

## **POLITICS AND POPULISM WIN OUT AT ANTI-TERROR SUMMIT**

The Law Council accused State and Territory leaders of placing politics and populism ahead of public interest at this week's counter-terrorism summit in Canberra.

Heads of government met with Prime Minister John Howard on 27 September, eventually agreeing on a raft of new laws that, according to the Federal Government, would make Australia a safer place.

The changes included tougher jail terms for inciting violence and greater powers for police and ASIO. In addition, terror suspects could be electronically tagged for a year or held without charge for up to two weeks.

But the Law Council believes the new legislation is heavy-handed and was given the "rubber stamp" for the wrong reasons.

"Decisions at the summit appear to have been made principally to provide the public with a false sense of security about the deterrence of terrorism, rather than with a view to sound principles of criminal law," Law Council President-elect Tim Bugg said.

"The claim that COAG needed to 'give peace of mind to the Australian community' reveals that the real agenda of the summit

was political in nature, and that dispassionate and principled policy-making was the loser," Mr Bugg said.

Despite Premiers and Chief Ministers winning a key concession in the legislation – a 10-year expiry date on the new laws – the Law Council said the rights of Australians were still at risk of being compromised.

"We are not comforted by a sunset clause which seems to ensure we will have legislation in place that offends human rights principles for at least a decade," Mr Bugg said.

He said that the Law Council would reserve its final judgment on these proposed new laws until it was privy to the details in the legislation.

## **LCA WELCOMES CRENNAN'S HIGH COURT APPOINTMENT**

The Law Council has congratulated Justice Susan Crennan on her appointment to the High Court of Australia.

Justice Crennan's contribution to the law spans more than 25 years. She commenced her career at the New South Wales Bar in 1979, where she read with now Commonwealth Solicitor-General David Bennett QC.

Appointed as a Queen's Counsel in 1989, she was the first female President of the Australian Bar Association. Justice Crennan also contributed to the Law Council as the first woman Chair of the Victorian Bar from 1993 to 1994.

"Justice Crennan's appointment to the High Court is richly deserved and caps a long and distinguished legal career," Law Council President-elect Tim Bugg said.

Currently a Justice of the Federal Court of Australia, Justice Crennan has also worked as counsel assisting the Tri-continental Royal Commission, been a part-time hearing commissioner for the Human Rights and Equal Opportunity Commission, and served on the Victorian Attorney-General's Law Reform Council and the Victorian Legal Aid Commission.

She will officially assume her new position on the High Court bench on 1 November, taking over from retiring judge Justice Michael McHugh.

## **FERGUSON ELECTED TO LAW COUNCIL EXECUTIVE**

Queensland solicitor and past President of the Law Society of Queensland, Glenn Ferguson, has been elected to the Executive of the Law Council of Australia.

A managing partner of Ferguson Cannon Lawyers on the Sunshine Coast, Mr Ferguson was elected by Council Directors at a meeting in Canberra on 3 September.

Mr Ferguson is the current President of the Immigration Lawyers Association of Australasia and Vice-President of LAWASIA.

He is also an active member of a number of legal bodies, including the Queensland College of Law, the Queensland Law Foundation, the Federal Attorney General's International Legal Services Advisory Council and the International Law Section of the Law Council of Australia.

Mr Ferguson practices mainly in the areas of insurance and compensation law, migration law and trade law.

"I am very much looking forward to the new role," Mr Ferguson said following his appointment.

## **VALE JUSTICE HILL**

**By Frank O'Loughlin and Michael D'Ascenzo**

The Law Council of Australia and the Australian Taxation Office noted with regret last month the untimely passing of Justice Graham Hill of the Federal Court of Australia.

As well as Justice Hill's deep interest in human rights, trade practices and the rule of law generally, his achievements in and contribution to Australia's revenue and taxation laws were profound.

Justice Hill graduated from the University of Sydney University in 1962 with a first class honours degree in law, winning the University Medal and obtaining a Master of Laws degree from Harvard University. He practised first as a solicitor and partner of the then Dawson Waldron, and then at the Bar, taking silk in 1984. He was appointed to the Federal Court in 1988.

Justice Hill contributed to the continuing development of taxation knowledge in

Australia, giving countless papers at professional conventions and conferences, and assisted the judiciaries of countries such as Thailand and China in their development.

He convened the inaugural Law Council Taxation Workshop in 1997, opening the workshop by reflecting on the contribution that participants on all sides of the taxation debate made to the Australian taxation system and urged that contribution to be channeled in a constructive manner to benefit the community.

Described by Justice McHugh as “probably the leading lawyer in Australia on taxation matters”, Justice Hill’s judgments were, and still are, judgments that other members of the court consistently refer to and follow.

