Fighting Antisemitism and Keeping Guns out of the Hands of Terrorists and Criminals Amendment Bill 2026

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Amended Submission: Fighting Antisemitism and Keeping Guns Out of the Hands of Terrorists and Criminals Amendment Bill 2026

Please accept this amended submission on behalf of myself . Im not a lawyer but a former law student.

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Amended Submission: Fighting Antisemitism and Keeping Guns Out of the Hands of Terrorists and Criminals Amendment Bill 2026

Gun Laws

In this inquiry I'm saying the following :

I think its stupid to allow political donations from weapons manufacturers, outlets, or shooters representative groups whether domestic or international like the NRA for instance in Qld and Australia. They should be banned, as should donations from international far right funding groups like CPAC for instance. That's because its foreign interference under the CTH Code and illegal foreign donations under the Qld Electoral Act.

The ECQ should also be made to fully investigate the ultimate source of donations. But you have raised the thresholds.

I have no weapons and want none. I have no problem with a buy back. I think it's a good idea again. I'm in favour of the strongest gun laws. I have no problem with citizenship being a condition precedent for weapons ownership. I'm in favour of proper mental health checks as a condition precedent for weapons ownership.

You see, being a right winger is a symptom of fascism. Being someone who claims to be center right is claiming to be half fascist. And its denial of that reality. It requires cognitive behavioural therapy. If that doesn't work , the person is a sociopath or narcissistic psychopath incapable of empathy or recognising their wrong doing. Right wingers and rightwing extremists must not be allowed to own weapons because of this mental impairment of not knowing right from wrong in what is supposed to be a free and democratic society subject to international human rights grund norms.

In The previous CTH Hate Speech and gun laws 'inquiry', (and I paste and incorporate it here) I said the following:

"The weapons amendments

Australia must not allow itself to turn into America. Even before Bondi we had colonial and 20th century massacres of indigenous people. We had the Hoddle Street Massacre, The Strathfield massacre, The Milperra massacre, Port Arthur, Lindt, the Bondi stabbings, countless multiple murder suicides, Wieambilla, Dezi Friedman and countless more gang hits around the country. The penchant for mass murder isn't a racially specific thing. Murderous religious nutterism isn't a racially specific thing.

Im for all proposals to limit weapons ownership and to crack down on illegal firearms. I'm for banning local and foreign donations from weapons manufacturers and representative organisations , whether directly or laundered through lobbyists at all levels. I'm for banning donations from CPAC and similar foreign far right groups too.

Theres a practical matter in all of this that has been overlooked. The federal government can aid Ukraine by making it compulsory that all shotguns and ammunition for them that are surrendered or bought back or confiscated be forwarded to the federal police. From there, they be transported to Ukraine in addition to anything being transported at the time, to aid in fighting drones.

Nobody has suggested this to me. Nobody has asked me to say it. We are already spending billions . I just think its common sense. Im ex army. I have no interest in asking for a passport let alone fighting in a foreign war. Take this suggestion it or leave it.

Political donations by terrorists and hate groups

It seems stupid to one the one hand criminalise funding terrorist or hate groups, and on the other make it a political right in s327(2) of The CTH Electoral Act. Something should be done about that. https://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/cea1918233/s327.html "

I extract the hate provisions with amendments that Im refering to at the end of this submission. This submission was made in the short time available after the publishing of the amendments. I may not have addressed all the relevant provisions. Apologies for any typos or grammatical errors . But you are going to pass this bill and people need only get their legal submissions ready to go anyway.

Inconsistency with CTH The Racial Discrimination act -CTH Criminal Code Act and Crimes Act

On The RDA , Elevating one religion over another and imposing heresy and blasphemy on Pro-Palestinian activists , if they are of another religion, or no religion, if they are of another nationality, ethnicity or race , or unlawfully targeting them with gestapo search and covert search powers , before they even protest , would seem to be at odds with :

- S6(1) because it applies to Qld
- s6A of the RDA because it's the opposite of furthering the objects of International Convention on the Elimination of All Forms of Racial Discrimination
- s9, 10, 11, 18, 18B because unlawful regulations targeting pro-Palestinian activists are racially discriminatory where the application of hate speech laws should be non-discriminatory
- s17 because targeting pro-Palestinian activists incites and emboldens those shouting down people seeking law enforcement
- s18 and s18E vicarious liability for racist acts of Qld cops. The search powers if unlawfully used would deprive victims of remedies (See also **Wotton v State of Queensland (No 5)) [2016] FCA 1457 https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2016/1457.html**
- s18C , if the law and amendments were discriminatorily applied for instance to pro-Palestinian activists
- s18F , because if unlawful regulations are passed, or cops are given the order under them to pre-emptively target people with defences , the Qld Laws are not capable of concurrent operation .

The RDA CTH https://www.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol_act/rda1975202/

Despite the provisions in the CTH Criminal Code about the purported intent for state and territory laws to operate concurrently (Div 100, s104.31, s104.49-53, s105A.21, s110.8-9) - the CTH arguably seems to have covered the field on this subject matter and s109 arguably operates to render your amendments that trigger the overt and covert search powers against people before they protest – moot in many aspects . (see Local Government Assoc of Qld (Inc) v State of Qld [2001] QCA 517) https://archive.sclqld.org.au/qjudgment/2001/QCA01-517.pdf

See also what the majority of the High Court said in Kartinyeri v The CTH [1998] HCA 22 about the doctrine of explicit, indirect express amendment and implied repeal by a later inconsistent act dealing with the same subject matter and limiting the operation of the provisions of the earlier act on the same subject matter at pars [13] , [15] ,[19] , [48] , [67]-[68] , [89] , [116] , [174] –[175] https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/1998/22.html

State and Territory cops are given power to arrest for terrorism offences in the interpretation provision of The CTH Crimes Act 1914 definition of constable e(s3) and s3ZD, and s80.2N(7) of The CTH Criminal Code . The text of the CTH Bill as passed is helpful https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r7422

The CTH Crimes Act 1914 Volumes
https://www.legislation.gov.au/C1914A00012/latest/downloads
The CTH Criminal Code Act Volumes
https://www.legislation.gov.au/C2004A04868/latest/downloads

WHO SHOULD arrest and under WHAT law in WHICH JURISDICTION and court is in issue. As well as whether the whole case is in one jurisdiction.

We have already had the situation in Perth resulting from the fascist/nazi terrorist attempted bombing of people participating in the J26/26 Invasion Day that was not immediately dealt with as a CTH Terrorism Offence.

Whilst the same procedural fairness issues arise as in the ministerial regulation making in the Qld case, arguably, the CTH Law prevails and state cops are to act under THOSE provisions.

Before you waste MORE public funds on unlawful prosecutions to look like you are doing something, you must first determine whether under s9 of The Qld Acts Interpretation Act , and the parliamentary counsel is required to tell you under the legislative standards act , whether the proposed amendments , and law as it stands or stood before them, has been amended by the CTH Amendments or hate symbols law and police directions powers as it stood, and are therefore beyond the legislative power of The Parliament of Qld .

You must determine whether your amendments or the law as it stood before them is proportionate. It's what the counsel and Qld Government Solicitor are funded and paid to do.

Or its misappropriation and improper use of public assets and possibly all the computer offences that go with that. Saying you have read and properly applied the Qld Human Rights Act is also false, and you used public resources to do it.

THE ENFORCEMENT OF THE PUBLIC INTEREST

Qld Police Service Administration Act

2.4 Community responsibility preserved
(1) The prescription of any function as one of the functions of the police service does not relieve or derogate from the responsibility and functions appropriately had by the community at large and the members thereof in relation to—
(a) the preservation of peace and good order; and
(b) the prevention, detection and punishment of breaches of the law.

These form part of the reciprocal rights and obligations of people in Qld jurisdiction and members of the Qld body politic in the citizenship act and freedom of communication cases. For instance, the citizens arrest powers refer to 'a person'.

The trajectory of so called inquiries in Qld recently, limited times for making submissions, cynical lip service to human rights obligations , reports that give one recommendation that a bill be passed and law making , means that a dung beetle would have more chance or having objections heard or taken in to account, to avoid the public getting slugged for the exorbitant legal costs that are going to result from this or future governments defending the indefencible in court.

The amendments in the bill are confusing. They may have not been written by lawyers but staffers or someone else. They haven't been doubled checked to at least APPEAR to have come from the parliamentary counsel. The renumbering of s 52Cin the bill gives this away. It amends, then amends what is inserted as renumbered by renumbering it again. STOOPID! Even I picked that up.

The amendments to provisions relating to offering violence or hindering ministers of religion (so anglo) or disturbing religious worship, are the same subject matter as the hate speech laws , but without the same defences. In any case where police are involved, the same scenario is taught and enforced . They would like to talk to you about what you are doing there. The surround and beset you cutting off your protest and unlawfully interfering with what you are lawfully entitled to do. You give them the legality of what you are doing quoting the exact law into their cameras. You try to continue and get arrested. Those cases dealing with right to disobey cops extracted later in this submission.

The far right and those who call themselves center right and religious variations of both were the ones in the federal parliament against creating more hate speech provisions.

A reasonable person who paid attention to world and Australian history and the nature of Australian racism and where it came from, has no problem with calling fascists and nazis terrorists, and what they say and do as hate speech and terrorist violence.

A reasonable person, is an atheist, who has paid attention to history and current events, has no problem with making the violent imposition of religious views hate speech. A good atheist doesn't go into a church or other religions fairytale house for anything. Not a protest, not a wedding or funeral…nothing.

I am a that reasonable person.

The expressions in the first testament that exhort people to kill people in the name of their god wont be banned as hate speech although they fit into it. Its arguably covered by the CTH laws. So it's a discriminatory burden if a regulation doesn't proscribe all such texts. Its covered by the Qld Anti Discrimination Act and if spoken would be a threat under the code.

But you all wont offend your base.

Its rare for there to be protests intentionally directed at or near religious places or worship unless going past . Its not inconceivable because of the history of hate speech and abuse by religious clerics of all stripes , or because of land ownership issues or taxation or funding issues and on the matter of secularism and the separation of church and state etc, that there could be such protests. There were protests against former GG Peter Hollingworth, while he was both a cleric and GG. Some might find that insulting or offensive.

