

Chapter 11 – Australian Capital Territory

Expanding freedom from the centre outwards

It seems axiomatic that a strong civil liberties group should flourish in the nation's capital. Unfortunately, the 20th century story of Canberra groups was rather rocky. From the late 1960s, one group formed and lasted about seven years, then went through a 'hibernation'. Six years later, calls for a new group resulted in that original group emerging from its deep sleep. Version 2 lasted nearly 20 years, but it too died.

Another, and quite separate, group formed in the ACT in 2003, subsequently going Australia-wide. It is now the leading national civil liberties entity.

The groups, with confusing names, are:

- the Council for Civil Liberties ACT (CCLACT, operated from 1968 to about mid-1970s);
- the same body, CCLACT, was re-born in 1982 and lasted to about 2001;
- Civil Liberties Australia (originally with 'ACT' at the end of its name) was born in 2003, and is ongoing: see CLA chapter).

The Humanist Society sponsored a public meeting in September 1968, to form a council for civil liberties in the ACT, and to call for legal aid for citizens. We know the time and date from a newspaper clipping sourced through the National Library of Australia's Trove service (photo right). We also know that Humanist Societies interstate and the main east coast councils for civil liberties (in Victoria and NSW) were at that time moving to form groups in the other states: certainly Tasmania and WA bodies began to operate from about that time.

In the ACT, in the same week of the local formation, Labor members of the ACT Advisory Council¹ decided to call for the United Nations Declaration on Human Rights to be made law in the ACT, and the ACT ALP Electorate Council announced support for the formation



¹ There was no local government then - the federal parliament 'ruled' over Canberra and the ACT

of a council for civil liberties². So the climate was ripe to establish a civil liberties body.

In most places, those on the left of politics, and particularly the Australia Labor Party, were behind the forming of civil liberties groups. But it's important to remember that, at that time in the late-1960s and even through to the late-1980s, there were still many small 'l' Liberal Party members whose leanings were towards individual freedoms coloured by social justice principles – the then “liberal” values – on which the Liberal Party was originally founded in 1944. Many individuals of the “right” were also instrumental in the early days of many civil liberties groups.



The Council for Civil Liberties ACT (CCLACT) formed at a public meeting on 27 September 1968, when a constitution framed by an interim committee at a previous public meeting was adopted.

Kep Enderby (photo, then a barrister practising in Canberra³), addressed this meeting on the topic of Laws and Men. His talk and the following discussion covered intrusion into individual privacy by governments, vagrancy laws, censorship and fluoridation of water supply. Enderby suggested a pressing need of the CCLACT to pursue was a machinery for legal aid and law reform.⁴

The meeting elected Mr Stott of the Humanist Society as president, Mr Enderby vice-president, Mr Smith treasurer and Mrs McFarlane secretary. The committee comprised Mr McCalman, Mr Higgins, Mr Mildren, Mr Wheeler and Mr Gibbons.⁵

While the group was in formative mode, the Council for Civil Liberties NSW's Ken Buckley came to Canberra to address a public meeting of 30 people in November 1968 on the topic of Vagrancy and Prostitution.⁶

² Canberra Times 19 July 1968 p7

³ Keppel Earl Enderby (1926-2015) was Member of the House of Representatives for the ACT 1970-75. He served in many ministries in the Whitlam government, including Minister for the ACT and Minister for the NT, as well as being Attorney-General. He introduced Australia's first anti-discrimination legislation, and is commemorated by an annual Australian Human Rights Commission lecture. From 1982-1992 he was a judge of the NSW Supreme Court. As well he was international president of the Esperanto common world language movement. https://en.wikipedia.org/wiki/Kep_Enderby

⁴ Minutes CCLACT 27 September 1968 from Laurie O'Sullivan's, papers

⁵ ibid

⁶ ibid

From its inception, the CCLACT envisaged being involved in ACT, federal and international matters. The Council resolved to not affiliate with and to be independent of any political party or religious denomination. A committee meeting in November 1968 resolved to apply to be on the mailing list for notice of upcoming legislation.⁷

A public meeting held in December 1968 aimed to set up public forums at Regatta Point to be held on Sunday afternoons. As far as can be established, the ACT group was the only one in Australia to engage in such direct community activity. Representatives from the Young Liberals, the Woden Valley Liberals branch, the Evangelical Christians, the Humanist Society and the Australian Labour party attended the public meeting.

Membership in early 1969 stood at 26 people when the CCLACT decided to establish a defence fund to assist people arrested in demonstrations, after demonstrators had been attacked by plain clothes men and police who had removed their badges.⁸



The Regatta Park Forums started on 12 January 1969 with good television and press coverage. The CCLACT provided speakers and audiences varied, with new people each week. The main speakers were Brian Smith, Peter McCawley, Bruce McFarlane. Malcolm Mackerras (photo, and still involved with the CLA group today), Jim Leedman, Gordon Walsh, Anne Dalgarno and Ian Macdougall. “Sometimes members of the audience make contributions and interesting discussions develop,” the President reported⁹.

At least one policeman attended every Sunday, to take down car licence numbers and the names of speakers. The CCLACT organised a petition objecting to this police surveillance. Supported by Senator Jim Keefe and the local MP, Jim Fraser (photo), the council presented the petition to the Minister for the Interior, who replied that no such instruction had been issued, and agreed that police should interfere as little as possible at such gatherings. However the Police Commissioner replied that:



“Because of the varied and controversial nature of some of the subjects discussed at the Domain..., the Police have found it necessary to have officers in attendance principally in the interests of the speakers themselves (sic) ...it should be regarded in no way as interfering with freedom of speech”.¹⁰

⁷ ibid Minutes Committee meeting 18 October 1968,

⁸ Canberra Times 7 February 1970 p3

⁹ Civil Liberties Council ACT President’s report June 1969 p1

¹⁰ ibid

The objection was however successful, with no police observed taking notes subsequently.

