

Killings reveal much more than just a few rogue soldiers

Illegal killings in Afghanistan, allegedly by Australian special forces, will be confirmed or not, and punishments determined in court, maybe two-to-10 years from now.

But the over-riding national reality, evident and correctable from now, is that politicians and their parties, Defence, the defence industry and their offshoots, like the Australian War Memorial, plus an enormous subset of hangers-on, have abused patriotism to create a khaki populism which has skewed Australian society drastically.

The results since about 1990 are:

- a lack of proper parliamentary scrutiny of going to war, creating warriors, buying war machines, and the cancerous growth of defence/industry promotion and PR;
- brainwashed generations schooled by slick promotional and propaganda products of the Dept of Veterans Affairs (DVA) to all schools in Australia;
- simultaneously, an alleged failure of DVA to look after veterans adequately, so their health suffers and suicides rates are exceptional;
- excess and imbalanced spending, amounting to probably \$100s of billions, on Defence matters, to the detriment of national education, health, transport, infrastructure, Aboriginal affairs, etc (particularly the arts and culture sector); and
- warped national positioning based on antiquated strategic assessments shaped from abroad, and 'fighting-the-last-war' thinking.

To that list you can add a poisonous international trade stalemate with our biggest economic partner, and a national reputation shattered in the space of a few days in November 2020, because of military "elites": either their actions, or inactions.

Special Ops soldiers are 99.17% innocent...but face citation withdrawal: by Dr Kay Danes
<https://www.cla.asn.au/News/99-17-innocentbut-punished-petition-available/>

Report's lessons are for wider Australia

The primary finding of the Brereton report was that Australian special forces soldiers allegedly murdered 39 Afghans in 23 incidents.

It is highly likely these shockingly high numbers are just the tip of an iceberg of similar incidents.



Major General Paul Brereton, a NSW Court of Appeal judge, after four years research and analysis, said juries could find that murdering the 39 non-combatants comprised war crimes.

Special forces believed they were elite, entitled and beyond the scrutiny of those outside the fence. They thought normal rules didn't apply to them.

Complaints about the conduct were made, including by Afghan nationals and local human rights groups. They were allegedly ignored and treated as Taliban propaganda, or attempts to secure compensation. <https://tinyurl.com/y6e7d934>

The real lessons of the Brereton report are that the ADF and its special forces reflected an Australian system poisoned by similar attitudes.

Waterford sums up



The nation's closest governance observer for the past 40 years, retired Canberra Times editor in chief Jack Waterford (photo), pointed out the wider societal problems:

"Could anything similar occur in the Australian Federal Police – perhaps the most politicised force in the nation?"

"One would have only to paraphrase Brereton slightly to describe how police internal affairs units, coroners' officers, and sometimes even integrity units investigate other police, and, overwhelmingly, find that complaints have not been made out.

"The culture of which Brereton complains in special forces – a culture of flat refusal to

account – has long been a feature of Australian police forces, especially those, such as the AFP, which have never been the subject of independent external review.

“The ADF, like the AFP, is learning from and copying the culture of modern politics – as our formal watchdogs, such as Auditors General are de-fanged and starved of funds, and as our leaders, from the prime minister down, display their contempt for law, propriety and transparency.”

– *Brereton inquiry: SAS officers failed their men and Australia* November 20 2020, Canberra Times (behind a paywall) <https://www.canberratimes.com.au/story/7020885/sas-officers-failed-their-men-and-australia/>

The nation needs correction mechanisms

As Brereton points out: “...believed they were elite, entitled and beyond the scrutiny of those outside the fence. Normal rules did not apply to them.”

This is an accurate summary of the litany of rorts, parliamentary abuses, moral failures, expenditure excesses and deafness-blindness to complaints that sums up numerous Australian governments in recent years.

Further, “Complaints about the conduct were made, including by ... nationals and human rights groups. They were...ignored and treated as propaganda...”

This is an accurate summary of governments in Australia which had previously lost the trust of the people because of their appalling self-centred behaviour, do-as-I-say-not-as-I-do approach and calculated disregard for mis-spending funding provided by the few of us who pay tax.

Throughout the pandemic, Australians have been obedient to the good advice and recommendations of our health experts, which has briefly translated into high figures for ‘trust in politicians’, but those figures will plummet again once the politicians revert to their business as usual.

Two ways to start fixing Australia’s core problems

There are two ways for Australians to regain power over their politicians, which is what democracy is.

One is for the nation to have a federal Independent Commission Against Corruption, an ICAC, with real powers. It must be able to call federal politicians and bureaucrats to account for their actions, or inactions, for their rorting, abuse of public funds and misuse of their publicly-granted status.

The second way is for people to be empowered by a human rights act, or bill of rights (which citizens in NZ, Canada, the UK and the USA already enjoy).

Such an act would allow citizens to quickly and easily appeal to a tribunal to have alleged mistreatment by the government corrected. Robodebt – the extortion by Centrelink of the meagre cash of poor Australians – might have been corrected inside three months if we had a bill of rights. Instead, it took half a decade and the government ended up paying \$1.2 billion in compensation.

Excessive emergency powers should be reined in: LCA President

Authorities must pull back from the extraordinary powers used during the Covid-19 pandemic emergency, President of the Law Council of Australia, Pauline Wright (photo), told the National Press Club last month.

She called for a bill of rights for Australia, to guarantee our rights, liberties and freedoms.

Note: CLA has been one of the most active organisations in Australia campaigning for such bills federally and in states/territories.

Wright said human rights were particularly vulnerable to major breaches during crises.

Australia’s Constitution protected very few rights, and Australians would be surprised to learn “that the rights which have been so hotly debated during the pandemic are in fact backed by few constitutional or statutory guarantees”, she said.

“We do need to remain vigilant – to ensure that measures taken in crisis do not endure beyond the tail of the crisis,” Wright said. “We do need the tools to guard against overreach.”

She called for Australia to introduce a federal human right act. Australia is the only western democracy without a charter of rights at the national level, whether legislated by parliament or entrenched in the Constitution. <https://tinyurl.com/y44alrac>

States active in pursuing rights acts

Civil Liberties Australia has been actively campaigning for human rights acts on territories and states since the organisation began in December 2003.



In July 2004, the ACT introduced Australia's first Human Rights Act. Victoria followed with its charter in 2006, then Queensland on 1 January 2020.

