HIGH COURT OF AUSTRALIA

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Details of Filing

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Important Information

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IN THE HIGH COURT OF AUSTRALIA
BRISBANE REGISTRY No. B11/2024

BETWEEN: **RODNEY MICHAEL CHERRY**
Plaintiff

and

STATE OF QUEENSLAND
Defendant

SUBMISSIONS OF THE ATTORNEY-GENERAL FOR THE STATE OF SOUTH AUSTRALIA (INTERVENING)

Part I: CERTIFICATION

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

Part II: INTERVENTION

2. The Attorney-General for the State of South Australia (**South Australia**) intervenes pursuant to s 78A of the *Judiciary Act 1903* (Cth) to advance submissions in support of the defendant, the State of Queensland (**Queensland**).

Part III: LEAVE TO INTERVENE

3. Not applicable.

Part IV: SUBMISSIONS

4. The Plaintiff frames his challenge to ss 175L and 175E (**the impugned provisions**) of the *Corrective Services Act 2006* (Qld) (**the Act**) in the following terms:[1]

> [W]hether the legislation challenged in this case impermissibly grants judicial power to the Queensland Executive by empowering it to alter the punishment imposed by the Supreme Court of Queensland on the Plaintiff … because it is repugnant to a 'defining characteristic' … that punishments imposed by that Court consequent upon the adjudgment of criminal guilt are final and conclusive unless set aside on appeal.

5. Assuming the framing of the issues in these terms is correct, the Plaintiff's argument can be seen to fail for the following three reasons:

   a. First, the impugned provisions do not empower the alteration of the punishment imposed on the Plaintiff by the Supreme Court.[2]

   b. Second, the impugned provisions do not confer judicial power on the Queensland Executive.[3]

   c. Third, the Plaintiff has failed to establish the existence of the novel 'defining characteristic' for which he contends.[4]

6. South Australia agrees with Queensland that if the Court accepts that the Plaintiff's challenge fails for the first reason identified above then it can, and should, dispose of the proceeding on that ground without embarking upon consideration of the additional issues raised by the Plaintiff.[5]

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1 Plaintiff's Submissions (**PS**), [7].
2 See below, [7]-[15].
3 See below, [16]-[19].
4 See below, [20]-[24].
5 Defendant's Submissions (**DS**), [10].

A. The impugned provisions do not alter the punishment imposed on the Plaintiff

7. It is well settled that the imposition of a non-parole period, to be served as part of a term of imprisonment, is part of the sentence imposed by a sentencing court.[6] However, inherent in the notion of the non-parole period is that it provides only a minimum stipulation.[7] The purpose for imposing a minimum period of incarceration is to ensure that an offender gets their just deserts,[8] before leniency may be afforded by the executive having regard to a broad range of considerations, including mitigation, rehabilitation and resourcing constraints.[9] The imposition of a non-parole period is silent on the question of whether the executive might extend leniency.[10] It does not confer upon an offender a right to parole.[11]

8. Given that the imposition of a non-parole period as part of a sentence does not confer any right to parole, or speak in any way to the question of whether leniency should be granted by the executive following the expiry of an offender's non-parole period, any change to the rules that govern the grant of parole will not interfere with the setting of the non-parole period by the sentencing judge. Accordingly, even contemplating the most extreme scenario, legislation that abolishes the power to grant parole altogether, would not interfere with the imposition of a non-parole period.[12]

9. It follows that the introduction of any lesser restriction on the grant of parole, which nonetheless makes the grant of parole more difficult to obtain, will not constitute an interference with the sentence.[13]

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6 *R v Shrestha* (1991) 173 CLR 48, 61, 68-69 (Deane, Dawson and Toohey JJ); *Leeth v The Commonwealth* (1992) 174 CLR 455, 465 (Mason CJ, Dawson and McHugh JJ), 490-491 (Deane and Toohey JJ); *Minogue v Victoria* (2019) 268 CLR 1 (***Minogue***), 18 [21] (Kiefel CJ, Bell, Keane, Nettle and Gordon JJ), 21-22 [37] (Edelman J).

