

BACKWARDS TO THE FUTURE

The bleak blue line

IAN FRECKELTON writes in the year 2025, painting a grim vision of sensitive new age police and paramilitarisation.

First of all, let me make clear the basis of my writing this piece. I am now old and for my future I no longer care. I want to make it explicit that I received the request to write this in an unmarked hand-delivered envelope in my postbox on 15 September 2025 from the LSB Committee. The letter did not betray who its author was. I do not know, have not known for 12 years and do not want to know who is on the Committee.

But let me say this. The fact that the *Alt.LJ* has been driven underground and into editorial anonymity is symptomatic of so much that has gone awry with our society over the last quarter of a century. During the mid and latter part of the 1990s dissent ceased to be a viable form of expression of opinion, as the Pauline Hanson-driven push became more and more pronounced. While Hanson and her followers never achieved a formal position of government responsibility, history now shows how influentially she tapped into, and 'actioned', as the bureaucrats used to say, unspoken fears and bigotries that characterised Australian sentiment. Tragically, she and her party drove political discourse further and further to the right. Diversity of political opinion was the first casualty.

Groups such as those who participated in and contributed to the *Alt.LJ* were singled out for attention because their contributions to debate ceased to be 'in the public interest'. First came the amalgamations of newspapers, then unnamed patriots commenced to launch personal and vitriolic attacks on prominent sympathisers of the *Alt.LJ* and others in comparable organisations, such as Councils of Social Services, members of dissentient Church groups and, of course, the much reviled members of Councils for Civil Liberties. One by one we were outed. At first our jobs just mysteriously ceased to be available. Later, the measures became more physical. However, the lack of potential for employment had become very serious by the turn of the century because social security benefits had changed fundamentally in character. Entitlement had become discretionary and dependent on a range of informal factors, such as the 'Diary Test' and then progressively on largely unarticulated factors, including 'willingness to work as directed'. Review by the Social Security Appeals Tribunal ceased to be possible with the abolition of that body in 1998. Those few jobs that could be applied for were frequently taken by the unemployed who were required to demonstrate their bona fides for eligibility for benefits by working for the dole.

Later things became more oppressive — in order to protect the community from the disgruntled who sought to undermine confidence in the institutions of state. Immigration was all but stopped in order to prevent the incursion of the dissentient from incompatible cultures and in order to 'consolidate the national character'. Many of us were imprisoned; others were beaten by state apparatchiks. Some of us, under pressure, publicly renounced what we were told were our 'socially damaging' views. And who can blame them? Recanting was the only way to ensure not becoming part of the infamous, but never publicly revealed 'Not to be Employed List'. Having one's name on the List guaranteed outcast and impoverished status with others such as the indigenous inhabitants of Australia who by then had been 'emancipated' from welfare dependency by the government — 'No Work as Directed, No Handouts!', as the signs everywhere used to proclaim.

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From the late 1990s some of us were impertinent enough to suggest that the police were increasingly involved in the enforcement of the ruling party's ideology. This was dismissed as anachronistic Marxist paranoia. However, it became more and more apparent as the years passed by that the new censorship laws meant that nothing unfavourable to the government could be published about the research that some of us were collecting anecdotally — the absence of officially released data precluded any other form of research. It was all so ironic after Prime Minister Howard's announcement in the first of his terms in government that his stewardship would be marked by a recognition of the values of free speech. Policing became more and more a tool of the government of the day, which from time to time changed leaders but not its fundamental character.

It is strange to look back with nostalgia upon the early days of the Criminal Justice Commission in Queensland and of the National Crime Authority for what we would now classify as their basic commitment to people's rights. That was hardly the perception at the time. Neither body of course lasted into the 21st century in its own right, both being gradually starved into non-performance by reduction of funds. Who will ever forget the triumphal expression on the face of John Elliott at 'that party' which he hosted for all comers when the NCA was finally 'merged' into the Australian Federal Police?

Policing went through many painful periods during the late 1990s. The 1996 Australian Law Reform Commission (ALRC) Report calling for external investigation of complaints against police was the last great success for those of us who campaigned publicly for police accountability. It was not long afterwards, of course, that the ALRC's funding came under attack, with a carefully orchestrated campaign of vilification and accusation against key members and former members of that body. None of the accusations were ever proved but the damage was done to the credibility of ALRC recommendations. Little by little, the ALRC withered into insignificance. The task of formulating law reform proposals thereafter was given to ideologically compatible 'think tanks', which were championed as being 'independent of

government' and, unlike the ALRC, even of government funding!

