



FINANCE AND ADMINISTRATION SUBCOMMITTEE

Members present:

Mr PS Russo MP (Chair)
Mr RA Stevens MP (Deputy Chair)

Staff present:

Ms A Honeyman (Committee Secretary)
Ms K Shalders (Assistant Committee Secretary)

PUBLIC HEARING—INQUIRY INTO THE STATE PENALTIES ENFORCEMENT AMENDMENT BILL 2017

TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, 29 MARCH 2017

Gold Coast

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Subcommittee met at 10.37 am

CHAIR: Good morning. I declare open this public hearing for the committee's inquiry into the State Penalties Enforcement Amendment Bill 2017. On 2 March 2017 the Treasurer and Minister for Trade and Investment, Hon. Curtis Pitt MP, introduced the bill to the Queensland parliament. The parliament has referred the bill to the Finance and Administration Committee for examination with a reporting date of 28 April 2017. The purpose of today's subcommittee hearing is to assist the committee with its examination of the bill.

FRASER, Mr Michael, Toll Redress

JOHNSTONE, Ms Maddison, Toll Redress

CHAIR: I now welcome representatives from Toll Redress. We have received a late submission from you, but we are yet to formally accept and publish it; however, you are free to refer to it. I invite you to make an opening statement, after which we may have some questions for you.

Ms Johnstone: We are thankful for the opportunity to appear as witnesses and to share our unique insight into the serious impact tolling arrangements have on SPER debt. We established Toll Redress to apply our research into helping the many disaffected toll road consumers who have made contact with us and who have been affected by systemic issues in the tolling industry. Since 2015 over 2,400 people have made complaints to our website about toll roads in Queensland. Nearly 700 have published their complaint on our website. These figures do not include the number of people who separately email, text and call us with a toll complaint. In amongst our work exposing issues in 7-Eleven and most recently Domino's pizza and other companies, our office advocates for disaffected toll road users on a daily basis.

Last week at the public briefing it was concerning to us when the registrar of SPER commented that toll cases made up a large portion of SPER debt. Currently, \$232.6 million of the SPER debt pool has accumulated from unpaid tolls. This equates to nearly 20 per cent of the SPER debt pool and is the largest category of all SPER debts. Toll road consumers are often left with nowhere to go after trying and failing to rectify their matter with toll road operator Transurban and/or DTMR and SPER. They sometimes visit MPs such as yourselves who then ring us or contact the media. They almost always do not understand how they are in the position they are in and become frustrated, stressed and even suicidal. Our office has heard from thousands of people impacted by Transurban's practices, and the vast majority of these are from Queensland.

It is too easy to say that if you use the tolls you should pay for the tolls. We have heard from too many people who reside in other states and have never been to Queensland who are being pursued by Transurban for toll debt. We had one gentleman write to us saying that he and his vehicle had never left Tasmania, but Transurban in Queensland was pursuing him for toll debt and he had begun receiving government notices. While he indicated that he would never pay this, we have heard from people in similar situations who are so frustrated by the process that they end up giving up and paying a debt that is with SPER that is not theirs.

There are many complicated issues with toll debt that mostly stem from unfair practices at the hands of Transurban. In our submission we have included case studies that reflect these unfair practices where the unjustified administration fees put people in a position where they cannot pay for their toll road use. While they dispute the administration fees, their toll matter keeps escalating and ends up with SPER. This means their debt is spiralling out of control. We have successfully helped people who, before speaking to us, have disputed administration fees with Transurban. Transurban maintains that they owe the whole debt. In a number of cases, as soon as we begin helping the customer form their communication and direct them with the right questions to ask, Transurban have wiped all of the administration fees and subsequently contacted DTMR and SPER to withdraw the infringements and wipe the debt.

If this bill genuinely aims to reduce the SPER debt pool then urgent investigation into tolling arrangements in Queensland needs to be conducted. While former premier Campbell Newman was in office it took only 53 toll road complaints to DTMR in a six-month period in 2013 for a review of Gold Coast

tolling arrangements in Queensland to be called. Considering that the purpose of this bill is to reduce the SPER debt pool, we hope that there will be more focus on why the SPER debt exists in the first place.

