

Leaders to come under increasing pressure on same-sex marriage

Pressure is coming on Labor leader and Prime Minister, Julia Gillard, to move immediately for a vote on same-sex marriage in the Australian Parliament, before the September 2013 election.

Similarly, Liberal leader Tony Abbott is being pressured to commit to a conscience vote in the current parliament. He has said the issue would be decided in the 2014 federal Liberal party room.

Major changes are bringing the issue to a head in Australia, where there is widespread (64%) public support for allowing gay marriage. Among younger people, support climbs to about 80%.

New Zealand's Parliament voted last month for same-sex marriage, and NSW Premier Barry O'Farrell surprisingly came out in support.

Mr O'Farrell said same-sex marriage was "about family". If a parliamentary inquiry in NSW found the state could act alone, he would vote for legislation that might be introduced. Tasmania already has such a bill before its parliament.

O'Farrell's statement was powerful because it summoned, from the depths, the core principles of Liberalism: "As a Liberal who believes that commitment and family units are one of the best ways in which society is organised, I support the concept of same-sex marriage," he told Fairfax. "Ultimately, people caring for each other works side by side with governments to create better communities." Liberals voters appear to agree: more than 75% want Abbott to allow a conscience vote, which he has so far refused. A small majority of Liberal voters, according to polls, support same-sex marriage.

Mr O'Farrell said same-sex marriage would be best legislated federally. "Let's do it in the nation's parliament, and catch up with New Zealand again. Let's allow members to have a conscience vote."

The Greens' Christine Milne is pushing the free vote option on Abbott, while Independent Tony Windsor is considering jumping on the referendum option bandwagon. <http://tiny.cc/v8ctvw> (See the issue's status in Tasmania, below)

Euthanasia on the agenda in two states

The NSW Legislative Councillor with her eye on the Senate, Cate Faehrmann, is introducing a bill to allow euthanasia in the NSW Parliament this week.

Her bill would allow a patient with a terminal illness experiencing unacceptable pain, suffering or distress to choose to help from a doctor to die. Two other medical professionals would have to thoroughly check the patient, and there would be at least two "cooling off" periods of three days and one day. The doctor could prescribe a lethal substance for the patient to self-administer or, in the case of severe physical disability, be assisted to take.

Faehrmann, a Green, will soon resign from the NSW upper house to contest a State Senate seat. More info: Peter Stahel on 0433 005 727 or at peter.stahel@parliament.nsw.gov.au

In Tasmania, a Voluntary Assisted Dying bill is in preparation. The government received about 150 submissions to its consultation paper on the issue, with most supporting the proposal.

Newman rejects national crime proceeds laws

Queensland Premier Campbell Newman will not sign up to national laws on the proceeds of crime.

Prime Minister Julia Gillard announced earlier this year that she wanted national anti-gang laws and the power to seize the proceeds of crime.

Mr Newman said he would refuse to hand over Queensland's anti-gang laws. "We have our own legislation about the unexplained proceeds of crime," he said. <http://tiny.cc/pkdtvw>

Read the article by CLA's Tasmanian Director, Richard Griggs, on the dangers to freedom of association and free speech of the proposed laws: <http://www.cla.asn.au/index.php/articles/ask-a-candidate-would-you-1>

High Court to test right to political donations

Political donations laws in NSW will be tested in the High Court for the first time this year in a case brought by the union movement, which argues they infringe freedom of political communication and association.

The laws, introduced by the O'Farrell government in 2011, ban donations from anyone other than individuals on the electoral roll and restrict what individual unions affiliated to a political party can spend on campaigns.

They also prohibit the payment of affiliation fees such as those paid by unions to Labor and restrict the ability of Unions NSW and business or environment groups from receiving money from member organisations to run political advertising.

Lawyers for Unions NSW and five trade unions – including two not affiliated with the ALP – argue the legislation "interferes with the right of free communication in relation to political matters". <http://tiny.cc/d9skvw>

Court rules ASIO has to go public on claims

Spy agency ASIO has lost a bid to keep details of a case against a senior public servant secret.

ASIO has been trying to suppress details about allegations that Yeon Kim had unauthorised contact with spies from a country involved in trade negotiations with Australia.

From 2001 Mr Yeon had a security clearance which gave him access to secret information. But in September 2011 that was taken away after an adverse ruling by the agency. Mr Yeon is fighting the decision.

He says there has been too much secrecy in the case and he cannot defend himself because he does not know what he is alleged to have done. ASIO has cited national security concerns as the basis for the secrecy, according to Elizabeth Byrne, reporting for the ABC.

However, the Federal Court has rejected ASIO's claim and ruled the suppression on the name of the country involved be lifted, although the order was not to come into effect until the appeal deadline had passed late in April. <http://tiny.cc/egldvw>

School truants to be app-rehended

Kids skipping school will soon be tracked, using global positioning system (GPS) technology, and reported to their parents and/or the school in real time.

The new phone app will be available in schools from 3 June. It will pinpoint students missing without explanation. Parents' mobiles can be linked to the app, MGM PinPoint, which is installed on the student's phone.

Parents receive an SMS alert and a link to a map showing where the student is during school hours, if the student's phone is switched on.

MGM Wireless is giving its app away free to 1000 Australian schools already paying for its SMS service, which sends an automated message to parents about absences.

Principals can opt out of the GPS technology feature. But for some extra cash, principals can receive a map showing the location of every student with an unexplained absence that day.

Parents and Citizens of NSW spokeswoman Rachael Sowden said parents wanted to know the whereabouts of their children but tracking them using GPS technology raised privacy issues. <http://tiny.cc/3ezyvw>

New CLA Director appointed



Richard Griggs, a 30-year-lawyer working in corporate legal services at the University of Tasmania, is CLA's new Director.

He was appointed by President Dr Kristine Klugman after the two-yearly ballot for board members (*see next story*). His appointment spreads the national reach of Board members, and adds to the legal and political nous of the Board.

Richard has spent the past four years as adviser on legal and police matters to a senior politician in Canberra.

He has recently returned to his native Tasmania with partner Kate Taylor (both pictured left), who originally hailed from WA, and who now works with Lifeline in Hobart: she also had been a ministerial adviser in Canberra for a number of years. As well as being dedicated to ensuring people get a fair go, they both enjoy the readily-available bushwalking in Tasmania.

