

## A Bill of Rights Continued from page 3

In San Francisco in 1945 Australia was in the vanguard of those nations calling for an international bill of rights. Australia together with Britain led the demand for a binding document. The Australian delegates were the first to propose an international court of human rights and in so doing pointed out that "a mere declaration of principles would not offer assurance against the revival of oppression". It is historically unfortunate that Australians could not see that what was internationally obvious was also domestically wise and introduce such legislation at home. The events in *Cubillo v Commonwealth of Australia* (2000) 174 ALR 97 may never have taken place if they had. During this year's Vincent Lingiari Memorial Lecture Malcolm Fraser called for the introduction of a Bill of Rights. He said it was clear that in many areas the legal system is prevented from satisfactorily dealing with important national issues by the absence of such legislation. He observed that the failure of successive governments both at a state and federal level to address some of the big issues in our society is directly related to the lack of it.

In assessing the value of the introduction of a Bill of Rights the New South Wales Law Society's Human Rights Committee took the approach that such a bill in that state would enhance the standing of New South Wales in the international community and set an example for Australia to follow. All Stand! Of course Australians are very glad that New South Wales has not yet chosen to secede from the Commonwealth of Australia and leave the rest of us rudderless. However, irritation aside, the work of that committee has been valuable indeed in reigniting the debate for the introduction of a bill of rights in this country.

Dr George Williams in his book *A Bill of Rights for Australia* states that "Formulating a Bill of Rights would engage the community in a reform process without the need for a referendum. It would produce a document that sets out the place of Australians within the political system, without transferring the power to solve our pressing social, moral and political concerns from the Parliament to the courts". In other words Government would have to face up to the need to take responsible and constructive steps in dealing with the many social problems that beset the less fortunate,

disadvantaged youth, the physically, mentally or intellectually disabled and which so often at the present time introduces them to the garbage bin of a "corrections facility". It may also result in the community wising up to the law and order auction. In making such a statement I am reminded of the fathers refrain to the son in the film "The Castle", "Tell him he's dreamin".

The message of Justice Kirby in his address at the 1999 Bali Conference was that the precepts of international law and in particular the operation of the ICCPR would increasingly find their way into the operation of domestic law. In the United Kingdom and other jurisdictions that has already occurred by the introduction of strikingly similar legislation. As a legal community we in the Territory are just as well to heed the warning of Chief Justice Spigelman. It is time a Commonwealth Bill of Rights was introduced. After all we need it in the Territory more than anybody else.

Finally, and probably tangentially in the context of a discussion about a Bill of Rights, I recommend every lawyer read again that powerful piece by Oscar Fingal O'Flahertie Wills Wilde "The Ballad of Reading Gaol". To my mind it is one of the most powerful statements ever made about mans inhumanity to man. Who can forget these words:

Yet each man kills the thing he loves,  
By each let this be heard,  
Some do it with a bitter look,  
Some with a flattering word,  
The coward does it with a kiss,  
The brave man with a sword!

PS. *Geoffrey Robertson QC's book* (published by Penguin Books) to which I earlier referred is a corker and must read stuff for lawyers. There is also a film on video that is worth a look called "Nuremberg". It deals with the establishment of the Nuremberg Trials by Justice Jackson of the United States Supreme Court. If you are interested in "The Ballad of Reading Gaol" you can find it in the new work "The Oscar Wilde Anthology" edited by Merlin Holland published by Harper Collins.

## ELLE MCFEAST TO MODERATE DARWIN FOI DEBATE

**A public forum to discuss the pros and cons of Freedom of Information (FOI) legislation for the NT will be held in Darwin on 3 November 2000 and moderated by Australian TV and radio personality Elle McFeast.**

The FOI Forum coincides with the NT Government's intention to consider introducing privacy and FOI legislation in the near future. Consultants have been employed to prepare proposals for the Government to consider, with indications that legislation will be introduced early in 2001.

Speakers at the forum include NT legal practitioners Judith Kelly and Peter Barr, political and media representatives, including Peter Adamson MLA and Opposition Leader Clare Martin, visiting ANU lecturer and one of Australia's leading authorities on administrative law and constitutional law, Mr John McMillan, and the Editor of the journal *Freedom of Information Review* Mr Rick Snell.

The forum will be hosted by the NT chapter of the Australian Institute of Administrative Law (AIAL) and aims to inform the public on the advantages and disadvantages of FOI, allowing an opportunity for the issues involved to be publicly debated.

Guest moderator Elle McFeast, who is well known for her satirical observations on life and society, will ensure that an informative and humourous discussion takes place.

The FOI Forum will be held at MV Caterers, 64 The Esplanade, Darwin commencing 1.30pm on 3 November 2000.

Registration forms can be obtained from Marion Tobbiani who can be contacted on telephone 8999 1978 or via fax on 8999 1828. Corporate, intermediate or general tickets are available.