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MEDIA RELEASE

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Independent Introduces Australia's First Bill for a Criminal Cases Review Commission

Independent MLC Ann Bressington has today introduced a Bill to establish a Criminal Cases Review Commission, the first Bill of its kind in Australia.

Modelled on the successful Criminal Cases Review Commission established in the United Kingdom in 1997, and since replicated in Scotland and Norway, the South Australian Criminal Cases Review Commission would be an independent body with powers to actively investigate claims of wrongful conviction and refer substantiated cases to the Full Court for appeal.

“As the recent cases of Andrew Mallard in Western Australia and Graham Stafford in Queensland demonstrate, miscarriages of justice do occur,” Ann Bressington said.

“Where a person is claiming wrongful conviction and they have otherwise exhausted all other avenues of appeal, they will be able to apply to the Criminal Cases Review Commission for recourse.”

The Criminal Cases Review Commission will replace the current politicised petition process by which a person claiming to be wrongfully convicted lodges a petition with the Attorney-General for consideration. While the Attorney-General should only consider the petition in accordance with established legal principles, particularly those relating to a fair trial, as has been demonstrated here in South Australia, the petition is often politicised.

“A person wrongly convicted is left to pin their hopes on a petition to the Attorney-General, a politician, who undoubtedly has at the fore of his mind political considerations. A tough-on-crime Attorney will hardly want to validate criticisms of the police, the prosecution or the courts,” Ann Bressington said.

“It should never be the role of a politician, regardless of their Ministerial title, to pass judgement and hence seal the fate of any constituent. This is however the system that presently exists, and which this Bill seeks to reform.”

“Since 1997 not a single petition to the Attorney-General has been referred to the court of appeal, yet in this time the Criminal Cases Review Commission in the United Kingdom has referred 463 resulting in 304 convictions being set aside.”

“Are we so arrogant to believe that South Australia is special and miscarriages of justice don't occur here?”

“The petition process fails those who have suffered a miscarriage of justice and are languishing in prison doing time for another’s crime. The United Kingdom recognised this and established a Criminal Cases Review Commission, and so should we.”

On the same day as introducing the Criminal Cases Review Commission Bill 2010, Ann Bressington also officially launched the legal text book entitled *Forensic Investigations and Miscarriages of Justice: The Rhetoric Meets the Reality*, authored by Ms Bibi Sangha, from Flinders University South Australia, Professor Kent Roach, from the University of Toronto in Canada, and Dr Bob Moles. The book compares and analyses the responses to miscarriages of justice in the United Kingdom, Canada and Australia and ultimately recommends significant reform, including the establishment of a Criminal Cases Review Commission.

The establishment of a Criminal Case Review Commission has broad support in the legal profession, by elements of the judiciary, including the former Justice of the High Court, Michael Kirby AC CMG, and by those who have suffered a miscarriage of justice, such as Lindy Chamberlain.

Ms Chamberlain recently wrote to Ann in support of a Criminal Case Review Commission, saying:

It is wonderful to see that South Australia is taking the lead and making the attempt to begin bringing the justice systems of our great country into the 21st century at last... A commission where all the facts can be reviewed is desperately needed in this country, a place of last resort; properly protected against abuse by the guilty, but available when the system has failed the innocent.

For more information please contact either Ann Bressington MLC on (08) 8237 9596