

January 1966

State Administrative Law

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Recommended Citation

Lester R. Rusoff, *State Administrative Law*, 27 Mont. L. Rev. (1965).
Available at: <https://scholarship.law.umt.edu/mlr/vol27/iss2/10>

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BOOKS

BOOK REVIEW

State Administrative Law

FRANK E. COOPER

Indianapolis: The Bobbs-Merrill Company, Inc., 1965

Two Volumes, Pp. xlii, 951. \$30

The author of *State Administrative Law* has taught administrative law at the University of Michigan for a number of years while engaged in practice in Detroit. He is the author of two earlier books on administrative law and co-editor, with Dean Emeritus E. Blythe Stason, of a casebook on administrative law. He has written his new book as a research project of the American Bar Foundation and the University of Michigan Law School.

Professor Cooper's book is a welcome addition. The field of administrative law has been dominated for some time by Professor Davis' treatise.¹ One would not want to teach or practice administrative law without having that work available, but there has been a need for complementary works. Although Professor Davis includes sections dealing with state law, his emphasis is on federal law. Thus a new work dealing primarily with state law will be helpful.

Professor Cooper's treatise is conveniently arranged and written for those who want information about a specific problem in administrative law. It seems to cover the full range of topics usually considered in Anglo-American administrative law. The table of contents is detailed and complete, indicating specific sections which deal with particular types of cases.

Administrative law often provides more questions than answers. Professor Davis states his views forcefully and, to this reviewer, often persuasively. It is helpful to have another relatively complete book which will sometimes present different opinions. Generally, Professor Cooper's approach is descriptive of the law rather than philosophical or argumentative. He states on page 538: "Since the state courts are little given to theorizing as to what interests must appear to confer standing to appeal, the following discussion will not attempt any detailed legalistic analysis of the principles involved, but will rather be devoted principally to an examination of the results reached in certain typical situations."

In particular instances, however, Professor Cooper does offer his own views. On page 536 he states that section 10(a) of the Federal Administrative Procedure Act adopts the test of "legal wrong" as the cri-

¹DAVIS, ADMINISTRATIVE LAW (1958).

terion of standing to appeal, while recognizing in a footnote that this construction is open to argument. This opinion differs from that of Professor Davis, who maintains that the Act permits one who is adversely affected in fact to obtain review.²

One of the principal functions of Professor Cooper's book is to present and explain the Revised Model State Administrative Procedure Act. The Act appears in an appendix, with the comments of the drafting committee. It is also quoted and discussed where relevant throughout the treatise. Thus, this book will be useful both in states which adopt the Act and in others which are considering adopting either a general statute on administrative procedure or statutes creating rules of procedure for specific agencies.

The reader should note that the merit of various provisions of the Revised Model Act is arguable. For example, the Act provides in section 10(1) that:

The rules of evidence as applied in [non-jury] civil cases in the [District Courts of this State] shall be followed. When necessary to ascertain facts not reasonably susceptible of proof under those rules, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied on by reasonably prudent men in the conduct of their affairs.

Professor Davis has pointed out that no distinct rules of evidence for non-jury cases exist.³ Professor Cooper acknowledges this and explains that the Act does not mean there are such rules, but only that the rules of evidence shall be used *as applied* in non-jury cases. Perhaps it would be better to use a provision simply permitting state agencies to admit and rely on such evidence as reasonably prudent men commonly rely on in the conduct of their affairs. Cooper's explanation seems overly-sophisticated for many members of state agencies.

This reviewer will keep Professor Cooper's treatise at hand while teaching administrative law and will refer to it when drafting or criticizing proposed legislation relating to administrative agencies. He believes that it will also be a useful addition to the library of any practitioner who works with administrative agencies.

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³ DAVIS, *op. cit. supra* note 1, at 213.

² DAVIS, *op. cit. supra* note 1, at 265.

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