
Book reviews

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SIR RONALD WILSON: A MATTER OF CONSCIENCE

Sir Ronald Wilson: A Matter of Conscience, by Antonio Buti, 2007, University of Western Australia Press, ISBN 978980296419: 495 pp. Softcover \$39.95.

I saw Sir Ronald Wilson sitting on the Bench of the High Court in Canberra when I was junior counsel in a revenue appeal on behalf of the State of Victoria. In contrast to some of the other Justices, Sir Ronald had a welcoming countenance. He would smile a lot and he was polite and un confrontational. Some years before I had seen Sir Garfield Barwick presiding over the court in Melbourne. On that occasion I was new at the Bar and just went over to the High Court to watch.

The difference in styles between the two gentlemen was very obvious. One was friendly. The other was not. In fact I recall Sir Garfield being especially rude to Justice Lionel Murphy. “That’s Part X – of the *Bankruptcy Act* don’t you know?” I recall him telling him in a derogatory way.

Sir Ronald was not on unfriendly terms with either gentleman. He was by all accounts an easy person to get on with. He was also a person of principle: he spoke out against the terrible allegations made about Justice Kirby in the Senate and his Honour expressed his gratitude that he did.

This book by Dr Buti, who teaches law at the University of Western Australia, gives a very detailed and most interesting account of Sir Ronald’s life and times. From his early life as a prosecutor; to the time when he became Solicitor-General of Western Australia; to his time as a High Court Justice; and beyond. To his judgments in *Koowarta v Bjelke-Peterson* (1982) 153 CLR 168 and *Mabo v Queensland* (1988) 166 CLR 186; 63 ALJR 84 and to the contributions he made in various areas of law. A number of significant administrative law decisions were handed down by the High Court during his time as a justice.

Two little known facts I found out about. Sir Ronald had been a Commissioner of the Supreme Court of Western Australia – having the powers of a judge of the court (except in divorce) and receiving a judge’s salary but still retaining his position as Crown Counsel. Later he declined a position as a judge of the court. I also found out that Sir Ronald had turned down an earlier offer of a position on the High Court.

Certain things stand out in Sir Ronald’s life – apart from his obvious achievements. He was very humble – “Just call me Ron” he would say. After retirement he worked at “Meals-on-Wheels” in a voluntary capacity for five hours or so a week. He would always travel economy on flights and never business or first class although he was entitled to do so. He was very warm hearted. He was always open and available especially to young people. Strangely, though, he did not attend his sister’s funeral. He was also passionately opposed to injustice. His report on the “stolen generation” is ground breaking. He was also deeply religious and very committed to his faith, actively participating in its affairs.

Dr Buti’s book brings all this to life in a most readable way. The book is well written and, very clearly, well researched.

It is a very good read.

DJC

ADMINISTRATIVE LAW IN AUSTRALIA

Administrative Law in Australia, by W B Lane and Simon Young, 2007, Lawbook Co, ISBN 9780455219714: 498 pp + 36 pp tables. Softcover \$114.95.

In the preface to this admirable book, the authors explain that their intention is to move beyond the “conventional focus of administrative law study, namely judicial review” and provide an “integrated analysis of the many different components of our administrative law system” such as FOI, merits

review and the role of the Ombudsman. The authors easily succeed in that goal and doing so they provide a welcome addition to administrative law scholarship.

This book adopts a functional rather than theoretical approach to administrative law.

The first chapter explains its nature, function and evolution, though it does not offer any sort of “grand theory”. It does, however, explain how administrative law is affected by other doctrines such as economic theory and human rights. This chapter provides a useful contextual explanation of the evolution of Australian administrative law, though this analysis could easily have been lengthened.

The next and most substantial chapter of the book examines judicial review. This chapter is not as detailed as specialist works on the area, which is an inevitable consequence of the authors’ decision to provide a more general analysis of administrative law. Accordingly, the chapter on judicial review does not engage with much of the great body of scholarship on that area. It explains principles by a selective discussion of cases rather than attempting to provide a complete analysis of the enormous body of case law. But some areas deserved greater attention, particularly the concept of justiciability. It would also have been useful if the authors had considered the future possible directions of judicial review, whether in the form of new grounds or more general trends. Some analysis of this issue would have enabled the authors to examine the new trends in judicial review that appear to be passing Australia by. One example is the increased willingness of English courts to review mistakes of fact within the guise of error law, evidenced by cases such as *R v Criminal Injuries Compensation Board; Ex parte A* [1999] 2 AC 330 and *E v Secretary of State for the Home Department* [2004] QB 1044. These cases seem to lend support for Aronson’s suggestion that Australian judicial review law is becoming hampered by its statutory framework (see Aronson M, “Is the ADJR Act hampering the development of Australian administrative law?” (2005) 12 AJ Admin L 79). Some consideration of these issues could have been especially useful to the more functional approach taken by Lane and Young by enabling the authors to consider whether the apparent refusal of Australian law to adopt the supposed innovations of other jurisdictions is less important in light of the vigorous nature of other parts of our administrative law system. Subject to these points, the analysis of judicial is well structured and written and provides a good account of all of the main features of the area.

The subsequent chapter – Merits Review – provides a good accompaniment to the above because it provides useful insights into the character of merits review and how the distinct nature of merits review is complementary to judicial review. Merits review is examined in a similar style to judicial review in the sense that the authors do not purport to provide an exhaustive analysis of the vast case law on merits review. That said, the analysis strikes a good balance between examining the general principles governing merits review and the particular features of the differing merits tribunals in Australia.

The chapter on FOI is more schematic in nature, which arguably reflects the fact that FOI is as much about particular details as it is general principles. The authors achieve a measured balance between the maze of detail that arises from the case law and the general principles (such as they can be found) which explain the detail of the case law. The analysis is greatly enhanced by the consignment of statutory minutiae to footnotes. This style enables the authors to navigate the wider principles of FOI while also providing systematic references to the different various statutory regimes.

The final chapter, which is on Ombudsmen, is particularly strong. This important institution of administrative law has received much less scholarly attention than other areas of administrative law. The authors have overcome that relative lack of secondary material by undertaking a comprehensive study of the great volume of material published by Ombudsman. The result is a careful and detailed analysis of the office of Ombudsman that is well informed by case analysis and secondary materials. The combination of a clear explanation of first principles and more sophisticated scholarly analysis provides what is probably the best Australian study of this institution.

In sum, this book provides an excellent holistic study of administrative law that is very accessible, being written in a clear and concise style. Those qualities will make the book particularly valuable to undergraduate students, but it will be equally useful to non-lawyers who need to delve into

administrative law. The more advanced reader will also find the book a useful and readable source. One hopes that further editions of this book will appear.

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