

Exhibit 7

to Plaintiffs' Motion for Summary Judgment

Case No.: 20-cv-1104-ESH

Calendar No. 758

79TH CONGRESS }
1st Session }

SENATE

{ REPORT
{ No. 752

ADMINISTRATIVE PROCEDURE ACT

REPORT

OF THE

COMMITTEE ON THE JUDICIARY

ON

S. 7

A BILL TO IMPROVE THE ADMINISTRATION
OF JUSTICE BY PRESCRIBING FAIR
ADMINISTRATIVE PROCEDURE

NOVEMBER 19 (legislative day, OCTOBER 29), 1945.—Ordered to be printed

COMMITTEE ON THE JUDICIARY

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CALVIN M. CORY, *Clerk*
J. G. SOURWINE, *Counsel*

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MR. McCARRAN, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany S. 7]

The Committee on the Judiciary, to whom was referred the bill (S. 7), to improve the administration of justice by prescribing fair administrative procedure, having considered the same, reports favorably thereon, with an amendment, and recommend that the bill do pass, as amended.

There is a widespread demand for legislation to settle and regulate the field of Federal administrative law and procedure. The subject is not expressly mentioned in the Constitution, and there is no recognizable body of such law, as there is for the courts in the Judicial Code. There are no clearly recognized legal guides for either the public or the administrators. Even the ordinary operations of administrative agencies are often difficult to know. The Committee on the Judiciary is convinced that, at least in essentials, there should be some simple and standard plan of administrative procedure.

I. LEGISLATIVE HISTORY

For more than 10 years Congress has considered proposals for general statutes respecting administrative law and procedure. Figure 1 on page 2 presents a convenient chronological chart of the main bills introduced. Each of them has received widespread notice and intense consideration.

The growth of the Government, particularly of the executive branch, has added to the problem. The situation had become such by the middle of the 1930's that the President appointed a committee

Previously, that committee and the Senate Committee on the Judiciary had requested administrative agencies to submit their views in writing. These were carefully analyzed and, with the aid of representatives of the Attorney General and interested private organizations, in May 1945 there was issued a Senate committee print setting forth in parallel columns the bill as introduced and a tentatively revised text.

Again interested parties in and out of Government submitted comments orally or in writing on the revised text. These were analyzed by the committee's staff and a further committee print was issued in June 1945. In four parallel columns it set forth (1) the text of the bill as introduced, (2) the text of the tentatively revised bill previously published, (3) a general explanation of provisions with references to the report of the Attorney General's Committee on Administrative Procedure and other authorities, and (4) a summary of views and suggestions received.

Thereafter the Attorney General again designated representatives to hold further discussions with interested agencies and to screen and correlate further agency views, some of which were submitted in writing and some orally. Private parties and representatives of private organizations also participated.

Following these discussions the committee drafted the bill as reported, which is set forth in full in appendix A. The Attorney General's favorable report on the bill, as revised, is set forth in appendix B.

II. APPROACH OF THE COMMITTEE

In undertaking the foregoing very lengthy process of consideration, the committee has attempted to make sure that no operation of the Government is unduly restricted. The committee has also taken the position that the bill must reasonably protect private parties even at the risk of some incidental or possible inconvenience to or change in present administrative operations. The committee is convinced, however, that no administrative function is improperly affected by the present bill.

THE PRINCIPAL PROBLEMS.—The principal problems of the committee have been: *First*, to distinguish between different types of administrative operations. *Second*, to frame general requirements applicable to each such type of operation. *Third*, to set forth those requirements in clear and simple terms. *Fourth*, to make sure that the bill is complete enough to cover the whole field.

The committee feels that it has avoided the mistake of attempting to oversimplify the measure. It has therefore not hesitated to state functional classifications and exceptions where those could be rested upon firm grounds. In so doing, it has been the undeviating policy to deal with types of functions as such and in no case with administrative agencies by name. Thus certain war and defense functions are exempted, but not the War or Navy Departments in the performance of their other functions. Manifestly, it would be folly to assume to distinguish between "good" agencies and others, and no such distinction is made in the bill. The legitimate needs of the Interstate Commerce Commission, for example, have been fully considered but it has not been placed in a favored position by exemption from the bill.