

24 November 2010



Legislative Council Standing Committee on Law and Justice

Inquiry into the eligibility of members of Parliament to serve on juries

REPORT TABLED

The Chair of the Standing Committee on Law and Justice, the Hon Christine Robertson MLC, today tabled the Committee's report on its Inquiry into the eligibility of members of Parliament to serve on juries. The report makes one recommendation upholding the exemption of members from jury service.

'Members of Parliament are currently exempt from jury service. There are two legal bases for this exemption: an immunity arising from common law, and an exclusion prescribed by statute', Ms Robertson said.

'Many compelling reasons were raised during the Inquiry as to why members of Parliament should be exempt from jury service, with nearly all submission makers arguing strongly that the exemption should be maintained'.

'One of the key reasons for maintaining the exemption is the doctrine of the separation of powers. The independence and impartiality of each arm of government is fundamental to our system of government. Allowing individuals who make laws to then adjudicate on those laws would be a breach of that doctrine.'

Ms Robertson said: 'Another key reason why members should be exempt from jury service is their duty to the House and to their constituents. We do not consider our occupation to be more important than any other, however we acknowledge the ancient principle that the House has the first right to its members, which is essential to the functioning of Parliament. Further, members should be available for their constituents, who have a right to be represented in Parliament. Elected representatives should not be taken out of this role to sit on a jury.'

'Numerous other persuasive arguments for maintaining the statutory exemption were raised during the Inquiry, such as the potential for bias (whether real or perceived), consistency with other Australian jurisdictions, the limited benefit of adding members to the jury pool and uncertainty surrounding the status of the common law immunity.'

'The Committee therefore supports the ongoing exemption of members of Parliament from jury service, and has recommended that the statutory ineligibility in the *Jury Act 1977* be maintained.'

Ms Robertson can be contacted for comment on 0428 674 310 or (02) 9230 2971

Further information: The report is on the Committee's website at: www.parliament.nsw.gov.au/lawandjustice. Hard copies are available by phoning (02)9230 2412.

Summary of recommendations

Recommendation 1

28

That the statutory ineligibility of members of Parliament from jury service in the *Jury Act 1977* be maintained.