THE INAUGURAL MITCHELL ORATION

"Looking Back... Looking Forward".

by

Dame Roma Mitchell

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When the Commissioner for Equal Opportunity released the information that her Commission intended to sponsor this Oration and that I was to be the first speaker a reporter from one of our newspapers telephoned me. He asked me was I honoured to have the Oration named after me and I said, with no hesitation and with complete truth, that I was honoured indeed. He then said, "Why should it be named after you and in your life time?" Why indeed? I was tempted to reply with the old aphorism that I had no intention of looking a gift horse in the mouth. Instead I said that I thought perhaps it was a very gracious tribute to my work in chairing the first Commonwealth Human Rights Commission. That fact appeared to be unknown to him. My emotions were divided. It is pleasant to be remembered for having performed what one regards as an important job; on the other hand I have learned that for those who espouse the cause of human rights and equal opportunity the path is rough and stony. One receives more adverse criticisms than acclamations and I fear that this will continue to be the case.

The obverse of the coin may bear the words "human rights" but that connotes a reverse side bearing the words "human responsibilities", and when we realize that the human rights of others entail human responsibilities for us, our enthusiasm is likely to wane. Perhaps, therefore, I should be grateful if my work in chairing the Human Rights Commission were to fall into oblivion. But, I realize that those who promote human rights in this State have no intention of letting this happen and I am grateful to them.

It would be gratifying to believe that an oration upon topics relating to equal opportunity and human rights would, before long, become otiose and that the legislation could either be repealed or allowed to fall into disuse, but I am not optimistic that this will happen in the foreseeable future. I believe that there is still much to be done in those areas and that we need the stimulus of the legislative mandamus and injunction to ensure the due observance of human rights.

In this address I have been invited to look back and to look forward. Sometimes, when I stand rooted in the present and survey the situation, I see all the areas in which there is much to be done to ensure their appropriate human rights to all Australians and I find myself inclined to think that we have not made great progress. But, when I look back over my more than fifty years experience in the legal profession, I realize that the advances have been tremendous. That does not mean that those of us who are willing to carry the banner for human rights can afford to relax; but it is only by looking back that we appreciate what has been gained, and it has been gained mainly as a result of legislation and the education programmes which have ensued.

I turn first to employment. Until 1972, when the Australian Conciliation and Arbitration Commission introduced the concept of equal pay for work of equal value, women in public service and in industry were paid differential wages without this inequality causing any great concern to the community as a whole. A woman's wage was fixed upon the assumption that she had herself alone to keep, but a man's wage reflected the theory that he supported a wife and two children. The fact that many women were supporting aged parents in the days when the pension for aged people was non-existent for many and inadequate for those who received it, and that many men performing the same work as those women were supporting only themselves was considered of no consequence. Those who espoused the cause of equal pay fought a long, tough battle and many people suggested that to give equal pay to women would ruin the economy. In order to cushion the blow the concept of equal pay was adopted over a period of two and a half years.

Since 1975, therefore, women in the workforce have theoretically been entitled to earn wages which are equal to those earned by men. In fact research has shown that there is still a substantial difference in earnings. A policy discussion paper issued in May 1984 highlighting the necessity of affirmative action for women, pointed out that adult women's full-time average weekly earnings were 0.65 of those of adult men. Among the reasons given for this differentiation were that men tended to have greater access to over-time; one third of women worked part-time; women's childbearing and child-rearing activities led them to have interrupted participation in the workforce and therefore lessened the experience requisite for higher paid jobs. There were still differences in education and training, there was occupational segregation in industry and segregation which placed women in positions of low status and low pay within an occupation or industry. Further it was suggested that female dominated occupations were undervalued by wage-fixing authorities. There has been no dramatic alteration in these circumstances in the past five years.

If the fact is, and it seems to be virtually undisputed, that women's earning capacity is not as great as that of men and that some of the reasons for the differential base are those to which I have referred, it is clear that the mere adoption of the principle of equality has not led to equality in pay for women. Hence the necessity for continuing legislation and for continuing monitoring of the situation by equal opportunity bodies.

Until there was legislation to proclaim their right to gainful employment married women had a very lean time in the public service and very few of them had the opportunity to intrude

into industry. Upon marriage a woman had to resign from her permanent position in the public service. She might be taken on again in a temporary position, probably lower than that which she had already occupied; her rights of promotion were virtually non-existent and she lost her right to superannuation. A few married women succeeded in the professions but that was because they did not have rules affecting their employment such as those which existed in the public service.

