



# Separation of powers



## INQUIRY QUESTION

How do the different branches of government work together to ensure the balance of power?

## SUCCESS CRITERIA

Students will be able to:

- Explain that Queensland's system of government evolved in England and is called the Westminster system.
- Identify the three branches of government—the legislature, the executive, and the judiciary.
- Explain the separation of powers doctrine.

## STUDENT ACTIVITY 1

Use the following sources to select information to complete the table below:

- Queensland Courts, *Courts*—[courts.qld.gov.au/courts](https://courts.qld.gov.au/courts).
- Queensland Government, *System of Government*—[qld.gov.au/about/how-government-works/system-of-government](https://qld.gov.au/about/how-government-works/system-of-government).
- Queensland Parliament, *Member List*—[parliament.qld.gov.au/Members/Current-Members/Member-List](https://parliament.qld.gov.au/Members/Current-Members/Member-List).
- Queensland Parliament, *Separation of Powers*—[parliament.qld.gov.au/Visit-and-learn/About-Us/Separation-of-Powers](https://parliament.qld.gov.au/Visit-and-learn/About-Us/Separation-of-Powers).
- Queensland Parliament, *System of Government*—[parliament.qld.gov.au/Visit-and-learn/Education/Resources/2-System-of-Government](https://parliament.qld.gov.au/Visit-and-learn/Education/Resources/2-System-of-Government).

### KEY FEATURES OF THE WESTMINSTER SYSTEM IN QUEENSLAND

Feature	Answer
Identify the name of our House(s) of Queensland Parliament.	
Identify our Head of State.	King Charles III
Identify the title and name of the leader of the Government and the political party they lead.	Title: Name: Political Party:
Identify the Leader of the Opposition and the political party they lead.	Name: Political Party:
Identify the Speaker.	

Identify the Minister for Education. Do they look after any other areas (called portfolios)?	
Name three courts in Queensland.	1. Magistrates Court 2. 3.

### Take it further—

Select one feature in the table above. Create a poster, a PowerPoint slide, an infographic or even a short video that:

- shares an image or diagram of the feature,
- highlights an interesting fact about the feature, and
- explains why the feature is important to the Westminster system.

## EXIT TICKET

Identify one feature of the Westminster system in Queensland.



### In Year 11 or Year 12?

Your teacher may ask you to complete Student Activity A.

## STUDENT ACTIVITY 2

Re-read the facts of the case *Athwal v State of Queensland* [2023] QCA 156 above and answer the following questions:

- Identify the court that heard the case.  
\_\_\_\_\_
- Identify the religion Ms Athwal practiced.  
\_\_\_\_\_
- Identify the item people practicing this religion wear underneath their clothing as part of their religion.  
\_\_\_\_\_
- Describe the different ways the law may impact people with school-aged children. What can they do? What can't they do?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- Identify the argument Ms Athwal raised in the court.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### STUDENT ACTIVITY 3

View [our video](#) or [our factsheet](#) on how laws are made in Queensland.

Identify whether the following statements are TRUE or FALSE.

- a. A Bill has three readings. \_\_\_\_\_
- b. Members of Parliament debate the main ideas of a Bill during the consideration-in-detail step. \_\_\_\_\_
- c. After a Bill is passed by Parliament, the Governor gives it Royal Assent. \_\_\_\_\_
- d. Ideas for Bills can come from many sources. \_\_\_\_\_
- e. A committee writes a report for Parliament about the Bill. \_\_\_\_\_
- f. Only a minister can introduce a Bill. \_\_\_\_\_
- g. Once a Bill passes the Legislative Assembly, it needs the approval of the Legislative Council before it can become law. \_\_\_\_\_
- h. A Bill and an Act are the same thing. \_\_\_\_\_



#### In Year 11 or Year 12?

Your teacher may ask you to complete Student Activity B.

### STUDENT ACTIVITY 4

Re-read *The Judiciary* section of text and use the information to answer the questions below.

1. Explain the term 'judicial power' in your own words.

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2. Identify which people and/or bodies have judicial power.

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3. Identify what the Queensland Court of Appeal decided.

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4. Infer what might happen if a judge or magistrate was part of the Parliament or Executive. How might that impact their decision?

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5. Evaluate (or judge) whether providing people with the opportunity to challenge a law or a government decision promotes a fair and just society. What might happen if we didn't allow people to question whether a law or decision was correct.

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#### In Year 11 or Year 12?

Your teacher may ask you to complete Student Activity C.

### STUDENT ACTIVITY 5

Read the speech below and answer the questions that follow.

After the court's decision the then Minister for Education said:

Obviously we do not want to see knives in our schools, there is no doubt about it, but I can understand it is for religious reasons...We may need to get some advice in relation to that, whether or not we can **stay the decision** until we work out exactly what that means for our schools, but the Court of Appeal has spoken.

Queensland, *Estimates—Education; Industrial Relations; Racing*, 3 August 2023, 24 (Grace Grace, Minister for State Development and Infrastructure, Minister for Industrial Relations and Minister for Racing).

1. Identify the name of the Minister who gave the quote.

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2. Infer why the Minister said, 'We may need to get some advice...'? What does this show about how the Executive makes decisions?

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3. Select a part of the quote that shows that the Minister respects the decision of the Queensland Court of Appeal.

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#### In Year 11 or Year 12?

Your teacher may ask you to complete Student Activity D.

