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ANNUAL GENERAL MEETING: Sat 5 April, 4pm

Prof. George Williams will give the keynote address on a possible **Charter of Rights and Responsibilities for Australia** at the CLA AGM, 4-6pm, Saturday 5 April, National Europe Centre, at ANU, 1 Liversidge St, Canberra. AGM at 4pm, address from 4.30pm. **RSVP/book** to secretary@cla.asn.au

LAST WORD: Boy, 8, passes law entrance test

A boy aged eight has passed the entrance exam to law school in Brazil. "It was easy," the child said. "I studied (for) a week before the test." *More info: see last item in this newsletter.*

Liberties in focus as Australian Charter of Rights debate gets closer

It looks like being a hectic year for civil liberties issues as the Rudd Labor Government fires up a change agenda in and out of Parliament.

In meetings and discussions with key Ministers, backbenchers and advisers this month, CLA has been mapping out a busy agenda to the end of 2008 and beyond.

The most important meeting, with Attorney-General Rob McClelland, included a frank exchange about the need for a national debate on a charter of rights and responsibilities.

He said the debate was likely to start by about mid-year with the release of a robust discussion paper, though the exact nature and terms of what the government proposes is not yet locked down.

Currently, the A-G's Department is preparing a benchmark study of the status and history of consultations over charters and Human Rights Acts in Australia, federally and in the States and Territories. That study, released as a discussion paper, is expected to take about three months.

After the March meeting of the Standing Committee of Attorney-Generals (SCAG), Mr McClelland announced plans to "engage the legal profession and key stakeholders with genuine and active consultation on reform proposals and to convene a one-day conference during 2008 on legal harmonisation".

The conference would actively engage a wide group of stakeholders including the profession, industry and academics from across Australia and New Zealand to bring fresh ideas and new perspectives on legal reform, a communique said.

In other fast-moving developments in March:

Liberal backbencher Petro Georgiou moved to wind back excess terrorism powers given to security and police agencies, and appoint an independent reviewer of terrorism laws;

Democrat Senator Andrew Bartlett tabled a private member's bill seeking to clarify the protocols about Australia deciding to become involved in military interventions overseas, and trying to introduce a strong supervisory role for Parliament.

Finance Minister Lindsay Tanner appointed Democrat Senator Andrew Murray to review financial governance issues relating to how expenditure is presented to, and decided on, by Parliament (this 'sleeper' review is likely to have far-reaching consequences).

Democrat Natasha Stott Despoja has moved for a review of terror laws by the Senate's Legal and Constitutional Affairs committee and, in particular, a review of the Rudd Government's plans to beef up the Telecommunications Interception Act provisions.

Greens Senator Bob Brown tabled a bill to ending the ban on NT legislation permitting euthanasia: the ban was imposed by the Federal Parliament, over the NT Parliament, a decade

ago, raising issues of equal democratic rights for Australians as well as euthanasia rights (go to [CLA's Euthanasia submission](#));

Other inquiries (with likely or possible submissions from CLA) include :

- Amendments to the Australian Crime Commission (ACC) Act, by the Parliamentary Committee on the Australian Crime Commission;
- Another inquiry involving the ACC, about whether there's need for more (or less) legislation relating to outlawing serious and organised crime groups;
- Sexualisation of Children in the Media;
- Legislative Instruments Act;
- Spent convictions (after how many years are records of people who have served jail sentences expunged);
- Mental Health legislation, ACT and nationally; and
- Rights of children (see later item in this bulletin).

As well as these, there a considerable number of inquiries coming out of the work of the Standing Committee of Attorneys-General. Anyone with a particular interest in contributing to CLA work on one or more of these is welcome to get in touch, via secretary@cla.asn.au

WA CLA group contributes to draft shield law, prepares CCC review

Dr Johan Lidberg, lecturer in the School of Media Communication at Murdoch University, has contributed to the research and analysis behind the draft Media Shield Law presented to WA Attorney-General Jim McGinty recently.

The Media, Entertainment and Arts Alliance (MEAA) formally presented the draft to the government (see item later in bulletin), but work on it involved a range of communications academics as well. The four academics, including CLA's Dr Lidberg, presented a separate, supporting proposal to the government.

Meanwhile, CLA's WA convenor, barrister Peter Dowding, is working with lawyers and others to analyse how well or otherwise aspects of the State's Corruption and Crime Commission are working. They expect to produce a major paper outlining issues that the CCC and the WA Government need to deal with to ensure the CCC retains its credibility and public support.

Goulburn prepares to mount cartoon exhibition

The Goulburn CLA group will mount the CLA cartoon exhibition in the Goulburn Library from 28 April to 9 May.

CLA member Fred Rainger is organising the exhibition, in conjunction with Sylvia Brook, the officer in charge of the library. At least 40-50 of the exhibition's 70-odd cartoons are expected to be on show. Admission will be free.

CLA to support HREOC review of business rights/responsibilities

CLA is planning to support an Australian and international push to embed a charter of rights and responsibilities for corporations.

The Human Rights and Equal Opportunity Commission (HREOC) will this year "embark on a project focusing on the role of Australian companies in promoting and protecting human rights".

HREOC will canvass current Australian business practice relating to human rights, and analyse options for protecting human rights in business, at a private and public level.

As well, the project may be a practical supplement to the draft *Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights*, developed by the United Nations.

At present only nine Australian companies participate in the voluntary UN Global Compact. Australian participation may rise if the HREOC project is successful.

Significantly, the project may allow the Australian Government to create momentum at an international level for creating an International Charter on Corporate Rights and Responsibilities.

CLA hopes to bring together a group of university students from International Relations and Law faculties, under a senior mentor, to make a major contribution to the debate.

– by Cynthia Ganeshrajah, CLA member, ANU Law

New committee to review how well rules are working

Attorney-General Robert McClelland has announced a new committee to review the Legislative Instruments Act 2003.

The 2003 Act established rules for the making, registration, publication, parliamentary scrutiny and sunseting (providing an end-date) of Commonwealth legislative instruments.

"The aim of the review is to ensure that the Act is meeting its key objectives, which includes enhancing the accountability of government rule makers," Mr McClelland said.

Legislative instruments are basically the sub-laws – the rules and regulations – which give practical meaning and potency to broad-ranging laws made by parliament. They regulate how the law's power is delegated to bureaucrats for day-to-day implementation.

