

FIN REV. 6/5/85



Tobacco and a Bill of Rights

SIR, Over the past year or so, the debate over whether Australia should have its own Bill of Rights has rarely been given the attention it deserves. The public has not had the benefit of hearing the arguments both for and against articulated in terms of the public interest.

Last year we wrote to many different organisations that purport to be the protectors of civil liberties and found them wanting when it came to applying matters of principle to circumstances with which they felt uncomfortable.

Specifically, we wrote to these organisations regarding four proposed Bills to ban tobacco advertising which reversed the onus of proof. We

pointed out to them that the reversal of the onus of proof, as incorporated into these Bills, was in direct contravention of the International Covenant on Civil and Political Rights which Australia ratified in 1980.

Our view was supported by eminent legal counsel and in one instance by a parliamentary committee, but we have received no support from bodies such as civil liberties councils and the Human Rights Commission whose function allegedly is to serve as a protector of the rights of individuals.

It appears that these organisations, which have been vocal in drawing attention to international covenants in relation to other more "comfortable" problems, have found ways to avoid addressing the issues in this instance.

This is curious when compared to the view generally expressed by these organisations, a view which we share, that the rights of the individual are paramount and not subject to change in selected circumstances.

Some time ago we thought that international covenants and a Bill of Rights could have been useful for preserving our civil liberties, but as a result of the reaction we have received, we are now of the view that such measures will not necessarily safeguard the rights of individuals in our community.

Instead, it appears likely that governments and other organisations will seek to use these instruments to determine for us what our rights will be.

Understandably, there is a presumption upon the part of many people that we need a Bill of Rights in Australia, but as a result of the mismanagement of the issue by selective, privileged sections of our society, we must analyse the very premise that arguments for the Bill of Rights are based upon before the debate goes any further.

PHIL SCANLAN,
Director,
Amatil Ltd,
Sydney