

Summary Trial of Indictable Offences

Terms of Reference

In 1968 the Committee was asked to consider the need for further legislation to provide for summary trial of certain indictable offences.

Background of Reference

In most Australian jurisdictions there had been a movement towards the extension of the range of indictable offences that could be dealt with summarily. It was widely acknowledged that trials by judge and jury on indictment were lengthier and more costly than summary trials. It was also recognised that in many instances an accused may prefer summary trial because of its practical advantages. For instance, summary trials are resolved sooner, are often less public and the maximum penalty that may be imposed is generally less. The Committee was also simultaneously working on an incidental reference relating to the streamlining of committal proceedings.¹ It was recognised, however, that the time, costs and other disadvantages associated with trial on indictment would still be evident even if reforms were introduced to streamline the procedures for committal for trial.

The Committee prepared a working paper on the issue which was distributed in December 1968. The paper examined the existing state of the law in Western Australia and suggested possible reforms.

Nature and Extent of Consultation

Copies of the working paper were sent to the Chief Justice and judges of the Supreme Court, the Law Society of Western Australia, the University of Western Australia Law School, the Magistrates Institute, the Justices Association of Western Australia, the Commissioner of Police, the Under Secretary for Law and other law reform agencies with whom the Committee was in correspondence. The Committee received comments from magistrates, the Commissioner of Police, the Law Society and several legal practitioners. The final report was delivered in June 1970.²

Recommendations

The Committee made a number of recommendations on the basis that some extension of the jurisdiction to deal summarily with indictable offences was warranted. It was suggested that this approach, together with the changes proposed for committal proceedings, would result in a better distribution of work between the Supreme and District Courts and the Courts of Petty Sessions with a saving of time and expense. Amongst other things, the Committee recommended that:

A number of offences, including forgery and breaking and entering, should be added to the list of indictable offences which may be dealt with summarily, provided:

- (a) the court is satisfied that the charge can be adequately dealt with and punished summarily; and
- (b) summary trial is elected by the accused.

A comprehensive outline of all the recommendations, including the Committee's suggestions as to offences to be added to the list of indictable offences which may be dealt with summarily, may be found at pages 9–13 of the final report.

¹ Law Reform Committee of Western Australia, *Committal Proceedings*, Project No 4 (1970).

² Law Reform Committee of Western Australia, *Summary Trial of Indictable Offences*, Project No 6 (1970).

Legislative or Other Action Undertaken

In 1972 Parliament passed several legislative amendments implementing the Committee's recommendations: the *Criminal Code Amendment Act 1972 (WA)*, the *Justices Act Amendment Act 1972 (WA)* and the *Child Welfare Act Amendment Act (No 2) 1972 (WA)*.

The principal object of the *Criminal Code Amendment Act 1972* was to extend the classes of indictable offences which may be tried summarily according to the Committee's recommendations. The provisions of the *Justices Amendment Act 1972* and the *Child Welfare Amendment Act (No 2) 1972* were consequential upon the amendments that were made to the *Criminal Code*.