The review committee is: former Secretary to a number of Australian Government Departments, Anthony Blunn, Deputy Secretary of the Attorney-General's Department, Ian Govey, and the Commonwealth and ACT Ombudsman, Professor John McMillan.

There will be an issues paper and call for submissions. More info and terms of reference from: <http://www.ag.gov.au/lia-review> Reporting date is by 31 March 2009.

Australian woman facing firing squad execution

An Australian woman is facing a Vietnamese firing squad after an appeal court sentenced her to death for heroin trafficking last month.

Jasmine Luong, 34, of Sydney has until early this month to appeal directly to the Vietnamese president for clemency.

She was jailed for life by a lower court on being convicted of attempting to smuggle 1.5kg of heroin on to a flight to Australia. But the prosecution appealed, and the appeal court in Ho Chi Minh City increased her sentence to the death penalty, the state-run newspaper, *Liberation Saigon*, said.

She was arrested in February 2007 boarding a flight at Tan Son Nhat international airport in Ho Chi Minh City. Customs officials found 1.5kg of heroin in her shoes and luggage. Luong told appeal court judges that an unidentified man had given her an advance of \$5,000 to take the drug to Australia, where she would receive a further \$11,000.

Vietnam has some of the world's harshest drugs laws. Possessing, trading or trafficking in more than 600g of heroin or 20kg of opium carries a sentence of life imprisonment or death.

– from an article by Sadie Gray and agencies, *The Guardian*, London, 19 Mar 08

<http://www.guardian.co.uk/world/2008/mar/19/australia>

Judge's ultimatum over 'unfair' terrorism trial blasts jailers, police

In another extraordinary outburst from the bench, Justice Bernard Bongiorno has savaged the police, security and prison entities holding 12 alleged Melbourne terrorists, ordering them to ease the unconscionable conditions in which they have kept the unconvicted prisoners for two years.

The men were not getting a fair trial, and the conditions in which they were being held were so bad that they could make them ill mentally and interfere with their ability to mount their defences, the judge said.

Bongiorno ruled that the prisoners be transferred to central Melbourne's remand prison, taken directly to court each day, and let out of their cells for 10 hours daily when not in court. He ordered they not be shackled or restrained other than by handcuffs while in transit, nor strip-searched after returning from court.

They were to be treated as ordinary remand prisoners, the judge said.

Authorities have been holding the alleged terrorists in the ultra-security Acacia wing at Barwon Prison, about 100km from Melbourne, in extraordinarily harsh conditions for prisoners on remand. They are being held in maximum security, 'worst of the worst' conditions, and they have the highest security rating in Victoria.

The 12 men in Melbourne faced trial last month charged with being members of a terrorist organisation and related offences. The trial is expected to run throughout 2008, but Justice Bongiorno said it would not restart until their conditions improved. If the conditions didn't improve, he threatened to release the suspects on bail.

CLA is concerned that exactly the same type of treatment is being meted out to other alleged terrorists, such as in NSW jails, in what appears to be anticipatory punishment inflicted on people who have not had their day in court (in some cases, have had no day at all in court).

In Sydney, Justice Michael Adams severely criticised AFP and ASIO operatives who similarly appeared to have acted as if the suspect was guilty, rather than being an alleged wrongdoer. The case against Mohamed Ul-Haque collapsed entirely (due at least in part to the behaviour of authorities, which is being formally investigated). Also under investigation is the behaviour and attitude of police in the Haneef case in Brisbane.

– base information from a story by Mike Hedge in the *SMH*, 21 Mar 08

<http://www.smh.com.au/articles/2008/03/20/1205602581457.html>

SCAG gets permanent support: CL groups need occasional help

The Standing Committee of Attorneys-General (SCAG) has agreed to establish a jointly-funded permanent secretariat.

In some ways, this will make dealing with SCAG issues easier for CLA and other civil liberties and legal groups.

However, it is also likely to significantly increase the workload of making submissions for civil liberties groups. In its meeting with Attorney-General McClelland in March, CLA raised the issue of the limited resources available to CL groups. He undertook to have his officers look at possible options for funding support that were already available under government schemes.

CLA asks Electoral Committee to reform manifest inequality in voting

CLA has asked the Joint Standing Committee on Electoral Matters to correct the glaring anomaly that has 60,000 electors send an Member of the House of Representatives to the Australian Parliament from the Northern Territory, but double that number – 120,000 – is required to elect an MHR from the Australian Capital Territory.

The average number of electors per electorate throughout Australia is about 85,000.

"This is a manifest inequality of voting rights between Australian citizens, which has been actively engineered by the Australian Parliament," CLA CEO Bill Rowlings said. "It demands immediate fixing."

Daryl Melham is the new chair of the committee. He is the long-standing Labor MP for Banks, in inner-Sydney. Other members are Scott Morrison (Lib, Cook NSW), Senator Simon Birmingham (Lib, SA), Senator Carol Brown (Labor, Tas), Senator Bob Brown (Greens, Tas), Senator Steve Hutchins (Labor, NSW), Michael Danby (Labor, Melbourne Ports), Senator Michael Ronaldson (Lib, Vic), Bruce Scott (Nationals, Maranoa) and Jon Sullivan MP (Labor, Longman).

It is noteworthy that no Territory representative is on the committee.

<http://www.aph.gov.au/house/committee/em/membership.htm>

Journalists seek protection from secret commission's excesses

The MEAA has called on the WA Attorney-General Jim McGinty to stand by his commitment to "sensible" shield laws that protect journalists acting in accordance with their code of ethics.

In the past 12 months, five WA journalists have been threatened with three years jail and \$60,000 fines for refusing to reveal their sources at secret hearings held by the WA Corruption and Crime Commission.

The MEAA WA has lodged a detailed submission with Mr McGinty and Labor Member of the Legislative Council, Ken Travers, who chairs a parliamentary committee which oversees CCC activities.

Further information: MEAA WA branch secretary, Michael Sinclair-Jones, on 0411 885 316.

Charters of rights left on the shelves

A charter of human rights for Tasmania looks set to sit on the shelf while the State Government waits for Commonwealth action, replicating the situation in WA.

Tasmanian Attorney General David Llewellyn said he favoured a consistent approach across all states and territories. "I will be discussing it with the Federal Attorney General as I understand he is looking at the issue on a national basis," he is reported as saying in the Hobart Mercury.