By May 1969 the ACTCLC resolved to not advertise further public forums until the warmer weather, as attendances had been dropping.¹¹ The forums had brought several individual cases of incursions of rights to light: a migrant being refused naturalisation, excessive solicitors' charges, and issues around public housing and family disputes.

The President reported in June 1969 that general meetings were held at the Griffin Centre in Canberra's central business district in September, November and December. Committee meetings were held about once a month. The CCLACT council received regular bulletins from CCLNSW, including an item saying that an Australian Council for Civil Liberties had been formed in Sydney in October 1968 to consider:

1. national matters of civil liberties
2. matters referred by member councils and
3. assistance to state councils (see *National Attempts* chapter)

A highlight of the inaugural year, as noted in the minutes, was:

AGM 20 June 1969

Approach Bob Brissenden to speak on censorship – ask him to bring his guitar.¹²

Apparently Dr Brissenden¹³ did, and played some of his original songs. A vote of thanks was carried by acclamation, it is recorded.

(Many years later, Brissenden's wife, the noted Asian cookbook author and former political scientist, Rosemary, was a member of a successor organisation to the ACTCLC. Their son, Michael, was a noted political and international correspondent for ABC TV).

Photo: Bob Brissenden with son Michael in 1989.



The media carried a report of the AGM: Dr Brissenden said that censorship in Australia was an “extraordinarily depressing subject... Australia copes with the

¹¹ Minutes ACTCCL 21 May 1969

¹² CLC committee meeting 21 May 1969

¹³ Robert Francis Brissenden (1928–1991), poet, novelist, critic, and academic who taught English to Barry Humphries. <http://adb.anu.edu.au/biography/brissenden-robert-francis-bob-150>

problem in a fairly liberal and overt way...we don't often send writers to gaol...but there are curious anomalies between state and commonwealth jurisdictions." Further, there was "secrecy, furtiveness and petty authoritarianism in the Department of Customs."¹⁴ Plus ca change...

The President Mr P Stott reported to the 1969 AGM, when membership stood at 35:

"It is evident from the cases brought to our attention that two areas of concern to civil liberties in the ACT are administrative decisions (eg immigration and housing) and the inadequacy of the scale of costs awarded especially in Supreme Court cases"¹⁵.

The CCLACT Certificate of Incorporation was dated 4 July 1969. The objects and purposes of the association (as amended on 30 November 1969) were:

- a) to maintain and advance civil liberties in the ACT
- b) subject to the prior requirements of (a) above, to maintain and advance civil liberties **throughout Australia and elsewhere**, and
- c) to do such things as in the opinion of the association will further the foregoing objects (emphasis added).¹⁶

By September, attendance had declined: a general meeting was converted to an extended committee meeting, due to the lack of a quorum. The guest speaker, the ACT Police Commissioner, Mr R A Wilson, used the opportunity to decry an apathetic public attitude to assisting police. In answers to questions, he defended the right of police to fingerprint before conviction "to aid identification", stated that the increasing tendency of overseas police to be paramilitary was regrettable, and stated that training regulates the power of individual policemen.¹⁷

Mr R Cooksey was guest speaker at the general meeting in October, on the topic *Secrecy in Australian Foreign Policy*. He stated that the Defence Minister Mr Don Chipp (photo) admitted the previous March that there were dozens of things going on in Australia at this moment 'which the government does not desire be made public'.



¹⁴ Canberra Times 21 June 1969 p3

¹⁵ ibid AGM 20 June 1969

¹⁶ Civil Liberties of the ACT Incorporated 30 November 1969

¹⁷ Minutes 24 September 1969

“There are 28 US installations in Australia currently operating – we do not know the sort of things they do and some may involve us in world strategy during a war. The press occasionally reports stories but does not carry them through. Ministers make statements more noteworthy for what they conceal than what they reveal. We have in effect a secret defence policy – regardless of what party is in power.”¹⁸

Plus ca change...

The behaviour of police at major demonstrations against the US Vice-President, Spiro Agnew, on 13 and 14 January 1970 sparked the Council to call a special meeting and issue a public statement:

The Civil Liberties Council is writing to the ACT Commissioner of Police protesting:

1. removal of badges by police before the arrival of Mr Agnew at the War Memorial
2. attacks on demonstrators behind the barricades by unidentified men in civilian clothes
3. the failure to inform those apprehended that they were under arrest at the time of apprehension
4. the brutal treatment of those arrested while being conveyed in police vans
5. the undue delay in processing some of those arrested – one person was detained for 8 hours although bail was offered
6. the refusal of police to accept surety for some prisoners although ACT residents offered such surety

The Council notes that violence occurs more frequently when NSW policemen are involved.¹⁹

The statement was issued to the *Canberra Times*, *The Australian*, the *Sydney Morning Herald*, and *The Age* Melbourne.

Instructions for observing demonstrations:

1. **to wear an armband marked ‘civil liberties observer’**
2. **attend demonstrations without taking part and to take up suitable vantage points to view and record proceedings**
3. **to be prepared to visit the police station after persons have been arrested and inquire into any irregularities of processing, providing for bail, surety etc**
4. **to be prepared to supply written statements, affidavits, etc about events witnessed**
5. **to be prepared to appear in court as witnesses**

Arising from these events, the Council called for volunteers to be on duty at demonstrations, wearing an armband ‘**civil liberties observer**’, to monitor proceedings and be prepared to visit the police station and inquire into any irregularities in processing those arrested and to appear in court as witnesses. The meeting decided to refer the

¹⁸ *ibid* 24 October 1969

¹⁹ Special committee meeting 15 January 1970 public statement Minutes CCLACT

documents to Senator Mulvihill, Alan Fraser MP and Bill Hayden MP, requesting that they take up the matter in the federal parliament.

