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This issue is dedicated to the memory of Edson Read Sunderland

RESOLUTION OF THE MICHIGAN LAW FACULTY ON THE DEATH OF EDSON READ SUNDERLAND

EDSON Read Sunderland, for forty-three years a member of the faculty of the University of Michigan Law School, departed this life on March 28, 1959, at the age of eighty-five. We, his colleagues through the years, hereby record our profound sympathy for those whom he left behind, our great pride in the accomplishments of his career, and our sincere gratitude for the privilege of long association with him as a beloved colleague and friend.

Immediately upon receiving his LL.B. degree from Michigan in 1901, Edson Sunderland accepted an invitation to join the faculty, thereby embarking upon a career of teaching, research and writing at his Alma Mater which continued until his retirement from active teaching in 1944, and even thereafter through many additional years of productive scholarship. Recognized nationally as one of the greatest of a long series of great Michigan teachers and scholars, he profoundly influenced the administration of justice in this country, not only through his lucid teaching of judicial procedure to nearly two generations of law students, but also through his voluminous writings and his notable contributions in numerous procedure reform movements of the period.

Those who had the privilege of studying under Professor Sunderland remember so well his kindly but incisive classroom manner, together with his sure and positive treatment of his subject, bringing to them the stimulating realization that here was a man of knowledge, understanding and relationship to reality not often encountered. His classroom performance was truly a delight. In his teaching he showed the same careful thought and precision that he exhibited in his writing, and with it all a sly, quiet sense of humor which enlivened class sessions and made listening to him a pleasure. To make procedure a truly interesting subject is a feat in itself, but nevertheless it is one which he accomplished in a high degree.

Professor Sunderland's series of casebooks, published beginning

in 1912, covering Trial Practice, Code Pleading, Common Law Pleading, and finally in 1924 Trial and Appellate Practice, were pioneer ventures as classroom volumes for the teaching of procedure. Through them he participated in the training of some of the best legal minds in the United States. Through them, as well as by his other writings, he implanted ideas of procedural reform of immense value to the nation. Moreover, through the Practice Court program which he conducted at the Law School, he pioneered in teaching the practical art of advocacy, and thereby still further engendered many of the new and valuable practices which later were widely adopted as a result of procedural reform movements. Professor Sunderland's teaching was preëminent, both for the theory imparted and the advanced craftsmanship instilled in those who studied under him. Thousands of law graduates attest the values which he conferred upon them.

The fires of procedural reform kindled in the middle 1800's burned brightly for awhile, then flickered and died. To the rekindling of these fires Professor Sunderland devoted a major part of his long and productive career. Beginning in 1915, he wrote constantly, year after year, for the next thirty-five years, persistently exposing the weak points of our procedural system, and pointing to paths of reform. By following the paths so pointed out, one is able to trace the development of most, if not all, of the new features of our present civil procedure.

In his article, "The Inefficiency of the American Jury," published in 1915, he urged that judges be not only permitted but required to "aid juries in reaching just conclusions on matters of fact," observing that no single reform would do more to promote the efficiency of courts and the quality of justice.

In 1917 he called attention to the then well-established English practice of giving declaratory judgments, referring to it as "A Modern Evolution in Remedial Rights"—"an advance over previous doctrines comparable to the great reform which equity made over the harsh rules of the common law." This article, one of the first in this country to urge the adoption of the practice, was followed by at least eight others in which he explained the practice and called for its adoption.

In 1920 Professor Sunderland's attention was focused on joinder of parties and causes. Observing that only by allowing an unlimited freedom of joinder could the maximum of convenience in the trial of actions be attained, he predicted that limitations on the joinder of claims would eventually disappear. One of his

earliest graduate students was encouraged to explore the whole field of joinder in search of principles that might guide reform.