Mr STEVENS: Considering that the SPER debt is an asset on the government's books, \$1.18 billion is a substantial amount to have on the government's books. You mentioned that \$232 million of that was toll related. Can you see that it is in the government's interest to, through charges, increase the \$1.50 toll, if you like, to \$150 or \$250 in administration charges because the government is increasing its asset value in that sphere? Is there any capacity—I do not know if you have legal training or whether Toll Redress has legal representatives—to dispute those increases in charges as not being justifiable and fair, as has happened in the banking industry with bank charges and Cabcharge, for instance, that had their capacity to charge exorbitant fees on top of the original charge reduced by the courts?

Mr Fraser: That was quite a big question. If I can just address this first point, we hear time and time again—and it is through no fault of anybody's—'The system is so complicated.' We have made a point of trying to understand how it all works. When MPs talk about the system, when the media talks about the system, almost everybody always gets it wrong, and from time to time we get it wrong, because there is not enough information available and a lot of this information is commercial-in-confidence. The way the cycle works at the moment, if you do not pay your \$4 toll—because people ask, 'How does my \$4 toll become \$2,000?'

Mr STEVENS: Yes.

Mr Fraser: It simply does not. At the moment, a \$4 toll, if you do not pay it, can eventually, after 28 days, have a \$23.46 administration fee. That administration fee is approved and gazetted by the state. Transurban, which is go via, can charge that administration fee as a maximum. If you do not pay that, they refer it to DTMR—the Department of Transport and Main Roads—and then a \$170 infringement can be issued. What a lot of people do not know is that they can take up to seven months to do that. If you do not pay the infringement when the infringement happens, it goes to SPER and there is currently a \$65.20 'registration fee' that goes on top again.

What we have looked at is: how does it get to that point? When people ask, 'How does it become thousands of dollars?', a lot of the time they do not realise that there are tolls sitting on their account that they do not even know about, that Transurban are not even telling them about, that are owed, that have been escalated through the system. They are no longer sitting in the live account of Transurban; they are now passed on to the Department of Transport and Main Roads. They have gone into a different part of the account keeping at Transurban. If someone rings up and asks, 'How much do I owe?', Transurban might say, 'You've got four unpaid tolls.' Then they ask, 'Why is the Department of Transport and Main Roads pursuing me for \$3,000 in infringements?' What they do not know is that that is for other tolls that Transurban has not told them about or they did not realise had escalated.

It is a really complex process and it will blow your mind as to how much more complex it gets when you start understanding the intricacies of the process, such as that it can take seven months. If you do not pay one toll, Transurban can suspend your account and then you have two kinds of accounts: one that they do not tell you about and one they do tell you about. You can pay that account and think you have paid your account but not realise that there is another one outstanding and escalating. I am not sure if I have even begun to answer your question.

Ms Johnstone: We are not lawyers, but what we have noticed is that the Transport Infrastructure Act says that an administration charge for a toll must not be more than reasonable cost of issuing a notice for and collecting the unpaid toll and administration charge for the toll. Currently the administration fee is \$23.46. Sometimes customers receive many, many administration fees in one envelope, which could rack up thousands and thousands of dollars in administration fees. The question is: is it against the Transport Infrastructure Act to charge somebody thousands of dollars for one letter?

CHAIR: What section of the act?

Ms Johnstone: I do not have it.

Mr Fraser: I think it is 93, or something like that.

CHAIR: Sorry to interrupt.

Ms Johnstone: We can confirm that with you.

CHAIR: We will find it.

Ms Johnstone: When it comes to legal arguments—we are not trained lawyers—we cannot really comment on that, but this is what we have noted in the Transport Infrastructure Act.

Mr Fraser: What is interesting is that we are getting law firms now who have been representing people for years ringing us, asking us how to represent their clients. We had one client for whom \$36,000 worth of debt was wiped. They had previously been to a lawyer and the lawyer could not wipe any of it. He rang us, because he did not believe his client when he said that we had got it removed. It is not because we are brilliant; it is because we have looked at this system.

CHAIR: Lawyers have egos.

Mr STEVENS: You are talking to one over there.

Mr Fraser: The thing is that not everybody has the time to understand the system. The easiest way to have these administration fees reduced or removed—the Transurban charge—if you have 30 unpaid tolls that you did not know about and it is 30 times \$23.46, is to just ask them, ‘It is our understanding that these fees are meant to represent the true cost of collecting the money that we are owed. Do they represent that?’ The moment that happens, someone from head office contacts you and says, ‘As a gesture of goodwill, we’ve wiped all of them.’ It happens instantly, in the first communication. We have had \$6,000, \$8,000 or \$9,000 just go instantly, but the customer does not know to ask about this.

