

Tabled LA 23.5.97
LC 27.5.97

GOVERNMENT RESPONSE TO THE RECOMMENDATIONS OF THE
LAW REFORM COMMITTEE FINAL REPORT VOLUME ONE -
JURY SERVICE IN VICTORIA

Background

The Law Reform Committee report is the result of a two year study commenced by the previous Law Reform Committee whose reference lapsed with the dissolution of Parliament 5 March 1996. The new Committee was elected on 14 May 1996 and received the following reference on 12 June 1996:

1. To review and make recommendations on the criteria governing ineligibility for, and disqualification and excusal from, jury service under sections 4 and 5 of the *Juries Act* 1967.
2. To review and make recommendations in respect of the compilation of jury lists under Part II and the pre-selection of jurors under Part III of the *Juries Act* 1967.
3. To review and make recommendations in respect of the preparation of jury panels and the summoning of jurors under sections 20, 20A, 21, 23, 24, 25, 26 and 27 of the *Juries Act* 1967.

The Committee consulted widely in Victoria, interstate and in some overseas common law jurisdictions.

The Committee received a record 137 written submissions, roughly comprised as follows: private citizens (20%), church/religious (11%), professional associations/agencies/boards (22%), interest groups (10%), government departments/agencies (14%), legal and allied (15%), miscellaneous (8%).

Evidence was taken from 32 expert witnesses including Mr. J. Artup, Deputy Sheriff (Juries), His Honour Judge Mullaly, Chairman, Law Reform Committee of the County Court of Victoria, Mr. R. Van der Wiel of the Criminal Bar Association, Mr. G. Flatman QC - Director of Public Prosecutions, and Acting Commissioner Gavin Brown of Victoria Police.

The last major review of the jury system occurred in 1967. It resulted in the adoption of many recommendations of a review in England and Wales conducted by Lord Morris of Borth-y-Gest in 1965. Some legislative change has occurred since then. In 1993 legislation was introduced which among other things, provided for majority verdicts in civil trials and in some criminal trials.

The Committee contends that contemporary standards and perceptions in respect of many of the categories of disqualification, ineligibility and excusal have changed since the enactment of the *Juries Act* 1967.

Overriding Principles

The Committee's recommendations are aimed at making juries overall broadly representative of the Victorian community. They are subject to the following overriding principles identified by the Committee:

- the need to maintain separation of powers between the executive, legislature and judicial branches of the government;
- the need for an accused person to receive and to be perceived to receive a fair trial from an impartial tribunal;
- the need to maintain respect for the jury system;
- the need to ensure public health & safety are not adversely affected by the requirements of jury service;
- provision for special cases where jury service would cause undue hardship to a person or the public serviced by that person.

Representativeness

The Committee has identified the following five factors as operating to reduce representativeness:

1. the extensive categories of people disqualified, ineligible or entitled to be excused as of right from jury service;
2. the manner in which jury districts are determined (within a 32km radius of a Supreme/County Court town);
3. the right of peremptory challenge;
4. the conditions of jury service may discourage people (eg. lack of adequate remuneration and lack of childcare facilities/other amenities);
5. a public perception that jury duty is onerous and to be avoided at all cost.

Overview of Recommendations

The Committee made recommendations relating to the categories of exclusion which render persons not liable for jury service. These included:

- broadening the range of people who may be selected for jury service;
- narrowing the categories of disqualification;
- abolition of the categories of excusal as of right;
- excusal for good reason in accordance with published guidelines;
- no upper age limit.

The Committee also made recommendations in respect of jury district determination, and the public perception as to jury duty. These included:

- increase in jury districts by the division of the whole of Victoria into jury districts;
- introduction of one trial/one day system of jury service;
- certificates of exemption for various time periods depending on length of service;
- increase in compensation paid to persons attending for jury service equivalent to the average weekly wage;

- refurbishment/building of courts to take account of the needs of jurors, especially those with physical disabilities;
- changing community attitudes through educational programs;
- increasing fines relating to failure to return a questionnaire & implementing a method of enforcement similar to the PERIN procedure.

Consultation in the preparation of this response took place with the Department of Premier and Cabinet, The Deputy Sheriff (Juries), the Courts, Tribunals and Registries Division of the Department of Justice, the Office of Public Prosecutions, the Department of Justice, the Victorian Government Solicitor and others.

The Committee has performed a significant function in carrying out this review pursuant to its terms of reference. The record number of submissions received by the Committee is indicative of the importance placed by the community on the jury system.

