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JUDICIAL REFORM ON THE MARCH*
IN FLORIDA

JULIUS JAY PERLMUTTER**

"Commentators have often noted the fact that courts are never criticized so much for their decisions as for their administrative deficiencies — excessive delay and expense and needless technicality. That such criticism is valid even today is due, I am convinced, to the fact that many judges and legislators have failed to realize that the administration of the courts is a business, and that effective judicial administration requires the establishment of businesslike methods."

Fred M. Vinson.

I.

THE COMPULSION FOR JUDICIAL REFORM IN FLORIDA

Members of the Florida bench, bar and legislature (as well as members of the lay public) have given expression to their concern for the need for judicial reform. In recent years this distress has increased to a point of danger. Sharply accelerated population growth in this state, together with increased and expanding industries, have served to emphasize the necessity for improvement of the administration of justice. Thus also, records clearly indicate that with growing frequency it now not only takes too long a time, but too often costs too much money to obtain justice in Florida.¹

¹The author wishes to note that the views expressed herein are not necessarily those of the Florida State Judicial Council, nor is it intended by him to convey the impression that anything contained herein will be the final recommendations of the council.

**Lay member, Florida Judicial Council; Chairman, Layman's Committee For Improvement of Court Procedure and Administration, Civic League, 1951 and 1952.

¹For example, in the 14 circuits reported to the Attorney General's office in 1953 there were 922 appeals filed from inferior courts. Of this number only 232 were reported as disposed of during 1953. Moreover, these figures do not include 216 other appeals which were pending on Jan. 1, 1953. Source: Attorney General, State of Florida.
The judicial section of the Florida Constitution\(^2\) has undergone very few basic changes since its adoption; and accordingly, the growth of the court system has sometimes been unplanned and uncoordinated.

For example, it is not inappropriate to mention some of the possible areas requiring remedial action, such as:

1. That business corporations are willing to suffer injustices rather than face the expense, delay and uncertainty of litigation.
2. That arbitration clauses are frequently being inserted in contracts as a means of assuring speedy adjudications of legal disputes that might otherwise be decided in a court of law.
3. That the appointment of judges and election of judges is too political in its functioning.
4. That some counties have attempted, by the submission of a referendum to the people, in the course of regular elections, to eliminate justices of the peace.
5. That the present rules for pre-trial pleadings invite delays and dilatory tactics.
6. That there is a great need for a more dignified method for selecting judges. Thus, the Florida Supreme Court justices, circuit court and other judges are now elected by the people. This method is neither desirable nor in conformity with the modern trend of raising the courts to their required level and dignity. In this connection the humiliating and undignified campaign activities in which an opposed incumbent judge must engage is inconsistent with the requirements of a judicial office.
7. That the solution for Florida's court system must necessarily be by legislative initiative and action.
8. That the endless delays which prevent settlement or disposition of some cases are on occasions the responsibility of counsel involved.
9. That a system of co-ordinated control is needed—similar to the system instituted in New Jersey.
10. That the office of state's attorney and county solicitor can be efficiently combined.
11. That the basic problem is not one of "too many judges"—but rather "too many courts."
12. That necessary reform too often requires action by the legislature, whereas authority for improvement and changes should be vested initially in the courts.
13. That the offices of justice of the peace should be abolished or that their posts be retained and their functions enlarged, and that under such circumstances; they be designated as magistrates, under the jurisdiction of the circuit court.

\(^2\) FLA. CONST., ART. V.
That there is inherent danger that the present unsatisfactory condition may lead to the replacement of many proper judicial functions by less qualified administrative bodies. It is not desirable that such bodies be given jurisdiction of matters that are strictly judicial in their nature.

That much of the present unsatisfactory situation results from a citizen failure to exercise its prerogatives and responsibilities in instituting judicial reform.

That the present system is unsatisfactory was dramatically demonstrated during the November 2, 1954, state election. The voters of a single Florida county found it necessary to appeal to the inhabitants of the entire state to authorize an additional county judge for only their own county.\(^5\)

Evidence of congestion in the courts is voluminous. Overloaded dockets, ever-recurring complaints of litigants, lawyers, and even some judges themselves\(^4\) prove that Florida's "model-T" judicial structure, built for a 300,000 population, is now endeavouring to minister to a population in excess of 3,000,000.

II.

**Birth of a Method**

As it has oft been said, "the law will not suffer a wrong without a remedy." It is therefore not surprising that the 1953 Florida Legislature enacted a statute\(^5\) calculated to cure existing difficulties. Specifically, the Florida Judicial Council was created as an authoritative agency,\(^4\) charged with the responsibility of surveying, coordinating, analyzing, integrating, and recommending methods and procedures to accomplish such purposes.

In this forward step, Florida accordingly joined 33 other states which had already created judicial councils. The zone of the Florida Judicial Council's activity was clearly prescribed by statute, which provided:

1. There is hereby created a judicial council to be known as the Judicial Council of Florida. The council shall have the powers and shall be charged with the following duties:
   a. To make a continuous survey and study of the organization, procedure, practice, rules and methods of administration and oper-
JUDICIAL REFORM

ation of each and all of the courts of this state the volume and condition of business in said courts.

(b) To collect, compile, analyze and publish statistics showing the work of the courts. The judges, clerks of the various courts, and other officials thereof, shall make to the council such reports, from time to time, as the council may prescribe.

