

## CLA promotes rally to raise TPP awareness

Civil Liberties Australia was part of a team behind a rally outside Parliament House in Canberra last month to gain media attention for a public battle against government secrecy.

Speakers included Labor MHR Kelvin Thomson of Victoria (deputy chair of the Treaties committee), Greens Senators Peter Whish-Wilson (the Greens trade spokesperson) of Tasmania and Scott Ludlam of WA, and noted historian and social commentator Humphrey McQueen, a CLA member.



*Mr Thomson speaking, the other two MPs behind him.*

The Trans-Pacific Partnership is a trade agreement which has been in negotiation for about nine years. Australia has been involved for about five years...but all details of the proposed agreement have been completely kept from the parliaments and the people of the countries involved.

Countries involved include the USA, Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam.

Proponents rely on the generic claim that “free trade is a good thing” for everyone. Critics say “free trade” is code for US and First World corporate hegemony: all such agreements – and particularly the TPP – are designed to give preference to major corporations, even over the nations involved.

The TPP pact would be Australia's biggest international agreement for decades, but most people haven't a clue about it. An Australia Institute survey found just one in 10 voters had even heard of it.

Consumer groups say the trade pact could have significant impact on consumers across the region, claiming it will increase the cost of medicines, films, computer games and software. Critics believe it could compromise environmental protections and allow foreign corporations to sue Australian governments if their policies reduce future profits. A leaked draft suggests the US is pushing for criminal penalties, even jail, for illegally downloading popular television shows.

With issues like those at stake, you would expect debate about the TPP to be raging...but it isn't. Groups throughout Australia are gearing up to highlight the risk, with further rallies in planning by a host of other groups. <http://tinyurl.com/k32nbhx>

Civil Liberties Australia is planning to partner with university groups to educate more people about the TPP, and to raise awareness of the potential dangers of negotiating any treaty in absolute secrecy from the people who will feel the impact.

## Learning the ABC of political risk

The ABC is safe...or not. It depends on who you listen to in Parliament House.

Doing the rounds in February, CLA's president Dr Kristine Klugman was told by a senior Coalition figure that the PM had assured the combined party room there would be no “punitive” cuts to the ABC budget.

Neither PM Tony Abbott or the Coalition would act in any way to “retaliate” against what they believe is consistent left-wing bias in the national broadcaster.

The ABC might suffer the type of “trimming” that all agencies would face under the Treasurer Joe Hockey budget, but nothing extra or exemplary, Dr Klugman was told.

But a senior Labor figure, during the same lobbying round, revealed that the ALP was so concerned the ABC would become a target that it was contemplating tabling a specific motion calling on the government to preserve the ABC as is.

Meanwhile, out in the community, the Friends of the ABC organisation nationally – which has been largely dormant for a decade since its last great defensive stand – is rumbling back into life. Groups like that in the ACT, which had folded back into the NSW parent body, may be reactivated.

Reports from rural Australia indicate that there would be a battle royale if anyone tried to take ABC Radio away from them. ABC TV is not quite so highly regarded in the bush...except, of course, when disaster strikes, when the national broadcaster comes up trumps in the city and the bush, every time.

## Black skin blinds justice: PM legally hypocrite

More than half – 53% – of young people in detention in Australia are indigenous.

“Instead of a national outcry, Australia is gripped by a national silence,” Bianca Hall wrote in *Fairfax* media last month.

The latest national figures show indigenous young people, who comprise just 5% of the population, were detained at a staggering 31 times the rate of non-indigenous young people on an average night in June 2012. Most of those detained were yet to be sentenced.

In his ‘Closing the Gap’ statement last month, Prime Minister Tony Abbott failed to mention justice issues. In December, he oversaw \$13.4m cuts to Indigenous legal aid funding over four years. <http://tinyurl.com/m4lcgan>

Civil Liberties Australia calls on the PM to confirm his commitment to Aborigines by increasing legal aid funding above what it was before the recent cuts. Trying to ‘close the gap’ without addressing the legal injustice done daily to Aborigines is like trying to ride a tandem bicycle with one wheel. Juvenile Aborigines in particular need much more help than they are getting.

## Gene patents bill on hold

A gene patents bill, proposed by Labor's Melissa Parke (right) and supported by the Liberal Bill Heffernan, remains on hold.

The bill aims to secure Australia's rights by banning patents over human genes. Private companies, mostly in the US, have patents on more than 4000 genes (or about 20% of the human genome).

Whether the local bill is reintroduced will depend on a decision in the Federal Court, tackling the vexed issue of who “own” our body's building blocks, which is imminent.



The concept of such a bill in Australia has a long history: Mr Heffernan introduced a private member's bill in 2010, but it did not succeed in the face of fierce lobbying by "Big Pharma" (the pharmaceutical industry). Big Pharma probably employs more specialist lobbyists to the federal parliament than any other similar group.

## McMillan wants more transparent intelligence

Australia's information commissioner wants intelligence agencies subject to freedom of information laws and has expressed concern about "mixed messages" on open government and transparency.

Professor John McMillan, in an interview with Paul Farrell of *Guardian Australia*, said intelligence agencies should be subject to freedom of information (FoI) legislation.

"I think the FoI Act can suitably apply to any agencies, parliamentary departments and the intelligence agencies. The exemptions are adequate to protect whatever has to be protected."

Currently, the Australian Security Intelligence Organisation, Australian Secret Intelligence Service and the Australian Signals Directorate are all totally exempt from FoI laws. In the US the Central Intelligence Agency and National Security Agency are both subject to FoI laws. <http://tinyurl.com/kwxvjx6>

## ...but agencies perfect, says General George

Attorney General George Brandis told the Senate last month that:

"...the advice I would give the Australian people is that our national security agencies – staffed, as I said, by personnel of integrity and skill – are supervised by this parliament through an exhaustive network of parliamentary accountability and independent accountability, especially through the Inspector-General of Intelligence and Security."