The Law Reform Institute of Tasmania has recommended a charter for protection of civil, political, economic, social and cultural rights.

Meanwhile in NSW barristers have decided to support a charter of rights for that state, according to *The Australian Financial Review*.

The bar association's president, Anna Katzmann, QC, said they were endorsing a charter of rights because legislation at federal and state level had trampled over basic rights. Academic and CLA member George Williams said the NSW Bar Association's decision to back a charter was significant as they had previously opposed such a move.

However, NSW Attorney-General John Hatzistergos remains bitterly opposed: earlier this year he called the push for a charter 'absurd'.

Clarke heads inquiry into Haneef fiasco

Former NSW Supreme Court Judge John Clarke QC is heading the judicial inquiry into the Dr Mohamed Haneef fiasco.

Dr Haneef, of Indian birth and working in a hospital on the Gold Coast, was detained, released, administratively detained and finally allowed to go to India to visit his wife, who had just given birth to their child. His traumas had begun when a cousin, in the UK, drove a car into the exterior wall of an airport's passenger drop-off area, and set the vehicle alight.

Australian security and immigration authorities, including the Australian Federal Police (who were dubbed 'Keelty's Keystone Kops' during the shambles*), managed to misinterpret 'intelligence', mistake locations, misapply the law, maliciously detain Dr Haneef and robustly malign his reputation in a way that is likely to cost Australia millions in compensation.

They were aided considerably by an overtly out-of-his-depth Immigration Minister, Kevin Andrews, whose competence and lack of bias, if they existed, were not demonstrated in this case.

The Clarke inquiry has wide-ranging terms of reference – but virtually no enforcement powers – and is due to report by 30 September 2008. It may take some evidence in secret, and may produce a report with a secret appendix. However, there will be opportunity for public submissions, and public forums are promised.

Mr Clarke was a judge of the NSW Supreme Court from 1983 to 1997 and sat on the NSW Court of Appeal from 1987 to 1997. He has also had a distinguished career as a barrister, mediator and arbitrator, according to Attorney-General Rob McClelland, who appointed him.

The Clarke Inquiry will be asked to report by 30 September 2008.

AFP Commissioner Mick Keelty told Senate Estimates:

- *more than 600 police personnel worked on the Haneef case at its height;*
- *the investigation cost more than \$7.5 million;*
- *police and security services took more than 300 witness statements and collected 349 forensic samples;*
- *the operation involved 249 AFP officers, 225 Queensland police, 54 Western Australian police, 40 NSW police, four police and 15 other officers from the Northern Territory, Tasmania and other agencies, six translators, six Customs officers, and two British police;*
- *they executed 22 search warrants on residential premises, conducted 16 telephone intercepts, operated 6 surveillance devices and seized 623 gigabytes of computer data; and*
- *totted up a \$1.6 million overtime bill.*

These figures do not include the involvement of the Australian Intelligence Security Organisation (ASIO) and other security agencies, including the Australian Secret Intelligence Service (ASIS), the overseas spy force, and the Office of National Assessments (ONA), the coordinating organisation in the Prime Minister's department.

– Estimate info from: http://www.wsws.org/articles/2008/mar2008/afp-m03_prn.shtml

Students to work on articles, 'live' projects

The stories of how CLA has helped ANU students on- and off-campus will feature in articles in *Peppercorn*, the law students' newsletter, and *Woroni*, the campus-wide news publication.

Karlie Brown and Amanda Alford, who have completed CLA-ANU internships on DNA and anti-terrorism legislation, will write the *Peppercorn* article.

A group led by Arjuna Dibley will bring together the *Woroni* piece, which will concentrate on protest actions. CLA helped the Law Students for Social Justice find expert help from a senior barrister in an emergency when Lee Kwan Yew was about to accept an honorary degree. CLA is also mentoring a group trying to re-establish the right to protest without interference by police and security staff in a designated protest area outside federal Parliament House in Canberra.

Students will be invited throughout 2008 to be involved with 'live' CLA projects, such as analysing and commenting on legislation, reviewing annual reports and offering links and support to civil liberties and human rights groups in the Pacific, including Papua New Guinea and Timor Leste.

Students from any university in Australia or the Pacific keen to become involved in a CLA project should email: secretary@cla.asn.au

Australia lobbied to ensure rights are honoured

The group working up an Optional Protocol (OP) to the International Convention on Economic, Social and Cultural Rights (ICESCR) is meeting for its final session from 31 March to 4 April 2008.

"If the OP is finalised, an official version will go the Human Rights Council in Geneva for adoption," says Juliet Rossi of the NGO Coalition for the Optional Protocol steering committee. "If approved there, the OP goes to the UN General Assembly for adoption and then ratifying by states (that is, nations).

"The OP will make it possible for individuals, groups or organizations to seek justice at the international level for violations of economic, social and cultural rights by submitting complaints to the UN Committee on Economic, Social and Cultural Rights," Rossi said.

"The adoption of the Optional Protocol will also provide support to efforts to get greater recognition of economic, social and cultural rights in domestic law and before courts, and will strengthen our monitoring role, as civil society organizations," she said.

But some countries want a so-called 'à la carte' OP, under which they would be able to treat the ICESCR as a menu of rights and specify which rights they would be willing to accept complaints on. "As most countries back a comprehensive instrument covering all levels of rights and obligations in the ICESCR, the few countries who don't want that outcome have to be lobbied to change or reserve their position," Rossi said.

Some states are also pushing to include additional admissibility criteria such as the requirement that a complainant demonstrates that he/she has suffered "significant disadvantage" and to set a very high threshold for finding a violation.

The NGO Coalition for the OP-ICESCR is appealing to Austria, Australia, Canada, Denmark, Greece, Ireland, the Netherlands, New Zealand, Sweden, Switzerland, and the United Kingdom to lobby them to change or reserve their position, so as not to water down the OP too much.

Further information: Julieta Rossi jrossi@escr-net.org

Shopper tracking raises privacy concerns

Businesses and governments are preparing to deploy millions of sensors to monitor everything from water and energy consumption to retail shopping habits as they try to boost productivity and home marketing techniques.

Privacy advocates have cautioned businesses to start talking to the public now, Ben Woodhead wrote in *The Australian's* IT section last month.

Tiny video cameras, thermometers and radio frequency identification tags are among the devices that will become ubiquitous in supermarkets, offices and farm paddocks as computer systems are pushed into new domains.

