



# QUEENSLAND COUNCIL FOR CIVIL LIBERTIES

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Criminal Law (Criminal  
Organisations Disruption)  
Submission 001

18 November 2013

Mr Ian Berry MP  
Chair  
Legal Affairs and Community Safety Committee  
By email: [lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

Dear Mr Berry

RE: **CRIMINAL LAW (CRIMINAL ORGANISATIONS DISRUPTION) AND  
OTHER LEGISLATION AMENDMENT BILL**

I refer to the introduction of this Bill which occurred last night.

I note this Bill amends 23 Acts of Parliament but your Committee has been given a mere 24 hours to investigate the Bill, call for submissions, conduct hearings and report back to Parliament.

This situation is absolutely untenable and brings into play the serious dysfunctional aspects of Parliament which were referred to in the Fitzgerald Report which was presented to the then Premier Ahern on 3 July 1989.

The Fitzgerald Report had the following comments to make about the role of Parliament:

- "Parliament was meant to be the forum in which the necessity and worth of proposed laws ... can be debated. On such fundamental matters, whatever the expertise or inspiration of those in Government, they have a responsibility to invite and consider the counsel of those with differing views. Parliament is a forum for those differing views ... Any Government may use its dominance in the Parliament and its control of public resources to stifle and neuter effective criticism by the Opposition"<sup>1</sup>;

The Fitzgerald Report had the following comment to make about Parliamentary Committees:

- "Parliamentary Committees should have the power to conduct public hearings as well as the power to investigate and obtain information and documents ...

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<sup>1</sup> See Report of the Commission of Inquiry (Fitzgerald Report) at p123

*Watching them while they are watching you!*

The legislative process should allow sufficient time for the involvement of Parliamentary Committee<sup>2</sup>.

The Fitzgerald Report had the following comments to make about the Office of the Attorney- General and the Justice Department, namely:

- "... there has been no real critical assessment within the Government of draft legislation. Further there has been no mechanism by which fresh points of view could be expressed ... Bureaucrats had the last word and wrote the submissions and statements which went to Cabinet, the Party Room and Parliament. What is not said in those submissions, in their manner of expression, can be as important as what is said"<sup>3</sup>

Having regard to the above extracts from the Fitzgerald Report and in light of a report in the Courier Mail this morning that your Committee is required to report back by 10.00 am tomorrow, this Council urges you to protest in the strongest possible terms in your Report about the farce and charade that you are required to indulge in.

Your Committee cannot possibly examine, obtain submissions and report back to Parliament within 24 hours on 23 Acts which are the subject of the Amendment Bill.

Further the amendments to s16(3A) of the Bail Act have a real potential to cause miscarriages of justice. Reports that the recent judgement of Justice Margaret Wilson of the Queensland Supreme Court represents a loop hole in the Bail Act are simply untrue. The Explanatory Notes to the series of Acts including the amendment to the Bail Act that came into effect on 17 October 2013 expressly noted that it was the intention of the Government for those amendments to operate prospectively. The amendment to the Bail Act contained within the current Amendment Bill clearly has retrospective effect yet your Committee has been given no time to properly consider and report upon the negative consequences of such retrospectivity, including the ever present possibility of miscarriages of justice occurring.

The amendment to the Corrective Services Act creating a mandatory criminal organisation segregation order raises extremely serious issues concerning the treatment of prisoners.

Since the first tranche of anti bkie laws came into effect on 17 October 2013 this Council has received reports of prisoners who were progressing well in prison along a productive path to rehabilitation being placed effectively in solitary confinement as a result of being compelled to spend 23 hours a day in their cells.

There is a vast amount of literature that demonstrates the obvious in relation to effective solitary confinement conditions for prisoners. Such confinement regimes produce serious mental health problems.

The reality is if prisoners are treated as caged animals it follows that their behaviour will deteriorate to that of a caged animal and on release society will have to deal with the extremely negative effects of such incarceration.

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<sup>2</sup> Ibid at p125

<sup>3</sup> Ibid at p139

The fact that your Committee has been given no time to consider the important issues arising from the criminal segregation order is an absolute disgrace and an ugly blot reflecting the serious negative consequences of the current Government's huge majority in a unicameral Parliament.

This Council urges your Committee to refuse to participate in the farce and charade of being required within a total timeframe of 24 hours to call for submissions, investigate and report on such a large number of amendments to Acts but particularly the miscarriage of justice consequences of the amendment to the Bail Act and the very serious consequences of a criminal segregation order.

Kind regards

**QUEENSLAND COUNCIL FOR CIVIL LIBERTIES**



**TERRY O'GORMAN**  
**VICE-PRESIDENT**