We shall see whether General George remains as confident when the spy and/or security faeces hits the fan during his 'watch'...like with commercial spying on Indonesia: <http://tinyurl.com/l2x9cwx>

Civil Liberties Australia believes the accountability to parliament of the spy, security, police and police-like agencies is near zero: MPs are told what they want to hear, and there is not one MP critic in the Australian Parliament who closely quizzes why the spook agencies do what they do and why they make the selections they do about what they will and will not investigate.

The spook agencies are "supervised by the parliament" about as well as the parliament supervises MPs' expenses, but the difference is that the sins of the spooks never see the light of day...whereas those of the MPs do, very occasionally. <http://tinyurl.com/lrjtk9f>

## Govt to crack down on online 'piracy'

The federal government will crack down on online piracy, forcing internet service providers to block websites that allow users to illegally stream or download movies, music and television shows.

They also plan a "graduated response scheme" leading to internet accounts being temporarily suspended if people ignore notifications to stop downloading illegal content.

If implemented, the reforms could see popular file sharing sites such as The Pirate Bay blocked by some internet service providers. AG George Brandis flagged the changes in a major

speech to the Australian Digital Alliance forum last month. <http://tinyurl.com/m5t7jec>

CLA notes the the Brandis 'crackdown' is in line with what is reportedly being demanded by US corporate interests during negotiations over the Trans-Pacific Partnership trade agreement.

## Aussies hate government surveillance

A new poll conducted by Essential Media has shown that 80% of Australians disapprove of the government being able to access citizens' phone and Internet records without a warrant\*.

The research is being hailed as "vindication" for campaigns against government intrusion into private residents' telecommunications, Renai LeMay wrote in *Delimitter* last month.

Under Australia's Telecommunications (Interception and Access) Act, certain Australian Government departments and agencies — especially those in the law enforcement field — are able to access Australians' telecommunications data. In the 2012 financial year, such agencies made close to 300,000 requests for telecommunications data, without a warrant. <http://tinyurl.com/lygbgsf>

\* Response to the question: "Do you approve or disapprove of the Australian Government being able to access your phone and Internet records without a warrant."

	Total	Vote Labor	Vote Lib/Nat	Vote Greens	Vote other
Total approve	16%	10%	24%	11%	19%
Total disapprove	80%	88%	71%	85%	80%
Strongly approve	4%	1%	6%	3%	5%
Approve	12%	9%	18%	8%	14%
Disapprove	24%	22%	28%	24%	20%
Strongly disapprove	56%	66%	43%	61%	60%
Don't know	4%	3%	6%	3%	1%

## Immigration's IT in a mess...again

The personal details of a third of all asylum seekers held in Australia – almost 10,000 adults and children – have been inadvertently released by the Department of Immigration and Border Protection in one of the most serious privacy breaches in Australia's history.

The full names, nationalities, location, arrival date and boat arrival information was revealed on the department's website. Every single person held in a mainland detention facility and on Christmas Island was identified in the database, as well as several thousand living under the community detention program.

A large number of children have been identified in the release, which also lists whether asylum seekers are part of family groups.

At a news conference in November 2013, immigration minister Scott Morrison outlined the government's responsibility to protect the identities of asylum seekers in its care. "What the Australian government has an obligation to do, though, is ensure that we take all steps necessary so as not to violate their identity," he said. "Now, it is important that people who are making claims about asylum can do so in a discreet way and a private way. And we need to take all reasonable steps under our duty of care to ensure that we don't expose people to that situation."

Both the current and previous governments have said the secrecy surrounding Australian detention facilities is necessary to protect asylum seekers' privacy. <http://tinyurl.com/o25hj9w>

## Bowles sacks experts: he didn't trust them



The Immigration Department sacked an expert health panel because of fears its members would leak information about Operation Sovereign Borders to the media, according to documents obtained under FOI by news agency AAP.

The 12-member Immigration Health Advisory Group was replaced by a sole adviser, military surgeon Paul Alexander, in December 2013.

The panel, which included psychiatrists, psychologists, trauma experts, nurses and GPs, had been providing independent policy advice to the federal government since 2006.

The AAP documents show secretary of the immigration department, Martin Bowles, was concerned about potential conflicts of interest by members of the panel.

## ODD SPOT: Who said this in a first speech?

*Throughout Australia today there is a feeling of frustration...on the part of people and organisations who are endeavouring to maintain and improve the quality of life within their neighbourhood. There are many laws, both State and Commonwealth, which can be of assistance and can bring about a review of decisions taken at a local government or State level but the methods of obtaining the review are not known and are rarely considered by these organisations. The legal profession, as a general rule, is not competent, by way of training, to advise on these matters. ANSWER? See the next ODD SPOT below...*

## Selby passes judgement on justice in Australia

Noted ANU courtroom skills teacher and writer, the barrister Hugh Selby, gave a dinner address to forensic scientists in NSW in late-2013 entitled: "If only I had known then how much better it could be..."

Here are some of his observations:

- the higher up in the legal system, the less important evidence matters
- justice only ever comes in a courtroom in Australia by accident
- the highest rate of finding a good prosecutor and defence lawyer in the same trial in a six-month period in Australia is 20%
- the legal system has checks and balances on how the system works. This is fantastic...unless you are actually innocent
- ...nobody gives a stuff if someone is wrongly convicted: efforts will be made to ensure all stones are left turned over.