7 *Power v The Queen* (1974) 131 CLR 623, 628-629 (Barwick CJ, Menzies, Stephen and Mason JJ).

8 *Power v The Queen* (1974) 131 CLR 623, 628 (Barwick CJ, Menzies, Stephen and Mason JJ); *Deakin v The Queen* (1984) 48 ALJR 367, 368 (Gibbs CJ, Murphy, Wilson, Brennan and Dawson JJ); *Bugmy v The Queen* (1990) 169 CLR 525, 538 (Dawson, Toohey and Gaudron JJ), quoting with approval *Attorney-General v Morgan and Morgan* (1980) 7 A Crim R 146, 155-156 (Jenkinson J, Kaye J agreeing); *R v Hatahet* (2024) 98 ALJR 863 (***Hatahet***), 871 [28] (Gordon ACJ, Steward and Gleeson JJ).

9 *R v Shrestha* (1991) 173 CLR 48, 67 (Deane, Dawson and Toohey JJ); *Queensland Parole Board v McGrane* [2014] QCA 193, [35] (Muir JA, Morrison JA and North J agreeing).

10 *R v Shrestha* (1991) 173 CLR 48, 68 (Deane, Dawson and Toohey JJ); *Elliott v The Queen* (2007) 234 CLR 38, 41 [5] (Gummow, Hayne, Heydon, Crennan and Kiefel JJ); *Hatahet*, 869-871 [19], [21], [27] (Gordon ACJ, Steward and Gleeson JJ).

11 *Attorney-General v Morgan and Morgan* (1980) 7 A Crim R 146, 154-156 (Jenkinson J, Kaye J agreeing); *Bugmy v The Queen* (1990) 169 CLR 525, 531 (Mason CJ and McHugh J), 536 (Dawson, Toohey and Gaudron JJ), quoting *Iddon & Crocker v The Queen* (1987) 32 A Crim R 315, 325-326 (the Court); *PNJ v The Queen* (2009) 83 ALJR 384, 387, [11] (the Court); *Crump v New South Wales* (2012) 247 CLR 1 (***Crump***), 26-27 [60] (Heydon J); *Minogue* (2019) 268 CLR 1, 16 [15] (Kiefel CJ, Bell, Keane, Nettle and Gordon JJ); *Hatahet* (2024) 98 ALJR 863, 869 [20] (Gordon ACJ, Steward and Gleeson JJ).

12 *Crump* (2012) 247 CLR 1, 19 [36] (French CJ).

13 *Crump* (2012) 247 CLR 1, 19 [36] (French CJ).

10. The mutable nature of the rules governing parole has been a feature of those regimes ever since their inception.[14] For example, in South Australia, the parole regime has been amended since its introduction in 1969, when a prisoner ordinarily became entitled to apply for release immediately upon sentence; in 1981, when sentencing courts were required to set a non-parole period, after which prisoners might apply for release; in 1983, when prisoners became entitled to automatic release upon the expiry of the non-parole period (making the non-parole period effectively a maximum term, rather than a minimum); in 1986 and 1989, when courts in determining sentences were required to have regard to remissions that a prisoner may become entitled to receive; in 1994, when 'truth in sentencing' laws removed automatic parole and abolished the system for remissions.[15] Historical variation in parole regimes of these kinds have not been understood to have interfered with criminal sentencing. As Chief Justice Gleeson observed in *Baker*, "[t]he longer the original sentence, the more likely it is that an offender will be affected by subsequent changes in penal policy."[16]

11. The above principles were affirmed in the decisions of this Court in *Crump* and ***Knight***.[17] In each case, the sentence that had been imposed was life imprisonment with a fixed non-parole period.[18] In each case, after the imposition of the sentence, but shortly before the expiry of the non-parole period, legislative amendments were made which severely constrained the power of the respective parole authorities to grant parole.[19]

