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LAW & JUSTICE

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25 August 2010

Ms Cathryn Cummins
Principal Council Officer
Standing Committee on Law and Justice
Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Ms Cummins

Inquiry into judge alone trials under s. 132 of the *Criminal Procedure Act 1986*

I refer to your letter dated 17 August 2010 and respond to your questions as follows:

1. A judge sitting alone is likely to be the focus of an unpopular decision whereas a jury is a broad church with mostly anonymous decision makers.
2. I agree this is an inappropriate power to give to an accused person. An appeal to a judge sitting alone (not the trial judge) should be available to the DPP.
3. The department is not an independent voice in the debate about jury trials in the same way as the DPP representing the community interest.
4. A jury trial is to be preferred unless all the accused agree to a judge alone trial. The jury tampering provision should be left to the court to resolve and not included in the legislation in my opinion.
5. See answer to question 4.

Thank you once again for the opportunity to give evidence before the committee.

Yours sincerely



PETER BREEN