Land & Water Law Review

Volume 1 | Issue 2 Article 12

January 1966

Court Organization and Administration

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LAND AND WATER
LAW REVIEW

VOLUME I 1966 NUMBER 2

MODERN COURTS FOR WYOMING

PANEL OF THE

AMERICAN JUDICATURE SOCIETY

COURT ORGANIZATION AND ADMINISTRATION

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I am most happy this morning to be in Colorado's great sister state, Wyoming. You know, everyone is an expert outside his own home state, but unfortunately for me today, I am so close to my home state and so many of you know me that I am sure that the usual appellation of out of state expert, when applied to me, will get a dim reception from you. As a matter of fact, I am really a sort of Wyoming judge for I sat with your Supreme Court last year on several hearings—but I guess I had better explain that right away. It was at the moot court at your University where my good friend and classmate, Frank J. Trelease, holds forth as dean. I should also like at this time to pay my respects to your very able Chief Justice Glenn Parker. Just recently my wife and I spent a week with him and the delightful Mrs. Parker at the Chief Justices Conference in Miami Beach, and I want

to tell you he is one of the most esteemed and admired members of that conference and his counsel is eagerly sought and listened to with great respect.

I am indeed pleased that you should see fit to invite me to participate with you in discussions concerning a subject which, as I view it, affects the very fiber of our system of government. For I am convinced that an American legal system must fail in its assigned task unless our courts are organized and administered in such a way as to provide sound justice exercised with reasonable speed in an efficient and economical manner with a minimum of technicalities. The people of our fifty states have a right to demand a sound judicial system, and correlatively they have the duty to provide the machinery by which such a system shall operate. For the courts belong to all the people, the judges, the lawyers and the lay citizenry and it is their joint responsibility to adapt this court system to a modern workable design.

As a prologue to what I am about to say to you, I should like to quote from some verses by Sam Foss which appear in the 62nd Colorado Reporter at page 44, and which was quoted by the senior judge of our Supreme Court, Mr. Justice Moore, when he keynoted our conference on judicial re-organization.

One day through the primeval wood a calf walked
home, as good calves should;
But left a trail all bent askew, a crooked
trail, as all calves do.
Since then, three hundred years have fled, and,
I infer, the calf is dead.
But still he left behind this trail, and thereby
hangs my moral tale.
The trail was taken up next day by a lone dog
that passed that way;
And then a wise bell-wether sheep pursued the
trail o'er vale and steep,
And drew the flock behind him, too, as good
bell-wethers always do.
So from that day, o'er hill and glade, through
those old woods a path was made,
And many men wound in and out, and bent and
turned and dodged about,
And uttered words of righteous wrath, because
'twas such a crooked path;

But still they followed—do not laugh—the
first migrations of that calf,
And through this winding woodway stalked because
he wobbled when he walked.
This forest path became a lane, that bent and
turned and turned again;
This crooked lane became a road, where many a
poor horse, with his load,
Toiled on, beneath the burning sun, and traveled
some three miles in one.
And thus a century and a half they trod the foot-
steps of the calf.
The years passed on with swiftness fleet, the
road became a village street,
And this, before men were aware, a city's crowded
thoroughfare.
And soon the central street was this of a re-
nowned metropolis.
And men two centuries and a half trod the foot-
steps of that calf.
Each day a hundred thousand rout followed the
zigzag calf about:
And o'er his crooked journey went the traffic of
a continent.
A hundred thousand men were led by one calf near
three centuries dead.
They followed still his crooked way, and lost one
hundred years a day;
For thus such reverance is lent to well-established
precedent.
A moral lesson this might teach were I ordained
and called to preach.
For men are prone to go it blind along the calf-
paths of the mind,
And toil away from sun to sun to do what other
men have done.
They follow in the beaten track, and out and in,
and forth and back,
And still their devious course pursue to keep the
path that others do.
But how the wise old wood-Gods laugh, who saw
the first primeval calf!
Ah! Many things this tale might teach;—But
I am not ordained to preach.

I quote from this because it is rather apparent that whenever we deal with modernizing a judicial system, we find it most difficult to erase the calf-paths of the mind in dealing with the judicial process.

I do not purpose here to propose solutions to the problems of Wyoming, if any, (and that's a good judicial escape hatch if I ever heard one) for I have no such solution even if I should be so presumptious as to attempt to usurp the functions of the citizenry of Wyoming. But because we have recently experienced the pangs of complete court re-organization in my own state, I shall tell you about some of the deficiencies we discovered in our judicial system. I know that many of the problems we encountered in Colorado do not exist in Wyoming, but some of the problems may be the same and to that extent perhaps our experience may be of some help to you.