CLA eAGM approves direction, re-elects Board

There was a 58% "turnout" overall, a slight increase on the previous year, for Civil Liberties Australia Inc's electronic Annual General Meeting for 2013.

Members re-elected the same Board of Directors, a sign of confidence by the membership in the organisation's direction. We also received very many favorable comments on CLA's work during the year...and a few suggesting change and improvement: see <http://www.cla.asn.au/index.php/2013/report-of-the-cla-eagm>

There were 252 electronic voting tokens issues, with 145 members voting for an online voting percentage of 58% (not including 7 incomplete votes). A further 18 postal votes were issued, with 12 members responding via post for a 66% postal voting percentage. Combined, there were 157 votes received from 270 eligible members, for an overall voting percentage of 58%.

Of the 157 votes, 155 endorsed all the formal documents (President's Report, Annual Report, Treasurer's Report, and two minor technical amendments to CLA's constitution). There were two dissenting votes to all questions.

Every second year, members vote for the Board of Directors. For 2013, there were 12 Board positions available: 10 people

– the existing board – nominated: Anthony Williamson, Frank Cassidy, Kristine Klugman, Lance Williamson, Noor Blumer, Phil Schubert, Rex Widerstrom, Tim Vines, Saskia Vervoorn, William Rowlings. As there were 10 nominations for a possible 12 positions, no vote was required, and the 10 nominees are confirmed as Directors of CLA.

When the Board meets this month (May) for the first time after this eAGM, it will elect the office bearers – *report by Bill Rowlings, Secretary/Returning Officer, 5 April 2013.*

Vines speaks up for the little guy against leaking government bullies

*'Publicly revealing company tax returns is dangerous and will breach privacy: experts'...*this was the headline on a *Business Review Weekly* article by Nassim Khadem last month, in which she quoted CLA extensively.

She wrote that the Gillard government wanted to close loopholes in the tax system that it says have allowed multinationals giants such as Google and Apple to avoid paying tax on profits.

"The government says it supports the privacy of individual taxpayer confidentiality, but tax and civil liberties groups are worried if privacy laws are changed, protections for all the community will diminish," she wrote.

She quoted CLA on how individual privacy can be breached. "Our general concern is that once you start to weaken privacy laws, the impacts can flow on to individual taxpayers," Civil Liberties Australia director Tim Vines says.

He said authorities such as the Australian Taxation Office and Australian Crime Commission needed to operate within the law, rather than trying to use the media to destroy the reputation of individuals, as they did in the long-running case against Australian actor Paul Hogan.

"Financial matters should be treated with sensitivity rather than placed in the media spotlight," Mr Vines says. "In recent years, there's been a number of cases from Project Wickenby where the ATO and the ACC have used the media to – if not slander individuals – at least cast suspicion over them and allege without cause that they've engaged in criminal conduct. But once it gets to court, the court determines there hasn't been any illegal behaviour."

He says companies have sufficient resources to fight the ATO if needed, but individuals lack the same resources.

"An ordinary person doesn't have means to defend their privacy," he says. "Once you start weakening those laws just so you can release more information about big companies, you're putting at risk the means for individuals to defend themselves." <http://tiny.cc/1d7xuw>

APF sets out essential privacy steps

To celebrate Australian Privacy Week, CLA's friends at the Australian Privacy Foundation have set out a list of essential steps for organisations to respect privacy.

Their one-page fact sheet on 'Better processes to protect privacy' list four major points to be considered, and gives URL references showing where to access detailed information.

More APF information is available on their website: <http://www.privacy.org.au> Privacy week runs from 28 April to 4 May.

Sikh turban to legally replace helmet

Sikhs will be exempt from wearing a bike helmet in Queensland under new laws to accommodate religious

beliefs, Transport Minister Scott Emerson announced last month.

"Just because someone is going to come out there and claim they don't want to wear a helmet for religious reasons, they have to do more than that, they have to demonstrate there is a real, long standing religious belief," Emerson said.

"I would still say to anyone who might be trying to seek this sort of exemption to think about it long and hard because the evidence is very clear that bike helmets do significantly reduce brain injuries in accidents."

The law change comes after practising Sikh, Jasdeep Atwal, successfully fought the \$100 fine he received last year for riding a bike without a helmet. He took the case to court, arguing that as a Sikh he was required to wear a turban that could not fit inside a helmet. <http://tiny.cc/xs8yvww>

No rape in jails here, says Qld Minister

A-G Jarrod Bleijie says he does not accept prisoners are being raped in Queensland jails.

Mr Bleijie was responding to concerns by the National Commissioner for Children, Megan Mitchell, that 17-year-olds are at risk of being raped or harmed in adult jails.

She says the Queensland Government is breaching UN conventions that teenagers younger than 18 should not be sent to adult prisons.

Speaking to ABC Coast FM, Mr Bleijie assured listeners that rape was not common in jail.

He said he was not aware of anyone being raped in Queensland jails in the past 12 months.

A former Queensland prison guard, who does not want to be identified, says Mr Bleijie must be living on another planet if he thinks inmates are not raped in jail. He says comments that prisoners are not being raped were naive and disturbing.

<http://tiny.cc/pqdtvww>

Tasmania Report:

CLA members up, new 'appeal' law possible

CLA President Dr Kristine Klugman and CEO Bill Rowlings spent 15 days in Tasmania in April to boost membership, brief politicians, learn more about a particularly egregious miscarriage of justice case and research the history of civil liberties in that state.

A full report on the visit, and work remaining, is available from the secretary by email, or is on the CLA website: <http://www.cla.asn.au/>

New Tasmanian members have joined, and we are expecting more. A group of CLA members decided to meet in future a couple of times a year in Hobart face-to-face over yum cha! That is as well as communicating, organising and making liberties and rights more prominent in the Tasmanian public debate by electronic, media and other means by a new concerted effort.

Dr Klugman has appointed Richard Griggs a Director of CLA with prime responsibility for matters in Tasmania. He is a lawyer with experience as a political adviser in Canberra.

Helping him to guide the local group will be members Barbara Etter and Margaret Reynolds: together, they bring a wealth of public service in local government, disabilities, parliament, policing, forensic, legal and pro bono work to the Tasmanian team.



(L to R): Shadow (Liberal) Minister for Police Elise Archer, and CLA's Barbara Etter and Kristine Klugman discussed civil liberties initiatives for Tasmania at a meeting in Hobart in April.

