Cases on Administrative Law

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The notice must be an explicit and unequivocal expression in writing of the final disposition of the case. *Stewart v. State Compensation Comm'r*, 113 W. Va. 583, 169 S.E. 167 (1933). Under a similar statute the Oregon court has held that a claim agent's report of the action taken by the commissioner is not compliance with a requirement that a copy of the order to served upon the claimant. *Miller v. State Industrial Accident Comm'n of Oregon*, 149 Ore. 49, 39 P.2d 366 (1934). A statement that "a formal order will be entered in the absence of a protest and showing by you to the contrary within thirty days" does not meet the requirements for notice because it does not state the action taken by the commissioner. *Lancaster v. State Compensation Comm'r*, 125 W. Va. 190, 23 S.E.2d 601 (1943). A notice to the effect that the claimant has thirty days in which to appeal is not notice that an objection to the commissioner's findings may be entered within thirty days after receipt of such notice, as is required by the statute. *Harris v. State Compensation Comm'r*, *supra*.

From the foregoing decisions it would seem that the West Virginia court is firmly committed to the proposition that the statute requires that the commissioner give notice to the employer, employee, claimant or dependent of the exact action taken by him, that these persons be advised, in haec verba, that they may file an objection to the action taken by the commissioner within thirty days after receipt of such notice, and that otherwise the commissioner's action will become final. Notice falling short of this may well open the door to an appeal after the statutory period has expired.

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**BOOK REVIEW**


"In the initial planning, this volume was to have been a hornbook. But the many unsettled areas have often turned summary into critique. Reliance on authority frequently has had to give way to the attempted solution of problems. When search for established principle is futile, the search must be for sound principle." This initial paragraph of Mr. Davis's preface adumbrates both the strength and the weakness of his book. The strength, of course,
is the assemblage of a discussion of the practice and procedure of administrative law under one roof. The weakness is that of any treatment of any sizable branch of the law without the inexorable completeness of, say, Wigmore on *Evidence*. In this reviewer's opinion, the strength is considerable; the weakness is not.

For, in all probability, administrative law is not yet sufficiently developed for the encyclopedic treatment. An attorney in the midst of litigation wants a case, a case precisely in point—without a dissent. If he has a six-volume text on the branch of law in issue, he tends, perhaps justifiably, to blame the author and the publisher if his case is not there. In administrative law, the plain fact is that a system of law does not yet exist. A larger work, in other words, would mean a discussion of a larger number of cases (Mr. Davis has pretty much confined himself to the federal decisions) with the addition of little more than isolated, inutile fragments of law and of analysis. Instead, we have here a selectivity which benefits the beginner because it does not overwhelm him, and (as far as this beginner can judge) a perception which would benefit the initiate because it does not ignore his more demanding requisites.

This perception deserves emphasis. To be sure, one expects it in a legal text. On the other hand, administrative law has received so much vilification from attorneys and laymen, based as much on dislike of nonjudicial regulation as on anything else, that too many dismiss any notion of a system of rules such as those which govern our common law practice and procedure. Mr. Davis's book demonstrates that such a system, while not in maturity, is certainly past infancy. Time and again, a sound generality derives, or a supposed line of reasoning disappears: for example, the familiar constitutional rule that the legislature must lay down standards for administrative action vanishes as a basis of prediction—as many, no doubt, have already realized. Just as important, confusion resulting from judicial over-refinement of statutory interpretation, and various other weaknesses in the administrative system, are presented, generally with at least one proposition for solution worth considering.

These notes obviously indicate the reviewer's admiration for Mr. Davis's offering. They do not indicate gratitude for the easy grace and simplicity of the style, which offers interest as well as instruction.

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