Our sweeping amendment of the judicial article of our constitution stemmed in the beginning from general dissatisfaction with our justice of the peace courts. We had a J. P. system which had been the subject of much rather pungent comment by lawyers and laymen alike over the years. As a matter of fact, no one in our state could even tell you how many J. P. courts there were, where they all sat, or who the judges were. But, as in your state, it was a court created by the constitution of our state, and the legislature had no power to abolish it. Finally, and in response to popular demand, as the saying goes, the legislative council, which is the research arm of our legislature, undertook to study the problem and to propose a solution. It was not long before the council became convinced that the deficiencies of the J. P. system was only a symptom of a much bigger problem and that the entire judicial system of the state was ailing in many respects. We had already had some indications that this was so beginning as far back as 1957 when a judicial conference under the leadership of our then Chief Justice O. Otto Moore, made a study concerning problems in the administration of justice. The council asked for and got authorization for an advisory committee consisting of lawyers, judges, newspaper people, representatives of League of Women Voters, business, labor and other citizenry representing all walks of life in

the state. Working together they found that there were long and often unnecessary delays in bringing lawsuits to trial, and in some instances, in rendering decisions. There was on the one hand overlapping of jurisdiction in several courts and on the other hand, situations in which several different courts had to be resorted to in order to gain complete relief. Since you already have a trial court of general jurisdiction, that problem, of course, is not present here and is one with which you do not have to cope. The more we studied the problem the more we became convinced that our judicial system had been fashioned in the same haphazard manner as had the judicial system of most other states, and that, just as in other state courts, changes had been made piecemeal in our judicial system to meet a pressing local need, real, imaginary or political, without regard to the effect on the entire judicial structure.

It became increasingly clear that what we needed was an extremely simple structure consisting of an appellate court (with provision for an intermediate court of appeals if the appellate workload should demand), a statewide trial court of general jurisdiction, and a minor court organized on a county level and readily accessible to the people but an integral part of *one unified* court system. Such minor courts were made courts of record so that an appeal from them could be restricted to review of the record instead of an entire new trial. The ultimate goal was "one trial, one appeal." How well this has worked to aid in the administration of justice is illustrated by some recent figures which the judicial administrator has given me concerning the operation in Denver. Prior to the amendment, every appeal from the justice court was a trial de novo. We had some 3,000 trials de novo in the Denver superior court on appeal from the justice courts. Projecting the number of cases on which there has been an appeal, which must now be based upon the record from the judgment of the county court which, as I have told you, is equivalent to the old J. P. court, we will have some 72 such cases, a dramatic difference of 2430 cases. We were also convinced that despite the formidable argument for specialization, what we needed were specialized judges within an in-

tegrated court system, rather than specialized courts. And I want to tell you it won't be long before there will be pressures in Wyoming for specialized automomous courts—such as juvenile, or domestic relations or probate. We determined to keep the constitutional provisions setting up our system as concise and as direct as we could make them. We left for implementing legislation and rule of court the details. And that decision proved to be wisdom itself. For a mountain of statutes were necessarily passed repealing old laws and substituting new ones, and an entirely new set of rules of procedure, both civil and criminal, for operation of the county court, formerly the J. P. courts, was formulated, and already we have determined, after six months' experience, that some of them are unworkable. But we will not have to go through the tortuous process of constitutional amendment to change them. And, now, rather than goodness knows how many different types of procedure, I guess as many as there were justice courts, we have a simple, settled procedure in the so-called minor courts which is as far as is practicable uniform and those courts, too, became part of an integrated system subject to supervisory controls.

Equal in importance to a streamlined, unified court system, we were convinced, was proper administrative control of that system. And, indeed, we had begun work upon that phase of the problem even before the constitutional amendment was proposed in its final form, where our Supreme Court was charged with the general supervisory power over all inferior courts and *was required to make and promulgate rules governing the administration of all courts and rules of practice and procedure.* I might point out that the new Section 21 of our constitution was deliberately designed and contains words of art "shall make and promulgate rules for the administration of all courts and rules governing practice and procedure." This specifically gave the power and required the Supreme Court to administratively control and operate the entire judicial system of Colorado. Our studies convinced us that the business of courts had become, as it were, big business. Although the business of courts deals with human values and human dignity, rather than profit and loss as

does private business, we felt that there was no reason why we could not apply responsible methods of private business in an effort to operate the courts as efficiently and as economically as possible. We knew no business could operate efficiently without a responsible head, and we became convinced neither could a court system. To that end we divided the state into six administrative districts with one justice of our Supreme Court assigned to supervise the administration of the courts in each of those districts, and with the Chief Justice as the general supervising authority. We are now not entirely sure that this plan is the best system for it sometimes results in six different administrative procedures in the various supervisory districts. We think now, perhaps, that the entire court, acting through its Chief Justice with the aid of the judicial administrator should be the single supervisory authority and that concept is now being promulgated in the new amendment which we propose to bring to the people of the State of Colorado in 1966 which deals with judicial selection, judicial tenure and judicial removal, which also contains his strengthening administrative control. The office of judicial administrator was created by statute to assist the justices in their supervisory duties. Statistical controls were set up by the administrator, and through such controls the supervising justice could quickly tell the docket situation in any court in his district, and was able to determine what judges were available for assignment on a short-term basis to another district where an unusual congestion might temporarily be present. I understand that congestion is not generally a problem in Wyoming, but don't be complacent about that. Wyoming's phenomenal growth and new industry will in the next few years bring the same problem of dockets to you in major populated districts and I hope you are more prepared than we were to cope with it.

