


# The Michigan Legislative Fellowship Program and the District Court Legislation

By Carrie Sharlow

 On October 3, 1967, eight new interns participated in the first day of orientation for the Michigan Legislative Fellowship Program. Their term of service would last until June 30, 1968.<sup>1</sup> Holly, Francis, David, and Gordon were assigned to the Senate.<sup>2</sup> Daniel, Mary Kay, John, and Bruce were assigned to the House of Representatives.<sup>3</sup>

Bruce was a recent graduate of the University of Michigan Law School and received his undergraduate degree at Kalamazoo College; coincidentally, the director of the House interns, Representative William Weber, was from Kalamazoo.<sup>4</sup> Weber also served on the Michigan House Judiciary Committee,<sup>5</sup> and this was where Bruce was eventually assigned.

## The restructuring of the courts of limited jurisdiction

The Michigan House and Senate Judiciary committees were under a great deal of pressure in the fall of 1967, as the legislature's due date for the "restructuring of Michigan's judicial system to provide for courts of limited jurisdiction" was a few months away and that task fell into the laps of the committees' members.<sup>6</sup>

Approximately four years earlier—when the interns were probably still working on their undergraduate degrees—the Michigan Constitutional Convention did away with the hodgepodge system of courts of limited jurisdiction, including justices of the peace and circuit court commissioners. Article VI of the new state constitution, effective January 1, 1964, provided for "one court of justice" divided into a supreme court, a court of appeals, a circuit court system, a probate court system, and other "courts of limited jurisdiction."<sup>7</sup> The legislature was tasked to find "some system to deal with cases that were previously handled" by all of the

current groups.<sup>8</sup> The constitution provided little guidance outside of a deadline five years after the constitution became effective and the required two-thirds legislative vote on whatever judicial system the legislature proposed.<sup>9</sup>

The courts of limited jurisdiction existing in 1964 would expire on January 1, 1969,<sup>10</sup> meaning judicial elections would have to be held in November 1968 with primary elections in August 1968 at the latest or the state's court system would be thrown into complete disarray. With the 75th legislature meeting only through June 1968,<sup>11</sup> they had approximately six months to re-vamp Michigan's courts.

With all this in mind, Governor George Romney called for an Extraordinary Session, with "restructuring of Michigan's judicial system to provide for courts of limited jurisdiction" as the first priority.<sup>12</sup> That session began the week after the interns' orientation. Bruce was eventually assigned to the Judiciary Committee chaired by Rep. Donald E. Holbrook Jr., with Rep. Weber as a member.<sup>13</sup>

## Representative Donald E. Holbrook Jr. and the House Judiciary Committee

Holbrook was a 36-year-old lawyer from Clare County and well equipped to lead the

Judiciary Committee in revising the court system. Lawyering was in his blood, as was civil service. His father, Don Sr., was a long-time circuit court judge recently elected to the Court of Appeals and his uncle, T. Carl, served as an assistant attorney general for years.<sup>14</sup> Don Jr. graduated from Wayne State University Law School in 1956, was a judge advocate with the U.S. Air Force before working as a friend of the court, and was a veteran of both the House and the Judiciary Committee. In the minority party for the previous two years, he was appointed Judiciary Committee chair at the start of the 1967 session.<sup>15</sup>

Holbrook ran a good committee and had a capable group.<sup>16</sup> Of the 13 committee members, eight were attorneys and at least three were teachers;<sup>17</sup> there were seven Republicans and six Democrats.<sup>18</sup> The youngest member, Rep. Dennis Cawthorne from the Manistee area, was only 27;<sup>19</sup> the oldest member was 66-year-old Weber, a PhD from Kalamazoo and a former political science professor.<sup>20</sup> Despite their differences, the committee members "worked well together and respected each other."<sup>21</sup>

Bruce jumped into the committee work with full force. Six months earlier, Holbrook had introduced House Bill 2763 to create "42 judicial districts subdivided into 88 divisions and elect a total of 216 district judges."<sup>22</sup> And while it was not the only bill

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introduced on the subject,<sup>23</sup> with hindsight being 20-20 it was the most important.

