

STATE OF NEW YORK  
COURT ON THE JUDICIARY

-----X  
In the Matter :  
- of - :  
John W. Tracy :  
A Justice of the Town of :  
Spafford, County of Onondaga. :  
-----X

REPORT  
AND  
RECOMMENDATION

STATE COMMISSION ON  
JUDICIAL CONDUCT

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REPORT AND RECOMMENATION OF THE  
STATE COMMISSION ON JUDICIAL CONDUCT  
IN THE MATTER OF SPAFFORD  
TOWN JUSTICE JOHN W. TRACY

PRELIMINARY STATEMENT

This Report and Recommendation of the State Commission on Judicial Conduct (hereinafter the "Commission") is submitted in accordance with Article VI, Section 22k, of the Constitution of the State of New York, and Article 2-A of the Judiciary Law.

JUSTICE TRACY'S FAILURE TO  
ATTAIN ADVANCED TRAINING CERTIFICATION

John W. Tracy is a justice of the Town Court of the Town of Spafford in Onondaga County. He is not an attorney. He first took office in August 1974, and pursuant to Section 30.6(a) of the Rules of the Administrative Board of the Judicial Conference, attended a basic training program required of newly-selected justices who are not members of the bar. Justice Tracy received his basic training certificate on December 18, 1974. Justice Tracy's current term of office commenced on January 1, 1975, and is due to expire on December 31, 1977.

The present investigation of Justice Tracy commenced after the Commission received a letter, dated November 3, 1976, from the Office of Court Administration, Fourth Judicial Department. The letter indicated that Justice Tracy had not complied with Section 30.6(b) of the Rules of the Administrative Board of the Judicial Conference, requiring successful completion of an advanced training course by non-attorney justices within one year after entering a new term of office. The Commission also received from the Office

of Court Administration a copy of a letter to Justice Tracy, dated June 11, 1976, calling attention to the Administrative Board's Rules and advising the justice that he "must attend one of the three remaining advanced training courses for 1976." Justice Tracy did not attend such a course.

The Commission contacted Justice Tracy in a letter dated January 14, 1977, seeking his explanation for not enrolling in the required advanced training program. No reply was received from the justice. On April 25, 1977, pursuant to Judiciary Law Section 43, subdivision 5, a Notice of Hearing and Complaint was mailed to Justice Tracy advising him to appear on May 11, 1977. Justice Tracy did not appear on May 11, 1977, but advised the Commission that he intended to register for the advanced training program scheduled in Rochester, New York, on June 10 and 11, 1977. Justice Tracy did, in fact, attend the program, but he failed the course and consequently did not receive recertification.

#### CONCLUSION

Article VI, Section 20(c), of the Constitution of the State of New York, states in part that

a course of training and education [is] to be completed by justices of town and village courts...who have not been admitted to practice law in this state.

Section 30.6 (b) of the Rules of the Administrative Board of the Judicial Conference states as follows:

Every incumbent justice heretofore certified pursuant to this section shall, within one year after entering upon a new term of office, be required to successfully complete an advanced course of training, after each of which he shall be recertified. (Emphasis added.)

Justice Tracy did not register for an advanced training program within one year after entering a new term of office in January 1975. He did not, in fact, register for such a course until June 1977, nearly two and a half years after the commencement of his new term. Furthermore, he did not successfully complete the course in which he enrolled. Therefore, Justice Tracy was and is in violation of Article VI, Section 20(c), of the Constitution of the State of New York, and Section 30.6(b) of the Rules of the Administrative Board of the Judicial Conference.

The failure of a non-attorney town justice to obtain a certificate of completion for a required judicial training program has been held to constitute cause for removal from office. Bartlett v. Bedient, 47 App. Div. 2d 389 (4th Dept. 1975).

#### RECOMMENDATION

By reason of the foregoing, in accordance with Article VI, Section 22k, of the Constitution of the State of New York, and Section 43, subdivision 8, of the Judiciary Law, the State Commission on Judicial Conduct recommends that the Court on the Judiciary be convened to hear and determine appropriate charges in the matter of John W. Tracy, Justice of the Town Court of the Town of Spafford, New York, who failed to successfully complete an advanced training course of training within one year of entering a new term of office on January 1, 1975, as required of justices not admitted to the bar of the State of New York, in violation of Article VI, Section 20(c), of the Constitution of the State of New York, and Section 30.6(b) of the Rules of the Administrative Board of the Judicial Conference.

Respectfully submitted,

State Commission on Judicial Conduct  
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New York, New York 10017

Dated: New York, New York  
August 3, 1977