BEFORE THE
DISTRICT OF COLUMBIA
COMMISSION ON JUDICIAL DISABILITIES AND TENURE

Inquiry concerning: HARRY T. ALEXANDER A Judge of the Superior Court of the District of Columbia	Formal Case No. 1-71

OPINION AND ORDER OF THE COMMISSION

Under date of September 10, 1971, the Commission advised Judge Harry T. Alexander that it had received information that he may have engaged in conduct prejudicial to the administration of justice and conduct which brings his judicial office into disrepute. To that notice were attached transcripts of court proceedings over which Judge Alexander had presided in five different cases which reflected the conduct the Commission was then investigating.

In its letter of September 10 the Commission afforded Judge Alexander the opportunity to present such matters as he chose in relation to the foregoing in an executive session of the Commission to be held on

October 14, 1971. The Judge did appear before the Commission on October 14 accompanied by counsel who submitted both written and oral statements. After carefully considering the matter, and being of the opinion that a formal inquiry should be ordered concerning the conduct of Judge Alexander, the Commission on October 21, 1971, ordered a Formal Hearing Concerning the Conduct of Judge Alexander, together with a Notice of Formal Proceeding, in which it was stated that the inquiry and the alleged facts upon which it was based are that Judge Alexander

(1) has repeatedly made intemperate and injudicious remarks from the bench tending to degrade litigants, witnesses, counsel, court officials, and others appearing before him;

(2) has made intemperate and injudicious remarks from the bench personally derogatory and critical of his fellow judges, accusing them of improper attitudes and racism;

(3) has made intemperate and injudicious remarks from the bench critical of a

party for admitting liability on a claim and for rejecting a suggestion of the Judge that he deny the validity of the claim;

(4) has arbitrarily and capriciously brought about dismissal of cases occasioned by his dislike of the activities of counsel;

(5) has indulged in a series of diatribes from the bench, making remarks of an excessive, intemperate, arrogant and injudicious nature, and speaking and behaving in a manner not called for or justified by the circumstances before him;

(6) has been repeatedly discourteous to counsel and other persons appearing before him who are concerned in the administration of justice;

(7) has unduly interfered in the conduct of trials; and finally

(8) has demonstrated intemperance, impatience, and partiality in the administration of justice;

all in contravention of Paragraph 11-1526 of the District of Columbia Court Reform and Criminal Procedure Act of 1970 and of Canons 5, 10 and 15 of the American Bar Association's Canons of Judicial Ethics.

Thereafter Judge Alexander, through his counsel, filed a Motion for a Bill of Particulars or to Make More Definite and Certain, and the Commission under date of December 2, 1971, provided such a Bill of Particulars including nine cases in all.

On January 21, 1972, Judge Alexander filed his Answer admitting the "substantial accuracy of the transcripts referred to in the Notice and Bill of Particulars" and denied that any of his conduct in any of the proceedings referred to in said Notice and Bill of Particulars was conduct either prejudicial to the administration of justice or which tended to bring the judicial office into disrepute.

Judge Alexander has waived his right to a formal hearing and makes no objection to the publication of an opinion by the Commission without such hearing. The Commission has determined that the conduct of Judge Alexander in the proceedings referred to in our Notice and Bill of Particulars was conduct prejudicial

to the administration of justice and has tended to bring the judicial office into disrepute.

Excerpts from the nine cases referred to in the Bill of Particulars which set forth the matters considered objectionable are as follows:

In the Matter of: (Juvenile). This matter came on before Judge Alexander on July 29, 1971. The accused had had "a prior finding of involvement" and the only question before the Court was whether the accused should be detained in the Receiving Home until the trial date.

Mr. John Gordon was the Probation Officer and the following colloquy occurred:

The Court: "And has he [the juvenile] ever had a psychiatric examination?"

Mr. Gordon: "He has had a psychological examination."

The Court: "Will you answer my question?"

Mr. Gordon: "No, he hasn't had a psychiatric examination."

The Court: "Unless you think I don't know the difference between psychological and psychiatric. I don't know why people do that. Do you think a psychological is the same thing?"