But this law change isn't directed to that. Its far broader. In regards to the amendments, it doesn't matter what lefties say, everyone is going to be offended. Even though your amendments only require a cop to say someone might be, if it can be seen or heard from the place , whether or not they heard or saw it, or whether a copper even asked.

Whilst there are defences , all it takes is a dodgy unlawful direction proscribing words , symbols or expressions , and then a cop saying your protest sign or the thing holding it up is a dangerous instrument for it to be confiscated and for you to be searched. All it takes is being in the vicinity of a place and annoying a cleric anywhere, even at a political event. That's independent of the hate speech laws.

Then covert search changes are triggered along with protection from liability for cops, EVEN THOUGH THERE IS NO POWER TO PROSCRIBE CONSTITUTIONAL AND OTHERWISE LAWFUL LEFTY PROTESTS , WORDS AND EXPRESSIONS EVEN THOUGH THEY MIGHT INSULT OR OFFEND.

A person could be outside a state school, on election day, which is next to or 'in the vicinity' of a religious place or school, on a weekend with nobody there. And this could be used as an attempted justification. A protest, or distribution of words or expressions in favour of Palestinians or for further strengthening of the separation of church and state or taxation of religions could occur. Pursuant to s 2.4 of The Qld Police Service Administration Act, the community has the right to seek enforcement of CTh Racial discrimination laws , and seek prosecutions under CTH anti terror , war crimes and advocating or counselling genocide laws in the CTH Criminal code which are of universal jurisdiction. Lets take the example of Israeli government , military, or other country's war criminals . Lets take the example of enforcement of CTH Code Espionage laws.

Arguably ,agents or spies or people like the foreign members of the lobby could become unlawful non citizens under the CTH Migration Act, because of conduct on behalf of foreign principles involved in war crimes or genocide according to our laws. All of this may legitimately insult or offend.

As for being in proximity to religious places and hindering clerics , these maters will end up being decided in the same way as Lees v NSW **[2025] NSWSC 1209** par[11] , [19]-24], 4]-[161].

And whilst Mitchelmore J said at

[145] The purpose of protecting religious freedom is "compatible with the maintenance of the constitutionally prescribed system of representative and responsible government": LibertyWorks *at [184], quoting* McCloy *at [130]. Freedom of religion, "the paradigm freedom of conscience, is of the essence of a free society":* Church of the New Faith v Commissioner for Pay-Roll Tax (Vic) *(1983) 154 CLR 120 at 130; [1983] HCA 40 (Mason ACJ and Brennan J). The plaintiff did not contend to the contrary. Senior counsel for the plaintiff submitted at the hearing that the purpose disclosed in the second reading speech was "self-evidently an important aspect of the sort of society that the* Constitution *in prescribing for this system of government envisages". Rights of religious freedom have long been recognised, including in Article 18 of the* International Covenant on Civil and Political Rights.

The s116 cases say the state may not elevate one religion over another, or associate it with the body politic. A person has the right to have no religion. Whilst the purpose of protecting freedom of religion might be compatable , there is no benifet from religion to the system. The state may not make valid political criticism illegal. These other cases are dealt with below.

These laws are being amended in the context of pro-Palestinian protests being seen by people who support crimes against them -as showing illegality on their part. ….From the river to the sea- Palestine shall be free! ….From what?? ….From you …How dare you anti semite !

In relation to protests, of course you intend to do it. Of course you know they will be offended and insulted. But this is Nationwide News v Wills, Coleman v Power and Courtney v Peacock territory . Valid criticism is neither unlawful nor disorderly, even if it offends or insults. **DON'T TELL ME INSULTS, I KNOW INSULTS…YOU VERY , VERY , VERY RIDICULOUS PEOPLE!**

A restrained and contemplative pause….and a raspberry in your general direction !

POLICE MUST REFUSE TO ACT AGAINST LAWFUL PROTESTERS WITH DEFENCES- OFFENCES COPS COMMITT BY OBEYING AN UNLAWFUL REGULATION OR COMMAND

S590AA -S590AX, S590D-F of the Qld Criminal Code requires disclosure by the prosecution of all exculpatory evidence against an accused . It is misconduct and breach of duty to refuse. That and Right to information and civil discovery means that evidence of offences by cops and the state will eventually come out. The CCC has jurisdiction over corruption even if a person has left office.

But, s5(e) of The PPRA , s4-6 and s 8 Of Qld The Police Service Administration Regulation , s2.3 , 3.3 and 6.4 of The Police Service Administration Act says cops must be familiar with the laws they are working under and the admin act. They are legally bound by their oaths to act with diligence, integrity, without favour or ill will, and in accordance with human rights .

Bulsey v Qld says it must be the arresting cop who must have the required reasonable suspicion. If ordered, the cops must refuse because its an unlawful command under S6A1(d)

and s2.3 of the Admin Act . S2.3(b) ….. the protection of **all** communities in the State and all members thereof—

The tables are turned, far right types have been made extremists and terrorists by CTH and state law changes. They are not to be respected by cops, but be procedurally dealt with. Their ONLY duty is to prevent offences AGAINST peaceful lefty protesters, either by the far right or OTHER COPS. This means knowing they can't do it.

S365 of The PPRA sets out arrest powers. It has to be a reasonable suspicion, if it is reasonably necessary. Add The high court proportionality tests and that's a compelling justification if no less drastic option is available, if the law is valid.

SZD of The CTH Crimes Act says cops includes state cops, and a person must be told THE TRUE GROUNDS AT THE TIME OF ARREST what its for.

I get you all for this every time. A false reason is not only dishonestly causing a detriment in s408C(1)(e)-(g) , an unlawful arrest may be resisted under s245-6, 335 , s271-3 , and s260 and s546(d) of the code says a person can resist and citizens arrest. A refusal to prevent cops from attacking people with defences is abuse of office and misconduct s92, s92A and CCC Act. Its a refusal to perform a duty under s200, disobedience to statute law under s204.

In order to conspire to unlawfully arrest , there needs to be accessories after the fact, false declarations in s193-194, fabricating evidence in s126 , corruption of witnesses s127, deceiving witnesses s128 , damaging evidence with intent s129, conspiracy to bring a false accusation s131 , conspiring to defeat justice s132, attempting to pervert justice s140 , excessive force in s283 because no arrest was necessary , unlawful stalking s359B and F that the court can restrain , deprivation of liberty s335 , false certificates by officers charged with duties relating to liberty for false entries in watchhouse record and police notebooks, concealment of matters concerning liberty s357, threats s359 and s415 for threatening people with arrest which is also extortion, chapter 39 burglary offences for unlawful searches, s408D and E misuse of restricted computer and identification information , fraudulent falsification and records and accounting by public officers in s430-431 for saying the time costings (which are always done) are true and correct because officers are not acting in the course of lawful duties, willful damage s469 for breaking in or damaging protesters property , s499 falsification of registers for also adding matters to the enforcement actions registers, s510 instruments and materials for forgery, s535-40 attempts and preparations to commit offences - see also attempts s4 s9,

Ironically, s335 which is common assault, has punishments of 3 and 4 years. s339 7 -10 years. s340 may refer to resisting a cop in exercise of a lawful duty , and obstruct police in the PPRA, but s340(1) (c) and (d) says it's a crime to assault a person carrying out a lawful duty . This would include citizens seeking law enforcement under s2.4 of the Admin Act and its 7 plus years and its also dishonestly causing a detriment s408C(1)(e)-(g) 5 years .

All of this is relevant to the triggers for the overt and covert search powers that are based on terms of imprisonment discussed below. Because it is no part of a cops duties to arrest peaceful protestors even IF an unlawful reg is passed, because they are to be familiar with the law denying it, and their power to refuse unlawful superior orders.

THEIR ONLY DUTIES UNDER THESE POWERS IS TO USE THEM AGAINST SUCH COPS BEFORE UNLAWFUL ACTION IS TAKEN AGAINST INNOCENT PROTESTORS OR POTENTIAL PROTESTORS, TO FRUSTRATE AND DISRUPT THOSE COPS AND POLITICIANS AND TO CARRY OUT THEIR MANDATORY REPORTING POWERS, DUTIES AND OBLIGATIONS IN THE CCC ACT s37-39 AND S6A1(d) OF THE PS ADMIN ACT.

The CCC must pre-emptively flag police computer entries about these matters to pro-actively prevent unlawful commands to target protestors under unlawful regs, or to unlawfully pre-emptively use overt and covert search powers.

Cops can charged, and be dishonourably dismissed under the Admin Act too.

In short, its unlawful. Thats actually a book that can be thrown at you. Don't do it.

Another restrained and contemplative pause….and a raspberry in your general direction , you very , very silly and ridiculous people!

In Courtney v Peacock [2008] QDC 87 , it was held at pars [5],[10] and [14] that standing on a footpath near a road is not disorderly.
http://archive.sclqld.org.au/qjudgment/2008/QDC08-087.pdf

Osullivan v Lunnon [1986] 163 CLR at 554 "a police instruction to disperse, is not of course any evidence that an offence was being committed" (*Goyma v Moore & Ors [1999] NTSC 146 at [35], [49], [50])"Blind unquestioning obedience is the law of tyrants and of slaves" (see Christie v Leachinsky (1947 AC 573 at 591-592, applied in Adams v Kennedy (2000) 49 NSWLR78 at [83]-[84])*

They are not entitled to give directions to cease lawful activity. That falls within reasonable excuse under s791(2) PPRA . Coleman v Greenland and ors [2004] QSC37 http://www.sclqld.org.au/caselaw/QSC/2004/037 *Williams v Pinnock [1983] 68 FLR 303, Turner v Patterson [1908] NZLR 207, R v Howell [1981] 3 ALL ER 383 at 388 and 389, Inness v Weate [1984] Tas R 14, Wornes v Rankmore [1986] QR 85 at 87, 104,105, Bhattacharya v State of New South Wales & Anor [2003] NSWSC 261 at [39]) Forbutt v Blake [1981] 51 FLR at 469 Per Connor J* at 475

Forbutt v Blake [1981] 51 FLR at 469 Per Connor J "I do not accept the suggestion that a remote possibility of a breach of the peace will call up a duty in a constable to act"

And at 475 *"I am unable to attribute an intention to the legislature to expose a person to such a penalty for disobeying a police order to cease lawful activity where the only relevant police duty is to prevent a breach of the peace by other citizens . What was said by Justice Obrien in R v Londonderry justices seems much in point "if danger arises from the exercise of lawful rights resulting in a breach of the peace, the remedy is the presence of sufficient force to prevent the result, not the legal condemnation of those who exercise those rights"*

There is judicial authority to the effect that police can and do lie and they are not to be given any special status as witnesses (**John Dennis Tegg (1982) 7ACRIMR 188 r v rds** **https://www.cjc-ccm.gc.ca/cmslib/general/Matlow_Docs/Authorities/Book%20of%20Authorities%20-%20Tab%2028%20R.%20v.%20S..pdf**

Rowe v Kemper **[2008] QCA 175 ,** [2009] 1 Qd R 247 https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/qld/QCA/2008/175.html The following is a link to all the cases where Rowe v Kemper has been cited https://www.austlii.edu.au/cgi-bin/LawCite?cit=[2008]%20QCA%20175

See McMurdo P Par[31] and [33]

Holmes JA at Par [67]

The direction must, then, bear a relationship to the behaviour about which the reasonable suspicion under ... was formed.