– ANZFSS News, vol 3, issue 2, p2

## ODD SPOT: Doryphore might make you cough

From the Australian Lawyers Alliance newsletter, Word of the week: Doryphore (DOR-ee-phor) - One who draws attention to the minor errors made by others, especially in a pestering manner; a pedantic gadfly. And, another gem: The combination "ough" can be pronounced in nine different ways. Read this: 'A rough-coated, dough-faced, thoughtful ploughman strode through the streets of Scarborough; after falling into a slough, he coughed, and hiccoughed. Sourced from: <http://tinyurl.com/lf4axl5>

ANSWER to previous ODD SPOT: Philip Ruddock, the 'father' of parliament, who was elected in 1973. <http://tinyurl.com/l4lpzb8>

## Much gNashing of teeth as the Senator gets a definitional lesson



Junior Health Minister Fiona Nash lost a chief of staff last month, when she appeared to have a somewhat different definition of conflict of interest from others in her own coalition and the opposition, and among the people.

She is not noted for her definitional astuteness, in our experience.

Senator Nash (pictured) is also not noted for her knowledge of intelligence. She especially asked Civil Liberties Australia to provide her with a definition of the word "intelligence" when she was sitting as a member of a crime committee of parliament. After we provided a robust and sensible written definition, including relevant examples from Interpol and Australia's Defence Intelligence Organisation, she rejected CLA's definition and made sure it was never published because our definition wasn't what she wanted to hear. As far as CLA is concerned, the result was we were censored by the Australian Parliament at her behest: our definition submission has never been published by parliament, in contrast to every other submission we have ever made (we complained to the Privileges Committee of Parliament – no reply).

It was extraordinarily pleasurable to see Senator Nash (Nationals, NSW) being forced to buckle under to the power of parliament, a power she has in the past been very willing to employ.

It would seem from the photo her apparent blindness to what seemed to many people to be a clear conflict of interest has added numerous lines to the normally well made-up visage of the censorious Senator. *Photo from ABC TV.*

## Privacy laws change this month

New privacy laws operate from 12 March.

From then, Australian Privacy Principles (APPs) will replace the Information PPs that now apply.

Some are significantly different from the existing principles, including APP 7 on the use and disclosure of personal information for direct marketing, and APP 8 on cross-border disclosure of personal information.

Under the changes, the Australian Information Commissioner Prof John McMillan gets new powers to seek civil penalties for repeated breaches, and to accept enforceable undertakings.

For full details, see: <http://tinyurl.com/kz6uhcd>

## Bitcoin exchanges leave a rolling trail in Oz

The Australian Transaction Reports and Analysis Centre (Austrac), the Australian government agency responsible for countering money laundering and the financing of terrorism, is able to track each conversion transaction from bitcoin into or out of Australian dollars.

"Australia is very fortunate among its international counterparts, in that we are one of the few countries which currently collects all international funds transfers, into or out of

Australia," John Schmidt, CEO of Austrac, told Senate Estimates last month.

"At some point, a person will be purchasing bitcoin using Australian dollars, for example, and then, if they are dealing in substances or services, will want to convert those bitcoins back into the legitimate currencies of wherever they are, so they can gain the benefit of them.

"Because we get the international funds transfers instructions, it is possible using other intelligence sources to identify transactions where people are purchasing bitcoins."

Schmidt said that most other countries do not possess the same capability as Australia, and prosecutions have already resulted from the agency's intelligence. <http://tinyurl.com/mu3q3ae>

## CLA proposes topics for China dialogue

As a participant in the previous China-Australia dialogue in Australia, Civil Liberties Australia was asked by Noel Campbell of the Human Rights section of the Department of Foreign Affairs (DFAT) for suggestions of what should be discussed in the current dialogue in China.

We suggested:

- ways of enabling free internet access and citizen involvement in social media, to allow/encourage participation and criticism;
- opening up media ownership to private enterprise;
- China to convene and sponsor an international conference of civil liberties organisations; and
- China to lead international development of rights and liberties charter for older people.

The dialogue, held last month in China, was notable for China's taking Australia to task over our treatment of asylum seekers and Aborigines.

## Govt in bid to whitewash sports drugs fiasco

A former Federal Court judge will investigate the national drug authority's year-long inquiry into drugs in sport, launched with an infamous press conference about "the darkest day" in February 2013.

Former judge Garry Downes (right) will review the Australian Sports Anti-Doping Authority's inquiry so far into supplements allegedly used at rugby league club Cronulla (Sharks) and aussie rules club Essendon (Bombers).

ASADA has been conspicuous by its public inaction. It has issued one infraction notice only, to rugby league winger Sandor Earl who was not directly connected to either club.

Sports scientist Stephen Dank, who worked at the Sharks and Bombers, and who is suing numerous people for allegedly defamatory claims about him a year ago, has not been interviewed by ASADA.

No-one – including ASADA – knows whether the supplement AOD-9604, which was allegedly given to players, was formally illegal. If it was, someone might be guilty of breaking a sporting rule.

With such a chaotic state of knowledge about what drugs were legal, it is incomprehensible that ASADA could charge anyone. Unless they charged themselves with incompetence, a case which could proceed to sentencing without the need



for taking any further evidence than their publicly-reported behaviour.

Like the Australian Crime Commission's and its then CEO, John Lawler, whose press conference claims a year ago about drugs and crime in sport were braggadocio on steroids, ASADA is likely to eventually scamper away with its tail between its legs. (Lawler himself quietly retired in October 2013).

The likely outcome is a report with a quasi-judicial gloss being applied to the sad affair. There will probably be no accounting for how the fiasco was allowed to develop, how much it cost Australia's international reputation and the reputation of sports and individual sporting people in Australia, and who should be sacked for incompetence.

Civil Liberties Australia a year ago analysed how spurious the claims were: it will probably take another year – a total of two years – before the government realises the nation has been let down by its own authorities. Details: Minister Dutton media release: <http://tiny.cc/9ihpax>

You can find CLA's comments of 2013 on the public record here: <http://tinyurl.com/ls5kvzh>

## Keogh evidence destroyed...just as the case came up again

During the court proceedings in the Court of Appeal in Adelaide last month, the judge in the new hearing into the soundness of the conviction of Henry Keogh\* said that the remaining elements of forensic evidence in the case should be subjected to a new test which might reveal important new understanding of its origins.



