

Chapter 3 – Civil Liberties Australia

Expanding freedom from the centre outwards

As faster transport and near-instant communications began to overcome the “tyranny of distance” of Australia in the late-20th century, civil liberties in general was not moving far, or fast. In the Australian Capital Territory, a civil liberties group operated for 30 years from 4 June 1969. But as power centralised in the federal parliament, civil liberties in Canberra was down to its last person standing.

The Council of Civil Liberties of the ACT formally died at the end of 2001, when the Registrar of Incorporated Associations cancelled its incorporation because the group had not lodged annual returns for three years. When the authors became aware in mid-2001 of the probable de-registration, they sought advice from then-ACT Chief Justice Terry Higgins (photo, with CLA President Dr Kristine Klugman), and were directed to Laurie O’Sullivan, a retired barrister who had run the organisation for all but the last five years of its existence. He bitterly related the tale of the ACT CCL’s death (see ACT Chapter).



A nation’s capital obviously should have an active civil liberties watchdog, so the authors decided to incorporate a new body. To ensure it began life free of past political baggage (see ACT chapter), the name chosen was Civil Liberties Australia (ACT) Inc.

As CLA was being born in the latter half of 2001, western life and liberty was collapsing. No-one knew when two aircraft crashed into New York’s Twin Towers (on ‘9/11’, or 11 September 2001) by how much or for how long. However, an obvious and significant impetus for a civil liberties group in Canberra and stronger presence nationally was the rapid introduction of draconian anti-terrorism laws in early 2002 into the federal (and later state) parliaments. The laws did and do infringe on people’s rights in ways unprecedented and unimagined when CLA was in gestation.

On 10 December 2003 (UN Human Rights Day), the ACT Registrar signed the CLA (ACT) incorporation certificate, creating a formal association, A04043¹. A media release said that CLA (ACT) would act as a watchdog, catalyst, publicist and educator, seeking to offer protection to people in both the private and public sectors.

¹ ACT Registrar-General archives

The authors had gathered a small group of friends to form a board, including Laurie O'Sullivan, and asked associates likely to join for support. They advised key people behind the Council for Civil Liberties of NSW, the then-former President John Marsden, and the mainstays of the group, Ken and Berenice Buckley, of the establishment of the new civil liberties group, with a view to close working relationships. John Marsden was later honoured to become a patron of CLA, a solid supporter in person and spirit right to his death on 18 May 2006.

The first annual report of Civil Liberties Australia (ACT) Inc. – for three weeks of 2003 and for all of 2004 – was delivered to the 2 April 2005 AGM². The original committee members from inauguration to that date were: Laurie O'Sullivan, William Rowlings, Kristine Klugman, Kathy Klugman, James Staples, Diana Simmons, Liz Shaw and John Shaw. The former mainstay of civil liberties in the ACT, Laurie O'Sullivan, was made a patron of the organisation (see details: ACT Chapter). Both Mr O'Sullivan and Mr Shaw had died by the time of the 2005 AGM.

The first committee was diverse: Rowlings and Klugman were partners. He was a former journalist, PR consultant and public sector manager. She was a former double-certificated nurse and then, in stages, an historian, community service researcher (including into law reform and magistrate courts) and manager, and IT policy-political specialist (with BA degrees in History and Community Studies to match, as well as a PhD in Politics from ANU). Kathy Klugman, Kris's daughter, was a middle-ranking Department of Foreign Affairs and Trade diplomat at that time. Sydneysider Diana Simmons came from a life as a senior military wife in the US, but was the then-partner of James Staples, the notorious-famous industrial judge effectively sacked by Prime Ministers Bob Hawke and Malcolm Fraser by abolishing one industrial relations body and creating a new one, re-appointing everyone except Staples³.



Liz Shaw had managed home-making and family raising in odd spots around the world, all the while as amuensis to husband John (photo) who died in August 2004⁴. He had been a doyen of Australian foreign correspondents who had headed bureaus for *Time* magazine and also reported for the *NY Times* and the *Washington Post* from Singapore through Saigon to the Middle East, Rome, Moscow and places in between. John had also worked for the UN Environment Program in Africa for three years and he and Liz earlier had been editors for a number of years of the NSWCCCL bulletin.

² Available at: <http://www.cla.asn.au/News/cia-reports/>

³ Personal knowledge; <http://www.smh.com.au/comment/obituaries/obituary-james-staples-20160504-golv4f.html>

⁴ <http://www.smh.com.au/articles/2004/08/24/1093246527667.html>

The CLA committee for 2005–2007 was Kristine Klugman, William Rowlings, James Staples and Anthony Williamson, then an ANU law student and volunteer firefighter (and a decade later a senior prosecutor with the ACT Director of Public Prosecutions).

Aiming to protect...and predict

The principal activity of the association was to “uphold and promote natural rights, freedoms and responsibilities whether secured in law or otherwise”⁵. Less formally, the aim was to protect people’s liberties and freedoms.

At first, other people’s hard work produced success. The ACT became the first jurisdiction in Australia to legislate a Human Rights Act, from 1 July 2004⁶. Victoria followed about two years later⁷. CLA was supportive of the latter processes of these campaigns.

More generally, a new terrorism put liberty and freedom on the back foot nationally and internationally. The decades since have been a hard, uphill slog as western nations turned inwards and erected dark defensive walls, trying through laws restricting good and obedient citizens to make barriers for non-law-abiding terrorists.

Support for CLA came from individuals, particularly from letter-writers approached after their thoughts had made the pages of the *Canberra Times* and, later, other daily publications throughout Australia. Over time, this method of gaining a core of CLA members produced a wonderfully diverse and educated resource of experienced people to keep a close eye on the civil liberties and human rights of people and the excesses and omissions of governments, their agencies, instruments and contractors.

As well as calling on the specialist knowledge of the roughly one-quarter of members who are lawyers, CLA has been most fortunate to have a wide range of experts available from across disciplines and locations to bring specialist knowledge to bear.

From the beginning, CLA tried to anticipate significant issues and to set the agenda for public discussion ahead of time. With governments in Australia inherently opaque, and actively non-transparent, too often citizens are caught in reactive mode, when change to policy is well nigh impossible. This has been evidenced by the production line for two decades of horrific “anti-terror” laws, trotted out by police and security services year after year, with no firm evidence of the need and little justification other than that they – the authorities – “must” have them.

⁵ <http://www.cla.asn.au/News/cia-consitution/>

⁶ <http://www.legislation.act.gov.au/a/2004-5/current/pdf/2004-5.pdf>

⁷ <http://www.humanrightscommission.vic.gov.au/index.php/the-charter>

Since forming, CLA has held quarterly board meetings, with annual general meetings and election of officers every second year. People who have served on the board reflect the diverse and talented nature of those interested in civil liberties. The number is small, but the quality is high: to 2018, these people have been Board Members of CLA:

William Rowlings
 Kristine Klugman
 Laurie O'Sullivan (and Patron)
 Liz Shaw
 John Shaw
 Kathy Klugman
 Diana Simmons
 James Staples
 Anthony Williamson
 Lance Williamson
 Vic Adams *(photo)*
 Kevin Popple



Amanda Alford
(photo)
 June Verrier
 Max Jeganathan
 Jessica Mohr
 Melissa Hinson
 Tim Vines
 Anne Cahill Lambert
 Noor Blumer
 Frank Cassidy
 Darren Churchill
 Phil Schubert



Rex Widerstrom
 (WA) *(photo)*
 Saskia Vervoorn
 Richard Griggs
 (Tas)
 Rajan
 Venkataraman (Tas)
 Mark Jarratt
 Jennifer Ashton
 Margaret Howkins (WA)
 Sam Tierney
 ...and John Marsden (NSW, Patron)



In 2007, the organisation's formal name changed to Civil Liberties Australia Inc. from Civil Liberties Australia [ACT] (Inc), thus dropping 'ACT'. The proposed change was endorsed by the AGM in 2007⁸, reflecting the reality that CLA concentrated on national rather than state or territory issues (about 95%-5%). The change also permitted bringing in to the CLA fold those states, territories and regions which did not have an active civil liberties organisation. The change was part of an ongoing national, rural and regional outreach program decided by the Board, which continues.

In 2008, CLA tried to secure funding for all civil liberties and human rights bodies from the Australian government by utilising a pool of existing funds regularly topped up 'automatically'. We asked the then-Minister for Home Affairs, Bob Debus, to add one line to 'proceeds of crime' legislation (which was then under review for other reasons) to allow liberties and rights bodies doing pro bono work for the good of the community to apply for funding from this 'inexhaustible' source. Though supported by Minister Debus, the proposal foundered within the government. CLA's position on this issue has since changed: the Board resolved in 2013 not to seek funding from government to avoid compromising CLAs' ability to speak out on controversial matters. CLA has never received any government funding.

In 2009, CLA held its first electronic AGM (eAGM). Director/Webmaster Lance Williamson and CEO/Secretary Bill Rowlings devised the methodology and timing for this innovative approach, which we believe was a first for any Australian organisation, in holding an entire eAGM online (only people without a separate email address vote by mail).

⁸ See CLA annual report 2007: <http://www.cla.asn.au/News/cia-reports/>

In 2010, there were major administrative improvements to CLA's member and financial database and the ease with which it could be used and administered. The improvements were a significant achievement of the Webmaster Lance Williamson, and Treasurer Kevin Popple.

CLA by 2010 had members in every State and Territory, and nearly half the then-250 membership lived outside its birthplace⁹. CLA's electronic AGM (eAGM) catered for this far-flung membership, and allowed the remotest person to have an equal say. The Board and members expect that, wherever they live in Australia, members will increasingly use electronic communications to actively contribute to policy development, preparing submissions, writing articles and commentary and generally being involved in CLA matters.

As membership grew, the financial stability of the organisation rose along with it, under a Board policy of frugal spending, with original Board Members contributing time, effort, skills and some resources (air fares, accommodation, etc) without charge.

