

Criminal Code (Defence of Dwellings and Other Premises - Castle Law) Amendment Bill 2024

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'Castle' Law Submission

I am opposed to the so-called 'Castle' Law because it is, in my respectful submission, a reactionary response largely motivated by populism.

Queensland Criminal Code: **S297 Defence of Dwelling** has worked perfectly well for many years and I can see no reason, nor has any plausible reason been advanced, to change the law. In *R v Cuskelly* [2009] QCA 375 the Court of Appeal allowed an appeal against conviction for an offence of murder where the evidence raised a defence under this provision as well as self-defence.

The Court was of the view that s 267 does not require that the force used by an accused be no more than is reasonably necessary to make an effectual defence of his or her person against a would-be intruder. Further, if lethal force is used, the accused need not reasonably apprehend death or grievous bodily harm from the accused's assault in order to raise a defence under s 267.

It is clear S 267 gives home owners or others the right to use the force necessary to protect themselves and others within the premises if faced with intruders and therefore the Castle Law does not add anything significant to the present law.

Unfortunately, the discussion around crime in Queensland is currently at fever pitch with the State government twice revoking the state's *Human Rights Act* (2019) last year and, this year (2024) announcing the removal of the "last resort" qualification for incarcerating children, despite their own parliamentary inquiry finding evidence as to the benefits of doing so equivocal at best.¹

It is also concerning the Criminal Code (Defence of Dwellings and Other Premises – Castle Law) Amendment Bill 2024 has been proposed by a fringe-dwelling, right wing party and even more disturbing to learn the proposals closely mirror the 'stand your ground' laws in the United States. These laws have resulted in unnecessary deaths, including one where people entered the wrong driveway accidentally.² It is significant the laws have especially impacted African-Americans.

US law enforcement policies are not a good guide for any country that respects the Rule of Law. If the US legal system was effective it would surely be one of the safest countries in the world to live, not one of the most dangerous.

¹Youth Justice Reform Select Committee, Interim Report: *Inquiry into ongoing responses to the youth justice system and support for victims of crime*, Report No, 1, 57th Parliament, April 2024.

² Laura Ly & Brynn Gingras, 'A 20 year old woman was shot and killed after her friend turned into the wrong driveway in Upstate New York, US Officials say', *CNN* <https://edition.cnn.com/2023/04/18/us/woman-shot-wrong-driveway-upstate-new-york/index.html>