

H.W.R. Wade

Administrative Law

Fourth Edition

ADMINISTRATIVE LAW

BY

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FOURTH EDITION

CLARENDON PRESS • OXFORD

Oxford University Press, Walton Street, Oxford OX2 6DP

OXFORD LONDON GLASGOW NEW YORK
TORONTO MELBOURNE WELLINGTON CAPE TOWN
NAIROBI DAR ES SALAAM
KUALA LUMPUR SINGAPORE HONG KONG TOKYO
DELHI BOMBAY CALCUTTA MADRAS KARACHI

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British Library Cataloguing and Publication Data

Wade, Henry William Rawson

Administrative Law. — 4th ed.

1. Administrative law — England

I. Title

342'.42'06 KD4879 77-30114

ISBN 0-19-876070-1

ISBN 0-19-876078-7 Pbk

FIRST EDITION 1961
SECOND EDITION 1967
THIRD EDITION 1971
FOURTH EDITION 1977
REPRINTED 1978, 1980

Translations

Italian, of 2nd Edition, published by
Giuffrè Editore, Milan, 1969,
with Introduction by Massimo Severo Giannini
Spanish, of 2nd Edition, published by
Instituto de Estudios Políticos, Madrid, 1971,
with Introduction by Manuel Pérez Olea

*Set by Hope Services, Wantage
and printed in Great Britain by
The Pitman Press, Bath.*

PREFACE

The first edition of this book made its appearance in 1961 as a slim volume in the Clarendon Law Series. In the ensuing years, when this branch of the law was vitalized by a burst of judicial activity unparalleled in its history, it became ever more clear that full-length treatment was needed. From the first I intended that the small book should be in the nature of a preliminary canter, leading eventually to a work which might seem more worthy of the subject, in size if in nothing else.

It has been difficult to know whether to call this a first or a fourth edition. By far the greater part of the text is wholly new, and some of it was already written when the third edition was published in 1971. It has also outgrown the confines of the Clarendon Law Series, under whose kindly aegis its predecessors were brought into the world. Nevertheless it remains the linear descendant of the earlier book, it draws upon its text in some places (especially in the three final chapters) and its general style and objectives remain the same. Although it has put on so much fat, I hope that it retains a recognisable personality.

A primary objective, as before, is to present the law as a system of clear principles. It is a paradox that the nearer judges come to its fundamentals, the more prone they are to speak with discordant voices. In recent years they have been building assiduously and greatly strengthening the fabric, but sometimes they seem to overlook the need for secure foundations—rather like the inspectors for whose oversights they now hold local authorities liable (p. 627). I mention this by way of apology to any reader who may question the need for the reiterated emphasis on the relation of the various branches of judicial review to the basic constitutional principles from which they spring.

I have endeavoured to keep abreast of at least major events up to 27 July 1977, the date on which the House of Lords' opinions in *Gouriet v. Union of Post Office Workers* became available and on which the proofs were finally due to be returned to the printer. A number of supplementary items which could not be fitted into the proofs will be found in the Appendix, with references in the corresponding parts of the book. The *Gouriet* case itself demanded drastic surgery, and emergency operations had to be performed on pp. 506–7 and 514–15. Time will be needed to assess the effects of that

decision, but it is to be hoped that it will not blight the possibilities, which the courts have opened up recently, for the public-spirited citizen to play an increasing part in keeping the machinery of government under legal control.

All who have worked on this subject are united in their gratitude to the late Professor de Smith for his pioneering work, *Judicial Review of Administrative Action*. Although I have occasionally joined issue with his conclusions, I have much more frequently admired his achievement. In thanking all the others who have helped me I would like to mention especially the staff of the Bodleian Law Library at Oxford, for whom nothing was too much trouble when some elusive order or report needed to be tracked down. In the final stages the staff of the Squire Law Library at Cambridge were no less helpful. The Clarendon Press have manfully shouldered the additional burdens caused by the adiposity of this edition. The secretariat of the Council on Tribunals and Mr. E. D. Wylie helped me in checking the table of tribunals at the end of chapter 23. Mrs. J. M. Argyle undertook the labour of the tables. Mrs. Katharine Lowe reorganised the index from my alphabetical draft. Many other friends and colleagues have given me valuable suggestions and advice. It is a pleasure to thank them all.

