

General George marshals troops to fight for 'his' rights and liberties

Australian Attorney-General George Brandis has embarked on a strategic battle to meet and defeat federal laws which he believes blight rights and liberties.

In what appears to be a personal campaign of militancy, the new AG is unleashing his pent-up frustration of decades as a nominally small 'l' liberal barrister and MP against the ravages he believes that human rights campaigners (he would say "the Left") have visited on "true" freedoms in our nation. General George said this in September 2013:

"The role of the political Left has, historically, been to trample upon the rights and freedoms of individual men and women in the name of messianic ideological causes. It should be the role of those who really care about human rights to protect them from the fury of the ideologues."

"We will review the Commonwealth statutes to identify – and we will then, where appropriate repeal – those numerous instances were traditional procedural rights, such as the presumption of innocence, the privilege against self-incrimination, and legal professional privilege, have been attenuated or abrogated entirely."



SEN. GEORGE BRANDIS

We take him at face value. We believe he is genuine in pushing for his version of rights and liberties and freedoms. We believe his heart is well-placed, though a long way to the right of chest central.

The over-riding danger though is that we end up with only-Brandis-defined liberties, rights and freedoms, rather than those coalesced by the community over the decades since a former secretary of the Department of External Affairs (now DFAT), [William Hodgson](#), helped to draft the Universal Declaration of Human Rights in 1948. Since then, countless conventions have helped scope the rights and responsibilities applying to Australians, parliament has passed many good and needed laws, and superior courts have decided much case law throughout the land.

Of course, General George could mount an entirely different legislative assault – B Day. Instead of asking the ALRC to attack the issue from the flanks of existing laws, he could instead order them to blitzkrieg right up the centre by drafting a Bill of Rights for Australia.

That would see General George really capture the nation, and make his mark on Australian history.

AG has polarising viewpoint on rights issues

This is more of what AG Senator George Brandis said in September 2013:

*...
(T)he discussion of human rights issues has been both narrow and one sided. The very term "human rights" has been appropriated by the Left, as if human rights advocacy were a left-wing cause.*

My approach to the human rights debate starts with the proposition that human rights and individual rights are synonymous. No debate about human rights makes any sense unless we first recognize that rights are moral claims inhering in individual men and women (and, in certain circumstances, in corporations as well). I represent the only political party in the Australian Parliament which was brought into being for the very purpose of advancing and protecting the rights of the individual.

A Coalition Government will put the real human rights debate – the rights to freedom of expression, freedom of the press, the traditional rights of the individual in defending himself against the power of the State – front and centre before the Australian people.

Go George! But please, Civil Liberties Australia says, hold back on that thought that corporations have human rights. That will lead to defeat and retreat, or at least to profound regret. That way strays from the very Liberal individuality principle on which you say Menzies founded the party.

And the rights we're talking about are the rights and liberties and freedoms of all Australians: it is not "My approach" (as in your quote) that matters, it is what all Australians believe.

You are in danger of making precisely the same mistake you accuse the Left of making! We don't want ping-pong liberties – rights and freedoms that change with the government of the day.

ALRC given Herculean task...but has a year!

Attorney-General George Brandis has tasked Prof Rosalind Croucher (right), head of the Australian Law Reform Commission, with seeking out the laws that offend by encroaching upon traditional rights, freedoms and privileges.

General George says such laws are those which:

- reverse or shift the burden of proof;
- deny procedural fairness by ministers, bureaucrats and the government;
- exclude the right to claim the privilege of self-incrimination;
- abrogate legal professional privilege;
- apply strict or absolute liability to all physical elements of a criminal offence;
- interfere with:
 - freedom of speech,
 - freedom of religion,
 - vested property rights,
 - freedom of association, or
 - freedom of movement;
- disregard common law protection of personal reputation;
- authorise a tort;
- inappropriately delegate legislative power to the Executive;
- give executive immunities a wide application;
- retrospectively change rights and obligations;
- retrospectively extend criminal law;
- alter criminal law practices based on the principle of a fair trial;



- permit an appeal from an acquittal; and
- restrict access to the courts;

He has ordered the ALRC to concentrate on commercial and corporate regulation, environmental regulation, and workplace relations. The ALRC is also to take into account:

- how laws are drafted, implemented and operate in practice; and
- safeguards provided in the laws, such as rights of review or other scrutiny mechanisms.

Thankfully, the ALRC is to "identify and consult relevant stakeholders", including relevant

Commonwealth departments and agencies, the Australian Human Rights Commission, and other key non-government stakeholders. We hope we're included: we would suggest starting General George's campaign with all the 60-plus terror laws passed since 11 September 2001. CLA recently wrote to the General about winding them back...but the answer didn't address our question.

Deadline for the ALRC report is 1 Dec 2014. One-12th of the available time has gone already.

Mr Freedom gets reins...and riding instructions

Tim Wilson is – presumably – Australia's first Freedom Commissioner. Civil Liberties Australia welcomes the appointment, and him personally, to the role.

Wilson is a clever and articulate advocate. We expect he will fight for freedom, rights and liberties. In which case, he will be a valued ally.

We say
"presumably"
because AG
George Brandis's
media release was
muddled and
imprecise. He
didn't actually say
Mr Wilson (right) is
to be Australia's
'Mr Freedom', but
it seem that is his role.



"During the election campaign, I promised to create at least one 'Freedom Commissioner' at the Australian Human Rights Commission," AG Brandis said.

"In 2014, I intend to bring forward reforms to the Commission. In the meantime, I have asked Mr Wilson to focus on the protection of the traditional liberal democratic and common law rights, including, in particular, the rights recognised by Article 19 of the International Covenant on Civil and Political Rights," he said. Article 19 covers the right to hold opinions without interference, and the right to freedom of expression.

Coalition forced to reveal TPP's excesses

The Greens and Labor combined in the Senate last month to force the Coalition government to table the text of the controversial Trans-Pacific Partnership agreement before Australia signs it.

The TPP is a multi-national trade agreement in negotiation for a handful of years in absolute secrecy. It includes restrictive intellectual property laws and potentially draconian enforcement rules, where corporations gain excess power over nation states.

Countries involved in the negotiations include the US, Australia, Japan, Peru, Malaysia, Vietnam, New Zealand,

Chile, Singapore, Canada, Mexico, and Brunei Darussalam...but critics believe it is US corporate greed which is the driving force.

What minor leaks there have been show restrictions on freedom of speech, and cuts to the right to privacy. The full text of drafts of the proposed agreement has never been publicly released. (*Mr Wilson could be well advised to turn his attention to the TPP agreement as an early task, CLA says, particularly since trade practices is one of his specialities*).

The Australian Greens successfully moved a motion, supported by Labor, that will explode the secrecy shield around the TPP, Renai LeMay wrote in *Delimiter*. The government will be forced to make the final text of the TPP publicly available before cabinet signs off on it.

One particularly nasty proposal in the TPP is the Investor-State Dispute Settlement (ISDS) provision, which threatens to override Australia's public interest laws that protect the environment and rural industries, and underpin public health, according to the Greens. <http://tinyurl.com/k68clrm>

COAG is disappearing up its own fundamentals

"Too much bureaucracy and red tape has grown up around COAG," says COAG, in its 13 December 2013 communique.

