The dissenting Senators rejected the government's policy on aggregation. Senators Lewis and Sheil describe the government's proposals as 'an unsatisfactory hybrid' and criticised the 'one-in-all-in' rule as a device whereby a minority could compel the majority to adopt a particular course. They said that it was absurd to claim that the decision to aggregate would then be 'market driven'. Senator Powell recommended that equalisation should be promoted by the provision of supplementary licences which would terminate at aggregation. In any case, Senator Powell recommended that aggregation should occur no earlier than 1992 to provide sufficient time for company restructuring, raising of funds and planning within a vastly changed environment. Senator Puplick rejected the notion of aggregation and proposed the immediate grant of supplementary licences to existing licensees and the promotion of cable television.

Since the combined numbers of the Liberals, Nationals and Democrats are sufficient to block any legislation, the government has decided to delay its television equalisation legislation. It will now tie that legislation to a Bill concerning ownership and control which has not yet gone to the House of Representatives. This will make it more difficult for the Liberal Party, at least, to reject equalisation since that would also involve rejection of the 75% rule which they have decided to support (*Australian Financial Review,* 14 April 1987).

commercial developments. As the political manoeuvring continues, the market has moved ahead of the politicians. Mr Alan Bond has purchased the Channel 9 stations in Sydney and Melbourne together with ancillary television and radio interests from Mr Kerry Packer. The two Channel 9 stations, together with stations in Perth and Brisbane, give Mr Bond a television network that reaches 59% of the national audience (*Sydney Morning Herald,* 21 January 1987). The ownership of four television stations is clearly in breach of the existing provisions of the Broadcasting Act but is within the criteria proposed by the government. However, following the acquisition of the stations by Mr Bond, both the Liberal Party and Australian Democrats asserted that the acquisition would not influence them to accept the government's legislative package as a fait accompli (*Australian,* 22 January 1987).

bio-technology: the vatican speaks

The Vatican has now added its voice to the continuing debate on the effects of the new birth technologies.

A recent statement from the Sacred Congregation for the Doctrine of the Faith, 'Instruction on respect of human life in its origin and on the dignity of procreation: replies to certain questions of the day' has taken a hard line on a number of issues connected with artificial insemination and IVF.

protection of the embryo. Coming down firmly on the view that embryos should be accorded the same respect as other human beings, the instruction states:

> . . . the moment a positive law deprives a category of human beings of the protection which civil legislation must accord them, the State is denying the equality of all before the law.

Particular attention is paid to questions of embryo experimentation:

> The law cannot tolerate – indeed it must expressly forbid – that human beings, even at the embryonic stage, should be treated as objects of experimentation, be mutilated or destroyed with the excuse that they are superfluous or incapable of developing normally.

Basing itself firmly on the Roman Catholic Church's teachings on the role of sexuality in marriage, the instruction concludes:

> Civil law cannot grant approval to techniques of artificial procreation which . . . take away what is inherent in the relationship between spouses; and therefore civil law cannot legalise the donation of gametes between persons who are not legitimately united in marriage. Legislation must also prohibit, by virtue of the support which is due to the family, embryo banks, post mortem insemination and surrogate motherhood.

predictable. The Vatican pronouncement and the reaction to it were in many senses predictable.

Mrs Jennifer Lyons, of the Infertility Federation of Australasia, accused the Church of failing to keep in touch with its parishioners.

> We see [the condemnation of the use of IVF and artificial insemination] as discriminatory coming from a church which claims to support the family and approves of children, especially when all other major christian religions acknowledge the use of reproductive technology for married infertile couples (*Canberra Times,* 12 March 1987).

Dr Patrick Steptoe, Britain's test-tube baby pioneer, was reported in the *Canberra Times* of 13 March 1987 as saying:

> I cannot see how if God has given us brains to use and brains to go and do these things, it can be wrong to give a childless couple life through invitro fertilisation.

Father Frank Harmon, on the other hand, who was a member of the Waller Committee set up by the Victorian Government to enquire into IVF, said that a key aspect of the Vatican statement was its emphasis that science must be subject to moral laws at all times.

> People talk of the 'technological imperitive' – that if doctors or scientists can do a thing they should be free to do so. This document tries to counter that.

The *Financial Review* took a less extreme course. Under the heading 'The Vatican is not completely wrong about IVF', its leader on 1 April 1987 called the outcry against the Vatican statement as 'rather too facile and [indicating] the shallowness of much contemporary debate on fundamental issues and morality'.

Citing the crucial question as finding the point at which one can distinguish between a human being, a baby, a non-viable foetus and a piece of living tissue which has the genetic inheritance of a complete human being but as yet purely as a potential, the *Financial Review* said that the questions raised by the Vatican statement are so important they cannot be lightly thrust aside:

> They are questions which relate to the respect in which human life itself is held, and to the degree to which experimentation on human tissue and life, and on human beings, should take place.

However, the *Financial Review* specifically rejected the Vatican statement that the doctrinal positions on the protection of human beings put forward in the instruction should be embodied in law:

> This is totally unacceptable in a democratic society, as are absolute dogmas and ideologies whatever their source.

It then went on to say that there was a need for some moral standards to be maintained.

legislative developments. In the meantime, Australian States are moving to legislate on aspects of the new birth technologies. A report in the *Canberra Times* on 2 May 1987 had the Western Australia Minister for Health Mr Taylor announcing plans to ban surrogate motherhood and in vitro fertilisation of single women in that State.

The ban is apparently to be enforced by a committee and not, at this stage, by legislation.

