

# APF 30th Anniversary 28 July 2017

## A Quick Stroll Through History



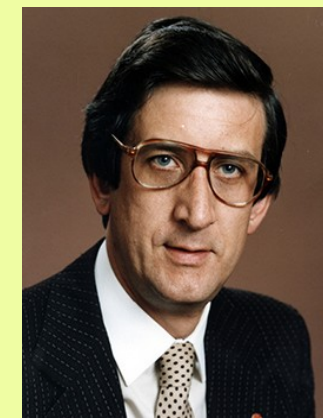
## Pre-History

- 'The Private Man', Zelman Cowen, ABC – 1969
- NSW Attorney-General, John Madison – 1972
- Report on Privacy, Morison – 1973
- NSW Privacy Committee Act – 1975
- ALRC Report on Privacy – 1976-1983  
Michael Kirby, a.n.other
- Australian Accession to OECD Guidelines – 1984

# Prelude The Australia Card 1985-86

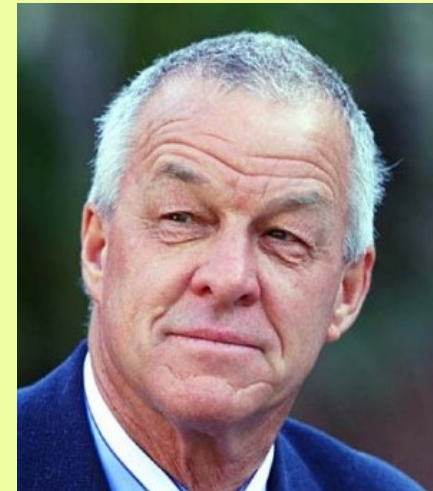


- ? Mar 1985 – Risstrom pitches ID card to Hawke
- 24 Jun 1985 – Cabinet gets Inter-Deptal Ctee Rpt
- Jul-Aug 1985 – Caucus haggles over the proposal
- 17 Sep 1985 – Cabinet approves the project
- The Joint Select Committee – Dec 1985 - Mar 1986
- (Puplick, Haines, Saunderson)
- Privacy Advocacy  
Greenleaf, Clarke, Lawrence  
Walker, Costigan, Barter, Stanley  
NSWCCL, VCCL, QCCL, SACCL, TasCCL  
NSWPC, ACS, QCOSS, PAIN, CAID



" ... as socialists, we shouldn't get too hung up on privacy because **privacy, in many ways, is a bourgeois right** that is very much associated with the right to private property"

Neal Blewett  
Minister for Health, 1986



**WEEKEND**

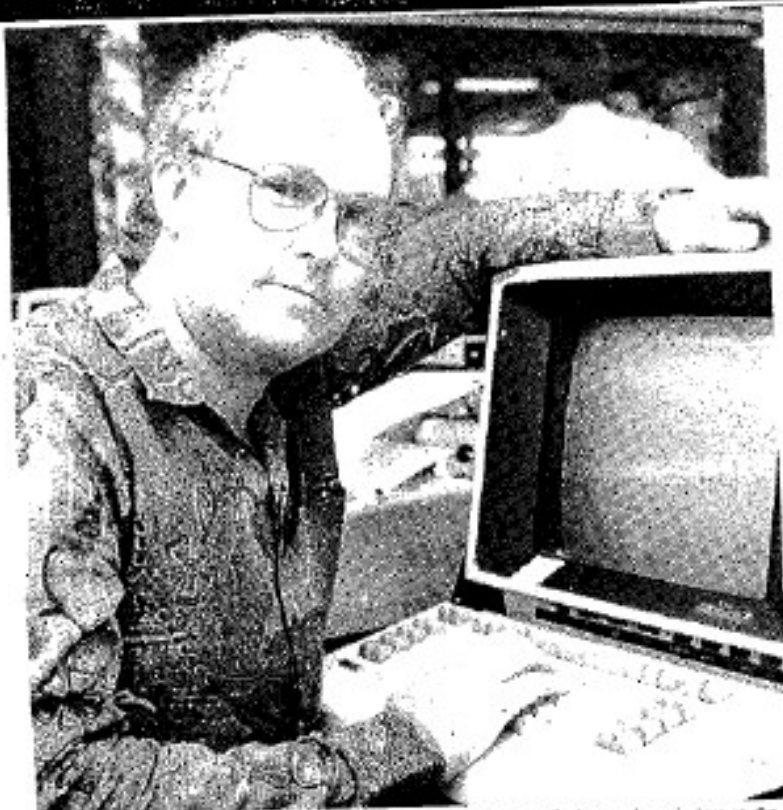
# Liberal



Vol. 113, No. 1

SATURDAY AND SUNDAY, January 3 and 4, 1987

AND MACQUARIE ADVOCATE



Graham Greenleaf, a former Dubbo solicitor and lecturer in law and computers at the University of NSW, has urged local residents to protest the Government's proposed Australia Card.

