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SUBMISSION QLD Human Rights Bill 2018

<https://www.parliament.qld.gov.au/work-of-committees/committees/LACSC/inquiries/current-inquiries/HumanRights2018>

<http://www.parliament.qld.gov.au/Documents/TableOffice/TabledPapers/2018/5618T1767.pdf>

THE HISTORY OF YOUR FAILURES TO ENACT A POSITIVE BILL OF RIGHTS AND STOP THE INFLUENCE OF BIG MONEY IS INDICATIVE OF YOUR INTENT WHEN IT COMES TO RIGHTS PROTECTIONS.

In the 1998 former LCARC Report No. 12 “Should Qld adopt a Bill of Rights” appendix was a full copy of the 1993 EARC Bill of Rights which included Environmental protection.

Report - No. 12, The preservation and enhancement of individuals' rights and freedoms in Queensland: Should Queensland adopt a Bill of rights?

<https://www.parliament.qld.gov.au/documents/committees/LJSC/1997/bill-of-rights/Report-12.pdf>

I refer you to the 2nd senate inquiry into an Australian Republic . There I drafted an environmental rights provision based on the EARC Bill and The South African Constitutional Provisions at p108 of my submission which was written as a law student. How hard could it have been for you to do something like that and make it free standing, enforceable by the citizen in court, with civil and criminal liability attached ? (Well...I suppose ask you factional warriors , donors and donor lobbyists hey??)

https://www.aph.gov.au/~media/wopapub/senate/committee/legcon_ctte/completed_inquiries/2002_04/republic03/submissions/sub727_pdf.ashx

Environment

18. (1) Everyone has the right -

(a) to an environment that is not harmful to their health or well-being; and

(b) to have the environment protected by the federal government, for the benefit of present and future generations, and reasonably conserved for its own intrinsic value,

through legislative and other measures that -

- (c) (i) prevent pollution and ecological degradation and loss of biodiversity;
- (ii) promote conservation
- (iii) promote justifiable economic and social development, consistent with this section.

(2) Any person has the right to object if the right in this section is not observed and the right to expect that government will accept and act on a reasonable objection.

(3) The actions or decisions of -

- (i) government; or
- (ii) the agents or bodies of government; or
- (iii) any court, tribunal or forum in republic, must be done or made in accordance with the precautionary principle.

(4) The precautionary principle is that lack of full scientific certainty should not be used as a reason for postponing a measure to prevent degradation of the environment where there are threats of serious or irreversible environmental or ecological damage.

You lot came up with every lame excuse against it because it costs government money when people are oppressed. You said it was gonna be a “lawyers picnic”.

You said constantly that it would limit the Ancient English Doctrine of Parliamentary Supremacy. Parliamentary Supremacy is stated by ancient cases referred to in the High Court of Australia as ‘..absolute despotic power which in all places must reside somewhere..’.

Kartinyeri v The CTH at par[12]-[13] <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/1998/22.html>

Qld doesn’t have an Upper House of Review and like a BOR you give lame excuses as to why not.

You are going to do what you are going to do. And nothing I say in this submission is gonna change that. You have refused to have a BOR before and in the 20 years since this state has lurched from one corruption scandal to another. And now you wish to create the illusion with the help of your cronies and QLD political and business mates mafia collaborators and whiney little labor greasy pole climbers – that are protecting human rights when you are reducing the limited protections and **REPRISAL** mechanisms we have now.

What is it you are hiding from?

You had massive majorities under the previous Beattie and Bligh governments. Yet you didn’t have it in your hearts to legalise abortion then. Some feminists! And what is it you labor feminist ladies say about making excuses about bad men, and if you are in a violent situation get out of it. LEAVE! I have identified the structures of oppression and its BLOODY YOU TOO. Your corrupt parties are an act of violence against the people and the environment.

Despite everything evidenced by history you didn’t call a royal commission into stolen wages and there were no Nuremburg like prosecutions of still living police and government officials who kept indigenous people in slavery whilst embezzling their pitiful wages. And you only

even then, offered a poultry \$4000 compensation ‘to those with docs’ when former pollies and the like could always pick up hundreds of thousands in bonuses.

