

## Committal Proceedings

### Terms of Reference

In 1968 the Committee was asked to consider whether any alterations were desirable in the procedures for the conduct of preliminary enquiries and committal proceedings and the publication of reports thereof.

### Background of Reference

The reference arose from a growing perception that certain problems frequently attended the conduct of committal proceedings. These were identified as:

- (a) the publicity given to committal proceedings and the possible adverse effects of such publicity;
- (b) the inconvenience, waste of time and unnecessary expense involved in committal proceedings, particularly where the accused has pleaded guilty; and
- (c) the delay that could result in bringing cases to trial.

The movement for reform of committal proceedings began in 1962 when the Solicitor General made a number of recommendations for improvement of the existing system. Concerns about the conduct of committal proceedings were later echoed by the Chief Crown Prosecutor, the Senior Stipendiary Magistrate and the Commissioner of Police. The issue was referred to the Committee as part of its first reform programme along with a related reference on summary trial of indictable offences.<sup>1</sup>

In December 1968 the Committee issued a working paper which investigated the law and practice in Western Australia and made comparisons with the law in other jurisdictions both in Australia and overseas.

### Nature and Extent of Consultation

The working paper was sent for comment 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 law reform agencies in other jurisdictions. In addition, as the question of publication of evidence at committal proceedings was dealt with in the paper, a copy was sent to West Australian Newspapers Limited. Comments on the paper were received from nine magistrates, the Commissioner of Police and the West Australian Newspapers Limited. The Committee also discussed its proposals with Mr OW Dixon (the Chief Crown Prosecutor), Senior Inspector TG Lee (representing the Commissioner of Police) and Mr DC Heenan and Mr TA Walsh (representatives of the Law Society). The final report containing the Committee's recommendations was delivered on 11 May 1970.<sup>2</sup>

### Recommendations

After consideration of the matter alongside the Committee's complementary reference on summary trial of indictable offences, a number of recommendations were made. The Committee believed that these reforms would improve the administration of justice, streamline procedures and save time and expense.

In summary the Committee recommended that the law should be amended, subject to prescribed limitations, to:

- (a) allow written statements of witnesses to be admitted in evidence for the purpose of the committal, trial and sentencing of persons charged with indictable offences; and
- (b) permit an accused person to elect to go to trial without any preliminary hearing.

<sup>1</sup> See Law Reform Committee of Western Australia, *Summary Trial of Indictable Offences*, Project No 6 (1970).

<sup>2</sup> Law Reform Committee of Western Australia, *Committal Proceedings*, Project No 4 (1970).

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The Committee also recommended a number of other incidental changes to the law. A comprehensive outline of recommendations and the procedures proposed to implement them may be found at pages 7–12 of the Committee's final report.

#### Legislative or Other Action Undertaken

The Committee's recommendations were implemented in 1976 when Parliament passed the *Justices Act Amendment Act 1976* (WA).