Course readings in legislative theory

Seidman, Robert B.

http://hdl.handle.net/2144/20675
Boston University
# TABLE OF CONTENTS

## CHAPTER V
### AN INTERLUDE

<table>
<thead>
<tr>
<th>Author(s)</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Caldwell, Planned Research Protocol</td>
<td>V-1</td>
</tr>
<tr>
<td>Read, MacDonald, Fordham and Pierce, Questionnaire...</td>
<td>V-4</td>
</tr>
<tr>
<td>A First Cut Agenda</td>
<td>V-6</td>
</tr>
<tr>
<td>Notes</td>
<td>V-7</td>
</tr>
</tbody>
</table>

## CHAPTER VI
### CONFORMITY-INDUCING MEASURES

A. A Case Study: The Control of the Transmission of Herpes
   - Sallen, Note, HERPES - a Legal Cure - Can the Law Succeed where Medicine has Failed?  
   - Notes
   - Page: VI-2

B. Theories of Conformity-Inducing Measures
   - Seidman, State, Law and Development
   - Notes
   - Page: VI-16

C. Direct Conformity-inducing Measures: Punishments and Rewards
   1. In general
      a. The general utility of direct sanctions
         - Chilton, Social Control through Welfare Legislation: The Impact of a State "Suitable Home" Law
         - Notes
         - Page: VI-35
      
   2. Rewards
      - Tax incentives: Surrey, Pathways to Tax Reform
      - Subsidies as Conformity-Inducing Measures: Stone
      - Page: VI-61
PART III
IMPLEMENTING INSTITUTIONS

CHAPTER VII
UNDERSTANDING IMPLEMENTING INSTITUTIONS; THEORY

Introduction

A. The Difficulty: Goal-Substitution

Ross, The Neutralization of Severe Penalties: Some Traffic Law Studies

Seidman, Drafting for the Rule of Law: Maintaining Legality in Developing Countries

B. Explanations for Goal-Substitution

Federal Coal Mine Health and Safety Act: Problems of Implementation


House Report on PL 91-173


Senate Report, 1977

Hopkins and Parnell, "Why Cola Mine Regulation in Australia are Not Enforced"

Some Models for Explaining Implementing Behavior

A. Allison, Essence of Decision...
B. Kidder, Connecting Law and Society
C. Seidman, Drafting for the Rule of Law
Notes

C. A Case Study
Butler, State Regulation of the Siting of Liquid Natural Gas Facilities
Notes

CHAPTER VIII
SOME GENERAL ISSUES IN CHOOSING AN IMPLEMENTING INSTITUTION

Introduction

A. Privatized implementation: Court, tribunal or government corporation?

1. Privatization

a. The many shapes of privatization

b. A case study: Protecting Worker's Health and Safety
Notes

2. Government Corporations and Authorities
   1. History
   2. Why public corporations?
   3. Creation, form, powers
   4. Autonomous unit or governmental instrument?
   5. Control devices

Teeguarden and Thomas, A Public Corporation model for Federal Forest Land Management

B. Old or New Implementing Institution

Seidman, Drafting for the Rule of Law
A Case Study: Amending the Coal Mining Health and Safety Act, 1969

C. The Keeper at the Gate: Proactive vs Reactive Institutions

Black, The Mobilization of Law
Notes
Blankenburg, the Selectivity of Legal Sanctions
Problem: North Carolina's Mountain Ridge Protection Act, 1983

CHAPTER NINE
IMPLEMENTATION THROUGH DISPUTE RESOLUTION

A. The Great Transition: From courts to Administrative Agencies.
Industrial Accident Law as an Example

1. The history of industrial accident law
2. Why the transition to agencies?

B. Courts, Tribunals, Arbitration

Council on the Role of Courts, The Role of Courts in American Society
Galanter, Why the Haves come out Ahead...
Notes

Problems

I. Amending the Coal Mining Health and Safety Act, 1969

II. The enforcement provisions of NLRA and EEOA

B. The choice between courts and alternative adjudicatory tribunals

1. The choice between courts and administrative tribunals:
   the view from Great Britain
Street, Justice in the Welfare State

2. Why alternative dispute settling institutions?

Goldberg, Green and Sander (eds), Dispute Resolution

Mennemeier, Protection from Unjust Discharges: an Arbitration Scheme

Notes

Dickens, Hart, Jones and Weekes, "The British Experience. . . ."

C. Judges as administrators of complex organizations

Fuller, The Forms and Limits of Adjudication
Chayes, The Role of the Judge in Public Law Litigation

CHAPTER X
IMPLEMENTATION: BUREAUCRACY

Introduction: The growth of the bureaucratic phenomenon

Schultze, The Public Use of the Private Interest
Note: Why the growth in bureaucracy?

I. The difficulty

Lipsky, Towards a Theory of Street-Level Bureaucracy

II. Explanations for bureaucratic behavior

A. Theories of bureaucracy

Sykes, The Society of Captives

B. Explanations drawn from the "implementation" literature

Arizona: Public Health and Safety

Hillman and Christianson, Competitive
Bidding as a Cost-Containment Strategy for Indigent Medical Care: The Implementation Experience in Arizona

Migrant and Seasonal Agricultural Worker Protection Act

III. Solutions

A. Solutions for the causes suggested by the factors included in the ROCCIPI mnemonic.

Problems

1. Airline Pilot Retirement Rules
2. The Federal Coal Mining Health and Safety Act
3. The Wisconsin Employment Health and Safety legislation