*Keogh pictured some years ago with daughter, Alexis.*

The DPP reported back the following day that all of the forensic evidence in the case was destroyed 18 months ago.

The destruction came a few months after the SA Parliament recommended a new forensic panel be established to review such evidence, and a few weeks after the parliament produced a Bill for a new right of appeal. Prof Peter Ellis from Queensland said that the established practice is to retain such evidence on a permanent basis.

The DPP has continued to argue that Keogh should not be granted leave to appeal. Justice Kevin Nicholson is considering his decision.

The law passed last year by the SA Parliament to allow appeals in cases like that of Keogh would be entirely negated if Judge Nicholson does not allow the appeal – the new law was designed for the Keogh case, Civil Liberties Australia says.

It is hard to fathom why the SA DPP wants to fight against an appeal if justice is its guiding light: the fight to prevent an appeal hearing would seem to indicate the DPP and its allies (police, forensics, etc) have something to fear if an appeal goes ahead.

CLA is actively campaigning to have the Right to Appeal law of SA 'mirrored' in other Australian jurisdictions. The Standing Council on Law and Justice (SCLJ, or SLUDGE) is due to consider the mirroring when it meets in April 2014.

\* Keogh was convicted in 1994 for the murdering, by drowning in a bath, of his fiancée, Anna-Jane Cheney. He was sentenced to 26 years in jail. The case was circumstantial, and relied heavily on forensic evidence now considered to be highly suspect.

## Serco to pay \$723,000 penalty for van escape

A faulty lock is being blamed for the escape of a West Australian rapist from a prison van.

Private security contractor Serco has agreed to pay the cost of the man-hunt for Cameron John Graham and fellow inmate Kelden Fraser, which totalled \$428,000. The company will also pay for \$295,000 in improvements to the locks of the internal doors of the vans, which were found not to shut properly.

Graham and Fraser kicked their way out of the van at Geraldton Airport on January 3. They were found at a bush camp near Mullewa 72 hours later. <http://tinyurl.com/komf37h>

## HC to rule on seizure's legality

The High Court is deciding whether to uphold a Northern Territory law which confiscates property from convicted criminals.

The case reached the HC because convicted drug dealer Reginald William Emmerson successfully appealed against seizure of all his property, regardless of whether it was related to crime. Under the law, when a person is convicted of drug trafficking at least three times, an application can be made to have that person declared a drug trafficker.

Emmerson was in that situation in September, 2011, when he was convicted of supplying more than 18 kilograms of cannabis and possessing more than \$70,000 as the proceeds of crime. He was declared a drug trafficker in August, 2012. If the NT wins today's case, up for forfeit is a 10 acre property, tens of thousands of dollars in cash and 12 vehicles including a ute, a boat and trailer and motorcycles.

The NT Court of Appeal found the law breached the constitution, by imposing on the courts a role that belongs to governments.

The NT government claims the NT Supreme Court is only required to make decisions based on guilt or innocence and the forfeiture regime is governed by legislation, not by court order.

The case has sent shivers through other governments, particularly in WA, Elizabeth Byrne of the ABC said. The Territory law is based on WA's law: if the HC rules the law invalid, WA could be forced to return millions of dollars worth of seized property and cash. <http://tinyurl.com/qh9fw9x>

## Parliament's need to stand up and be counted

The NT is the laziest parliament in the country, with politicians sitting for just 34 days in 2014, the lowest number of sitting days in any jurisdiction, the *NT News* has reported.

Parliamentary sittings resumed last month after a 67-day break.

ACT comes second, at just 39 sitting days in 2014, followed by Queensland, at 40 days. The WA Parliament will sit for 66 days.

Australia's federal House of Representatives sits for 72 days. By contrast, the UK House of Commons will sit 164 days and Canada's lower house 130 days this year. <http://tinyurl.com/lafgtrm>

## 'Tough on crime' means taxpayers slugged

Tasmania's legal community has reacted negatively to a Liberal promise to phase out suspended jail sentences, saying the policy could fill the state's prisons, increase crime and cost more.

Liberal justice spokeswoman Dr Vanessa Goodwin said suspended sentences were poorly understood and disliked and would go in the first term of a Liberal state government, under its 'tough on crime' approach. Home, weekend or periodic detention would be used instead.

Labor's Attorney-General Brian Wightman said jailing those who received suspended sentences would cost the state \$49,000 a day extra, or about \$18m a year. <http://tinyurl.com/k9czj2s>

## Premier's mum backs call for inquiry into Yacht No Body case

The mother of Tasmanian Premier Lara Giddings last month publicly joined a growing chorus of people backing a fresh inquiry into the murder conviction of Sue Neill-Fraser.

Neill-Fraser is serving 23 years for killing her partner – the Royal Hobart Hospital radiation physicist Bob Chappell – who disappeared while working alone overnight on their yacht, moored off Sandy Bay, on Australia Day 2009. His body has never been found.

Lynn Giddings said she believed Neill-Fraser's conviction was unsound: she is calling for a new inquiry.



Lynn (left), a friend of the convicted woman's mother, attended virtually all of Neill-Fraser's trial: as a former probation officer, she has experience of courts and legal systems. She told the *Hobart Mercury* that a miscarriage of justice had occurred akin to the Lindy Chamberlain case. "I can't hide behind Lara forever ... I've got to stand up and be counted," she said.

Premier Lara said she held a different opinion. "My mother is well known for her strident and forthright views and she is entitled to her opinions. My own view is that this is a matter for the courts and I have confidence in the police and judiciary." <http://tiny.cc/85gvbx>

The Premier's confidence in the police and judiciary is probably directly proportional to the closeness of the state election on 15 March. In April 2013, Premier Giddings told Civil Liberties Australia during a face-to-face meeting that she believed there were "worrying aspects" to the Sue Neill-Fraser conviction.

