SHADOW SPI

JURY AMENDMENT BILL 2023

AN INITIATIVE OF THE
SUSAN MCKINNON FOUNDATION

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WHAT IS THE BILL?

The object of the Jury Amendment Bill 2023 is to make miscellaneous amendments to the Jury Act 1977, including in response to a statutory review of amendments made to the Act by the Jury Amendment (Verdicts) Act 2006, and for related purposes.

WHAT IS A SHADOW SPI?

The Shadow SPI is a new initiative of the Susan McKinnon Foundation that builds upon the work of the Evidence Based Policy Research Project. It seeks to support parliamentarians in the Legislative Council of NSW during the legislative consideration and voting process, to inform decision making and robust parliamentary debate. It is also intended to improve the quality of tabled SPIs and their usefulness, and to shine a light on the importance of transparency in policy making. Each Shadow SPI is collectively developed by a collaborative team from two ideologically differentiated think tanks (Per Capita and Blueprint Institute) and is intended to be utilised as a companion to the tabled Government Statement of Public Interest in the Legislative Council of NSW. The Shadow SPIs aim to demonstrate a comprehensively answered SPI, within the constraints of time and publicly available information.

This Shadow SPI was developed by Per Capita and reviewed by Blueprint Institute.

Need: Why is the policy needed based on factual evidence and stakeholder input?

The proposed Jury Amendment Bill 2003 (the Bill) introduces several amendments to the Jury Act 1997 (the Act). It is aimed at improving the efficiency of jury empanelment, providing enhanced support for jurors to perform their role, and reducing the expenditure of resources on trials that are ultimately aborted or result in hung juries, where this is possible, fair, and appropriate.

This Bill responds to the Statutory Review of the Amendments Made to the Jury Act 1977 by the Jury Amendment (Verdicts Act) 2006 (the Statutory Review), conducted pursuant to s 80 of the Act. It implements the single recommendation of the Statutory Review, that the Government:

> Amend s 55F(2)(a) of the Act to enable a majority verdict to be returned by a jury in criminal proceedings where a unanimous verdict has not been reached after the jurors have deliberated for not less than four hours, rather than not less than eight hours (and the other requirements for a majority verdict under the Act are met).[i]

The eight-hour rule was introduced by the Jury Amendment (Verdicts) Act 2006. Its central aim was to reduce the number of hung juries in order to give certainty and finality to criminal proceedings.[ii] Hung juries carry significant costs ranging from the financial costs of re-running cases, additional workloads for court staff, trial backlogs, and the emotional and psychological costs faced by complainants, accused persons and witnesses.

Submissions from key government and legal stakeholders were considered as part of the Statutory Review. It found that:

> Most stakeholders suggested that "eight hours has been demonstrated to be too long a period in many instances", may impede the amendments achieving the stated policy objectives, and may not be in the interests of justice.[iii]

It also found that the eight-hour rule is inefficient, creates unnecessary additional costs and contributes to trial backlogs.[iv]

Unnecessary costs and trial backlogs affect more than just those involved in criminal proceedings. They affect the entire NSW community, who benefit from policies which ensure court services are provided in an efficient manner.

A reduced minimum deliberation period would also bring NSW in line with most other Australian jurisdictions where majority verdicts are available. The Northern Territory, South Australia, Western Australia, and Tasmania all provide a minimum statutory deliberation period of 6 hours or less, and Victoria has no minimum deliberation period.[v]

The Bill also provides a number of amendments which aim to streamline jury processes, ensure the efficient and effective management and operation of juries, and ensure that jurors are provided with the best possible support to make their significant contribution to the justice system.[vi] The Bill implements recommendations to meet these goals made through the indictable process review in the District Court and Supreme Court, undertaken by Derek Price, then Chief Justice of the District Court.

