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## District Court Judges Resigning Business Interests

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*By Miller*

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"In short, when one chooses to become a full-time Massachusetts judge he chooses at the same time to sacrifice the potential income to be derived from legal and business activities proper for a lawyer but improper for a judge."

—Supreme Judicial Court

# District Court judges resigning business interests

By Margo Miller  
Globe Staff

Massachusetts judges say they will resign from bank and business boards in compliance with January's Supreme Judicial Court directive that fulltime judges ought to tend to court business only.

A Boston Globe survey indicates that perhaps 20 of the state's 94 full-time district court juvenile and probate judges will be affected. A subsequent article will canvass Superior and Supreme Judicial Court (SJC) judges.

The SJC directive is contained in the opinion which its five-judge panel issued in disbaring Superior Court Judge Edward J. DeSaulnier Jr. and censuring Superior Court Judge Vincent R. Brogna for their activities in allegedly arranging a suspended sentence for stock swindler Michael J. Raymond in 1962.

Evidence presented at the DeSaulnier-Brogna hearing included information that DeSaulnier had a real estate broker's license. While the court found that he had not actually used the license, it took several pages in its opinion to define additional standards of personal and judicial conduct.

## GUIDELINES

boards until prompted off when the ABA Canons were first proposed a few years ago. Garvey says he then quit the Westfield Savings Bank.

Appointment to the Fall River District Court, suggests Judge Milton R. Silva, saved him from continuing on in the family funeral business. "I hated it," he says, adding that his embalmer's licence is technically in suspension because the business is now owned by his son. Silva said he may not ask to be renominated to the board of the BMC Durphey Trust Co.

There were some judges who regretted — humorously not being effected by the SJC directive. "I'm not a director of any corporation or anything. Maybe nobody wants me," said Charles T. Taylor of the Roxbury, president of the Fulltime District Court Judges' Association.

"I am not encumbered by estates, trusteeships or mistresses," said Boston Municipal Court Chief Justice Elijah Adlow.

Likewise not effected, Attleboro's Judge Edward A. Lee joked, "The new rule may be an incentive to the Legislature to increase judges' salaries."

Fulltime district court judges get \$25,000 a year, probate judges \$26,300, Superior Court and Land Court

tutional guidelines exist on the subject of ethics, the SJC said that Massachusetts judges should be guided by language in the American Bar Association's proposed Canon of Judicial Ethics, specifically Canon 4.

A fulltime judge should "refrain from any financial and business dealings that tend to reflect adversely upon his impartiality or integrity, or that interfere with the proper performance of his judicial duties."

The proposed ABA Canons and Massachusetts law that bars Superior Court judges from the direct or indirect practice of law led the high court further to state that "fulltime judges of any Massachusetts court should not serve as bank directors or directors of other commercial ventures or as real estate brokers."

Judges may continue to serve as fiduciaries for the estate, trust or person of a member of his family but only "if such services will not interfere with his judicial duties." Service in "charitable boards and the like" is permitted; public gambling is not.

"In short," said the SJC, "when one chooses to become a fulltime Massachusetts judge, he chooses at the same time to sacrifice the potential income to be derived from legal and business activities proper for a lawyer but improper for a judge."

The Globe's survey, begun shortly after the SJC handed down its opinion on Jan. 11, was conducted by telephone and form letter. During this period, several judgeships were vacant and a few judges were on vacation or were ill.

Not all judges were happy with the SJC directive. "Having judges on boards helps a community," remarked Guy J. Rizzotto of East Boston District Court, who says he got \$20 for every monthly meeting he attended of Enterprise Cooperative Bank.

#### HERMITS

This sentiment was echoed by Louis H. Glaser, the Malden District Court Judge who appears to lead fulltime judges in the number of banking and business connections — Fellsway Cooperative Bank of Malden, Wakefield Surety Trust Co., Malden Savings Bank and the Garnet Realty Corp. Said Glaser, "Banks usually deal with public money and I think having a judge on their boards gives the public confidence."

"I don't like the idea of making a hermit out of a judge," says Carl E. Wahlstrom of the Worcester Probate Court. Recently reappointed to the board of the State Mutual Life Insurance Co., he says he hopes to stay on long enough to help complete a biography of the company's president.

Many judges said that upon appointment to the bench they had automatically shut down their law practice and phased out business ties.

