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THE CHANGING RELATIONSHIP OF THE JUDICIAL AND EXECUTIVE BRANCHES.

By F. R. Aumann*

The principle of the separation of powers assumes: 1 three departments of government; 2 the division of governmental powers among these departments in such a manner that each department will serve as a check upon the other; 3 the existence of certain functions that are particularly "legislative," "executive," or "judicial." 1

The theory of three independent departments, each exercising some power over the other and guarding against encroachments was never in complete agreement with the facts. The theory the legislative function involves the establishment of rules of conduct for all persons and authorities within the state; the judicial function involves the deciding of present controversies in accordance with such rules; and the executive function involves the enforcing of such rules as are laid down by the legislature, and the judgment of the courts. 2 In actual fact, the activities of government are a unit. 3 Cooperation between the departments is a prime necessity if the work of government is to succeed. 4 If the theory of the separation of powers had been strictly applied successful governmental activity would be greatly hindered. 5

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3 Frank A. Goodnow, Comparative Administrative Law (1893), pp. 25, 26, 27, 28, 29, 30.

4 "While it is true," says a judge of the supreme court of North Carolina, that "the executive, the legislative, and the supreme judicial powers of the government ought to be forever separate and distinct, it is also true that the science of government is a practical one; therefore, while each should firmly maintain the essential powers belonging to it, it cannot be forgotten that the three coordinate parts constitute one brotherhood whose common trust requires a mutual toleration of the occupancy of what seems to be a common because of vicinage bordering on the domains of each." Frank A. Goodnow, Comparative Administrative Law, p. 21.

5 H. Pound, Introduction to the Philosophy of Law, p. 105.
Despite this fact, it must be recognized that the theory of the separation of powers, as enumerated by Montesquieu has had an immense effect upon the structure of our political system.\textsuperscript{6} It lies at the very basis of our political organization today.\textsuperscript{7} In recent times, however, the exceptions to this theory, which must always be considered with it, have tended to increase.\textsuperscript{8}

Recent years have witnessed necessary adjustments all along the line. In consequence the executive and judicial departments have come to have a larger share in tasks that are legislative in character.\textsuperscript{9} The executive departments have expanded with amazing rapidity. New agencies have been created and new powers granted to them.\textsuperscript{10} The work of the courts has changed too. New administrative functions have been added to their duties and large rule-making powers granted to them as well.\textsuperscript{11} In short, the shifting of functions in all directions has been so great as to make it almost impossible to establish a clear boundary line separating the several departments of government.\textsuperscript{12}


\textsuperscript{8} Such "exceptions" however, have been present from a very early date. See Walter F. Dodd, \textit{State Government}, 1928, pp. 64-65; A. N. Holcombe, \textit{State Government in the United States}, (3d ed.), 1928, ch. 4. "In recent years we have sometimes seemed in danger of regarding administrative adjudication as a much more modern growth than it really is.\textsuperscript{***}Instances of administrative adjudication began to increase in the United States at the beginning of the nineteenth century and met with no unfavorable reception at the hands of the courts; see Seaman v. Patten, 2 Calmes (N. Y.), 312 (1805); Cary v. Curtis, 3 How. 236 (1846); Downer v. Lent, 6 Cal. (1856). Hostility began to appear after the middle of the century with the strong resurgence of the doctrine of vested rights. See below, ch. 3, note 20, p. 44." John Dickinson, \textit{Administrative Justice and the Supremacy of the Law}, pp. 5-6.


\textsuperscript{12} "We may as well recognize that sometimes the insurance commissioner is an official clerk, sometimes he is a judge, sometimes he is a law-giver, and sometimes he is both prosecuting attorney and hangman. He is partly executive, partly judicial, and partly legislative; and yet he is not confined within any of these categories. I defy anyone to tell me when he stops legislating and begins to judge, or when he stops judging and begins to execute." Edwin W. Patterson, \textit{The Insurance Commissioner in the United States}, p. 5.
As new conditions have arisen the lines separating one department from another have changed again and again.\textsuperscript{13}

The most important result of these adjustments, from our point of view,\textsuperscript{14} is the fact that the whole problem of the relationship between administrative and judicial branches has undergone a substantial change, and will probably undergo even greater changes as time goes on, all of which raises questions as to the ultimate effect of this movement on the fundamental principles of our system.\textsuperscript{15} The immediate effect of the movement was to remove whole classes of cases from the courts and turn them over to administrative authorities,\textsuperscript{16} or to administrative tribunals of a quasi-judicial capacity.\textsuperscript{17}


\textsuperscript{14}“If one were compelled to state the most important experiment in the administration of justice made in the twentieth century, the answer would unhesitatingly be the attempt to secure justice through administrative courts. Such tribunals have sprung up with amazing rapidity, they have taken over an enormous amount of litigation, formerly handled by the courts, and the law concerning administrative justice is the most rapidly growing branch of law in our entire jurisprudence.” R. H. Smith, \textit{Justice and the Poor} (1919), p. 83.

