The machine consists of an intravenous needle connected to three separate solutions. The needle is implanted by a person assisting the intended suicide, and a harmless saline drip is initiated. When a button is pressed by the patient, the other solutions are introduced into the drip, causing first unconciousness and then painless death within six minutes. From the point of view of the person assisting, it is crucial that the patient be the one to set into motion the final drip, because otherwise criminal charges were likely. The first, and so far only, user of the machine was a 54-year-old American woman suffering from Alzheimer's disease. (*Sun-Herald* 1 July 1990)

legal implications. Dr Jack Kevorkian, the machine's inventor and an advocate of voluntary euthanasia, recently visited Australia to explain his views, as well as the circumstances in which the machine had been used. He said that one of the most difficult problems he had faced in arranging the suicide had been the search for a place in which it could be done. Assisting a suicide is an offence in most American States and Dr Kevorkian had determined that Michigan was the only State in which it was legal for his machine to be used. It had been necessary for the woman to travel 2 000 kilometres from her home in Oregon to Michigan to enable her to use the machine.

reluctance. There was also great reluctance on the part of property owners to allow their premises to be used for the intended purpose and it became necessary for the procedure to be carried out in a van at a public park. Michigan prosecutors are still considering whether Dr Kevorkian should be charged with an offence, and the machine itself has been impounded.

responsibility. Dr Kevorkian believes that the medical profession is avoiding its responsibility to its patients by leaving decisions about switching off life support systems to the courts.

> These are the hardest decisions in medicine, but who can do it if not the doctors?

He asked. Dr Kevorkian said that as a general rule, doctors should not use his machine. Instead, he envisages suicide clinics administered by non-medical workers. As for the Hippocratic oath, he says that it does not mean that doctors should save lives at all costs. According to Dr Kevorkian, Hippocrates regarded it as normal practice to help terminally ill patients die painlessly and in peace. Dr Kevorkian sees his views as merely re-establishing the true medical tradition that was subverted by religious taboos (*Sydney Morning Herald* 7 June 1990). ■

the death penalty

> Must we kill to prevent there being any wicked? This is to make both parties wicked instead of one.
>
> Pascale, *Pensees*, 1670

There have been different developments in legislation governing the death penalty in our region.

In New Zealand the Abolition of the Death Penalty Act, 1989 abolished the death penalty for treachery and treason, which were the only two offences for which it applied in New Zealand (*Bulletin of Legal Developments*, 1990, quoting the *Commonwealth Law Bulletin* April, 1990). The death penalty for murder had been abolished in 1961 and the last civilian executed in New Zealand was hanged in 1957 (Amnesty International Report, 1989, *When the State Kills*, p 184).

The Papua New Guinean Government is currently contemplating re-introducing the death penalty. In PNG the death penalty has been abolished for ordinary crimes since the country became independent in 1975. In 1980 a bill to restore the death penalty as a discretionary punishment for wilful murder was defeated. A 1985 move to introduce the death penalty for gang-rape and murder was also unsuccessful (When the State Kills, p 189).

In an effort to combat growing law and order problems in PNG the Cabinet has once again agreed to draft legislation which provides for the death penalty as a discretionary punishment for wilful murder. Announcing Cabinet approval for the drafting of the legislation, the Prime Minster has said his Government wants to send a 'deadly serious warning' to criminals. Mr Namaliu has rejected the applicablity of the studies which show that the death penalty is not a deterrent for criminals. He is also disregarding the possiblity that mistakes may be made. However the proposal is likely to encounter some strong opposition. The PNG police force, have had a history of problems. Despite reformations in law enforcement bodies there will still be those who argue that the death penalty is not appropriate in such a context.

The proposed legislation is designed to 'reflect traditional views of punishment' (*Sydney Morning Herald* 22 June 1990). The decision to introduce culturally appropriate legislation reflects a growing movement among PNG politicians towards 'A new political order based on village-derived 'PNG values' (*Sydney Morning Herald* 23 January 1988). The drafting instructions provide that, before imposing the death penalty the court should have regard to the opinion of the relatives of the victim of the wilful murder. While 'relatives' are to be broadly defined it would not be necessary for the court to be informed of the opinion of every relative of the deceased person. The court would have to determine when it has sufficient evidence of the opinion of the relatives. While the opinion of the relatives would not bind the court it would have to take their opinions into account when deciding whether or not to impose the death sentence. This 'Melanisation' of the proposal would try to avoid possible compensation demands which relatives could make. It may also make the legislation more acceptable to sections of the PNG community which are conscious that foreign influences are disorienting PNG culture (*Sydney Morning Herald*, 23 January 1988).

the u.n. and the dealth penalty. Amnesty International estimate that 'over the past decade an average of at least one country a year has abolished the death penalty,' (*When the State Kills*, 1989 p 1). Of 180 countries surveyed by Amnesty International nearly 50% no longer enforce the death penalty. In these countries the legislation allowing state killings has either been abolished or is no longer utilised.