CLA was able to take part in two-way briefings with the Premier Lara Giddings, Greens leader and Corrections Minister Nick McKim and Shadow Police Minister Elise Archer (standing in for Opposition Leader Will Hodgman).

Discussed were voluntary-assisted dying, same-sex marriage and abortion legislation before the parliament, as well as the possibility of new laws on a bill of rights, whistleblowers, citizen-initiated referendums and privacy.

CLA was particularly pleased to receive a very positive response on our proposal for Tasmania to mirror a new South Australian law to allow the right of appeal in miscarriage of justice (MoJ) cases – see below.

The Hobart Community Legal Service asked for CLA help with anti-discrimination legislation they weren't happy with. It had passed the Lower House, and is about to go the Upper House. As we were meeting with A-D Commissioner Robin Banks two days later, we undertook to see what we could do. The upshot is we believe we have brokered a deal to improve the legislation so that Ms Banks, the HCLS and us are all happy with it. Upper House MPs will be receiving a letter from us soon, asking them to add a new 'defence' clause, and the HCLS will also be following up.

As well, we met with leading media people, including Leon Compton of ABC Radio's statewide morning program (and were interviewed on-air for 20 minutes), with *Tasmanian Times* editor Lindsay Tuffin and media personality and barrister, Greg Barns, a CLA member.

To gather historical information, Dr Klugman and Mr Rowlings undertook research in the State Library of Tasmania and interviewed former Solicitor-General Bill Bale, former Supreme Court judge Pierre Slicer (now a judge in Samoa), former Senator and now Catholic priest Michael Tate, former MHR and now Federal Court judge Duncan Kerr, former Upper and Lower House Tasmanian MP John Charles White and others with knowledge of liberties and lawyer-justice bodies in Tasmania since the 1960s.

Since returning the Canberra, they have been able to interview other notable Tasmanians, such as George Nichols and Paddy Gourley.

Same-sex marriage back on agenda

The campaign for same-sex marriage is back in full swing in Tasmania, with activists distributing how-to-vote cards to every household in the three Legislative Council (upper house) electorates going to the polls on 4 May.

The cards target Independent Jim Wilkinson and Liberal Vanessa Goodwin in the southern electorates of Nelson and Pembroke. Both voted against the Same-Sex Marriage Bill last September when it was defeated by two votes in the Upper House.

Ruth Forrest last month introduced a motion in the Upper House to put the Same-Sex Marriage Bill back on the agenda – the first step towards another debate. <http://tiny.cc/n6lpuw>

Yacht No-Body case causes concern

The glaring potential MoJ issue in Tasmania, which may be picked up by the proposed new law (above) when passed, is the Yacht No-Body case.

Susan Neill-Fraser is in jail, convicted of murdering her husband who disappeared overnight on 26 January 2009 while alone on a yacht moored in Sandy Bay, just a few hundred metres from where the Sydney-Hobart race finishes each year.

Despite no body, no coronial finding, no manner of death, no murder weapon, no confession – in fact, precisely the opposite – and only circumstantial evidence, she has been sentenced to jail until 19 August 2032, reduced on appeal from 2035. She may be eligible for parole in 2022...even that would mean an innocent women would have served 13 years in Risdon Prison, CLA believes. She is already into her fourth year behind bars for a crime police, prosecutor and jury surmised she had committed.

The group-think case has chilling similarities to that which framed Lindy Chamberlain in the infamous dingo-took-my-baby case in the NT. Small jurisdiction, police inexperienced (in this case, in relation to at least marine and yacht matters) fixating quickly on one-only suspect, dubious forensics of doubtful value, convenient evidence for the prosecution and ignored contra-indications, a relatively over-resourced prosecution and under-resourced defence hampered by a women who should have received bail under Tasmanian law's presumption of innocence in the Bail Act. Instead, she was locked up from the day she was charged for 14 months before the case came to trial, hampering her preparation and giving licence to a tardy and disorganised investigative team.

Experienced observers who sat through the entire trial are baffled by how the seven female-five male jury could return a guilty verdict on the evidence presented in court. If the style of presentation of evidence swayed the jury as much as the circumstantial evidence itself, it would be a reprehensible basis on which to lock up a women for decades.

If the Yacht No-Body case was justice seen to be done, there is an urgent need for the type of optional review law CLA is proposing and Tasmanian politicians – to their credit – are considering.

Note: CLA's President and CEO met Sue Neill-Fraser for two hours in Risdon Prison in April. They also met with Sarah and Mark Bowlers, her daughter and son-in-law (and CLA members).

Out-of-state coroner to handle death crash involving Tasmanian DPP

Victoria's Coroner will conduct an inquest into the death of Natalia (Tali) Pearn, 27, killed in a crash on the Midlands Highway involving Tasmania's Director of Public Prosecutions, Tim Ellis.

Judge Ian Gray has been appointed by Tasmania's Attorney-General, Brian Wightman.

Ms Pearn was killed when her car and a vehicle driven by Mr Ellis crashed head-on near Oatlands, according to newspaper reports. The reports say police allege Mr Ellis' car crossed double white lines and was on the wrong side of them when the collision happened. *Photo above right shows an area near the collision site.*



Mr Ellis, who spent some two weeks in hospital, is reported to have been close to losing a leg. AG Wightman said Mr Ellis would not return to the DPP role until a police investigation was finished: Tasmanian Solicitor-General Leigh Sealy has taken over as DPP in the meantime. NSW Deputy Chief Prosecutor John Pickering will provide legal advice to police when required "to ensure Tasmanian prosecutors remain independent during the investigation," sources say.

Appointed virtually for life (potentially until aged 72), the 57-year-old Mr Ellis has undertaken controversial cases and prosecutions during his 13 years in the job. <http://tiny.cc/7komvw>

ENDS Tasmania Report

NT makes it mandatory for 'selected' people to get off the grog

From July 1, problem drinkers (code for 'Aborigines') in and around Katherine in the NT who are placed in protective custody three times in two months will be assessed for mandatory rehabilitation.

The mandatory alcohol treatment at the Venndale rehabilitation facility will run for up to 12 weeks.

At least 40 problem drinkers a year are expected to be placed in rehabilitation in Katherine, with about 800 receiving alcohol mandatory treatment at centres in Katherine, Darwin, Alice Springs and Gove, the NT Government says.