Mr. Gordon: "I'm sure it isn't, Your Honor."

The Court: "When I ask you 'Has he had a psychiatric?' why do you say he has had a psychological?"

Mr. Gordon: "To clarify what he has had."

The Court: "Well, I can take care of interrogation very well. Why hasn't he had a psychiatric?"

Mr. Gordon: "Because the psychologist in the Child Guidance Clinic did not recommend it."

There then followed a discussion about what the Court characterized as a "feud between psychologists and psychiatrists". The Court finally asked what the juvenile was doing, to which Mr. Gordon replied:

"He is a counselor with young children."

The Court strongly objected to his being employed as a counselor and the following colloquy occurred:

The Court: "That is the hysteria of the City -- keep it cool, keep it quiet and give these youth anything. . . ."

Mr. Gordon: "I didn't get him the job, Your Honor."

The Court: "You may leave, and I want him to have another probation officer. I don't tolerate impudence. Who is your supervisor?"

Mr. Gordon: "Mr. George Bargis."

The Court: "Tell him to come immediately."

Mr. Gordon: "He is on vacation, Your Honor."

The Court: "Who is his supervisor? Stand up straight and lean off the bench."

Mr. Gordon: "I believe it's Miss McDonough."

The Court: "Tell her to come immediately -- and if she is impudent, I'll get hers. . . ."

Miss McDonough did appear later and the following colloquy occurred:

The Court: "I wish to convey to you that this Court doesn't tolerate impudence and arrogance from probation officers.

"If I asked a probation officer 'Why would this youth be allowed -- who has an 8th grade education -- to work as a counselor for other black youth', I want an answer, and I don't want him arrogant -- a probation officer saying 'I did not.' And that probation officer can't come back here until he makes an apology. I don't want any incompetence covered up by nasty answers."

Later Mr. Gordon appeared and the following colloquy occurred:

Mr. Gordon: "Your Honor, if I may, I'd like to make a clarification and an apology for what happened."

The Court: "All right."

Mr. Gordon: "What I really wanted to do was to make my point clear for the record that the Probation Department did not get ---------- the job, that he had found it on his own."

The Court: "That wasn't my question. Your point was clear when you arrogantly told me 'I didn't hire him.' That is no way to address the Judge. . . ."

After some colloquy the following occurred:

Mr. Gordon: "Well, I'm not really too sure, Your Honor, what you mean by counseling. You seem to be saying that --"

The Court: "Now, listen, don't you debate -- you take my course called 'Legal Aspects of Counseling', and you'll know what a counselor is, and most of the souls that work here in their jobs need it because they're not competent."

* * * *

Mr. Gordon: "Your Honor, if I may ---------- isn't doing that kind of counseling."

The Court: "Did you come here to talk about ---------- or did you come here to talk about you?

If you came here to talk about ----------, go get your Chief again. . . ."

* * * *

The Court: "No, I thought you came here to apologize."

Mr. Gordon: "I did."

The Court: "Well, I haven't heard it."

Mr. Gordon: "I said, 'Your Honor, I would like to apologize.'"

The Court: "But I haven't heard you do that. I would like it -- subjective and concrete."

Mr. Gordon: "I apologize."

* * * *

Mr. Gordon: "Your Honor, if I may, the reason that I would allow ---------- to be a counselor is the fact I would rather see him employed than out on the streets --"

The Court: "Then get him another job. Don't let him ruin other youths. Get him another job. That's what I mean -- the philosophy 'anything is good enough for blacks.' Even if it ruins other blacks. You're part of the problem, and anybody else that thinks like you is a part of the problem. . . ."

* * * *

The Court: " . . . I went through the whole thing with Judge Braman, Judge Fauntleroy, and Judge Pryor, when I said 'anything can't be a counselor in my Courtroom for you.' It was good enough for Judge Pryor and it was good enough for Judge Fauntleroy -- and a white judge told me two black judges agreed with him, so what does that mean to me? That I have got to buy it? That's racism! And I don't like racism. . . . Take him over to Georgetown and let him counsel people over

there at Trinity. I don't see them sending him over there. Or Georgetown Day School. Or Georgetown Prep. You get the message?"