This international trend against the death penalty has found expression in the United Nations' second optional protocol to the International Convenant on Civil and Political Rights. This protocol, adopted in December 1989, is aimed at the abolition of the death penalty.

u.n. opposition. The UN has had a history of opposition to the death penalty. Article 3 of the Universal Declaration of Human Rights states that everyone has the right to life. This can be taken as a statement opposing the death penalty. Article 6 of the International Covenant on Civil and Political Rights is more explicit, affirming that 'Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.' Article 6 recognises that countries still use the death penalty and requires that in these countries only the most serious criminals be punished by the death penalty. The Human Rights Committee, set up under the International Covenant on Civil and Political Rights, has commented that Article 6 refers to abolition in terms 'which strongly suggest that [it] is desirable.'

The optional protocol would require member nations to 'take all necessary measures to abolish the death penalty within its jurisdiction'. There is only one reservation which can be recognised on the blanket prohibition on the death penalty. If a state wishes to preserve the death penalty for times of war 'pursuant to a conviction for a most serious crime of a military nature' it may do so. However this reservation must be made at the time of ratification or accession.

amnesty international and the death penalty. The optional protocol is a victory for Amnesty International which, during 1989, campaigned against the death penalty. The campaign began with the launch of AI's report into the death penalty. *When the State Kills . . . The death penalty v human rights.* This in-depth report details the empirical studies which have been conducted to ascertain whether the death penalty has a deterrent effect. It concludes, as have other studies, that there is no justification for the claim that the death penalty has any special power to reduce crime. Effective detection has been found to be a much more effective avenue of prevention. Indeed Amnesty suggest that '[far] from being a solution, the death penalty gives the erroneous impression that 'firm measures' are being taken against crime. It diverts attention from the more complex measures which are really needed.' (p 6). The report also details the possiblities for investigative and judicial mistakes to be made and maintains that clemency is an insufficient safeguard against such mistakes.

australia and the death penalty. The possibility of mistakes is one of the reasons Australia has opted to abolish the death penalty. Prime Minister Hawke recently said of the death penalty

> I reject the implied infallibility of a legal system that claims the capacity to take life on the basis of its finding of guilt. And I reject the bleak vision of human nature that sees the death penalty as appropriate punishment. The death penalty allows no possibility of legal error and offers no hope of personal rehabilitation. (*The Monthly Record* Number 12, Vol 60, December 1989)

In Australia the death penalty was fully abolished in 1985, with the last judicially sanctioned killing taking place in 1967. The Australian Government supported the optional protocol's passage through the UN, although Australia has yet to accede to the protocol. Officials of the Attorney-General's Department say the Government is giving consideration to doing so. Mr Duffy, while the acting Minister for Foreign Affairs and Trade, said the government was considering signing the protocol (*The Monthly Record Number* 12, Vol 60, December 1989). ■

QLRC reports resurrected

> As Attorney-General, I will table every formal report submitted to me by the Law Reform Commission. The days of law reform in the shadows are finished.
>
> Dean Wills, Attorney-General of Queensland on tabling 17 QLRC reports in Parliament, 7 June 1990

Seventeen Law Reform Commission reports, never before published, were tabled in the Queensland Parliament by Attorney-General Dean Wells on 7 June 1990. On tabling the reports the Attorney-General said:

> The reports represent 20 years of hard work by the Law Reform Commission; work largely ignored by the previous National Party Government. The reports have been gathering dust on some bookshelf somewhere, instead of being in the public arena where they belong. Nearly half of the Law Reform Commission's 38 reports written over the last 20 years have been kept hidden from public view. Law reform should not go on behind closed doors. The redrafting of the people's laws should go on in the clear light of day. For decades, the Liberal/National coalition which governed this state was less than frank with the people of Queensland. The Law Reform Commission is a publicly funded body. Its reports are therefore public property, so they should be published. In the future, they will be published. The former Government did read, publish, and even act on, some of the Law Reform Commission's Reports, but the ones it didn't like it chose to ignore, without even allowing them to be publicly discussed. Parts of some reports were incorporated into statutes by the previous government, but, for the most part, without acknowledgment to the Law Reform Commission, and without