We also became convinced that it was necessary that our court and the district court recognize that each judicial district was one judicial district with ten judges or five judges or two judges, as the case might be, and not ten judicial districts where there were ten judges assigned to the judicial district, nor three independent judicial districts where there

were three judges assigned to the judicial district. We pointed out, and have now administratively set the rules that within a judicial district all the judges must be ready and willing to help with the case load of the entire district, and in those districts where more than one judge sits in the same city, and when an individual judge has finished his work for the day he must determine from the presiding judge of the district whether there is any further business in the court house to be handled before he can leave that court house. And we have appointed a presiding judge in each district and made them administratively responsible to his supervising justice.

A yearly judicial conference, at which all judges in this state were required to be present, was also instituted. Here court administration, as well as developments in substantive law were discussed. It was to the exercise of supervisory administrative controls that we got most of our opposition from lawyers and judges. The welkin rang with cries that this was an interference with the independence of the judiciary and the individual judge's right to run his own court. The protest has in the main not receded as trial judges and lawyers work with our judicial administrator to formulate rules which lead to the better administration of justice and more economical operation of their courts. Let me say to you, that in my opinion, those who object to leaving the calf-path of irresponsibility in judicial administration and who deem the placing of administrative responsibility for the operation of the courts in the highest judicial tribunal in the state as an invasion of the independence of the judiciary, are gravely mistaken, for the course which they would pursue must inevitably lead to the destruction of the independent judiciary. Administrative controls, the authority to devise internal operating procedures for the more efficient operation of the system, statistical controls, moving of judges to meet temporary docket strains, etc.,—these in no way interfere with the inherent authority and the traditional independence of the judge in his decision making functions, and they must never be permitted to do so. But, I say to you, in all sincerity, that unless there is established within the judiciary itself a central administrative control which accepts the responsibility for

dignified, efficient and economical management of the judicial system and which does not concern itself with outworn concepts of personal and official prerogative, the legislative branch of the government will, in response to the demands of the people, take over that function and then the independence of the judiciary which we so highly prize in this country of ours will indeed be lost.

This suggestion which I make is not as far-fetched as it may seem. Recently I attended a conference in Texas dealing with the same matters with which we are dealing here, and I heard expressed by laymen the viewpoint that lawyers and judges were not good managers and that lay-people could do a better job of administering the courts than could the lawyers and judges. I do not think that is true, but, as I said before, unless the judiciary does carry out its administrative functions the people will see to it that someone does the job. Social scientists are now beginning to hold conferences as well, and they are dangerously talking about boards and laymen to handle much of the present matters which our American tradition says should be handled in the courts.

And just as charity begins at home, so does efficient management of the courts. To that end, our Supreme Court itself, with the help of our judicial administrator underwent a period of agonizing self-appraisal. The Chief Justice was given complete administrative authority. Many new efficient procedures were instituted by him and many old and useless routines were discarded. I haven't time to go into them now, but what they were and are appears in an article by Justice Sutton in "Journal of American Judicature Society." The result was a dramatic decrease in the backlog, which unfortunately has now risen again because we cannot cope with the tide of appeals. And we are now analyzing our entire Supreme Court procedures to get a more simplified system within our clerk's office and cut costs, *e.g.,* binding records.

In the short time allotted to me I have tried to touch upon the problems in re-organization and administration which every state must inevitably face when it examines a judicial system established in other times to meet other conditions. *To accomplish what you seek here, will not be easy.*

There will be setbacks, disappointments, and inevitably compromise, but, the task is too important and the stake too high to waver in the assignment you have undertaken.

Let me close by quoting Mr. Justice Brennan, of the United States Supreme Court in addressing a conference on judicial organization, where he said in closing:

> Let us not forget that the integrity and efficiency of the judicial process is the first essential in a democratic society. The confidence of the people in the administration of justice is a prime requisite for free representative government. The public entrusts the legal profession with the sacred mission of dealing with the vital affairs that affect the whole pattern of human relations and certainly has a stake entitled it to demand not only that judges dispense justice impartially and fairly but also that judicial business shall be handled and disposed of by a modernized process which assures a minimum of friction and waste, for such a process also plays a large role in the achievement of impartial and fair justice for all litigants.