

CAL. JUR. 2d

2601.2  
2

外文书库

# CALIFORNIA JURISPRUDENCE

SECOND EDITION

A COMPLETE AND MODERN  
STATEMENT OF THE LAW  
AND PRACTICE OF THE  
STATE OF CALIFORNIA

*Volume 2*

ADMINISTRATIVE LAW AND PROCEDURE  
TO  
AGENCY



*By the Editorial Staff of the Publisher*

**BANCROFT-WHITNEY COMPANY**  
San Francisco  
1952



Copyright 1952

by

**BANCROFT-WHITNEY COMPANY**

## TABLE OF ABBREVIATIONS

|                          |   |
|--------------------------|---|
| AC .....                 | Advance California Reports                    |
| ACA .....                | Advance California Appellate Reports          |
| Adm C .....              | Administrative Code                           |
| Ag C .....               | Agricultural Code                             |
| ALR .....                | American Law Reports Annotated                |
| ALR2d .....              | American Law Reports Annotated, Second Series |
| Am Jur .....             | American Jurisprudence                        |
| Anno .....               | Annotation                                    |
| Bank C .....             | Banking Code                                  |
| B & P C .....            | Business and Professions Code                 |
| C .....                  | California Reports                            |
| C2d .....                | California Reports, Second Series             |
| CA .....                 | California Appellate Reports                  |
| CA2d .....               | California Appellate Reports, Second Series   |
| CC .....                 | Civil Code                                    |
| CCP .....                | Code of Civil Procedure                       |
| ch .....                 | Chapter                                       |
| CLR .....                | California Law Review                         |
| Cof .....                | Coffey  |
| Const Art I § 1 .....    | Article and section California Constitution   |
| Corp C .....             | Corporations Code                             |
| CU .....                 | California Unreported                         |
| Deering's Gen Laws ..... | Deering's California General Laws             |
| Ed C .....               | Education Code                                |
| Elec C .....             | Elections Code                                |
| F .....                  | Federal Reporter                              |
| F2d .....                | Federal Reporter, Second Series               |
| F Supp .....             | Federal Supplement                            |
| FRD .....                | Federal Rules Decisions                       |
| F & G C .....            | Fish and Game Code                            |
| Fin C .....              | Financial Code                                |
| Gov C .....              | Government Code                               |
| H & N C .....            | Harbors and Navigation Code                   |
| H & S C .....            | Health and Safety Code                        |
| Hast L J .....           | Hastings Law Journal                          |
| Ins C .....              | Insurance Code                                |
| Lab C .....              | Labor Code                                    |
| L ed .....               | Lawyers' Edition U. S. Supreme Court Reports  |
| Mil & Vet C .....        | Military and Veterans Code                    |
| Ops Atty Gen .....       | Opinions of the Attorney General              |

|                   |                                 |
|-------------------|---------------------------------|
| p .....           | Page                            |
| P .....           | Pacific Reporter                |
| P2d .....         | Pacific Reporter, Second Series |
| Pen C .....       | Penal Code                      |
| Pol C .....       | Political Code                  |
| Prob C .....      | Probate Code                    |
| Pub Res C .....   | Public Resources Code           |
| Pub U C .....     | Public Utilities Code           |
| Rev & Tax C ..... | Revenue and Taxation Code       |
| SCLR .....        | Southern California Law Review  |
| S Ct .....        | Supreme Court Reporter          |
| Stan LR .....     | Stanford Law Review             |
| St B J .....      | State Bar Journal               |
| Sts & H C .....   | Streets and Highways Code       |
| subd .....        | Subdivision                     |
| US .....          | United States Reports           |
| US Const .....    | United States Constitution      |
| Veh C .....       | Vehicle Code                    |
| W & I C .....     | Welfare and Institutions Code   |
| Wat C .....       | Water Code                      |

## TABLE OF PARALLEL REFERENCES

This table shows where the subject-matter of the various sections in CALIFORNIA JURISPRUDENCE is treated in CALIFORNIA JURISPRUDENCE, 2d. The figures in parentheses are page numbers of CALIFORNIA JURISPRUDENCE. Transfers of subject-matter to other articles are so indicated.

The reader should consult the indexes to CALIFORNIA JURISPRUDENCE, 2d, for detail and for new matter not appearing in CALIFORNIA JURISPRUDENCE.