As a result of the number of cases needing advocates, a fighting fund was established to partly recompense lawyers appearing for charged demonstrators. Extensive discussion revealed diverging views on the criteria the CCLACT should use in defending cases of demonstrators arrested. Some members stated that aid should be given to 'deserving cases' while others maintained that the crucial point was the issue not the person.²⁰

The office bearers in 1970-71 were: President Mr Stott, Vice President Mr Enderby, Secretary Mrs Wenger, Treasurer Dr Higgins. The Committee members were Mrs Connors, Mr Mackerras, Mr Temperly, Mr Mildren, and Mr Feltham, Fourteen lawyers had come forward to appear in civil liberties cases. During 1971, committee meetings were held every few months. They produced a pamphlet supporting protest over the Springbok rugby union tour.

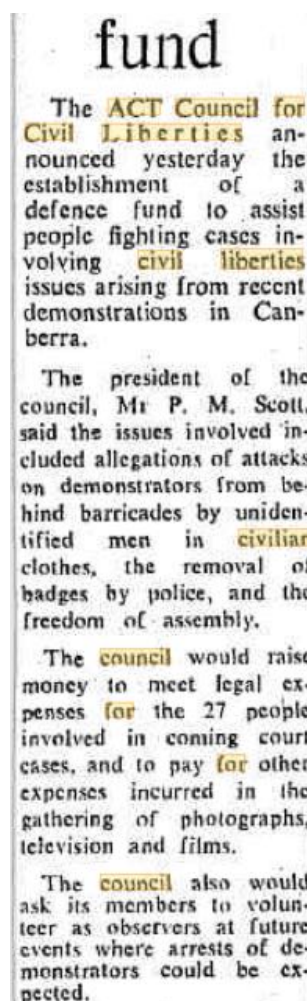
The AGM in April 1972 elected Mr Vance as president, Mr Stott as vice president, Mr Boot as secretary and Dr Higgins as treasurer. Members elected to the committee were Mr Hanley, Mrs Riddell, Mr Enderby, Mr Mildren, Mrs Sorby, Mr Clarke and Mr Stokes. All nominees were elected unanimously.

The meeting held a long discussion on the proposed ACT criminal code and directed the AG be asked its current status and that the CCLACT be given an opportunity to make representations before the law reached its final stages.²¹ The secretary gave a report on the court actions arising from the Springbok match in July 1971. A legal advisory panel was formed to manage legal advice. There was some correspondence between the CCLACT and the CCLNSW, the latter offering assistance in regard to demonstrations at the Aboriginal Embassy. Newsletters from NSW and Victorian CCLs were received. The CCLACT assented to the proposed constitution for the Australian Council for Civil Liberties.

In 1973, the Council took advantage of Kep Enderby's position as Minister for the Capital Territory to ask that copies of all legislation applicable to the ACT be made available and that he direct police to provide a card, setting out the rights of people

²⁰ ibid AGM 10 April 1970

²¹ CLC minutes AGM 26 April 1972



detained at police stations, to be signed by the detainee after he had understood the contents and that he be given a carbon copy.²² Enderby was also to be asked to address the AGM on the government's policy on prison reform and the rights of prisoners taken from the ACT to interstate jails, which discussion was later reported to be "spirited". The committee also requested the AG be asked for a meeting regarding complaints against police and the civil rights of police.

The 1972-73 annual report recorded that no public meetings had been held, due in part to reluctance to raise political issues in an election year which "...could have resulted in our non-party status being compromised".²³ In addition, it was thought 'some national issues may be better handled in future by a better-equipped national body'.

"Any increase in the Council's level of activity ultimately depends on Members informing the Committee of their wishes and on members with time to spare joining the Committee."²⁴

Recorded minutes finish in 1973, and the Records of Trust Account end in 1974.

It appears that the election of a Labor government federally and the subsequent legal and society reforms of Prime Minister Whitlam and Attorney-General Lionel Murphy, as well as the rapid growth and maturing of Canberra, led to a perception that civil liberties bodies were no longer necessary.

The Whitlam Labor government's election on 2 December 1972 had a similar effect on councils for civil liberties throughout Australia. The period saw the demise of many groups: in Tasmania, a civil liberties body lingered in name only: the media found a 'go-to' spokesperson, a former member, easily to reach and ready to provide quotes, a system which lasted in that state for about 40 years.

In the ACT, freedoms and democracy seemed to be on the rise as the population exploded: the focus was on a new, elected, local House of Assembly...which was advisory, but created the illusion of proper representative 'local' government. As well, in 1974 the ACT gained two Senate seats.

While the birth of a social movements is frequently well documented, dates of decline and ultimately death are often not fixed. So it was with the original Council for Civil Liberties ACT, which stopped operating somewhere around 1974-5. Ironically, its first evolution ended just as it was probably most needed.

²² Minutes ACTCLC 16 February 1973

²³ Minutes Annual Report 1972 - 73 president CF Vance.

²⁴ *ibid*

Canberra felt even more keenly than the rest of Australia the ructions of a Governor-General, John Kerr, dismissing the Labor government of Whitlam on 11 November 1975. Under the Whitlam executive government there had been a tsunami of fresh hope and experiment in the life of the nation. ‘The dismissal’, as the sacking of the Whitlam government is known, reintroduced a familiar torpor of a traditional status quo re-cemented in place by the legal elite, represented by Kerr, and landed squattocracy, of which new Prime Minister Malcolm Fraser was a lantern-jawed exemplar.