COMMENT

The SPI outlines the context for the Bill, stating that it is a response to the Statutory Review and the indictable processes review. Although the Government SPI points to intended outcomes of the proposed amendments, it fails to identify the need for these proposed amendments supported by factual evidence or stakeholder feedback. This section requires the identification of a problem that the Bill seeks to address to support an argument that this action, or indeed any action, is necessary. As a consequence of failing to identify the need for this Bill (i.e. that it addresses a specific problem), it is unable to identify the parties affected by the problem, provide evidence about the existence of the problem, or explain why action is needed, supported by factual evidence or stakeholder feedback. This is the purpose of this section of the SPI. The government SPI could have included an explanation of why the Statutory Review settled on the recommendation to reduce jury deliberation periods to four hours, which would have strengthened their response in this section.

Implementing a recommendation is not itself an adequate explanation for why action is necessary. There is no legislative requirement that recommendations made by the Statutory Review be implemented. Governments regularly choose not to act on recommendations from reviews or inquiries. For example, and relevant to this Bill, the initial introduction of the majority verdict provision for criminal trials, made by the *Jury Amendment (Verdicts) Act 2006* was made contrary to a recommendation that 'the system of unanimity be retained'[vii] in NSW criminal trials, made by the New South Wales Law Reform Commission (NSWLRC) in their 2005 report on majority verdicts.

The stated purpose of SPIs 'is to provide Members with information that will assist them to make an informed decision as to how to deal with the bill, and to demonstrate sound policy-making'.[viii] Whilst the Shadow SPI project does not assess the quality of the evidence base of proposed legislation, this section of the SPI requires identification of a problem, supported by evidence as to the existence of the problem, and an explanation as to why action is required. Some reference to the evidence base of a policy is

required, at least, in this section of the SPI. Otherwise, the SPI will fail to achieve its purpose of demonstrating sound policy-making and limits the SPI's ability to provide enough information to properly assist Members in making an informed decision as to how to deal with this Bill.

The Government SPI states that 'the amendment [schedule 1[8] minimum deliberation period] aims to ensure the efficient operation of juries, to increase juror safety and wellbeing', however the Government SPI, did not provide any factual evidence or stakeholder feedback supporting the proposition that this amendment are likely to achieve these policy objectives, or that there are issues with the current operation of juries.

The Statutory Review noted that there was a lack of robust data or statistical evidence, suggesting that the majority verdict amendments have reduced the prevalence of hung juries since the *Jury Amendment (Verdicts) Act 2006* commenced. Instead, the Statutory Review relied on stakeholder feedback. It asserts that feedback from stakeholders as to the use of the majority verdicts amendments was particularly important in forming their conclusion and recommendation.[ix] The Government SPI would have been enhanced by identifying the key government and legal bodies who provided feedback to the Statutory Review, citing specific insights from those who made submissions in support of a reduced minimum deliberation period, or noting, as the Statutory Review does, that the 'preponderance of the feedback suggested that the eight hour rule is not appropriate for securing the policy objectives of the majority verdicts amendments'.[x] This would better support their argument for the need of taking this action.

The Government SPI noted that 'the amendment aims to bring NSW into line with the majority of other Australian jurisdictions with similar provisions'. This alone is not sufficient in supporting an argument for reform. It should be supported with, at least, an explanation, as to why consistency across jurisdictions is desirable in this context. We note that the common-law principle of unanimity is preserved in the Commonwealth jurisdiction, as required by s 80 of the Constitution,[xi] and whilst a reduced minimum deliberation period would bring NSW in line with other jurisdictions in terms of the minimum deliberation period, there are some significant differences in majority verdict provisions across jurisdictions. For example, unlike NSW, majority verdict provisions in Queensland, Victoria, Western Australia, and South Australia, do not apply to a charge of murder.[xii]

Other amendments included in the Bill were identified through the indictable process review as a means of streamlining jury processes and ensuring that juries in NSW operate, and are managed, in the most efficient and effective way. However, there is nothing in the Government SPI which explains what the current problems with jury operation and management in NSW are, and thus why the relevant amendments in this Bill are needed. Reference to the indictable process review provides some context for the Bill's amendments but doesn't explain the need. If quantitative or qualitative evidence pointing to the existence of a problem with jury management exists, it should have been included in this section of the SPI.