## Law to punish tampering with bracelets

Sex offenders who tamper with or cut off their GPS monitoring bracelets will face one-year mandatory sentences under laws of the Queensland Government.

New legislation soon will also increase various other penalties, including the maximum sentences for offences against children with a mental impairment, and procurement of a child.

Attorney-General Jarrod Bleijie says convicted sex offenders and pedophiles who tamper with their electronic monitoring devices may face up to five years' extra jail time. <http://tinyurl.com/kmswmnp>

## Qld inquiry wants ASIC to investigate further

The Queensland Racing Commission of Inquiry has found the industry was plagued with serious management failures and says former board members and senior racing executives

should be investigated by the Australian Securities Investment Commission (ASIC).

Qld AG Jarrod Bleijie and Minister for Racing Steve Dickson said the Queensland Government would carefully consider the recommendations. "It also found then Chairman Bob Bentley 'did not act with integrity' at times and, along with board member Bill Ludwig 'compromised its ability to fulfill its functions in accordance with good corporate governance principles'.

"In addition, the report found senior officers and executives' salaries went unchecked and contracts were awarded without due process." – media release, AG, 6 Feb 2014 Report: [www.racinginquiry.qld.gov.au](http://www.racinginquiry.qld.gov.au)

### 'Mandatory' may mean fewer witnesses

Proposed new mandatory sentencing laws may have the unintended consequence of reducing the number of people convicted of domestic assault because witnesses may become more reluctant to provide evidence, women's services and lawyers have warned.

The president of the NSW Bar Association, Phillip Boulten, said women were often reluctant to take part in domestic violence prosecutions for a range of emotional and economic reasons.

"If people must receive a minimum of two years for domestic violence style assaults, it won't take long before the victims will become reluctant to complain or will be reluctant to cooperate with the prosecution," Mr Boulten said. "If they thought their breadwinner was going to be in prison for two years they would pause before saying anything to anybody about their plight." <http://tinyurl.com/lm4ho5f>

### NT police change how they apprehend crims

Every NT police officer will soon carry an iPad, after a successful trial.

On the street, police will be able to run licence checks, take photographs, sketch crime scenes or take notes with their iPad. The technology will also cut down on radio communications - jobs will be logged and accepted online.

"There's a whole range of apps we're developing as well - including crime scene apps and statement-taking apps," a/g Commander Sean Parnell said. Roll-out to all officers starts soon. <http://tiny.cc/lukcbx>

### Street scanners ready for use in SA



SA police will have 150 mobile fingerprint scanners that can check a person's identity and criminal history within a minute...but they can't force people to undergo a scan.

The power to enforce scanning will come with new laws after

the 15 March state election: currently police can only take someone's fingerprints without consent after they are charged with a crime.

The devices cost about \$2.6m and a further \$800,000 for software. The Labor government promised the scanners at the 2010 election and allocated funds for 150 devices in 2012.

The rollout coincides with the trial of 350 tablet computers at one Adelaide police station to reduce paperwork. SA is the second state to take up the mobile scanners, after NSW introduced a similar system in 2009. The Australian Privacy

Foundation has written to the SA government saying that deploying the scanners as a "front-line" tool is "extreme", and saying a proper public evaluation and consultation should take place.

SA has also bought two drones. <http://tinyurl.com/n6y4tzr> and <http://tinyurl.com/lzkekno>

### Fine old 'winers' create new Vintage Reds

A retired unionist and member of Civil Liberties Australia, Jane Timbrell, is the driving force behind an initiative to tap into wasted talent and skill involving the union movement.

ACT national president Ged Kearney launched the new group of retired unionists, known as the Vintage Reds, in Canberra last month.

"...people who are still dedicated to the union movement, but no longer in the workforce: just because you no longer have a job, it doesn't mean that you can't be an activist," Ms Kearney said.

Ms Kearney said the ACTU was in good shape to meet its present challenges. "We have two million members, we are the largest organisation in this country, no other organisation in this country can raise two million members," she said. "The work that we do impacts every single worker in this country whether it's minimum wages, occupational health and safety or superannuation."

Vintage Reds' convener and former Manufacturing Workers' Union stalwart Timbrell said retirement was the perfect time to rejoin the battle for workers' rights.

"Retirement should not be entering God's waiting room, or becoming unpaid carers of the beloved grandchildren," Ms Timbrell said. "We have a lot to contribute and we also have a very strong social conscience and we would like to give back to the community. We want to remind society of why we had such good working lives."

*Photo: CLA member Jane Timbrell, with ACTU president Ged Kearney showing off the Vintage Reds' new shirt.*



### Australian briefs

**MP fumes against double standards:** Federal Liberal National MP George Christensen has criticised the criminalisation of marijuana and taxes on tobacco. "...what gives me the irrites is the double standards over restricting smoking versus a relaxed attitude to pot. My preference would be both to be legal with a lot of the taxes and restrictions removed." <http://tinyurl.com/knflgcy>

**Microsoft denies parliament prying:** *Delimiter* reports that global technology giant Microsoft has definitively told Australia's Parliament that it does not have a back door in its software that would allow the company to provide access to the IT infrastructure of parliament, which would include private files and emails held by Members of Parliament, Senators and their staff. <http://tinyurl.com/lm3mle4>

**Australia funds family support centres:** Australia will fund a new PNG Family and Sexual Violence Case Management Centre in Lae, including case workers to ensure women and children receive medical support as well as immediate shelter, legal support and other services. The Australian and PNG governments will also co-fund redevelopment of Lae ANGAU Memorial Hospital, which houses a Family Support Centre. In 2010, the centre helped 530 survivors of sexual violence, including 192 cases involving children. Australia will provide \$3 million over three years from 2014 to the centre. – media release, Foreign Minister Julie Bishop, 6 Feb 2014. <http://tinyurl.com/kl5j3eq>