Mr. Gordon: "I'm not really sure, Your Honor."

The Court: "I'm not sure, either, you don't have what it takes to get it.

* * * *

"Maybe you ought not be employed here, if you don't get that message. . . . Get out of here."

* * * *

The Court: "If he can't get the message, that they won't send him to Georgetown Day or Georgetown Prep, and they let him counsel black youth at ----------, then he's stupid or he's obstinate -- or maybe both."

Morton's v. Devans. This matter came on before Judge Alexander on August 12, 1971.

Morton's sued defendant to recover $102.83 which they contended defendant owed them.

At the outset of the hearing the following colloquy occurred:

The Court: "Mr. Devans, Morton's claims that you owe $102.83, is that right, sir?"

Mr. Devans: "Yes, Your Honor, I do; I do not contest that.

* * * *

"I do owe them $102.83."

* * * *

The Court: "How can you pay it, sir?"

Mr. Devans: "I am going to pay it right now."

* * * *

The Court: "You don't have to."

Mr. Devans: "Well, I would much rather pay it that way."

* * * *

The Court: "I don't know what your finances are and your other arrangements but you can't afford to pay all that right now. There is no sense in hurting the children."

Mr. Devans: "Sir, I feel I am not hurting my children by paying this."

* * * *

The Court: " . . . You probably could have settled. You come here -- you are going to be big -- I'm going to pay it right now and you lose money.

"The man before you had a $53.00 case and he left with it being $40.00. Here you come -- I can pay for it and I will pay it all right now -- you do yourself a disservice. You lost a few bucks and maybe quite a few."

Mr. Devans: "Well, Your Honor, I felt that it was my fault I didn't pay for them."

* * * *

The Court: " . . . But you got your big fat money order and they want to take it.

"All right, sir, you can give it over."

District of Columbia v. Alfred Leonard Swinson. This case came on for a public cause hearing before Judge Alexander on July 30, 1971.

It was alleged that respondent had in his possession a sawed-off rifle in violation of the Code and that he had received stolen property knowing, or having cause to believe, that said property had been stolen. Detective Lanagan was the officer who had arrested respondent and was the witness in the case.

This record is one of great confusion. To begin with, Detective Lanagan referred to the complaining witness as Mary Blackwell rather than as Mrs. Blackwell. When that occurred the following transpired:

The Court: "Have you ever been in my Court before?"

A.: "Yes, Your Honor, in the old court."

* * * *

The Court: "There is no such thing in this City called old court. What Court was that?"

A.: "The Court at Fifth and E, Your Honor."

The Court: "Did you say, Miss Blackwell?"

A.: "No, sir, I said Mary Blackwell."

* * * *

The Court: "And, he comes back and says Mary Blackwell. Haven't you learned I don't tolerate that?"

The Witness: "I didn't know what you tolerated, Your Honor."

The Court: "I thought every policeman in the City knew that citizens had to be called Mr., Mrs., or Miss in my Courtroom. You didn't know that?"

The Witness: "I called her by her God given name, Your Honor."

The Court: "Well you call her by my dictation, and that is, Mrs. Blackwell. And, don't you ever forget it. Is that clear?"

The Witness: "As you direct, Your Honor."

The Court: "Who is your Superior?"

The Witness: "Inspector Dials."

The Court: "You tell Inspector Dials I don't like your impudence, and, don't you ever tell me about you calling a witness by her God given name.

"Is there another witness in this case?"

Mr. Dearington: "No, Your Honor."

The Court: "Well you get one. He is excused. We are taking a recess until 2:30, and get me another witness."

There was then a discussion between the Court and Inspector Dials, and in referring to Officer Lanagan the Court had this to say:

The Court: "It is rude, insolent and impudent. He may not like me and I don't care about that. But this robe stands for something and so does that flag, and anybody that can't respect those two things, I don't need them in this Courtroom ever. There are places to put contemptuous people either by fine or by imprisonment, and I am not going to tolerate his impudence."