In writing our shadow SPI, we attempted to guess what the problem and need for this policy was: hung juries, unnecessary additional costs, trial backlogs etc. There is some evidence from the Australian Productivity Commission that over the last ten years, court backlog is worsening in the NSW Supreme Court and District Court criminal jurisdictions, and that the cost per finalisation is increasing in the District Court,[xiii] but we were unable to find any evidence which supports the proposition that the amendments included in this Bill will address these problems. Additionally, we note that the Statutory Review found there were 'significant limitations in terms of available data for both hung juries and majority verdicts…[and that] it is not possible to determine how many hung juries have been avoided due to the majority verdicts amendments'.[xiv]

In summary, whilst the context for this Bill is explained in the Government SPI (i.e. to implement recommendations), it fails to identify the need for change by stating the problem it seeks to address. Thus, the Government SPI's response to this section of the SPI is inadequate.

Objective: What is the policy's objective couched in terms of the public interest?

There is a strong public interest in ensuring that juries are empanelled correctly and operate efficiently; jurors are supported and protected to ensure they can fulfil their duty; and verdicts can be delivered where fair and appropriate, avoiding additional stress for victims and witnesses, uncertainty for accused persons, and unnecessary expenditure, including of public resources.

The amendments contained in the Bill aim to achieve these objectives and serve the public interest in several ways. For example:

- Ensuring correct empanelment and efficient operation of juries help to uphold the integrity of the judicial process by ensuring that juries are composed accurately and function effectively. This fosters public trust and confidence in the legal system.
- Supporting and protecting jurors so they can fulfil their duties, safeguards the wellbeing of jurors, promotes accessibility and inclusivity, and mitigates jury attrition. There is a public interest in ensuring the efficient and fair administration of justice, thus, taking steps to mitigate juror attrition ensures that trials can proceed smoothly and without unnecessary delays. This benefits both the individuals directly involved in legal proceedings as well as the broader public by promoting timely resolution of cases and effective utilisation of resources.

- Delivering fair and appropriate verdicts promotes public confidence in the legal system.
- Reducing stress for victims and witnesses and minimising uncertainty for accused persons serves the public interest by upholding the rights and dignity of individuals accused of crimes and the well-being of others affected by the legal process.
- Avoiding unnecessary expenditure of public resources and utilising these resources, efficiently and responsibly, by minimising costs associated with aborted trials or hung juries, serves the public interest by ensuring the responsible allocation of taxpayer funds and promotes public trust in government institutions.

COMMENT

The Government SPI asserts there is a strong public interest in the policy's objectives but lacks explanation of how the objectives serve the public interest. This section could be improved by providing a more detailed explanation as to how the public interest is served. For example, providing an explanation of how it serves the public interest by: fostering public trust and confidence; upholding individuals' rights; promoting the timely administration of justice; and ensuring that public funds are used efficiently and effectively.

There does not seem to be any constraints in delivering public interest outcomes.

Options: What alternative policies and mechanisms were considered in advance of the bill?

The implementation of the recommendations arising from the Statutory Review and the indictable process review require legislative amendments. Another option would be for the government to take no action which would result in the status quo being maintained.

COMMENT

The purpose of this section of the SPI is to outline any non-legislative or non-regulatory policy options and mechanisms that were considered before deciding to bring forward this Bill, as well as any alternative legislative mechanisms. It helps to establish the need for the Bill to address the problem, need, and objective outlined in the previous two questions. This is necessary to demonstrate sound policy-making which is part of the stated purpose of SPIs. If legislation was the only mechanism considered, this section of the SPI provides an opportunity for the Government to explain why that is the case.

Our research provides no indication of any alternative policies and mechanisms considered. We are not aware of the specific recommendations included in the indictable process review, and whether any could be achieved without legislative amendments, however, stakeholder feedback provided to the Legislative Council Portfolio Committee No 5 (Justice and Communities) for their 2024 Inquiry into the Jury Amendment Bill 2023 indicates that there may be other mechanisms which could have been considered in advance of the Bill.