CLArion and communications

From the outset, the regular newsletter *CLArion* has been a vital communication tool, drawing member and outsider support and approval since its first edition on 12 December 2003. The monthly newsletter goes electronically to most members and is posted to the small number without an email address or who prefer hard copy. Secretary Bill Rowlings has produced *CLArion* to a very high standard, and it is available widely to MPs and rights/liberties and associated audiences, keeping people throughout Australia informed of freedom issues and activities.



CLA has been more active than other civil liberties/human rights bodies in Australia in trying to extend the two-way communication between organisations that could lead to cooperative approaches, saving duplicated time and effort, and effectively speaking with one voice. People comment on the newsletter's comprehensiveness and usefulness in reporting what is happening in other states and territories of Australia, and nationally, as well as important developments internationally. In early 2014, *CLArion* celebrated its 120th edition, 12 a year for 10 years, without missing a deadline. It is regularly archived by the National Library of Australia, along with the CLA website¹⁰, and will provide a rich historical resource down the track.

⁹ CLA annual report 2010 at: <http://www.cla.asn.au/News/cla-reports/>

¹⁰ <http://pandora.nla.gov.au/tep/64119>

The website – and from 2016 a Facebook page also – is an invaluable asset to CLA. CLA was fortunate to have had a founding webmaster who created the site and diligently kept its operations and contents current and working, and a CEO to ensure content is high quality and relevant. The CLA website, launched on 24 April 2006, was the most significant development in the growth of the organisation. The site contains all CLA's basic information, media releases, submissions, articles, cartoons, and opinions, and is a vehicle of growing importance to the future of CLA as the world turns more electronic. It also contains links to kindred organisations and information nationally and internationally. In 2011 the website was "refurbished" and renewed with new operating software, and bedded down as the mechanism for new members, membership renewals and administrative management. In any year, CLA publishes hundreds of new items. By 2018, it was time for refurbishment, and a new website style/design launched in March.

The website naturally draws requests for assistance. CLA's policy on such requests is that, firstly, they must be in writing (usually email), and no longer than the equivalent of two A4 pages. The reason for this requirement is that people who are very close to issues sometimes are quite emotional and tend to cloud core facts with lengthy asides and irrelevancies if there is no limit on length. Secondly, CLA's responses are offered as commentary/support on the situation, and not as advice. In particular, there is a disclaimer that CLA is not licensed to offer legal advice, and does not do so. Thirdly, CLA tries to provide options for seeking further action/support – legal aid or pro bono sources, ombudsmen, government departments or agencies, appeal for help to MPs, etc – where people who are employed by the government can provide the help they are paid to give (by contrast, all CLA's people are volunteers). After more than a decade of maintaining a quality website, the number and range of questions have reached a stage where they and the answers are also a resource.

Focusing on national needs, through rural and regional networks

Interstate meetings held first in Sydney in June 2005 at the instigation of CLA, and in Melbourne in 2006, aimed to improve interstate co-ordination between the main civil liberties bodies in NSW, Victoria, Queensland, South Australia and the ACT. At first, the signs were very promising, and the CLA newsletter, *CLArion*, reported in July 2005 that "*A two day meeting of five State/Territory civil liberties organisations has decided unanimously to form a national civil liberties entity. One of its primary focuses will be campaigning for a national Bill of Rights.*"

However, original goodwill soured and the attempt was not successful (see National Chapter). After that failure, CLA decided to expand civil liberties engagement in cities, rural areas and regions where there is no established liberties presence or apparently a lack of consciousness and activity. Thus, early on, CLA investigated the situation in WA, SA, the Northern Territory and Tasmania (see following chapters).

Western Australia:

In 2007 CLA undertook prior desk analysis then an extended research and assessment visit to WA. The aim was to find out if it was possible to partner with the existing local group, the Council for Civil Liberties of WA, or whether it might be necessary to form a new group based in Perth. This question had arisen in 2005 among other east coast liberties groups (not at that stage involving CLA), who resolved to try to form a new organisation in WA. As no action had been taken on that proposal, CLA proceeded to re-assess the situation to take action if needed. President Dr Kristine Klugman and CEO/Secretary Bill Rowlings spent two weeks meeting a wide range of people to assess the local situation. The WACCL people themselves were extremely cordial and welcoming, and took part in about 16 hours of discussions and social gatherings. While their commitment to some civil liberties principles was unquestionable, it became obvious that the WACCL's structure, record-keeping and method of operating was at such great divergence from that of CLA that a partnership would not be practical. The report to the CLA Board on that study visit is now a useful historical document¹¹.



CLA President Dr Kristine Klugman in discussions with WACCL President Peter Weygers in Perth in 2007.

Instead, CLA invited individuals from WA to join CLA, and appointed a Director from Perth. In 2012, WA Director Rex Widerstrom appeared as a 'friend of the court' for children, one 17, about to lose their family house and thereby helped to raise the inequity of WA's (and other jurisdictions') property confiscation laws. In 2014 Rex was very active in prisoner and prison reform issues, with Indigenous people in the northern part of the state, and in keeping close watch on the sometimes over-the-top statements of police and transport ministers. In 2016 there were local moves to revitalise the WACCL, with its links to CLA still to be decided. CLA had gained new and active members, like the police-monitoring campaigner Margaret Howkins. There was a strongly emerging sense that rights and liberties – police matters, prisons (particularly the jailing of juvenile Indigenous people) and legal/justice issues – needed far more attention from the state government than they had received in recent decades.

¹¹ Available from CLA: also, see WA Chapter

South Australia:

A significant initiative during 2009 was a formal CLA visit to Adelaide SA due to Board concern that there were too few voices speaking out against state government excesses, particularly over anti-motorcycle club legislation (the “bikie” laws). President Klugman and CEO Rowlings met with key CLA members from Adelaide as well as with leading members of the SA Bar, Law Society and the community, including Law Society President John Goldberg and noted community advocate, Judith Worrall (photo).



An option was to escalate CLA’s activities in South Australia; however, after discussion with influential members of the SA Council for Civil Liberties and supporters, it was decided the best approach was to help resuscitate the SACCL.



Barrister Claire O’Connor (photo) took over as President of SACCL. CLA’s support for its resurgence initially helped ties between the two organisations, but the communication had limited success subsequently, in spite of the best efforts of CLA. SACCL is a comparatively quiescent group, despite significant instances of miscarriages of justice in that state. In 2016 CLA asked in an Australia Day letter for Premier Jay Weatherill to call a “royal” commission or similar powerful inquiry into the SA justice system, but the request was formally rejected. Justice in South Australia will remain tilted for decades if the state does not have a major, cleansing inquiry into its legal, forensic, police and justice systems and how they have failed the state in numerous ways, going back to the 1960s. The flow-on effects continue: a more active civil liberties presence would help.

Northern Territory:

The board of Civil Liberties Australia voted to evaluate whether it was appropriate to form a distinct CLA group in Darwin. The previous group had ceased functioning (see NT Chapter). President Klugman and CEO Rowlings were asked to investigate and report during non-connected travel to the region in mid-2011. This report (excerpt below) stems from a period of six months preparing for the visit to Darwin, and 11 days in Darwin conducting 26 separate interviews, in June 2011.

Overview:

Darwin is a frontier town, “*a very challenging environment*”, as one person put it. The town, like the Northern Territory, is brash, young, enthusiastic. It dislikes authority and over-regulation, which means it should at first glance be ideal civil liberties supporter territory. But “human rights” lacks resonance, we were advised: “fair go” is a better term instead. Darwin and the NT are different from the rest of Australia:

“People are against any regulation affecting ‘Territory lifestyle,’” we were told.

The people we met with were intelligent, committed and dedicated. A small community of aware people mostly know each other well. There’s a need, though, for the threads of individual and organisational initiatives to be drawn together, communicated around a series of connections and networks, to achieve best overall leverage.

The good things that are being done by both government and non-government groups need circulating and publicising, within Darwin and the NT, and nationally. CLA is well placed to help in that regard, because the good people with highly-developed social consciences tend to be over-committed, and any networking that leverages more outcomes for the same effort is likely to be welcome.

And it needs remembering that the numbers are small, and therefore so is the talent pool, particularly among political operatives and the public service. With the best will in the world, Darwin and the NT cannot always attract the best people.

There is considerable potential – and need – for a civil liberties body in Darwin. While we were there, membership of CLA in Darwin reached nine people, which is sufficient for a group to start. We recommend that CLA’s Board support and facilitate the formation of a group in Darwin, and encourage the emergence of a local convenor/ leader and spokesperson (who may or may not be the same person), leading to having a Director from Darwin on the CLA Board.

“Darwin...it’s where raw meets potential, the last Aussie urban frontier, and both good and bad are over the top. If you’re seeking problems, Darwin’s the place to look...but they come surrounded by gilded opportunity: you can make what you like in Darwin, including yourself...”¹²

As of 2018, CLA had many committed CLA members working in individual ways for community good, in the NT. At the request of the Board of CLA, a formal visit to Darwin was planned to rejuvenate the local organisation, and to commemorate the highly unusual founding circumstances of a local group back in the 1970s (see NT chapter).

Right: CLA Darwin member Rob Wesley-Smith with the Timor Leste Ambassador to Australia, Abel Guterres, in Canberra in September 2013.

Rob has been awarded the nation’s highest honour, the Order of Timor Leste, for his services during and after the time TL was under Indonesian rule.



¹² Available from CLA: see NT Chapter

Tasmania:

The CLA Directors became aware that a Tasmanian civil liberties group had folded due to the death of the former mainstay Paul Storr (see Tasmania Chapter). CLA was delighted when former policy adviser to the ACT Legislative Assembly Speaker, Richard Griggs, volunteered to become the go-to man in Hobart, where he had returned to live. In April 2013, Richard was appointed Tasmanian Director and state spokesperson for CLA.