* * * *

The Court: "Anything the Detective wants to say?"

Detective Lanagan: "No, Your Honor."

The Court: "Then get out of my Courtroom. I don't tolerate contemptuous conduct. I could put him in jail. Now that is arrogance. He does not have the sense enough to apologize, or whatever it takes."

There follow twelve pages with respect to what the Judge terms "stool pigeons". This diversion had nothing to do with the case before the Court but apparently referred to a matter that had transpired in Judge Alexander's Court the day before. After this long diversion they finally came back to the case of Alfred Leonard Swinson.

Mr. Dearington, the Assistant Corporation Counsel, then stated:

" . . . At this time we are not prepared for probable cause. We would request that the Case be continued to Tuesday in compliance with the Code which provides for five days to present probable cause."

Mr. Wasserstrom, representing respondent, asked that the case be continued for a month.

The Court: "You have got it. One month."

The Court then asked the young man's mother whether she had any problems with him. She replied that he stayed out late hours. The Court said that he could continue his employment but must be home at nine o'clock every evening.

Mr. Dearington objected to so long a delay and stated: "Your Honor, that is over the Government's objection."

The Court: "Next case.

"When the Government is so obstinate and arrogant, I couldn't care less about it's objection."

Mr. Dearington: "Well, it is in the Statute, Your Honor, not to exceed five days for probable cause."

* * * *

The Court: "Your conduct is as obstinate as the Policeman's. There is no reason why that case couldn't have been heard today. In fact, call Mr. Wasserstrom back here. Ask him if he wants it dismissed."

Mr. Wasserstrom was called back into the Courtroom, and he also called back the respondent, and the following colloquy occurred:

The Court: "I can only handle obstinance with action. . . .

* * * *

"Mr. Wasserstrom, I can give you, since the Government out of obstinance has declared itself not ready to go forward on this probable cause hearing today, this Court can take judicial notice and conclude that it is because this Court refused to tolerate the arrogance of one Detective Lanagan. Is that a safe conclusion?"

Mr. Wasserstrom: "I think, under the circumstances it is a safe conclusion."

The Court: "Under the circumstances I would agree, and it might be under the feeling of the Prosecution because of my having found a stool pigeon planted in my Courtroom yesterday and expressed a great distaste for it. So I can put those things together and assume -- maybe not Mr. Dearington -- but maybe by order of dictation, because I have never known him to do anything like that, that the Government has with obstinance denied this young man his right to have a probable cause hearing today. As an alternative to a continuance until August 27th I can give you a dismissal. I cannot give you a dismissal with prejudice, but, sir, if it is brought back again you have a record and you can declare that the Government has been capricious and it is a denial of a speedy trial."

* * * *

The Court: "Would you like to have a dismissal of the case?"

Mr. Wasserstrom: "I would move the case be dismissed, Your Honor."

The Court: "It is granted."

District of Columbia v. Debbie Ruth Preacher. This case came on before Judge Alexander on July 13, 1971, in which it was alleged that the juvenile was a neglected child without proper parental care and control and without means of support. The petition was in a very irregular form apparently due to the inadequate preparation of the Corporation Counsel. The juvenile was represented by Miss Katherine Kilby and Miss Miller, the person from Child Welfare within whose caseload the juvenile fell.

Miss Miller, of Child Welfare, advised the Court that she could sign the petition since she had knowledge of what was involved.

Miss Kilby explained that a neglect case is different and the Judge interjected that "It seems to me we are going to have to get another lawyer to begin with . . . ."

Miss Miller admitted being angry as a result of the proceedings and the following colloquy occurred:

The Court: "Before you get too angry, let me remind you how far the cell block is. Don't you do that again. Don't you ever do that again, because you will need a lawyer."

* * * *

The Court: "I think maybe you ought not have your job. How old are you young lady?"

Miss Miller: "23, Your Honor."

The Court: "Where did you go to school?"

Miss Miller: "I have a BA from Dickinson College."

The Court: "Don't let that go to your head."

Miss Miller: "It isn't going to my head Your Honor."