Privacy advocates have cautioned that businesses need to start talking to the public now about emerging monitoring systems or risk wasting money on expensive sensor networks that may be rejected by consumers.

According to a report on technology trends over the next decade, *The Future of Business 2008-18*, many of the developments won't reach commercial maturity for a number of years.

Others, such as computer-driven video analysis and voiceprint recognition systems, could routinely be used in shops and call centres as early as 2010, report author and S2 Intelligence managing director Bruce McCabe said.

<http://www.australianit.news.com.au/story/0,24897,23312803-5013040,00.html>

Move to create national commissioner for children

Senator Andrew Bartlett (Dem, Qld) last month introduced a bill into federal parliament to establish an independent national commissioner for children.

"With no political voice of their own, the rights of children are often ignored or marginalised," Senator Bartlett said. "A children's commissioner would ensure that the needs, views and rights of people under the age of 18 are recognised and promoted.

"Along with promoting the rights of children, the commission would monitor and review laws, policies and practices which impact on service provision for children," he said.

Labor chooses ex-Lib to advise on refugees

The former Sydney Liberal MP and refugee advocate Bruce Baird has been appointed by the Federal Government to head its most influential immigration committee, the Sydney Morning Herald reported last month.

A long-time humanitarian campaigner, he will take up a three-year position as chairman of the Refugee Resettlement Advisory Committee (RRAC), a group which advises the government on how recent arrivals in Australia are settling into the community.

The RRAC was established in 1997 as an expert policy group on refugee and humanitarian settlement matters and provides recommendations to the Federal Government on priorities for settlement services.

Council members include Paris Aristotle, Margaret Piper, Paul Power, Carmel Guerra, Mohamad Issa, Samia Baho, Jenny Semple, Kevin Liston and Daniel Zingifuboro. The council's term will run from 19 March 2008 until 30 June 30.

Liberals, Greens defeat 'secrecy' laws

Liberal, National and Green MPs have combined in Victoria's Upper House to vote down the Labor Government's proposed new laws relating to Freedom Of Information (FOI) provisions.

The Government is not expected to reintroduce the Bill, meaning the legislation is effectively dead. They had sought to change FOI laws, allowing an extra 30 days for bureaucrats to process requests, on top of the 45 days already permitted. Attorney-General Rob Hulls had also sought to have those who put in repeated requests declared vexatious litigants.

A number of commentators, Opposition MPs and media outlets, including the Herald Sun, had criticised the Bill, saying minor changes such as the move to get rid of the \$22.50 application fee was nothing more than window dressing. Critics had also said the Bill did nothing to address the culture of secrecy within the Brumby Government.

<http://www.theaustralian.news.com.au/story/0,25197,23295350-5006785,00.html>

Parliament chastised for 'unthinking' law

Its own Legislation Review Committee (LRC) has told the NSW Parliament that draconian laws against street racing and doing burnouts are inappropriate.

As well, the penalties for offences under the act were also possibly too heavy. The laws may amount to an undue trespass on individual rights, the LRC told the parliament.

The new legislation makes racing and burnouts strict liability offences: in other words, a person is guilty whether or not they intended to do the act involved (that is, their 'mens rea' - or the state of their mind when the act was committed - is irrelevant).

The LRC calls for a parliamentary re-think, quoting the Australian Law Reform Commission on strict liability offences: "The requirement of a mental element is considered a hallmark of our criminal justice system," the ALRC wrote. "It is an overarching principle of criminal law that doing a forbidden act should not of itself render a person guilty of a crime; it must also be shown that the person had a guilty mind," according to the ALRC.

US Homeland Security runs exercise in Australia

The US Department of Homeland Security ran an anti-terrorist exercise, Cyber Storm II, throughout March with the government and business sectors of Australia, Canada, New Zealand, the UK and the USA.

Apart from the Australian Government and its agencies, the SA Government, the WA Government and more than 50 private industry organisations took part. There were simulated cyber and physical attacks targeting critical infrastructure, including the water, energy, IT, communications, banking and finance industries. Details: Adam Sims, A-G'S Office, 02 6277 7300 or 0419 480 224.

ACT boosts Human Rights Act

The ACT Parliament has passed the Human Rights Amendment Bill 2007, aligning the ACT provisions more closely with those of the later-introduced (2006/7) Victorian Charter of Rights and Responsibilities.

One radical change from the ACT's July 2004 original Act is that people will now – from 1 January 2009 – have the right to initiate action to enforce or safeguard their human rights in relation to a government action. They will be able to mount a case in the ACT Supreme Court.

Importantly, individuals can also take action if a government authority fails to act in accord with human rights, or proposes to act in contravention of human rights. These provisions may be where much of the action will lie in the short term, as people try to enforce rights to education and housing, or try to prevent development or other structural change within society.

The new ACT provisions also introduce, for the first time ever anywhere in the world (according to the explanatory statement of Attorney-General Simon Corbell), the option for private sector companies to 'sign up' as rights-compliant bodies.

One of the most significant developments with the new Human Rights Act amendments are that ACT Policing officers will be bound by the ACT Human Rights Act when enforcing ACT laws. But there's still wiggle room in the amended Act's weasel words which point out that there is an exoneration for "public authorities who are obliged to act in accordance with a Commonwealth law".

It is likely that police in the ACT will engage in finely-tuned jurisdiction shopping so that the new laws have the minimum impact on their behaviour. Previously, ACT Policing – a 'business entity of the Australian Federal Police' – has rigorously denied that its officers and its work come under the ACT Human Rights Act. Apparently, the AFP does not want to be bound by human rights.

Aborigines stand strongly against NT intervention

The Central Australian Aboriginal Alliance and the National Aboriginal Alliance are refusing to accept any racial discrimination by the Government of Australia and the Northern Territory administration against Aboriginal peoples.

They tabled a statement aimed at federal parliament to that effect earlier this year. It said, in part: "In rejecting racial discrimination in any form, we demand, immediately and unreservedly:

- 1) the restoration of the Racial Discrimination Act 1975 in its entirety and without prejudice, so that it can apply to all acts within the Commonwealth of Australia. Racial discrimination in Australian legislation will not be tolerated. In saying this, the Federal Government of Australia must provide a guarantee for future protections against racial discrimination, including the means by which remedies can be found;
- 2) The immediate end to the Northern Territory intervention/invasion and we call upon the Federal Government and NT administration to enter into transparent negotiation with the Aboriginal nations to develop and implement appropriate infrastructure, equal to that of all other citizens of Australia, and development programs that will give rise to the well-being of the Peoples and provide for the safety of our families and secure our communities."

