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JUDICIAL REFORM FROM COAST TO COAST

Glenn R. Winters*

THE JUDICIAL REFORM MOVEMENT

The judicial reform movement in this country had its origin, as did our judicial system itself, in the parent country of England. The colonists who migrated to these shores from England brought with them the English common law, English legal and judicial institutions, and more than their fair share of the fierce spirit of independence and self-reliance that had established parliamentary self-government, Magna Carta and the great principle of judicial independence in that land. The chief motivation of the colonists was religious, and they tended to rely on the clergy for counsel in temporal as well as spiritual matters, so that the American legal profession got off to a slow start.¹ Inadequately supervised law office study remained a major method of legal education until well into this century, and judges were no better than the lawyers from whose ranks they were drawn. Our federal system set a pattern of fragmentation of judicial organization that was carried over into the internal judicial organization of the states, with each separate tribunal administratively independent from the others. Bar associations did not make their appearance until the closing years of the last century, and their function was mostly social until well along into this one.² In many areas of the country there were no lawyers at all, judges were chosen of necessity from the lay citizenry, and judicial procedure lost contact with its English antecedents.

Roscoe Pound, later to become the renowned dean of Harvard Law School, addressed the American Bar Association in 1906 on "The Causes of Popular Dissatisfaction with the Administration of Justice" and challenged the legal profession to assume leadership toward correcting the evils he delineated.³ The A.B.A. did not respond at once, but a group of forward-looking lawyers and judges shortly thereafter founded an organization especially for that purpose, the American Judicature Society.

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¹ Wickser, *Bar Associations*, 15 Cornell Law Quarterly 390 (April, 1930).

² Pound, *THE LAWYER FROM ANTIQUITY TO MODERN TIMES*, (1953).

³ The text of the address and Dean John H. Wigmore's story of the occasion on which it was delivered were published in the Journal of the American Judicature Society, August, 1962, and previously in February, 1937.

Supported for its first 16 years entirely by the contributions of one layman, that Society now has a national and international membership of more than 20,000 lawyers, judges and laymen.⁴ In its first years it carried out important original research and drafting in the fields of court and bar organization, selection of judges and judicial procedure, and since 1917 it has published its Journal and other publications and has otherwise carried on a promotional program in behalf of needed reforms.

In that effort the Society has been joined by a number of other organizations and agencies, first and most important, of course, the American Bar Association, which maintains a Section of Judicial Administration and a number of other sections and committees wholly or partly devoted to judicial reform projects. There are also the American Law Institute, the Institute of Judicial Administration, the Conference of Chief Justices, and about a dozen others, all of whom joined together in 1961 in a great three-year cooperative push under the banner of the Joint Committee for the Effective Administration of Justice, headed by Supreme Court Justice Tom C. Clark.⁵

The scope of the American Judicature Society's program over its 52-year history has broadly covered all aspects of the personnel, organization and procedures of both bench and bar, including legal education and admission to the bar, bar organization, professional ethics and discipline, public relations of the bar and bar activities and services including legal aid to the poor; also organization of courts, selection, tenure, compensation, retirement, ethics, discipline and removal of judges, court administration and judicial practice and procedure.⁶

The emphasis in this special issue of the *Tulsa Law Journal* has wisely been limited to just one segment of that broad picture—the person of the judge, and accordingly we shall in this article ignore all that has to do with the bar and also the fields, important as they are, of court organization and court procedure, restricting ourselves to a survey of the nation-wide judicial reform movement as it pertains to the man who wears the robe—the methods by which he is chosen for judicial office; factors such as salaries and retirement benefits having a bearing on judicial competence and effectiveness; standards of judicial conduct and enforcement of them; and the professional training of the judge as distinguished from that of the lawyer.

SELECTION AND TENURE OF JUDGES

Among the institutions inherited by the American colonies from Mother England was that country's appointive judiciary, whereunder judges were and still are chosen from the ranks of the practicing bar by appointment by authority of the Crown, for a life term.⁷ This has always been in sharp contrast with the system prevailing in most of the countries

⁴ See *The American Judicature Society: A Fiftieth Year Report*, 46 J. AM. JUD. SOC'Y 83 (Oct., 1962).