## Dubbo residents urged to protest Aust. Card

A FORMER Dubbo solicitor has lashed out at the Government's proposed Australia Card calling it a national surveillance system more powerful and extensive than those operated by Eastern bloc countries.

Mr Graham Greenleaf, a lecturer of computers and the law at the University of NSW, said the card offered thousands of public servants one stop shopping access to private information.

He said people in Dubbo, like most Australians, were ill-informed as to the purposes of the card which, if introduced, was capable of monitoring the location and movements of everybody in the country.

While visiting his parents Allan and Gerilla Greenleaf over New Year, Mr Greenleaf urged Dubbo residents to write to their local Member of Parliament.

"What is being proposed for Australia is not just an identification card but a whole national surveillance system," he said.

"As far as I am aware with the sophisticated computer technology we have in Australia it will be the most powerful and extensive system operated anywhere in the world.

"What the Government hasn't wanted to bring out is that it can be used for good and bad."

Mr Greenleaf has been vocal in his opposition to the Australia Card and has given evidence to the joint select committee hearings into the proposal as well as making numerous submissions in his position as consultant to the NSW Privacy Commission.

Mr Greenleaf said there were alternatives to the card, such as using tax file numbers which would give 90 per cent of the benefits without invading people's privacy.

The Government's move recently to reduce the number of departments and agencies with access to the card from 54 to three was a tactical retreat, Mr Greenleaf said.

"All the way along the Government has wanted a more extensive identification system as can be seen by its original intention of giving access to 18 departments.

"The system is very expensive to run on a fiscal basis and could pressure the Government into using it more extensively in its departments to make it more economical."

He said the proposed plan, which has already been rejected, would be put to the Senate within the next few months, and if rejected again could become the focus for a double dissolution.

Mr Greenleaf was former solicitor with North and Balgery of Brisbane Street, which was one of the first legal firms to encourage the use of word processors.

He said while attending Dubbo High School he became interested in law but it was his work with the Dubbo firm that fired his imagination as to the use and abuses of computers in the field of law.





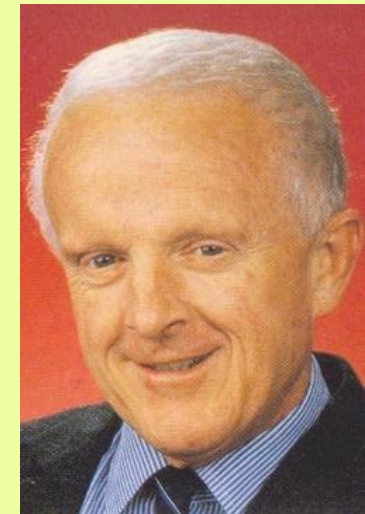
## Prelude – The Double-Dissolution Election

1 Apr 1987 – Hawke undertakes not to use the Card as a trigger for a double-dissolution election

2 Apr 1987 – 2nd rejection of the Bill by the Senate

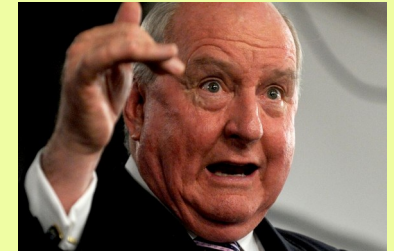
27 May 1987 – Hawke calls double-dissolution

