than a judge in a similar outlying or upstate court, and how well does he handle it?

**Circuit courts**

There are forty circuits in the state of Michigan. During 1947, the average case load per judge was 786 cases dis-

\(^{96}\) Annual report of presiding judge to Common Council, January 10, 1948.
posed of: the lowest was 14697 and the highest 1,570.98
Eight circuits had a case load of over 1,000 cases per judge. Among these is Wayne County, the eighteen judges of which disposed of 1,255 cases per judge during 1947.99 In Macomb County, the case load per judge was 468 cases disposed of; in Oakland County, 1,164 cases per judge.
It appears, therefore, that of the circuit judges in 1947, the Detroit judges each disposed of a case load which was heavy, but not as heavy as that disposed of by some judges outside the metropolitan district.

Courts sitting in Detroit

As a general indication of the amount of work accomplished in a year by judges sitting in Detroit, the following table sets forth the case load per judge of each of the courts sitting in Detroit. It is not the intention to compare essentially dissimilar case loads, but to point out the number of different matters which, in a year, engage the attention of each of the various judges.

By way of comparison, the total case load for 1947 was 375 in the justice court of Garden City, and in the justice court of Sylvan Lake the annual case load runs between eighty and one hundred.100 Both are cities on the fringe of the metropolitan area, and each has one justice of the peace.

98 Ibid. Fourteenth circuit: Muskegon County, not a metropolitan area. Likewise, in Washtenaw County, a one-judge circuit (twenty-two) in a non-metropolitan area adjoining the Detroit metropolitan district, the case load was 1,275.
99 Ibid. Wayne County is the third circuit.
100 As reported by letter by the justices of these cities. For the case loads of justices in nonmetropolitan areas, see Sunderland, op. cit., pp. 71-73, showing that township justices' loads run as small as eighteen cases per year per township.
### Case Load per Judge, of Courts Sitting in Detroit (1947)

<table>
<thead>
<tr>
<th>Court</th>
<th>Cases per Judge</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Circuit</strong></td>
<td><strong>1,255</strong></td>
</tr>
<tr>
<td><strong>Probate</strong></td>
<td></td>
</tr>
<tr>
<td>administrative cases started during year</td>
<td><strong>2,160</strong></td>
</tr>
<tr>
<td>mental cases disposed of during year</td>
<td><strong>539</strong></td>
</tr>
<tr>
<td><strong>Juvenile</strong></td>
<td></td>
</tr>
<tr>
<td>per judge</td>
<td><strong>8,108</strong></td>
</tr>
<tr>
<td>per judicial officer (counting referees)</td>
<td><strong>1,351</strong></td>
</tr>
<tr>
<td><strong>Recorder’s</strong></td>
<td></td>
</tr>
<tr>
<td>per judge on bench</td>
<td><strong>2,490</strong></td>
</tr>
<tr>
<td>per judge actually sitting</td>
<td><strong>2,900</strong></td>
</tr>
<tr>
<td><strong>Traffic and ordinance</strong></td>
<td></td>
</tr>
<tr>
<td>per judge</td>
<td><strong>271,575</strong></td>
</tr>
<tr>
<td>per judicial officer (counting referees)</td>
<td><strong>77,593</strong></td>
</tr>
<tr>
<td><strong>Common pleas</strong></td>
<td><strong>4,496</strong></td>
</tr>
</tbody>
</table>

1 "Administrative cases" is a term used by the register of the probate court to describe all cases requiring the continuous supervision of the court, and thus includes estates and trusts which require administration. Information concerning the number of cases disposed of was not obtainable from the probate court, and the register points out that the number of administrative matters begun is equally meaningful in this connection. As to the number of matters under continuous supervision which came on for hearings during the year, no information was obtainable; if it were, the figure shown would no doubt be higher.

See infra pp. 100-106 for a discussion of referees and other quasi-judicial officers. The work of the juvenile court referees is described at pp. 102-105.

The clerk at recorder's court suggests the differentiation between load of judges sitting and those on the bench, and supplies it for his court. This figure includes both cases in the misdemeanor division and the felony division.

Many of the traffic and ordinance cases were no doubt summarily settled by the payment of fines and without an actual hearing. Information as to the number so settled was not obtainable.

Most of the court of common pleas cases are defaulted. See pp. 133-134; 215-216.

For a discussion of machinery for handling dockets, see infra pp. 194-270.

