




Speech By
Jason Hunt

MEMBER FOR CALOUNDRA

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**CRIMINAL CODE (SERIOUS VILIFICATION AND HATE CRIMES) AND OTHER
LEGISLATION AMENDMENT BILL**

 **Mr HUNT** (Caloundra—ALP) (12.25 pm): I rise to make this contribution on the Criminal Code (Serious Vilification and Hate Crimes) and Other Legislation Amendment Bill 2023. As always I would like to thank my fellow committee members: Peter Russo, member for Toohey; Jonty Bush, member for Cooper; Sandy Bolton, member for Noosa; Laura Gerber, member for Currumbin; and you, Deputy Speaker Krause, the member for Scenic Rim. Our hardworking secretariat worked incredibly hard to ensure every stakeholder had a chance to make a valuable contribution, as they always do.

The committee conducted an inquiry into serious vilification and hate crimes in 2021, reporting to the Legislative Assembly on 31 January 2022. For a detailed consideration of the definition of 'hate crimes, vilification and serious vilification', members can refer to chapter 2 of report No. 22. Report No. 22 made 17 recommendations. This bill relates to a number of these recommendations. The committee recommended—

... the Queensland Government investigate the viability of removing the requirement for the written consent of a Crown Law officer before commencing a prosecution for serious vilification.

The committee recommended—

... the Queensland Government introduce a statutory aggravation regarding hate/serious vilification into the *Criminal Code Act* ... and *Summary Offences Act* ... to apply to criminal conduct.

The committee recommended—

... the Queensland Government relocate section 131A from the *Anti-Discrimination Act 1991* ... into the *Criminal Code* ...

The committee recommended—

... the Queensland Government establish a criminal offence that prohibits the display of hate symbols, including those relating to Nazi and ISIS ideology, with considered exceptions to the prohibition.

The bill was introduced by the then attorney-general, Shannon Fentiman, in March this year and referred to our committee for consideration. This government values the voices of people from ancient cultures. This amendment bill is testament to that. The committee process allows for a voice. A voice is a very important thing. We have been conditioned to believe that we are all the same under the sun when in fact this is utterly incorrect. We are most certainly not all the same. We are different in a multitude of ways. We look different, we speak differently, we dress differently, we eat different foods, we enjoy different music and festivals, and we value different human qualities. These differences may be the result of religious belief, nationality, sexual orientation, gender or gender identity, or disability. The point is that we are most assuredly not all the same. We are hugely and splendidly different and our differences are worthy of celebration, but these differences also need protection.

Clause 12 of the bill introduces new section 52B, 'Circumstances of aggravation for particular offences', into the Criminal Code which creates a new circumstance of aggravation for existing offences in the Criminal Code that are prescribed in new subsection 52B(2). The circumstance of aggravation is to apply when the offender in committing the offence is wholly or partly motivated by hatred or serious contempt for a person or group of persons based on the person's or group of persons' actual or presumed race, religion, sexuality, sexual characteristics or gender identity, or the actual or presumed race, religion, sexuality, sex characteristics or gender identity.

Whilst supportive, many submitters would have liked the overall scope of the bill expanded. These submitters included the Queensland Human Rights Commission, Queensland Legal Service, Caxton Legal Service, Respect Inc and the Scarlet Alliance. Equality Australia, for example, raised the issue of serious vilification or hate crimes committed on mistaken beliefs or stereotypes related to protective attributes. They said—

Take for example an offender who attacks a drag artist by wrongly associating them with paedophilia or grooming. This has been a common basis of attack recently experienced by members of our communities. For example, in January 2020, a group of university students charged into the Brisbane Square Library where a Drag Queen story time event was being held, chanting 'drag queens are not for kids'.



Mr HUNT (Caloundra—ALP) (3.11 pm), continuing: I was referring to the submission from Equality Australia. They said—

... a group of university students charged into the Brisbane Square Library where a Drag Queen story time event was being held, chanting 'drag queens are not for kids'. The event caused extreme distress for children and parents in attendance.