Under his leadership and example CLA membership in Tasmania has grown steadily in recent years. With the help of *Mercury* journalists, Griggs was very successful in achieving major mainstream media coverage on the significant moral questions in which Hobart and Tasmania seem to specialise. Richard was joined as a Director in 2015 by Rajan Venkataraman, another former Canberra CLA member, with a background in federal foreign policy, trade and parliamentary issues. His special talents help CLA manage its quality submission to government inquiries process.



Tasmanian group members come from a rich tradition of political, community and environmental activism: they comprise a magnificent resource through their diverse experience, which extends from parliament to police to protestors. National issues that CLA first became involved in through Tasmania include:

- support for a private member's bill on voluntary euthanasia;
- criticism of unexplained wealth proposals which have since become law;
- election promises from the Liberals to create mandatory fines of \$10,000 for protestors who block access to a workplace and mandatory three-month jail terms for repeat protestors;
- 'no protest' zones around abortion clinics;
- discriminatory provisions about schools' accepting students;
- anti-discrimination legislation in relation to freedom of speech, and
- from 2017, a statewide campaign led by Griggs for a Tasmanian bill of rights.

Innovations and lessons...

Over the near one and a half decades at the time of writing, CLA has undertaken many interesting projects. Some were more successful than others: some taught valuable lessons.

Analyzing Annual Reports

The expertise of members was harnessed to analyse the annual reports of government departments and agencies. These evaluations led to follow up correspondence, press

In the 10th annual report (see website), in 2013, CLA outlined some of its activities:

Highlights of the first decade:

We have achieved reasonably well in our first decade from incorporation on 10 December 2003. The battle is continuous, but with members' help we have had some significant achievements through what was arguably the hardest decade in Australia's history for liberties and rights. Following the terrorist attacks on the US in 2001 and bombings around the world, draconian legislation has been introduced, ramped up through fear mongering by politicians, police, security and defence forces. While perhaps not their motivation, it is undoubtedly in their own self-interest – more staff, funds and equipment – that the level of fear in the community is kept high. Laws brought in to catch terrorists have impinged on us all, and we are less free in 2014, more controlled and much more surveilled and spied upon by the state than 10 years ago. Against that background, CLA has:

- started groups in Tasmania, WA and NT, and helped revive activity in SA
- planted a Liberty Tree in the National Arboretum
- been accepted by the national parliament as a legitimate voice for civil liberties
- maintained a high quality monthly magazine *CLArion*
- developed and maintained an excellent, easy-to-read and constantly-topical web site
- formed links with universities, and encouraged internship students
- improved government departments' annual reports through our critical analysis
- raised important issues at DFAT-AG NGO consultations
- placed articles in major media outlets, consistently, and featured in numerous radio and TV interviews
- established a credible national and local media spokesperson role
- held regular quarterly board meetings
- introduced the eAGM - the only organisation to our knowledge which holds AGMs electronically (that is, all aspects of the AGM)
- maintained an operating surplus and contingency buffer solely on members fees
- formed productive links with like-minded organisations, such as the Australian Privacy Foundation, and reinvigorated friendly relationships with other civil liberties and human rights bodies
- battled with some success – if only slight – in moderating excesses: gene patents, bikies, terror laws, unexplained wealth, and discrimination
- gained the support of outstanding people as members
- received 'corporate' acknowledgement when Secretary/CEO Bill Rowlings was awarded an OAM for 'services to civil liberties and human rights' in June 2013
- attacked miscarriages of justice, particularly in the NT and Tasmania
- celebrated the 10th anniversary by screening an award-winning film, *Shadow of Doubt*, on a major miscarriage of justice case on which we are working, and
- created Australia's only national civil liberties body.

releases, and questions on notice in the federal and ACT parliaments. The analyses also armed CLA with information for further critical inquiry, and provided a benchmark against which to judge future annual reports.

CLA concentrated part of its monitoring on the performance of Australian Federal Police and its 'business unit', ACT Policing, particularly its 2005 and 2006 annual reports, where many fundamental discrepancies were found. The reaction of critiqued departments and agencies? Just take out that section, or that table, next year – in one way, CLA's work diminished the amount of reporting being done! The concept of examining in detail what important departments and agencies say about themselves annually has lapsed for lack of members willing to undertake the annual analysis. Ideally, one person becomes the expert on one organisation. Volunteers are welcome!

Protest rights at Parliament House

For three years across 2004-7, CLA waged a battle by letter and verbally with the "owner/managers" of the Australian Parliament building and surrounds, the Presiding Officers (President of the Senate, Speaker of the House) and the Superintendent of the AFP in charge of parliamentary security to clarify the rights of people protesting outside the federal parliament. It is little known that there is a designated protest area set aside (about 10m x 40m, see photo below) across the road from the large forecourt, where Australians and others have a right to protest without interference from police or security guards.



Photo: AFP security people – against their own guidelines – demand personal details from lone protestor, Rowan Ford, holding a sign in the protest area in mid-winter Canberra. The rugged-up figure with back to camera is CLA's President, Dr Kristine Klugman.

In fact – as CLA established – it is actually the officers' and guards' duty to assist protestors in that area, provided they are obeying simple rules and acting reasonably, and it is NOT the right of the police or guards to hassle the protestors, or to force them to show ID and give their address, car number plate and phone number. This is a battle that is likely to require repetition every decade or so. The contretemps revealed that the Presiding Officers were so beholden to the AFP and "security" that they would not direct the Superintendent to instruct his officers that liberties and rights should predominate over heavy-handed bullying and harassment.



Offering help to the Australian Federal Police and Defence

In discussion with an innovative officer in the Australian Federal Police in mid-2004, it emerged there was an opportunity for CLA to prepare a series of lectures which CLA people would deliver to AFP people while they were in their final days of training before deployment to “peace-keeping” duties in the Pacific. The AFP realised police officers on deployment needed to know far more about liberties, rights and freedoms in their day-to-day, cooperative – and training – role working alongside islander police, than they needed in their working lives within Australia.

The series was at final approval stage within the AFP hierarchy when an outbreak of violence in Honiara saw an AFP officer shot and killed, causing an escalation in tension and putting paid to the lecturing concept temporarily. It didn’t survive the setback.

During 2005, CLA undertook a lecture at the Australian Defence Force Academy to the junior class of some 120 students about human rights in relation to their roles as

officers, in training (including their rights and responsibilities at nightclubs, for example), when officers, and when deployed later in life.



Left: CLA Director Vic Adams (small figure, far left) and President Dr Kristine Klugman, lecture to ADFA students.

The lecture was excellently received by the students and their course coordinators. It led to a proposal by CLA for the forming of a civil liberties student group on the ADFA–Uni of NSW campus. Defence boss, Air Chief Marshal Angus Houston, declined the offer, saying the Defence Force’s house was in order in relation to bullying, hazing, sexual assaults, etc. For the next 10 years, year after year, revelation after revelation emerged as to how poorly Defence was handling, and had handled, cases of sexual assault at that time and over the past half century. Those issues are still being resolved.

Both police and defence trainees would benefit, as would civil society – if liberties and rights groups were encouraged to assist with their education.

Cartoon exhibition

In 2007, CLA created a cartoon exhibition principally organised by then-Director Dr June Verrier, with assistance on sponsorship-fundraising by President Dr Kristine Klugman. Some 75 cartoons on civil liberties and human rights themes from 20 cartoonists throughout Australia (and one from the UK) were gathered and reproduced on foam-core board for display. The cartoonists were extremely generous in donating their work.

With strong support from the then-ACT Speaker, Mr Wayne Berry (a CLA member), the cartoons were first seen for two weeks in the ACT Legislative Assembly building. At the formal opening, the Speaker told of the importance and impact of cartoons, while cartoonist and CLA member, Ian Sharpe, delivered a quality address which outlined how cartoonists themselves are bellwethers for the rights and freedoms of society (reaching a deadly climax in attacks like those on Charlie Hebdo in Paris in 2011 and 2015).

CLA's cartoon exhibition was also shown at the National Europe Centre at ANU and in the Goulburn Library in NSW.



Photo shows Marli and Kevin Popple, then-CLA Treasurer, inspecting the cartoons at the ACT Legislative Assembly – Eric Li photo.

Police car chases

A mainline activity in 2008, which continues to reverberate around states and territories a decade later, was the Clea Rose initiative. CLA worked with the family of Clea Rose, a 21-year-old university student killed by a car driven by a 13-year-old driver during an unnecessary police chase in Canberra's city-central pedestrian/bus/taxi mall in July 2005. CLA and the family developed the 'Clea Code', a new set of guidelines for police to decide whether to involve themselves in a car chase and whether to continue a chase once started. CLA believes that, as well as a better code, police should have initial special car chase driver training, then follow-up training every two years, and should not be permitted to be involved in a car chase unless their car chase driving certification is current. In the ACT some elements of better chase guidelines finally came to fruition in 2016, eight years after project launch!

Anzac: anti Oi Oi Oi

In another initiative with a long-term focus, CLA prepared an “Anzac Day” sub-set of the CLA website. It allows people from all perspectives to say what Anzac Day and the Diggers’ story means to them. The aim is providing a balanced perspective on military endeavours. CLA wants Australia to avoid the type of Anzac Day celebration characterised by the phrase: *Anzac! Anzac! Anzac! Oi! Oi! Oi! ...* which is what the commemorations will eventually become, based on their current trajectory. The government – both Liberal who started it and Labor who have willingly followed – appear to think that Anzac Day is a day for politicians to wrap themselves in the Australian flag, and that Diggers are crutches for politicians wanting to win elections.

