having done less than justice to this provocative contribution to present legal literature. It is a work which serves admirably to focus attention on both possibilities and limits of the judicial process in our society.

Otto Kirchheimer†


The first American textbooks on public administration were published only a generation ago. Yet for well over half of this period there have been sharp questionings among students of the subject over how what is knowable about public administration can best be discovered, be recorded, be communicated to oncoming groups of students and be brought into the consciousness of officials charged with the solution of administrative problems.

The most recent answer to these questionings is the case approach fostered by the Committee on Public Administration Cases from 1948-51 and, beginning in 1952, by the Inter-University Case Program. Dr. Harold Stein, staff director of these organizations, has brought together twenty-six cases prepared by twenty-one authors, and has prefaced them with a valuable introduction on the purposes and uses of public administration cases.

To understand the nature of a public administration case as conceived by Dr. Stein and his associates, it is well to dismiss superficial analogies to the case presented in the traditional law school casebook. It would be difficult indeed to brief from a public administration case the facts, the question, the decision, and the rationalization of the decision. Nor are there "leading cases" in public administration that serve as authoritative precedents for lower-level or subsequent administrators. Whatever the case may be in law, it appears infinitely more complex in administration. The published case in public administration finds a legal analogy only in what a discerning and thoughtful law teacher may achieve in his classroom by patiently tracing the evolution of the case from its inception and by exploring the many factors—some irrational—that explain, without necessarily justifying, the court's decision.

The public administration case, it is true, usually has an administrative decision or a succession of decisions as its subject. The task of the case-writer, however, is to uncover the realistic factors of individual motivations, political considerations, interest group pressures, breakdowns of procedures, guildism of "experts," bureaucratic concern with status and self-preservation, and personal congenialities and antagonisms as they help to explain the decision, its timing, and its results. A case, however, does not neatly order these con-

†Chief, Central European Branch, Division of Research for Western Europe, Department of State.
siderations for the reader. Instead, it is typically a narrative account of what occurred over several months or years in the evolution of a situation culminating in a decision or other denouement. The culmination often lacks dramatic satisfaction, for the concern of the writer is with establishing the mood, developing his characters, and revealing their interaction. The spotlight is cast on the process and the politics of decision-making, rather than on the decision itself.

The cases in the volume under review are drawn for the most part from the Federal Government and the chief characters are rather high-level administrators and their immediate associates. In the cases we can see the chafing of an alert, liberal-minded economist subordinated to an old-style, conservative United States consul in Indonesia immediately after World War II; the maneuvering provoked by a plan to move the Children’s Bureau from the Department of Labor to the Federal Security Agency, and again by a plan to supplant the Federal Security Agency’s bureau libraries with an agency-wide library; the classic Glavis-Ballinger public lands controversy of the Taft Administration; the roles of two regional directors of the NLRB—one in relation to the press and the other in relation to labor organizations and to his own staff members; the complex and substantial issues posed by the National Defense Advisory Commission’s devising of the accelerated amortization scheme for tax credits on defense plants and the RFC’s germination of the Defense Plant Corporation; the choice faced by the National Defense Advisory Commission between authorization of new privately-owned ammonia plants and authorization of a publicly-owned TVA ammonia plant; and the post-war disposal of aluminum plants by the Surplus Property Board within the spirit of the antitrust laws. Here too will be found the typical problem that arises when a new function, such as search and rescue operations for aircraft in distress, needs to be jurisdictionally assigned though no existing agency clearly qualifies for the function, or when two agencies, such as the Corps of Engineers and the Bureau of Reclamation, both claim jurisdiction over an activity such as the construction of a dam in California’s Central Valley.

What rational and emotional factors came into play when the OPA considered a proposal to give returning veterans a preferential gasoline ration at the expense of essential users and the general public or when OPA, confronted with a curtailed food supply, faced up to cancellation of food ration stamps already in consumers’ hands and relied on as having indefinite validity? What guideline of fact, reason, legal construction of statutes, propaganda, personal antagonisms, and value concepts of military-civilian relations and of big and little business explain the controversy over the content and timing of reconversion actions of the War Production Board? At the state and local level, the cases reveal a city manager in Massachusetts challenging unsympathetic councilmen over the sphere of managerial jurisdiction; county commissioners in Minnesota resisting the federal and state prescription of personnel standards for social workers; New York’s LaGuardia, O’Dwyer, Moses, the New York Port Authority, the New York State Legislature, and a host
of other officials, citizens, and agencies engaging in a Donnybrook Fair over the location, financing, and administration of the world capital's airport facilities; and a Minnesota highway commissioner adamantly refusing to yield to a natural cement manufacturer's persistent demand that a blend using his kind of cement be mandatory in specifications for Minnesota highways as it was for New York highways. There are still other "moving pictures" of administrators at work in bureaucracies, in politically responsible governments, in society.

