1954


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https://www.repository.law.indiana.edu/facpub/1624

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in title that are not revealed of record, for example, infirmities occasioned by false testimony as to the heirship of an intestate decedent, or by forgery, lack of delivery of a deed that forms a link in the chain of title, forgery of a release or satisfaction of a recorded mortgage, and the like. Indeed whenever a title depends upon an affidavit or recital, the risk is there that the affidavit or recital is false. Statutes of limitation can minimize but cannot wholly eliminate these risks. All such risks are insured against in a policy of title insurance.

More liberal title standards are not the answer, for they simply shift the risk from the lawyer to his client. Nor is the answer to be found in any radical legislation that would enable the chancellor in a specific performance case to compel the buyer to take a title where the outstanding interests have small value or represent only remote risks. Such risks are properly borne by a professional risk-bearer. And even perfect titles will always be subject to the risk of unwarranted litigation brought by contentious individuals, by "strike" or "shakedown" specialists, by those involved in family feuds, and by those who are simply misguided. Here the standard defense of title provisions of a title policy provide the only adequate protection.

It is only fair to confess that as an officer of a corporation engaged in the issuance of title insurance the writer of this review is not wholly free from bias. At all events, those who are interested in titles, whether as bar groups seeking title reform, title examiners, abstracters or insurers of title, will read Mr. Basye's book with immense interest and profit. Innumerable sources of objections to title are detailed, and since it is important to a title examiner to know what to waive as well as what to raise as an objection, the discussion of curing defects is invaluable. Even the most experienced title examiner will find his horizons immeasurably enlarged if he reads this book. He will reappraise his local legislation, court decisions and title standards in the light of the countrywide survey he finds here. The book is an invaluable contribution in an important field of law.

ROBERT KRATOVIL*


Despite its origin in the school where Christopher Columbus Langdell launched the casebook method, this volume departs as widely as any so far published from the traditional casebook model. For a considerable portion of its bulk, it consists of a text supplemented by cases and other material, rather than of cases supplemented by text passages and notes. The editor's purpose seems to have been to provide the student efficiently and realistically, by whatever means were available, with a reasonably adequate basis for grappling with administrative-law problems and to point up some of the more significant of these problems. In this purpose he has succeeded admirably and thereby has made a contribution to a developing method of law teaching.1

The editor's treatment provides good teaching material, adequate in

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1. Professor Davis has articulated the need for such a method in teaching administrative law. Davis, Cases on Administrative Law p. v (1951).
depth and in the areas covered, reflecting wide knowledge, and recording mature, stimulating judgments on controversial issues. Questions and problems for the student to ponder are interspersed through the book. These, including several that pose questions of statutory drafting, have genuine practical significance and are not designed merely to be provocative or to elicit obvious thought on broad issues. In the many passages where the editor supplies the text, his style is frankly personal, not dreading to use the first or second person singular in a few places, or to use such odd expressions as "‘flesh’ the skeleton with a program" and "quits" as a noun for acts of leaving employment.

In the first chapter of 100 pages, dealing with "The Constitutional Position of the Administrative Agency", Professor Jaffe deals in unique fashion with the separation of powers, knitting significant modern cases and statutes together by a text that assumes, as it should, acquaintance by the student with fundamental political history and theory. He discards both of the opposing errors that brand the separation of powers as, on the one hand, based on clearly separable types of governmental operations and, on the other hand, meaningless. Well-chosen examples demonstrate that certain operations of government cannot constitutionally be shifted from one branch of government to another; yet all three departments "make law," and "adjudication" is certainly common to the executive and to the judiciary.

It is central to Professor Jaffe's thesis in the first chapter that the lines of demarcation at any given time between legislature and administration, administration and courts, and administration and the Constitutional Executive (the President) result in considerable part from political desires to circumvent opposition and secure personnel favorable to the accomplishment of substantive purposes. Thus the NRA was established to effectuate economic reforms which the traditional organs of government could not accomplish; the NLRB was designed to establish rights of self-organization and collective bargaining that could never have been brought about through the courts, not because the necessary processes were lacking but because the will to achieve reform could not be instilled. One may accept the general truth that resides in this conclusion without subscribing altogether to the view that the work of the NLRB in dealing with unfair labor practices "calls for no different techniques or intellectual grasp than a hundred other fields of law enforcement currently the business of the judiciary." The editor concedes a few sentences later that the performance of any governmental task of sufficient magnitude may benefit from specialization and the "special understanding" that results from specialization. Specialized techniques are likely to develop. These advantages may be uniquely worth purchasing in a given field, as they are thought to have been in workmen's compensation and social security administration, without particular reference to substantive policy considerations.

One may question the consistency of the editor's definition of the administrative process in his Introduction, which identifies it as "rule making when not done by the legislature and adjudication when not done

3. P. 100.
4. P. 488.
5. P. 12.
6. P. 79.
by the courts,"7 with his non-conceptual approach to separation-of-powers problems in Chapter 1. He explains, it is true, that "we shall study the conditions under which such powers are created, and the means whereby they are executed," with particular reference to "the mother solution in which these crystallizations occur: the consistent plan-making, fact seeking and negotiation which come before and after the formal order and often substitute for it," and with emphasis upon the truth that the administrative process "is par excellence an area of the legal universe in which government sets as its goal the continuous pursuit of effective policy." Throughout the book Professor Jaffe places much emphasis upon the continuous gathering of information which agencies undertake and the methods whereby policy is effectuated. He also does not overlook summary powers, which involve rule-making or adjudication only by a stretch.8 All in all, it may be questioned whether it would not be preferable to discard formal concepts altogether in delimiting the field and to define "the administrative process" simply as the methods—in reality many, rather than one—whereby government brings its authority to bear on private persons and property through agencies in the executive branch.

