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Forum on death penalty will help settle policy, strategy

CLA will hold a major forum, on the death penalty, on Monday 22 May in Civic.

The forum findings will help inform CLA’s policy and strategy on the death penalty issue, within Australia and internationally.

After the forum, the CLA board will decide and publish a settled policy on the death penalty, and a strategic plan for achieving the outcomes that policy seeks.

All CLA members and supporters are invited to attend the forum, which will be held at the Legislative Assembly Reception Room from 6-7.30pm on Monday 22 May, and hosted by Speaker, Mr Wayne Berry.

The forum is in partnership with the ACT Young Lawyers organisation; Emma Herde, this year’s Golden Gavel winner, will be one of the main speakers.

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Data legislation and ‘safeguards monitor’ needed to oversight new card

Australia needs legislated data protection, as well as a ‘Safeguards Monitor’ to permanently ensure the Government does not abuse the new Smart Australia Card, CLA says.

We outlined our position in a media release on the day of the Government's announcement.

"CLA welcomes the proposed smartcard, provided it's used to help Australians with their health and not to spy on people," President Dr Kristine Klugman said in her statement and in radio and television interviews.

"The Government must come clean on the real reason for the card – keeping 'inter-operable' records on people, across all arms of Government.

"Fourteen federal government departments and agencies have been meeting in secret for more than three years to make any smartcard work right across every government entity.

"And there has been not one word of community consultation over all that time."

CLA's media release said the smartcard is designed to:

- track your spending (Tax),
- check whether you're cheating on the system (Centrelink),
- monitor the pharmacy pills and potions you use (Medicare),
- count how many times you go to the doctor, and for what (Health),
- ensure a widow has not remarried (Vet's Affairs),
- spy on de facto relationships (Family Services) and
- check where you've applied for work, or if you resigned rather than were sacked (Employment and Workplace Relations).

That was just for starters, Dr Klugman said, as the Government planned to link the card to the banking system, and to allow two-way private sector access to the national data bank in later years.

"And, of course, the security services will have immediate, full, unfettered and secret access to all data on all Australians who use the card, which in practice will be 99.99% of the population," she said.

"There must be new data protection legislation enacted, a safeguards monitoring system put in place, and a means for people to check the accuracy of information held on them – or the Australia Smart Card could be a tool of secret repression by the government or by unaccountable individuals."

The information on what the Government plans for the card is contained in the Government's own report, released on 16 December 2005, entitled *Australian Government Smartcard Framework*

http://www.agimo.gov.au/infrastructure/smart_cards

See CLA's media release, and particularly quotes from the document which reveal the Government's long-term plans which will turn the card into a compulsory 'Australia Card' over time – go to: <http://www.claact.org.au/pages/media.html>

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CLA's new patron, John Marsden, to meet members

The new patron of CLA, Mr John Marsden will meet members of CLA at a cocktail function on Friday, 9 June, from 5-7pm.

The function will be held at 51 Ardlethan St, Fisher.

All members are particularly invited to come along to talk with the CLA's new patron: for catering purposes, please RSVP to: secretary@claact.org.au

Mr Marsden was a councillor on the NSW Council for Civil Liberties 1975-1988 and 1992-1997, and president of NSWCCCL for two terms, 1984-1986, and 1993-1997.

Mr Marsden was also President of the NSW Law Society 1991-1992 and delegate to the Law Council of Australia 1990-93.

He is a former member of the NSW Anti-Discrimination Board and the NSW Police Board and has held a host of other positions. Outside the law, he has served on numerous community groups boards and committees.

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Goulburn group meets to discuss the 'smartcard'

The Goulburn group of CLA will hold its second meeting this month, with the newly-announced Australian 'smartcard' as a core topic.

The meeting, at the Sasso Restaurant from 6.30pm, will be about mid-month...with the final date to be determined.

Members of the Goulburn CLA group will be advised by email of the date. If anyone else would like to attend, please email the CLA secretary for details.

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Michaelsen speaks on renditions and latest legal cases in Europe

Christopher Michaelsen, the CLA member now working as a terrorism and democracy-monitoring expert in Europe, speaking in Canberra last month outlined how extensive the American practice of rendition had been.

Quoting from official European Union reports, he said the earlier widespread allegations of secret American flights had been confirmed as facts.