It can be seen from the donations disclosures as compared to government actions , environmental approvals and awarding of government tenders how and what you have been using , and continue to use , that ‘absolute despotic power’ for.

The auditor general’s reports on tenders and commercial in-confidence proves that.

After the Inquiries into massive Qld local government corruption , the CCC’s Operation Belcarra and the Parliaments so called Implementing Belcarra Stage 1 and the Councillor Complaints Inquiry, Labor and the LNP took tens of thousands of donations from that cesspit of corruption -the LGAQ, which is publicly funded, and who had argued against the developer donations ban . This was a heist and a rort in my view.

<http://democracyforsale/search-aec/> and <https://disclosures.ecq.qld.gov.au>

That legislation was before parliament when you all took those donations. The outcome was that there was a 6 month delay till the “backdated developer donation ban” came into effect. And even then you arnt going to prosecute , you will only pay it back like a loan after it served your purpose and then redirect further developer money through lobbyists like [REDACTED], who pass on a sizable cut to your parties .

Just so happens they also represent miners who gave you unlawful foreign donations you didn’t get prosecuted for and people who want to take chunks of Marine Park and World Heritage areas. Which is another reason this bill doesn’t include positive environmental rights.

You held another recent expensive donations inquiry into the banning of corporate donations on top of the developer donation ban. In that Inquiry you unlawfully redacted and censored publicly available donations disclosures from your own websites that were used to explain why the bans should be widened . **I refer to the submissions here**

<https://www.parliament.qld.gov.au/work-of-committees/committees/EGC/inquiries/current-inquiries/ElectoralPolDonations2018> and mine is sub 13 . **How it they were unlawfully censored is here in my blogpost:**

RE-OPEN THE SUBMISSIONS TO THE QLD DONATIONS INQUIRY WITHOUT CENSORSHIP REDACTION OF DONOR MAFIA MATES !! - by Pat Coleman

[REDACTED]

You did this knowing it that whilst it was demonstrably unlawful, parliamentary privilege meant that it could not be mentioned in court. I am fully aware this is DONE AS A

PROVACATION TO GET ME TO SAY I WANT TO THROTTLE YOU OR SOMETHING. This won't work as there is a difference between how I think and what I do in these respects. Does your bill mean you have to publish them in full or a court can order it? Doubt it.

THE “ENFORCEMENT” PROVISIONS OF THE BILL

The first thing to be looked at in considering whether an act conferring rights actually protects them, is what actions a CITIZEN THEMSELVES may take against state actors or those acting on their behalf.

We go straight to s58-59 of the Bill .

Division 4 Obligations on public entities

58 Conduct of public entities

(1) It is unlawful for a public entity—

(a) to act or make a decision in a way that is not compatible with human rights; or

(b) in making a decision, to fail to give proper consideration to a human right relevant to the decision.

(2) Subsection (1) does not apply to a public entity if the entity could not reasonably have acted differently or made a different decision because of a statutory provision, a law of the Commonwealth or another State or otherwise under law.

Example—

A public entity is acting to give effect to a statutory provision that is not compatible with human rights.

(3) Also, subsection (1) does not apply to a body established for a religious purpose if the act or decision is done or made in accordance with the doctrine of the religion concerned and is necessary to avoid offending the religious sensitivities of the people of the religion.

(4) This section does not apply to an act or decision of a private nature.

(5) For subsection (1)(b), giving proper consideration to a human right in making a decision includes, but is not limited to—

(a) identifying the human rights that may be affected by the decision; and

(b) considering whether the decision would be compatible with human rights.

(6) To remove any doubt, it is declared that—

(a) an act or decision of a public entity is not invalid merely because, by doing the act or making the decision, the entity contravenes subsection (1); and

(b) a person does not commit an offence against this Act or another Act merely because the person acts or makes a decision in contravention of subsection (1).

59 Legal proceedings

(1) Subsection (2) applies if a person may seek any relief or remedy in relation to an act or decision of a public entity on the ground that the act or decision was, other than because of section 58, unlawful.

(2) The person may seek the relief or remedy mentioned in subsection (1) on the ground of unlawfulness arising under section 58, even if the person may not be successful in obtaining the relief or remedy on the ground mentioned in subsection (1).