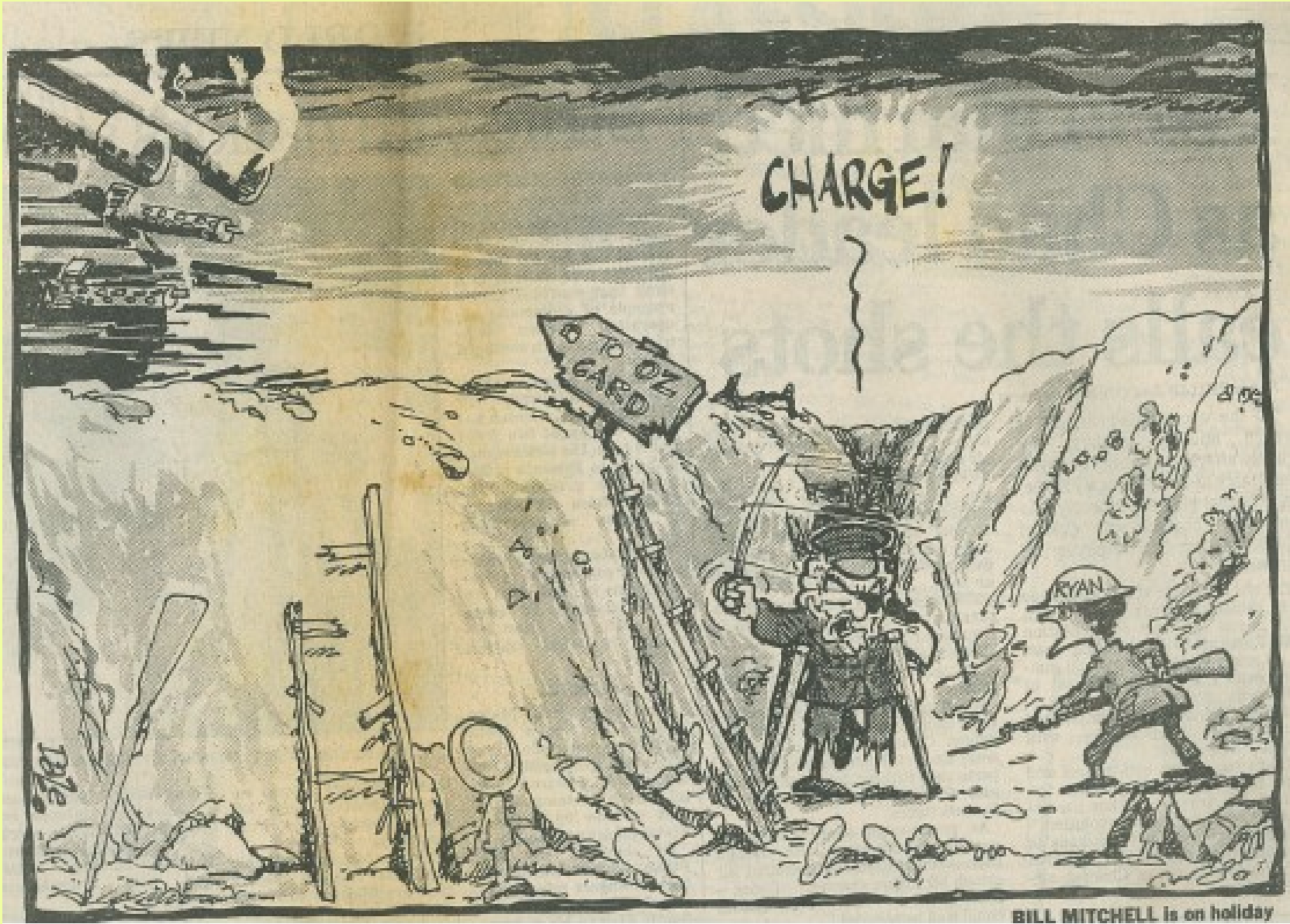
"Labor Senate Leader John Button even burst into laughter when referring to [the Card] in his speech announcing the election"



## APF Formation

- 7 Jul 1987 – Martin Place Demo - Dixon, Davies
- 11 Jul 1987 – **Double-Dissolution Election**, the Card almost unmentioned, Labor wins again
- 12 Jul 1987 – Davies phones APF Founders
- 28 Jul 1987 – planning meeting in Alan Jones' home 'loft' in Newtown
- 29 Jul 1987 – Susan Ryan's poison chalice