At Pars [78]-[81] That failure to observe a condition precent renders an arrest unlawful.

And at Pars [78]-[83] *That ... that in the absence of a suspicion, both actual and reasonable, that an offence had been committed... an arrest would be unlawful and an officer was not acting in the course of duty when obstructed.*

And at [120] and at [122] **MACKENZIE AJA**

' The present case is distinguishable from that kind of situation. The failure to allow the applicant a further reasonable opportunity to comply with the direction is of a different character from the error in Veivers. The fatal difficulty with the conviction for an offence against s 444 of the PPRA of obstructing a police officer in the performance of his duties is that the power depends on the existence of a reasonable suspicion that the applicant was committing or had committed an offence of contravening a reasonable direction given pursuant to s 39 of the PPRA. Giving a further reasonable opportunity to a person to whom a direction is given is a step in a sequence of statutory requirements which must be complied with by a police officer before an offence of failing to comply with the direction is complete. If the police officer who gives the direction does not give an opportunity that is objectively reasonable to the person to comply with the direction, a suspicion that the person has committed an offence of failing to comply with it falls short of being a reasonable suspicion. That the officer may have merely misjudged, rather than disregarded, what was sufficient to constitute a reasonable opportunity does not assist in the circumstances of this case. The conviction cannot, therefore, stand.'

REGULATIONS MADE BY THE MINISTER.

There are settled cases on the making of regulations and their impact on human rights in Australia. There are settled cases on regulations that are ultra vires the legislation that purports to give it power.

There is settled law dealing with unlawful discriminatory burdens on freedom of communication and proportionality tests and analysis.

On the defences in the hate speech provisions of the code , if it is amended, there are no powers for instance, to make a regulation targeting pro Palestinian protestors and their words or expressions. We just know that-that, and other things will happen.

Palestine is recognised by Australia. The UN says the Israeli government, military and terrorist settlers and militias have committed war crimes including apartheid, genocide, collective punishment, withholding aid, unlawful occupation of Palestinian lands between the Jordan river to the sea. As a matter of legal fact and law. You can go through the CTH Code and find many more to apply to the facts and indisputable documentary evidence including publicly available vision of it. That's also included in the public interest and genuine nature of the protests defences in the code and CTH RDA.

Many of the submissions to the former CTH Hate Speech "inquiry" from individual members of the Jewish community and representative groups not aligned with the lobby or Israeli government , say that their community is not homogenous. That the allegations by Palestinians and activists are true https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Intelligence_and_Security/CASHEBILL26/Submissions Again, in s2.3 of the Police Service Admin Act the duty of cops is to the ENTIRE community. Not to one single religion or people purporting to be the sole arbiters of heresy and blasphemy from such a religion.

In every case under the amendments, the ministers purported exercise of regulation making power requires the adjudication of issues' 'that yield matters' that arise under the constitution. *(Burns v Corbett 2018 HCA 15 at pars 1-5 , Kable v DPP (1996) 189 CLR 51 at 141 per Gummow J . , Hanks at p 975)*

The Kable principles on the exercise of judicial power or matters arising under the constitution and different grades of justice.

"…. there is nothing anywhere in the Constitution to suggest that it permits of different grades or qualities of justice, depending on whether judicial power is exercised by State courts or federal courts created by the Parliament." Gaudron J at p103

"….. Once the notion that the Constitution permits of different grades or qualities of justice is rejected, the consideration that State courts have a role and existence transcending their status as State courts directs the conclusion that Ch III requires that the Parliaments of the States not legislate to confer powers on State courts which are repugnant to or incompatible with their exercise of the judicial power of the Commonwealth" Ibid p103

"That is the antithesis of the judicial process, one of the central purposes of which is, as I said in Re Nolan; Ex parte Young [143] , to protect "the individual from arbitrary punishment and the arbitrary abrogation of rights by ensuring that punishment is not inflicted and rights

are not interfered with other than in consequence of the fair and impartial application of the relevant law to facts which have been properly ascertained". Ibid p107"

"….the Constitution requires a judicial system in and a Supreme Court for each State and, if there is a system of State courts in addition to the Supreme Court, the Supreme Court must be at the apex of the system. With the abolition of the right of appeal to the Privy Council, therefore, this Court is now the apex of an Australian judicial system' McHugh J at p113

'……a State law that prevented a right of appeal to the Supreme Court from, or a review of, a decision of an inferior State court, however described, would seem inconsistent with the principle expressed in s 73 and the integrated system of State and federal courts that covering cl 5 and Ch III envisages." Ibid p114

See also Burns v Corbett 2018 HCA 15 at pars [20], [26], [53]-[55]

The proper course of action, if the law is not inconsistent with CTH laws, is to set out a set of criteria by which things may be proscribed and why, and allow the Supreme Court to determine it subject to the constitution, CTH Legislation , Qld Human Rights Act and the criteria. Neither a copper or the minister can be invested with judicial power R v Davison [1954] 90 CLR 353 at P368- 369, SA v Totani [2010] 242 CLR 1 AG (NT) v Emmerson [2014] 2553 CLR 393, Wainohu v NSW [2011] 243 CLR 181 at 219, 222,225,227,228-230.

A court can take judicial notice of notorious historical facts Bellino v Queensland Newspapers Pty Ltd [2019] FCA 1380 at [105]-[113] https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2019/1380.html (see also the Ben Roberts Smith and Lehrmann cases) . And because it will ALWAYS be a constitutional matter, the CTH Evidence Act, and foreign evidence act - allows for a whole range of matters to be taken into account like prior conduct or extremist and terrorist links. A court hearing in which the court would have full discretion, would allow natural justice and the Qld Government must file a s78B and inform all other AG's . But, the CTH Code may prevail over Qld hate provisions now.

Interveners as **Amici Curiae** with interests in the matter could be allowed to make submissions. Though everyone has a lawful interest s2.4 PS Admin Act . Interveners are discussed in Levy v Victoria [1997] HCA 31; (1997) 189 CLR 57 https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/1997/31.html And Lange v The ABC [1997] HCA 25; (1997) 189 CLR 520.

And in Kvelde v NSW [2023] NSWSC 1560 , the NSW Supreme Court held that a person who may be adversely affected by an unconstitutional law, in the future, could take pre-emptive legal action to seek adjudication of those rights and obligations and liabilities. His honour also discussed who has such and interest and standing and applied the authorities on what constitutes a matter.
https://www.caselaw.nsw.gov.au/decision/18c5af7c0dffcf5160213c43

The amendments are not saved by the fact that a minister must be satisfied. There is no method for how that could be challenged. It's a judicial matter not administrative because it

involves matters arising under the constitution. *Kuczborksi v Qld [2014] 254 CLR 1 at 121-2 can* be distinguished because there is a reversal of the onus of proof **AND** no quick way of challenging a declaration before a protest *International Finance Trust Co Ltd v NSW Crime Commission [2009] 240 CLR 319 at 352-6, 365-7 , 385-6.* A plaintiff claiming that a constitutional matter needs to be determined must inform the entire country's AG's under s78B of the CTH Judiciary Act so that they may determine whether to intervene. Generally , this wont happen at magistrates or district court level. But from the supreme court up. It takes time to get necessary responses to provide the court with.

As can be seen from what happened after Bondi, the NSW Premier gave spurious reasons for bringing in a law stopping Pro Palestinian protests in Sydney that were being conducted without violence prior to the massacre. NSW got advance notice that Albo would invite the Israeli President to Australia and passed the first set of laws allowing the cop commissioner to make a declaration. That is still awaiting an outcome. However, with only days before the arrival, the government made a declaration under the major events declaration that deprived protest organisers sufficient time to prepare and argue a proper case, and for a court to consider, determine and make a PUBLIC decision in enough time for it being appealed before the arrival.

That case was lost and its been reported that the full reasons were handed down on 16/2/26. A public link and text of the decision cant be found in time for this submission .The event declaration was upheld on spurious grounds though the linkage was vague. The constitutional basis for the purpose of using the events declarations at that late stage was also upheld. The carrot of no costs was dangled to let the decision stand as a precedent, albeit a dangerous one .

Cops, believing they could assault people as they wish, did so to many and arrested many on the basis of the decision without available reasons.

That 16/2/26 may be challenged because the unlawfulness of the declaration can lead to enforcement of criminal and civil remedies. The purpose of doing it was an abuse of power in my view.

They tried to stop them using Sydney as a prop, because increasing protest numbers signifies increased loss of legitimacy and votes at all levels. It was specifically said it was to break momentum on national television.

How this is relevant here is that a court in a constitutional facts inquiry can take judicial notice of that because, though there is no power to make such a regulation, a regulation may be made at the last minute, to maliciously add an extra layer of complexity and costs to groups involved. For example, against pro- Palestinian protestors wishing to demonstrate on a significant day at a significant place. Then, the case could be pulled out from under them by withdrawing the regulation. Leaving no 'MATTER' to be adjudicated Unions NSW v New South Wales [2023] HCA 4 at pars [12]-28] https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/2023/4.html

I've told you all before in a previous submission, its who you are and its what you do. And its to be expected you all watch each other to see what you can get away with.

However, there is that proviso that where peoples rights, liberty, duties and obligations and liabilities are in issue, a court may continue the matter as if it hadn't been repealed it seems.