It is desirable that juries are comprised of people who are broadly representative of the Victorian community. The overriding principles identified by the Committee are equally important and must underpin any legislative change.

It is accepted that the current overall category of excusal as of right should be abolished in favour of a system of excusal for good reason in accordance with published guidelines. It is considered important that the distinction between those disqualified from jury service, and those ineligible to perform jury service remain. Consequently the recommendation of the abolition of the overall category of ineligibility requires further consideration.

Within each of the current categories of exclusion, not all the recommendations of the Committee seeking alteration of the current position are supported. It is important that the categories of ineligibility reflect the interests of the proper administration of justice, and retain the separation of powers between the executive, legislative and judicial branches of the government. On this basis, some of the recommendations will require further consideration.

The resourcing implications of the Committee's recommendations also need to be fully considered.

The careful consideration of those factors associated with ensuring that the composition of juries is broadly reflective of the community is critical to the proper administration of justice. It is in this context that not only jury composition but the selection process itself must accord with recognized standards of propriety and impartiality.

The categories of disqualification (both existing and those proposed by the Committee) require further consideration in terms of the disqualification period which ought apply. This issue was last considered some thirty years ago. Since that time, sentencing options available to the courts have altered considerably and accordingly, these and other recommendations require further consideration.

Attached at Appendix 1 are three tables setting out the current categories of disqualification, ineligibility, and excusal as of right. Each table indicates the recommendation of the Committee with respect to each category and the Government response to the same.

Recommendation 1

(As a general proposition the Victorian jury system should seek to reflect a broad cross-section of the demographic attributes of the Victorian adult population.)

The increase in the representativeness of juries is supported in principle. Any resourcing implications that arise from proposed measures to achieve that representativeness must also be considered.

Recommendation 2

(A computer generated method of random selection is the best way to achieve a representative jury.)

The Electoral Commissioner currently employs this practice for the selection of names for jury lists from the State Roll System.

Recommendation 3

(The court's powers over juries should not be extended to allow the discharge of a jury or a stay of proceedings on the ground that the jury is considered by the court to be insufficiently representative of the community.)

Supported in principle. It is noted in the Committee's report that the courts have ample discretionary power to ensure fairness over all in the conduct of criminal trials. It is considered that this discretion, and its appropriate exercise, should sufficiently ensure the prevention of unfairness in criminal trials.

Recommendation 4

(Investigations should take place to determine the administrative feasibility of establishing an accurate database of citizens and non-citizen permanent residents for jury service. In the interim, the basic qualification for jury service - that is, being enrolled as an elector for the Legislative Assembly - should remain unaltered.)

Requires further consideration. Whilst it is desirable that an accurate database of people available for jury service be established, the Committee itself has noted the practical difficulties that would be involved in attempting to set up such a database. It also noted the resourcing implications of the same. In the interim it is supported that the current basic qualification for jury service should remain.

Recommendation 5

(Undischarged bankrupts should be eligible for jury service.)

Not supported.

Whilst many people find themselves declared bankrupt through no immediate fault of their own (such as the person whose spouse incurred debts in his or her name without that person's knowledge) there are many others who are in the position by virtue of deliberate and wilful misuse of position, or other questionable behaviour. It would seem not desirable to have such persons eligible for jury service.

Recommendation 6

(There should be no change to clause 1(a) of Schedule 2 of the Juries Act 1967 which disqualifies from jury service any person who has been convicted of treason.)

Supported.

RECOMMENDATIONS 7 - 13

Recommendation 7

(There should be no change to clause 1(b) of Schedule of the Juries Act 1967 which disqualifies from jury service any person who has been convicted of one or more indictable offences and sentenced to imprisonment for a term or terms in the aggregate not less than three years.)

Recommendation 8

(There should be no change to clause 1(b) of Schedule of the Juries Act 1967 which disqualifies from jury service for a period of five years any person who has been imprisoned or on parole, except where the total sentence served does not exceed in the aggregate three months, or was incurred as a result of a failure to pay a fine or where a free pardon has been granted.)

Recommendation 9

(The category of disqualification which applies to a person who is bound by a recognizance entered into after conviction for any offence should be repealed.)

Recommendation 10

(The category of disqualification which applies to a person who is subject to a community-based order that includes a condition referred to in section 38(1)(b) of the Sentencing Act 1991 made by a court should be repealed.)

