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George Ragland Jr.
University of Kentucky

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METHODS OF COOPERATION BETWEEN THE JUDICIAL COUNCIL AND THE LAW SCHOOL.

Reports issued by the Judicial Councils of the various states to date indicate that a majority of the council have found it expedient to cooperate with the leading law schools located in their respective states. In most of these instances the schools thus used have been state owned or publicly endowed institutions. Apparently this combination has been a happy one from the standpoint of both agencies. On the one hand, the Judicial Council has felt, and rightly so, that it could avail itself of the services of all public servants. On the other hand, the law schools have recognized their responsibility in the matter not only by reason of their relation to the state, but also because of their larger interest in the efficient enforcement of the laws.

While there has been this agreement as to the desirability of some form of cooperation between the two institutions, there has been a corresponding diversification as to the exact method by which this cooperation might be effected. Several entirely different plans have been tried in the various states. It is the purpose of this note to summarize these methods, strictly on the basis of the reports issued by the Councils themselves.

I. LAW SCHOOL REPRESENTATION ON THE COUNCIL.

The most obvious method has been to include the Dean or some member of the law school faculty in the Council's membership. Texas, Michigan and North Dakota are using this plan at the present time. In each of these states the legislative act which created the Judicial Council also contained the provision that the state university law school should have representation on the body. In Texas Dean Ira P. Hildebrand of the University of Texas Law School is the representative; in Michigan Professor Edson R. Sunderland of the University of Michigan Law School has been chosen; while in North Dakota the statute provides that the Dean of the State University Law School shall automatically be a member of the Council by virtue of his office as Dean.¹

¹ These acts are collected in 17 Kentucky Law Journal, 373.
II. Auxiliary Research by Law School.

Perhaps the most thoroughgoing arrangement of all has been effected in Connecticut, even though judges and practitioners only make up the Council's personnel. The arrangement is outlined in the First Report of the Connecticut Judicial Council as follows:

"The Council wrote Dean Robert M. Hutchins of the Yale School of Law, requesting that the Law School give it the benefit of the experience, study and judgment of its professors in its work. Dean Hutchins at once replied that the Law School 'would be more than pleased to cooperate in any possible way with the Judicial Council.' At the first meeting of the faculty in October, 1927, Professor Charles E. Clark was appointed 'as the official and continuing representative of the School in matters which were of interest to the Council.' Four days later Professor Clark suggested to the Council that the help of the School in research work could be given through the members of the faculty, through research assistants and research honor students, and furnished a detailed list of subjects which he deemed matters peculiarly appropriate for the attention of the Council.

"Subsequently at a luncheon given to the Council by the faculty of the Yale School of Law presided over by Dean Hutchins and attended by President Angell, the School further volunteered its services to the Council in making intensive studies and research of subjects which might be under investigation. The work of the School in this regard has proved of great value. Exhaustive research has been made under the direction of the Law School faculty in a number of subjects by the research assistants and research honor students, namely:

Appellate Procedure by Samuel O. Clark, Jr., by Fred B. McCall and George E. Buchanan.
Comment on the Failure of the Accused to Testify, and
Discovery under Modern Statutes, by Fleming James, Jr.;
Summary Judgments by Charles V. Samenow;
The Constitutionality of a Jury of less than Twelve, by John E. Parsons;
Special Pleas of Affirmative Defense by Defendant in Criminal Cases, by James W. Cooper; and
Expert Testimony by Morris Tyler.

"It would not have been possible for the members of the Council to have devoted the necessary time to making such extensive researches, and yet they were indispensably necessary in order to demonstrate that any proposed change was advisable, and that the change proposed to be made was the best possible to be found. The Yale School of Law has performed and is performing a distinct public service to the State of Connecticut in undertaking this work. President Angell said in his annual report: "The Law School should be to the law what the laboratory is to medicine." It is doing just that. The Judicial Council acknowledges its high obligation to the Yale School of Law."[2]

The Washington organization adopted a similar expedient. It requested the Assistance of Dean Alfred J. Schewpke of the

University of Washington Law School in preparing an analysis of the various remedies which had been adopted in other states to relieve the highest appellate court. In a generous spirit of co-operation Dean Schweppe prepared such a report. This in turn was considered by the Council and its recommendations were accepted and used as the basis for enactments which the body asked that the legislature make.3

III. Special Addresses and Papers by Law School Faculty Members and Use of the Law Reviews.

The Virginia, Massachusetts and Oregon Councils have employed yet other methods of cooperation. Professor Hugh N. Fuller of the University of Virginia's Research Institute was invited to address the Virginia body at its second meeting and as an outgrowth of this contact both bodies were able to cooperate in the compilation of certain data concerning criminal law enforcement in the State.4 The Massachusetts Judicial Council has availed itself of special studies made by law school professors, notably the studies of Professor Sunderland on English Civil Procedure.5 Finally, the Oregon Council, being rather limited as to funds, has used the Oregon Law Review for the publication of its reports and other matter connected with its work.6

As a matter of fact busy judges and lawyers do not have the time which is required for the rather arduous tasks of research and investigation which the Council demands, if it is to meet its highest possibilities. In some instances they do not have the research libraries and other facilities which are needed. Consequently, we are not surprised to find, as the published reports indicate, that the Judicial Council as an institution is finding an able ally in the Law School.

GEORGE RAGLAND, JR.

University of Kentucky, College of Law.

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4 Minutes of a Meeting of the Judicial Council in Virginia (1929), 7 ff.