Australia Day letters

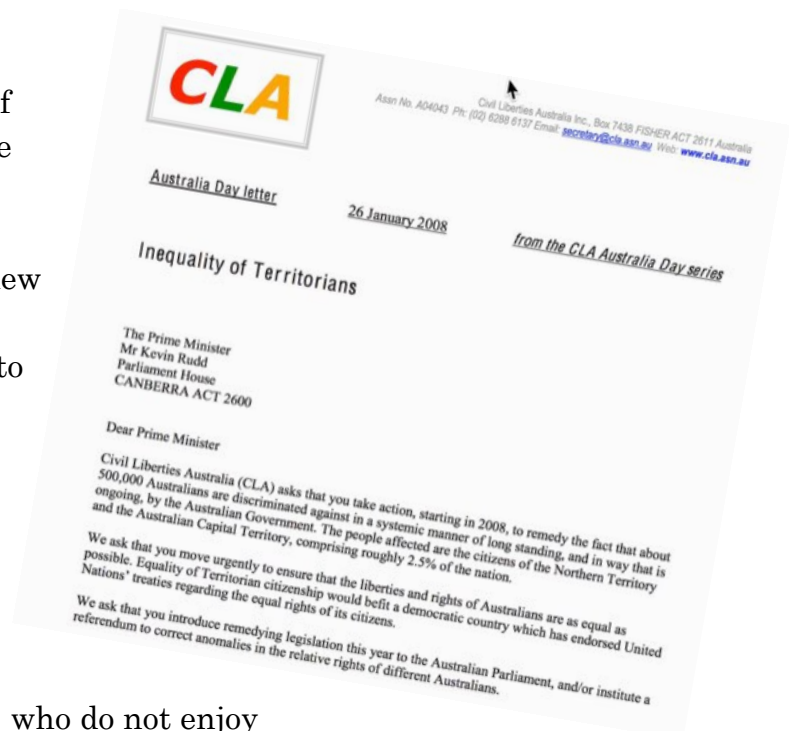
One highlight each year is the release of CLA’s Australia Day letters. These have become an exclusive annual ‘signature’ activity of CLA, on Australia’s annual special occasion. The letters highlight new issues, or new angles on old issues, and try to set the agenda rather than react to it. For example, the 2008 letters called for the Prime Minister to instigate:

- an inquiry into civil liberties in Australia, run by the Senate, to establish what Australians’ liberties and rights are;
- an end to discrimination against residents of the NT and the ACT, who do not enjoy the same rights as residents of Australian States; and
- a fundamental re-assessment of how Australia declares war (or becomes engaged in military conflicts).

The letters in 2009 included one :

- to then-Attorney-General/Minister for Corrective Services in WA, Mr Christian Porter (in 2016 he had graduated to being a federal minister), asking that he make a personal commitment to reducing the percentage of Indigenous prisoners in WA jails from 43.2% to under 40% by Australia Day 2010, one year later. He refused. The figure is over 50% in 2016.

On Australia Day 2012, CLA highlighted an outstanding statement by Australia’s Prime Minister, Julia Gillard, on not allowing terrorists to change our lives and lifestyle or to lessen our freedom and democracy. CLA called for the PM to follow-up



her memorable words by establishing an inquiry to measure whether and how the lives and liberties of Australians have been changed by (then) 10 years of counter-terrorism measures. No such inquiry has ever been held.

In the 2013 Australia Day letter, we called for the Privileges Committee of the federal parliament to stop another parliamentary committee censoring CLA. Addressed to the Prime Minister, we received no response whatsoever on a matter of quite some importance in terms of parliamentary principle. One of the two 2016 CLA Australia Day letters asked President Barack Obama to pardon Edward Snowden and Chelsea Manning and to effectively pardon Julian Assange.

In 2018, we asked the Presiding Officers of the Australian Parliament to review the entire Committee system, which we believe is not working properly. We also asked all Attorneys-General in Australia to commit to introducing mandatory further education for people before they became magistrates and judges (and then ongoing professional development throughout their careers on the bench).

CLA only occasionally gets a meaningful reply to our Australia Day letters, but they invariably serve to raise issues and consciousness, enable the organisation to put out a media release in the silly season...and are markers of democracy's progress, or otherwise. Unfortunately, for 15 years of "terror threat", otherwise has been the direction in which the nation is headed.

Internships:

The development of a program for university law students has been successful with the Australian National University in Canberra and with the University of NSW in Sydney. Attempts with staff and students of other unis have been unsuccessful. Brooke Horne (photo) was CLA's first student intern.



In 2007, an ANU Arts/Law student and later CLA Director, Amanda Alford, undertook a three-month CLA internship jointly with the Senate, under the aegis of Harry Evans, then Clerk of the Senate.

Amanda established baseline information on the extensive legislation dealing with terrorism, and produced a rundown of the 50 new pieces of legislation (September 2001 to February 2007) with a view to making long-term (2-5 years ahead) plans for countering it when it is reviewed by the Australian Parliament. Her work was supervised by Ernst Willheim and Peter Ford (ANU), both CLA members, and both former senior executives in the Attorney-General's Department.

CLA's intern relationship with the ANU College of Law, through Peter Ford, was valuable in producing quality papers for CLA, a semester equivalent course credit for the student, and a contribution to the future thinking of Australian society. Others

who contributed by being supervisors of CLA interns include Dr Chris Michaelson, Dr Bernadette Boss (Brigadier and magistrate), Dr Emma Larking, Anthony Williamson, Dr Kristine Klugman and Tim Vines.

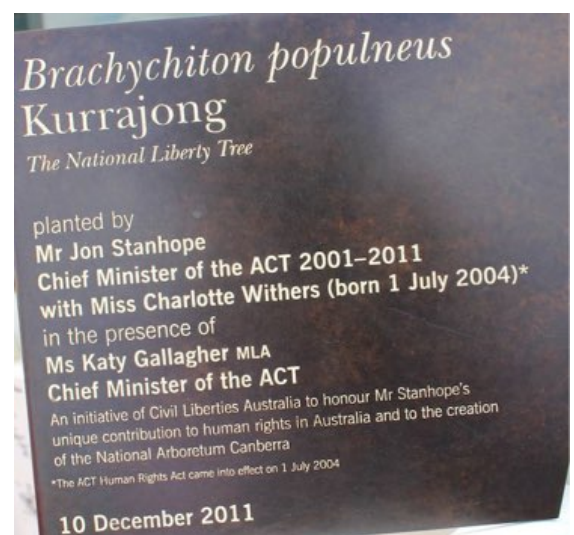
Other interesting work undertaken during internships includes restorative justice, police chases, rising waters and drowning Pacific islands, DNA testing re employment, study of civil liberties in Fiji and charter of rights for Pacific islands, coronial issues and systems in Australia, and proposed national “qui tam” laws (under which people could gain financial benefit by saving the government money when they blow the whistle on corrupt practices and people).

National Liberty Tree



In 2011, CLA organised for Australia to have a National Liberty Tree, a Kurrajong (*brachychiton populneus*, *shown at right, above*). It's growing in a prime position – above all other “dignitary” trees and adjacent to the children’s playground, at the National Arboretum in Canberra. The National Liberty Tree honours the first human rights act in Australia, which began in Canberra in July 2004, and the man who initiated that act, then-ACT Chief Minister Jon Stanhope. He was also the inspiration for the arboretum, first planted in 2005. To celebrate the tree’s planting and “launch” ceremony, there was a mail-out of Kurrajong seeds to CLA members in selected locations around Australia for local planting.

Right: The plaque at its base tells the story of the National Liberty Tree.



Model Litigant Obligations

This activity began in 2008 and lasted through 2010. CLA partnered with the Law Council of Australia, the Australian Lawyers' Alliance and the Institute of Public Administration Australia to put pressure on the Australian government to do more than pay lip service to the Model Litigant Rules, which aim to prevent the government acting as a legal bully because of its financial power. There is a need to revisit this area, where the principles are often flaunted, at least once a decade: in 2018, Senator David Leyonhjelm had tabled a private Member's bill which might have helped. Secretaries of government departments regularly ignore the regulations that require them to report problems in this area: the Attorney-General's Department pays only lip service to its legislated duty. One day, a responsible Attorney-General may act...if CLA can keep up the pressure.

Prisons and rehabilitation

CLA has consistently tried to keep alive the hidden issue of prisoner abuse, as well as the lack of education and training opportunities in jails and juvenile detention centres. Each infamous pre-election crackdown on 'law and order' produces more over-crowded prisons full of people with mental health issues exacerbated in the majority of cases by habits involving drugs. The issue was back on the boil in 2016 after abuse and riots at juvenile centres, and in light of the federal parliament's delay in ratifying the Optional Protocol to the Convention Against Torture, which it signed in 2009.

Genes, and gene patenting issues



Under now Vice-President Tim Vines, CLA mounted a major campaign on gene patents from 2013 through 2015. CLA teamed with MPs Melissa Parke (Labor, Fremantle) and Senator Bill Heffernan (Liberal, NSW, photo left) as well as cancer organisations to ensure genes could not be patented in Australia. A bill was prepared ready to be presented in the Australian parliament, if needed. Eventually the High Court ruled 7-0 that patents over DNA and genes were – and had always been – invalid. CLA's long-running 'Don't Patent Me' campaign (and website) came to an end.

In 2016, there were new attempts to copyright nature in Australia by major US agriculture companies wanting to own the rights to the genes of cattle.

DPPs and unrestricted power

A project began in 2015 to research and analyse the processes for appointing and overseeing Directors of Public Prosecution throughout Australia, and improving the consistency of their decision-making. People who hold these absolutely key positions,

who make fundamentally important judge-like decisions day by day, largely operate without public monitoring. CLA believes that should change.

Blue Paper concept

In a major initiative, CLA proposed in 2015-16 the concept of a Blue Paper before new or revised terror and security laws could pass the Australian Parliament. Then-new Senator Nick McKim (Greens, Tasmania), his party's federal justice spokesperson, adopted the idea and is promoting it in public forums. Parliament is accustomed to white and green papers being drawn up, and considered for many months, before major policy change occurs. CLA proposes a similar process takes place with a new series, blue papers, whenever any major new law or change in process, such as forming a new agency or new arrangements, is considered for police and security matters.