"Financially it's been quite a blow and I'll miss my friends at the meetings," says Henry R. Mayo Jr., since 1971 justice of the Lynn District Court. He withdrew from the Essex Bank & Trust Co., the Lynn Institution for Savings and the Nissen Baking Co.

Other judges, like Westfield's Arthur T. Garvey stayed on some



JUDGE FLASCHNER  
... Chief Justice

judges \$30,000 and Supreme Judicial Court justices \$33,800.

Roxbury's Elwood S. McKenney said he interpreted the SJC directive to apply only to judge's involvement in profitable enterprises — and thought he could go on running at a loss his charter fishing boat at Martha's Vineyard. "What does 'public gambling' mean?" asked McKenney. "Does that mean I can't buy a lottery ticket here which will be legal for other people?"

Two other judges thought the SJC directive went too far. The court is "running scared," said Dorchester's Paul King, who added, "I don't see why I can't pump gas after hours if I wanted. I've got seven kids to think of." Francis G. Poitras of the Boston Juvenile Court, who says the guidelines will not change things for him, would have preferred the SJC to adopt something like the rule for Federal judges of full disclosure of income.

#### HOSPITAL BOARDS

All of the banking or business judges were quick to say that they would of course disqualify themselves from sitting on cases involving "their" institution. This situation would also apply to the dozen or so judges who sit on hospital boards. A recent revision of the Charitable Immunity Law now permits people to sue hospitals. Judges — such as Maurice R. Flynn Jr., president of the Malden Hospital, as was his late jurist father — are looking further into possible conflict of interest in this area.

"An awful result (of the SJC directive) would be to curtail community involvement," says Franklin N. Flaschner of Newton, chief justice of the 72 fulltime and parttime district courts. He is an incorporator of the West Newton Savings Bank and former trustee of the Newton-Wellesley hospital. "I can't think of a better exercise of extra-judicial activity than to be on certain boards," he said.

# District Court judges resigning their business interests

## ★ JUDGES

Continued from Page A-1

The state's fulltime district, probate and juvenile court judges gave the following information as to their business or banking affiliations at the time of the SJC opinion and Globe survey:

**BARNSTABLE COUNTY** — Probate Judge Alfred C. Knight had already resigned from the board of a small family business not situated on the Cape or involved in the probate business; Barnstable District Court Judge Henry L. Murphy's present term at the Cape Cod Bank & Trust Co. was to expire in early February; Orleans District Court Judge Robert A. Welsh may retire from the court (he is 69) or as president of the Seaman's Savings Bank, Provincetown.

**BERKSHIRE COUNTY** — Probate Judge F. Anthony Hanlon "has no outside attachments or interest." Pittsfield District Court Judge Frank W. Cimini had already resigned from the Pittsfield Cooperative Bank.

**BRISTOL COUNTY** — Probate Judges Walter L. Considine and Beatrice H. Mullaney, Taunton District Court Judge Gordon M. Owen, New Bedford's Ernest C. Horrocks Jr. and Attleboro's Edward A. Lee say they have no outside ventures; Fall Rivers Milton R. Silva is on the BMC Durphey Trust Co. board.

**DUKES AND NANTUCKET COUNTIES** have no fulltime probate or district court judges.

**ESSEX COUNTY** — Probate Judges John A. Costello (who is chief judge of the probate courts) and Albert P. Pettoruto, Salem District Court Judge Philip J. Durkin, Lawrence's Joseph F. Bacigalupo, Peabody's John E. Murphy and Lynn's Henry R. Mayo Jr. report no conflicts.

**FRANKLIN COUNTY** — Probate Judge Sanford Keedy had already resigned from the National Bank of Greenfield and Greenfield District Court Judge Samuel Blassberg said he could get off the Greenfield Savings Bank board "very easily."

**HAMPDEN COUNTY** — Probate

Placzek, Westfield District Court Judge Arthur T. Garvey, Holyoke's Michael J. Donohue, Palmer's Eileen P. Griffin and Springfield's William T. Walsh and Charles D. Sloan report no present outside commercial interests, although Garvey and Donohue had been on bank boards and Walsh teaches a law course one night a week "at a local community college."

**HAMPSHIRE COUNTY** — Probate Judge Harry Jekanowski "is on verge of resigning" from the Florence Savings Bank and Northampton District Court Luke Ryan, recently elevated to a fulltime judgeship, has resigned "as an incorporator of a local bank."

