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INTRODUCTION TO SYMPOSIUM

MAYNARD E. PIRSIG*

It is particularly appropriate that this issue of the Minnesota Law Review should be dedicated to the late Professor Wilbur H. Cherry. The Minnesota Rules of Civil Procedure discussed in these pages embody in large measure the high standards and ideals in the field of procedure for which he stood and to which he devoted his life. They contain much of his wisdom and handicraft. He was an active and productive member of the Advisory Committee of the United States Supreme Court from its inception to his death. This Committee prepared and recommended for adoption the present Federal Rules of Civil Procedure for District Courts and their later amendments and the new Minnesota rules are largely the embodiment of the federal provisions.

Professor Cherry had a comprehensive, precise and purposeful understanding of the field of procedure which he sought to pass on to his students. For thirty years, graduates of the University of Minnesota Law School entered the practice of law in this state trained in procedure under his guidance. He was not only a master of procedure but a masterly teacher of it. To him the law of procedure was no mere matter of detailed rules to be memorized and mechanically applied. It had a vital role, to make the discovery of truth more sure and the application of the law more correct. He realized that not only were rules of procedure necessary to the orderly administration of justice but that members of the bar must master the rules, see their purpose and improve them when their purpose would be better served. His teachings increased the awareness of the legal profession of the state to the need for the adoption of the new rules and will make their interpretation and administration easier.

The adoption of a new and extensive revision of the procedure of the state required the immediate mastery of it by the bench and bar of the state. In the thought that the Law School might be of some service in this respect, it organized the Institute on the Rules in December, 1951, to supplement the Institute given by the State Bar Association earlier. With this issue of the Minnesota Law Review, there is made available the contributions of the respective authors based on the materials presented at the Institute. Concentration has been on those portions of the rules in which it was thought there would be the greatest interest, either for their newness

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to Minnesota practice or for the large changes which they introduced. The Summary Judgment procedure, new to Minnesota, is presented in its underlying bases, principles and purposes in the article on the subject by Judge Charles E. Clark, whose qualifications are known to all judges and lawyers. Discovery likewise is new to Minnesota and radically alters the lawyer's former methods of preparation of trial. Professor David Louisell has dealt very specifically and thoroughly with the various aspects of this vital topic with which the practicing lawyer needs to be familiar. He presents also the methods to be pursued and possible achievements in pre-trial conferences, a procedure which the bench and bar of this state seem to approach with much hesitation and reluctance. Judge Gunnar H. Norbye, with scholarly analysis and against a background of wide experience in both former Minnesota practice and current federal rules, presents the effect of the new rules on the conduct of a lawsuit. The important subject of the changes introduced by the new rules in the law governing joinder of claims has, I think readers will agree, been made less difficult and more meaningful by Professor Charles Alan Wright. Finally recognizing that any revision of the law on such a substantial scale will in some measure leave problems, defects and unanswered questions, it was felt that the bench and bar would wish them called to their attention. Under the rule making power, in the exercise of which the rules were adopted, any needed changes in the rules can readily be made. The difficult assignment of analysing the rules and indicating changes that appeared to be called for was left to Mr. Benedict Deinard, whose ability and wide experience in the court room in both state and federal courts particularly qualified him for the task.

It is the hope of the school that this symposium will be of service to the bench and bar of the state and will promote the effective and efficient administration of justice under the new rules. The adoption of these rules was a great step forward in advancing the cause of justice in this state, for which the Supreme Court, its advisory committee and the judges and lawyers who supported them deserve general commendation. There remains only the wise and effective administration of them. That this will be provided by the bench and bar of the state one need have no doubt.