

erate. The Bill will also give the police wider powers to investigate the abuse of senile and disabled people. The *Sydney Morning Herald* said that the Bill had been criticised by some civil liberties and disabled persons' groups as an erosion of the rights of intellectually handicapped persons, particularly their rights to refuse abortion or sterilisation operations. But a spokesman for AAMR, the national association on intellectual disability, was quoted as saying that the group totally supported the Guardianship and Administration Board Bill. The group's executive officer, Mr Roger Barson, said the Bill contained essential safeguards to protect people with disabilities and filled some glaring gaps in the law. He said at present sterilisations, terminations of pregnancies, and tissue transplants could be approved by a guardian or parent acting in isolation. Mr Frank Hall-Bentick of the Disability Action Group was quoted as saying that he had read the Victorian Bill and was in favour of it. But he expressed concern that the Board had not been given adequate guidelines to decide on matters such as sterilisation. Unless there were clear guidelines, Mr Barson said, intellectually disabled people might be denied access to many medical procedures because they could not give informed consent for these procedures. 'At the moment it doesn't get done at all, or it's done illegally and not necessarily with the person's best interests at heart', Mr Barson said.

Dr Allen, who is also a spokesman for the Royal College of Obstetricians and Gynaecologists, said on behalf of the College that disabled people had the right to abortions and sterilisations when it was in their best interests. 'We must guard against these procedures being done when they shouldn't be but we must ensure that they are not delayed unnecessarily by the mechanics of the Guardianship Bill when they are needed', he said. The *Sydney Morning Herald* reports that a departmental committee is working in New South Wales on a report which will go to Cabinet in the near future covering similar areas as are canvassed in the Victorian Bill.

confidentiality. A short report in the *Australian* of 13February1986 records that the General Medical Council of Britain, which is responsible for the ethics of the British medical profession, has changed its rule so that girls in Britain aged under 16 who seek medical advice about contraception or abortion no longer have a right to complete confidentiality from their doctors. Presumably the changes were made in the aftermath of the House of Lords decision in the Gillick case. (See 1986 *Reform* 34)

domestic violence in the ACT

alrc report. The Australian Law Reform Commission's Report on Domestic Violence in the Australian Capital Territory (ALRC30) was tabled in Parliament on 20March1986. The report is timely following an horrific case in Canberra in which a former de facto spouse apparently murdered three members of a family (including his former de facto partner) and very badly injured a fourth and then committed suicide. The case was forcibly brought to the attention of Canberrans by *The Canberra Times* publishing a front-page photograph of the injured victim being lifted towards an ambulance. Letters to the editor were divided about the appropriateness of publishing such a photograph, some castigating *The Canberra Times* for descending to tabloid journalism whilst others praised the paper for bringing home a horrible but necessary message.

education. The Commission's report stresses the need to educate the public about domestic violence. Victims and perpetrators must realise that they are not alone with their violence and the public perception of domestic violence must be changed over time so that it is no longer regarded as a private matter which can be shrugged off. A principal recommendation of the report is that a domestic violence unit should be established in the ACT which provides immediate assistance to victims, conducts publicity and public education programs, gathers statistics on domestic violence and assists police in dealing with what is regarded as their most difficult work.

protection orders. The report recommends changes to the law. It proposes a new protection order, similar to that which exists in South Australia, Western Australia, New South Wales and Tasmania. Protection orders, obtained in the Magistrate's Court, would prohibit violence and harassment and could be used to exclude the violent party from the home. Breach of an order will be a criminal offence for which police may arrest without warrant. Other changes to the law which are proposed are:

- wider powers of entry for police in domestic violence cases;
- clarification of the power of arrest without warrant;
- changes to the non-compellability of married people as witnesses in criminal proceedings;
- police powers to impose bail conditions for the protection of domestic violence victims;
- removal of gun licences of people who have threatened use of a gun in a domestic violence incident;
- a pilot program for court-ordered counselling for offenders.

The report recognises that the police are at the front line in domestic violence cases and that a great deal of attention needs to be paid to police training and morale in this area.