Recommendation 11

(The categories of persons disqualified from serving as jurors should be amended to include persons who have been ordered to serve a term of imprisonment by way of intensive correction in the community at any time within the preceding last five years.)

Recommendation 12

(The categories of persons disqualified from serving as jurors should be amended to include persons who have been ordered to serve a term of imprisonment exceeding three months that is suspended by the court wholly or partly at any time within the preceding last five years.)

Recommendation 13

(The categories of persons disqualified from serving as jurors should be amended to include persons who have been ordered to serve a period of detention in a youth training centre exceeding six months. The period of disqualification should be for two years after the expiry of the order.)

These recommendations require further consideration.

Currently, a life disqualification applies if a person has been sentenced for an offence (or aggregate offences) to over 3 years imprisonment. A person sentenced to between 3 months and three years imprisonment is currently disqualified for 5 years.

Also, a person bound by a recognizance entered into after conviction for any offence (now no longer a sentencing option in Victoria) and a person subject to a Community Based Order which includes a supervisory condition, are disqualified from performing jury service.

The Committee recommends the addition of persons subject to Intensive Correction Orders and suspended sentences be included as new categories of disqualification.

It is proposed to consider all sentencing dispositions provided for by the legislation with a view to establishing a new graded system of disqualification to be based on the severity of the sentence imposed. This form of review has not been undertaken since the introduction of the *Juries Act* 1967.

Recommendation 14

(Persons on bail or charged with a criminal offence which has not been determined should continue to be eligible for jury service.)

In light of the Committee's overriding principle of the need for an accused person to receive and to be perceived to receive a fair trial from an impartial tribunal, this recommendation is not supported.

Persons who have been charged with serious offences may be bailed. In many cases they will shortly find themselves in the position of the accused person, and possibly in a situation of perceived conflict if required to serve on a jury.

Recommendation 15

(Persons subject to an intervention order under the Crimes (Family Violence) Act should continue to be eligible for jury service.)

Not supported.

The spectrum of conduct for which a final intervention order may be granted has increased with the introduction of the stalking provisions in the *Crimes Act* 1958. In many cases however, final intervention orders are granted following violent and threatening behaviour. Although the order is a civil one, it carries a criminal sanction for breach and therefore, recognition by the legislature that further behaviour of the kind complained of is undesirable. Often, the behaviour complained of can also be the subject of criminal charges.

The need to maintain the public's respect for the jury system, and the expectation that justice is seen to be done is important.

RECOMMENDATIONS 16, 17, 18

Recommendation 16

(The categories of ineligibility and excusal as of right should be repealed in favour of a system which renders all members of the Victorian community, who are enrolled to vote for the Legislative Assembly and are not disqualified, liable for jury service regardless of their status or occupation, unless their exemption or excusal is justified by some overriding principle. The overriding principles are:

- (a) the need to maintain the separation of powers between the executive, legislative and judicial branches of government;*
- (b) the need to ensure, as best as can be, that an accused person receives, and is generally perceived to receive, a fair trial from an impartial tribunal;*
- (c) the need to maintain respect for the justice system.*
- (d) the need to ensure that public health and safety are not adversely affected by service on a jury;*
- (e) the need to provide for special cases where jury service on a particular occasion, or at any time, would cause undue hardship to the person or the public served by the person.)*

Recommendation 17

(The application of recommendation 16 requires that the existing categories of ineligibility should be reduced.)

Recommendation 18

(As a consequence of the introduction of a one trial or one day system of jury service, the application of recommendation 16 requires that the categories of excusal as of right should be abolished and replaced with a system of discretionary excusal based on published guidelines.)

The overriding principles identified in recommendation 16 are supported.

The abolition of the category of "ineligibility" requires further consideration. It may be desirable to maintain the current distinction between those disqualified, and those ineligible to serve as jurors, particularly in light overriding principles (a), (b), and (c) identified by the Committee in recommendation 16.

It is supported in principle that the categories of excusal as of right be abolished in favour of a system of excusal for good reason based on published guidelines.

Recommendation 19

(Any person who is a judge, magistrate or holder of another judicial office should be ineligible to serve as a juror.)

Supported.

Recommendation 20

(Any person who is a Justice of the Peace or a Bail Justice should be ineligible to serve as a juror.)

These recommendations are supported in principle. Consideration may also be given to a further period of ineligibility following cessation of appointment.