The bill is not only disproportionate for banning things that cant be made illegal, it bans things that could be mistaken for things that are going to be banned or already banned.

For instance, right wingers are dumb, Hindu and Chinese swastikas are religious and cultural symbols. Nobody understands different languages, and written words on a flag in another language can be claimed to be close because 'it all looks the same to them' the feds said as much . Im an atheist, but there are innocuous religious passages that don't call for death, but they are simply used on things by groups in other languages.

There are ample violent calls to religious terrorism in the texts of the so -called 'great religions'. This is a matter of fact.

Don't get me wrong, all religion is stupid and pointless. And its even more pointless and stupid to kill people in the name of things that don't exist like playing out a fictional fairytale computer game in real time.

The religious foundations of this government are equally stupid and pointless, but I really think, that like crooked yankee televangelists and political geeks putting on footy shirts or being seen at the boxing or games and saying ' me too'- its just a means to an end.

However, simply because it would annoy you god botherers , if you want to ban the use of cruxifixes and other religious symbols in public because it's a symbol used by "great' religions that have stoning to death in their foundation texts, it would annoy everybody and I would get a giggle. This highlights the hypocrisy of saying everyone is equal before the law and elevating one religion over another, and making an atheist subject to new heresy and blasphemy laws in their terms, operation and effect.

You are going to pass your bill. So, its only necessary to tell you what the parliamentary counsel is required by the legislative standards act to tell you. Your amendments are incompatible with chapter 3 of the constitution. A minister cant be invested with judicial power. And you cant tell the court to give effect to your ministerial decision as regards adjudication of issues concerning freedom of communication matters requiring the use of judicial power.

Its not saved by requirements of satisfaction of the minister because of the detriments people will be put to, to constantly appeal changes to the regulation and ministerial decisions. People could be in the middle of a successful hearing and have the case pulled from under them leaving the regulation power and government intent in place (unions NSW v NSW 2023).

S52C(5) does not give you the regulatory power to ban 'from the river to the sea Palestine will be free' for instance, on the basis of religious consultations. It does not give you power, in contravention of national espionage laws, to consult the government or representatives or lobby of a foreign country/state. So far as it does not interfere with the functions of the state as defined in the case law, you are bound by the CTH Criminal Code.

The Qld Hate Speech search powers and secret raids under controlled operations laws in the Qld Police Powers and Responsibilities Act .

https://www.legislation.qld.gov.au/view/html/bill.first/bill-2026-003 In your bill and explanatory notes, you don't mention Palestine . **But in the text of the provisions and secret search powers , the cops can go gestapo IF THEY BREACH THEIR DUTIES NOT TO PRE-EMPTIVELY TARGET LEFTY PROTESTERS** .

In a sneaky way, the addition of a Qld Code provision in s206 of hindering a cleric, anywhere and s206A(1) of being in the vicinity of a religious place or religious worship where you can be seen from such a place carries a maximum 5 and 3 and 2 year goal sentence. There isn't even the defences in the hate speech laws.

This secretly triggers the amendments to the controlled operations provisions simply because of whats in the penalty provisions before any protest takes place, in s221(a), 228(a), s229, 237(2) , 258(2)(c) , s322, 323, to allow a senior officer without warrant to give permission to police and civilians to engage in secret raids and break ins to obtain evidence of, and prevent and disrupt what might simply be a protest on the same street as the place. You can be bugged, have your devices stolen or broken into. The Amendment s30(ha) and (32) (a) (ii) says they cant search you or your car unless you have committed or are committing an offence against s52(D) or 52 (D)(A) which is prohibited symbols and expressions. YET, they may exercise the secret break in powers in contravention of their enforceable oaths, The PPRA and Admin Act -that you don't get to challenge it because you don't know about it, if there is going to be a protest where someone MIGHT BE OFFENDED, whether or not they had seen or heard it or were actually there.

The only protection is relying on cops obeying their legally enforceable oaths in s2.3 , s3.3 and s6.4 of the Police Service Admin Act, and s4-6 and 8 of the regulation and PPRA s5(e) to act in accordance with human rights and NOT do it because they are taken to have read and understand the defences . This is unreliable.
https://www.legislation.qld.gov.au/browse/inforce Those bits don't seem to be in the explanatory notes here https://www.parliament.qld.gov.au/Work-of-the-Assembly/Tabled-Papers/docs/5826T0141/5826t141.pdf

THE SEPARATION OF CHURCH AND STATE DOES APPLY TO THE STATES

In my submission to the CTH Hate Speech amendments, I showed how s116 of the constitution operates to prevent the CTH from elevating one religion over another or impose a religious observance on activists, protesters, journalists, or the general community. That making valid criticism of a foreign country hate speech against a religion is such an imposition and is disproportionate for unduly burdening the equality of the exercise of the freedom of communication and political sovereignty of the people. I showed how, because In Kruger, it was held that s116 didn't apply to the states, that the separation of church and state applies through the operation of that equality and application of the Kable Principles and equal nature of the exercise of judicial power in a free and democratic society subject to international human rights grund norms.

This applies equally to your proposed amendments so I extract it here

Another restrained and contemplative pause….and a raspberry in your general direction…you very , very silly and ridiculous people !

"The Majority of the High Court in Clubb v Edwards reaffirmed that religious communication, absent political communication, could not invoke the protection of the freedom of communication at pars [25]-[40]. Incidentally, the court quoted the Supreme Court of Israel on the supremacy of the dignity of the individual in its ultimate decision. When reference to Deane and Toohey JJ's decision in Nationwide News would have sufficed.

The Supreme Court of NSW has previously said that internal church politics are not protected by the freedom of communication. That means one religion having a crack at another is not protected devoid of political matters -Harkianakis v Skalkos and Ors [1999] NSWSC 505 (31 May 1999) at pars [15]-19] ***https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/nsw/NSWSC/1999/505.html***

However, the judge did not elaborate how he overcame Kruger to say s116 applied to the states. I hope I'm of some assistance in that matter.

That said, the High Court has made many statements on the application of s116.

The CTH May not legislate to elevate one religion above another at AG (VIC) (Ex rel Black) v CTH 'Dogs Case' [1981] 146 CLR 559 at 610 per Stephen J. Or entrench a religion as a feature of and identified with the body politic Barwick CJ at 582. See also Adelaide Company of Jehovas Witnesses v CTH (1943) CLR 116 at 122 Latham CJ, as well as the prohibition on the CTH from elevating one religion over another , ***s116 protects the right to have no religion****. Anti-terrorism provisions proscribing hate speech , advocating human sacrifice or violence or stoning to death , smiting or beheading, or to attack non-believers or persons of other religions or animists , or coercive behaviour for instance , do not prevent the free exercise of religion Krygger v Williams (1912) 15 CLR 366 at 372 per Barwick CJ at 372*

Adelaide Company of Jehovas Witnesses v CTH (1943) CLR 116 at 122 Latham CJ at p132 par [10]

[10]……"I think it must be conceded that the protection of any form of liberty as a social right within a society necessarily involves the continued existence of that society as a society. Otherwise the protection of liberty would be meaningless and ineffective. It is consistent with the maintenance of religious liberty for the State to restrain actions and courses of conduct which are inconsistent with the maintenance of civil government or prejudicial to the continued existence of the community. The Constitution protects religion within a community organized under a Constitution, so that the continuance of such protection necessarily assumes the continuance of the community so organized. This view makes it possible to reconcile religious freedom with ordered government. It does not mean that the mere fact that the Commonwealth Parliament passes a law in the belief that it will promote the peace, order and good government of Australia precludes any consideration by a court of the question whether or not such a law infringes religious freedom. The final determination of that question by Parliament would remove all reality from the constitutional guarantee. That

guarantee is intended to limit the sphere of action of the legislature. The interpretation and application of the guarantee cannot, under our Constitution, be left to Parliament. If the guarantee is to have any real significance it must be left to the courts of justice to determine its meaning and to give effect to it by declaring the invalidity of laws which infringe it and by declining to enforce them. The courts will therefore have the responsibility of determining whether a particular law can fairly be regarded as a law to protect the existence of the community, or whether, on the other hand, it is a law "for prohibiting the free exercise of any religion."'

https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/1943/12.html

See also Rich J at 149, cases extracted and quoted in Hanks Australian Constitutional Law, Materials and Commentary 10th Ed, Dan Meagher et al, Butterworths Lexis Nexus 2016 p 1133-1155

The 1997 Kruger v CTH case held again that the prohibitions on the CTH in s116 of the Constitution did not apply to the states or territories. I have a way around that through the equality in the exercise of the freedom of communication and access to the seat of government and its instrumentalities and courts by members of the Australian body politic.

*The separation of powers recognized by the courts does not recognize religions as a source of power. The prohibition on 2 grades of justice under CH3, that the nature of the exercise of judicial power in a free and democratic society subject to international grund norms requires judicial courts to apply the laws equally. (Nicholas v R , Ridgeway v R) . Separation of church and state is internationally recognized. Implementing the ICCPR means that any measure must only be for what is necessary in an ordered and democratic society. The Court invoked article 14 in Dietrich . And it must be recognized as a corollary of the equality in the exercise of the freedom of communication by members of the body politic who have reciprocal rights and obligations under the Citizenship Act ……. "As Gummow J said in McGinty v Western Australia**[9]**, we have reached a stage in the evolution of representative government which produces that consequence" (Gleeson CJ in the majority in Roach v R at {7],[8],[12]) Queensland v Mr Stradford (a pseudonym); Commonwealth of Australia v Mr Stradford (a pseudonym); His Honour Judge Vasta v Mr Stradford (a pseudonym) [2025] HCA 3 GAGELER CJ, GLEESON, JAGOT AND BEECH-JONES JJ Gordon J*

New paragraph numbers inserted here

par [75], 104] [106],[107], [113]

. There is one system of constitutional common law and its binding on the states and territories Full Court Lange v The ABC [1997] 189 CLR 520 at p563-564. In Kartinyeri Kirby said in para [116]

" It is appropriate to note in passing that no party suggested that s 117 of the Constitution had direct application in this case. That section provides that a subject of the Queen, resident in any State, "shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were ... resident in such other State". The scope of this guarantee[158] and the question of whether it restricts the operation of par (xxvi)[159] in a relevant way, can therefore be left for another day."

