



Welcome to the March 2010 e-bulletin of the [Gilbert + Tobin Centre of Public Law](#). Since publication of our last [Newsletter](#) in January, Centre members have been busy with our major conference on constitutional law as well as continuing their teaching and research in the field of public law.

The Centre's annual event, the [2010 Constitutional Law Conference and Dinner](#), the ninth to date, returned once more to its usual home at the Art Gallery of New South Wales, after renovations had seen a change of venue the year before. The conference attracted over 200 participants who met to discuss recent developments and ongoing controversies in Australian constitutional law. The day commenced with the traditional surveys of the constitutional law cases of the High Court (Dr Melissa Perry QC) and Federal and State Courts (Professor Gerard Carney) over the last 12 months and concluded with a lively panel discussion on the significance of the High Court's decision in [Pape v Commissioner of Taxation](#) that was kicked off by Mr Pape himself. The intervening sessions covered specific cases of particular interest and explored topics as diverse as same-sex marriage, privative clauses and State water rights.

The special guest speaker at the dinner held at New South Wales Parliament House was the Hon Chief Justice Robert French of the High Court of Australia who, in speaking entertainingly on '[Theories of Everything and Constitutional Interpretation](#)' was explicit in his eschewal of the former. The Chief Justice's address and a [selection of other papers](#) presented on the day, as well as [audio recordings](#) of all four sessions can be accessed via the Centre's website.

There was just time after the formal proceedings and before the Conference dinner for a celebratory launch – complete with famous Blackshield singing! – of the 5th edition of [Australian Constitutional Law and Theory: Commentary and Materials](#) by Tony Blackshield and [George Williams](#). Formally launching the new edition of Australia's leading constitutional law text was the Hon Michael McHugh QC AC.

New Centre projects

This month sees the addition of two new Centre projects. The first is the [Public Law and Legal Theory](#) project which will be headed by [Ben Golder](#) as Project Director, while the new [Referendums Project](#) is jointly directed by [Paul Kildea](#) and George Williams.

The first project will provide a specific platform through which to examine the intersection of contemporary political theory, legal philosophy and legal theory with the fundamental public law concerns of the Centre. The second will research constitutional reform in Australia at a time when both major political parties voice their intention to use the process of referendums on various issues. A book on the history of referendums in Australia, co-authored by George Williams and David Hume, is due out in mid-2010.

Activities and Research

During the last three months Centre members have contributed to debate on public law issues through media and speaking engagements. Topics on which members have contributed have included:

- Tony Abbot's plans to [fix federalism](#) as outlined in his *Battlelines* book;
- the release of the Rudd government's [Counter-Terrorism White Paper](#) and its effect on national security (comment by [Lynch](#) and [Michaelson](#));
- the constitutionality of the [Wild Rivers \(Environmental Management\) Bill 2010 \[No 2\]](#);
- the [sentencing of five men found guilty of terrorism crimes](#) and how tough anti-terrorism laws could potentially harm counter-terrorism efforts;
- the Commonwealth's [Death Penalty Abolition Bill](#);
- an important decision by the [Victorian Court of Appeal](#) considering the [right to a fair trial](#) under the Charter of Rights and Responsibilities; and
- the role of Chief Justices in promoting [unanimity in the High Court](#).

Particular Highlights over recent months include:

- [Edward Santow](#) and Francine Johnson have published '[How would an Australian Human Rights Act impact business?](#)' in the current issue of the *Australian Business Law Review*;
- [Sean Brennan](#) presented a paper to the NSW Chapter of the [Australian Association of Constitutional Law](#) on 9 March, which considered the methodology of the High Court in four recent cases concerning Aboriginal land before broadening to an analysis of [constitutional issues and indigenous property rights](#) more generally. The commentators on Sean's paper were the Hon Justice John Basten (New South Wales Court of Appeal) and the Hon Justice Jayne Jagot (Federal Court of Australia);

- A book co-authored by [Chris Michaelson](#) with Shirley Scott and Tony Billingsley entitled [*International Law and the Use of Force: A Documentary and Reference Guide*](#), was published in January by Praeger Publishers;
- Chris also delivered a paper titled 'Human Rights and Counter-Terrorism in Academic Theory and Policy Practice' at the [51st Annual Convention of the International Studies Association](#) in New Orleans, USA, 19 February;
- [Jane McAdam](#) was an invited speaker at the [International Association of Refugee Law Judges Regional Conference](#), (12 February) on 'Antipodean Complementary Protection: A Step-by-Step Approach' and also at the German-Australian-Pacific Lawyers Association Conference in Sydney (27 March) speaking on 'Climate-Induced Displacement and the Pacific';
- [Andrew Lynch](#) delivered a paper on the use of the referrals powers in s 51(xxxvii) of the Commonwealth Constitution to support the *Fair Work Act 2009* (Cth) to the [Industrial Relations Society of the ACT](#) and [ACT Chapter](#) of the [Australian Labour Law Association](#) on 24 March;
- Paul Kildea and George Williams consider '[Reworking Australia's Referendum Machinery](#)' in the latest issue of the *Alternative Law Journal*;

Additionally we have been joined this semester by:

- [Professor Denise Meyerson](#), Division of Law, Macquarie University, as a Centre visitor for semester 1; and
- Two new [postgraduate students](#): Rebecca Welsh whose doctoral topic is 'The Power to Restrain Liberty under Chapter III of the Australian Constitution: Control Orders and Preventative Detention Orders' and Kelvin Widdows whose thesis is titled 'Sir John Latham: Judicial Reasoning in Defence of the Commonwealth'.

Coming Up...

2010 Postgraduate Research Conference in Public Law 12-13 July

On 12-13 July the Centre is holding a free [postgraduate conference](#) on public law to give research students in this area an opportunity to discuss methodology, present their work and network with their peers. Full and part-time students from across Australia and overseas currently completing a research thesis in the field are encouraged to respond to the [call for abstracts](#) which closes on 30 April.

We are delighted that the Conference will be opened by a keynote address from [Dr Thomas Poole](#), one of the United Kingdom's leading public law academics. Dr Poole researches and teaches in public law, administrative law, constitutional theory and comparative constitutional law at the London School of Economics.

Please forward this e-bulletin or the links to information about this conference on the Centre website to any postgraduate research students you know who might be interested in participating in the event.

Dr Andrew Lynch
Centre Director

To unsubscribe from the G+T Centre Mailing list, please email 'Unsubscribe' to gtcentre@unsw.edu.au