Better Justice

In 2016 CLA launched a 10-year, 10-point campaign to improve the state of justice in Australia. Aims include improving the quality of judging, through to prison education and regular police monitoring, with an overall conceptual bid to modernise the legal-justice continuum in the same way new technology transformed banking over the past five decades. By contrast with banking, where profit is a motive, the law moves with the pace of a disabled snail with a wig covering its eyes and a gown around its ankles.

Overall: BETTER JUSTICE...for the 21st C	
ACCESS: eJustice...start to bring legal procedures and practices into electronic age; create an online system for simplest magistrate cases	Engage with young lawyers and web designers to devise methodology
ACCESS: Costs/delay: use online & review for simple cases, plus McKenzie friends, "consultant" lawyers, for next rank of cases	Springboard off the online system for lawyer-level-according-to-need
QUALITY: Create formal learning system for judges, magistrates; introduce a reporting/accountability system for their decisions	Stringent review system akin to that of aviation crashes or medical mistakes
QUALITY: Develop a system to measure the output/impact of magistrates and judges, and DPPs (qualitative and quantitative)	Partner with a 'measurement' agency and uni to develop methodology (ies)
IMPROVE: 100-year review of basic laws, eg Crimes Act, for improved consistency across all Oz jurisdictions	Achieve 1/100-year reform, plus alignment of bail, sentencing, etc.
IMPROVE: Freedoms review by ALRC, plus trafficked persons/slavery, juvenile Aboriginal justice: BoR campaign in Queensland	Translate aspirations into day-to-day reality for citizens, more bills of rights
INNOVATE: Right To Appeal law in all jurisdictions; campaign for national or state/territory criminal cases review system, or similar	Create national or state/territory system to review judgements externally
INNOVATE: Create rolling Royal Commission into police services; address poss. similar problem among federal security/crime agencies	Avoid endemic problems by regular external reviews, on rotation
IMPLEMENT: OPCAT implementation, then annual inspection of prisons by independent outsiders; improve education in all prisons/states	Achieve legislation in all states and territories; develop e-prison programs
IMPLEMENT: System of 'blue' papers for any new police/spook law for consideration by federal or state/territory parliaments (like 'white' papers)	With federal MPs & Senators to create more robust analysis system.

Submissions...not even a postage stamp or a ream of paper

From the earliest days, CLA has made significant submissions to federal and state parliamentary committees on a wide range of topics. The traditional rule of law and Australia's formerly free, open and transparent society have undoubtedly suffered setbacks in the first two decades of the 21st century at federal and state/territory level, due to an overwhelming and excessive concentration by the Australian government on "security". Mainstream "anti-terror" legislation takes Australian laws away from the rule of law, while creeping ancillary clauses and regulations contain insidious provisions which cast an even darker cloud over civil liberties in Australia.

Once a politician starts to base his or her actions on fear, no amount for extra fear or wasteful “precaution” can be enough, because the question becomes: “When can I stop being afraid?”...and the self-served answer is: “Never!”

In 2007, CLA made a range of submissions, which easily exceeded business plan targets. These included data protection, access card, client legal privilege, medical consent, medical directives, WA Human Rights Consultative Committee and ACT watch-house review.

In June 2008 an Australian Parliamentary committee adopted sweeping changes recommended by CLA. The changes would dispense with previous laissez-faire government policies which exposed Australians to the death penalty overseas and ignored what happens to people we extradite to other countries. CLA’s submissions in 2007 to the Joint Standing Committee on Treaties (JSCOT) and the appearance of two of its Directors as witnesses were directly responsible for both these positive changes being recommended by JSCOT to Australian government policy. Fear of terrorism has peeled back some gains made in these areas, but CLA continues to monitor how the Australian government honours an individual’s human rights.



Left: CLA-organised protest outside Parliament House Canberra against the Trans-Pacific Partnership agreement. Speaker is Kelvin Thomson, then-MHR for Wills in Melbourne, and a long-serving chair and deputy chair of JSCOT.

The escalating number of requests for CLA research, analysis and expert commentary points to how much government relies on the “free” services of CLA and other legal, civil liberties and human rights groups. Overwhelmingly, volunteer members – often experts in their own field of law and/or society – provide detailed, quality commentary to improve draft legislation and regulations at no cost to government. CLA estimates that each submission, on average, would cost about \$10,000 at least to produce if it were done on a paid consultancy basis for government.

On this basis, CLA has averaged annually at least \$200,000 worth of value-added knowledge and expertise to governments (mainly the federal government) each year for rising 15 years. This amounts to nearly \$3 million worth of free, quality counsel to government: another handful of organisations would have done about the same (and detailed submissions, say from the Law Council of Australia, might have cost double

that amount over the same period, say \$6m). It is entirely inequitable that the federal government and state/territory governments provide no support or recompense, to CLA or similar bodies, for the massive amounts of unpaid expert counsel and advice the government receives...in fact, expects and depends upon... to make its legislation better. Not even a postage stamp or a ream of paper.

In 2011, CLA made 28 full submissions to federal parliament and major bodies, and 11 submissions to state and territory governments. The CLA Board subsequently decided formally to wind back submissions. Instead CLA provides short (2-5 pages if possible) submissions and then concentrates on getting CLA's key messages out in the media. In CLA's opinion, it is far more impactful – and MPs and governments take far more notice – to create a 10-12 sentence article in major news outlets, or generate 40 seconds of coverage on TV, leading to a buzz on social media.

Most MPs do not listen very well to people appearing before them at hearings...unless those people are in uniform or represent a viewpoint the MPs want to hear. MPs demand that CLA and like bodies produce “hard evidence” for statements and claims, but accept mere assertions from government departments and police/security agencies completely lacking in any evidence whatsoever. For example, detention orders against alleged terrorists were “must haves”...then weren't used for nearly a decade. There's good “intelligence” – at least equal to the quality of intelligence frequently relied on by police – that the first detention orders were used only so that the power would not be lost under sunset clauses in legislation.

In 2012, CLA warned, in writing and verbally at parliamentary hearings, that unbridled powers given to the Australian Crime Commission¹³ would rebound on the Parliament because reputations would be ruined on mere ‘intelligence’, not evidence. Within 16 weeks, in February 2013, Australia's international sporting reputation was mud after an ACC-staged media conference, stooged at the behest of government ministers, created martyrs of minor possible miscreants in Australia while the rest of the sporting world laughed out loud as known foreign drug takers won gold, silver and bronze medals at Olympic Games¹⁴ and world championships.



In the same period, US professional sports – where a blind eye has been a useful aid to monitoring performance-enhancing drugs – made multi-millionaires annually out of recent college graduates. Such Australian police, spook and government excesses and naivety can cause lasting damage: the extent of cost to Australia's sporting reputation was probably in the tens of billions of dollars range for claimed “offences” for which

¹³ Now the Australian Criminal Intelligence Commission: apparently, “intelligence” was missing from the original ACC.

¹⁴ Olympics History Rewritten: New Doping Tests Topple the Podium, NYT, 161121 <http://tinyurl.com/jcmbepk>
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there is still no proven “evidence” of wrongdoing. It seems “evidence” is a malleable concept when used by parliamentary committees, police and security operatives and government ministers in Australia, who adopt the Humpty Dumpty approach to defining words.

From conception to coffin...

Though CLA cut back on submissions, the numbers have still managed to average two a month over the past five years. A list illustrates the breadth of subject matter a national civil liberties organisation has to cover: it also shows the benefit of one national body to watch what is happening state-by-territory so as to apply a “helicopter” view of Australia’s problems and opportunities.

Issues in recent years have included:

whistleblowing,	protest laws,
FOI and public interest disclosure inquiries,	smoking restrictions,
abortion clinic protest-free zones,	double jeopardy and right-to-appeal provisions,
anti-discrimination and 18c amendments,	Indigenous reparations and stolen wages,
sexting-child-revenge porn,	tattooists,
mental health,	trail-bike riders,
police powers,	tax disputes,
mandatory and suspended sentencing laws,	intellectual property,
periodic detention and sentencing itself,	copyright,
dying with dignity-euthanasia,	privileges of MPs,
human trafficking,	charities and non-profit organisations,
refugees and migration,	laws protecting judges,
the operation of corruption bodies (ICAC, CCC,	law enforcement integrity,
CMC, Integrity Commission - Tasmania),	airport scanners,
telecommunications disruption-interception,	slavery,
guardianship,	culpable driving,
expunging homosexual convictions,	cybercrime,
human rights charters,	smoking in cars,
privacy and identity issues,	immigration detention,
firearms,	the concept of “recall” election voting,
sperm donors,	juvenile detention (esp. Indigenous)

And then there’s the continual flow of “anti-terror” legislation, probably running at 6-8 proposed new laws a year (therefore generating parliamentary inquiries also) in the second decade of the 21st century. Such laws even cross old boundaries into “unexplained wealth”, a new charge for police and security services to crack down on people against whom they can’t prove anything.

CLA has even made submissions about the Australian Government Security Vetting Agency, and on paying cash for turning back refugee boats and riots on Manus Island. There have been a number of submissions on free trade agreements: Trans-Pacific Partnership (TPP), China, middle-east countries, the Pacific, South America, etc. CLA has made submissions in its name when individuals, both in Australia and elsewhere

in the world, have not been comfortable putting their own names to what they want to say to authorities.

There are some submissions CLA takes extra time and trouble over: citizenship, the death penalty, freedom of speech and assembly, voting issues, same-sex rights and recognising foreign marriages, religious freedom (and freedom from religion), better protecting females, protecting babies, censorship and classification, vaccination, citizen-initiated referendums, genes and gene patenting, equal voting rights for territorians, e-health records, inquiries into possible charters of rights, and numerous Indigenous policy questions.