⁵ See Tom C. Clark, *Progress of Project Effective Justice—A Report on the Joint Committee*, 47 J. AM. JUD. SOC'Y 88 (Oct., 1963).

⁶ A comprehensive view of the field may be seen in the cumulative index to Volumes 21-45, published in the issue of February, 1963.

of continental Europe and other systems patterned after them where the judicial career is a separate one from that of the lawyer, prepared for by means of a separate and different course of study and with no interchange back and forth between the two.⁸

American judges were initially appointed by the British Crown, and one of the complaints in the Declaration of Independence had to do with judicial subservice to the King.⁹ After independence most of the colonies simply carried over the English system with appointment by the governor. Some added consultation by the governor's council or a legislative body, and some turned the entire operation over to the legislature.¹⁰

It was not until the new nation was three-quarters of a century old that popular election came into vogue as a method of choosing judges. New York changed to election in 1846 and other existing states fell in line to follow New York's example, while all of the states admitted thereafter adopted the elective judiciary.¹¹ Before the century was over a reaction had set in, and the faults of elective selection of judges were a major cause of concern when Pound spoke in 1906 and when the American Judicature Society was founded in 1913.

Thoughtful scholars were willing to acknowledge, even then, that there is something to be said for the elective method. It gives the people an important part in governing themselves, and it enables them to oust a judicial tyrant by voting him out of office. Its great drawback was and still is the inability of the electorate to evaluate judicial qualifications, the low correlation between political and judicial qualifications, and the unwillingness of able lawyers to give up their law practice for the uncertainty of elective tenure. Thus (with important exceptions, of course,) the bench is not manned by the best judicial talent available, and the administration of justice suffers as a result.

The solution devised by Professor Albert M. Kales and formulated by him as research director of the American Judicature Society was the now famous combination nominative-elective-appointive plan, providing for informed and intelligent selection of judges by centering that responsibility in an individual, the governor of the state, and giving him the assistance of a non-partisan commission to seek out and nominate persons suitable for judicial appointment, but providing also for participation by the electorate and for removal of the judicial tyrant by requiring the judge to go before the voters at regular intervals for retention in office, without competition at the polls, the voters merely approving or disapproving his retention in office.¹²

⁷ Sir George Phillips Coldstream, *Judicial Appointments in England*, 43 J. AM. JUD. SOC'Y 41 (Aug., 1959).

⁸ Schweinburg, *LAW TRAINING IN CONTINENTAL EUROPE* (1945).

⁹ "He has made judges dependent upon his will alone for their tenure in office and for the amount and payment of their salaries."

¹⁰ All are detailed in Haynes, *SELECTION AND TENURE OF JUDGES* (1944).

¹¹ Mississippi was actually the first, in 1852, but it was New York in 1846 that began the movement, Haynes, *supra*.

¹² The Kales plan was first published in the *ANNALS OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE*, Vol. 52, pp. 1-12, as advance publication of Chapter 17 of Kales' book *UNPOPULAR GOVERNMENT IN THE UNITED STATES*, published in the same year, 1914. It was reprinted in *Bulletin VI of the American Judicature Society*, and again in 11 J. AM. JUD. SOC'Y 133 (1938).

This device to combine the best features of both election and appointment was pushed by the American Judicature Society for nearly a quarter of a century before it gained the endorsement of the American Bar Association in 1937.¹³ In 1940 it was adopted by the voters of Missouri for selection of judges of the state Supreme Court and appellate courts and the circuit courts of St. Louis and Jackson County (Kansas City).

A detailed study of the Missouri plan is the subject of one of the other leading articles in this issue, and so we will not dwell here upon its 25-year record of operation in that state, except to say that it has been good enough to win repeated endorsement by the voters and to commend itself to judicial reform leaders and to the voters of other states.

Nation-wide spread of the nominative-appointive-elective plan did not take place as rapidly as its supporters desired, and its detractors have not hesitated to point this out, but actually the reason was almost entirely a matter of the Second World War and its aftermath pre-empting public interest and attention from the moment the plan was adopted until just about an even decade later.