United States v. Ricky J. Ellis. This case came on before Judge Alexander for a Miranda Hearing and jury trial on June 11-14, 1971.

The defendant was accused of stealing clothing from Woodward & Lothrop and Mr. Kogan, the Assistant United States Attorney, was making his closing argument to the jury. In the course of his argument he stated that Mr. Ellis made a statement to the effect that "I put the stuff in the bag. Don't listen to the girl. Anything she said she is just trying to help me. The charge is mine." In referring to this statement Mr. Kogan apparently read from a memorandum, so a controversy arose as to whether it was a written confession or an oral confession. A further controversy arose from Mr. Kogan's statement that a Miss Davis who was with Mr. Ellis had with her about $50. Again the Court criticized Kogan saying that there was no testimony that she had $50 "and there is no way any sane man can come to that conclusion."

After these exchanges the following occurred:

The Court: " . . . Any time you want a mistrial you can have it."

Mr. Robbin: "Yes, Your Honor."

The Court: "Do you want one?"

Mr. Robbin: "Yes, sir, I move for a mistrial."

The Court: "You have got it.

* * * *

"I'll tell you what I will let you do, sir. You are entitled to it. You are also entitled to let this jury deliberate on it. You can take your chances. I am inclined to feel that if they come back wrong under these kind of circumstances, I'll grant you a new trial."

In granting the mistrial the Court said, among other things, the following:

" . . . Now the Government never introduced into this case a written confession by Mr. Ellis. Anyone who is sane or has any eyes or has any ability whatsoever knows that when Mr. Ellis -- strike that. Mr. Kogan stood up and waited until he we until he got to the point he got into the alleged confession he read from a document. . . .

* * * *

"Now I have told Mr. Robbin who represents Mr. Ellis that in this case he can do one or two things. He can get a mistrial at this stage because of the improper conduct or he can let the case go to the jury and face an unfavorable verdict because of this unproper conduct. And, I would give him a new trial. . . ."

* * * *

The Court: "Gentlemen, come to the bench."

(Bench Conference)

The Court: "That means you, Mr. Kogan. I am very much upset about your conduct and tell Mr. Moore I want to see him."

Mr. Kogan: "I certainly will, Your Honor."

The Court: "Don't you give me your nasty tone, because you won't get down to Mr. Moore."

Mr. Kogan: "I am not. I just said that in a nice way."

The Court: "What do you mean, you certainly will? That is an order. To me, it is yes, sir, Your Honor. The next one I'll see is Mr. Flannery."

Brady and Company v. Earl F. Turner, Jr., and Joanne Turner. This matter came on before Judge Alexander on May 28, 1971.

Brady and Company sued Mr. and Mrs. Turner for money which it was alleged they owed the plaintiff for rent.

After the Court asked defendants whether they worked and whether they were being paid while off duty, Mr. Turner said that "I don't work." The following colloquy transpired:

The Court: "Do you ma'am? What do you have for a husband? A bum or a pimp? Is that what you are?"

Mr. Turner: "What's that?"

The Court: "A pimp? A bum? Well, why don't you work?"

* * * *

Mr. Turner: "I'm looking for a job now."

The Court: "Take your hands out of your pockets. This is no swinging tavern. . . ."

United States v. Nathaniel Napor. This matter came on before Judge Alexander on May 28, 1971. Defendant had pleaded guilty to a charge of petty larceny and the matter was before the Court for sentencing.

The defendant was 19 years of age and had dropped out of school in the 10th grade and had been on narcotics. The following colloquy occurred:

Counsel for Defendant: "He's with Bonabond and, of course, he hasn't had any narcotics . . ."

The Court: "He has no future whatsoever. He has no skills. He has no training, and he's not a high school graduate. No young man in this community

ought to be allowed to live in that kind of atmosphere or that kind of condition. In order to make a better life for himself he needs training, he needs guidance, and he needs a cure. . . ."