He was a leader of the Federal Court on taxation matters and made a profound contribution to the Australian taxation system. He was notable in seeking to balance the inevitable tensions that arise between tax administrators and taxpayers. Justice Hill’s judgments have provided clarity on a range of tax issues and left the community and tax administrators better equipped to deal with the interpretation of the tax law.

At a personal level, he was warmly engaged with the tax profession, the administration and with students, giving papers, participating in discussion and sharing of himself and his insights. Justice Hill is survived by his wife Ute and children and children in law Katrina, Peter, Cameron and Louisa and grand children Zac, Cassie, Jacob and Alana.

*Frank O’Loughlin is the Chair of the Taxation Committee of the Law Council’s Business Law*

*Section. Michael D’Ascenzo is Chief Tax Counsel and Second Commissioner of Taxation.*

## SEARCH BEGINS FOR YOUNG LAWYER OF THE YEAR

The Australian Young Lawyers Committee of the Law Council of Australia is seeking nominations for the 2005 Australian Young Lawyer Awards.

The awards are designed to encourage young lawyers’ associations and individual young lawyers throughout Australia to establish and institute programs for the benefit and assistance of the profession and/or the community.

The awards are judged in three categories:

**Category 1** – Professional Issues

**Category 2** – Community Issues

**Category 3** – Individual contribution to the profession and/or the community

Nominations for the awards close on Monday, 17 October 2005.

Application forms are available at <http://www.lawcouncil.asn.au> or by contacting Hendryk Flaegel – email [hendryk.flaegel@lawcouncil.asn.au](mailto:hendryk.flaegel@lawcouncil.asn.au)

## ILAA FOCUS GROUP

The Law Council’s International Law Section (ILS) Executive has approved a proposal by the Immigration Lawyers Association of Australasia (ILAA) to establish a special ILAA Focus Group under the umbrella of the Section.

Members of the ILAA and practitioners who work in the immigration law field are invited to join the ILS and the focus group, which will commence work shortly. The focus group will be chaired by Maria Jockel.

The ILAA was established in 2003 to meet the needs of immigration lawyers practising in Australia and New Zealand. It was also envisaged that it would increase relationships with lawyers practising in the Asian region.

The ILAA has been active in preparing submissions to government and will continue its work within the structure of the ILS.

For further information, contact Hendryk Flaegel – phone (02) 6246 3726 or email [hendryk.flaegel@lawcouncil.asn.au](mailto:hendryk.flaegel@lawcouncil.asn.au)

#### WHAT'S ON

- The LAWASIA Conference on International Trade Law will be held at the Rex Convention Centre, Ho Chi Minh City, Vietnam, from 6-8 October, 2005. For more information visit [www.lawasia2005vietnam.org.vn](http://www.lawasia2005vietnam.org.vn) or email [lawasia2005vietnam@viettel.com.vn](mailto:lawasia2005vietnam@viettel.com.vn)
- The 2005 Cultural Heritage and Native Title Conference is on from 28-30 November at the Marriott Hotel, Brisbane. To register, phone (02) 9923 5090, email [info@iir.com.au](mailto:info@iir.com.au) or visit [www.iir.com.au/resources](http://www.iir.com.au/resources)
- The Australian Institute of Family Law Arbitrators and Mediators (AIFLAM), in conjunction with Bond University, is conducting the following courses in

2005: Arbitration – 3-5 November, Canberra; Basic Mediation – 1-3 December at the Marriott, Gold Coast. For more information on these courses, contact Kate Bolas – phone (02) 6246 3714 or email [kate.bolas@lawcouncil.asn.au](mailto:kate.bolas@lawcouncil.asn.au)

- The International Association of Jewish Lawyers and Jurists will be holding a conference in Eilat, Israel, on 10 November 2005. For more information, phone the association on 0011 972 3 6910 673.
- The 13<sup>th</sup> Biennial Malaysian Law Conference is being held at the Putra World Trade Centre, Kuala Lumpur, from 16-18 November 2005. Centred around the theme of “Globalising the Legal Profession”, the conference will focus on a range of topics, including moral policing, arbitration and mediation, gender issues, professional indemnity insurance and risk management, and environmental protection. For conference details, email [council@malaysianbar.org.my](mailto:council@malaysianbar.org.my) or visit [www.malaysianbar.org.my](http://www.malaysianbar.org.my)

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*@theLCA* welcomes editorial contributions and items for the bulletin's list of 'What's On'.

All contributions should be emailed to: [ben.caddaye@lawcouncil.asn.au](mailto:ben.caddaye@lawcouncil.asn.au) or phone (02) 6246 3725.