

State of New York
Commission on Judicial Conduct

In the Matter of the Proceeding Pursuant to Section 44,
subdivision 4, of the Judiciary Law in Relation to

JAMES E. JOEDICKE,

a Justice of the Town Court of
Stamford, Delaware County.

Determination

BEFORE: Mrs. Gene Robb, Chairwoman
Honorable Fritz W. Alexander, II
David Bromberg, Esq.
E. Garrett Cleary, Esq.
Dolores DelBello
Michael M. Kirsch, Esq.
Victor A. Kovner, Esq.
Honorable Isaac Rubin
Honorable Felice K. Shea
Carroll L. Wainwright, Jr., Esq.

APPEARANCES:

Gerald Stern (Stephen F. Downs and
John J. Postel, Of Counsel) for the
Commission
James E. Joedicke, Respondent Pro Se

The respondent, James E. Joedicke, a justice of the Town Court of Stamford, Delaware County, was served with a Formal Written Complaint dated March 17, 1981, alleging that respondent had not completed a certification program required by law for all town and village justices who are not lawyers, and alleging various administrative and accounting deficiencies. Respondent did not file an answer.

By order dated April 10, 1981, the Commission designated Ira M. Belfer, Esq., referee to hear and report proposed findings of fact and conclusions of law. The hearing was held on May 12, 1981, and the referee filed his report on May 19, 1981.

By motion dated May 26, 1981, the administrator of the Commission moved to confirm the referee's report and for a determination that respondent be removed from office. Respondent did not oppose the motion. Oral argument was not requested.

The Commission considered the administrator's motion and the record of the proceeding on June 18, 1981, and makes the determination herein.

With respect to Charge I of the Formal Written Complaint, the Commission makes the following findings of fact.

1. Respondent served as town court justice part-time. He is not an attorney. His regular occupation is superintendent for a construction company. He first took judicial office in 1974. He was re-elected to a new term of office which commenced on January 1, 1979. He resigned from office effective April 8, 1981.

2. From October 11, 1977, to February 10, 1981, respondent refused to open 81 pieces of mail he received in his official capacity, as set forth in Schedule 1 appended hereto.

3. Respondent was aware that this correspondence was stored unopened in his court desk. The unopened correspondence included letters from government agencies, attorneys and litigants, as noted in Schedule 1.

4. Respondent failed to open the 81 letters set forth in Schedule 1 despite an inquiry from the Commission on December 22, 1980, with respect thereto.

5. On February 10, 1981, respondent appeared before a member of the Commission to testify under oath and offered no reason or explanation for his failure to open the 81 letters.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 33.1, 33.2(a), 33.3(a)(5) and 33.3(b)(1) of the Rules Governing Judicial Conduct and Canons 1, 2A, 3A(5) and 3B(1) of the Code of Judicial Conduct. Charge I of the Formal Written Complaint is sustained and respondent's misconduct is established.

With respect to Charge II of the Formal Written Complaint, the Commission makes the following findings of fact.

6. By letter dated September 3, 1980, the Honorable Howard Zeller, administrative judge for the Sixth Judicial District, in which respondent's court is located, advised respondent that he had not attended the advanced judicial training course required by law for the re-certification of all non-attorney judges re-elected to judicial office. The letter from the administrative judge informed respondent that the next training session was scheduled for September 15, 1980, and that failure to attend the required training course could lead to removal from office.

7. Respondent failed to attend the advanced training course held on September 15, 1980.

8. On September 27, 1980, respondent spoke with Administrative Judge Zeller regarding his lack of certification. By letter dated September 29, 1980, Judge Zeller again advised respondent of his lack of certification. The letter informed respondent that the

next training session was scheduled for October 23 and 24, 1980, in Dryden, New York.

9. Respondent attended the first day of the advanced training course in Dryden on October 23, 1980. He did not attend the second day's session on October 24, 1980. Respondent failed to take the required examination and did not receive certification.

10. By letter dated November 10, 1980, Administrative Judge Zeller advised respondent that he remained uncertified because of his failure to take the required examination. Respondent did not respond to Judge Zeller's letter and remained uncertified through the date of his resignation from office.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Article 6, Section 20(c), of the State Constitution, Section 31 of the Town Law, Section 105 of the Uniform Justice Court Act, Section 30.6(b) of the Uniform Justice Court Rules, Sections 33.1, 33.2(a), 33.3(a)(5) and 33.3(b)(1) of the Rules Governing Judicial Conduct and Canons 1, 2A, 3A(5) and 3B(1) of the Code of Judicial Conduct. Charge II of the Formal Written Complaint is sustained and respondent's misconduct is established.

With respect to Charge III of the Formal Written Complaint, the Commission makes the following findings of fact.