Holbrook formed a seven-member subcommittee of the Judiciary Committee, focusing solely on the subject and began gathering data.<sup>24</sup> A survey was sent to “700 active justices of the peace, more than 140 municipal judges, traffic courts, circuit commissioners and Cadillac Recorder’s Court” requesting details on their caseloads.<sup>25</sup> Holbrook would leave for the weekend and return the following Monday with a briefcase “bulging, literally, from data that he had been collecting and analyzing.”<sup>26</sup>

It was not an easy process by any measure. Everyone had questions about what the new system would look like: “Must the new district judges be lawyers? Who will pay their salaries and the salaries of their employees? Who will get the revenue from fines? Should municipal courts be abolished? Should the new courts be courts of record? If so, where will the highly skilled court reporters come from?”<sup>27</sup>

Everyone had input to offer: the State Bar of Michigan wanted all the judges to be attorneys; the Association of the Justices of the Peace recognized that more than 2,000 of its members would be out of work; and the counties didn’t want to lose funding, pay for a new system, or be assigned to a district.<sup>28</sup>

Holbrook was willing to listen but wouldn’t commit to pleasing everyone. “As soon as we attempt to make everybody happy,” he said, “we’ll wind up with a poor bill. Rather than make everybody happy, I’d rather lose the bill.”<sup>29</sup>

The House Judiciary Committee became a workshop where “extensive testimony was taken and the nitty-gritty work was done” to craft and revise the district court legislation.<sup>30</sup> When the Extraordinary Session<sup>31</sup> be-

gan, all of the bills started over again and HB 2001 was introduced.

Suffice it to say that HB 2001 did not pass in the special session. Too many amendments were presented and bogged down the bill. When a roll call was finally recorded, Holbrook and several of his co-sponsors voted against the bill. Bruce, who had attended every committee and subcommittee meeting about the subject,<sup>32</sup> watched from the floor as an irritated Rep. Hal Ziegler—who had voted against a foolish substitute—proclaimed that he “voted no for reasons that would be obvious to my two-year-old boy,”<sup>33</sup> which was probably what others were thinking as well.<sup>34</sup>

Despite the failure, the special session exposed the problems and obstacles with passing the measure.<sup>35</sup> When the legislature returned from Christmas break, HB 2763 was back on the table, and it was much different from the original bill and HB 2001.

### HB 2763 compromises for passage

Under the HB 2763 substitute presented on January 25, 1968, and amended through February, there were a number of compromises. First, the district court was not “courts of record.”<sup>36</sup> Second, instead of 50 simple districts spread out over 83 counties, the committee proposed 99 districts in three different classes based on funding. A “district of the first class”<sup>37</sup> encompassed one or more counties—like the 1st District in Monroe County<sup>38</sup>—and would be funded by the county. A “district of the second class”<sup>39</sup> was a group of subdivisions within a county—like the 5th District, which was Berrien County except Benton Harbor and St. Joseph<sup>40</sup>—and would also be funded by the county. A “district of the third class”<sup>41</sup> consisted of one or more subdivisions in the

county—like the 9th District with the cities of Kalamazoo and Portage<sup>42</sup>—and would be funded by the cities or townships it encompassed. Some districts had further divisions. It was a remarkable concept.

Of course, no one was happy about the funding or the retention of fees and fines, but that was a compromise in itself. Ziegler later remarked to Holbrook, “I think you’ve found the answer on the court funding: both the city and the county are mad at me now.”<sup>43</sup>

In first- and second-class districts, one-third of fines and costs would be “paid to the political subdivision whose law was violated” and two-thirds would be “paid to the county in which the political subdivision is located.”<sup>44</sup>

There was even a compromise for the former justices of the peace. In some districts, magistrates could handle arraignments and sentences upon pleas, issue warrants, fix bail, and other matters. Magistrates would receive a set salary and would not be required to be attorneys, though the district judges would be.<sup>45</sup>

On March 1, 1968, nearly a year after its introduction, HB 2763 passed the House with one vote to spare while the “backers of the bill sent up a loud cheer when the vote was announced.”<sup>46</sup> Bruce was kneeling by Holbrook’s chair as the votes were counted. At first, the vote was short “until a couple of late switches put the vote over the top.”<sup>47</sup> It was a very close call; when Bruce stood up, his legs were like Jell-O. The bill, named the Holbrook Lower Court Bill<sup>48</sup> and cosponsored by all but three of the members of the Judiciary Committee, moved to the Senate.

