

Major breakthrough: bid to wrest back equal control of the nation to Parliament

Two of the unlikeliest of allies, the Liberal's Concetta Fierravanti-Wells and Labor's Kim Carr, have taken the first steps to wrest control of Australia's laws back from the self-selected federal Executive to restore control, at least shared, to the Parliament.

Civil Liberties Australia has been campaigning for years – as virtually a lone voice – to stop the mushrooming practice of senior Ministers and their minions writing broad new laws, but leaving the detail of how they are implemented free to be expanded, made harsher, with greater penalties, under “regulations”. In many cases, those beefed-up, anti-democratic and contrary to civil liberties “regulations” of the extended laws are barred from further examination by parliament.

At last some parliamentarians are staring to realise the dangerous path Australia's law-making has been on for the past decade or more.

“We must get the house in order, before our ability to do so slips away,” says a media release last month from the heads (one Liberal, one Labor) of the Senate Standing Committee for the Scrutiny of Delegated Legislation (the Scrutiny committee).

What is ‘delegated legislation’? It's half of all Australian law!

“Parliament should be the ultimate lawmaking authority in our system of government; however, last year Parliament was prevented from scrutinising 299 laws made by the Executive,” said a joint media release from the Double-C team, Concetta (left) and Carr (capital ‘E’ for ‘executive’ added).

“These laws, known as delegated legislation, constitute about half the law of the Commonwealth by volume...not always deal(ing) with purely technical or administrative matters.

“Delegated legislation increasingly contains matters of policy significance. It has the capacity to affect the daily lives of Australians in profound ways,” they say, accurately.

And in many cases, parliament is unable to review or change the regulations, even if they are dud.

For example, in 2020, 17.4% – nearly a fifth – of delegated legislation was exempted from disallowance. This included laws:

- imposing international travel bans on Australian citizens;
- increasing the federal government debt ceiling to \$1.2 trillion; and
- changing Australian content obligations that apply to commercial television broadcasters.

“The disallowance mechanism gives the parliament the opportunity to examine such legislation and potentially veto it,” Concetta and Carr say.

But laws exempted from disallowance effectively hand power to a self-selected minority of Ministers comprising “the Executive”, usually the Prime Minister and a handful of other senior ministers.

“The ‘Executive’ – as increasingly used in this context to describe the over-riding, power-broking, political clique – has never been defined. No-one knows who comprises ‘the Executive’ at any one time,” CLA CEO Bill Rowlings said.

Parliament is meant to make the laws of Australia

The Constitution tasks the Parliament with ultimate lawmaking authority.

“This authority is being undermined by the growing amounts of delegated legislation exempt from disallowance and thus parliamentary oversight,” the Double-C team says.

“It is the Parliament itself that approves the delegation of legislative powers to the Executive and their exemption from disallowance. It is up to the Parliament to fix the problem.”



The Scrutiny Committee tabled its final report into the exemption of delegated legislation from parliamentary oversight last month, and issued the long-overdue and telling media release.

Committee chair, Senator Fierravanti-Wells said: “That the Parliament insists its role is respected is not a judgement on the policy content of any piece of delegated legislation or the legislative agenda of any government. It is rather the application of the rule of law to the role of the Parliament. Without scrutiny, there is an erosion of constitutional principle.”

Committee deputy chair, Senator Carr said: “The functioning of the disallowance mechanism ultimately goes to the role and responsibilities of the parliament, and the substance of parliamentary democracy. Without scrutiny, the executive can make significant decisions without due regard for the people’s voice expressed through their elected representatives.”

The report makes 11 recommendations that when implemented will ensure delegated legislation is effectively scrutinised, and exempted from parliamentary oversight in only exceptional circumstances.

The report and further information about the inquiry, including the interim report, is available here: <https://tinyurl.com/4t9vmdc3> Its main recommendation is:

“The committee recommends the *Legislation Act 2003* be amended to require all exemptions from disallowance and sunseting to be in primary legislation. “

Decade-long push to maintain rights for the ageing

The World Health Organisation, the UN High Commissioner for Human Rights, the UN Dept of Economic and Social Affairs, and the UN Population Fund last month released the Global Report on Ageism.

Combating ageism is one of the four action areas of the Decade of Healthy Ageing (2021–2030), a report in *The Lancet* medical journal says.

The report says that changing how we think, feel, and act towards age and ageing is a prerequisite for successful action on healthy ageing and for progress on the three other action areas of the Decade of Healthy Ageing:

- developing communities that foster older people's abilities,
- delivering person-centred integrated care and primary health services responsive to older people's needs, and
- providing long-term care for older people who need it. <https://tinyurl.com/5fb34kn3>

ODD SPOT:

Corporate Australia pulls off a Harvey – 2m invisible white rabbit – trick

– *now you see us, putting our hands out for cash: now you don't, when we notch up big profits*

“If the same amount of rorting happened with the whole scheme (corporate JobKeeper subsidies) as *Ownership Matters* and *The New Daily* have identified with the listed companies, the unnecessary payments to profitable companies would be close to \$30 billion.

“In fact, it’s possibly much more than that because private companies don’t have to report their financials publicly, and are operating behind a curtain of secrecy – so there’s likely to be a lot more misconduct.

“The sports rorts affair, which cost then Minister for Sport Bridget McKenzie her job, involved \$102.5 million of arguably misallocated money. The JobKeeper rorts are at least 290 times that amount.”

– Alan Kohler, writing in *The New Daily*: <https://tinyurl.com/44w5uvz4>

For Harvey the invisible rabbit, see: [https://en.wikipedia.org/wiki/Harvey_\(1950_film\)](https://en.wikipedia.org/wiki/Harvey_(1950_film))

For what happens to poor people who ‘rob’ the Australian government, see ‘Robodebt’ on Wikipedia.