### ADMINISTRATIVE LAW AND PROCEDURE

| Cal Jur<br>§§      | Cal Jur 2d<br>§§          | Cal Jur<br>§§     | Cal Jur 2d<br>§§ |
|--------------------|---------------------------|-------------------|------------------|
| 1 (27) .....       | 2-5                       | 12 (34) .....     | 112              |
| 2 (28) .....       | 1                         | 13 (34, 35) ..... | 95-115           |
| 3 (28, 29) .....   | 41-44                     | 14 (35, 36) ..... | 76, 78, 105-109  |
| 4, 5 (29, 30) .... | 50-54                     | 15 (36) .....     | 140-153          |
| 6 (30, 31) .....   | 10, 25-30                 | 16 (36) .....     | 154-161          |
| 7 (31, 32) .....   | 25-30                     | 17 (36, 37) ..... | 175-189          |
| 8 (32) .....       | 20, 22, 23                | 18 (37, 38) ..... | 176              |
| 9 (33) .....       | 38, 61                    | 19 (38, 39) ..... | 193              |
| 10 (33) .....      | 63, 73, 74, 77-<br>81, 82 | 20 (39) .....     | 198              |
| 11 (33, 34) .....  | 65, 127-129               | 21 (39, 40) ..... | 204-218          |
|                    |                           | 22 (40, 41) ..... | 194              |

### ADOPTION OF CHILDREN

| Cal Jur<br>§§      | Cal Jur 2d<br>§§ | Cal Jur<br>§§      | Cal Jur 2d<br>§§ |
|--------------------|------------------|--------------------|------------------|
| 1 (418) .....      | 1                | 13 (430-432) ....  | 17               |
| 2 (418, 419) ....  | 2                | 14 (432) .....     | 37               |
| 3 (419, 420) ....  | 14; BASTARDS     | 15 (432, 433) .... | 35               |
| 4 (420, 421) ....  | 4                | 16 (433, 434) .... | 38               |
| 5 (421-423) ....   | 4, 5             | 17 (434) .....     | 36               |
| 6 (423, 424) ....  | 4, 5             | 18 (435, 436) .... | 20, 28           |
| 7 (424) .....      | 6                | 19 (436, 437) .... | 21               |
| 8 (424, 425) ....  | 16               | 20 (437-439) ....  | 22               |
| 9 (425-427) ....   | 15               | 21 (439, 440) .... | 24               |
| 10 (427, 428) .... | 15               | 22 (441) .....     | 24               |
| 11 (428, 429) .... | 3, 13, 14        | 23 (441, 442) .... | 24               |
| 12 (429, 430) .... | 18               | 24 (442, 443) .... | 46               |

## ADOPTION OF CHILDREN—Continued

| Cal Jur<br>§§      | Cal Jur 2d<br>§§ | Cal Jur<br>§§      | Cal Jur 2d<br>§§ |
|--------------------|------------------|--------------------|------------------|
| 25 (444) .....     | 47               | 29 (448) .....     | 48               |
| 26 (444, 445) .... | 54               | 30 (449, 450) .... | 50, 51           |
| 27 (445, 446) .... | 43               | 31 (450, 451) .... | 49               |
| 28 (446, 447) .... | 40, 41           | 32-43 (451-465) .. | BASTARDS         |

## ADULTERY AND FORNICATION

| Cal Jur<br>§§     | Cal Jur 2d<br>§§ | Cal Jur<br>§§     | Cal Jur 2d<br>§§ |
|-------------------|------------------|-------------------|------------------|
| 1 (466) .....     | 1                | 5 (470, 471) .... | 6                |
| 2 (466-468) ....  | 2, 3             | 6 (471-473) ....  | 7, 8             |
| 3 (468, 469) .... | 4                | 7 (473, 474) .... | 9                |
| 4 (469, 470) .... | 5                |                   |                  |

## ADVANCEMENTS

| Cal Jur<br>§§     | Cal Jur 2d<br>§§ | Cal Jur<br>§§     | Cal Jur 2d<br>§§ |
|-------------------|------------------|-------------------|------------------|
| 1 (475, 476) .... | 2                | 5 (480, 481) .... | 3                |
| 2 (476-478) ....  | 2, 4             | 6 (481-483) ....  | 6                |
| 3 (478, 479) .... | 7                | 7 (483) .....     | 2, 7             |
| 4 (479, 480) .... | 4                |                   |                  |

