

PUBLIC LAW REVIEW

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- Federal anti-corruption policy takes a new turn ... but which way? Issues and options for a Commonwealth integrity agency – *A J Brown*** 93

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Parliamentary privilege and police powers in South Australia – *Martin Hinton*

The exercise of police powers by investigating officers in the precincts of Houses of Parliament and or in relation to the actions of parliamentarians carries with it the risk of acting in breach of parliamentary privilege. In 2002 the South Australia Police found themselves in the position where the Speaker of the South Australian House of Assembly, whose business dealings were under investigation, was himself refusing the investigating officers permission to enter Parliament House to further their inquiries. Against the backdrop of the circumstances confronting the police in South Australia, this article examines the application of the law to the Houses of Parliament, the ambit of parliamentary privilege, and the exercise of police powers in situations where there is a risk of acting in breach of parliamentary privilege. 99

In the matter of David Hicks: A case for Australian courts?– *Devika Hovell and Grant Niemann*

David Hicks, an Australian national, has been detained at Guantanamo Bay for three and a half years without trial. The military commission process, currently stalled, but to which he will ultimately be subject, has been censured by numerous bodies, including the British government, the Law Council of Australia's independent observer and United States federal courts. A number of countries allied to the United States have successfully sought the return of their citizens from Guantanamo Bay. The Australian government has been exceptional in this respect, declining to seek the return of David Hicks on the basis that the crimes with which he is charged are not crimes under Australian law. This article analyses the accuracy of this position, continually relied upon by the government as justification for its non-interference, by examining Australian law as it existed at the time of Mr Hick's alleged conduct. 116

The power to proscribe terrorist organisations under the Commonwealth Criminal Code: Is it open to abuse? – *Henry Jackson*

The power to proscribe terrorist organisations was one of several proposed legislative powers put to Parliament by the Australian government following the terrorist attacks on US territory on 11 September 2001. Substantial amendment of the relevant provisions of the Bill followed a critical Senate inquiry after which the power was inserted into the

Commonwealth *Criminal Code*. However, subsequent amendment has wound back much of that initial revision, leaving an executive power perhaps even more powerful than originally proposed. This article examines the constitutional validity of the power, primarily by considering the application of key aspects of the Communist Party case to the power, and concludes that it breaches both the doctrine of the separation of powers and that of the rule of law. In doing so, the article also considers the protection offered to citizens against the potential for abuse of the power and concludes that neither the protection offered by Parliament nor that offered by judicial review is likely to be sufficient to salvage constitutional validity. 134

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