"COAG (the Council Of Australian Governments) agreed that its Council system should be streamlined and refocussed on COAG's priorities over the next 12–18 months." The current 22 COAG Councils will be replaced by eight:

- Federal financial relations;
- Disability reform;
- Transport and infrastructure;
- Energy;
- Industry and skills;
- Law, crime and community safety;
- Education; and
- Health.

"Given the importance of Indigenous affairs and deregulation they will be included in the terms of reference of each council, and considered directly by COAG as standing items."

Civil Liberties Australia comments that this is the second re-organisation of COAG in just a handful of years. It would seem that COAG's output is mostly deckchair reorganising.

And, of course, there is a separate-but-allied COAG Reform Council, which is a permanent body. Its mission is to "develop a culture of performance, accountability and innovation"...inside COAG.

Given that COAG itself says it has to be "streamlined and refocussed", it would appear the COAG Reform Council has been a gross failure. Anyone for an Arctic cruise with COAG – we believe Clive Palmer MHR is building a suitable replica vessel the government could charter?

Fees up: first time in a decade

Since December 2003, CLA's subscription fee for membership has been the same: \$25 a year for members, \$10 a year for students.

With rising prices, the Board has decided we need to raise the fees to anticipate future increased expenditure. The new subs will be \$40pa for individual members, \$20 for students, concessional, or unwaged, and \$60 (\$40) for household membership.

You can beat the rise by taking out 1, 2 or 5 year membership before 31 Dec 2013 at the old price:

<https://www.cla.asn.au/Join/>

DSTO plagiarises, steals ideas: allegation

At least five businesses have alleged senior officers in the Defence Science and Technology Organisation have plagiarised the five's intellectual property for their own research and then passed it to business partners to develop a rival product, according to a report in *Crikey*.

They also allege there is a "rogue element within the agency" and a "culture of circling the wagons when confronted with allegations against them".

The allegations have been simmering for more than a year – CLA was approached by one person allegedly affected in 2012 – but proving what could effectively be stealing of ideas is very difficult. Sometimes stealing can't be adequately disentangled from bullying, which is a common response by government agencies when approached by an individual.

CLA looks forward to an open inquiry by Defence. <http://tinyurl.com/prl8tt9>

Move afoot for Australian criminal cases review commission

There's a national campaign building to create a Criminal Case Review Commission in Australia, like in the UK.

A conference later in 2014 is being planned to push the cause along. Dr Bob Moles, who heads Networked Knowledge in South Australia is leading the campaign, with Civil Liberties Australia support.

It is likely there will be a two-day conference in Adelaide in October or November 2014. The keynote speaker will be Prof Kent Roach from U. Toronto: <http://www.law.utoronto.ca/faculty-staff/full-time-faculty/kent-roach>



It's also possible Prof Roach (left) will speak at the annual Centre for International and Public Law-ANU Law School Sawyer lecture weekend at ANU, which is usually held in that same time frame.

CLA is in discussions with Prof Kim Rubinstein, head of CIPL, who's on sabbatical in Melbourne until early 2014, and acting director, Assoc Prof James Stellios.

Senate forces surveillance inquiry

A Senate committee will examine internet and telephone surveillance by law enforcement and security agencies after Labor backed a Greens motion.

The motion was not supported by the government.

The inquiry will scrutinise internet and telephone surveillance by law enforcement.

Greens comms spokesman Scott Ludlam said the inquiry would break "the complicity of silence about surveillance in Australia".

It would open an opportunity for Australian experts, agencies and individuals to participate in "a conversation of what surveillance is necessary and proportionate".

The committee is charged with a comprehensive review of the *Telecommunications (Interception and Access) Act 1979* in relation to recommendations of a 2008 report conducted by the Australian Law Reform Commission titled 'For Your Information: Australian Privacy Law and Practice'.

It will also examine recommendations from a report tabled earlier this year by the Parliamentary Joint Committee on

Intelligence and Security. That inquiry was tasked with examining more than 40 potential reforms of Australia's national security legislation. <http://tinyurl.com/ltx68n>

The new inquiry drags the Australian Parliament kicking and screaming into line with parliaments around the world, particularly those in Europe and the UK.

Last month, using documents sourced from NSA whistleblower Edward Snowden, *The Guardian* newspaper revealed that Australia's peak electronic intelligence agency the Australian Signals Directorate (formerly DSD) offered to share detailed information collected about ordinary Australian citizens with its major intelligence partners. One high-profile lawyer has said this offer may have breached Australian law. <http://tinyurl.com/l7jpvzr>



Did you know parliamentarians may now be funny?

New amendments to broadcasting rules for the Australian Parliament means that parliament footage can be used for satire.

Pynocchio* himself said: "The most significant aspect to it is the removal of the provisions of the House that do not allow the use of the broadcast to satirise and ridicule members of parliament,

which was a rule that was more honoured in the breach than kept by various media outlets, particularly the Daily Telegraph." – Christopher Pyne MP.

With polities like Mr Pyne doing what appears to be regular stand-up routines in parliament, what's not to like about the new satire rules. <http://tinyurl.com/l3fyv67> * Pynocchio is one of the nicknames for Minister Pyne. The photo above left is a surprising likeness, satirically.

G4S, Serco: why no investigations in Oz?

There doesn't seem to be much interest in Australia in launching a major inquiry into two corporate giants operating here which are effectively 'black-banned' from securing any new work by the UK government because they have committed fraud against that government since 2005.

The two companies hold massive and crucial contracts in Australia, including

G4S:

- electronic tagging for two departments of the South Australian government;
- prison and mental institution contracts in Victoria, NSW and Tasmania;
- transport and court security contracts in WA, SA and Victoria; and
- they even have an "Investigative Services" arm in Australia to reduce risk of governments being defrauded!

Serco:

- prisons and court transfers in WA;
- the new Fiona Stanley Hospital in Perth;

- immigration detention centres on Christmas Island, in the NT, NSW, Queensland, Victoria and WA; and
- Australia's Defence Force, Customs, and Fisheries Management could not operate without them.

In the UK, the behaviour of the two firms – G4S and Serco – has been so bad they are being forced to hand over contracts for electronic tagging of criminals to a rival company. The two firms are subject to major fraud allegations over the way they charged the British government.

They must hand over all tagging responsibilities to rivals Capita by the end of March 2014, the UK justice secretary, Chris Grayling, said last month. Capita and three other companies are bidding to take over the service permanently.

The Serious Fraud Office has started a full-scale criminal investigation into both companies over their Ministry of Justice (MoJ) contracts. An audit, launched in May 2013, alleged overcharging began at least as far back as the start of the current contracts in 2005.

Serco and G4S can still bid for UK contracts, but they will not be awarded any unless they are given a clean bill of health over the tagging dispute. <http://tinyurl.com/p83tq2n>

But no-one in Australia seems to be investigating whether the same two companies operate in the same way here.

It would be surprising if their systems, training, record keeping, and moral and ethical approach were not consistent throughout the world.

Governments in Australia employ major multinational conglomerates because of their proven international 'performance' and 'standards'.

Serco to repay about \$145m due overcharging

Serco has agreed to repay about \$145m in overcharging on its contract to provide electronic tagging of offenders, the UK justice secretary, Chris Grayling, disclosed last month.

The scale of overcharging, which included invoicing for the tagging of offenders who were not being monitored, some of whom were already back in prison or had died, is at least three to four times larger than previously thought. The original figure was thought to be about \$35m for the contracts held by both Serco and private security company G4S, who have to reach agreement over how much they will repay.

