

WRONGFUL IMPRISONMENT — WARRANT OF EXECUTION FEE

30. Mr J.M. FRANCIS to the Attorney General:

Can the Attorney General please advise the house what he is doing to rectify the disgraceful situation of the wrongful imprisonment of more than 1 500 Western Australians by the previous Labor government for the incorrect enforcement of a warrant of execution fee?

Mr C.C. PORTER replied:

I thank the member for his question and, as my nearest electoral neighbour, I congratulate him on his election. I also hope that we do not have to share an electorate office for too much longer!

The situation that the member has raised warrants some background being provided in addition to the question. In effect, an error was picked up by the Ombudsman in about February 2006. The Ombudsman notified the then Department of Justice that, in certain circumstances, charges were made for a warrant of execution fee that should have been withdrawn. That came about because the Fines, Penalties and Infringement Notices Enforcement Act 1994 was amended in 2001. In broad summary, flexibility was driven into the system whereby the ability was given to authorities to skip the warrant of execution stage; that is the stage at which people's goods are sold to pay outstanding fines. When warrants of execution were issued, fees were charged, and those fees were charged on top of people's outstanding fine amounts. The problem was that flexibility was driven into the system to skip that point, except that the fees were not stopped from being charged for warrants of execution. People were being charged fees for warrants of execution that never occurred. By virtue of this, their global fine amounts increased and, when it came to warrants of commitment—that is, when the time came to put those people in prison for the outstanding amounts—those people served longer prison terms than they should have served. The problem was identified in February 2006. The then justice minister, the former member for Ballajura, sent a letter to the Ombudsman; in fact, his department sent the letter. However, the then justice minister endorsed the position not to reimburse the people who had spent too long in prison. That was the initial position. An amount of \$45 808 was paid out in fees that were collected. That amount was reimbursed, but 1 730 people spent time in jail who should not have. Of course, we know that the Department of Justice was disbanded and recreated under different banners, and the Attorney General was effectively put in charge of the Fines Enforcement Registry in July 2006.

I have received a time line from my department so that I can try to work out why there were such significant delays in bringing this matter to a head. I will give members a brief outline of that time line. The member for Fremantle took over responsibility for the FER in July 2006. In January 2007 he sought advice on the matter from the State Solicitor's Office. After that advice was received, it was a further five months—on 15 June 2007—before the member for Fremantle took the matter to cabinet. Cabinet gave approval on 2 July 2007 to draft a bill. A year later there was no bill. Parliament had given it an AB priority, and it was requested to be introduced in the first half of 2008. However, the bill had not been introduced by the time the election was called. In essence, the problem was first identified in February 2006, but it was August 2008 before legislation was ready to be introduced in this place. That is two and a half years. Good gracious!

I would have been quite happy to simply go about my business and rectify this matter in a quiet fashion, but I will rectify it in something more of a loud fashion now in light of some of the other accusations that have been levelled against the government—that is, the accusation of delay. There are two pertinent ironies in this matter when we consider the accusation of delay. First, people were wrongfully imprisoned and it took two and a half years to get to the point at which anything could be done about it, yet we are being accused of delay! I can identify several interesting areas of delay within that period of two and a half years, but surely the most intriguing is that although the member for Fremantle became responsible for the FER in July 2006, it was not until January 2007 that he bothered to seek the advice of his own department on how to rectify the problem. Many new members may not know about the system by which a minister seeks the advice of his or her department, so I will enlighten them—they pick up the phone. It took the member for Fremantle seven months to seek that advice. Of course, the final irony in the context of the one-third discounting system is that since 2003 in this jurisdiction, pursuant to legislation brought in by the member for Fremantle, people have been receiving an automatic one-third discount. People who should have been in jail for longer were not, but, do not worry members of the house, we still filled up the places with people who should not have been there!