McCrimmon appointed to ALRC:

Professor Leslie McCrimmon has been re-appointed a full-time member of the Australian Law Reform Commission to help undertake any new reference work after the Privacy Inquiry ends. His appointment lasts to 30 June 2009.

CLA's main activities for March 2008:

Meetings with members: to progress current issues in which they are involved: Sarah Bassiuni, Dr Bernadette Boss, Jennifer Saunders, Anthony Williamson, Anne Cahill-Lambert, Beryl Rawson and Bruce Haigh re a possible new group in the central west of NSW, based on Mudgee/Dubbo,

Meetings/liaison with MPs/etc: Senator Andrew Bartlett, discussed national charter of rights, how Australia goes to war, reform of Senate Committee system, and refugee rights; Attorney-General Rob McClelland: how Australia goes to war, inquiry into a charter of rights and responsibilities, Senate reform, funding of CL bodies' work; Clerk of the Senate, Harry Evans, on parliamentary committees and governance issues; Senator Andrew Murray on review of parliamentary finance bills' governance issues; Senator Natasha Stott Despoja (view adviser Mat Tinkler) on range of issues, and civil liberties situation in South Australia.

New media spokesperson: Dean Prail is a welcome addition to our team. Former spokesperson Max Jeganathan is now an adviser to Minister Jenny Macklin. Dean undertook several interviews, his first being with a Tasmania breakfast program on 7LA, Launceston, and then the *Canberra Times* on euthanasia and ABC Radio 666 on gagging Olympic athletes from speaking in China.

Main issues dealt with:

SARP (Sexual Assault Reform Program) – follow up with Law Society and Bar Assoc re consultations (ACT issue initially, but likely to be mirrored in other states)

Parliament House protest: Presiding Officers to be consulted, CLA seeking meetings.

Police chases – strategy, timelines developed; Prof Bob Gregory looking at economic costs after initial review by member Prof Fred Argy;

How Australia goes to war – discussions with Bartlett, Murray

Revising terror legislation: follow-up to Petro Georgio proposed appointment of reviewer

Students:

Following up U Canberra group, with help from CLA member Father John Parsons

Meeting with ANU students: activities discussed, follow up on students who signed up on Market Day, also links with student groups (Law Students for Social Justice, Law Students Society) .

Cynthia Ganeshrajah managing project on codes of ethics for corporate sector.

Speakers: Prof Greg Craven to be interviewed for Radio Liberty, and to address ANU law students

Branches:

WA: Johan Lidberg working on media shield laws with other academics; convenor Peter Dowding and lawyers working on analysis of CCC effectiveness and excesses.

SA: Discussions with Matt Tinkler, adviser to Natasha Stott Despoja.

Goulburn: unsuccessful public meeting held; cartoon exhibition being arranged for display in the Goulburn library.

Central-West NSW: initial discussions held with Bruce Haigh.

Submissions lodged:

Repeal of Euthanasia Bill

Sexualisation of children in the media (in draft)

Social: A BBQ for about 50 CLA members and their families, as well as potential new members, was held in March.

AGM preparation – annual report finalised; President's report prepared.

UK moves to model its voting largely on Australia's

A significant overhaul of electoral legislation to give voters a second vote, open polling stations at weekends and make it compulsory to participate is being proposed by the UK Government to increase turnout and improve the legitimacy of the House of Commons.

Ministers will begin a consultation effort on the plan after local elections in May, and hope the measures will increase the authority of MPs and reduce voter disengagement. In the 2005 general

election, only 61% of those eligible participated. Under the alternative voting system, ballot papers would allow for a second preference vote which would be redistributed from the lowest-scoring candidate's share until one candidate has more than 50% of the vote.

News of the proposals came as Jack Straw, the Justice Secretary, prepared to publish a draft constitutional reform bill, before a separate green paper on a British bill of rights and responsibilities and the opening of discussions on a statement of British values.

As well as the bill, there are plans for a "citizens' summit" of 500 Britons, chosen at random but weighted, like a pollster's sample, to reflect the make-up of the British population: their job will be to draw up a "British statement of values".

A white paper on party funding, which proposes capping donations and campaign spending, is also expected shortly together amounting to a substantial program of constitutional reform.

These proposals in Britain largely reflect exactly what is happening in Australia – keep an eye on Britain to see where Australia is going, and vice versa.

<http://www.guardian.co.uk/politics/2008/mar/24/localgovernment.voterapathy>

Arbour to quit UN human rights post

High Commissioner for Human Rights Louise Arbour will step down in June by not seeking a second term in the job which is a magnet for criticism from a broad range of countries.

She was the second high-ranking UN official in a week to announce a resignation last month. UN peacekeeping chief Jean-Marie Guehenno of France disclosed he would step down mid-year, ending eight years on the job.

Arbour, a 61-year-old former Canadian supreme court justice, disclosed her decision in a speech to the 47-nation UN Human Rights Council.

Child imprisoned at Gbay due to revised guesswork

A military report on a battle in which a US soldier died in Afghanistan was altered after the fact to falsely blame a young Canadian prisoner, his lawyer said last month, according to a report by Jane Sutton of *Reuters Canada*.

On the basis of guesswork, the 15-year-old Omar Khadr was detained, and has been kept in hellish conditions in Guantanamo Bay through his 21st birthday, without trial.

The battlefield report initially said the assailant who threw the fatal grenade had himself been killed near the Afghan city of Khost on 27 July 2002, lawyer and Navy Lt. Cmdr. William Kuebler, told reporters at Gbay naval base.

The officer who wrote that report, on 28 July 2002, revised it about two months later to say the grenade thrower survived, implicating Khadr, said Kuebler. He asked a judge in the Gbay war court to allow him to interview that officer about the contradictory accounts.

Khadr is charged with murdering US Army Sgt. 1st Class Christopher Speer, a special forces medic who entered a suspected al Qaeda compound after an aerial bombing and was hit by a grenade.

No-one saw who threw the grenade but the US military says it must have been Khadr because he was the only person still alive inside the compound when US forces entered.