BILL MITCHELL is on holiday

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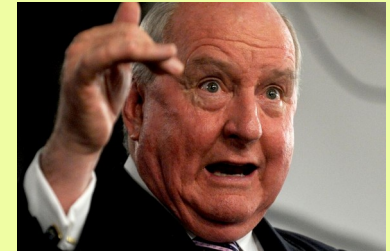


Australian  
Privacy  
Foundation



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- 29 Jul 1987 – Susan Ryan's poison chalice
- 16 Aug 1987 – 4 Corners – participants: Andrew Olle; Ron Castan, Roger Clarke, Frank Costigan, Peter Garrett, Eric Ristrom, Richard Walsh vs. Yuri Grbich? and Susan Ryan
- **31 Aug 1987 – APF Launch, Sebel Town House** (Haines, Shepherd, Wheelwright, Chappell, Castan, et al.)





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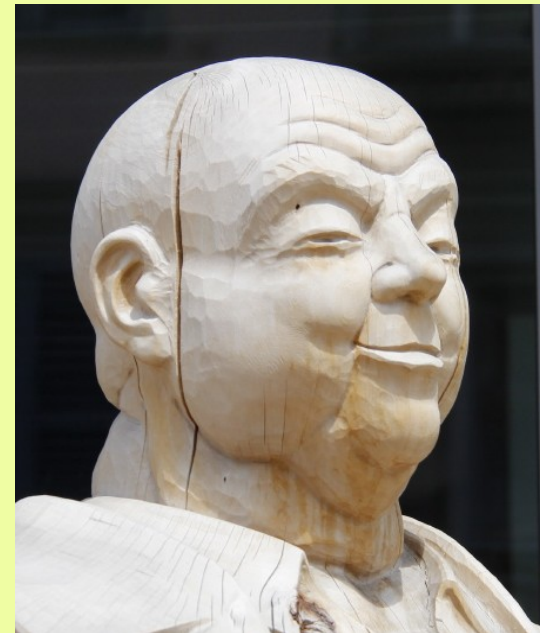
"Under the banner of the Australian Privacy Foundation  
... at yesterday's launch ..." – SMH, 1 September 1987