Both contracts are now the subject of a criminal investigation by the Serious Fraud Office (SFO). <http://tinyurl.com/l6rb9y9>

Snowden is not convicted: AG, please note

As First Law Officer of the Commonwealth, AG George Brandis should know better!

Whistleblower Edward Snowden hasn't been convicted of treason, of being a traitor...or anything.

The erstwhile barrister should learn to be more careful with his words: perhaps a course of refresher law school could empower him. He is not noted for the customary barristerial trick of knowing the answer to questions before he asks them, in Civil Liberties Australia's experience.

However in this case, it was a Dorothy Dixer, teed up in advance from his own side, where he "convicted" Snowden of being a traitor, on his own say-so!

Question time on 2 December 2013:

Senator FAWCETT (South Australia): Can the Attorney-General update the Senate on reports of the public release of more classified information today on the *Guardian* website?

Senator BRANDIS (Queensland—Deputy Leader of the Government in the Senate, Vice-President of the Executive Council, Minister for Arts and Attorney-General):

"I thank Senator Fawcett for his question. I am aware of reports published this morning by *The Guardian Australia* which make certain claims about the alleged activities of Australia's intelligence organisations. **Those claims are made on the basis of material placed into the public domain by the American traitor Edward Snowden** (*emphases added*).

"I note that the document on which the report is based is unverified. I also note that the unverified document is described as a 'draft' document, which, contrary to the reports, does not report or record any activity by any Australian intelligence agency. It is, as the honourable senator knows, the longstanding practice of successive Australian governments not to comment on intelligence matters." ...which sounded like a comment to us.

Who does comment then? When CLA asked the Inspector General of Security and Intelligence to inquire into how Australia was undertaking surveillance, she said: Not my department. True. <http://tinyurl.com/k4ty7e9>

For an insight into the Brandis agenda, see Inside Story: <http://inside.org.au/the-brandis-agenda/>

The leakers are teaching a lesson...if only the spooks would learn

Civil Liberties Australia has it on good authority that most spook and surveillance activity is concentrated "at the wrong end".

One of our well-placed advisers says:

"The ironic thing is that the great majority of criminal actions – insider theft, spying, you name it (any action an employer or agency does not want employees to commit) – occurs after the security-cleared individual has the key, password, classified info or vulnerable person access.

"Most investigative effort to confirm suitability (or more usually, that nothing negative is known and the person is who he or she claims to be and has no significant criminal or other history of concern) is applied before the access is granted.

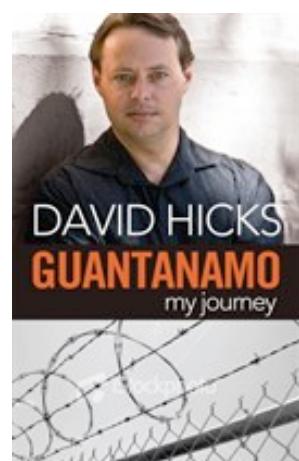
"People change over time and few organisations devote well-targeted resources to continuing security awareness or 'aftercare'." CLA source – inside information. So, if the spooks concentrated on surveilling "them", instead of "us", they'd get a better return on their intrusions, CLA believes.

Could Hicks receive \$10m compensation?

If David Hicks succeeds in his US appeal against his conviction for a non-existent crime, he could be in line for compensation from Australia for its role in the CIA's Rendition, Detention and Interrogation (RDI) program.

So says "Fitch", the US correspondent for Richard Ackland's *Justinian* legal blog in Australia.

As for the Canadian Omar Khadr, he has the precedent of the \$10 million Canada paid to a rendered citizen, Maher Arar, in the compensation stakes.



A total of 136 people have been identified as victims in the CIA's RDI program. The legal claims of some are wending their way through foreign and international courts now that US courts have denied them a remedy. <http://www.justinian.com.au> Photo show the cover of Hicks' book.

Brazilian's death: four police face charges

Four NSW police face assault charges over the death of Brazilian student Roberto Laudisio Curti.

The 21-year-old died within minutes of being stunned up to 14 times, hit with capsicum spray and held on the ground by police in March 2012.

Mr Curti had stolen a packet of biscuits from a convenience store and was delusional and behaving erratically after using a small amount of LSD.

The actions of police officers had already been criticised by a coronial inquest and an ombudsman's report. A coroner found the police who arrested him were thuggish, reckless and dangerous, saying they acted "like schoolboys in Lord of the Flies".

The Police Integrity Commission began investigating the case a year ago and referred a brief of evidence to the Director of Public Prosecutions for consideration.

The DPP last month recommended that Senior Constables Eric Lim and Damien Ralph be charged with common assault, and Senior Constable Scott Edmondson and Constable Daniel Barling with assault occasioning actual bodily harm.

<http://tinyurl.com/prvda37>

Stand by for another federal election

We'll have another federal election in 2014, if only in WA and only for the Senate: it seems likely to be run again by the man with a history of being associated with losing people and papers.

The cause of the re-election is 'missing in action' ballot papers from the scattered electoral booths of Bunbury East, Wundowie, Mount Helena and Henley Brook in WA.

With the votes counted on election night, 7 Sept 2013, dozens of boxes of the Senate votes were loaded into vans for transport into town, AAP reported on *WAtoday* <http://tinyurl.com/n37ynp2>

They were ticked off again the next day. But then, when the tight fight for the fifth and sixth senate seats in the west needed a recount, they were gone.

So was the credibility of the Australian Electoral Commission and its Commissioner, Ed Killesteyn (right), who has a track record of losing things...or rather, people.

Few remember it was Killesteyn who was one of three very senior people (the others were Bill Farmer and Philippa Godwin) moved suddenly and laterally from the Department of Immigration soon after the wash-up of the deportation disaster which "lost" more than 200 Australians, including Vivian Solon and Cornelia Rau, in 2005. Killesteyn progressed from Immigration, via the Repatriation Commission for a while, to eventually run Australia's electoral system.

Speaking about the recent election, Commissioner Killesteyn said: "We're left with a nagging and almost irreconcilable doubt about the outcome."



This was after 1370 votes went missing, almost exactly six times the number of people Immigration was responsible for 'losing'.

In passing, it is a serious and valid question to ask why someone would end up in charge of the Electoral Commission after being at least partly responsible, apparently, for a less than stellar performance in Immigration. Surely our electoral system is fundamental to how Australia runs as a democracy, and deserves a leader without an administrative blemish on his or her record.

Recently, when they worked out the 1370 missing-in-action Perth ballot papers were never likely to turn up, the AEC asked the country's highest court to declared its work null and void.

In submissions to the High Court, the AEC has asked for a full bench of seven judges to rule on the WA poll, with a deadline of 18 March to allow writs for an election to be issued three days later. That would mean the latest a repeat Senate election could be held is 26 April, just nine weeks before the new Senate is due to sit.

Ed Killesteyn had his AEC job confirmed, for a second term of five years, in April 2013...before the WA lost ballot papers in September. He begins his second term on 14 Jan 2014.

Scanners appear to make the problem worse

An Australian Institute of Criminology report last month called for a moratorium on identity scanners in nightclubs, finding they don't reduce alcohol violence and raise serious privacy issues.

Simultaneously, the NSW government revealed it had been forced to postpone its trial of identity scanners in Kings Cross, due to start last month, after the company chosen by venues to supply the technology failed a government probity check.