Another US soldier said in documents released in February that a second al Qaeda suspect was lying on the floor of the compound with an AK-47 assault rifle at his side, injured and moaning but still alive after the grenade was thrown. The soldier said he shot and killed that suspect, then shot Khadr twice in the back as Khadr sat on the floor.

In a bizarre twist, Khadr is being held by the USA under military provisions as an 'enemy combatant' but owes about \$110m in compensation to Speer's widow and another injured soldier because a Utah District Court civil judge found him to be a 'terrorist'.

<http://ca.reuters.com/article/domesticNews/idCAN1333765020080313>

For NATO, the byte is mightier than the sword

NATO considers the threat of cyber warfare as seriously as the risk of a missile strike, according to a senior official, Suleyman Anil.

A London conference was told last month that online espionage and internet-based terrorism now represent some of the gravest threats to global security. "We have seen more of these attacks and we don't think this problem will disappear soon. Unless globally supported measures are taken, it can become a global problem."

Mr Anil, who is head of Nato's computer incident response centre, told the E-Crime congress in London that one of the main threats was cyber terrorism, where attempts are made to shut down online communication networks or use the internet to attack official institutions.

The prospect of internet-based warfare has come to the fore after a series of high-profile international attacks. Last year, it emerged that a gang of hackers, believed to be from China, had infiltrated computer systems at the Pentagon and launched attacks on government networks in Britain, Germany, India and Australia.

US officials, who have labelled the group Titan Rain, have accused them of operating under the auspices of officials in Beijing.

– from a report by Bobbie Johnson in *The Guardian*, London, 6 March 08

<http://www.guardian.co.uk/technology/2008/mar/06/hitechcrime.uksecurity>

UK group gives daily democracy a ranking

Demos in the UK has developed the Everyday Democracy Index as "a tool for assessing the democratic health of European countries across many different dimensions".

According to a paper launched this year, everyday democracy "includes not just formal dimensions of democracy but also more everyday features of democracy – how important democratic principles and practices are to the cultures of workplaces, to people's community life, to the way they interact with public services, and even to the way they talk to their friends and family."

<http://www.demos.co.uk/publications/theeverydaydemocracyindexbook>

– from the Democratic Audit of Australia, E: pbrowne@swin.edu.au, 19 Mar 08

China cuts number of executions

China executed only "extremely vile criminals" last year, the country's chief justice Xiao Yang declared last month, reporting much lower numbers of death penalty victims.

Reforms introduced in early 2006 gave the supreme court the right to overturn capital sentences handed down by lower courts.

Human rights groups welcomed the fall as a sign of progress, but pointed out that no one knows the actual number of executions because it is a state secret. Even on reported cases, China executes more people annually than the rest of the world combined.

Research suggested about 6,000 people were executed last year, 25-30% fewer than in 2006.

Amnesty International recorded 1,010 executions in China in 2006 on the basis of published reports alone – 40% lower than the previous year, but still two-thirds of the global total. It believes the real number may have been closer to 8,000.

<http://www.guardian.co.uk/world/2008/mar/10/china1>

Family claims Pakistan will execute wrong man

A man who the Pakistani authorities believe to be Manjit Singh, but whose family claims is the victim of mistaken identity and is actually Sarabjit Singh, is due to be executed on 30 April.

He was arrested as Manjit Singh in 1990 on charges of having worked for Indian intelligence, but was convicted and sentenced in 1991 for alleged involvement with four bomb attacks in Lahore and Faisalabad that killed 14 people in 1990. An appeal to the Supreme Court of Pakistan to have his sentence overturned failed in 2006. President Pervez Musharraf rejected his petition for mercy on 5 March 2008.

His family claim that he is not Manjit Singh, but Sarabjit Singh, an Indian farmer who accidentally strayed into Pakistani territory whilst working.

In Singapore, Hamir Hasim, Kamal Kupli and Abdul Malik and Tan Chor Jin, all convicted of murder, are at risk of imminent execution. In February final appeals against their mandatory death sentences were rejected by the Court of Appeals. The President of Singapore can commute the death penalty, but usually doesn't.

– from Amnesty, 19 Mar 08

Jamaicans to unclog jails using new pot plot

Jamaica, the largest producer of cannabis in the Caribbean, is considering decriminalising its use.

A seven-member government commission has examined possible reforms of the nation's anti-drug laws, which some police complain clog up courts and jails with marijuana-related cases.

Possession of ganja, as it is known in Jamaica, can be punished with imprisonment. Some Jamaicans consider that disproportionate and a recent newspaper poll revealed that Jamaicans rate smoking above drinking as a way to wind down.

A previous government-appointed ganja commission proposed decriminalisation in 2003. That was never acted upon because the government feared it would cause the withdrawal of their country's US anti-drug certification and trigger economic sanctions. The new Jamaican Labour party government, which took power last year, has decided to think again.

<http://www.guardian.co.uk/world/2008/mar/11/internationalcrime>

Sri Lankan Minister appears to threaten media with violence

A running feud between a Sri Lankan Minister and the nation's news media appears to be getting completely out of hand.

On 27 December 2007 the Minister of Labour, Mervyn Silva, was reported to have assaulted the news director of the Sri Lanka Rupavahini Corporation (SLRC), Sri Lanka's main public TV outlet. Mr Silva was allegedly angry over comments he made at a rally not being broadcast.

Since then, as many as 10 media people from SLRC and other media have reportedly been targeted with incidents of intimidation and minor violence.

Sri Lanka's Free Media Movement (FMM) reported that, late last month, Mr Silva threatened MTV/MBC journalists covering the opening of a flyover bridge in his electorate. According to FMM reports, the Minister said when addressing *News First* journalists: "I am neither indebted to you, nor do I have anything to do with you and am not afraid of you. You are the most vagrant, despicable media institution in the country. Today, I point my finger at you. Hereafter I will raise my hand. Therefore, in the future, do not let me see you attending any function held in my electorate. I ask you who spread evil to find a place to hide."

Susil Kindelpitiya, director of news at MTV/MBC, has lodged a complaint with the Inspector General of Police concerning the threat, and the International Federation of Journalists is calling on the Sri Lankan Government to restore media freedom.

The latest attack occurred just days after Minister Silva met with President Rajapakse and senior media trade union leaders and journalists and undertook not to continue making such threats.

Bush ensures CIA can continue to torture

President Bush last month used his veto to make sure there is no limit to how far the Central Intelligence Agency can go in harshly interrogating terrorism subjects.

