



## Quiz

### Constitution: Implied Freedom

1. In light of the decision of the High Court in *Tajjour v State of New South Wales*; *Hawthorne v State of New South Wales*; *Forster v State of New South Wales* [2014] HCA 35, s 93X of the *Crimes Act 1900* (NSW) makes it an offence for:
  - a. A person to associate with convicted offenders.
  - b. A person to be in the vicinity of a convicted offender after they have been warned by the police.
  - c. A person to continue to 'habitually consort' with convicted offenders after receiving an 'official warning', either verbally or in writing, from a police officer.
  - d. A convicted offender to consort.
2. The applicants contended that s 93X of the *Crimes Act 1900* (NSW) was invalid for which of the following reasons:
  - a. It impermissibly burdened the implied freedom of political communication.
  - b. It contravened an implied freedom of association.
  - c. It was contrary to the *International Covenant on Civil and Political Rights*.
  - d. All of the above.

3. What is the test from *Lange v Australian Broadcasting Corporation* [1997] HCA 25 with respect to determining whether legislation impermissibly contravenes the implied freedom of political communication?
  - a. Does the law effectively burden political communication? If so, is the law proportionate to a legitimate end, compatible with representative government?
  - b. Does the law impinge a citizen's constitutionally mandated freedom of speech?
  - c. Does the law impinge a citizen's constitutionally mandated right to vote for a representative government?
  - d. Is the law designed to achieve a legitimate end?
4. Why did the Majority rule that s 93X of the *Crimes Act 1900* (NSW) was not invalid?
  - a. The law was not inconsistent with the *International Covenant on Civil and Political Rights*.
  - b. The law did not effectively burden the implied freedom of political communication.
  - c. It was an unnecessary question for them to answer.
  - d. The law was proportionate to the legitimate end of protecting the community; there is no implied freedom of political association; nor could an unimplemented treaty interfere with State legislative powers.

5. What were French CJ's reasons in dissenting in *Tajjour v State of New South Wales*; *Hawthorne v State of New South Wales*; *Forster v State of New South Wales* [2014] HCA 35?
- a. The law did not effectively burden the implied freedom of political communication.
  - b. The law was an impermissible burden on the implied freedom and was thus invalid because it did not discriminate between cases in which the legitimate end of preventing crime was served and those "in which it patently is not".
  - c. The law was inconsistent with Australia being a signatory to *International Covenant on Civil and Political Rights*.
  - d. The burden on the implied freedom was not proportionate because of the absence of exemptions for political communication, but held that it could be read down.

Answers:

1. c 2. d 3. a 4. d 5. b