His talk, entitled Extraordinary Renditions, Secret Detention Centres and Diplomatic Assurances, presented his personal view, not that of his employer, the Office for Democratic Institutions and Human Rights (ODIHR), Mr Michaelsen said.

As well as discussing the latest rendition findings, he gave a learned rundown on the latest legal cases in Sweden, The Netherlands, the UK and the USA involving alleged and suspected terrorists.

Mr Michaelsen was speaking at the National Europe Centre at the ANU.

See story, ***1,000 secret CIA flights revealed***, later in this bulletin.

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CLA meets new ACT Attorney-General and Minister for Police

CLA last month was the first organisation to meet the new ACT Attorney-General and Police Minister, Mr Corbell, to discuss legal and ACT Policing issues.

President Dr Kristine Klugman and secretary Bill Rowlings spoke about issues of data security, DNA testing of babies and data retention, a national smartcard, stun guns and police naming of persons of interest.

Mr Corbell promised to investigate some of the matters raised and provide further information. (For the photo, go to: <http://www.claact.org.au/>)

During the month CLA also met formally with the Anglican Bishop of Canberra and Goulburn, Bishop George Browning, and the Clerk of the Senate, Mr Harry Evans.

In other developments during the month, member Robert Briggs is undertaking a review of the Senate inquiry findings on the Telecommunications (Interception) Amendment Bill 2006 (and whether the Government is living up to its promises in the Senate), and a meeting is planned with Peter Lindsay MHR, the chair of a Civics Education Committee now taking evidence.

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CLA members work for peace in the Middle East

Two CLA members, Judy Bamberger and Father John Parsons, will be in the Middle East this winter. They will each be working for peace between Palestine and Israel. We hope to have first-hand reports from them later this year.

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Website launched

CLA's first website officially went online on Sunday 23 April.

To check it out, please go to: <http://www.claact.org.au/>

The website is the achievement of Lance Williamson (father of CLA director Anthony Williamson), who has just completed a web course as an after-hours hobby.

He has shown how much he learned by making CLA look very professional on the web! "We thank him very much. It is a giant stride forward for CLA," President Dr Kris Klugman said.

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Events reminder:

22 May 06: 6pm, ACT Leg Assembly Reception Room.

CLA Forum: **Death Penalty**. Keynote speakers (TBC)

All invited. Host: House Speaker Wayne Berry

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9 Jun 06: 5-7pm. Meet new CLA Patron John Marsden LL.M AM. BOOKINGS ESSENTIAL

– <mailto:secretary@claact.org.au> All CLA members and potential members invited.

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Aug 06 (Date TBC): 6pm, National Library of Australia (with ISAA).

CLA Forum: **Sedition**. Keynote speaker (TBC). All invited.

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Melbourne CCL celebrates 70 years, and Fitzpatrick contribution

Liberty Victoria will celebrate its 70th anniversary on 8 July.

The Brian Fitzpatrick centenary celebration will be the core of the anniversary event, at Melbourne University Buffet.

Fitzpatrick, born in November 1905, was secretary of the Melbourne-based Council for Civil Liberties from almost its founding on 6 May 1936 to 1964. (On 1 May 1939 the organisation adopted the name *Australian* Council for Civil Liberties. In more recent times it has become Liberty Victoria).

Fitzpatrick championed traditions of justice, fairness and free speech, which he saw as central pillars of a democratic and civilised society. Though not a lawyer, he defended in public refugees, trade unionists, minority parties and dissident artists.

Speakers at the dinner will include Sheila Fitzpatrick and Don Watson, Vice-Chancellor of the Melbourne Uni Glyn Davis, and Liberty Victoria president Brian Walters. There'll be music by the Bank Street quartet, led by Sheila Fitzpatrick.

Information and bookings: <http://www.libertyvictoria.org.au/>

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– from Attorney-General's media release, 11 April 06

Oz to get 'model' evidence laws

Uniform evidence laws are likely for Australia, starting soon.

A meeting of the Standing Committee of Attorneys-General (SCAG) has decided to draft model provisions, based on the NSW legislation.

Included will be a consistent approach to protecting 'professional' communications from disclosure (such as communications between journalists and their sources, doctors and their patients or counsellors and their clients).