**Alice ramps up court cases:** NT Chief Justice Trevor Riley said last month that criminal lodgements (formal accusations) in the Alice Springs registry of the NT Supreme Court are expected to be up by 40% in 2013/2014 compared to the previous reporting year. “You need to stop and think about that,” he said, “an increase of 40% in criminal lodgements in one year.” <http://tinyurl.com/kttvy19>



**ASIO Palace opens for business, at last:** Spooks will move into the ASIO Mahal in Canberra in May, nearly a year after the building was officially opened as a pre-election stunt and at a cost of about \$590m,

roughly \$54m over budget. Oh, by the way, it is not big enough! ASIO is complaining already that the ASIOPolis is not suitable to house all the 1904 employees, up from 668 just 10 years earlier. ASIO occupies other buildings...but it won't say where they are. <http://tinyurl.com/n3rs4j4>

**Lobbyists register planned:** ACT Chief Minister Katy Gallagher plans a public register of lobbyists. Only the ACT and the NT of Australian jurisdictions do not have a formal code of conduct and publicly available list of clients for political lobbyists who represent the interests of third parties. Last month the ACT government appointed former ACT Supreme Court judge and director of public prosecutions Ken Crispin QC to a new watchdog role with the power to investigate misconduct complaints against Assembly members, known as the Commissioner for Standards. <http://tinyurl.com/k6pddvx>

**7 claims AFP are The Block(heads):** The Channel 7 TV network is suing the AFP for an “Inspector Cloiseau” raid which they bungled in trying to find evidence Schapelle Corby is being paid \$2m for TV interviews. The AFP also raided the offices of two separate lawyers. The Abbott government needs to rein in its spooks\* and cops: speculative and intrusive raids – based on media rumours, scuttlebutt and inter-station jealousy – are not how a professional police force should operate. \*ASIO in December 2013 should not have raided the office of Canberra lawyer Bernard Collaery, who is appearing for East Timor, against the Australian government, in the International Court of Justice in The Hague. <http://tinyurl.com/kp5amyp> and <http://tinyurl.com/kkespp8>

## LETTER from a CLA member: **Privacy matters!**

Regarding online privacy: I detest data mining and online surveillance. I do not agree with *‘if you are not doing anything, you have nothing to fear’*. In my experience what is permissible is not stationary. What is one day legal, may not

be another day. If we do not protect our privacy online and push our government to respect said privacy, we will place ourselves in a position of future risk. Information is power and power has been known to corrupt. The private self is important to identity also. How does one develop a cohesive individual identity in a world devoid of privacy? – Leanne O’Neill, NSW.

## CLA - report for February 2014

In February the eAGM process started, with members being sent the annual report for 2013, the President’s report, and the financial statement. Electronic voting starts shortly. Members without an email address were posted the same material, with a stamped, return-addressed envelope.

The quarterly board meeting was held on 23 February 23, with main topics being:

- activities related to right to appeal legislation lobbying, mirroring the SA law throughout Australia
- protest activities on the Trans Pacific Partnership trade agreement
- reports from Richard Griggs, Tasmanian Director, on the state election on 15 March
- written report by WA Director Rex Widerstrom
- consideration of Deductible Gift Recipient status and a report by V-P Tim Vines
- report by Director Lance Williamson on IT and bank costs c.f. membership subscriptions.
- progress report on the Sue Neill-Fraser play script
- ACT Director spokesperson role, to be taken by Phil Schubert
- mandatory sentencing: research and analysis
- public interest immunity
- Eros Foundation offer of article for annual publication accepted
- formal responsibility of police in conflict situations – legal situation to be analysed
- invitation to speak at trade union conference in Darwin from member Erina Early

A protest rally featuring colorful posters was held outside Parliament House to protest against the Trans Pacific Partnership (TPP) trade agreement. MPs Kelvin Thomson (deputy chair of the Joint Standing Committee on Treaties), Scott Ludlam and Peter Wish-Wilson spoke. CLA member Humphrey McQueen finished up, to applause. The protest was covered by the media.

The Board accepted with regret the resignation from the board of Anthony Williamson, due to pressure of work as a senior prosecutor in the ACT Office of the Director of Public Prosecutions, and his continuing role as a volunteer in the ACT Rural Fire Service. A letter of appreciation has been sent for his service to CLA, the Board and members for a decade.

The Board also thanked member Graham Macafee for his excellent work video covering the showing of the documentary film *Shadow of Doubt*, and the protest rally against TPP outside Parliament House.

Letters were sent to 40+ new members of the House of Representatives, introducing CLA and inviting a meeting. There have been three responses so far and meetings held.

Letters to ACT solicitors and barristers are in preparation: marking 10 years of CLA and inviting involvement.

Contact with interstate members has continued, with Skype being used for better communication.

## Meetings and functions attended:

- Launch of Vintage Reds, a trade union movement for retired workers
- National Library of Australia social function
- ANU lecture on lawyers: Prof Marc Galanter
- MHRs David Coleman, Matt Williams, George Christensen, Laurie Ferguson and Melissa Parke

## Media, etc:

Tim Vines, national spokesperson:

Data sovereignty interview for *ComputerWorld* magazine.

Submission: NSW Parliament Healthcare Complaints Commission Committee on misleading health representations

Article: Government Control over Health-related NGOs.

Richard Griggs, Tasmania:

Letters to MPs and candidates, 15 March state election

## INTERNATIONAL

### Snowden leaks are a miniscule proportion of secret US holdings

US officials believe Edward's Snowden's webcrawler viewed 1.7 million documents before he fled, so that is probably the maximum number of documents the whistleblower took with him on thumb drives.

To get an idea of how miniscule that is in terms of secret US documents consider this: in 2011, the US government reportedly classified 92,064,862 secret documents. Assuming rising numbers each year, in the three years ending December 2013, the US has probably classified 300 million documents.