Gradually a mood emerged over the next few years that the battle for liberties and freedoms would need rejoining. It took some five or six years, but by 1982 an unusual array of forces that decided it was time for action. In late January, *The Canberra Times* reported:

*Senator Missen (Lib, Vic) and The Canberra Times law reporter Jack Waterford will address a civil-liberties seminar at Reid College of Technical and Further Education on Saturday, February 13, convened by the Council of Social Services of the ACT, the ACT House of Assembly, the Law Society of the ACT, the Legal Aid Commission, the ANU Faculty of Law and the Canberra Community Legal Service.*²⁵

The seminar was a precursor to a formal meeting to get a “new” group off the ground. Within weeks, on 13 Feb 1982, a large group of people met to form a “new” civil liberties body. *The Canberra Times* reported on the meeting in the next day’s paper (right).

Percolating away underneath the newly-rediscovered enthusiasm for civil liberties was a protest about the right to hold public assemblies and the “shape” of the Anzac Day march in Canberra. Civil liberties and like-minded people were worried – nearly 50 years ago! – that the march had become a celebration of warmongering rather than a commemoration of those who sacrificed their lives so there

CITIZENS' RIGHTS

Move toward ACT liberties body

About 100 people at a civil-liberties seminar voted yesterday for the establishment of a Civil Liberties Council to protect citizens' rights in the ACT and called on the House of Assembly to conduct a public inquiry to ensure that ACT laws on public assembly did not breach civil liberties.

The deputy chairman of the Human Rights Commission, Mr Peter Bailey, said the case for ACT self-government seemed to fall within the commission's charter to consider possible cases of non-compliance with the International Covenant on Civil and Political Rights.

In a paper on street offences, a reporter from *The Canberra Times*, Jack Waterford, said that those who committed such offences were "on the whole, young single men who have menial jobs or are unemployed. Throw in drunks and you can add old single men in menial jobs or unemployed".

He said it was difficult to establish when behaviour was offensive and he knew policemen and magistrates who used a four letter swear word for whose use people could be charged with an offence.

Other speakers included Senator Missen (Lib, Vic), the director of legal aid, Mr Geoff Wheeler, and law lecturer at the Canberra College of Advanced Education, Mr Robin Handley.

An assistant commissioner of the Australian Federal Police, Mr A. Watt, said that he had told his daughters that if they were raped he would not, "under the present system of law and the trauma they would have to go through in the witness box" want them to report it.

Both motions were carried without dissent after a day of discussion and papers on civil liberties, which had been organised by the Council of Social Service of the ACT in conjunction with bodies including the Legal Aid Commission, the Law Society and the House of Assembly.

Several speakers expressed concern that the Government had still not made public its promised amendments to sections of the ACT Traffic Ordinance covering public assembly, despite the closeness of this year's Anzac Day march.

The successful resolution for a civil liberties council called for volunteers to set up a steering committee to organise a public meeting to establish the council. The resolution specified, with an eye to Anzac day, that the steering committee have power to act to protect liberties pending the council's establishment.

²⁵ Canberra Times Sunday 31 Jan 1982 <https://trove.nla.gov.au/newspaper/article/126993119?>

would be no more wars. The pro-commemoration groups decided to pull the authorities' noses by seeking permission to march on Anzac Day. All hell broke loose in the news and letter pages of the paper. At the very last moment, the groups decided to NOT march on Anzac Day:

'Protest' groups out of march

The Interim Council of Civil Liberties and a group of Canberra College of Advanced Education students have joined the Ex-Servicemen for Peace and Disarmament group and withdrawn from the Anzac march tomorrow.

The three groups had successfully applied under the Public Assemblies Ordinance for permission to march. A spokesman for the Naval Association said yesterday that its members would now march because the three groups had withdrawn. But a spokesman said the Rats of Tobruk would not. They had made other arrangements.

A spokeswoman for the CCAE group said it had decided late on Thursday night not to march because of the unfavourable community reaction and the adverse publicity received over the past few days.

"No one has been taking us seriously, but we are serious," she said. "We applied partly to protest against the ordinance, but also to commemorate all ex-servicemen and women killed or injured in all wars. Out of respect for those marching, we have decided to withdraw."²⁶

Note: Two years later, on 31 March 1984, the federal parliament was debating a private Member's Bill by Senator Austin Lewis (Liberal, Vic, photo)²⁷ to give the Returned Services League (RSL) power over Anzac Day marches in the ACT. Attorney-General Gareth Evans said the bill would "clearly impinge on the civil liberties of the citizens of the ACT. Its provisions go quite beyond what we believe are necessary in the interest of public order". He said the Minister for Territories already had announced a new Public Assembly Ordinance would be introduced, which would "guarantee the right of peaceful assembly which was recognised in the the International Covenant on Civil and Political Rights".²⁸



²⁶ Canberra Times Saturday 24 April 1982 <https://trove.nla.gov.au/newspaper/article/126918693?>

²⁷ <http://biography.senate.gov.au/lewis-austin-william-russell/>

²⁸ <https://trove.nla.gov.au/newspaper/article/125000143?>

By May 1982, the *Canberra Times* was reporting that a “new” body, the Civil Liberties Council of the ACT, was in operation. The report of 6 May 1982 said:



Liberties council

The executive and committee of the Civil Liberties Council of the ACT elected last week is: president, Paul Kaufmann; vice-president, Eva Cox (illustration left); treasurer, Gloria Castallari; secretary, Liz O’Keeffe; committee, Michael McMahon, David Summerfield, Anne Hone, Peter Quinton and Rowan Simpkin.²⁹

Generally, the decade between Whitlam’s election in 1972 and that of the new Labor PM, Bob Hawke, on 5 March 1983, was intensive time for high-profile attention to liberties and freedoms, a period which laid down some of the ground rules for how Australia’s security agencies have operated ever since.