11. In the 24-month period from October 1978 through September 1980, respondent, contrary to the requirements of Section 30.7 of the Uniform Justice Court Rules, retained possession of court funds and regularly failed to deposit those funds within 72

hours of receipt, as set forth in Schedule 2 appended hereto. In this period respondent was aware of the requirements of Section 30.7.

12. In 16 of the 24 months from October 1978 through September 1980, as set forth in Schedule 2, respondent failed to make any deposits at all of the monies received in his official capacity, despite having such monies under his personal control each month.

13. In his testimony before a member of the Commission on February 10, 1981, respondent failed to give a satisfactory account for the deficiencies in his court account and for his handling of court monies during those periods in which such monies were undeposited and under his personal control.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 33.1, 33.2(a), 33.3(a)(5) and 33.3(b)(1) of the Rules Governing Judicial Conduct and Canons 1, 2A, 3A(5) and 3B(1) of the Code of Judicial Conduct. Charge III of the Formal Written Complaint is sustained and respondent's misconduct is established.

By his conduct, respondent has evinced a gross neglect of the duties of judicial office.

By refusing to open his court mail, respondent failed to discharge properly his administrative responsibilities and he compromised the administration of justice in his court. It is inexcusable that official correspondence from court administrators, lawyers involved in proceedings before him, and others, would remain unopened for months at a time.

By failing to deposit official funds for several months while such funds were under his personal control, respondent violated the specific requirements of the Uniform Justice Court Rules (Section 30.7[a]). Such conduct demonstrates an intolerable neglect of his responsibilities for the public money entrusted to his care. See Bartlett v. Flynn, 50 AD2d 401 (4th Dept. 1976), app dismiss 39 NY2d 946 (1976), judge removed inter alia for "gross neglect" in handling court funds.

By failing to attend and complete the training and certification program required by law for all non-lawyer town and village justices, despite repeated notice from his administrative judge, respondent again demonstrated a gross disregard of the constitutional and statutory obligations of judicial office. Failure to obtain the required certificate renders a judge unqualified to hold office and has been held, per se, to constitute cause for removal. Bartlett v. Bedient, 47 AD2d 389 (4th Dept. 1975).

By reason of the foregoing, the Commission determines that the appropriate sanction is removal from office.

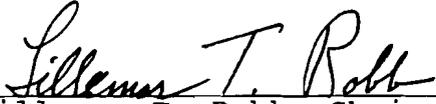
This determination is rendered pursuant to Section 47 of the Judiciary Law in view of respondent's resignation from office.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct, containing the findings

of fact and conclusions of law required by Section 44, subdivision
7, of the Judiciary Law.

Dated: July 1, 1981
Albany, New York


Lillemor T. Robb, Chairwoman
New York State Commission on
Judicial Conduct

SCHEDULE 1

Unopened Mail

<u>Source Of Letter</u>	<u>Date Of Postmark</u>
NYS Office of Court Administration	8/8/78
NYS Office of Court Administration	5/18/78
NYS Department of Audit and Control	8/21/78
NYS Department of Motor Vehicles	8/17/78
NYS Executive Department--Division of Criminal Justice Services	2/23/78
US District Court--Chief Judge David Edelstein	No Date
NYS Office of Court Administration	No Date
NYS Office of Court Administration	No Date
NYS Office of Court Administration	8/31/79
NYS Office of Court Administration	8/30/79
NYS Office of Court Administration	2/2/79
NYS Department of Motor Vehicles	2/20/79
NYS Department of Motor Vehicles	2/26/79
NYS Department of Motor Vehicles	3/1/79
NYS Office of Court Administration	2/23/78
Delaware County District Attorney	2/15/78
NYS Department of Motor Vehicles	2/16/78
Delaware County Department of Social Services	2/18/78
Delaware County Alcoholism Council	11/23/77
NYS Department of Motor Vehicles	2/24/78
Govern & McDowell, Attorneys At Law	5/4/78
Howard Zeller, Justice Supreme Court, Oneida	8/9/79
NYS Department of Audit and Control	11/7/79
Gray J. Grayson, Attorney At Law	8/24/79

(Continued)

<u>Source Of Letter</u>	<u>Date Of Postmark</u>
NYS Department of Motor Vehicles	12/5/79
Bob Waters, 116 Maple Drive, Fayetteville, NY	No Date
NYS Department of Audit and Control	11/27/79
NYS Office of Court Administration	8/23/78
Town of Stamford	9/1/78
NYS Department of Audit and Control	9/6/78
William A. Schmitt, P.C., Attorney At Law	8/30/78
NYS Office of Court Administration	8/31/78
NYS Office of Court Administration	9/1/78
Town of Harpersfield	9/5/78
NYS Department of Audit and Control	3/30/79
NYS Department of Motor Vehicles	4/4/79
Stamford Health Bar, Joe and Madge Bonacci	7/5/79
Delaware County District Attorney	11/3/78
Vickie and Russ Dayton, River Road, Hobart, NY	6/1/79
St. John's Episcopal Church	7/27/78
Town of Harpersfield, Town Justice Ogborn	7/25/?
Klose and Melley, Attorneys At Law 35 East Market Street, Red Hook, NY	6/25/79
NYS Office of Court Administration	3/31/78
NYS Office of Court Administration	No Date
NYS Office of Court Administration	10/11/77
NYS Office of Court Administration	3/12/79
NYS Office of Court Administration	9/14/78
NYS Office of Court Administration	6/26/78
NYS Office of Court Administration	9/20/79
NYS Office of Court Administration	10/19/79

