

## THE CASE FOR AN AUSTRALIAN BILL OF RIGHTS

Freedom in the War on Terror

George Williams; UNSW Press 2004; 95 pp; \$16.95 softcover.

Professor George Williams has for many years been at the forefront of the battle to promote human rights in Australia and elsewhere — he was, for example, counsel in the groundbreaking Prasad case in Fiji. He has also been a tireless campaigner and advocate for an Australian Bill of Rights.

This slim volume, an 'instant guide' to the subject, is a Briefings publication, described as 'a series of short, topical books exploring social, political and cultural issues in contemporary Australia'. It is directed at the politically aware, well-informed layman and avoids academic theorising. Instead, Williams seeks, in a succinct and practical way, to set out the background to the rights debate, place it in an historical context, outline pressing areas of present concern and suggest a blueprint for a local Bill of Rights. In all this he succeeds admirably.

He acknowledges that Australians are in many ways fortunate in this area and runs through a catalogue of our basic rights. However, he argues that there is no room for the blasé complacency displayed by the Prime Minister and some of his colleagues setting out instances where human rights in Australia have been or are inadequately protected: mandatory sentencing, the *Langer* and *Hindmarsh Island* cases and indefinite mandatory detention. His brief critique of the post-2001 ASIO powers legislation paints a vivid picture of the chilling Orwellian cast of these provisions.

Williams goes on to note that Australia is out of kilter with our closest legal kin, Canada, New Zealand and the United Kingdom where human rights charters have operated successfully for some years.

Chapter 6 discusses and applauds the *Human Rights Act 2004 (ACT)*, a measure derided as 'ridiculous' by the Prime Minister, but Williams wonders if it goes far enough as it does not protect social, economic and cultural rights. The Hon Jon Stanhope, Chief Minister of the ACT,

convincingly spells out the rationale for the Act elsewhere in this edition (p 54).

Williams is sanguine about the prospects for the passage of an Australian Bill of Rights in the foreseeable future but argues that such charters have immense symbolic value and act as an important restraint on unrestricted legislative and executive power.

Dr Michael Head's article on detention without trial, also in this edition (p 63), demonstrates just how impotent the High Court is in the face of a determined executive. The misgivings expressed by Kirby J, one of the minority justices in the key cases, that the decisions had 'grave implications for the liberty of the individual in this country which this court should not endorse' graphically confirm the cogent arguments put forward by Williams for immediate action to introduce a Bill of Rights.

**KEN BROWN** is a retired lawyer in the Northern Territory.

## WHO RULES?

How government retains control of a privatised economy

Michael Keating; Federation Press, 2004; 224 pp; \$34.95; softcover.

*Who Rules?* considers the question of whether the past two decades of pro-market reform in Australia have stripped government of the power to make a difference. Does government retain effective tools to achieve economic and social objectives, and is it inclined to use them?

As head of central Commonwealth agencies during Paul Keating's time as Treasurer and Prime Minister, Michael Keating was an important figure in devising and implementing the hugely significant economic reforms undertaken by the last Labor Government. These were years in which the exchange rate was floated, centralised wage arbitration ended, state assets were privatised, and public probity was linked to ideas of competitive neutrality.

It is not surprising, then, that this book is very supportive of Australia's market-

oriented policy shifts. Keating is of the view that the introduction of competition, in any of a number of forms, to spheres of state activity encourages more efficient and responsive performance in both the public and private sectors.

Crucial to his argument, however, is the distinction between a broad pro-market orientation and neo-liberalism. While neo-liberalism is hostile to an interventionist role for the state, Keating contends that Australian governments have reserved the will and capacity to play a positive role in achieving policy outcomes. What have changed are methods and approaches. 'Command and control' regulatory models have been deliberately abandoned for more subtle tools that complement, stabilise and buffer market processes. Keating therefore characterises the pattern of reform as one of re-regulation rather than de-regulation.

He takes us through a range of policy areas to illustrate his argument. In relation to macroeconomic policy, pro-market governments have abandoned the old tools of exchange rate and wages policy, but are willing and able to modify spending, inflation targets and interest rates to stabilise economic growth. On the microeconomic reform, governments have rolled back protectionism and state provision of goods and services, but have developed a strong regulatory regime of industry incentives, consumer protection and competition facilitation. In the area of human services, Keating points to a range of 'managed markets' in which the government continues to be at least as active as it was prior to economic reform. In each of these areas, government does what, in Keating's view, it has always done — attempts to maintain employment, achieve stable economic growth and facilitate social equity.

This aspect of Keating's argument is convincing. Our economy is nowhere near laissez faire and the government expends much revenue and energy pursuing its goals with its chosen instruments. The public certainly expects governments to actively steer the economy and guarantee equitable access to services, and readily holds them accountable if they fail to