(c) To receive, consider, and in its discretion, investigate criticisms and suggestions from any source pertaining to the administration of justice and to make recommendations in reference thereto.

(d) To recommend, from time to time, to the Legislature any changes in the organization, jurisdiction, operation, procedure, and methods of conducting the business of the courts which might be put in effect only by legislative action, and to recommend to the courts any changes in the rules and practice or methods of administering judicial business therein, which, in the judgment of the council, would simplify and expedite or otherwise improve the administration of justice. The council shall file with the Governor an annual report of its proceedings and recommendations and the results thereof.

(2) The Judicial Council of Florida shall be composed of a justice or a retired justice of the Supreme Court of Florida, who shall be the presiding officer of the council; a judge of a circuit court; a judge of a court having probate jurisdiction; the attorney general or one of his assistants; four members of the bar of the State of Florida; and nine laymen, all to be appointed by the Governor. Five members shall be appointed to the council for a period of one year, six members for a period of three years; and all appointments made thereafter shall be for a period of three years; except that in the case of a vacancy, the appointment shall be made to fill the unexpired term.

In August, 1953, Governor Dan McCarty appointed Florida's first Judicial Council. As prescribed by law, the initial membership was composed of eight members of the bench and bar plus nine laymen. One of the initial steps taken by the Judicial Council was to departmentalize itself into task forces. Thus also, the broad objective was to have each task force study, report, and recommend action on specific phases of operation of the present judicial system. This common sense approach has been of salutary consequence and it has resulted in pin-pointing the defects of the present system as well as the problems in need of solution.

The task forces themselves are formally set up as follows:
Appellate courts task force; trial courts task force; selection, tenure, compensation and retirement of judges task force; jurors task force; drafting task force; statistics task force; public relations, policies and information task force.

Each task force is composed of members of the advisory council. The duties and authority of the task forces include private surveys, research, and the holding of hearings to evaluate the problems in each of the respective fields assigned to the individual force. The results of the efforts of each individual task force are then reported back to the entire council. Then, these findings are incorporated in the drafting process of tentative changes consistent with the aims and purposes for which the judicial council was created.

Among the many worthwhile aspects of this State Judicial Council is the feature that it follows the American Bar Association's recommendation of having active, interested, and informed laymen among its membership. The fact of the matter is the laymen constitute the majority of the Florida State Judicial Council. This, as it will develop, may prove to be an important factor in projecting the ultimate plans and recommendations of the council to the public, for in the final analysis any proposal or constitutional amendment must win the support of the electorate, of which the lay public constitutes the vast majority.

The Task Force on Appellate Courts was organized and charged with the responsibility of concerning itself with the problem of congestion within the Supreme Court, and possible solutions leading to the handling of appeals more efficiently and expeditiously. Likewise, the Appellate Court's Task Force was charged with the responsibility of examining and recommending whatever merits there might be in the creation of an intermediate district court of appellate jurisdiction.

The Task Force on Trial Courts was organized and charged with the responsibility of concerning itself with the problems and possible solution for improving consolidation of trial courts with special analysis of congested dockets, duplication of record-keeping, and needless waste of the time of jurors and witnesses.

The Task Force on Selection, Tenure, Compensation and Retirement of Judges was organized and charged with the responsibility of analyzing and developing new and acceptable methods of eliminating politics and campaigning from the selection of judges, and to give consideration to adequate compensation and the development of a retirement program for judges.

The Task Force on Jurors was organized and charged with the responsibility of recommending methods of improvement in the selecting, housing and educating of jurors to serve when called upon to do so, through the medium of an educational program directed to the lay public.
The Task Force on Drafting and Statistics was organized and charged with the responsibility of utilizing the information compiled and submitted by all of the task forces for the purpose of crystallizing and developing an actual form by which the suggested final recommendations of the council could best be projected.

The Task Force on Public Relations, Policy, and Information was organized and charged with the responsibility of developing techniques for the purpose of projecting the judicial council's program to the public and to securing the support of lay leaders throughout the state in implementing the plans and objectives of the council.

III.

THE JUDICIAL COUNCIL AT WORK

A detailed report of the complete record of activities of the task forces and the action of the judicial council as a whole formed the basis of the First Annual Report made by the council to the Governor of the State of Florida in August of 1954.6

The results of the judicial council have been wholesome in Florida as elsewhere. For example, a keen public interest has been stimulated and already, there have been indications of support from the bar along with legislative interest. Likewise, the press has generally endorsed the action of the legislature in setting up the judicial council, as well as the council's work thus far viewed.7

The author's attendance at the various monthly meetings of the judicial council permits the synthesis of the following observations and impressions:

Last September's meeting was held in Tallahassee in the library of the Supreme Court building. The amount of time and the effort put forth by the 17 members of the council are indicative of a dedicated group of men imbued with the prospect for accomplishment in a field much in need of improvement. As a gauge many hours are often consumed at these meetings in discussing and settling a single phase at issue and under consideration. Last October's meeting in Palm Beach was, of course, highlighted by the presence of the principal speaker, The Honorable Arthur T. Vanderbilt, Chief Justice of the Supreme Court of the State of New Jersey. Justice Vanderbilt had been supplied a preliminary set of drafts of the tentative proposals for judicial reform receiving consideration by the Florida Judi-

6. 1 ANNUAL REPORT, FLORIDA JUDICIAL COUNCIL 1 (1954).
cial Council, and he had been invited to discuss them critically. His recommendations were most helpful; and many of them have already received serious consideration in the ensuing executive sessions of the council.