In 1950 a campaign for adoption of a Missouri-type plan in Alabama was carried through to partial success, the plan as adopted provided for nomination and appointment, but not for tenure by non-competitive election, of circuit judges of Jefferson County (Birmingham), the state's largest county.¹⁴

The Alaska constitutional convention meeting in Fairbanks in 1955 undertook to write a model constitution for the 49th state, and after thorough study it adopted all features of the plan for selection of all judges of the Supreme and Superior Courts. When statehood came, in 1958, Alaska was the first state to have its entire major judiciary selected in that manner.¹⁵ In that same year, however, the Kansas voters approved it for selection of Supreme Court justices only.

In 1962 two more states, Iowa and Nebraska, joined Alaska in having all judges above the rank of minor courts chosen by the plan which the Nebraskans dubbed the "merit plan," the term by which it is now coming more and more generally to be known. Also in that year, Illinois adopted the non-competitive tenure feature for all major trial and appellate judges, still retaining, however, political selection in the first instance.¹⁶

Less than state-wide adoption of the merit plan has occurred in several instances. In 1963 the voters of Dade County (Miami), Florida, approved its use for selection of the 13 judges of their Metropolitan

¹³ 62 ABA Rep. 1033 (1937). Another version of it has been approved by the ABA as a part of the Model Judicial Article for State Constitutions, 87 ABA Rep. 392 (1962); *Symposium, The Model Judicial Article*, 47 J. AM. JUD. SOC'Y 6 (June, 1963).

¹⁴ Alabama Const. 1901, Amendments 83 and 110.

¹⁵ Thomas B. Stewart, *A Model Judiciary for the Forty-Ninth State*, 42 J. AM. SOC'Y 52 (August, 1958).

¹⁶ *Court Reorganization Reform—1962*, 46 J. AM. JUD. SOC'Y 110 (Oct., 1962).

Court.¹⁷ In 1964 it was likewise adopted in Denver County, Colorado, for judges in the Denver County Court.¹⁸ In each of those instances appointment is by the mayor rather than the governor. Even before Dade County and Denver County, Tulsa County adopted it for selection of its juvenile court judge, and the Utah Juvenile Court Act of 1965 provides for commission nomination and gubernatorial appointment of all juvenile court judges in that state.¹⁹

Nor does an account of constitutional and statutory adoptions tell the whole story. One of the major triumphs of the nominating commission in judicial selection has been its use on a voluntary basis by Mayor Robert H. Wagner of New York City for the some 100-odd judicial appointments for which he is responsible and which in the past have been strictly political patronage.²⁰ Governor William W. Scranton of Pennsylvania voluntarily utilized a commission of his own selection for appointments to a group of new judgeships in Philadelphia in 1964, and Governor John A. Volpe of Massachusetts in 1965 pledged use of the same device to assure non-political appointments for 10 new judgeships requested for the Massachusetts Superior Court.²¹

Adoption of the Denver County plan by the voters followed the successful use of the commission on a voluntary basis by Mayor Tom Currihan for appointments to the Denver Municipal Court. Now the Colorado Bar Association is working with a citizens' organization for adoption of the full merit plan for all Supreme and District Court judgeships in the state, and Governor John A. Love has anticipated its adoption by voluntarily setting up a commission for filling of vacancies at both levels.²² Professional and civic organizations in New York are working for adoption into law of Mayor Wagner's voluntary commission system, and a strong movement is under way in Pennsylvania for state-wide merit judicial selection as part of that state's ambitious "project Constitution."

That more states will be added to the list having the full nominative-appointive-elective plan in their constitutions is reasonably certain. In 1965 the North Dakota legislature approved such a plan for submission to the voters at a general election in 1966.²³ The Dade County experience has been a major stimulus for a strong campaign in Florida for application of the merit plan throughout that state. Another article in this issue tells the story of the campaign to date for judicial selection reform in Oklahoma. Other states in which active campaigns are currently in progress include Arkansas, Indiana, Maryland, Michigan, Montana, New Jersey, New Mexico, Ohio, Rhode Island, South Dakota, Texas, Utah, Washington and Wisconsin. Such a list, along with previously-mentioned Missouri, Alabama, Alaska, Kansas, Iowa, Nebraska, Illinois, Florida,

¹⁷ 47 J. AM. JUD. SOC'Y 117 (Nov., 1963).

¹⁸ 48 J. AM. JUD. SOC'Y 117 (Nov. 1964).

¹⁹ SB No. 1, passed February, 1965.

