

Minimum Standards of Judicial Administration (Book Review)

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Professor Konefsky thinks that although Justice Frankfurter's failure ". . . to live up to the expectations of some of his former admirers is . . . the basic reason for their disillusionment, . . ." ² he is also in part the victim of the fact that judicial opinions are not directly available to the average person who must instead rely on the inadequate reporting of Supreme Court cases by newspapers and periodicals. He concludes that the detractors of Justice Frankfurter would do well to read his opinions—their views might be more temperate. The purpose of this volume is to make those opinions more readily available to the non-lawyer.

Each opinion is introduced by a concise and lucid summary of the fact situation and the legal background necessary for adequate understanding of the cases involved.

ARTHUR L. GOULD.*



MINIMUM STANDARDS OF JUDICIAL ADMINISTRATION. Edited by Arthur T. Vanderbilt. New York: The Law Center of New York University for The National Conference of Judicial Councils, 1949. Pp. xxxii, 752. \$7.50.

Minimum Standards of Judicial Administration is a book more accurately described by its subtitle. The subtitle is "A Survey of the Extent to which the Standards of the American Bar Association for Improving the Administration of Justice Have Been Accepted Throughout the Country." In an illuminating introduction, Chief Judge Arthur T. Vanderbilt, who has edited this colossal undertaking, states that the "volume is tendered not as a literary effort but as an arsenal of facts." ¹ An arsenal of facts it is indeed.

The book is the result of a nationwide survey conducted through the Junior Bar Conference and is calculated to record whether or not, or to what extent, each state is complying with the standards of judicial and procedural reform accepted by the American Bar Association. Anyone interested in ascertaining the reasons that prompted these recommendations may simply turn to the various appendices in the back of the book and read the appropriate Committee Report.

The body of the book records the facts of compliance or noncompliance with these recommended standards. It embodies the results of the cooperative efforts of judges, lawyers, and law teachers in the forty-eight states. In this regard Judge Vanderbilt tells us that "No effort has been spared in the attempt to obtain accuracy in the presentation of all of the available facts, but it is inescapable in a work of this nature that is the product of so many hands that

² P. xvi.

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¹ P. xxxii.

occasional errors of fact or of interpretation should occur, despite every precaution to avoid them."² Actually, the excellent quality of the finished product, and the accuracy with which even comparatively minor points are treated,³ make the volume a reliable and well-documented source book.

This reviewer recalls Judge Vanderbilt's address before the Junior Bar Conference luncheon, September 4, 1949, in St. Louis, Missouri, when he appealed to members of the Conference with "strong backs and possessed of willingness to work." Surely these men are entitled to a sincere commendation for an arduous task willingly assumed and so well accomplished. Of course, Judge Vanderbilt is the first to acknowledge the efforts of the many hard workers who made this most worthwhile survey possible, which, in fact, is the first attempt of its kind.

Before considering the specific content of the volume, three matters should be brought to the attention of the reader. First, the great importance of a survey of procedural reform throughout the country stems from the well-known fact that the more serious criticisms of the courts and the administration of justice in general arise not from the substantive law that is administered by the courts but from the unnecessary delays, needless technicalities, and the cumbersome and sometimes antiquated rules that still form a part of the procedural law of the land. Secondly, one must bear in mind that the basic conviction underlying the reports made to the American Bar Association was "that the battle for improved judicial procedure had to be fought on a nationwide front if the battle was to be won in time, and this could be done successfully only with the aid of the entire legal profession and of intelligent and public spirited laymen";⁴ and thirdly, that the reports and recommendations to the American Bar Association dealt with the "minimum, practical standards," that is to say, they were neither "academic nor Utopian."⁵

The book contains the following ten chapters: I. Judicial Selection, Conduct and Tenure; II. Managing the Business of the Courts; III. Rule-Making—the Judicial Regulation of Procedure; IV. The Selection and Service of Juries; V. Pretrial Conferences; VI. Trial Practice; VII. Trial Courts of Limited Jurisdiction: Traffic Courts and Justice of the Peace Courts; VIII. The Law of Evidence; IX. Appellate Practice; and X. State Administrative Agencies and Tribunals. Appendix A contains reports of the section of Judicial Administration, as adopted by the section and approved by the

² P. xxvii.

³ In a book of so vast a coverage as the entire field of procedure, one would hardly expect to find a discussion of a matter such as the so-called New York "legal residuum" rule, pursuant to which the findings of an administrative agency based exclusively upon hearsay evidence inadmissible under the common-law rules of evidence may be set aside on judicial review. *Matter of Carroll v. Knickerbocker Ice Co.*, 218 N. Y. 435, 440, 113 N. E. 507, 509 (1916). Yet, on this point the author states in a footnote that "There have been indications in recent years that the adherence of the New York courts to the 'legal residuum' rule is not as strong as it once was." P. 479. Chapter X on "State Administrative Agencies and Tribunals" is "essentially" the work of Professor Schwartz of New York University Law School. P. xxviii.

⁴ P. xxi.

⁵ P. xxviii.

American Bar Association, July 1938, and the reports of the several committees of the section.⁶

The usefulness of the book is enhanced by sixty-two maps and charts that serve to illustrate and give a bird's-eye view to the findings of the various state reporters. The matters contained in the book and in these maps cover the entire breadth of procedural law including the selection and tenure of judges, both appellate and trial court, the rule-making power of the courts, selection of jurors, trial judge's power to summarize the evidence, trial judge's power to comment to the jury on evidence, charges to jury, and other matters of evidence and matters of appeals.

The public owes a debt of gratitude to those whose labors made this volume possible and especially to the American Bar Association's Special Committee on Improving the Administration of Justice for its foresight in having urged the publication of a book which would clearly inform lawyers and laymen alike of the extent to which the various states were measuring up to the "minimum, practical standards" of judicial administration established by the American Bar Association.⁷

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⁶ P. xxxi.

⁷ P. xxxvi.

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