It seems ever the case that drag queens are the target of the ignorant who deal exclusively in malice. Fortunately, the department was able to provide some measure of reassurance. In relation to crimes committed on the basis of mistaken or false beliefs or stereotypes related to projected attributes, DJAG stated—

The way the provision—

meaning section 52B—

is drafted at the moment is that the offence ... To the extent whether or not an attribute which is falsely attributed to a group is captured, I suppose practically speaking that would come down to the facts and circumstances of the case. The department's position is that it is broad enough or open enough as is to potentially capture such circumstances, but it would really be dependent on the facts and circumstances of an individual case.

The bill further proposes to increase the maximum penalty for serious vilification from six months to three years, and many of the submitters were supportive of that change. The Queensland Human Rights Commission stated that the current maximum penalty of six months imprisonment does not reflect the seriousness of the offence or community condemnation of the act, while Multicultural Australia considered that the maximum penalty appropriately reflects the seriousness of the offence and aligns with the incitement of violence laws.

The Multicultural Queensland Advisory Council stated that the maximum penalty should be reserved for serious forms of vilification and there should be greater utilisation of restorative pathways, focusing on rehabilitation. The Queensland Human Rights Commission noted that, while the maximum penalty is less than three years imprisonment, police are unable to obtain the necessary warrant to preserve online and telecommunication evidence.

In the same way, the test set out in section 52B relating to circumstances of aggravation for particular offences is that the offender was wholly or partly motivated to commit the offence by hatred or serious contempt for a person or group of persons. On this point, Multicultural Australia stated—

We particularly support the introduction of the test for the application of the circumstance of aggravation in clause 52B as one based on the whole or partial motive of the offender. We consider that this test provides clarity and guidance for police and the community about hate crime—

One element of the bill that I particularly applaud is that the bill proposes to introduce a new section 52C, prohibited symbols, into the Criminal Code, which establishes a framework to proscribe symbols or images that are representative of an ideology of extreme prejudice against a relevant group. The offence is intended to capture a broad range of circumstances, including the public display of tattoos and the public distribution or publication of prohibited symbols online. Naturally it is understood that there will be a need for exemptions for this new section. They will include: a genuine artistic, religious, educational, historical, legal or law enforcement purpose; a public interest purpose; or to

oppose the ideology represented by the prohibited symbol. Hate symbols can cause significant distress, particularly to persons from persecuted communities. In the context of the Nazi Hakenkreuz, the report also noted a submission from the Queensland Jewish Board of Deputies that public displays of such hate symbols—

... impacts the sense of safety and security of all Queenslanders, including those who are members of groups and communities that have historically been the targets of Nazi policies of genocide, mass murder and other forms of persecution, such as Jews, Roma people, the disabled and LGBTIQ people.

The public display of symbols that are solely or substantially representative of an ideology of extreme prejudice against particular groups causes significant harm. Such symbols represent hate, genocide and trauma.

It seems beyond staggering to me that, even in this day and age when everyone is essentially carrying a library in their pocket, we have to recycle a few key points to those who champion absolutely unrestricted free speech. So just to reiterate to those who apparently spent their history lessons eating glue, Nazis were bad. To those who follow their beliefs today, they are bad too and they absolutely do not have the right to spread their vile ideology in 21st century Australia.

I said at the outset that we are not all the same, that we are in fact stupendously different and that difference is and should be a constant source of wonder, but there are centuries of conditioning to overcome. The Latin word for enemy is 'hostis', from where we get the word 'hostile'. The Latin word for foreigner is also 'hostis'. From early antiquity, we have tended to think that that which is foreign is to be equated with that which is to be feared—fear which so easily boils down into hate. This bill will not eliminate that hate but then it does not have to. If I could paraphrase the poet Robert Browning, in this instance our reach should exceed our grasp. This bill will hold haters to account, and for that reason I commend it to the House.