Tasmania has an active human rights campaign committee, formed and led by Tasmanian CLA Director Richard Griggs. It has more than 20 organisations as members. An updated analysis, 13 years after the first, on the benefits of a human rights act will be released by the Tasmanian Law Reform Institute shortly. The TLRI held widespread consultations in 2006-7. It received a record 407 submissions: 94.1% supported Tasmania having a bill of rights. So did the final TLRI recommendations. But the government failed to act. In South Australia, the Greens, including Mark Parnell MLC, a CLA member, last month tabled a private member's human rights act in the state parliament.

In WA, the Labor government is committed in its policy platform to progressing a human rights act, but it has made zero progress in its first term. If returned in March 2021, the state's citizens will expect it to live up to its platform promise.

CLA works behind scenes to achieve federal rights act

Nationally, CLA has been working behind the scenes, across parties, to encourage introduction of a federal human rights act.

CLA believes it is vital that trust be restored in politicians and government. While the people have trusted politicians during the pandemic, that trust is really in the health authorities, as reported in public by pollies. But trust in politicians has been in long-term decline in Australia, as evidenced by the worst findings ever in the Australian Electoral Study after the 2019 election.

"Australia needs foundational pillars to restore trust in the federal government," CLA President Dr Kristine Klugman said last month.

"We need a federal Commission Against Corruption, one with real powers to hold mates-patronising politicians and uncaring bureaucrats to account.

"We also need a rights act, that will allow currently powerless citizens to easily and quickly get their issue before an independent tribunal when disasters like Robodebt are suddenly thrust on them, or an arbitrary decision is made to cut their benefits or people with a disability are denied access when it is their right."

Notice to Members: CLA's (mostly) electronic Annual General Meeting (eAGM) for 2021

In accordance with CLA's Constitution, the 2021 'electronic annual general meeting' or eAGM of Civil Liberties Australia Inc will be held during February and March 2021. This year's eAGM involves the election of office bearers as the current two-year term expires with this eAGM. The eAGM will also consider any major notices of motion and, as required by regulation, vote on the annual reports of CLA.

An email notice (or hardcopy, for those without email) will be sent to all members in January 2021. A call for motions will operate between 2 Jan and 13 Feb. Members must be financial by 5 March to vote. Nominations for the board may be made between 15 Feb and 5 March (please contact the CLA Secretary – see email details at top of this newsletter – for further information). Voting occurs between 10 and 26 March. Results will be declared on 29 March 2021

The eAGM will be held using 'electionbuddy' (as in 2020) for the electronic voting process. Effectively, Webmaster Lance Williamson 'monitors' all e-processes; copies of all hard copy/mailed processes are available for anyone to check at any time.

Consultant trades in national interests

Former diplomat and foreign affairs minister Alexander Downer's new role working for the British Overseas Territory of Gibraltar set a "dubious standard" for the conduct of former politicians, Independent Senator Rex Patrick said recently.

The Mandarin writer, Shannon Jennings, reports that the former high commissioner to the UK listed himself as a consultant "assisting the government of Gibraltar in its free trade agreement negotiations with Australia" on Australia's Foreign Influence Transparency Scheme public register from late August 2020 to August 2023.

Patrick questioned the appropriateness of Downer's new role during Senate Estimates in October, arguing it "doesn't support Australia's national interests".

"It's not a good look for a former foreign minister to make himself available to help a foreign tax haven negotiate a favourable financial and taxation deal against Australia," he said in a statement.

“Mr Downer’s decision to become an adviser to a well-known international tax haven sets a dubious standard for the conduct of former Australian politicians, especially those who have had the great privilege of serving at the highest levels of Australian government.”

Downer held the role of high commissioner to the UK from 2014 to 2018, and visited Gibraltar four months before departing his London post, in December 2017. <https://tinyurl.com/y2zgulzv>

Downer’s ties to trade were called into question after the use of secret intelligence gained by ASIS bugging the Timor Leste Cabinet rooms during oil and gas field negotiations in 2004. ‘Witness K’ revealed the bugging operation in 2012 after learning Foreign Minister Alexander Downer had become an adviser to Woodside Petroleum, which was benefiting from the treaty, according to Wikipedia. Former ASIS operative Witness K and his legal adviser Bernard Collaery are still being prosecuted by the Australian government in December 2020: Downer is not being prosecuted. <https://tinyurl.com/yyklqpx8>

MHR calls for more help for veterans over suicide

The latest Australian Institute of Health and Welfare figures on defence and veteran suicides show that we are failing our veterans and urgently need a Royal Commission into this terrible scourge, according to the MHR for Perth, Patrick Gorman (photo).



“The 9 Oct 2020 AIHW data show there were 33 suicide deaths among serving and ex-serving ADF personnel in 2018, and 465 suicides between 2001 and 2018, although many believe the actual figures are much higher,” he said.

Male veterans are 21% more likely to die by suicide than men generally; the suicide rate among ex-serving women is twice as high as the general female population.

“Alarmingly, the research found ex-serving men had a 66% higher suicide rate when they discharged for medical reasons compared to men who discharged voluntarily.

“This latest update is a wake-up call and shows we are losing the war when it comes to saving our current and former defence personnel,” Gorman said. He called for a Royal Commission into the problem.

– personal correspondence, Gorman to CLA Director in WA, Margaret Howkins 2 Nov 2020.

See also: ‘*Government makes good choice for Suicide Commissioner role*’, in November 2020 *CLArion*.

CLA notes: Suicide among Aborigines in Australia is even more dramatically disturbing:

Aboriginal people are 6 times more likely to commit suicide than non-Aboriginal Australians.

(that’s 600% higher, c.f. the 21% higher among ex-service ADF people)

70 suicides per 100,000 people in the Kimberley area of WA in 2014; compared with the Australian national rate, all people, about 24 (2018 figure), and the world’s highest suicide rate, Guyana 44.

<https://www.creativespirits.info/aboriginalculture/people/aboriginal-suicide-rates>

Freedoms wanted

“Freedom from fear and freedom from want’ were the two rights of all Australians that Senator Dorothy Tangney highlighted in her first speech following the 1943 election.”

– from the first speech of MHR for Perth, Patrick Gorman, 10 Sept 2018.

Quick response – QR – can hide hidden dangers

Beware of lodging your personal details at cafes, restaurants, pubs, churches, wedding and funeral venues if you elect to scan in a QR (quick response) code.

Most places now require customers and visitors to provide their name and contact details so that they can be traced if there’s a virus transmission risk.

