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January Meeting of Denver Bar Association

Dicta Editorial Board

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E. Blythe Stason, dean of the University of Michigan Law School, recognized authority on administrative law, author of several books in this field, and member of the U. S. Attorney General's Committee on Administrative Procedure, was the speaker at the January 6, 1947, meeting of the Denver Bar Association. He spoke on the subject "Administrative Control of Atomic Energy." He said, in part:

This is one of the most important subjects before us today. I discuss it because I have always been interested in physics and in the field of administrative law.

The administrative control of atomic energy has two aspects—the international and the domestic. If we can't find a way to solve the international aspects, we will have no need to attempt to solve the domestic aspects. I think the international aspects will be solved. This will require some loss of sovereignty and some other things which some don't want. I will talk principally of the domestic aspects.

The "Atomic Energy Act of 1946" is one of the most important laws ever adopted by Congress. Mr. Newman, counsel for the Senate committee said, "This act cuts more deeply into private enterprise than any other act ever passed by Congress."

We believe in the rule of law. We have been taught that some minor matters should be left to administrative discretion, but the large problems should be controlled by laws. There has been a great change in this philosophy. Many of the new federal acts have adopted a new philosophy, and much discretion has been left to administrative agencies. This is a change from the rule of law to a rule of administrative discretion, which is one of the penalties of the change to a complex civilization.

The Atomic Energy Act was adopted by Congress in the summer of 1946. The bill was well considered and well drafted. The sweeping powers granted were great, and must be modified in the future. The act had four objectives: promote research, regulate fissionable materials, to own and operate all processes and fissionable materials, and to regulate the utilization of all fissionable materials. The act creates the commission, which has been appointed. It provides for research. It establishes absolute public ownership and control over all fissionable materials. The commission is the owner of all processes and all such materials. Control over sources of raw materials is provided. The commission may authorize the approved use of atomic energy unless such use is vetoed by Congress. The commission may revoke a license to use without cause. Private patents are prohibited in the field occupied by the government. Patents may be granted for the industrial use of atomic energy, but the commission has large discretion in the use of such inventions.

Congress was faced with the necessity of doing something, and this act

was the result. No act of Congress has ever conferred greater powers on a commission. The commission has almost unlimited powers to aid research. It may produce the materials. It could create a vast business to do this. It may distribute fissionable materials. There are no standards to guide the commission. No person may produce or utilize fissionable material without a license. The commission has unlimited authority to prescribe the conditions of granting a license.

If the act is wisely administered, it will result in great good, but maladministration will be very bad.

Where are we headed? What will be the end result if Congress continues to grant such great discretion to administrative agencies—continues to rely on the discretion of men rather than the rule of law? What should Congress do to limit administrative discretion?

Congress should assume its share of responsibility by writing into law every reasonable means to limit administrative discretion. Standards can be stated. Administrative appeals can be used more effectively than they have been in the past. The adversary method of proceeding can be utilized to a greater extent. Legislative bodies can and should sharpen the standards to be followed, and this must be done in the Atomic Energy Act as soon as possible.

Our Returning Lawyer-Veterans

CHARLES S. VIGIL, served three years seven months in the United States Coast Guard. He has now returned to Trinidad, where he is assistant district attorney.

Lawyers in the Public Service

CLIFFORD J. GOBBLE, Brighton, and GEORGE G. PRIEST, Jefferson county, are two more lawyers rendering public service at the state's most undercompensated job—member of the state House of Representatives. Added to the names in January DICTA, these bring the number of lawyers in the House to twelve. Both are members of several important House committees, and are taking active parts in this year's legislative program.

Law Books Available

Edward Affolter, Louisville, who is retiring from practice, has advised that he will make a gift to any lawyer or institution desiring to use them, the American Bar Association Journals from 1926 to 1946, and the American Bar Association Reports from 1916 to 1946. Anyone interested should write to Mr. Affolter at Louisville, or phone Louisville 54 W.

Julius I. Ginsberg, 814 Majestic Bldg., Denver has for sale a number of volumes of Colorado Reports and Colorado Appeals, and other miscellaneous law books.