Out of this kaleidoscopic view of the decision-making process in administration, the student gains many things. He obtains a vicarious experience in administration as it is; this book undoubtedly comes closer to making up for the average student's unfamiliarity with the realities of public administration than any other available device, save internships. He sees clearly that the executive branch has its distinctive environment and yet sees also how it shares the environments of the legislative branch and the political world. He discovers that administrative officials are human and cut from many cloths. He becomes sensitive to the governmental roles, complementary and competitive, of career administrators, businessmen-in-government, lawyers, economists, politicians, administrative analysts, generals, neutral civil servants, and zealots. He is cured of any disposition to think that administrative and policy problems can be solved by textbook principles, by good intentions or by aphorisms, whether of Lord Acton or Alexander Pope or contemporary administrators. He acquires sophistication but not cynicism. He gets a sound appreciation of the sub-servience of administration to the ends of society, and yet of the importance of institutional arrangements for the discovery and implementation of those ends. He picks up scattered but often useful bits of information about synthetic ammonia, the aluminum industry, the Central Valley project, the development of the nation's conservation and irrigation policies, the cost of living index, and the Foreign Service.

The casebook poses several problems for the teacher. As with all casebooks the student must read each case intensively in order to be prepared to participate in a useful class discussion, and no case can be quickly disposed of in class. The time required for preparation and discussion means that there may be inadequate time for a student to explore the rich, though more traditional, literature of public administration. The case approach means also that the student masters a great deal of detail that is not worth his retaining beyond the time of the class discussion. The case approach picks up one thread of the fabric of an agency's total program; it is not a substitute for an effort to see an agency whole though it provides a more intimate view of the working of an agency than has yet been achieved by an agency history.

The cases so far collected do not lead toward the kind of generalizations about the administrative process that would contribute significantly toward expanding the part of public administration that might be thought of as science rather than art. Cases are necessarily particularistic. Experiences never perfectly repeat themselves in administration and even the grouping of experien-
tial data by categories susceptible of generalization is impossible in the absence of a greater number of cases on each type of administrative problem. Whether the multiplication of public administration cases can be pursued to the point where they may lead to valid generalization is a question both of method and resources; and the question need not be faced squarely at present, as the cases already prepared and to be prepared in the immediate future serve other ends and serve them admirably.

It is enough that teachers and students for the first time receive a truly intimate view of how decisions are made by public administrators; that objective portrayal of values and realities avoids both Pollyanna and muckraking interpretations; and that the user of the cases gains deepened understanding of public policy and of the processes for its determination and execution. These are gains that should not be confined to students specializing in public administration. It is important that the insights be shared by others who will have to do with administration. Lawyers, whether as judges, legislators, agency counsel, administrators, or private practitioners, are among those who would gain by such a sharing.

JAMES W. FESLER†


In this slender volume—which is a supplement to his 900-page treatise The Law of the United Nations ¹—Professor Kelsen has continued his critical and "purely legal" analysis of the Charter and its application. The problems dealt with are: the organization of collective self-defense through the North Atlantic Treaty; the action in Korea; the reappointment of the Secretary-General; and the resolution of the General Assembly "Uniting for Peace." In the preface Kelsen points out that his analysis does not in every respect affirm the constitutionality of the actions under consideration—indeed that these actions may be considered unconstitutional when "viewed retrospectively with regard to the Charter." At the same time he adds: "But directing our view towards the future we may see them [these actions] as the first steps in the development of a new law of the United Nations." The maxim, ex injuria jus non oritur, he somewhat dryly notes, may be replaced in these cases by its opposite, ex injuria jus oritur.

No doubt this approach will appeal to many who have tired of the lengthy and complicated constitutional debates in the United Nations. It has the appearance of being both objective and realistic; it seems to afford an easy political answer to difficult legal questions; at the same time it rests on the

†Alfred Cowles Professor of Government, Yale University.