There are far more inquiries going on at any one time than just those by parliaments. For example, in the same period 2011-2016, CLA made submissions to the Australian Law Reform Commission, the Productivity Commission, the Independent National Security Legislation Monitor, Ombudsmen and women federally and in the states and territories, Australian Press Council, and to the Universal Periodic Review (of Australia) before the UN Human Rights Council.

In April, 2015, CLA appeared before the acting Independent National Security Legislation Monitor, where we advocated wholesale revision of all terror laws brought in since 2001 – there have been well over 100 new pieces of legislation, rammed through piecemeal, which require consolidation.



Photo: CLA President Dr Kristine Klugman and the Independent National Security Legislation Monitor, Roger Gyles, in April 2015.

CLA also made ‘mini’ submissions on a range of issues, including:

- asking the Foreign Affairs Minister, Stephen Smith, to intervene in a case in Afghanistan where a journalism student faced the death penalty for advocating rights for women;
- a letter to the Chinese Ambassador to Australia re the behaviour of Chinese louts associated with the Olympic Torch relay;
- to the US Department of Homeland Security, asking for an Australian citizen to be taken off the “no fly” list because her name was on it due to an American miscalculation of their country’s own interests! (We were successful!)

CLA teamed with Amnesty International and others in a joint approach to government on the death penalty and Australia's role in advocating for its abolition worldwide. Increasingly, it is likely that submissions will become joint efforts as the demands of governments inexorably increase.

It might seem like CLA has covered an extremely wide remit in its submission-making. But, there are dozens more inquiries where a conscious decision was taken to not provide a submission, even after being formally asked, such as with the taxi drivers' licensing laws and the taxi reform legislation (from two different states), forced adoptions, and national health reform.

CLA has also initiated its own inquiries/questions, such as asking the federal parliament's electoral committee to determine whether it is legal to take a selfie in a polling station. It is.



Submission writers usually come from the core of an organisation's members. In CLA's case, the main authors have been now-Vice-President Tim Vines, former Director Anthony Williamson, Tasmanian Directors Richard Griggs and Rajan Venkataraman, Rhys Michie (photo) and Umberto Toresi of Victoria, and CEO Bill Rowlings. Many other members have helped with individual submissions, as have our organisational partners. Since 2017, Director Rajan Venkataraman has taken over as 'Submissions Director',

meaning there is increased quality control and better management and coordination of submissions. Fewer but greater quality and more impact is CLA's aim.

There are ways other than submissions...

In May, CLA was present at the launch of the Cross-Party Working Group on the Trans Pacific Partnership (TPP) agreement at Parliament House hosted by CLA member Melissa Parke MHR (Labor, Fremantle), Senator Peter Whish-Wilson (Greens, Tas), and Senator Nick Xenophon (Ind-NXT, SA)...as seen in the photo from the event (above).



CLA took part in two key meetings about Australian citizenship, one before the topic became one of major contention in relation to Australians in the Middle East, and one after that arose. The first, in 2015, was a roundtable on citizenship and the Australian constitution, at Parliament House, Canberra, early in the year where CLA proposed a federal seat-by-seat community consultation campaign to promote the value of citizenship (an idea not yet adopted).

Later, when Australians who fought in the Middle East and wanted to return to their home country became a major talking point, CLA took part in a seminar at the Attorney-General's Department, led by CLA member Prof Kim Rubinstein. CLA believes there is still much muddled thinking on citizenship. CLA has been consistently calling for the nation's leaders to define precisely what citizenship is, and what rights and responsibilities it bestows on Australian citizens. In the absence of clear definitions, people are arguing about the rights and wrongs of smoke and mirrors.

This lack of executive response, when CLA and others had helped to define some of the problems, came home to haunt MPs themselves when the citizenship – of Australia and/or other countries – of sitting Parliamentarians caused chaos in both Houses of Parliament in 2017 and 2018.

Networking

After 15 years, CLA is now widely known in parliamentary and liberties/rights circles, and has a reputation for achievement: "You (CLA) are punching above your weight," is how Special Minister for State, Senator John Faulkner, phrased it when commenting to CLA President Dr Klugman during a meeting on Freedom of Information, whistleblowing and charter of rights issues.

The retirement of former Senator Faulkner is a reminder of how many relative "giants" of the parliamentary process have been lost to the Australian community over the past few decades. While replaced numerically, there seems to have been a drop in quality. The dangerous trend towards even greater executive control of parliament and its processes, as well as domination of the bureaucracy, needs to be reversed if Australian democracy is to continue to be strong and open and free.

CLA has seen the importance of establishing and maintaining contact through wide-ranging networking meetings, including with Chief Justices, the federal Ombudsman, Ministers, Members of Parliament, Human Rights Commissioners, and academic and practicing lawyers and NGOs involved in human rights and civil liberty activities. Networking activity, though very time consuming, has proved to be extremely useful. Details of these meetings have been reported in the monthly *CLArion* newsletter. Where possible, the CLA executive always tries to involve members with a particular interest in the topics under discussion at these meetings.

Some unusual networking discussions have been:

- with Chief Executive Officer, National Film and Sound Archive, Dr Darryl McIntyre, in relation to holdings of Australian civil liberties and human rights film and sound material;
- with then-Chief Justice of NSW, Jim Spigelman (now chairman of the ABC), re a song/presentation initiative for the future associated with the NSW Indigenous Freedom Ride of the 1960s (*see photo, Mr Spigelman and CLA President Dr Klugman*); and
- development of lyrics and music (by Kristine Klugman and composer member Geoff Carroll) with a 'freedom' theme.



This group of initiatives was aimed at combining sound, music, film, video and cartoons in innovative ways in the future to further the awareness and impact of civil liberties and human rights principles in Australia.

The year 2013 was indicative of the range of networking that occurs with other organisations. In that year, CLA met with the representatives of the Australian Privacy Foundation, Australian Institute of Criminology, Australian Lawyers Alliance, Public Interest Advocacy Centre, Family & Friends of Drug Law Reform, the NSW Council for Civil Liberties and voluntary euthanasia groups. CLA gave formal lectures to U3A bodies and to Amnesty, and held meetings with six heads of political parties in state/territory parliaments. The President and Secretary/CEO met regularly with MPs from federal and state parliaments as well as with other individuals and groups on specific issues of concern, with the total of meetings for 2013 being about 50.

For many years, President Kristine Klugman has represented CLA at the NGO (non-government organisation, usually non-profits like CLA) forum run by the Departments of the Attorney-General and Foreign Affairs and Trade (see reports on website). These are important annual events: CLA congratulates the Ministers and public servants of both departments for continuing this tradition which provides for useful exchanges of information to and from government and NGOs. Such meetings have led to civil society, including CLA, being involved in direct dialogue with visiting delegations (like

the one in 2012 from China¹⁵), which has had enormous benefits locally and internationally.



Photo shows civil society representatives and the leaders of the Chinese delegation at the 2012 meeting, which involved open discussion about human rights comparison between China and Australia. CLA's Dr Kristine Klugman is middle left. (DFAT photo)

In May 2015 the President attended a roundtable on Australia's reporting under the Convention on the Elimination of All Forms of Racial Discrimination (CERD) and International Convention on Economic Social and Cultural Rights (ICESCR).

CLA President, CEO, Vice-President and a Board Member attended the 50th anniversary dinner fundraiser for the NSWCCCL. Cameron Murphy stepped down as president after 13 years in the role (with a view to possibly following his father Lionel into politics). CLA congratulated Stephen Blanks as the new president, and met and had good discussions with the secretary replacing him, Dr Lesley Lynch.

In 2014, the National Media Spokesperson, and Vice-President, Tim Vines, was successful in convincing dozens of police and security agents studying for higher degrees at ANU in the strategic and policy studies area, that civil liberties are important and need to be taken account of in policy and in active involvement, including during emergencies.

The Board believes CLA does its best work when it engages with people who do not think like we do! Tim was also instrumental in helping a committee of the NSW Parliament produce a seminal report on how best to counter claims of the anti-vaccination brigade...while ensuring those opposed to vaccination retain a right to free speech, and a right to personal freedom of choice (while the state has a responsibility to ensure the rights of children are protected).

¹⁵ CLA's President was able to ask a direct question of the senior Chinese judicial representative in the delegation and, for the first time in the West, the answer disclosed that China was in the process of phasing out the death penalty: see CLA 2012 annual report at: <http://www.cla.asn.au/News/cia-reports/>

Media

CLA has established its place as a mainstream organisation able to comment on liberties, rights and freedoms issues in the national media. CLA has been fortunate to have a small number of very effective public spokespersons. CEO Bill Rowlings was the first, for two years. During 2006, Director Anthony Williamson (photo) became the main media spokesperson: his tenure was an important initiative in presenting a younger (mid-20s) face of CLA. Anthony managed the media role excellently, adding it to his considerable contributions in terms of submissions and appearances at Legislative Assembly hearings. Then-young lawyer Max Jeganathan took the role for a short time, before becoming a staffer at Parliament House.



As an illustration of media activity, in 2008 CLA issued a number of media releases in a fairly typical coverage of topics:

- Federal/same sex discrimination law changes
- Haneef inquiry: CLA calls for power to compel witnesses
- Flawed ACT sexual assault laws will lead to overturn in Supreme Court
- Community Cabinets: public servants curtail people's freedom of speech
- AAT allows discrimination in employment law, if work is for the USA
- CLA calls for reworking of citizenship test
- Roadside drug tests set to penalise drivers by 30-40 minute delay
- CLA calls on Foreign Minister to protest Afghani student death sentence
- Open meeting to be held in Goulburn
- Government congratulated on new right to take action against public bodies
- 'Shotgun' stun gun produces increased danger of civilians dying
- Announcement of new media spokesperson
- Policy statement on CCTV in schools.