Holbrook said that the bill’s sponsors had “compromised and compromised and compromised”<sup>49</sup> to achieve passage in the House. Unfortunately, the Senate returned a gutted version of the bill to the House, necessitating further compromise.

### The conference committee and final compromise

Senators Richardson, Lodge, and Craig joined Representatives Holbrook, Heinze, and Young on a conference committee.<sup>50</sup> The committee assignments irritated Rep. Bob Traxler; while the senators were all



Gov. Romney hands Rep. Donald E. Holbrook, Jr., one of the pens used to sign the District Court Act.

Others at the ceremony, left to right: Leslie B. Butler, Vice-Chairman, State Bar Committee on Legislation; Robert J. Danhof, the governor's legal advisor; Senator L. Harvey Lodge, Rep. Loren D. Anderson, Rep. James E. O'Neill, Jr., Rep. Hal W. Ziegler, Senator Robert L. Richardson, Jr., then State Bar President John G. Starr, Rep. William V. Weber, Rep. Thomas L. Brown, Probate Judge Boyd C. Baird of Gaylord, State Bar Commissioner Lawrence B. Lindemer; Tom Downs, Chairman, State Bar Committee on Legislation, and Bruce A. Timmons, House judiciary committee research analyst.



Gov. Romney hands Rep. Bob Traxler a pen used to sign HB 2673, while Representatives Holbrook, Weber, and McNally look on.

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members of the Judiciary Committee, "neither Heinze nor Young [was] a sponsor of the bill or a member of the committee which spent months considering it."<sup>51</sup> But the speaker wanted a "fresh look" from legislators without "pride of authorship."<sup>52</sup>

The conference committee process was incredibly secretive back then, and neither the public nor newspapers were invited. Bruce was, however, and skipped most of a gathering of the other interns to attend.

When the conference committee report was read into the record, it included the final compromise: an opt-out clause.<sup>53</sup> If a proposed district of the third class had a municipal or police court and more than 50 percent of the city population wanted to retain those courts, it could opt out of the new district court system.<sup>54</sup>

Again, the vote in the House was incredibly close with only two votes to spare, and the revised bill moved to the Senate for consideration, where it failed 21–8. Michigan's district court system was created over the next 24 hours with the assistance of some "last-minute arm twisting by Gov. George Romney"<sup>55</sup> and data gathered by a well-placed intern. Bob Danhof—the governor's legal advisor and former chair of the Constitutional Convention's committee on the judicial branch that drafted the language abolishing the justice of the peace system—told Bruce to bring the opt-out language to the governor's office "because they were talking to George Fitzgerald, who was the

Democratic senator from the Grosse Pointes. And [Bruce] took that data down to Danhof who walked into Romney's office—[he] could see Romney talking to George Fitzgerald through the doorway."<sup>56</sup> On June 6, the Senate called for another vote on HB 2763, and "Fitzgerald ended up voting for the bill and that made the difference."<sup>57</sup>

### Success!

HB 2763 was signed into law on June 17. The December 1968 issue of the *Michigan State Bar Journal* published a splendid photo of the bill signing with 15 people who had helped assure its passage: conference committee members, House Judiciary Committee members, State Bar of Michigan members, and, standing in front of the state flag at the far right, is Bruce at the tail end of his internship.<sup>58</sup> (See photo, top left.)

That same day, Gov. Romney also signed the companion election bill, which had undergone its own conference committee and flurry of activity in the first few days of June. The Michigan Legislative Fellowship Program ended on June 30, 1968, but Bruce stayed on to compile the list of municipalities opting out of the new system and the list of jurisdictions conducting elections.<sup>59</sup> Those opting out had a little less than a week to do so; 32 of 101 municipal courts chose to stay out of the new system.<sup>60</sup>

Those running for the new office of district court judge had to file petitions less

than a month after HB 2763 became Public Act 154. Primaries were held in August, with the election in November. On January 1, 1969, Michigan had an entirely new system for courts of limited jurisdiction.