(3) However, the person is not entitled to be awarded damages on the ground of unlawfulness arising under section 58.

(4) This section does not affect a right a person has, other than under this Act, to seek any relief or remedy in relation to an act or decision of a public entity, including—

(a) a right to seek judicial review under the *Judicial Review Act 1991* or the *Uniform Civil Procedure Rules 1999*; and

(b) a right to seek a declaration of unlawfulness and associated relief including an injunction, a stay of proceedings or an exclusion of evidence.

(5) A person may seek relief or remedy on a ground of unlawfulness arising under section 58 only under this section.

(6) Nothing in this section affects a right a person may have to damages apart from the operation of this section.

60 Entity may choose to be subject to obligations

(1) An entity may ask the Minister, in writing, to declare that the entity is subject to the obligations of a public entity under this division.

(2) If asked under subsection (1), the Minister must make the declaration by gazette notice.

(3) The Minister must, by gazette notice, revoke the declaration if asked in writing by the entity.

Despite s 14 of the bill which sets out :**14 Human rights are protected**

Nothing in this Act gives any person or other entity a right to limit to a greater extent than is provided for under this Act, or destroy, a human right of any person.

If the bill were to become law and were relied on in court anyway:

- s58(1) and (6) means the act doesn't allow you to clobber private prisons companies contracted by the state ;

- private security hired by the state or local councils;
- private security, companies contracted by public entities contracted by the state who are public entities under s9 and 10 ;
- The private company which has become a public entity can also tell the minister it doesn't want to have human rights obligations under 60(3).

USING THE BILLS FREEDOM OF EXPRESSION AND ASSOCIATION AS AN EXAMPLE OF RIGHTS BEING TAKEN AWAY

S21-23 OF THE BILL SETS OUT:

21 Freedom of expression

(1) Every person has the right to hold an opinion without interference.

(2) Every person has the right to freedom of expression which includes the freedom to seek, receive and impart information and ideas of all kinds, whether within or outside Queensland and whether—

- (a) orally; or
- (b) in writing; or
- (c) in print; or
- (d) by way of art; or
- (e) in another medium chosen by the person.

22 Peaceful assembly and freedom of association

(1) Every person has the right of peaceful assembly

(2) Every person has the right to freedom of association with others, including the right to form and join trade unions.

23 Taking part in public life

(1) Every person in Queensland has the right, and is to have the opportunity, without discrimination to participate in the conduct of public affairs, directly or through freely chosen representatives.

(2) Every eligible person has the right, and is to have the opportunity, without discrimination—


- (a) to vote and be elected at periodic State and local government elections that guarantee the free expression of the will of the electors; and
- (b) to have access, on general terms of equality, to the public service and to public office.

Freedom of expression and the right to protest on the street.

The current s5 of the Peaceful assemblies act sets out that 2 or more people are an assembly and have the positive right of assembly in a public place. If this is carried out in a manner which is not under the current laws- a breach of the peace , then it is not a public nuisance nor disorderly merely because its a protest or an act of peaceful political expression .

However , in a ‘Kafkaesque’ and ‘catch 22’ twist of legal gymnastical bureaucratic bullshit 1 person acting alone can be targeted by council laws that would have been otherwise unlawful by virtue of that section , or by rogue coppers or state hired security.

The Qld Court of Appeal upheld that 1 person was not protected by the peaceful assemblies act in Coleman v Sellars . The UNHRC Whilst upholding my right to freedom of expression under article 19 of the ICCPR for being prosecuted and gaoled for matters of reading out the UNDHR without a council permit, said that 1 person was not protected by freedom of assembly. Your bill does not set out how previous UNHRC decisions are to be implemented.

 Coleman v Australia <https://www.hrlc.org.au/human-rights-case-summaries/coleman-v-australia-hrc-communication-no-11572003-un-doc-ccprc87d11572003-10-august-2006>

At the moment 1 person can be targeted, although unlawfully, for public nuisance or a breach of the peace because of a lack of an enforceable statutory positive right under state law.

