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## THE VOICE OF LIBERTY MUST BE HEARD

### **This newsletter**

Responsibility for media comment by Liberty on a day-to-day basis falls traditionally to the President and other members of the executive, with the monthly Committee meeting as the forum for discussion and decision on major policy questions. As Liberty's membership continues to grow, it is important that members be kept informed of the issues with which we are involved.

It is intended that a newsletter of this kind be distributed every few months (time and energy permitting). You should regard the newsletter as an invitation to provide comment or suggestions on positions which Liberty has taken, or should take. Such is the range of issues, and the high profile which Liberty has established over many years, that we have our hands full most of the time. But with our growing staff complement (see below) our capabilities should continue to grow.

### **The new website**

Our new, much-improved website is now on line. Have a look for yourself:

[www.libertyvictoria.org.au](http://www.libertyvictoria.org.au)

The development of the website over the last 12 months has been funded by a grant of \$7,500 from the Missen Foundation, a bequest of \$3,000 from a Liberty member, and anonymous donations totalling \$2,000. In addition, the website designer, Consonant Pty Ltd, donated \$4,200 of time to the project. For each of those contributions we are very grateful.

Thanks to the hard work of Sidra Kranz Moshinsky and Nicki Schlesinger in the office, and of Felicity Hampel and Jamie Gardiner amongst other members of the committee, we are now well on the way to having on the website a comprehensive collection of Liberty policies and position papers. The task of assembling the collection has provided a timely stimulus for a review and revision of our full range of policies.

### **Anti-terror laws**

On 18 December 2001, the Attorney-General, Daryl Williams, announced that Cabinet had approved the introduction of anti-terror legislation. At the same time he acknowledged that "there remains no known specific threat of terrorism in Australia."

The details so far announced are scant, but it is proposed that there be created a new offence of "terrorist activity", covering acts –

- (a) committed for a political, religious or ideological purpose;
- (b) designed to intimidate the public in relation to security; and

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<b>President</b> Chris Maxwell QC	<b>Vice Presidents</b> Greg Connellan Jamie Gardiner	<b>Secretary</b> Mark Moshinsky <b>Assist. Secretary</b> Anne O'Rourke	<b>Treasurer</b> Sarah Porritt <b>Assist. Treasurer</b> Elizabeth Brimer	<b>Immed. Past President</b> Felicity Hampel SC
<b>Committee</b> Julian Burnside QC	Jim Curran	Lee Curran	Mark Hamer	John Marshall

(c) intended to cause serious damage to persons, property or infrastructure.

In addition, it is proposed to give new powers to ASIO and the Australian Federal Police, in particular to detain persons for 48-hours for interrogation, without access to legal advice or assistance and in the absence of any suspicion of involvement in criminal activity.

Like many groups, Liberty has taken a strong public position in opposition to these proposals. We argue that no case has been made to justify either a new offence or any new powers. Our position paper can be found on the website. The latest news is that the Bill is expected to be introduced in the sitting week beginning 11 March.

This shapes as the most important challenge of the year so far. If you want to express your concern about the proposals, send the Attorney-General a fax ((02) 6273 4102) or, better still, ring the Parliament House switchboard ((02) 6277 7111) and ask to be put through to one of the advisers in his office.

### **Protection of genetic information**

Late last year the Australian Law Reform Commission published a wide-ranging Discussion Paper on the protection of genetic information (in particular DNA). The paper describes technological advances in the recording and analysis of individual genetic information, and raises questions about the uses to which such information may be put in a range of areas, including health, insurance and the workplace and in criminal investigation.

A small sub-committee of the Liberty Committee is at present working on a written submission, due to be lodged by 18 March 2002. If you are interested in these topics, you should obtain a copy of the Discussion Paper from the ALRC and pass on your comments to the Liberty office.

### **Legislative Council reform**

On 19 March 2001, the Constitution Commission Victoria was established to review the structure, powers and workings of the Legislative Council, the number and method of election of its members and its relationship with the Legislative Assembly. The Commission is chaired by Professor George Hampel QC. The other commissioners are Ian McPhee and Alan Hunt.

With Mark Moshinsky at the helm, we have been preparing a submission to the Commission, which has recently published a Consultation Paper reporting on the first phase of consultation. Our submission will argue that the Legislative Council has been ineffective as a House of Review, and will make recommendations for improvement of its functioning. We will also be proposing that the method of election should be changed, to introduce multi-member electorates and proportional representation.

