There could be little disagreement with Dr Campbell's contention that the extension of a member's immunity from arrest during parliamentary sittings to periods of forty days before and forty days after those sittings is a relic of the horse and buggy days and that, having regard to modern and ever faster transport facilities, the period of immunity could be substantially reduced.

As would be expected in a book of this kind, the controversial case of 1955 in the House of Representatives which ended in the commitment to prison for three months of Raymond Fitzpatrick and Frank Browne is dealt with at some length. Dr Campbell, in common with others then and since, is critical of the procedure which was followed and postulates that, on this account, an apology and retraction would have been sufficient. The fact remains that the Committee of Privileges, whose report was adopted unanimously by the House, found, and the validity of this finding has not been in question, that Fitzpatrick and Browne had been guilty of a serious breach of privilege by publishing articles intended to influence and intimidate the member concerned in his conduct in the House and in deliberately attempting to impute against him corrupt conduct as a member for the express purpose of discrediting and silencing him. Surely the House and its Committee were not wrong in acting to protect the vital privileges of a member's freedom of speech and action in proceedings in the Parliament ? That members were free to vote as they wished is shown by the divisions in the House on the motions to commit and by the words used that day in the House by Mr Holt, now Prime Minister, that he welcomed the remarks of the Leader of the Opposition, Dr Evatt, about all members of Parliament approaching this matter without any inhibition caused by party allegiance.

A. G. TURNER*

Principles of Australian Administrative Law, by D. G. BENJAFIELD, LL.B. (Sydney), D.Phil. (Oxford), Professor of Law, University of Sydney, and H. WHITMORE, LL.B. (Sydney), LL.M. (Yale), Professor of Law, School of General Studies, Australian National University, 3rd ed. (The Law Book Company Ltd, 1966), pp. i-xxxi, 1-368. $7.50.

This work appears to be slowly evolving into a treatise of some magnitude. The advance made by Benjafield in 1962 was considerable but the third edition is a long way ahead in both the comprehensiveness and the depth of its treatment.

Although, as should be expected, the thrust of the book is still mainly directed at judicial review and Crown proceedings, the introductory and ancillary material has been expanded substantially and there is little doubt that the first four chapters will now be of particular value to students.

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Chapter five is new and was needed. It contains an attempt to grapple with the conceptual classification of functions which has long befogged judicial review and produced arbitrary and indefensible results. The editors make no pretence to admire or even to understand the classification but, nonetheless, they sensibly adhere to the view that until it is judicially or legislatively interred the lawyer cannot afford to ignore it. The chapter serves as a warning both of the dangers and pervasiveness of the conceptual approach which is given more detailed treatment later in the book in the usual contexts of natural justice, *certiorari* and prohibition, delegation of statutory power and so on. These detailed studies furnish little joy for the reader. A well-balanced survey of the decisions on natural justice produces only the following conclusion : ' It is difficult to avoid the impression that the [High Court] is treating each case on an *ad hoc* basis without attempting to develop a coherent body of law as to the circumstances in which the rules of natural justice will be implied, and as to the content of those rules '. When the difficulties of prediction produced by this sort of judicial method are added to those which spring from the conceptual classification of powers, confusion and obscurity reign together. Not that there is any reason why the courts should not talk in terms of judicial and administrative functions in the sense of functions which respectively carry or do not carry a duty to observe the rules of natural justice. Such terminology may be useful for classification purposes. When, however, the terms are used as if they refer to concepts which can be used in reasoning to such conclusions the results are seen in cases such as *Nakkuda Ali v. Jayaratne*[1] and *R. v. Metropolitan Police Commissioner ; Ex parte Parker.*[2] It is to be regretted that the approach of Lord Reid in *Ridge v. Baldwin*[3] has to date received such a lukewarm reception from the judiciary. There seems no doubt on whose side the authors are although they wisely underline the doubt and uncertainty which still prevails in Australia.

Throughout the book the approach is almost entirely expository and quite frequently it is hard to resist a wish that some attempt had been made to break out of the morass of irreconcilable decisions and *dicta* and to indicate more clearly the lines or even the general direction in which the authors would like to see future development.

In their determination to paint the grim portrait, warts and all, Benjafield and Whitmore seem occasionally a little too gloomy. For instance, it does not appear to this reviewer that the *Amphitrite* principle is as important or as well entrenched as they suggest. In this context rather too much seems to be made of *Commissioner of Crown Lands v. Page*,[4] an inaccurate and misleading reference to the judgment of Dixon C.J. in *South Australia v. The Commonwealth*[5] and the cases on statutory authorities. Similarly, in the section of chapter ten which

[1] [1951] A.C. 66.
[2] [1953] 2 All E.R. 717.
[3] [1964] A.C. 40.
[4] [1960] 2 Q.B. 274.
[5] (1962) 108 C.L.R. 130.

deals with the shield of the Crown it is, perhaps, a little premature to say that the doctrine of Crown benefit ' has the stamp of approval of the House of Lords '. Perhaps, too, the possibility of the development in Australia of distinctions between ' want ' and ' excess ' of jurisdiction and ' void ' and ' voidable ' decisions along the lines of Lord Denning's judgment in *R. v. Paddington Valuation Officer; Ex parte Peachey Property Corporation*[6] should not yet be excluded. It must be conceded, however, that the recent decision of the Privy Council in *Durayappah v. Fernando*[7] has dampened somewhat the optimism of the reviewer.

Clearly, the authors have tried to isolate determinate principles wherever possible. That they have not succeeded on a number of fundamental points is far less a reason for criticism of their efforts than an indication of the urgency of the need for legislative reform in administrative law. It is the great merit of their work that in a little over three hundred and fifty pages they have given a balanced and judiciously selective account of a most heterogeneous body of case law. In doing this and in indicating the points at which the courts have become bogged down they have done a substantial service to legal education in the widest sense.

MAURICE CULLITY*

International Law in Australia, edited by D. P. O'CONNELL, Professor of International Law in the University of Adelaide, assisted by J. VARSANYI, Research Officer in Law in the University of Adelaide, (The Law Book Company Limited, 1965), pp. l-xliii, 1-603. $11.00.

The wide-ranging and extremely useful papers published in this volume for the Australian Institute of International Affairs is a further indication of the vitality of the discussion of international law in Australia, and coming soon after the two volume work on *International Law* by Professor O'Connell and new editions of Mr Starke's *Introduction to International Law*, shows very clearly the new status that Australians see for themselves in international affairs.

The contributors to this series of papers include Professor O'Connell, Professor Sawer, Mr Body of the Department of External Affairs, Sir Kenneth Bailey, and many other important writers on various aspects of international law.

One aspect of the role which Australia may well find for itself in international law is indicated clearly in Professor O'Connell's paper on Australia's International Personality. He says (page 33) :

> The total impression that is conveyed is that Australia's contribution to international law is as proportionate as her experience therein. Australia is the prototype of the federal society with a

[6] [1965] 2 All E.R. 836.

[7] [1967] 2 All E.R. 152.

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