There are magistrates courts decisions, district court decisions, other court of appeal decisions and supreme court civil decisions that say that protest is not ipso facto unlawful and that such arrests can be resisted but a cop merely has to claim nuisance and you have to go through the rigmarole of fighting the cops and arguing your case at common law.

As your bill would have it if , during that unlawful arrest you are subjected to cruel or degrading treatment , you could neither sue a ‘public entity’ being a state actor , or claim a criminal offence has been committed IF THE ACT IS RELIED ON IN COURT.

You would have to state unequivocally at the beginning judicial proceedings you make no reliance on the act and you will fight it under existing provisions because if you did so you would be denied damages for false imprisonment and excessive force. And every act of resistance will have been for nothing.

You wont even be able to say that a cop discriminated against you and this was an ulterior motive . And will have to prove it in the usual ways which is difficult because you appoint acting beaks who are scared to challenge “authority” unless they don’t get the full gig.

This sort of situation is bound to increase violence for people to be able to gain a ‘remedy’ at first instance on the street straight away. And to have your protagonists medical info to nail to the door of the corrupt politicians who brought about the situation.

But here is another gymnastical way around that

The Crimes Act 1914 was amended to repeal the free standing right of protection from interference with political liberty that applied to “Any political Right” that used to be expressed in s28. This went through all jurisdictions. So, when they realised this old law was there they repealed it . It used to say :

“CRIMES ACT 1914 - SECT 28 Interfering with political liberty Any person who, by violence or by threats or intimidation of any kind, hinders or interferes with the free exercise

or performance, by any other person, of any political right or duty, commits an offence.

Penalty: Imprisonment for 3 years.”

Have a look at volume 2 here

<https://www.legislation.gov.au/Details/C2018C00274/Download>

http://www.austlii.edu.au/cgi-bin/viewdb/au/legis/cth/consol_act/ca191482/

Now you have to go through the rigmarole using s 4 , 9 and s327(1) of the CTH Electoral Act

http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/cth/consol_act/cea1918233/s327.html

“Interpretation” and legalese the court (cos the coppers will have arrested you now) to prove your protest or comments were an “electoral matter” and ss9 there that affects or is likely or calculated (O’Sullivan v Lunnon <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/1986/57.html>) to affect any election at any time based on the word “THE” meaning “ANY” election in s322 “interpretation” before you get protected by s 327 (1) that says **Interference with political liberty etc.** 327(1) A person shall not hinder or interfere with the free exercise or performance, by any other person, of any political right or duty that is relevant to an election under this Act. **Penalty:** Imprisonment for 6 months or 10 penalty units, or both.

What that mean again, is that people will have to refuse to refer to your act and instead use ;

- The freedom of communication ;
- Because s327 refers to ‘ANY’ political right , the ICCPR and common law cases ;
- The Criminal Code
- The common law definitions of breaches of the peace and recent decisions making it unlawful to arrest a protestor merely because they are protesting , for public nuisance (Subject to hate speech and the CTH Racial Discrimination Act)

Does the proposed bill enhance or protect voters rights ?

Let us refer to the Qld Electoral Act which used to allow for optional preferential voting. OPV allowed voters to refuse to vote for corrupt people and fascists, Nazis and religious nutters and people whom they otherwise didn’t like in their electorates by leaving their squares blank on the ballot .

You changed this so we couldn’t refuse to vote for you no more or we couldn’t vote at all .

The relevant parts of the new provision used in 2017 are as follows:

Electoral Act 1992 QLD123 Formal and informal ballot papers

<https://www.legislation.qld.gov.au/view/html/inforce/current/act-1992-028#sec.123>

(1) Subject to this section, for a ballot paper to have effect to indicate a vote for the purposes of this Act—

(b) the ballot paper must not contain any writing or mark (other than as authorised by this Act) by which the elector can be identified; and

(2) A ballot paper is taken to contain writing or marks that indicate the voter's intended order of preferences, even though the square opposite the name of 1 of the candidates has been left blank, if—

(a) the voter has written the numbers 1, 2, 3 and so on in all the squares opposite the candidates' names except for the blank square; and

(b) the numbers mentioned in paragraph (a) are consecutive numbers, without the repetition of a number.