But, academics warn, many electronic check-ins are outsourced to registration platforms owned by companies that deal in collecting data, storing and cross-checking it, then making it available to marketers for a price. The system and the personal data it collects are vulnerable to exploitation.

“Governments have made collection compulsory, without exercising supervision about how it is carried out,” said Graham Greenleaf, a professor of law and information systems at the Uni of NSW.

“With fragmentary data what you want to be able to do is match it with really rock solid identification data about a person,” Professor Greenleaf said.

He said an existing database might include search histories of a person looking up particular types of illnesses, operations or medical conditions. They also might have information that you’re interested in or susceptible to gambling or pornography.

"But before they didn't really have an effective way of contacting you, now they've got that data, which makes you vulnerable." <https://tinyurl.com/y6ea2lc7> and <https://tinyurl.com/y3apzhye>

Australia signs another secret trade deal

Australia signed on to the Regional Comprehensive Economic Partnership (RCEP) trade agreement last month. India did not.

Members of RCEP are Australia, China, Japan, New Zealand South Korea, and the 10 members of the Association of Southeast Asian Nations (ASEAN): Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam.

India pulled out in November 2019, after six years of RCEP negotiations to that time. It feared opening up its market would cause its trade deficit with China to grow.

The entire treaty negotiation system needs a complete overhaul from Australia's perspective, CLA believes. It is a secret process: no-one is allowed to know in advance precisely what is in the RCEP treaty. No Australian body, such as the Productivity Commission, may analyse whether RCEP is in Australia's interests or not, and to what extent either way.

The full text of RCEP is not released until after Australia signs it. Parliament's Treaties committee reviews the agreement, but can only vote yes or no to the implementing legislation, not on the treaty clauses.

The Treaties committee, dominated by the political party in power which has negotiated the deal, is not permitted to change one word of RCEP itself.

All countries must ratify RCEP within two years for it to take effect. – <https://tinyurl.com/y6cmqder> and AFTINET.

New class joins the High Court bench

Federal Court judges Simon Steward of Melbourne and Jacqueline Gleeson of Sydney are joining the High Court to replace retiring judges Geoffrey Nettle and Virginia Bell.

Gleeson, the daughter of former High Court Chief Justice Murray Gleeson, is a commercial lawyer. Steward is a tax lawyer. Steward starts today (1 Dec 2020), replacing Geoffrey Nettle; Gleeson starts 1 March 2021 when Virginia Bell steps down.

Nettle and Bell are retiring under the "70 and out" Australian High Court rules. In the USA, its top judges (of the US Supreme Court) can serve until death: Ruth Ginsberg was 87 when she died recently.

Uni of NSW Law Professor Andrew Lynch said the judicial appointment process in Australia was "opaque" and "it's not very satisfactory that they are simply announced in this way" after federal government "consultation" behind closed doors, supposedly with all Attorneys-General and with the Opposition.

There might be a "safe middle ground" between the "hyper-politicisation" in the US and the "secrecy" in Australia, he said, without explaining his scheme. <https://tinyurl.com/y27dvjbl>

Who is next CJ?

The sad fact is that the High Court won't have much criminal law experience when Virginia Bell retires.

None of the remaining judges come anywhere near her background on the Court of Appeal of NSW, her experience with a royal commission into NSW Police, time as a barrister on criminal cases, and seven years in her early days working for the Redfern Legal Centre, mainly on Aboriginal cases.

Current chief judge Susan Kiefel turns 70 on 17 January 2024. Wonderkid James Edelman, appointed to the HC when only 43 in January 2017, is favourite to replace her.

He could serve as CJ for two decades until 2044 if appointed in 2024 and he hangs on, though it's more likely he would be appointed to an international tribunal after about 10 years in the job, CLA believes.

Parliament is harassment central

South Australia's Parliament itself is being investigated for its culture, policies and sanctions for harassers.

After a long delay, the government decided last month to invite the state commissioner for equal opportunity to investigate systemic problems of sexual harassment.

The inquiry will investigate the parliament's workplace culture, complaint mechanisms, barriers to reporting harassment, sanctions against perpetrators and legal and policy changes to help protect people from harassment within the workplace.

The inquiry stems from a Liberal MP who slapped a SA Best MP on the backside at last year's Christmas party. The 2020 party this month will surely be a less slap-happy affair. <https://tinyurl.com/y2ebgapa>

Outcry forces Premier to hold widespread inquiry into sexual abuse of children

A public outcry has forced Tasmania's Premier Peter Gutwein to announce a state-based "royal commission" into child sex abuse in Tasmanian institutions.

Three existing, separate inquiries into the Health Department, Education Department and Ashley Youth Detention Centre have been rolled into a broader commission of inquiry. It will start early in 2021 and last about 12 months.

A commission of inquiry has powers like a Supreme Court, and can compel witnesses and evidence.

Three staff at the Ashley Youth Detention Centre (that is, children's jail) in Deloraine, in the state's north, were stood down recently pending investigation into "hundreds" of serious allegations, including rape.

An average of 10 to 15 children are in Ashley at any one time at a cost of more than \$3000 per person per day. Ashley houses juvenile offenders of both sexes aged 10–18 years. It has four accommodation units and a 50-bed capacity.

A 2016 government report recommended Ashley be replaced by two new 12-bed facilities in the state's north and south, as part of the government reframing its approach to youth detention.

The government instead decided to spend more than \$7 million to upgrade existing Ashley buildings. Work is due to begin soon. <https://tinyurl.com/y66s9r66> <https://tinyurl.com/y66s9r66>

Australia's most secretive state? There's a rotten apple in the barrel

Tasmania's Ombudsman Richard Connock said last month that Tasmanian departments and agencies are up to 750% more likely to refuse information to applicants than decision-makers in Victoria and the NT.

Almost one-third of all applications under the Right To Information provisions are rejected entirely, he said in his annual report. The situation has got substantially worse over the past five years.

Shadow Attorney-General Ella Haddad told Tasmania's Parliament: "We are living in the most secretive state in Australia."

Decisions on information requested under the laws should be released within about a month...but they are stretched out for years sometimes.

Not every request for information must be honoured – RTI officers can declare requests too onerous, not in the public interest, someone else's personal information or relating to matters that are commercial-in-confidence or Cabinet-in-confidence, for example. Advice to ministers is also exempt.