12. In *Crump*, s 154A of the *Crimes (Administration of Sentences) Act 1999* (NSW), which only applied to prisoners who had been the subject of a non-release recommendation, was challenged on the basis that, by limiting the power to grant parole to circumstances where the prisoner was incapacitated or in imminent danger of dying, it impermissibly

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14 Parole was implemented by the various Australian jurisdictions in the following sequence: Victoria, 1957; Queensland, 1959; Western Australia, 1963; New South Wales, 1966; Commonwealth, 1967; South Australia, 1969; Northern Territory, 1971; Tasmania, 1975; and, Australian Capital Territory, 1976. See *Sentencing of Federal Offenders (Interim Report)* [1980] ALRC 15, 179 [228].

15 *R v Tio and Lee* (1984) 35 SASR 146, 147 (King CJ); *R v Morris* (1984) 35 SASR 152, 155-158; (Sangster J); *Owen v South Australia* (1996) 66 SASR 251, 252-254, 257 (Cox J, Prior J agreeing); *Andrews v Parole Board (SA)* [2008] SASC 237, [16] (David J Dugan and Anderson JJ agreeing); Similar principles have been applied in the context of home detention, see e.g.*Telford v Severin* (2007) 98 SASR 70, 76-77 [21]-[23], [30] (Duggan J, White and Kelly JJ agreeing): "As at the time of sentencing, the plaintiff possessed nothing more than a hope or expectation that the power to release on home detention might be exercised in his case in due course."

16 *Baker v The Queen* (2004) 223 CLR 513, 520 [7] (Gleeson CJ).

17 *Knight v Victoria* (2017) 261 CLR 306.

18 *Crump* (2012) 247 CLR 1, 7 [1] (French CJ), 20 [40] (Gummow, Hayne, Crennan, Kiefel and Bell JJ), 27 [63] (Heydon J); *Knight* (2017) 261 CLR 306, 316 [1] (the Court).

19 *Crump* (2012) 247 CLR 1, 8-9 [4] (French CJ), 24 [52] (Gummow, Hayne, Crennan, Kiefel and Bell JJ), 27 [65] (Heydon J); *Knight* (2017) 261 CLR 306, 316 [2] (the Court).

interfered with the non-parole period that had been imposed as part of the sentence. That challenge was rejected because the setting of a non-parole period did not confer any right on the prisoner for release and, therefore, s 154A did not interfere with the sentence.[20]

13. In *Knight*, s 74AA of the *Corrections Act 1986* (Vic), which only applied to Mr Knight, was also challenged on the basis that, by limiting the power to grant parole in a manner that was comparable to the limitation considered in *Crump*, it impermissibly interfered with the non-parole period that had been imposed as part of the sentence. Unanimously, this Court held that *Crump* could not be distinguished and should not be reopened.[21] Given that the setting of the non-parole period did not confer any right on the prisoner for release, s 74AA did not interfere with the sentence.[22]

14. The Plaintiff accepts the correctness of *Crump* and *Knight*. However, he seeks to distinguish them on the basis that the legislation considered in those authorities removed the power of the parole authority *to grant parole*, whereas the provisions impugned in the present case remove the Plaintiff's ability *to apply for parole*.[23] With respect, the Plaintiff offers a distinction without a difference. Once the *ratio* of both *Crump* and *Knight* is understood to rest upon the contention that the imposition of a non-parole period confers no right to release on a prisoner, it cannot be material whether the prospect of parole is subsequently frustrated because the power to grant parole is restricted or because the ability to apply for parole is restricted. Restrictions of either kind will not "intersect at all with the exercise of judicial power that has occurred."[24]

15. For the above reasons, the exercise of power pursuant to the impugned provisions does not alter the sentence imposed on the Plaintiff by the Supreme Court. Accordingly, the Plaintiff's challenge must fail, and it is unnecessary to consider the additional issues identified by the Plaintiff.

