Administrative Proceedings: A Fair Hearing.—With respect to action taken by administrative agencies, the Court has held that the demands of due process do not require a hearing at the initial stage, or at any particular point in the proceeding, so long as a hearing is held before the final order becomes effective.[442] In *Bowles v. Willingham*,[443] the Court sustained orders fixing maximum rents issued without a hearing at any stage, saying "where Congress has provided for judicial review after the regulations or orders have been made effective it has done all that due process under the war emergency requires." But where, after consideration of charges brought against an employer by a complaining union, the National Labor Relations Board undertook to void an agreement between an employer and another independent union, the latter was entitled to notice and an opportunity to participate in the proceedings.[444] Although a taxpayer must be afforded a fair opportunity for a hearing in connection with the collection of taxes,[445] collection by distraint of personal property is lawful if the taxpayer is allowed a hearing thereafter.[446]

When the Constitution requires a hearing, it requires a fair one, held before a tribunal that meets currently prevailing standards of impartiality.[447] A party must be given an opportunity not only to present evidence, but also to know the claims of the opposing party and to meet them. Those who are brought into contest with the government in a quasi-judicial proceeding aimed at control of their activities are entitled to be fairly advised of what the government proposes and to be heard upon the proposal before the final command is issued.[448] But a variance between the charges and findings will

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[442] Opp Cotton Mills v. Administrator, 312 U.S. 126, 152, 153 (1941).

[443] 321 U.S. 503, 521 (1944).

[444] Consolidated Edison Co. v. NLRB, 305 U.S. 197 (1938).

[445] Central of Georgia Ry. v. Wright, 207 U.S. 127 (1907); Lipke v. Lederer, 259 U.S. 557 (1922).

[446] Phillips v. Commissioner, 283 U.S. 589 (1931). *Cf.* Springer v. United States, 102 U.S. 586, 593 (1881); Passavant v. United States, 148 U.S. 214 (1893). The collection of taxes is, however, very nearly a wholly unique area. *See* Perez v. Ledesma, 401 U.S. 82, 127 n.17 (1971) (Justice Brennan concurring in part and dissenting in part). On the limitations on private prejudgment collection, *see* Sniadach v. Family Finance Corp., 395 U.S. 337 (1969).

[447] Wong Yang Sung v. McGrath, 339 U.S. 33, 50 (1950). *But see* Arnett v. Kennedy, 416 U.S. 134, 170 n.5 (Justice Powell), 196–99 (Justice White) (1974) (hearing before probably partial officer at pretermination stage).

[448] Margan v. United States, 304 U.S. 1, 18–19 (1938). The Court has experienced some difficulty with application of this principle to administrative hearings and subsequent review in selective service cases. *Compare* Gonzales v. United States, 348 U.S. 407 (1955) (conscientious objector contesting his classification before appeals board must be furnished copy of recommendation submitted by Department of Justice; only by being appraised of the arguments and conclusions upon which recommendations were based would he be enabled to present his case effectively), *with*