Porter’s portfolio behaviour has forfeited the nation’s trust: Kelly

CLA makes no comment on allegations against Attorney-General Christian Porter, which he denies.

As CLA member Kathryn Kelly wrote in the *Canberra Times*, the newspaper’s columnist Jack Waterford demolished Prime Minister Scott Morrison’s argument that an independent inquiry into the allegations would mean the “end of the rule of law” (*“Rule of law collapse talk is nonsense”, 6 March 2021, p30*).

Kelly points out – and CLA agrees – the AG should be stood down for his decisions which disrespect the rule of law, when he is meant to be the foremost law officer of the land. Examples are:

- failure to report the use of national security information orders to Parliament for three years. These govern what evidence can be kept secret in a court case, such as those against Bernard Collaery, Witness K and David McBride;

- lack of judgement in approving the prosecutions of the above men who were acting honourably on their conscience and/or in the interests of government-related transparency;
- defence of Minister Alan Tudge when the latter was found to have engaged in criminal conduct for detaining an asylum seeker for five days in defiance of an order by the Administrative Appeals Tribunal;
- suppression of parts of an Australian National Audit Office report into a single-source \$1.3 billion military contract which was critical of the contract process; and
- history as a minister for the Robo-debt fiasco which left taxpayers with a debt of \$1.2 billion.

“His judgement, competence and behaviour is seriously in question and is in no way acceptable for an Attorney-General. An Attorney-General must have the trust and confidence of the Australian people. He has forfeited that,” Kelly wrote.

Boyle case may come off

With AG Porter now of declining influence, the Commonwealth Director of Public Prosecutions, Sarah McNaughton, has told Senate Estimates that the charges against tax office whistleblower Richard Boyle (photo) may be dropped.



Senator Rex Patrick (Ind, SA) who has been a longtime supporter of Boyle, said that dropping the case against him would prevent a “huge injustice”.

Boyle, a former employee of the Australian Taxation Office, originally followed the correct process and made an internal submission, but was ignored.

He then blew the whistle to the *ABC* in 2018 on the agency’s use of aggressive tactics to recover debts from small business owners, which crippled the livelihoods of many.

He has since been charged with a range of offences, including allegedly photographing protected information, disclosing protected information, and unlawfully using listening devices to record conversations with other ATO employees.

Naturally, ATO employees who were actually doing the wrong thing have faced no such serious charges.

<https://tinyurl.com/32ck887c>

Identify and Disrupt: new ‘octopus powers’ against the people: HRLC

Home Affairs Minister Peter Dutton wants to give federal police invasive octopus powers to take over people’s online accounts and monitor their online activity.

Dutton claims the *Surveillance Legislation Amendment (Identify and Disrupt) Bill 2020* Bill powers are to tackle serious crime. But the proposed law goes far beyond that, according to the Human Rights Law Centre.

Kieran Pender said the Bill would give the AFP and the Australian Criminal Intelligence Commission access to three new types of surveillance warrants:

- A data disruption warrant, enabling police to access digital data and perform online disruption activities
- A network activity warrant, enabling police to collect intelligence on online activities
- An account takeover warrant, enabling police to take over a person’s online account

The bill also allows police to take out an assistance order which mandates people must supply any reasonably necessary information or help to police. Failing to comply can cost you 10 years in jail or a \$130,000 fine.

“Australians have an important common law right to freedom against self-incrimination. We are concerned that the assistance orders do not provide any safeguards for the exercise of that right,” Pender said. <https://tinyurl.com/ybwpfkpkp>

What could police and ‘intelligence’ agencies do?

Under a data disruption warrant, police and intelligence bodies can enter any house or building; use computers, t’coms gear, electronic equipment or data storage devices to access and disrupt data, including adding, copying, deleting or altering it; and they can intercept any passing traffic. Police could also take over exclusive control, doing all the above to account-based data and account credentials...and “do anything reasonably necessary to conceal anything done...”

Network activity warrants are for intelligence collection, which “is less targeted than evidence-gathering.” So they could pry when, where and how they like...and you might even never know they’ve been.

Ministers ‘on the Trump Spectrum’ use identify/disrupt tactics, CLA says

Under Home Affairs Minister Dutton, the government’s security laws are getting harsher, the crackdown harder; and privacy and rights are shrinking as freedoms dwindle, CLA’s CEO Bill Rowlings explained to SBS interviewer Marcus Megalokonomos last month.

“When women – half the population, shout out in pain – the government does not listen, as it has not listened for two decade to valid, measured criticism of the nation’s police and security laws, which have been headed in the wrong direction all that time,” he said.

“We need a total overhaul of all such laws passed since 2001...and we need new Ministers in any Cabinet reshuffle who are not right-wing ideologues on the Trump Spectrum, like Peter Dutton and Christian Porter.”

LISTEN to the interview: <https://www.sbs.com.au/news/why-human-rights-groups-are-concerned-about-australia-s-online-surveillance-bill>

READ the story: <https://www.sbs.com.au/news/audiotrack/human-rights-groups-say-surveillance-proposals-threaten-basic-freedoms>

We live in spooky times, where your data is not safe from government

The 20 state and federal government agencies authorised under data retention legislation (see item above) obtained metadata on 311,312 occasions in 2019-20 – an increase of 15,621 from the 295,691 authorisations made in 2018–19. <https://tinyurl.com/3atrkzy2>

Just putting those figures into some perspective, CLA says, that means police, spooks and other authorised groups sought secret t’coms data 853 times a day, on average, every day of the year.

They must be so busy making applications that they don’t have any time for real sleuthing and spooking.

Did a sneaky CCC worm its way around a journo’s source protection?

In another example of legal creep, it appears the Crime and Corruption Commission in Queensland may have used forced access to a journalist’s metadata to identify a leaking police officer.