²⁰ See Samuel I. Rosenman, *A Better Way to Select Judges*, 48 J. AM. JUD. SOC'Y 86 (Oct., 1964).

²¹ 48 J. AM. JUD. SOC'Y 157 (Jan., 1965).

²² *Ibid.*

²³ 48 J. AM. JUD. SOC'Y 197 (March, 1965)

Colorado, New York, Pennsylvania, Massachusetts and North Dakota, amply justify the "coast to coast" wording of our title at least with respect to this segment of the subject-matter.

JUDICIAL SALARIES

It would be a gross oversimplification to blame poor judges entirely on the method of selection. Many a governor has complained that in the filling of judicial vacancies by appointment his efforts to pick high-caliber lawyers met with refusals and he was forced to make second-rate appointments because they were the best he could get. High on the list of reasons why it is hard to get good lawyers to go on the bench is the generally inadequate level of judicial salaries.

How much should a judge be paid? There is certainly no precise answer to this question, and the best we can do is set some limits. Under our system the government competes with industry and the general public for the services of lawyers, with some of those in government service acting in the capacity of judges. It is a rule of life that we usually get about what we pay for or less; seldom more. When government offers substandard compensation for judicial services, the quality of services rendered cannot fairly be expected to be better than substandard.

The following has been suggested as a formula for salaries of judges of trial courts of general jurisdiction. A salary that is higher than the average earnings of good lawyers but not as high as those of the best paid members of the bar, plus a pension that will permit maintenance of approximately the same standard of living after retirement.²⁴ In 1961 President Cecil E. Burney of the American Judicature Society declared that no general trial judge in any state should get less than \$15,000 a year. For that figure to make sense to a future reader in the 1970's or 1980's, it will be necessary to relate it to the price index of that day.

The reason why judicial salaries tend so commonly to be substandard is not that legislators are more niggardly than corporate directors; it is simply that a corporation hiring a lawyer has a freer hand to compete in the legal labor market. It can "up the ante" to get a good man, but judicial salaries are fixed by law and remain there until the law is changed. If price levels were stable this would not be unsatisfactory, but our nation's economy has been characterized throughout its history by constantly rising prices, and when prices rise wages must also rise or else fall out of balance. Other factors, including changing concepts of the role of the professional man in society, increasing judicial work loads, rising taxes and removal of the judges' exemption from income tax, all have combined to increase the need for judicial salary increases.

It is inconsistent with the posture of the judge for him to conduct his own legislative campaign for a pay raise; someone else must do it for him. Neither can an organization like the American Judicature Society work for enactment of specific legislation of this or any kind without violating its charter and running afoul of anti-lobbying regulations. In fulfillment of its educational function, however, the Society

²⁴ From editorial, 47 J. AM. JUD. SOC'Y 124 (Dec., 1963).

has for two decades published informational summaries of judicial salaries actually paid to judges of various courts in all states and jurisdictions. These have been utilized by bar associations and others with success in persuading legislatures and budget committees to take steps to bring up substandard salaries, and the Society has filled many requests for extra copies of these surveys for such uses.

A comparison of the first judicial salary survey, published in April, 1945,²⁵ with the last in December, 1963,²⁶ affords some interesting comparisons. During that interval the purchasing power of the dollar declined from 1.72 to .94 on a scale for which 1957-1959 is 100.²⁷ In 1945 salaries of associate justices of state courts of last resort mostly ranged between \$5,000 and \$10,000 a year, with \$7,500 the most frequent figure (10 states). In 1963, most of the states paid between \$14,000 and \$20,000 for the same services. Although the figures are impressive at first glance, a comparison with the price index shows that the real increase in purchasing power for those judges was minimal and that practically all of the apparent increase was necessary merely to maintain the status quo.

RETIREMENT AND PENSIONS

Among the expressions in present-day American English that would certainly puzzle a returning Elizabethan are "take home pay" and "fringe benefits." One of the fringe benefits that is of great importance in determining how much take home pay a person can live on is the retirement pension. No reasonably prudent man dares let his middle years go by without making advance provision for support in his declining years. This may be done by means of a savings account, an investment program, or an annuity. In any of these ways, the cost of such provision takes a sizeable bite out of current earnings in the earning years. A pension plan offering that provision at low cost or without cost is the equivalent of a substantial additional salary increment. The taxpayers can get more for their money by setting up a pension plan for the judge than they can by paying him enough additional salary to enable him to go out and purchase the same thing at commercial rates.