Connock's report is the latest to note the laws are inconsistently applied, and that decision-makers take too long, fail to provide adequate reasons for refusal and are more likely to reject applications than their counterparts in any other jurisdiction in Australia. <https://tinyurl.com/y2ehu5os>

Tasmanian government/system is 'unfit for purpose', *Mercury* says

In a withering, front page article – and in the same day's editorial – the Hobart *Mercury* has turned on the current government and "system" in Tasmania.

The Murdoch-owned, usually Conservative-supporting newspaper has dramatically swapped its spots.

The *Mercury's* editorial – under a headline of 'PROTECTION RACKET' – says: "...there is a culture of secrecy in Tasmania. We have the weakest election donation laws, we are the poorest at releasing public information.

And it's getting worse, because there is an extra layer of political correctness now that is inhibiting freedom of speech. What frustrates people ... is the way concerns are dismissed, or being told 'that's the way it's always been done'."

And in the leading news item on the front page, the *Mercury's* political editor David Killick says:

"Keeping...any news from reaching the public isn't some sort of aberration. It is the defining characteristic of this state's political culture.



“It infects almost every public institution. It is endemic in the health and education departments, and reflected in the unchecked nepotism of the state’s prison system.

‘It is the leitmotiv of the police service and the courts. (A leitmotiv is a recurrent theme).

“It is an obsession that extends to the institutions supposed to protect us: to our milquetoast Integrity Commission and the hasty, opaque inquiries set up to hose down scandals.”

The Tasmanian motto is “fit in or f... off.”

Police misconduct corrupts: man jailed 20 years acquitted, to face new trial

The Court of Appeal last month said that Victoria Police had presided over a "gross and fundamental corruption of the trial process" 20 years ago.

A police witness’s “undisclosed misconduct so corrupted the fairness of the trial as to poison its root”.

The court quashed the convictions of then 17-year-old Jason Roberts's shooting dead Sergeant Gary Silk and Senior Constable Rodney Miller in 1998. He has been in jail ever since, and was not eligible for parole for another 15 years.

His appeal was the first heard in Victoria under a new “right to appeal” law first passed in SA in 2013, then mirrored in Tasmania in 2015 after campaigning by Civil Liberties Australia. CLA is continuing the campaign for the law to be introduced to the ACT and WA in 2021.

After a four-and-a-half month trial two decades ago, a jury convicted Roberts and Bandali Debs over the murder of the two officers. But police “evidence” that there had been two shooters was unreliable, the appeal court said.

Crucial evidence used to convict the men was statements from police officers on the scene who claim to have heard Senior Constable Miller declare that two men were responsible for the shooting.

But last year, Victoria's Independent Broad-based Anti-corruption Commission found that one statement, prepared by Senior Constable Glenn Pullin, was made months and not hours after the shooting. The statement was backdated, and did not explain that Sen Const. Pullin was not listening carefully to what has become known as the 'dying declarations' of Senior Constable Miller, but was instead comforting him.

“The appellant was confronting a trial of extraordinary gravity,” the court said. “A central plank of his defence was that the jury ought not be satisfied that there was more than one offender. After anxious consideration we have concluded that Pullin's undisclosed misconduct so corrupted the fairness of the appellant's trial as to poison its root.

“We are satisfied that a substantial miscarriage of justice has occurred,” the Court of Appeal said. “This is a case in which impropriety and unfairness permeated and affected the trial to an extent that it ceased to be a fair trial according to law.”

Roberts will now face a new trial. He is applying for bail while he waits for it. <https://tinyurl.com/y3hask46>

Barely-trained NSW Police perv on Aboriginal kids disproportionately

NSW police strip-searched 96 kids last year. About 21% were Indigenous, including an 11-year-old.

Even though they comprise only 3.4% of the NSW population, the proportion of Indigenous people (children and adults) strip searched rose nearly 50%, from 9% to 13%, on the previous year.

Naked parades dropped overall, because NSW Police largely slashed imposing mandatory clothes removal at music festivals, frequented by young women. Police festival perving was down about 75%.

The October 2020 outrage after Australian women were subject to intimate medical probes when transiting through Doha international airport in Qatar might help abusive NSW Police understand that Australians don’t believe strip searches are meant to be a first response to a policing issue.

“Perhaps the Doha outrage could be included in NSW Police’s obviously barely-adequate training regime,” CLA CEO Bill Rowlings said. CLA notes that the people who perpetrated the abuse of women in Doha have been charged with offences. Maybe NSW should charge its excessive police? <https://tinyurl.com/y64wsjzt>

Regional centre gets drug-alcohol help

Regional centre Dubbo will get a fully-funded drug and alcohol centre after the NSW government announced in the Budget a detoxification and residential rehab facility funded to the tune of \$7.5m.

In March 2019, the federal government allocated \$3m towards developing a 15-bed rehab facility and 8-bed detox unit. Dubbo Regional Council then promised to provide land.

The funding will run until 2024.

NSW Treasurer Dominic Perrottet said, in total, the state budget will provide \$305 million for drug and alcohol related services.

Before the Dubbo centre is completed, people have to travel about four hours to a comparable facility..

<https://tinyurl.com/yxmegucq> <https://tinyurl.com/y2557vjj>

‘Corrupt police planted evidence’, barrister claims

Corrupt WA police planted evidence against Scott Austic after deciding that he was "the obvious culprit", a barrister has told a Perth court.

David Edwardson made the claim at the opening of the second trial of Austic, 11 years after the first.

He was first convicted in 2009 for fatally stabbing Stacey Thorne, 35, in her home in Boddington, 120km south-east of Perth, in December 2007. Prosecutors claim he murdered her because he did not want her to have their baby.

Having served more than a decade in jail, his conviction was overturned in 2020. The WA DPP decided to proceed with a new trial: he could have decided not to.

Edwardson told the WA Supreme Court that "crucial exhibits" in the case were "a plant", including the knife prosecutors say was the murder weapon. The barrister said a "miraculous" discovery of the knife in a paddock by one detective occurred despite an earlier "extensive and comprehensive search" of the area turning up no bright, shiny knife.



Right: The ‘miraculously’ appearing’ – but short – knife.

He also said it was the defence position that the knife that was found was not the weapon used to kill Thorne, because it was not long enough to have inflicted the "deep" stab wounds she suffered. Forensic experts have already given evidence to that effect in the hearing that overturned the original verdict.