Thus , if a citizen in one state had their freedom of communication unduly burdened by the state acting to elevate one religion over all others , and to impose a style of blasphemy punishable by a court on atheists, or others of a different religion, criticising the relationship between the state and that religion , not only would they have less rights than those in another state to exercise the freedom that was supposed to be exercised in equality (a discriminatory effect), but a court would invalidly be invested with the power to permit 2 grades of justice. Bingo! I got there in the end.

The constitutional law tests have advanced since the first s116 cases to the present day. A law will be invalid in its terms, operation or effect. There have been many cases applying a proportionality analysis striking down actions and legislation since then. Any previous sole purpose test would not apply. Its trite now the matters that fall within 'political matters' have expanded since the early days and cover all levels of government and public policy, the environment , international affairs, and our place in it. I cover the equality cases below.

I would suggest that the proposed wording of the fear provision would fall foul of the recent case of ***Lees v State of New South Wales [2025] NSWSC 1209 for the same reasons.***

Any reasonable person test that says a person could be dragged off, just because a protest goes past a place, and that a person of any religion whatsoever is offended or put in fear by such valid criticism , couched in political terms, of the undue political influence or their religion for instance , or of the war crimes or influence of a foreign religious state , which could be Israel, The Vatican or indeed England , or that a cop could impute it without objective evidence of a breach of the peace or threat of it, would suffer the same fate as in Lees v NSW I think. We arnt talking about nazis here. Though nazis are a no brainer.

The carve out for religious texts promoting hate speech is arguably invalid.

If those religious foundation texts were included as terrorism material in so far as they advocated killing and religious violence in the manner described above, then it should be impossible for the CTH to fund schools in the manner that they have since federation. Every cleric of every religion who's texts promoted superiority over other religions and atheists and promoted violence against them would fall with terrorism hate preacher provisions.

The terrorism provisions don't specifically target counselling, advocating and committing violence against environmentalists under the head of political violence, which is very wide spread and has been forever. This is assisted by NEWSLTD right wing and labor pollies inciting and condoning violence. Its happened in logging, mining and coastal development conflicts. I deal with this below in the discussion about the provisions of s161N-Q of The Qld Penalties and Sentencing Act, S22A of the Qld Crime and Corruption Act 2001 and Chapter 7A of The Qld Criminal Code.

Valid criticism and the equality in the exercise of the freedom and access to instrumentalities and courts

Nationwide News v Wills ***Mason CJ***

[16]. In Davis v. The Commonwealth ((22) [1988] HCA 63; (1988) 166 CLR 79), the test of reasonable proportionality was applied, at least by the majority of the Court ((23) ibid., Mason C.J., Deane and Gaudron JJ.; Toohey J. concurring on this question), in invalidating s.22(6)(d)(i) of the Australian Bicentennial Authority Act 1980 (Cth) to the extent

that it related to the expression "200 years". Section 22 was a provision designed to protect the name, property and interests of the Bicentennial Authority. Sub-section (1)(a) made it an offence, without the consent in writing of the Authority, to use the name of the Authority, a prescribed symbol or a prescribed expression in connection with a business, trade, profession or occupation. Sub-section (6)(d)(i) prescribed various expressions, including "200 years", some of which were in common or everyday usage. Sub-section (6)(d)(ii) prescribed any other word or words when used in conjunction with "1788", "1988" or "88". The majority of the Court held that, even if the sole purpose of the provision was to protect the commemoration of the Bicentenary or the attainment of the objects of the Authority, the regime of protection was grossly disproportionate to the need to protect the commemoration of the Bicentenary. In reaching that result, the majority considered that the intrusion into freedom of expression was so great as to preclude the conclusion that the means adopted were reasonably and appropriately adapted to achieve ends that lay within the reach of constitutional power.

Deane and Toohey JJ

"[19]. It follows from what has been said above that there is to be discerned in the doctrine of representative government which the Constitution incorporates an implication of freedom of communication of information and opinions about matters relating to the government of the Commonwealth. In so far as the people of the Commonwealth are concerned, that implication of freedom of communication operates at two levels. The first is the level of communication and discussion between the represented and their representatives, that is to say, the level of communication and discussion between the people of the Commonwealth on the one hand and the Parliament and its members and other Commonwealth instrumentalities and institutions on the other. Even before the first sitting of this Court, it had been recognized that there was inherent in the Constitution, as a necessary implication of its terms, a right of the people of the Commonwealth to communicate with "the Federal authorities"((162) See Quick and Garran, The Annotated Constitution of the Australian Commonwealth, (1901), p 958). In R. v. Smithers; Ex parte Benson((163) [1912] HCA 92; (1912) 16 CLR 99, at p 108), Griffith C.J. accepted that "the elementary notion" of the Commonwealth established by the Federation necessarily gave rise to rights of communication between the people and the institutions to which they had entrusted the exercise of governmental power. The Chief Justice quoted, and adopted as applicable to the Commonwealth under the Constitution, an extract from the seminal judgment of the United States Supreme Court (delivered by Miller J.) in Crandall v. State of Nevada((164) [1867] USSC 15; (1867) 73 US 35, at p 44) in which, having referred to the right of federal officers to free access to, and transit through, the States for federal purposes, the Supreme Court had said:

"But if the government has these rights on her own account, the

citizen also has correlative rights. He has the right to come to the

seat of government to assert any claim he may have upon that

government, or to transact any business he may have with it. To seek

its protection, to share its offices, to engage in administering its

functions."

In Smithers, Barton J. also referred to that passage from the judgment in Crandall v. State of Nevada and expressed the view((165) (1912) 16 CLR , at p 109) that the reasoning of the United States Supreme Court "is as cogent in relation to the Constitution of this Commonwealth, as it was when applied to the Constitution of the United States". In Pioneer Express Pty. Ltd. v. Hotchkiss((166) [1958] HCA 45; (1958) 101 CLR 536, at p 550), Dixon C.J., while pointing out that that case did not "provide an occasion for examining the place which the very general principles expounded in Crandall v. State of Nevada possess with us", commented:

"No one would wish to deny that the constitutional place of the

(Australian) Capital Territory in the federal system of government and

the provision in the Constitution relating to it necessarily imply the

most complete immunity from State interference with all that is

involved in its existence as the centre of national government, and

certainly that means an absence of State legislative power to forbid

restrain or impede access to it."

20. The second level at which the implication of freedom of communication and discussion operates is the level of communication between the people of the Commonwealth. Inherent in the Constitution's doctrine of representative government is an implication of the freedom of the people of the Commonwealth to communicate information, opinions and ideas about all aspects of the government of the Commonwealth, including the qualifications, conduct and performance of those entrusted (or who seek to be entrusted) with the exercise of any part of the legislative, executive or judicial powers of government which are ultimately derived from the people themselves. The basis of such an implication was identified by Duff C.J.C. and Davis J. in Re Alberta Legislation((167) (1938) 2 DLR 81, at p 107) when speaking of the British North America Act before the adoption of the Canadian Charter of Rights:

"The statute contemplates a Parliament working under the influence of

public opinion and public discussion. There can be no controversy that

such institutions derive their efficacy from the free public discussion

of affairs, from criticism and answer and counter-criticism, from

attack upon policy and administration and defence and counter-attack;

from the freest and fullest analysis and examination from every point

of view of political proposals. This is signally true in respect of the

discharge by Ministers of the Crown of their responsibility to

Parliament, by members of Parliament of their duty to the electors, and

by the electors themselves of their responsibilities in the election of

their representatives."

Those comments are equally applicable to the working of the doctrine of representative government embodied in our Constitution. Indeed, as Abbott J. commented in Switzman v. Elbling((168) (1957) 7 DLR (2d) 337, at p 369), the "right of free expression of opinion and of criticism, upon matters of public policy and public administration, and the right to discuss and debate such matters, whether they be social, economic or political, are essential to the working of a parliamentary democracy". In that regard, it is important to bear in mind that freedom of political discussion necessarily involves freedom to maintain and consider claims and opinions about political matters notwithstanding their unpopularity among either the general populace or those in government or that they may ultimately be shown to be mistaken. That being so, the fact that particular assertions, opinions or criticisms about matters relating to government are rejected by government or are found by the courts or proved by subsequent events to be mistaken does not, of itself, suffice to establish that the suppression of their expression is or was consistent with the effective functioning of representative government."

And at par 25

"[25]. As has been seen, however, s.299(1)(d)(ii) goes far beyond protecting the Commission and its members from unfounded and illegitimate attack. It purports to forbid, under the sanction of fine and/or imprisonment, the use of words calculated to bring the Commission or a member of the Commission into disrepute regardless of whether what is written or said is well founded and relevant. A prohibition of the communication of well-founded and relevant criticism of a governmental instrumentality or tribunal, such as the Commission or a Commonwealth court, cannot be justified as being, on balance, in the public interest merely because it is calculated to bring the instrumentality or tribunal or its members into disrepute. To the contrary, if criticism of a governmental instrumentality or tribunal or its members is well founded and relevant, its publication is an incident of the ordinary working of representative government and the fact that it will, if published, bring the relevant instrumentality or tribunal into deserved disrepute is, from the point of view of the overall public interest, a factor supporting publication rather than suppression. In that regard, the fact that the appearance as well as the substance of propriety, impartiality and competence is important for the effective functioning of a Commonwealth tribunal such as the Commission does not mean that it is in the public interest that the substance of impropriety, bias or incompetence should be concealed under a false veneer of good repute. Indeed, the traditions and standards of our society dictate a conclusion that, putting to one side times of war and civil unrest, the public interest is never, on balance, served by the suppression of well-founded and relevant criticism of the legislative, executive or judicial organs of government or of the

official conduct or fitness for office of those who constitute or staff them((175) See, e.g., The Commonwealth of Australia v. John Fairfax and Sons Ltd. [1980] HCA 44; (1980) 147 CLR 39, at p 52; Attorney-General v. Guardian Newspapers (No. 2) [1988] UKHL 6; (1990) 1 AC 109, at p 283; Hector v. Attorney-General of Antigua (1990) 2 AC 312, at p 318). Suppression of such criticism of government and government officials removes an important safeguard of the legitimate claims of individuals to live peacefully and with dignity in an ordered and democratic society. Indeed, if that suppression be institutionalized, it constitutes a threat to the very existence of such a society in that it reduces the possibility of peaceful change and removes an essential restraint upon excess or misuse of governmental power((176) See, e.g., Australian Communist Party v The Commonwealth [1951] HCA 5; (1951) 83 CLR 1, per Dixon J. at p 187). As Hughes C.J. pointed out in De Jonge v. Oregon((177) [1937] USSC 3; (1936) 299 US 353, at p 365)"

