THE NORWEGIAN ADMINISTRATION ACTS
OF 1967 AND 1969

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I. Introduction

In 1951 a Royal Commission was appointed in Norway to consider and make recommendations on:

1. Administrative procedures, both as regards adjudication and delegated legislation; and
2. The control of administrative powers, comprising judicial review as well as Parliamentary control.1)

The Commission was headed by Terje Wold, the Chief Justice and a former Minister of Justice, and consisted of fourteen other jurists of high standing from the University, the public service, different trade organizations (commerce, industry, labour) and the Norwegian Bar. The Commission reported in 1958 and made two main proposals - the establishment of an Ombudsman as an aid to Parliamentary control and the enactment of a general Act dealing with administrative procedures. The Ombudsman proposal was effected by statute in 1962 but the Administration Act was not passed until 10 February 1967. By its terms,2) it was not to become operative until the enactment of a second, implementative statute. This statute was duly passed on 19 June 1969, and provides for the 1967 Act to become operative on 1 January 1970. It also makes some minor amendments to the 1967 statute.

It is intended to discuss the 1967 Act on two principal footings. Firstly, how effective will the provisions in the Act as stated be in safeguarding individual rights (the motivating force behind the statute) and in controlling the Administration in the exercise of its

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powers? In Norway, as in Britain, effective control is viewed largely in procedural terms and it is assumed that if only administrators can be made to follow proper procedures and, for example, give interested parties a chance to voice their opinions there is at least a likelihood that justice will be done. The second part of the essay is, from Norway's point of view, more academic in that it discusses the desirability and utility of having an Administrative Procedure Act at all. From the viewpoint of my own country (New Zealand) however, this is not so as there are strong pressures being brought in some legal circles for the enactment of a similar statute. In this connection, it will be useful to refer to the Administrative Procedure Act in the United States and to draw a comparison with the British solution to problems of procedural controls. Finally, by way of conclusion, I shall adopt the role of prophet and endeavour to hazard an assessment as to just what effect the Act is likely to have on administration in Norway.

II. The Safeguarding of Individual Rights by the Administrative Procedure Act

(a) Specific provisions in the Act itself

Before attempting a general evaluation of the Act and its effectiveness as a whole, it will be as well to examine some of the more interesting specific sections relating to administrative proceedings. These canvass several important areas in administrative law.

Section 11 (imposing a general obligation on administrative agencies to give advice to citizens).

It is clear that much of the Act is only declaratory of what is at present good administrative practice and this is no doubt true of the requirement of governmental agencies to advise the citizen as to his rights and obligations and as to the steps he should take in respect of them. Nevertheless, there may be some value in elevating this particular administrative duty, at least, to a legal obligation if the effect is (as I think it would be) to give a right in damages to the citizen who suffers loss as a result of incorrect advice given to him by the official or agency concerned. The point can be made clear by reference to an English example. There have been a number of cases in England where citizens have been wrongly advised by Ministry officials as to the correct course of action they should adopt to obtain benefits of various kinds — for example, in respect of unemployment benefits or old age pensions, the time limits which are applicable to the filing of claims or what evidence it is necessary