For example, considering the proposed amendment to section 14A of the Act (schedule 1[1] of the Bill), the Law society of NSW submitted that:

> If it is decided that clarification of the term "good cause" is required, we suggest consideration of other, non-legislative means to support understanding of what may constitute "good cause" for the purposes of section 14A, such as education or training for the relevant decision-makers.[xv]

Other mechanisms which could have been considered in advance of this Bill include:

- Implementing recommendation two of the NSWLRC's report on majority verdicts:
  > The Commission recommends that empirical studies should be conducted into the adequacy, and possible improvement, of strategies designed to assist the process of jury comprehension and deliberation.[xvi]
- Implementing recommendations made by the NSWLRC in their 2012 report on Jury Directions in Criminal Trials which are aimed at improving jury deliberations.[xvii]

Analysis: What were the pros/cons and benefits/costs of each option considered?

The amendments in this Bill will improve the efficiency of jury empanelment, provide enhanced support for jurors to perform their role, and reduce the expenditure of resources on trials that are ultimately aborted or result in hung juries, where possible, fair, and appropriate.

For example:

- The proposed amendment at sch 1[1] (*good cause* clarification) clarifies the criteria for seeking exemption or excusal from jury service, ensuring that individuals who cannot properly fulfil their role as jurors are excused early in the process. By streamlining the process of identifying suitable jurors, it improves efficiency in empanelment and reduces the likelihood of trials being aborted, thereby saving resources.
- The proposed amendment at sch 1[2] (expanding the criteria for selecting additional jurors in certain cases) ensures that trials with potential complexities or challenges are adequately supported by a sufficient number of jurors. This provision minimises the risk of hung juries or trial disruptions due to insufficient jury numbers, and therefore, ensures fair and appropriate trial outcomes, and improves efficiency.
- The proposed amendment at sch 1[3] (allowing both verbal and written excusal requests) simplifies the empanelment process for potential jurors, making it easier for them to seek excusal if needed. This amendment enhances support for jurors by reducing procedural barriers and potential distress or embarrassment. It also helps avoid unnecessary expenditure of resources by mitigating juror attrition and ensuring that individuals who are genuinely unable to serve as jurors are excused promptly. This has the benefit of reducing the likelihood of trials being disrupted or aborted.
- The proposed amendment at sch 1[6] (selection of replacement jurors) provides courts with a middle-ground option to select replacement jurors in cases of early discharge or death. This ensures trial disruptions are minimised, that trials can proceed fairly and effectively, and that unnecessary additional costs and trial backlogs are reduced.

While the amendment will change the operation of juries, no resourcing impacts are anticipated.

During the Statutory Review some stakeholders submitted that the eight-hour rule should be maintained, others submitted that it should be removed favouring unanimity in jury verdicts.[xviii] Opponents to the introduction of majority verdict provisions in NSW, in 2006, expressed concerns that majority verdicts were inconsistent with the principle of proving guilt beyond a reasonable doubt.[xix]

To address these concerns the Jury Amendment (Verdicts) Act 2006 included a number of safeguards to mitigate any potentially adverse impacts on personal rights. These include limits on the availability of majority verdicts: that majority verdicts can only be returned where a jury consists of not less than 11 persons; only where one of 11 and one of 12 jurors do not agree with the majority; and where the Court considers the period of deliberation reasonable in the context of the proceedings.[xx] This Bill does not remove the overall requirement that the court must consider the period reasonable in the context of the proceedings, or introduce an ability or requirement for the court to inform the jury that a majority verdict may be able to be returned after four hours.

Reducing the minimum deliberation period from eight hours to four hours strikes the appropriate balance between maintaining a statutory safeguard against a premature majority verdict whilst avoiding unnecessary expenditure and stress.[xxi] The existing safeguarding provisions remain appropriate for mitigating potential costs or 'cons' of this policy.

The consequence of not introducing these amendments and maintaining the status quo is that the NSW community will not be able to benefit from improved efficiency and reduced expenditure which the Bill aims to ensure, or the benefits stemming from other amendments outlined above.

