

WASHINGTON UNIVERSITY LAW QUARTERLY

Volume XXV

APRIL, 1940

Number 3

Proceedings of the Symposium on Administrative Law and Procedure

Washington University School of Law

Friday Evening, February 16

OPENING REMARKS

JOSEPH A. McCLAIN, JR.†

On behalf of the Washington University School of Law I want to extend a cordial welcome to each of you and to bespeak your continued support in making all of our meetings successful.

There are many evidences of current interest, among lawyers and others, in the problems surrounding Administrative Law and Procedure. It was because of our hope and belief that an informed discussion of some of these problems would be of particular interest to the Bar and public in this region that this Symposium was planned by our Faculty. It also happens that this year marks the 25th anniversary of the founding of the Washington University Law Quarterly. It was felt that it would be appropriate to correlate the Symposium with this anniversary by having one of the quarterly issues of the 25th volume publish a complete record of these proceedings and thus make them permanently available to the public.

Administrative Law is generally regarded as a new development in American jurisprudence. While its importance in our system has been emphasized by its rapid growth in recent years, due largely to additional duties assumed by the Federal Govern-

† Dean, Washington University School of Law.

ment, it is not as new as is sometimes supposed. Certainly Administrative Law has been evolving in our system at least since the creation of the Interstate Commerce Commission 53 years ago.

As forming the subject-matter of a law school course, Administrative Law is regarded as a comparative newcomer and is not yet welcomed with open arms by some American law schools. Our own School can justly claim that it was among the first few law schools to recognize the growing importance of the subject by giving it a place in its curriculum twenty-four years ago. Professor Tyrrell Williams, who taught the course the first time it was offered in our School, states that it was due chiefly to a suggestion by Marion C. Early, Esq., of the St. Louis Bar, formerly a member of our Faculty, that Dean Goode and his colleagues introduced the subject into our curriculum. In those days, however, the value of the course to the students was justified partially on the basis that it was a means of learning something of the extraordinary legal remedies, such as mandamus, certiorari, prohibition, quo warranto, and habeas corpus. In fact, the title of the course, for a dozen years or more, was Administrative Law and Extraordinary Legal Remedies. Today, in contrast, student interest in the subject is extremely active, and beginning next year two courses, instead of one, will be offered.

In holding the present Symposium on Administrative Law and Procedure, we are following what might be deemed a precedent set by the St. Louis Bar Association. In 1923, under the leadership of President Guy A. Thompson and Tyrrell Williams, Chairman of its Committee on Lectures, the Bar Association presented to St. Louis lawyers a series of lectures on "The Growth of American Administrative Law." The lecturers were men of national reputation, namely, Ernst Freund, Robert V. Fletcher, Cuthbert W. Pound, Joseph E. Davies, John A. Kurtz, and Charles Nagel. Their lectures were published in book form and have served as a valuable source of study and reference to students of the subject here and abroad. We are then, in one sense, simply bringing down to date what was begun by our Bar seventeen years ago.

Whether we like it or not, Administrative Law has grown out of its knee pants and is with us in full-grown proportions. We may not care for certain features of it, but work with it we must. It is clear that the way in which many of its new techniques are

worked into our legal order will determine in large part how successful we are, on the one hand, in preserving established values in our legal institutions and government, and how successful we are, on the other hand, in attaining the necessary efficiency in handling the many problems pressing for solution in our governmental life. It is our earnest hope that this Symposium will contribute in some small part to an honest and intelligent understanding of this large task.

INTRODUCTION BY CHAIRMAN

RALPH F. FUCHS†

We have planned this symposium to get down, so far as we can in a brief time, to the "brass tacks" of administrative law and procedure. For, after all, the significant problems are practical ones, relating to the effect upon specific interests of the organization and procedure of particular agencies.

All administrative agencies are specialized organizations, established by legislation to safeguard or promote certain public interests and vested with powers that affect private persons and property. The basic questions with respect to them are, first, how effectively they promote the public interests entrusted to their care and, second, what the consequences are for the private interests which they affect. Their organization and procedure are to be judged in the light of the answers to these questions.

To throw these basic questions into relief, and to furnish a background for the more specific topics that are to follow, we have scheduled the two opening subjects for tonight. From them we shall proceed tomorrow to the discussion of two significant administrative agencies. The first of these, in the morning, is the Department of Agriculture. Its widespread activities are not the only reason for its importance, for its administrative powers embrace almost every known variety. One aspect of its procedure has recently been before the Supreme Court in one of the most famous administrative law cases of all time, *Morgan v. United States*. Tomorrow afternoon we shall take up the Bureau of Internal Revenue, which engages in operations that affect more people than perhaps any other agency.

† Professor of Law, Washington University.