Recommendation 21, 22

(Any person who is duly qualified legal practitioner in active practice should be ineligible to serve as a juror.)

(The category of ineligibility which currently applies to any person employed by a duly qualified legal practitioner in connection with the practice of the law should be repealed.)

Recommendation 21 requires further consideration in respect of a possible period of ineligibility following the cessation of practice.

Recommendation 22 is supported in principle.

Recommendation 23

(The category of ineligibility which currently applies to a minister of religion, monk, nun or other vowed member of a religious community should be repealed.)

Supported.

Recommendation 24

(Any person who is employed in a department of the Government whose duties of office are connected with the investigation of offences, the administration of justice or the punishment of offenders should be ineligible to serve as a juror.)

Supported in principle.

Recommendation 25

(Any person who is a member of the police force should be ineligible to serve as a juror.)

Supported. Consideration should also be given to a period of ineligibility following cessation of employment so that a conflict situation does not arise.

Recommendation 26

(The categories of ineligibility which currently apply to the Director-General of Community Services, to persons employed under his or her direction and control and to honorary probation officers should be repealed.)

Requires further consideration.

Recommendation 27

(Any person who is employed in a non-government corporation or organisation specified by proclamation published in the Victoria Government Gazette whose duties of office are connected with the investigation of offences, the administration of justice or the punishment of offenders should be ineligible to serve as a juror.)

Supported.

Recommendation 28

(The category of ineligibility which currently applies to a volunteer within the meaning of the Corrections Act 1986 should be repealed.)

Not supported. Volunteers may be authorised to work in an unpaid capacity for prison purposes. Further they may also work at a community corrections centre, or at a place at which an offender is required to live by a correctional order, or at a place at which an offender is required to attend for educational recreation or other purpose by a correctional order. Such duties are connected with the punishment of offenders and consistent with recommendations 24 and 27, such persons should not be eligible for jury service.

Recommendation 29

(The category of ineligibility which currently applies to the Electoral Commissioner and any person employed under his or her direction and control should be repealed.)

It is not supported that the Electoral Commissioner should be eligible to serve on a jury in light of the fact that he carries the responsibility for the generation of the jury list. The eligibility of any person employed under his or her direction and control will require further consideration.

Recommendation 30

(Any person who is employed as a court reporter or in connection with any court or tribunal recording service should be ineligible to serve as a juror.)

This recommendation is supported in principle subject to further consideration being given as to a possible period of ineligibility following cessation of employment in this capacity.

Recommendation 31

(The category of ineligibility which currently applies to an officer of the Ombudsman should be repealed.)

Requires further consideration.

Recommendation 32

(The category of right to be excused which currently applies to the Ombudsman should be repealed.)

The removal of the category of excusal as of right overall is supported. Consideration will however be given to the inclusion of the Ombudsman (and the various other Ombudsmen) as a category of ineligibility.

Recommendations 33, 42

(The current specific categories of ineligibility from jury service relating to persons with mental, intellectual and physical disabilities should be repealed in favour of a general category which renders ineligible a person who has a physical, intellectual or mental disability that makes the person incapable of effectively performing the functions of a juror.)

(Consistent with recommendation 33 the current category of right to be excused relating to 'persons who are so physically handicapped as to be unable to perform the duties of jurors without undue hardship' should be abolished.)

Supported in principle.

Recommendation 34

(A person who is not able to read or write the English language should be ineligible for jury service.)

Supported.

Recommendation 35

(The category of right to be excused which purports to apply to members of the Public Service Board, Police Service Board and Teachers' Tribunal should be repealed.)

Supported.

Recommendation 36

(The category of right to be excused which currently applies to the Governor and the Official Secretary to the Governor should be redesignated as a category of ineligibility.)

Supported.

Recommendation 37

(The category of right to be excused which currently applies to Members of Parliament should be redesignated as a category of ineligibility.)

Supported.

Recommendation 38

(The category of right to be excused currently applies to Officers of the Legislative Council and Officers of the Legislative Assembly should be redesignated as a category of ineligibility, but should only apply to the Clerks of both Houses of the Parliament, the Usher of the Black Rod and the Sergeant-at-Arms.)

The ineligibility of the clerks of both houses of Parliament, the Usher of the Black Rod, and the Sergeant-at-Arms is supported. Further consideration will be given to the eligibility of officers of the Legislative Council and Legislation Assembly generally.