* * * *

The Court: "Let me say something about that request for being a counselor to youth. He's not qualified. I don't like the idea of some people in this community telling other people that any thing is good enough to be a counselor for black people. I don't like that. This young man has no qualifications to be a counselor for anybody. They wouldn't think about sending him over in Georgetown and be no counselor. Don't answer it. Anybody that has the guts to stand up before me and ask that an unqualified, unskilled youth be a counselor to black children is in trouble. That's anybody. I don't like it. Now you try that before some of these judges that buy it, not before me. And unfortunately there are too many that buy it. They think that anything is good enough for some black people; I don't. And I don't like it. . . ."

Tyler Matter. This matter came before Judge Alexander on May 27, 1971, at which time the following colloquy occurred:

Deputy Clerk: "All remaining cases in this Court, or people, witnesses, defendants, will be excused to report back here for trial at 3 o'clock."

The Court: "All right sir. Sit down. Now, I . . . just a moment, I saw a lawyer make a very unbecoming expression. Mr. Tyler, step up here. Do you have any objection to that announcement?"

Mr. Tyler: "I don't know, Your Honor, I don't know what Your Honor's referring to now."

The Court: "I saw your face and your mouth when the Clerk announced 3 o'clock. Now do you have any objection to it?"

Mr. Tyler: "Well, Your Honor, I . . ."

The Court: "My attaches -- I'm not even going to let you answer it -- I don't care whether you have any objection. The people that work for me in this Court including me have to eat. And we're going to finish this case, sir, and go to lunch whether you like it or not. You don't have to come back at 3 o'clock. Next case."

Mr. Tyler: "Your Honor, I just wish to say this, now, I have made no remarks in this Court. Your Honor's putting interpretations . . ."

The Court: "I didn't like your expression. I said you may leave, and I mean it."

Mr. Tyler: "All right, I just note my objection to Your Honor's remarks. On the record."

The Court: "And I made my objection to your unbecoming conduct as a lawyer. You're excused."

Mr. Tyler: "Very well Your Honor. May I address the Court on a question?"

The Court: "No sir. No sir."

Mr. Tyler: "Very well."

United States v. Frederick E. Morton. This matter came on before Judge Alexander for trial on February 19, 1971. The defendant was charged with receiving stolen property -- a tape deck and a Texaco credit card -- from Willard Jeffrey. Officer Shoffler observed a Mustang car operating at a high rate of speed at night with the lights out. This colloquy occurred:

Q.: "The lights of the vehicle or the traffic signals?"

A.: "The vehicle's lights were out, yes, sir."

The Court: "Did you ask him if he was referring to the traffic lights or the lights in the vehicle? Is that a serious question?"

Mr. McSorley: "Yes, your Honor. He said that the lights --"

The Court: "He said: I saw a Mustang being operated with the lights out. Don't ask any more facetious questions."

Mr. McSorley: "I beg your pardon, your Honor. It was not intended to be facetious."

The Court: "Sir, come to the bench."

* * * *

The Court: "When the last witness was on the stand you asked some similar ridiculous questions and I let it go. Don't do it again."

Mr. McSorley: "I'm not trying to ask anything that is ridiculous. I'm seriously trying to do the best job I can."

Later on this colloquy occurred:

Mr. McSorley: "I'm up to the point now where I would seek to introduce a confession in this case."

The Court: "You've already introduced one."

Mr. McSorley: "A written one."

The Court: "What's the difference between a written and oral? A confession is a confession. You've already introduced one. I'm not saying you can't introduce it but why didn't you approach the bench about the other one?"

After some discussion the following colloquy occurred:

Q.: "Officer, you stated that after you saw the credit card lying on the floor you advised the subjects of their rights?"

A.: "Yes, because they were both --"

The Court: "Just answer the question and stop. You're part of the problem. Answer the question and stop."

After further discussion the following colloquy occurred:

The Court: "You've only been asked to testify what happened. Now, you're leaving out what you want to."

The Witness: "Sir, I am afraid to go into detail because every time I do I'm told to shut up."

The Court: "I'll tell you one thing: When you do go into detail and you're wrong you will be told to shut up whether you like it or not."

The Witness: "Yes, sir, but I can't go into detail."