Kable v DPP

".... there is nothing anywhere in the Constitution to suggest that it permits of different grades or qualities of justice, depending on whether judicial power is exercised by State courts or federal courts created by the Parliament." Gaudron J at p103

"..... Once the notion that the Constitution permits of different grades or qualities of justice is rejected, the consideration that State courts have a role and existence transcending their status as State courts directs the conclusion that Ch III requires that the Parliaments of the States not legislate to confer powers on State courts which are repugnant to or incompatible with their exercise of the judicial power of the Commonwealth" Ibid p103

"That is the antithesis of the judicial process, one of the central purposes of which is, as I said in Re Nolan; Ex parte Young [143] , to protect "the individual from arbitrary punishment and the arbitrary abrogation of rights by ensuring that punishment is not inflicted and rights are not interfered with other than in consequence of the fair and impartial application of the relevant law to facts which have been properly ascertained". Ibid p107"

Unions NSW v NSW no1 [2013] HCA 58

FRENCH CJ, HAYNE, CRENNAN, KIEFEL AND BELL JJ quoting the full bench in Lange v The ABC

[19]……"It will be invalid where it so burdens the freedom that ***it may be taken to affect the system of government for which the Constitution provides*** *and which depends for its existence upon the freedom….*

at [33] , the following passage from Gaudron J in Muldowney v South Australia was quoted .

Her Honour proposed that:
"the freedom which inheres in the Australian Constitution and which extends to matters within the province of the States does not operate to strike down a law which curtails freedom of communication in those limited circumstances where that curtailment is reasonably ***capable of being viewed as appropriate and adapted to furthering or enhancing the democratic processes of the States****."*

And at paras [20]-[26] , [51] – [65] https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/2013/58.html

Pay particular attention to the words 'Australian Community' and 'interest' in the statement by THE FULL BENCH.

To see where Im going with this, consider what was said in Cunliffe v CTH applied in the Tampa Case (VCCL v Ruddock) No1 at par [163]

[163]All of the judges, except for Mason CJ, held that ***the constitutional freedom could only be claimed for the benefit of Australian citizens*** *and not aliens. For example, Brennan J said at 335-6:*

"While an alien who is within this country enjoys the protection of the ordinary law, including the protection of some of the Constitution's guarantees, directives and prohibitions, he or she stands outside the people of the Commonwealth whose freedom of political communication and discussion is a necessary incident of the Constitution's doctrine of representative government. That being so, the implication does not operate to directly confer rights or immunities upon an alien. Any benefit to an alien from the implication must be indirect in the sense that it flows from the freedom or immunity of those who are citizens." https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2001/1297.html

Im referring to the words of the majority in Cunliffe " that the constitutional freedom could only be claimed ***for the benefit*** *of Australian citizens"*

Unions NSW v New South Wales [2019] HCA 1 https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/2019/1.html

> *[40] Those submissions should not be accepted. The requirement of ss 7 and 24 of the Constitution that the representatives be "directly chosen by the people" in no way implies that a candidate in the political process occupies some privileged position in the competition to sway the people's vote simply by reason of the fact that he or she seeks to be elected. Indeed, to the contrary, ss 7 and 24 of the Constitution guarantee the political sovereignty of the people of the Commonwealth by ensuring that their choice of elected representatives is a real choice, that is, a choice that is free and well-informed**[44]**. Because the implied freedom ensures that the people of the Commonwealth enjoy equal participation in the exercise of political sovereignty**[45]**, it is not surprising that there is nothing in the authorities which supports the submission that the Constitution impliedly privileges candidates and parties over the electors as sources of political speech. Indeed, in ACTV, Deane and Toohey JJ observed that the implied freedom**[46]**:*

"extends not only to communications by representatives and potential representatives to the people whom they represent. It extends also to communications from the represented to the representatives and between the represented."

Justification – a reasonable necessity?

*[41] The provisions in question in ACTV prohibited the broadcasting of political advertisements or information during an election period. They were held to infringe the implied freedom and to be invalid. Invalidity resulted because the nature or extent of the restrictions could not be justified**[47]**. In Lange**[48]** it was observed that the provisions in question in ACTV were held to be invalid because there were other, less drastic, means by which the objects of the law could have been achieved. This passage in Lange was referred to in the joint judgment in McCloy**[49]**, where it was explained that if there are other equally effective means available to achieve the statute's legitimate purpose but which impose a lesser burden on the implied freedom, it cannot be said that one which is more restrictive of the freedom is reasonably necessary to achieve that purpose.*

The Qld Court of Appeal (WILLIAMS JA for the court) held that equality before the law was a constitutional principle In re : Criminal Proceeds Confiscation Act 2002 (Qld), Re [2003] QCA 249 (13 June 2003) at Par [52]
http://www.austlii.edu.au/au/cases/qld/QCA/2003/249.html

They applied the decision of Gaudron J in Nicholas v The Queen [1998] HCA 9; (1998) 193 CLR 173

"[52] In her judgment Gaudron J comes close, in my view, to providing the answer to the question now before this court; she said at 208-9:

"In my view, consistency with the essential character of a court and with the nature of judicial power necessitates that a court not be required or authorised to proceed in a manner that does not ensure equality before the law……..."

Clubb v Edwards; Preston v Avery [2019] HCA 11

KIEFEL CJ, BELL AND KEANE JJ

5. *The test to be applied was adopted in McCloy by French CJ, Kiefel, Bell and Keane JJ**[5]**, and it was applied in Brown by Kiefel CJ, Bell and Keane JJ**[6]** and Nettle J**[7]**. For convenience that test will be referred to as "the McCloy test". It is in the following terms**[8]**:*

    1. *Does the law effectively burden the implied freedom in its terms, operation or effect?*

    2. *If "yes" to question 1, is the purpose of the law legitimate, in the sense that it is compatible with the maintenance of the constitutionally prescribed system of representative and responsible government?*

    3. *If "yes" to question 2, is the law reasonably appropriate and adapted to advance that legitimate object in a manner that is compatible with the maintenance of the constitutionally prescribed system of representative and responsible government?*

6. *The third step of the McCloy test is assisted by a proportionality analysis which asks whether the impugned law is "suitable", in the sense that it has a rational connection to the purpose of the law, and "necessary", in the sense that there is no obvious and compelling alternative, reasonably practical, means of achieving the same purpose which has a less burdensome effect on the implied freedom. If both these questions are answered in the affirmative, the question is then whether the challenged law is "adequate in its balance". This last criterion requires a judgment, consistently with the limits of the judicial function, as to the balance between the importance of the purpose served by the law and the extent of the restriction it imposes on the implied freedom[9].*

In McCloy v NSW [2015] HCA 15 it was said

[81] The second stage of the test – necessity – generally accords with the enquiry identified in Unions NSW[103] as to the availability of other, equally effective, means of achieving the legislative object which have a less restrictive effect on the freedom and which are obvious and compelling. If such measures are available, the use of more restrictive measures is not reasonable and cannot be justified.

[82] It is important to recognise that the question of necessity does not deny that it is the role of the legislature to select the means by which a legitimate statutory purpose may be achieved. It is the role of the Court to ensure that the freedom is not burdened when it need not be. Once within the domain of selections which fulfil the legislative purpose with the least harm to the freedom, the decision to select the preferred means is the legislature's[104].

*The equality in the exercise freedom of communication trumps religion. Religion isn't necessary for the efficacy of the system set up by the constitution. There is no public benifet in the carve outs. I don't think the religious instruction defences would survive a challenge. A person from another religion would have standing as in the Kvelde v NSW case to bring an action saying those texts call for violence against them . It is not in the public interest that laws akin to blasphemy be brought back into our laws. Religious instruction defences to hate speech and religious terrorism in the way it's been carried out for millennia, are inconsistent with laws criminalising the same hate speech. If the purpose is to implement the ICCPR, that must be read as a whole. In a free and democratic society there is separation between church and state . It is consistent with the maintenance of religious liberty for the State to restrain actions and courses of conduct which are inconsistent with the maintenance of civil government or prejudicial to the continued existence of the community……..Suppression of such criticism of government and government officials removes an important safeguard of the legitimate claims of individuals to live peacefully and with dignity in an ordered and democratic society. Indeed, if that suppression be institutionalized, it constitutes a threat to the very existence of such a society in that it reduces the possibility of peaceful change and removes an essential restraint upon excess or misuse of governmental power…….**INSERT YOUR OWN ECHO."***

THE PROPOSED QLD LEGISLATIVE REGIME CHANGES

Im simply pasting the current provisions relevant to my submission, then striking through what is omitted in bold italics, and underlining in bold italics what is added and inserted as new provisions or words.

Chapter 7A **Serious vilification and prohibited symbols**

52A Offence of serious racial, religious, sexuality, sex characteristics or gender identity vilification

(1)A person must not, by a public act, knowingly or recklessly incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of the race, religion, sexuality, sex characteristics or gender identity of the person or members of the group in a way that includes—
(a)threatening physical harm towards, or towards any property of, the person or group of persons; or
(b)inciting others to threaten physical harm towards, or towards any property of, the person or group of persons.

Maximum penalty—3 years imprisonment.

(2)In this section—
public act—
(a)includes—
(i)any form of communication to the public, including by speaking, writing, printing, displaying notices, broadcasting, telecasting, screening or playing of tapes or other recorded material, or by electronic means; and
(ii)any conduct that is observable by the public, including actions, gestures and the wearing or display of clothing, signs, flags, emblems or insignia; but

(b)does not include the distribution or dissemination of any matter by a person to the public if the person does not know, and could not reasonably be expected to know, the content of the matter.

52B Circumstances of aggravation for particular offences

(1)It is a circumstance of aggravation for a prescribed offence that the offender was wholly or partly motivated to commit the offence by hatred or serious contempt for a person or group of persons based on—
(a)in relation to a person—the race, religion, sexuality, sex characteristics or gender identity of the person, or presumed race, religion, sexuality, sex characteristics or gender identity of the person; or
(b)in relation to a group of persons—the race, religion, sexuality, sex characteristics or gender identity shared, or presumed to be shared, by the members of the group.

