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Review of “Cases and Materials on Trial and Appellate Practice,” By Edson Sunderland

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point rather than from that of the region as a whole. As long as human nature continues unchanged this will be true. Is there any way to meet this situation and overcome the power of these minority groups which have been vocal and effective? The author makes some suggestions which he believes will enable advocates of integration to become more successful in the future. He emphasizes the need of, and places great faith in symbols charged with high emotional voltage. Advocates of integration must replace symbols such as "economy" and "efficiency" with others having a greater popular appeal. One difficulty is that the author doesn't suggest the symbols but only gives illustrations of the type that have been effective in other cases, such as "local self-government," "home rule" and "un-American." There is the further question as to whether he hasn't overemphasized the point. Again he recommends the use of "various propaganda techniques" and cautions that an "academic presentation of the case for integrated local government" will continue to be ineffective. We are not told, however, what new techniques are to be used, but only that they should be used.

Dr. Jones is least helpful in suggesting how we can do better in the future. We can all agree, and many will say they already knew, that "campaigns for a metropolitan government must be well planned, the details carefully executed by technicians, and the proposal systematically and persistently sold to the public and the politicians." Many persons who have been active in campaigns for integration will say that is what they attempted to do and think they actually did. They may feel the present study is not sufficiently definite to help them in actually selling integration to the voters.

Further progress in solving the problem of governing metropolitan areas may be expected. The study by Dr. Jones will contribute to the much needed action. It is a challenging and stimulating study. One who reads this account will become more determined that something must be done; and he will gain some helpful suggestions as to what might and should be done and how it can be accomplished.

CHARLES M. KNEIER†

CASES AND MATERIALS ON TRIAL AND APPELLATE PRACTICE. By Edson R. Sunderland, Professor of Law and Legal Research, University of Michigan. Second Edition. Chicago: Callaghan and Company, 1941. Pp. xxx, 775. \$6.50.

In the first decade of the twentieth century most American law schools offered courses in Common Law Pleading and Code Pleading. (In some schools the Code Pleading course was called New York Practice.) The two courses were presented separately and in many schools through different teachers. Trial Practice was not listed as a part of the curriculum. That subject was generally believed to be so narrow, so local, so dependent on statutes, as to make it unprofitable for law school instruction. A great

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change has come in 40 years. Court Practice, either as a separate course, or combined with Pleading, is now taught in nearly all schools.

Perhaps there were two reasons for this change. In the first place many schools maintained supervised moot courts, or practice courts, which were intended to stimulate interest, not only in substantive law and brief-writing, but also in something like laboratory work along the lines of trial and appellate practice. Enthusiasm of students made faculties aware of pedagogical value in more systematized work in trial and appellate practice. The second reason was connected with a new attitude of bar associations toward the law of procedure. The new attitude was highly critical. Frederick W. Lehmann of St. Louis, afterwards President of the American Bar Association, was eloquent and persuasive in pointing out defects in our Missouri practice and in pointing out the merits of English practice. And so in law schools the teaching of procedure was expanded and vivified. Without ceasing to be informative it became far more critical. Comparative jurisprudence became a part of every procedure course. Trial Practice was often taught for the express purpose of bringing about improvements in local law.

Our own generation will always be known in the history of American law as a period of procedural reform. The catalogues of law schools, articles in law reviews, reports of bar associations, recommendations of other professional organizations such as the American Judicature Society and the American Law Institute—all are data for a highly significant chapter of American jurisprudence relating to improvements in adjective law, both civil and criminal. And when personalities are studied no man will occupy a more prominent and honorable place than Edson R. Sunderland. Professor Sunderland was a pioneer in developing the old-fashioned moot court from a debating society into a systematized form of pedagogy. He was a pioneer in bringing trial and appellate practice into the classroom as an orthodox topic, like contracts and torts. He was a pioneer in doing practical work in the drafting of statutes under the auspices of bar associations, legislative commissions and other non-university professional groups. Finally he was a pioneer in preparing casebooks for the use of law schools offering courses in practice, other than pleading and evidence.

The casebook now under review is based upon a first edition copyrighted in 1924. The most obvious difference between the two editions is the matter of size. The first edition contained 1278 pages and the second 775. Twenty years ago most casebooks were too long—as publishers now frankly admit. In this particular field Professor Sunderland has gained pages by omitting a long chapter on jurisdiction involving many principles of law generally covered in other courses, such as Conflicts. Furthermore the cases included in the second edition generally have been edited and condensed. In the first edition the state cases were cited only by the official reports—a petty feature. In the second edition, Missouri cases and other modern state cases can be traced through the reporter system as well as through the official reports. The first chapter of the second edition is entirely new and relates to pre-trial discovery and hearings. The scope of the remaining portion of the book is indicated by the other chapter headings: continuances and

voluntary dismissal, opening and closing, the jury, trial by court without a jury, judgments, what is reviewable, methods of review, parties to proceedings for review, laying a foundation for a review, proceedings for a transfer to reviewing court, effect of transfer, disposition of case upon review. The chapter on the jury (129 cases) and the chapter on judgments (110 cases) are long, carefully divided into topics and subtopics, and present principles of law of great importance, not taught at all in the average law school a generation ago. The cases in all chapters are well selected and furnish a sound and comprehensive basis for study in classroom discussion. The value of the book is enhanced by many references to the so-called federal rules, and by an unusually complete index.

Lawyers and law teachers in Missouri may feel that the editor was a little too nonchalant in treating what he calls the "right not to have a jury trial" in an equity case when a statute has been passed to create and regulate such a right.¹ We in Missouri since 1895 have recognized as binding our statutory provision² which gives to parties the right to have a jury determine the issue of fraud or no-fraud when a written release is pleaded as a defense to a cause of action and the plaintiff pleads fraud in the execution of the release.

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DOOLEY, DENNIS A., ED. INDEX TO STATE BAR ASSOCIATION REPORTS AND PROCEEDINGS. New York: Baker, Voorhis & Company, Inc. 1942. \$30.00. Limited Edition.

Gradually and securely are law librarians and lawyers gaining complete control over all information contained in legal publications. The most recent advance in pursuit of this goal is the issue of the *Index to State Bar Association Reports and Proceedings*. Edited by Dennis A. Dooley, State Librarian of Massachusetts, and published under the auspices of the American Association of Law Libraries this culmination of three years of intensive indexing provides a guide to a broad and valuable field of legal knowledge which has heretofore been inaccessible to the legal profession.

This publication of 640 pages is a key to 2,138 volumes of bar association reports and proceedings contained in 85 separate series of publications and representing the bar associations of the 48 states and the American Bar Association, the Canadian Bar Association, and the county and city societies of New York. Since 1870 have these volumes reported the work and aspirations of the organized bar of the nation. From the meetings of judges, lawyers and law teachers have emanated many of the legal reforms and developments which the citizens of the country enjoy. The history of bar organization and of the legal profession is recorded in these two thousand volumes. Until now this material has been buried in a mass of individually and poorly indexed proceedings. And until now lawyers and librarians have seen little reason to collect and preserve legal society pro-

1. P. 88.

2. R. S. Mo. 1939 §934.

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