# The Founders

Tim Dixon



Simon Davies



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Tim Dixon



Simon Davies

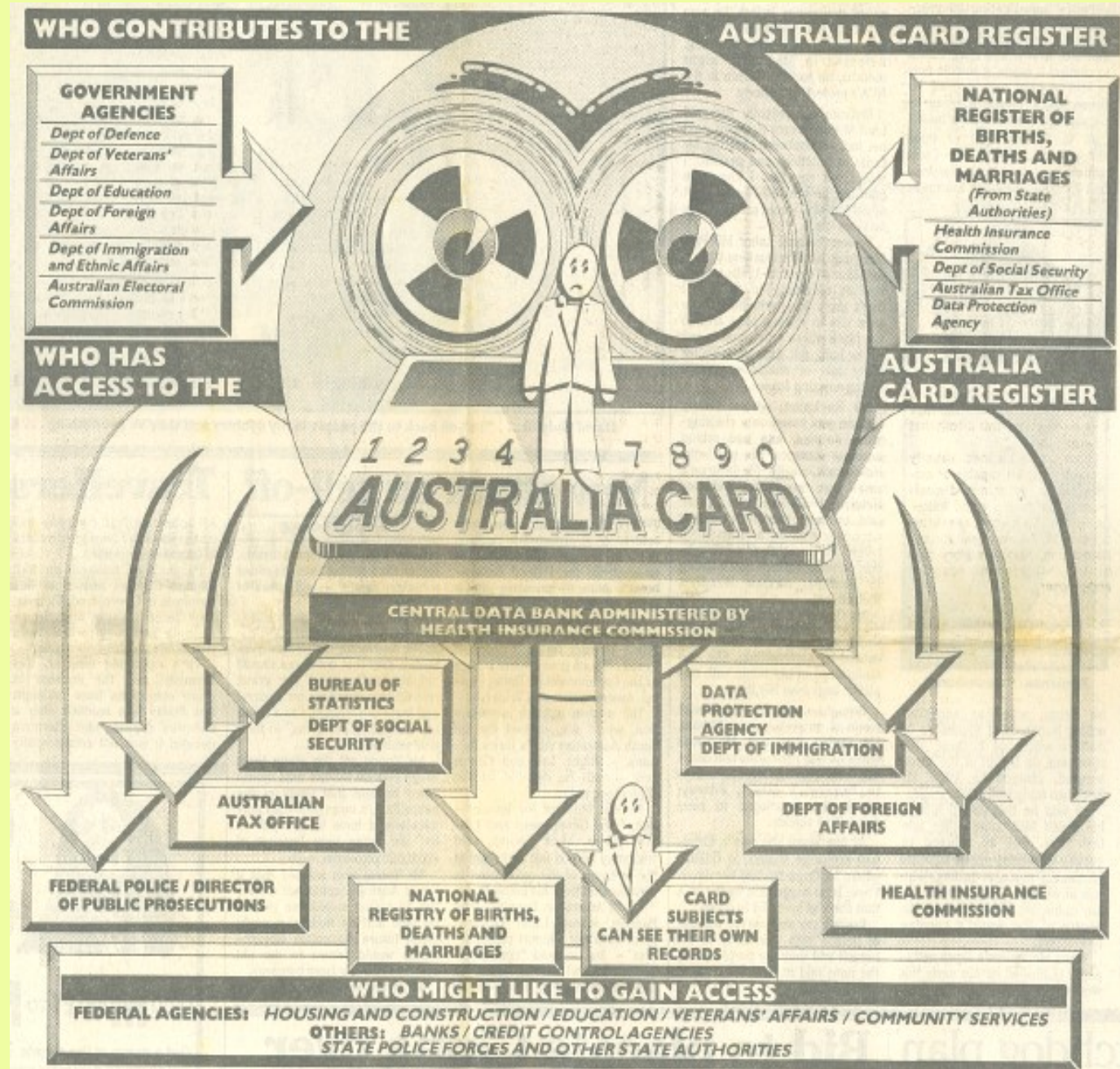




'Big Brother Rules  
when your  
number's up'  
Times on Sunday  
30 Aug 1987



Graham Greenleaf: pinpoints a major omission in the bill.



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Tim  
Robertson  
(NSWCCL)

The Sun  
23 Sep 1987

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## NEWS FOCUS on the 'hit-and-run' ID campaign

**T**IM Robertson might well be the Pimpernel of Privacy.

He has been given lately to sudden public appearances. He waves yet another "leaked" Canberra document which he declares undermines the Government's proposed ID card.

Then, just as suddenly, he's gone. Of all the "strange bedfellows" whom Mr Hawke accuses of trying to sink the ID card, Robertson ranks spectacularly low on the scale of public recognition.

The likes of rock singer Peter Garrett and yacht designer Ben Lexcen are out there talking up a media storm to swing public sentiment and contributions.

In contrast, Robertson takes a hit-and-run approach.

That, he says, is because he has to cope with a legal practice.

"Obviously, I couldn't be available all the time; I just couldn't cope physically," said Robertson, 28, a barrister and younger brother of Hypotheticals host, Geoffrey Robertson, also a barrister.

Robertson is the secretary of the NSW Council for Civil Liberties and, among younger Sydney lawyers, is known as "well connected" and a committed member of the Australian Society of Labor Lawyers.

His non-appearance this week at the society's conference in Perth raised some eyebrows.

In fact, he's been in a Sydney courtroom. He recently represented the US Marine deserter, Douglas Beane.

Robertson is less well known as a 1977 dropout from Sydney University who earned his legal "connections" rather than inheriting them.

"I wasn't happy at uni," he says. "I decided it was about time I learnt what the real world was like."

"In 1977, during the recession induced by the Fraser Government, I walked the streets of Sydney looking for a



● Tim Robertson ... hit-and-run job on the proposed ID card

# 'PIMPERNEL OF PRIVACY'

## Demise of the Australia Card

- Australians nationwide + Davies and friends
- **"There has never been a debate like it on the letters page; there has never been such a cry of opposition from the nation over one topic" Letters Editor, The Australian, 15 Sep 1987**
- 20-30,000 people march in Perth





By:  
Image ID:  
Date Reference:

Ron D'Raine  
WAN-0029179  
15 September 2003

**Countryman**

**The West Australian**

**Kalgoorlie Miner**

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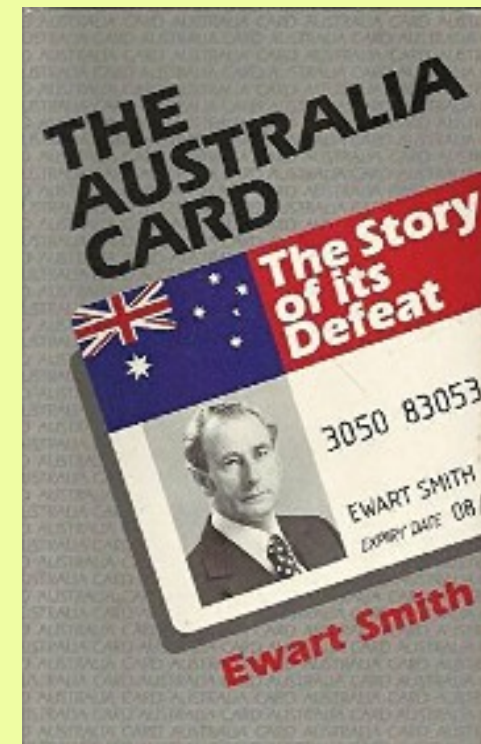
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- "There has never been a debate like it on the letters page; there has never been such a cry of opposition from the nation over one topic" Letters Editor, The Australian, 15 Sep 1987
- 20-30,000 people march in Perth
- 23 Sep 1987 – Withdrawal of the Bill (Ewart Smith, John Stone)

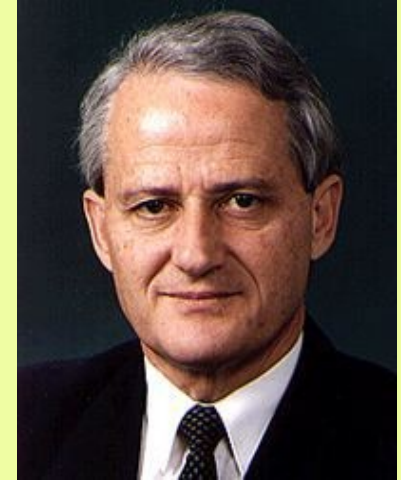
[https://www.privacy.org.au/Campaigns/ID\\_cards/Resources.html#OzCard](https://www.privacy.org.au/Campaigns/ID_cards/Resources.html#OzCard)  
[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2989631](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2989631)



## APF's First Testimonials

"The Australian Privacy Foundation ... has contributed so much to the development of discussion about privacy in this nation"

Phillip Ruddock, Hansard, 17 Sep 1987

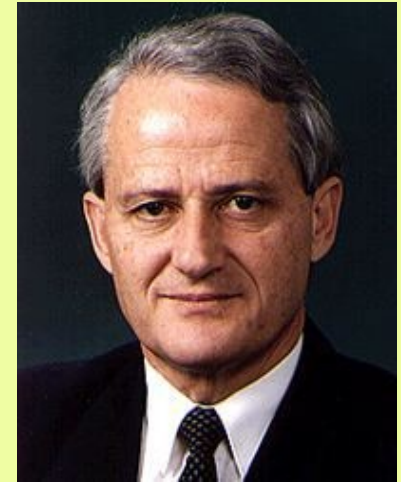




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Phillip Ruddock, Hansard, 17 Sep 1987



"A funny collection of people"  
Bob Hawke



# Early Campaigns

- **Privacy Act 1988**

APF negotiations with Lib Dep Neil Brown

Improvements to the token Privacy Bill 1986



- **The Original TFN (1988) – with APF involved**

- **TFN's Many Extensions (1989-1999) – without**

- **The Credit Reporting Amendments (1989)**

Summit with Nick Bolkus (, Bronwyn Bishop)

'World's toughest credit reporting laws'

Davies, Dixon, Greenleaf, Connolly



# The Australian Privacy Charter – 1994

- Beyond 'data privacy' to privacy as a whole
- 25 invited members with backgrounds in law, business, auditing, information technology, security, privacy, media and politics (1992-94)
- Driven by Cameron, Dixon, Waters, Greenleaf
- Chaired by Kirby, Haines
- The Charter put Principles on the public agenda, and some were incorporated into the NPPs
  - Consent, Accountability, Anonymity,
  - Retention Limitation, No Disadvantage