In 1974, PM Whitlam appointed NSW Supreme Court judge Robert (‘Bob’) Hope (photo), a former President of the NSWCCCL, as head of the Royal Commission on Intelligence and Security. While critical of the Australian Security and Intelligence Organisation (ASIO), Hope



“noted ASIO had an important role to play in safeguarding Australia against threats to its security. His recommendations prompted the Australian Government to re-state ASIO’s role in legislation leading to the revised Australian Security Intelligence Organisation Act 1979, which provided greater clarity on the limits of ASIO’s work”³⁰.



By 1983, a scandal had arisen over allegations of counter-espionage involving possible links between a Russian Embassy KGB officer, Valeriy Ivanov, and then lobbyist and former ALP national secretary, David Combe. Hope was again the choice to head the 1983 Royal Commission on Australia’s Security and Intelligence Agencies³¹. Again he came down on the side of ASIO, but opted for an independent Office of the Inspector of General of Intelligence and Security to ‘keep watch on the watchers’ (which it is still doing).

Photo left: Valery Ivanov, wife Vera, daughter Irena in April 1983.

²⁹ <https://trove.nla.gov.au/newspaper/article/126893739?>

³⁰ <https://www.asio.gov.au/about/history/hope-royal-commissions.html>

³¹ *ibid*

It was a time when the principles of civil liberties were much more in the news and the public memory than they are three decades later. The liberties and freedoms battles around the Whitlam era (like the Aborigines' freedom ride in NSW in 1965, and the fight for gay rights in SA, led by Don Dunstan, originally Attorney-General and later Premier) were still high in the public consciousness.

More prominent people, who had been brought up when civil liberties in society had to be fought for, were prepared to speak out back then because they well knew and understood the fragility of freedoms. For example, on 7 November 1982, Beverley Miller reported in the *Canberra Times*:

"...the substantive topic recently before the Hope Royal commission, was the setting yesterday for a fund-raising venture in Canberra aimed at increasing awareness of the state of civil liberties in Australia.

"A former Premier of South Australia, Mr Don Dunstan, who was the key speaker at the function, organised by the Combe Defence and Public Information Fund, told the 200 present at the lunch that Australians were not overly concerned with civil liberties. Because of that, authorities, governments' and law-enforcement agencies found it very easy to gloss over 'what happened to people in order to maintain a comfortable conformity'.

He was referring in particular to the case of Mr David Combe, a Canberra lobbyist and former secretary of the ALP, who was denied access to government ministers in April because of his association with the expelled Soviet diplomat, Mr Valeriy Ivanov. Mr Dunstan described the substance of the Government's case against Mr Combe (photo), as it had emerged before the Hope Royal commission, as "nothing more than a series of innuendoes about nothing very much."³²



Others speaking out included a High Court judge, himself the subject of innuendo and allegations of corruption, targeted personally but ultimately aimed at the credibility of the Labor Party.

On 18 August 1983, as reported by Jack Waterford in the *Canberra Times* the next day, Murphy spoke about issues that resonate still:

Two recent decisions criticised

The law and procedure in relation to criminal contempt was an affront to civil liberty and ought to be changed, Mr Justice Murphy, of the High Court, told the National Press Club yesterday.

³² <https://trove.nla.gov.au/newspaper/article/116394030?>

The judge strongly criticised two recent decisions – one involving the federal secretary of the Builders' Labourers' Federation, Mr Norm Gallagher, and the other involving prisoner-rights activist Mr Brett Collins – in which people were dealt with for contempt. He said he did not question the correctness of either decision, but they did show that the law should be changed.

He also criticised over-use of conspiracy charges when actual crimes could be alleged, and said there was little doubt that this occurred because the offence was vague and the rules of evidence on it so loose that otherwise inadmissible prejudicial evidence could be presented. He also said that delays in criminal trials were a denial of civil rights.

He criticised the way in which executive power was delegated to appointed rather than elected officials and bodies, and warned that in the year 2000 the most powerful public official might not be the Prime Minister or any other minister but the person in charge of police and security.

*“In civil liberties we are on the toboggan – privilege against self-incrimination, right to trial by jury, freedom of expression are all under attack.” he said.
“Personal privacy is becoming more and more difficult to preserve. One way to preserve it is the development of legal remedies for unreasonable invasion of privacy and for outrage.”³³*

Like all such movements, the CCLACT depended on the vigour of its leaders. In 1986, F H (Forbes) Gordon was president, presiding over a period of increased media activity, occasioned by the increased political activity around self-government for the ACT. The federal parliament “granted” self-government in 1989...even though 63.75% of the voting population had opted for no self-government in a referendum.

Poll system plea

The ACT Council of Civil Liberties has called upon all Federal political parties to oppose the system of single-member electorates proposed for the election of members to the new ACT Council and to support a system of proportional representation instead. A spokesman said yesterday that inquiries into ACT self-government had supported proportional representation, which was the best system “to reflect as accurately as possible all shades of opinion in the electorate”.³⁴

In February, the CCLACT co-sponsored a seminar on self-government:

³³ <https://trove.nla.gov.au/newspaper/article/116423971?>

³⁴ Canberra Times Sun 19 Jan 1986 <https://trove.nla.gov.au/newspaper/article/122421627?>

A seminar to examine current proposals on self-government for the ACT will be held from 10am to 4.30 pm on Saturday at the Griffin Centre, Civic, sponsored by the Civil Liberties Council of the ACT and the Rupert Public Interest Movement.³⁵

Then in October, as argy-bargy with the federal government continued over the form self government would take, the Council made its position clear:

Democracy denied

Sir. – The Civil Liberties Council of the ACT views with alarm the proposal of the Minister for Territories to appoint an Advisory Council to assist him in making decisions which relate to the ACT. Such an Advisory Council would be a denial of civil liberties and would not be accountable to the people of Canberra, and so would be without any credibility.

