HIGH COURT OF AUSTRALIA

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Important Information

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IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY NO B66 OF 2022

BETWEEN:

CRIME AND CORRUPTION COMMISSION
Appellant

and

PETER DAMIEN CARNE
Respondent

APPELLANT'S SUBMISSIONS

Fled on behalf of the appellant
2 February 2023

Part I: Publication

1. These submissions are in a form suitable for publication on the internet.

Part II: The issues

2. There are three issues presented by this appeal. *First*, where parliament asserts an established privilege, can the court enquire beyond that? *Second*, in any event, is the appellant's ("**the Commission**") report about a corruption investigation which was prepared for and submitted to its supervising parliamentary committee part of the "proceedings in the Assembly" and therefore privileged under ss 8 and 9 of the *Parliament of Queensland Act 2001* (Qld) ("**the Parliament Act**")?

10 3. *Third*, does the Commission have power under the *Crime and Corruption Act 2001* (Qld) ("**the Act**") to report about its investigation of suspected "corrupt conduct" even if the conduct, once investigated, is not found to be "corrupt conduct".

Part III: Section 78B of the *Judiciary Act 1903* (Cth)

4. It is not necessary to give notice under s 78B of the *Judiciary Act 1903* (Cth).

Part IV: Citations

5. The citation for the decision of the Court of Appeal of the Supreme Court of Queensland is: *Carne v Crime and Corruption Commission* (2022) 405 ALR 166; [2022] QCA 141. The citation for the decision of the Supreme Court of Queensland is: *Carne v Crime and Corruption Commission* [2021] QSC 228.

20 ## Part V: Facts[1]

6. The respondent ("**Mr Carne**") is a former Public Trustee of Queensland.

7. The Commission is a permanent anti-corruption commission.[2] The Parliamentary Crime and Corruption Committee ("**the PCCC**") is the Commission's supervising parliamentary committee.[3] As a standing committee of the Legislative Assembly of Queensland, it is a "committee" for the purposes of the Parliament Act.[4]

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1 In the proceedings below, the parties agreed a statement of facts which is extracted in part at QCA [89] at CAB 87-89.
2 The Commission is established under s 220 of the Act.
3 Act, ss 9, 291, 292.
4 Parliament Act, Schedule, definition of "committee"; Act, ss 9, 291.

8. This appeal concerns a report prepared by the Commission after an investigation into allegations of "corrupt conduct" against Mr Carne.[5] The investigation did not result in criminal charges.[6] A "show cause" disciplinary process ended when he resigned.[7]

9. After the investigation, the chairperson of the PCCC and the Commission's chairperson discussed a proposed report.[8] A draft report was then prepared. It was provided to Mr Carne, who made confidential submissions challenging the Commission's power to prepare it.[9]

10. The report did not find "corrupt conduct" involving Mr Carne. The report records the complaint; the decision to investigate and the evidence; a referral of allegations to the Attorney-General and to another institution; a consideration of whether the allegations could, if proven, amount to criminal offences; and recommendations.[10]

11. Before the proceeding started, the Commission submitted the report to the PCCC's chairperson and requested the PCCC to direct, pursuant to s 69(1)(b) of the Act, that the report be given to the Speaker.[11] The report is in the possession of the PCCC.[12]

The proceedings at first instance

12. Mr Carne sought a declaration in the Supreme Court of Queensland that the report was not a report for the purposes of s 69(1) of the Act. The PCCC agreed not to give a direction under s 69(1)(b) of the Act during these proceedings.[13]

13. The chairperson of the PCCC issued an evidentiary certificate under s 55 of the Parliament Act. The certificate certified that the report was a document prepared for the purposes of, or incidental to, transacting business of the PCCC under s 9(2)(c) of the Parliament Act; and that it was a document presented or submitted to the PCCC.[14]

14. Mr Carne contended that because the report did not make a finding of "corrupt conduct" and did not relate to a public hearing, it was not a report for the purposes of s 69.

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5 QCA [89] at CAB 87-89.
6 QCA [89(o), (p)] at CAB 88.
7 QCA [89 (f), (j), (r)] at CAB 87-88.
8 QCA [89(q)] at CAB 88.
9 QCA [89(s) to (y)] at CAB 88-89.
10 TJ [36]-[54], QCA [125] at CAB 16-22, 97-98.
11 QCA [89(aa)] at CAB 89.
12 QCA [89(aa)] at CAB 89.
13 The Commission requested the PCCC to refrain from considering a direction: QCA [89(cc), (ee)] at CAB 89.
14 TJ [123]; QCA [79]-[80], [174] at CAB 46, 85, 107. The s 55 certificate was also in the statement of agreed facts but that part is not extracted at QCA [89] at CAB 87-89.

15. The Commission's case was that the report was part of the "proceedings in the Assembly" under the Parliament Act and was protected by parliamentary privilege. It was therefore not justiciable. The Commission also contended that it could prepare the report under s 64 of the Act and its preparation was within the Commission's corruption (s 33) and prevention (s 24) functions.

16. Davis J made two relevant factual findings. *First*, the report was, as a matter of fact, prepared with the intention of delivery to the PCCC and was in fact delivered to the PCCC.[15] *Second*, the report was a document which had been prepared "for the purposes of, or incidental to, transacting business of the [PCCC]", namely, the submission of the report to the PCCC.[16]

17. These findings led Davis J to conclude that the report was part of the "proceedings in the Assembly" under s 9 of the Parliament Act and, accordingly, parliamentary privilege attached to the report.[17] Mr Carne appealed these factual findings but they were never overturned.[18]

18. Davis J also determined that, in any event, the Commission had power to prepare the report and that it was a report for the purposes of s 69 of the Act.[19]

The proceedings in the Court of Appeal

19. Mr Carne appealed against the orders of the primary judge.[20] The Court of Appeal (McMurdo and Mullins JJA; Freeburn J dissenting) allowed the appeal and declared that the report "is not a report for the purposes of s 69(1) of the Act".