Child-minding centres were unheard of. I can remember attending as Australian participant a United Nations Seminar in Tokyo on the Status of Women in Family Law. That was in 1962. The participants were all from the Asian countries with the addition of Australia and New Zealand. The Asian delegates were concerned at the inadequacy of child-minding facilities for women employed in industry, but Australia and New Zealand really could not contribute to that session because we did not have married women employed in industry, and therefore there was no call for childminding centres there or in the public service. Those who succeeded in the professions, notwithstanding marriage and children, did so because they were able financially to make their own arrangements for the care of their children. Today we know that there is a demand for greater numbers of child minding centres, but at least they do exist, and the need for them is acknowledged.

South Australia proclaimed its Sex Discrimination Act in 1975 prohibiting discrimination on the ground of sex or marital status in employment, education and the provision of goods and services. That legislation pre-dated the Commonwealth Sex Discrimination Act by nine years. South Australia has frequently been in the vanguard of social legislation, as witness the granting of suffrage to women in 1894, five years before the next State, Western Australia, followed the example and fifteen years before the last State to do so, Victoria, enabled women to vote.

One would have hoped that the South Australian Sex Discrimination Act might have educated people to the stage at which they accepted, as a fact, that married women have the right to be gainfully employed. But nine years after the passage of the South Australian Act, *The Advertiser* for the 7th July 1984 had as its first heading on page one, "Married women have Shut Teenagers out of Jobs, says survey." The cartoon at the side of the heading depicted two youngsters. One said, "My mum came with me for the interview". "Did you get the job?" asked the other, "No she did," said the first. The article revealed that a study undertaken by the Bureau of Labour Market Research in Canberra showed that teenagers were under-represented in baseline positions in the public sector in Canberra because more married women with higher qualifications were seeking such employment. The study pointed out that, as discriminatory practices against married women were discontinued, such baseline positions would become available to teenagers. But this statement, which warranted emphasis, did not receive it. The emphasis was given to what could have been interpreted as yet another gibe at the employment of married women and an encouragement to disparage married women who are gainfully employed. The attainment of qualifications does not guarantee for women equality of opportunity in securing the employment for which such qualifications are a prerequisite unless their rights are recognized. The educative role of the news media could be used to advantage in underlining such rights.

When the Commonwealth Sex Discrimination Bill was introduced into Parliament in 1983 it aroused substantial opposition in disparate sections of the community. In a Newsletter published for Saint George's Cathedral, Perth, the Very Reverend Dean Roberts, the Dean of Perth, wrote a letter in which he castigated the Bill. He said:"The Bill is not merely designed to prevent discrimination against women but the spirit of a new puritanism of equality which reduces traditional roles to reprehensible stereotypes ... (The Bill) has lost sight of the complementary delights of being male and female. Here men and women become utilitarian creatures for whom interchangeable sameness is maximized. It would be tragic for our humanity if we allowed ourselves to be remodelled by an Amazonian reformism which legislates against the weakness of men and apparently counts as ineffectual the real strength of women the humanizing and civilizing power of their femininity."

That reminded me of a statement made in the Parliament at Westminster. The Member of Parliament had something to say about the folly of advocating equality between the sexes. His words were:- "Between the two sexes it is abundantly evident that Nature drew clear lines of distinction ... In all that required rough, rude, practical force, stability of character and intellect, man was superior; whereas in all those relations of life that demanded mildness, softness of character and amiability, women far excelled ... Who could fancy the Julias, Ophelias and Desdemonas who were surrounded with such great charm in Shakespeare's pages, as interesting themselves in and voting at municipal or parliamentary elections? Which was the most likely to figure in the character of the rate-payer and elector - the gentle Cordelia or the hateful and unattractive Goneril or Regan".

Similar sentiments - but expressed more than a century apart. The last quoted statement was made in 1867. Both gentlemen might have felt reassured had they been able to see for themselves South Australia's Commissioner for Equal Opportunity. There may be, and is, steel under that charming exterior when it is warranted, but no observer, casual or otherwise, would deny her femininity. That is the gross mistake which is made by those who object to sexual equality legislation. They confuse equality with identity.

I must say that I do not agree that the legislation, insofar as it proscribes what the Dean called "The weakness of men", is to be regarded as generally directed against men. Sexual harassment is not an exercise indulged in by the majority of men. Where it is used by a person of either sex to disadvantage someone in the workforce or in education, it should, in my opinion, be exposed and eradicated. Of course it is not easy to establish whether an advance is or is not unwelcome and whether there is reason to believe that the person to whom the advance is made is liable to suffer detriment if the advance is rejected. But surely no thinking person objects to the principle that no-one, either male or female, should be blackmailed into accepting unwanted sexual advances for fear of either losing employment or not gaining employment or failing examinations if the advances are rejected. The provisions against sexual harassment which appear in both the South Australian and the Commonwealth legislation provide an appropriate protection for both women and men, although one may hope that the more liberal education of girls and boys will eventually eliminate attempted sex domination.