\textsuperscript{15}“The multiplication in recent years of bodies like public service commissions and industrial accident boards, accompanied by the vesting of ampler powers in health officers, building inspectors, and the like, has raised anew for our law, after three centuries, the problem of executive justice. That government officials should assume the traditional function of courts of law, and be permitted to determine the rights of individuals, is a development so out of line with the supposed path of our legal growth as to challenge to certain underlying principles of our jurisprudence. (See Hon. Geo. Sutherland, President’s Address, American Bar Association, Reports American Bar Association (1917), xlii, 204 ff.; Hon. Wm. D. Guthrie, President’s Address, New York State Bar Association, Reports N. Y. State Bar Association (1923), xlii, 175 ff.) What is the meaning and occasion of the present development? What is its bearing on the doctrine of the “supremacy of the law” which has been so long considered as central to our legal tradition? What can be said of the present validity of that doctrine? And what considerations are proper to be applied in delimiting a boundary-line between the respective provinces of administrative agencies and courts.” John Dickinson, \textit{Administrative Justice and the Supremacy of the Law in the United States} (1927), p. 8.

The courts have never been effectively organized to dispose of many complex issues coming before them. They were required to shoulder such burdens despite their lack of facilities for handling them. Inadequate treatment necessarily resulted.

This state of affairs was made more difficult by the Anglo-Saxon emphasis on the doctrine of individual rights and firm belief that such rights could only be adequately protected by the courts. In the past the American people had bestowed on ad-

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administrative officers a pitifully meagre grant of power to enforce compliance with provisions of law through their own action. Where the coercion of the individual was necessary in enforcing legal provisions, the administrative officers concerned had to resort to the courts to definitely determine and apply the necessary measures. At one time this position was a sound one. Today serious consideration must be given to the problem of organizing effective machinery to relieve the courts from the burden of acting as agencies for the application of public law to specific cases. An administrative body can act less technically and oftentimes more promptly in such matters.

39 "Our government was one of laws and not of men. Administration had become "only a very subordinate agency in the whole process of government." Complete elimination of the personal in all matters of affecting the life, liberty, property or fortune of the citizens seemed to have been attained. What in other lands was committed to administration and inspection and executive supervision, we left to the courts. We were adverse to inspection and supervision in advance of action, preferring to show the individual his duty by a general law, to leave him free to act according to his judgment, and to prosecute him and impose the predetermined penalty in case his free action infringed the law. It was fundamental in our policy to confine administration to the inevitable minimum. In other words, where some peoples went to one extreme and were bureau-ridden, we went to the other extreme and were law-ridden. Obviously it threw a great burden upon the judicial system, and despite the reaction which had taken place, will continue to put a strain upon the courts for a long time to come. Nothing is so characteristic of the American public law of the last half of the nineteenth century as the completeness with which executive action is tied down by legal liability and judicial review." Roscoe Pound, "Organization of the Courts," Journ. Amer. Jud. Soc. (1927), pp. 69-70.

20 "There is one special field of law development," says Elihu Root, "which has manifestly become inevitable. We are entering upon the creation of a body of administrative law quite different in its machinery, its remedies, and its necessary safeguards from the old methods of regulation by specific statutes by the courts. As any community passes from simple to complex conditions the only way in which the government can deal with the increased burden thrown upon it is by the delegation of power to be exercised in detail by subordinate agents, subject to the control of general directions prescribed by superior authority. The necessities of our situation have already led to an extensive employment of that method. The Interstate Commerce Commission, the state public service commissions, the Federal Trade Commissions, the powers of the Federal Reserve Board, the health departments of the states, and many other supervisory offices and agencies are familiar illustrations. Before these agencies the old doctrine prohibiting the delegation of legislative power has virtually retired from the field and given up the fight. There will be no withdrawal from these experiments. We shall go on; we shall expand them, whether we approve theoretically or not, because such agencies furnish protection to rights and obstacles to wrong doing which under our new social and industrial conditions cannot be practically accomplished.
The interpretation and application of modern social and economic legislation has raised difficult problems for the courts. Special technical knowledge and skill is required in regulating the rates and conditions of public utilities, involving as it frequently does, intricate questions of valuation and business organization. Specialized knowledge is equally necessary in dealing with problems arising under laws regulating workmen's compensation; public health; the construction and operation of factories, shops, and mills; the production and sale of foods and so on. We expect too much when we require judges to be expertly trained in the principles of the law and equally familiar with the complex problems of public administration.