20. The majority held that the corruption functions in s 33 of the Act are functions "for corruption".[21] They corruption functions did not address conduct which was not "corrupt conduct".[22] Other than a report under s 49 to the relevant authorities, there was no provision by which the Commission could report on the investigation.[23] The Commission could not report under s 64 of the Act absent a finding of "corrupt

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15 TJ [121], [141] at CAB 46, 50.
16 TJ [138], [141] at CAB 49, 50.
17 TJ [120], [121], [130] at CAB 45-46, 48.
18 Notice of Appeal, ground 3 at CAB 61; QCA [79]-[81] at CAB 85.
19 TJ [121], [153]-[155] at CAB 46, 52-53. Davis J handed down a public judgment that redacted the content of the report at TJ [36]-[54] at CAB 16-[22] and an unredacted judgment to the parties.
20 The Notice of Appeal is at CAB 60-64. The respondent conceded in ground 1 that parliamentary privilege protected the "presentation and submission" of the report to the PCCC.
21 "Corruption" is defined as "corrupt conduct" and "police misconduct": Schedule 2 of the Act.
22 QCA [26], [58] at CAB 72, 80.
23 QCA [34], [56] at CAB 74, 80.

conduct".[24]

21. Finally, the majority held that because the Commission did not have power to prepare it, the report was not protected by parliamentary privilege.[25] Freeburn J dissented and concluded that the Commission had power under s 64 to prepare the report[26] and that it was protected by parliamentary privilege.[27]

Part VI: Argument

Summary

22. The Commission prepared a report and submitted it to the PCCC. It is now in the PCCC's possession. For those reasons, the report and its preparation are part of the "proceedings in the Assembly" and are privileged under the Parliament Act. The Court of Appeal's contrary conclusion impermissibly intruded on the fundamental protections of the parliament. There was no basis to do so in the Parliament Act, s 69 of the Act or otherwise (**Part A**).

23. Further, the report was prepared as part of the Commission's corruption and prevention functions and under a general reporting power in the Act. It was contrary to the text, context and purpose of the Act for the Court of Appeal to find that the Commission had no power to report on its investigation absent a finding of "corrupt conduct" (**Part B**).

PART A: Parliamentary privilege

24. Parliamentary privilege is "a bulwark of representative government".[28] It refers to the essential rights and immunities for the proper operation of the parliament. Those rights and immunities allow parliaments to "meet and carry out their proper constitutional roles, for committees to operate effectively, for Members to discharge their responsibilities to their constituents and for others properly involved in the parliamentary processes to carry out their duties and responsibilities without obstruction or fear of prosecution".[29] The privilege belongs to the parliament as a whole

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24 QCA [58], [64], [68] at CAB 80, 81, 82.
25 QCA [15], [81] at CAB 68, 85.
26 QCA [125], [139] at CAB 97, 101. Freeburn J's reasoning is at [125] to [139]: CAB 97 to 101.
27 QCA [141], [183] at CAB 101, 108. Freeburn J's reasoning is at [141] to [151]: CAB 101 to 102.
28 *Rowley v O'Chee* [2000] 1 Qd R 207 (***Rowley***) at 218 (McPherson JA, Moynihan J (as his Honour then was) agreeing).
29 Elder (ed), *House of Representatives Practice* (House of Representatives, 7th ed, 2018) (***House of Representatives Practice***), p 733. See also Evans (ed), *Odgers' Australian Senate Practice*, (House of Representatives, 14th ed, 2016) (***Odgers' Australian Senate Practice***), p 41; Erskine May, *Parliamentary Practice* (25th ed, 2019) (***Erskine May***), [12.1].

and not individual members.[30] It cannot be waived except by legislation.[31]

25. The most fundamental aspect of parliamentary privilege is the absolute freedom of speech and debate.[32] Its long history dating from at least the 15th century bears on the scope of the privilege today.[33] Significantly, in 1689, the Parliament at Westminster passed the Bill of Rights 1688.[34] The Bill of Rights relevantly declared "[ancient] Rights and Liberties" following intrusions into the parliament's province by the Crown during the reigns of Charles I and James II.[35] These intrusions included the prosecution of Members of Parliament for making seditious speeches in the parliament.[36] By article 9, the Bill of Rights asserted:

> That the Freedome of Speech and Debates or Proceedings in Parlyament ought not to be impeached or questioned in any Court or Place out of Parlyament.

26. The purpose of article 9 was "to ensure that Members of Parliament were not subjected to any penalty, civil or criminal for what they said and were able, contrary to the previous assertions of the Stuart monarchy, to discuss what they, as opposed to the monarch, chose to have discussed".[37]

27. Having remained in force for over 300 years, article 9 is a "provision of the highest constitutional importance".[38] It is part of a "wider principle" that enshrines the separation of powers.[39] In *Prebble v Television New Zealand Ltd*, the Judicial Committee of the Privy Council observed that this wider principle does not allow any challenge to what is said or done by the parliament:[40]

> In addition to article 9 itself, there is a long line of authority which supports a wider principle, of which article 9 is merely one manifestation, viz. that the courts and Parliament are both astute to recognise their respective constitutional roles. So far as the courts are concerned they will not allow any challenge to be

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30 *Sankey v Whitlam* (1978) 142 CLR 1 at 37 (Gibbs ACJ); *Erglis v Buckley* [2006] 2 Qd R 407 (***Erglis***) at [31] (McPherson JA, Dutney J agreeing), [101] (Jerrard JA).

31 *Arena v Nader* (1997) 42 NSWLR 427 at 437; *Arena v Nader* (1997) 71 ALJR 1604. See also *R v Chaytor* [2011] 1 AC 684 (***Chaytor***) at [61] (Lord Phillips, Lord Hope, Lady Hale, Lord Brown, Lord Mance, Lord Collins, Lord Kerr and Lord Clarke agreeing).

32 *House of Representative Practice*, p 737; *Odgers' Australian Senate Practice*, pp 45-47; House of Lords and House of Commons, *Parliamentary Privilege – First report* (UK Parliament, 1999) at [36].

33 See generally Erskine May, [12.3]-[12.8]; Lock, 'Parliamentary privilege and the courts: the avoidance of conflict' (1985) *Public Law* 64.

34 1 Will & Mary, sess 2, c 2 (**Bill of Rights**).

35 Bill of Rights, chapeau to Articles.

36 See, for example, *Sir John Eliot's Case* (1629) 3 St. Tr. 294.

37 *Pepper v Hart* [1993] AC 593 (***Pepper***) at 638.

38 *Pepper* [1993] AC 593 at 638.

39 [1995] 1 AC 321 (***Prebble***) at 332; See also *Pickin v British Railways Board* [1974] AC 765 at 788 (Lord Reid).

40 [1995] 1 AC 321 at 332.

> made to what is said or done within the walls of Parliament in performance of its legislative functions and protection of its established privileges. …

28. This principle, also known as "exclusive cognisance", refers to the "exclusive right of each House[41] to manage its own affairs without interference from the other or from outside Parliament".[42] But this principle does not allow mistakes, misdemeanours and contempts in the parliament to be left unchecked. Rather, the separation of powers ensures that the parliament decides how to respond to and enforce those matters.[43]

29. Parliaments in each state, territory and the Commonwealth routinely confirm the privilege.[44] It is upheld worldwide including in Canada,[45] India,[46] Malaysia,[47] New Zealand,[48] South Africa[49] and the United States of America.[50]

30. Before federation, the Australian colonies endowed their legislatures and members

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41 The Parliament of Queensland has only one house: *Constitution Amendment Act 1921* (Qld).