(2)In this section—
prescribed offence means an offence against any of the following sections—
(a)section 69;
(b)section 75;
(c)section 207;
(d)section 335;
(e)section 339;
(f)section 359;
(g)section 359E;
(h)section 469.

52C Prohibited symbols ***and expressions***

(1)A ***prohibited symbol*** is a symbol or image—

(a)prescribed by regulation for this section; or

(aa) used by a prescribed organisation, or a member of a prescribed organisation, to identify the organisation or any part of the organisation; or
(b)that so nearly resembles a symbol ~~**referred to in paragraph (a) that it is likely to be confused with or mistaken for that symbol.**~~ ***or image mentioned in paragraph (a) or (b) that it is likely to be confused with or mistaken for that symbol or image.***

The above section renumbered again as a-c.

(1A) A prohibited expression is an expression—
(a) prescribed by regulation for this subsection;
or
(b) that so nearly resembles an expression mentioned in paragraph (a) that it is likely to be confused with or mistaken for that expression.

(2)A regulation under subsection (1)(a)—
~~***(a)must prescribe the symbol or image as a graphic representation of the symbol or image; and***~~
(a) must prescribe the symbol or image as—
(i) a graphic representation of the symbol or image; or
(ii) a description of the symbol or image;
or
(iii) a combination of the matters mentioned in subparagraphs (i) and (ii); and

(b)may not prescribe the symbol or image by describing a class of symbols or images.
(3)The Minister may recommend to the Governor in Council the making of a regulation under ~~***subsection (1)(a) only if the Minister is satisfied the symbol or image—***~~
subsection (1)(a) or (1A)(a) only if the Minister is satisfied the symbol or image, or expression-

(a)is widely known by the public as being solely or substantially representative of an ideology of extreme prejudice against a relevant group; or

(b)is widely known by members of a relevant group as being solely or substantially representative of an ideology of extreme prejudice against that group.
(3A) Also, the Minister may recommend to the Governor in Council the making of a regulation under subsection (1A)(a) only if the Minister is satisfied the expression is regularly used to incite discrimination, hostility or violence towards a relevant group.

(4)~~***Also, the Minister must, before making the recommendation,***~~ ***In addition, before recommending to the Governor in Council the making of a regulation under subsection (1)(a) or (1A)(a), the Minister must*** consult with each of the following persons about the proposed recommendation—
(a)the chairperson of the Crime and Corruption Commission;
(b)the Human Rights Commissioner under the *Anti-Discrimination Act 1991*;
(c)the commissioner of the police service under the *Police Service Administration Act 1990*.
(5)In this section—
relevant group means a group of persons who identify with each other on the basis of an attribute or characteristic that is, or is based on, the race, religion, sexuality, sex characteristics or gender identity of the persons.
prescribed organisation see section 52CA.

52CA Prescribed organisations
(1) A prescribed organisation is an entity prescribed by regulation for this section.
Council the making of a regulation under subsection (1) only if the recommendation is to prescribe—
(a) a particular state sponsor of terrorism or terrorist organisation; or
(b) a class of state sponsors of terrorism or terrorist organisations; or
(c) all state sponsors of terrorism or terrorist organisations.
(3) Subsection (4) applies if—
(a) the Minister prescribes an entity as a prescribed organisation; and
(b) the entity stops being a state sponsor of terrorism or a terrorist organisation.
(4) The entity stops being a prescribed organisation.
(5) In this section—
state sponsor of terrorism means a state sponsor of terrorism as defined in the Criminal Code (Cwlth), section 110.3(1). terrorist organisation means an organisation mentioned in the Criminal Code (Cwlth), section 102.1(1), definition terrorist organisation, paragraph (b).

52D ~~***Display, distribution or publication***~~ ***Distribution, publication or display*** of prohibited symbols

~~***(1)A person who publicly distributes, publishes or publicly displays a prohibited symbol in a way that might reasonably be expected to cause a member of the public to feel menaced, harassed or offended, commits an offence, unless the person has a reasonable excuse.***~~

(1) This section applies to a person if—
(a) the person publicly distributes, publishes or publicly displays a prohibited symbol in a

way that might reasonably be expected to cause a member of the public to feel menaced, harassed or offended; and
(b) for a relevant prohibited symbol—the person knew, or ought reasonably to have known, when the person distributed, published or displayed the symbol, that the symbol was used by a prescribed organisation, or a member of a prescribed organisation, to identify the organisation or any part of the organisation.
(1A) The person commits an offence, unless the person has a reasonable excuse.

~~***Maximum penalty—70 penalty units or 6 months imprisonment.***~~

Maximum penalty—150 penalty units or 2 years imprisonment.

(2)Without limiting what may be a reasonable excuse for ~~***subsection (1),***~~ ***subsection (2),*** a person has a reasonable excuse if—
(a)any of the following apply—
(i)the person engaged in the conduct that is alleged to constitute the offence for a genuine artistic, religious, educational, historical, legal or law enforcement purpose;
(ii)the person engaged in the conduct that is alleged to constitute the offence for a purpose that is in the public interest;

Examples for subparagraph (ii)—

•publication of a fair and accurate report of an event or matter of public interest
•a genuine political or other genuine public dispute or issue carried on in the public interest
(iii)the person engaged in the conduct that is alleged to constitute the offence in opposition to the ideology represented by the prohibited symbol; and
(b)the person's conduct was, in the circumstances, reasonable for that purpose.
(3)An evidential burden is placed on the defendant in relation to showing a reasonable excuse for subsection (1).
(4)For subsection (1), a person ***publicly displays*** a prohibited symbol if the person—
(a)displays the symbol—
(i)in a place that the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money; or
(ii)in a place the occupier of which allows, whether or not on payment of money, members of the public to enter; or
(b)displays the symbol in a way that is visible from a place mentioned in paragraph (a).
(5)To remove any doubt, it is declared that, for ~~***subsection (1)***~~ ***subsections (1) and (2)-***
(a)the offence is committed at the time when the person distributes, publishes or displays the prohibited symbol; and
(b)it is irrelevant whether or not a member of the public has seen the prohibited symbol because of the distribution, publication or display.
(6) In this section—
relevant prohibited symbol means—
(a) a prohibited symbol mentioned in section 52C(1)(b); or
(b) a prohibited symbol mentioned in section 52C(1)(c) that so nearly resembles a symbol mentioned in paragraph (a) that it is likely to be confused with or mistaken for that symbol.
prescribed organisation see section 52CA.

Section 52D(1A) to (6)—
***renumber* as section 52D(2) to (7).**

52DA Recital, distribution, publication or display of prohibited expressions

(1) A person who publicly recites, publicly distributes, publishes or publicly displays a prohibited expression in a way that might reasonably be expected to cause a member of the public to feel menaced, harassed or offended commits an offence, unless the person has a reasonable excuse.

Maximum penalty—150 penalty units or 2 years imprisonment.

(2) Without limiting what may be a reasonable excuse for subsection (1), a person has a reasonable excuse if—

(a) either of the following apply—

(i) the person engaged in the conduct that is alleged to constitute the offence for a genuine artistic, religious, educational, historical, legal or law enforcement purpose;

(ii) the person engaged in the conduct that is alleged to constitute the offence for a purpose that is in the public interest; and

Examples for subparagraph (ii)—

• publication of a fair and accurate report of an event or matter of public interest

• a genuine political or other genuine public dispute or issue carried on in the public interest

(b) the person's conduct was, in the circumstances, reasonable for that purpose.

(3) An evidential burden is placed on the defendant in relation to showing a reasonable excuse for subsection (1).

(4) For subsection (1), a person publicly recites or publicly displays a prohibited expression if the person—

(a)recites or displays the expression—

(i) in a place that the public is entitled to use, is open to members of the public or is used by the public, whether or not on payment of money; or

(ii) in a place the occupier of which allows, whether or not on payment of money, members of the public to enter; or

(b) recites or displays the expression in a way that is audible or visible from a place mentioned in paragraph (a).

(5) To remove any doubt, it is declared that, for subsection (1)—

(a) the offence is committed at the time when the person recites, distributes, publishes or displays the prohibited expression; and

(b) it is irrelevant whether or not a member of the public has heard or seen the prohibited expression because of the recital, distribution, publication or display.

(6) In this section—

prohibited expression see section 52C(1A).

~~***206 Offering violence to officiating ministers of religion***~~

~~*Any person who—*~~
~~*(a) by threats or force prevents or attempts to prevent any minister of religion from lawfully officiating in any place of religious worship, or from performing the minister's duty in the lawful burial of the dead in any cemetery or other burial place; or*~~
~~*(b) by threats or force obstructs or attempts to obstruct any minister of religion while so officiating or performing the minister's duty; or*~~
~~*(c) assaults, or, upon or under the pretence of executing any civil process, arrests, any minister of religion who is engaged in, or is, to the knowledge of the offender, about to engage in, any of the offices or duties aforesaid, or who is, to the knowledge of the offender, going to perform the same or returning from the performance thereof;*~~
~~*is guilty of a misdemeanour, and is liable to imprisonment for 2 years.*~~

206 Assaults of ministers of religion
(1) A person who unlawfully assaults a minister of religion and hinders or prevents the minister
from—
(a) lawfully officiating at a meeting of persons lawfully assembled for religious worship; or
(b) lawfully officiating at a religious ceremony;
or
Examples of a religious ceremony— wedding, funeral or other religious rite in relation to the burial of a deceased person
(c) lawfully performing another religious function of the minister's office;
Examples of a religious function of a minister's office—
pastoral care, religious education, spiritual counselling commits a misdemeanour.
Maximum penalty—5 years imprisonment.
Note—
See also part 5, chapter 26.
(2) In this section— religious function, of the office of a minister of religion, does not include an administrative, financial or managerial function of the office.
206A Intimidating or obstructing persons entering or leaving places of religious worship
(1) A person in, or in the vicinity of, a place of religious worship who, without reasonable excuse, intimidates or obstructs a person—
(a) entering, or attempting to enter, the place to attend a meeting of persons lawfully assembled for religious worship; or
(b) leaving, or attempting to leave, the place after attending all or part of a meeting of persons lawfully assembled for religious worship; commits an offence.
Maximum penalty—3 years imprisonment.
(2) A reference in subsection (1)(a) to entering, or attempting to enter, a place of religious worship to attend a meeting of persons includes a reference to entering, or attempting to enter, the place before the meeting starts or before any other persons have assembled.
(3) In this section—
intimidate includes harass. obstruct includes hinder, prevent and attempt to obstruct.

