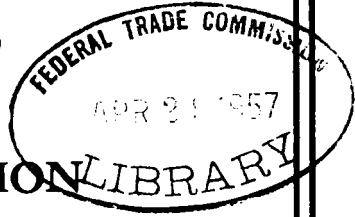


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**Atomic Electric Energy and the Holding
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**George Washington U. Law School Spring
Semester Courses and January Institute**

**Next Meeting of the Bar Association — Mayflower Hotel
January 8, 1957**

**Medical Legal Forum, Association Claimants Attorneys,
January 17, 18; 9:00 A.M.—6:00 P.M., Shoreham Hotel;
Melvin M. Belli, Moderator.**

**January 28, 1957, 4 P.M., Ceremonial Courtroom; presentation of
plaque of the late Chief Judge Harold M. Stephens; members invited.**

JANUARY, 1957

WASHINGTON, D. C.

**The Administrative Court Proposal — or Should
Judicial Functions of Administrative Agencies
Be Transferred to an Administrative Court¹**

(For the Negative—Earl W. Kintner²)

*Mr. Chairman, Mr. Sellers and Other Fellow Members of
the Federal Bar Association:*

I.

Several weeks ago I bought a house, not a very luxurious or fancy house. In fact, one might say that it looked "beat up". But my wife and I plan eventually to redo the house inside and out, and at the end of that time we expect to have a rather comfortable, pleasant place in which to live.

Before buying the house, I was particularly interested in one

position of arguing for a structure built upon a most unsound foundation. The foundation of his proposed administrative

The latter proposals are embodied in recommended legislation which would change the rules of evidence and procedure applicable to administrative proceedings, which would curtail the opportunity of agency members to participate genuinely in the decisions for which the agency must accept responsibility, and which in practical effect suggest that an administrative

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in a number of existing statutes. Seeing the same word in five statutes the Task Force assumed that five agencies were operat-

ing in a single field, since each one must decide whether something was fair or not fair. Actually, there is no real overlap among the fields concerned. What is unfair in aviation is not necessarily unfair in agriculture. The determination of what is unfair in any one of the statutes can be made only upon the basis of expert knowledge in each field. An administrative court operating in all such fields would openly and directly conflict with the work of all of the agencies and confusion would be created rather than removed.

With respect to the argument that the administrative court would save money, no argument and no facts were presented by the Task Force, and I shall present none in rebuttal, except to say that in my own experience it appears that the creation

of a new agency, whether judicial or otherwise, could not avoid

increased costs. Parenthetically, it has been pointed out many

times that the Federal Trade Commission is unique in Govern-
ment in that it has fewer employees in 1956 than it had in

1918.

The increase in efficiency argument makes no sense. The

Task Force objects to the handling by the Federal Trade Com-
mission of its famous *Cement Institute* case, apparently criti-
cizing the Commission for having granted due process of law
to the respondents before it.

This case is cited by the Task Force as an example of the Fed-

most charitable attitude, misguided. I find it difficult to be charitable, and it is my own personal conclusion that the Federal Trade Commission was a cold-blooded selection by the Hoover Commission Task Force staff and the ABA Special Committee as the agency which should *first* be sacrificed. In

my opinion the choice was made on the basis of two principal considerations: (1) the Federal Trade Commission has a large measure of quasi-judicial work to which it increasingly has applied accepted judicial standards of due process; and (2) the

ized bar which could be expected to rise to its defense in the Congress and elsewhere.

that the bar should aid in elimination of such delay as it now

only begin to tell the story. They show some of the reasons
for the growth of the administrative process. The process is