(1982) 6 *Criminal Law Journal* 65. The editor was disturbed by the events of the Melbourne Seminar:

> Perhaps the most disturbing aspect of the seminar was the apparently intransigent opposition of the Victoria Police representatives to the whole idea of statutory regulation of police investigation procedures. Any controls on police procedures seemed to the speakers to invite a wave of criminal behaviour which, it was predicted, would overwhelm society. Whether crime rates in a community have really any relationship to the effectiveness or otherwise of the system of policing in that society was never really argued, but the demand for an untrammelled power in the police certainly came through clearly in the attitudes of the various police speakers. The watering down of many of the provisions which had been proposed in the 1977 Criminal Investigation Bill in the present draft does seem to indicate that the pressure from police forces generally has operated on the minds of the draftsmen in its preparation.

a happy lot? Presumably the Criminal Investigation Bill 1981 will be debated in the forthcoming Budget sittings of the Australian Parliament. It will now be discussed against the background of the National Crimes Commission proposal and concerns being expressed in many quarters about public confidence in the police service. Is public confidence to be secured by affording 'untrammelled power' or by instilling proper conduct by publicly enacted legislation, faithfully observed by police officers? Speaking at a conference on victims of crime at Sydney University in late March 1982 former Queensland Police Commissioner Mr. Ray Whitrod suggested that public confidence in police forces and the criminal justice system in Australia was failing 'partly because they have failed to adjust to modern problems'. Mr. Whitrod urged a return to policing as a visible protective presence in the community. Across the Tasman, Deputy Police Commissioner E.J. Trappitt, replying to the above criticisms of the Chief Ombudsman, said that people nowadays are far more ready to complain about what they see as shortcomings of the police than they were in times gone by. A strategy for community policing seemed necessary if ever we are to return to the 'good old days' of policing — whenever they were.

scitec: anzaas first

> Aristotle could have avoided the mistake of thinking that women have fewer teeth than men by the simple device of asking Mrs. Aristotle to open her mouth.
>
> Bertrand Russell

first law section. The biggest science congress in the Southern Hemisphere is that organised by the Australian and New Zealand Association for the Advancement of Science (ANZAAS). The 52nd ANZAAS Congress was held at Macquarie University in Sydney in May 1982. Three new sections made an appearance, namely robotics, women's studies and law. As the ANZAAS President for 1982, Sir Zelman Cowen observed on 10 May 1982 in the opening Presidential address, law was a 'long time coming'. The first meeting of the Australasian Association for the Advancement of Science, the ancestor body of ANZAAS, had occurred in 1888. So almost a hundred years passed before law was admitted to the scientific sanctum. Chairman of the inaugural Law section, Mr. Justice Kirby, observed that lawyers never believe in 'rushing things'.

The law section opened with a brilliant *tour d'horizon* of the many new interactions of law and science by the inaugural President of the ANZAAS Law section, Professor Douglas Whalan of the ANU Law School. His address was delivered in the presence of the Chief Justice of New South Wales (Sir Laurence Street), a judge of the High Court of New Zealand (Mr. Justice Ian Barker) and many distinguished lawyers and scientists. Prime responsibility for organising the interesting and varied program fell upon Professor John Peden of the Macquarie Law School. Among the interesting papers offered to the section were:

- Professor Robert Hayes (ALRC) on 'Computers and Privacy';
- Professor Carl Wood and Mr. Russell Scott (NSWLRC) on in vitro fertilisation and law;
- Mr. Justice Macken (NSW Industrial Commission) on 'The Challenge to Industrial Law';
- Mr. Barry Jones MP on 'Technology and Trade Unions'; and
- Judge Jane Mathews (NSW District

Court) on 'The Changing Profile of Women in the Legal Profession'.

Sessions of the Law section were well attended and well covered in the media: one of the principal objectives of the ANZAAS idea. A contribution which was most important yet did not catch the media eye was the paper by Judge Jane Mathews. Collecting a vast amount of new empirical data from the Law Schools, Law Societies and Courts throughout Australia, Judge Mathews painted a remarkable picture of the changing composition of the Australian legal profession. For a body which only 20 years ago had long comprised fewer than 5% of women members, the legal profession is rapidly moving to reflect more closely the general population. According to Judge Mathews this will require a breakdown in the stereotypes of women in the law. Typical of the figures cited are the admission figures of the Melbourne Law School. Before the 1950's women entrants numbered only 8%. By 1960 the figure had risen to 16%. By 1980 it was 36% (with 29% graduating). By 1982 the proportion of women entering the Melbourne Law School had risen to 42%. Similar figures can be found elsewhere. Indeed two Australian Law Schools already evidence a majority of female intake.