207 Disturbing religious worship

~~***(1) Any person who wilfully and without lawful justification or excuse, the proof of which lies on the person, disquiets or disturbs any meeting of persons lawfully assembled for religious worship, or assaults any person lawfully officiating at any such meeting, or any of the persons there assembled, is guilty of an offence, and is liable to imprisonment for 2 months, or to a fine of $10.***~~

(1) A person who, without reasonable excuse, wilfully disturbs a meeting of persons lawfully assembled for religious worship commits an offence.

Maximum penalty—20 penalty units or 6 months imprisonment.

(2) If the offender commits the offence with the circumstance of aggravation stated in section 52B, the offender is liable to imprisonment for ~~***6 months.***~~ ***—1 year***

Amendment of s 469 (Wilful damage)

Section 469, punishment in special cases—

insert—

13 Places of religious worship

If—

(a) the property in question is premises; and

(b) the premises are a place of religious worship;

the offender commits a crime.

Maximum penalty—7 years imprisonment.

540 Preparation to commit crimes with dangerous things

A person who makes, or knowingly has possession of~~***, an explosive substance or other dangerous or***~~ ***a dangerous or offensive weapon or instrument or*** noxious thing—

(a) with intent to commit a crime by using the ***weapon, instrument or*** thing; or

(b) to enable anyone to commit a crime by using the ***weapon, instrument or*** thing;

commits a crime.

540A Preparation or planning to cause death or grievous bodily harm

(1) A person who does any act in preparation for, or planning, an offence that would be likely to cause the death of, or grievous bodily harm to, another person commits a crime.

Maximum penalty—14 years imprisonment.

(2) A person commits a crime under subsection (1) even if—

(a) the offence does not occur; or

(b) the person's act is not done in preparation for, or planning, a specific offence; or

(c) the person's act is done in preparation for, or planning, more than 1 offence.

Police Powers and Responsibilities Act Qld 2000

30 Prescribed circumstances for searching persons without warrant

(1)The prescribed circumstances for searching a person without a warrant are as follows—
(a)the person has something that may be—
(i)a weapon, knife or explosive the person may not lawfully possess, or another thing that the person is prohibited from possessing under a domestic violence order or an interstate domestic violence order; or
(ii)an unlawful dangerous drug; or
(iii)stolen property; or
(iv)unlawfully obtained property; or
(v)tainted property; or
(vi)evidence of the commission of a seven year imprisonment offence that may be concealed on the person or destroyed; or
(vii)evidence of the commission of an offence against the Criminal Code, section 469 that may be concealed on the person or destroyed if, in the circumstances of the offence, the offence is not a seven year imprisonment offence; or
(viii)evidence of the commission of an offence against the *Summary Offences Act 2005*, section 17, 23B or 23C; or
(ix)evidence of the commission of an offence against the *Liquor Act 1992*, section 168B or 168C;
(b)the person possesses an antique firearm and is not a fit and proper person to be in possession of the firearm—
(i)because of the person's mental and physical fitness; or
(ii)because a domestic violence order has been made against the person; or
(iii)because the person has been found guilty of an offence involving the use, carriage, discharge or possession of a weapon;
(c)the person has something that may have been used, is being used, is intended to be used, or is primarily designed for use, as an implement of housebreaking, for unlawfully using or stealing a vehicle, or for the administration of a dangerous drug;
(d)the person has something the person intends to use to cause self harm or harm to someone else;
(e)the person is at a casino and may have contravened, or attempted to contravene, the *Casino Control Act 1982*, section 103 or 104;
(f)the person has committed, is committing, or is about to commit—
(i)an offence against the *Racing Act 2002* or *Racing Integrity Act 2016*; or
(ii)an offence against the *Corrective Services Act 2006*, section 128, 129 or 132, or the repealed *Corrective Services Act 2000*, section 96, 97 or 100; or
(iii)an offence that may threaten the security or management of a prison or the security of a prisoner;
(g)the person has committed, is committing, or is about to commit an offence against the *Penalties and Sentences Act 1992*, section 161ZI;
(h)the person has committed, or is committing, an offence against the *Summary Offences Act 2005*, section 10C;
(ha)the person has committed, or is committing, an offence against the Criminal Code, section 52D ***or 52DA*** ;
(i)the person has consorted, is consorting, or is likely to consort with 1 or more recognised offenders;

(j)the person has committed, is committing, or is about to commit, an offence against the *Termination of Pregnancy Act 2018*, section 15 or 16;
(k)the person has something that may be a dangerous attachment device that has been used, or is to be used, to disrupt a relevant lawful activity;
(l)the person has failed to comply with a requirement under section 39BA, 39E or 39G of a police officer.
(2)For subsection (1)(k), a relevant lawful activity is disrupted by using a dangerous attachment device if the use—
(a)unreasonably interferes with the ordinary operation of transport infrastructure within the meaning of the *Transport Infrastructure Act 1994*, schedule 6; or

Example—

placing an obstacle, on a railway, that stops the passage of rolling stock
(b)stops a person from entering or leaving a place of business; or
(c)causes a halt to the ordinary operation of plant or equipment because of concerns about the safety of any person.

32Prescribed circumstances for searching vehicle without warrant

(1)It is a prescribed circumstance for searching a vehicle without a warrant that there is something in the vehicle that—
(a)may be a weapon, knife or explosive a person may not lawfully possess, or another thing that the person is prohibited from possessing under a domestic violence order or an interstate domestic violence order; or
(b)may be an antique firearm that a person possesses and the person is not a fit and proper person to possess the firearm—
(i)because of the person's mental and physical fitness; or
(ii)because a domestic violence order has been made against the person; or
(iii)because the person has been found guilty of an offence involving the use, carriage, discharge or possession of a weapon; or
(c)may be an unlawful dangerous drug; or
(d)may be stolen property; or
(e)may be unlawfully obtained property; or
(f)may have been used, is being used, is intended to be used, or is primarily designed for use, as an implement of housebreaking, for unlawfully using or stealing a vehicle, or for the administration of a dangerous drug; or
(g)may be evidence of the commission of an offence against any of the following—
•the *Racing Act 2002*
•the *Racing Integrity Act 2016*
•the *Corrective Services Act 2006*, section 128, 129 or 132
•the *Nature Conservation Act 1992*; or
(h)may have been used, is being used, or is intended to be used, to commit an offence that may threaten the security or management of a prison or the security of a prisoner; or
(i)may be tainted property; or
(j)may be evidence of the commission of a seven year imprisonment offence that may be concealed or destroyed; or

(k)may be evidence of the commission of an offence against the Criminal Code, section 469 that may be concealed on the person or destroyed if, in the circumstances of the offence, the offence is not a seven year imprisonment offence; or
(l)may be evidence of the commission of an offence against the *Summary Offences Act 2005*, section 17, 23B or 23C; or
(m)may be something the person intends to use to cause self harm or harm to someone else; or
(n)may be evidence of the commission of an offence against the *Penalties and Sentences Act 1992*, section 161ZI; or
(o)may be evidence of the commission of an offence against the *Termination of Pregnancy Act 2018*, section 15 or 16; or
(p)may be a dangerous attachment device that has been used, or is to be used, to disrupt a relevant lawful activity.
(2)Also, the following are prescribed circumstances for searching a vehicle without a warrant—
(a)the driver or a passenger in the vehicle has committed, or is committing, an offence against—
(i)the *Summary Offences Act 2005*, section 10C; or
(ii)the Criminal Code, section 52D ***or 52DA*** ;
(b)the vehicle is being used by, or is in the possession of, a person who has consorted, is consorting, or is likely to consort with 1 or more recognised offenders.
(3)For subsection (1)(p), a relevant lawful activity is disrupted by using a dangerous attachment device if the use—
(a)unreasonably interferes with the ordinary operation of transport infrastructure within the meaning of the *Transport Infrastructure Act 1994*, schedule 6; or

Example—

placing an obstacle, on a railway, that stops the passage of rolling stock
(b)stops a person from entering or leaving a place of business; or
(c)causes a halt to the ordinary operation of plant or equipment because of concerns about the safety of any person.

221A Definitions for chapter

In this chapter—
ancillary conduct, for an authorised controlled activity, means conduct that—
(a)is aiding or enabling a police officer to engage in the controlled activity; or
(b)is conspiring with a police officer for the police officer to engage in the controlled activity.
authorised controlled activity means a controlled activity authorised under section 224.
civilian participant means an adult who is not a police officer.
conduct includes any act or omission.
controlled activity offence means—
~~***(a)a seven year imprisonment offence; or***~~ ***(a) a three year imprisonment offence; or***
(b)an indictable offence mentioned in schedule 2; or
(c)an indictable or simple offence mentioned in schedule 5.

228 Purposes of ch 11

The main purposes of this chapter are—

~~*(a)to provide for the authorisation, conduct and monitoring of controlled operations, including operations conducted in this and 1 or more other jurisdictions, for the purpose of obtaining evidence that may lead to the prosecution of persons for particular offences and that involve or may involve conduct for which participants in the operation would, apart from this chapter, be criminally responsible; and*~~

(a) to provide for the authorisation, conduct and monitoring of controlled operations, including operations conducted in this and 1 or more other jurisdictions, for any of the following purposes—

(i) obtaining evidence that may lead to the prosecution of persons for relevant offences;

(ii) frustrating the commission of relevant offences; and

(b)to facilitate the recognition of things done in relation to controlled operations authorised under laws of other jurisdictions corresponding to this chapter; and

(c)to ensure, as far as practicable, only appropriately trained persons may act as participants in authorised operations; and

(d)to ensure a person who may act as a participant in an authorised operation engages in otherwise unlawful activities only as part of the authorised operation; and

(e)to provide appropriate protection from civil and criminal liability for persons acting under this chapter; and

(f)to clarify the status of evidence obtained by participants in authorised operations.

Patrick John Coleman [redacted]

[redacted]

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[redacted]