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Administrative Powers Over Persons and Property, by Ernst Freund

Oliver P. Field
University of Minnesota

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REVIEWS

ADMINISTRATIVE POWERS OVER PERSONS AND PROPERTY*

This book contains a tremendous amount of detailed information on administrative law in so far as that subject deals with the topic of administrative powers over persons and property. Professor Freund has, as usual, worked out a very elaborate classification of the subject. For example, in connection with the classification of powers, he speaks of determinative and non-determinative powers, directing powers, regulative or rule making powers, powers of abstract determination, and disciplining, examining and summary powers. To the average student of administrative law and, for that matter, to the average teacher of the subject, such phrases as those referred to mean very little. They will mean only a little more if Professor Freund's treatment of them is read over casually only once. It takes a good deal of study to find out just exactly what the author has in mind when he uses these various phrases. Opinions may differ as to the value of these classifications, but at any rate they represent the careful thought and hard work of one who has worked over the materials of the subject of administrative law for a long time. They are, therefore, worth the trouble of understanding.

The primary object of the book seems to have been two-fold: To make an analysis of administrative powers, and to make an analysis of the statutory provisions operating with the aid of administrative powers in connection with certain subjects, such as public utilities, shipping, banking, insurance, trade legislation, labor legislation, and a number of others. Manifestly, it would be impossible to analyze in detail the statutes of the forty-eight states on all of these subjects, and to present the analysis within the scope of a book of six hundred pages. Therefore Professor Freund has limited himself to the federal legislation, and that of New York, England, and Germany immediately before the war. References are occasionally made, however, to the statutes of other states. Several hundred cases are also referred to in the course of the book, although cases seem to be less frequently cited than would be true if the citations were put in footnotes, which they are not in this work, and quite properly so.

The primary value of this work is perhaps that it affords a model for an analysis of the statutes of each state, and of the

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decisions of each state, on each of the subjects treated by Professor Freund. It also furnishes a classification which, before it is discarded, should be tested by application to the materials of particular jurisdictions other than those reviewed by Professor Freund. The book is helpful to the teacher and student when used in connection with Professor Freund's case book on administrative law. The arrangement in the two books is, of course, not entirely parallel, nor is their scope the same. The case book aims to treat the general subject of administrative law as it is limited by the author. This book on administrative powers is much more limited in its scope, dealing strictly with the subject of administrative powers as they affect persons and property more or less directly.

OLIVER P. FIELD.

University of Minnesota.

FORMS FOR USE IN THE FEDERAL COURTS*

This is a form book intended to cover both pleading and practice in the Federal courts. The editor has had long experience in these courts as an assistant United States attorney in New York City, and is, therefore, well qualified for his task.

It is frankly pointed out by the editor that strictly Federal forms are not of much value in connection with common law cases. Under the Conformity Act the Federal courts are supposed to follow the state forms of pleading and practice "as near as may be," and in fact the state forms of pleading are quite closely followed. It is, therefore, ordinarily more advantageous for the practitioner to construct special forms for use in the Federal courts. In matters other than pleading the alleged conformity is not so carefully insisted upon and the practitioner will find the forms which are included in this book of considerable value. Even as to pleading the practitioner will often find this work indispensable in the preparation of the very necessary allegations showing Federal jurisdiction.

In other branches of Federal jurisdiction the Conformity Act is not even prima facie applicable and the special Federal forms included in this book are therefore extremely useful. Of these, the most important divisions are undoubtedly those relating to criminal proceedings, to equity proceedings and to appeals. As respects all of these, and especially equity proceedings, the collection of forms here included is very full and elaborate. Scarcely less important are the collections of forms with respect to admiralty proceedings and those relating to prohibition legislation—in the latter case proceedings belonging for the most part in the category of either criminal or equity cases, but