There is no program for problem drinkers who drink in their own homes (code for 'whites'), who get drunk and are violent towards their spouses and/or children.

In another alcohol-related initiative, Darwin, Katherine and Alice Springs police watch houses are getting an extra \$1.2m for improved nursing services. More nurses employed in watch houses will mean people are better and more quickly assessed, when brought in, as to whether they should be in jail, or in hospital. – media releases 12 and 15 Apr 2013.

Crime continues to decline

Crimes in NSW have been declining for 20 years, and the state is safer than it has been for nearly two decades, crime statistics show.

In Sydney, people are more likely to be robbed than attacked. The NSW Bureau of Crime Statistics and Research has reported serious crime rates have not been so low since 1990. Don Weatherburn said the biggest problem the state faces is the "recurrent spiking" of non-fatal shootings in south-west Sydney. But even these statistics are "not significantly increasing" at present.

In April and July 2012, NSW police recorded the highest and equal second highest shootings at homes since January 1995.

Police put the causes down to drugs, gangs or organised crime.

"NSW is a far, far safer place than in 1990 or 2000," Dr Weatherburn said. "The robbery rate has plummeted. Slowest to come down is the assault rate, but even that is starting to come down. I'm endlessly surprised at the continuous drop in property crime each year over the past 12 years." <http://tiny.cc/c1dtvw>

Nudies aren't rudies, say teens

Child pornography laws criminalising teens using mobile phones to share revealing images of themselves are "excessive and hyped" and need amending, according to Dr Kath Albury.

Her Uni of NSW study found young people are surprised by the legal penalties for sexting, and don't consider all naked or semi-naked pictures as inherently shameful.

The study on sexting focused on 16 to 17-year-olds over the age of sexual consent who could face charges for texting photos or video considered to be child pornography by law.

Dr Albury, of UNSW's Journalism and Media Research Centre, said the study found laws need to be updated to take into account the popularity of sexting among young people. She said all Australian jurisdictions needed clear guidelines stating child pornography laws do not apply to consensual images shared between young people. <http://tiny.cc/hsefvw>

ODD SPOT: A book for victims of the law

Everyone is a victim of the law, not least citizens whose taxes pay the wages of untrained judges, police, legal bureaucrats, lawyer-politicians who have blocked real change since the middle of the 14th century, and court cleaners, according to Evan Whitton.

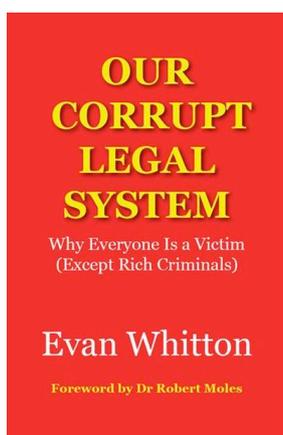
Journalists, academics who teach law, policing, journalism, and history, high school teachers of legal studies, and the like have a duty to examine and discuss the law with unflinching rigour, says the pugnacious fighter for truth, justice and the Australian fair go.

He says, in promoting his new book, that it helps to know the answers to four basic questions:

- What is justice?
- Where did the system in England and its former colonies come from?
- Why do judges let barristers spin the process out and lie to witnesses, jurors and judges?
- Why does the system used in Europe and elsewhere deliver more justice at less cost to taxpayers?

The answers, he says, are in the 1600-word Preface to *Our Corrupt Legal System*. The book fills a gap left by law schools, Whitton says, detailing the origins of the two systems and how they work.

Dr Robert Moles, the South Australian international authority on miscarriages of justice, said: "It is one of the most important books I have ever read on the common law legal system. [It] should be required reading on Introduction to Law courses in all law schools".



The book can be downloaded free from netk.net.au/whitton/ocls.pdf, and extracts can be republished gratis. It is also available from Amazon and books.google.com.au/ebooks.

Evan Whitton was a reporter, editor and journalism academic. He says he became a legal historian after seeing how the two systems dealt with the same organised criminal, Sir (as he then was) Terry Lewis, a former Queensland Police Commissioner.

Web: netk.net.au/whittonhome.asp

State appeal over Rayney acquittal in August

The bid for a state appeal against the acquittal of barrister Lloyd Rayney over murdering his wife, Supreme Court registrar Corryn, will be heard from 6 August.

That will be six years precisely from her disappearance after attending a bootscooting class, with her body found a week later buried in a shallow grave in inner-city Kings Park in Perth.

The original in 2012 trial cost WA millions, and Rayney a reported \$1m. Because of close links to all WA's legal fraternity, the NSW Director of Public Prosecutions is managing the case, and the judge-alone first trial was under Brian Ross Martin, retired former NT Chief Justice.

Victoria Court of Appeal Justice Mark Weinberg has been seconded to deal with the preliminary stages of the appeal. It is expected to judges, possibly from interstate, will be appointed for the August hearing. David Jackson will argue the WA case.

The main basis for the appeal is that: "*The trial judge erred in law in failing to apply the principles enunciated in R v Hillier (2007) 228 CLR 618 in relation to the assessment of circumstantial evidence in that his Honour assessed the circumstances in a piecemeal and sequential manner and failed to consider the circumstances as a whole.*"

If the state's appeal succeeds, Rayney would face a re-trial. Observers believe it is unlikely that will happen.

Minister must now back change with major investment, reorganisation

The new WA Corrective Services Minister Joe Francis has admitted he had not met the head of his department before the public servant was forced to resign late last month.

Former Corrective Services Commissioner Ian Johnson will receive a compensation payout of \$420,000 after he was asked to leave three years before his contract expired.

Mr Francis has refused to discuss Mr Johnson's performance saying only that it was time for a change. "I'm a fresh minister in a fresh government with new ideas on how corrections should be managed in WA," he said. "That will require new leadership (and) we will look everywhere to find someone who will fulfill the government's needs for a new direction. The deputy commissioner will be the acting commissioner for some time."

Mr Francis would not say whether a riot at the Banksia Hill Juvenile Detention Centre in January contributed to Mr Johnson's departure. <http://tiny.cc/hnzaww>

CLA's WA Director, Rex Widerstrom, in a letter to *The West Australian*, has pointed out many of the problems in WA prisons are systemic. There is an urgent need for an injection of funds, re-organisation and new management techniques he says. Now is the perfect opportunity for Mr Francis to fix an area that has been ailing for years.