The Guardian’s Josh Taylor reports the Qld CCC was the only Australian agency to seek a journalist information warrant in 2019-20. The information is contained in the Tcoms (Interception and Access) annual report for the year.

The CCC is trying to force a TV journalist – known in court, as is the current secret custom – as ‘F’ to reveal who leaked the time/location of an upcoming murder arrest, so the journo could film the event. F and the CCC are battling out a sub-case ruling that journos have no rights to protect sources in the sunshine state’s dark corridors.

In that case, it was revealed a police officer had been charged with two offences related to the leak...which seems to indicate that the CCC and the Queensland Crown had sussed out a leaking copper’s identity, which F has still not revealed.

When brought in, police and security service access to t’coms metadata was supposedly only to convict the worst of the worst, and the Mr Bigs of crime.

That’s the same mantra trotted out every time Home Affairs and the ‘community’ of spook agencies want to secure new laws to allow them excessive anti-liberty and -rights powers.

It was an official lie 20 years ago, as it is today in relation to the proposed ‘Identify and Disrupt’ law. <https://tinyurl.com/3atrkzy2>



‘Secret’ Australia allows corruption to flourish: Keane

Australia is becoming a more secret place with greater restrictions on public access to information – allowing greater freedom for soft and hard corruption to flourish in politics and the bureaucracy, Bernard Keane (photo) has outlined in a major new *Crikey* series: *The Dirty Country: Corruption in Australia*.

“Since 2017 Australia has slipped out of the top 20 countries in the world press freedom index and managed just 26th spot in 2020, behind a number of developing countries such as Jamaica and Namibia.

“Not merely have we seen journalists subjected to high-profile raids, whistleblowers being prosecuted, the shameful and vexatious treatment of Witness K and Bernard Collaery, and laws dramatically curbing the capacity for intelligence whistleblowers to reveal misconduct, but long-established transparency laws have been degraded,” he wrote. <https://tinyurl.com/2vmveusx>

Media outlets up the ante against suing VC winner

The media outlets sued for defamation by Ben Roberts-Smith VC say they have evidence of two more incidents of “very serious criminal conduct” on top of his alleged involvement in six unlawful killings as an Australian soldier in Afghanistan.

The *SMH* and *The Age* are claiming a truth defence at the trial, which begins in June.

The VC winner’s former wife will give evidence for the media, against her ex-husband, according to statements to the Federal Court heard last month.

So far the AFP have not laid formal charges against soldiers after a four-year inquiry, conducted by NSW Court of Appeal judge Paul Brereton, who is a military reservist Major General.

He found credible evidence that Australian special forces soldiers allegedly committed up to 39 murders in Afghanistan between 2005 and 2016. The inquiry recommended 19 current or former soldiers face criminal investigation. <https://tinyurl.com/3pphzy4s>

Senator calls justice system ‘deeply racist’

New Victorian Senator, Lidia Thorpe, has called for the minimum age someone can be held criminally culpable to be raised from 10 to 14:

“We have got young children being locked up for stealing a chocolate bar in this country, we’re locking up children at the age of 10. We need to be in line with the international standard of 14 at least. That would see 600 children released tomorrow!” she said in a newspaper interview.

“In Victoria we’ve had an increase of over 500% of incarceration of Aboriginal women. It just seems we get a little bit and then we’re taken back another three steps. So, we need real change. We need to change these racist laws that continue to incarcerate us, continue to kill us in the justice system.

She called the justice system “deeply racist”, following the deaths of three Aboriginal people in custody in a week. An Aboriginal man died in Victoria’s Ravenhall Correctional Centre in March. In NSW, a man in his 30s and a woman in her 50s died in the same week, but their deaths were only revealed under questioning during a NSW parliamentary hearing.

Speaking with *ABC News Breakfast*, she said: “It’s the 30th anniversary of the royal commission into Aboriginal deaths in custody. This year, the families have called to meet with the prime minister. That’s fallen on deaf ears so far. So, I mean how many more deaths do we need to go through for people to actually listen and take this issue seriously?”

“We have almost had 500 deaths since the royal commission. In 30 years, 500 [deaths], and no one’s immune. We’re a tight-knit community, and we’re all affected by this loss. And the systemic racism is real.

“We’re based on a colonial system, right, and that colonial system doesn’t treat people in this country very well at all.” – *Guardian Australia* 20210312

Judge affronts justice, applies wrong law

Controversial Queensland judge Salvatore Vasta has admitted he made errors and denied a father-of-two procedural fairness before sentencing him to 12 months’ jail during a routine, minor property dispute.

The man, known as Stradford, is suing Vasta in a rare case against a sitting judge who can normally claim judicial immunity. He claims Vasta has lost that protection because he exceeded his jurisdiction and did not have the power to order the man to jail because the judge had not first found there was a breach of any court order.

The civil case alleges that Stradford was denied any chance to plead his case and that Vasta “used the threat of imprisonment as a means of exerting pressure to settle the case outside the courtroom”.

Stradford was in jail when the full bench of the Family Court found: “We are driven to conclude that the processes employed by the primary judge (Vasta) were so devoid of procedural fairness to the husband, and the reasons for judgment so lacking in engagement with the issues of fact and law to be applied, that to permit the declaration and order for imprisonment to stand would be an affront to justice.” <https://tinyurl.com/a9h82a39> <https://tinyurl.com/x45e3rdx> <https://tinyurl.com/29u2jnn>

Australia faces internal threat to truth, probably

The Director-General of Security, Michael Burgess, removed a “nest of spies” from Australia last year, so he said in March.

Burgess is the only person in ASIO to use his correct name: everyone else uses a false name and lives their entire life as a lie, often keeping their role from their own family.

In judging the accuracy of what the head of ASIO says, people might like to remember that, in ASIO and ASIS, if you tell lies you get promoted.

