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Practice before Federal Administrative Agencies

PRACTICE BEFORE FEDERAL ADMINISTRATIVE AGENCIES

As a natural result of the delegation of both executive and, in many instances, judicial authority to administrative agencies of the Federal Government, practice before them by lawyers and laymen has grown to huge proportions.

Admission to and control over practice before such agencies is therefore an important matter to our profession. Some fifty of them are listed in a report of the Committee on Administrative Practice of the Bar Association of the District of Columbia which has recently come to hand.

And while as stated it is primarily a factual report, and makes no special recommendations, and invites study and suggestions and recommendations, it reveals the need for one supervising agency for not only the admission to practice, but for uniform rules and regulations.

The interest in administrative law practice is national in scope, and embraces practice not only before federal agencies, but before innumerable state agencies, both of which seem to be still on the increase, therefore the need to adopt uniform rules for admission to practice and uniform practice before the federal agencies will be a guide to the state agencies in the same matters, in addition to the imperative necessity for their adoption by the federal agencies.

The report for its purpose finds it is necessary only to examine admission to and control over practice by those tribunals which by reason of their importance or of their detailed regulations merit specific consideration, and then enumerates some twenty.

What an attorney has to do to allow him to practice before them is best stated in the language of the report,— "The admission or exclusion of attorneys, historically, is the exercise of judicial power. This concept, rightly or wrongly has been largely modified by the multitudinous regulations of federal administrative agencies governing admissions to and control over the practice of law.

Generally, in any jurisdiction other than the District of Columbia, a person duly admitted to the bar may, upon such authority, pursue the practice of law, in the same manner that a doctor once so licensed may pursue the practice of medicine. Not so in the District of Columbia. Admission to the bar of the District of Columbia is only the beginning of a series of admission-to-practice applications, investigations, endorsements, sponsors, certifications, etc., even including examinations. If a lawyer chose really to qualify himself for general practice in the District, he would have to file fourteen applications, obtain ten clerks' certificates, and one personal certification of a judge, submit to seven investigations as to character, reputation, and standing, take fourteen oaths, enter his name on fourteen rolls, and be subject to discipline, suspension or disbarment by twenty-three or more agencies — all this after he has filed the required appli-

cation, passed the required examination, established his good character, and standing, been duly admitted to the bar, and been enrolled as an attorney at law by order of the court.

In some instances there are express statutory provisions empowering admission-to-practice regulations, in others the power is exercised under general powers to prescribe regulations, and in a few cases the power is assumed by implication."

OUR SUPREME COURT HOLDS

In Waldo Bryan and J. R. Bryan, copartners doing business under the name and style of Economy Cab Company, successors of and formerly known as U-Drive Car Company, Pltfs, and Appt's, vs. Obert Olson, as Mayor, H. E. Spohn, et al., as Commissioners, and William Ebeling, as Chief of Police of the City of Bismarck, Burleigh County, North Dakota, Def'ts and Resp'ts.

That where a board is clothed by a valid enactment with the power to decide a question of fact, the exercise of their judgment and discretion in doing so, after a hearing whereat the parties interested were given an opportunity to be and were heard, cannot be controlled by a court in a certiorari porceeding under section 8443, 1925 Supplement to the 1913 Compiled Laws, which provides that the writ "shall be granted * * * where inferior courts offiers, boards or tribunals have exceeded their jurisdiction and there is no appeal, nor, in the judgment of the court, any other plain, speedy and adequate remedy, and also when in the judgment of the court it is deemed necessary to prevent miscarriage of justice."

Appeal from the District Court of Burleigh County, Honorable H. L. Berry Judge. Application for writ of certiorari. From a judgment denying the writ and dismissing the application, plaintiff appeals.

AFFIRMED. Opinion of the Court by Nuessle, J.

In Wilhelm Fink, Sr., Plt'f and Appl't, vs. Workmen's Compensation Bureau of the State of North Dakota, Def't and Resp't.

That as a general rule an injury received by an employee in going to and from his work is not an injury received in the course of his employment.

That where an employee, required by his contract to work until 5 p.m., is told by the foreman prior to that time that his work is over and he may go home, and thereafter, while on the way home and some distance from the place of his employment, he receives injuries, such injuries are not incurred in the course of his employment even though received before 5 p.m., and the fact that such employee was employed as a teamster driving his own horses, being paid for their use, and received the injury while driving his horses home from the work, does not alter the rule in this case.

(Syllabus by the Court.)

Appeal from the District Court of Burleigh County. Hon. Fred Jansonius, Judge.

AFFIRMED. Opinion of the court by Burr, J.