It might also be added that the officers and governors of the Florida Bar have been both enthusiastic and commendatory of the council's efforts.

IV.

THE FRUITS OF LABOR

The settled procedure seems to be apparent from the discussions and consideration by the judicial council that the best way to solve the complex problems of the present judicial system in the State of Florida is by a methodical and impartial analysis and integration. One cannot, of course, be dogmatic in stating whether or not the proposed solution will be adopted as a revision of Article V of the Constitution.

It has been suggested that the following proposals be considered in any amendment of Article V:

TENTATIVE DRAFT FOR REVISING

ARTICLE V OF THE FLORIDA CONSTITUTION.

JUDICIAL DEPARTMENT

Section 1. Courts.—The judicial power will be vested in a supreme court; district courts of appeal; circuit courts; courts of record, and magistrates. There will be a prohibition against the establishment of any other courts except that the legislature will be authorized to clothe the railroad and public utilities commission with judicial powers in all matters connected with the function of its office and the legislature will be able to establish in incorporated towns and cities courts for the punishment of offenses against municipal ordinances.

Section 2. Administration.—General administrative authority over all courts in Florida, and the power to make temporary assignments of a judge or justice of any court to judicial service in any other court will be vested in the Supreme Court and will be exercised by the Chief Justice in accordance with its rules. Any retired justice or judge will, with his consent, be assigned in like manner to judicial service in any court; municipal courts included.

Section 3. Practice and procedure.—The practice and procedure in all courts will be governed by rules adopted by the Supreme Court. Subject to

8. See Appendix.
Supreme Court rules, all other courts will be able to make rules governing practice and procedure in their courts.

**SUPREME COURT**

*Section 4. Organization of Supreme Court.*—The Supreme Court will consist of seven members, one of whom will be the Chief Justice. Five justices will constitute a quorum, but the concurrence of four will be necessary to a decision.

*Section 5. Jurisdiction of the Supreme Court.*—Appeals from trial courts will be able to be taken directly to the Supreme Court, as a matter of right, only from judgments imposing the death penalty, and from final judgments or decrees directly passing upon the validity of a state statute other than a special or local law, or a federal statute or treaty, or construing a provision of the state or Federal Constitution. The Supreme Court will be able to directly review by certiorari interlocutory orders or decrees in chancery cases passing upon matters which upon a final decree would be directly appealable to the Supreme Court. In all direct appeals and interlocutory review by certiorari the Supreme Court will have such jurisdiction as may be necessary to complete determination of the cause on review.

Appeals from district courts of appeal will be able to be taken to the Supreme Court, as a matter or right, only from decisions which for the first time in the case directly pass upon the validity of state statutes other than a special or local law, or a federal statute or treaty, or construe a provision of the state or Federal Constitution. The Supreme Court will be able to review by certiorari decisions of district courts of appeal that affect a class of constitutional or state officers, or that pass upon questions of public or great general interest, or that are in conflict with a decision of another district court of appeal or of the Supreme Court on the same point of law.

The Supreme Court will be able to issue writs of mandamus and quo warranto where a state officer, board, commission, or other agency authorized to represent the public generally, or a member of any such board, commission, or other agency, is named as respondent; writs of prohibition to the railroad and public utilities commission, to the district courts of appeal, and to the circuit courts and courts of record when questions are involved upon which a direct appeal to the Supreme Court is allowed as a matter of right; and writs of certiorari to the railroad and the public utilities commissions.

The Supreme Court will be able to issue all other writs necessary or proper to the complete exercise of its jurisdiction. The supreme court or any justice thereof will be able to issue writs of habeas corpus returnable
before the Supreme Court or any justice thereof, or before a district court of appeal or circuit court or any judge of either of said courts.

Section 6. Chief Justice of Supreme Court.—The Chief Justice of the Supreme Court will be chosen by the members of the court and will serve for a term of six years. In event of vacancy, a successor will be chosen within 60 days for a like term. During a vacancy or whenever the Chief Justice is unable to act for any reason, the justice longest in continuous service and able to act will act in his stead.

DISTRICT COURTS OF APPEAL

Section 7. Appellate districts.—The state will be divided into three or more appellate districts of contiguous counties as the legislature will from time to time prescribe upon recommendations of the judicial conferences.

Section 8. Organization and operation of district courts of appeal.—A district court of appeal will be organized in each appellate district. There will be three or more judges of each district court of appeal as the legislature will from time to time provide upon the recommendation of the judicial conference. Three judges will consider each case and the concurrence of two will be necessary to a decision.

Section 9. Jurisdiction of district courts of appeal.—Appeals from circuit courts and courts of record in each appellate district will be able to be taken to the court of appeal of such district, as a matter of right, from all final judgments or decrees except those from which appeals may be taken directly to the Supreme Court.

The Supreme Court will provide by rule for expeditious and inexpensive appeals to the district courts of appeal, and will provide by rule for review of interlocutory orders or decrees in chancery cases not directly reviewable by the Supreme Court.

The district courts of appeal will have such powers of direct review of administrative action as may be provided by law.