1 August 1977

H.W.R.W.

A second impression has given me the opportunity to correct minor errors and misprints. It has not permitted a general updating, but fortuitous spaces on pp. 301 and 559 have been used for brief supplementary notes.

I can draw attention here to the notable decision of the Court of Appeal (by a majority) in *Pearlman v. Harrow School* [1978] 3 W.L.R. 736. In effect the Court has accepted the deductions made by Lord Diplock from the *Anisminic* case and discussed on pp. 257 and 264, far though they go beyond the apparent intentions of the House of Lords. If the new decision proves durable it will extend jurisdictional review to all errors of law; the declaratory judgment will lose the defect explained on p. 508; ouster clauses will become meaningless (see p. 572); and what is on the face of the record will no longer matter. Though straining the ultra vires principle further than ever, the changes would be beneficial. But will the House of Lords accept them?

9 November 1978

H.W.R.W.

ABBREVIATIONS

(selected items)

- | | |
|--|--|
| <p>All E.R.: All England Reports
 All E.R. Rep.: All England Reports, Reprint
 Bl. Comm.: Blackstone's Commentaries on the Laws of England
 Can. B.R.: Canadian Bar Review
 C.C.C.: Canadian Criminal Cases
 C.L.J.: Cambridge Law Journal
 C.L.R.: Commonwealth Law Reports (Australia)
 C.M.L.R.: Common Market Law Reports
 D.L.R.: Dominion Law Reports (Canada)
 E.G.: Estates Gazette
 Est. Gaz. Dig.: Estates Gazette Digest
 F.L.R.: Federal Law Reports (Australia)
 H.C.: House of Commons paper.
 H.C. Deb.: House of Commons Debates
 H.C. Deb. (W.A.): House of Commons Debates (Written Answers)
 H.L.: House of Lords paper.
 H.L. Deb.: House of Lords Debates
 H.M.S.O.: H.M. Stationery Office (government bookshop)
 How. St. Tr.: Howell's State Trials
 I.A.: Indian Appeals
 I.C.R.: Industrial Cases Reports (formerly Industrial Court Reports)
 Imm.A.R.: Immigration Appeal Reports
 I.R.L.R.: Industrial Relations Law Reports
 I.T.R.: Industrial Tribunal Reports</p> | <p>J.C.: Justiciary Cases (Scotland)
 J.P.: Justice of the Peace
 J.S.P.T.L.: Journal of the Society of Public Teachers of Law
 K.I.R.: Knight's Industrial Reports
 L.G.R.: Local Government Reports
 L.J.Q.B.: Law Journal Reports, Queen's Bench
 L.J.R.: Law Journal Reports
 Ll.L.R.: Lloyds List Reports
 L.Q.R.: Law Quarterly Review
 L.T.: Law Times
 M.L.R.: Modern Law Review
 N.S.W.R.: New South Wales Reports
 NZLR: New Zealand Law Reports
 O.E.D.: Oxford English Dictionary
 Osg. H. L.J.: Osgoode Hall Law Journal
 P.&C.R.: Property and Compensation Reports (formerly Planning and Compensation Reports)
 P.L.: Public Law
 R.S.C.: Rules of the Supreme Court
 R.T.R.: Road Traffic Reports
 Sask. L.R.: Saskatchewan Law Review
 S.A.S.R.: South Australia State Reports
 S.L.T.: Scots Law Times
 S.R.(N.S.W.): State Reports, New South Wales
 T.L.R.: Times Law Reports
 U.B.C.L.R.: University of British Columbia Law Review
 V.L.R.: Victoria Law Reports
 W.A.: Western Australia Reports
 W.L.R.: Weekly Law Reports</p> |
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