Mr Bush vetoed a bill that would have explicitly prohibited the CIA from using interrogation methods like waterboarding, in which restrained prisoners are threatened with drowning, that has been the subject of intense criticism throughout the world. Many such techniques are prohibited by the military and law enforcement agencies.

His veto — the ninth of his presidency, but the eighth in the past 10 months with Democrats in control of Congress — underscored his determination to preserve the executive prerogatives his administration has claimed in the name of fighting terrorism, and to enshrine them into law.

Mr Bush is fighting with Congress over the expansion of powers under the Foreign Intelligence Surveillance Act and over the depth of the American security commitments to Iraq once the UN mandate for international forces there expires at the end of the year.

http://www.nytimes.com/2008/03/09/washington/09policy.html?_r=1&th&emc=th&oref=slogin

British Government back-flips over ID cards

The British Government has back-flipped over its proposed identity scheme, and will allow people to use new 'biometric' passports instead of getting ID cards.

Home Secretary Jacqui Smith said people would have to give biometric details like fingerprints when they apply for a new passport from 2009. But most people would not have to get an ID card, as was planned. Airport and other workers in security sensitive jobs will need an ID card from 2009. Students would also be encouraged to get identity cards from 2010, she said.

Ms Smith confirmed that non-EU migrants applying for leave to enter or remain in the UK will need ID cards from November.

The British Government had previously planned to take biometrics - including all 10 fingerprints - of everyone applying for a new passport from 2008. The proposal had been that from January 2010 everyone getting, or renewing, a passport would have to get an identity card as well as a passport.

http://news.bbc.co.uk/2/hi/uk_news/politics/7280495.stm

Africa's version of democracy is in deadly crisis, says academic

Unless African ruling elites overcome their obsession that regular elections where the winner takes all is the main measure of democracy, the orgy of violence will be repeated, according to William M. Gumede, Senior Associate & Oppenheimer Fellow of St Antony's College, Oxford University.

Western donors, with their requirements that elections are enough to warrant aid, have helped along this limited view of democracy, he says in an article in *The Independent*.

Because of this narrow view of democracy, very few African governments put much effort into building relevant democratic institutions. The separation of powers, such as an independent judiciary and a system of checks and balances between branches of government, exists largely on paper. Furthermore, the idea that there are limits to power, which need to be enforced, is mostly a foreign concept.

<http://www.independent.co.uk/opinion/commentators/william-gumede-africas-version-of-democracy-is-in-deadly-crisis-800538.html>

Human Rights Council elects advisory committee:

The UN's HRC has elected 18 experts to its new advisory committee. The HRC also approved candidates for its 'special procedures' on the right to adequate housing, the right to food, human rights of indigenous people, sale of children, effects of economic reform policies, human rights in Myanmar, human rights in the Palestinian territories, human rights and extreme poverty,

contemporary forms of slavery, arbitrary detention, enforced disappearances, people of African descent, human rights in Somalia and human rights defenders. The advisory committee replaces the former Sub-Commission on the Promotion and Protection of Human Rights. More info: <http://www2.ohchr.org/english/bodies/hrcouncil/>

UK under pressure to drop detention extension:

The British Government faces mounting international pressure from an international coalition of leading intellectuals and religious leaders to drop plans to extend the period that terrorist suspects can be held without charge. Ahead of a crucial second reading of the terrorism bill on 1 April, Desmond Tutu, the former Archbishop of Cape Town and Nobel peace prize winner, the intellectual Noam Chomsky, and leaders of human rights groups, trade unions and Muslim associations around the world are calling on the government to withdraw proposals to extend detention without charge from 28 to 42 days.

<http://www.guardian.co.uk/politics/2008/mar/30/terrorism.uksecurity>

Straw bans early release of terrorists:

UK Justice Secretary Jack Straw has banned early release of convicted terrorists after two prisoners were freed early as part of efforts to ease overcrowding in jails. Yassin Nassari, arrested at Luton airport with a blueprint for a rocket in his luggage, had served seven months of a three-and-a-half year sentence when released in February 17 days before his official release date. Abdul Muneem Patel, 17 when arrested in August 2006 after an explosives manual was found at his home, was released in January, three months into a six-month sentence at a young offenders' institution. Hours after their release news broke, Straw announced a major change to the custody licence (ECL) release program, banning convicted terrorist from the scheme.

<http://www.guardian.co.uk/uk/2008/mar/29/ukcrime.prisonsandprobation>

Paying the price for Iraq War coverage:

When the Iraq War began in March 2003, few anticipated that journalists would pay so dearly to cover the conflict, Paul Gough writes. "Coverage has cost 180 Iraqi and foreign journalists and cost the world's news organizations tens of millions of dollars a year to keep bureaus open in Baghdad and turn out war news that is, surveys suggest, at a low ebb in terms of public interest."

http://www.hollywoodreporter.com/hr/content_display/news/e3icdc37db19c2bf2ef7ca365dea117a269

Planning to visit the USA? You'll be fingered:

From September, all 10 fingers will be blackened and printed by US authorities when you arrive in the USA. The extended fingerprint scheme aims to identify potential terrorists and eliminate visa fraud, officials say. Note: no terrorist has been caught at a US border through fingerprint checks. The USA has been collecting prints of non-citizens aged 14 and up entering the country since 2004. The reason for 10 prints, rather than 1 or 2, appears to be that the basic equipment is recording too many 'false positives' (that is, mistakenly matching ordinary people with the fingerprint files of bad people).

Planning to visit the UK?

Airport operator BAA will not be taking fingerprints of passengers using Heathrow's £4.3 billion Terminal 5 (T5) following doubts over the legality of such a move. BAA had hoped to fingerprint T5 domestic-flight passengers and international passengers transferring on to domestic flights at the west London airport from the start of business at the new terminal late last month. But the Information Commissioner's Office was concerned the fingerprinting could breach the Data Protection Act. It would also drastically - and further - slow down passenger movement in the clogged terminal. <http://news.uk.msn.com/Article.aspx?cp-documentid=7895833>

Force-feeding Pom patriotism:

Lord Goldsmith, the former Attorney General, has some radical proposals, after a five-month review into citizenship in the UK, to get Brits to think more like cits (citizens, that is). His recommendations include establishing a new national public holiday, changes to current categories of citizenship, language loans for new immigrants to learn English, a type of community service to enhance "citizen education" and special ceremonies for school-leavers.