The AIC study of identity scanners in Geelong nightclubs, led by Darren Palmer, associate professor of criminology at Victoria's Deakin University, found venues had adopted them to avoid a proposed lockout, but assaults and alcohol-related emergency department admissions had increased since the scanners were introduced.

Violence was "displaced" from the 10 high-risk clubs using the identity checks on to the streets, the study suggested. Police weren't using the data collected to identify violent offenders, and when long queues formed, venues only selectively scanned patrons. <http://tinyurl.com/manytfg>

In the ACT, scanner disease has spread to clubs, where any visitors are asked to hand over the driver's licence to be scanned before being allowed in.

ODD SPOT: Targeting bikies one day, parliamentary committees the next

If you think bikies are under threat in Queensland, that's nothing to how parliamentary democracy is faring. "In an unprecedented measure to gag further investigation into the activities of Dr Ken Levy, the acting head of the Crime and Misconduct Commission, the government has sacked the entire Parliamentary Crime and Misconduct Committee," senior barrister Stephen Keim and Alex McKean wrote in the *Justinian* online magazine. Read the full story: <http://tiny.cc/oucl7w>

Newman scours state/world for more crimes

MPs will be on the hunt for serious crimes in a special parliamentary inquiry to travel Queensland.

"We have already taken strong action over the past 18 months with a range of law and order reforms and increased law enforcement resources, but we want to know what else can be done," Premier Campbell Newman said.

The legal affairs and community safety committee of parliament will examine the link between organised crime and what concerns Queenslanders, such as break and enters and car thefts. The inquiry will also look interstate and overseas – what others are doing and how Qld compares.

No terms of reference were announced in the 1 Dec 2013 media release. The inquiry is meant to start "in early 2014".

COAG heavies decide to wag their fingers

About 100 truancy officers will patrol communities in the remote Northern Territory from next month's school term to get kids to go to school.

The PM State and Territory leaders agreed at the Council of Australian Governments (COAG) in December to introduce punitive measures to boost indigenous school attendance.

NT Education Minister Peter Chandler said new measures include welfare restrictions and introducing truancy officers to 20 indigenous communities. "There could be up to five truancy officers per community," Mr Chandler said. <http://tinyurl.com/q2paqn4>

Trev trumps defective police officers

Whyalla's Trevor Johnson – a CLA member – recently chalked up a win for the "little guy" when the local Magistrates Court found him not guilty of hindering charges.

It took nearly a year, and many court appearances, but justice prevailed, he said.

In January 2013, Mr Johnson was arrested and taken to the Whyalla police station for obstructing a police officer who was attempting to search his vehicle for detectable faults.

Police told the court that Mr Johnson's vehicle had appeared "dirty", raising the suspicion that the vehicle may have been used for bush driving, and they suspected damage due to harsh terrain.

In court, Mr Johnson said his vehicle would have appeared as dirty as any typical car, given Whyalla's climate conditions in dusty January. He had been going to the post office to check his mail at about 9.50am, when he was pulled over by police in a shopping centre car park.

The officers didn't mention suspicion of a dirty vehicle, or damage, when they asked to conduct defect checks.

Therefore, he did not want to comply as he believed they had wrongfully targeted him. After a heated debate, Mr Johnson locked his car and walked away to avoid further argument: he did not believe they had reasonable suspicion to conduct a check. The police then followed him into the shopping centre and arrested him on hindering charges.

But the only defect the officers found was a missing compliance plate on the vehicle's gas tank in the boot – obviously not the result of bush driving – so disproving their initial suspicion. Mr Johnson later discovered his vehicle was in fact fitted with the correct compliance plate after contacting the tank maker. In court, the magistrate doubted the police and was critical of their lack of documented evidence.

Mr Johnson said he was pleased with the not guilty verdict and hoped it might help others in similar situations. "Hopefully people might realise that they do have rights and they should look into them further," he said. – Kirsty Davis, Whyalla News <http://tiny.cc/zthe7w>

WHYALLA NEWS



Saturday December 1 2012 | Local News | Business | Opinion | Obituaries | Classifieds | Events | Weather | Jobs | Classifieds | Events | Weather | Jobs

Local man found not guilty of hindering charges

By Kirsty Davis Nov 18, 2013, 8:30 pm A



(Kirsty Davis photo).

Bar precedent reins in president

Queensland Bar Association president Peter Davis will take no further part in a review of the State Government's sex offender laws...reined in by his members in an unprecedented way,

Local barristers accused him of a conflict of interest because he acted for the State Attorney-General, Jarrod Bleijie, in trying to keep convicted rapist Robert John Fardon behind bars past the end of his sentence: at the same time, Mr Davis was also one of three authors of a QBA submission which plotted how to strengthen the Government's sex offender laws.

"That revelation caused uproar at the recent Bar Association annual general meeting," said Matt Wordsworth, a member of the ABC national reporting team.

The submission proposed reversing the onus of proof so an offender must prove, on the balance of probabilities, that they would comply with a supervision order if released.

The dispute flared again last month when the the Court of Appeal declared that Fardon should be released on a supervision order and that the Government's new Declarations Act was unconstitutional. The act purported to give the AG power to decide if dangerous sexual offenders should be indefinitely detained...as an administrative, not judicial, decision.

Mr Bleijie has at last agreed to a review of the legislation, as suggested by the Bar Association in its previous submission. Mr Davis says he will play no part. <http://tinyurl.com/n9srq6t>

Doctor quits, criticises alcohol jailing program

A doctor who played a key role in establishing the Northern Territory Government's new mandatory alcohol rehabilitation program has quit in protest at the way the program has been run, as well as the treatment of Aboriginal drinkers.

Drinkers taken into police custody three times in two months are locked up for treatment in a 12-week program.

"The grave concern is that here we are, essentially incarcerating people for three months, who have committed no crime," addictive medicine specialist Dr Lee Nixon said. "A large number of them had little understanding of the process, and at the end of the time when they were there, were still asking, 'Why am I here?'" <http://tinyurl.com/kqkdjpp>

Laws breed like cane toads in the north

The Country Liberals in the NT have introduced 61 pieces of legislation since coming to office in August last year.

This means they have passed laws at the rate of about one new law a week, apparently without dropping even one old one.

Significant NT legislation in the past year, according to AG John Elferink (right), includes:



- Mandatory Sentencing – punishes offenders to the expectations of the community for the crimes they commit
- Alcohol Mandatory Treatment – assists problem drinkers to break the cycle of alcohol addiction
- Alcohol Protection Orders – provides police with a new tool to fight alcohol-related crime
- One Punch Homicide – closes a gap in the law where a person has killed another and it is not possible to prosecute for manslaughter or murder. – media release, NT AG 5 Dec 2013.

Anything legal involving the word "mandatory" removes judicial discretion and means politicians rather than magistrates and judges decide court issues. That's wrong, Civil Liberties Australia says.