# Policy, Policy, Policy

## 1990s and 2000s

- **Data Protection Laws** (Cth, NSW, Vic) – Greenleaf, Waters, Clarke, ...
- **A Privacy Tort** – Vaile, Lindsay, Clarke, ...
- **ID Schemes** (incl. Id Authentication, Biometrics)
- **Credit** (esp. Credit Bureaux) – Greenleaf, Connolly, Davies, Dixon
- **Health** (esp. eHealth Records) – Fernando, Vaile, Robertson-Dunn, Cameron, Whitaker, Clarke, ...
- **Census, Compulsory Surveys** – Johnston, Waters, Clarke, ...
- **Telecommunications** – Waters, Vaile, Whitaker, ...
- **Media** – Waters, Clarke
- **Data Surveillance Initiatives**
- **Visual Surveillance** (esp. CCTV)
- Waters, Vaile, Cameron, Greenleaf, Clarke, ...



# Web-Site, Incorporation

- **Web-Site v.0.5 (2000)**

<http://web.archive.org/web/20000310204600/>

- **Incorporation (2002)**

<https://www.privacy.org.au/About/RulesofInc-of-021025.html>

- **Web-Site v.1.0 (2004-17)**

<http://web.archive.org/web/20040405224313/>

<http://web.archive.org/web/20051210165413/>

<http://web.archive.org/web/20091209064620/>

<http://web.archive.org/web/20130118111701/>

- **Web-Site v.2.0 (28 July 17!)**

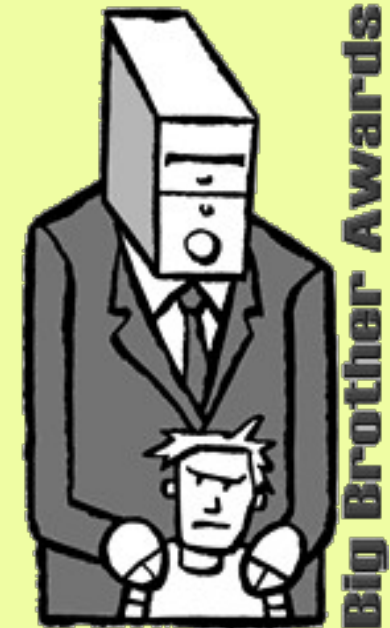
<http://www.privacy.org.au/>





# Big Brother Awards

- **Part of a world-wide phenomenon** started by PI (Simon Davies) in 1998  
c. 150 events in c. 20 countries  
<http://bigbrotherawards.or>
- **6 APF Events (2003-2011)**  
<https://www.privacy.org.au/bba/index.html>  
<https://www.privacy.org.au/bba/WinnersTable.html>  
**TICA, Biometrics, ANPR, Telstra, Banks, NEHTA, Justice Ministers, AGs, ABS, Hockey, Eric Schmidt, ...**
- **Smiths:**  
**Stott-Despoja, Waters, Lane & Bond**  
**Pane, Stanhope, Lasry QC, Ciobo, ACMA, Carey**
- **Thanks to Cameron, Vaile, ...**





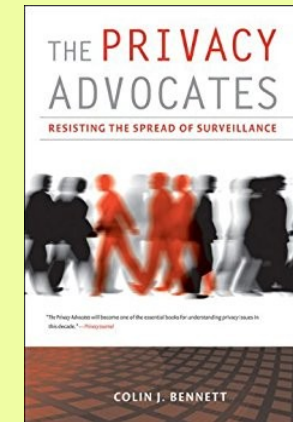
## The Access Card Campaign



- 14 Media Releases May 2006 to Jun 2007
- Submissions 28 Feb, 1 Mar, 24 Aug
- 22 May 2007 - Senate Ctee Report demolished it  
(Mason's PhD was 'Privacy Without Principle: Use and Abuse of Privacy in Australian Law and Public Policy' – ?)
- Johnston, Clarke, Greenleaf, Waters



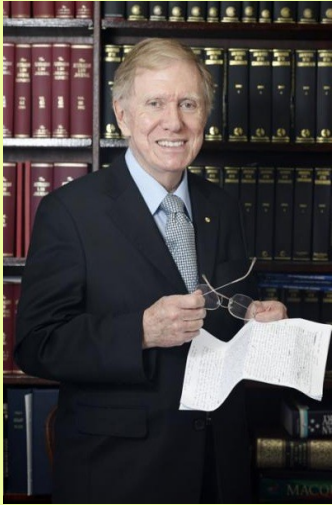
## Bennett C. 'The Privacy Advocates: Resisting the Spread of Surveillance' (MIT Press, 2008, 260 pp.)