As far as those provisions are concerned, the proposal is welcome, CLA believes; however, the agreed provisions do not do enough to safeguard the rights of accused people, in our opinion.

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– SMH, 20 March 06

Minister Debus says he'll take 'charter of rights' to NSW Cabinet

From a report by Jonathan Pearlman

NSW Attorney-General, Mr Debus, says he supports a charter of rights for NSW, the Sydney Morning Herald has reported.

His limited version of a Bill of Rights would mean, as in the ACT, courts could consider whether laws infringed basic human freedoms and refer doubts to the legislature: they would not be able to declare laws invalid.

Mr Debus is reported as saying he would take a proposal to cabinet for public consultation on the proposed charter, or bill, of rights.

The SMH reported the NSW charter could guarantee freedoms such as the vote, a fair trial, freedom of assembly, property rights and freedom from torture and racial discrimination.

The charter could also bind government agencies, including the police service, over their treatment of employees and the public, the SMH report said.

In Victoria, Attorney-General Rob Hulls' promised introduction of Charter of Rights legislation into Parliament is now overdue, but expected shortly.

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Bill of Rights campaign changes its online location

The online campaign for a national Bill of Rights for Australia has severed the electronic ties to the private, commercial enterprise that gave it birth.

“New Matilda is pleased to announce that the Human Rights Act for Australia has its own website now. All campaign information, articles and links are now available at www.humanrightsact.com.au “

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– from UNity, UN Assn of Australia weekly newsletter, 7 April 06

Falun Gong free to demonstrate – quietly

The Human Rights and Equal Opportunity Commission (HREOC) has decided that the exclusion of Falun Gong from the twice-yearly Government consultations on human rights was a breach of human rights.

HREOC recommended an apology be provided to Falun Gong over the breach. After a separate court decision, Foreign Minister Mr Downer also agreed to lift restrictions on peaceful Falun Gong protesters outside the Chinese Embassy in Canberra.

In the second half of 2005, Minister Downer had refused to allow Falun Gong to participate, with a large number of Australian human rights NGOs including CLA, in the annual consultations on human rights.

CLA and other NGOs boycotted the consultations over Falun Gong's exclusion. Presumably they will now be re-welcomed into the Downer consultation fold.

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Same-sex/same entitlements HREOC inquiry

The Human Rights and Equal Opportunity Commission is conducting a national inquiry into discrimination against same-sex couples re financial and work-related entitlements.

HREOC President John von Doussa and Human Rights Commissioner Graeme Innes will conduct the inquiry jointly.

It will audit Commonwealth, State and Territory laws to benchmark where and how same-sex couples and their children are being denied financial and/or work-related benefits and entitlements that heterosexual couples enjoy.

The Inquiry will consider laws dealing with workplace leave entitlements, social security benefits, tax concessions, Medicare and the Pharmaceutical Benefits Scheme, superannuation entitlements, workers' compensation, veterans' pensions and entitlements, Parliamentary entitlements, judicial pensions and inheritance.

There is discussion paper encouraging individuals to tell personal stories of discrimination. Deadline for submissions is 2 June.

For more information, including copies of the terms of reference and the discussion paper go to: <http://www.humanrights.gov.au/samesex/>

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– from MEAA (union) newsletter, 7 April 06

Police database reveals all: so much for privacy and security.

It was revealed last month that the names, email addresses and passwords of as many as 800 people signed up to receive NSW police media releases have been published on the internet.

The list included the password and email details of two of NSW's most senior counter-terrorism police officers, newly appointed Assistant Commissioner Nick Kaldas and Detective Chief Superintendent Mark Jenkins.

Mr Kaldas is one of the foremost terrorism experts among Australia's police services, according to the Fairfax website smh.com.au which alerted police to the blunder.

While the database, comprising senior police and hundreds of journalists, was taken offline, it could still be accessed through Google, they said.

The Media, Entertainment and Arts Alliance (MEAA) urged NSW police to take steps to remediate any damage caused as a result of the bungle.

Full story <http://smh.com.au/news/technology/police-secret-password-blunder/2006/04/05/1143916566038.html>

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– from the Guardian (UK), 13 April 06

Terror law an affront to justice, says judge

From a report by Vikram Dodd and Carlene Bailey

A high court judge last month said the UK's system of control orders against terrorism suspects was 'an affront to justice'.