42 *Chaytor* [2011] 1 AC 684 at [61] (Lord Phillips, Lord Hope, Lady Hale, Lord Brown, Lord Mance, Lord Collins, Lord Kerr and Lord Clarke agreeing); see also *Rann v* Olsen (2000) 76 SASR 450 at [116]-[120] (Doyle CJ, Mulligan J agreeing).

43 *Richards* (1955) 92 CLR 157 at 162, 169-170 (Dixon CJ for the Court); *Egan* (1998) 195 CLR 424 at 455-456 (Gaudron, Gummow and Hayne JJ), 458-462 (McHugh J), 514 (Callinan J); *Halden v Marks* (1995) 17 WAR 447 (***Halden***) at 462 (the Court); *Armstrong v Budd* (1969) 71 SR (NSW) 386; *House of Representative Practice*, p 733; *Odger's Australian Senate Practice*, p 95; Erskine May, [11.16]; As to contempt, see Parliament Act, ss 38-39.

44 See, for example, *Queensland Parliamentary Procedures Handbook* (2020), pp 71-72; *Odgers' Australian Senate Practice*, ch 2; *House of Representatives Practice*, ch 20; *NSW Legislative Assembly Practice, Procedure and Privilege* (edition currently under review), pt 2, ch 1; *Companion to the Standing Orders of the Legislative Assembly for the Australian Capital Territory*, (2022, 2nd ed), ch 2.

45 See, for example, *Constitution Act 1867* (Can), preamble, s 18; Bosc and Gagnon (eds), *House of Commons Procedures and Practice* (House of Commons, 3rd ed, 2017), ch 3; *Re Ouellet (No 1)* (1976) 67 DLR (3d) 73 (CS); *New Brunswick Broadcasting Co v Nova Scotia (Speaker of the House of Assembly)* [1993] 1 SCR 319; *Harvey v New Brunswick (Attorney-General)* [1996] 2 SCR 876; *Canada (House of Commons) v Vaid* [2005] 1 SCR 667.

46 See, for example, *Constitution of India* (India), art 105; *Rao v State* (1998) 4 SCC 626; Parliament of India, *Manual of Parliamentary Procedures in the Government of India*" (Ministry of Parliamentary Affairs, 5th ed, 2019), [17.2.5], pp 128-129.

47 See, for example, *Federal Constitution* (Malaysia), arts 63, 72; *Houses of Parliament (Privileges and Powers) Act 1952* (Malaysia), ss 3, 32, 33.

48 See, for example, *Parliamentary Privilege Act 2014* (NZ); Harris et al (eds), *McGee Parliamentary Practice in New Zealand*, (Oratia, 4th ed, 2017), pp 706-719; *Prebble* [1995] 1 AC 321; *Attorney-General v Leigh* [2012] 2 NZLR 713.

49 See, for example, *Constitution of the Republic of South Africa Act 1996* (RSA), ss 58, 71, 117; *Powers, Privileges and Immunities of Parliament and Provincial Legislatures Act 2004* (RSA), s 6; Parliament of South Africa, *National Assembly Guide to Procedure 2004* (2004), pp 5-6.

50 See, for example, *Constitution of the United States* (US), art 1, sec 6; House of Representatives, *House Rules and Manual: Constitution, Jefferson's Manual, and the Rules of the House of Representatives, 116th Congress* (US Government Publishing Office, 2019), pp 46-48; *United States v Johnson* (1966) 383 US 169; *United States v Brewster* (1972) 408 US 501; *Eastland v United States Servicemen's Fund* (1975) 421 US 491; *Kilbourn v Thompson* (1880) 103 US 168.

with the same privileges of the House of Commons;[51] as did the Commonwealth on federation.[52] The Commonwealth and state legislatures continue to have constitutional and legislative provisions intended to preserve the privileges of the House of Commons, including those privileges declared in article 9 of the Bill of Rights.[53]

31. The majority of the Court of Appeal's conclusion neglected the fundamental principles of parliamentary privilege established over centuries. Intrusion by the courts into the exclusive and internal province of the legislature is just as obnoxious as the reverse.

The correct approach to the determination of parliamentary privilege

32. It is for the courts to judge the existence of parliamentary privilege, but given an undoubted privilege, it is for the parliament to judge the occasion and the manner of its exercise.[54]

33. The prerogative of parliament, including by its committees, as to what material it receives to inform its deliberations is an "undoubted privilege"[55] – indeed, it denotes the privilege – with the consequence it is for the parliament "to judge the occasion… of its exercise".[56]

34. At its heart, this case is about an attempt to hinder what a committee of parliament does in the parliament with a report that has been given to it. It is different from those cases where a parliamentary document is used as evidence in civil or criminal proceedings.[57]

The existence of the privilege

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51 Enid Campbell, *Parliamentary Privilege* (Federation Press, 2003) pp 2-3. See, for example, *Victoria Constitution Act 1855* (Vic), s XXXV; *Constitution Act 1856* (SA), s 35; *Parliamentary Privileges Act 1858* (Tas); *Constitution Act 1867* (Qld), ss 41-52; *Parliamentary Privileges Act 1891* (WA); which privilege persisted upon their creation as states at federation.

52 Constitution (Cth), ss 49 and 51 (xxxvi).

53 *Parliamentary Privileges Act 1987* (Cth), s 16; *Constitution of Queensland 2001* (Qld), s 9(1); Parliament Act, s 8(2); *Constitution Act 1975* (Vic), s 19; *Constitution Act 1934* (SA), s 38; *Parliamentary Privileges Act 1891* (WA), s 1; *Australian Capital Territory (Self-Government) Act 1988* (Cth), s 24; *Legislative Assembly (Powers and Privileges) Act 1992* (NT), s 6; Enid Campbell, *Parliamentary Privilege* (Federation Press, 2003) pp 3-4. However, NSW and Tasmania rely on the common law, see *Imperial Acts Application Act 1969* (NSW), Third Schedule, Item 10 and Anne Twomey, *The Constitution of New South Wales* (Federation Press, 2004), ch 10; *Parliamentary Privileges Act 1858* (Tas), s 12.

54 *R v Richards; Ex parte Fitzpatrick and Browne* (1955) 92 CLR 157 (***Richards***) at 162 (Dixon CJ for the Court).