DO NOT tell the truth! That's what Witness K over Timor Leste Cabinet bugging and Witness J over poor internal security vetting in south-east Asia apparently did.

The result? The federal government charged them and ran secret trials against them. It sent Witness J to jail – secretly – for more than a year, in the sex offender's section, to keep him isolated. Witness K, also subjected to secret trial, is yet to be sentenced for telling the truth.

So whatever spinmeister Burgess says needs to be taken with a mountain of rock salt. In his newly-instituted annual address PR event (he gave the first in 2020), he said the "ideological extremists" ASIO investigated average 25 years of age and were mostly men.

But does that include the ASIO's newly-discovered right-wing extremists? Now he's discovered they exist, he says he's dropping the label "right wing". Non-one else will.

Burgess also said a terrorist attack in Australia "remains plausible". CLA equates "plausible" with "POSSIBLE".

Which begs the question: why is Australia's official threat level listed as PROBABLE?

Is Burgess telling the truth? Or is the threat level a lie?

Australia's major threat is too many spooks, and not enough truth and transparency from politicians and administrators, CLA says. <https://tinyurl.com/7pbvmhs>



Does Burgess's annual spin address cause terrorism?

Just before spinmeister Burgess spoke, police arrested brothers in Melbourne for allegedly buying a knife for terrorism purposes. The arrests were given great national publicity.

Aran Sherani, 19, and Ari Sherani, 20, allegedly engaged in a terrorist act at Humevale, north of Melbourne, on 21 February. In Aran's case, he allegedly also injured someone on 9 March and is a member of Islamic State terror mob.

Police also arrested a 16-year-old boy but let him go without charge.

It's amazing how, just before Burgess gives his annual address each year, someone is arrested on terrorism charges, and the arrest(s) are all over the news media. <https://tinyurl.com/669x42p5>

This month's PROBABLE stupidity:

Last month, we reported how the official threat level is still PROBABLE, despite the apparent doubling of threats because the police and spooks now admit they fear right-wing terror as much as left-wing terror. Our story caused some remembering:

Long ago, when we were warned to "be alert but not alarmed" and were sent fridge magnets and leaflets on terrorist threats, our then Prime Minister, John Howard, established a hot-line, where we, the public, could phone in our concerns about any unusual activities in the neighbourhood.

It was also the height of drought that saw water rationing in Canberra – you could water your garden on an odd or even day depending on your house number, and only with a handheld hose.

A friend of mine, in a fit of unemployment and curiosity, volunteered for and was trained in phone handling techniques for the hot-line. After several weeks she reported that, apart from the "tin foil hat" phone calls about aliens, the vast majority of calls were to report NEIGHBOURS WHO HAD CONTRAVENED WATER RESTRICTIONS. The terrorism hot-line did not last long.

I would hope that the Australian public will retain their sense of priorities and that water/environment conservation remains far more important than fears of an imaginary horde of dole bludgers cavorting on the Gold Coast and raking in the huge benefits available under Jobseeker – Jennifer Ashton, Ainslie ACT (who is a CLA Director).

Third state votes for dying with dignity law

Tasmania has become the third Australian state to legalise voluntary assisted dying, or VAD.

The new law, passed last month, is expected to come into effect by January 2023. The state parliament passed the law at its fourth try since 2009.

The states of Victoria and Western Australia have already made voluntary assisted dying legal. <https://tinyurl.com/c9yf24xy>

ODD SPOT: Police drone used to spy missing piglets

Four little pigs which went missing from a children's zoo in Canberra last year were recovered after police used a drone to peer into a suburban backyard in the suburb next door. Owen Van Duren, 39, faced the ACT Magistrates Court last month, charged with being in possession of the stolen piglets, although he was not charged with stealing them. Prosecutors revealed a neighbour tipped them off, and they sent up a drone to do surveillance. Van Duren was also charged with possessing prohibited weapons and cannabis, found in a search of the property. But he was not convicted because the police could not prove he lived at the address which housed the pigs, weapons and weed. <https://tinyurl.com/y9a3c26a>

Territories denied the right to vote

The ACT and the NT, unlike Australia's states, are not permitted to vote for or against VAD.

A private member-initiated law engineered by federal MP, Kevin Andrews, withdrew the democratic right of Territorians to make their own decision in 1997.

Andrews was recently rejected – he failed to win preselection, by a vote of nearly 2-1, in January 2021 – after almost 30 years in parliament.

CLA has written to Andrews and asked him to do the right thing and move a private member's bill to "rescind" the anti-democratic law he pushed through parliament in 1997. We have not received a reply.

ACT Liberals switch policy on euthanasia...locally

The ACT Opposition Leader, Liberal Elizabeth Lee (photo), has reversed the local stance against euthanasia.

She has asked PM Morrison to let the ACT – and the NT – make laws on voluntary assisted dying, which they are currently forbidden from doing under a special federal law which targets just the two territories.

The Liberals say they support the ACT Legislative Assembly being given the power to legislate on euthanasia, while continuing to allow a conscience vote on the issue itself. "The Canberra Liberals support the ACT having the same rights as other jurisdictions to debate and legislate on this issue," Ms Lee said.

A bid to restore territory rights was voted down in federal parliament in 2018, with ACT Liberal Senator Zed Seselja among the members who voted against it...

creating the bizarre situation where he effectively voted for his electors to possess fewer rights than those of Australian living in the states. <https://tinyurl.com/y745tqve>



Retired judge says youth bail law changes are not the answer to crime wave

Retired Supreme Court judge Graham Hiley said last month that NT politicians from across the political divide were wrong to "seize on" bail law reform as an answer to youth crime.

Hiley retired from full-time judging, but is still an acting judge. He said a current debate was "missing the point". "The issues are far bigger than just presumptions of bail," the judge said. "(Politicians) seem to be putting that up as some kind of real answer, but the problem is far deeper than that."

