

## Exemption from Jury Service

### Terms of Reference

In 1977, the Commission was asked to review the law relating to exemption from jury service and to make proposals for establishing the principles and procedures necessary to ensure that exemption, particularly class exemption, applies only in legitimate cases.

### Background of Reference

At the time of the reference the law on this subject was contained in the *Juries Act 1957* (WA) ("the Act"). The Commission was concerned that the Act:

- (a) did not distinguish between persons who should be ineligible for jury service and those who should be given the right of excusal;
- (b) was discriminatory in giving women an absolute right to cancel their liability for jury service; and
- (c) was confusing and inconsistent in relation to the kinds of person disqualified from serving as a juror.

### Nature and Extent of Consultation

The Commission issued a working paper in August 1978, which outlined provisional proposals for reform. The paper was distributed widely amongst interested parties and the general public. A notice, inviting submissions, was also placed in *The West Australian* newspaper.

Twenty-six submissions were received from a variety of sources including the Law Society of Western Australia, the Sheriff of Western Australia, government departments, the Institute of Legal Executives, women's organisations, legal practitioners and private persons. After extensive examination of the law in other Australian jurisdictions and consideration of all submissions, the Commission delivered its final report in June 1980.<sup>1</sup>

### Recommendations

The Commission recommended the following summarised reforms:

- That the concept of "exemption" in the Act should be replaced by the concepts of "ineligibility" and "excusal as of right".
- That certain persons should be ineligible for jury service. For example, Members of Parliament, legal practitioners, government officials employed in law enforcement, the ill or infirm, those exempted under the *Jury Exemption Act 1965* (Cth) and persons unable to read and understand the English language.
- That certain persons should be entitled to excusal as of right. For example, persons employed; by the emergency services, in healthcare, in religion, and persons who have certain family commitments.
- That the right of women to cancel their liability for jury service should be abolished.
- That the right of a woman to be excused from attendance at a particular trial on special grounds should be abolished.
- That the Act be amended to provide guidelines for the summoning officer and the Judge for the exercise of their power to excuse from attendance in the case of a particular sitting or trial.
- That any changes to the classes of those ineligible or entitled to excusal as of right be facilitated by statute.

<sup>1</sup> Law Reform Commission of Western Australia, *Exemption From Jury Service*, Project No 71 (1980).

- That disqualification from jury service should be restricted to those convicted of an offence and sentenced to a prescribed term of imprisonment.
- That the announcement, currently made to the jury panel relating to possible bias, should be widened and put on a statutory basis.
- That the provisions in the Act as to the proportion of men and women required to be summoned for jury service should be repealed.
- That persons disqualified, ineligible or entitled to excusal as of right in relation to jury trials in the Supreme and District Courts should also be disqualified, ineligible or entitled to refusal as of right in the case of coroners' juries.

A comprehensive outline of recommendations may be found at chapter five of the Commission's final report.

#### Legislative or Other Action Undertaken

The *Juries Amendment Act 1984* (WA) implemented all recommendations outlined in the Commission's final report.