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LEGISLATION

JUDICIAL CODE AND JUDICIARY

"Streamlining Legislation" is a fitting classification of Chapter 646 — Public Law 773, An Act to revise, codify, and enact into law title 28 of the United States Code entitled "Judicial Code and Judiciary" which was approved on June 25, 1948 by President Truman and which became effective September 1, 1948.*

This recent legislation is of vital public interest and should ease the burden of bench and bar alike in determining the law relative to federal courts and their procedure. Since its effective date, Title 28 of the United States Code is the law—rather than *prima facie* law or presumptive evidence of the law, as had been its status until that time.

No longer will exist the necessity, always at the risk of error, of constant reference to numerous volumes of the Statutes at Large through which the relative statutes previously were scattered, in an effort to find the law in this particular field. The point may move the court to have the evidence taken on the trial certificate. At last, this phase of the body of Federal law is clear, certain, and available. As pointed out in the reports accompanying this legislation, plain language has been employed, conflicting laws reconciled, related provisions consolidated, and superfluous sections repealed.

This was the first revision of such law since that reflected in the Judicial Code of 1911 (ch. 231, 36 Stat. 1152) enacted into law March 3rd of that year. The intervening period had created a pressing need for such legislative action. Related statutes passed since 1911 had constituted voluminous material on the subject of the courts and their procedure, much of it ambiguous and part of it obsolete in view of the Federal Rules of Civil Procedure prescribed by the Supreme Court. Tremendous increase in the population of the nation, together with social and economic changes during this period of unequalled progress all served to accentuate the need.

The history of the Judicial Code dates back to the first session of the First Congress when the Judiciary Act of 1789 (ch. 21, 1 Stat. 73) became law September 24, 1789 establishing the federal courts and setting forth regulations for their jurisdiction and procedure.

As the law relative to these courts developed there was little if any effort made to reconcile conflicting provisions until the whole body of Federal law was examined by the commissioners empowered by Congress in 1866 to prepare the Revised

*See: Senate Report No. 1559, 80th Congress, 2d Session, and House of Representatives Report No. 308, 80th Congress, 1st Session.

Statutes of the United States. The commissioners' study resulted in obsolete and superseded provisions being repealed and all existing laws relative to the courts being analyzed, revised, and consolidated into Title XIII of the Revised Statutes, entitled "The Judiciary". The Revised Statutes were finally approved in 1877.

The study and preparation of the 1911 legislation, *supra*, was accompanied by the same commission that drafted the Criminal Code of 1909. Again, numerous statutes were either revised or consolidated, some obsolete laws abolished, and improvements introduced; it was at this point that the old circuit courts were eliminated and their jurisdiction transferred to the district courts.

The complete text of the new law, authoritative legislative history, full reviser's notes, matter index, and special tables are included in a 700-page volume entitled "Title 28, United States Code Congressional Service" which is now obtainable from either the West Publishing Co., St. Paul, Minn., or the Edward Thompson Co., Brooklyn, N. Y.

Joseph A. Mahon