Australian briefs

Court rules for political freedom: The High Court last month upheld a union challenge to NSW electoral donation laws passed in February 2012, banning unions and corporations from donating to political parties for election campaigns. Unions NSW argued that donations are a form of political freedom and that a ban is unconstitutional. The NSW government was backed by all coalition state governments and the Commonwealth. The HC's unanimous decision found that the laws are invalid because they burden the implied freedom of communication on governmental and political matters, contrary to the Australian constitution. <http://tinyurl.com/omqnu3k>

Barristers crossly examine their office-bearers:

Queensland's Bar Association has reaffirmed its opposition to the Newman Government's anti-bikie and sex offender laws after a stormy annual meeting of barristers in Brisbane last month. The leadership assured members they had not been trying to help the state's Attorney-General Jarrod Bleijie further toughen the law when they met him earlier in the month. <http://tinyurl.com/m27eo2d>

Number of drug labs becoming gross: The 117th illegal drug lab for the year was found in WA early in December after a search of a Forrestdale house uncovered what appeared to be a meth manufacturing setup. WA Police's Sergeant Naomi Smith said detectives located chemicals and equipment consistent with manufacturing methamphetamine. A 34-year-old man was charged with attempting to manufacture and possession of a prohibited drug. <http://tinyurl.com/lo4u4hg>

ASIC drops AWB cases: ASIC has dropped Victorian Supreme Court proceedings against former Australian Wheat Board directors Charles Stott and Michael Long over the Iraq Oil-for-Food scandal on the basis that they were "no longer in the public interest". "The discontinuance is by consent in both

matters. No finding of fault or declaration of contravention was made against Mr Stott or Mr Long," ASIC said. Proceedings against two other former directors – former chairman Trevor Flugge and former general manager Peter Geary – continue. <http://tinyurl.com/qdax5xu>

NSW has more police than ever before: Police numbers are now at a record high, with authorised strength at 16,226. "The NSW Government is committed to boosting the authorised strength of the NSW Police Force by 859 police officers, to reach 16,665 in August 2015," acting police minister Greg Smith told a graduating course in Goulburn last month. – media release, 13 Dec 2013 <http://tiny.cc/krf27w>

States combine over lawyers: From 1 July 2014, NSW and Victoria will have a uniform legal profession scheme. There will be a common legal services market across the two jurisdictions, which comprise almost three-quarters of Australia's lawyers. Other jurisdictions are expected to join, without the need for changes to framework or legislation. – media release, 6 Dec 2013 <http://tiny.cc/krf27w>

Baby victims get justice, at last: Thalidomide victims in Australia and NZ will get \$89 million compensation after a class action against the distributor of the drug. In an Australian first, about 100 Thalidomide victims will get compensation and care for the rest of their lives, after a battle which took half a century. <http://tinyurl.com/mwgylg8>



Corruption scourge ups its output: ICAC, the NSW Independent Commission Against Corruption, is on a roll, according to headman David Ipp (left). He says in the 2012-13 annual report that: "The number of people

against whom corrupt conduct findings were made also increased markedly on the previous year, quadrupling from 14 in 2011–12 to 56 in 2012–13. Recommendations to seek the advice of the Director of Public Prosecutions doubled from 9 in 2011–12 to 18 this year." While Ipp is the public face, women head at least half the crucial boxes in the org chart. ICAC's restrained annual report style is a model for other NSW agencies. When Ipp retires on 24 January, a woman will be the supremo, Supreme Court judge Megan Latham, appointed for the next five years.

'Lockdown' mentality takes over state: Queensland Health last month ordered the State's 16 mental health inpatient facilities to be secured, adopting a new 'locked-door' policy. The A College of Mental Health Nurses and the Royal ANZ College of Psychiatrists have both condemned the move, which applies to all adult mental health hospital inpatient facilities in the state. The use of ankle bracelets is also increasing. The Health decision appears to be in keeping with a 'lock 'em up and throw away the key' mentality permeating the Newman government. <http://tinyurl.com/qgh3pch>

Couple loses Stolen Generations test case: A West Australian family which took the State Government to court in a Stolen Generations test case has lost its bid for compensation. Donald and Sylvia Collard had eight children removed from their care in the 1950s and 60s, split up and placed in state care: some allege they were sexually abused. Justice Janine Pritchard found the state did not have fiduciary duties towards the Collards <http://tinyurl.com/mdnnda3x>

Houses self-praise the Pacific work they do: Parliament Senate President John Hogg and HoR Speaker Bronwyn Bishop have tabled their first annual statement on parliamentary capacity building programs for Pacific parliaments. Highlights for the year included strengthening and extending parliamentary twinning arrangements, further developing the Samoa Parliamentary Support Project, and holding an inaugural Pacific Women's Parliamentary Partnerships Forum in February 2013. – media release: 12 Dec 2013 www.pacificparliaments.net

Civil Liberties Australia - report for Dec 2013

Highlight of the month was undoubtedly CLA's 10th birthday, on 10 December.

We held a screening at the ANU Canberra of the film *Shadow of Doubt*, about the Yacht No Body (Sue Neill-Fraser) case (see photo above right).

Neill-Fraser has served 4 1/4 years of a 23-year sentence for 'murdering' husband of 18 years, Bob Chappell, who disappeared from a yacht off Sandy Bay, Hobart, on Australia Day 2009. His body has never been found.

Despite no body, no admission, no witnesses and no conclusive evidence, police secured a conviction through the Tasmanian system of justice. Enthusiastic audience members wore gloves to send a message to Tassie at the Canberra *Shadow of Doubt* screening (see photo below).



The film was written, directed and produced by CLA member Eve Ash, and it features a number of CLA members.

The documentary has been nominated in the category Best Feature Length Documentary for an Australian 'Oscar' in the national film industry awards decided this month, January 2013, in Sydney.

An Oscar (or 'Ozcar') would be a fitting tribute to Eve Ash's work over more than four years to right this wrong.

For two years, CLA member and pro bono lawyer Barbara Etter has worked with her and led the team preparing to lodge a "petition for Her Majesty's mercy" with the Governor of Tasmania in 2014.

At the Canberra screening, CLA member Andrew Wilkie MHR spoke on the difficulties facing the Tasmanian justice system.

CLA members in Hobart, Melbourne and Sydney had already seen the documentary: last month, Canberra CLA members were equally outraged by the sorry tale of the police/legal/justice system gone feral in the case of Sue Neill-Fraser. Great credit for the large Canberra turnout – and for the latex gloves show – goes to CLA President, Dr Kristine Klugman.

Submissions CLA may be making:

What do Parliamentarians do in late December and January – they go on holidays!

What do voluntary organisations, and people who care about Australia's laws and democracy do in late December and January – they are heads down, bums up, in front of a computer and books.

The reason? The holidaying MPs have left a cartload of work for others to do...while the MPs play.

The only chance groups like Civil Liberties Australia have to lodge submissions is to work over the holidays: the MPs have ensured they get their holidays at the expense of other people's holidays.

Here are the requests for submissions received in December by CLA, with their deadlines :

Senate Legal and Constitutional Affairs LEGISLATION Cttee:

a. Inquiry into Migration Amendment Bill 2013 (Provisions):
Closing date: **13 January 2014**

b. Criminal Code Amendment (Harming Australians) Bill 2013: Closing date: **21 January 2014**

c. Migration Amendment (Regaining Control...Australia's Protection Obligations) Bill 2013: **Closing date: 23 Jan 2014**

Indep. Nat. Security Legislation Monitor: one inquiry: into:

Closing date: **10 Feb 2013**

- Crimes (Foreign Incursions and Recruitment) Act 1978 (Cth)
- Terrorism offences under Pt 5.3 Crim. Code Act 1995 (Cth)
- Part IIIAAA Defence Act 1903 (Cth)
- Passport cancellation under Aust. Passports Act 2005 (Cth)

Senate Legal and Constitutional Affairs REFERENCES Cttee:

Inquiry into revising T'comms (Interception and Access) Act 1979: Closing date: **27 Feb 2014**

We thought that MPs were the ones serving the people, not the other way around. It might be timely to remind MPs that they get paid about \$300,000 a year or more, in cash and perks...and we get not a cent to help them do their work for them, during their holidays.

