

PRESIDENT'S ANNUAL REPORT for 2014

In reviewing 2014, the Red Queen's comment in 'Through the Looking Glass' came to mind:

"..it takes all the running you can do, to keep in the same place. If you want to get somewhere else, you must run at least twice as fast as that!" – Lewis Carroll

Our recent research reminds me that the status quo in Australian society, or it's default position, is deep conservatism, and it takes great pressure to nudge the needle even one notch to the reform side. Once pressure is removed, the needle springs back to a repressive bent. It is most noticeable in long-term trends: in South Australia after the spirited Dunstan decades, and federally after Whitlam changed the social settings, for example. It seems that reformers who truly love people's freedoms more than their own power come along rarely in Australian life.

Now in the post 9/11 environment, unprecedented incursions into traditional rights and privacies are justified by the need for 'security'. It seems that no amount of pressure by civil society groups makes the slightest difference to governments intent on ever-increasing surveillance and curtailing of liberties. The needle is stuck way over to the 'right', whether the Coalition or Labor governs.

Attorney-General George Brandis has ignored CLA's suggestion that he take the opportunity to increase people's rights by winding back draconian terror laws and introducing a bill of rights: as a nation, we should be known firstly for what we stand for, not for primarily what we stand against. It seems no-one ensures that the security services are accountable. CLA wrote to the Inspector General of Security and Intelligence a year ago asking how Australia is conducting surveillance on its own people. We were told: *it's not my department*. It seems there is no department for people's civil liberties.

When the Independent National Security Legislation Monitor position was abolished, then reinstated but the position left unfilled (and the advice of Bret Walker SC was ignored anyway), the situation is indeed woeful. Walker's four reports offered important recommendations for change, both to wind back anti-terrorism laws not needed and also to improve the operation and efficacy of those that are needed. Security agencies do as they please, with minimal if any monitoring by the parliamentary committees and IGIS who are supposed to keep watch on our behalf.

The December 2014 revelations on torture by the CIA surprised no-one – the question is, how much did the Australian government know when Hicks

was suffering for nearly six years in Guantanamo, and was then illegally jailed in Australia?

Just occasionally CLA's actions make a difference some time later: following our letter to him, Chief Justice Robert French has effectively rebuked the security and intelligence committee of the Australian Parliament for attempting to influence the interpretations of terror laws by the High Court simply by changing the explanatory memorandum, the EM. Our lobbying of state Attorneys-General to introduce legislation allowing a second right to appeal, for people convicted of serious offences, when there is new evidence, appears to have borne fruit in Tasmania. AG Dr Vanessa Goodwin has promised a new law in the island state in 2015. South Australia introduced one in mid-2013.

In keeping with winning positive change nationally, the CLA Board has made a long term commitment to working on 'Better Justice', a campaign aiming to reduce the number of miscarriages of justice (MOJ) throughout Australia. This decision followed a visit to South Australia, by the CLA president and CEO, 4-9 November 2014. The symposium was organised by Dr Bob Moles and his partner, law lecturer Bibi Sangha. CLA member Barbara Etter gave a comprehensive summary of the Tasmanian Sue Neill-Fraser case, for whom the former top policewoman is the pro bono lawyer.



Kristine Klugman, Barbara Etter, Eve Ash

The final session was introduced by me and run by CEO Bill Rowlings and CLA member Eve Ash, a psychologist and film producer. We achieved acceptance of a plan to proceed, with particular emphasis on:

- validating and setting higher standards for expert forensic evidence in courts;
- learning and implementing lessons from common police errors;
- identifying where and how prosecutorial mistakes and misinterpretations occur;
- evaluating how wrongful convictions fail to be caught at least at appeal stage by courts: and
- advocating federal/state inquiries, and/or creation of a Criminal Cases Review system.

