

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 as it applies to particular individuals.

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 elected for a term of six years, one-third being elected at each biennial election. The senior in point of service is Chief Justice for six months

until each judge has served in that capacity. 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 attorneys. 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 boy 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 and 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. In the 103 years since Iowa became a state 72 men have served on the Supreme Court bench. The average tenure of office has been about 8 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 served 20 years.

Iowa is divided into twenty-one judicial districts composed of from one to nine counties, and each district elects from two to six judges. The first district 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 seventy 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 ap-

pealed 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 are not satisfied with the decision of the district court they may appeal their case 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.

Thus government in action consists of many parts. Its three main branches are the legislative, the executive, and the judicial, and each of these branches is closely allied with the desires, activities, and wishes of the common people. Ours is, indeed, a "government of the people, by the people, for the people."