

# Book Review

## ***Jurisprudence of Liberty***

**Suri Ratnapala and G A Moens**  
Butterworths, \$69.50, 320pp.

**Reviewer: F J Davis**

The authors of this text both hold positions at the University of Queensland Law School. The text itself comprises 15 separate contributions divided into chapters.

The contributors are: Suri Ratnapala and G A Moens - *Law, Legal Theory and Liberty*; M Sellers - *Republican Theory*; V Vanberg - *Hayek's Theory of Rules and the Modern State*; N MacCormick - *Spontaneous Order and the Rule of Law*; S Ratnapala - *Law as Knowledge Process*; F Parisi - *Law as Voluntary Enterprise*; D Kmiec - *Liberty Misconceived*; G Moens - *The German Borderguard Cases*; R McEwin - *Liberty, Law and Economics*; Prof A Fogg - *Dworkin, Hayek and the Declaratory Counter-Revolution*; A Ehr-Soon Tay and E Kamenka - *Contemporary Radicalism and Legal Theory*; I Grazin - *The Role of Ideas in Political Change*; G

Walker - *Rule of Law and the Democratic World Order*; B Brazil - *Towards a Technical Definition of Liberty*; R Van Caenegem - *The Historical and Anthropological Tradition on Jurisprudence*.

In their preface, the authors state that the challenge of the text is in questioning the extent to which liberty is dependant upon the way in which the concept of law is understood.

The authors do not take a partisan position. They have brought together a series of points of view, some of which conflict with others.

The authors and individual contributors challenge the meaning of terms such as *liberty*, *freedom* and *republicanism*.

The earlier chapters in the book trace the developments of republicanism from the Roman Empire until contemporary times. The text discusses the advantages and disadvantages of British, continental and American Republican models. The text considers the issue of Heads of Government, contrasting the constitutional powers of the Presi-

dent of the United States and of constitutional monarchs.

The text directly raises the issue of a republic in broad philosophical terms and the effect of such a form of government on the question of liberty.

The fundamental concept of liberty is examined in this text. One contributor supports a *laissez-faire* form of government whereas other contributors argue for a regulated society in social and economic areas.

By the time this reader reached Chapter 3 it was apparent that the type of government advocated will determine the test to be applied to issues of liberty.

The content of the text was not what I expected by reference to the title *Jurisprudence of Liberty*. The text in part plays the role of devil's advocate and challenges the reader to critically examine different philosophical points of view.

The publisher states that the text is directed to the student market. It should certainly be considered compulsory reading for all Members of Parliament - state, territory and federal.

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# The Environmental Defender's Office



*Mr Nick Dondas, MHR, Ms Freya Dawson, NTU and Ms Robin Dyall, EDO (NT) at the opening of the Environmental Defender's Office*

On 12 August 1996 the Environmental Defender's Office (NT) was launched by Nick Dondas, MHR. The Environmental Defender's Office is part of a national network of centres which have been funded by the Commonwealth Government to provide legal advice and representation in environmental law.

In his opening speech Mr Dondas welcomed this initiative for the Northern Territory where some of the "greatest environmental icons of Australia" are to be found.

The Environmental Defender's Office is a community based organisation with a wide range of conservation, environmental, Aboriginal and heritage groups represented.

In recognition that many people who have legitimate concerns and interests to protect are unable to afford private legal assistance, the Environmental Defender's Office offers free legal service on matters relating to the natural and built environment. A full-time legal practitioner is employed at the Environmental defender's Office to ensure expert legal assistance is provided to the community.

Services provided by the Environmental Defender's Office include:

- legal advice to individuals and groups wanting to protect the environment;
- reform of environmental laws where appropriate at both a local and on a more general level;

- promoting public participation in decision-making about the environment;
- conducting community education programs about environmental law;
- representation for individuals and groups before courts, tribunals and panels.

Specialist advice is offered in a number of areas including land clearing, air, water and noise pollution, heritage, mining, contaminated sites, toxic chemical control, planning and development applications and decisions, environmental impact assessment and protection of water resources, wetlands, coastal areas, wildlife and biodiversity.

During the short time it has been open, the Environmental Defender's Office has already been involved in a number of issues of concern to local people.

The solicitor in the Environmental Defender's Office is Robin Dyall who is a litigation lawyer. In addition to conducting her own practice in a private law firm she volunteered at the Environmental Defender's Office in Victoria and conducted some matters on a pro bono basis for them.

The Environmental Defender's Office is reliant on volunteers to assist with administrative work and research. If you are interested in helping, would like more information, legal advice or would like to become a member of the Environmental Defender's Office please contact Robin.

## Book Review

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I learnt much by reading this book. As Australia commences public debate on the republican issue the text is a timely addition to that debate. The text should be read by all legal practitioners who intend to be involved in the republican debate.

Legal practitioners will gain real information and reference material from the text. Chapter 8 deals with a real issue for legal practitioners. Set out in this chapter are case histories of East German borderguards, who, after the reunification of Germany in 1990 faced criminal charges in respect of "crimes against humanity". This particular chapter is not a barren philosophical discussion. It deals with cases and controversial current day issues. The question it poses is: in what circumstances should citizens refuse to follow the instructions of their rulers when citizens know that the instruction offends all concepts of liberty and natural law. □

### *Practising certificates*

*Despite a request to lodge applications for the renewal of practising certificates before the due date, the majority of applications are received in the last few days before previous certificates expire, giving the Law Society insufficient time to process them.*

*In addition, many applications are received with incomplete supporting documentation which further delays issue of a new certificate.*

*Law Society staff would like to thank those practitioners who got their practising certificate renewals in early.*

*As you are no doubt aware, the Secretariat operates with a small staff and the task of issuing practising certificates to the full complement of the Territory's practitioners is no minor one.*

*We appreciate the consideration of those who helped us pace this work by not leaving renewals until the last minute.*