



(Photograph by Kevin Doig; Public Affairs Unit, University of N.S.W.)

HARRY WHITMORE, LL.B. (Sydney), LL.M. (Yale), Professor of Law, University of New South Wales (1973-1982).

PROFESSOR HARRY WHITMORE

Harry Whitmore retires from his position as a professor of law in the Law School of the University of New South Wales on 26 January 1983. As a mark of the School's appreciation of Harry's fine service and achievements as a legal scholar and law teacher and of the affection felt for him by his colleagues and students, the Board of Editors has decided to dedicate this issue of the Journal to him.

It is indicative of Harry's vigour and versatility that having come to a career as an academic lawyer in mid-life, he has achieved so much across a broad front. Harry was born in England sixty years ago and commenced his career in 1939 in the British Civil Service. That was quickly interrupted by the War and service in the Royal Armoured Corps of the British Army. He has fascinated many junior colleagues with accounts of his hair-raising experiences in the Italian campaign. After the War he resumed his career in the British Civil Service until emigrating to Australia in 1950. Here he took up a position in the New South Wales Public Service. He rose to the position of Inspector and Assistant Secretary to the Public Service Board. That provided him with valuable experience in administration and particularly in the area of administrative hearings. His later work in administrative law has been an understandable progression from his first career.

In 1958 Harry obtained his first law degree at the University of Sydney. He went on to take a master's degree at Yale and then secured a position as a lecturer at the University of Sydney Law School in 1961. Harry quickly established a reputation as a good teacher and as a progressive, productive scholar. He worked alongside a number of younger colleagues who joined him in the same Law School at about that time and who also went on to take up Chairs in other, younger Law Schools. They included Enid Campbell, Garth Nettheim and myself. We all benefited in various ways from the counsel which the perspective of his more mature years enabled him to provide. We also enjoyed his vigorous and realistic no-nonsense approach to the law and faculty issues, as well as his sense of humour. Despite his mature years, there was nothing fixed or rigid about Harry's approach to scholarship. He rapidly produced a stream of significant articles in administrative law and civil liberties which questioned traditional approaches. One of his early articles published in the *Australian Law Journal* in 1963 and entitled, "Australian Administrative Law — A Study in Inertia", was characteristic. His early concern with civil liberties was evident in a 1963 article in *The Sydney Law Review* entitled, "Obscenity in Literature: Crime or Free Speech".

His work in these two fields found early expression in 1966 in the publication of two major books. The first was the third edition of *Principles of Australian Administrative Law* which he co-authored with the late Professor David Benjafield. It was a successor to an earlier edition by Professor Benjafield and Wolfgang Friedmann. It continued to enjoy acceptance as the leading Australian text on the subject. The same co-authors published a fourth edition in 1971. The second book

published in 1966 was *Freedom in Australia* which Harry wrote with Enid Campbell. That work was novel in its conception and has been widely used and acclaimed by non-lawyers as well as lawyers. It was entirely rewritten in a second edition of 1973 by the same co-authors.

Harry was promoted with breathtaking speed and took up a Chair at the Australian National University in 1965. He was a professor there until the end of 1972 and held the position of Dean in 1966 and again from 1970 to 1972. The period was one of major growth and change at the A.N.U. Law School and Harry played a major role in his capacity as a professor and while Dean. In addition to his teaching and administrative contributions Harry continued during his A.N.U. years to pour out a steady stream of articles to be found in the *Federal Law Review* as well as the *Australian Law Journal*, the *Modern Law Review* and the *Sydney Law Review*. His standing in administrative law was recognised when he was appointed to serve on the Administrative Review Committee (The Kerr Committee) from 1969 to 1971 and on the Committee on Administrative Discretions (the Bland Committee) from 1971 to 1972. He played a significant role on those Committees and was appointed as a foundation member of the Administrative Review Council in 1972.

As Dean at the A.N.U., Harry was held in high regard by his colleagues. Not only did he have unflagging energy and a capacity to get things done, but he was progressive and approachable and very supportive of his younger colleagues. It was not surprising therefore that when he was thinking of returning to live in Sydney, Sir Rupert Myers and others were keen to see him appointed as a potential successor to Hal Wootten, Q.C., as Dean of the Law School at this University. He joined the staff here on 1 January 1973 and served a term as Dean until 1975.

The period during which Harry was Dean of this Law School was again of major importance. It witnessed an explosion in staff and student numbers. It required a person with Harry's drive and energy to find staff in the numbers required at a time when recruitment was difficult. He also presided over the development of the curriculum and of patterns of faculty government which have been crucial to the later functioning of the institution. It was no easy task to manage the School at a time of such rapid growth, while on the one hand trying to respond flexibly to the demands of a very young and often radical staff and on the other trying to maintain support for the new School from the University's administration and the legal profession. Harry's efficient and again progressive handling of his role further increased his standing in the eyes of his colleagues and of the profession.

Since giving up the Deanship Harry has continued to be very involved in the Faculty's development. He has also maintained an extraordinary level of productivity as a scholar. He published *Review of Administrative Action* with Mark Aronson as a co-author in 1978; a fifth edition, as a sole author, of *Principles of Australian Administrative Law* in 1980; *Local Government and Environmental Planning Law in New South Wales* in 1981; and *Public Torts and Contracts* with Mark Aronson in 1982. He has continued to teach in the field of property law, in addition to public law and local government law, and to be well liked and respected by his students. In a Faculty with a very young staff he has been a very important source of counsel, support and as a mentor for many of his younger colleagues. Harry is modest about the accomplishments of his twenty two years as an academic

lawyer. He eschews honours and occasions for praise. But it is truly a remarkable record of achievement and contribution. It is characteristic of him that he should shift streams suddenly and decisively at sixty while still in good health and still productive.

Harry has retired without ceremony, as was his wish. In the Law School we would not wish him to go, however, without knowing that his record and achievements as a legal scholar, administrator and teacher are deeply respected and that he holds an enduring place in the affections of his colleagues and students. We all wish Harry and Kay long life and happiness.

Don Harding*

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