A district court of appeal or any judge thereof will be able to issue writs of habeas corpus returnable before that district court of appeal or any judge thereof, or before any circuit court or judge thereof within that appellate district. A district court of appeal will be able to issue writs of mandamus, certiorari, prohibition, and quo warranto, and all other writs necessary or proper to the complete exercise of its jurisdiction.
Section 10. Judicial circuits.—The state will be divided into not more than sixteen judicial circuits as will be prescribed from time to time by law on the recommendation of the judicial conference, but no such circuit will contain less than fifty thousand inhabitants according to the last preceding state or federal census. Any judicial circuit composed of more than one county will be compact and of contiguous counties.

There will be at least one circuit judge for every fifty thousand inhabitants or major fraction thereof according to the last preceding state or federal census. Additional judgeships resulting from any census or from legislative action will be filled in the same manner as vacancies. The legislature will be able to, upon the recommendation of the judicial conference, create or abolish additional judgeships above the required minimum in any circuit.

In each circuit having more than one circuit judge there will be a presiding judge who will be selected by the circuit judges from among their number to serve for six years. In event of a vacancy a successor will be selected for a like term. Subject to the authority of the Supreme Court, the presiding judge will be able to provide for divisions, general or specialized, and for appropriate times and places in each county for holding court and will have such other administrative authority as will be vested in him by the Supreme Court.

The circuit courts will have concurrent jurisdiction with courts of record to construe wills and to determine the title, possession and mesne profits of real and personal property involved in this administration of decedents’ estates, including homestead, and of cases relating to forcible entry or unlawful detention of lands and tenements.

The circuit courts and judges thereof will have power to issue writs of mandamus, injunction, certiorari, prohibition, quo warranto, habeas corpus, and all writs necessary or proper to the complete exercise of their jurisdiction.

Section 11. Jurisdiction of circuit courts.—The circuit courts will have unlimited original jurisdiction of all justiciable matters not cognizable by courts of record or magistrates, and of such other matters as the legislature may provide, final appellate jurisdiction of all judgements and sentences of magistrates and municipal courts, and such powers of review of administrative action as may be provided by law; and will have such extra territorial jurisdiction in chancery cases as may be prescribed by law or rule of the Supreme Court.

The circuit courts will have concurrent jurisdiction with courts of
record to construe wills and to determine the title, possession and mesne profits of real and personal property involved in the administration of decedents' estates, including homestead, and of cases relating to forcible entry or unlawful detention of lands and tenements.

The circuit courts and judges thereof will have power to issue writs of mandamus, injunction, certiorari, prohibition, quo warranto, habeas corpus, and all writs necessary or proper to the complete exercise of their jurisdiction.

Section 12. Magistrates of circuit court. — The presiding circuit court judge will be able from time to time to appoint such number of magistrates in each county, within limits fixed by the board of county commissioners, as the court deems necessary, to serve at the pleasure of the court with power to issue process for the arrest of all persons charged with any offense, to act as committing magistrates, to try civil actions without a jury where the amount demanded or the value of the property does not exceed five hundred dollars, exclusive of attorneys' fees, interest and costs, and to try misdemeanors without a jury with the consent of the accused. Appeals will lie as a matter of right to the circuit court. Magistrates will be able to sit at such places in the county and will be governed by such rules as the circuit court will prescribe from time to time, subject to any rules prescribed by the Supreme Court. The Supreme Court will prescribe rules for simplified, inexpensive and expeditious procedure to be followed by magistrates.

Magistrates will be paid such salary by the county as will be fixed by the county commissioners, within any limits prescribed by law, and all fees, fines or other receipts collected by or for the account of magistrates will be paid over to the county.

Section 13. Clerk of circuit court. — The clerk of the circuit court will also be the clerk of the court of record and of the board of county commissioners, and recorded and ex-officio auditor of the county.

Courts of Record

Section 14. Jurisdiction. — There will be a court of record in each county which will have the following jurisdiction:

(a) Of the probate of wills and the administration of decedents' estates, and also of the persons and estates of minors and incompetents.

(b) Concurrently with circuit courts to construe wills and to determine the title, right of possession and mesne profits of real and personal property involved in the administration of decedents' estates, including homestead, and of cases relating to forcible entry or unlawful detention of lands and tenements.
(c) To issue writs of habeas corpus and temporary injunctions, both returnable before a circuit judge.

(d) Concurrently with magistrates to act as committing magistrates and to exercise any of the civil and criminal jurisdiction conferred on magistrates.

(e) Of all misdemeanors and of such other criminal cases not capital as the legislature will provide upon the recommendation of the judicial conference.

(f) Of cases at law in which the demand or value of property involved shall not exceed one thousand dollars or such larger amount as the legislature will provide upon the recommendation of the judicial conference.

(g) Juvenile cases and proceedings as hereinafter provided.

(h) Of such other matters as the legislature will provide.

The legislature will, in accordance with the authority granted above and upon the recommendation of the judicial conference, change the jurisdiction of the court of record in any one or more counties as to criminal cases and in civil cases and as to the amount of the demand or value of property involved. The legislature will likewise, upon the recommendation of the judicial conference, confer upon or take from the court of record in any one or more counties jurisdiction of any or all types of cases involving divorce, alimony, support and maintenance, custody of children, and other domestic or family relations, including equity jurisdiction pertaining to any such cases and authority to enter and enforce by appropriate orders and writs interlocutory and final decrees of judgments.