After further discussion the following colloquy occurred:

Q.: "Did you hear Mr. Ivey threaten Mr. Morton? At any time?"

A.: "Do you want me to relate what I recall?"

The Court: "No, sir. Did you hear? Answer the question. Did you hear?"

The Witness: "Your Honor, you don't have to get mad at me. I just asked him to clarify --"

The Court: "I don't want any more of that --"

A question arose as to whether a statement had been voluntarily given by the accused, and the following colloquy occurred:

The Court: "All right. Gentlemen, I'll tell you what. I'll resolve it. There's so much confusion about the testimony surrounding the circumstances. This

written confession is disallowed. Bring in the jury. That'll take care of this few minutes. One thing is certain: The statement has to be voluntary."

The Witness: "Your Honor, there was no confusion at the time."

The Court: "Sir, this is not addressed to you and I won't have any more of that."

Later on in the hearing the following colloquy occurred:

The Court: [Addressing deputy clerk] "Would you tell those two people sitting in the first row that cannot happen in this courtroom?"

[Deputy clerk went to the spectators indicated.]

The Court: "Mr. Jeffrey, you sit in the second seat, sir, since you gentlemen can't seem to stop whispering to one another. You may sit on the second seat, right now."

Officer Shoffler: "Do you want me to leave the courtroom?"

The Court: "I don't need your assistance. I know how to give orders. I just gave one. Mr. Jeffrey, sit on the second row."

[Officer Shoffler left the courtroom.]

[Mr. Jeffrey shifted his position to the second row.]

The Court: "Does he need mental observation?"

Mr. McSorley: "No, sir."

The Court: "Are you sure about that?"

Mr. McSorley: "As sure as I am about anyone."

The Court: "Really? He's quite a problem. He's the worst witness I ever had. I don't know whose fault that is. I hope it's his."

* * * *

The Court: "Tell Lieutenant Hudlow [ph] I want to see him this evening about this witness."

Toward the end of the trial the Assistant United States Attorney was cross-examining Mr. Morton, the defendant, and this coloquy occurred:

Q.: "Mr. Morton, you do know the difference between telling the truth and telling a lie?"

A.: "Yes, sir."

The Court: "How old are you? Come to the bench.

* * * *

"What do you want me to do? I can let this case go on. I can let it go to the jury. But this is a cardinal error."

Mr. Dawson: "I move for a mistrial."

The Court: "You've got it."

The standard of conduct that a judge is obliged to observe in the discharge of his judicial duties has long been recognized both by the courts and in the canons of the judiciary and legal profession. The Supreme Court has observed that a judge should so conduct himself that his "moral authority" will impose upon the proceedings

an atmosphere of dignity and austerity. Offutt v. United States, 348 U.S. 11, 17; Sacher v. United States, 343 U.S. 1, 38 (dissenting opinion).

This standard requires that a judge be fair and impartial and that he act in relation to counsel, parties and witnesses with courtesy, dignity and restraint. It is incumbent upon a judge to remember at all times that because of his power and position it is unseemly for him to be gratuitously rude or offensive to counsel, witnesses or parties whose status in the courtroom is less than that of the judge and whose recourse against rude and offensive judicial conduct is at best extremely limited. The importance of courtesy, restraint and dignity in the conduct of judicial proceedings has been emphasized by the courts in this jurisdiction. In Re Gates, 248 Atl.2d 671, 677 (District of Columbia Court of Appeals, 1968), the Court said:

> "We view with distaste and disfavor any form of open or subtle bullying or browbeating by courts of lawyers or, for that matter, of laymen. * * * * It is essential not only that justice be done in our courts but that there be an atmosphere of judicial calm and purposeful dignity in our courts, particularly those such as this trial court which have the most intimate contact with the largest number of citizens."

And again in Williams v. United States, 228 At1.2d 846, 847 (District of Columbia Court of Appeals, 1967), the court said:

> "We pause to comment that while the bar owes respect and deference to the bench, judges owe a corresponding duty of courtesy and respect to the bar."