South Australia led the way, in Australia, in legislating, not only to provide equality of opportunity for women, but also to provide equality of opportunity for people of all races. Its first Prohibition of Discrimination Act was passed as far back as 1966 and prohibited discrimination in relation to property, employment, rights to goods and services and accommodation on the ground of race, colour or national or ethnic origin. This was a particularly important piece of legislation for Aborigines who, until 1962, had been subject to the Aborigines Act which contained provisions which we would now regard as horrific but which, during the years when it was in operation, were considered by many well-meaning people as essential for the protection of the Aborigines.

Until 1939 the Chief Protector of Aboriginals (as he was then described) was the legal guardian of every Aboriginal and half-caste child. The term half-caste was in general use; now, I am pleased to say, it has fallen into disuse. The Chief Protector had power to remove Aborigines to reserves or institutions, and could order them to move their camps. He managed their property. By proclamation by the Governor Aborigines could be prohibited from entering named areas of land. In 1939 the Draconian powers which had resided with the Chief Protector of Aboriginals were transferred to a Board and Aborigines were, in that piece of legislation, so designated. Where the Board was of the opinion "that any Aborigine by reason of his character and standard of intelligence and development should be exempted from the provisions of the Act" he or she was given a certificate to this effect. One of my Aboriginal friends tells me that she still has the certificate which she received as a very young woman, exempting her from the provisions of the Act. It was, however, almost like a bond to be of good behaviour imposed upon someone convicted of an offence because, had she transgressed in any way, that certificate would have been withdrawn, and she would have been subject to the control of the Board as to where she lived and what work she undertook. It is very difficult to realize that our fellow Australians were subjected to such harsh controls as those which I have mentioned less than thirty years ago. Not surprisingly it is impossible to convince any Aborigine that such restrictions upon their freedom were imposed by people, many of whom were well intentioned towards Aborigines.

The Commonwealth's Racial Discrimination Act followed the South Australian Act after nine years. The later Act has been availed of more frequently, because it adopted the principle of conciliation as a first attempt to solve problems of discrimination. The South Australian Act made no provision for conciliation and a prosecution could be initiated only upon the certificate of the Attorney-General. I think that racial discrimination is an area in which the appropriate procedure is conciliation followed by a requirement to pay compensation only if the fact that there has been discrimination is established and the attempt to conciliate fails. Many people who offend in this area do so through thoughtlessness rather than malice, and those who are malicious may glory in a prosecution in which they have an opportunity to flaunt their racial prejudices.

Discrimination in the provision of goods and services and in the offer of accommodation or of an interest in land frequently results from the common practice of stereotyping people according to race or colour, and particularly the latter. Thus some hotel patrons believe, if they see two or three Aborigines enter a bar, that the Aborigines are liable to be or to become drunk and disorderly and some hotel proprietors, wishing to retain their non-Aboriginal customers,

think that life is less traumatic if they can exclude Aborigines. An unwelcoming and perhaps even a hostile attitude is adopted both by the proprietor and the non-Aboriginal customers and this may lead to arguments and even to violence. Of course some Aborigines do become drunk and do involve themselves in violence but so also do some non-Aborigines.

Landlords sometimes expect Aborigines or Asians or people of southern European background to choose to live in overcrowded and even dirty conditions and to cause a depreciation in the value of property. They seek to avoid accepting them as tenants merely upon the ground of race or colour instead of taking the trouble to ascertain, by requiring references or otherwise, whether the individuals are desirable tenants.

I believe that discriminatory attitudes are caused partly by fear of the new and the unknown. For this reason the last group of immigrants usually faces the strongest hostility. At a time when graffiti suggested that all Australia's problems were attributable to the influx of Vietnamese, an Australian who had been a migrant from Italy immediately post World War II remarked to me that precisely the same allegations that were now being made against the Vietnamese had been made against the Italians when he first arrived in Australia.

How do we educate people to overcome such racist attitudes? Education will, of course, start in the child minding centre and continue in the school. But it is difficult to inculcate an attitude of racial tolerance if the home is a centre of racial intolerance. We must now and in the foreseeable future rely, to a substantial extent, upon the educative role of the Equal Opportunity Commissioner and that of her counterparts to correct the racial bias which exists in our society.

In her 12th Annual Report the Commissioner recommended an amendment to the Equal Opportunity Act to render unlawful what she termed racial harassment. I understand her to encompass in that expression what I call racial defamation and what recent New South Wales legislation describes as racial vilification. About twenty-five percent of all complaints which were received by the Commonwealth Human Rights Commission during its five years of existence related to racial defamation, and this notwithstanding the fact that most bodies representing ethnic groups were well aware of the fact that the Commission had no power to take any action in regard to racial defamation. A survey of complaints received by the Commission disclosed that the material complained of covered a wide range from statements which blatantly constituted an incitement to racial hatred to jokes in poor taste. It is probably impossible to eradicate the latter by legislation, although a group of concerned persons did parade recently outside a meeting in Norwood of the Multicultural Forum claiming that certain television advertisements imputing stupidity to the Irish should be prohibited. This is a difficult area. I had great sympathy with the then Irish Ambassador who complained to me about the prevalence of such tasteless jokes, and who pointed out that, were he appointed to the United States of America, he would not receive complaints about racist jokes, but the Polish Ambassador would be besieged with such complaints. Nevertheless I believe that the principle of freedom of speech must involve the freedom to make remarks which are in poor taste. I fear that the insensitive will remain with us and that they would not develop sensitivity to the hurt of others merely because legislation required them to abandon racist jokes.