Section 15. Judges of the courts of record.—There will be one or more judges of the court of record in each county, as the legislature will provide upon the recommendation of the judicial conference, elected by the qualified electors of the county as other county officials are elected, to serve for a term of four years. In any county having more than one judge of the court of record the judge longest in continuous service will be the presiding judge charged with assigning cases and with dispatching the work of the court.

Section 16. Jurisdiction in juvenile cases.—The legislature will have power to define the jurisdiction and powers of the courts of record in juvenile cases and proceedings, and to vest in such courts exclusive original jurisdiction of all or any criminal cases where minors under any age specified by the legislature from time to time are accused, including the right to define any or all offenses committed by any such person as acts of delinquency instead of crimes; to create and establish a special juvenile division of the court of record in any one or more counties and to define the jurisdiction and powers of the officers thereof; to provide for the qualification, election or selection and appointment of judges, probation officers
and such other officers and employees of any such division as the legisla-
ture will determine; to provide that any such judge and any and all of such
officers and employees will be elected or selected and appointed to serve
in the special juvenile division of the courts of record in more than one
county, and to fix their compensation and terms of office, all in such man-
ner, for such time, and according to such methods as the legislature will
prescribe and determine, without being limited therein by the provisions in
this constitution as to trial by jury in Section 3 and 11 of the Declaration of
Rights, as to the use of the terms "prosecuting attorney" and "informa-
tion" in Section 10 of the Declaration of Rights, as to election or appoint-
ment of officers in Section 27 of Article III, or by any of the other sections
of this Article V or other existing conflicting provisions of this constitu-
tion.

SECTION AND TENURE OF JUDGES

Section 17. Eligibility for office. — No person will be eligible for the
office of justice of the Supreme Court, judge of a district court of appeals,
or judge of a circuit court, unless he will be a citizen of this state and un-
less he will be, and for a period of at least ten years, will have been, an
active member of the bar of Florida. No person will be eligible for the of-
office of judge of a court of record unless he is a citizen of this state, re-
siding in the county from which he is elected, and is an active member of
the bar of Florida.

Section 18. Methods of selecting circuit judges. — (a) At the instance
of the legislature the voters in any judicial circuit, at a general election
to be held following the adoption of this article, by a majority vote of those
voting on the question, will determine whether vacancies in the office of
judge of their judicial circuit will be filled by the method provided in para-
graph (b) hereof, or by the method provided in paragraph (c) hereof. There-
after, at the instance of the legislature, the question will again be submit-
ted by referendum to the voters in a circuit or circuits in this state, but
no such referendum will be held in any judicial circuit more often than
once in 6 years.

(b) If the voters in a judicial circuit so determine, as provided in
paragraph (a) hereof, a vacancy in the office of circuit judge will be filled
by election by the qualified voters of such judicial circuit as other state
and county officials are elected, commencing in 1960, and every six years
thereafter.

(c) If the voters in a judicial circuit so determine, as provided in
paragraph (a) hereof, a vacancy in the office of circuit judge will be filled
by appointment by the governor from a list of three persons to be nominated
by the circuit court judicial nominating commission, as hereinafter provid-
ed.
Section 19. Judicial appointments. — Whenever a vacancy occurs in the office of justice of the Supreme Court, judge of a district court of appeals, or judge of a circuit court in judicial circuits determining to follow the method of selection as provided in Section 18 (c) of this article, the governor will fill the vacancy by appointing one of three persons to be nominated by a commission as hereinafter provided. If the governor fails to make the appointment within 30 days after the nominations have been certified to him by the appropriate commission, the Supreme Court will make the appointment from the three persons nominated by the commission. Each justice or judge who is appointed as provided in this section will hold office for a term ending on December 31 following the next general election after the expiration of 12 months in office. Whenever additional judges are authorized by law, or as the result of a state or federal census, their selection will be made as in the case of vacancies.

Section 20. Supreme Court judicial nominating commission. — Nominations of justices of the Supreme Court will be made by a nominating commission. The commission will consist of the Chief Justice of the Supreme Court, as chairman, and an equal number of members and non-members of the bar of this state. Three active members of the bar will be elected by the active members of the bar from each appellate district, and three non-members of the bar from each appellate district will be appointed by the governor.

Of the commissioners first elected and appointed from each appellate district, one active member of the bar and one non-member of the bar will serve, respectively, for terms of two, four, and six years. Thereafter, members of the commission will be elected or appointed for the full term of six years, except that elections and appointments to fill vacancies will be for unexpired terms.

Section 21. District courts of appeal nominating commissions. — Nominations of judges of each district court of appeal will be made by a nominating commission in each appellate district. Each commission will consist of the Chief Justice of the Supreme Court as chairman, six active members of the bar residing in the appellate district, and six non-members of the bar residing in the district. The bar members of each commission shall be elected by the active members of the bar in each appellate district. The lay members of each commission will be appointed by the governor.

The terms of the commissioners will be six years. The commissioners first elected by the active members of the bar will serve respectively for terms of one, two, three, four, five, and six years. Thereafter, members of the commission will be appointed or elected for the full term of six years, except that elections and appointments to fill vacancies will be for the unexpired terms.
Section 22. Circuit court judicial nominating commissions. — Nominations of judges of the circuit court will be made by a nominating commission in each circuit determining to follow the method of selection as provided in Section 18 (c) of this article. The commission will consist of the Chief Justice of the Supreme Court as chairman, six active members of the bar residing in the judicial circuit, and six non-members of the bar residing in such judicial circuit. The bar members will be elected by the active members of the bar in such judicial circuit. The lay members will be appointed by the governor. The terms of the commissioners will be six years. The commissioners first elected by the active members of the bar will serve respectively for terms of one, two, three, four, five and six years. Thereafter, members of the commission will be elected or appointed for the full term of six years, except that appointments and elections to fill vacancies will be for unexpired terms.