## ADVERSE POSSESSION

| Cal Jur<br>§§      | Cal Jur 2d<br>§§ | Cal Jur<br>§§      | Cal Jur 2d<br>§§        |
|--------------------|------------------|--------------------|-------------------------|
| 1 (488, 489) ....  | 1                | 17 (516) .....     | 16                      |
| 2 (489-491) ....   | 2                | 18 (516, 517) .... | 25                      |
| 3 (491, 492) ....  | 4                | 19 (517-519) ....  | 26                      |
| 4 (492-494) ....   | 5                | 20 (519-522) ....  | 31                      |
| 5 (495, 496) ....  | 6, 7             | 21 (522) .....     | 27                      |
| 6 (497, 498) ....  | 8-10             | 22 (522, 523) .... | 32                      |
| 7 (498-500) ....   | 8                | 23 (523-526) ....  | 33                      |
| 8 (500-502) ....   | 15               | 24 (527, 528) .... | 34                      |
| 9 (502-505) ....   | 10               | 25 (529, 530) .... | 35                      |
| 10 (505, 506) .... | 11               | 26 (530-532) ....  | 41-43                   |
| 11 (506, 507) .... | 13               | 27 (533, 534) .... | 44                      |
| 12 (507, 508) .... | 12               | 28 (534, 535) .... | VENDOR AND<br>PURCHASER |
| 13 (508-510) ....  | 10               | 29 (535-537) ....  | 54                      |
| 14 (510-512) ....  | 14               | 30 (537, 538) .... | 55, 56, 60              |
| 15 (512-514) ....  | 16, 28           | 31 (538, 539) .... | 19-21, 28, 29           |
| 16 (514-516) ....  | 16-18            |                    |                         |

## ADVERSE POSSESSION—Continued

| Cal Jur<br>§§      | Cal Jur 2d<br>§§ | Cal Jur<br>§§      | Cal Jur 2d<br>§§     |
|--------------------|------------------|--------------------|----------------------|
| 32 (539-541) ....  | 28, 29           | 57 (578-580) ....  | 25                   |
| 33 (541, 542) .... | 19               | 58 (580-582) ....  | 80                   |
| 34 (542-544) ....  | 20, 21           | 59 (582, 583) .... | 75                   |
| 35 (544-546) ....  | 22-24            | 60 (583, 584) .... | 82                   |
| 36 (546-548) ....  | 48               | 61-66 (584-592) .. | WATERS               |
| 37 (548, 549) .... | 47               | 67-82 (592-610) .. | EASEMENTS            |
| 38 (549, 550) .... | 51               | 83 (610-613) ....  | 83, 84, 87           |
| 39 (550, 551) .... | 52               | 84 (613) .....     | 86                   |
| 40 (551-553) ....  | 55, 56           | 85 (614-616) ....  | 85                   |
| 41 (553-555) ....  | 58, 59           | 86 (616-619) ....  | 88                   |
| 42 (555-557) ....  | 60, 61           | 87 (619-622) ....  | 89                   |
| 43 (557-560) ....  | 60               | 88 (622, 623) .... | 90                   |
| 44 (560, 561) .... | 62-64            | 89 (623-625) ....  | 90                   |
| 45 (561, 562) .... | 59               | 90 (625-627) ....  | 91, 94               |
| 46 (562-566) ....  | 65, 66           | 91 (628-630) ....  | 95, 96               |
| 47 (566) .....     | 65n              | 92 (630) .....     | 51, 52               |
| 48 (566, 567) .... | 74               | 93 (631-635) ....  | 97                   |
| 49 (568) .....     | 71               | 94 (635, 636) .... | 98                   |
| 50 (568-570) ....  | 73               | 95 (636-638) ....  | 92                   |
| 51 (570, 571) .... | 76               | 96 (639, 640) .... | 93                   |
| 52 (571-574) ....  | 77, 78           | 97 (640-644) ....  | 100, 101             |
| 53 (575) .....     | 79               | 98 (644, 645) .... | JUDGMENTS;<br>WATERS |
| 54 (576) .....     | 16, 45           | 99 (645-647) ....  | APPEAL AND<br>ERROR  |
| 55 (576, 577) .... | 78               |                    |                      |
| 56 (577, 578) .... | 49               |                    |                      |

## ADVERTISEMENTS

See appropriate sections.