(Continued)

<u>Source Of Letter</u>	<u>Date Of Postmark</u>
Unknown	5/26/78
NYS Department of Motor Vehicles	5/26/78
NYS Department of Audit and Control	5/24/78
Delaware County Office for the Aging	5/16/78
NYS Department of Motor Vehicles	5/16/78
NYS Department of Motor Vehicles	5/19/78
Delaware County Magistrate's Association	5/10/78
Delaware County Magistrate's Association	9/28/79
NYS Department of Motor Vehicles	9/21/79
William A. Schmitt, Attorney At Law	9/24/79
NYS Department of Motor Vehicles	10/15/?
Howard A. Zeller, Supreme Court Justice, Oneida	10/5/79
Williamson Law Book Company	No Date
National Judicial College, Judicial College Bldg., University of Nevada	No Date
Jacobs & Jacobs, Attorneys At Law	7/31/79
NYS Department of Motor Vehicles	8/21/79
Bob Waters	No Date
NYS Department of Motor Vehicles	9/6/79
NYS Department of Motor Vehicles	9/7/79
NYS Office of Court Administration	2/21/80
Delaware County District Attorney	2/?/80
NYS Department of Motor Vehicles	2/4/80
NYS Office of Court Administration	3/21/80
Howard Zeller, Supreme Court Justice, Oneida	12/12/79
Department of the Navy	3/10/80
William F. McLean, Jr., River Street, Hobart, NY	3/18/80

(Continued)

<u>Source Of Letter</u>	<u>Date Of Postmark</u>
Dayton, P.O. Box 57, So. Kortright	2/19/80
Veterinary Medicine	4/8/80
NYS Department of Audit and Control	4/2/80
NYS MA, 119 Washington Avenue, Albany, NY	3/29/80
Department of Natural Resources, NYS College of Agriculture and Life Sciences, Cornell University	3/23/79

SCHEDULE 2Judge James Joedicke

<u>Month and Year</u>	<u>Fines Reported to Audit and Control</u>	<u>Bail Received</u>	<u>Deposits Should Have Been</u>	<u>Deposits Were</u>	<u>Deficiency or Surplus</u>	<u>Cumulative Deficiency or Surplus</u>
October 1978	\$ 35.00	0	\$ 35.00	0	\$ 35.00 (D)	\$ 35.00 (D)
November 1978	102.50	0	102.50	0	102.50 (D)	137.50 (D)
December 1978	12.00	0	12.00	0	12.00 (D)	149.50 (D)
January 1979	220.00	0	220.00	169.50	50.50 (D)	200.00 (D)
February 1979	155.00	0	155.00	0	155.00 (D)	355.00 (D)
March 1979	10.00	0	10.00	0	10.00 (D)	365.00 (D)
April 1979	170.00	0	170.00	465.00	295.00 (S)	70.00 (D)
May 1979	25.00	0	25.00	0	25.00 (D)	95.00 (D)
June 1979	70.00	0	70.00	0	70.00 (D)	165.00 (D)
July 1979	58.50	0	58.50	185.00	126.50 (S)	38.50 (D)
August 1979	10.00	0	10.00	0	10.00 (D)	48.50 (D)
September 1979	38.50	0	38.50	118.50	80.00 (S)	31.50 (S)
October 1979	30.00	0	30.00	0	30.00 (D)	1.50 (S)
November 1979	40.00	0	40.00	0	40.00 (D)	38.50 (D)
December 1979	147.50	0	147.50	0	147.50 (D)	186.00 (D)
January 1980	0	0	0	217.50	217.50 (S)	31.50 (S)
February 1980	* 38.00	0	38.00	0	38.00 (D)	6.50 (D)
March 1980	0	0	0	0	0	6.50 (D)
April 1980	155.00	0	155.00	0	155.00 (D)	161.50 (D)
May 1980	30.00	0	30.00	0	30.00 (D)	191.50 (D)
June 1980	10.00	0	10.00	185.00	175.00 (S)	16.50 (D)
July 1980	25.00	0	25.00	35.00	10.00 (S)	6.50 (D)
August 1980	30.00	0	30.00	30.00	0	6.50 (D)
September 1980	20.00	0	20.00	0	20.00 (D)	26.50 (D)

* \$28 sent in February plus additional \$10 sent later to cover shortage