COMMENT

Government SPI outlines a number of benefits of implementing the amendments made by this Bill, including, improved efficiency of jury empanelment, enhancing support for jurors, reducing the expenditure of resources on trials that are aborted or result in hung juries. However, it does not provide a detailed explanation, or any evidence, that supports this proposition. This section of the SPI would benefit from providing specific examples and, if available, including modelling or other research which indicates these amendments will meet their aims (for example, that they will lead to savings on trial expenditure, reduce juror attrition, reduce the number of hung trials, etc.).

The Government SPI asserts that if these changes are not made the status quo will be maintained, but nowhere in the SPI has a case been made that there is a problem with the status quo.

The SPI also notes that the consequence of not implementing recommendations of the Statutory Review will be that 'the underlying purpose of the review and section 80 of the Jury Act will not be fulfilled'. Section 80 of the Act does not require government to implement recommendations made by the statutory review and as mentioned above, the introduction of the majority verdicts provisions in 2006 was done contrary to the recommendation made by the NSWLRC who was tasked with inquiring into whether the unanimity requirement in criminal trials should be preserved in NSW.[xxii]

There is no analysis in the Government's SPI of the benefits of taking this action which is supported by evidence. Therefore, the answer in the Government's SPI inadequately supports their proposition that the policy will result in the stated benefits.

The Government SPI does not consider potential costs or 'cons' of their chosen option (i.e. implementing the Bill). Demonstrating that there has been sufficient consideration of the potential costs of this action, and explaining why those costs are outweighed by anticipated benefits or mitigated in other ways, supports the purpose of SPIs stated in the Premier's Memorandum M2022-03: 'to provide Members with information that will assist them to make an informed decision as to how to deal with the bill.'

Noting the potential cost or 'cons' of the chosen policy and providing more information about how those concerns are mitigated by existing provisions would be useful in this section of the SPI, particularly in light of varied opinions expressed by stakeholders in the Statutory Review about whether, and how, the eight-hour rule should be amended. Doing so demonstrates sound policy-making by clarifying how provisions that have the potential to burden the rights of accused persons have been considered and safeguarded.

All policies have pros and cons, cost and benefits. Indicating that these have been considered results in a more transparent SPI, and better demonstrates sound policy-making.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

This Bill will commence by proclamation. The stakeholders responsible for overseeing and managing jury selection and operation will oversee their implementation. The jury system in NSW is administered by the Jury Services Branch of the Office of the Sheriff of NSW.[xxiii]

COMMENT

Our research found no further information related to the timetable and steps for policy rollout or who will administer it and so we are unable to draft a shadow answer for this section of the SPI.

The Government SPI states that the Bill will commence on proclamation but makes no indication of a timetable for when proclamation will occur. Are there steps that need to be taken prior to proclamation? If so, these should be included in this section of the SPI.

The Government SPI states that there are no foreseeable resourcing impacts and that '[t]he stakeholders responsible for overseeing and managing jury selection and operation support the amendments and will oversee their implementation'. It is not specific about which stakeholders this is referring to (e.g. which government departments). As there is no provision for review of this Act, more information, if available, about how the bodies who administer the policy rollout will determine whether the provisions are appropriately securing the policy objectives of the Bill would be useful in this section.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The Department of Communities and Justice (DCJ) consulted Heads of Jurisdiction and other members of the judiciary as well as Government and key legal stakeholders during both the Statutory Review and the indictable process review. This included extensive consultation with the NSW Sheriff's Office, the District Court, and the Supreme Court. Targeted consultation was also undertaken with legal stakeholders, including Legal AidNSW, the Law Society of NSW, the NSW Bar Association, the Public Defenders, the Aboriginal Legal Service, the NSW Police Force, and the Office of the Director of Public Prosecutions.

The Statutory Review was commenced by DCJ on behalf of the Attorney General in 2021 and the Statutory Review's report was tabled in the NSW Parliament on 13 October 2023. To initiate the Statutory Review a paper summarising the policy objectives of the majority verdicts amendments and discussing potential issues arising from the terms of the amendments, was provided to key legal stakeholders to facilitate their input.[xxiv] Members of the community where also invited to make submissions via the DCJ and 'Have Your Say' websites.[xxv]
Key stakeholders were also consulted on the drafting and final form of the Bill.