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20 *Crump* (2012) 247 CLR 1, 26 [60] (Gummow, Hayne, Crennan, Kiefel and Bell JJ), 28 [70] (Heydon J).
21 *Knight* (2017) 261 CLR 306, 323 [25] (the Court).
22 *Knight* (2017) 261 CLR 306, 323-324 [27]-[29] (the Court).
23 PS, [38].
24 *Knight* (2017) 261 CLR 306, 324 [29] (the Court).

B. The impugned provisions do not confer judicial power on the Parole Board

16. The Plaintiff contends that the impugned provisions confer judicial power on the Queensland Executive, or more particularly on the Parole Board. This submission is inconsistent with history and authority.

17. As to history, the Plaintiff's submission fails to address the long-established authority of the executive branch to mitigate the effects of a sentence imposed by a court. In its earliest form, this authority was derived from the prerogative of mercy,[25] which included the power to commute sentences and grant conditional pardons or remissions.[26] Statutory powers conferred on the executive to allow remission for good behaviour or release on licence have existed since Australia's colonial era.[27] The more closely prescribed modern analogues have also traditionally been conferred on executive bodies, including governors,[28] ministers,[29] prison authorities[30] and parole boards. The considerations that bear on mitigation have been many and varied and have included the need for labour, resourcing constraints, rehabilitation, mitigation of punishment, community safety concerns and public confidence.[31]

18. As to authority, the Plaintiff's submission fails to grapple with the "fundamental distinction between the judicial function of sentencing an offender and the executive function of determining whether an offender should be released on parole."[32] Furthermore, the Plaintiff's submission is inconsistent with this Court's decision in *Minogue*. In that case, Dr Minogue submitted that s 74AB of the *Corrections Act 1986* (Vic) was invalid, on the basis that it constituted an impermissible exercise of judicial

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25 *R v Milnes and Green* (1983) 33 SASR 211, 215-216 (Cox J); W Holdsworth, *A History of English Law*, v 10 (1938), 414-415; A T H Smith, "The Prerogative of Mercy, the Power of Pardon and Criminal Justice" [1983] PL 398.

26 *Ex parte Lawrence* (1972) 3 SASR 361, 368 (Bray CJ); *R v Milnes and Green* (1983) 33 SASR 211, 216-217 (Cox J); *Kelleher v Parole Board (NSW)* (1984) 156 CLR 364, 367-368 (Mason J), 371-372 (Wilson J), 381-382 (Deane J); *Hoare v The Queen* (1989) 167 CLR 348, 353 (Mason CJ, Deane, Dawson, Toohey and McHugh JJ); W Holdsworth, *A History of English Law*, v 11 (1938), 562-575.

27 *Sentencing of Federal Offenders (Interim Report)* [1980] ALRC 15, 179; Janet Chan, 'Decarcertaion and Imprisonment in New South Wales: A Historical Analysis of Early Release (1990) 13 *University of New South Wales Law Journal* 393; *R v Morris* (1984) 35 SASR 152.

28 See e.g. s 463 of the *Crimes Act 1900* (NSW) considered in *Baker* (2004) 223 CLR 513, 528 [29] (McHugh, Gummow, Hayne and Heydon JJ); s 77a of the *Criminal Law Consolidation Act 1935* (SA), considered in *South Australia v O'Shea* (1987) 163 CLR 378.

29 See e.g. s 17AB of the *Crimes Act 1914* (Cth), considered in *Hatahet* (2024) 98 ALJR 863.

30 See e.g. s 79(2) of the *Correctional Services Act 1982* (SA), considered in *Hoare v The Queen* (1989) 167 CLR 348, 351 (Mason CJ, Deane, Dawson, Toohey and McHugh JJ).