The majority of interns went on to other things, having picked up their credit hours and a remarkable experience. Bruce Timmons never left the legislature, staying on and "working behind the scenes on bills that affect huge numbers of people."<sup>61</sup> He has a remarkable memory of the district court system's creation and "was privileged to be a part of it."<sup>62</sup>

Of those jurisdictions that opted out initially, only one separate court system still exists; the rest switched over in the dozen years after the bill's passage. Now, some 50 years later, Michigan's district court system includes 105 courts and more than 270 judges.<sup>63</sup>

Early on in the process, Holbrook said, "If this proposal should be enacted into law, it is our belief this Legislature will have provided one of the finest court systems in the nation."<sup>64</sup>

Ultimately, they did, and it is. ■

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## ENDNOTES

1. 1968 House Journal 1854.
2. *Id.*: Holly J. Gower, Francis T. Hazel, David A. Kilgren, and Gordon E. Vander Til.
3. 1969 House Journal 67: Daniel E. Bacine, Mary Kay Scullion, Bruce A. Timmons, and John A. Watts.
4. *Id.*
5. *Michigan Manual 1967–1968* (Michigan: The State of Michigan), p 180.
6. 1967 (Ex Sess) House Journal 8.
7. Const 1963, art 6, § 1. See also Michigan Judiciary, *Court History* <<http://courts.mi.gov/courts/coa/aboutthecourt/pages/history.aspx>>. All websites cited in this article were accessed May 4, 2018.
8. Author's conversation with former House intern Bruce Timmons, February 22, 2018. See also The Center for Michigan, *Bridge, Man behind the law: Bruce Timmons* (September 27, 2011) <<https://www.bridgemi.com/public-sector/man-behind-law-bruce-timmons>>.
9. Const 1963, art 6, § 1 and Const 1963, art 6, § 26.
10. Const 1963, art 6, § 26.
11. 1968 House Journal 7.
12. 1967 (Ex Sess) House Journal 8.
13. 1969 House Journal 67 and author's conversation with Timmons. Daniel went to the Retirement Committee, Mary went to the Democratic Office, and John started with Speaker Waldron's office and then jumped to the Committee on Juvenile Delinquency.
14. *Obituary: Judge Donald E. Holbrook, Jr.*, Lansing State Journal (October 18, 2008), p 5, and *State Tax Counsel Holbrook to Retire*, Lansing State Journal (May 19, 1967), p 12.
15. Michigan Judiciary, State Court Administrative Office, *Judges of the Court of Appeals (2001–2002)*, p 594 <<https://www.legislature.mi.gov/documents/publications/manual/2001-2002/2001-mm-0589-0605-judges.pdf>> and *Obituary: Judge Donald E. Holbrook, Jr.*
16. Author's conversation with former Michigan Representative and Judiciary Committee member Dennis Cawthorne, March 6, 2018.
17. *Michigan Manual 1967–1968*.
18. *Id.* at 183, 184, 188, 192, 194, 195, 201, 202, and 205. In between were Ingham Republican Tom Brown, Macomb Democrat Harold Clark, Oakland Democrat Daniel Cooper, Muskegon Republican Edgar Geerlings, Genesee Democrat Dale Kildee, Wayne Democrat Mike Novak, Saginaw Democrat James O'Neill, Alpena Republican Joe Swallow, Bay Democrat Bob Traxler, and Jackson Republican Hal Ziegler.
19. *Id.* at 184.
20. *Id.* at 203–204.
21. Author's conversation with Cawthorne.
22. Baird, *Non-lawyer Judges Put Thorn in Lower Courts*, The Battle Creek Enquirer (May 28, 1967), p 7.
23. *Id.* There were seven or eight different bills introduced.
24. *New Court Hearing Announced*, Lansing State Journal (July 26, 1967), p 2. Representatives Clark, Cooper, Brown, Weber, Ziegler, O'Neill, and Traxler were assigned to this subcommittee.
25. Moskal, *Court Reorganization Jostled on House Floor*, Lansing State Journal (November 3, 1967), p 3.
26. Author's conversation with Timmons.
27. *Legislature Plans to Tackle Court Reorganization Bill*, The Traverse City Record-Eagle (August 31, 1967), p 10.
28. Baird, *Non-lawyer Judges Put Thorn in Lower Courts*.
29. *To Cost \$4 Million Yearly: Court Financing Probed*, Lansing State Journal (October 12, 1967), p 17.
30. Author's conversation with Cawthorne.
31. 1967 (Ex Sess) House Journal 4.
32. Author's email with Timmons dated February 28, 2018, 3:54 p.m.
33. 1967 (Ex Sess) House Journal 388.
34. Author's email with Timmons.
35. Author's conversation with Timmons.
36. 1968 House Journal 123.
37. 1968 House Journal 124, 1968 HB 2763, Sec. 8103(1).
38. *Id.*, 1968 HB 2763, Sec. 8111.
39. *Id.*, 1968 HB 2763, Sec. 8103(2).
40. *Id.*, 1968 HB 2763, Sec. 8115(1).
41. *Id.*, 1968 HB 2763, Sec. 8103(3).
42. 1968 House Journal 125, 1968 HB 2763, Sec. 8117(2).
43. Author's conversation with Timmons.
44. 1968 House Journal 580.
45. *Id.* at 594.
46. Moskal, *Court Reform Bill Passed by House*, Lansing State Journal (March 1, 1968), p 5.
47. Author's email with Bruce Timmons dated February 16, 2018, 4:34 p.m.
48. 1968 House Journal 643.
49. Moskal, *Court Reform Bill Passed by House*.
50. 1968 House Journal 2769.
51. *Court Bill in Committee*, Lansing State Journal (May 22, 1968), p 8.
52. *Id.*
53. Author's conversation with Timmons.
54. 1968 House Journal 2822–2823.
55. *Governor Helps in Vote Push*, Lansing State Journal (June 7, 1968), p 9.
56. Author's conversation with Timmons.
57. *Id.*
58. Downs and Butler, *District Courts Begin Operations*, 47 Mich B J 12, p 17 (December 1968).
59. 1969 House Journal 67 and author's conversation with Timmons.
60. *69 Municipal Courts Erased*, The Escanaba Daily Press (June 28, 1968), p 1.
61. Cooper, *An Insider's Look at Lansing: Four of the People Who Run This State Are People Nobody Knows*, Detroit Free Press (July 16, 1972), p 27.
62. Author's conversation with Timmons.
63. *Michigan District Courts*, Ballotpedia <[https://ballotpedia.org/Michigan\\_District\\_Courts](https://ballotpedia.org/Michigan_District_Courts)>.
64. Moskal, *Court Reorganization Jostled on House Floor*.