There are other than monetary reasons why every state should have a judicial retirement program. The existence of it, as in business and industry, helps to stabilize employment, to keep the good man on the job. Conversely, it encourages him to let go when he is no longer able to serve effectively, making way for a younger and more vigorous replacement. The plan should also make possible retirement for disability at any age.

In 1943 less than half of the states provided pensions for retired judges.²⁸ By 1960, every state offered something of that nature, some of them, however, with inadequate coverage and benefits. Following publi-

²⁵ 28 J. AM. JUD. SOC'Y 173.

²⁶ 47 J. AM. JUD. SOC'Y 125.

²⁷ World Almanac, 1965, p. 754.

²⁸ 28 J. AM. JUD. SOC'Y 173 (April, 1945).

cation by the American Judicature Society in 1961 of a comprehensive nation-wide survey of judicial retirement provisions,²⁹ the Junior Bar Conference of the American Bar Association drafted a model Judicial Disability and Retirement Pension Plan.³⁰ The JBC recommended—

Eligibility when age plus total judicial service totals 75.

Compulsory retirement at 70.

Retirement benefits equal to full salary at time of retirement, subject to subsequent cost of living adjustments, and percentage benefits if less than full eligibility requirements are fulfilled.

Benefits payable to the judge for life and for his surviving widow or children in the same amount.

Disability retirement on the same terms on certification of incapacity by two or more physicians.

Utilization of judicial services after retirement as much as possible.

It would be inappropriate to devote space in this law journal to detailed examination of the judicial salary and pension provisions currently prevailing, or to specific legislative efforts to increase them. Suffice it to say that lawyers and legislators the country over are becoming more and more aware of the direct and real relationship between adequate judicial compensation and adequate judicial service. In 1962-1963 biennium, 24 states and Puerto Rico enacted laws increasing salaries of some or all of the judges of their major courts, and 35 states improved their judicial retirement and pension provisions.³¹ Already in the current biennium 12 states have raised salaries and many more are on the legislative calendars.³²

The American Judicature Society's judicial salary and retirement data will be revised and republished later this year, after adjournment of the 1965 sessions.

JUDICIAL ETHICS

Dean John H. Wigmore said, "The law as a pursuit is not a trade. It is a profession. It ought to signify for its followers a mental and moral setting apart from the multitude—a priesthood of justice."³³

If the priestly image is an appropriate one for the lawyer, then *a fortiori* it is appropriate for the judge. Judges are people, and should not be expected to be any thing else, but when a man puts on the judicial robe, as when another man becomes a priest or clergyman, he obligates himself to live by a different and higher standard of conduct than the man in the street.

²⁹ Alice Ann Winters, JUDICIAL RETIREMENT AND PENSION PLANS. (1961).

³⁰ Report to the House of Delegates, June 15, 1962.

³¹ Winters, *Judicial Compensation in 1963*, 47 J. AM. JUD. SOC'Y 124 (Dec., 1963).

³² AJS Information Sheet No. 30, April, 1965.

³³ From the introduction to Orrin N. Carter, *Ethics of the Legal Profession*, (1915). 11. XXI-XXIV; reprinted in Winters, *Bar Association Organizations and Activities* (1954) pp. 141-142.

Standards of professional conduct for lawyers were first formulated by a Baltimore lawyer more than 100 years ago and were adopted as canons of ethics by the American Bar Association in 1908.³⁴ Ten states had already adopted them on a state basis, and today canons based on the ABA pattern govern the conduct of nearly all of the lawyers in nearly all of the states.

It was not until 1924 that realization of the need for a separate statement of the judge's obligations led to the appointment of a distinguished committee headed by the Chief Justice of the United States to draw up canons of judicial ethics.³⁵ These have never gained as much acceptance as the lawyers' canons. By 1953 the judicial canons were in force as binding rules in 17 states. They had been adopted on a hortatory basis by bar associations in 10 more states. In 1954 the American Judicature Society published a book in which the canons were analyzed and the extent of adoption of each was reported.³⁶ Publication of that book was a stimulus to improvements, and a supplement published two years later was able to report official adoption of the main body of canons in four more states (including Oklahoma) and numerous minor changes and additions.

