

# Foreword

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This *festschrift* commemorates and celebrates the outstanding achievements of two legends of Australian administrative law – Professor Robin Creyke AO and Professor John McMillan AO. Although it is unusual for a work of this kind to mark the contribution of more than one scholar, departure from the norm is not only justified by the extensive collaboration between Robin and John over many years but is also fittingly characteristic of their innovative work.

Together Robin and John have produced the standard texts and sources relied upon by generations of administrative law students. They have each provided tuition to students at the Australian National University, where both serve as Professors Emeriti. Both have been appointed Officers in the Order of Australia in recognition of their outstanding contribution to legal education, scholarship and public administration. Both have combined academic excellence with extensive service in various capacities at senior levels of public administration, the consequent cross-fertilisation between principle and practice being of great benefit to both disciplines, evident in their work.

Any attempt to catalogue the extensive experience each has in public administration would consume the limited space available for this foreword. It is enough to observe that their practical experience is so extensive and diverse as to qualify each extremely well for what has been an enduring theme of their work, individually and collectively – namely the assessment of the impact and effect which systems of administrative review and accountability have upon the quality, efficiency and fairness of public administration. No reader of their work could be left labouring under the delusion that systems of administrative review are to be viewed as ends in themselves. Rather, they are to be assessed not only by reference to their capacity to provide justice and fairness in the case under review, but also by reference to their impact upon the policies and procedures used to provide justice and fairness in the many more cases which are not subject to review. As Justice Stephen Gageler observes in his contribution to this work, in this respect they follow a direction originally taken, in Australia at least, by Professor Harry Whitmore. Each of Robin and John have enriched this field of study with a combination of theoretical principle, contemporary practical experience and empirical analysis.

For example, as Justice Janine Pritchard points out in her chapter in this book, there has been much debate over the years about the desirability of a universal right to reasons for administrative decisions. Forty years ago I was working in the Review section of a major Commonwealth Department when a right to reasons was first conferred upon those with a right to seek review by the Administrative Appeals Tribunal, and later

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upon anybody whose interests were affected by a decision made by the Department (by s 13 of the *Administrative Decisions (Judicial Review) Act 1977* (Cth)). The effect upon departmental practice and procedure was profound, and thoroughly beneficial, not just for the relatively few cases which underwent formal review, but for all cases. For the first time the Department had to enunciate and consider the merits of policies which were being applied intuitively, and reason to a conclusion in each case through a rational and logical process which could be explained to the people affected by the decision. Consequences, like this, of different mechanisms of review, have been the focus of much of John and Robin's attention, and are also addressed in the chapter by Janina Boughey.

My reference to some of the common themes John and Robin have explored should not engender the erroneous view that they have neglected individual interests. To the contrary, any description of the diverse topics each have addressed would take this modest foreword beyond its appropriate length. I will however touch upon some of the major themes each has pursued, not least because they are addressed in this book.

John McMillan has been an outstanding champion for the cause of freedom of information. He was in the vanguard of proponents of that cause at a time when senior bureaucrats were to be heard referring to 'freedom *from* information' – a tellingly accurate, albeit mis-spoken description of public administration at the time. As Judith Bannister points out in her chapter, others in that vanguard included Professor Enid Campbell and James Spigelman. John's indefatigable efforts were crowned with success and provided him with another opportunity to put theory into practice when he served as Information Commissioner for the Commonwealth.

John has also addressed the conceptual placement of accountability and integrity agencies in the framework of government – a topic also addressed in Justice Gageler's chapter from a constitutional perspective. John's views on this topic have generally been expressed with characteristic vigour and colour, especially when debunking my own views on this issue.

Robin Creyke has probably written more about administrative tribunals than any other Australian author – writing reinforced by her extensive experience as a member of various tribunals over many years. Her scholarship in this area is reflected in chapters by Graeme Hill and Linda Pearson.

The esteem in which Robin and John are held in academic, legal, and judicial circles is reflected in the outstanding calibre of the judges, scholars and practitioners who have contributed chapters to this work. The topics addressed by those chapters correspond to some of the topics which have been addressed by John and Robin in the course of their extraordinarily prolific careers. As an overview of the contributors and topics is contained in the chapter which follows, it would be otiose for me to say any more about them.

Having worked with each of John and Robin in different capacities over the years, it is a great pleasure for me to see their exceptional contributions honoured by a book of this calibre. I am very pleased to commend this book to anyone with an interest in Australian administrative law and practice.

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