{Of course, there's a host of other items on which we might like to comment if we had the resources and the time, such as *A Claim of Public Interest Immunity Raised over Documents* or the *Commonwealth Electoral Amendment (Above the Line Voting) Bill 2013.*}

NOTE: CLA has put its subs up for the first time since forming in 2003, a decade ago. Details are in a story elsewhere in this issue. Our members even pay for the privilege of doing MPs' work.

Media:

Richard Griggs, Tasmania:

Abortion/free speech: spoke in favour of a 150m exclusion zone around abortion clinics inside which protest is not allowed (November): <http://www.abc.net.au/pm/content/2013/s3897278.htm>

Protest/free speech: criticised Tasmanian Liberals election policy to set mandatory fine of \$10,000 for first time protestors and mandatory 3-month jail terms for second time protestors (December).

- Opinion piece in *Hobart Mercury* 21 December
- Media release: <http://tasmaniantimes.com/index.php/?pr-article/richard-griggs-noted-will/>

Bill Rowlings, CEO

Article by CEO Bill Rowlings, *New Matilda* online journal, on spooks and spying:

<https://newmatilda.com/2013/12/05/public-deserves-spy-inquiry-now>

Article featuring Bill Rowlings interview on Right to Appeal legislation, *Good Weekend* magazine:

<http://www.smh.com.au/national/i-didnt-do-it-i-wasnt-there-20131216-2zfwf.html>

Chris Michaelson, CLA member, article *Canberra Times*:

<http://www.canberratimes.com.au/comment/no-secret-this-spying-stinks-20131205-2ytm5.html>

and his interview on the ABC:

<http://www.abc.net.au/worldtoday/content/2013/s3905510.htm>

Note: National Media Spokesperson Tim Vines is on leave.

INTERNATIONAL

Conservative judge pulls plug on NSA spying

In the biggest legal blow to the US spookery since the dragnet spying scandal broke in June, a federal judge ruled last month that the US government "almost certainly" violated the constitution by mass collecting data on nearly every single phone call within or to the USA.

"Today, a secret program authorized by a secret court was, when exposed to the light of day, found to violate Americans' rights," declared NSA whistleblower Edward Snowden in a statement on the ruling released by journalist Glenn Greenwald. "It is the first of many."

"This is a vindication for our fellow citizen Edward Snowden who came forward because he believed the government was violating our constitutional rights." Greenwald said.

In a 68-page statement, US District Court Judge Richard Leon – a George W. Bush appointee – issued stinging criticisms of NSA metadata snooping, declaring, "I cannot imagine a more 'indiscriminate' and 'arbitrary invasion' than this systematic and high-tech collection and retention of personal data on virtually every single citizen for purposes of querying it and analyzing it without judicial approval."

Leon ruled in response to a lawsuit by conservative activist Larry Klayman that phone metadata collection violates US Constitution Fourth Amendment protections against unlawful searches and seizures without demonstrating any role in preventing "terrorist" attacks.

Leon granted Klayman's demand for a temporary injunction on the grounds that the lawsuit was likely to win.

He did not immediately implement his ruling, pending a government appeal.

"This is a strongly worded and carefully reasoned decision that ultimately concludes, absolutely correctly, that the NSA's call-tracking program can't be squared with the Constitution," declared ACLU Deputy Legal Director Jameel Jaffer. <http://tinyurl.com/mvcxrw>

Remembering what Mandela stood for

Politicians and public figures say how Nelson Mandela was their "greatest hero" (Helen Clark), "a hero of mine" (David Cunliffe), "person who most inspired me" (Barack Obama), "incredibly inspirational" (John Key), and "most inspirational person I've ever met" (Jim Bolger).

So writes Arthur Taylor, the "jailhouse lawyer", who is serving a term of 'forever' in a New Zealand prison.

Taylor constantly takes on government and prison authorities for their mistreatment, mistakes and mendacity in the NZ prison system.

"Yet they pay little heed to one of Mandela's most profound statements, based on the 27 hardest years of this great man's life:

'It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones.'

"There's a story about Mandela which is close to my heart: When the warden at the infamous Robben Island Prison ordered him to jog to the prison gates from the jetty where the ferry had docked, Mandela refused. The warden told him to comply, warning that if he were killed on the island no one on the mainland may ever be the wiser.

"Mandela replied: 'If you lay one hand on me, I'll take you to the highest court and when I finish with you you'll be poor as a church mouse'.

"I think about Mandela's words often when I take the NZ Department of Corrections to court. At the end of the day, the only protection a prisoner anywhere has from the most extreme abuse is the courts," Taylor wrote. – personal email to Civil Liberties Australia, Dec 2013

ODD SPOT: Freedom at last re the prints royal

UK people can campaign to get rid of the Queen and heirs in print: the government has repealed a 165-year law that threatened jail for anyone calling for abolition of the monarchy in printed form. Technically any printed treasonous sentiments could have attracted life in jail under the *Treason Felony Act of 1848*. According to that statute which came into force in 1879, simply "imagining" overthrowing the Crown or "waging war" against the Queen could lead to life imprisonment.

A relevant section stated that any person who "shall express, utter, or declare, by publishing or writing", support for depriving the Queen of her crown faces life imprisonment. Whew! <http://tinyurl.com/lea6x6r>

But the British Ministry of Justice have recently said the law was one of 309 offences, most outdated, that would be removed from the statute books. Other offences removed included "being an incorrigible rogue" under the 1824 Vagrancy Act. Some politicians will breathe easier.

TL wants Australia to play fair, goes to umpire

Timor Leste is demanding the return of documents seized by ASIO in a raid on a Canberra lawyer's office in a case lodged in the International Court of Justice last month.

It contends that the raid was a violation of its sovereignty and is asking the International Court to declare that the documents and data seized be immediately returned.

On December 3, ASIO raided the office and house of lawyer Bernard Collaery, who is representing Timor Leste against Australia in a case before the Permanent Court of Arbitration in The Hague. In that case, East Timor alleged the Australian Secret Intelligence Service (ASIS) spied on the Timorese

cabinet in Dili during the negotiation process for a valuable oil and gas treaty in 2004. Because of the spying, Australia had an advantage in negotiations: they want the treaty they signed, worth \$40 billion, overturned by the Court of Arbitration.

East Timor has also asked the International Court of Justice that Australia provide a list of all the documents seized within five days and it "destroy beyond recovery every copy of such documents and data that is in Australia's possession or control". It wants Australia to formally apologise and cover ET's legal costs. <http://tinyurl.com/lc84jv1>



Photo: Bernard Collaery, first ET President Xanana Gusmao.

Drugs divide: US may fight 'war' alone

Major international divisions over the global "war on drugs" have been revealed in a leaked draft of a UN document setting out the organisation's long-term strategy for combating illicit narcotics.

The Sept 2013 draft shows serious and entrenched divisions over the longstanding US-led policy promoting prohibition as the exclusive solution to the problem. A number of countries are pushing for the "war on drugs" to be seen in a different light, placing greater emphasis on treating drug consumption as a public health problem, rather than a criminal justice matter.