## AFFIDAVITS

| Cal Jur<br>§§     | Cal Jur 2d<br>§§ | Cal Jur<br>§§      | Cal Jur 2d<br>§§ |
|-------------------|------------------|--------------------|------------------|
| 1 (651) .....     | 1                | 10 (663, 664) .... | 16               |
| 2 (652, 653) .... | 2, 3             | 11 (664, 665) .... | 16               |
| 3 (653, 654) .... | 4                | 12 (665-667) ....  | 17               |
| 4 (654-656) ....  | 5-7              | 13 (667, 668) .... | 17               |
| 5 (656, 657) .... | 8                | 14 (668, 669) .... | 18               |
| 6 (657-659) ....  | 9, 10            | 15 (669, 670) .... | 19               |
| 7 (659-661) ....  | 11, 12           | 16 (670, 671) .... | 20               |
| 8 (661, 662) .... | 13               | 17 (671-673) ....  | 21               |
| 9 (662, 663) .... | 14, 15           | 18 (673, 674) .... | 22               |



## TITLES IN THIS VOLUME

(Italics indicate cross-reference titles)

|  | PAGE |
|--|------|
| ADMINISTRATIVE LAW AND PROCEDURE ..... | 1    |
| <i>Administrators</i> .....            | 414  |
| <i>Admiralty</i> .....                 | 414  |
| <i>Admissions</i> .....                | 414  |
| ADOPTION OF CHILDREN .....             | 415  |
| <i>Adulteration</i> .....              | 469  |
| ADULTERY AND FORNICATION .....         | 470  |
| ADVANCEMENTS .....                     | 482  |
| ADVERSE POSSESSION .....               | 496  |
| <i>Adverse User</i> .....              | 601  |
| ADVERTISEMENTS .....                   | 602  |
| <i>Aeronautics</i> .....               | 613  |
| AFFIDAVITS .....                       | 614  |
| <i>Affiliation</i> .....               | 642  |
| <i>Affirmation</i> .....               | 642  |
| <i>Affray</i> .....                    | 643  |
| <i>After-Acquired Property</i> .....   | 643  |
| <i>After-Born Children</i> .....       | 643  |
| AGENCY .....                           | 644  |
| <i>Agistment</i> .....                 | 884  |

# **ADMINISTRATIVE LAW AND PROCEDURE**

## **I. GENERALLY (§§ 1-10).**

## **II. CREATION AND SOURCE OF POWERS OF ADMINISTRATIVE AGENCIES (§§ 11-19).**

## **III. NATURE OF ADMINISTRATIVE POWERS (§§ 20-34).**

## **IV. DELEGATION AND VALIDITY OF POWERS (§§ 35-59).**

### **A. GENERALLY (§ 35).**

### **B. CONSTITUTIONAL CONSIDERATIONS (§§ 36-47).**

### **C. DELEGATION OF POWERS (§§ 48-59).**

## **V. EXERCISE OF ADMINISTRATIVE POWERS (§§ 60-169).**

### **A. GENERALLY (§§ 60-69).**

### **B. EXERCISE OF EXECUTIVE OR MINISTERIAL FUNCTIONS (§ 70).**

### **C. EXERCISE OF SUBLEGISLATIVE AND RULE-MAKING POWERS (§§ 71-84)**

### **D. EXERCISE OF ADJUDICATIVE POWERS (§§ 85-168).**

#### **1. Generally (§§ 85-87).**

#### **2. Jurisdiction (§§ 88-94).**

#### **3. Practice and Procedure (§§ 95-115).**

#### **4. Hearing (§§ 116-139).**

#### **5. Evidence (§§ 140-153).**

#### **6. Witnesses (§§ 154-161).**

#### **7. Decision and Administrative Appeal (§§ 162-168).**

### **E. EXERCISE OF INVESTIGATIVE POWERS (§ 169).**

## **VI. OPERATION, EFFECT, AND ENFORCEMENT OF ADMINISTRATIVE ADJUDICATIONS (§§ 170-174).**

## **VII. JUDICIAL REVIEW AND CONTROL (§§ 175-244).**

### **A. GENERALLY (§§ 175-189).**

### **B. METHODS (§§ 190-202).**

### **C. PRACTICE AND PROCEDURE (§§ 203-218).**

#### **1. Generally (§ 203).**

#### **2. Administrative Mandamus (§§ 204-218).**

### **D. SCOPE OF REVIEW (§§ 219-235).**

### **E. DECISION AND POWER OF COURTS ON REVIEW (§§ 236-241).**

### **F. SUBSEQUENT OR OTHER PROCEEDINGS (§§ 242-244).**

**I. GENERALLY.**

- § 1. Scope.
- § 2. Development of Administrative Law.
- § 3. Definition of Administrative Law.
- § 4. — Exclusions.
- § 5. Definition of Administrative Agency.
- § 6. Sources of Administrative Law.
- § 7. Constitutional and Administrative Law.
- § 8. — Doctrine of Judicial Supremacy.
- § 9. Special Characteristics of Administrative Law.
- § 10. California Developments.

