nities Unit of the NSW Police Force. Sergeant White, who has previous experience combatting "drugs, vice, and gaming", sees his new post as more of a challenge than any police work he has undertaken. He believes that because of their socialisation, women are often better psychologically equipped to defuse potentially violent situations than are men, who are brought up to meet violence with violence. He feels that, nonetheless, women officers face the same risks as men do and that in the NSW Police Force women are now doing "all the things they said women couldn't do".

ninth ALRAC

We always carry out by committee anything in which any one of us alone would be too reasonable to persist.

Frank Moore Colby: *The Colby Essays*

reformers strangled? The Ninth Australian Law Reform Agencies Conference convened in Sydney on 15–16 June 1984. It was jointly hosted by the ALRC and the NSWLRC. The resolutions passed at the conference were briefly noted in [1984] *Reform* 128. NSW Attorney-General Paul Landa in his speech to members of the conference recalled Gibbon's description of the procedures for law reform adopted by Locrian society in ancient Greece. A Locrian who wished to propose a new law or an amendment was required to stand forth in the assembly with a noose around his neck. If the proposal was rejected, the proposer was instantly strangled! Mr Landa noted that law reform agencies were still relatively new and it was still not settled what their precise role should be. Tensions were inevitable as the agencies learned 'to adjust and live with what is, and will remain, the supreme body for law reform – Parliament. Mr Landa also commented on the trend towards empirical research by law reform agencies. He said that the NSWLRC's empirical work on lump sum accident compensation was lengthy, time consuming and expensive. But, 'at the end of the day, it provided the community and the government with precisely what it needed'. He continued:

> This trend toward empirical research argues for more systematic use of non-legal expertise and for greater use of part time Commissioners chosen from outside the legal profession. But, by definition, this will always be essentially legal work. Its carriage should remain the responsibility of highly skilled lawyers proceeding in a manner which meets the highest requirements of leal scholarship. Law Reform is not the business of gifted amateurs.

brighter prospects. The Federal Attorney-General and former ALRC Commissioner, Senator Gareth Evans, QC, delivered a paper to the conference entitled 'The Prospects for Law Reform in Australia'. Like Mr Landa, Senator Evans referred to concern at the rate of implementation of law reform proposals.

> Law reform commissions are a relatively modern innovation in the Westminster system of government, and the challenge for the future is to devise procedures which will enable appropriate departmental and Cabinet consideration of proposals to be undertaken with the minimum of delay.

Senator Evans thought it was unrealistic to expect governments to automatically enact law reform agency recommendations. To do so without satisfying themselves that the recommendations were appropriate would be an abdication of responsibility. But improvements were possible. Departmental officers must become accustomed to giving higher priority to considering proposals which have already been through a lengthy development process. Equally, law reform agencies

> need, in particular, to liaise closely with relevant departments while their proposals are being developed so that the departments are afforded early opportunities to react to novel approaches rather than to be suddenly confronted with proposals at the end of the process when the recommendations are formally put forward ... The ALRC, for example, has in recent times seen fit to appoint officers from departments as consultants for the purposes of particular references. This must assist the Commission to obtain an understanding of departmental attitudes; it will probably also result in a better appreciation amongst the law reformers of what is politically possible; from the department's point of view it will afford an informal means of acquainting itself with the ideas being developed by the Commission. I commend the ALRC for adopting this practice and encourage its adoption elsewhere.

Senator Evans also responded to the ALRC

Chairman's criticism that law reform suggestions collected by the ALRC in its annual reports are never acted upon and end up in 'the parliamentary garbage collection'. While acknowledging that there were real difficulties in dealing expeditiously with suggestions his department did consider all suggestions received but questions of priority inevitably arise.

> What is obviously needed is some form of systematic monitoring of all law reform suggestions following their referral to the appropriate area of policy responsibility. I believe that this monitoring task could with benefit be given to a single co-ordinating officer within my own department. Where sensible suggestions appear to be receiving inadequate attention in another department, the co-ordinating officer would arrange for me to raise it with the appropriate Minister.