The document will form the basis of a joint "high-level" statement on drugs about April 2014, setting out the UN's thinking. This will pave the way for a general assembly review, an event that occurs every 10 years, and, in 2016, will confirm the UN's position for the next decade.

The recent review, in Vienna at the UN Commission on Narcotic Drugs, comes after South American countries threw down the gauntlet to the US at this year's Organisation of American States summit meeting.

They argued that the UN must consider alternatives to prohibition. Colombia, Guatemala and Mexico have become increasingly critical of the UN's prohibition stance, claiming that maintaining the status quo plays into the hands of the cartels and paramilitary groups.

EU countries are also questioning the current stance. Norway wants the draft to pose "questions related to decriminalisation and a critical assessment of the approach represented by the so-called war on drugs".

Switzerland wants the draft to recognise the consequences of the current policy on public health issues.

It wants it to include the observation that member states "note with concern that consumption prevalence has not been reduced significantly and that the consumption of new psychoactive substances has increased in most regions of the world".

It also wants the draft to "express concern that according to UNAids, the UN programme on HIV/Aids, the global goal of reducing HIV infections among people who inject drugs by

50% by 2015 will not be reached, and that drug-related transmission is driving the expansion of the epidemic in many countries".

The EU is also pushing hard for the draft to emphasise the need for drug-dependence treatment and care options for offenders as an alternative to incarceration. <http://tinyurl.com/q7pooph>

Ex-DPP peer calls for tighter control on spooks

The British parliamentary committee monitoring security services should have greater powers to obtain evidence and summon officials, former Director of Public Prosecutions, Lord Macdonald, has urged.

The intelligence and security committee, which oversees the work of MI5, MI6 and the monitoring agency GCHQ, should be chaired by a politician from an opposition party and provided with an independent secretariat and legal advice, the Liberal Democrat peer said. The current chair is Sir Malcolm Rifkind, the Conservative former foreign secretary.

In a speech entitled 'Secrecy in Justice – Can it Ever be Fair?', Macdonald said more effective parliamentary oversight of intelligence gathering was vital in the wake of revelations about mass surveillance by GCHQ and the expansion of "closed material proceedings", known as "secret courts". <http://tinyurl.com/q97cfuh>

Spain plays tiki-taka with abortion laws

Spain's conservative government has approved an abortion law that rolls back current legislation permitting the procedure without restrictions until the 14th week.

Justice minister Alberto Ruiz-Gallardón (ARG) says abortion will only be allowed in the case of rape or a serious mental or physical health risk to the mother, or if accredited fetal deformities would endanger a child's life if born.

Girls 16 and 17 will once again have to obtain permission from their parents to have an abortion.

The bill, which must be approved by parliament, has been vigorously opposed by most opposition parties and women's groups across the country. ARG's ruling Popular party sides heavily with the Catholic church on moral and social issues. <http://tinyurl.com/lxxtcp>

Marijuana becomes legal

A new law in Uruguay means the state will regulate producing, distributing, selling and consuming the planet's favourite illegal drug, marijuana.

From next year, registered users can buy up to 40g of marijuana a month from a chemist's shop; registered growers can keep six plants; and cannabis clubs to have up to 45 members and can cultivate as many as 99 plants.

A government-run cannabis institute will set the price – initially about the going rate of \$1gm – and monitor the impact of the program. The aim is bring the industry under state control and push illegal traffickers out of business.

Julio Bango, a politician who helped draft the bill, said: "We know this has generated an international debate and we hope it brings another element to discussions about a model [the war on drugs] that has totally failed and that has generated the opposite results from what it set out to achieve." President José Mujica called on the international community to help what he admitted was an experiment aimed at finding an alternative to the deadly and unsuccessful war on drugs.

"We are asking the world to help us with this experience, which will allow the adoption of a social and political experiment to face a serious problem – drug trafficking," he said earlier this month. "The effects of drug trafficking are worse than those of the drugs themselves."

The current illegal market in Uruguay is estimated to be worth \$33m a year, according to Martin Fernández, a lawyer working for the Association of Cannabis Studies, who says one in five Uruguayans have tried marijuana. The government estimates 115,000 people are regular users.

Consumption of marijuana has been permitted for many years in Uruguay – one of Latin America's most tolerant nations – but production and sales are prohibited and largely run by gangs who smuggle drugs in from Paraguay. <http://tinyurl.com/qe3qmur>

Whisper it softly, Chinese have rights

Officials at a respected Chinese university have fired an outspoken legal scholar for advocating free speech and for repeatedly calling on the government to abide by its own constitution.

Zhang Xuezhong, who teaches at the East China University of Political Science and Law in Shanghai, was told he would be dismissed after he refused to apologise for writings that championed the protections guaranteed by China's Constitution.

Mr Zhang's teaching privileges were temporarily suspended in August after he published an article detailing the Communist Party's growing hostility to the nation's legal system.

"I told them I had made no mistakes whatsoever," he said.

"I'm just a university faculty member who expresses his own opinions, thoughts and proposals, which is absolutely my right. This is an out-and-out witch hunt." <http://tinyurl.com/myj899g>

Four Swedish prisons to close

Swedish prisons are reputed to be liberal and progressive: In 2005 even Saddam Hussein requested to be transferred to a Swedish prison to await his trial (but it was rejected). But are the country's prisons soft?

The head of Sweden's prison and probation service, Nils Oberg, announced late last year that four Swedish prisons are to be closed due to an "out of the ordinary" decline in prisoner numbers.

Without any fall in crime rates, between 2011 and 2012 there was a 6% drop in Sweden's prisoner population, now a little over 4500. A similar decrease is expected for 2013 and 2014.

Oberg admitted to being puzzled by the unexpected dip, but expressed optimism that the reason was to do with how his prisons are run. "We certainly hope that the efforts we invest in rehabilitation and preventing relapse of crime has had an impact," he said. <http://tinyurl.com/n9mveop>

Belgium to allow child euthanasia?

Belgium's upper house voted last month to extend to children a 2002 law legalising euthanasia for adults.

The lower house of parliament must also vote to approve the law before it takes effect.

Terminally ill children of any age could ask that their lives be terminated but their parents would have to agree – New York Times report.

Supreme Court votes 9-0 for brothels, guards

Canada's Supreme Court has overturned a law that effectively criminalised prostitution by banning brothels and soliciting on the street.

The court voted 9-0, saying restrictions such as prohibiting brothels and the hiring of security guards heighten risks, and prevent people engaged in a risky activity from protecting themselves from harm.

The Canadian government had argued that prostitutes choose to accept those risks, however the court found that vulnerable people do not always choose to become prostitutes of their own accord.

This case was "not about whether prostitution should be legal or not," Chief Justice Beverley McLachlin said in the landmark decision.

Instead, she said, the justices ruled on "whether the laws Parliament has enacted on how prostitution may be carried out pass constitutional muster. I conclude that they do not. I would therefore make a suspended declaration of invalidity, returning the question of how to deal with prostitution to Parliament," she said. <http://tinyurl.com/mpd4vun>

If it please your honour, a strike by any other name

Criminal barristers in England and Wales will refuse to attend court for half a day this month in protest at UK government cuts of up to 30% in income from legal aid.

The "mass non-attendance" organised by the Criminal Bar Association (CBA) will take place on the morning of 6 January – the start of the first full working week after the Christmas and new year holidays, as well as the beginning of the new legal term.