**II. CREATION AND SOURCE OF POWERS OF ADMINISTRATIVE AGENCIES.**

- § 11. In General.
- § 12. Constitutional Creation or Source of Power.
- § 13. Initiative and Referendum.
- § 14. Statutory Creation or Source of Power.
- § 15. Local Governmental Bodies.
- § 16. Incidental or Implied Powers.
- § 17. Construction of Enabling Statutes.
- § 18. Validation and Ratification; Waiver and Estoppel.
- § 19. — Imputation of Knowledge to Public.

**III. NATURE OF ADMINISTRATIVE POWERS.**

- § 20. In General.
- § 21. Distinction between "Powers" and "Functions."
- § 22. Powers Not Judicial in Nature.
- § 23. Powers Legislative in Nature.
- § 24. — As Defined for Purpose of Initiative.
- § 25. Adjudicative Powers in General.
- § 26. — Of Constitutional Agencies.
- § 27. — Of Local Agencies.
- § 28. — Of Local Taxing Bodies.
- § 29. — Of State-wide Statutory Agencies.
- § 30. — — Subsequent to Standard Oil Case.
- § 31. Powers Executive in Nature.
- § 32. — Ministerial Powers.
- § 33. Functional and Miscellaneous Classifications.
- § 34. — Investigative or Inquisitorial Powers.

**IV. DELEGATION AND VALIDITY OF POWERS.****A. GENERALLY.**

- § 35. In General.

**B. CONSTITUTIONAL CONSIDERATIONS.**

- § 36. In General.

## IV. B.—Continued

- § 37. Burdens and Presumptions.
- § 38. Due Process.
- § 39. — Summary Powers.
- § 40. Equal Protection and Uniform Operation of Laws.
- § 41. Separation of Powers Doctrine.
- § 42. — Application to State-wide Agencies.
- § 43. — Inapplicability to Constitutional Agencies.
- § 44. — Inapplicability to Local Agencies.
- § 45. Other Constitutional Limitations.
- § 46. — Provisions Relating to Constitutional Agencies.
- § 47. — Special Constitutional Provisions.

## C. DELEGATION OF POWERS.

- § 48. In General.
- § 49. Requisites of Valid Delegation.
- § 50. Adequate Primary Standard.
- § 51. — Rule Making.
- § 52. — Prices and Wages.
- § 53. — Licenses, Permits, and Approvals.
- § 54. — Miscellaneous Applications.
- § 55. Power to Find Facts.
- § 56. Rules Involving Penalties.
- § 57. Delegation to Federal Agencies.
- § 58. Delegation to Unofficial Bodies.
- § 59. Delegation by Local Governing Bodies.

## V. EXERCISE OF ADMINISTRATIVE POWERS.

## A. GENERALLY.

- § 60. In General.
- § 61. Procedural Due Process.
- § 62. Division of Administrative Procedure.
- § 63. Necessity for Compliance with Law.
- § 64. Conflicts between Administrative and Judicial Action.
- § 65. Duly Constituted Agency; Number Required to Act.
- § 66. Continuity of Agency; Change of Membership.
- § 67. Meetings and Sessions; Voting by Mail.
- § 68. Delegation of Power by Administrative Officers.
- § 69. Minutes and Records.

## B. EXERCISE OF EXECUTIVE OR MINISTERIAL FUNCTIONS.

- § 70. In General.

## C. EXERCISE OF SUBLEGISLATIVE AND RULE-MAKING POWERS.

- § 71. In General.
- § 72. Validity Generally; Reasonableness.
- § 73. Alteration of or Conflict with Enabling Statute.

## V. C.—Continued

- § 74. Restricting Administrative Discretion.
- § 75. Tests for Valid Classification.
- § 76. General Requirements for Notice and Hearing.
- § 77. Administrative Procedure Act.
- § 78. — Notice and Hearing.
- § 79. — Filing; Presumptions; Official Notice.
- § 80. — Administrative Register and Code.
- § 81. — Judicial Review.
- § 82. Construction; Conclusiveness; Retroactive Effect; Legislative Ratification.
- § 83. Amendment; Repeal.
- § 84. Enforcement; Challenging Validity.