Section 23. Commissions, general provisions. — Members of the several nominating commissions, other than the Chief Justice, shall not hold any public office, public employment, or official position in any political party, nor will they receive compensation for services, but they will be entitled to reimbursement for necessary expense.

The Supreme Court will make rules for the government of several the nominating commissions and for the enforcement of action taken by said commissions. The Supreme Court will prescribe residence requirements for bar members of commissions within districts or circuits, so as to provide for reasonably proportionate representation of the bar according to counties or judicial circuits.

Nominations will be made by each commission only by the concurrence of a majority of the membership of the commission; provided, however, that the Chief Justice of the Supreme Court will not be entitled to a vote upon any of said commissions except in case of a tie.

Section 24. Elections. — Not less than 60 days prior to the general election next preceding the expiration of his term of office, any justice of the Supreme Court or judge of a district court of appeals or circuit judge in a judicial circuit which has determined to follow the method of selection as provided in Section 18 (c) of this article, will be able to file in the office of the Secretary of State a declaration of candidacy to succeed himself, and the Secretary of State, not less than 45 days prior to the election, will certify his candidacy to the proper election officials. At the election, the name of such justice or judge who has filed such declaration, will be submitted to the voters, on a special judicial ballot without party designation, on the sole question of whether he should be retained in office. The elections as to the Supreme Court justices will be conducted throughout the state, the elections as to the judges of the district courts of appeal will be
conducted in the appellate districts from which they were appointed, and
the elections as to the circuit judges will be conducted in the judicial cir-
cuits in which such judges are serving. If a majority of the electors voting
on the question vote to retain a justice or a judge in office, he will thereby
be elected for a full term of office, commencing on January 1 following the
election. If an incumbent has not filed a declaration or, having filed, fails
to be elected, his office will become vacant at the expiration of his term.
No filing fees or other fees will be exacted from candidates to succeed
themselves as justices of the Supreme Court or judges of district courts of
appeal or judges of circuit courts in those judicial circuit which have
determined to follow the method of selection as provided in Section 18 (c)
of this article.

Section 25. Terms of office.—The terms of office of justices of the
Supreme Court, judges of district courts of appeal, and circuits judges,
will be six years.

Section 26. Retirement, suspension and removal.—Notwithstanding the
provisions of this article relating to terms of office,
(a) The legislature will provide by law for the retirement of justices
or judges automatically at a prescribed age.
(b) Subject to rules of procedure to be established by the Supreme
Court, and after notice and hearing, any justice or judge will be retired for
disability, at such rate of compensation as they shall fix, or suspended
without pay, or removed for cause, by a commission composed of one jus-
tice of the Supreme Court selected by that court, two judges of the district
courts of appeal selected by the judges of said district courts of appeal,
and two circuit judges selected by the supreme court. Such commission will
be convened by the Chief Justice upon order of the Supreme Court.
(c) Justices of the Supreme Court, judges of district courts of appeal,
and circuit judges will be liable to impeachment for any misdemeanor in
office.

General

Section 27. Prohibited activities.—Justices of the Supreme Court,
judges of district courts of appeal and circuit judges will devote full time
to their judicial duties, will not engage in the practice of law or hold any
office or position of profit under this state or any office of profit under the
United States, and will not hold office in, or directly or indirectly make any
financial contribution to, any political party.

Judges of the courts of record will not hold any office or position of
profit under this state or any office of profit under the United States, and
will not hold office in, or directly or indirectly make any financial contri-
bution to, any political party. Judges of courts of record for which more
than one judge is permanently authorized will devote full time to their judicial duties and will not engage in the practice of law.

Compensation for service in the state militia or the armed forces of the United States for such periods of time as may be determined by the rules of the Supreme Court will not be deemed "profit."

Section 28. Judicial salaries and expenses. – Justices of the Supreme Court and judges of all other courts will receive for their services salaries or compensation provided by law. A retired justice or judge assigned to active judicial service will, while so serving receive the compensation applicable to such service in lieu of any retirement benefits. Salaries of circuit judges and judges of district courts of appeal will be supplemented in any county or counties when authorized by law. The salaries of justices and judges will not be diminished during their respective terms of office. Judicial officers will be paid such actual and necessary expenses as will be authorized by law.

Section 29. Judicial conference. – The Supreme Court will provide by rule for, and will convene, a judicial conference at least once every two years to consider the business of the several courts and to suggest improvements in the administration of justice, and will report thereon in writing to the legislature not later than thirty days prior to the convening of each regular session. The Supreme Court will convene regional conferences as well as conferences to be attended by judges representing one or more of the several classes of courts. The judicial conference will be set up on a regional basis—consisting of judges, lawyers, laymen, and educators.