55 See paragraphs 24 to 28 above, 41 to 46, and 57 to 59 below.

56 *Richards* (1955) 92 CLR 157 at 162 (Dixon CJ for the Court); *Egan v Willis* (1998) 195 CLR 424 (***Egan***) at [27] (Gaudron, Gummow and Hayne JJ), [78] (McHugh J), [147] (Kirby J), [179] (Callinan J); *Warsama v Foreign and Commonwealth Office* [2020] QB 1076 (***Warsama***) at [61], [64].

57 There are several cases considering those issues. See, for example, *Church of Scientology of California v Johnson-Smith* [1972] 1 QB 522; *Prebble* [1995] 1 AC 321; *Erglis* [2004] 2 Od R 599; *Buchanan v Jennings* [2005] 1 AC 115; *Laurance v Katter* [2000] 1 Qd R 147.

35. The question which must first be answered is whether a document and its preparation and submission to a committee is within an established category of privilege, namely, part of the "proceedings in the Assembly" under ss 8 and 9 of the Parliament Act.

36. Of course, the Court must then consider whether any other legislation modifies or abrogates the privilege in "unmistakable language".[58] However, in this case, there is no basis to conclude that s 69 of the Act abrogates the privilege.

37. The task for the Court is to determine the existence of the privilege is to construe the Parliament Act. That task begins with the text, taking into account both context and legislative purpose.[59]

10 38. Respectfully, the majority erroneously took as their starting point the Commission's power to make the report, but their Honours should have started with the text of the Parliament Act. As Chesterman J[60] observed in *Criminal Justice Commission*:[61]

> The starting point is not, as the appellants' submissions would have it, to question whether the parliamentary proceeding is lawful to see whether it qualifies for privilege. Such an approach would have the consequence that parliamentary privilege could be abrogated by the mere assertion of unlawfulness attaching to some aspect of the parliamentary proceedings sought to be challenged.

39. Further, contrary to the respondent's submissions below,[62] the words of ss 8 or 9 do not
20 require the Court to consider whether there was an "appropriative act" for privilege to attach.[63] The proper question is whether the report was prepared for the purposes of transacting the business of the parliament. In cases involving members of the public otherwise unrelated to the parliament, that may involve a factual inquiry into the

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58 *Acts Interpretation Act 1954* (Qld), s 13B; *Hammond v Commonwealth* (1982) 152 CLR 188 (***Hammond***) at 200 (Murphy J). See also *Criminal Justice Commission* [2002] 2 Qd R 8 at [26] (McPherson JA); *Odgers' Australian Senate Practice*, p 69.

59 *The Queen v A2* (2019) 269 CLR 507 at [124] (Bell and Gageler JJ) citing *Alcan (NT) Alumina Pty Ltd v Commissioner of Territory Revenue* (2009) 239 CLR 27 at [47] (Hayne, Heydon, Crennan, and Kiefel JJ), *Australian Education Union v Department of Education and Children's Services* (2012) 248 CLR and *Roadshow Films Pty Ltd v iiNet Ltd [No 2]* (2012) 248 CLR 42. See also *Unions NSW v New South Wales* (2019) 264 CLR 595 at [171] (Edelman J); *Certain Lloyd's Underwriters v Cross* (2012) 248 CLR 378 at [24] (French CJ and Hayne J) citing *Project Blue Sky Inc v Australian Broadcasting Authority* (1998) 194 CLR 355 at [69] (McHugh, Gummow, Kirby, and Hayne JJ) and *Commissioner for Railways (NSW) v Agalianos* (1955) 92 CLR 390 at 397 (Dixon CJ).

60 As his Honour then was; Williams JA agreeing.

61 *Criminal Justice Commission v Parliamentary Criminal Justice Commissioner* [2002] 2 Qd R 8 (***Criminal Justice Commission***) at [47], which construed ss 2 and 3 of the *Parliamentary Papers Act 1992* (Qld) which was in relevantly identical terms to ss 8 and 9 of the Parliament Act. Williams JA agreed at [35]. Also see McPherson JA at [25].

62 The respondent's submission is summarised by Freeburn J: QCA [152] at CAB 102-103.

63 The reasons of Freeburn J were correct: QCA [158]-[160] at CAB 104.

purpose for which the document was produced.[64] But, as explained below, in light of the s 55 certificate and the facts found by the trial judge (and not overturned), there is no question that the report was prepared for the requisite purpose in s 9 in this case.

The occasion of its exercise

40. It is not for courts to judge the occasion of the exercise of an established privilege. In this case the parliament judged the occasion of the exercise of the privilege by the certificate issued under s 55 of the Parliament Act. Consequently, once it is accepted the privilege exists, and that the parliament has determined the occasion of its exercise, nothing further falls to be determined.

10 **A report to a committee is an established category of privilege under the Parliament Act**

The existence of the established privilege

41. In Queensland, ss 8 and 9 of the Parliament Act and s 9 of the *Constitution of Queensland 2001* enshrine the parliamentary privilege of freedom of speech.[65] Section 8(1) of the Parliament Act relevantly provides that "proceedings in the Assembly can not be impeached or questioned in any court".

42. Unlike in the Bill of Rights, "proceedings in the Assembly" is defined in the Parliament Act: ss 9(1) and (2).[66] The definition provides:

> (1) ***Proceedings in the Assembly*** include all words spoken and acts done in the course of, or for the purposes of or incidental to, transacting business of the
20 Assembly or a committee.
> (2) Without *limiting* subsection (1), ***proceedings in the Assembly*** include—
> …
> (c) presenting or submitting a document to the Assembly, a committee or an inquiry; and
> (d) a document tabled in, or presented or submitted to, the Assembly, a committee or an inquiry; and
> (e) preparing a document for the purposes of, or incidental to, transacting business mentioned in paragraph (a) or (c); and … (emphasis added).

30 43. The definition of "Proceedings in the Assembly" is broad and non-exhaustive. It includes not just proceedings on the floor of the Assembly but also, relevantly,

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64 See, for example, *Erglis* [2006] 2 Qd R 407 at [31]-[32] (McPherson JA, Dutney J agreeing), [100], [102] (Jerrard JA).

65 See Explanatory Note to the Parliament of Queensland Bill 2001, p 8.

66 See also *Parliamentary Privileges Act 1987* (Cth), s 16(2); *Australian Capital Territory (Self-Government) Act 1988* (Cth), s 24; *Legislative Assembly (Powers and Privileges) Act 1992* (NT), s 6(2). The *Parliamentary Privileges Act 1987* (Cth) adopted a definition of "Proceedings in Parliament" following *R v Murphy* (1986) 5 NSWLR 18 and *R v Foord* (1985) 20 A Crim R 267.

documents submitted to and prepared for the purposes of or incidental to the business of a committee. While traditionally the privilege protects speech in the parliament and actions such as voting, documents and their preparation, presentation and submission also attract privilege because they are "time-saving substitutes for speaking".[67]

44. Section 9(4) and (5) are also important. Section 9(4) establishes how ss 8 and 9 interact with tabling requirements in other Acts (such as s 69 of the Act). It provides:

> (4) If the way in which a document is dealt with has the effect that—
> (a) under an Act; or
> (b) under the rules, orders, directions or practices of the Assembly;
>
> the document is treated, or accepted, as having been tabled in the Assembly for any purpose, then, for the purposes of this Act, the document is taken to be tabled in the Assembly.