**MIDDLESEX COUNTY** — Probate Judge William E. Hays resigned as a savings bank incorporator. His colleague Edward T. Martin resigned as a incorporator of the Lexington Savings Bank when appointed to the bench in 1969, and the third probate judge, Haskell C. Freedman resigned as a director of a small cooperative bank in Newton "a month or so before the DeSaulnier opinion."

Two Middlesex district court judges could not be reached for comment: George E. Dewey of Marlboro and the vacationing M. Edward Viola of Cambridge.

Malden's Louis H. Glaser expects to resign from the Garnet Realty Corp., Fellsway Cooperative Bank of Malden, Wakefield Surety Trust Co. and Malden Savings Bank; Malden's second district court judge, Maurice R. Flynn expects to resign from the Malden Savings Bank. Cambridge's Lawrence F. Feloney is a "trustee of a mutual savings bank" and Lowell's Elliott P. Cowdrey will resign his "one bank trusteeship." Newton's Franklin N. Flaschner will resign as incorporator of the West Newton Savings Bank. A spokesman for Somerville's Michael DeMarco said he had "moved immediately" to divest himself of such interests as the Malden Square building housing the Granada Lanes bowling alley and offices including those of the Malden Redevelopment Authority.

The other Middlesex district court judges report no present conflicts; the judges are Ayer's David B.

Mason, Waltham's Kevin R. Doyle, Cambridge's Haven Parker, Woburn's Francis P. Cullen and Concord's John P. Forte.

**NORFOLK COUNTY** — Probate Judge J. John Fox has resigned as a director of two corporations, one outside Massachusetts; his colleagues Robert M. Ford and Alfred L. Podolski report no outside business interests. Quincy District Court Judge Robert S. Prince says he will have to get off a bank board (not located in Quincy). Brookline's Martin Colten, Dedham's Daniel H. Rider, Stoughton's George Sullivan Jr. and Wrentham's Ellis F. Brown say they are not in conflict with the SJC directive.

**PLYMOUTH COUNTY** — Probate Judge Francis P. Murphy and District Court Judges George A. White of Plymouth and James J.

Bento of Wareham could not be reached for comment. Probate Judge James R. Lawton and Hingham's Alvin C. Tampkin report no conflicts, as does Brockton's George N. Covett who had already resigned from any bank affiliations.

**SUFFOLK COUNTY** — Probate Judge Edmund V. Keeville and Boston Municipal Court Judge Theodore A. Glynn Jr. could not be reached for comment, and Chelsea District Court Judge John W. MacLeod refused to comment.

Suffolk Probate Judge Robert Gardiner Wilson Jr., Boston Municipal Court Chief Justice Elijah Adlow, BMC Associate Justices Daniel J. Gillen, Howard W. Canavan, Joseph DiGuglielmo, Jacob Lewiton and Francis X. Morrissey, and Boston Juvenile Court Judge Francis G. Poitras report no conflicts. BMC

Judge Harry Elam is resigning as a director of the Roxbury Manufacturing Co., from which he said he made no money; and his BMC colleague, Judge A. Frank Foster "is arranging" not to be reappointed to a bank board.

Brighton District Court Judge Charles J. Artesani says he will have to get off the board of the US Trust Co. and East Boston's Guy J. Rizzotto will resign from the Enterprise Cooperative Bank. Charlestown's Richard C. Woods, Dorchester's Jerome P. Troy and Paul King, Roxbury's Charles I. Taylor, and South Boston's Thomas E. Linehan say they have no outside commercial or business interests; and Roxbury's Elwood S. McKenney is waiting for clarification on his charter boat service and Boston University Law School teaching.

**WORCESTER COUNTY** — Probate Judge Carl E. Wahlstrom was

recently reappointed to the State Mutual Life Insurance Co. Fitchburg District Court Judge Everett H. Dudley is on one bank board. Worcester's Wesley E. Melquist gave up his trusteeship of the Bay State Savings Bank the day after the SJC opinion came down and Gardner's John J. Melican resigned as a bank incorporator. Clinton's William P. Constantino had given up his directorship of the Clinton Savings Bank several years ago. Southbridge's J. Arthur Barnes Jr., Westboro's Walter J. Moossa, Worcester's Walter D. Allan and Bruno J. DiCicco, and Worcester Juvenile Court's Lucian A. Manzi reported no conflicts; Uxbridge's Edwin F. McCooey had no comment; A secretary for Probate Judge George E. Rice said he "is the only judge we know that is not a director of anything. He doesn't even belong to any clubs."