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https://www.repository.law.indiana.edu/facpub/1588

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times embarrassing. We who recognize their responsibilities appreciate
all the more their candor, learning and prudence in giving us their
thoughts on that ever engrossing subject: The Common Law.

EDWIN W. PATTERSON

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Undoubtedly the publication of Professor Stason’s volume of materials is a welcome event to law school teachers of administrative law, and rightly so. This casebook is the first to enter into the details of administrative procedure and is the only recent work which deals with the non-constitutional aspects of administrative law in the American states. Hence it brings its subject down to the earth which the practic-
ing lawyer is required to till and provides an eminently useful teaching tool for professional purposes. At the same time the quantity, diversity, and controversial nature of the materials included are such as to tax the ability of both teacher and student, while the suggestion in the footnotes and editorial comments of additional problems to be studied is sufficient to afford a considerable stimulus to independent in-
vestigation.

The book is usefully divided, into three parts which are devoted, respectively, to the origin and functions of administrative “tribunals”, the procedure of such tribunals, and judicial relief from administrative action. The bulk of the space is devoted to appellate decisions, but there is a generous addition of textual matter drawn from such sources as the report of the Committee on Ministers’ Powers, the reports of the American Bar Association’s Special Committee on Administrative Law, and the decisions and rules of the Interstate Commerce Commission, as well as a reproduction of numerous statutes, including the Communications Act, the Longshoremen’s and Harbor Workers’ Compensation Act, and the Federal Register Act, which are given at length, and ex-
cerpts from the Interstate Commerce Act, the Commodities Exchange Act, the Johnson Act, and various Federal and state statutes governing administrative procedure and judicial review of administrative deter-
minations. The cases reprinted are strictly modern, with only five ante-
dating 1890 and relatively few going farther back than 1910, and are
confined to the United States. A valuable bibliography is included.
The table of contents contains detailed sub-headings and an enumeration of the cases and other materials reprinted. Thus it is far more useful than the usual skeleton of topics.

The editor summarizes or introduces various topics by means of text passages and raises questions in footnotes after the manner of other recent casebooks. The volume opens with sixteen pages of text discussing the development of administrative tribunals, the reasons for it, and the problems engendered. The nature of the functions of such tribunals is introduced by a classification of those functions drawn from the report of the Committee on Ministers’ Powers. The limitations upon the usefulness of the conceptual classification of functions are recognized in the text dealing with that question (pp. 81-82). The importance of administrative discretion is emphasized by the devotion of a chapter to the limitations upon it.

Professor Stason has not attempted to duplicate the rich mine of historical and constitutional material which is assembled in the casebook of Professors Frankfurter and Davison. Some will feel, with the reviewer, that an adequate basis for judging the significance and merits of the development of administrative powers has not been substituted. The teacher using the book can, of course, supply his own. But it is arguable, at least, that contemporary economic and political theory and opinion, if not actual data, would be a desirable antidote in the casebook itself to the legal theory which is set forth and which yields in the statutes and in many of the cases to factors that are nowhere generalized with conviction. The editor’s recognition (pp. 2-7) of the reasons for the employment of administrative “tribunals” in government and of the inevitability of their further use is only by way of very brief summary. Much more adequate, on the other hand, are the suggestions of technical competence as a reason for administrative tribunals in certain fields (pp. 104-129) and the material relating to the inquisitorial power of such tribunals (c. V).

Despite an evident desire on Professor Stason’s part to be scrupulously impartial in presenting the highly controversial issue of the fairness of administrative agencies to affected private interests, it is possible to argue that at times he has assumed the role of the somewhat biased objector. He chooses to deal, “for want of a better term”, with administrative “tribunals”, defined as “administrative organs which are implemented with grants of legislative power, or judicial power, or both of such powers” (p. 4). The word connotes a court or forum that decides disputes. It has a judicial flavor. Any agency so tagged which proceeds in a summary manner seems at once to depart from an as-
sumed norm in a way that demands explanation. Viewed from a different angle, administrative agencies are just that, and they are entitled to employ any procedure which will accomplish their purposes fairly. The tax collector, the health officer, the postmaster, and the President legislating against the transportation of "hot oil" do not preside over "tribunals". They are simply agencies performing the work of government. The Board of Tax Appeals, of course, is a tribunal and so are many other administrative bodies. But a neutral term seems more desirable to characterize administrative agencies as a whole in a book which deals with all that affect private persons and property.

Coming to matters of more detail, one finds Professor Stason specifically asserting (p. 101) that "both good sense and the experience of the ages indicate the unwisdom of too intimate an alliance between the prosecution of the case on the one hand and adjudication on the other." No one would quarrel with this statement, but the assumption that it applies to administrative agencies in which a separation of functions has not been accomplished is objectionable. Is an agency which investigates an alleged evil a prosecutor as well as a judge in any true sense, merely because it has itself initiated the proceeding? Are abuses especially liable to occur in the course of its investigation? The question does not answer itself as many are wont to assume, for even the scientist begins an investigation with a hypothesis. Hoary maxims do not answer it. What we need is more information regarding the actual working of administrative agencies. Gerard Henderson found abuses in the Federal Trade Commission. The Bureau of Immigration a few years ago stood convicted of long-continued resort to oppressive tactics in deportation cases. Other agencies, such as the Interstate Commerce Commission and the Land Office, have borne study with credit to themselves. The Committee on Ministers' Powers found nothing to criticize in England. Whatever chance the law may have for the attainment of scientific accuracy rests upon further careful examination of legal phenomena, unprejudiced by generalizations which are not based upon evidence that is pertinent to the matter in hand.

One may rightly take exception, also, to Professor Stason's summary of the Arlidge case (p. 246), which he prefaxes with the statement that in England the right to notice and hearing "has become decidedly attenuated in recent years". After outlining the procedure employed, he asserts that "in short, no semblance of a judicial hearing was afforded to the aggrieved Arlidge". This characterization seems hardly accurate when applied to a proceeding in which the slum-owner was
given a full opportunity to present his case orally to an inspector and in writing to the Local Government Board and was denied only the privilege of seeing and meeting the inspector’s report and the opportunity of knowing which official in a responsible office finally approved the closing order. The statement is made, further, that the case illustrates “the extent to which administrative law... had invaded a common-law stronghold”. Actually, of course, slum clearance is not a common-law stronghold; for the common law knew nothing of this or most of the other social functions of the modern state.

One might proceed at great length, detailing the numerous specific merits of Professor Stason’s book and raising a very much smaller number of objections to this or that point. It should be evident by now, however, that here is a thorough, up-to-date, useful work for law-school purposes. One merely hopes that it will not be employed to cultivate in the next generation of American lawyers the naiveté of a Hewart and of many, though by no means all, contemporary bar association speakers on administrative law.

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American political thought has been singularly unacademic in character. The body of it has been developed by practising politicians engaged in congressional debate, judicial review and campaign controversy. We find few of our professional philosophers in the period covered by Mr. Lewis’ book writing systematic political treatises. Royce, Peirce, James and Chauncey Wright have left few analyses of the state, sovereignty or the law.

Mr. Lewis’ book is very informative. It presents by means of extensive quotation a good chronicle of political thought from the Civil War to the World War. The debates surrounding the passage of the war amendments, the rise of judicial power in their interpretation, and the opposition to this power, are treated in chapters I–III. Chapters IV–VI describe the discussions on the nature of the union, the state, sovereignty and the law. From here to the end there is a detailed treatment of theories of political action and what Mr. Lewis calls “tests of political action.”

The study suffers from two major defects. (1) It fails to relate