



The Honourable Rod Welford MP



01st October 2003

**Attorney-General
Minister for Justice**

In reply please quote: 2003/07326

Your reference: 5647

Mr N Laurie
Clerk of the Parliament
Parliament House,
CDE M29
BRISBANE

Dear Mr Laurie

Thank you for your letter of 21 August 2003 forwarding a copy of a petition, tabled paper number 5647, seeking a review of the double jeopardy laws in Queensland.

As the petition notes, the issue of double jeopardy has come to public attention because of the murder of Deirdre Kennedy, the subsequent prosecution of Raymond John Carroll, firstly for murder, and secondly, for perjury, and the outcome of a High Court appeal in that case.

I understand that this case has aroused significant public concern due to the perception that an apparently guilty person has escaped punishment. I also understand the profound effect this heinous crime has had on the Kennedy family.

The term "double jeopardy" refers to the principle that a person cannot be charged with an offence for which he has already been convicted or acquitted. Contradicting an earlier verdict by preferring a different charge is also part of the double jeopardy principle, and perjury is not an exception to the rule. In the case of Carroll, the effect of trying him for perjury was to try again the issue which was central to his trial for murder and to contradict the verdict of acquittal for the murder.

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As the petition demonstrates, there is considerable public concern over the prospect that a person may escape conviction due to an earlier acquittal, despite the emergence of new evidence that may show their guilt. At the heart of the criminal justice system is the principle that those who are guilty of criminal offences should be prosecuted and punished for those crimes.

At the same time, the importance of the principles underpinning the double jeopardy rules should not be underestimated. These principles include that a person should not be harassed by multiple prosecutions about the same issue; the need for finality in proceedings; and the need to encourage efficient investigations.

I agree that the double jeopardy rules have the potential to lead to injustices, particularly when new and reliable evidence becomes available (such as DNA evidence or a confession) that strongly suggests an acquitted person is in fact guilty, or where it can be shown an acquitted person has interfered with the administration of justice to obtain that acquittal.

In my view, because of the importance and significance of these principles to our criminal justice system, any reforms should be carefully and thoroughly considered and should result in uniform legislation throughout all Australian jurisdictions. For this reason, I have referred the issue of double jeopardy to the Standing Committee of Attorneys-General (SCAG) for review.

Thank you for referring this petition to me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rod Welford', with a long horizontal flourish extending to the right.

Rod Welford MP