**Comment on case load per judge**

Although it cannot be demonstrated that the general case load per judge is heavier in the metropolis than elsewhere, in general the work of any judge sitting in Detroit
is heavy enough to account for the full time and energies of the judicial personnel in the city.

The case load in a metropolis may be different in character than elsewhere, because of the characteristics of metropolitan life and the disproportionate incidence of certain kinds of cases.

In disposing of his case load, the judge sitting in a metropolis is under pressure to make timely disposition of a certain number of cases, in order that the load of the entire court may keep abreast of its docket. At the same time, the judge sitting in a metropolis has less personal knowledge concerning any one case, and less time to obtain more knowledge, than elsewhere. It is apprehended, therefore, that because of (a), the case load per court, and (b), the pressure on each judge to increase the disposition per judge, there is, in a metropolis, a problem confronting each judge which is dissimilar to that of judges outside the metropolis—namely, the problem of responding to the pressure from an administrative or executive judge to dispose of a certain number of cases, while at the same time maintaining sound standards of quality in disposing of each case.

This problem is met, as will be shown, by supplementing the judicial knowledge and control of each judge in many

101 A circuit judge who has had experience in rural and in metropolitan areas points out that in Wayne County it is impractical to require a trial brief because of the pressure to keep up with the docket. Yet, he notes, in almost no case in Wayne County (except for those made causes célèbres by the newspapers) has the judge any knowledge at all of the matter until counsel presents it in the courtroom. This is not the case in a one-judge nonmetropolitan court, where the argument of preliminary motions, the regular sounding of the trial docket each term, and the general conversation of members of the local bar will have familiarized the judge, before actual trial, with the bare bones of the matter.

This difference does not necessarily impair quality; it can be maintained that by imposing objectivity upon the metropolitan judge, it protects quality. The point here is that a different problem of maintaining quality is placed upon the judge.
different ways: by increasing the judicial staff by means of quasi-judicial personnel,\textsuperscript{102} by establishing large administrative agencies to investigate and supervise for the judge,\textsuperscript{103} and by attempting to co-operate with agencies outside the judicial process which already have knowledge and control of the parties to the case.\textsuperscript{104}

Section 7. Quasi-Judicial Personnel

a. Circuit Court Commissioners

In exercising the jurisdiction hitherto described, non-metropolitan commissioners work in their own law offices, and records of their operations are kept as part of the circuit court records.\textsuperscript{105} In certain cities, justices of the peace may sometimes act as circuit court commissioners.\textsuperscript{106}

In Wayne County, the commissioners have a clerk of their own, with four assistants, who maintains a central office for the keeping of records in the commissioners' landlord-tenant cases. In addition, each of the four commissioners has his own courtroom and his own courtroom staff consisting of stenographer, clerk, and deputy sheriff. During 1947, 17,300 landlord-tenant cases were started before the Circuit Court Commissioners of Wayne County.\textsuperscript{107}

Although the presiding judge of the court requires monthly reports on work done by the commissioners in special chancery matters referred by the presiding judge of the circuit court, yet as to matters within their independent jurisdiction they do not report, their records are separate, and a matter which goes up to the circuit court after action by the commissioner is officially described, both by the

\textsuperscript{102} \textit{Infra} pp. 100-106.
\textsuperscript{103} \textit{Infra} pp. 149-192.
\textsuperscript{104} \textit{Infra} pp. 233-246; 249-267.
\textsuperscript{105} \textit{Supra} pp. 33-35.
\textsuperscript{106} 730.13 \textsc{Comp. Laws} (1948); 27:3763 \textit{Mich. Stats. Ann.}
\textsuperscript{107} Information supplied by the clerk of the Wayne County Circuit Court Commissioners.
commissioners' clerk and by the county clerk, as an appeal. There were 167 of these "appeals" during 1947. To the extent noted, these quasi-judicial officers appear to be in the initial stage of development toward a separate identity from that of the parent court.

b. Friend of the Court

A recent statute has given to another officer, the Friend of the Court, authority to act as referee by taking testimony and making reports to the circuit judge in contested custody and property matters relative to a pending divorce action. These actions, therefore, are not referred to the commissioners at present.

c. Referees

Another device is noted in recorder's, juvenile, traffic, and probate court which augments judicial man power without the creation of additional judges. This is the creation of referees who relieve the judges of sizeable portions of their trial load, and who actually, though not theoretically, perform judicial functions.