The Civil Liberties Council can see no reason why the discontinuance of the self-government proposals for the ACT should mean the denial of the long-standing democratic representation afforded by the House of Assembly. Consequently, the council passed a resolution at its last meeting in the following terms:

“That even if the minister decides to continue with a non-elected ACT Advisory Council he should also immediately call an election for the ACT House of Assembly, one of whose tasks should be to consult the Government and the people on the transfer of self-government to the ACT and which would be accountable to the people of Canberra and not the Minister for Territories.”

F. H. GORDON, President.

Civil Liberties Council of the ACT, Cook (a suburb of the ACT).³⁶

Note: In 2006 Forbes Gordon, a lawyer and descendant of the long line of owners of the Braidwood pastoral estate, Manar, joined the later CLA group.

Apart from the burst in 1986, the CCLACT as an entity was not much reported in the Canberra Times for a decade. It seems that ACT barrister Laurie O’Sullivan, who was at some stage formally made president, ran largely a one-man band. He had returned to Canberra, and to the Canberra bar, in 1971, picking up immediately on his interest in social justice and linking with the CCLACT.

³⁵ Canberra Times 17 Feb 1986 <https://trove.nla.gov.au/newspaper/article/118205810?>

³⁶ Canberra Times 29 Oct 1986 <https://trove.nla.gov.au/newspaper/article/118271698?>

From the mid-1980s until 1997, there appear to be no minutes of meetings or AGMs. It is likely that O'Sullivan was the "go to" man for the media, readily available for a comment, and probably quoted simply as "civil liberties spokesman".

However, in the early 1990s the civil liberties movement came under "friendly" fire. Robbie Swan, ex-journalist, radical magazine proprietor (*Matilda, Ecstasy*) and co-founder of the Australian Sex (now Reason) Party, criticised the Australian groups in general:

Swan resigns post as adult video lobbyist

The Adult Video Industry Association spokesman, Robert Swan, resigns today after two years with the organisation. He said AVIA had "single handedly battled the pro-censorship forces" in Australia and had achieved significant results. "These battles should have been fought by the various councils for civil liberties," he said.³⁷

The battle must have continued over time, because two years later it was resumed in the media: "Civil liberties is alive and well," declared O'Sullivan on 26 May 1992, in answer to the charge that civil liberties councils are now defunct. As president of the then CCLACT, O'Sullivan declared "...we are concerned about the rights of lone individuals confronting powerful organisations – the battlers. We do what we can for them".³⁸

**Civil liberties
alive and well**

May 26

ON SUNDAY, May 24, (p. 2) you printed a remark by Robert Swan that "Civil Liberties Councils are now defunct".

Mr Swan is described as formerly a lobbyist for the "adult video industry". He was quoted as making some defence of the sales-promotion methods of the wealthy soft-porn magazine industry.

He is wrong about the death of the Civil Liberties Councils. In the preceding two days alone the ACT council assisted a Koori woman in conflict with certain officials, and a man claiming to be harassed by police. A national conference made decisions, in that time, on two issues we have raised over the last 20 months.

Apart from a continuing flow of activities throughout the year, we have interstate tele-conferences with the major interstate Civil Liberties Councils, the next one being

(suburb only published).
● Fax to 2802282 or send to "Letters to the Editor", The Canberra Times, PO Box 7155, Canberra Mail Centre, ACT, 2610.

We get too many letters to acknowledge or publish all. Those wanting acknowledgement should enclose a stamped addressed envelope. Letters may be edited for space unless marked for publication in full or not at all.

this weekend. What we do is voluntary work. We are continually strapped for cash but we are not defunct.

We are slow to rush to the defence of wealthy adult-video and soft-porn magazine publishers. They will find someone to support their cause.

We are more concerned about the rights of the lone individuals confronting powerful organisations — the "battlers". We do what we can for them.

L. G. O'SULLIVAN
President,
Civil Liberties Council of the ACT
Deakin

In early 1997, ACTCLC President Laurie O'Sullivan joined representatives from the 'four active Councils' for a meeting with the federal Attorney-General, and the next day attended a function to honour Mary McNish, a NSWCCCL stalwart, at which High Court Justice Mary Gaudron was the guest speaker. It appears he had no inkling of the coup about to be staged: his notice for the agenda items for the May 1997 meeting

³⁷ Canberra Times 25 March 1990 <https://trove.nla.gov.au/newspaper/article/120887774?>

³⁸ letter to The Canberra Times 28 May 1992

included proposals for recruitment, essay prize competition, public lecture series and media contact arrangements. Ironically O’Sullivan wrote:

*“We will not only welcome a full turn-out and full and free discussion: we need new ideas from the floor at the meeting”.*³⁹

For about 20 years, O’Sullivan had appeared at numerous inquiries and written many submissions. He lobbied for repeal of the 1937 Unlawful Assembly Ordinance and the establishment of an independent authority to investigate complaints against police and a national model criminal code.⁴⁰ He lobbied strongly federally and to the ACT Assembly for legislation for an operating Human Rights Office in the ACT.⁴¹ He urged the state CCLs of Victoria, NSW, Queensland and Tasmania to make a unified Australian Council of Civil Liberties submission urging that all complaints of serious police offences be investigated by an independent unit, with police and community representation, and a judicial officer as chair.⁴² He made representations that the ACT adopt the Victorian model of education on civil liberties in schools.⁴³

Oral history from a number of sources related how the ACTCLC was “branch stacked” (the description most often used) and taken over: people claim it was done to give a then-young ALP apparatchik the status of being quoted regularly in the media and shown on the TV news, to provide him with name recognition in the Hare-Clark electoral system, with its Robson method of listing candidates “in rotation”. The historical documents confirm the ‘branch-stacking’ allegation. The man who benefited, Jon Stanhope⁴⁴, told the authors:

“I became involved in the Council for Civil Liberties in the mid 90s, around 1995, I was not very active for the first year or so. I have to say I was concerned at the lack of energy, the very small membership and the lack of public profile of the Council. The largest group would have been at the AGM when there were 12 people...when I became president. There were (usually) meetings of four people. I

³⁹ notice of AGM 1997 L. O’Sullivan papers from Greg O’Sullivan

⁴⁰ Canberra Times 24 July 1997

⁴¹ letter to ACT AG 21 February 1991 on Anti-Discrimination Bill, from Laurie O’Sullivan president ACT Civil Liberties Council, papers of Laurie O’Sullivan

⁴² correspondence from Laurie O’Sullivan to state councils, 22 July 1003 Papers of Laurie O’Sullivan.