Such functions can perhaps be best performed by administrative bodies. The wide adoption of administrative bodies by the old and simple procedure of legislatures and courts as in the last generation." Report American Bar Association, 1916, pp. 368-369.

W. F. Willoughby, in discussing this point, says: "The point might be made that action along this line does not lessen the amount of work to be done, but merely transfers responsibility from one branch of the government to another. In one sense this is true. The gain, however, can be none the less great. A court is at the best an expensive institution. Its methods of procedure are formal and technical. It can only handle matters brought before it. It does not act upon its own initiative. In the determining of facts it has no technically trained staff of its own. The proceeding is in the nature of a duel between the parties, and almost its only method of determining facts is by the cumbersome and expensive question-and-answer device. More fundamental still the burden of inquiry is in large part thrown upon private individuals. In marked contrast with this, administrative agencies can act on their own initiative, assume responsibility for determining facts, and have expert staffs to do the work of investigating. They are not bound by formal rules of evidence and procedure as are the courts, and they generally can and do, act in a more direct, efficient, and economical manner and with much greater dispatch." Principles of Judicial Administration (1929), pp. 20-21.

For a detailed consideration of the administrative determination of tax obligations; the administrative enforcement of license and permit systems; proper trade practices; workmen's compensation; public utility laws; payment of wages due; small loan laws, etc. See W. F. Willoughby, (ibid), ch. 3.

"In considering this problem, two problems must be kept in mind: the distinction between the function of courts in determining facts and that of determining the law applicable to such facts; and the distinction between the function of courts as agencies for handling matters to be adjudicated in the first instance and their function of acting as agencies of review to which appeal may be made to correct improper action on the part of administrative officers. This right of review may embrace the right to review matters of both fact and law or be confined to matters of law only. If these distinctions are kept in mind, it is possible greatly to relieve the courts as fact-finding agencies, and by confining their function to review, to throw a large part of the work of determining facts now being informed by the courts..."
within recent years lends support to this statement. Virtually a new body of law has been developed with respect to the method and determination of these bodies. This development in no way interferes with or decreases legitimate judicial functions. In fact it relieves the excessive strain which the changing conditions of modern society imposes upon the courts. Further development of a distinctive law is in process. Administrative law has ceased to be descriptive of an exotic. Its growth is particularly luxuriant in the federal domain, exercised through a formidable range and variety of federal administrative tribunals. The development of a distinctive law is in process. Administrative law has ceased to be descriptive of an exotic. Its growth is particularly luxuriant in the federal domain, exercised through a formidable range and variety of federal administrative tribunals. Within a few years," says Charles E. Hughes, "plans of regulation involving new exertions of Federal power have followed each other in swift succession, reflecting convictions of recent origin with respect to national needs. The Interstate Commerce Act, the Anti-Trust Act, the Safety Appliance Act, the Hepburn Amendment and the Carmack Amendment to the Interstate Commerce Act, the Food and Drugs Act, the Meat Inspection Act, the Hours of Service Act, the Employers Liability Act, the Clayton Act and the Trade Commission Act, have to a considerable extent recast our law. With this noteworthy change in point of view, there have been constant manifestations of a deepening conviction of the impotency of Legislature with respect to some of the most important departments of law-making. Complaints must be heard, expert investigations conducted, complex situations deliberately and impartially analyzed and legislative rules intelligently adapted to a myriad of instances falling within a general class. It was not difficult to frame legislation establishing a general standard, but to translate an accepted principle into regulations wisely adapted to particular cases required an experienced body sitting continuously and removed so far as possible from the blandishments and intrigues of politics. This administrative type is not essentially new in itself, but the extension of its use in a State and Nation constitutes a new departure."
ther additions to the machinery of preliminary investigation of complex issues may be expected, if satisfactory results continue to be secured from administrative bodies. In all of these matters it is probable that some judicial review will be necessary.