In the Traffic and Ordinance Court

The statute regulating the court provides:

"The said judges . . . shall have authority to appoint 1 or more referees, who shall have authority to administer oaths, examine witnesses and make reports and recommendations to the judges . . . in such misdemeanor cases under state laws or municipal ordinances as may be referred to them. . . . The compensation . . . and the amount of bond . . . shall be fixed by the judges. . . . Such referee/
or referees . . . shall hold office at the will thereof [of the judges].”

There are at present five such referees, of whom four are attorneys. Each of them has his own courtroom and court attendants, and each has a docket of cases consisting of traffic or nontraffic ordinance or misdemeanor matters. Referees do not hear homicide or “drunk driving” cases, nor do they hear any cases in which warrants have been issued.

Information was not obtainable as to the number of cases handled by referees in 1947, but it has been estimated that in 1942, they handled at least 125,000 cases. The referees have no court stenographers—i.e., no record is made of the evidence on which the decision is made. The decision itself is reduced to a journal entry and is signed by the presiding judge. If a defendant protests the referee’s decision and demands a trial before one of the judges, the matter is tried ab initio. Information was unobtainable as to the number of such protests; it is said to be very small. Unless protest is made, the referee’s decision stands as a final adjudication.

In the Juvenile Court

The statute regulating the court authorizes probation officers designated by the court to “act as referee in taking the testimony of witnesses and hearing the statements of parties upon the hearing of petitions . . . where there is no objection by parties in interest.” The statute further provides that the referee “shall in all cases so referred . . . make a written signed report to the judge . . . containing

\[112\] By court policy. Information supplied by chief deputy clerk of the traffic and ordinance court.
\[113\] O’Hagan, op. cit., p. 20.
a summary of the testimony taken and a recommendation for the court's findings and disposition of such matters.\textsuperscript{114}

There are at present six employees at the juvenile court who act in various ways as quasi-judicial personnel. All are described as referees by the court staff. Since their respective authority and functions differ one from another, they are separately described as follows:

(1) \textit{Official boys' referee}: This man is designated on a permanent basis by the court to act as referee in all hearings on official petitions relative to delinquent boys, except those petitions which are heard by the judge himself. This official, a former boys' department probation officer with considerable experience as a court executive, is the only person currently devoting full time to quasi-judicial duties.

(2) \textit{Director of the boys' department}: This man is also the chief probation officer of the department, the work of which is concerned with delinquent boys. He acts as referee in "unofficial" cases arising in his department. An "unofficial" case, as the term is used by the juvenile court staff, is one which is settled without the filing of an official petition and without a hearing. All cases originate, each in its appropriate department, as "unofficial" cases, and become official cases only when and if the head of the department, unable to solve the child's problem otherwise, sends the file to the register for the drafting of an official petition.

Thus an "unofficial" case is not a case which is beyond the authority of the court, for the statute specifically contemplates the making of a "preliminary inquiry" in each case to ascertain whether the problem can be solved without the filing of an official petition.\textsuperscript{115} The head of the boys' department, then, when he acts as "referee" in an "unofficial" case, is in legal theory conducting a preliminary

\begin{itemize}
\item\textsuperscript{114} 712 A. 10 Comp. Laws (1948); 27.3178 (581) Mich. Stats. Ann.
\item\textsuperscript{115} 712 A. 11 Comp. Laws (1948); 27.3178 (582) Mich. Stats. Ann.
\end{itemize}
inquiry, and is actually giving advice after consultation with the child, the department workers, and other interested parties, which advice, if followed, will result in successful termination of the case before it reaches the "official" stage.

(3) Director of the girls' department: This official is also chief probation officer of the department. She acts as referee in official and in "unofficial" cases arising within her department, which concerns itself with delinquent girls from seven to seventeen. When acting thus with respect to an official case, she is acting as a referee as contemplated by the statute. When acting upon "unofficial" cases, she is successfully terminating the preliminary inquiry without the filing of an official petition.

(4) The register: This official is not a probation officer, but is authorized by statute to perform any acts authorized by the judge short of judicial duties. He acts as referee in minor traffic cases, and in other official cases as designated by the judge when the dockets are congested.