CLA believes Mr Francis and whomever takes over as prisons boss should concentrate on getting people out of prison – particularly juvenile Aborigines – to help save the state many tens of millions of dollars. Prisoners are costing on average more than \$100,000 each every year, a Productivity Report shows.

You're guilty until you can prove you aren't

The ACT Government continues to pass laws that require people to prove they are innocent.

Attorney-General Simon Corbell is very keen on assuming citizens are guilty: if similar laws operated for elections, politicians would have to prove they were competent before they could stand for election. As ACT Government politicians have never proved their competence, we must assume they are incompetent, according to the way the Attorney-General thinks.

The latest Corbell law means anyone caught with something that can be made into a drug will be presumed to be selling that drug, no matter how small the quantity. If a person is found* with a few specks of heroin, he or she faces a dire outcome. The person will face the toughest of penalties for dealing or trafficking, rather than merely for personal use.

Unfortunately, there is no penalty for politicians-not-proven-competent: citizens just have to put up with them.

Mr Corbell, like some other Attorneys-General, is a politician more captured by police and police associations rather than by a commitment to common sense and civil liberties.

* Not that we are suggesting that police would ever do so, but this law would make it much easier for police to "plant" heavily-incriminating evidence on a suspect: they only need a minuscule amount, whereas before they would have needed many grams.

Australian briefs

SA goes it alone on fixing petrol price displays: South Australia has moved unilaterally to change how petrol prices are displayed. Attorney-General John Rau, while acting Premier, announced that petrol stations would have to display the actual price of petrol, not what a driver might pay when a shopping discount was applied. "In the absence of a national agreement, I think it is important South Australia takes steps to help consumers," he said late last month. A transition period is operating, before the Price Certainty measure becomes black letter law later in the year. – media release, A/g Premier and AG John Rau, 28 April 2013.

Palmer suffers break-in: Mining magnate Clive Palmer says police are investigating a burglary at his company's Brisbane HQ late last month. He says a computer was stolen, along with corporate and financial records. Mr Palmer says he believes the incident is linked to his recent decision to contest the September federal election with his new United Australia Party. <http://tiny.cc/eiqaww>

CLA report – for April 2012

The most significant activity in April was two weeks spend by president and CEO in Tasmania - see reports (above) in this issue of CLArion, and full report on the CLA website.

As well, CLA was ably represented at a Centre of Excellence in Police and Security (CEPS) conference in Canberra by Director and National Media Spokesperson Tim Vines on Wednesday 17 April.

Mr Vines took up the 50th anniversary conference theme, *Human Rights and Policing*, by reviewing the past 50 years of major events by comparison to civil liberties happenings over that period. His detailed analysis covered the extensive subject/time period in decade-long chunks.



His address (above) was so well received that he is in demand to again present at a symposium on the privatisation of intelligence at the National Press Club on 8 August.

"We would also very much welcome a representative of CLA presenting at the symposium. Tim, you will be in high demand after your presentation at the human rights and policing conference!!!!" one of the organisers of the 8 August event, Kate O'Donnell, wrote.

Presentation:

50 Years of Civil Liberties and Policing – Presentation to the 2013 Centre for Excellence in Policing and Security (CEPS) Conference – you can see the Presentation [HERE](#)

Submissions:

2 x Public Interest Disclosure: to both House and Senate Committees: author Rhys Michie;
Tasmanian MPs: re 'Right to Appeal' law being 'mirrored' in Tasmania from SA.

Media:

National: Tim Vines

- [New Tax Proposals and Taxpayer Privacy](#) – comment for *Australian Financial Review*
- [DNA Profiling and new Crime Scene Techniques](#) – comment for *Canberra Times*
- [Roadside Drug Testing](#) – comment in *Canberra Times* (not a new request, they reused an old quote)

National: Richard Griggs:

- Media release: Anti-Association law: dangers in Prime Minister's proposal to COAG (see below)

Tas: Richard Griggs

- CLA article, *Tasmanian Times* re dangers of anti-association laws as proposed by the PM at recent COAG meeting. <http://tinyurl.com/bsecbmd>
- Comment to the *The Examiner* re Launceston shopkeepers using CCTV footage on the internet to find suspected shoplifters: <http://www.examiner.com.au/story/1429350/taking-up-the-shoplifting-fight>
- *ABC Radio Mornings Across Tasmania* with Leon Compton: interview with CLA President Kristine Klugman and CEO Bill Rowlings

WA: Rex Widerstrom

- Letter to editor, *West Australian*: Correcting alarmist crime story "1000 are freed to re-offend": <http://www.cla.asn.au/index.php/articles/combating-the-rising-tide-of>
- Comment piece, *West Australian*: "Govt has chance to make major changes to prison management"

INTERNATIONAL

Canada won't "accommodate evil": Australia apparently will

Canadian Foreign Minister John Baird has condemned the decision to allow Sri Lanka to host the Commonwealth heads of government meeting in November as "accommodating evil".

Baird spoke out after his Commonwealth counterparts in London last month agreed to press ahead with the meeting despite strong criticism over Colombo's human rights record.

"We're appalled that Sri Lanka seems poised to host CHOGM and to be chair-in-residence of the Commonwealth for two years," the Canadian minister told *The Guardian* newspaper. "Canada didn't get involved in the Commonwealth to accommodate evil; we came to combat it. We are deeply disappointed that Sri Lanka appears poised to take on this leadership role."

Prime Minister Stephen Harper has said Canada will boycott the 15-17 November meeting unless Sri Lanka investigates suspected war crimes including the alleged indiscriminate killing of civilians by government troops in the climax of the civil war in 2009.

Australia appears set to attend CHOGM in Sri Lanka. <http://tiny.cc/fyc7vw>

US moves to improve e-privacy rights

The US is moving to conscribe the conflicting legal rules that govern electronic privacy.

Congress is preparing to bring the quarter-century-old law, the Electronic Communications Privacy Act, or ECPA, into line with the Internet age.

The Senate Judiciary Committee last month unanimously passed a measure that would require the government to get a search warrant, issued by a judge, to gain access to personal emails and all other electronic content held by a third-party service provider.

The bill still needs the approval of the full Senate.

Currently a warrant is required only for emails that are less than six months old. Authorities can access older communications — or bizarrely, emails already opened — with just a subpoena and no judicial review.