Problems in achieving uniform law reform were also referred to. Senator Evans said he is no longer quite the sceptic he once was with regard to the possibility of reform through the Standing Committee of Attorney-General. Items on the agenda of that Committee include

- defamation;
- uniform State legislation to compliment the Federal legislation which implements ALRC proposals on insurance law reform;
- those aspects of ALRC 22, *Privacy,* in which the ALRC recommended a national approach be taken;
- commercial arbitration – a Bill reflecting the proposals developed by Standard Committee has now been introduced in the Victorian Parliament on an exposure basis;
- authorised trustee investments – the Standard Committee is now considering the recent report of the Western Australian Law Reform Commission on Trustees' Powers of Investment;
- interstate transfer of prisoners – a scheme for the transfer of prisoners and parole orders between the various States and Territories has been agreed upon by the Standing Committee;
- artificial insemination and in vitro fertilization – a great deal of Standing Committee time has been devoted to achieving uniformity in the laws governing the status of children born as a result of these procedures. A model Bill has been developed and while there are some variations between States, substantial uniformity seems achievable;
- sexual reassignment – a project aimed at removing the legal disabilities presently affecting trans-sexuals is still in its early stages, but negotiations are proceeding on the basis that uniform legislation will be needed. A substantial measure of unanimity has already been achieved in discussions at the Standing Committee;
- interstate exhibits and search warrants – at its March meeting this year the Standing Committee approved the final draft of a model Bill providing search warrants issued in one jurisdiction to be executed in another and for the transmission between jurisdictions of exhibits relevant to the investigation of offences. It was however agreed that each jurisdiction was free to decide whether or not to enact the model Bill's provisions concerning telephone warrants. Each State and Territory is now preparing legislation in accordance with the Model Bill;
- procedures for the enforcement of fines – the Standing Committee has recently agreed to keep under review the initiatives that a number of the States are now considering in relation to non-custodial methods of fine enforcement. There may ultimately be some scope for the development of a uniform approach in this area;
- computer crime – a recent addition to the agenda, at the initiative of South Australia, has been the matter of computer crime. We are currently considering the feasibility and desirability of uniform legislation in this area;
- National Law Reform Advisory Council (see [1983] *Reform* 142) – differences still exist on the need for a separate secre-

tariat and the proper relationship between the proposed council and the Standing Committee.

the sociological imagination. Professor Bettina Cass delivered a stimulating paper at the Ninth Australian Law Reform Agencies Conference on the role of the sociologist in law reform. Drawing in part on her experience as a part-time member of the New South Wales Law Reform Commission, and particularly on that Commission's work on de facto relationships, she outlined three posssible views of the social scientist's role.

The first model was that of the social scientist as subordinate technician – one whose task was to supply valid and reliable data to answer questions posed by the would-be reformer. This model Professor Cass rejected as too limiting. It tended to assume, for example, that 'the facts' would render up their meaning without any need for interpretation or informed judgment.

The second model Professor Cass labelled the 'social engineering' model. Here the social scientist's role, as a technical expert, was to provide *knowledge to solve problems.* While this model was perhaps a flattering one from the social scientist's viewpoint, Dr Cass found it inappropriate because it wrongly assumed that policy development is a linear, national and predictable process – it left out of account, as it were, the politics of policy-making.

Third was what Dr Cass called the 'enlightenment' model. Here the sociologist helped to extend the boundaries of debate, to enrich the intellectual climate in which decisions are made, to shed light on 'what can be'. This was the model Professor Cass preferred, and this was the kind of role she had tried to play in the context of the De Facto Relationships reference. Only the 'enlightenment' model adequately acknowledged the social scientist's potential contributions both empirical and theoretical. It also took account of the social scientist's role in *redefining* issues and questions by bringing to a given topic 'a particular type of informed imagination'. It was very much an interactive model – the social scientist contributed certain insights and modes of thought, while also reacting to and learning from the contributions of others.