45. Section 9(4) is a deeming provision which provides that if another Act provides for a document to be treated as having been tabled[68] in the Assembly, then it is taken to be tabled in the Assembly for the purpose of the Parliament Act. It "clarifies" when a document is taken to be tabled in the Assembly for the purposes of the privilege.[69] Once that is understood, s 9(4) provides powerful textual support for the argument that ss 8 and 9 of the Parliament Act, and not s 69 of the Act, govern parliamentary privilege.

46. Section 9(5) provides that "it does not matter what the nature of the business transacted by a committee is or whether the business is transacted under this Act or otherwise". It has the effect that once words, actions, and documents fall within the definition of "proceedings in the Assembly", the relevant act or document is privileged, regardless of what the committee does with it. Section 9 draws no distinction between business performed privately and business which is performed publicly or "to the world".

The occasion of its exercise

47. The s 55 certificate establishes that the report falls squarely in an established category of privilege in s 9 of the Parliament Act.

The certificate is persuasive and not contradicted

48. Further, courts must "pay careful regard to any views expressed in Parliament by either

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67 Erskine May, [13.12] cited in *R (Miller) v Prime Minister* [2020] AC 373 at [67] (Lady Hale and Lord Reed giving the Judgment of the Court).

68 Rather than acts of "submitting" or "presenting" a document which are addressed in s 9(2)(c) (without reference to "tabling"). Section 9(2)(d) refers to a document "tabled" or "presented" or "submitted".

69 Explanatory Note to the Parliament of Queensland Bill 2001, p 9.

House or by bodies or individuals in a position to speak on the matter with authority".[70] The majority's approach gave no weight to the certificate other than to observe in passing that it had been issued.[71] There was no objective evidence contrary to the certification by the PCCC chairperson and McMurdo and Mullins JJA referred to none. This case can be disposed of this basis alone. As the trial judge found, the report was prepared for the purpose of submitting it to the PCCC and it was so submitted.[72] McMurdo and Mullins JJA did not disturb those findings, even though they were challenged on appeal.[73] Accordingly, s 9(2)(c), (d) and (e) applies to the report and its preparation and submission to the PCCC.

10 49. Despite the certificate, the uncontroverted facts and the clear language of s 9, the majority held that the report did not attract parliamentary privilege because it was prepared and delivered outside of the Commission's functions. McMurdo and Mullins JJA cited no authority and gave no reasons for that conclusion.[74] There exists no authority that does or could justify it.

50. The majority's conclusion that a person who submits a document to a committee must have acted lawfully for it to attract privilege is contrary to the text of s 9. Even if the report was not a "report" within the meaning of s 69 of the Act,[75] it was nonetheless a "document" for the purpose of s 9 of the Parliament Act.[76] When it was created, it was a document prepared "for the purposes of" submitting a document to the PCCC.[77] It
20 was "submitted" to the PCCC. That should have been the focus of the inquiry.

51. Once it is accepted that the report is privileged under ss 8 and 9, it cannot lose that quality: s 9(5) of the Parliament Act.

The purpose of parliamentary privilege

52. The majority's decision also is contrary to the purpose of parliamentary privilege: to allow the Parliament to perform its functions without obstruction.[78] The availability of

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70 *Chaytor* [2011] 1 AC 684 at [14]-[16] (Lord Phillips, Lord Hope, Lady Hale, Lord Brown, Lord Mance, Lord Collins, Lord Kerr and Lord Clarke agreeing); see also *Richards* (1955) 92 CLR 157 at 162, 169-170 (Dixon CJ for the Court); Erskine May, [16.1].

71 QCA [79] at CAB 85.

72 TJ [141] at CAB 50.

73 QCA [80], [81] at CAB 85. Freeburn J upheld them: QCA [183] at CAB 108.

74 QCA [81] at CAB 85.

75 Which is wrong for the reason stated in paragraphs 68 to 89 below.

76 *Acts Interpretation Act 1954* (Qld), Schedule 1, definition of "document".

77 *Rowley* [2000] 1 Qd R 207 at 220-221 (McPherson JA).

78 *House of Representatives Practice*, p 731.

privilege cannot depend on whether a document was within power of the Commission to provide because it would lead to the kind of external adjudication by the courts of the Parliament's proceedings that the privilege is intended to prohibit. A declaration that impeaches the Commission's report intended for (and in the possession of) the PCCC impairs the business of the PCCC by stalling or preventing documents from reaching the PCCC or undermining decisions of the PCCC based on those documents.[79]

53. The relief ordered by the Court of Appeal highlights the majority's error. The report is already part of the proceedings of Parliament because it has been submitted to PCCC and it is in its possession. At any time the PCCC could direct that the report be given to the Speaker and be tabled in the Assembly. The declaration questions or impeaches a report submitted to the committee and which could, if the PCCC decides, be tabled in the Assembly. As Freeburn J observed, it trespasses into the legislature's province and its exclusive control over its own affairs.[80]

54. The effect of the majority's holding is that what a parliamentary committee does with a document in its possession, submitted to it by a statutory authority whose functions the committee supervises, can always be impeached if the document is *ultra vires* the authority's empowering Act. As Doyle CJ observed (albeit in a different context) in *Rann v Olsen*, it is "destructive of freedom of speech because it leaves the person speaking uncertain whether what the person says in parliament can be challenged in a court. The answer will be that the possibility of a challenge will depend upon a judicial assessment of the effect of the challenge in the particular case, and in many cases it will be uncertain what the result of that assessment will be".[81]

55. The application of parliamentary privilege in this way does not, as the respondent contended below, concern the "protection" of the Commission to publish a report.[82] It concerns the protection and freedom given to parliament to transact its business (by considering both the report and whether to make a direction under s 69(1)(b)) without the business being impeached in any court.[83] And the parliament has decided that the

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79 Protection of documents prepared for a committee is an established aspect of the privilege: Explanatory Note to the Parliament of Queensland Bill 2001, p 8; *Criminal Justice Commission* [2002] 2 Qd R 8 at [25] (McPherson JA).