⁴³ correspondence O’Sullivan and Bill Wood ACT Minister for Education, 4 August 1992, Laurie O’Sullivan papers.

⁴⁴ interview with Jon Stanhope Canberra, 14 November 2014. By then, he had been a federal public servant (1987-1991), senior adviser and chief of staff to the federal Attorney-General and then adviser to the federal Opposition Leader (1993-98), Member (1998-2001) then Chief Minister of the ACT Legislative Assembly 2001-2011, and Administrator of the Indian Ocean Territories (Cocos and Christmas Islands) 2012-2014.

tried to bring in systems of communication and membership drives. I remember targeting lawyers to attract members – hard yakka.

Laurie saw a role as advocate for people who needed representing. It was a significant point of difference between us. He expended a lot of energy as pro bono legal aid, people who alleged their civil liberties had been breached. I was impressed by Laurie O’Sullivan and his energy and his commitment. But I would think that of the meetings I attended, the average attendance was five or less: at some there were three or four. I can’t remember more than six or seven.

I have always been a community activist. I was very keen on increasing the membership, improving our profile and being more actively involved in campaigns, which was not the focus of the Council at all in those days. At the same time I was involved in a group called Racial Respect. That was formed around the same time as a direct response to Pauline Hanson racism.⁴⁵

Photo: CLA President Dr Kristine Klugman and Jon Stanhope, pictured in 2014 with the National Liberty Tree, which commemorates Stanhope’s introduction of Australia’s first human rights act in the ACT in July 2004 and the National Arboretum, where it is planted.



Others who confirmed the take-over story at interviews were barrister Jennifer Saunders, former ACT Speaker Wayne Berry, and barristers John Purnell and Chris Ryan, as well as Laurie O’Sullivan himself⁴⁶.

The AGM on 21 May 1997 was attended by number of new members and moved:

“That the agenda presented to the meeting be reordered to allow for discussion and resolution of perceived problems with the Council’s structure and operation”: moved Jon Stanhope, seconded Craig Everson.⁴⁷

The AGM had first been called for April, and doubt was expressed about the current status of officers. To resolve this President Laurie O’Sullivan proposed a resolution for him to resign as president and an AGM be held on 18 June to resolve the issue. This

⁴⁵ op cit

⁴⁶ Personal interviews

⁴⁷ papers L. O’Sullivan

was moved Laurie O’Sullivan, seconded James Sabharwal. It was agreed that the meeting be advertised and the constitution be circulated.

Laurie O’Sullivan’s letter to members dated 28 May 1997, advising the AGM had been delayed (handwritten then typed up and 20 copies circulated), was an appeal for support, and ran as follows.

*“A group of new people attended the meeting. So we gained 8 new members. Since our membership was 15 last year, the new group dominated the meeting”.*⁴⁸

He went on to outline the achievements of the Council under his presidency.

“The Council has had an influence out of all proportion to its small numbers.

- last month the Law Council of Australia honoured Graeme Evans and myself at a special dinner for the lobbying program to get increased legal aid funding
- shortly before that the Federal Attorney General personally accepted a number of proposals in a conference with John Marsden (NSWCCL) Terry O’Gorman (QCCL) Joseph O’Reilly (VicCCL) and myself. At his personal request I attended the office of the NSW Attorney General with written proposals re Special Branch
- on 19 March I attended a celebratory dinner for the NSWCCL with about 200 other people. I was seated next to the guest of honour and between 2 High Court judges
- Jim Sabharwal (photo) and I attended a day long conference on a Model Code for Sexual Offences
- I have been involved in or have commented on a number of reviews of legislation such as the Mental Health Act, Domestic Violence law, etc
- Graeme Evans and I worked with the Australia Institute on a public protest at proposals which would interfere with the independence of Public Service
- I am also on an advisory committee about refugees
- During these same months there have been radio and TV interviews. The Council is recognised by the electronic media as responsible in its comments on public issues. They readily agree to put our views on air



⁴⁸ papers L. O’Sullivan

- If the Council promotes politically partisan issues or extreme policies it will lose this standing. We have members who are professional politicians - Coalition, Labor and Green. Equally we have effective support from Territory and Commonwealth politicians irrespective of their allegiance.⁴⁹

This appeal for support was unsuccessful, with the new group having the numbers to fill most of the executive positions. In attendance on 18 June 1997 were G Smith, J Saunders, K Barrelet, C Ryan, S Persi, S Kenan, L O’Sullivan, G Evans, C Everson, H Craft, M Gwynneth, J Stanhope, J Sabharwal and M Carron. There were nine nominations for nine board positions, declared elected: C Everson, J Stanhope, L O’Sullivan, J Persi, J Saunders, S Kenan, G Smith K Barralet and M Caron. There were 26 fully paid up members.

Two committees of the board were formed: the Justice and Criminal Law Committee and the Human Rights Committee. Motions were carried on:

- a Council position on the political role of the AFP (against East Timor)
- a community forum against racism
- a letter to the Prime Minister, criticising the government’s attack on the human rights of Aborigines
- a letter to AG opposing the government decision to reduce funding to the Human Rights and Equal Opportunity Commission.