No comprehensive account of further adoptions has been published in the decade since then. Probably the latest state to adopt judicial canons officially is Pennsylvania, in 1965.³⁷ A committee of the National Association of Municipal Judges is at work on a revision job, with the special needs of the courts of limited and special jurisdiction particularly in mind.

DISCIPLINE AND REMOVAL

A lawyer or judge who violates the canons of ethics of the American Bar Association is subject to expulsion from ABA membership. While that is not good, it is far from a fatal handicap, inasmuch as less than half of the nation's 300,000 lawyers are ABA members anyway.³⁸ Lawyers may be disbarred, but until recently only the antique, cumbersome and ineffective device of impeachment was available for use against judges.

In the late 1940's New York established a special "Court on the Judiciary" to hear charges of misconduct against judges. It consists of judges representing each level of the state judiciary. It has to be convened specially for each hearing, and has been used very rarely.³⁹ In 1960 California made judicial history by adopting a constitutional amendment for a "commission on Judicial Qualifications" composed of judges, lawyers and laymen, set up as a continuing body with office and staff, to receive

³⁴ George E. Brand, *Bar Associations, Attorneys, Judges — Function, Ethics, Discipline* (1954).

³⁵ *Ibid.*

³⁶ Brand, *Supra*, note 34.

³⁷ Order of February 11, 1965, reported in *Wilkes-Barre Independent*, Feb. 21, 1965.

³⁸ There were 296,069 lawyers in the United States in 1963 (American Bar Foundation 1964 Lawyer Statistical Report) and 113,987 ABA members in good standing on April 22, 1965.

³⁹ Constitution, Article 6, Section 22.

complaints, make investigations and take action in cases of alleged judicial misconduct. It has proved highly successful, having disposed of most complaints at the investigative level, but in a number of instances having caused the voluntary retirement of judges who might otherwise have been disciplined.⁴⁰

Oklahomans need not be told here of the proposed Court on the Judiciary which narrowly missed adoption in the 1964 general election and is certain to be presented again with a strong probability of approval. New York, California and Oklahoma have been pioneers in a movement that is now gaining widespread interest in judicial reform circles throughout the country, and modern judicial removal methods have already been adopted also in Illinois, Puerto Rico and New Jersey and are on the current judicial reform program in Florida, Texas, Maryland, Colorado, Nebraska and other states.

JUDICIAL EDUCATION

We have already mentioned the fact that in certain countries of Europe and Asia the judicial career is entirely separate from that of the lawyer, including a different course of study. It was the author's privilege to visit the Legal Training and Research Institute in Tokyo, Japan, and the corresponding institution in Taipei where Japanese and Chinese judges are trained for the judicial career.⁴¹

Throughout most of our country's history it has simply been assumed that there is no difference between a lawyer and a judge, and our judges have been selected from the ranks of the practicing bar, or, occasionally, from the law teaching profession, put on the bench and told to go to work. About ten years ago New York University took the first steps toward judicial education in this country with establishment of its very successful Appellate Judges' Seminar, a project of the Institute of Judicial Administration there. About four or five years ago Florida, Colorado and Washington pioneered in the holding of training seminars for new trial judges.⁴²

In 1961 the Joint Committee for the Effective Administration of Justice joined with the Judicial Conference of Michigan in the holding of a judicial training seminar for all Michigan trial judges, the first of a series under Joint Committee sponsorship which in three years reached virtually every trial judge in the nation. The Judicial Conference of the United States at the same time was holding similar training meetings for the huge group of new federal judges appointed during the first years of the Kennedy administration.

The outcome of the Joint Committee seminars was the establishment on a permanent basis of a college for trial judges, situated on the campus

⁴⁰ Jack E. Frankel, *Removal of Judges: California Tackles an Old Problem*, 49 ABA Journal 166 (Feb. 1963); Louis H. Burke, *Judicial Discipline and Removal: The California Story*, 48 J. AM. JUD. SOC'Y 167 (Feb., 1965).

⁴¹ Winters, *FAR EAST IMPRESSIONS*, 44 J. AM. JUD. SOC'Y 11 (June, 1960).