Mr Nicholas Seddon, the Commissioner in charge of the Commission's domestic violence reference, said that changing the law is only part of the picture. 'The proposed protection orders will provide a measure of protection. But they won't stop some people. Further, they should not be seen as a substitute for the criminal process. An assault in the home is a crime and should be prosecuted. The protection orders should complement, not supplement, the criminal law.'

injunctions and the family law act. The report recommends that domestic violence orders should mirror the kinds of injunctions that can be made under the Family Law Act

1975. The kinds of orders that should be able to be made include orders restraining the respondent:

- from entering or remaining in the family home;
- from entering or remaining in the workplace of a family member;
- from entering or remaining in specified areas;
- from approaching family members.

welfare measures. Mr Seddon stressed that the welfare measures recommended in the report are as important as the legal measures. The report recommends that a domestic violence unit be set up which would be widely publicised so that victims have ready access to helping services. The domestic violence unit would be responsible for providing information through publicity and public education, advice to victims and to perpetrators and would be responsible for compiling statistics on domestic violence in the ACT. 'One purpose of the unit is to give support and to tell the people involved in domestic violence that they are not alone and that help is at hand. Through advertisements and public education, the ultimate aim is to mould attitudes away from accepting or condoning violence', Mr Seddon said.

police training. The report recognises the central role which police play in dealing with domestic violence and recommends that close attention be paid to police training. Police work in this area is often frustrating and sometimes dangerous. Attention needs to be paid to police morale and attitudes so that they can perform most effectively in these cases.

consultation. The Commission consulted with women's refuges, the police, the Family Court, government departments, welfare agencies, lawyers, the magistrates and expert bodies such as the Australian Institute of Criminology and the Family Law Council.

tabling statement. The Deputy Prime Minister and Attorney-General, The Hon Lionel Bowen, in his Tabling Statement said that the report was an important and timely study into the problems and social disruptions that are caused, not only to its victims, but to society as a whole, by the perpetration of violence within the domestic sphere.

He said that the report made a thorough assessment of the available material on the frequency and extent of such violence in our society. Mr Bowen said that the Minister for Territories had undertaken to have the question of establishing a domestic violence unit in the ACT considered as a matter of priority. The Commission, in recommending establishment of such a unit, proposed that it should provide advice, support and counselling both for the victim and the offender. It would also have responsibility for meeting the basic and immediate needs of the victim, including adequate health care, physical protection, accommodation and financial support.

Mr Bowen said that his Department was, as a matter of high priority, preparing a draft Ordinance which it hoped to have ready for his consideration by late April. He said that that Ordinance — the Domestic Violence Ordinance — would deal with matters of law reform raised by the Commission, including police powers of entry and of arrest without warrant in instances of domestic violence, and the introduction of domestic violence protection orders. Mr Bowen emphasised his desire to introduce the Ordinance as quickly as possible.

national campaign. The *Sunday Telegraph* of 16 March 1986 reported that Mr Bowen was to ask State Governments to cooperate in a national campaign against domestic violence, by toughening their laws in conjunction with federal action to toughen its own laws. The *Sunday Telegraph* article said that as well as legal changes there would be a national program involving community education campaigns on the costs of domestic violence

and its widespread incidence. The article said that the national program would emphasise that social change was needed as much as legal change to curtail domestic violence. It quoted government sources as saying that the full domestic violence policy would be released in a few months and would incorporate specific measures on child abuse.

lump sum compensation

My man, I don't want justice, I want mercy.

Billy Hughes

teaching values. A Marist Brother who was severely injured in a motor traffic accident in New South Wales was in February refused compensation to cover professional disability on the basis that he did not receive a wage in his teaching position. Brother Patrick Donnelly had at the time of his accident been engaged full-time in teaching and sought to recover compensation for the value of his ability to carry out his full professional services. Master Sharp in the New South Wales Supreme Court ruled against Brother Donnelly in relation to that aspect of his claim on the basis that he was not remunerated for the performance of his teaching duties.

The issue is similar to one being considered by the Australian Law Reform Commission in a reference on action for loss of consortium. The Commission is considering the question of its replacement by a right to compensation for loss of capacity to perform unremunerated duties such as housework. The Commission's inquiries are in the context of the Australian Capital Territory. The final report is expected shortly. In Brother Donnelly's case, Master Sharp said that the case sought to be made out on his behalf was that his loss of earning capacity should be measured by its replacement cost, and that it was irrelevant to have regard to the fact that prior to the injury the plaintiff had disposed of that valuable asset by conferring its benefit on others with virtually no direct reward. It had been argued that his loss was in being rendered incapable of conferring the fruits of his labours wherever he wished, with or without