Of those, thanks to one man (via various journalists), we have had access to a tiny percentage of perhaps 1.7 million of them, maybe 0.6%. <http://tinyurl.com/3nlf7>

### Tower dumps can give you away

Demonstrators protesting Ukrainian President Viktor Yanukovich earlier this year suspected their cellphone location data was being tracked when people near a clash between riot police and protesters received a chilling text message: "Dear subscriber, you are registered as a participant in a mass disturbance."

More than 100,000 people were showing up for demos, most presumably carrying cellphones whose location identified them as political opponents of the government. A court has ordered mobile phone company Kyivstar to hand over details – a data dump – collected from one of its city towers.

The practice of collecting "tower dumps" isn't limited to eastern Europe. According to *The Washington Post*, a recent congressional inquiry showed that US law enforcement made more than 9000 requests for tower dumps in 2012. <http://tinyurl.com/lmkpgfi>

### Police association needs overhaul

An independent review has called for a radical and urgent overhaul of the Police Federation, including publication of "secretive accounts" reported to hold up to \$90m and details of officials' expenses and hospitality.

The change is needed to regain the trust of members and the public, the review found.

The call for a "fundamental reform" of the federation, which represents 127,000 police officers in England and Wales, comes from an external review panel chaired by a former Home Office permanent secretary, Sir David Normington. It was organised by the Royal Society of Arts and commissioned by the new leadership of the federation itself.

The review concludes that the federation has lost the confidence of its members and is losing its influence in representing them. It is particularly scathing about the practice of some officials personally targeting political opponents.

The Normington report says the federation must not only provide better value for money for its members' subscriptions and for the public resources it receives, but also increase its professionalism and its standards of behaviour and conduct.

The findings on the other side of the world raise the question whether there should be similar inquiries into police associations in Australia.

### Nuclear nun, 84, jailed for three years



An 84-year-old nun received a 35-month jail term last month for breaking into a US nuclear weapons plant and daubing it with biblical references and human blood.

Sister Megan Rice (left) was sentenced alongside two co-defendants, Greg Boertje-Obed, 58, and Michael Walli, 64, who both received 62-month terms.

On 28 July 2012, the three activists cut through three fences before reaching a \$548m storage bunker. They hung banners, strung up crime-scene tape and hammered off a small chunk of the fortress-like storage facility for uranium material, inside the most secure part of complex. They painted messages such as "The fruit of justice is peace" and splashed small bottles of human blood on the bunker wall.

Although the protesters set off alarms, they were able to spend more than two hours inside the restricted area before they were caught. <http://tinyurl.com/l49jadw>

### Why doesn't US condemn UK repression?

A court in the UK has ruled that detaining journalist Glenn Greenwald's partner David Miranda was lawful under the Terrorism Act, despite the UK government knowing Miranda never was a terrorist.

The ruling equates acts of journalism with terrorism and puts the UK on par with some of the world's most repressive regimes, the Freedom of the Press Foundation says. Miranda will appeal the ruling.

Over the past several years, the US State Department has publicly criticized several governments for using overly-broad terrorism laws against journalists and has even claimed it is their policy to oppose "misus[ing] terrorism laws to prosecute and imprison journalists." They have criticized Turkey, Ethiopia, Morocco, and Burundi all within the past year.

Just last month, the State Department harshly criticized Egypt for detaining over twenty *Al-Jazeera* journalists and charging them under the regime's terrorism statute. A State Department spokesman said Egypt's "targeting of journalists and others on spurious claims are wrong and demonstrates an egregious disregard for the protection of basic rights and freedoms...any journalist, regardless of affiliation, must not be targets of

violence, intimidation or politicized legal action. They must be protected and permitted to freely do their jobs in Egypt."

Will the US State Department condemn very similar behavior by one of its closest allies, the UK? <http://tinyurl.com/l2vglhw>

## Children get right to choose death

Belgium has become the first country to allow euthanasia for terminally ill children of any age.

The law goes beyond Dutch legislation that set a minimum age of 12 for children judged mature enough to decide to end their lives.

The new law has popular support in Belgium, where adult euthanasia became legal in 2002. In the Chamber of Representatives, 86 members voted in favour and 44 against, while 12 abstained. Most opposition parties supported it, as well as the governing socialists and liberals. <http://tinyurl.com/l86sg8l>

## Africa is where gaiety dies

Uganda's President Yoweri Museveni said last month he would sign a bill imposing harsh sentences for homosexual acts, including life imprisonment in some cases.

The measure would criminalise "the promotion or recognition" of homosexual relations. After a first conviction, offenders face a 14-year prison sentence. Subsequent convictions of "aggravated homosexuality" could bring a penalty of life in prison.

Homosexuality is reportedly illegal in 38 of 54 African countries. <http://tinyurl.com/kqgh2yg>

## ODD SPOT: Video becomes sleeping monster

A 27-year-old South Carolina woman was arrested last month for failing to return a VHS cassette she rented in 2005 from a local video store. Kayla Finley had gone to the Pickens police station to report an issue regarding harassment and stalking: officials noticed there was an old warrant out for her arrest. She was 18 when she rented the movie *Monster In Law*: when she didn't return the movie, the now-defunct rental store Dalton Video eventually sought a warrant for her arrest. After her recent arrest and 24 hours in jail, Finley was released on a \$2200 personal recognizance bond. <http://tinyurl.com/l7d3c5f>

## Judge rules death when jury demands life

*CLA's friend Fitch Esq, who writes a column on the US legal system for the Justinian legal blog, has provided us with these morsels of how the death penalty operates in the Land of the free and the Home of the Brave:*

In a disappointing ruling, the US Supreme Court has declined to hear an appeal against the shocking practice in Alabama of allowing a judge to impose a death sentence when the jury recommends life.

