

Committee Secretary
Senate Standing Committee on Legal and Constitutional Affairs
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Sir/Madam

I wish to make a submission to the Senate Standing Committee's inquiry into Australia's Judicial System. The Role of the Judges and access to Justice.

Reference is to:

Item(a) the procedure for appointment and method of termination

Judges are appointed by the Parliament – This process is open to Political abuse by the party in power and therefor should be terminated. Judges should have to make application for a position, make all the necessary submissions re qualifications etc. and their names placed on a ballot paper to be voted on at the next State/Federal election. If a vacancy should occur as a result of sudden departure of sitting Judge, a temporary appointment can be made by the Parliament, which shall expire at the time of the next election.

Item(b) the term of appointment, including the desirability of a compulsory retirement age, and merit of full-time or other arrangements:

Elected Judges, would hold the position for two terms after which time they should submit themselves once again to the electoral process. I do not believe there should be a compulsory retirement age. If the Judge is doing a good job then he will continue to be elected. The positions should be full time.

Item(c) appropriate qualifications:

Any Judge elected to a position on the bench in Australia should have the usual university qualifications in law, and have performed at a high standard in the justice system. One of the major qualifications should be in 'God's Law'. As this country's society was founded on God's Law any Judge sitting in judgment on his fellow Australians is placing him/herself in the position of representing God, so let us make sure he/she is at least humble enough to be in that position.

Item(e) the cost of delivering justice:

The cost of justice should be "what ever it costs" to secure justice.

Item(f) the timeliness of judicial decisions:

There should not be a limit on the time required to reach the correct decision, the major effort should be on the dispensation of justice and not on legal argument. The biggest interference in Justice is the legal interpretation.

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Item(g) the judicial complaints handling system:

There should be a judicial Ombudsman appointed who has the power to investigate all matters relating to complaints within the justice system. He/she would be responsible directly to the minister for Justice.

Item(I) the ability of people to access legal representation:

The present system appears to be dominated by those who have the money, and can afford legal representation. The court system is perceived as being a waste of good money because in many cases justice is awarded to the one who can pay the most. The appearance is that the system is corrupted and there is no one to police it. In many cases the legal system will only come to the correct decision after a public outcry raised by a Television presentation or mainstream media.

Item(j) the adequacy of legal aid:

Legal aid presents a problem. The Justice system should not just be for those with money! There should be aid provided for those with no money, the problem is the absolutely ridiculous amounts charged by legal firms for their services. There are more crooks within the legal service than outside. I was once told by a prominent lawyer that if there was a Royal Commission into the judicial system it would make the Royal commission into the police force look like a Sunday school picnic. I think the legal aid system should remain as is.

Item(k) measures to reduce the length and complexity of litigation:

Most of the time seems to be taken up in legal interpretation of the legislation as presented in the law. It is a fact that lawyers are prepared to argue white is black and vice versa as long as someone is prepared to keep paying. Judges should be in a position to restrict this argument and direct the lawyers to concentrate on presentation of evidence with the intention of reaching a just decision.

Item(n) the ability of indigenous people to access justice:

Indigenous Australians have access to the legal system through their own leaders and are in most cases better represented than a lot of white Australians, one has only to look at the number of cases that have gone to the High Court of Australia, resulting in successful land rights claims. Someone is appearing for them and who pays the bill?

Item(o) other matters relating and incidental thereto:

It is most imperative that the system of "Trial by Jury" not be interfered with as it is the foundation of our justice system. I am aware that the jury system is under threat within various jurisdictions because it is somewhat difficult to administer and courts believe that they can speed things up by adopting a "Judge only" system to replace the jury. Under our Constitution every person has the right to a trial by Jury, and that should be maintained no matter what.

Yours Faithfully
Charles H Griffith

7th April 2009