Media publicity stepped up in 2012, with Director Tim Vines formally becoming National Media Spokesperson (continuing the "mid-20s age group" tradition), and was soon in demand to comment on TV and radio. CLA also increased our presence in newspapers and online journals. In the first half of 2013 the media focus of CLA was on familiar topics: stun guns, police powers and privacy. But revelations of widespread, often illegal surveillance by the National Security Agency and other members of the "Five Eyes" (including Australia's spooks) meant everyone was suddenly talking about online privacy and the right to anonymity. Throughout 2013, the media team and the CEO responded to questions from the public, school children and uni students, providing a valuable outreach service.

The CLA media team was busy with domestic issues too, including Richard Griggs' work on euthanasia in Tasmania and Rex Widerstrom's efforts to reform the WA prison and parole systems. Typically, each year, CLA responds to about one media issue a week and conducts numerous on-camera interviews – though the media requests inevitably come in “lumps” and are not evenly spaced. One issue can generate a dozen appearances/interviews and/or comments.

CLA has published many academic and mainstream articles on a variety of topics in the *Journal of Law and Medicine* (on gene patents in medicine, co-authored with Prof Tom Faunce), *NewMatilda*, *The Guardian*, and LexisNexis's *Rule of Law* journal (two articles by CEO Bill Rowlings, photo right shows one). Members of the media team have also been busy representing CLA at conferences, delivering presentations on 50 Years of civil liberties (at a policing retrospective conference!) and the implications of PRISM and other NSA programs on privacy and the right to anonymity.



Despite one of the most concerted civil society campaigns in recent time, mandatory data retention (aka Australia-wide mass surveillance) has passed into law along with new anti-terrorism laws permitting Australian citizens to be stripped of their citizenship without trial. And a hundred other cuts were made to the freedoms and rights of Australians, in the form of still greater powers for our police, security agents and politicians to act without judicial oversight or accountability. Perhaps most egregious was the law that passed parliament allowing, in effect, detention centre guards to beat asylum seekers to death with near impunity – all in the name of ‘maintaining order’.

What is a small organisation to do? Well, CLA mobilised through the media and through our active members. Richard Griggs and Rajan Venkataraman in Tasmania have done fantastic work to try to curtail some of the worst anti-protesting laws Australia has seen since the dark days of former Queensland Premier Joh Bjelke-Petersen¹⁶ (ruled 1968-1987). Through *The Guardian*, CLA raised serious issues with the Orwellian-named citizenship-stripping “Allegiance to Australia” Bill – which was subsequently amended in light of widespread criticism.

In a concerted effort with the media, CLA helped to make it more difficult for Attorneys-General to thrust ‘anti-bikie’ laws on the public. These laws, which never

¹⁶ https://en.wikipedia.org/wiki/Joh_Bjelke-Petersen

use the word 'bikie', undermine the independence of the courts and negate the right to silence. There have been some notable successes: working with friends, members and allies in the Victorian and ACT Parliaments, CLA influenced new laws which balance the right to protest with the right of women to access lawful health services.

Working with colleagues Bibi Sangha and Bob Moles in South Australia, CLA has been able to achieve “mirroring” of that state’s 2013 Right-To-Appeal law in Tasmania in 2015 (with the ACT, Victoria and WA to follow, we hope). The passage in 2015 through the Tasmanian parliament of the “right to appeal” legislation was a major CLA achievement. That new law – proposed to the Tasmanian Attorney-General, Dr Vanessa Goodwin by CLA – provides Sue Neill-Fraser, whom CLA believes was wrongfully convicted, with the right to request her case be re-heard. If justice prevails, at last, she will be out of jail in 2018...after eight years of wrongful imprisonment.

The concentration since 2016 has been in furthering the CLA Better Justice initiative, which involves achieving 10 targets in 10 years. We achieved the first success, with a lot of help from a lot of other organisations, when the Optional Protocol for the Convention Against Torture (OPCAT) was ratified by Australia in late-2018. That move will open Australia’s jails and detention centres to annual state and territory inspection, and to inspection from overseas human rights experts on a regular basis.

The battle goes on to achieve the other nine aims.

As CLA’s National Media Spokesperson, and Vice-President, Tim Vines, says:

(The next year) will likely be more of the same: cloudy, with the chance of a storm or two. But I expect we will see a few sunny days and maybe even some dry spells, where politicians realise that sometimes the best response to a crisis is not to pass a bad law: it’s to do nothing and trust in the Rule of Law.

Public events

CLA’s first public event, on the topic of the new anti-terror laws and held at the National Library of Australia on Thursday 27 October 2005, was an outstanding success. It attracted about 200 members of the public, and about 10 new members came directly from it. CLA members ANU Law lecturer and European security expert, Christopher Michaelson, and Secretary Bill Rowlings were speakers, along with Asmi Wood, an ANU Law lecturer who is both a Torres Strait islander and a Muslim, representing the Canberra Islamic Centre in the ACT.

Two open public lectures were held in 2006: the first hosted by Speaker of the ACT Legislative Assembly Wayne Berry, on the topic of the death penalty, with speakers Vic Adams, Emma Hines and Bill Rowlings. Attendance was low (a lesson against holding functions on cold winter nights in Canberra).



The second (photo left), held in September at the National Library of Australia, was very well attended, with an audience of nearly 300. The speakers were Prof Simon Bronitt, then of the ANU College of Law and the National Europe Centre, and David Marr (at right), author and Fairfax journalist, on the topic of the sedition laws. This event was in cooperation with the Independent Scholars Association of Australia.

In the first few years, CLA addressed U3A and Probus Club audiences on the death penalty, human rights globally and nationally, and local issues. CLA's presentation materials, in PowerPoint format, are kept available for members to use if they are asked to speak to organisations, or if they would like to approach organisations offering to speak. A prepared text/presentation is available by email quickly to members.

There were two major presentations during 2009: President Dr Kristine Klugman appeared as a panellist on a "Hypothetical" filmed for TV as part of the inaugural National Squalor Conference in Sydney. During her appearance, she coined the term "Prosperity Index" as being a desirable counter-indicator to the "Squalor Index" used by welfare groups. The PI would indicate wealth, ostentation and over-consumption, by measuring such things as house 'footprint', number/cost of cars/vehicles owned, and numbers of computers and TV sets in a household.

The index needs developing, if any CLA member or non-member with an economic bent would like a task to work on.

CEO Bill Rowlings was a speaker at the Forum on Federations conference at Parliament House, convened to analyse how parliamentary democracy was working in Australia. His address highlighted, for the first time, the way organisations such as COAG, SCAG¹⁷ and the-then 41 other national "Ministerial Councils" had started to usurp the role of federal and state/territory parliaments in deciding philosophy, policy and laws.

For the first time, CLA helped sponsor a conference in 2010, the National Indigenous Legal Conference held at ANU in early October. CLA agreed to support the

¹⁷ Council Of Australian Governments, Standing Committee of Attorneys-General (since re-named).

attendance of Aboriginal legal students from James Cook University, Cairns. The President and CEO chaired NILC sessions, which were extremely educational and revealing of attitudes and issues in the Indigenous legal community.

In 2011 CEO Rowlings enlivened a May Day rally in the national capital, among union speakers who appear in general to have lost their traditional fire. He also delivered an address at the National Library of Australia to the Independent Scholars Association of Australia's annual conference, on how people in authority ramp up fear to cement their hegemony over ordinary citizens. Bill also authored an op-ed piece for the News Ltd online journal, *The Punch*, at their invitation on the Andrew Bolt saga over racial vilification of Aborigines.

CLA closed 2013 with the screening in the Coombs Theatre at the Australian National University of the feature length documentary by CLA member Eve Ash, *Shadow of Doubt*. President Dr Kristine Klugman and CEO Bill Rowlings had joined many Tasmanian members of CLA when the film premiered in Hobart in July: the documentary – nominated for an AACTA award as best feature length screen documentary of 2013 – also screened in Melbourne and Sydney, with local CLA members in those cities able to attend.



Members of CLA enthusiastically sent a message, written on latex gloves, to Tasmanian authorities (photo). In Canberra the screening was on 10 December, UN Human Rights Day, and CLA's 10th birthday. The evocative 82-minute documentary tells the story of an almost-incomprehensible miscarriage of justice which sees Sue Neill-Fraser serving a 23-year sentence for killing her still-missing husband in the Yacht No Body case. Neill-Fraser – with the unrelenting, dedicated help of pro bono lawyer and CLA member Barbara Etter following the loss of an original Supreme Court appeal – has always maintained her innocence. The case shows the persistence of attitudes and errors reminiscent of the Lindy Chamberlain “dingo took my baby” fiasco of three decades ago. Research shows overturning miscarriages of justice takes an average of 7-8 years: CLA continues to try to light a fire under bureaucracies, clerical and legal, wherever it is necessary for commonsense to overcome status quo smugness and arrogance. There is much remaining to be fixed in the patch-worked Australian justice system.

There are two core reasons for CLA's interest in this one case, as well as the basic one of correcting injustice. One is the generic question about whether the charging/convicting of a woman and the length of the sentence smacks of police and DPP misogyny, confirmation bias and tunnel vision. The second reason is that CLA is working nationally and with state and territory parliaments, lobbying for the introduction of legislation which gives the right to appeal when new evidence has been uncovered, even though customary appeal processes have been exhausted. The case is the first of those to be heard outside South Australia.

CLA congratulated SA's Attorney-General John Rau for passing such legislation in May 2013, after a four-year campaign. The Statutes Amendment Appeals Act (SA) (2013) gives a convicted person a 'right to appeal' to the Supreme Court if "fresh and compelling" evidence is brought forward. In many cases in recent years, new forensic techniques have highlighted errors in earlier cases, particularly in relation to DNA.

But DNA mistakes are not the only way in which convictions can be overturned, and judges need to take a broad view of what is 'new' evidence to ensure errors are not perpetuated so that innocent people remain in jail. It takes a noble judge to agree that she or he – or one or more of their colleagues – might have got it wrong.