The law governs the privacy of practically everything entrusted to the Internet — family photos stored with a web service, journal entries kept online, company documents uploaded to the cloud, and the flurry of e-mails exchanged every day.

The problem is that it was written when the cloud was just vapor in the sky. <http://tiny.cc/p1a4vw>

NZ shows the way on sex and marriage

New Zealand's parliament has voted in favour of allowing same-sex marriage, prompting cheers, applause and the singing of a traditional Maori celebratory song from the public gallery.

Seventy-seven of 121 members voted in favour of amending the 1955 Marriage Act to allow same-sex couples to wed, making NZ the first country in the Asia-Pacific region to do so. It is the 13th country to legalise same-sex marriages, after Uruguay passed the law a week earlier. Australia rejected a similar proposal last year.

France is also close to legalising same-sex marriage despite increasingly vocal opposition. <http://tiny.cc/meqovw>

Uruguay votes for gay marriage

In Uruguay, 71 of 92 lawmakers in the lower house voted in favour of the proposal, one week after the senate passed it by a wide majority.

President Jose Mujica is expected to sign the bill into law.

"I agree that family is the basis of society but I also believe that love is the basis of family. And love is neither homosexual nor heterosexual," said opposition lawmaker Fernando Amado of the centre-right Colorado party.

Uruguay was the 12th country to pass a law of this kind, according to Human Rights Watch. In the Americas, Argentina and Canada have approved gay marriage, and it is allowed in Mexico City and some parts of Brazil, as well as nine states of the US.

In Uruguay, a nation of about 3.3 million, critics of the bill included the Catholic Church and other Christian organizations, which said it would endanger the family. <http://tiny.cc/x0pdvw>

Manning's prosecutors to jump higher hurdle

Military prosecutors seeking to have Private Bradley Manning convicted of violating the US Espionage Act over his release of secret government files to WikiLeaks will face an additional burden at his court-martial under a ruling last month by a military judge.

The judge, Colonel Denise Lind, ruled at a pre-trial hearing that prosecutors must prove beyond a reasonable doubt that Manning had "reason to believe" that the files could be used to harm the USA or to aid a foreign power. Prosecutors had contended that they should be required to prove only that he willfully disclosed defence-related files to win a conviction under the spying law.

Private Manning's trial is due to begin in June. <http://tiny.cc/hgmdvw>

Dotcom raid shows up NZ spooks' abuses

The main New Zealand intelligence agency has misused its powers in dozens of cases, an official report found last month. NZ PM John Key said the report into the Government Communications Security Bureau (GCSB) was "sobering reading" and revealed long-standing problems with practices and culture.

Key ordered a review into the GCSB in September last year after revelations it illegally spied on Kim Dotcom before armed police raided the internet tycoon's Auckland mansion and arrested him for online piracy in January 2012. At the time, Key offered a public apology to Dotcom, acknowledging that the German national should have been off-limits to the GCSB because he has residency status in NZ.

The GCSB insisted the Dotcom case was an isolated incident. But the 85-page report, compiled by a top public servant, found there were 88 cases where NZ citizens or residents may have been illegally spied on. Details of the cases were not publicly released.

The report identified "issues within GCSB concerning organisational structure, culture, systems and capabilities" and called for more external oversight of the agency. <http://tiny.cc/gbpdvww>

Executions down in 2012

At least 1722 people were sentenced to death in 58 countries in 2012.

The figure is down on 2011, when at least 1923 people were sentenced in 63 countries worldwide, and a reduction for the second year running (2010: 2024 death sentences in 67 countries).

In 2012 Amnesty International recorded executions in 21 countries. This figure reflects the significant overall decline of the death penalty from a decade earlier: 28 countries carried out executions in 2003.

Meanwhile, Latvia abolished the death penalty, meaning that there are nearly five times as many countries not executing as there are killing their citizens in the name of justice.

US re-jails man for critical article online

The US Government last month re-jailed Earth Liberation Front activist Daniel McGowan (right) because he wrote an article for online daily newsletter, *The Huffington Post*, his wife Jenny Synan said.



The *HuffPost* story, published 1 April, cited official documents and charged the Federal Bureau of Prisons with transferring him to a high security prison unit to curtail his political speech while jailed originally.

McGowan was re-imprisoned after his release to a halfway house in December 2012. An official said that his article violated a term of his release that restricted him from interacting with the media.

McGowan pleaded guilty in 2006 to federal charges of arson and conspiracy to commit arson, for fires linked to the animal rights group Earth Liberation Front. Between 2008 and 2010, he served time in the Communication Management Unit at the US Penitentiary in Marion, Illinois. Prisoners in the unit, which has been dubbed "Little Guantanamo" by critics, are isolated from other prisoners and severely restricted in their contact with their families. <http://tiny.cc/jt63uw>

Google searches for an answer to FBI prying

Google has undertaken a legal first: an open court challenge by a major Internet company to an FBI warrantless electronic data-gathering technique.

The company asked US District Judge Susan Illston in San Francisco last month to grant a "petition to set aside legal process" in response to a national security letter from the FBI. National security letters allow FBI officials to send a secret request to web and telecommunications companies requesting "name, address, length of service," and other information about users as long as it's relevant to a national security investigation. No court approval is required, and disclosing the existence of the FBI's request is not permitted...except as in this court case, where the full details are kept secret.

Doctors ordered to operate on protesters without anaesthetics, inquiry finds

Senior Egyptian army doctors were ordered to operate without anaesthetic on wounded protesters at a military hospital in Cairo during protests against military rule, according to an investigation commissioned by Egyptian resident Mohamed Morsi.

The report into military and police malpractice since 2011 also alleges that doctors, soldiers and medics assaulted protesters inside the hospital.

The findings relate to the army's behaviour during the Abbasiya clashes in May 2012.

They come from a suppressed report investigating human rights abuses in Egypt since the start of the 2011 uprising that toppled Hosni Mubarak.

Earlier leaks alleged that the military were involved in torture, killings and forced disappearances during the uprising.

The new chapter contains testimony from doctors and protesters about the treatment of injured demonstrators at the Kobri el-Qoba military hospital in Cairo in May 2012.

It alleges that a senior military doctor ordered subordinates to operate on wounded protesters without anaesthetic or sterilisation and reports that doctors, nurses and senior officers also beat some of the wounded protesters.