He also ruled that they breached the UK's human rights laws.

Mr Justice Sullivan was ruling on a challenge to the first control order issued against a British Muslim man, alleged by UK security services of planning to travel to Iraq to fight UK and US forces.

The UK has issued a known 11 control orders against 'suspected terrorists' who can not be tried in the courts.

The judge said the anti-terrorism measures were "conspicuously unfair" and dismissed supposed safeguards of suspects' rights as a "thin veneer of legality", the Guardian reported.

He had to say "loud and clear" that the laws were unfair otherwise "the court would be failing in its duty."

Mr Justice Sullivan said the system was unfair because the man could not know the evidence against, which was so sensitive according to the UK Government that it had to be kept secret from the accused.

According to the Guardian, Shami Chakrabarti, director of Liberty UK, said: "Fundamental human rights, such as the right to a fair trial, are what distinguish democrats from terrorists and dictators. The government's policy is in tatters - we hope that this time they are listening."

– base information supplied by CLA member Robert Briggs

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– from reports, including The Guardian, 19 April 06

UK caps compensation payments for miscarriages of justice

The Blair Government in the UK will cap individual compensation payments to people wrongly convicted of crimes at £500,000 (\$A 1.2m).

This amount contrasts with the highest payout to date of £2.1m (\$A5m)

The Home Secretary, Charles Clarke, said the capping of specific payments would line them up with the maximum amount paid to crime victims.

Mr Clarke announced a highly significant ministerial review of the legal test currently used by the court of appeal to quash criminal convictions.

It will examine to what extent an error in the trial process necessarily leads to a miscarriage of justice, according to The Guardian. Mr Clarke described the move as an "urgent review" which could lead to a change in the law.

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- from The Guardian (UK), 27 Apr 06

1,000 secret CIA flights revealed

From a report by Richard Norton-Taylor

The CIA operated more than 1,000 secret flights over European Union (EU) territory in the past five years, sometimes transferring terror suspects in a practice known as "extraordinary rendition", an investigation by the European Parliament said in April.

"The figure is significantly higher than previously thought," The Guardian reported.

Investigators concluded that incidents when terror suspects were handed over to US agents did not appear to be isolated.

They said the suspects were often transported around Europe on the same planes by agents whose names repeatedly came up in their investigation.

Data showed that CIA planes made numerous secret stopovers on European territory, violating an international air treaty that requires airlines to declare the route and stopovers for planes with a police mission, according to The Guardian report.

Amnesty International has called for an independent public inquiry into British involvement in the secret CIA flights.

Four of the CIA's 26 planes had landed and taken off more than 200 times from 12 British airports over the past five years, Amnesty says.

Amnesty's report - *Below the Radar: Secret Flights to Torture and 'Disappearance'* - claims nearly 1,000 flights directly linked to the CIA through 'front' companies. A further 600 CIA flights were made by planes hired from US aviation companies.

<http://www.guardian.co.uk/usa/story/0,,1746827,00.html>

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– New York Times, 11 April 2006

Chinese turn to civil liberties as a new tool

From a report by Howard W. French

China was rapidly turning to civil liberties-style and rights-based groups to help smooth the personal bumps and grinds of the massive state system, the New York Times reported last month.

"...in China, ...a once totalitarian system is facing growing pressure from a population awakening to the power of independent organization," Howard French of the NYT reported.

"Uncounted millions of Chinese, from the rich cities of the east to the impoverished countryside, are pushing an inflexible political system for redress over issues from shoddy health care and illegal land seizures to dire pollution and rampant official corruption."

Mr French said there was ambivalence among senior Chinese officials about the trend. "...many warn of the dangers an independent civil society poses to the authority of the state.

"But others now recognize, however tentatively, that the government cannot deal effectively with every issue without contributions from advocates, civic organizations and intellectuals," the NYT report said.

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– from NY Times, 7 April 2006, reported by Warren Hoge

US will not seek seat on new UN Human Rights Council

The US Administration has said publicly that it would not be a candidate for the new United Nations Human Rights Council, approved in March by the General Assembly.

State Department spokesman Sean McCormack said the USA would sit out the first election for the council in May but would support other countries with strong human rights records and would probably run next year, according to the NY Times report.

The council will hold its first meeting in Geneva in June. It replaces the Human Rights Commission, a widely discredited body.