In a major piece of research, CLA in 2017 estimated that the wrongful convictions run in Australia, for people in jail for major crimes of murder, rape and grievous bodily harm who have exhausted all their appeals, is 7%. This would mean about 300 people in jail in Australia are there because Australia's fair go has failed them. If someone is in jail in error for 20-plus years for murder or a major rape case, that is a very big failing.

In 2014 in South Australia, working cooperatively with Dr Bob Moles of Networked Knowledge, CLA helped to stage and create a positive result from a three-day Symposium on Miscarriages of Justice. This very successful event produced the plan for a 10-year campaign for Better Justice.

Right: CLA members Barbara Etter and Eve Ash at the Adelaide symposium. Barbara was pro bono lawyer for Sue-Neill Fraser, and Eve is writer-producer-director of the documentary film Shadow of Doubt.



Occasionally, we act purposefully to help and boost the work of others. For example, early in 2014 CLA held the first "public" rally against the Trans-Pacific Partnership (TPP) agreement (see photo p20) outside Parliament House in Canberra. The rally was held so that press gallery videographers and photographers could take footage and shots that would be available in news media

libraries as the campaign against the TPP escalated over the next few years. Equally, admirable research work, compiling of a bibliography and article writing by member Pauline Westwood, provided excellent support to other groups campaigning against the TPP.

Around the same issue, CLA appeared as guest speaker at a trade union conference in Darwin (Rob Wesley-Smith did the honours), and Erina Early has been instrumental in furthering CLA's good name among union membership generally in the NT.

A major event for 2015 was CLA's initiative to organise and stage an important address by lawyer Bernard Collaery on national security, legal professional privilege and bar rules in relation to Timor Leste. CLA provided the first chance for him to present his story in public (photo right) at the ANU where mainstream media, including Parliament House reporters and TV crews, could attend. ASIO and AFP raided Collaery's Canberra office in relation to two of his clients, Timor Leste and Agent X, a former Australian intelligence operative. Collaery represents TL in relation to the maritime boundary between TL and Australia, including over allegations of spying/surveillance by Australia during earlier negotiations, and also represents the former agent who has made the allegations. The entire raid fiasco, and the bans on speaking and cancellation of the agent's passport which followed, had to be formally approved by the Attorney-General Senator George Brandis. The approval created a new low in free speech, civil liberties, human rights and democracy in Australia. CLA collaborated in staging this event with the ACT Law Society, ACT Bar Association and the ANU Law School.



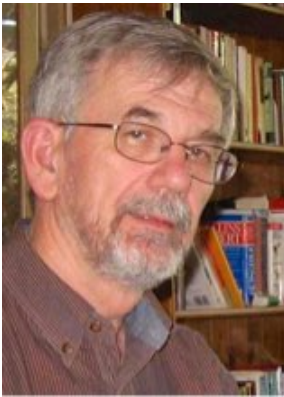
As an indication of CLA's growing reputation, CEO Bill Rowlings joined a national police-security/academic/civil society workshop at University of Queensland on protests and infrastructure. This 'Chatham House rules' gathering was an acknowledgement that civil liberties organisations can play a productive role in pre-planning for how major protests should be handled.

One of the joys of 2015 was to help support the protest (photo) by Parliament House cleaners,



organised by United Voice and supported by the Vintage Reds retired ACT unionists group, outside the parliament. The delight on the faces of usually repressed migrant workers when they realised a big crowd was there to support them was worth the early morning attendance in the middle of a Canberra winter.

The contrast between the pittance paid to cleaners and the pigs-in-troughs expenses-claiming behaviour of the MPs at Parliament House indicates how huge is the disconnect between what politicians say before elections and what they do in reality.



During 2015 CLA lost the services through retirement of long-serving Board Member and web inspiration, Lance Williamson (photo). For eight years he conceived, implemented and ran the CLA website and membership system, which was an enormous contribution to the organisation...on top of his incisive comments and practical senior public service experience contributed as a Director. Finding a person to replace him proved very difficult over the next few years, until it was decided in 2018 to employ his services on a commercial basis to ensure CLA's database and website functioned properly.

Vice-President Noor Blumer also decided to step down during 2015. Her input was enormously valued, adding the expertise and experience of a senior lawyer, partner in her own law firm (Blumers Lawyers, with husband, Mark) and law society and national law council positions on which to draw. She and Blumers Lawyers have been great contributors to CLA achievements over many years.

Noor and Mark Blumer are generous sponsors who have enabled the writing and staging of a play about the Sue Neill-Fraser (SNF) case in Tasmania, first performed in Hobart in 2017.

The SNF miscarriage of justice case has generated an enormous output of video, play, song, poems, and supporting output...including even a '\$40,000 Reward' billboard above a hotel in the streets of Hobart!



From the same law firm, CLA benefited from Phil Schubert's six years as Treasurer until 2017. With a background from rural NSW, early uni involvement as the gay representative and links to young lawyers, his financial work was round out by widespread links into other community bodies.

CLA President Dr Kristine Klugman organised a widespread campaign in 2016 for nominating Prof Gillian Triggs, the Human Rights Commissioner, as Australian of the Year. It was unsuccessful. The National Australia Day Council appears so beholden to the government that it refused to even put her name forward, even though she was probably nominated by more people than anyone else.

Major continuing issues

As well as the never-ending procession of new anti-terrorism laws, there are core issues of concern nationally on which CLA works every year. Chief among these are:

- the need for charters of rights;
- the proper functioning of parliaments and committees;
- diminishing openness and transparency of the executive and bureaucracy;
- the broadening and deepening power of police and security agencies;
- issues around the liberties and rights of the aged, and of children;
- the right to appeal (when normal appeals are exhausted);
- rights for asylum seekers;
- the death penalty;
- privacy and electronic surveillance;
- rates of indigenous people in prison, and prison problems in general;
- drug laws and proceeds of crime extensions of those laws; and
- mandatory sentences.

CLA continues to champion a national human rights bill – a Charter of Rights – in Australia though the early 21st century has been hard times for rights, liberties and freedoms. CLA prefers the European model, which would allow use of the EU's wealth of case law. The ACT, Victoria are rights-friendly places, Queensland is expected to follow suit, and in CLA is actively campaigning on the issue in Tasmania, with WA to follow.

Centralisation of decision making power

Of grave concern to CLA has been the undemocratic way in which COAG and Ministerial Councils operate. COAG (the Council of Australian Governments) involves the Prime Minister, Premiers and Chief Ministers acting as a supra-parliamentary, undemocratic body to make national decisions without transparency.

Similarly, the Law, Crime and Community Safety Committee (LCCSC: it replaces SCAG) operates in similar high-handed manner, with virtually only bureaucratic and police/security force input, to make new, extended and more draconian laws without consulting appropriately with the Australian people. There are dozens of other such councils – transport, water, indigenous, health, and so on – which also act as peak councils of federal and state ministers who operate, decide and legislate mostly

without consultation in a manner that is entirely beyond the Australian Constitution. The LCCSC works to no agenda and keeps no minutes (it proudly boasts of this) and issues a public relations document called a 'communiqué' after its two meetings a year.

These mechanisms have emerged to allow executive government to draw a camouflage net over police and security matters. The strictures do not serve the best democratic interests of the Australian people. This is a major issue, identified and highlighted by CLA over the past few years, which needs national focus and debate to rein in the accelerating excesses of centralising governments. CLA aims to build strong relationships across the academic, legal and community sectors to fight this cancerous sickness eating at the Australian democracy.

Honours and awards

CLA Secretary and CEO Bill Rowlings was awarded an Order of Australia Medal (OAM) in June 2103 “for service to the community through the protection of human rights and civil liberties”¹⁸. This award was public recognition of the work of so many CLA members and directors over a decade, work which continues.

The 12th annual report¹⁹ in 2015 was happy to report that CLA WA member Brian Tennant was awarded an AM, a well-deserved honour in which CLA and CLA members had a role. Brian has been a tireless worker for social justice and civil liberties in Perth and WA for half a century. In the same honours list, NSW CLA member Ann Symonds also received an AM for a lifetime of work for the community, from Waverley Council to the NSW Legislative Council and as founder of the Australian Parliamentary Group on Drug Law Reform.

CLA President Dr Kristine Klugman and CEO Bill Rowlings were honoured in Hobart in October by receiving the 2015 National Award for Civil Justice from the Australian Lawyers Alliance during their national conference. The award reads: “In recognition of an outstanding achievement in promoting justice, freedom and the rights of the individual.” The authors feel that accolade should apply to all members of CLA who support the organisation with their actions and/or subscriptions. It is the members who make it all possible.

During that October visit to Tasmania, the opportunity was taken to launch the Tasmanian chapter of the History of Civil Liberties in Australia. This was done at a meeting



¹⁸ <http://www.dpmc.gov.au/government/its-honour>

¹⁹ <http://www.cla.asn.au/News/cia-reports/>

of CLA Tasmanian members, and by lodging an official copy with the State Library of Tasmania. The history was due to be progressively published on the CLA website over the next five years. This is one more chapter in that history.

CLA Vice-President and National Media Spokesperson Tim Vines (photo) was chosen to visit Brussels in late June and early July 2016 as a guest of the EU Visitor Program. He was able to study the way the systems, agencies, bureaucracy and the Parliament of the EU operate. His PhD studies are likely to improve the timing and effectiveness with which the world responds to health emergencies.



In 2017, Canberra lawyer Sam Tierney (right) joined the CLA Board and took over the duties of Treasurer, bringing his combined economics and law expertise to the role. At the same time, CLA gained its first female Director from WA after a gap of state representation, when Margaret



Howkins (left) agreed to serve on the Board after an earlier period as ‘convenor’ of CLA in the west.

The year 2018 saw the Board make plans for major renewal:

- overhaul and refreshing of CLA’s database system;
- re-design, upgrade and modernising of the CLA website;
- formal visit to Darwin to gain more members and extend local contacts;
- launch of a marketing plan to make best use of existing assets; and
- longer-term planning of business targets, with measures attached.