Recommendation 39

(The categories of right to be excused relating to the following occupational groups should be repealed:

- (a) The permanent heads of all State Government Departments;*
- (b) The Commissioners, members and secretaries of all statutory corporations;*
- (c) The Auditor-General;*
- (d) Medical practitioners, dentists and pharmacist registered under certain specified Acts;*
- (e) Masters and teachers in State schools or schools registered under the Education Act 1958;*
- (f) Masters and crews of trading vessels;*
- (g) Pilots holding a licence under the Marine Act 1988;*
- (h) Airline pilots and crews regularly engaged on international flights;*
- (i) Mayors, presidents, councillors, town clerk and secretaries of municipalities.)*

This recommendation is supported in principle in so far as the notion of a category of people with a right to be excused will be abolished. Further consideration will be given however to the categories of persons currently comprising this group, and whether any of those persons should in fact become ineligible to perform jury service. For instance, the permanent heads of all State Government Departments, the Commissioners, members and secretaries of all statutory corporations, the Auditor General and Mayors, presidents, councillors, the town clerk and secretaries of municipalities will be considered for inclusion into the category of ineligibility.

Recommendation 40

(There should be no upper age limit for jury service. Persons aged 70 years and over should be entitled to elect not to be eligible for selection for jury service.)

This recommendation is supported.

Recommendation 41

(The categories of right to be excused relating to pregnant women and persons who are required to undertake the full time care of children or persons who are aged or in ill health should be abolished.)

Requires further consideration.

Recommendation 43, 52-56.

(Persons may claim an exemption from jury service if they reside more than 50 kilometres from the court in metropolitan Melbourne or 100 kilometres outside metropolitan Melbourne.)

(The whole State of Victoria should be divided into jury districts in a manner which ensures that all persons liable for jury service are included in at least one jury district.)

(For administrative purposes jury districts should be based on Legislative Assembly electoral districts.)

(The initial jury district boundaries should be proclaimed by the Governor in Council on the recommendation of the Electoral Boundaries Commission which

should consult with the Supreme Court Sheriff. The proclamation should be published in the Victoria Government Gazette.)

(The Electoral Boundaries Commission in consultation with the Supreme Court Sheriff should be responsible for recommending to the Governor in Council what new or changed jury districts should be proclaimed.)

(Where a person resides within two or more overlapping jury districts the person should be allocated to the jury district which serves the court town nearest the person's place of residence. Where this cannot be easily determined, the State Electoral Commissioner should have a discretion to allocate the person to such jury district as the State Electoral Commissioner considers appropriate.)

These recommendations are supported in principle subject to resource considerations.

Recommendation 44

(A person who holds a current certificate of exemption on account of lengthy jury service should be able to claim an exemption from further jury service for such period as the court determines.)

Supported.

Recommendations 45, 63

(Any person attending for jury service should be entitled to a certificate of exemption for three years. Persons who have served on a jury for a trial lasting more than five days should be exempt from jury service for five years.)

(Consistent with recommendation 45, a one trial or one day system should incorporate a provision exempting a person who attends for jury service from further jury service for three years.)

These recommendations require further consideration as to the periods of exemption that ought to apply based on the length of jury service. It is supported that a person attending for jury service should receive a certificate of exemption.

Recommendation 46

(The trial Judge should have a discretion to grant exemption for longer periods in special circumstances.)

Supported.

Recommendation 47

(There should be no statutory maximum period for which a court may grant a certificate of exemption.)

Supported.

Recommendation 48

(Guidelines for the exercise of the discretion to excuse a person from jury service for good reason should be developed by the Judges of the Supreme and County Courts and be published as a practice direction.)

Supported in principle.

Recommendation 49

(Guidelines for the exercise of the discretion to excuse a person from jury service for good reason should include excusal on the grounds of conscientious objection to jury service.)

Supported in principle.

Recommendation 50

(The present ineligibility for persons employed in the liability insurance industry should be repealed.)

Requires further consideration.

Recommendation 51

(The Victorian Attorney-General should request the Federal Attorney-General take note of the committee's recommendations and order a review of Commonwealth exemptions from jury service with a view to substantially reducing the number of persons who are exempt under Commonwealth law.)

Supported in principle.

Recommendation 57

(The jury list should be compiled on a three monthly basis.)

Supported.

Recommendation 58, 59

(A committee should be established under the chairmanship of a senior judge and with representatives from the State Electoral Commission, the Supreme Court Sheriff's office and any other interested and relevant body, to investigate how the accuracy and utility of the jury list can be improved.)

