THE AUSTRALIAN WOMEN'S WEEKLY

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Chairman of the Australian Law Reform Commission

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DAME EDNA EVERAGE is quoted in an advertisement for a photocopier, which many of you will have seen, as saying that 'reproduction is a touchy business'. I am not sure what the good Dame had in mind. But it is clear that when scientists start experimenting with basic forms of life, some people become uneasy. Whether it is the development of test tube babies or the manipulation of genes that could result in cloning of human beings, there are a number of people in society who want to cry halt. Still more urge that we should carefully think through the social consequences of what the scientists are up to.

Eerie World of Medical Technology

How do I get into this? The Australian Law Reform Commission was asked by the Federal Government in 1976 to produce a report on the law that should govern human tissue transplants. A distinguished interdisciplinary team was assembled to work on the law that should govern this subject. The project was led by Mr. Russell Scott, whose new book The Body as Property reviews the eerie world of medical technology that is just around the corner. The Commission proposed laws dealing with such topics as:

- the definition of brain death;
- whether we should all be presumed 'donors' of organs after our death unless we positively 'opt out';
- whether children should be allowed to donate a kidney to a brother or sister.
- whether some organs should be retained from autopsies for development of useful serum or other like purposes.

The laws based on our report have been adopted by a number of parliaments. The project showed that in Australia we can face up to hard moral dilemmas posed by new medical technology.

'Test Tube Babies'

Every reader of the Weekly will be following with awe the 'test tube baby' program in Melbourne. Actually they are not 'test tube babies' at all. Not a single one of them was conceived in a test tube. The process apparently occurs on a glass dish. But it is too late to call them 'dish babies'. So 'test tube babies' will just have to do.

According to opinion polls, the overwhelming majority of Australians are in favour of the test tube program. But Professor Carl Wood, who has pioneered the new technique, is the first to say that Australian society owes it to the doctors to make clear the rules within which they will operate and to sort out the consequences of the test tube baby technique.

Take just a few of the questions we have to face:

- Should de facto couples or single people be helped with test tube babies?
- If the woman cannot carry the child, should her sister or some other surrogate be permitted to do so, and if so, with what rights to the child?
- If so, who, if anyone, should have the final decision on abortion — the true mother or the surrogate 'mother'?
- Should experiments with embryos be encouraged to permit parents to choose a boy or girl embryo?
- Should it be possible to keep the fertilised human ovum indefinitely against the risk of future loss of a child?
- If embryos are stored, what will be the consequences of death or divorce of one party? How will property be distributed? Who has legal access to the embryo?
- Should cancer research be permitted on embryos which have failed to 'take'?

These are just a few of the questions which confront a society that pushes forward medical technology. When we see photos of the happy children, we tend to forget the problems that potentially remain to be solved. When we are told that 25,000 Australian women might be helped to fertility by the test tube technique, we may be inclined to brush aside the difficulties and dilemmas.

There is a statement by the Pope forbidding test tube fertilisation as 'immoral and absolutely illicit'. Some Australian doctors agree. According to the polls, most Australian men and women do not. But even those who do not take a religious or moral objection must acknowledge (as Carl Wood himself does) that there are profound matters to be sorted out if we are to go further down the track opened up by the brilliant experiments at the Queen Victoria Medical Centre in Melbourne.

Genetic Engineering

Recently, the Federal Government announced the establishment of a committee to examine the implications of the industrial application of 'genetic engineering' and to propose 'voluntary guidelines'. Genetic engineering is yet another revolutionary technology. We are going to hear much more about it. It involves scientists disturbing the 'genetic program' of the cells in living matter (whether animal or plant life) for example to induce the cells to produce more of a particular chemical. Usually the aim is use of that product in industrial processes or the manufacture of a serum or antibiotic. Genetic engineering has been around for a time. But it is only now that its usefulness for large-scale industrial production is being tapped. There is no doubt that the revolutionary procedures involved will generally be beneficial to mankind. It will help the attack on crop and animal diseases — including diseases in man. Great profits will be made. So far, there have been few accidents in the processes of genetic engineering. However, recent studies have called to notice incidents which are less worrying in their number than they are in their kind:

- In England in 1966 a disease research institute imported a virus from Africa. The virus escaped, causing foot and mouth disease in the district. In a legal decision it was held that some businesses which had lost profits as a result were not legally entitled to recover.

- In 1973 there was an accidental release of smallpox virus from a laboratory in London. It resulted in two deaths before the outbreak was contained and a full inquiry was ordered by the English Parliament.

- More recently, a researcher at a government research laboratory in England was infected with a viral fever when protective gloves were accidentally penetrated by the virus being handled.

- In New Zealand an experiment to improve a chemical to attack a fungus commonly found on the roots of pine trees, involved genetically engineered strains of the fungus being introduced to pine seedlings at a research station. Within a few weeks all the seedlings had died. The risk of spread of such a fungus required attention.

- In 1981 in the United States a doctor injected bone marrow containing genetically engineered features into two patients, without first getting permission under 'voluntary guidelines' limiting the use of genetic engineering in medical treatment. Although, when the patients did not survive and the experiment was discovered, the doctor was reprimanded, some commentators criticised this as 'too lenient'.

We are all Involved

These instances are not cause for alarm. But they may be cause for involving a cross-section of the community in considering the social response that we insist upon in defending human and social values where these may be endangered by complex scientific experiments, the full impact of which is not predictable. In the long run, it may not be entirely safe to leave it to scientists and business interests — groups who are bound to be enthusiastic and to have a legitimate concern to push forward the bounds of genetic manipulation — to state finally the terms upon which they will do so. Disturbance of basic life patterns — particularly of living cells in human beings — may have long-term implications for every member of society, and hence for society's laws.

I am just a lawyer. My concern is that our legal system should be ready to provide answers to the questions I have mentioned above, and many more. I hope that future generations will not say of our time 'Yes. Those Australians had a lot of very inventive scientists. But they were not imaginative enough as a society or just could not be bothered to sort out the moral and social problems which their advances of science produced'. Professor Wood and some of the genetic engineers might escape this reproach. But would the rest of us?