It also claims that a senior officer ordered soldiers to lock protesters in a basement. <http://tiny.cc/dcffvw>

Saudi court reportedly orders man paralysed

A Saudi Arabian court has reportedly ruled that a young man should be paralysed as punishment for a crime he committed 10 years ago which resulted in the victim having to use a wheelchair.

Amnesty said Ali al-Khawaher, 24, was reported to have spent 10 years in jail waiting to be surgically paralysed unless his family pays \$250,000 to the victim.

Khawaher stabbed a friend in the spine during a dispute, paralysing him from the waist down.

Saudi Arabia applies Islamic sharia law, which allows eye-for-an-eye punishment for crimes but allows victims to pardon convicts in exchange for so-called blood money. <http://tiny.cc/xon0uw>

Judge orders pill for all ages

A US federal judge has ordered the government to make the "morning-after" pill available to girls of all ages without prescription.

The Brooklyn court order reverses a surprise December 2011 decision by US Health and Human Services secretary Kathleen Sebelius.

After the US Food and Drug Administration approved over-the-counter sales with no age limits, Ms Sebelius ordered it to reverse course, barring girls under 17 from buying the pills without a prescription. They must also show ID.

President Barack Obama supported that restriction, invoking his daughters. But the timing, 11 months ahead of the presidential election, sparked criticism that he was trying to placate social conservatives.

In his ruling, US district judge Edward Korman called Ms Sebelius's decision "arbitrary, capricious and unreasonable". "The motivation for the secretary's action was obviously political," he wrote. <http://tiny.cc/f304uw>

Ireland on trial over abortion-refusal death



An inquest in Ireland is investigating the death of a pregnant Indian woman who was allegedly denied a termination, sparking fierce debate on the Catholic country's strict abortion laws.

Savita Halappanavar, a 31-year-old dentist originally from India, died in a hospital in Galway, on the west coast of Ireland, in October 2012 after suffering a miscarriage.

She was 17 weeks pregnant and miscarrying when she went to Galway University

Hospital complaining of backache.

Her husband Praveen said his wife, a Hindu, repeatedly requested that doctors terminate the pregnancy but they refused because there was still a foetal heartbeat and because Ireland "is a Catholic country". Ms Halappanavar died of suspected septicaemia on October 28, five days after losing her baby.

The coronial jury decided she had died to "medical misadventure". The jury endorsed nine recommendations of coroner Dr Ciaran MacLoughlin to improve the Irish medical and hospital system. <http://tiny.cc/v08tvw>

Rights Committee cries foul over haste

Increasing use of emergency legislation, lack of adequate debating time and inserting last-minute amendments are preventing effective parliamentary scrutiny of new laws, a UK Parliament committee believes.

In a scathing attack on the Coalition Government's attitude towards the Lords and Commons, the Joint Committee on Human Rights says ministers need to improve the way they present legislation.

"The most serious obstacle to effective scrutiny ... is the use of emergency, or 'fast-track', legislation," the committee's annual report complains. "We share the growing concern expressed by the House of Lords Constitution Committee about the frequency of such legislation."

Civil Liberties Australia believes similar criticisms should be levelled at the Australian Parliament. Committees are being inundated with draft legislation, at the same times as research and administrative staff for committees are much reduced.

The British committee is asking for amendments with significant human rights implications to be accompanied by a human rights memorandum, and "with due notice so that we have sufficient time to scrutinise and if necessary report on the amendments before the next stage of the bill's passage". <http://tiny.cc/453kvw>

Paralysed man takes over right-to-die case

A paralysed builder requiring round-the-clock care since a car accident 23 years ago has applied to the UK High court to be allowed to die with the help of a doctor.

Paul Lamb, 57, has taken on the case brought by Tony Nicklinson, a sufferer of "locked-in syndrome" who died last year, a week after losing his high court euthanasia battle.

After his death, Nicklinson's widow vowed to continue her late husband's fight. Jane Nicklinson said she would "support 100% anyone who is willing to take the case forward."

In March, a High Court judge agreed to let Lamb take over Nicklinson's appeal. Last month the court agreed that Lamb could be named publicly after he told them he was ready to die. "I cannot carry on as all that my life consists of is being fed and watered," he said in a witness statement. He needed help to end his life, he said: "I am simply not in a position to take tablets, jump off a tall building, hang myself, throw myself in front of a moving train."

His case will be joined to another brought by Jane Nicklinson, appealing against the judgment that condemned her husband to a life he no longer wanted to lead. She is able to pursue a claim in her own right under article 8 (right to private and family life) of the European convention. "She suffered pain, distress and injury as a result of having to witness the cruel, distressing and painful life her husband suffered as he was not able to end his own life," said her solicitor, Saimo Chahal.

<http://tiny.cc/46pqvw>

Peers pass new defamation law

Laws that led to London being dubbed "the libel capital of the world" will change after peers in the House of Lords voted last month to pass a new defamation bill.

The vote brings closer the end of a three-year campaign led by Liberal Democrat peers Lord McNally and Lord Lester. Reform campaigners were "delighted" that defamation reform was finally passing into law, although they were disappointed by the failure of a bid to bar private companies contracted to run schools, prisons or healthcare from suing ordinary citizens who criticised the work they do for the taxpayer.

However, the bill should provide more protection for individuals and organisations, including newspapers and broadcasters, which criticise big companies.

The new law will also stop cases being taken in London against journalists, academics or individuals who live outside the country, denting the libel tourism industry, but not ending it altogether, as foreigners will still be able to lodge claims in the High Court. <http://tiny.cc/8vs1vw>

International briefs

Police sentenced to 156 years in jail: Twenty-three Brazilian police officers have been sentenced to 156 years in jail each for their role in killing 111 inmates in 1992 during Brazil's deadliest-ever prison uprising. The policemen, most now retired, were accused of killing 15 prisoners in Sao Paulo's Carandiru prison during the operation to quell the revolt on 2 October 1992, which came to be known as the "Carandiru massacre." In addition to the 111 prisoners who were killed, another 87 were wounded. No police were harmed in the operation. The Carandiru prison was demolished in 2002. <http://tiny.cc/9pvxvw>

Burma sets some political prisoners free: Burma's president Thein Sein late last month pardoned 93 prisoners, including at least 59 political detainees, a day after the European Union lifted sanctions. State TV announced the pardon amid renewed calls for the government to release a further 300 more political prisoners still believed to be behind bars. <http://tiny.cc/8ms1vw>

