

problem - the administrative review institutions - will be questioned by government itself, with the possible consequences that access to them is restricted and they become effectively quarantined from the problems they were designed to overcome.

Notwithstanding these dangers, however, this publication is firmly of the view that the administrative law reforms will remain an integral feature of Australian government administration. The Australian community would not be prepared to contemplate a return to the Karen Green days or to a situation where administrators could hide behind a wall of silence without being obliged to give reasons for their decisions. Concern about government accountability will ensure that suitable means for reviewing government decisions remain in place, that access to them not be unduly impeded and that they be extended beyond their present ambit as necessary to cover new needs and problems.

The major endeavour of the next decade of administrative law in the Commonwealth may well be to fit the administrative law reforms within new perceptions of government administration. An accommodation is surely possible. The efficient management of human and financial resources to produce given outcomes is not, of course, incompatible with equity issues. The most efficient program may well be the one which, because of its attention to fairness and equity issues, is able to achieve generally acceptable outcomes in a way which ensures that there is little wastage due to poor primary decision-making, subsequent challenges and the costs of correction of errors. Fundamentally, acceptance of what a democratic system of government is all about postulates no necessary inconsistency between accountability and efficiency.

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Administrative Review Council  
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REPORTS

Report No. 30, Access to Administrative Review: Provision of Legal and Financial Assistance in Administrative Law Matters, was tabled in the Parliament on 11 October 1988. Copies of the report are available for purchase from AGPS outlets.

Report No. 31, Review of Decisions under Industry Research and Development Legislation, was transmitted to the Attorney-General on 15 September 1988. It is presently being printed and is expected to be available for tabling soon.

The Council's Twelfth Annual Report 1987-88 should be tabled in the Parliament in November. Following tabling, it will be available for purchase from AGPS outlets.

#### LETTERS OF ADVICE

Since the August 1988 issue of Admin Review the Council has provided the Attorney-General with several letters of advice. They addressed the following issues:

- . non-acceptance of AAT recommendations in its criminal deportation jurisdiction;
- . ACT self-government: administrative law aspects;
- . recommendations concerning review in Veterans' Entitlements Act Monitoring Committee Reports;
- . review issues arising from report of Committee to Advise on Australia's Immigration Policies;
- . review of decisions under quarantine proclamations.

#### CURRENT WORK PROGRAM - DEVELOPMENTS

Access to administrative review. The Council has agreed that the next stage of the access project will examine the process that is followed from the making of a decision to the point of review, to identify any unintended impediments to access. This will enable the Council to follow up its 1986 report on notification of rights of review although this project will involve other issues as well, including the availability of advice on what review mechanisms to use and how to use them.

Review of the AD(JR) Act: Redefining the Act's Ambit. Around fifty submissions on the Council's discussion draft report have been received to date and are currently being evaluated. A seminar to discuss the draft report was held in Canberra on 5 October 1988.

Community Services and Health. The Council's Committee is organising a series of public forums in late November to elicit comments on present review structures and specific decision-making processes that the Council might examine in this project. The Committee is interested to hear of any problem areas which persons or organisations consider that the Council should examine in the project.

Migration. The Council Secretariat has been involved over the last few months with an Interdepartmental Committee that has been considering the CAAIP Report. The Cabinet is expected to formulate a government response to the Report in the near future.

Companies. Discussions with the Attorney-General's Department concerning review issues arising under the proposed new companies scheme followed transmission of the Council's advice on the matter. The amendments to the draft legislation

introduced by the Attorney-General in the House of Representatives included amendments relating to review. The Bills as amended were passed by the House of Representatives on 28 and 29 September and are presently in the Senate.

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Administrative Appeals Tribunal

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NEW JURISDICTION

Since the last issue of Admin Review new jurisdiction has been conferred on the AAT under the following legislation:

Taxation (Administration)(Amendment) Ordinance (No.3)  
1988  
Stamp Duties and Taxes (Amendment) Ordinance 1988

KEY DECISIONS

Interpretations of the First Home Owners Act 1983

In Lempa & Lempa and Secretary, Department of Community Services and Health (13 July 1988) the Tribunal set aside a decision that the applicants were not eligible for assistance under the First Home Owners Act 1983 because they had previously 'owned a dwelling in Australia'. The previous dwelling had been put up for temporary occupation before the erection of a Council approved house. It was 9 square metres and made out of galvanised iron with a dirt floor. It had been erected without Council approval.

Deputy President Jennings QC decided that the phrase 'has not owned a dwelling in Australia' did not extend to a building of this nature. He observed that it was unreasonable to conclude that people living in such conditions should be denied assistance on the basis of an argument that they had occupied a previous building which 'substantially complies' with the regulations to the Act. He said that with the objects of the Act in mind it was clear that a building of the type occupied by the applicants was never intended to be a bar to qualifying for assistance.

In Austin & Austin and Department of Community Services and Health (1 August 1988) the Tribunal, constituted by Deputy President Breen, considered the proper computation of the period prescribed by section 13(1) of the First Home Owners Act. In a contract dated 14 October 1985 the applicants had engaged a contractor to build their home. This became their 'prescribed date'. They applied for assistance on 27 November 1985, indicating that construction had commenced and the expected date of completion was 11 December 1985.