

# SOME PROBLEMS IN FOREIGN ADMINISTRATIVE LAW

## INTRODUCTION

*In September, 1957, the University of Chicago was host to the International Association of Legal Science. The topic of one of the round tables of the meeting was "The Rule of Law as Developed in Western Countries." During five long days of discussions the members, who came from some twenty different countries, including Eastern Europe and the Orient, tried to define the essentials of that system of political organization in which the state is simultaneously strong enough to attend to those tasks of protection and welfare which we have come to expect it to perform, and scrupulously solicitous not to encroach upon the freedom and dignity of the individual. The achievement of this balance is not easy. It can be approached along more than one path.*

*In the United States one is tempted to take for granted the indispensability of those features which are the essential foundations of the American system of the rule of law. These features are:*

- 1. The principle that the executive may not interfere with the individual's life, liberty or property without a firm legal basis for its action;*
- 2. A written constitution which limits the law making powers of the legislature by means of a bill of inalienable rights of the individual and in other ways;*
- 3. The power and duty of the courts to control the observance by the legislature and the executive of these limitations of their powers.*

*This American system is not the only possible one, however. That very country which has been the cradle of the rule of law, Great Britain, has no written constitution, no express limitations of legislative powers, and consequently no judicial control of the constitutionality of legislative acts. Since Parliament is omnipotent, every act of Parliament is constitutional. It would hardly be justified to say, however, that in the United Kingdom the rule of law would be less of a reality than it is in the United States. The following two articles show that it would be equally erroneous to believe that the rule of law is of lesser effectiveness in France and Italy where the courts have only a moderate amount of control over administrative acts.*