Suggestions have already been made that the plan of compensation worked out in connection with workmen’s compensation laws should be applied to railroad and automobile accidents. If this were done another great group of cases would


27 Ninety per cent of all accident cases which come before the industrial accident board are settled automatically, promptly, and without expense. This is something which our courts have never been able to do. The honor of making such a plan operate successfully must be awarded to an administrative, and not to a judicial tribunal. This makes a tremendous advance towards freedom and equality of justice. Today, nine men out of ten get their fair compensation at once, without cost and without the expense of employing counsel. Formerly they were obliged to take what the insurance company adjuster offered or else obtain a lawyer on a contingent fee and wage a long and dreary fight. The new administrative method is so far superior to the old tort system that I hope to see it extended to interstate commerce employees, and to passengers on railroads and street railways. R. H. Smith, ‘Denial of Justice,’ Journ. Amer. Jud. Soc., Vol. 3, p. 122, December, 1919. In this connection see H. D. Laube, ‘Administrative Problems in Wisconsin’s Workmen’s Compensation,’ Wisconsin Law Review, Vol. 3, p. 65, 1925.

Walter F. Dodd in discussing this point said: ‘It is important that proper methods be established for the judicial review of decisions of such bodies. Administrative tribunals may perhaps be most effectively organized as subordinate agencies in the judicial organization if the courts come to be organized in such a way to do their work effectively. In rate making today, one of the chief difficulties is that administrative bodies and courts act in substantially complete independence of each other. The utilities commission investigates and fixes rates; the court, by independent methods, reaches a different conclusion and annuls the action of the commission. See McCardle v. Indianapolis Water Co., 272 U. S. 400 (1926). For this reason efforts have been made in Virginia and Oklahoma to make the highest state court an agency in rate-making, rather than a mere reversing body. (See pp. 68, 91). But no steps have yet been taken to work out satisfactory relations between the state rate-fixing agencies and the federal courts.’ State Government (1929), p. 341.


be taken out of the traditional sphere of the courts, and placed under administrative commissions. This plan has received the support of some very respectable authorities. When one considers the burdens imposed upon the courts as a result of automobile accidents alone, the importance of such a plan becomes apparent.

Robert S. Marx, formerly Judge of the Superior Court of Cincinnati, is strongly in favor of the establishment of a system of administrative tribunals to handle personal injury suits resulting from automobile accidents. He is in favor of a state compensation fund to which owners of all vehicles, especially automobiles, should be required to contribute. Persons injured or killed in traffic would be entitled to compensation from this fund which would be administered in a similar manner to the workmen’s compensation laws. Judge Marx is of the opinion

A study of the causes of the congested calendar of the Appellate Division of the Supreme Court of New York indicated that actions for personal injuries resulting from automobile accidents represented 75% of all the business of the supreme court in the County of New York during 1926 and 73% of the total litigation before the court in 1927, while additional cases were handled in the city court and the municipal court. See First and Second Reports of the Special Calendar Committee Appointed by the Appellate Division of the Supreme Court, First Division. New York, 1927-28. See also Arthur A. Ballantine, “Compensation for Automobile Accidents,” Am. Bar Assn. Journ. Vol. 18, April 1932, pp. 221-228, 282.

31 Judge Marx observes that when the first workmen’s laws were passed they were bitterly opposed by lawyers, employers, and insurance companies. Although dire consequences were predicted if such a
that every argument in favor of workmen's compensation acts is applicable to traffic accidents. Since it has been demonstrated that but a small proportion of automobile owners carry liability insurance and that many of those responsible for accidents are judgment proof, such arguments may very well have more force in their application to traffic accidents.

The final results of the readjustments which have been made in the relationship existing between the administrative and judicial branches remains a matter of some doubt. It would seem, however, that the system of administrative adjudication is here to stay. Some changes in form and practice

system were adopted, it is now in force in forty-two states and working with success. Judge Marx is of the opinion that we would meet up with a similar experience in connection with compulsory compensation for traffic accidents.

35 "I have come to the conclusion," he says, "as a result of nearly ten years more or less active experience in the trial of personal injury suits and four and a half years' observation of the same as a trial judge; and that experience has convinced me of the utter futility of the personal injury suit as a remedy for people who are hurt or killed in the legitimate use of the streets. I have no hesitancy in indicting the whole legal theory of liability based upon fault as a remedy for people who are hurt or killed, indicting it upon the grounds that it is hazardous, that it is unjust and uncertain. More than that, it is worse than the old employer's liability, because at least, under the employer's liability suit the employer was a known defendant; he was usually a solvent defendant; the witnesses were available and were often friendly workmen." "The Curse of the Personal Damage Suit and a Remedy," Amer. Bar. Assn. Journ., July, 1924.