80 QCA [199], [200] at CAB 111.

81 (2000) 76 SASR 450 at 419.

82 The Commission already has absolute privilege against defamation for any publication made for the purpose of performing its functions: s 335(6) of the Act.

83 See paragraphs 24-26 above.

freedom of its own processes is to be protected by ss 8 and 9 of the Parliament Act.

56. But the respondent is not without a recourse. He may make representations to the PCCC or the Assembly.[84] It is for the parliament to supervise its own proceedings.[85] The respondent also could have challenged the investigation while it was on foot.[86]

Cases

57. Several cases in various factual settings have found that a report prepared for a parliamentary committee is privileged. In *Criminal Justice Commission*, the Court of Appeal observed that a report by a Parliamentary Commissioner falls within the scope of article 9 of the Bill of Rights.[87] In *Criminal Justice Commission v Nationwide News Pty Ltd*, the Court of Appeal held that a report presented by the predecessor of the Commission to a parliamentary committee was part of the "proceedings in Parliament" and therefore privileged.[88]

58. In the UK, reports published through a parliamentary process are also privileged. In *Warsama v Foreign and Commonwealth Office,*[89] the United Kingdom Foreign and Commonwealth Office ("**the Office**") wished to publish a report on child sexual abuse. To do so it engaged a parliamentary procedure (the "Unopposed Return procedure") which gave the Houses power to call for papers.[90] The procedure is not dissimilar from the procedure envisaged by s 69(1)(b) of the Act. In England it is often used "for controversial reports which contain criticism of individuals".[91] Several social workers sued for damages alleging that inaccuracies in the report had caused them damage. The Office claimed the report was privileged. The Court of Appeal held that the report (and the Unopposed Return process itself) was part of a "proceeding in Parliament" under the Bill of Rights. Lord Burnett of Maldon CJ, Coulson and Rose LJJ dismissed an argument that the process gave the Office a "Harry Potter invisibility cloak":[92]

> In our view, the contrary is true; it is by the mechanism of the Unopposed

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84 *Halden* (1995) 17 WAR 447 at 463 (Rowland, Murray and Anderson JJ).
85 See paragraph 28 above.
86 Act, s 332.
87 [2002] 2 Qd R 8 at [25] (McPherson JA), [34] (Williams JA), [48]-[49] (Chesterman JA); see also Act, s 323.
88 [1996] 2 Qd R 444 at 452, 454 (Fitzgerald P), 457 (Pincus JA), 459 (Davies JA). The definition of "proceedings in Parliament" in s 3(3) of the *Parliamentary Papers Act 1992* (Qld) was relevantly identical to the definition of "proceedings in the Assembly" in s 9(2) of the Parliament Act.
89 [2020] QB 1076 (Lord Burnett of Maldon CJ, Coulson and Rose LJJ).
90 *Warsama* [2020] QB 1076 at [8], [32].
91 *Warsama* [2020] QB 1076 at [33].
92 *Warsama* [2020] QB 1076 at [64].

> Return that the House ensures that the contents of the Report can become visible to Members and to anyone who wishes to read them. The ability of Parliament to publish information it has called for and which is of interest to Members, and hence also to the public, without exposing the authors of that information to litigation is an important freedom and part of what Lord Phillips PSC referred to in *Chaytor* [2011] 1 AC 684, para 61 as the House's "deliberative business".

59. It did not matter that the Office itself arranged for the House to use the procedure to publish the report.[93] The Commission embraces this reasoning.

10 ***Section 69 of the Act***

60. The majority's reasons rested on the incorrect premise that s 69 of the Act, and not ss 8 and 9 of the Parliament Act, dictates the bounds of the established category of privilege.[94] On its proper construction, s 69 of the Act does no such thing.[95]

61. *First*, the Parliament Act is the key legislation that governs the privilege in Queensland.[96] The parliament may abrogate its privilege as set out in the Parliament Act by passing other legislation. But it has not done so through s 69 of the Act. No "unmistakable language" in s 69 "expressly" abrogates the privilege.[97] It is improbable that the legislature would overthrow a fundamental principle such as parliamentary privilege without expressing its intention with "irresistible clearness".[98]

20 62. *Second*, properly construed, s 69 is a procedural tabling provision. It is headed "Tabling requirements" and its purpose is to provide for how the Speaker must table certain reports when the Legislative Assembly is sitting and when it is not. It is not directed to the scope of parliamentary privilege except the privilege is deemed to apply in only one circumstance in ss 69(5)-(7): when the Assembly is not sitting.[99]

63. When the Legislative Assembly is sitting, the Speaker must table the commission report on the next sitting day: s 69(4). When the Legislative Assembly is not sitting, the Speaker must give the report to the clerk (s 69(5)-(6)) and once the clerk has authorised it to be published, it is taken to have been tabled: s 69(7). Section 69(7) is

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93 *Warsama* [2020] QB 1076 at [63].
94 QCA [66], [81] at CAB 81, 85.
95 Section 69 of the Act is extracted at QCA [45] at CAB 77.
96 See also *Constitution of Queensland 2001*, s 9.
97 *Acts Interpretation Act 1954* (Qld), s 13B; *Hammond* (1982) 152 CLR 188 at 200 (Murphy J). See also *Criminal Justice Commission* [2002] 2 Qd R 8 at [26] (McPherson JA).
98 *Potter v Minahan* (1908) 7 CLR 277 at 304 (O'Connor J); *Saeed v Minister for Immigration and Citizenship* (2010) 241 CLR 252 at [15] (French CJ, Gummow, Hayne, Crennan and Kiefel JJ).
99 Davis J was correct at TJ [134], [135] at CAB, 48.

necessary because even though a report that has been authorised and published by the clerk has never been *tabled in* the Legislative Assembly, it is granted the same immunities and privileges as one that has been.

64. Crucially, s 69 does not grant any privileges and immunities to a report that is tabled on the next sitting day under s 69(4). That omission is deliberate because granting those privileges would be unnecessary. Such a report already attracts the privilege under ss 8 and 9(2)(d) of the Parliament Act. It was only necessary to clarify expressly that the privileges applied even when the report was not tabled: s 69(5)-(7).

65. *Third*, s 9 of the Parliament Act contemplates its interaction with tabling provisions in other Acts. Sections 8 and 9 of the Parliament Act and s 69 of the Act exist harmoniously.[100] Section 9(4) of the Parliament Act has the effect that if another Act – such as s 69(7) of the Act – provides that a document is to be treated or accepted as if it had been tabled, then it is taken to be tabled for the purposes of the Parliament Act. As s 9 of the Parliament Act and s 69 can be read together, there is a "very strong presumption" that the legislature intended that both should operate.[101]

66. *Fourth*, s 69 only applies to certain reports: those in s 69(1) and not those in s 69(2). It is unlikely that the parliament intended to modify or abrogate parliamentary privilege in relation to certain commission reports and not others. On the majority's construction that s 69 controls when a Commission report becomes part of transacting the business of the PCCC,[102] a report excluded from the s 69 process could never be privileged. This includes a report given to the PCCC containing confidential information which the Commission considers should be strictly maintained: s 66(2). Respectfully, this is an absurd result.