Hiley said there was a real need for more supported bail accommodation or "safe houses" for young people on remand, so they could avoid mixing with convicted offenders. His "major concern" was the continuing high levels of incarceration among the NT's Aboriginal population.

An increasing prevalence of foetal alcohol spectrum disorder (FASD) in courtroom submissions also presented difficulties for judges, he said, especially given there is no known cure.

The NT Supreme Court has six permanent judges, which Acting Justice Hiley said was the same number it had in the 1980s, despite criminal listings more than tripling over the past three decades.

The time it takes for a criminal matter to proceed through the Supreme Court has also more than doubled over the past six years, the judge said, from about 125 days to about 300 days.

– from a report by Felicity James ABC news <https://tinyurl.com/stpr2vf2>

Hardline NT government to 'flog' children with new laws

The NT government is introducing dramatic new, anti-liberties laws and actions...against kids.

There will be tougher than ever bail breach consequences, with automatic revoking and jailing. Police will be able to apply bracelets at a whim for electronic monitoring...e-jail.

Thousands more NT juveniles will be locked up: the government has allocated \$5 million for extra youth remand places, thereby admitting hundreds more young offenders will be on remand. That means children jailed without conviction.

The government plans to pass the measures at sittings in May. They include:

1. Automatically revoking bail: "Bail is a privilege not a right", the NT government mistakenly believes. Bail is when a person is presumed innocent, not presumed guilty, which is a right, CLA says.
2. Expanding what they can lock up kids for
3. Expanding instant police bracelet monitoring...that's known as e-jail. And police will be able to use e-jail to "divert" young people when they like.
4. Judges will be told of past bail occasions. This is like the old breach of bail policy, but makes less paperwork for police.

– joint release, Chief Minister Michael Gunner & Minister for Police Nicole Manison 23 March 2021.

Geelong police officer David Magher spared conviction for assaulting man in custody

By Rachel Clayton
Posted 45m ago



CCTV footage showed Sergeant David Magher (centre) kicking Andrew Birch three times. (Supplied: Victoria Police)

What, no hand-balls?

Magistrate John Lesser recently sentenced Geelong police Sergeant David Magher to pay a \$4250 fine for the assault (photo) but decided not to record a conviction.

Magistrate Lesser ruled the first of three kicks delivered by Sergeant Magher was a reasonable use of force.

But the two kicks that followed were assault, he said, describing the kicks as "gratuitous and unnecessary".

<https://tinyurl.com/y8xu5q87>

Coming from Geelong, with its strong AFL culture, it's a wonder Magher didn't also hand-ball a few times, CLA comments.

Public corruption appears to rise by 21% in a year

Corruption complaints are going high rise in Queensland, as is the government's seizing of what CLA calls its "brown paper bag" funds: nearly \$12 million in a year, with nearly \$10m of that in cash or bank accounts. Chair of the Queensland Crime and Corruption Commission, Alan MacSporran, told the Qld Parliament that the 882 complaints received from the public sector, including government-owned corporations and MPs, was a 21% leap on the previous year.

Police complaints were "only" 1% higher at 728 for the year, he said Someone should remind MacSporran that's two a day, or 14 a week...not an "only" figure by any means. Local government – done to death by the CCC in recent years – showed a 28% decline in complaints, with 174 received.

With proceeds of crime, there had been 20 restraining orders obtained with a value of \$11.89m, including \$9.8m worth of cash or money in bank accounts. The state received 19 forfeitures of property valued at \$7.21 million, and there were another 19 settlements, valued at \$6.918 million, under negotiation. Just one proceeds matter involved restraint and forfeiting of \$2.64m in cash.

MacSporran said that the Qld CCC had finalised 12 investigations, charged 18 people with 458 criminal offences, and held 104 crime and intelligence hearing days examining 108 witnesses in calendar 2020.

This included a number of hearings to advance complex and unresolved major crime investigations, in particular to assist the Queensland Police Service to progress investigations into cold cases, homicides and crimes against children and vulnerable victims.

Why does CLA call the proceeds of crime funds go into governments' "brown paper bags" ? Because usually the cash seized is used to dole out grants to local councils, community and sporting groups and the like to curry favour for the government just before an election.

Miners to get Aboriginal rating

An Aboriginal group last month announced plans to publish a scorecard rating mining companies in WA's iron ore region on how well they comply with various environmental, social and governance (ESG) metrics. The Wintawari Guruma Aboriginal Corp (WGAC), which represents the Eastern Guruma area in the Pilbara region, said it hoped the move would help to educate investors and the broader public after the destruction of ancient rock shelters by Anglo-Australian mining giant Rio Tinto in 2020.

The scorecard will focus on five areas: heritage surveys, regulatory compliance, caring for the environment, relationships with native title holders and ESG reporting.

WGAC will assess miners' performance for a year based on 34 questions, then publish the results and provide feedback. <https://tinyurl.com/yaw4van6>

Australian briefs

More sexual assaults, but only 2% lead to guilty verdicts

The NSW Bureau of Crime Statistics and Research reported sexual assaults rose by 10% in 2020 with a total of 15,000 women coming forward. Only 2% of those led to guilty verdicts in court. <https://tinyurl.com/3pr59dbb>

Sex offences up 10.2%, robbery down 28.7%

Victoria's Crime Statistics Agency figures for 2020 show recorded offences increased overall by 2.3 per cent. Family violence incidents rose 9.4% to 92,521, the highest on record, with parent-to-child and sibling-to-sibling violence up during the pandemic. Drug offences were also up 20% last year and there was a 10.2% rise in sex offences. But property and deception offences fell 12.1%, and robbery was down 28.7%. <https://tinyurl.com/5kdfhrtk>

Law bodies welcome prospect of judicial commission

The Australian Bar Association has joined the Law Council of Australia in supporting a proposed federal judicial commission. ABA President Matthew Howard, said: "(It) would enhance the public's confidence in the administration of justice. Such a commission would reflect the community's expectations (for) transparent accountability of judicial officers outside of, and additional to, the existing appeal processes. – media release, ABA 17 Feb 2021. CLA says a national judicial commission and one for Tasmania are urgently needed.