Professor Cass also raised issues relating to government response – or non-response – to commissions' reports and recommendations. She pointed to a range of strategies that government may adopt by way of inaction. She cited several historical examples, however, of social research that had not been acted on in any direct way in the short term, but had nevertheless helped to reshape public thinking on particular issues and thus had important long-term effects.

The following discussion canvassed, among other things, the role of the social scientist in clarifying the possibilities and limitations of *legal* change, and the particular problems and opportunities of either lawyers or non-lawyers working as part-time commissioners.

Professor Louis Waller, the Victorian Law Reform Commissioner noted that while recent years had seen lawyers more willing to acknowledge their need to seek support and advice from other disciplines, the fact that Professor Cass' paper at this meeting was still something of a novelty showed how far we still had to go.

legal researchers in law reform. At the ALRAC meeting Mrs Loane Skene (VLRC) spoke about the position of legal researchers in law reform agencies. She pointed out that although most law reform researchers have honours law degrees and often also post-graduate or other degrees, they are relatively inexperienced in law reform research. In her view, such research was different from other kinds of legal research, particularly in its consultative aspects. Also, law reform researchers are generally employed at the lower end of the salary scale and remain in their positions only for a short time, before moving to other forms of legal practice. She suggested that legal researchers are 'lost' to law reform just as they become proficient at the research which effec-

tive law reform requires. Such constant turnover of research staff is not only a waste of talent – it is also a waste of time and resources and it delays research projects.

training programmes. Mrs Skene urged law reform agencies to consider training programmes for legal researchers which might include, in particular, instruction in other disciplines. For example, business management concepts might be adopted in designing a research project – setting objectives, time-limits, prevention of 'drift' etc; social science techniques might be employed in assessing community opinion – questionnaires, opinion polls and surveys, or in monitoring existing or changed laws or procedure. Advertising and public relations skills might be used to promote debate in the media. She also believed that workshops and other informal meetings between researchers in law reform would encourage co-operation and consistency of approach between law reform bodies within a state and in other states. Legal reseachers might be encouraged to move from one law reform agency to another, or to serve in a representative capacity on the staff or committees of other agencies, including *ad hoc* committees.

career prospects. In order to attract, and retain, appropriately trained research staff, Mrs Skene suggested that an open salary scale should be introduced for legal researchers. Promotion opportunities and career structure should also be improved and greater recognition given to work done. Researchers should be given greater responsibility and should participate in decision-making.

alrac resolutions. On the motion of the VLRC, it was resolved at the conference that an Australian register of legal researchers be established, that secondment arrangements for researchers be considered by law reform agencies, that a special law reform research meeting be held in Melbourne next year before the Austalian Legal Convention (on Sunday 4th August, 1985) and that agencies consider greater recognition of legal researchers' work and training programmes for legal researchers.

register of legal researchers. Legal researchers working in law reform agencies may now register with the ALRC, their names, qualifications, relevant experience and willingness to move interstate to work in other agencies. Law reform agencies may also report to the ALRC on their willingness to accept secondment of legal researchers from other agencies for training in legal research and social science research.

a victorian initiative. Victoria, always swift to take up new ideas and put them into effect, at once established an Association of researchers working in various law reform agencies in Victoria. At the first meeting of the new Association, it was agreed that the first few monthly meetings should be devoted to 'getting-to-know you' and that members should speak in turn, of their own research experience, in particular what methods and sources they had found most useful. At later meetings invited guest speakers will address other issues of interest to legal researchers, as part of a 'skills enrichment' programme.

contempt and family law

The Contempt Issues Paper recently published by the Commission 'signposted' the special problems of contempt in the Family Law jurisdiction. Subsequent discussions with the judges of the Family Court, practitioners and counsellors have confirmed that the legal and policy considerations arising from the exercise of contempt powers in this jurisdiction stand apart from those in other jurisdictions and warrant separate investigation by the Commission.

Family Court judges, family law practitioners and counsellors appear to agree on the following matters in relation to non-compliance and contempt in this jurisdiction:

- The general level of non-compliance with orders of the Family Court is significantly higher than that found in most other jursidctions, and can be traced back to the highly emotional and personal nature of the problems with which