

Polemical trends

Rounding Up The Homefund Herd

THE HOMEFUND debacle is a good example of what happens when government tries to privatise essential services.

Beleaguered borrowers have been presented with a restructuring package from the Home Purchase Assistance Authority. The package tries to separate the 50,000 borrowers into four categories according to their income and ability to pay.

Homemakers with the least hardship can restructure their loans with other agencies (around 13,000 borrowers). Others may receive continuing assistance to pay off their loans (around 9,000 borrowers). And those with the greatest hardship will lose their homes altogether, but be permitted to rent them for a period of between 15 months and five years (around 5,000 borrowers).

This scenario is a long way from the original deal under which many borrowers were led to believe that loan repayments would never exceed 27 percent of their income.

Borrowers have only until the end of June to decide whether to accept the package.

Last year, the commissioner sent borrowers a questionnaire which received a "dishonourable mention" at awards for plain English presented by the Federal Department for Employment, Education and Training. The well-paid former Commissioner Mr Andrew Rogers QC had earlier suggested that ambiguous language in the mortgage documents about the capitalisation of interest was a potential source of government liability. If the restructuring information is similarly user-unfriendly, then bewildered borrowers will be hanging on to the 008 "hot-line" established for inquiries.

The scheme features the draconian provision of extinguishing many legal remedies for borrowers, but the package

neglects to explain the precise legal rights they are giving up. Community legal centres and the Homefund Support Coalition are currently bearing the cost of helping borrowers to understand the package.

It seems clear that the new Homefund commissioner Mr Ian McCrae is not going to address the complex issues of government and lender liability before the deadline for acceptance. As a result, borrowers cannot assess their chances of success before deciding whether to accept the restructuring.

The scheme makes it an offence for lawyers to aid borrowers in any legal action for compensation. Compensation is to be determined by the Home Purchase Assistance Authority, and the only right of appeal, to be lodged within four weeks, is to a government-appointed appeals panel.

Perhaps the dead-ends facing potentially litigious borrowers may explain the low budget allocation announced by the government. Only \$400 million has been assigned for the package and that figure includes compensation pay-outs. It was not long ago that the NSW Auditor-General said that at least \$500 million would be required.

The lenders in this fiasco, a group known as FANMAC, combined high interest lending and a government guarantee in what would otherwise have been a risky venture. If FANMAC have a legal right to compensation the cost to the state might be even higher.

Clearly the government wants uniform acceptance of the scheme and minimal compensation pay-outs. But are extinguishing remedies and access to legal representation valid ways of apologising for this type of stuff-up?

Can't Help You, Mama

NSW CRIMINAL PROVISIONS banning midwifery without registration are now being considered for adoption by the Northern Territory Legislature.

In the Territory attendance by a trained midwife is one of the only ways Aboriginal women can give birth at home so their children are connected with their traditional lands.

A criminal penalty of one year's jail, a fine of \$5,000, or both for the practice of midwifery without registration was added to the *Nurses Act (NSW)* in 1992.

The Nurses Registration Board has refused to give a hearing to traditional birth attendants, who in many cases are lay and independent midwives with decades of experience.

The midwives claim support from

the 1987 Shearman Report (NSW), reports from the World Health Organisation and studies from the UK and Holland for evidence that their efforts result not only in safe childbirth, but in lower rates of caesarian,

episiotomy and forceps delivery. They claim they can easily arrange back-up care with local emergency units should they be required.

At the 22nd International Conference of Midwives held in Japan in 1990, UNICEF and the WHO issued a joint statement recommending that specialist midwifery education programs be recognised as separate from general nursing education.

General nursing programs were considered to be inadequate training to qualify as a midwife.

Is the Nurses Registration Board left open to the accusation that it is unreasonably guarding its monopoly? The home birth movement is partly motivated by dissatisfaction with standards of care in the hospitals. If this legislation is an attempt to silence that criticism, then it should not be exported, it should be extinguished.

"The scheme makes it an offence for lawyers to aid borrowers in any legal action for compensation."

Common Nightwalkers saved!

FUN LOVING Sydney-siders breathed a collective sigh of relief on September 24 last year.

The common law offence of being a Common Nightwalker was abolished by the *Crimes (Common Nightwalkers) Act* 1993.

As far as we know no-one in NSW has ever been charged with being one of these despicable creatures.

We received an explanatory note ac-

companying the legislation saying that a Common Nightwalker is:

"a person who sleeps by day and walks by night and is often a pilferer and disturber of the peace".

Unfortunately, the Act which redeems us late night pilferers of the peace, does not apply to offences committed before September 1993.

If this all sounds slightly absurd, how about the ten year penalty for assisting an abortion in s83 of the *NSW Crimes Act*?



Want to lock them up? Fine!

COMMUNITY SERVICE ORDERS (CSOs) as an alternative to imprisonment for fine defaulters in NSW are clearly ineffective, as is the official response to the failure of CSOs.

The number of fine defaulters in jail has risen by 500 percent in less than four years, according to a recent report of the NSW Bureau of Crime Statistics.

The Attorney-General John Hannaford initially responded on behalf of an embarrassed government by saying that he will look for 'new measures', like advising fine defaulters to turn up at court to have their options explained. "Many people did not know that they could pay off their fines in small instalments", he said.

However, if you are on social security in NSW (\$140 per week if you're lucky), increasingly hefty fines are simply unpayable - small instalments or otherwise.

More recently, Mr Hannaford ordered a 'moratorium' on the imprisonment of civil debtors. However, even under this revised system, people who fail to take up CSOs will be subjected to periodic detention, or have their property seized, or - predictably enough - jailed.

The fact remains that if you are forced to perform a CSO simply because your income is too low to pay the fine, it is hardly surprising that you will be less than enthusiastic about the prospect of serving countless hours in the service of your 'community'.

Illegal parking, traffic infringements and summary offences have become far too intrusive in a State where the police are clearly out of control. If the cost recovery ethos that is driving the corporatised Public Service is putting loads of us in jail, it is ridiculous to suppose that the already overburdened CSO will come to the rescue.

Surely the abolition of quotas for parking and traffic offences and the reburial of the draconian Summary Offences Act would be a better start.

Biocolonisation

ANOTHER CURLY ONE for bioethicists is a call by the Human Genome Project (HGP) for semen, blood, hair and tissue samples of endangered indigenous communities around the world, to be stored and collected for 'posterity'.

After having done their best to destroy these cultures, the potential exists for transnational corporations to benefit through the patenting of various indigenous biological products, identified under the aegis of HGP.

Indigenous people say that the US government's HGP budget of \$25-30

would be better spent preserving indigenous cultures rather than indigenous DNA.

The most insidious aspect of such DNA profiling remains the rise of genetic determinism, a dangerous tendency to see genes as the sole determinant of who we are and why, with the attendant danger of ignoring the social, political and economic conditions that shape societies.

Polemic Trends was compiled by Paul Castley with contributions from Louisa De Ferranti, Susan Phillips, Jock Morrow, Danny Kennedy and Paul Castley. Contributions from readers are welcome.