The Bannon Government in South Australia, on the other hand, is proposing to legislate urgently to ban commercial surrogacy contracts. Following on recommendations from a South Australian Parliamentary Committee Report on Artificial Insemination and IVF, surrogacy contracts will be made unenforceable. Procuring a surrogacy contract will be classified as an offence. This South Australian proposal goes further than the Victorian pioneering legislation enacted in 1984.

That Victorian legislation itself is under review at the moment. The Standing Review and Advisory Committee on Infertility established under the Infertility (Medical Procedures) Act 1984 (Vic) recommended that bans on the production of human embryos specifically for research be lifted.

Experiments would be limited to the very early stage of fertilisation, before syngamy – about 20 hours after the sperm penetrates the egg. They would have to be directly related to infertility research and the embryo would have to have been formed from the gametes of a donating infertile couple.

The amendments are designed to break a dead-lock which appears to have developed within that Committee but will allow the Committee to implement its unanimous support for a procedure being sought by Monash Universities Infertility Medical Centre, which, under the current Act, it does not appear to have the power to approve (*Canberra Times,* 2 May 1987).

other problems. Dr Robin Rowland, a social psychologist at Deakin University, was reported in the *Sydney Morning Herald* of 31 March 1987 warning that women, due to IVF programs, are being turned into living laboratories, producing embryos on demand for experimental and other purposes. Dr Rowland points to the intensive nature of IVF programs:

> The IVF program is very intensive. There are tests, tests and more tests. You have to have sex at certain times; your job is disrupted, your life is disrupted, but there is always the possibility that if you question all this, you could be tipped off the program. In that situation, if someone comes up to you and says 'are you willing to give up your embryo for experiments?' its a strong woman who says 'no'.

cost concerns. At the same time, the federal Government was reported to have appointed a consultant to report before the August budget on the costs, funding and characteristics of IVF patients and clinics throughout Australia (*Australian,* 22 April 1987).

Changes to funding methods for IVF programs are also in the air, under which patients would no longer be able to claim to medical costs through Medicare.

womb with a view. Finally, the *Sydney Morning Herald* on 20 March 1987 reported that a Sydney woman had her womb, removed in a hysterectomy operation, returned to her by the NSW Health Department.

The Health Department had originally intended, following standard practice, to destroy the womb after a routine pathology test.

The NSW Chief Health Officer, Dr Tony Adams, said,

> there is no reason she shouldn't have it if she wants it, but we wouldn't want a lot of people asking for their various parts – obviously it would be risking public health if we gave out a lung with tuberculosis, or a gangrenous foot.

The woman, Mrs Ana Presland, was reported as saying that she was 'over the moon' with the decision.

She plans to just look at the uterus for a while and show it to her children,

> then I think I will take it somewhere quiet and peaceful and bury it under some willow tree – something that has been there for years.

aboriginal land in victoria

On 25 March 1987 the Federal Minister for Aboriginal Affairs, Mr Clyde Holding, introduced two bills in the Federal Parliament: the Aboriginal Land (Lake Condah and Framlingham Forest) Bill 1987 and the Aboriginal and Torres Strait Islander Heritage Protection Amendment Bill 1987. The legislation, among other things, provides for two Victorian Aboriginal Communities to be granted inalienable freehold title to land to which they have historical and traditional ties.

a new legislative approach. This legislation is unique because it was introduced in the Commonwealth Parliament at the request of the Victorian Government. After a period of discussion and negotiation between the Victorian Government and the Victorian Aboriginal Community over a period of three years agreement had been reached on the form of legislation to transfer certain land into Aboriginal hands. The original plan was for three bills, the Aboriginal Land (Lake Condah) Bill, the Aboriginal Land (Framlingham Forest) Bill and the Aboriginal Cultural Heritage Bill, to be enacted which would grant inalienable freehold title to two Aboriginal groups. The Bills had been opposed by the Victorian Opposition who had sought to make amendments in the Upper House. The Opposition proposed the conversion of the title to alienable freehold title and the complete withdrawal of the Cultural Heritage Bill.

As a result of the Victorian Government's inability to have the legislation enacted, a request was made that the Commonwealth pass the legislation. The Commonwealth has undisputed powers to legislate in the area of Aboriginal affairs and on this basis agreed to the request of the Victorian Government. This was done subject to certain conditions as outlined by the Minister for Aboriginal Affairs in the second reading speech:

> In proceeding with the request of the Victorian Government to enact this legislation, the Commonwealth Government is satisfied that the principles and policies agreed between the Victorian Government and the relevant Aboriginal communities have been faithfully embodied in the Bills now before the House. It should be said however, that the Commonwealth was not privy to the consultations which led to the agreements between the Aboriginal communities and the Victorian Government. Therefore, this legislation should not be construed to imply that the Commonwealth necessarily endorses in every particular the agreements arrived at and should not be regarded as a precedent for Commonwealth legislative action elsewhere in Australia. It is sufficient for the Commonwealth, having been satisfied that the principles endorsed by the Victorian Government and the Aboriginal communities are embodied in the proposed legislation, and having regard to the political situation in the Victorian Parliament, to use the due process of the Commonwealth Parliament to give legislative effect to these agreements. (Hansard, House of Representatives, 25 March 1987, 1514.)

the legislation. The Aboriginal Land (Lake Condah and Framlingham Forest) Bill provides for the acquisition of land from the State of Victoria by its own force and the vesting of that land in the Kerrup-Jmara and the Kirrae-Whurrong Communities. The land to be granted to the