



HIGH COURT OF AUSTRALIA

13 September 2023

CRIME AND CORRUPTION COMMISSION v CARNE [2023] HCA 28

Today, the High Court dismissed an appeal from the Court of Appeal of the Supreme Court of Queensland. The appeal raised two issues. First, whether s 8(1) of the *Parliament of Queensland Act 2001* (Qld) ("the POQ Act") precluded the Court of Appeal from making a declaration concerning a "Report" prepared by the Crime and Corruption Commission ("the Commission"), because if the preparation and presentation of the Report were "proceedings" in the Legislative Assembly of Queensland they could not be impeached or questioned in any court. Secondly, whether the Report was a "report" for the purposes of s 69(1) of the *Crime and Corruption Act 2001* (Qld) ("the CC Act").

In June 2018, the Commission received an anonymous complaint against the respondent, who at that time was the Public Trustee of Queensland. The complaint alleged that the respondent had been involved in corrupt conduct and was guilty of maladministration. The Commission commenced an investigation into the allegations. Ultimately, the investigation resulted in the Commission taking two actions under the CC Act: referring certain information to the Attorney-General; and making several recommendations to the Acting Public Trustee as to the operation of the Public Trust Office.

Following the investigation, the Commission prepared the Report, which it sought to make public by tabling it in the Legislative Assembly with the assistance of the Parliamentary Crime and Corruption Committee ("the Committee"). The Committee is the Commission's parliamentary oversight body. The Commission requested that the Committee, pursuant to s 69(1)(b) of the CC Act, direct that the Report be given to the Speaker of the Legislative Assembly. The respondent brought proceedings in the Supreme Court to prevent the tabling of the Report. Although the Committee deferred consideration of the request for the s 69(1)(b) direction until the proceedings were concluded, it did issue a certificate under s 55 of the POQ Act certifying that the Report was a document prepared for the purposes of, or incidental to, transacting business of the Committee under s 9(2)(c) of the POQ Act. Section 8 of the POQ Act provided that "proceedings in the Assembly" could not be impeached or questioned in any court, and s 9 defined "proceedings in the Assembly" to include "all words spoken and acts done in the course of, or for the purposes of or incidental to, transacting business of the Assembly or a committee".

At first instance, the respondent's application for relief was dismissed. However, this was overturned on appeal. A majority of the Court of Appeal found that the Report was not a report for the purposes of s 69(1) of the CC Act, making a declaration to that effect.

The High Court held that, in respect of the first issue, on the facts, the preparation and presentation of the Report were not brought within the scope of "proceedings" in the Legislative Assembly. This was because the Report was not prepared for, or presented to, the Committee for the purposes of transacting the business of the Committee; it was prepared by the Commission and presented to the Committee for the Commission's own purpose of making the Report public. Consequently, parliamentary privilege did not attach to the Report. The s 55 certificate did not alter this

conclusion. Secondly, the Report is not a report to which s 69(1) of the CC Act applies. Indeed, no provision of the CC Act authorised the production of the Report.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*