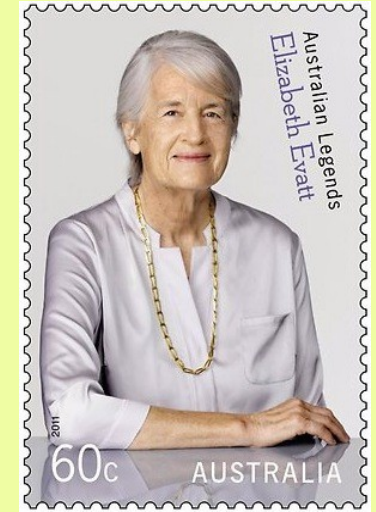
- "One of the strongest national privacy groups exists in Australia" (p.19)
  - and **the world's longest-established privacy advocacy organisation**
- "APF remains one of the only national organizations dedicated solely to the protection of privacy rights ... **small organization ... big reputation**"
- "a core and relatively stable group of advocates **consistently and expertly advanced the cause and gained respect with business and government**"
- "**APF essentially boycotted** [attempts by the government to introduce self-regulatory solutions in the private sector because they] were devised to avoid legislation, rather than paving the way for it. **Such stands can only be taken when an organization is sufficiently cohesive, and when it has the credibility to make the wider case in the public arena**" (p. 103)

# Some Major Challenges

- **Privacy C'r Relationships**, esp. Commonwealth
  - 1st 15 Years – at worst Cordial
  - 2nd 15 Years – at best Adversarial
- **Substantial Impediments re Legal Activism:**
  - Appeals against PC'er Decisions (few s.52s)
  - Representative Complaints (no standing)
  - Pro Bono Litigation (no right of action)
  - *Amicus Curiae* roles (judicial lack of interest)
- **Decline in quality of public policy deliberations**  
incl. collapse of Senate Committee processes
- **Funding** to support policy coordination



## Patrons and Advisory Panel Since 2009



- **Evatt AC, Kirby AC CMG**
- **Brennan AO, Burnside AO QC, Chaney AO, Cox AO, Disney AO, Dowd AO QC, Funder, Goldsworthy AO OBE KM FTSE FCIE, Huston, Jones AC FAA FASSA FAHA FTSE FACE, Kostakidis, Klugman OAM, O'Connor AM, O'Gorman AM, O'Kane AC FTSE, Robertson QC, Stanhope AO, Stott Despoja AM, Sylvan, Williams AO**
- **(Cowen AK GCMG GCVO QC; Fraser AC CH, Orme)**



## Proactive Policy Statements, 2008-

- Meta-Principles and Privacy Impact Assessments
- Biometrics, Body Scanning, Substance Abuse Testing
- CCTV, ANPR, Drones, Workplace Surveillance
- A Tort, Security, Smart Grids, eHealth, Road Tolls
- Wifi Surveillance, Cloud, Content Filtering

## 2016 Onwards – A More Activist Stance?

- Make more dynamic use of **social media**?
- Establish **stronger links** with activist organisations?
- Conduct **organised campaigns** more often?
- Develop an active '**representative complaints**' arm?
- Apply for *amicus curiae* recognition more often?



# 'Honour Board'

**All Ever Officers (82):** <https://www.privacy.org.au/About/Officers.html>

**Current Board (14):** <https://www.privacy.org.au/About/Contacts.html>

## **Directors**

Simon Davies (1987-1993)

Tim Dixon (1993-1999)

## **Board-Members**

c.60 and counting

## **Chairs**

Simon Davies (1987-1989)

Graham Greenleaf (1989-1991)

Jim Nolan (1991-1995)

Janine Haines (1995-1999)

Tim Dixon (1999-2002)

John Corker (2002-2004)

Anna Johnston (2004-2006)

Roger Clarke (2006-2014)

Kat Lane (2016-2017)

David Vaile (2017-)

Many further members of **Committees**,  
currently Health, International,  
Surveillance, Telecomms & Internet, Technical

# APF 30th Anniversary 28 July 2017

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Roger Clarke &  
Graham Greenleaf