31 *South Australia v O'Shea* (1987) 163 CLR 378, 388 (Mason CJ), 401-402 (Wilson and Toohey JJ), 411-412 (Brennan J); *R v Shrestha* (1991) 173 CLR 48, 67 (Deane, Dawson and Toohey JJ); *Watson v South Australia* (2010) 208 A Crim R 1, [84]-[91] (Doyle CJ, Anderson J agreeing); *Queensland Parole Board v McGrane* [2014] QCA 193, [24] (Muir JA, Morrison JA and North J agreeing; *Rowlingson v Parole Board Queensland* [2023] QSC 253 (Muir J).

32 *Hatahet* (2024) 98 ALJR 863, 869 [19] (Gordon ACJ, Steward and Gleeson JJ).

power by the legislature imposing further punishment consequent upon his criminal conviction. Building on the earlier decisions in *Crump* and *Knight*, and drawing on the "fundamental distinction" referred to above, the Court rejected that challenge.[33]

19. The above submissions ought not be understood as an acknowledgement that the characterisation of the power conferred on the Parole Board in the present case as judicial or executive is relevant to the question before the Court. In the absence of a separation of powers at a state level, it is difficult to appreciate how the question of the nature of the power bears on the resolution of the questions presented by the Special Case.[34]

C. The impugned provisions do not impair the institutional integrity of the Supreme Court

20. The Plaintiff contends that it is a defining characteristic of the supreme court of a state that punishments imposed by that court consequent upon the adjudgment of criminal guilt are final and conclusive unless set aside on appeal. It may be accepted that, generally speaking, the executive and legislative branches do not interfere with punishments imposed by state supreme courts. It may also be accepted that certain interferences might impair the institutional integrity of a supreme court in such a manner as to infringe the *Kable* doctrine.[35]

21. However, the correctness of a general proposition, that punishments imposed by state courts are not interfered with, does not provide a sufficient foundation for the discernment of a "defining characteristic" that decisions of State courts must be final and conclusive unless set aside on appeal. Such a proposition is inherently doubtful when regard is had to immediately apparent exceptions.[36] Those exceptions include statutory provision for re-

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33 *Minogue* (2019) 268 CLR 1, [14]-[22] (Kiefel CJ, Bell, Keane, Nettle and Gordon JJ), 20-21 [31]-[32] (Gageler J), 26-27 [48] (Edelman J), although noting a theoretical alternative at 23 [41]).

34 *Garlett v Western Australia* (2022) 277 CLR 1, 23 [40] (Kiefel CJ, Keane and Steward JJ), 105 [291] (Gleeson J), citing *Fardon v Attorney-General (Qld)* (2004) 223 CLR 575, 591 [18] (Gleeson CJ), 598-601 [36]-[42] (McHugh J), 614 [85]-[86] (Gummow J); 655-656 [219] (Callinan and Heydon JJ). Further, South Australia agrees with the observation of Queensland that the first of the large questions identified by French CJ in *Crump*, namely whether a state legislature may exercise judicial power, does not arise in this case: DS, [60] and [63(c)].

35 Instances where intermediate appellate courts have held that interference with a sentence infringes the *Kable* doctrine include: *Attorney-General v Lawrence* [2014] 2 Qd R 504 (Holmes, Muir and Fraser JJA); *Question of Law Reserved (No 1 of 2018)* (2018) 275 A Crim R 400, 413 [34]-[35], 414-415 [38]-[43] (Vanstone J), 450 [160]-[161], 453-455 [168]-[176] (Hinton J, Lovell J agreeing).