When will the bumbling ADF bosses be sacked?

Bumbling ADF bosses are trying to sack SAS troops who blew the whistle on alleged war crimes during an official inquiry – against the advice of the civil-military judge who did the investigation War crimes investigating judge (and Major General) Paul Brereton recommended that whistleblowers who had done nothing wrong should be promoted; witnesses who had honestly disclosed their own wrongdoing should not necessarily be sacked; soldiers who had committed alleged war crimes but had later given truthful testimony to the inquiry should get special consideration, he said. Brereton found that Australian special forces allegedly committed up to 39 murders. He recommended that up to 19 current or former soldiers should face criminal investigation, possible prosecution and be stripped of their medals. There's a possibility that the whistleblowers, not the alleged criminals, will be the only ones to be taken to court, CLA says. <https://tinyurl.com/yc9qcd84>

Another senior cop suddenly departs

Assistant NT Police Commissioner Michael Hebb resigned suddenly recently, according to an internal police broadcast labelled "not for wider circulation". Commissioner Jamie Chalker gave no indication of the reasons for the resignation in the internal statement, only that it had been accepted and "approved by the Administrator". Mr Hebb was promoted last year to play a key role in the NT's COVID-19 response and disaster management. Mr Chalker said Mr Hebb had spent more than 30 years in law enforcement, including 19 years with Victoria Police before moving to the NT in 2008. Sudden resignations of top police is almost a constant in the NT, CLA notes. – *NT Independent* <https://tinyurl.com/y9snqs3v>

Lawyers on the rise

In WA, there were 7030 lawyers last year, with about 530 of them working in the government. There was a 1.4% increase on the previous year. <https://tinyurl.com/37m73anr>

Jailed...but not bailed

Aboriginal people facing criminal charges are much more likely to be refused bail by police than non-Aboriginal defendants in similar cases, according to a major new study of more than 500,000 bail decisions made in NSW between 2015 and 2019. The NSW Bureau of Crime Statistics and Research found that

Aboriginal defendants are 20.4% more likely to be refused bail by police than non-Aboriginal defendants. Aboriginal Australians are massively over-represented in Australian jails. <https://tinyurl.com/2vnhmcvs>

Members' letters (and others, if relevant)

In the view of an officer of the Crown: re Sue Neill-Fraser

What a total stuff up with Sue. As you say how did Vass's vomit get there? Just let her out! – ACT Govt employee, name withheld by request, Canberra ACT

Watchdog, not lapdog

Why must the most obvious requirements be even demanded of some of our high-flying politicians ('ICAC funding must be free of political influence', *SMH* 5 March 2021)? Could the trend of politicians avoiding critical analysis combined with a diminishing attention span by the public provide an answer? Nevertheless, allowing politicians to call the shots regarding how a watchdog might operate provides perfect fodder for a follow-up episode of *Yes, Minister*. The terms of reference of how such bodies operate matter. As does the provision of adequate resources for functioning. Keeping our elected leaders accountable surely forms part of what defines a democracy. Appropriately funding a state-based watchdog as well as setting up a federal equivalent is well overdue. – Cleveland Rose, Dee Why NSW

Robodebt redux?

Isn't it wonderful that at least 16 publicly-listed companies have "chosen" to repay more than \$125 million in JobKeeper subsidies because their businesses remained in profit. Gerry Harvey, however, with massive profits, prefers not to. I have a great idea to get him and others to comply. Let's start "robodebt for business". It worked for the most vulnerable in our community, squeezing every last cent, frequently wrongly, from those with very little money, with reckless regard to the effect of someone's last dollar being taken, and no effective way to appeal. The different ways these two groups in our community are treated is obscene. – Judy Aulich, Giralang ACT

Stand-up comedy in budgie smugglers?

(Former PM Tony) Abbott would make a terrific stand-up comedian, if he wasn't being serious. This same man promised there would be "no wrecking, no undermining and no sniping" when deposed as Liberal leader, then spent his remaining time in Parliament pursuing his personal vendetta against his deposer. His political career will be remembered primarily for delaying our response to climate change and for being the subject of (former PM) Gillard's misogyny speech. – Alan Marel, North Curl Curl NSW

Too many consultants

The federal government's spending \$850 million on consultants is a slap in the face for real employees. It could also be a roundabout way to look after mates. We need an open investigation. – Sankar Kumar Chatterjee, Evatt ACT

Police are not the final arbiters of justice

PM Morrison is wrong to say police are or should be final arbiter of our justice system: a well organised independent inquiry is often the way to go to sort out allegations of impropriety. An inquiry could sort out allegations against Attorney General Christian Porter, who has shown poor judgement in a number of ways, including persecuting Witness K and Bernard Collaery, and others, for upholding best legal and moral ethics. – Rob Wesley-Smith, Howard Springs, NT

Too traumatised to protest publicly

I know of women who were unable to attend the women's March 4 Justice this week, in Canberra or anywhere. Those were women who had, during the course of their lives, experienced rape. Just attending the rally was too confronting for them. Enough is more than enough. – Jane Timbrell (photo), Reid, ACT



Too small to stoush: send in the students

If the US-China discord continues, our relationship with China will continue to suffer as will our farming and mining industries, hospitality industries and also our educational institutions. The US can afford to continue its stoush with China but as a small nation we cannot. Our main unhappiness with China is based on ideological grounds. If we are genuinely interested in affecting China's ideology, we should encourage more Chinese students to come here to study. When they go back home, they may take our democratic values with them and both nations will benefit. Australia has suffered immensely due to its blind support of a deranged US China policy. – Bill Mathew, Parkville Vic

CLA's main activities for March 2021

CLA President Dr Kristine Klugman attended the March 4 Justice rally outside Parliament House in Canberra last month, and CLA members Australia-wide joined in personally, by supportive letters to the editor or in other ways.