Section 30. State attorneys. – A state attorney will be elected by the qualified electors of each judicial circuit for a term of four years at the time and places of voting for other state officers. He will be responsible for the prosecution of all criminal offenses in his circuit and will perform such other duties as the legislature will prescribe. He will appoint such assistants as will be authorized by law, compensated as the legislature will prescribe, who will be subject to his supervision and direction. Assistant state’s attorneys will have the same authority as the state’s attorney.

Section 31. Clerks and marshals of Supreme Court and district courts of appeal. – The Supreme Court and each district court of appeal will appoint a clerk and marshal who will hold office during the pleasure of the respective courts and perform such duties as they will direct. Their compensation will be fixed by law.

The marshal of the Supreme Court will have the power to execute the process of the court throughout the state, and the marshal of a district court of appeal will have power to execute the process of the court through-
out the district.

Section 32. **Juries.**—The number of jurors for trial of cases in any court will be fixed by law, except as otherwise provided in this constitution, but will not be less than twelve in capital cases and not less than six in any other case. Concurrence of five members of a jury in a civil case, except eminent domain, will constitute a verdict. The defendant in any criminal case may waive trial by jury.

Section 33. **Admission and discipline of attorneys.**—The Supreme Court will have exclusive authority over the admission to the practice of law and the discipline of persons admitted. It will provide by rule for a board or other agencies to handle admissions subject to its supervision. It will also provide by rule for the handling of disciplinary matters in the circuit courts and the district courts of appeal, subject to its supervision and review.

Section 34. **Effect of reduction of number of judges.**—Any law reducing the number of judges of any court will not shorten the term of any judge then in office.

Section 35. **Repeal.**—All of former Article V of the Constitution of the State of Florida, as amended, and any other existing conflicting provisions of the Constitution of the State of Florida will be repealed.

V.

**RESULTS WORTHY OF THE EFFORT**

"If American ideals and the government of our fathers are imperilled by the inferno of discontent uncovered in Europe, we shall need more than any other thing an abiding faith in the honesty and understanding and justice of our courts. But to reform our tribunals and their procedure to meet practical demands because we stand in fear of upheavals in a trembling social system is craven. We should make our courts the real haven of the victims of injustice, not through fear, but because of an innate love of justice, of fair play, and of peace and social equilibrium resting on justice itself, the only safe foundation."

Herbert Hailey.
Any plan or proposal for judicial reform will fall short of its mark unless it has public confidence and support. In the last analysis, the Florida Judicial Council is an advisory body. The success of its work is therefore contingent upon the quantum of public faith that it enjoys. Because of its nature the council must remain sensitive to the recommendations of those whom it seeks to serve. It is therefore desirable that recommendations be made candidly. The council is a part of a broad program for legal reform in Florida. But to function best it must have the benefit of public surveillance and criticism. It is particularly important that this surveillance and criticism be given by the bench, bar, and legislature.

*The indications are that the final form of the proposed constitutional amendment receiving consideration, as tenatatively set forth herein, will be free of the mandatory requirement for judicial conference recommendations as a prerequisite to legislation.

The author proposed that the constitutional amendment being considered include a provision specifically setting up the Judicial Council as a permanent vehicle of study and reform in the field of administration and procedure affecting the judiciary.

The major factors that bode well for judicial reform in Florida are, that the council's members are dedicated men, able experienced, sincere and tireless; that they have the constitutional fortitude to believe in and stand firm in the cause they seek to serve; they have the intellectual capacity to appreciate the other point of view and the wisdom born of an open mind. So long as the council's efforts are subjected to analysis, creative criticism and recommendations, so long will justice and understanding be implemented in this important undertaking. This is best emphasized by the Judicial Council's standing invitation to bench, bar, legislators, press and public to offer suggestions and recommendations, as well as criticisms.

Thus, whatever the final form the program of the Council may ultimately take, this above all else is apparent... truly, Judicial Reform is on the March in Florida.

APPENDIX

Schedule of Adjustments And Interim Provisions

(1) This Article will become effective on the first day of January of the second calendar year following its adoption by the people and will supersede Article V of the present Constitution of Florida.

(2) Until changed by law as authorized in this article, the existing judicial circuits will be continued.

*Action taken at the most recent meeting of the Judicial Council which was held in the middle of December, 1954, at Orlando, Florida.
(3) Until changed by law as authorized in this article, the jurisdiction of the courts of record in the several counties as to criminal cases and in civil cases as to the amount of the demand or value of property involved will be as follows:

(a) In Dade and Volusia counties, all criminal cases not capital and five thousand dollars, respectively.
(b) In Duval County, all criminal cases not capital and three thousand dollars, respectively.
(c) In Broward, Hillsborough, Monroe, Orange, Palm Beach and Polk counties, all criminal cases not capital and one thousand dollars, respectively.
(d) In Pinellas County, all misdemeanors and five thousand dollars, respectively.
(e) In all other counties, all misdemeanors and one thousand dollars, respectively.