But that's nothing. In Oklahoma and Ohio, botched executions were not regarded as either cruel or unusual, in violation of the 8th Amendment. And Louisiana's Republican governor thought the 26 minutes it took the Ohio man to die was acceptable and plans to use the same medical cocktail in his state. <http://tinyurl.com/k7xao3c>

Missouri showed the greatest bloodlust by dragging away a capital punishment victim to his death while he was talking on the phone to his lawyer about his pending US Supreme Court petition for a stay. The Supreme Court rejected his request

for a stay four minutes after his death. <http://tinyurl.com/kbmeg3m>

Those awaiting execution can at least be grateful that excessive heat on death row is now a violation of the 8th Amendment. <http://tinyurl.com/m7cghbn>

Brave? Free? CLA comments that the USA is the Home of the Cruel and Unusual.

## INTERNATIONAL BRIEFS

**Australia accused of war crimes:** Drone victims have lodged a complaint with the International Criminal Court (ICC) accusing western countries of war crimes for facilitating the USA's covert drone program in Pakistan. The UK, Germany, Australia, and other NATO partners have supported US drone strikes through intelligence-sharing. Because the countries are signatories to the Rome Statute, they fall under the ICC's jurisdiction and can therefore be investigated for war crimes. Kareem Khan - whose civilian brother and son were killed in a 2009 drone strike - is being helped by lawyers from the human rights charity Reprieve and the Foundation for Fundamental Rights who have filed the complaint on his behalf. - media release, Reprieve

**UN committee seething over Vatican intransigence:** A UN human rights committee has denounced the Vatican for policies allowing priests to rape and molest tens of thousands of children, and urged it to open its files on the pedophiles and the churchmen who concealed their crimes. The Committee on the Rights of the Child also severely criticised the Holy See for its attitudes toward homosexuality, contraception and abortion and demanded that the Vatican "immediately remove" all clergy who are known or suspected child abusers and turn them over to civil authorities. The committee said the Holy See should also hand over its archives on sexual abuse of tens of thousands of children so that culprits, as well as "those who concealed their crimes", could be held accountable. <http://tinyurl.com/mbttryl>



**Who watches the USA?** A former Stanford University student who sued over her placement on a US government no-fly list is not a threat to national security and was the victim of a bureaucratic "mistake", a federal US judge has ruled. The decision makes Rahinah Ibrahim (left), 48, the first person to successfully challenge placement on a government watch list in court. She is now a professor at a Malaysian uni. The case, handled pro bono for her (she wasn't allowed into the USA for her own legal case) by lawyers, cost \$300,000 in court filing fees and \$3.8m in theoretical legal fees covering some 11,000 hours of work. The US 'Watch List' contains 875,000 names: it is highly likely 1-10% of them are on the hurriedly-compiled list incorrectly. Civil Liberties Australia knows of one Australian Honours recipient who was on the list because of a diplomatic error made by the US Administration. <http://tinyurl.com/lpeep36>

## DATES

**4-5 Mar, Canberra:** 5th National Public Sector Legal Officers' Forum, Hotel Realm. Info: [www.liquidlearning.com.au](http://www.liquidlearning.com.au)

**7-Mar, Gold Coast:** Bar Association of Qld annual conference, Sheraton Mirage. <http://tinyurl.com/oej464d>

**15-16-17 March, Australia-wide:** March in March: Google for details.

**21-22 Mar, Brisbane:** Qld Law Society Symposium, Convention Centre. Info: <http://tinyurl.com/m6kdv62>

**25-26 Mar, Melbourne:** 5th National Juvenile Justice summit, details: <http://tiny.cc/tjorbx>



**14 April, Perth:** Roadmap for Equality – 2014 Grace Vaughan memorial lecture, by Julie McKay (left), executive director of the Australian National Committee for UN Women. <http://tinyurl.com/mu4wo9j>

**30 Apr, Sydney:** New Right to Freedom from Corruption, Prof David Kinley, 12.30-1.20pm, AHRC L3, 175 Pitt St, <http://tiny.cc/uporbx>

**16 May, Torquay:** Victorian Australian Lawyers Alliance (ALA) conference, at The Sands Resort. <http://www.thesandstorquay.com/welcome/index.mhtml>

**26-27 May, Sydney:** 12th annual National Security Australia conference: Sydney Harbour Marriott. Info: <http://www.iir.com.au/conferences/defence/national-security-australia>

**3-5 June, Tahiti:** Political, Economic and Legal Governance in Pacific States and Territories: 2014 Pacific Island Political Association Conference. University of French Polynesia. Info: [Kerryn.baker@anu.edu.au](mailto:Kerryn.baker@anu.edu.au)

**15-20 June, Gold Coast:** National Judicial Orientation Program, Sofitel Broadbeach, cost: \$5900. Details: <http://njca.com.au/program/national-judicial-orientation-program-2014-2/>

**15-21 June, World:** World Refugee Week

**3-5 July, Canberra:** Theme: 100 years since start of WW One: *Towards International Peace through International Law* 22nd annual conference, ANZ society of Intntl Law (ANZIL), at ANU. <http://law.anu.edu.au/anzsil/conferences.html>

**16-18 July, Hong Kong:** Obligations VII – Divergence and Convergence. Jointly hosted by law faculties at U. Hong Kong and U. Melbourne, to be held in Hong Kong. <http://www.law.hku.hk/obligationsvii/>



**19 Aug, Sydney:** Rights Talk...on the ageing and those suffering mental health issues, Prof Henry Brodaty (left), 12.30-1.20pm, AHRC L3, 175 Pitt St, Sydney. <http://tiny.cc/i3orbx>

**31 Aug - 4 Sep, Adelaide:** 22nd intnt symposium of the forensic sciences, ANZFSS. Info: <http://www.aomevents.com/ANZFSS2014>

**10 Dec, World:** International Human Rights Day

**2015:**

**14-15 Feb, Canberra:** National Judicial College of Australia conference, ANU. Details: <http://njca.com.au/program/anu-njca-conference/>

**June, England:** 800th anniversary of Magna Carta  
**Date, Place TBC:** 2<sup>nd</sup> Global Domestic Violence Conference

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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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