

## The Judiciary

In a democracy, laws are made by legislative bodies and administered by executive officers, but they sometimes need to be interpreted and applied by courts in the settlement of disputes. In a sense, both the legislative and executive branches of government are held in check by the judicial branch. This does not mean, however, that the power of the judiciary is unlimited. Courts cannot create or give rights; they merely protect rights which exist under the constitution and the laws of the state. The terms of the statutes are general, applying to all alike, and the laws are to be executed impartially. The action of the courts relates to particular disputes involving the meaning of the law.

According to the Constitution of Iowa, the judicial power of the State is vested in the Supreme Court, the District Courts, and such other inferior courts as the General Assembly may, from time to time, establish. The Supreme Court—the highest court of the State—sits in the State Capitol in Des Moines. It consists of nine justices, each appointed for a term of eight years. Until the enactment of the Judicial Reform amendment approved by the people of Iowa in 1962, all judges were popularly elected on a partisan basis.

The court system was modernized in 1962. It took the members of the Supreme Court and the state district courts from the partisan election ballot and made them appointed officials. The judicial nominating commissions submit names of qualified candidates to the Governor who in turn appoints the members of the court. The voters have an opportunity to approve or disapprove of his selection after the judge has served for at least one year. If the judge desires to serve a second term (eight years if on the Supreme Court and six years if a district judge) his name is placed before the voters one year before his first term expires. If a majority vote "yes" the judge is retained for a second term.

The Chief Justice is named by the Judges from their own number and serves until the expiration of his term. The Supreme Court appoints a reporter (who is also the Code editor) and a clerk, each for a four-year term. Cases over which it has original jurisdiction may be filed directly in the Supreme Court without first being tried in a lower court. Other cases, over which the Court has appellate jurisdiction, are brought to the Supreme Court only on appeal from the lower courts.

When a case is thus appealed, the material evidence taken in the lower court and the rulings of that Court are printed in a regularly prescribed form and submitted to the higher court. The case is then set for hearing and argued by the attor-

neys. There are no witnesses to be questioned, and no jury present, since the evidence is already before the judges in printed form. The decisions and opinions of the Supreme Court are published in bound volumes called *Iowa Reports*.

The very first case reported in the Supreme Court of the Territory of Iowa in 1839 was a case dealing with human rights. Ralph, a slave in Missouri, had agreed to pay his master for his freedom and was permitted to come to Iowa to earn the money. Later he could not pay and was seized at Dubuque. Attempts were made to take him back into slavery in Missouri. The Supreme Court of Iowa held that living on Iowa's free soil made him a free man. The facts were similar to those in the famous Dred Scott case, although the decision of the Iowa Court was exactly the opposite of that of the United States Supreme Court.

Three men—Charles Mason, Joseph Williams, and Thomas S. Wilson—served as Judges of the Territorial Supreme Court. The average tenure of office has been about eight years, but some have served much longer. The longest term of service was that of William D. Evans, who served from 1908 until 1934—a period of 26 years. Joseph M. Beck, Horace E. Deemer, and Scott Ladd each served 23 years, and James H. Rothrock 20 years.

Iowa is divided into 21 judicial districts composed of from one to nine counties, and each district elects from two to eight judges. The first dis-

tract is composed of Lee County alone and has two district judges, the eighth district is composed of two counties—Iowa and Johnson—and has two judges, while the fifteenth district in southwestern Iowa is composed of nine counties and has five judges. There are 75 district judges in Iowa, and one of them presides at each session of the court.

The district court is primarily a court of original jurisdiction, although some cases can be appealed to it from the lower courts. This court has jurisdiction over civil and criminal cases, cases in equity, and probate and juvenile cases. These may be tried either with or without a jury which decides questions of fact, while the judge decides only questions of law and procedure. If there is no jury, then the judge decides both questions of fact and questions of law. If parties to the suit desire they may appeal to the State Supreme Court.

There are other courts and judges—municipal courts, mayor's courts, superior courts, and justice of the peace courts—each with its own jurisdiction and influence upon community life. Thus violation of traffic regulations in a city are usually tried in the municipal or mayor's court. Minor cases involving small collections, cases of eviction, or of assault and battery may be tried in the justice of peace court. Cases tried in these courts may sometimes be appealed to the district court.