

Director or Chairman, can and should accomplish both of the goals of the American Bar Association in one bill. The legislative program of the American Bar Association for the establishment of a Conference has been developed under the concept that this legislative proposal combines the features of an independent office and of a conference.

The Congress, by enacting this legislation, would not only fill the gap mentioned above, but it would provide a mechanism for the continuous improvement of administrative law and procedure.

I cannot overemphasize the necessity for continuity in the review of procedure—a day in and day out preoccupation with the subject by a professional group such as would be the case of the Chairman of the Administrative Conference under the legislation advocated by the American Bar Association. Only by such continuous preoccupation can any real improvement be reasonably anticipated.

I acknowledge that, in the past, committees of the Congress have rendered a signal service in turning the spotlight on particular problems. Frequently, such focusing of attention by the Congress on particular problems has resulted in ameliorating legislation or revisions of procedures by the agencies themselves.

Here, again, however, one notices the same defect which I described above; namely, such legislation has, for the most part, dealt with ad hoc situations and has not dealt with the problem across the board, so to speak. The result has been to intensify the patchwork nature which characterizes our present administrative law structure.

The experience of the past two Conferences on Administrative Procedure furnishes conclusive evidence, to my mind, that in order to secure the maximum advantages of this mechanism, the Conference should be established on a permanent legislative basis.

The Conference which filed its report in 1955 expired. That Conference made 22 general recommendations for improvements of the administrative process. As of 1958, only 21 of the 53 agencies affected by the recommendations of that Conference had actually put into effect 1 or more of these 22 general regulations. In 3 years after that Conference expired, 32 of the 53 agencies had not seen fit to adopt even 1 of the recommendations.

Unless a permanent Administrative Conference is established, there is no reason to believe that the record of the recent Conference will be any better in this respect. The recent Conference made 30 recommendations. There is no organized activity designed to prod the present governmental agencies into adopting these 30 recommendations.

If the Conference of the type advocated by the American Bar Association is established, its Chairman will have this aspect of his work cut out for him. By continuously urging the agencies to adopt the recommendations and by reporting to the Congress those who do not, a dramatic exception may be made to the somewhat gloomy record of the 1955 Conference in this respect.

What I have just said illustrates what may almost be taken as a maxim, namely, that, unless some sort of spur is applied, Federal executive departments and agencies will not, voluntarily, change their procedures, however desirable, if it involves too much of a departure from the status quo.