

Principles of Australian Administrative Law, by S.D. Hotop (Law Book Co., 1985) pp. i-xxxvi, 1-504, Index 505-516. Price \$52.00 (cloth), \$36.00 (limp). ISBN 0 455 20575 2.

When the first edition of this now standard work was published in 1950 it barely created a ripple. It escaped the attention of Australia's University law reviews. It even escaped the attention of the *Australian Law Journal*. Two years later it was the subject of a terse note in the *Modern Law Review* by Professor Harry Street.¹ Having welcomed the addition to the scant literature on administrative law, it proceeded to do no more than record a series of minor criticisms.

Professor Friedmann's pioneering work was only 112 pages long and cost 12s. 6d. As it has progressed through subsequent editions, the book has expanded to its present 504 pages to take account of the many developments and reforms in administrative law which have occurred over the past 35 years. Yet it retains its basic structure. In 1950 it is understandable that a substantial part of a text on administrative law would have been made up of an exposition of constitutional principles and an outline of the structures of government. Administrative law was only just beginning to emerge as a discrete area of public law. It is much more difficult today to justify the inclusion of three introductory chapters on 'The Australian Constitutions' (Chapter 2), 'The Framework of Government in Australia' (Chapter 3) and 'Some General Constitutional Principles' (Chapter 4). Together they account for some 80 pages which traverse ground which is more than adequately treated in books on constitutional law and which would be familiar to most students who are about to embark on a study of administrative law.

One important change which has been made is that natural justice is no longer accorded a separate chapter. It properly takes its place amongst the grounds on which judicial review may be sought (Chapter 7). The traditional remedies (Chapter 8) and the new statutory remedies (Chapter 9) which are available when one of the grounds is established are positioned, logically, in the succeeding chapters. This reorganisation would have been more consistent had the separate chapter on delegated legislation (Chapter 6) been abandoned and that part of it which deals with *ultra vires* merged with the *ultra vires* ground of judicial review. Parliamentary control of delegated legislation could have been transferred to the chapter on extra-judicial review of administrative action (Chapter 10).

The new edition retains chapters on the 'Legal Position of the Crown and Public Authorities' (Chapter 12) and 'Proceedings Against the Crown and Public Authorities' (Chapter 13). These topics are also legacies of a bygone era. They have little to do with the regulation of the operation of public bodies, having more in common with constitutional law and civil procedure.

Nonetheless, one can well understand the hesitation of a new author of a new edition of an established work to make wholesale changes to the structure of that work. Professor Hotop has concentrated his attention on additions rather than deletions. A new Chapter has been added to take account of the Commonwealth's Freedom of Information Act 1982 (Chapter 11). It provides a useful overview of the federal Act but no more. There is no discussion of the equivalent United States provisions or of the seminal decisions made in that country which will almost certainly have a bearing on the interpretation of the Australian Act. Some of the Australian material warrants greater attention. For example, the thorny question of how far the secrecy provisions of section 38 protect government documents is disposed of in only two paragraphs.

The Victorian Freedom of Information Act 1982 is mentioned but is not accorded any space. While it is true that it is, in many respects, similar to the Federal Act, there are significant points of difference which could have been highlighted.

By contrast, the Commonwealth's Administrative Decisions (Judicial Review) Act and the Victorian Administrative Law Act are examined in much greater detail. Chapter 9, in which this examination takes place, is unquestionably the best of the sections which deal with the modern statutory reforms in administrative law.

The section on the work of ombudsmen is confined to the Commonwealth Ombudsman, although passing reference is made to his State counterparts and to the Defence Force Ombudsman.

It will be plain that the reviewer considers that future editions of *Principles of Australian Administrative Law* should include expanded treatment of 'modern' administrative law issues. If need be this

¹ (1952) 15 *Modern Law Review* 113.

should be at the expense of some or most of the constitutional material. By the time of the next edition, the New South Wales Freedom of Information Act will have been passed and proclaimed, and the Victorian Administrative Appeals Tribunal will have been in operation for some time. Account will need to be taken of these and other developments. I would also renew the plea of a reviewer of an earlier edition, that a table of statutes be incorporated.²

The criticisms of organisation and emphasis should not, however, be taken as criticism of the scholarly nature of the work. Professor Hotop has maintained the high standards of his distinguished predecessors and thereby ensured that *Principles of Australian Administrative Law* will remain a standard student and professional textbook. For students it now has the added advantage (through cross-referencing in footnotes) that it can easily be used in conjunction with Professor Hotop's *Cases and Materials on Review of Administrative Action*.

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² (1981) 9 *Sydney Law Review* 526.