Mickey's got big ears...and eyes: Euro Disney, the company that runs Disneyland Paris, and two former gendarmes have

been taken to court in France for using alleged spying tactics on candidates who applied for jobs at the theme park. Under a secret agreement, they used police still in the force to illegally access files on job applicants, including court history, legal cases and former convictions. Between 2500 and 3000 people were checked for previous judicial records, sexual offences, illegal work or financial crimes between 1999 and 2004. <http://tiny.cc/vvb4vw>

Israel's spooks demand access to personal emails:

Israel's Shin Bet spooks are asking foreign travellers entering the Jewish state to show border officers their emails. The Association of Civil Rights in Israel (ACRI) last month described the checks as a "drastic invasion of privacy ... not befitting a democracy". But Israel's A-G has endorsed them as legal. <http://tiny.cc/yzl4vv>

Kiwis talking up good governance: A \$4 million government-sponsored campaign has been launched to spark a national conversation about how New Zealand is run. Things like: How many MPs do Kiwis really want? Do Maori really need their own seats in parliament? Should there be a written constitution like the US and Australia, so judges can overthrow laws that are unconstitutional? And, most importantly, what does NZ do with the Treaty of Waitangi? NZers have until July to talk about it all, then get submissions in to a 12-strong Constitutional Advisory Panel, which will digest the submissions and report to Maori Party co-leader Pita Sharples and National's Deputy PM Bill English. Where to from there, nobody knows. <http://tiny.cc/v427vw>

PNG may revert to hanging: Papua New Guinea's government is considering using the death penalty (DP) again to deter a rash of extraordinarily violent crimes against women and "sorcery"-related killings. AG Kerenga Kua says public debate is now in favour of the DP. "Most people want it now, as they are fed up of the law and order problems in this country and they want to see a more liberal use of the death penalty," Mr Kua said. The DP, by hanging, remains on the statute books, but has not been used in PNG for 60 years. <http://tiny.cc/z7caww>

DATES

3 May, Melbourne: Justice Edwin Cameron of the Constitutional Court of South Africa speaks at annual HR dinner of the HR Law Centre and Public Interest Law Clearing House, 6.30 for 7pm, Sofitel Melbourne on Collins, \$170/100. Details 03 8636 4400 or toni.hynes@pilch.org.au

3 May, Newcastle: Justice Michael Kirby on The Mysteries of Judicial Reasoning: The Case of Garcia vs National Australia Bank. 10am, venue Newcastle U. GP101. Email: sophie.percival@newcastle.edu.au

5-9 May, Brisbane: CIF World Congress 2013: Construction Law Stream, Brisbane Convention Centre. Details: <http://www.constructionlaw.org.uk>

24-25 May, Townsville: North Queensland Law Association conference. Info: <http://nqla.com.au>

29 May, Parramatta: The Power to Declare War in Australia: Crossing the Rubicon or the Delaware? Kristian Boehringer. 11.30am-12.30pm Moot Court, Bldg EO, Parramatta Campus, UWS. Details: http://www.uws.edu.au/home/events/school_of_law_seminar_series3

29-30 May, Hobart: Tasmanian Youth Conference, Derwent Entertainment Centre, Hobart. Details and rego: <http://www.ynot.org.au/tyc13>

30-31 May, Sydney: Biometrics Institute Asia-Pacific conference 2013. Details: <http://tiny.cc/l66eow>

5-7 June, Canberra (TBC): Sorcery and Witchcraft-related Killings in Melanesia: Culture, Law and Human Rights Perspectives conference, ANU. Info: richard.eves@anu.edu.au

22-29 June, Bali, Indonesia: 14th Bali Criminal Lawyers of the NT conference. Details: <http://clant.org.au>

25-26 June, Canberra: State of the Pacific: inaugural conference including state of democracy (elections, constitutions, etc). Email: ssgm.admin@anu.edu.au to be kept informed, and later to register.

27-30 June, Fremantle: 20th annual A. Assn. for Professional and Applied Ethics conference, Achieving Ethical Excellence, U. Notre Dame. Details: <http://www.aapae2013conference.com.au>

4 July, Canberra: 2013 Kirby lecture on international law: Prof. Gillian Triggs, president of the A. Human Rights Commission, 6.30, Finkel Theatre, John Curtin SMR building,. RSVP by COB 26 June to rsvp@law.anu.edu.au Info: http://law.anu.edu.au/sites/all/files/events/kirby_lecture_2013.pdf

25-28 August, Adelaide: 8th Australian Women and Policing Conference. Details: conference@acwap.com.au Info: <http://www.acwap.com.au>

1-3 Oct, Brisbane: 26th ANZ Society of Criminology conference, Convention Centre. Details: <http://tiny.cc/vvsaww> Email: anzsoc2013@griffith.edu.au

9 Oct, Parramatta: Space, Technology and the Challenges for International Humanitarian Law, Prof Steven Freeland, 11.30-12.30, Moot Court, Bldg EO, Parramatta Campus UWS. Details: Cathy McFall c.mcfall@uws.edu.au or 02 9685 9576

17-22 Nov, Sydney: AFP Specialist Response Group hosts International Negotiators' Working Group 2013 conference. Restricted attendees. Details: <http://tiny.cc/wesaww>

11-13 Dec, Parramatta, Sydney: Trans-Tasman Domestic Violence Conference, Rydges Parramatta Hotel, website: <http://www.gcadv.net/2013dvconference.htm> Call for papers (first closing 30 Oct 2012) or details and registration form, email: chairman@gcadv.net

2014:

Feb, Sydney: 12th annual National Security Australia conference: venue/days not yet revealed. Info: <http://www.iir.com.au/conferences/defence/national-security-australia>

2015:

June, England: 800th anniversary of Magna Carta
Date, Place TBC: 2nd Global Domestic Violence Conference

CLArion is the monthly e-newsletter of Civil Liberties Australia A04043, Box 7438 FISHER ACT 2611 Australia. Responsibility for election comment in *CLArion* is taken by CLA's Public Officer, Bill Rowlings, of Fisher, ACT. Please feel free to report or pass on items in *CLArion*, crediting CLA and/or the original source. We welcome contributions for the next issue: please send to: [mailto:secretary\[at\]cla.asn.au](mailto:secretary[at]cla.asn.au)

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