Another important thing is that they will not let you pay your unpaid tolls until you pay the administration fees. Although they are separate invoices, they will make you pay a portion of each invoice but not write off any one invoice. They make you pay the administration fees first, which is not written in the legislation. It is not in their terms and conditions; it is a private thing, a private charter that the company has. That means that you have unpaid tolls sitting there that can escalate to infringement level. You are trying to pay these crippling administration fees while your tolls are still escalating as unpaid. It is very concerning.

Mr STEVENS: Thank you. As part of this legislation it is recommended that an allocation be made for case study management, which means that the departments themselves will undergo payment options for different customers. We were told that there were customers in custody, as a matter of fact—in other words, people in jail—who have large amounts of SPER debt. Hopefully, these case studies will try to address how they are going to pay it back. Do you see a case study management with individual government operators, if you like, being the answer to retrieving this large amount of money?

Mr Fraser: I think people’s individual circumstances need to be looked at. At the moment it reminds me of the robo debt thing with Centrelink. We have this automatic process that an unpaid toll goes to DTMR and they say, ‘Hey, buddy, we’re just a processing unit. We don’t have anything to do with the information. They just give it to us and we issue infringements. We don’t question it.’ They tell that you it is a processing unit only. Then SPER gets it and they say, ‘Hey, we’re just enforcing what the department of transport gave us. If you want to dispute it, you go back to them. It’s not our problem.’ If SPER is going to be collecting these debts, it really needs to have that ability to sit down and assess someone’s situation and how this came about in the first place.

At the moment, we are finding the approach very militant. We have SPER writing to people. They do not even name themselves. When you get an email from them, you do not even know who is talking to you. They just say ‘Registrar’. You have no way of identifying who is talking to you. We are hearing that when people from SPER come out and see you they are covering up their name on their badge so that you have no way of identifying them, despite the fact that the police they bring with them identify themselves. There is this really militant feel about how they go about it now.

It needs to be more—as SPER says in its document—customer-centric. It really needs to be focused on the situation. For example, if someone has 30 unpaid tolls they could be seen as a repeat offender, but when you go back and you look at the tolling system you see that this is extremely common and that it may not be anyone who is a repeat offender; it may simply be just an administrative error that has led to that, but they are treated on the other end of SPER as though they are repeat offenders, like they are someone who has been caught stealing Mars bars from the corner store 35 times. It is very concerning.

Mr STEVENS: I also note from the submission that a business operator incurred an enormous amount of toll debt. I find it difficult to come to grips with the fact that he was not aware that he was due to pay these tolls, as he had a major trucking business—by the numbers that are in your paper here, which is not public at this stage, I take it. They are some serious six-figure numbers, yet he just let it roll on, as it were, and he did not pay his tolls. When he was contacted about it, he said, ‘Hey,

it's a rather large figure.' How does that happen? In terms of the people you represent in Toll Redress, how many of them are people who have basically said, 'I'll treat it with contempt,' if you like, in terms of, 'It is a toll. I'm not going to pay it,' and how many were genuinely unaware that they had this debt building up?

Mr Fraser: Firstly, I can speak to that case. They had multiple companies but they had a primary company that they were operating under. I think one of the trucks was registered to another company and they were not checking that paperwork, because they were not really operating much under that company. That got missed in a pile somewhere and was escalating. Bear in mind, that was only three days worth of tolling invoices. It was not like he had missed it for a long period of time but, because he is driving trucks through a lot of the tolls, there was a considerable amount of unpaid tolls in a short space of time. He spent over 100 grand a year in tolls.

When he found out about all of these unpaid tolls and these considerable administration fees, he said, 'Listen, we need to pay it, but can we issue it into the correct company name to pay it?' They refused to issue it in the right company name. His accountant said, 'You need to get it put in the correct company name so you can do this properly on the books.' Transurban—and this is what he is telling us—would refuse to do that. That is consistent with the kind of behaviour that we see from the company. It is just outright refusing to do things like issue you with a receipt when you make a payment and things like that.

