

The Intrusion of Private Law in Public Administration

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Introduction

The title of this panel is "Private Law — Public Law : Where Lies the Frontier". Thus the ostensible objective is to identify the boundary between private law and public law. Obviously someone is kidding.

To accept that challenge would be like accepting an appointment to an inquiry commission established on a Pacific island to identify where the boundary lies between two tribes, when the evidence is that both tribes are nomadic, each covers the whole island in its wanderings, and neither claims any sector of the island as its own nor recognizes any sector as belonging to the other tribe. Moreover, there has been interbreeding between the tribes for at least a hundred years, and no reason is stated why a boundary is required.

Rather than dwelling on perimeters or definitions, this paper attempts to explain some of the influences of private law in public administration. For this purpose, private law might be described roughly as that which covers transactions and inter-actions between individuals, particularly in regard to property, commerce, and the family. The areas of public law and administration of concern in this paper relate to the structure and operation of government, including the regulatory and service roles of government, such as social insurance, transport and communications, schools, hospitals, environmental control, and occupational health.

The area of criminal law is not covered in this paper.

Legal Education

The influence of private law might be seen as beginning with the significance assigned to it in legal education.

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