The over-all organization of Professor Jaffe's book is not fundamentally different from that which has become standard in such works as Davis's textbook;9 but there are significant variations of detail and the terminology is markedly different. Inserted between the first chapter and the chapters that follow, dealing with administrative procedure, is one entitled "The Formulation of the Administrative Program: Herein of Res Judicata." In it are embraced a brief account of "Formal Sanctions", consisting of licensing, reparations, fines, taxes, bounties and contracts, insurance, and "provisional and summary powers." Alternative processes are also reviewed briefly, including adjudicatory hearings, informal methods of disposition, rule-making, and investigation. These discussions are followed by sections dealing with the requirement of specificity of regulations, the authority of administrative agencies to interpret statutes, the retroactivity problem, advisory opinions and "estoppeils," the choice between rule and adjudication, and problems connected with licensing. Res judicata emerges as a "recurrent theme," arising in various contexts and involving "the impact of [administrative] change on persons who have relied on the status quo ante."10 Usefully, this theme is followed through retroactive changes in legislative regulations (Addison v. Holly Hill), award of reparations in relation to previous rate orders (Arizona Grocery Co. case), changes in interpretative regulations, effects of advisory opinions, stare decisis in relation to adjudicatory action, formulation of new law in the decision of particular cases (Chenery case), and power to alter the authorization given to licensees. On the whole, this chapter is an excellent one, although to this reviewer the term "sanctions" is unduly stretched to cover many of the end-products of administrative proceedings. It might have been better, too, to borrow somewhat more heavily from Freund's analysis of administrative powers11 which, despite its somewhat difficult language, is highly perceptive.

7. P. 2.
9. DAVIS, ADMINISTRATIVE LAW (1951).
Slightly more than one-third of Professor Jaffe's book is devoted to the matters so far outlined. A somewhat greater portion is embraced by the next five chapters which deal with procedure, including jurisdiction, investigations, hearing and decision, and enforcement of decisions. Here the usual range of problems is discussed with clarity and emphasis upon significant issues. One of the best sections of the book takes up the problems of specificity of orders, relation between the formulation of an order and the function of a court in an enforcement proceeding, and the effect of a change of circumstances upon enforcement problems pointed up by the Ruberoid case and other recent decisions.

The remainder of the book deals with judicial review in the relatively brief fashion made possible by previous treatment of the administrative process in relation to judicial action and of the judicial function as it contributes to administration. An excellent 17-page text summarizes the various forms of review proceedings and is followed in the same chapter by consideration, in turn, of non-reviewability and of the factors conditioning the availability of review in particular circumstances, such as the interest entitling persons to seek review, exhaustion of administrative remedies, and "ripeness" for review.

Scope of review is covered in the concluding chapter of 47 pages. The Universal Camera case from its inception in the Court of Appeals to its conclusion there serves as the sole basis at this point for presenting the problem of review of ordinary questions of fact; but non-statutory proceedings have been treated earlier under the caption, "Right to Judicial Review." One may or may not care for this distribution of subject matter; but it is certainly a tenable one. The Ben Avon and Crowell v. Benson doctrines receive their due in a section immediately following, which is skillfully edited to produce both brevity and up-to-dateness. A final section deals sketchily with review of questions of law, including questions of statutory interpretation, or "mixed" questions, involved in such cases as NLRB v. Hearst Publications.

One of the most valuable features of Professor Jaffe's treatment is his excellent summaries of public and legislative purposes that have generated administrative agencies and the methods they have been authorized to use. Instead of attaching the material in his book to the development of a single agency in order to achieve realism, he has succeeded in supplying this desirable ingredient more interestingly and fruitfully for the student. His résumés of the antitrust problem, the movement to secure the right of self-organization to employees, the procedural development in passport administration, and the handling of broadcasting interference problems are illustrative.

In general Professor Jaffe cites the literature of administrative law only sparingly and the cases on a highly selective basis, usually to give the source of a point of view or a development which is referred to specifically. Here, then, is no source-book for research, but definitely a teaching tool with rather precise guides for further reading by the student. State material is interwoven to a desirable extent and includes occasional valuable summaries of the provisions of state administrative procedure.

legislation on particular points. Usually federal material forms the core of the presentation; but occasionally, especially in matters of practice, state cases take the lead.

Such a book needs to be handled in a far different manner from the conventional; and it is well that it should be so. Rather than the statement of cases by students in class, the method to be employed must almost necessarily be the discussion of problems or hypothetical cases presented by the editor or proposed by the instructor, drawing upon the material in the book for arguments and possible answers. Since, as many believe, this is the most desirable method of classroom teaching, at least after the first year of law study, the editor's stimulus to it should be welcomed as much as the insights he contributes to the understanding of administrative law.

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