The announcement by the CBA follows mounting resentment over successive reductions in legal aid which the organisation claims has already resulted in cuts of 40% in legal aid fees for criminal cases since 1997.

The barristers have been careful to avoid describing the action as a 'strike' because that would raise complex questions over their contractual obligations to the Legal Aid Agency. Judges in individual cases could also express concerns about professional misconduct. <http://tiny.cc/4mp17w>

ODD SPOT: Iceland police kill first person!

Police in Iceland's capital of Reykjavik shot and killed a man last month...the first person ever killed by police in that country.

The Icelandic police chief said: "Police regret the incident and would like to extend their condolences to the family." He also said the police killing was "without precedent" in Iceland.

The police first fired tear gas canisters through the windows of the shooter's building, but failed to subdue the unidentified 59-year-old man. They then entered the man's apartment, but he continued to fire his shotgun, injuring one officer in the face and another in the hand.

A special armed force unit then shot the man, who died after he was taken to the hospital. The man's motive for the shooting was unclear and he was thought to be acting alone.

The police conduct in the incident is under investigation and the special forces are being counselled. Iceland has one of the lowest crime rates in the world. Its regular police force is unarmed. <http://tinyurl.com/mv3waa8>

PM's porn blockers wonky

Automated pornography filters that the British government has required the country's major internet providers to install on everyone's broadband service are exceeding themselves.

A BBC investigation found that the filters – part of conservative Prime Minister David Cameron's "war on porn" – are failing to block some major porn sites. Worse, they are blocking important educational sites, including an award-winning, youth-focused sex-education site called BishUK.com.

Also blocked as "pornographic" by British ISP TalkTalk's porn filter are sites such as the homepage for the Edinburgh Women's Rape and Sexual Abuse Centre.

Meanwhile, TalkTalk failed to block 7% of the 68 major porn sites tested by reporters for BBC's Newsnight. <http://tinyurl.com/l4hclnz>

INTERNATIONAL BRIEFS

India confirms gay sex illegal: Homosexual sex is illegal and punishable by life in prison, the Supreme Court of India ruled last month, by decreeing that Section 377 of the Indian Penal Code was constitutionally valid. Section 377 – "Unnatural offences" – states that "carnal intercourse against the order of nature with any man, woman, or animal" shall be punishable by life imprisonment. Framed by the British in 1860, Section 377 does not specifically define 'unnatural offences', but it has historically been interpreted as an anti-sodomy law. Petitions to the Supreme Court argued that gay and lesbian sex are against the order of nature. <http://tinyurl.com/ny7s5um>

Gays to get life: Ugandan MPs have voted overwhelmingly for an anti-gay bill that imposes life sentences for some homosexual acts. US President Barack Obama describing the bill as "odious" and Archbishop Nobel Peace laureate Desmond Tutu comparing it to apartheid. The bill does not include the death penalty, as it did for "aggravated homosexual acts" when first tabled in 2009. Instead, those caught engaging in homosexual acts for a second time, as well as for gay sex where one partner is a minor or is infected with HIV, will face life in prison. <http://tinyurl.com/lr44t3s>

Stupidity from the wrong end of a telescope: Why is it that stupidity is only obvious from a long way away? Here's what Fitch Esq reported on the *Justinian* legal blog last month: The US National Rifle Association achieved a long-held dream: carrying concealed weapons, though not yet obligatory, is allowed in every one of the 50 states. The NRA also supported legislation giving valuable [Second Amendment rights to the blind](#) (that's right, the blind may own guns). At year's end, the organisation's tireless supporters were busy [making sure minors can get guns, too.](#)

DATES

13 Jan, Hobart: Keynote presentation, 9am - 11am: Andreas Philippopoulos-Mihalopoulos. Professor of Law & Theory and Director of the Westminster International Law & Theory Centre at the University of Westminster, London, speaking about environmental law, EU law, human rights and critical jurisprudence. Geology lecture theatre, Room 211, Sandy Bay campus

13-17 Jan, Sydney: Introduction to Canon Law, Fr Mark Podesta, 8.30am-5.30pm, U. Notre Dame Australia. Details 02 8204 4430.

29 Jan, Darwin: 1-2pm, 'Desolation Row; disillusion, disconnection and dismay in the civil justice system', Patrick McIntyre, who has particular interests in constitutional and human rights law. AFA Forum Room, 26 Harry Chan Ave, Darwin. Email: lawsoc@lawsocietynt.asn.au

8-9 Feb, Canberra: 2014 sentencing conference, ANU. Finkel Theatre. More info/register: <http://law.anu.edu.au/conferences/sentencing>

14-15 Feb, Surfers Paradise: Queensland Australian Lawyers Alliance (ALA) conference, including International Air Crash Litigation (Joe Wheeler, Shine Lawyers), Marriott Resort. Details: <http://tiny.cc/8w3o3w>

17 Feb, Adelaide: Unmanned Aerial Systems (drones) conference. Flinders U. Contact: Kavitha Desai: kavitha.desai@flinders.edu.au. More info: <http://tiny.cc/haol7w>

19-28 Feb, Melbourne: "Forensic Interviewing" short course, RMIT, \$880. 5.30pm to 8.,30pm. <http://tiny.cc/o9wd7w>

21 Feb, Melbourne: Melbourne U Law School, 185 Pelham St Carlton: 2014 Human Rights Tertiary Teachers' Workshop, 9.30am-7pm. Info and bookings: j.tobin@unimelb.edu.au or 03 8344 6589.

7-Mar, Gold Coast: Bar Association of Qld annual conference, Sheraton Mirage. <http://tinyurl.com/oej464d>

21-22 Mar, Brisbane: Qld Law Society Symposium, Convention Centre. Info: <http://tinyurl.com/m6kdv62>

16 May, Torquay: Victorian Australian Lawyers Alliance (ALA) conference, at The Sands Resort. <http://www.thesandstorquay.com/welcome/index.mhtml>

26-27 May, Sydney: 12th annual National Security Australia conference: Sydney Harbour Marriott. Info: <http://www.iir.com.au/conferences/defence/national-security-australia>

3-5 June, Tahiti: Political, Economic and Legal Governance in Pacific States and Territories: 2014 Pacific Island Political Association Conference. University of French Polynesia. Info: Kerry.baker@anu.edu.au

15-20 June, Gold Coast: National Judicial Orientation Program, Sofitel Broadbeach, cost: \$5900. Details: <http://njca.com.au/program/national-judicial-orientation-program-2014-2/>

16-18 July, Hong Kong: Obligations VII – Divergence and Convergence. Jointly hosted by law faculties at U. Hong Kong and U. Melbourne, to be held in Hong Kong. <http://www.law.hku.hk/obligationsvii/>

2015:

14-15 Feb, Canberra: National Judicial College of Australia conference, ANU. Details: <http://njca.com.au/program/anu-njca-conference/>

June, England: 800th anniversary of Magna Carta
Date, Place TBC: 2nd Global Domestic Violence Conference

CLArion is the monthly e-newsletter of Civil Liberties Australia A04043, Box 7438 FISHER ACT 2611 Australia.

Responsibility for election comment in CLArion is taken by CLA's Public Officer, Bill Rowlings, of Fisher, ACT. Please feel free to report or pass on items in CLArion, crediting CLA and/or the original source. We welcome contributions for the next issue: please send to: <mailto:secretary@cla.asn.au>

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