34 "The future development of this type of administrative tribunal perplexes all jurists. It is undoubtedly true that some of its present advantages are due to the fact that it occupies an extra-legal position. (Pound: "Organization of Courts," American Judicature Society, Bulletin 6, page 4) and that temporarily it escapes from the limitations of justice according to law and judicial justice. It is closely analogous to the rise of equity (ibid. p. 5) with the exception that instead of entrusting justice to priests in place of judges, our recourse has been to laymen. New agencies enjoy a sort of hiatus when rules and precedents are few, when the liberalizing spirit is strong, but this is transitory. (Pound, Justice According to Law, p. II). It is certain that the administrative tribunals must ascertain and administer their justice according to law, and it is likely that they will ultimately become part of the regular judicial system. "(Ibid, p. 42; Report of Dean Pound to the President of Harvard University for 1915-16, p. 2)." R. H. Smith, Justice and the Poor, p. 91.

37 "In any merger, and in developments in that direction, there is nothing to compel a giving up of the use by administrative tribunals of investigators, impartial physicians, simple procedure, simple forms, mail service, and the automatic settlement of claims. If they interfere with parts of the traditional machinery, such parts ought to be scrapped. Administrative tribunals have much to teach judicial tribunals about promptness, inexpensiveness, and limiting the attorney to clearly defined functions." R. H. Smith, Justice and the Poor, p. 91.
may be expected as we gather more experience in this field.38 Indeed some observers are of the opinion that eventually it will be necessary to create a system of special courts similar in character to the French administrative courts.39

This system of courts was established in France at the time of the Revolution.40 At first the determination of administrative controversies was left to the administration itself, but in time a series of special administrative tribunals or councils were created to exercise this function.41 From the beginning the

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39 William D. Guthrie, “Presidential Address before the New York State Bar Assoc.” N. Y. St. Bar Assn. Report 169; Guthrie, League of Nations and Miscellaneous Addresses, 352. “The need for a coherent system of administrative law, for uniformity and despatch in adjudication, for the subtle skill required in judges called upon to synthesize the public and private claims peculiarly involved in administrative litigation, these and kindred considerations will have to be balanced against the traditional hold of a single system of courts, giving a generalized professional aptitude to its judges and bringing to the review of administrative conduct a technique and a temperament trained in litigation between private individuals.” Frankfurter and Landis, The Business of the Supreme Court, 1927, p. 186.

40 It was provided by an Act of August 16, 1790, that the judicial and administrative functions should be kept separate and distinct and that the role of the judicial courts should be kept restricted to the decision of cases arising under the civil and criminal law. “Joseph Barthelmy, in his Gouvernement de la France (Paris, 1919), argues that the system of administrative law was largely a spontaneous result of the French Revolution. The revolutionary authorities, he says had to make attacks upon property and persons; the judges of the regular courts tried to protect the citizen; whereupon the government fulminated its prohibitions against them. They were forbidden to interfere with administrative acts. ‘Thus originated,’ he says, ‘the unfortunate principle of separating the administrative from the judicial authorities.’ But the beginning of the separation far antedates the great upheaval of 1789. As President Lowell showed many years ago, it was a logical outcome of two features which characterized the old regime in France, namely, the weakness of the courts and the overpowering strength of a centralized administration. If France had possessed a system of common law, as in England, with regular courts strongly entrenched, it is not probable that the present situation would have arisen.” W. B. Munro, The Governments of Europe, p. 536.

41 The principal administrative courts in France are the interdepartmental councils of the prefecture and the Council of State. There are twenty-two departmental councils of the prefecture, each serving from two to seven departments. In addition, the Department of the Seine has a council of its own. Each interdepartmental council consists of a president and four councillors. These councils hear complaints made by individuals against the actions of subordinate officials. They deal with controversies concerning tax assessments and most of the matters which come before them are of this nature. They also have jurisdiction over questions relating to public works (espe-
work of these courts has been received favorably by the French people. Indeed the role of guardian of private rights which once belonged to the Court of Cassation (the supreme court of France for all ordinary cases both civil and criminal) has definitely passed to the Council of State, or, more accurately to that branch of the Council of State which acts as a superior administrative court. The Council of State, says a recent writer "occupies a place in the public esteem and confidence of the French which is even higher than that which the Supreme Court enjoys among the American people."

