7-1-1955

THE NEED AND PROPOSALS FOR JUDICIAL REFORM IN THE STATE OF FLORIDA. By Lawrence C. Perlmutter. Coral Gables: University of Miami Library Press

Richard w. Ervin

say rule is, and is not, applicable gives clear and understandable examples of what is, and is not, within the hearsay rule.

RICHARD TOUBY

ASSOCIATE PROFESSOR OF LAW AND
ASSISTANT TO THE DEAN
UNIVERSITY OF MIAMI

THE NEED AND PROPOSALS FOR JUDICIAL REFORM IN THE STATE OF FLORIDA. By Lawrence C. Perlmutter. Coral Gables: University of Miami Library Press.

This study comprehensively covers the subject under discussion. Statistics and other data point up the congested docket of the Florida Supreme Court and similarly show the same conditions in several of the circuit courts, and other trial courts.

A strong plea based on sound and cogent reasons is made for a unified court system under the supervision of a court administrator. Mr. Perlmutter advocates a unified court system to relieve confusion to litigants from the hodge-podge of inferior trial courts and to improve the quality of trial courts and raise their prestige. He says a unified system would provide location of responsibility, centralization of control, proper channels for administration and an administrator—all of which would not be designed to destroy the independence of the court system. He quotes Dean Rascoe Pound:

> The whole judicial power of each state should be vested in one great branch of which all tribunals should be branches, departments or divisions . . . so as to prevent not merely waste of judicial power, but all needless clerical work, duplication of papers and records . . . plus obviating expense to litigants and cost to the public.

The study points out that the federal courts have an administrative system which scrutinizes the work of those courts in order to insure their efficiency and disclose more effective means of directing the administration of justice.

He recites the progress that has been made through the judicial administrative process in federal courts and in the states that have adopted such procedures.

Mr. Perlmutter concludes that such a court administrative system would be of great value to our Florida judiciary and strongly recommends that it be adopted.

A chapter on Judicial Selection and Tenure in the treatise gives the reader a comprehensive insight into the history and the pros and cons covering the selection of judges by the elective or political process, as contrasted to the appointive method based on careful screening of potential nominees

by committees constituted by members of the bar and laymen. This latter method is known as the Missouri or American Bar Association Plan.

The author has not been content to confine his research merely to published sources, but in order to get first hand facts he has carried on personal correspondence with a great number of persons who are in a position to supply him pertinent information. These include numerous Florida judges, members of the bar, judges and court functionaries of other states and leading figures advocative of judicial reform such as Justice Arthur T. Vanderbilt of the New Jersey Supreme Court.

The pre-trial conference method and technique of dispatching judicial business is carefully delineated. Any lawyer who has not had the time to make a comprehensive study of pre-trial conference, will find in Mr. Perlmutter's chapter on the subject an enlightening and interesting resume which gives its origin and utility. More particularly, to the Florida lawyer it will go a long way in convincing him that this procedure should be more widely used.

In the chapter on the Judicial Council, the genesis of this type of organization is outlined as is the progress in judicial reform that has been achieved from its use in several of the states. An outline of the Florida Judicial Council created by the 1953 Florida Legislature is given, with its powers and duties and a statement of its tentative proposals for study.

Mr. Perlmutter sums his own analysis of the Florida judicial situation. He says that the Judicial Article of the 1885 Florida Constitution has undergone few basic changes and the result is a hap-hazard, unplanned system.

Florida ranks far down the list of states in modernizing and reforming her judicial system.

The dockets of many courts are congested and many judges are overworked.

He recommends an intermediate court of appeals in three divisions; one to serve the Miami area, another the Jacksonville and a third the Tampa area. This court is to have appellate jurisdiction of civil cases involving not more than $25,000; excepting, however, those cases involving a constitutional question, where the Supreme Court has original jurisdiction, and when at least two Supreme Court Justices feel there is ground for Supreme Court review.

He favors a court administrator and a unified court system. As to the trial courts he believes the circuit courts should retain their present jurisdiction with divisions for probate, juvenile relations, domestic relations, crimes and civil records, with judges of these courts to be assigned according to volume of cases.

He thinks the municipal courts should continue their present functions and take over the duties of the justice of the peace as committing magistrates and as triers of misdemeanors.

In support of the "one trial court system" he says:

> Such a court system would eliminate the separate special courts in Florida such as the Civil Courts of Records, Courts of Crime, County Judges' Courts and the Justice of the Peace Courts. This would present a unified court system that would have uniform jurisdiction in all similar courts and which would eliminate the confusion that exists in Florida's present system due to overlapping, varying jurisdiction in the courts.

He recommends the selection and tenure procedures embodies in the Missouri Plan. In strong support of the Plan he says:

> . . . it calls for the selection of candidates for judgeships on the basis of qualification; it takes the judges out of politics and it calls for nominating commissions that are non-partisan in composition, selected so they represent all of the political attitudes of the state. The author feels that if the Missouri Plan is adopted in Florida it should be modified according to Judge Milledge's recommendation. This modification would call for the judge's name being placed on the ballot two years before his regularly scheduled election. If the judge in question received a twenty-five per cent "no" vote, then his name would be placed on the ballot for opposition in two years. The author suggests this modification to take care of that defect in the Missouri Plan that makes it difficult to get rid of an undesirable judge.

He plugs for extension of pre-trial conference. Lastly he recommends continuance of the Florida Judicial Council, the preparation of statistical data on our court system and for the more efficient use of the Florida Judiciary. He recommends that the Council continue its examination of our present judicial system and of possible charges, and that it present its conclusions to the people and to the legislature for action.

This thesis is timely. It represents excellent research, careful analysis of all source materials and great clarity of thinking and expression. It is a distinct contribution to the studies and the literature treating on our judicial system and the need for its modernization and reform. It will serve as an inspiration to all of those who believe in taking progressive steps for the improvement of our judiciary. Mr. Perlmutter's recommendations are worthy of the most serious consideration by all serious minded citizens who are deeply conscious of the need for judicial reform in Florida.

RICHARD W. ERVIN
ATTORNEY GENERAL
STATE OF FLORIDA