



4 January 2012

C62, 73.7
RB: rp

The Committee Secretary
Legislative Review Committee
Parliament House
North Terrace
ADELAIDE SA 5000

and via email: seclrc@parliament.sa.gov.au

Dear Sir/Madam

Inquiry into Criminal Cases Review Commission

I refer to the above Inquiry, and note that written submissions were to be submitted by 25 November 2011. I refer also to an email of 3 January 2012 from Ms Carren Walker, Research Officer to the Committee, in which she asked whether the Society would provide the Inquiry with a copy of a submission of 13 May 2011 it made to the Honourable Ann Bressington MLC in relation to the *Criminal Cases Review Commission Bill 2010*.

A copy of the Society's submission to Ms Bressington is attached. You will note that whilst we are very supportive of the concept, we consider that the model provided by the Bill needed tightening. We maintain the position outlined in the submission.

The Society continues to support the proposal for the establishment of a Criminal Cases Review Commission (CCRC).

There are many instances in which a person may seek to pursue a claim of injustice. There is a fundamental problem as to how that is dealt with in our community. Some common avenues include approaching Members of Parliament, corresponding with the Commissioner of Police, the Attorney-General, the Shadow Attorney-General, judicial officers, the Chief Justice and other Ministers seeking to lobby and gather enough support.

What this highlights is that there is not one forum, body, or structure in which their concerns can be raised. The current system ties up considerable resources.

A CCRC will at least provide a legitimate statutory authority as the proper, ultimate and appropriate body for which claims of injustice can be referred to, inquired into and assessed. The mark of a society concerned with open justice, accountability and appropriate forums for the same would include the setting up of such a Commission.

The UK model has been a success. The Criminal Cases Review Commission was established pursuant to the *Criminal Appeal Act 1995 (UK)*. It is to be noted that it would appear that the *Criminal Cases Review Commission Bill 2010* is modelled on the UK *Criminal Appeal Act 1995*. That much is apparent by comparing the legislation. Indeed it may be a direct copy.

It is unlikely that there would be any need for any substantive departure from that sort of model given the success, applicability and recognition for the UK Commission.

The Law Council of Australia is currently considering its position in relation to a National CCRC. Whilst the Society is supportive of a National CCRC, we do not favour a national CCRC at the expense of a State CCRC. On the assumption that a National CCRC will only be concerned with Commonwealth Crime, or State crime with a Federal aspect, we believe that its scope would not extend far enough given that the overwhelming majority of prosecutions in this State are for State offences.

I trust this is of assistance.

Yours sincerely



Ralph Böning
PRESIDENT