(2A) A ballot paper mentioned in subsection (2) is taken to indicate that the candidate whose name is opposite the blank square is the voter's last preference.

Corruption buster Tony Fitzgerald rightly condemned this act of bastardry as being corrupt.

So, let us look at s 15, ss 21(1), 21(2)(b), 22(2) and s23 of your bill. If the bill said that a provision of an act was invalid to the extent of any inconsistency, then a court could direct the electoral commission to count formal any vote that was cast in the fashion of the previous OPTIONAL PREFERENTIAL MANNER because:

- A person has the right to vote in writing but express their right NOT TO EVEN RECOGNISE someone other than their first or consequent preferences;
- A corollary of the right to freely associate is the right to disassociate from people they don't like, or have personal information that requires them to exercise their conscience against at the ballot box. It is ironic that the consorting laws make it unlawful to associate with people after a police warning and you can commit an offence, but if you have no intention of associating with them and don't want to vote for them they force you to recognise them on the ballot for even your first preference to be valid; and
- We are unable, without discrimination, to cast our vote in the manner which we please, and exhaust our preference as we please to adhere to the preamble to the act and the lessons from our own, and world history.

But, alas, all that is another illusion and we have to resort to the constitutional implication of freedom of communication.

Access, on general terms of equality, to the public service and to public office. BUYING INFLUENCE A BREACH OF HUMAN RIGHTS.

The existing general constitutional law as regards to equality of access to government :

The High Court of Australia Held in *Nationwide News* (1992) 177 CLR 1 that there is an implied right to access the seat of government at p 60, 72, 73, and 74

<http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/1992/46.html>

- There are also discussions about freedom of movement in *Kruger v Commonwealth* ("Stolen Generations case") [1997] HCA 27; (1997) 190 CLR 1; (1997) 146 ALR 126; (1997) 71 ALJR 991 (31 July 1997) <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/1997/27.html>

The Supreme Court of Qld said in *Coleman v Watson and The State of Qld and Ors* Its a fundamental right to access the parliament, Justice Cullinane intentionally did not explain where he got that from to "DILUTE" my precedent ;

Coleman v Watson and The State of Qld and Ors <http://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/qld/QSC/2007/343.html>

<http://cynicismcentral.pvthosting.net/watsonmagistratesday1p1-86.pdf.pdf> for evidence and circumstances but day 2 in court for final submissions Townsville Magistrates Court File Number 0332003 D.2 T21/RTN M/T TSV7600 (HILLAN MAGISTRATE) p 112-135 <http://cynicismcentral.pvthosting.net/day2.pdf>

The High Court further held in *McCloy v NSW* [2015] HCA 34 (7 October 2015) there must be **equality of access to government** They upheld the NSW ban on developer donations . They were against the Americanisation of donations. It was said at par [93] "*...the public interest in removing the risk and perception of corruption is evident. These are provisions which support and enhance equality of access to government, and the system of representative government which the freedom protects. The restriction on the freedom is more than balanced by the benefits sought to be achieved.*"

<http://www.austlii.edu.au/au/cases/cth/HCA/2015/34.html>

The Qld Court of Appeal 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) <http://www.austlii.edu.au/au/cases/qld/QCA/2003/249.html>

- Derived from this is the political right to access the seat of government and its services on the basis of equality. This cannot be legislated away and I feel this is a new area of litigation.
- You favour donors who get what they want , wreck the environment and when people come up against this , coppers who are under pressure will use excuses to breach peoples human rights to protest against it . But catch 22 , they cant use this act or they will do themselves out of damages.

- It is clear that laws and actions that enhance the perception that corruption is evident, say, like compulsory preferential voting, or allowing foreign or corporate donations, and donors seeking tenders are increasingly held in low regard by the High Court. But you have to get it into court.
- It is clear from your bill that you are seeking to protect your donors who become public entities . Under your bill they can opt out of human rights protections and cant be civilly or criminally prosecuted by using the act. Commercial in-confidence protects the arrangements from being public or the fact that it was a simple dodgy pay off that got them the gig and the terms of the contracts would expose that.
- Your bill , **s17 Protection from torture and cruel, inhuman or degrading**

treatment

A person must not be—

- (a) subjected to torture; or
- (b) treated or punished in a cruel, inhuman or degrading way; and
 - **S 30 Humane treatment when deprived of liberty sets out :**

(1) All persons deprived of liberty must be treated with humanity and with respect for the inherent dignity of the human person.

