

Division 31: Office of the Director of Public Prosecutions, \$34 076 000 —

Mr A.P. O’Gorman, Chairman.

Mr C.C. Porter, Attorney General.

Mr J. McGrath, SC, Director of Public Prosecutions.

Mr J. Plunkett, Director, Corporate Services.

Mr D. Li, Manager, Finance and Administration.

[Witnesses introduced.]

The CHAIRMAN: The Attorney General.

Mr C.C. PORTER: Mr McGrath has had the suffix SC added since last year, and the government congratulates him on appointment to silk.

Mr J.R. QUIGLEY: I refer to page 364 of the budget papers where an allocation for the Rayney trial is included as a line item at \$1.8 million. That is for the Director of Public Prosecutions in New South Wales to brief counsel, et cetera. This trial has been put off, from what I read in the press, because of disclosure issues. Is the cost of the trial rising or is the allocation of \$1.8 million fairly solid? I think the trial was meant to be underway by now and it was put off for months while interlocutory or pre-trial matters are considered.

Mr C.C. PORTER: There are two cost centres in the Rayney trial. One is through the DPP and, as the member knows, those moneys are being paid out to the New South Wales DPP and will then flow to counsel engaged by the New South Wales DPP to prosecute the matter. The second cost centre is with the Supreme Court.

Mr J.R. QUIGLEY: With Mr Justice Martin?

Mr C.C. PORTER: Indeed. I have to say to the member that it is an expensive business. I have looked at this matter, re-looked at it and looked at it again to see whether there is any way I can defray the costs to guarantee a free and fair trial in this matter. What was presented to me was the only real option. But it is unfortunate —

Mr J.R. QUIGLEY: I agree that there is no other option. I was just looking at the costing of it.

[12.20 pm]

Mr C.C. PORTER: I am not perfectly confident that those costs will not increase beyond what we see as a line item there. Mr McGrath came to me originally with the estimate of costs. I did not quite fall off my chair, but I came close. That money engages the counsel to travel to appear for the time the trial is estimated; that is, at this stage, to the end of the trial. If the trial is significantly delayed, the period in which we will be engaging the very senior prosecutor engaged by the New South Wales DPP will extend, as will his fees, his travel expenses and so forth. I am very pleased for Mr McGrath to give his assessment of whether he will come back to seek further funding on that matter.

Mr J. McGrath: The figure remains conservative and we should at this stage be able to say that given the election was made for a judge alone and that the budget which I put to the Attorney was based on the real possibility there would be a judge and jury, the trial should be completed in a shorter amount of time than I initially budgeted for. As the member knows, the judge alone should take a shorter amount of time because of the necessity to dispense with the jury.

Mr C.C. PORTER: I am happy to hear the director’s confidence, but the estimate was mid-to-late July or early August for the completion of the trial. The member for Mindarie is an experienced counsel, and whether he has confidence the trial will be finished at that point, I do not know.

Mr J.R. QUIGLEY: I do not express a view either way. I just know that you have very a good counsel. Did you say it would be finished in August or July?

Mr C.C. PORTER: The 40-day estimate was an estimate that the trial would be finished in or about August.

Mr J.R. QUIGLEY: It does not start for a while now does it?

Mr J. McGrath: That is correct

Mr C.C. PORTER: It has been delayed. Simply a delay to the end point of the trial does not automatically mean the number of days allocated for the counsel will increase.

Mr J.R. QUIGLEY: I do not have a particular interest in this trial other than the Attorney General has seen fit to put it in the budget as a line item. He said the other cost centre is with the Supreme Court. Do we know what those costs are for bringing Mr Justice Martin over?

Mr C.C. PORTER: It is \$900 000 for the provision of Justice Martin and, of course, the support staff he requires, travel, accommodation and, again, should he be required for longer than we are anticipating, that amount will increase. It is an expensive trial.

Mr J.R. QUIGLEY: Can we put the cost per criminal matter in here?

Mr C.C. PORTER: I do not know definitively, but I suggest that it will probably be the most expensive criminal trial in Australia's history simply because the circumstances are so unusual—having to engage an interstate DPP, interstate counsel and interstate judge—the great trifecta. It happens very rarely.

Dr A.D. BUTI: I refer to the first note on page 367, under “Explanation of Significant Movements”, that reads as follows —

At the time of writing the Budget, a decision had not yet been made on the amounts to be paid to the Office from the Confiscation Proceeds Account ...