Other exhibits found in "suspicious circumstances" were a white Jim Beam can discovered on the verge outside Ms Thorne's house, and a bloodstained packet of cigarettes located in Mr Austic's home.

Evidence in the earlier hearing indicated the cigarettes did not appear in original police video/photo documenting of the crime scene, but showed up some days later. <https://tinyurl.com/yyfx75eu>

A week after the verdict, it was revealed that in ordering Mr Austic face a new trial, the Court of Appeal found there was “credible, cogent and plausible” evidence that “someone” planted evidence.

<https://tinyurl.com/yyoxk7pb>

CLA says the Austic trial is important. The behaviour and integrity of WAPOL officers was also questioned in the trial of Lloyd Rayney for allegedly killing his wife in the same year as the Thorne case. There has been a litany of cases over the past 40 years where police and prosecutor misbehaviour in WA has caused wrongful convictions, sometimes not corrected for a decade or two.

AG says Austic trial is important, but Bill is stalled

AG Quigley said Austic's case demonstrated the importance of the Criminal Appeals Amendment Bill, which enabled those convicted in WA a second chance of acquittal if new and compelling evidence emerged.

Unfortunately, the proposed law has been stuck in the WA Upper House for 18 months. Quigley, to his credit, gave Austic a special opportunity to appeal.

The proposed law is what CLA calls the “Right To Appeal” law, first passed in SA in 2013 and then mirrored in Tasmania in 2015.

"In April 2018 after receiving a petition on behalf of Scott Austic and seeking the advice of the Solicitor-General, I referred the 2009 wilful murder conviction to the Court of Appeal," Quigley said.

But, CLA points out, that was a political decision taken by a government minister. Passing the Right To Appeal Bill would take the process out of the hands of politicians and put it in the hands of judges, where it belongs.

Progressive moves in Labor-Greens power sharing agreement

Labor and the Greens have agreed to renewing a power sharing arrangement to govern the ACT following the election in October.

They will run the ACT under the rules of a jointly-signed “parliamentary and governing agreement”.

Initiatives agreed to include:

Pilot and then scale-up a **Neighbourhood Democracy Program** across Canberra suburbs: Start a pilot of Neighbourhood Democracy projects in five suburbs across all regions of Canberra, using participatory budgeting to determine local expenditure, improving local community connections and resilience, and will include a published evaluation of the program.

Agreed Legislative Reform:

1. Establish industrial manslaughter as an offence in the Work Health and Safety Act
2. Amend the Portable Long Service Scheme to ensure more workers receive fair entitlements as they move jobs in their profession
3. Legislate to ban any political donations from foreign sources
4. Introduce 'real time' political donation reporting within seven days of receipt of a large donation
9. Raise the minimum age of criminal responsibility (NB: This will be an Australian first)
16. Consider amendments to the Supreme Court Act to introduce best practice right to appeal laws (see item above re WA)
17. Consider introducing the "right to a healthy environment" into the Human Rights Act, and look at rights of nature
19. Develop a Charter of Rights for parents and families involved with the care and protection system and embed this in the Children and Young People Act

Agreed Executive Reforms:

1. Implement a whole of government policy that government services will not be contracted out where they could be performed by public servants
5. Explore establishment of a dedicated full time Coroner's Court
7. Consider the best administrative arrangements to provide a holistic and coordinated approach to justice reinvestment, and to social inclusion and equality

Agreed Administrative Reforms:

3. Increasing open and transparent access to government information, thereby reducing the need for Freedom of Information Act applications
6. Better support for democratic participation through reducing traffic control costs for protests, and extend public liability insurance for small community activities on certain public land

<https://greens.org.au/sites/default/files/2020-11/Parliamentary-Agreement-for-the-10th-Legislative-Assembly.pdf>

Australian briefs

Women take greater lead in OZ diplomatic roles

The Dept of Foreign Affairs and Trade (DFAT) is claiming success in achieving gender and other diversity success in employment and senior posts locally and as Ambassadors and High Commissioners. *The Mandarin* recently carried a long interview on the topic with DFAT Deputy Secretary Kathy Klugman, who is responsible for implementing the Women-In-Leadership policy in the department. The surname will be familiar to CLA members: she's the youngest daughter of CLA President, Dr Kristine Klugman. <https://tinyurl.com/y6rv42q8>

Comments by CLA's members (mostly in letters to the editors):

Integrity commission more lapdog than watchdog

Look up in the sky! Is it a feather duster, a limp lettuce or a toothless tiger ("Watchdog to work behind closed doors", 3 Nov)? No. It's the Coalition watchdog; able to leap over transparency, honesty and accountability in a single bound while fighting an ineffectual and secret battle against political rorts, corruption and its own guidelines. – Deb McPherson, Gerringong NSW

Advance Australia Fair is not racist

There are people who seem to think the Australian national anthem is some sort of racist song to be ignored, ridiculed or condemned (Letters, *Canberra Times*, 4 November). It's a pity they didn't do their homework before insulting the entire nation. Not only is our anthem unique in the world, adopted as it was in a national plebiscite in 1977 to replace *God save the Queen*, its 100-year-old lyrics were rewritten in 1982 to make them politically correct, totally inclusive and widely reflective of the modern nation Australia was then and still is today.

I was the public servant who facilitated that process. The 20 or so Australians it was my privilege to serve as they revisited McCormick's *Advance Australian Fair* included some of our nation's highest achieving politicians, diplomats, sportspeople, artists, migrants, media personalities, feminists and Aboriginal leaders who put their all into the year-long task. How people can accuse the Indigenous trio of Charlie Perkins, Neville Bonner and Galarrwuy Yunupingu of being "racist" in the face of their commitment to a national anthem that could serve every Australian escapes and saddens me. Australians all, let us grow up.– Frank Cassidy, Kambah CT (Frank is a Director of CLA).

Hope for a new America

It was a breath of fresh air to listen to President-elect Joe Biden's victory speech. No bitter words, no recriminations or snide references, only a call for unity and peace between opposing political factions. Let us hope that Biden and Kamala Harris are able to build a new America and a new world from the ashes of American greatness left behind by Donald Trump. Future historians may well brand Trump the worst president ever, and no more than a strange blip in American history. Let us hope Trump wreaks no more damage in the time before 20 January 2021. – 201109 Bill Mathew, Parkville, Vic.