(4) All Judges and justices of the peace in office on the effective date of this article will continue to hold office until the expiration of their respective terms, as follows:

(a) Justices of the Supreme Court will continue as justices of said court.
(b) Circuit judges will continue as circuit judges of the several circuit courts.
(c) The judge of the circuit court of Duval County under present Section 42 of Article V of the Florida Constitution, and the judge of the court of record in and for Escambia County will be judges of the circuit court of the respective circuits in which they reside.
(d) Judges of all criminal, civil, and criminal and civil courts of record, county judges and additional county judges in any county, juvenile judges and judges of domestic relations courts and courts of crimes will be judges of the court of record of the respective counties in which they reside.
(e) Judges of civil claims courts and small claims courts and justices of the peace will become magistrates of the circuit court.
(f) The provisions of this article governing eligibility for office will not affect the right of any incombent to continue in office for the remainder of his existing term pursuant to the provisions of this schedule. For the remainder of such existing term, provisions in this article concerning prohibited activities will apply only to justices of the Supreme Court and circuit judges.
(g) The judge of the court of record longest in continuous service as a county judge or additional county judge, and if none then the judge longest in continuous judicial service in any court or courts, will continue to perform the non-judicial functions of the county judge until otherwise provided by law.
(5) Upon the effective date of this article, and until otherwise provided by law as authorized in this article, each of the judges then presiding over a juvenile court or juvenile and domestic relations court, who is not also a county judge, will thereafter preside over a juvenile division of the court of record in the county in which the juvenile court over which he presided was located. All counselors, assistant counselors, and other employees of juvenile courts, whether those juvenile courts were presided over by a county judge or another judge, holding such positions on the effective date of this article, will at that time assume the same capacities in the court of record or the juvenile division thereof in the county in which they were holding such positions.

(6) Until changed by law as authorized in this article, the number of judges of the court of record of each county is hereby fixed at the number of judges who under the provisions of this schedule become judges of such court on the effective date of this article.

(7) The provisions of this article governing eligibility for office will not affect the right of any person who becomes a circuit judge or judge of the court of record under the provisions of this article thereafter to seek election or appointment to fill a vacancy in such position.

(8) On the effective date of this article all courts, except those expressly provided for in this article and municipal courts, are abolished and all their jurisdiction, judicial functions, powers and duties are transferred to the respective courts in which the same are vested hereunder, and until otherwise provided by law of all non-judicial functions and duties vested by law in county judges or their courts are transferred to the courts of record of the respective counties.

(9) On the effective date of this article each court into which jurisdiction of other courts is transferred will succeed to and assume jurisdiction of all causes, matters and proceedings then pending, with full power and authority to dispose of them and to carry into execution or otherwise to give effect to all orders, judgments and decrees theretofore entered by the predecessor courts; except that only such causes, matters and proceedings then pending before the Supreme Court will be transferred to the district courts of appeal as the Supreme Court may order. No case that has been orally argued before the Supreme Court will be so transferred. The Supreme Court will have jurisdiction and authority to dispose of all causes, matters and proceedings not so transferred to the district courts of appeal.

(10) Except to the extent inconsistent with the provisions of this article, all provisions of law and rules of court in force on the effective date of this article will continue in effect until superseded in a manner authorized by the constitution, those providing for special procedure as to certain cases or proceedings in any court applying to cases and proceedings of similar nature thereafter pending or brought in the courts having jurisdiction hereunder, and those governing juvenile courts applying to the courts of record or the juvenile divisions of such courts.
(11) Each state attorney, assistant state attorney, county solicitor, and prosecuting attorney or assistant prosecuting attorney in office on the effective date of this article will continue to hold office until the expiration of his existing term as follows:
   (a) The state attorneys and assistant state attorneys will continue in such offices.
   (b) County solicitors, prosecuting attorneys and their assistants shall be assistant state attorneys within their respective counties and subject to the supervision and direction of the state attorney.

(12) Each clerk of court in office on the effective date of this article will continue to hold office until the expiration of his existing term, as follows:
   (a) The clerk of the Supreme Court and the several clerks of the circuit courts will continue in their respective offices.
   (b) The clerks of all other courts of record will be associate clerks of the circuit court and subject to the supervision and direction of such clerk, except that each clerk of a juvenile court will, as such associate clerk, continue to perform for the court of record the functions provided by law for a clerk of a juvenile court until otherwise provided by law as authorized in this article.

(13) On the effective date of this article, all files, books, papers, records, documents, moneys, securities and other property in the possession, custody or under the control of the courts hereby abolished, or any officer thereof, are transferred to the clerk of the circuit court.

(14) All constables in office on the effective date of this article will continue to hold office until the expiration of their respective terms and will be deputy sheriffs in their respective counties and subject to the supervision and direction of the sheriff.

(15) The compensation of all elective judges, justices of the peace, clerks, county solicitors, prosecuting attorneys and constables who under the provisions of this Article or this schedule are transferred on the effective date of this article to other courts or other positions, for the remainder of the respective terms for which each was elected will not be less than the average of that received by the incumbent of each such office during the three fiscal years preceding the effective date of this article.

(16) No judge or other official will be deprived of any pension rights or other retirement rights, existing under present law, by reason of the provisions of this article, and the legislature will enact the necessary laws to protect such pensions and rights.

(17) Prior to the effective date of this article appointments of the judges of the district courts of appeal will be made in the manner provided in this article to take office on the effective date of this article, such positions to be filled by appointment of one of three nominees for each judgeship.
(18) Until otherwise provided by the legislature, orders of the Florida Industrial Commission will be subject to review only by petition to the district courts of appeal for writ of certiorari in accordance with existing statutory procedure.

(19) All provisions of law pertaining to the State Board of Law Examiners will continue in effect until superseded in a manner authorized by this article.

(20) Upon the adoption of this article the legislature will enact laws and make such appropriations and the Supreme Court will make such rules as may be necessary or proper to give effect to its provisions.