

official action which ultimately might not be maintained (Kavvadias v Commonwealth Ombudsman (1984) 54 ALR 285).

Representation in the Northern Territory

Since 1980 the Commonwealth Ombudsman has been represented in the Northern Territory by a part-time investigation officer. The Commonwealth and Northern Territory Governments have now agreed that the Northern Territory Ombudsman and his staff will henceforth represent the Commonwealth Ombudsman in the Territory, receiving and investigating (under delegation) complaints Territorians may wish to lodge about the activities of Commonwealth bodies in the Territory.

International Ombudsmen in Australia

Australia is to be the host country for the Fourth International Ombudsman's conference to be held in 1988. This was decided in July during the final business session of the third of such conferences, held in Stockholm, Sweden.

The Courts

Discretion to Refuse Relief

The Federal Court's discretion under paragraph 10(2)(b)(ii) of the AD(JR)Act to refuse relief for the reason that adequate provision is made elsewhere for review by the Court or by another court, tribunal, authority or person was invoked in Beck v Thornett (31 August). The case involved an application for an order of review in respect of a decision finding the applicant guilty of a disciplinary offence under the Public Service Act and a recommendation that she be dismissed from the service. The tribunal concerned was a Disciplinary Appeal Board established under section 63D of the Public Service Act 1922.

Use of Statement of Reasons

The use which may be made of a statement of reasons obtained under section 13 of the AD(JR)Act was commented upon in Minister for Immigration and Ethnic Affairs -v- Arslan and Another (Full Court, 17 August 1984). The Court expressed the view that an applicant may extract from a section 13 statement such statements as are admissions in his favour but the officer or Minister whose decision is being reviewed cannot use the statement as evidence of the facts contained therein in a self-serving way. In other words, the making of a decision is not evidence of the facts that may underlie the

decision itself.

Public Service Employment : Reviewability of a Direction to Resume Work

The writing of a letter directing an employee to resume work after absence on sick leave is reviewable under the AD(JR)Act. Although the letter was not a 'decision' to which that Act applied, it constituted 'conduct' for the purposes of making a decision under an enactment (in this case, the Telecommunications Act 1975) : Donnelly -v- Australian Telecommunications Commission (20 July 1984).

Suspension of Licence

A licence holder who declines an opportunity to show cause why his licence should not be suspended so as to avoid making self-incriminating admissions (the respondent had consented to the prosecution of the licence holder for breaches of regulations) cannot do so on the basis that the right to show cause did not in law exist. Thus, the fact that the respondent had consented to the prosecution of the applicant did not oust his power to suspend the applicant's licence : Roberts -v- Secretary of the Department of Aviation (9 August 1984).

Reviewability of Consideration of Representations concerning Prosecution

The applicant in Clyne -v- Evans and Another (14 September 1984) argued that the Court could review the "decision" of the Attorney-General to decline to consider representations on the question whether, after committal, the Attorney-General should proceed with a prosecution of the applicant for an indictable offence. The Full Court held that there was no legally enforceable duty on the Attorney-General to consider such representations and hence the action of the Attorney-General was not reviewable.

Statistical Trends

The latest returns for applications lodged to the Federal Court under the AD(JR)Act indicate that 1984 will show a continuing marked decrease in applications relating to public service promotions and deportation orders but increases in other areas such as taxation and customs. This pattern reflects the experience of the Administrative Appeals Tribunal where the number of applications reaches a peak and declines once a substantial body of precedent has been built up.

<u>Jurisdiction</u>	<u>No. of Applications under the AD(JR)Act</u>			
	<u>Oct 1980-</u>	<u>1982</u>	<u>1983</u>	<u>Jan -</u>
				<u>14.9.84</u>
Income Tax Assessment Act 1936	-	5	25	18
Customs legislation *	3	9	6	16
Migration Act 1958	14	26	33	15
Public Service Act 1922	7	31	15	7
Broadcasting and Television Act 1942	1	5	4	7
Other	<u>44</u>	<u>42</u>	<u>81</u>	<u>54</u>
TOTAL	<u>69</u>	<u>118</u>	<u>164</u>	<u>117</u>

* Includes legislation relating to dumping and countervailing duties

Freedom of Information

Non-Government Bodies Subject To Act

In preliminary proceedings the AAT has ruled that the Law Society of the ACT, a body having some 'non-public purposes', was nevertheless an agency to which requests may be made for access to documents. The Tribunal held that the Society satisfied one of the definitions of a 'prescribed authority' in that it was 'a body corporate...established for a public purpose by, or in accordance with, the provisions of an enactment': Re Brennan and Law Society of A.C.T., 7 August 1984. (Note : a contrary conclusion was reached by the County Court of Victoria under the Victorian FOI Act in respect of the Law Institute of Victoria in Richards -v- Law Institute of Victoria, 13 August 1984).

Access to University Records

Two cases, one in Victoria under the Victorian Freedom of Information Act, and the other in the Commonwealth sphere, have considered whether, and if so to what extent, universities are subject to FOI requests. In Hart -v- Monash University (30 July 1984) Judge Hogg of the Victorian County