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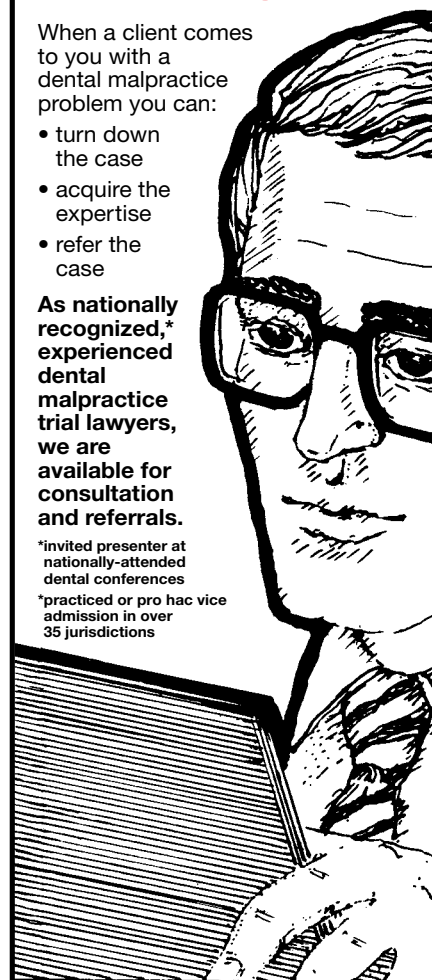
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