67. Annual reports and reports under ss 49, 65, and 66 are excluded from the process in s 69 of the Act because those reports, having regard to their purpose, are not ordinarily tabled.[103] But that is a question of tabling; it is not a question of privilege.

PART B: Reporting powers

68. Ground 2 concerns McMurdo and Mullins JJA's erroneous conclusion that

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100 *Commissioner of Police (NSW) v Eaton* (2013) 252 CLR 1 at [78] (Crennan, Kiefel and Bell JJ), [98] (Gageler J).

101 *Butler v Attorney-General (Vict)* (1961) 106 CLR 268 at 276 cited in *Saraswati v The Queen* (1991) 172 CLR 1 at 17.

102 QCA [81] at CAB 85.

103 It is, of course, a matter for the PCCC if it wishes to table any report in its possession.

Commission did not have power to "report" under s 64 of the Act about an investigation if conduct, once investigated, is not found to be "corrupt".[104]

The error in the majority's construction

69. Respectfully, the majority's construction of the Act is wrong for three main reasons. *First*, the majority's conclusions do not survive scrutiny even on a purely textual analysis of s 33 (corruption functions), 64 (the power to report), and s 49 (reports to authorities). *Second*, the context of these provisions and the Act as a whole support a conclusion that the Commission is permitted a broad discretion to perform its corruption and prevention functions, including by reporting about a completed corruption investigation. *Third*, the statutory purposes of the reporting power and the Act (the achievement of which is the Commission's responsibility) confirm the legislature's intention to permit the Commission to prepare the report.

Text

Section 33 of the Act and the Commission's corruption functions

70. The fundamental error in the majority's approach was to focus on two words in s 33(1) – "for corruption" – and to conclude that those words meant that the corruption functions do not include addressing conduct which is not corrupt conduct.[105]

71. This conclusion was contrary to the text of s 33. Section 33 lists the Commission's four "functions for corruption" which are defined as "***corruption functions***".[106] At least two of those corruption functions are concerned with investigating and dealing with conduct <u>that is not corrupt</u>: conduct that is liable to allow or encourage or cause corrupt conduct (s 33(2)(a)(i)) and conduct connected to corrupt conduct (s 33(2)(a)(ii)).

72. The words "for corruption" in s 33(1) are not words of limitation. That the functions are expressed to be "for corruption" does not mean that the Commission may only perform them once conduct reaches that threshold. Properly construed, the words "for corruption" are intended to describe the vice to which the functions are directed.[107]

73. At the time the Commission investigates, it does not know whether the conduct will be

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104 QCA [56], [68] at CAB 80, 82.
105 QCA [58] at CAB 80.
106 Section 33(1) and (2) of the Act state: "The commission's corruption functions <u>also</u> <u>include</u>".
107 Functions directed to suspected corrupt conduct that is found after an investigation to fall short of corrupt conduct or functions directed to conduct that may encourage or cause corrupt conduct are equally functions "for corruption".

corrupt conduct, conduct liable to encourage it, or no such conduct at all. That is the point of an investigation. Section 22(2) (which was not considered by the majority) makes clear that in the context of a complaint or a corruption investigation, corruption includes "suspected corruption".[108] It is obviously part of the Commission's functions to investigate conduct that may or may not be corrupt conduct. Even if the Commission does not find corrupt conduct, it has performed its corruption function by investigating the conduct and, therefore, it may report on the investigation pursuant to s 64.

Section 64 of the Act and the general power to report

74. The second textual error was that the majority looked for a specific reporting power as part of the corruption functions and ignored the general power in s 64. They concluded that, other than s 49, there was no power to "report" about a corruption investigation.[109] This is contrary to the text of ss 64 and 49. The majority correctly observed that s 64 is a "general power" to "report in performing its functions". However, their error in construing the corruption functions in s 33 led them to misconstrue the power in s 64 and reduce a general power almost to a vanishing point.

75. Section 64 has the effect that in performing *any* of its functions (except the crime function)[110] the Commission "may report". Once that is accepted, one of the actions that the Commission may take in performing its functions – for example, "helping to prevent corruption" (s 23) or investigating suspected corruption (s 33) – is to report about it. As Freeburn J concluded, s 64(1) means that "a report on the Commission's investigations becomes a legitimate part of the performance of its functions".[111]

Section 49 is not the exclusive power to "report"

76. The majority relied on the limited power in s 49 to conclude that the entire Act excluded a public report about a corruption investigation.[112] But the text of s 49 does not support it being the exclusive power to "report" about a corruption investigation.

77. Section 49 is engaged only if the Commission decides that prosecution proceedings or

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108 Act, s 22(2). The majority never referred to s 22(2) but Freeburn J did at QCA [97] at CAB 91. Davis J did at TJ [151] at CAB 52.

109 QCA [34], [56] at CAB 74, 80.

110 See Act, s 63. The legislature could have chosen to exclude the corruption function from the operation of s 64. The fact that it did not is telling.

111 QCA [133] at CAB 100.

112 QCA [56] at CAB 80.

disciplinary action should be considered.[113] If so, then the Commission may report to the entities in s 49(2). As s 49 is a report to prosecuting or disciplinary authorities it is unsurprising that it only envisages limited and private reporting to those authorities. The report in question in this case is not a report of this kind.

78. The correct construction of s 49 is that it is merely one way the Commission may perform part of its corruption functions; it is not, as the majority held, the culmination of them.[114] There are several other ways the commission may perform its corruption functions as well including the range of actions set out in s 35 and reporting under s 64.

Context

10 79. Two critical aspects of statutory context support the textual construction outlined above. *First*, the Commission has a broad discretion as to how it performs its functions which encompasses a discretion to report. *Second*, the corruption and prevention functions in practice overlap and permit the making of the report after an investigation.

The Commission's discretion in performing its functions

80. The Commission's broad discretion as to how it performs its functions is a key contextual consideration.[115] The Commission's functions (ss 23 and 33) are distinguished in the Act from how it "may perform" them (ss 24 and 35). Sections 24 and 35 expressly do not limit how the Commission may perform the prevention and corruption functions.

