

C Porter, Preliminary Submission PPA3

[This is an LRC typed version of a handwritten original submission]

Dear Sir,

I have no objection to any publication of this submission.

I was 52 years at the Bar, and much of my practice was criminal law. I acted for the Department of Corrective Services on many occasions including the first stages of the Nagle Commission. I inspected every gaol in NSW at that time, except for Broken Hill.

My submission is that without the reward of remission of head sentence (non-parole period) most gaol reformation efforts are futile. "Truth in sentencing" appeals to some minds, but in truth it means longer sentences served and no real incentive for self-improvement in gaol.

The fact that the non-parole is reduced saves revenue expenditure, but far more importantly gives a real, perhaps the only strong motive, for self-improvement. Illiterates are taught to read, prisoners can be taught trades and how to do better on release.

There is no other inducement for a prisoner's self-improvement with anything like the same force and effect. Furthermore the public can be better protected by if necessary extending the parole period, the possible release period of sentence.

I note that public complaints against prisoners being released on parole are very often when the entire sentence is almost expired. In cases of serious personal injury, murder or manslaughter, there is much to be said for a lengthy overall sentence, with a shorter non-parole period. The parole authorities should not have the problem of a serious offender whose entire sentence has almost expired.

In these serious cases, those deciding parole are in a much better position to make a decision after many years than the trial judge.

It may well be that in serious parole cases there should not only be a right to a public hearing but also an appeal to the Supreme Court (by the DPP as well as the prisoner).

The true life sentence which deprives the prisoner of any hope should be a last resort, as it usually is. For many bad cases where the public may have cause to fear the prisoner when released, the best course is a substantial, but not prohibitive, non-parole period, followed by a very lengthy possible parole period. Prominent cases for release should be public hearing with a possible appeal to the Supreme Court. In such a hearing the victim should have a right to be heard, and the essential question should be whether it is safe to release the prisoner. Those making that decision should not have to choose between an unwise release and the expiry of the sentence, leaving the ex-prisoner unsupervised.

Charles Porter QC

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