Mr STEVENS: You mentioned \$100,000 worth of tolls per annum for the trucking part of that business.

Mr Fraser: Yes.

Mr STEVENS: How does missing three days of tolls out of a \$100,000 per annum bill equate to a \$60,000 debt?

Mr Fraser: I think it might have been about \$1,200 worth of tolls for three days.

Mr STEVENS: Right. That escalated to \$60,000 through non-payment?

Mr Fraser: Yes. You have your infringement. Picture that \$170 infringement per unpaid toll. Then you have your \$65.20 registration fee from SPER. Then you have an enforcement fee as well, which is \$109.10 per unpaid amount. If you have quite a number of those, that can very quickly add up. Plus, the tolls for trucks are quite expensive. In addition, add the \$23.46 administration fee. It very, very quickly balloons.

In his case I think they engaged lawyers and he incurred the legal costs of their lawyers et cetera as well. It was not just going through the department of transport and SPER; there were their debt collectors, and they make you pay those as well. There was a litany of financial issues there.

Mr STEVENS: It seems an incredibly large amount—the \$60,000 claimed—out of three days of missing tolls out of a \$100,000 a year normal toll bill. The legal costs would be incurred only when he basically said, 'Well, I'm not going to pay. I'll see you in court.' I just cannot work out how it has gone from three days worth of tolls to be a \$60,000 debt rather than just an ambit claim.

Mr Fraser: We read in the numbers at the time—it was featured on *A Current Affair*. It was a half episode on *A Current Affair*.

Mr STEVENS: It must be right then. I am certainly not arguing.

Mr Fraser: I think for some reason with the trucking company they were bigger fines, too. I am not sure. We do not know about that. In answer to the second part of your question, you are right: people do become belligerent at a point. I had this lady ring me up one day and she said, 'I have just gone through a toll and I have pulled over on the side of the road to pay it, to do it straightaway. First chance I got, I pulled over to pay it. I ring them up and they say, "You can't do it for up to 72 hours."' That is what they tell you. It can take 72 hours before you can pay your toll, yet the sign says to pay it within three days. Three days is 72 hours. She tried to pay the toll. She was on holidays. She has gone home and forgotten about it. The next thing is, she is home from holidays or whatever and found an infringement associated with that.

A lot of people try to do the right thing in the first instance. They ring up. We have people ring up, pay, get a receipt number and then they find out later that the payment never went through. That is quite common. The next thing they hear about is when there are administration fees and all these excessive costs. They ring up and say, 'Listen, I want to pay my tolls, but these fees are ridiculous. I am not paying those. I tried to do it in the first instance.' The company will not have a bar of it. Then what happens is that people start saying, 'These guys are ridiculous. I don't know where to go.' They just start using the toll road again and throw it in the 'later' pile. We do not condone that kind of

behaviour. We are not suggesting that people should ignore their debts or their responsibilities, but we do see that it has a psychological effect on people in that it becomes overwhelming and they do not know where to go.

Bear in mind, go via—the tolling operator Transurban—will tell you every time, ‘You need to speak to the state.’ The state will say, ‘You need to speak to Transurban.’ The state has two components. DTMR says, ‘Speak to SPER.’ SPER says, ‘Speak to Transurban.’ Transurban says, ‘Speak to DTMR.’ People just keep going around. We have tried this ourselves, asking questions. They just send you to the next department and no-one can give you an answer.

Then you find out there is a service called the Tolling Customer Ombudsman. People believe that, like the Financial Ombudsman Service, it is a genuine ombudsman where, once you make a complaint, all escalation halts. This ombudsman was set up by Transurban. When you make a complaint to the Tolling Customer Ombudsman, nothing stops except that he will investigate those tolls that you are complaining about. However, he has no power with the state whatsoever. You cannot find out where his office is, his phone number is just a voice message, his fax machine is at the local post office and it is not really a genuine service. What we find is that in nearly every case he finds in favour of Transurban. The state sometimes says, ‘You need to dispute your infringement with the Tolling Customer Ombudsman,’ despite the fact that he has no power.

As you can imagine, people trying to do the right thing can very quickly be beaten down to a point where they just give up. I am not saying that is the right thing to do, but we are seeing a pattern with a lot of professional-type people who do not have debts spiralling out of control anywhere else but this seems to overwhelm them. It seems to get to a point where they cannot process it, no-one will give them accurate statements, SPER will not give them a statement, Transurban cannot tell them how much they owe. It changes day by day and they just give up.