Yet the motives of the private prisons industry are those of profit. Thus prisoners guilty or not, awaiting trial, become property and commodities like slaves. This is inhuman, cruel and degrading. It affects the innocent not adjudged as well as those who are guilty.

And despite everything your bill says about that, no law will be overturned by it. Imprisonment must be done by the state alone.

THE EQUALITY PROVISIONS IN PROCEEDINGS

I refer to s32 and 33 of your bill. Because people are want to be poor and get arrested enforcing their human rights , it is as stated before a matter of course they end up in court . Invariably it is the magistrates court.

If you are brought before the District Court you get a free transcript, Yet if you fight a trial in the magistrates court , as I have done many times , you are not allowed to film or have a free transcript of proceedings . You are forced to buy your own words back . it doesn't help that they are expensive and reporting has been privatised . Thats cos they have an interest in not allowing you access without payment because of their profit motive. And you have an interest because of their donations.

- Because matters of evidence can swing on verbals it is necessary to have transcript to refer to in final submissions because your fate hangs upon it.;

- Because a civil trial will result from flogging coppers below , you need your record evidence from below and you may have no money . Even if you have won you need something to help you find a lawyer . But that would cost money .
- Not having transcripts or a complete record of proceedings to refer to is a breach of procedural fairness in those proceedings based on you lack of means (Kalifeh v District Court Judge Job (1996) 85 ACRIMR 68 at 69)
- There is nothing stopping a justice from ordering you be allowed to film the proceedings in the interests of justice, subject to the current exclusions . However, though your bill , if it said that any law or action is invalid to the extent of any inconsistency would force them to allow you to film proceedings as a record at no cost , and , though you could refer to the equality provisions to interpret current provisions , you would be denied compo cos you used the act in court .
- The inexpensive option is to allow people to organise the filming of their proceedings , or amend the Justices Act 1886 to make it compulsory for the state to do so and supply a disk at no or at nominal cost like you would in an RTI application. It will work itself out. But your bill fails because of the reasons provided. It should be amended and the justices act should be amended to make all the provisions freestanding and enforceable with civil and criminal liability attached.

Equality and right to information

A person who is impecunious is more than likely skint from having to fight the state , and having to pay an up front fee for matters concerning their personal affairs . Obtaining this information during trials and before civil proceedings , or to assist in the complaints process is as crucial as discovery. s34 and other provisions relating to time costings of the Right to information act should either be amended to get rid of all fees for personal affairs or the provisions of your bill must be made free standing and enforceable with civil and criminal liability attached .

Civil liability of police in QLD

Because your bill would seemingly negate civil or criminal liability attaching to police, if referred to , and the previous provisions of the Police Service Administration Act 1990 made it impossible to get both coppers and the state for exemplary damages , that act , s10.5 should be amended to state unequivocally that both police and the state are civilly liable if they are not acting in the course of lawful duty for the 3 heads of damages in tort , being general , aggravated and exemplary damages to teach the state that tort doesn't pay . This would put the common law where it is supposed to be in QLD. Your bill should be amended to make freedom of expression free standing so that it reflects unequivocally that it is nor part of the states duty to stop non fascist expression .

PRIVATE PROSECUTIONS

Because you would, with your bill , seek to limit **REPRISALS** by citizens against state entities , or non state entities who happen to be donors who don't recognise lefty greenie freedom of protest against corruption , it is necessary to rearrange the criminal code provisions relating to private prosecutions to make it easier from them to be brought against your donors and state actors .

After all , they pay your way , you make the laws regarding police activities , the way we vote , who gets appointed to the DPP , the definitions of corruption , the enforcement of electoral offences , or the manner in which the state doesn't act at all against itself . Surely , this is what is needed cos you are all paid by the same people and their lobbyists to do the same dodgy stuff that leads to rights infringements in the first place ...Catch 22!!

Pat Coleman

[REDACTED]

[REDACTED]

[REDACTED]