(5) The chief clerk: This official is not a probation officer. He acts as referee in minor traffic cases.116

Practice in proceedings before referees. No serious traffic cases, such as homicide or "drunk driving" cases, are heard other than by the judge himself. All cases involving the taking away of a child from its parents are heard by the judge personally. By general court policy, no referee conducts a case where the parties indicate by word or manner any dissatisfaction with the referee. Such hearings are terminated and the case referred to the judge.

In minor traffic cases, no record is made at the hearing before the referee. In these cases, the court order is prepared by the referee and the file containing the order is sent to the judge for signature. In cases other than traffic cases,

each case file contains a case history, a summary, and recommendations made from time to time by the department probation officers who investigate the case and by the department executive who decides on various steps as the case develops. When a case is terminated unofficially by a "referee," there is no necessity for making the report and recommendations, since no court order is actually involved. Hearings on official cases involving delinquency, dependency, or neglect, when heard by a referee, are attended by a stenographer who takes notes on the testimony, from which a transcript can be later made up if necessary. The referee prepares a court order for the judge to sign, and the entire file is transmitted to the judge, who ordinarily signs it as a matter of course.

The use of each department head as referee for cases in his own department is part of a consistent court policy. Children referred to the court are first seen by a department worker, and every attempt is made to solve the problem within the department. This enables the worker to establish and maintain a good relationship with the child.

_In the Probate Court_

The regulating statute permits the appointment of referees by the court in contested claims matters, and contemplates the making of a court order either approving or disapproving the recommendation of the referee. Similar power has been held, in Michigan, to be judicial in nature. In Wayne County, all claims are set down for hearing by a deputy clerk. If any is contested, the judge to whom the estate has been assigned appoints a referee. No record is

117 Under an earlier probate code, commissioners were appointed for this purpose. It was held that their power was judicial, and that the court itself had no power to exercise jurisdiction over the claim, except to register final approval or disapproval, once a commissioner had been appointed. Clark v. Davis, 32 Mich. 154 (1875).
kept of the number of such appointments, and therefore no conclusions can be drawn as to the extent of the use of referees in Wayne County.

In the Recorder's Court

Condemnation cases are left by court rule for the presiding judge, who signs journal entries in these matters. Currently, a separate room is set apart for the conduct of hearings on condemnations, which are presided over by a deputy clerk who acts as an unofficial referee. When counsel or parties fail to agree or a question arises, the presiding judge is sent for.

SECTION 8. TOTAL PERSONNEL EXERCISING JUDICIAL FUNCTIONS IN DETROIT METROPOLITAN DISTRICT

The geographical disposition of the various kinds of judicial and quasi-judicial personnel is set forth in the following table:

TABLE XVII

NUMBER AND STATUS OF TOTAL JUDICIAL PERSONNEL IN THE DETROIT METROPOLITAN DISTRICT (1948)

<table>
<thead>
<tr>
<th>Type</th>
<th>Judges sitting in Detroit</th>
<th>In Wayne County outside Detroit</th>
<th>In Macomb County</th>
<th>In Oakland County</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Regular judges</td>
<td>45</td>
<td>63</td>
<td>24</td>
<td>50</td>
<td>182</td>
</tr>
<tr>
<td>Occasional judges</td>
<td></td>
<td>3</td>
<td>1</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>Quasi-judicial judges</td>
<td>17</td>
<td>..</td>
<td>2</td>
<td>2</td>
<td>21</td>
</tr>
<tr>
<td>Total</td>
<td>62</td>
<td>66</td>
<td>27</td>
<td>55</td>
<td>210</td>
</tr>
</tbody>
</table>

"Occasional judges" include the part-time associates and alternate judges used in some outlying courts as described above. The "quasi-judicial" figure does not include ref-

118 Statutes and Rules for the Recorder's Court (1938) rule 9.
119 Supra pp. 72-73.
erees occasionally appointed by the probate courts in the area, since we have no data on the number of occasions such personnel have been appointed nor on the amount of time spent by them.

Note the way in which occasional personnel is confined to the area outside Detroit, and the way in which quasi-judicial personnel has developed in the city. Table XVII should be compared with Table I (courts in the Detroit metropolitan district), and Table XV (multi-judge courts). It will be recalled that Table XV shows forty-four regular judges sitting in multi-judge courts in Detroit; the juvenile judge, regarded as a separate one-judge tribunal, should be added to obtain the total number of judges sitting in Detroit (forty-five).