COMMENT

The Government SPI indicates thorough consultation with affected stakeholder in the making of this policy. It states that targeted consultation was undertaken with legal stakeholders and that 'stakeholders broadly supported the amendments in the Bill'. Consultations are not negotiations, and it is clear in the Government SPI that the views of affected stakeholder were sought and considered throughout the policy making process, however, this statement is potentially misleading. Four of the seven legal stakeholders mentioned in the Government SPI (Legal Aid NSW, the Law Society of NSW, the NSW Bar Association and the Aboriginal Legal Service) have since provided submissions to the Legislative Council Portfolio Committee No 5 (Justice and Communities) for their 2024 *Inquiry into the Jury Amendment Bill 2023* clearly noting their opposition to sch 1[8] of the Bill (amending majority verdict provisions to reduce jury deliberation time).[xxvi] These stakeholders also raised concerns and objections to the other proposed amendments included in the Bill.

The Report of the Statutory Review indicates that during the Statutory Review members of the wider community had an opportunity to provide feedback on the existing majority verdicts amendments via DCJ's 'Have Your Say' websites. This should have been included in the Government SPI as it indicates that wider consultations occurred, in addition to targeted consultations with key government and legal stakeholder.

The Government SPI states that key stakeholders were also consulted on the drafting and final form of the Bill, however it does not specify who those key stakeholders were and whether they represent government agencies, legal professionals, or other groups representing sections of the NSW community who will be affected by the amendments proposed in the Bill.

More detail is required about who was consulted, and how and when consultations occurred, to better provide Members with information that will assist them to make an informed decision as to how to deal with the Bill.

ASSESSMENT

PER CAPITA COMMENT:

The Government's SPI fails to adequately respond to the SPI questions and thus fails to fulfil the purpose of the SPI: 'to provide Members with information that will assist them to make an informed decision as to how to deal with the bill, and to demonstrate sound policy-making'.

Much of this stems from the overarching issue with this Government SPI; that at no point is the specific problem(s) that the Bill seeks to address identified. Additionally, the SPI is seriously lacking in evidence (qualitative, quantitative, or stakeholder feedback) which supports the existence of a problem, and the suitability of this Bill in addressing that problem.

The introduction of the eight-hour rule in the 2006 majority verdicts amendments was not uncontroversial. Considering that, alongside clear indications in the Statutory Review report that stakeholder input was varied in relation to the appropriate minimum time juries should deliberate before a majority verdict could be returned, the need to provide an exemplary SPI in this instance is even more important.

In writing our shadow SPI responses we struggled to find additional evidence that a problem exists and that this Bill is the suitable mechanism to address that problem.

The Shadow SPI project does not assess whether or not there is a sufficient evidence base for proposed government policies, however, where evidence-based policy making is lacking the SPI cannot meet its intended purpose of providing Members of parliament with information that will assist them to make an informed decision as to how to deal with the bill. This SPI is insufficient.

BLUEPRINT INSTITUTE COMMENT:

Blueprint Institute agrees with Per Capita that this Government SPI is insufficient. The critical issue in this SPI is that it does not clarify what the need behind the Bill is—whether that be too many hung juries, trials costing too much, or trials taking too long. These issues all create inefficiencies in the NSW justice system, which the Bill aims to address.

The SPI process is designed to inform policymakers on the need for a bill—as the Government SPI never clarifies the problem forming the need for the Bill, it was not possible for an exemplary shadow SPI to be written. For example, the Options section in the Government SPI does not outline any alternate policy mechanisms that were considered to address the need for the Bill, but it is unclear what alternate policy mechanisms could be considered for an undefined problem.

Assessment of the tabled Statement of Public Interest

Exemplary	Good Practice	Adequate	Insufficient

[i] NSW Department of Communities and Justice, *Statutory Review – Majority Verdicts Amendments: Report of the Statutory Review of the Amendments Made to the Jury Act 1977 by the Jury Amendment (Verdicts) Act 2006* (Report, May 2023) 2 ('*Statutory Review*').