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Changes appeared to come over the face of policing, emerging out of the New South Wales Wood Royal Commission which lasted for so many years. The era of the 'SNAP' (sensitive new age police) began, although we learned all too quickly that appearances can be deceptive and that closer to the mark was the emergence of what Jude McCulloch now more than 30 years ago had the gall to proclaim was the militarisation of our police forces. With the expedited promotion of policewomen came the unchanging iron fist in the new velvet glove. How naive were those reformers of early days, like myself, who believed that mere gender change to the profile of police would introduce greater humanity and sensitivity to minority rights

What happened, of course, was that men ceded some of their positions of dominance at the head of police forces but were replaced by more sophisticated, media friendly females who in fact possessed just as much of the brutality as their male predecessors but could put a charming and 'feminine' public face on it. As a public relations exercise, starting in New South Wales and the Northern Territory and followed eventually in Victoria and Queensland, the 'de-masculinising' of policing leadership appeared a great success, for a time, until the fabric of the velvet glove became unmistakably bloodied. The emergence of the phantasm of sensitive new age police was in inverse proportion to the behaviour of police on the street.

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A few independent bodies to investigate public corruption were established, but they achieved remarkably little in retrospect. The great initiator was the Criminal Justice Commission, later followed by the Ethical Standards Investigator in New South Wales. At first government funding was adequate. Then, bit by bit, it drained away among interminable legal disputes about the meaning of various of the technical terms in the enabling legislation and about the civil liberties of police and other government employees under investigation. The increasing politicisation of judicial appointments contributed at the start of this century to the resolution of these problems in a way acceptable to governments none too keen on intrusive external scrutiny.

In the end there was a body in every jurisdiction with responsibility for investigating complaints against public officials of corruption, conflict of interest and excessive use of force. Each was independent in name, but dependent on funding obtained from recovery of assets from government employees found guilty of misconduct by the State courts. This was part of the incentive-driven prosecutorial and investigative system that commenced to evolve in the late 1990s. Unfortunately, the investigation bodies never were able to recoup enough from those who were the subject of adverse determinations and were always reliant on 'donations' from governments or other entities for continued viability.

As well, this meant that for investigators they primarily had to use not just serving police, but rather those serving police made available by Commissioners. Naturally, these were judiciously selected by the Commissioners and the separation between civilian scrutiny and the subjects of investigation became utterly illusory. At times, it almost seemed that police who were under investigation were aware of impending raids and interviews before investigators had

started their work. Investigations were selective, methodologically as flawed as they had been in the days of internal police investigations of complaints against police, and rarely resulted in any significant prosecutions. Being in name independent, however, made the hypocrisy of their inefficacy the more distasteful.

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Looking back, the territorial tensions and then the First Kiwi War of 2010 against New Zealand, were really the turning points for Australian policing. Until then, reform of institutional corruption was theoretically possible. For years allegations had been made by politicians in Australia about the destabilising influence of Kiwis and about the attempts of New Zealanders to interfere with Australia's fiscal entitlements. When ASIO announced in 2008 that it had foiled a New Zealand government plot to assassinate our then President, emotions erupted and not only did war ensue two years later but the nature of Australian policing changed probably forever. The rhetoric of community policing took on new sinister connotations, the uniform response to the presence of police became that of fear and the arming of police was formalised with their being absorbed (for administrative convenience, no more!) as a division of the Department of the Military.

The role of police in identifying Kiwis and Kiwi sympathisers 'for national security purposes' resulted in still more 'generous' powers of search, seizure, detention for questioning and use of discretionary interrogation techniques than had ever been contemplated previously. Unfortunately, the powers were not limited to the Kiwi crisis and were extended to police work generally. What history has taught us is that a civil right lost is a civil right not easily regained. Long after the Kiwi crisis was resolved and the War won, as it always would be, governments re-elected with an increased mandate and whispers suppressed that the menace had never been any greater than the Kuwaiti threat against Iraq had been last century, the enhanced police powers remained and commenced to be turned against the non-compliant within the civilian population. Rights of public assembly had gone, even gestures toward accountability ceased to be made and the concentration was upon protecting the ability of governments to discharge their democratic mandate to govern without impediment. The government and the police became one. Opposition to either was visited with the revived charge of treason.

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ENVIRONMENTAL LAW

Lawyers for forests

DAVID HEILPERN discusses ethical dilemmas for green lawyers.

It is cold and foggy and dark. The convoy of geriatric four-wheel drives snakes its way along the ridge top in Richmond Range State Forest, way west of Kyogle. Red-neck country. The moon is setting on one side, and the first rays of sunlight are visible only by a milky in the fog on the other. It is isolated and we are tired but we are near our destination.