(A committee should be established under the chairmanship of a senior judge and with representatives from the State Electoral Commission, the Supreme Court Sheriff's office and any other interested and relevant body, to investigate how the

process of juror per-selection can be improved, and ways in which information can be shared which will improve the accuracy and utility of the State Roll System.)

Supported in principle, subject to resource implications.

Recommendations 60, 61

(The maximum fine for the offences of failing to return a questionnaire, and for wilfully making an untrue or misleading statement in a questionnaire should be increased to 5 penalty units and 10 penalty units respectively.)

(Provision should be made for persons who fail to complete juror questionnaires and who also fail to respond to follow-up letters to be issued with infringement notices. These should be combined with enforcement provisions similar to the PERIN procedure set out in section 99 and schedule 7 of the Magistrates' Court Act 1989.)

The increase of the maximum fine for failing to return a questionnaire is supported.

Recommendation 61 requires further consideration.

The recommendation relating to the adoption of the issue of infringement notices and enforcement via a PERIN like procedure (questions of resource implications aside), is problematic because proof in the first instance would be required to establish the prohibited conduct. For instance, to prove a questionnaire was not returned would require proof that it was received. This could be achieved by the use of registered mail, but this would have further resource implications. Also, it would be very difficult to establish initially that a person has lied or made misrepresentations in the questionnaire.

Consideration will be given to the possibility and feasibility of an alternative procedure being established. This is subject to resource implications.

Recommendation 62

(A system of one trial or one day jury service should be introduced.)

Supported.

Recommendation 64

(Jury panels should include the dates of birth of the prospective jurors.)

Supported.

Recommendation 65

(Vetting of jury lists to detect disqualified persons and persons with non-disqualifying criminal convictions should continue.)

Supported.

Recommendation 66, 67

(Information obtained from jury vetting should be provided to the trial judge prior to the commencement of the empanelling process.)

(The defence should also have access to information obtained from jury vetting at the empanelment stage with leave of the trial judge.)

Not supported.

Recommendation 68

(The jury vetting function should be carried out by the sheriff.)

Not supported. This function should continue to be carried out by the Chief Commissioner of Police. Security implications for putting this procedure in the hands of someone outside of the Chief Commissioner's office are immense. Only the Chief Commissioner of Police has access to overseas and interstate information regarding criminal convictions and persons on bail.

Recommendation 69

(Jury vetting should be extended to include all known convictions, including interstate and international convictions, if practicable.)

Supported in principle.

Recommendation 70

(The sheriff should publish guidelines for his or her procedures in performing the jury vetting function.)

This recommendation is not supported. See Recommendation 68.

Recommendation 71

(The questionnaire sent to prospective jurors should include advice concerning the jury vetting process and the correction of criminal history records.)

Supported in respect of advice concerning the jury vetting process. The latter part of the recommendation needs further consideration.

Recommendation 72

(A policy document should be developed which sets out minimum notice periods for jury service. In general people should be given not less than four weeks' notice and where a jury pool is to be summoned for a particularly lengthy trial there should be a longer period of notice.)

The development of a policy document setting out the minimum notice periods is supported in principle. The latter part of the recommendation however is subject to further consideration.

The Deputy Sheriff (Juries) has indicated that currently, potential jurors who receive a questionnaire are advised that if they are ultimately eligible for jury service, a summons will be received some time in a six week period commencing some four weeks from the date of receipt of the questionnaire. Jurors are also advised that the summons will be posted some two weeks prior to the required date of attendance.

In practice, jury summonses are usually mailed between two and three weeks in advance. The summons contains information about the average length of trials (six days), and advice that they can apply to be excused prior to the summons date if the length of a trial is a problem. The summons also tells jurors that if a trial is expected to last longer than 10 days, there is an opportunity to apply to the trial judge to be excused prior to the jury being empanelled.

The Deputy Sheriff (Juries) has expressed concern that requiring summonses to be mailed four weeks in advance may lead to larger panels being required, as it is not possible to accurately assess the size of a required panel at that time. Information regarding the likely duration of a trial is often not available four weeks prior to the trial. Further, he advised that the ability to post summonses as late as 12 days in advance is necessary to allow for late alterations to trial schedules.

Recommendation 73

(A common curriculum unit should be developed on citizenship for use in Victorian schools. This is a subject to which every student at year 9 or year 10 level should be exposed, and it should include general information concerning the operation and importance of the jury system and the obligation to perform jury service.)