36 At some points in the Plaintiff's submission, the Plaintiff appears to contend for an even broader 'defining characteristic', grounded in s 73 of the *Constitution*, to the effect that any "order, judgment, decree" will be final and conclusive unless set aside on appeal. Additional exceptions to that broader proposition may also be identified, most obviously in the context of the trusts and *parens patriae* jurisdiction of the supreme courts. However, for the sake of responding the Plaintiff's submissions, South Australia has focussed on exceptions to the narrower 'defining characteristic' contended for.

sentencing[37] (including fixing a new non-parole period),[38] statutory re-fashioning of sentences consequent upon wholesale reforms to parole or remission regimes,[39] and the conferral of jurisdiction to conduct second or subsequent appeals on the basis of fresh and compelling evidence[40] (or by reference from the Attorney-General).[41]

22. The most pertinent exception, however, is that already considered above, namely the prerogative of mercy.[42] While it does not quash or set aside the court's formal conviction or sentence, the exercise of the prerogative may remove or reduce the penalties or punishment imposed by a court.[43] The prerogative confers a broad discretionary power that may be exercised by the Governor-in-Council at any time.[44] It is a power exercised separately from the curial process and not formally part of the criminal justice system of prosecution, trial, or appeal.[45] Historically, the prerogative was a mechanism to afford leniency in a range of circumstances, including (but not limited to) mitigating the inflexibility of the criminal law in particular cases,[46] on compassionate grounds,[47] or in accordance with general government policy that certain forms of punishment will be not be carried out,[48] as well as more anomalous instances such as remissions on the occasion of royal events.[49]

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37 See e.g. *Elliott v The Queen* (2007) 234 CLR 38; *Crump* (2012) 247 CLR 1.

38 *R v Roberts* (2016) 125 SASR 40; *R v Bakewell* [2022] SASC 39.

39 See e.g. *Owen v South Australia* (1996) 66 SASR 251, 252-253 (Debelle J); *Andrews v Parole Board (of South Australia)* [2008] SASC 237.

40 See e.g. *Van Beelen v The Queen* (2017) 262 CLR 565, 569 [1], considering a provision now found in s 159 of the *Criminal Procedure Act 1921* (SA).

41 See e.g. *Ratten v The Queen* (1974) 131 CLR 510; *Re Petition by Frits Van Beelen* (1974) 9 SASR 163; *R v Jarrett* (2002) 83 SASR 583. Another example can be found under s 79(1)(b) of the *Crimes (Appeal and Review) Act 2001* (NSW), considered in *Attorney-General (Cth) v Huynh* (2023) 97 ALJR 298, [17], [23]-[24] (Kiefel CJ, Gageler and Gleeson JJ), 320 [102], 322-323 [112]-[115] (Gordon and Steward JJ), 337-338 [192]-[194], 342 [216] (Edelman J), 350-351 [265], 354 [281] (Jagot J).

42 W Blackstone, *Commentaries on the Laws of England*, vol 4 (1769), 389.

43 *Eastman v Director of Public Prosecutions (ACT)* (2003) 214 CLR 318, 350-351 [98] (Heydon J, Gleeson CJ, Gummow, Kirby, Hayne and Callinan JJ agreeing); *Attorney-General (Cth) v Huynh* (2023) 97 ALJR 298, 318 [92] (Gordon and Steward JJ): *R v Foster* [1985] QB 115, 130 (Watkins LJ, for the Court of Appeal); *Thomas v Sorrell* (1674) Vaugh 330, 333; 124 ER 1098, 1100 (Vaughan CJ).

44 *Attorney-General (Cth) v Huynh* (2023) 97 ALJR 298, 318 [94], 320-321 [103]-[104] (Gordon and Steward JJ); *De Freitas v Benny* [1976] AC 239, 247-248 (Lord Diplock for the Privy Council); *Kelleher v Parole Board (NSW)* (1984) 156 CLR 364, 368 (Mason J).

45 *Secretary, Department of Justice v Osland* (2007) 26 VAR 425, 452 [100] (Maxwell P), 454-455[115]-[118] (Ashley JA), 456 [124], 457 [126] (Bongiorno AJA); *Holzinger v Attorney-General (Qld)* (2020) 5 QR 314, 333 [50], 353 [121] (the Court).