### **Australians for Just Refugee Programs**

On the initiative of Malcolm Fraser, Bill Kelty, Phillip Adams and Dr Eva Sallis (amongst others), a national coalition has been established under the name "Australians For Just Refugee Programs". Liberty participated in the initial discussions and is now a member of the organisation, which has adopted the following policy statement:

*"Australia's policies towards refugees and asylum-seekers should at all times reflect respect, decency and traditional Australian generosity to those in need, while advancing Australia's international standing and national interests. We aim to achieve just and compassionate treatment of refugees, consistent with the*

*human rights standards which Australia has developed and endorsed.”*

Matters receiving urgent attention include:

- mandatory and non-reviewable imprisonment of asylum-seekers;
- undue delays in processing of asylum claims;
- poor conditions and abuses within immigration detention camps;
- an unjustifiably harsh border protection regime.

If you are interested to know more, the website is at [www.justrefugeeprograms.com.au](http://www.justrefugeeprograms.com.au)

### **Costs in the Tampa litigation**

Following its 2-1 victory in the Full Federal Court, the Howard Government applied for costs against both applicants (Liberty Victoria and Eric Vadarlis). The Government sought the costs of both the appeal hearing and the much longer hearing before Justice North in which, of course, the applicants had succeeded.

The application for costs was vindictive and inappropriate. It also flew in the face of the Attorney-General's proclaimed support for lawyers undertaking pro bono work – as all the lawyers in the *Tampa* case had done!

In the end, justice was done. By a 2-1 majority, the Full Federal Court dismissed the application for costs. Unfortunately, the decision was handed down at 4:15 pm on the Friday before Christmas, and the Government was spared the media criticism which it richly deserved.

We received many offers of financial assistance while the costs threat remained. We are now encouraging those generous people to make a donation to Liberty's general running costs.

### **Peaceful Assemblies Bill**

In the middle of last year, the Minister for Police, André Haermeyer, released a discussion draft of a Peaceful Assemblies Bill. The Government's intention is to repeal the ancient *Unlawful Assemblies Act*, under which a Justice of the Peace can “read the Riot Act” to disperse an unlawful assembly.

Liberty made a submission welcoming the proposal to enshrine the right of peaceful assembly and acknowledging the need for a strictly limited power to intervene where a hitherto peaceful assembly becomes a riot (properly so-called). Our proposals for amendment to the draft were favourably received, and we have since been actively involved in consultation with the Minister.

The Government has now decided to defer the introduction of legislation until the Spring sittings this year. A revised exposure draft and Discussion Paper will be released for comment in May or June 2002.

### **Electronic stun guns (Tasers)**

The President of Liberty was invited by the Minister for Police to be a member of a small advisory panel, to consider the risks and benefits of introducing electronic stun guns, known as Tasers, as an alternative to the use of firearms. The Victoria Police have sought the Minister's approval for their introduction.

The panel is chaired by the Secretary of the Department of Health (Dr John Catford). The other member is Professor Morris Odell of the Institute of Forensic Medicine. It has met several times and is preparing a report to the Minister on the experience nationally and internationally with weapons of this kind. The panel will not, however, be in a position to express a view on where the balance lies between the risks and the benefits.

### **Detention in police cells**

A matter of continuing concern to Liberty (and other organisations including the Criminal Bar Association, the Law Institute of Victoria and the Police Association) has been the high number of people being detained, for lengthy periods, in police cells. This is said to be the result of a shortage of beds within the prison system. Typically, conditions in police cells are quite unsuitable for this purpose.

Together with representatives of those organisations, we attended a meeting in November with the Attorney-General and Police Minister. Our concerns were voiced strongly, and the Ministers agreed to look at options to reduce the scale of the problem. We will continue to monitor developments.

### **The Liberty office**

Sidra Kranz Moshinsky was first engaged by Liberty to manage the website development project. Fortunately for us, she agreed to expand her work to take on a part-time administrative position, which involved her being in the Liberty office two days a week. In November 2001, she was joined by Nicki Schlesinger, a Ph.D. student, who is now working 8 hours per week in the office.

Liberty's administration has, as a result, improved enormously in quality and efficiency. We look forward to recruiting additional administrative staff, to enable Sidra and Nicki to focus more on policy development and co-ordination. As mentioned at the Annual General Meeting, the aim is to have the office staffed full-time by the end of this year. All fund-raising ideas welcome!

### **Forthcoming event**

It is proposed to revive the Missen Memorial Lecture, provision for which is made under the Trust Deed of the Missen Foundation. We hope to make this a big event for Liberty this year. Details will be provided in due course.

**Chris Maxwell**  
28 February 2002