Supported in principle subject to resourcing implications.

Recommendation 74

(The community should be educated regarding the importance of jury service through adult education on citizenship, the distribution of brochures on jury duty and the establishment of top quality information sources in jury pool rooms and via the Internet.)

Supported in principle subject to further consultation resourcing implications.

Recommendation 75

(The possibility of compiling and publishing a Courts Charter which, among other things, lays down minimum standards for the service provided to court users, including jurors, should be further investigated.)

Supported in principle.

Recommendation 76 - 78

(The financial burden of jury service should be borne by the community as a whole rather than individuals and businesses, particularly small businesses.)

(The payment system for persons summoned and attending for jury service be restructured as follows -

- (a) an allowance should be paid to all persons, regardless of where they reside, for each kilometre travelled in excess of eight kilometres;*
- (b) compensation at a daily rate approximately equivalent to the average weekly salary should be paid for each day or part thereof.)*

(The Juries Act 1967 should contain a minimum condition of employment relating a jury service equivalent to that provided for in the Workplace Relations and Other Legislation Amendment Bill 1996 (C'th).)

These recommendations have resourcing implications and require further consideration. The system of compensation to jurors will be reviewed and these recommendations will be considered as part of that review.

Recommendation 79

(Future court buildings and refurbishment of existing buildings should be designed to take account of the needs of jurors, especially those with physical disabilities and those who would benefit from the provision of child minding facilities.)

Supported in principle subject to resourcing implications. Any new building brief incorporates the requirement that the needs of persons with physical disabilities be provided for. Heritage considerations within some existing buildings present significant practical and resourcing implications in modification considerations as opposed to the same being achieved in a purpose designed facility.

Recommendation 80

(A right in the Crown to stand aside prospective jurors should be substituted for the right in the Crown of peremptory challenge.)

Requires further consideration.

Recommendation 81

(The Director of Public Prosecutions should publish guidelines on the exercise of the Crown's right to stand aside (or to peremptorily challenge, in the event that this is retained.)

Requires further consideration.

APPENDIX 1

SCHEDULE 2 JURIES ACT 1967

PERSONS DISQUALIFIED CURRENTLY	RECOMMENDATION NO./ RECOMMENDATION		AGREE / DISAGREE./ COMMENT
1(a) convicted of treason	6	Retain	Agree
1(b) convicted of one or more indictable offences and sentenced to a term of 3 yrs or more imprisonment	7	Retain	Requires further consideration in terms of the length of imprisonment that would disqualify and for what time period.
2(a) imprisoned within last 5 years for 3 months or more (except when incurred as a result of a failure to pay a fine)	8	Retain	Requires further consideration in terms of the length of imprisonment that would disqualify and for what time period.
3. Any person bound by a recognizance entered into after conviction for any offence	9	Repeal	Requires further consideration.
4. Any person subject to CBO including a condition referred to in s 38(1)(b) of Sentencing Act 1991	10	Repeal	Requires further consideration. All sentencing dispositions are to be considered for inclusion as a categories of ineligibility dependant on the length and severity of sentence.
5. Any person who has been declared bankrupt and has not obtained a discharge.	5	Repeal	Disagree.

RECOMMENDATIONS AS TO ADDITION OF FURTHER CATEGORIES OF DISQUALIFICATION

RECOMMENDATION / RECOMMENDATION NO		AGREE / DISAGREE / COMMENT
Persons ordered to serve a term of imprisonment by way of intensive correction order	11	Requires further consideration in terms of considering an overall regime of disqualification in respect of all sentencing dispositions.
Persons ordered to serve a term of imprisonment exceeding three months that is suspended by the court wholly or partly at any time within the last preceding five years.	12	“
Persons who have been ordered to serve a period of detention in a youth training centre exceeding six months to be disqualified for 2 years after the expiry of the order.	13	“

SCHEDULE 3 JURIES ACT 1967

PERSONS INELIGIBLE TO SERVE AS JURORS	REC NO.	RECOMM'N: RETAIN OR REPEAL OR REDESIGNATE	AGREE DISAGREE COMMENT
1(a) Supreme or County Court Judge / holder of other judicial office	19	Retain	Agree
1(b) Duly qualified legal practitioner	21	Retain with the qualification "in active practice"	Agree subject to a consideration of the inclusion of a period of ineligibility following cessation of practice.
1(c) employed by duly qualified legal practitioner in connection with practice of law	22	Repeal	Agree
1(d) minister of religion, monk, nun, other vowed member of religious community	23	Repeal	Agree
1(e) in receipt of salary provision for which is or was made in annual appropriations of the A-G	No rec.		Will be considered when reviewing categories overall.

