

*Administrative Law*. By P P Craig MA BCL (Oxon), Fellow and Tutor in Law, Worcester College, Oxford. London: Sweet & Maxwell. 1983. xxxiii & pp 636. UK price £21 for hard-cover edition, £15.50 for soft-cover edition.

Administrative law is as old as government itself, yet it is still a remarkably young discipline. In the English-speaking world it was not distinguished from constitutional law until the mid-nineteenth century, and even then the honest study of administrative law was stifled by Dicey's myopia. English and American lawyers have repaired the neglect, however, and in England alone there have appeared, during the last 25 years, at least six general texts, two major casebooks, and a number of specialist monographs devoted exclusively to administrative law, not to mention a number of other publications of which administrative law forms a part. Hence the appearance of a new general work may come as something of a surprise. It would be a mistake to assume, though, that Paul Craig's new book constitutes merely a repetition of the existing literature; in fact it marks the commencement of a new phase in English administrative law.

When English lawyers finally 'discovered' administrative law they were faced with a vast mass of precedents and legislative instruments covering a wide variety of vaguely related issues. These had developed over the centuries in a haphazard fashion without academic guidance and devoid of doctrinal coherence. As with any new discipline, the first task was to reduce this chaos to some order. This task has now been completed. Among the numerous books which reflect these labours H W R Wade's *Administrative Law*, now in its fifth edition (1982), is recognized by judges and lawyers alike to be the leading work. It has become a classic within the space of a few years, noted for its clarity, coherence and authoritative exposition. But these achievements have been gained at considerable cost. Certainty and consistency have been attained at the price of eliminating significant reference to most of the political and administrative facts which have determined the operation of the administrative process and the shape of administrative law. This is not to suggest that Professor Wade's book is innocent of such considerations; indeed, the author reveals himself to be acutely aware of the broader political issues. But in order to maintain certainty he has had to make a choice from among competing political interpretations *before* proceeding to construct the framework of his exposition. In the process alternative views have been eliminated, and administrative law has been processed into the 'lawyer's law' familiar to private lawyers and especially practitioners. Not only was this a necessary development for the disciplined analysis of administrative law, it is also a monumental achievement. But since the administrative process reflects many, divergent political views, such method of

exposition has failed to provide satisfaction for those public lawyers to whom public law is so inextricably linked to the political process that it may be interpreted only by continual reference to competing policies which underlie it.

Criticism has been levelled at Professor Wade's book: it has been suggested that it is too complacent, that it underplays the political relationship between the courts and the other branches of government, that it gives insufficient attention to the administrative process, and that it overemphasizes the necessity to control abuse of power. The trouble with much of this criticism is that the alternatives are not that obvious. Nor are they so easy to produce. Hence Paul Craig's book, which constitutes perhaps the first broad attempt to reformulate the framework of administrative law in England since J A G Griffith & H Street's *Principles of Administrative Law* 5 ed (1973) (now completely outdated), deserves close attention.

The differences between the Wadean and Craigian approaches are manifest throughout Mr Craig's book. The formal approach is abandoned in favour of a broad discussion of the vertical and horizontal allocation of power within the constitutional framework of the state. Emphasis is placed on the competing theories of jurisdiction and the degree of judicial choice that these theories permit. The problem of regulating discretionary power is discussed from a highly functional perspective. The historical analysis focuses not upon the jurisdictional disputes of earlier centuries but upon the rapid growth of social and industrial legislation during the nineteenth and twentieth centuries. Emphasis is placed upon the (usually underplayed) 'fringe organizations' ('parastatals' or 'quangoes'), which constitute an important facet of the public administration. Problems relating to administrative decision-making are cast within the context of decisional and organizational theory. A much more policy-oriented approach is adopted in the discussion of the rules relating to standing (*locus standi*) and public liability (in which field Mr Craig has already published widely). Throughout the book the author's broader approach reasserts itself to challenge prevailing orthodoxy. A rewarding feature, too, is the frequent reference to American administrative law—a rare characteristic for an English textbook, and one that is particularly valuable in administrative law.

Mr Craig's book is bound to prove controversial, especially where it ventures into allied disciplines, but the author has had to cast his net wide in order to reframe his subject. I believe that the gamble has paid off. Written in an informal, warm style, *Administrative Law* is refreshing, stimulating and challenging. Apart from a malnourished index, so spare as to be almost useless, and the odd proofing error (the Table of Contents predicts a section on 'The Administrative System', but the text itself contains a discussion of 'The Administrative Process' instead), the book has been well presented.

Since South African administrative law shares many of the practices, traditions and problems of its English counterpart, this work will be of great interest to local administrative lawyers.

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