[ii] New South Wales, *Parliamentary Debates*, Legislative Assembly, 5 April 2006, 22162 (Bob Debus, Attorney General).

[iii] NSW DC&J, *Statutory Review* (n 1) 9.

[iv] Ibid; New South Wales, *Parliamentary Debates*, Legislative Council, 19 October 2023, 27 (Mark Buttigieg).

[v] *Criminal Code Act 1983* (NT) s 368; *Juries Act 1927* (SA) s 57(1); *Criminal Procedure Act 2004* (WA) s 114(2)-(3); *Jury Act 1899* (Tas) s 48 (2)-(5); *Juries Act 2000* (Vic) s 46(2).

[vi] New South Wales, *Parliamentary Debates*, Legislative Council, 19 October 2023, 8 (Mark Buttigieg).

[vii] New South Wales Law Reform Commission, *Majority Verdicts* (Report no 111, August 2005) viii; New South Wales, *Parliamentary Debates*, Legislative Assembly, 5 April 2006, 22161 (Bob Debus, Attorney General).

[viii] Department of Premier & Cabinet, 'Statements of Public Interest' (Premier's Memorandum M2002-03, NSW Government, 24 June 2022).

[ix] NSW DC&J, *Statutory Review* (n 1) 11.

[x] Ibid 12.

[xi] *Cheatle v The Queen* (1993) 177 CLR 541.

[xii] *Jury Act 1995* (Qld) s 59 (1); *Juries Act 2000* (Vic) s 46(4); *Criminal Procedure Act 2004* (WA) s 114(4); *Juries Act 1927* (SA) s 57(2).

[xiii] See, Steering Committee for the Review of Government Service Provision, 'Report on Government Services 2023 - 7 Courts, *Productivity Commission* (Web page, 31 January 2023) https://www.pc.gov.au/ongoing/report-on-government-services/2023/justice/courts.

[xiv] NSW DC&J, *Statutory Review* (n 1) 10-11.

[xv] The Law Society of New South Wales, Submission No 4 to Legislative Council Portfolio Committee No 5 – Justice and Communities, Parliament of New South Wales, *Inquiry into Jury Amendment Bill 2023* (10 January 2024)1-2.

[xvi] New South Wales Law Reform Commission, *Majority Verdicts* (Report no 111, August 2005) viii.

[xvii] New South Wales Law Reform Commission, *Jury Directions* (Report no 136, November 2012) viii.

[xviii] NSW DC&J, *Statutory Review* (n 1) 9.

[xix] NSW DC&J, *Statutory Review* (n 1) 6.

[xx] *Jury Act 1977* (NSW) s 55F(2)-(3).

[xxi] New South Wales, *Parliamentary Debates*, Legislative Council, 19 October 2023, 28 (Mark Buttigieg).

[xxii] New South Wales Law Reform Commission, *Majority Verdicts* (Report no 111, August 2005) vi.

[xxiii] NSW Department of Communities and Justice, 'General information about Jury Service', *NSW Government* (Web Page, 28 November 2023) https://courts.nsw.gov.au/for-jurors/jury-service.html#Who2.

[xxiv] NSW DC&J, *Statutory Review* (n 1) 4.

[xxv] Ibid.

[xxvi] [xxvi]Legal Aid New South Wales, Submission No 3 to Legislative Council Portfolio Committee No 5 – Justice and Communities, Parliament of New South Wales, *Inquiry into Jury Amendment Bill 2023* (15 December 2023) 2-3; The Law Society of New South Wales, Submission No 4 to Legislative Council Portfolio Committee No 5 – Justice and Communities, Parliament of New South Wales, *Inquiry into Jury Amendment Bill 2023* (10 January 2024)2-3; NSW Bar Association, Submission No 2 to Legislative Council Portfolio Committee No 5 – Justice and Communities, Parliament of New South Wales, *Inquiry into Jury Amendment Bill 2023* (13 December 2023)1; Aboriginal Legal Service (NSW/ACT), Submission No 5 to Legislative Council Portfolio Committee No 5 – Justice and Communities, Parliament of New South Wales, *Inquiry into Jury Amendment Bill 2023* (17January 2024)1.