## D. EXERCISE OF ADJUDICATIVE POWERS.

## 1. Generally.

- § 85. In General.
- § 86. Character of Proceedings.
- § 87. — Not Criminal.

## 2. Jurisdiction.

- § 88. In General.
- § 89. Limited or Special in Nature.
- § 90. Essentials.
- § 91. Exclusive or Concurrent.
- § 92. Determining; Challenging.
- § 93. By Consent, Waiver, or Estoppel.
- § 94. Continuing; Termination or Loss.

## 3. Practice and Procedure.

- § 95. In General.
- § 96. Informality; Liberal Rules.
- § 97. Official Rules.
- § 98. Parties.
- § 99. Representation of Parties; Attorneys.
- § 100. Record of Proceedings.
- § 101. Instituting Proceedings, Generally.
- § 102. — Under Administrative Procedure Act.
- § 103. — Agencies and Proceedings Excepted.
- § 104. Verification of Accusation.
- § 105. Notice.
- § 106. — Under Administrative Procedure Act.
- § 107. — Statute as Notice.
- § 108. — Waiver.
- § 109. — Service.
- § 110. Appearance and Answer.

V. D. 3.—Continued

- § 111. Limitations.
- § 112. Requirements as to Time; Sundays and Holidays.
- § 113. Amendments.
- § 114. Defaults.
- § 115. Dismissal and Discontinuance.
- 4. Hearing.
  - § 116. In General.
  - § 117. Constitutional and Statutory Requirements Generally.
  - § 118. Special Status of Constitutional Agencies.
  - § 119. Grant, Revocation, and Renewal of Occupational License.
  - § 120. Assessment of Taxes and Special Assessments.
  - § 121. Discharge of Public Officers or Employees; Civil Service.
  - § 122. Revocation of Driver's License.
  - § 123. Summary Action under Police Power.
  - § 124. Miscellaneous Proceedings.
  - § 125. Adequacy and Fairness.
  - § 126. Combining Prosecutor-Judge Functions.
  - § 127. Disqualification; Personal Interest or Bias.
  - § 128. — Doctrine of Necessity.
  - § 129. — Procedure.
  - § 130. Time of Hearing.
  - § 131. Place of Hearing.
  - § 132. Public or Private Hearing.
  - § 133. Right to Argue.
  - § 134. Hearing and Decision by Different Officers.
  - § 135. — Necessity for Statutory Authority.
  - § 136. Hearing by Jury.
  - § 137. Objections and Exceptions.
  - § 138. Amendments after Submission.
  - § 139. Adjournments and Continuances.
- 5. Evidence.
  - § 140. In General.
  - § 141. Applicability of Rules of Criminal Law.
  - § 142. Burden of Proof.
  - § 143. Presumptions.
  - § 144. Right of Rebuttal.
  - § 145. Weight and Sufficiency.
  - § 146. Competence, Generally.
  - § 147. Hearsay.
  - § 148. Exhibits.
  - § 149. Previous Conduct; Other Proceedings; Acquittals.
  - § 150. Circumstantial Evidence.
  - § 151. Expert Witnesses.

## V. D. 5.—Continued

§ 152. Administrative or Official Notice.

§ 153. Material Not Formally Noticed or Received.

## 6. Witnesses.

§ 154. In General.

§ 155. Requiring Attendance; Production of Evidence; Fees and Mileage.

§ 156. — Reasonableness; Enforcement.

§ 157. Oath.

§ 158. Privileges; Immunities.

§ 159. Cross-Examination; Impeachment.

§ 160. Depositions.

§ 161. Affidavits.

## 7. Decision and Administrative Appeal.

§ 162. In General.

§ 163. Findings.

§ 164. Decision; Effective Date; Probation.

§ 165. Rehearing.

§ 166. Administrative Appeal and Review.

§ 167. Reinstatement and Reduction of Penalty.

§ 168. Opinions and Reports.

## E. EXERCISE OF INVESTIGATIVE POWERS.

§ 169. In General.

## VI. OPERATION, EFFECT, AND ENFORCEMENT OF ADMINISTRATIVE ADJUDICATIONS.

§ 170. In General.