"The push for equality for women at its most basic is a demand for equal rights and liberties, which Civil Liberties Australia obviously supports," Dr Klugman said.

"What is it about fair and equal that our male politicians and party power brokers don't understand?"

"There is no justification at a rights level, political level, party level or personal level for any man in politics to not act towards women with respect, care and consideration...just as they act towards other males. What's so hard to understand?" Dr Klugman said.

Appeal concludes: judges decision to come:

CLA member Sue Neill-Fraser's second Tasmanian Court of Criminal Appeal hearing began on 1 March in Hobart, and ran for three days of highs and lows stemming from wildly swaying evidence from a person who has denied – on and off, for nearly 11 years – that she ever stepped foot on the yacht *Four Winds*. However, she cannot explain how her DNA, in a sample the dimensions of an A4 sheet of paper, came to be aboard the yacht other than by her vomiting, which is a reason for the sample she has given during "on" statements. SNF remains in Risdon Prison, 11 1/2 years after being jailed for a crime of murder she did not commit, CLA believes.

Three results are possible: A finding of wrongful conviction (and effective acquittal) and Sue goes home; A finding of wrongful conviction, and the ordering of a re-trial, which would go ahead, or not, on the say-so of the Director of Public Prosecutions (and that would take another year or more), or the judges decide the original conviction is upheld, and Sue stays in prison. She becomes eligible for parole in August 2022.

Submissions:

Adult Literacy: Dr Des Griffin lead author

Human Rights Act (HRA) campaign:

Letter sent to Northern Land Council requesting meeting, with a view to initiating an NT-specific campaign; Matters about to escalate in WA, after landslide victory by Labor Party.

Media

Interview: Marcus Megalokonomos SBS Radio News (Rowlings): see story and audio links, above

Meetings

Senator Lidia Thorpe (Greens, Victoria) re national HRA. *Photo shows CLA HRA Campaign Manager Chris Stamford, Senator Thorpe and CLA President Dr Kristine Klugman*

WA:

CLA's WA Director, Margaret Howkins, is preparing a targeted program to convince new WA government to implement its standing (ALP) platform and public commitments over the coming year, and next three years:

- Introduce legislation for a WA Human Rights Act which leads Australia (platform commitment to progress);
- Legislate a Right To Appeal for a second (or more) time, if fresh and compelling evidence emerges (AG commitment), as in SA and Tasmania;
- End Police-Investigating-Police (PIP) for serious/major complaints and alleged crimes, and bring in a different, more equitable system (as demanded by Aboriginal groups, CLA and other liberties and rights bodies):
 - as part of the 'End PIP' program, reform the Corruption and Crime Commission WA;
 - rewrite the CCC enabling legislation; and
 - insist that the CCC and/or the new body investigating serious police complaints and alleged crimes is responsible for proper evaluation and analysis, with a view to prosecution, of ALL valid complaints made to it.



Other areas CLA will concentrate on include: raising the age of criminal responsibility from 10 to 14; the Dept of Justice prisoner censorship Inquiry which was promised in July/ 2020; prisoners' voting rights; addressing abysmal prisoner treatment re health, across both medical and dental matters; and alleged bullying by guards at selected prisons.

Series of papers by ANU Law students, facilitated by CLA, posted on the website during March 2021:

Mandatory Covid-19 Vaccination - an Ethical Shot in the Dark?

<https://docs.google.com/document/d/1ItTovgJkuNI8xRBvzLswj9Z8zI9hGRY/edit>

Does ACT Whistleblower Legislation Provide Adequate Protections?

<https://docs.google.com/document/d/1gjAvxSQwVXLvzWeRJoI1Xwi9liZ6Rw0T/edit?ts=5fd085bc>

The Arm of the Law and the Arms of the Clock: Directed Democracy?

https://docs.google.com/document/d/13PDOxepjVPDkwPxr-SlpnJmLkEQpdgRTIHaM2Cj8FTE/edit?fbclid=IwAR3LDsulHF_U-4rS4unpt_i-BSrApEUFITdIF9ApD_1h5h1FTDJpc3O6IE

Letter:

Call for apology from WA police to people wrongly named as persons of interest in Claremont murders (for example, an apology to Peter Weygers)

Petition drafted re ACT Human Rights Commission: with following terms:

That the ACT Government review the ACT HRA and the ACT HRC Act with a view to “no rights without remedy” – any right under ACT legislation be open to complaint to the ACT HRC, ensuring that:

- complaints appear consistently before an independent referee with both parties on an equal footing;
- access to remedies under the HRA and HRC Act for individuals whose rights have been breached;
- the ACT Government includes the option for individuals to pursue a formal complaint for remedy through the HRC;
- adequate funding and resources be provided to the HRC to reflectively perform these added roles and responsibilities; and
- this reform be implemented in the next ACT budget with evaluation in 2024, the 20-year anniversary of the enactment of the ACT Human Rights Act.

INTERNATIONAL

Kiwi peaceniks claim satellite launches breach anti-nuclear stance

Peace groups in NZ are trying to stop launches of US missiles from the Mahia Peninsula because their payloads may help the US nuclear program.

They want PM Jacinda Ardern to step in. The latest satellite, Gunsmoke-J, is designed to improve US military targeting in how data is provided to “warfighters”.

The satellite has previously been condemned by the Green Party, while a security expert has suggested it puts NZ into “the kill chain” and makes the nation a military target.