One of the commentators on Judge Mathews' paper, Kim Ross pointed out that notwithstanding this influx, women tend still to be given boring and less responsible tasks in law firms. Sydney barrister and law lecturer, Anna Katzmann told of her painful induction into the male world of the Sydney Bar. It is to be hoped that Judge Mathews' paper will be given wide currency. Only in this way will the stereotypes be broken down. Judge Mathews has made her own contribution to change, being the first woman appointed as a Judge by the NSW State Government and still the only woman ever appointed a Crown Prosecutor in NSW.

into the test tube. Predictably, the controversies about in vitro fertilisation caught a great deal of attention in the media. Developments in the last quarter occurred quickly.

- In NSW an advisory committee on human artificial insemination has been established, chaired by Mr. Russell Scott. Mr. Scott is Deputy Chairman of the NSWLRC and as an ALRC Commissioner was in charge of the project on human tissue transplants: (see [1982] *Reform* 75. Mr. Scott's committee comprises law teachers, medical officers, a magistrate and church representatives.

- In Melbourne, the composition of the committee headed by the Victorian Law Reform Commissioner, Professor Louis Waller, has now been announced. The composition reflects similar concerns to the New South Wales committee. One criticism voiced about the Victorian committee has been the absence of a moral philosopher. According to this view, church representatives ought not to be the only voice of principle in consideration of the future law on in vitro fertilisation. The State government has asked the Victorian committee to deliver an interim report within three months.

- In Sydney, a statement by the Social Responsibilities Commission of the Anglican Church in Australia, whilst affirming the ethical acceptability of the IVF procedure in the case of childless married couples who cannot have children by other means, urged guidelines pending the formulating of 'a fully informed Christian viewpoint'. It urged:

  - IVF should be available only to married couples;
  - sperm and ova must be from the couple;
  - fertilisation of embryos should be restricted to the number of ova necessary to accomplish a successful pregnancy;
  - professional counselling should be provided;
  - amniocentesis in the case of an abnormal child should not be compulsory; and
  - experimentation with human embyros should not be permitted.

One participant in the Anglican Church consideration was Justice Kemeri Murray, a judge of the Family Court of Australia in Adelaide.

- The subject of abortion continues to divide Australia and its politicians. A decision of the Supreme Court of New South Wales (Mr. Justice Helsham) in mid-April that a 15 year old state ward could have an abortion notwithstanding the opposition of the Minister, Mr. Kevin Stewart, was declared 'a victory of commonsense' by the *Sydney Morning Herald* (20 April 1982). Appeals to the Court of Appeal and High Court of Australia failed. However, the decisions provoked strong dissenting views in some church quarters. The Reverend Fred Nile, an independent member of the NSW Legislative Council, said that he would seek to introduce legislation to outlaw abortions in New South Wales. Mr. Nile said that he would propose an amendment to the State Crimes Act to incorporate the principle that human life begins at conception and should be protected by the law from that moment.

- A decision of the Court of Appeal in England reported in the *Times* law reports (20 February 1982) holds that the common law does not recognise that a person has a cause of action for being allowed to be born deformed. In *McKay* v. *Essex Area Health Authority,* the English Court of Appeal held that the so-called claim for 'wrongful life' which has been established in some United States cases, could not be imported into England. It was sought to mount a case on behalf of a child born with severe disabilities. It was argued that the doctors were negligent in failing to advise the mother on the desirability of an abortion. For full discussion of United States developments in this area the reader will do well to seek access to the recent important book by Susan C. Hayes and Robert Hayes *"Mental Retardation — Law, Policy and Administration".* As that book discloses, the areas for law reform here are many. But they may be more suitable to law reform agencies than to busy appeal courts.