### REFLECT

- **Report:** Describe how the separation of powers doctrine works in real life using the details of the case study.
- **Relate:** Explain how this case study connects to the broader principles of the separation of powers.
- **Reason:** Based on the case study, decide whether the separation of powers appear to work effectively (or not). What factors influence its success or failure in this context?
- **Reconstruct:** Hypothesises how the separation of powers could be strengthened or adjusted.

1. Identify the three branches of government:

The L \_\_\_\_\_

The E \_\_\_\_\_

The J \_\_\_\_\_

### EXIT TICKET

2. Identify a person that is part of the:

a. Queensland Cabinet \_\_\_\_\_

b. Queensland Parliament \_\_\_\_\_

c. Queensland Court of Appeal \_\_\_\_\_

3. What is the separation of powers? Circle the correct answer:
- a. The system where the president makes all decisions for the country.
  - b. The practice of allowing the public to vote on every government decision.
  - c. The ability of the government to control all businesses and industries.
  - d. The idea that each branch of government has its own specific duties and powers.

## ADDITIONAL STUDENT ACTIVITY A

Interactions between the different arms of government can be complex and overlap. Some examples include:

- The Premier, Ministers and King (represented by the Governor) are in both the Executive and Parliament.
- The King (represented by the Governor), Premier and Ministers form the Executive Council.
- The Chief Justice (the head of the Queensland courts) sometimes acts in the position of Governor in the Governor's absence.
- The Executive recommends certain appointments (such as judges).
- The Parliament is involved in the removal of a judge (this is rare and has only happened once since 1901).

1. Select one of the examples listed above.
2. Locate and select relevant legal information from primary and/or secondary sources to respond to the following questions:
  - a. Describe the selected example in detail.
  - b. Explain the functions of each arm in this context. In your response:
    - i. Determine what role(s) the involved arms of government play.
    - ii. Make connections between the arms of government.
    - iii. Locate an example of the selected examine in action.
  - c. Explain one constitutional, legal safeguard, or convention (an unwritten rule or tradition) that are designed to maintain a balance of power between the two arms.
  - d. Decide whether these safeguards are effective. Justify your decision with legal criteria.



## ADDITIONAL STUDENT ACTIVITY B

Knowing where to find legislation is an important skill. To locate legislation, you can use:

- Australasian Legal Information Institute (AustLii), *Queensland Resources*—[austlii.edu.au/au/qld/](http://austlii.edu.au/au/qld/)
- Justice and Decisions Enhanced (JADE)—[jade.io/t/home](http://jade.io/t/home)
- Office of the Queensland Parliamentary Counsel, *Queensland Legislation*—[legislation.qld.gov.au/](http://legislation.qld.gov.au/)
- Queensland Parliament, *Bills and legislation*—[parliament.qld.gov.au/Work-of-the-Assembly/Bills-and-Legislation](http://parliament.qld.gov.au/Work-of-the-Assembly/Bills-and-Legislation)

One of the sections relevant to this case study is *Weapons Act 1990* (Qld) s51.

1. Locate the *Weapons Act 1990* (Qld) s51 using one of the websites below.
2. Identify and explain the sub-section(s) relevant to the case study.

3. Explain what 'reasonable excuses' are provided in the Act that allow someone to have a knife in a:
  - a. Public place.
  - b. School.
4. Compare how the law views a public place and a school, by identifying the similarities and differences. Decide whether this distinction is fair, or, if not, can it be justified?

Section 51 has been amended many times, but one of the most relevant amendments to this case study was the Weapons Amendment Bill 2011. To understand the reasons behind a bill, it is a good idea to locate the Explanatory Notes, or the speeches made in Parliament. This can be found on:

- Office of the Queensland Parliamentary Counsel, *Queensland Legislation*—[legislation.qld.gov.au/](http://legislation.qld.gov.au/) (Open the 'Legislative History' menu once you have located the relevant Act or Bill)
- Queensland Parliament, *Record of Proceedings (Hansard)*—[parliament.qld.gov.au/Work-of-the-Assembly/Record-of-Proceedings](http://parliament.qld.gov.au/Work-of-the-Assembly/Record-of-Proceedings)
- Queensland Parliament, *Search*—[parliament.qld.gov.au/Global/Search](http://parliament.qld.gov.au/Global/Search)

1. Locate the Second Reading speech for Weapons Amendment Bill 2011 made by the Minister for Police, Corrective Services and Emergency Services.
2. Explain the reason why the Government amended s51 in 2011.

### ADDITIONAL STUDENT ACTIVITY C



Knowing where to find case law is an important skill. Queensland case law can be found on:

- Australasian Legal Information Institute (AustLii), *Queensland Resources*—[austlii.edu.au/au/qld/](http://austlii.edu.au/au/qld/)
- Incorporated Council of Law Reporting for the State of Queensland and the Supreme Court Library Committee, *Queensland Judgments*—[queenslandjudgments.com.au](http://queenslandjudgments.com.au)
- Justice and Decisions Enhanced (JADE)—[jade.io/t/home](http://jade.io/t/home)
- Supreme Court Library Queensland—[sclqld.org.au](http://sclqld.org.au)

1. Locate the judgment *Athwal v State of Queensland* [2023] QCA 156.
2. Read paragraphs [39], [108], [109], [110], [115] and [116].
  - a. Explain the practical impact the law had on Sikhs, and why it was inconsistent with the *Racial Discrimination Act 1975* (Cth) s10.

### ADDITIONAL STUDENT ACTIVITY D

Form a 'Cabinet' of approximately 5 people. These people will be Ministers.

As a Cabinet, brainstorm two legal alternatives and make one recommendation on how the law should be reformed in response to the Queensland Court of Appeal decision. Justify your recommendation with legal criteria.