A number of European countries have taken up the idea with apparent success. Included in this number are Germany, especially highways) and the conduct of local elections. Procedure in these courts is simple and economical. Parallel with the interdepartmental councils of the prefecture are various special administrative courts, notably the educational councils and councils of revision. Appeals from these lower administrative courts are taken to the Council of State. This is a large body, made up of two elements, political and non-political. Questions of administrative law are heard and determined by a section of the Council which consists of thirty-five non-political members, or conseillers en service ordinaire, as they are called. This group includes many distinguished jurists. Every year several thousands of cases are decided by this tribunal at a minimum expenditure of time and money for the litigant. It has been successful and enjoys the respect of the French people. W. B. Munro, Governments of Europe (1931), pp. 543-544.

James W. Garner says: "It can now be said without possibility of contradiction that there is no country in which the rights of private individuals are so well protected against the arbitrariness, the abuses, and the illegal conduct of the administrative authorities, and where the people are so sure of receiving reparation for injuries sustained on account of such conduct." "French Administrative Law," Yale Law Journal, Vol. 32, p. 599, April, 1924.


In many of the German states, administrative courts modelled on the French system have existed since 1875. In Germany unlike France, the judges are irremovable by the government. As a matter of practice, however, French administrative judges are not removed by the government at pleasure. Since the establishment of the Third Republic no administrative judge has been so removed. Neither is there a known instance in which the government exercised pressure upon them to obtain a decision in its favor. The new German constitution (Art. 107) requires the establishment of administrative courts for the pro-
Italy, Switzerland, Finland, Poland, and Czecho-Slovakia. In these countries, the administrative courts have a separate and distinct organization. In their task of deciding controversies which mainly involve claims against the state they apply a body of law separate and distinct from the Civil Law.

It is too early to predict what influence the French system of specialized courts will have on the final form of our constantly developing system of administrative adjudication. Its effects may be great or it may be small. Certainly it is safe to say that it could not be adopted without opposition. The ancient protection of the individual against ordinances of the executive, both in the Reich and in the states where they do not actually exist. For further discussion of the German administrative court system see: W. B. Munro, The Governments of Europe, 1931, pp. 638-639; Malbone W. Graham, New Governments of Central Europe (1924), pp. 64-66, 456; J. W. Garner, "The German Judiciary," Pol. Sci. Quarterly, Vol. 18 (1903), pp. 420 ff.

In Italy a system of administrative courts and jurisdiction has existed since 1890. See in this connection: W. B. Munro, The Governments of Europe (1931), p. 679.

In Switzerland a federal administrative court was established in 1914. "Switzerland," says W. B. Munro, "has a system of administrative law, but no system of administrative courts. When controversies arise between the federal government and the citizen, involving questions of administrative law, the issues are not placed before a court, but are determined in the first instance by the federal council, that is, by the ministers. If the ruling of this body is challenged, an appeal may be taken (as has been said) to the legislative chambers sitting in joint session; but this is a slow and clumsy arrangement. It has long been regarded as unsatisfactory and a radical change has been under discussion for many years. No constitutional obstacle now stands in the way, for the constitution has been amended in such a way as to give the federal parliament a free hand in the matter. But the latter, although committed to the principle of establishing a federal administrative court, has not yet been able to make up its mind as to how the court should be organized or what jurisdiction it ought to be given. Thus the matter has hung fire without any definite action. Controversies on matters of administration are not so numerous in Swiss federal government, however, because the great majority of administrative officers are agents of the cantons." The Government of Europe, p. 713, 714.

The constitution of Finland (Art. 57) provides for the establishment of a supreme administrative court.

The constitution of Poland (Art. 86) provides for the creation by statute of a court of special competence (tribunal of conflicts) to decide conflicts of jurisdiction between the administrative authorities and the courts.

The constitution of Czecho-Slovakia (Art. 96) declares that the judicial power shall be separated from the administrative power, but it does not specifically require the establishment of administrative courts.

In Belgium there are no administrative courts and the remedy of an injured individual is similar to that in England and the United States. See Thomas Reed, Government and Politics of Belgium, p. 111.
judice of the Anglo-Saxon lawyer to the Continental system will not be easily overcome. One thing is evident, however, and that is, that our new forms of legal control through law administering agencies must be adjusted sooner or later to our traditional system of judicial justice.