

**Submission
No 23**

DEBT RECOVERY IN NSW

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Submission re State Debt Recovery.

Unintended Consequences of Debt Collection need to have a Mitigation Strategy

Dr Arthur Chesterfield-Evans

Origin of this Submission

I was an MLC from 1998-2007 and was responsible for broadening the scope of the inquiry into the Redfern Riot so that its terms of reference included the social causes of the disturbance in addition to merely the Police resources, which was the original term of reference. I also accepted an amendment to allow the Inquiry to be conducted by the Social Affairs Committee GPSC4 so that the government had a stake in the inquiry, so that they would have more commitment to the outcome of the Inquiry.

At the time of that inquiry the point was made that if a youth died while being pursued by Police in Mosman there would certainly be no riot, so the sociological factors were obviously very important in the Redfern disturbance.

The Redfern Inquiry was not long completed when there was a riot at Macquarie Fields after a white youth was killed in a Police chase. This was a disadvantaged predominantly white suburb, so the parallel was important. I initiated an inquiry into the riot at Macquarie Fields and again the government was keen to bring it under GPSC4. I was part of that Committee which visited Macquarie Fields and heard that the suburb was settled in hope of industrial expansion, including a new Ford Motor plant that never eventuated. Youth unemployment was high, public transport was not good and transport costs were high. The Committee had a special closed meeting where the local social workers had arranged that some of the local youths were to have a discussion with the Committee. Evidence was given that these youths were extremely vulnerable to slip into lives of crime. The Committee heard evidence that youth unemployment was very high and that if a youth got an interview for a job, they would not get the job if they gave a Macquarie Fields address, so that they would try to get an alternative address to try to get jobs.

The local youths provided the Committee with important insights. The youths avoided contact with the Police as they did not have drivers' licences. All of them could drive, some had cars, but when asked if they had licences almost none of them did. They were of the opinion that they could never get them. The Committee was informed that because of Anti-Discrimination provisions, if a person could not read they could take a person who would ask the questions for the test. While this may have been the case, the youths were unaware of this, but thought that it did not make much difference. This was pursued further and the reason was very simple. The local youths travelled on public transport, which was quite expensive and they could not afford tickets. They therefore racked up large numbers of fines which remained unpaid. Since they could not afford the tickets, they certainly could not afford the fines. When they got a job, they had to make an arrangement to pay the fines off out of quite a large percentage of their wages. They also could not get a licence until all the fines were paid. Most jobs required a licence as a condition of employment, so it was a case of 'No job, no licence; No licence no job'. They were thus in a situation of structural unemployment. They became alienated from mainstream society, developed an alternative structure of norms, but

eventually from traffic offences or having to have alternative illegal sources of income were in great danger of petty offences leading to larger crimes and a life in prison. This is of course a personal tragedy for them, but also a huge cost to society in terms of the direct consequences of their action, the policing and legal costs, the insurance premiums, and the cost of incarceration.

Some time after the Inquiry into the riot in Macquarie Fields, upper house members were given a presentation by the Office of State Revenue stressing how well their revenue collection was going since the new policy had been implemented that people could not get licences until all fines had been paid. I asked if they had considered the cost of criminalising those who were unable to pay relatively small fines. The Office of State Revenue officers had obviously never considered this and were somewhat embarrassed by the question, to which they had no answer. The impression given was that their job was to collect revenue and if there were other issues associated with this, it was not their job to deal with them.

The process of criminalisation of disadvantaged and unemployed people is a process of their being unable or unwilling to engage with the socially more normal activities of employment and paying for goods and services. There is a lack of opportunities for employment in socially acceptable situations. There is then progress from minor infringements to greater crimes helped by meeting of criminals in social or gaol situations. I might mention that I did not hear this criminalisation process discussed at any stage of my Parliamentary career in almost nine years of debate during which time a lot of legislation was passed that either increased gaol sentences or made them mandatory.

If the government is to improve revenue through better debt recovery, it would be unfortunate if it increased criminalisation and thus expenditure in the legal and criminal justice system merely to collect fines for relatively trivial offences. It may be cheaper to forgo the revenue of train tickets for unemployed people, and the fines which are unlikely to be paid in any case, than to criminalise people in suburbs which are poorly served by public transport and have high fares because of their relatively long distances from the centre of the rail hub. This is merely a supposition as there is no evidence either way. For a good decision to be made on the relative importance of these priorities, it would be worthwhile to do some research on the sociological impacts of this type of legislation. There are already routine budget impact and environmental impact statements on legislation. Surely as the object of most legislation is to get a social benefit, it would be wise to have a sociological impact study also.

The Committee should recommend that social research be done as to the impact of these fines on poorer groups, and the barriers that his debt creates in terms of their ability to get jobs and participate in paid employment. The cost of their criminalisation needs to be studied probably best by social cohort research. This is very sensitive information and 'anti-discrimination' has been used as an excuse not to collect long term information about disadvantaged groups. But personal information about medical issues has been collected for many people for many years. Technology has made this easier and the issues of confidentiality and privacy have been well canvassed and dealt with. Society benefits considerably from medical research and monies are used better thanks to it. Similar possibilities exist for social research and the same challenges in terms of confidentiality exist. However, all that is needed is that the research questions should be given to an appropriate academic body, such as a university department, who will presumably devise short-term interview studies for recommendations that can be used until more hard data is available. Long-

term cohort studies will take longer, but their conclusions are naturally more robust. The important thing is that action is taken and the drive to generate revenue does not create problems that are more expensive than the revenue that is generated. At a more human level, these disadvantaged groups need help and should not merely be casualties of an economic system that does not take their problems into account. The axiom of medicine is apposite, 'Above all, do not harm'. This applies to government and their policies as well as medicine, and the lack of consideration of effects is a great cause of social misery.

Conclusion:

An unintended consequence of collecting fines before licences are granted is to criminalise disadvantaged youth. This fact does not appear to have been recognised, but is a major cost. There needs to be some sociological research into the extent of this and discussion of how the effect can be mitigated.