For the SA visit, I sent emails inviting current (and lapsed) SA CLA members to meet. We subsequently met individually with nine: some had individual issues to discuss and get advice on, and it was very useful to put faces to names. We also met with barrister Claire O'Connor who runs the long-established SACCL group. She was friendly and we discussed closer liaison.

For the history of CL in Australia, we interviewed former state AG and Justice Minister Chris Sumner, former federal Immigration Minister Chris Hurford and long-standing worker for civil liberties and the community good, Ms Judith Worrall, on their recollections of the original Adelaide CL group. We researched holdings at Flinders University library and took copies and photos of relevant material. We expect the start of the history of civil liberties in Australia, written by the president and CEO, will be published on the web site in the first quarter of 2015, allowing for any additions or corrections to be made easily before paper printing. Members are invited to make suggestions. The chapters on Tasmania, the NT and Victoria should appear first.

During 2014, networking meetings were held with: Australian Privacy Foundation, Dying with Dignity, Australians for Republic, Friends & Family Drug Law Reform, and the retired trade unionists' group, Vintage Reds. In February 2014, letters to 41 then-new federal MPs resulted in meetings with many. In May, a meeting with Dr Michael Wesley, head of ANU's National Security and Strategic Studies, led to Tim Vines' participation in a forum for police and security officers. In August, we met David Letts of ANU re Operation Sovereign Borders and the need for transparency and operating according to law, and Prof Kim Rubenstein re criminal law courses and a critique of the Court of Criminal Appeal decision in the Sue Neill-Fraser case.

There were several meetings with the Department of Foreign Affairs and Trade (DFAT), Attorney-General's Department (AGD) and Non-Government Organisations (NGOs). In May, I attended a DFAT-AGD briefing for NGOs on the Australia-China Human Rights Dialogue held in Beijing in February. In August, I attended a DFAT-AGD NGO consultation meeting in Canberra and in December Rhys Michie attended one in Sydney on behalf of CLA. Details are posted on the CLA website, with reports also contained in the CLArion newsletter.

Refugee policies of both major parties remain a matter of despair to fair-minded people. Significantly, only two Members of Parliament,

Melissa Parke (a CLA member) and Anna Burke, both Labor, have had the outstanding courage to speak out publicly against both sides' refugee policy. Jon Stanhope (until recently Administrator of Christmas Island and a former ACT Chief Minister), has called it "Australia's refugee disgrace". Our international treaty obligations are being flouted: the death of Reza Berati on Manus Island is symptomatic, as is holding children behind wire. What are we become, this country of ours, that a few thousand of the world's most desperate people can cause us to quake and shake and abandon long-held principles of helping people in need?

In August, the president and CEO appeared before the Senate Legal and Constitutional Affairs References Committee inquiry into an Incident at



Manus Island, which focused on the legal duty of care of the Commonwealth. CLA's supplementary submission highlighted the need for a longer-term, bi-partisan solution to emerge from parliament. To see both the original submission and details from the supplementary, go to: <http://www.cla.asn.au/News/cla-puts-solutions-to-riot-inquiry/>

Photo above shows Senator Penny Wright, Dr Kristine Klugman, Senator Sarah Hanson-Young at the hearing.

Membership: During the year we tried leaflet-posting campaigns with the help of members, letter-writing campaigns and mass mail-outs to solicitors in key target areas. Results were disappointing. The best recruiting method is a member mentioning to a friend or colleague that they should join CLA: please tell someone today!

I am personally delighted that Vice-President Tim Vines has been chosen for a prestigious leaders program in the EU. Tim will visit Europe in 2015 under the European Union Visitors Program to meet EU staff, EU MPs and EU Commission officials.

Finally, what has happened to the report and dialogue that Australian Information Commissioner Prof John McMillan (a CLA member) was conducting on Australia becoming a partner in the worldwide Open Government Partnership? His term has not been renewed, his office effectively abolished and its functions ended. We are a lesser nation than we were 12 months ago in many ways.

– Kristine Klugman, President