



THE LAW SOCIETY
OF NEW SOUTH WALES

Our Ref: RBGMM1306375

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4 June 2010

Mr Greg Smith SC MP
Shadow Attorney General
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Smith,

Jury Amendment Bill 2010

Thank you for the opportunity to comment on the *Jury Amendment Bill 2010*.

The Law Society's Criminal Law Committee (Committee) has reviewed the Bill which incorporates many of the recommendations of the NSW Law Reform Commission's report on Jury Selection (Report 117), and makes the following comments for your consideration.

Persons excluded from jury service

Current Schedule 1 lists the categories of persons who are disqualified from jury service and Schedule 2 lists the categories of person who are ineligible for jury service. The Bill combines the categories into a single heading of exclusion from jury service. The Committee supports this amendment. There is no need to maintain the distinction between disqualification and ineligibility for jury service.

The Committee suggests that the words in clause 7 of Schedule 1 "...but only if, as a result of holding that position, the person has direct access to inmates or information about inmates" should be deleted to remove difficulties of identification of those who fall within the exclusion.

Persons who have a right to claim exemption

The Committee understands that one of the aims of the amendments is to ensure a properly representative jury. The purpose of removing certain exemptions from jury service is to increase participation of a greater cross-section of the community. For this reason the following current categories have been excluded from Schedule 2:

- Mining managers and under-managers of mines.
- Persons who are at least 70 years old.
- A person who has the care, custody and control of children under the age of 18 years (other than children who have ceased attending

- school), and who, if exempted, would be the only person exempt under this item in respect of those children.
- A person who resides with, and has full-time care of, a person who is sick, infirm or disabled.
 - Pregnant women.
 - A person who resides more than 56 kilometres from the place at which the person is required to serve.

With the objective of widening representation on juries in mind, the Committee is of the view that the following persons should no longer be entitled as of right to be exempted from serving as a juror and should also be removed from Schedule 2:

- Clergy.
- Vowed members of any religious order.
- Persons practising as dentists.
- Persons practising as pharmacists.
- Persons practising as medical practitioners.

These persons could still apply to the NSW Sheriff's Office to be excused from jury service for good cause, e.g. if the pharmacist is the only pharmacist in a small town, but they should not be entitled to be exempted as of right.

Remuneration and protections for employees

The Committee supports the increased protections for employees who undertake jury service.

The current level of remuneration for jury service is inadequate. For this reason the prospect of jury service is unattractive for many people, and leads to a high number of applications to be excused. If the remuneration and conditions of jury service were improved to a sufficient level, it is likely that more people would be willing to participate in jury service. This would result in juries that are more representative of the broader community than they are at present.

The proposed increase in remuneration for jurors is not substantial; however it is an improvement on the current situation.

Thank you for consulting the Law Society on the amendments to the *Jury Act 1977*.

Yours sincerely,


Mary Macken
President