

considered. A majority also found that the Department should give special weight to Mr Quin's position as a former Magistrate and should notify him of all matters which could be adverse to his application.

The main issue is whether a legitimate expectation giving a procedural right to natural justice in the handling of an application can include a right to favourable consideration.

#### Motor Vehicle Standards Act 1989

The Motor Vehicle Standards Act 1989 enables the Federal Government to establish and apply nationally uniform standards for motor vehicle safety, gaseous and noise emissions and anti-theft devices. During the Second Reading Speech on 26 May 1989 the Minister for Land Transport and Shipping Support, Mr R Brown, announced the availability of administrative review with regard to the new legislation: 'Consistent with this Government's policies on open government, the Bill provides avenues for access to the normal administrative law arrangements. Anyone who is aggrieved by a decision made under the provision of the Bill will be able to seek redress in the normal way.'

#### Fitzgerald Report recommendations

Among the broad-ranging recommendations of the Fitzgerald report were several with implications for administrative review. In particular, the Report recommends the establishment of a permanent body, the Electoral and Administrative Review Commission, to provide an enduring process to review and recommend the necessary electoral and administrative laws and guidelines and procedures. The proposed Commission should report directly to a Parliamentary Select Committee on Electoral and Administrative Review as well as to the Premier.

The Report commented on the problems which can arise when Cabinet becomes involved in the detail of administration, when there is no general means for external review of decisions made by the administration, and when the information available to the public on the workings of the administration is limited. It concluded that 'it is imperative in a democracy that decision-making be seen to be impartial and objective'.

The Report also drew attention to some of the competing priorities, including the need to find a workable balance between the free flow of information and the individual's right to privacy, and between law enforcement and civil rights and liberties. It pointed out that 'privacy can in some cases become secrecy, which can allow corruption to flourish. One aspect of such secrecy is self-regulation, which is sought by many institutions, but which is the antithesis of accountability'.

With regard to administrative review, the Report remarked in particular on the lack of freedom of information legislation; the difficulties where a person may be unable to discover 'the basis, the reasons or even the fact of a decision'; and the absence in Queensland of a general mechanism for determinative review of administrative decisions on their merits. It noted

the wide agreement that in other jurisdictions the adoption of a general system of administrative review had improved the quality of decision-making, and recommended as a matter of priority the adoption of a similar system, to include simplification of the existing complicated judicial remedies, the right to obtain reasons, and a system of review on the merits by an external independent review body.

International Ombudsman Conference

The Papers and Proceedings of the Fourth International Ombudsman Conference, held in Canberra on 23-27 October 1988 (Admin Review 19:13), have now been published. Copies may be obtained from the Commonwealth Ombudsman's office or by contacting the Ombudsman's Information and Publicity Officer on (062) 760 145.

-----  
R E C E N T   P U B L I C A T I O N S  
-----

Anon.

'Meeting the FOI challenge', Directions in Government, 3,2, March 1989:44-5

Barnes, J.

'"Third party" participation in judicial review proceedings', Australian Business Law Review, 17,1, February 1989:87-9

Batskos, M.

'The Government's obligation to maintain privacy of the individual', Australian Law News, 24,3, April 1989:29-31

Bayne, P.

'Administrative law: the problem of policy', Wettenhall, R. & J.R. Nethercote (eds), Hawke's Second Government, Canberra, CCAE, 1988:143-171

'Administrative law: the Social Security Appeals Tribunal', The Australian Law Journal, 63, 3, March 1989:205-7

Bell, R. and H. Watchirs

'Freedom of information: the Commonwealth experience', Australian Journal of Public Administration, 47,4, December 1988:296-311

Benecki, M.H.

'Developments under the Freedom of Information Act - 1987', Duke Law Journal, 2,3, April - June 1988:566-607

Elliott, J.

'The Freedom of Information Act 1982 (Cth) and its effect on business related information and confidential information in the possession of Commonwealth agencies', Monash University Law Review, 14,3, September 1988:186-230

Gostin, L. (ed)

Civil liberties in conflict, London, Routledge, 1988