It has been some time since the budget was written. Does the Attorney General have a firmer figure or are we closer to moving that from provisional to a determination?

Mr C.C. PORTER: There has been a memorandum of understanding between the DPP and successive Attorney Generals on an amount that will be delivered out of the confiscation proceeds account to underwrite the cost of the confiscations team at the DPP. It is correct that at the time of writing this, we had not finalised that memorandum of understanding for this relevant period. That is very close to being finalised. It will be an increase. I cannot tell the member what that will be until it is finalised, but it is very close.

Mr A.J. WADDELL: I refer to the confiscation of assets on page 367. I assume I am misreading this, but it appears that it is costing the state money to confiscate assets. Is that a misunderstanding on my behalf or are we spending money to confiscate assets?

Mr C.C. PORTER: Costs are associated with the operation of the confiscations unit that is applied to confiscating assets. Additional costs are applied to police. Depending on how we measure those, we can get a broad or narrow measurement of the costs. Every time the police investigate the home of a person who has a methylamphetamine lab or is growing a number of marijuana plants, that is the genesis for a confiscations action. If the question is: are we making a net gain from the funds of confiscation compared to the costs of operating the confiscations unit, the answer is that we are making a net gain.

Mr J.R. QUIGLEY: For the net cost of service on page 367, the amount of \$1.022 million is bracketed, which indicates a net loss.

Mr A.J. WADDELL: In 2010–11 there was a profit of \$1 million. We are now budgeting for a loss of \$1 million.

Mr C.C. PORTER: The director may correct me, but that is how much the confiscations unit costs to run and how much of that cost is underwritten by funds coming out of the confiscation proceeds account. That measures the differential between the two. Inside the confiscations account, the total cost of the confiscations unit is far exceeded by the moneys coming into the confiscations account. The member is running the argument the director ran earlier with me, which is, given that moneys are coming into the confiscations account, should it not be that we have a greater proportion of the confiscations unit's costs underwritten? There is general agreement to that. We are settling that MOU now, but I can assure the member that the amount of money that goes in to the confiscations account in a year well exceeds the amount of money it costs to run the confiscations unit inside DPP.

Mr A.J. WADDELL: Is that independent of the value of the assets that are confiscated?

Mr C.C. PORTER: If I take value of assets that are confiscated, X, minus the cost of running the confiscations unit, Y; we are in the black. We make money out of confiscations.

Mr J.R. QUIGLEY: Except perhaps for contingent liability, which I have asked about before. I forget the name of Mr Kizon's co-accused, the accountant.

Mr C.C. PORTER: Mansfield.

Mr J.R. QUIGLEY: I think there was a concession that the state owed him money or things should be returned.

Mr C.C. PORTER: I will get the director to give the member an update on that. Last time we had this conversation —

Mr J.R. QUIGLEY: It is \$12 million or something.

Mr C.C. PORTER: Indeed. His claim was large. Last time we had this conversation, the advice was that we were very close to reaching a settlement with Mr Mansfield.

Mr J.R. QUIGLEY: It was 12 months ago

Mr C.C. PORTER: Indeed, but that has not come to fruition, notwithstanding that it was very close. The director will give the member an update on the status of that matter.

Mr J. McGrath: The position is that the State Solicitor's Office is acting on behalf of the DPP. They are actively negotiating with the lawyers for Mr Mansfield. He is ably represented by Mr Martin Bennett of Bennett and Co solicitors. We are doing everything with our solicitors to negotiate a settlement. It is unknown exactly what the amount the member referred to will be, but I can assure Mr Quigley that the reason there has not been a settlement is through no cause on our part. There have been difficulties reaching the final agreement but the matter is progressing.

Mr J.R. QUIGLEY: Has it not been listed?

Mr J. McGrath: There has been mediation in the Supreme Court. Obviously, I cannot repeat what is said in mediation, as reported to me by my solicitors.

Mr J.R. QUIGLEY: That contingent liability has the capacity to throw out these figures seriously has it not, without giving anything away?

Mr C.C. PORTER: I can give the member my assessment based on the information from the material I have provided. What a settlement might look like is now uncertain. Anything I say about that is no more than a guess. Any settlement reached is not going to be beyond what is in the confiscations account or be a huge change to the balance sheet.

The appropriation was recommended.

[12.30 pm]