46 *Attorney-General (Cth) v Huynh* (2023) 97 ALJR 298, 318 [94] (Gordon and Steward JJ). Most notably, when the death sentence was mandatory for a range of offences. See e.g. HLA Hart, *Punishment and Responsibility* (2nd ed, 2008), 60-61 discussing the Crown "mitigating the rigidity of the law" concerning murder through use of the prerogative.

47 *Holzinger v Attorney-General (Qld)* (2020) 5 QR 314, 337 [61]-[62] (the Court).

48 See e.g. *Harris v The Queen* [1967] SASR 316, 327 (in relation to whippings); *Ex parte Lawrence* (1972) 3 SASR 361 and *Censori v Holland* [1993] 1 VR 509, 513-515 (in relation to the death penalty).

49 See e.g. *Kelleher v Parole Board (NSW)* (1984) 156 CLR 364.

23. The case of *Attorney-General (Qld) v Lawrence*[50] does not support the existence of a 'defining characteristic' of the kind contended for by the Plaintiff. In *Lawrence*, the legislation in question operated in relation to a statutory regime under which the Supreme Court of Queensland was conferred with jurisdiction to make orders for continuing detention or supervision.[51] The subsequent legislation challenged in *Lawrence* purported to authorise the executive to make a 'public interest declaration', on its view of the public interest, in respect of a person who was the subject of the Court's order. The effect of a declaration was that the person was to be detained in an institution, and it would be a matter for the executive whether the person would be released. The legislation expressly excluded all review, except for judicial review on the ground of jurisdictional error. The Court of Appeal characterised this as the executive being in the position of an appellate court, being empowered to reverse or "nullify the Supreme Court's order". *Lawrence* should be seen to be a particular application of the *Kable* doctrine, decided by reference to the particular legislative scheme considered by the Court. The attempt by the Plaintiff to abstract from it a novel 'defining characteristic' should be rejected.

24. In light of the numerous exceptions to the 'defining characteristic' postulated by the Plaintiff and, in particular, the long-standing operation of the prerogative of mercy, should it be necessary for the Court to consider this contention, it should be rejected.

Part V: TIME ESTIMATE

25. It is estimated that up to 15 minutes will be required for the presentation of South Australia's oral argument.

Dated: 6 December 2024

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50 [2014] 2 Qd R 504.
51 The validity of that regime was upheld in *Fardon v Attorney-General (Qld)* (2004) 223 CLR 575.

IN THE HIGH COURT OF AUSTRALIA
CANBERRA REGISTRY No. B11/2024

BETWEEN: **RODNEY MICHAEL CHERRY**
Plaintiff

and

STATE OF QUEENSLAND
Defendant

ANNEXURE
PROVISIONS REFERRED TO IN THE SUBMISSIONS OF THE ATTORNEY-GENERAL FOR THE STATE OF SOUTH AUSTRALIA (INTERVENING)

No.	Description	Version	Provision
Constitutional provisions			
1.	Commonwealth Constitution	Current	Ch III
Commonwealth statutory provisions			
1.	*Crimes Act 1914* (Cth)	Current	17AB
State statutory provisions			
1.	*Corrective Services Act 2006* (Qld)	Current	175E, 175L
2.	*Corrective Services Act 2006* (Qld)	27 September 2021 to 3 December 2021	193A
3.	*Corrections Act 1986* (Vic)	1 August 2018 to 8 August 2018	74AA, 74AB
4.	*Corrective Services Act 2006* (Qld)	Current	175E, 175L
5.	*Correctional Services Act 1982* (SA)	19 June 1989 to 1 July 1991	79(2)

6.	*Crimes Act 1900* (NSW)	1 January 2001 to 15 July 2001	463
7.	*Crimes Administrations of Sentences Act 1999* (NSW)	20 July 2001 to 14 December 2001	154A
8.	*Criminal Law Consolidation Act 1935* (SA)	1 January 1985 to 5 June 1991	77a