Strong reasons Porter must go

Christian Porter must go as Attorney-General, but there are even more critical reasons than the ABC *Four Corners* revelations. The AG is the foremost custodian of the rule of law in Australia and there are two areas where Porter has fallen seriously short in this duty. The first is when he defended Alan Tudge, when Tudge was found to have engaged in criminal conduct in respect of detention of a refugee. Porter said that he, Tudge, clearly rejects the court's conclusions. Tudge has no right to reject a court's conclusions. Can we all reject a court's conclusion? Where would that leave society? Porter should be upholding the law, and demanding that Tudge comply, not dismissing the court's judgement. This is an incredibly serious issue.

The other instance is the decision to prosecute Witness K and Bernard Collaery over the government's bugging of Timor-Leste government offices, during negotiations over Timor Sea resources. Is this not an abuse of power when Witness K was acting with integrity and Collaery was just doing his job as a lawyer defending Witness K, in an incident where the Australian government demonstrated the exact opposite of integrity? These are strong reasons why Christian Porter must go and these unjust prosecutions must be dropped. – Kathryn Kelly (photo), Chifley ACT,



Seeds of change

Recent claims the climate policies of the Greens in the ACT Legislative Assembly will have no effect on the scheme of things is ill-conceived. Margaret Mead reportedly said: "Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has". – M. McConnell, Giralang ACT.

She deserves our gratitude

Dr Samantha Crompvoets, as the author of the report that led to the Brereton war crimes inquiry, ("[Killings of Afghans 'happened all the time'](#)", 16/11), deserves the nation's gratitude. By allowing Australian Afghanistan war veterans to bear witness to alleged repeated atrocities committed by some members of our armed forces, she has acted in the noble tradition of the Nuremberg principles articulated in the wake of the Nazi defeat more than 70 years ago: namely, that "crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced". It is to be hoped her record of damning testimonies is not undermined by those prone to defending battlefield behaviour in the context of spurious "fog of war" rationalisations. – Jon McMillan, Mount Eliza Vic.

Lay off David McBride

Despite all the evidence of horrendous atrocities in the Afghanistan war, so far only one person is facing criminal charges. That person is David McBride, the man who risked so much to bring those dark secrets into the light. Without him the Brereton Inquiry would not have happened. He deserves our thanks and support. Dropping the charges would be a start.– Tony Judge, Woolgoolga, NSW.

Australian media apply double standards over homicides

When the Afghan soldier Hekmatullah killed three Australian soldiers in Afghanistan in 2012, sections of the Australian media labelled his actions as "murder". When 25 anonymous Australian Special Forces soldiers stand accused of killing 39 Afghan civilians, men, women & children, their actions are characterised as "unlawful killings". In commenting on the report prepared by Justice Paul Brereton, Prime Minister Scott Morrison said that "we need to ensure justice is truly served by illuminating the conduct of those who may

have acted in ways that do not accord with the high standards expected of our ADF & those expectations held by the serving men & women of our ADF & their veterans' community, past & present". Perhaps we should start by acknowledging that "murder" is "murder", no matter who the assailants or their innocent victims might be? – John Richardson. Wallagoot NSW

Moral responsibility to compensate families

Geoffrey Robertson's article ("War crimes must meet justice" 24/11/2020) is an important contribution to our understanding of many aspects of war criminality. While Australia is not shirking its responsibility to investigate the alleged atrocities committed by some SAS soldiers, it is those atrocities that we must reflect upon and consider the culture from whence it comes. That we have ratified the statute of the International Criminal Court, as opposed for example to the US in its refusal to adhere to any investigation of its war crimes, speaks volumes. Aside from the legal aspect of the alleged atrocities, we have the moral responsibility to compensate the families of the Afghan people who were murdered in our name. – Judith Morrison, Mount Waverley Vic

CLA report – main activities for November 2020

CLA is working with the ANU Law Reform for Social Justice group on three current issues: whistleblowing, vaccination and being instructed by a government agency whether to walk clockwise or counter-clockwise. Projects this past month included a Zoom meeting on vaccination with CLA experts Tim Vines, President Dr Kristine Klugman and CEO Bill Rowlings, and the students, Lily Cox and Shannon McGarry. Whistleblower David McBride is advising another CLA/ANU group, and Blumers Lawyers Director Phil Schubert the third group.

CLA attended and helped promote a large rally outside the ACT Law Courts protesting over the Witness K and Bernard Collaery secret trials in relation to Timor Leste. In Adelaide CLA member, and former MLC, Sandra Kanck, was a speaker, and in Darwin long-time Timor Leste supporter and CLA member Rob Wesley-Smith spoke.

Meetings with CLA directors:

Margaret Howkins WA and Richard Griggs Tasmania in e-meetings to plan local activity.
Sam Tierney Treasurer (physical meeting with CEO Rowlings in ACT)

Other electronic meetings:

Simon Hawkins YMAC (WA) re Aboriginal Land title rights and HRA
Mark Dreyfus Shadow AG re ALP human rights act platform, plus MPS Julian Hill MP and Andrew Leigh COSOCK re national rallies for whistleblowers (Coalition of Supporters of Collaery and K)
Eve Ash on Sue Neill-Fraser (Tas) case
Presentation to Australian Parliament Committee: Senate Legal and Constitutional Affairs Reference Committee, *Inquiry into nationhood, national identity and democracy* re need ICAC and human rights act. President, CEO and rights act campaign leader Chris Stamford spoke and answered MPs' questions on CLA submission at Parliament House physical hearing.

Online meetings:

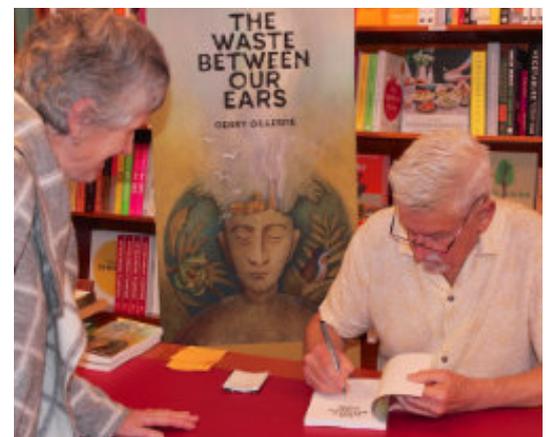
Australian Human Rights Commission '*Balancing Human Rights During Covid19*' participated in online discussion.