20 81. Section 35 is a non-exhaustive list of some of the ways in which the corruption function is performed. One way is by "dealing with" complaints (s 35(1)(e)). Another is investigating matters mentioned in s 33(2): s 35(1)(f). "Dealing with" includes "taking other action, including managerial action, to address the complaint in an appropriate way".[116] There is no reason why "dealing with" a complaint cannot include reporting.

82. Section 46A is another example. It is about dealing with matters in s 33(2), namely, conduct liable to allow or encourage corrupt conduct. The Commission may deal with the matter by "taking the action the commission considers most appropriate in the circumstances having regard to the public interest principle" in s 34(d): s 46A(2)(c). In

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113 McMurdo and Mullins JJA emphasised the key words of s 49 at QCA [32] at CAB [73].
114 QCA [56], [67] at CAB 80, 82.
115 Freeburn J emphasised the broad discretion given to the Commission under the Act: QCA [110], [114] at CAB 95.
116 Act, Schedule 2.

the absence of contrary language, "appropriate action" must include reporting.

83. Relatedly, s 34(d) states: "the [Commission] has an overriding responsibility to promote public confidence in the integrity of units of public administration".[117] When deciding how to act in the performance of its corruption functions, the Commission must apply this principle. The connection with the Act's main purposes is evident (see s 4(1)(b)). If the Commission decides that neither criminal nor disciplinary proceedings are warranted, it may yet consider that there are actions it should take that would satisfy the principle in s 34(d). Reporting is one action that the Commission is authorised to do under s 64 and, as explained below, it promotes public confidence.

10 *The corruption and prevention functions permit the making of the report after an investigation*

84. At trial and in the Court of Appeal, the Commission contended that the report was made in performing the corruption and prevention functions. Those functions are related and contemplate action after an investigation. The Commission must have regard to the prevention function in performing its corruption functions: s 24(g).

85. The prevention function may involve "analysing the results of its investigations and the information it gathers in performing its functions" (s 24(b)) and reporting on ways to prevent corruption (s 24(i)). It expressly contemplates reporting. In relation to the corruption functions, the non-exhaustive list in s 35 also contemplates further action after an investigation.[118] One of those actions is to report about it.

20 ***Statutory purpose***

86. There is no basis in the Act for the majority's narrow construction of the general power to report in s 64. When construed in light of its purpose, the Act leads to the opposite conclusion.

87. One of the Act's "main purposes" is to "continuously improve the integrity of, and to reduce the incidence of corruption in, the public sector": s 4(1)(b). The Act's purposes are achieved primarily by establishing the Commission: s 5. The Commission has primary responsibility for achieving the Act's purposes (s 7) and it does so by performing its functions and exercising its powers.

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117 Section 34 of the Act is also referred to in s 46(1)(b) which relates to "dealing with" complaints: s 33(1)(b).

118 Section 35(f) refers to investigating "and otherwise dealing with" cases of corruption; s 35(g) refers to the Commission "completing" an investigation. If completing an investigation is performing the functions, then under s 64 of the Act the Commission may report on a completed investigation.

88. The Commission's ability to vindicate the Act's main purpose is significantly diminished if, as is the case here, despite completing an corruption investigation, it can only report to certain authorities under s 49 and not on other matters. An investigation that does not find "corrupt conduct" may reveal information that can be distilled in a report, made the basis for recommendations and acted upon by the public sector.

89. A report of this kind given to the Assembly supports public confidence in the public sector: whether provided for information to the PCCC for scrutiny,[119] to use as the basis for legislation or executive action, or to be disseminated to those working in the public sector or the public generally.[120] Indeed, the publication of a corruption investigation report that does not find "corrupt conduct" might dispel an unwelcome suggestion of corruption. This could never occur on the majority's construction.

Part VII: Orders sought

90. The Commission seeks the following orders:

1. Appeal allowed
2. Set aside the Orders of the Court of Appeal of the Supreme Court of Queensland made on 5 August 2022, and in their place, order that the appeal to that Court be dismissed with costs.
3. The respondent pay the appellant's costs.

Part VIII: Estimate of time

91. It is estimated that 2.5 hours will be required for the presentation of the Commission's oral argument.

Dated 2 February 2023

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Peter Dunning KC
Telephone: 07 3218 0630
Email:
dunning@callinanchambers.com.au

.....
Matthew Wilkinson
Telephone: 07 3008 3926
Email:
mwilkinson@level27chambers.com.au

.....
Sarah Spottiswood
Telephone: 07 3008 3929
Email:
sspottiswood@level27chambers.com.au

Counsel for the Appellant

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119 The PCCC is responsible for monitoring and reviewing the Commission's performance: s 9. The PCCC also must examine its reports and report to the Assembly about them: s 292.

120 See Freeburn J at QCA [188], [191], [192] at CAB 109, 110.

IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY NO B66 OF 2022

ON APPEAL FROM THE COURT OF APPEAL OF THE SUPREME COURT OF QUEENSLAND

BETWEEN: **CRIME AND CORRUPTION COMMISSION**
Appellant
and
PETER DAMIEN CARNE
Respondent

ANNEXURE TO THE APPELLANT'S SUBMISSIONS

Pursuant to Practice Direction No 1 of 2019, the Appellant sets out below a list of the provisions and statutes referred to in these submissions.

No.	Description	Version	Provisions
1.	*Acts Interpretation Act 1954* (Qld)	Current	s 13B, Sch 1, definition of "document"
2.	*Australian Capital Territory (Self-Government) Act 1988* (Cth)	Current	s 24
3.	*Constitution of the Commonwealth of Australia*	Current	ss 49, 51 (xxxvi)
6.	*Constitution Act 1934* (SA)	Current	s 38
7.	*Constitution Act 1975* (Vic)	Current	s 19
8.	*Constitution of Queensland Act 2001* (Qld)	Current	s 9
9.	*Crime and Corruption Act 2001* (Qld)	Current	ss 4, 5, 7, 9, 15, 22, 23, 24, 33, 34, 35, 46, 46A, 49,

			63, 64, 65, 66, 69, 220, 291, 292, 323, 332, 335
10.	*Imperial Acts Application Act 1969* (NSW)	Current	Third Schedule, Item 10
11.	*Legislative Assembly (Powers and Privileges) Act 1992* (NT)	Current	s 6
12.	*Parliamentary Papers Act 1992* (Qld)	Repealed	ss 2, 3
13.	*Parliamentary Privileges Act 1987* (Cth)	Current	s 16
14.	*Parliamentary Privileges Act 1891* (WA)	Current	s 1
15.	*Parliamentary Privileges Act 1858* (Tas)	Current	s 12
16.	*Parliament of Queensland Act 2001* (Qld)	Reprint effective date 7 September 2020	ss 8, 9, 38, 39, 55