CHAIR: Michael, this may be a question that you cannot answer and it is not a set-up question, but I am just trying to understand your submission. We have heard in evidence about the 700,000 SPER debts. From any information that you have been able to gather, do you know what proportion of that 700,000 falls into the toll regime and what would be classed as ‘other’?

Mr Fraser: It is \$232.6million, according to what I think SPER said.

CHAIR: I am talking about the number of debtors. There are 700,000 debtors in the system. Have you ever been able to ascertain what proportion of the 700,000 relate to toll debts?

Mr Fraser: I have it here. I have written it down.

CHAIR: Do you know where it came from?

Mr Fraser: It was actually thanks to the news networks that have done RTI in the past. It was something that SPER had provided.

CHAIR: That is okay.

Mr Fraser: I have the figures here, but I did not write what was what next to it, because I was in a hurry. When they give you those figures, it is always the complete total figure over time.

CHAIR: I know it will not be accurate as of today. I accept that.

Mr Fraser: You cannot even know what it was exactly in the past year, because they give you all of time and then you have to somehow deduct from the last year, but the amounts may be different because some toll debt may have been paid off. It is very hard to work out what is what.

Mr STEVENS: Michael, if the outstanding tolls have been paid to go via and they accept that payment, if you like, but they have already raised the infringement notice or referred it to SPER, does the payment of that toll stop that debt escalating with SPER? If go via wipes the debt off their books, does the SPER debt continue?

Mr Fraser: This was very hard for us to find out, and I cannot confirm whether it is 100 per cent accurate. All our information comes from triangulating data between the three departments: Transurban, DTMR and SPER. What we understand is that, in the case of the three toll roads run by the state, there is an agreement between Transurban, DTMR and SPER about the escalation of tolls to infringement. The way we understand the agreement, Transurban cannot collect the administration fees and unpaid tolls—and I am getting to answer your point—if an infringement has been issued. Transurban apparently got a bit upset that they were losing a lot of money because everything was going to infringement as every unpaid toll becomes an infringement. They were losing all this money in administration fees and unpaid tolls, so they made a secret agreement, which I think is called the prosecution agreement or something, which was accidentally slipped to us by DTMR. They said that the agreement was essentially that if you go through six tolls in a day, three tolls in one direction and Gold Coast

three tolls back, only one of those can become an infringement. There are six tolls that you have not paid, presumably. One can go off to DTMR and become an infringement. On the other five you owe money to Transurban, which they will send to a debt collector. They can collect on five of the six, but the sixth one they cannot collect on because it becomes an infringement. That gets very confusing, because it can also be seven months before DTMR issues that infringement.

When you ring up Transurban and, let us say, make a payment plan—and this is very important—to fix all of those unpaid tolls, in your mind you have sorted out that problem. However, they have not told you that one has been escalated to infringement. You think it is all done. You have a payment plan with Transurban and you have paid it off, but seven months later you check your letterbox and you have an unpaid toll infringement. You say, ‘What’s this all about?’ This is where people start getting really confused, because it is now no longer on Transurban’s books. They will not give you accurate records unless you really push them for it, and it becomes very confusing for the person because they think they did the right thing. They tried to do the right thing and that is how these matters can really escalate.

Mr STEVENS: In your opinion, is it that the collection and administration of the SPER system and the collecting of tolls are seriously flawed?

Mr Fraser: Yes. The thing no-one is discussing is: how does a debt occur? It is not, ‘Let’s work out how to get it paid,’ but, ‘Why is the boat still leaking? Why is all this money coming in?’ The Treasurer himself did not understand how it worked when he said in parliament that tolls are set by the toll operator. They are not; they are set by the state. He is proposing these changes, but if we can have an opportunity to educate the members better about how the system works, we may have a better chance at understanding why the debt is accumulating and how it can be addressed.

CHAIR: Michael and Maddison, I thank you for taking the time to write your submission and also for turning up here today to give evidence in person. The secretariat will be in touch in relation to the transcript. We will take a short break while we wait for the next witness.

Proceedings suspended from 11.10 am to 11.19 am

CHAIR: I formally close the hearing.

Subcommittee adjourned at 11.19 am