Registered for SA Rights Resource Network online forum: *Time for a Human Rights Framework for SA?* On International HR Day 10 December 2020

Attended Friends and Family of Drug Law Reform AGM

Books launch:

New book: '*Treaty*' 2nd edition, by Prof George Williams and Harry Hobbs [The Federation Press](https://www.federationpress.com.au/) Paperback/384pp ISBN 9781760022396 Australian RRP \$59.95 <https://tinyurl.com/y5htgul2>



Civil Liberties Australia President Dr Kristine Klugman has book 'The Waste Between Our Ears' signed by author and CLA member Gerry Gillespie, at Paperchain Bookstore, Manuka ACT, 29 October 2020

CLA board meeting:

There was wide-ranging discussion on 'the way ahead', basically the transition in 2021 from 18 years of Dr Kristine Klugman as President, followed in 2023 with the stepping down of Bill Rowlings as Secretary/CEO. There was general agreement we had an excellent, solid foundation, as well as the time and funds to adapt: gradually, new focuses and practices would emerge in line with the new people and systems involved. All attending spoke on the issues, reaching general agreement. *Details available to CLA members on request.*

Developments in SA:

Prof Rick Sarre is newly-elected SA CCL President, so there might be opportunities for closer cooperation in future. CLA member Dr Sarah Moulds is active in initiating a HRA forum on 10 December (to which CLA's human rights act campaign leader, Chris Stamford, the President and CEO will contribute).

CLA member Mark Parnell MLC is part of Greens team tabling a new private member's bill in November 2020 for a human rights act in the SA Upper House.

Human Rights Acts:

Extensive work being done by Chris Stamford on HRA project, as reported in his paper to the Board.

Aboriginal-general prisons issues:

President noted she had discussions with former MHR and Aboriginal Affairs Minister Robert Tickner on his Aboriginal-oriented Justice Reform Initiative based in NSW.

CLA continues to lead with specific, targeted letter-writing to Premiers/Chief Ministers and AGs on age of criminal responsibility (CLA wants it raised to 14), censorship in/from prisons and prisoners right to vote.

Submissions:

August 2020: Tasmania: *Review of the Expungement of Historical Offences Act 2017* – submission to the Tasmanian Department of Justice (Venkataraman) 31 August.

October 2020: Tasmania: Letter to government/opposition re: handling of public petitions in the lower house (Griggs) 19 October.; Tasmania: Submission to the Department of Justice re: Youth Justice Amendment (Searches in Custody) Bill (Griggs) 27 October.

October 2020: Queensland: Submission re the legal framework for a new Act for Voluntary Assisted Dying in Queensland on release of QLRC Consultation Paper WP 79, *A legal framework for voluntary assisted dying*. (Klugman) 29 October.

November 2020: ACT: Submission to the ACT Department of Justice re: 'Review of *Terrorism (Extraordinary Temporary Powers) Act 2006*' (Rowlings) 4 November.

Letters:

Voting rights for prisoners: Letters sent to the AGs of Queensland, Victoria and WA.

WA: Members gather to speak passionately about personal and CLA projects

Ten CLA members gathered in the colourful creche, at The Rise Community Centre in Maylands WA, recently for an evening get-together. People were so enthusiastic that, two hours later, Director WA Margaret Howkins had to speak up loudly and switch the lights off to get them out!

"They would have happily stayed the night, each with their own civil liberties passion to talk about, one-by-one," she said. "These rottweiler campaigners are achieving a great deal, including Michelle Bettles in the prison reform area, and Lacy Gow pursuing a local council over glyphosate, in a gladiatorial context."

Director Howkins reported that the group was unstoppably outraged when the issue of secretive Covid executive powers of state governments were broached. Everybody agreed that federal health expert doctors had been deliberately muzzled regarding the lingering health consequences of the Covid-19 virus. Nevertheless they approved of WA's closed borders.

Photo: WA CLA members meeting at The Rise, Maylands, in late October 2020.

Pic: Anthony Howkins



“While I was more an umpire than chairperson, I think the meeting was a success,” she said. “Everybody supports CLA’s human rights (HR) federal and state campaigns, and the WA-driven ‘Stop Police-Investigating-Police’ national campaign.

“Curtin U Law student, and one of two lead HR researchers, Linda Diep, brought members up to speed on our HR push so far, and I updated the meeting on stopping PIP. Drug support worker Anthony Howkins chipped in to talk about his work with addicts being a deadly health crisis rather than a policing matter,” Director Margaret Howkins reported.

NT:

A leading local barrister has spoken out in passionate detail about the failing of the legal system in WA. CLA is keeping a close watch on whether there is any public or government reaction to what amounted to a public plea for action to fix the legal/justice system in the territory.

Tas:

CLA in Tasmania is ensuring the Parliament keeps to its own rules on petitions, having failed to do so for years. Director Richard Griggs, head of the TAS human rights committee, is also drafting a submission to the Tas Law Reform Institute, and another submission to the government on reining in the strip searching of children.

INTERNATIONAL

Under-the-covers police evoke no apology from the Met

Three former wives of undercover British police officers have told a public inquiry that their marriages were based on lies caused by official police strategy.

The women made sacrifices so their police husbands could infiltrate environmental and political groups during long-term deployments. Many years later, leaks disclosed their husbands had had sexual relationships with other women as part of their deployments.

The discovery was “shattering”, the three told an inquiry last month. Their marriages were “imbued with deceit” as a result of their husbands’ covert deployments, which eventually caused the marriages to fail.

The women outlined their experiences in an opening statement read out at the judge-led inquiry, which is looking at how 139 undercover police spied on more than 1000 groups over more than four decades.

The London Metropolitan police had apologised to the women in the spied-on groups deceived into intimate relationships by undercover officers.

But the former wives have received no such apology. The Met has never apologised for what was done to them and their families. <https://tinyurl.com/y6d49cft>

ODD SPOT: Pack the Courts

By Larry Kramer, a former dean of Stanford Law School.

“Democracy depends on norms as well as law, and respecting established norms is essential in a diverse society. The norms that get layered on top of laws are what enable groups with fundamentally different ideas and objectives to live and work together. And if the past decade has taught us anything, it is that a politics of abandoning norms to win today’s battle is mutilating our democracy.”

<https://tinyurl.com/y6nt3zdc>

London Met Police...couldn’t lie straight in bed

By CLArion special correspondent, Lyn Edwards

It was inevitable that the term “SPYCOPS” would replace the more prosaic title of The Undercover Policing Inquiry under the no nonsense retired top judge, Sir John Mitting (photo). Much delayed given the current circumstances but it’s finally got under way in the UK.