- In Britain, the Council for Science and Society announced (*Times,* 27 March 1982) that it had established a working party to study the social, ethical and legal implications of existing and emerging techniques of human reproduction. A report three days later in the *Times* announced that the Church of England and Protestant churches in Britain had given approval to IVF, provided the egg and sperm came from the couple concerned. The British Medical Association has set up its own working party on the subject. The Anglican Church has called for a wider inquiry.

genetic engineering. In the wider context of genetic engineering, the debate has likewise continued in the last quarter. Speaking to a two day seminar on the subject in Sydney, Mr. Justice Gordon Samuels of the NSW Court of Appeal said that legislation should be introduced to control genetic engineering and associated research. He said that although he believed the risks were slight, and that there were adequate self-imposed safety codes, statutory controls were needed to deal with legal liabilities. Regulation of this kind should not 'be left to the common law'. Dr. Nancy Millis, of the University of Melbourne and Chairman of the new Recombinant DNA Monitoring Committee, argued for self regulation, urging that, at this stage, voluntary guidelines were much more flexible and appropriate and could be implemented much more quickly to take into account the rapid developments of technology. A handy report of the debate is to be found in *Scitech,* May 1982, 9. Supporting the approach of Dr. Millis is the address by Sir Gustav Nossal: 'Bio-technology and Modern Medicine'. Delivered as the 1982 lecture of the Australian Academy of Science, Professor Nossal, who is director of the Walter and Eliza Hall Institute of Medical Research, said that the 'genie was already out of the bottle' and 'soft-edged

measures depending on human judgment and decency' were likely to be more effective than legislation. It can be anticipated that there will be much more discussion of these issues in the months ahead. One very useful discussion in the public forum before an audience estimated at several hundred thousand was organised by the ABC Science Unit on 14 April 1982. Titled the Science Conference on Bio-Technology, the radio program was led by Dr. Robyn Williams. The ALRC Chairman, Mr. Justice Kirby, Sir Gustav Nossal, Mr. Barry Jones MP and many other *dramatis personae* in the science-law debate took up a two-hour discussion. It ranged over IVF, human tissue transplants, genetic engineering and genetic counselling. Some of the most telling interventions were offered by parents in the IVF program. Mr. Barry Jones wound up the program with an appeal for a greater attention to science policy issues in the Federal Parliament. This is also the theme of his well reviewed new book *'Sleepers, Wake! Technology and the Future of Work'* (Oxford, 1982). The book urges all of us to become aware of the implications of science in today's society. It is a book well worth attention.

questions for us all. The theme of community concern about bioethical questions was advanced by the Governor General, Sir Zelman Cowen in his Victor Coppleson oration, given in Sydney on 23 April 1982. He returned to the part he had played in the ALRC Report *Human Tissue Transplants* and to the 'sharp division' within the Commission on on issue, namely donations of non-regenerative tissue by living minors. On this issue Sir Zelman and Mr. Justice Brennan, now of the High Court of Australia, were in 'clear dissent'. And then he drew his conclusion:

> The point is well made that there must be sensitivity to the issues, and that intelligent debate should be initiated between scientists and laymen with the aim of establishing proper protocols. If this is not done . . . there is a high risk of an eventual unthinking legislative backlash against science and scientists.

Will the warning be heeded? Do we have the institutions to help law makers face the intensely complex sensitive and fast moving modern world of science?

odds and ends

■ ***hrc program.*** The Human Rights Commission under its Chairman Dame Roma Mitchell (see below p. 114) has embarked on a very busy program. Its first research project, a Survey of Research Literature in the Human Rights Area, is to be funded by the HRC but carried out by an independent consultant. The project was awarded to Professor Alice Erh-Soon Tay or Sydney University, a part-time member of the ALRC. It is to be completed by April 1983. The survey, as announced, is intended to concentrate on basic civil liberties, prisons, freedom of thought and expression, political rights, discrimination, the rights of the child and disabled and mentally retarded person's rights. Research evaluating the effectiveness of human rights bodies is also to be included. It was also announced in April 1982 that the HRC will review the Commonwealth Crimes Act and some other federal criminal legislation. The purpose of the review will be to examine whether parts of the legislation infringe human rights. The HRC is also currently seeking submissions on the right to freedom of expression in Australia. This right is contained in article 19.2 of the International Covenant on Civil and Political Rights subject to certain restrictions in article 19.3. In calling for submissions, the HRC has stressed that it does not wish to traverse once again on the issues already investigated by the ALRC in its report on *Unfair Publication* or the recent Freedom of Information legislation enacted by Federal Parliament. Finally, the HRC is to commission a survey of human rights in country towns with special focus on human rights problems faced by Aboriginals. The research advisory committee, for this project chaired by Professor Charles Rowley, has equal numbers of Aboriginal and non-Aboriginal members and has called for proposals from researchers interested in conducting the study.

■ ***board reprieved.*** A last minute reprieve was granted for the Anti-Discrimination Board of New South Wales after the announcement by the NSW Premier on 7 June that the Board would be abolished. At that time the Premier said that the judicial functions of the Board had been assumed by an Equal Opportunity Tribunal chaired by a District Court Judge. He said that the education