<http://www.guardian.co.uk/politics/2008/mar/11/britishidentity>

South Asian civil society pledge to empower people:

South Asian nations pledged to empower their people and civil society through transparency, accountability, and the right to information, which they hoped would lead to better governance. However, the South Asian Association for Regional Cooperation (SAARC) nations resisted India's idea to copy its "landmark" Right to Information Act (RTI) for implementation in the region. SAARC was established in 1985 by Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. More info: http://www.dailytimes.com.pk/default.asp?page=2008\03\07\story_7-3-2008_pg7_59

Lodge an entry for the Corporate Hall of Shame 2008:

You can enter your choice of nasty firm in Corporate Accountability International's annual Corporate Hall of Shame. This year's nominees made headlines for breaking the law, influencing elected officials, undermining democratic decision-making and outright endangering the environment and public health. The top three vote-getters will be inducted into the Corporate Hall of Shame when the polls close on 4 July. Go to:

http://www.stopcorporateabuse.org/campaign/hall_of_shame_2008/wsue73ro7tnkid3?

LAST WORD: Law is easy for an 8-y-o

An eight-year-old boy who has passed the entrance exam to law school in Brazil wants to be on the bench. "My dream is to be a federal judge," Joao Victor Portellinha said, according to Globo TV's Web site. "So I decided to take the test to see how I would do ... it was easy. I studied a week before the test."

Joao Victor is still in fifth grade, two levels ahead of normal for his age, but his mother says he is not a cloistered genius. "He is a regular boy," she told the *Folha de Sao Paulo* newspaper. "He is very dedicated, likes to read and study, but he has fun and makes friends."

The Universidade Paulista, a multi-campus private university, said last month that the boy would not be enrolling any time soon: he still has to graduate from high school.

As a former colony, Brazilian civil law is largely based on that of Portugal with statutes derived from the Romano-Germanic legal tradition, but has been amended to include some precedent-based common law.

DATES

4 April, Melbourne: Advocating for Human Rights at Local and International Levels: Strategic Workshop for NGOs with Gay McDougall and Hina Jilani; 10-noon, DLA Phillips Fox, Level 21, 140 William St, Melbourne. RSVP: Numbers limited. Registration essential to hrlrc@vicbar.com.au

4 April, Melbourne: 7pm, 2008 Human Rights Dinner, Essoign Club, speakers Gay McDougall and Tom Calma, details E: hrlrc@vicbar.com.au

7 April, Sydney: Promoting Human Rights: *A Reflection on my Work with NGOs, Treaty Bodies and Special Procedures*, Gay McDougall, UN independent expert on minority issues, 5.45-8pm, Mallesons Stephen Jaques, Level 61, 1 Farrer Place, Ka Ki Ng on (02) 8898 6500, <<mailto:kaki@piac.asn.au>>kaki@piac.asn.au

7-9 April, Sydney: NSW Community Legal Centres NSW Conference, Citigate Sebel Hotel, info: 02 9212 7333, email: alison_aggarwal@clc.net.au, web: <http://www.nswclc.org.au/>

16-17 April, Chicago, USA: The Global Anti-Corruption, Compliance and Ethics Conference, <http://www.ethicalcorp.com/globalethics/> 8-27 June, Canada: 29th Annual International Human Rights

Training Program, Ste-Anne-de-Bellevue, Québec, Canada. Contact the IH RTP Team at <mailto:ihrt-pifdh@equitas.org>

9-18 May, Fremantle: Fremantle Artists For Peace Exhibition organised by MAPW in WA at Moore's Contemporary Art Gallery.

28-30 May, Italy: *1st Identity in the Information Society Workshop*: exploring the developing relationships between identity, security and privacy in an information-intensive society. <http://is2.lse.ac.uk/idis/index.html>

26 June, Canberra: inaugural Kirby Lecture in International Law, by Prof. James Crawford of Cambridge U, evening. Contact details: see next item.

26-28 June, Canberra: 'Security, Scarcity, Struggle: The Dilemmas of International Law' ANZ Society of International Law's 16th annual conference, National Museum of Australia; call for papers deadline: Friday 7 March 2008. Details: <http://law.anu.edu.au/cipl/events.asp> Inquiries: T: +61 2 6125 0454 F: +61 2 6125 0150 E: <mailto:cipl@law.anu.edu.au>

21-22 August, Brisbane: UN Assn of Australia national conference, Parliament House, Brisbane. Sessions on climate change, life long education, governance, peace, conflict and resolution, human rights, sustainability and global compact. Info: UNAA Qld: unaabalmain@optusnet.com.au on ph/fax 07 32541096.

3-5 September, ESCO HQ, Paris, France: 61st Annual DPI/NGO Conference commemorating 60th Anniversary of the Universal Declaration of Human Rights

12-13 September, Melbourne: National Indigenous Legal Conference (and Ball), RACV Club. Info: Aislinn Martin (03) 9607 9474/ 0413 009 072; f 03 9607 9438; E: amartin@liv.asn.au

Human Rights Education for a Sustainable Future

19-20 Sept 2008, Dublin, Ireland: Celebrating 60 years of the UDHR - conference explores how the Universal Declaration of Human Rights (UDHR) can contribute to education provision. Hosted by the Centre for Human Rights and Citizenship Education, Amnesty International Irish Section, and the Irish National Teachers Organisation. More info: Brian.Ruane@spd.dcu.ie

7-8 November 2008, Germany: Social Web – civil society towards networked protest politics, University of Siegen. Drawing on concepts of associative, deliberative or participatory democracy, the conference will explore new internet opportunities through widening the scope for active public debates. <http://www.e-politik.de/blog/18032008/Social-Web-Towards-Networked-Protest-Politics.html>

28-30 November, Canberra: inaugural ACT Human Rights Arts and Film Festival. Contact Sarah Bassiuni for more info or to volunteer some time to help: 6267 2707

2009: 20 Feb, 2009: worldwide: World Day of Social Justice

2010: 10/10/10, World: Target date to start the **CLA**-promoted death penalty moratorium – **10/10 for Life**.

CLArion is the monthly e-newsletter of Civil Liberties Australia A04043, Box 7438 FISHER ACT 2611 Australia. Please feel free to report or pass on items in *CLArion*, crediting CLA and/or the original source. We welcome contributions for the next issue: please send to: <mailto:secretary@cla.asn.au>

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