The board then convened its first meeting: there were three nominations for president. A ballot was conducted and Jon Stanhope was declared elected. There was one nomination for Deputy President, and Jennifer Saunders (photo) was declared elected.⁵⁰

Laurie O’Sullivan was awarded Life Membership, but was devastated at the loss of the presidency. An ACT barrister commented: “That really broke his heart, you know... (the CL group) was a way he had a voice, and a raison d’etre”.... Laurie was regarded as an eccentric, maverick: did not have a grasp of issues. So that was his reputation with lawyers, which affected the status of the civil liberties group. He was earnest and genuine”⁵¹.



⁴⁹ ibid

⁵⁰ ibid

⁵¹ Interview with John Purnell SC 20 October 2014

Lawrence Gregory (“Laurie”) O’Sullivan OAM MEd LLB (Syd)

Born Sydney 9 May 1923; died Canberra 11 October 2004. Son of Christopher John O’Sullivan and Lillian Olga [Danaher] O’Sullivan. One sibling Carmel Pollard.

He attended Marist Brothers High School Darlinghurst and commenced studying Economics at Sydney University in 1941.

He was called up to defend Australia in early 1942, aged 18. Until discharge in 1946 he was engaged in war service, including active service in the Australian Army in Papua New Guinea in 1943-1944.



On return from the war he resumed his studies, graduating from Sydney University with a Master’s degree in Economics and Bachelor of Laws. From 1953 he was an Associate Fellow of the Australian Institute of Management and a Fellow of the Royal Economic Society.

He was an active member of the Campion Society at the University both before and after his war service. While there he became associated with other Catholic social activists including the publishers of the “Catholic Worker”.

He married Bernice Jackson in 1950 and they produced four children: Gregory, Christopher, Miranda and Justine.

He moved to Canberra in 1951 and worked in the public service, joining the Public Service Board in 1952. In 1967 he left the Public Service and went to the Bar. He practiced initially in Forbes’ Chambers in Sydney. He then practiced in both Sydney and Canberra, settling to work mainly in Canberra by 1970. He remained in practice until the 1990s. For a short period in the early 1970s he was Secretary of the ACT Bar Association.

He was always interested in social justice and human rights issues and was a pro-active president of ACT Civil Liberties Council for many years, until 1997. He also took an active part in the setting up of the new Civil Liberties Australia group in 2003, the old organisation having ceased to operate.

In his later years he took a keen interest in ACT planning and development issues. He was an active member of the Deakin Land and Planning Advisory Committee and gave evidence before the Joint Committee on The National Capital and External Territories. He was also deeply involved in veterans’ issues.

Also in his later years he was a member of the Canberra Advisory Group of The Catholic Bishops’ Committee For Migrants And Refugees. He was also a member of the ANU’s Committee on Ethics in Human Research until shortly before his death.

In 2003 he was awarded the Medal of the Order of Australia.

– Greg O’Sullivan, funeral program, November 2004

A vigorous defence of O’Sullivan’s legacy was mounted by a barrister who shared chambers him, Chris Ryan (photo), who wrote:

*“The ACT Council for Civil Liberties was neither moribund nor directionless prior to the ’97 change in the leadership. For the half dozen years of my membership it conducted an active case load, carried almost exclusively by the long-serving President (now Life Member). People of diverse views and backgrounds were encouraged to participate. Some preferred to sit on the sidelines and criticise. That criticism is still being levelled publicly at previous Council leadership by the current president does no credit to the holder of the worthy office. Nor to the quiet effectiveness of the past activity in the cases taken on”.*⁵²



A letter of congratulation was sent to Laurie O’Sullivan from John Marsden, NSWCCCL, on being made a life member of ACTCLC.

During 1997, the minutes of hour-long monthly meetings show that the Council dealt with various ongoing issues, such as police powers, and on average about seven to 10 committee members attended.

The ACT election was held in March 1998, and three weeks later Stanhope was elected Opposition Leader for Labor in the ACT Legislative Assembly, being reported as ‘factionally non-aligned’.⁵³ In any event, Stanhope was president of the civil liberties group for less than 12 months. In November 2001, he became Chief Minister of the ACT. To his great credit, he went on to introduce the first human rights act in Australia in July 2004.

Jennifer Saunders took over as president of the CCLACT in April 1998.⁵⁴ It appears that the Council was winding down during 1998, with fewer issues and attendances. Laurie O’Sullivan did not attend. The organisation was deregistered in 2001 after it had failed to lodge mandatory annual returns to the ACT registrar of corporations.

⁵² letter to the editor of the Canberra Times Christopher Ryan 5 April 1998

⁵³ Canberra Times 17 March 1998 p1.

⁵⁴ Canberra Times Sunday Times 5 April 1998 ‘A fiery approach to civil liberties’

Reviewing these circumstances, it seems clear that Laurie O’Sullivan steered a non-party political course and operated cooperatively with authorities, which didn’t lead to newspaper quotes and headlines very often. His colleagues, particularly chamber mate Chris Ryan, certainly saw his contribution to civil liberties that way:

“He was prepared to compromise, knew the public service and knew how the little people could get screwed. He was prepared to demonstrate, lobby: he had a wide circle of contacts. Always worked within the system. He would go to the front line, trying to pacify extremists. He plugged away at issues, like oversight of the AFP, gave evidence before parliamentary committees, supported the Aboriginal Embassy, urging restraint. Trying to keep the peace, Laurie was perceived as being not combative enough...”⁵⁵

In the end, the association with what was publicly perceived as a party political takeover was unfortunate due to the CCLACT’s non-aligned reputation.

It was for this reason that the new civil liberties body formed in 2003 took the name **Civil Liberties Australia (ACT)** to differentiate it from its political past. For the CLA story, see the CLA chapter.

⁵⁵ Interview with Chris Ryan and Doug Hassall, Canberra 31 October 2014