In essence it’s an investigation into the (allegedly) out of control Met Police’s Special Demonstrations Squad of at least 100 officers and their role in undercover operations against unions, individuals and protests groups over a period starting in the late 1960s or early 70s.

Not to put too fine a point on things this was a group of Met officers who (allegedly, but come on !) took the identities of dead babies, infiltrated “subversive” groups, took part in illegalities, entered casual and also



long term relationships with individuals they were spying on and even fathered children with them only to then disappear without trace.

There are numerous legal and moral elements to the undercover operations and those will be explored in due course. As things stand (in November 2020) we have only heard the opening statements from Sir John Mitting, unions such as UNITE and NUM as well as women who had children by the undercover officers. Just pause for a moment and consider what those women must be going through knowing what they now know. Several have already very bravely spoken out, forsaking anonymity.

We've also heard from Met Police QC Peter Skelton who clearly got on the wrong side of Mitting when asked if undercover operations of this kind were still going on (evidence having been provided that they were...at least in 2013). His attempts to invoke the Fawley Towers-Manuel Defence (I'm from Barcelona, I know nooooothing !) was met with a very stern response from Sir John to the effect that the question must and will be answered, or else!

Two names to look out for for very different reasons:

Philippa Kaufman QC representing the 20, yes 20, women who have been "deceived" (not the word I would use) by the Met's SDS; and one "**Rob Harrison**" who infiltrated a pro-Palestinian group by sleeping with a supporter identified as "Maya" only to vanish without trace in 2007 yet reactivated the relationship in 2014, had sex and vanished again the day after.

This isn't Tom Cruise shouting "I want the TRUTH !" at Jack Nicholson. This is real people, real lives, real lies and another instance of a door being forced open to reveal something long kept hidden from scrutiny.

<https://www.ucpi.org.uk>

Undercover police spy work denied jobs to unionists

A senior Scotland Yard police officer, who led a secret unit monitoring left-wing activists, joined a corporately-funded blacklist used to deny jobs to thousands of trade unionists, a public inquiry has heard.

Chief Superintendent Bert Lawrenson left the London Metropolitan police to work for the secretive blacklisting operation, an inquiry was told last month.

Basically, British police spied on campaigners and then secretly shared information about them with the Economic League, an organisation created to prevent trade unionists from getting jobs. Large firms consulted the blacklist to avoid hiring workers they judged to be potential troublemakers.

The inquiry, led by retired judge Sir John Mitting, is examining how the police set up the undercover unit, the Special Demonstration Squad, in 1968 that went on to spy on more than 1000 political groups over the next four decades.

Companies consulted the files when a trade unionist applied for a job, rejecting those they deemed to be too militant or politically disruptive. Often the files contained inaccurate information, so many workers were unjustly denied jobs.

The Economic League was closed down in the 1990s after it was exposed by trade unionists and journalists. A successor operation, called the Consulting Association, was shut down in 2009 after an official watchdog ruled it was unlawful. <https://tinyurl.com/y5cvam35>

The question for Australia, CLA says, is did police and security agencies here run similar operations?

ODD SPOT: Lights, camera...and eternal action!

San Diego cannot stop spying on its citizens. The city wants to, but a contractor installed "smart" LED street lighting five years ago, which came with an in-built, interconnected surveillance-monitoring camera system. Now the city has had second thoughts about recording its citizens 24/7, and wants the light turned off. However, the firm now running the system, Ubicquia, says it has to write new software to separate light from surveillance. The solution so far has been to keep the cameras running, but deactivate the data connection to the servers where everybody's portraits and peccadillos were being recorded for five days, whereupon automatic deletion kicked in. <https://tinyurl.com/y5qjs7gh>

International briefs

States vote for decriminalising drugs

Four US states will legalise marijuana, and Oregon will become the first state to decriminalise having small amounts of hard drugs on you as a result of voting during the recent US election. Voters in Arizona, Montana, New Jersey and South Dakota passed state ballot measures to legalise recreational cannabis use. The states join the District of Columbia and 11 other states that have already legalised adult use of

cannabis, which remains illegal at the federal level in the US. A medical cannabis measure also passed in Mississippi. <https://tinyurl.com/y6etje2k>

UAE frees up booze and cohabiting

The United Arab Emirates is changing personal laws to be able to do more foreign business. Unmarried couples can cohabit, those over 21 can drink freely, “honour” killings are out and harassing women in general won’t be overlooked. With expatriates outnumbering locals 9-1, and a big World Expo due, the UAE is westernising its laws for the sake of commerce and the 25 million visitors expected for the event. <https://tinyurl.com/yylvjzux>

Weed wins, just

New Zealanders have – just – voted against legalising cannabis, by 67.662 votes out of 2.9 million. The No vote was 50.7%, the Yes vote 48.4%. A referendum held jointly on whether to legalise euthanasia saw about 65% Yes votes and 34% No votes. A euthanasia act will come into force on 6 November 2021. <https://tinyurl.com/y6meyfcz> <https://tinyurl.com/y4peyw75>

DATES:

6 Dec, Christchurch NZ: Date by which Scott Watson’s next parole bid must be heard. Watson was convicted of a double ‘yachtie’ murder in 1998 in a case that has generated great controversy as to the safety of the conviction: <https://tinyurl.com/yx2dtjv> <https://tinyurl.com/sdue78q>

2021

Dec, Canberra: Inaugural director of CIPL (see below), Professor Philip Alston, of NYU Law and UN special rapporteur on extreme poverty and human rights, will deliver the annual ANU Geoffrey Sawer Lecture at 6pm on 7 December 2020. Info: <https://tinyurl.com/u99bbks>



7-8 Dec, Canberra: Public Law and Inequality, major international conference to mark 60th anniversary of ANU Law and 30th of the Centre for International and Public Law at ANU. Guest speakers include Prof Julie Suk of the City U. of New York (left) and Prof Asmi Wood of ANU (right) <https://tinyurl.com/vfmsqaz>



2022:

10 May, Adelaide: 50th anniversary of the death by drowning of law lecturer Dr George Ian Ogilvie Duncan, thrown into Torrens River by a group believed to be police officers. Led to SA enacting the first homosexual law reform act in Australia.

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: [Secretary\(at\)cla.asn.au](mailto:Secretary(at)cla.asn.au) Closing date for this issue was 27 Nov 2020.

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