⁴² See Leonard v. B. Sutton, *Colorado's Institute for Newly Elected Trial Judges*, 45 J. AM. JUD. SOC'Y 129 (Dec., 1961); *Judicial Education Programs Held in Three States*, 47 J. AM. JUD. SOC'Y 236 (March, 1964).

of the University of Colorado, the first sessions of which were held in the summer of 1964.⁴³ The college is opened to trial judges from all parts of the country, and has proved immensely popular with its students. Meanwhile, the Judicial Conference of New York has conducted training institutes for justices of the peace and the National Association of Municipal Judges is moving toward establishment of a college or training program of its own for judges of courts of limited and special jurisdiction. Considering the tremendous progress that has been made since 1960 in this field, it is fairly safe to say that by the end of the decade of the '60's systematic judicial education in the art, science and skills of holding court will have become a fully established and permanent feature of American judicial administration, and it is probable that this will turn out to have been the greatest contribution of the decade.

A LOOK AHEAD

The picture that has been sketched here is one of a rapidly accelerating reform program moving forward on many fronts, all directed toward better judicial administration through better judicial personnel, better equipped, better trained and better situated. A number of additional states are almost certain to join Missouri, Alaska, Iowa and Nebraska with merit judicial selection, and in a considerably larger number of states, including some in New England and the east coast area, the nominating commission as an aid to executive appointment in the filling of judicial vacancies is going to be adopted both officially and unofficially as already in New York, Pennsylvania and elsewhere.

There is no reason to anticipate any reversal of the long-range inflationary trend of the money market, and if prices and wages doubled in the last 20 years they may be expected to do something like that again in the next 20. Salaries of \$30,000 to \$50,000 a year for ordinary judges of ordinary courts may seem fantastic to us now, but no more so than salaries of \$15,000 to \$20,000 would have seemed in 1945. In this situation, it will remain a continuing responsibility of the organized bar to keep watch on judicial salaries and see to it that they keep in line and at a level sufficient to obtain adequate legal talent in those jobs.

Painful as it has been to the bench and bar and the people of Oklahoma, the great Supreme Court scandal of 1964 and 1965 in that state will in retrospect have rendered a service to the people of the whole nation by alerting them to the urgent necessity of making adequate provision for judicial discipline and removal. It may be predicted that quasi-judicial removal procedures like those of California, New York and Oklahoma will be adopted into the judicial structure of a majority of the states within a few years.

If this and similar improvements in judicial selection, court organization and minor courts come about it will be due in no small measure to the series of citizens' conferences on court reform topics begun in

⁴³ Ernest C. Friesen, Jr., dean of the college, described its background and development in *The Judicial Seminar: Foundation for Judicial Education*, 46 J. AM. JUD. SOC'Y 22 (July, 1962).

1962 under joint sponsorship of the Joint Committee for the Effective Administration of Justice, the American Judicature Society, and state bar associations. One of the first of these was the Modern Courts for Oklahoma Conference held in Norman in December, 1962. A total of 14 of these have been held,⁴⁴ and more are scheduled for the coming year.

A big step that remains to be taken is the provision of an appropriate mechanism for expression of the concern of government, and especially the federal government, in judicial reform. There is not space here to set forth this idea, which has been fully developed elsewhere,⁴⁵ except to point out that judicial administration is one of the three great divisions of government, and that governmental concern should not end with the mere doing of the job but should extend to the finding of ways to do it better. There is in this country no equivalent to the ministry of justice which is to be found in most countries operating under the parliamentary system. The state judicial councils have done the best they could, but without adequate governmental endorsement or support, and the U. S. Department of Justice performs some of the functions of a national ministry of justice, including some properly classified as judicial reform, but has never systematically assumed that responsibility as such. Perhaps establishment of state and national ministries of justice (under some other name, of course,) to give the judicial reform movement the leadership, impetus and financial support of official government sponsorship could be the second great contribution of the decade of the sixties.

⁴⁴ In Wisconsin, Oklahoma, Nevada, Ohio, Colorado, Pennsylvania, Louisiana, Texas, Indiana, New Mexico, Kansas, North Dakota, New York and Florida.

⁴⁵ Winters: *A Ministry of Justice: The Time to Act is Now*, 48 J. AM. JUD. Soc'y 206 (April, 1965).