The election of the 47 members is scheduled for 9 May.

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– 31 March 06 , FIDH report (Intntl Fedn of Human rights Defenders)

Jordan executes 3, sentences 18 to death

In the first three months of 2006, Jordan condemned 18 people to the death penalty and executed three.

Mr Salem Saad Salem bin Sweid and Mr Yasser Fathi Ibrahim Freihat, sentenced to death by a military court in 2004 for the murder of a USAID official, were executed on 11 March; Mr Adnan Ismail, convicted for killing his wife and child, was executed three days later.

http://www.fidh.org/article.php3?id_article=3210

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– 23 March 06, FIDH

Bahrain moves to ban demos

Bahrain is introducing a new law making demonstration organisers inform authorities three days before the event and assume responsibility for acts of sabotage, damage or disturbances.

Demonstrations, marches or rallies near hospitals, airports, malls, diplomatic missions, international organisations, main avenues and restricted areas will be strictly forbidden.

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– from ACLU email, 13 April 06

US Administration does about turn on Patriot Act secrecy

In a stunning reversal of its claim that national security was at risk, the US Government has given up its legal battle over a gag order on Connecticut librarians affected by the controversial National Security Letter (NSL) provision of the law.

The decision to abandon their opposition to the American Civil Liberty Union's challenge came after Congress voted to reauthorize the Patriot Act.

The new version of the Act still allows the FBI to gag people receiving NSLs and forces courts to rubber-stamp FBI decisions. One recent change is that the new Act no longer denies NSL recipients the right to challenge the law.

"The government's claim that gagging librarians was necessary to protect national security has evaporated now that the political battle is over," said ACLU Executive Director Anthony Romero.

"The American public should keep this in mind the next time a government official invokes national security in defense of secrecy."

The Patriot Act permits the FBI to demand, without court approval, records of people who are not suspected of any wrongdoing. Anyone who receives such a demand -- known as a National Security Letter (NSL) is gagged from disclosing that the FBI demanded records. The FBI issues about 30,000 secret NSLs a year.

DO YOU KNOW...what the 'Patriot' in 'Patriot Act' stands for – see the end of this newsletter!

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– from Human Rights First email, 25 April 06

Playing the numbers game

98: The number of detainees who have died while in US custody in Iraq and Afghanistan.

34: The number of deaths in custody that are suspected or confirmed homicides.

12: The number of deaths that have resulted in any kind of punishment.

8 (and possibly as many as 12): The number of people who were tortured to death.

5 months confinement: The highest punishment for a torture-related death.

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– as above

Iran cracks down on rights activist

Espionage. Sharing state secrets. Helping nuclear spies – these are the accusations against Abolfattah Soltani by the Iranian government.

Soltani, who co-founded the high-profile Center for Defense of Human Rights with Nobel Peace Laureate Shirin Ebadi, knows no nuclear secrets.

The real reason for his arrest and prosecution is his vigorous defense of human rights, according to Human Rights First. Just before being picked up, Soltani had publicly accused the judiciary of a cover-up in the death of Canadian-Iranian photographer Zahra Kazemi, beaten to death in 2003 by government agents.

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Events and Opportunities: **1 May, Canberra:** Professor Paul Hunt, the UN Special Rapporteur on the Right to Health and member of the UN Economic, Social and Cultural Rights Committee, will speak at a forum organised by the HR Office in Canberra.

3 May, Sydney: Rights and Liberties in an Age of Terrorism: An Evening in Conversation with Prof Conor Gearty and Prof Hilary Charlesworth, NSW Parl House. Further info: law@unsw.edu.au

May 4 WA Seminar (Future Technology) *Changing the World -- One Click at a Time*; Seminar (Fighting Fear) *Scared Stiff! -- Fear and its impact on our lives* Conference Program on WACOSS <http://www.safecom.org.au/wacoss-conf06.htm>

9 May, World: New Human Rights Council – consisting of 47 nations – to be elected from the General Assembly of the UN.

10 May, Canberra: Free HR Office workshop on a general understanding of purpose and operation of the Discrimination and Human Rights Acts and the main differences between them. 9.30am–1.30pm. To book email: human.rights@act.gov.au

22 May 06, CANBERRA: 6pm, **CLA** Forum: **Death Penalty**. ACT Leg Assembly Reception Room.

Keynote speakers (TBC)

