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The Court of Appeals, 1951 Term Table of Contents

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THE COURT OF APPEALS, 1951 TERM

I. ADMINISTRATIVE LAW (Neil Farmelo)	
<i>Delegation</i>	58
<i>Other Aspects of the Miracle Case</i>	60
<i>Procedure</i>	62
<i>Exhaustion of Remedies</i>	64
<i>Judicial Review</i>	66
II. CIVIL PRACTICE (Joseph Tisdall and Daniel Roach)	
<i>C. P. A. § 51-a and Interpleader</i>	67
<i>Power of a Court to Disqualify Attorneys</i>	68
<i>Pleading—Liability of Unincorporated Associations</i>	70
III. CONFLICT OF LAWS (Robert Thompson)	
<i>Forum Non Conveniens</i>	72
<i>Foreign Divorce Proceedings</i>	76
<i>Choice of Court</i>	78
<i>Choice of Law</i>	78
IV. CONTRACTS (Maynard Schaus)	
<i>Preliminary Negotiations</i>	81
<i>Offer and Acceptance</i>	83
<i>Statute of Frauds</i>	84
<i>Assignments</i>	87
<i>Arbitration</i>	88
<i>Interpretation</i>	90
V. CRIMINAL LAW (Joseph Taddeo)	
<i>Venue</i>	91
<i>Written Information</i>	92
<i>Presumption Statute</i>	94
<i>Trial—Reversible Errors</i>	96
<i>Coram Nobis</i>	97
VI. DOMESTIC RELATIONS (Ralph Halpern and Sheldon Hurwitz)	
<i>Annulment: Fraud</i>	99
<i>Support: Parent-Child</i>	101
VII. MUNICIPAL CORPORATIONS (Robert Blaney)	
<i>The Local Unit</i>	103
<i>Community Planning</i>	105
<i>Municipal Borrowing</i>	108
<i>Municipal Tort Liability</i>	109
VIII. PROPERTY (Robert Schaus)	
A. Real Property	
<i>Adverse Possession</i>	110
<i>Mortgages</i>	112
<i>Future Interests</i>	115
B. Personal Property	
<i>Bailments</i>	116
IX. TORTS (Ralph Halpern and Sheldon Hurwitz)	
A. Negligence	
<i>Duty</i>	120
<i>Standard of Care</i>	122
<i>Causation</i>	124
<i>Indemnity</i>	125
B. Intentional Torts	
<i>Right of Privacy</i>	128
<i>Libel</i>	130
X. TABLES	
	132

THE COURT OF APPEALS, 1951-52 TERM

I. ADMINISTRATIVE LAW

In its 1951-52 term, the Court of Appeals dealt with several phases of the administrative process, including the role played by the courts. At the outset, it was faced with a basic problem of this branch of law, the proscription against statutory delegation of legislative power to an administrative body.¹ The next step, *i. e.*, the actual administration of the statute by the tribunal or officer, is guided by the requirements of due process.² Decisions of the Court in the past term accentuate the fact that procedure must be proper and in precise compliance with the statutory scheme.³ On appeal, although the litigant has properly proceeded before the agency, he may nevertheless experience great difficulty in invoking the jurisdiction of a court to review the administrative action.⁴ If jurisdiction is granted, the courts of this state find statutory as well as decisional rules governing the scope of review.⁵

Delegation

Delegation of power to an administrative agency must not be delegation of legislative power.⁶ The function of the agency must be restricted to ascertaining facts and conditions to which the statute will apply.⁷ The policy of the law must be set by the legislature,⁸ and the statute must supply the methods to be used in carrying out such policy and the objectives which are to be attained; such standards are to guide the agency in administering the statute.⁹ In the now famous *Miracle case*,¹⁰ EDUCATION LAW § 122 was involved. It provides that a license should be issued for the exhibition of any submitted film "unless such film or a part thereof is obscene, indecent, immoral, inhuman, sacrilegious, or is of such a character that its exhibition would tend to corrupt

1. *Burstyn v. Wilson*, 303 N. Y. 242, 101 N. E. 2d 665 (1951).

2. *Wignall v. Fletcher*, 303 N. Y. 435, 103 N. E. 2d 728 (1952).

3. *Weeks v. O'Connell*, 304 N. Y. 259, 107 N. E. 2d 290 (1952).

4. *Brennan v. Delaware, L. & W. R. Co.*, 303 N. Y. 907, 105 N. E. 2d 492 (1952).

5. *Lynch Builders Restaurant v. O'Connell*, 303 N. Y. 408, 103 N. E. 2d 531 (1952); *Kopec v. Buffalo Brake Beam-Acme Steel & Malleable Iron Works*, 304 N. Y. 65, 106 N. E. 2d 12 (1952).

6. *Field v. Clark*, 143 U. S. 649 (1892).

7. *Bowles v. Willingham*, 321 U. S. 503 (1944).

8. *Ibid.*

9. *Yakus v. United States*, 321 U. S. 414 (1944).

10. *Supra* n. 1.