



AMERICANS ON GUARD, by Colonel O. R. McGuire. American Good Government Society, Washington, D. C.; Mitre Press, London, England, 1942. Pp. 400. \$5.00.

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This book is well worth the time spent reading it and is recommended to all students of the law, as well as to all whose interests, either cultural or commercial, are affected by that strange and baffling body of knowledge known as "the law of the land."

However, the best advice to be given about this book and its value is to tell you to read it and *You Be the Judge*.

CHARLIE HOLCOMBE PITCHER* AND SARGENT PITCHER, JR.**

AMERICANS ON GUARD, by Colonel O. R. McGuire. American Good Government Society, Washington, D. C.; Mitre Press, London, England, 1942. Pp. 400. \$5.00.

Americans on Guard is a collection of a few of the addresses delivered to various Bars, business organizations and clubs throughout the United States by Colonel O. R. McGuire, who was former counsel to the Comptroller General of the United States, and special assistant to various attorneys-general of the United States. Principally, the addresses are concerned with our tendency toward administrative absolutism which threatens, according to the author, our constitutional form of government by giving too much authority to the executive department through administrative agencies, with the consequent extension of the executive power into both the legislative and judicial branches of the government and the United States becoming a government of men rather than of law. The way suggested by Colonel McGuire to correct such absolutism is through passage of a bill providing for public hearings on regulations made by the various agencies and the granting to the courts ample review of administrative decisions.

During the entire six years of study that was spent in the drafting of the American Bar Association's Administrative Law Bill,¹ Colonel McGuire served as a member and then as chairman of the Administrative Law Committee of that body. The bill proposed by the American Bar Association after going through the preliminary steps was introduced into Congress as the Logan-Walter Administrative Law Bill, was subsequently passed by both

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1. For its provisions see (1939) 1 Louisiana Law Review, 570.

houses of Congress, but was doomed to defeat by the veto of the president.

It is around the ill-fated Logan-Walter Bill that a great number of Colonel McGuire's addresses revolve since through its provisions he sees the way to "regulate the regulators and govern the governors," to quote one of the chapter headings. Generally, the bill is concerned with the adjective side of the law affecting all administrative agencies. It has a threefold purpose, i.e., to provide uniform public notice and hearings of all rules adopted by the agencies in the exercise of quasi-legislative powers, to provide uniformity of procedure for administrative review before single-headed and multiple-headed administrative agencies, and to provide uniform procedure and the basis for all judicial review of administrative rules and decisions. The adoption of the bill, Colonel McGuire claims, would protect an individual's rights from possible arbitrary and capricious action by either the regulations or decisions of a board; would simplify the study for lawyers, government officials and employees, who in appearing now before the various agencies, must do extensive research of each agency's particular procedure; and it would also mean less work for judges who must do the same once a case from an agency comes to them for review.

Colonel McGuire does not hold up his hands in horror at the term bureaucracy. He is cognizant of the fact that administrative agencies are a necessary part of our federal machinery in order that the modern day complexities of our government may be expedited; that neither the judiciary nor the legislative body could handle the multitudinous problems over which our government has control—and things which the government must control in order that people may be protected from themselves. But he also thinks that too much power vested in the hands of administrators will be ruinous to our republican form of government since there will be among the administrators those who carry "swords not scales of justice."² Since in most cases the administrators serve by political appointment, he fears that their tendency will be the favoring of the whims of those to whom they owe their position and the carrying out of their own views rather than the administration of justice.

The crusaders in some agencies are able to see their ideas consummated because of certain statutes which provide that the

2. P. 261. A quotation the author attributes to Raymond Moley, pp. 110 and 204, n. 35.

findings of facts by an agency are conclusive on the courts if supported by the evidence; thus, in effect, review by a court is limited to questions of law. It is claimed that is no real judicial review since anyone could manage to put enough evidence into the record to support his findings. The Logan-Walter Bill would have prevented such action by allowing the independent judiciary examination of the evidence to see whether it substantially supported the findings of fact, whether the decision was clearly erroneous, whether the parties had been granted a full and fair hearing, and whether the entire proceedings were in accordance with the relevant statutes and the Constitution.

Because lawyers represent all classes of society and are entrusted to a great extent with the preservation of the individual citizen's rights and liberties through seeing that the law is applied to both the rulers and ruled alike, Colonel McGuire primarily directs his appeal for standardization of administrative procedural law to the legal profession. He thinks that administrative action under certain statutes will result in the destruction of an individual's rights and liberties and that lawyers above all should recognize the fact "Mr. Justice Frankfurter has well stated that rules of procedure are basic and fundamental and are equisite for the preservation of some of the most precious values of civilization."³

Not only are there lectures on the Logan-Walter Bill, but also addresses of a more general nature. Just to mention a few of Colonel McGuire's topics, they are as follows: George Washington, The Empire Builder; The Achilles Heel of Constitutional Government, which he thinks is the greed of people for public money; Political Ideologies In This Changing World: Can We Keep This Republic? Our Republican Form of Government and the Straw Ballot in which he stresses the inherent danger of such polls "by infusing into"⁴ our government "the most dangerous elements of a direct democracy"⁵; Women and Good Government; Sanctions and International Peace, an address given in 1926 that there could be no lasting peace without sufficient sanctions to enforce the peace.

The book has its moments of repetition and of circumlocution, but both are to be expected in a collection of addresses and it is to be remembered that Colonel McGuire delivered a number

3. P. 109.

4. P. 172.

5. P. 173.

of lectures to various groups on the Logan-Walter Bill. In order for audiences to grasp an idea, a speaker must repeat in order that his hearers may learn. In addition, one delivering an address attempts to capture the interest of his listeners and he sometimes does that through the use of colorful phrases. However, whether Colonel McGuire was delivering an address to either an Oregon Bar Association Meeting or the 1938 graduating class of Louisiana State University, or any other group, he had thoroughly versed himself on the history of that state; thus, in his introductory remarks he must have conveyed to the audience his interest in their particular section of the country and it is imagined that they listened to the remainder of what he had to say. At least, that is the hope since there is need for uniformity in procedural administrative law. Possibly through Colonel McGuire's efforts, the original bill proposed by the American Bar Association will ultimately become law.

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