

Ludwik Bar, *Sądowa kontrola administracji w Anglii* [Judicial Control of the Administration in Britain], Warszawa 1962, PWN, 255 pages.

One of the chief elements of that classical constitutional principle in Britain, the Rule of Law, is the universality of judicial control over the whole of the state administration. At one time the Rule of Law was an adequate enough conception, when the competence of the courts in administrative matters was in line with legal monism. Today, however, legal and constitutional reality does not fit this pattern. As a result of reforms inaugurated as far back as the 19th century, considerable changes have taken place in the relationship between Parliament, the courts, and the administration. In particular, judicial control over the administration has become less universal; with extension of the domain of the administration and the resultant expansion of the administrative apparatus, new bodies are continually being set up, usually within existing ministries, and usually collegiate in structure, to adjudicate in administrative matters. Within the last twenty or thirty years these bodies have multiplied in number, creating an intricate mosaic of institutions, powers and procedures which the continental lawyer finds it no easy matter to decipher.

Therefore L. Bar must be congratulated on undertaking the task of making this study of the present state of judicial control over the administration in Great Britain.

Before proceeding to discuss the control exerted by the courts and the tribunals, the author first examines the historical factors that have determined the present form of the administrative system. Chapter I deals with the organization, functions, law and procedure of the administration. In Chapter II we have a discussion of judicial control under the following headings: General problems, Ingérence of the courts, Measures of control, Civil suits against official bodies, Crown privilege, Increasing rights of the administration, Criticism of judicial control. Chapter III is concerned with the administrative tribunals and the Council on Tribunals. The concluding part of the book is taken up with the author's Reflections on the trends and prospects of the system which controls the administration in Poland.

No criticism is necessary here. The chapters of the book are so planned as to cover the whole field. But the author has not always borne in mind that he is writing for the Polish reader, who is less acquainted with the problem and who at times requires more information. For instance, it would have been useful to supple-

ment the passages describing the administrative system in Britain today with some information on the origins of the present-day local authorities, and to explain the relationship between the local authorities and Parliament, the courts, and the central administration in the 18th and 19th centuries.

Among the host of adjudicating bodies called administrative tribunals discussed in Chapter III, the author has made no selection that would have permitted the elimination of those tribunals (e.g. the Rent Tribunals) that either do not adjudicate in administrative matters at all, or that do adjudicate in administrative matters but not as controlling bodies.

Among the many observations, suggestions, and statements made by the author I should look on two as particularly open to discussion—his hypothesis on the Council on Tribunals and his opinion of the present-day legal apparatus.

The fact that the Council on Tribunals was set up by law in 1958, and the fact that it was given wide terms of reference as regards supervision and co-ordination, have encouraged the author to put forward the hypothesis that it will become “the germ of a body similar to the French Council of State,” and that “with the course of the years it will be able to develop into an official body ruling over the tribunals with its authority and equipped with the necessary powers.” This hypothesis is no doubt supported by the writings of certain eminent writers on the law who are advocates of reform, but it has no backing in the positive law. The same law which set up the Council on Tribunals also provided that appeals against the decisions of the administrative tribunals could be made to the High Court of Justice (*revisio in iure*) and removed all restrictions on appeals to the court through order of *certiorari* and order of *mandamus*. This would seem to support the conception that the tribunals will be bound rather with the ordinary courts.

The author is critical of present-day legal institutions, and of administrative institutions in particular. It is probable that he has been fascinated by the newest literature on the subject that has appeared in Britain and is inspired a zeal for reform. It is not to be wondered at that the would-be reformers make no mention of the praiseworthy aspects of today's legal institutions. I should be inclined to modify some of the criticisms. For example, the Civil Service is an institution which may be criticized from a socialist point of view, but the matter looks quite differently if we look at it in the setting of a capital system.

Regarded as a whole, the book reviewed here undoubtedly achieves those aims the author set out to fulfil. It brings before wide circles of Polish lawyers a picture of the interesting constitutional changes taking place in Great Britain. What is more, the abundant documentation, the interlarding of the text with a large number of English texts from many of the latest publications, will be very useful to any Polish reader who wishes to study further the structure of the control of administration in Britain.

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