All invited. Host: House Speaker Wayne Berry

22 May, Sydney: Justice Michael Kirby on *Interpreting Freedom: The Use by Final Courts of International Human Rights Law*, Footbridge Theatre, Uni of Sydney 6pm Info: Sydney Peace Foundation on (02) 9351 4468 e-mail: spf@arts.usyd.edu.au

29 May, CANBERRA: **CLA** lectures to ADFA cadets on civil liberties/human rights

9 Jun 06, CANBERRA: 5-7pm. Meet new **CLA** Patron John Marsden LL.M AM. Please RSVP (essential for catering purposes) – <mailto:secretary@claact.org.au> All CLA members and potential members invited.

19 June, World: New Human Rights Council to meet for the first time

21 June, Canberra: Conference on Australian Bills of Rights - recent developments in the ACT and other jurisdictions. See website for details: <http://acthra.anu.edu>

6 August (Date TBC), CANBERRA: 6pm, **CLA** Forum: **Sedition** National Library of Australia (with ISAA).. Keynote speaker (TBC). All invited.

10 December, World: Human Rights Day www.ohchr.org

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– from UNITY, UN Assn of Australia weekly newsletter, 7 April 06

Keeping up with the pollies

The Federal Parliamentary Library provides MPs with a regular update of published materia. Here is a selection from a recent list – contact your MP for copies of those not available in bookshops:

ADMINISTRATIVE LAW:

(CLA MEMBER) **Fraser, Ron.** Developments in admin law. *AIAL Forum*, no.47, Dec 05: 42-64.

BILL OF RIGHTS:

Anderson, Tim. Rights, the republic and participatory democracy. *On Line Opinion*, 24 March 2006: 2p.

Mason, Anthony. Rights Bill a matter for judgement. *The Age*, 29 Mar 2006: 17.

Von Doussa, John. 'Strengthening the planks'. Keynote address, National Legal Aid Best Practice Conference, Glenelg, 15 Sept 2005, *Speech*, 15 Sept 2005: 7p.

FREEDOM OF SPEECH:

Harris Rimmer, Susan. Spy versus spy: Government control of sensitive information. *Research Brief* (Economics, Commerce and Industrial Relations Section) no. 13, 2005-06, 24 March 2006: 16p.

INTERNET:

Clapperton, Dale. Spyware, consent and the Privacy Act. *Privacy Law Bulletin*, vol.2, no.6, Nov 05: 46.

JURISDICTION:

Bigos, Oren. Jurisdiction over cross-border wrongs on the Internet. *International and Comparative Law*

Quarterly, vol.54, no.3, July 2005: 585-620.

Stellios, James. Federal dimensions to Act Human Rights Act. *AIAL Forum*, no.47, Dec 05: 33-41.

LAW:

De Brennan, Sebastian. Sharia law and Australia. *On Line Opinion*, 22 Mar 2006: 2p.

PRIVACY:

Chalmers, Robert. Orwell or all well? The rise of surveillance culture. *Alternative Law Journal*, vol.30, no.6, 6 December 2005: 258-62.

De Rooy, Julie. What's bugging you? *Law Institute Journal*, vol.79, no.6, June 2005: 50+ (3p).

Taseff, Rebecca. The protection of personal privacy: the differences between a privacy tort and the action for breach of confidence. *Media & Arts Law Review*, vol.10, no.3, September 2005: 208-26.

PUBLIC SERVICE – ETHICS:

Podger, Andrew. Ethics and Public Administration. *Document*, November 2005: 8p.

TERRORISM:

(CLA MEMBER) **Michaelson, Christopher.** Australia's antiterrorism laws lack adequate oversight mechanisms. *Document*, 3 November 2005: 4p.

TRANSCRIPTS:

Climate change. *Law Report*, 21 March 2006: 11p.

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PATRIOT ACT...here's its full name:

"Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001", also known as the USA PATRIOT Act...*(now updated with a 2006 version)*

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CLArion welcomes contributions. We particularly welcome news from our own members, and from interstate CL and other bodies. Please send any items by email. See top of document for email address. Include your name and membership details (eg, CLA, NSW CCL, or Qld CCL, or whatever) and details of where the story came from so we can credit the original source, if it is not you.

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