§ 171. Decisions as Judgments.

§ 172. Res Judicata.

§ 173. Enforcement.

§ 174. — Contempt Proceedings.

## VII. JUDICIAL REVIEW AND CONTROL.

## A. GENERALLY.

§ 175. In General.

§ 176. Permissibility of Appeal; Constitutional Aspects.

§ 177. — Constitutional and Local Agencies.

§ 178. Immunity of Sovereign; Consent to Be Sued.

§ 179. Grounds for Review or Control, Generally.

§ 180. — Questions of Law; Jurisdiction; Statutory Power.

§ 181. — Constitutional Guaranties, Generally.

§ 182. — Due Process; Abuse of Discretion.

§ 183. Discretion of Court to Review.

§ 184. Exhaustion of Administrative Remedies.

§ 185. — Exceptions to Doctrine.

**VII. A.—Continued**

- § 186. — Perfunctory Showing.
- § 187. — Rehearing.
- § 188. Moot, Abstract, and Hypothetical Questions.
- § 189. Presenting and Preserving Questions before Agency.

**B. METHODS.**

- § 190. In General.
- § 191. Special Statutory Methods; Appeal.
- § 192. The Prerogative Writs.
- § 193. — Certiorari.
- § 194. — Prohibition.
- § 195. — Mandamus.
- § 196. — Administrative Mandamus.
- § 197. — Habeas Corpus.
- § 198. Injunction.
- § 199. Declaratory Relief.
- § 200. Hybrid Methods; Petition for One Writ as for Another.
- § 201. Collateral Attack.
- § 202. Miscellaneous.

**C. PRACTICE AND PROCEDURE.****1. Generally.**

- § 203. In General.

**2. Administrative Mandamus.**

- § 204. In General.
- § 205. Agencies Reviewable.
- § 206. — State-wide Statutory Agencies.
- § 207. — Constitutional Agencies.
- § 208. — Local Agencies.
- § 209. Who May Petition.
- § 210. Respondents; Process.
- § 211. Time Requirements.
- § 212. Pleadings; Assignments of Error.
- § 213. Record of Administrative Proceeding.
- § 214. Security; Supersedeas or Stay; Interim Relief.
- § 215. Hearing; Jury Trial.
- § 216. Burden of Proof; Presumptions.
- § 217. Judicial Notice of Administrative Action.
- § 218. Dismissal; Abatement.

**D. SCOPE OF REVIEW.**

- § 219. In General.
- § 220. Agencies Exercising Judicial Powers.
- § 221. Agencies Forbidden to Exercise Judicial Powers.
- § 222. — Adjudications Not Involving Vested Rights.



## VII. D.—Continued

- § 223. Technical Irregularities; Prejudicial Error.
- § 224. Theory and Grounds of Administrative Decision.
- § 225. Questions of Law; Constitutional Questions.
- § 226. Questions of Mixed Law and Fact.
- § 227. Questions of Jurisdiction.
- § 228. — Abuse of Discretion.
- § 229. Questions of Fact.
- § 230. — Substantial Evidence on the Whole Record.
- § 231. — Independent Judgment on the Evidence.
- § 232. Review Limited to Record.
- § 233. — Additional Evidence; Trial de Novo.
- § 234. — — As Curing Administrative Defects.
- § 235. Penalties.

## E. DECISION AND POWER OF COURTS ON REVIEW.

- § 236. In General.
- § 237. Upholding Administrative Action.
- § 238. Annulling Administrative Action.
- § 239. — Usurpation of Administrative Discretion.
- § 240. — Performance of Non-Judicial Functions.
- § 241. Costs.

## F. SUBSEQUENT OR OTHER PROCEEDINGS.

- § 242. In General; In Appellate Courts.
- § 243. — Supersedeas or Stay.
- § 244. Further Administrative Action.

## I. GENERALLY

§ 1. **Scope.**—Within its scope, as herein delineated, this article is exhaustive. It is concerned with the source, nature, and extent of administrative powers; with the manner of their exercise and enforcement; and with their review and control by the courts. However, it does not purport to treat of individual agencies, or to point out exceptions to general rules which may be peculiar to particular agencies. For such information, recourse should be had to specific articles. And inasmuch as administrative law, by reason of its nature, cuts across many other legal classifications, fruitful collateral sources fortifying the rules of administrative law may be found under numerous other titles. Expressly excluded from the present treatment are matters relating to municipal corpora-