Non-profit group The Peace Foundation has now added to national concerns in a letter claiming the launch of such satellites may breach NZ’s nuclear-free laws. Some 17 civic, peace and religious groups, as well as the public, have endorsed the letter. <https://tinyurl.com/y7v4pvt>

‘Protect Everyone’: a new way to approach making law

Liberty UK has produced a ‘Protect Everyone Bill’ in one of the group’s most ambitious campaigns.

They have drafted legislation, in consultation with frontline groups, covering more than 10 areas – from policing to education – with more than 30 policy recommendations.

The Bill removes what Liberty says are the “dangerous powers” in the UK government’s Coronavirus Act and replaces them with clear and proportionate measures focused on public health, human rights and protection for everyone equally.

- It suspends the racist hostile environment for migrants.
- It respects disabled people’s rights and stops local councils from cutting social care.
- It ensures everyone in need has safe accommodation, including survivors of domestic abuse, homeless people and rough sleepers, migrants, and those in overcrowded housing.
- It makes sure everyone can meet their basic needs.

- It protects safe, socially distanced protests.
- It guarantees that MPs vote on lockdown restrictions, and
- It supports everyone in the UK to safely follow public health guidance. <https://tinyurl.com/y98sz7we>

Crackdown on free speech returns

Malaysia has moved to stop "fake news" about Covid-19 or the emergency proclamation – but in a way which gives the executive sweeping powers to curtail press freedom, including outside Malaysia.

The move is reminiscent of crackdowns on press freedoms by previous regimes.

The Emergency (Essential Powers) (No. 2) Ordinance 2021 last month bans people from spreading "fake news" in writing, videos, audio or any other form that may convey words or ideas, as decided by courts.

The new rules – passed in an ordinance, not as substantive law– over-ride the Evidence Act 1950 and give police the powers to arrest, enforce, investigate and inspect, all without needing a warrant. They can demand passwords, encryption codes, decryption codes, or software, hardware or any other way of accessing the data.

The rules apply regardless of nationality or citizenship for anyone spreading fake news, inside or outside the country. Failing to comply can send you to jail for three years, or cost \$30,000, plus \$1000 a day.

<https://tinyurl.com/yftk6wa4> Background: <https://tinyurl.com/yzz98vn9> – from Peter Dowding

UK govt to license rape and murder by its employees

UK police and spooks will soon be able to commit crimes with impunity, including rape and murder.

The proposed Covert Human Intelligence Sources bill (CHIS) will “authorise conduct by officials and agents of the security and intelligence services, law enforcement, and certain other public authorities, which would otherwise constitute criminality.”

The law would allow officials across a myriad of government departments and agencies to approve officers, agents, and assets to commit crimes without any risk of being sued or prosecuted. The crimes are not listed in the bill, but repeated amendments trying to enforce some constraints — banning the authorisation of rape, torture or murder, or restricting the use of children and the vulnerable as assets authorised to commit crimes — have all been defeated.

Under CHIS, criminal conduct can be authorised if it is deemed to be in the interests of national security; done to prevent or detect crime or disorder; or in the interests of the economic well-being of the UK.

There have been revelations of appalling police abuses against environmental, anti-racist, and trade union activists over the past few decades — yet former DPP Keir Starmer's UK Labour Party has abstained rather than opposed the bill. <https://tinyurl.com/y77wf896Covert>

Mexico to legalise pot

Lawmakers in Mexico have approved a bill to legalise recreational marijuana, a milestone for the country, which is in the throes of a drug war and could become the world's largest cannabis market, leaving the United States between two pot-selling neighbors. The 316-to-129 vote in Mexico's lower house, the Chamber of Deputies, came more than two years after the Mexican Supreme Court [ruled that](#) the country's ban on recreational marijuana was unconstitutional and more than three years after the country legalised medicinal cannabis.

The measure is widely expected to sail through the Senate before being sent to President Andrés Manuel López Obrador, who has signalled his support.

The measure would allow adults to smoke marijuana and, with a permit, grow a small number of cannabis plants at home. It would also grant licenses for producers — from small farmers to commercial growers — to cultivate and sell the crop. <https://tinyurl.com/yc8l9vq9>

International briefs

Judge says mandatory vaccination is legal

A judge in northern Italy has ruled that it is not illegal for health workers to be suspended if they refuse to have a Covid-19 vaccine. Anna Travia, the judge in the court of the Veneto city of Belluno, rejected an appeal from 10 healthcare workers who were suspended without pay by two care homes in February after refusing the vaccine, *Corriere del Veneto* reported.

Dutton's trash talking draws Kiwi ire

Australia's Home Affairs Minister Peter Dutton last month called New Zealanders being sent home by Australia "trash". Australia was "taking the trash out" by deporting them, he said. The comments drew an

angry political reaction in NZ, including from Foreign Minister Nanaia Mahuta. The deportees have committed crimes in Australia, and do not hold citizenship, even though many of them have lived here since they were children. The NZ government claims many of deportees have no meaningful links to NZ and are in fact, “products” of Australia. <https://tinyurl.com/y9dgl8hw>

DATES:

2021:

11-13 June, G7 meeting, England: Priorities set out by host Prime Minister Boris Johnson for his G7 presidency are four-fold: fighting against and recovering from COVID-19; climate action; free and fair trade; and shared values as open societies.

11-12 Nov, COP26, Glasgow, Scotland: The 26th UN Climate Change Conference of the Parties (COP26) in Glasgow, Scotland.

Early 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. Info: <https://tinyurl.com/u99bbks> 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 and Prof Asmi Wood of ANU <https://tinyurl.com/vfmsqaz>

2022:

EU: Applications for the European Master’s in Human Rights (EMA) – details for the 2022 year. EMA is a residential and exchange program: The Feb to July 2022 semester takes place in one of the EMA participating universities within the member states of the EU plus the UK and Switzerland. <http://gchumanrights.org/>

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 25 March 2021.

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