

Royal Commissions and Boards of Inquiry, by L. A. Hallett, Sydney, The Law Book Company Limited, 1982, xv + 368 pp. \$55.00.

Of one Royal Commission, Sir Garfield Barwick remarked that any resemblance to a court of law stopped at the furniture. *Time Magazine* writing of the report of another Commission said that, as every politician knows, there is only one thing to do with an issue that generates enormous controversy, deeply divides the public and cries out for decisive leadership — create a study commission, preferably one that takes several years to do its job. Despite these and other doubts that have been expressed about the propriety and effectiveness of Royal Commissions, their appointment is common and they retain, in the minds of the public, an image as the ultimate finders of the real truth about controversial matters. Dr. Hallett's study is centred on experience in Victoria, though reference is not limited to Royal Commissions and Boards of Inquiry conducted in that State. As the author points out, the practices and principles discussed are, in most instances, relevant to similar inquiries in other common law jurisdictions. Dr. Hallett gives the reader a comprehensive insight into how Commissions, and in Victoria, Boards of Inquiry, are conducted and provides an excellent guide as to the practice and procedure adopted for anyone called either as party, witness or advocate before such a Commission. There is, of course, not only in Victoria, but generally, room for the legislature to update and draw more definite guidelines. Dr. Hallett makes various well-reasoned proposals for reform.

This book reflects a high standard of research and scholarship. Not only is it an interesting book, it is a very readable book. In an area where authoritative material is not easy to find, reference is made to occasions where the various problems likely to be encountered during an inquiry have been considered previously. The solutions are discussed and the author draws his own conclusions. The scope of the discussion extends over a wide field. Chapters deal with Crown privilege and duties of secrecy and the privilege against self-incrimination. There is an excellent section on the applicability of the rules of natural justice. Also to be found is a chapter on administration and finance which deals, amongst other things, with the method by which the secretary is appointed. Such detail, as well as being useful, is not without its humour. The author refers to the practice of reading the terms of the Commission at the commencement of its public sittings. He comments that the importance of the appointment and public announcement that an inquiry will be held can be gauged from the circumstances of the reading of the Commission of John Thomas Bigge, probably the first Royal Commissioner in Australia. "The Secretary to the colonial governor issued a public notice stating when the commission would be read and requesting the attendance of His Excellency the Lieutenant Governor, the Honourable the Judges, the Clergy, the Magistrates, and all other Officers, Civil and Military, throughout the Colony".

The question of whether judges should accept appointment as Royal Commissioners is examined and debated, the author's view being that the attitude of Victorian Supreme Court Justices not to accept such ap-

pointments is the one to be preferred. The debate touches generally upon the tendency of modern Governments to seek to use the services of members of the judiciary, not only for public inquiries, but for many other executive functions. The risk is that the prestige of judges will be down-graded.

"Crown privilege" and its modern application is explained in a manner clear and useful to anyone concerned with the subject. The author examines the position of parties or witnesses brought before Commissions, their right to refuse to answer questions and the consequences of their being compelled to do so in terms of subsequent legal proceedings. Unfortunately publication preceded the decision of the High Court in *Hammond v. The Commonwealth*¹ and the comments therein of the Chief Justice. The publication date also prevented reference to the decision of Ellicott, J. in *The Commonwealth v. Frost*,² which deals with the question of legal professional privilege before a Board of Air Accident Inquiry set up under the Commonwealth Air Navigation Regulations. That case, the decision of the same judge in *Ross and Heap v. Costigan*³ and the decision of Toohey, J. in *Huston v. Costigan*,⁴ touch upon the application of the Administrative Decisions (Judicial Review) Act 1977 (Cth.) to decisions made by Royal Commissioners or others presiding at inquiries, set up by the Commonwealth, during the course of such inquiries. The chapter on the Judicial Review of Proceedings of Commissioners and Boards deals with the traditional procedures, such as certiorari and prohibition. There is also reference to the Victorian Administrative Law Act, 1978. Dr. Hallett is of the view that whilst Commissions and Boards do not make "orders" which by themselves have the effect of altering the legal relationship of persons, some inquiries can have an impact such that there should be means available to supervise them. It would be interesting to know whether, in his view, the A.D.J.R. Act effectively and sufficiently fills this gap in the Commonwealth field or whether perhaps it goes too far if it allows parties to challenge individual procedural decisions made by a Commissioner as an inquiry proceeds.

Dr. Hallett's thesis is one developed from an historical background of experience drawn from the records of various Commissions and inquiries, for the most part in Victoria. It leaves the impression that the research has been immense, but that the author has not allowed the fruit of such research to intrude beyond illustrations which advance a well-planned and clear exposition of the subject matter. The wealth of useful examples which may in this field serve as authority makes the work one highly recommended for anyone, and particularly practitioners, involved in this field. That apart, the book is interesting, frequently amusing, and never dull. I, for one, would welcome an addendum to deal with the developments in this branch of the law since its publication.

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¹ (1982) 42 A.L.R. 327.

² (1982) 41 A.L.R. 626.

³ (1982) 41 A.L.R. 319.

⁴ (1982) 45 A.L.R. 559.

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