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EDSON R. SUNDERLAND AND JUDICIAL
ADMINISTRATION

Glenn R. Winters*

THE name of Edson R. Sunderland stands out as one of the great and forward-looking leaders of his generation and of all time in the improvement of the administration of justice.

Professor Sunderland's magnificent contributions to the development and improvement of procedural law in this country, through the teaching of it, through his books, articles and lectures, and through service as draftsman and reporter on major procedural reform projects in Michigan, Illinois and the federal system, are recounted in detail by other writers in this memorial issue.

Procedure, however, while his specialty and undoubtedly the area in which his greatest achievements were accomplished, was only one of his many interests. A survey of his writings in the *Journal of the American Judicature Society* and other legal publications reveals a constant broadening of his interests and influence throughout his long career. During the first decade of this century, out of eighteen published articles, comments and case notes, seventeen dealt with points of substantive law and just one with procedure. In the 'teens, of twenty-five published articles only two were on substantive law. The rest went more and more deeply into remedial law and judicial administration, including trial practice, jury trial, evidence, legal education and kindred subjects. In succeeding years, the output of his prolific pen covered virtually the whole spectrum of judicial administration — the organization, personnel and administration of the courts and the legal profession.

One of the earliest to show concern over congestion and delay in the courts, Professor Sunderland always advocated greater efficiency rather than a mere increase in the number of judges or courts, and he repeatedly warned against relief of appellate court congestion by the addition of a tier of intermediate appellate courts with a consequent burden of double appeals in some instances. He was a vigorous advocate of the vesting of judicial rule-making power in the courts, a simplified and unified state court organization, modernization of the law of evidence, and the improvement of judicial statistics. His promotion of pre-trial discovery and pre-

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trial conferences long antedated the Federal Rules of Civil Procedure.

No better tribute to Professor Sunderland's skill as a writer can be found than the fact that he was able to popularize the story of English procedural reform so that it was published serially not only in the *Chicago Tribune* but also in a dozen other leading metropolitan newspapers throughout the United States. His pleasant, relaxed, matter-of-fact platform manner made him a popular bar association lecturer, and after the adoption of the Federal Rules of Civil Procedure in 1938 he rendered notable service to the profession on a nation-wide scale by appearing on bar association institute programs all over the country to explain the new rules and answer questions about them.

Professor Sunderland was a member of the board of directors of the American Judicature Society continuously from 1929, the year the board was first established, until 1957. This long tenure was in part a recognition of his eminence as a national leader of judicial reform, as in the case of Roscoe Pound, Arthur T. Vanderbilt and John J. Parker, and also because in that capacity he rendered continuous and important service to the Society throughout that time. During the years that the Society's offices were situated in the University of Michigan law quadrangle, Professor Sunderland maintained a constant personal interest in the work and affairs of the Society, and on innumerable occasions advised and conferred with its officers and staff. It is an especially welcome privilege of the writer to bear personal witness to the wise counsel, unfailing helpfulness and understanding, and cordial good will of this long-time friend and supporter of the American Judicature Society.

The Judicature Society was just one of a number of legal organizations that Professor Sunderland served that helped to promote the more efficient administration of justice. For many years he served as secretary of the Michigan State Bar Association, and that organization's annual volumes, bar journal and committee reports through the years are replete with evidences of his handiwork. The judicial council movement came into being at the height of Professor Sunderland's career, and he quickly became a leading exponent of the judicial council as a mechanism for judicial reform. He wrote at length on judicial council operating methods and procedures, and in his own state of Michigan he brought about the establishment of one of the first and one of the

best of the state judicial councils. This organization also he served continuously as secretary for a quarter of a century. The keeping of judicial statistics, still less than adequately done in most jurisdictions, was then in a very rudimentary stage, and the Michigan statistics collected and compiled by Professor Sunderland for and in the name of the Judicial Council of Michigan were the best to be found in their day, and they set a pattern which has since been followed and improved upon in Michigan and other states. Out of his judicial council experience he wrote several articles for legal periodicals on problems and possibilities in judicial statistics which are still important in the all-too-scant literature on the subject.

Professor Sunderland's title in the law school was a dual one, professor of law and of legal research. Some of his finest legal research was done for the Judicial Council of Michigan and published in appendix form at the end of its annual statistical reports. Probably the most important of these were his scholarly and comprehensive study of justices of the peace and other minor courts and outline of requisites for an adequate state-wide minor court system, published as an appendix to the Fifteenth Annual Report in 1945, and his draft of a model county court act which appeared the following year. Although the act never has won adoption in Michigan, the study and draft have been widely reprinted and circulated, and for a number of years constituted the best available material on minor court reform, greatly influencing the extensive reforms subsequently achieved in California, Ohio, Connecticut and other states.

Professor Sunderland was recognized not only as a great teacher but as a leader in progressive legal education, and he served as president of the Association of American Law Schools in 1930. He was a lifelong member of the American Bar Association, serving from time to time on its committees, and the last of his many published books was a history of the American Bar Association written for the Survey of the Legal Profession and published in 1953.

Important as all of the foregoing is, it may possibly have less significance in the long run than the daily classroom work of the man who taught judicial administration to law students at Michigan for nearly half a century. Law school courses in judicial administration, more or less remote from what practicing lawyers look upon as the "bread and butter" aspects of their profession, are none too common in law schools even today. Through most of

the years of this century, the offerings of most law schools in this field have consisted of courses in common law or code pleading, trial and appellate practice, evidence, perhaps some occasional non-credit lectures on legal ethics, and the rest of what is taught today as judicial administration appearing interstitially in these or other courses or left out entirely. It was Professor Sunderland, more than any other law teacher of his day, who led in transforming yesterday's courses in pleading and practice into the fine courses in judicial administration that are taught today in Michigan, Minnesota, New York University and other good law schools.

The teaching of professional responsibility, rightly emphasized at the recent Arden House conference on continuing legal education, was a part of the law school training of every one of Professor Sunderland's students. The writer was in Professor Sunderland's class on the day when the bar of Michigan was integrated, and the class hour that day was given over to a discussion of the history and significance of the integrated bar movement and the general place and importance in the life of the lawyer of the organized bar and its work. All too many young lawyers have gone out from some of our best law schools without these things ever having been said to them by anybody.

It is true of the teacher as it is true of no other person, with the possible exception of the clergyman, that the total measure of the influence and accomplishments of his life includes not only what he did by his own act but also what was accomplished by those who were taught and influenced by him. By that entirely realistic and fair standard, the impact of Edson R. Sunderland's life and work on the administration of justice and the movement for judicial reform in America is already incalculable, and will grow ever greater in the years to come.