1(f) Chief Commissioner of Police, the Director General of Community Services or Electoral Commissioner.	25	Retain	Agree
	22	Repeal	Agree
	29	Repeal	Disagree
1(g) employed under director and control of Chief Commissioner of Police, or Director-General of Community Services or the Director-General of Corrections or in the Police Department or under the direction and control of the Electoral Commissioner.	25	Retain	Agree
	26	Repeal	Agree
	25	Retain	Agree
	29	Repeal	Agree
1(h) an honorary probation officer	26	Repeal	Further consideration
1(i) justice of the peace	20	Retain	Further consideration
1(ia) bail justice	20	Retain	Further consideration

(j) employed as Government shorthand writer or court reporter or in connection with any court recording service	30	Retain	Agree subject to the addition of a disqualifying period beyond the cessation of employment in this capacity.
1(k) an officer of the Ombudsman	31	Repeal	Further consideration.
1(l) a volunteer within the meaning of the Corrections Act 1986	28	Repeal	Disagree
2 Any person who -			
(a) is unable adequately to see hear or speak	33	Retain but redesignate as part of new general category	Agree
(b) is intellectually disabled and eligible for services under the Intellectually Disabled Persons' Services Act 1986;	33	Retain but redesignate as part of new general category	Agree
(ba) is a patient within the meaning of the Mental Health Act 1986	33	Retain but redesignate as part of new general category	Agree
(c) is a represented person within the meaning of the Guardianship and	No rec.		Will be considered as part of an overall review of the provisions.

Administration Board Act 1986;			
(d) is unable to read or write	34	Retain	Agree
(e) has an inadequate knowledge of the English language	34	Retain	Agree

e:\mary\juries\govreap2

SCHEDULE 4 *JURIES ACT* 1967

PERSONS ENTITLED AS OF RIGHT TO BE EXCUSED FROM SERVING AS JURORS	REC NO.	RECOMM'N: RETAIN OR REPEAL OR REDESIGNATE	AGREE DISAGREE COMMENT
1. Officers and servants of the household of, and the Official Secretary to, the Governor	36	Redesignate	Agree
2. The permanent heads of all State Government Departments.	39(a)	Repeal	Disagree
3. The Commissioners, members and secretaries of all statutory corporations.	39(b)	Repeal	Requires further consideration
4. The members of the Public Service Board, Police Service Board and Teachers' Tribunal.	35	Repeal (Obsolete)	Agree
5. The Auditor-General.	39(c)	Repeal	Disagree

6. Registered medical practitioners , dentists and pharmacists registered under the Medical Practice Act 1994 , the Dentists Act 1972 or the Pharmacists Act 1974 (as the case may be).	39(d)	Repeal	Agree
7. Masters and teachers in State schools or schools registered under the Education Act 1958.	39(e)	Repeal	Agree
8. Masters and crews of trading vessels.	39(f)	Repeal	Agree
9. Pilots holding a licence or certificate under the Marine Act 1988.	39(g)	Repeal	Agree
10. Airline pilots and crews regularly engaged on international flights.	39(h)	Repeal	Agree
11. Members and officers of the Legislative Assembly.	38	Partly redesignate	Further consideration
12. Members and officers of the	38	Partly redesignate	Further consideration

Legislative Council.			
13. Mayors, presidents, councillors, town clerks and secretaries of municipalities.	39(I)	Repeal	Further consideration
14. Persons over the age of sixty-five.	40	Repeal	Agree
15. Pregnant women.	41	Repeal	Further consideration
15A. Persons who are required to undertake the full-time care of children or of persons who are aged or in ill-health.	41	Repeal	Further consideration
16. Persons who are so physically handicapped as to be unable to perform the duties of jurors without undue hardship.	33 42	Redesignate	Agree
17. Persons who reside more than 32 kilometres from the court house at which they would be required to serve.	43	Repeal	Further consideration

18. Persons who hold current certificates of entitlement to be excused as of right on account of lengthy jury service.	44	Retain	Agree
19. The Ombudsman and the Acting Ombudsman.	32	Repeal	Disagree

e:\mary\juries\govreap3