Another graduate student was encouraged to make a study of the neglected field of discovery before trial. When this study was published in 1932, Professor Sunderland commented in a foreword that "It is probable that no procedural process offers greater opportunities for increasing the efficiency of the administration of justice than that of discovery before trial." His continued interest in discovery is evidenced by the publication of at least seven articles on the subject, and by the fact that his contribution to the work of the Advisory Committee which formulated the Federal Rules of 1938 included elaborate provisions for discovery before trial. His contribution to the work of this Committee also included summary judgments—a procedure which had received his special attention when drafting the Michigan Court Rules of 1931. In 1937 he called attention to certain pre-trial procedures that had been developed in Detroit, remarking that the pre-trial conference provided "an open business-like and efficient presentation of real issues," and "that its general adoption and use might do much to restore the confidence of the public in litigation as a desirable means of settling disputes."

In the field of appellate practice Professor Sunderland urged, among other reforms, the simplification of the appellate record, and he expressed strong opposition to double appeals made necessary by systems of intermediate appellate courts. In this area alone he wrote some eighteen articles, commencing in 1927.

As to "The Machinery of Procedural Reform," Professor Sunderland favored the regulation of procedure by rules of court, in preference to legislation, but pointed out in 1924 that "to produce an efficient control through rules of court" it would be necessary to establish permanent administrative agencies that would gather statistics and point to needed reforms. In 1932 he was pleased to announce that a Judicial Council had been established in Michigan, that the facilities of the Legal Research Institute of the University of Michigan had been made available to the Council, and that he, as Director of the Institute, had been appointed a member of the Council. In 1931 he was secretary of the National Conference of Judicial Councils, and served as Chairman of the Conference in 1932. Observing in 1924 that "the greatest general obstacle to efficiency in the administration of justice is the lack of any public opinion on the subject," he undertook in 1926 to create a public opinion by publishing in about a dozen newspapers located in dif-

ferent parts of the country and in Canada a series of popular articles dealing with procedural reform.

Ever driving for "efficiency" in procedure, Professor Sunderland made contributions to procedural reform too numerous to be named, too subtle to be measured. The fires of procedural reform have been rekindled, and it can be truly said that he had a notable part in getting this movement under way.

Professor Sunderland's writings were voluminous, and in addition he was in constant demand as a speaker at Bar Association meetings. For such occasions he always carefully reduced his thoughts to written form, and almost invariably these papers were published. In 1957, on the occasion of his 84th birthday, his family presented him with a handsome and complete brochure, listing all of his writings.

Numerous though Professor Sunderland's writings were, they never were the product of hasty composition or surface-scratching research. Everything that he did shows care and deep thought—there is no trace of the "dictated but not read" quality. Rather, whatever he produced was first written out carefully in longhand, then revised again and again. Single paragraphs went through as many as twenty revisions and rewritings before they were satisfactory to the author. The end result was a clarity and precision not often met with in the literature of the law.

Professor Sunderland's interests were not confined to the law. He also took an active part in the affairs of the community in which he lived. A life-long Unitarian, he was active for more than half a century in the Unitarian Church of Ann Arbor, where his father, Jabez Thomas Sunderland, had been pastor for two decades. From 1925 to 1934 he served as a member of the Ann Arbor Board of Education. It was during this period that many of the plans were made for the future development of the Ann Arbor Public School system. A thorough and detailed study of the future needs of the school system was made, and sites for buildings were selected and acquired long in advance of the time of actual need. From 1931 to 1943 Professor Sunderland also served as a director of the Kingswood School at Bloomfield Hills, Michigan, one of the leading schools for girls in the Middle West.

One of the most important services which Professor Sunderland performed in the University, outside his work in the Law School, was that of Business Manager of the Faculty Board in Control of Student Publications. He served in this capacity for twenty-five years and was so successful that the profits from student publishing

enterprises enabled the Board to erect and equip a modern building, now the Student Publications Building.

His was a striking personality—quiet, thoughtful, and unfailingly kind. He treated everyone with consideration and respect and was given the same treatment in return.

All who remember our long-time colleague, and they are legion, together with all who have been helped by his teachings, affirm and agree that Professor Sunderland exercised a profoundly valuable influence upon the law and the administration of justice, so much so that two great Universities, Northwestern and Michigan, conferred upon him degrees of Doctor of Laws. Yet with it all, he made a host of friends, by whom he was greatly beloved. We are grateful that he came our way.