Perhaps the most complete statement of the standards that should govern the conduct of a judge is found in the American Bar Association's Canons of Judicial Ethics which we believe can be taken as representing the considered and accepted view of the Bench and Bar in the United States. Those Canons require, among other things, that a judge should be

> "temperate, attentive, patient, [and] impartial",

should be

> "courteous to counsel, especially to those who are young and inexperienced, and also to all others appearing or concerned in the administration of justice in the court",

and he should

> "bear in mind that his undue interference, impatience, or participation

> in the examination of witnesses, or a severe attitude on his part toward witnesses . . . may tend to prevent the proper presentation of the cause, or the ascertainment of the truth in respect thereto.
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> "In addressing counsel, litigants, or witnesses, he should avoid a controversial manner or tone
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> * * * *
>
> "and he should not be tempted to the unnecessary display of learning or a premature judgment". Canons Numbers 5, 10, 15.

It is the considered judgment of this Commission that Judge Alexander has violated these Canons and the standards of judicial conduct that have been announced by the courts and that in this respect his conduct has been detrimental to the Court on which he sits and to

the administration of justice. As a basis for this determination the Commission refers particularly to the following incidents which are reflected in the portions of the transcripts which have been set forth above:

Judge Alexander suggested that a defendant need not admit owing an obligation that he admittedly owed and that he need not pay the full amount at once, as he stated he desired to do.

He accused his fellow judges of practicing racism when they disagreed with him in the handling of certain matters that came before the Court.

He unnecessarily, and in an offensive manner, created a major incident over the fact that a police officer in the course of his testimony, in referring to (but not addressing) a complaining witness referred to her by her full name but without using the prefix "Mrs." He dismissed the same case where the respondent was accused of having a sawed-off rifle and having received property knowing, or having cause to believe, that said property had been stolen, because the Assistant Corporation Counsel requested a delay after the Judge had declared that the witness was unacceptable for the reason that he had referred to Mrs. Blackwell, the complaining

witness whom he was not addressing, as Mary Blackwell, and this after he had granted the continuance for one month.

He criticized a probation officer about the assignment of a juvenile to a job that the probation officer explained he did not get for him, and castigated him with "You are a part of the problem".

He directed a witness to "get out of here" when he was displeased with his testimony.

He stated that a social worker should probably not have her job and criticized her when she gave her academic background.

He threatened a social worker with the cell block because she admitted being angered by reason of the way the Judge was handling the matter before him.

He criticized a witness as impudent and directed his superior to "come immediately" and that "if she is impudent, I'll get hers".

He asked a defendant whether her defendant husband was a bum or a pimp.

He criticized a lawyer who represented a juvenile and who was trying to bring the matter before the Judge in an orderly way.

He castigated a lawyer for making what the Judge described as a very unbecoming expression and denied the lawyer an opportunity to reply.

The Commission has concluded that the facts thus disclosed require public censure of Judge Alexander.

The conduct of some other judges in our Superior Court has been the subject of complaints which also alleged intemperate and injudicial conduct. These complaints have been and are presently the subject of investigation and, in some cases, warnings by the Commission have been issued to the Judge concerned. Judge Alexander, however, has exhibited unacceptable conduct extending over such a long period of time that a private resolution of the present complaint is deemed inappropriate.

The Commission recognizes that before going on the Bench, Judge Alexander rendered important service as a member of the Bar, and that since going on the Bench, in other instances not here involved, he has rendered conscientious and effective judicial service. We do not believe, therefore, that his conduct as detailed herein is such as to require us to proceed beyond the issuance of a public censure.

It is hereby

ORDERED, That the conduct of Judge Harry T. Alexander as heretofore outlined is made the subject of official censure by the District of Columbia Commission on Judicial Disabilities and Tenure. Having imposed this censure, the Commission hereby terminates finally this investigation and proceeding concerning Judge Alexander.

BY ORDER OF THE COMMISSION:

Newell W. Ellison, Chairman

John J. Wilson, Vice Chairman

William S. Harps

George L. Hart, Jr.

Norman O. Jarvis

February 14, 1972