

Imposition of Fines

Terms of Reference

In 1972 the Committee was asked to consider and report on:

- (a) the law relating to the imposition and enforcement of fines by the courts; and
- (b) alleged inconsistencies and inadequacies in the imposition of penalties.

Background of Reference

The reference concerned questions as to maximum fines, the criteria to be taken into account in imposing fines and alternative means of enforcing payment in the event of default. In 1973, the Commission took over the reference as an incomplete project from the previously existing Committee.¹ At this stage substantial research, data collection and preliminary preparation of a working paper had been undertaken.

In 1979 the aspect of the reference that related to the enforcement of fines was incorporated as part of the Commission's comprehensive reference on the *Justices Act 1902 (WA)*.² The remaining aspects of the reference were deferred pending the results of inquiries that were being carried out by the Australian Law Reform Commission (ALRC) for its project on sentencing. The Commission was of the view that the ALRC inquiry would reveal relevant material, on an Australia-wide basis, which would be of use in consideration of this reference. The ALRC completed an interim report in 1980.³ The report dealt particularly with inconsistencies in the imposition of penalties.

A Committee of Inquiry into the Rate of Imprisonment in Western Australia also dealt with the issues that arose as part of this reference. The Committee of Inquiry delivered its final report to Cabinet in May 1981.⁴ The report contained a number of recommendations regarding the enforcement of fines and alternative penalties to imprisonment in the event of default.

Reference Withdrawn

The reference was withdrawn in 1982. The Commission was of the view that this reference should be withdrawn in light of the report of the Committee of Inquiry into the Rate of Imprisonment in Western Australia and the report of the ALRC on the sentencing of federal offenders. It was intended that any aspects of the reference not covered by the Committee of Inquiry's report and the work of the ALRC, were to be dealt with by the Commission as part of its extensive review of the *Justices Act*.

¹ The Law Reform Committee of Western Australia was formally reconstituted as a Commission on 19 January 1973.

² Law Reform Commission of Western Australia, *Justices Act*, Project No 55 (referred 1974).

³ Australian Law Reform Commission, *Sentencing of Federal Offenders*, Interim Report No 15 (1980).

⁴ Committee of Inquiry into the Rate of Imprisonment in Western Australia, *Report of the Committee of Inquiry into the Rate of Imprisonment in Western Australia* 1981.