But I have no doubt that there should be legislation to outlaw statements which constitute an incitement to racial hatred. I think that the Commonwealth should amend the Racial Discrimination Act to this end and I welcome the New South Wales AntiDiscrimination (Racial Vilification) Amendment Act 1989. Section 20c of that Act makes it unlawful "by public act, to incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of the race of the person or members of the group." If the South Australian Parliament were to adopt the recommendation of the Commissioner for Equal Opportunity and to proscribe racial harassment as it has proscribed sexual harassment it would, if it adapted section 87 of the Equal Opportunity Act, declare that a person subjects another to racial harassment if he or she on more than one occasion makes a remark, pertaining to that other person, that has racial connotations in such a manner or in such circumstances that the other person feels humiliated or intimidated and it is reasonable in all the circumstances that the person should feel offended, humiliated or intimidated.

Many would claim that the New South Wales legislation and the suggested South Australian legislation impinge too far upon freedom of speech. But no-one can, with impunity, defame his neighbour. Why should he be permitted freely to impugn his neighbour's racial background?

In support of what I say I refer to two statements. The first is contained in the report of a special committee set up by the Canadian Government made as far back as 1966. The Committee referred indirectly to the aphorism of Voltaire:- "I disapprove of what you say, but I will defend to the death your right to say it." It said:- "Those who urged a century ago that men should be allowed to express themselves with utter freedom even though the heavens fall, did so with great confidence that they would not fall. That degree of confidence is not open today... However small the actors may be in number the individuals and groups promoting hate ... constitute a clear present danger to the functioning of a democratic society. For in times of social stress, such "hate" could mushroom into a real, monstrous threat to our way of life."

In the debates preceding the passage of the United Kingdom Race Relations Act Sir Frank Soskice said:- "I would earnestly ask those who entertain sincere anxieties… to consider again whether the anxieties are justified. What is the loss of liberty they fear?…Is it other than the loss of liberty by the use of outrageous language, not privately but publicly, to seek to stir up actual hatred against mostly completely harmless groups of people…for something they cannot possibly help?"

I commend to you those views. Freedom of speech does not imply freedom to vilify.

The Commonwealth affirmative action legislation, which seeks to improve employment opportunities for women, is low key. I have no doubt that had I been asked twenty five years ago whether affirmative action for women was necessary or desirable I would have replied in the negative. I, like my contemporaries, was conditioned to there being obstacles to the appointment of women to high positions, but believed that given time such obstacles would vanish. I no longer believe this. I now think that in order to give equality of opportunity to

women it is not sufficient to remove any bars to their appointment to particular positions - it is necessary to make their access to top positions in the workforce real, not theoretical.

The Commonwealth legislation aims to do this and to do it by persuasion, not force. Some argue that the legislation should have stronger teeth. Its opponents say that the protagonists of affirmative action confuse equality of opportunity with equality of result. I suppose that it depends upon what is meant by "equality of opportunity." A woman academic who has taken seven years away from her academic occupation in order to bear her children and care for them in their preschool years is unlikely to have published as many learned articles as her male counterpart of similar age and, if selection committees for academic posts give the highest priority to such publication, she is not likely to receive the coveted appointment although it may be that, if her academic qualities were considered as a whole, she would be shown to be the better candidate. Affirmative action, if properly applied, should ensure that the assessment would secure the appointment of the candidate who is most likely not only satisfactorily to fill the position, but also to advance in that position.

There are complaints that there is a hidden discrimination in some areas in the appointment to higher positions of Australians whose early life was spent outside Australia in non-English speaking countries, and, in particular, some members of ethnic groups suggest that there is a hidden discrimination in employment within the public service and in large corporations. They believe that members of selection committees and others interviewing potential employees and applicants for promotion have in mind a model who does not speak with a strange accent and an unfamiliar idiom,. that such interviewers are prejudiced, however unwittingly, in favour of the person who fits the image of past and present employees and in particular of those who have succeeded in the service of the business. They say that migrants with non-English speaking backgrounds are over-represented in the low paid and menial jobs of organizations such as railways and underrepresented in management in such organizations. There is a case for something in the nature of affirmative action in relation to the employment of members of minority groups.

There is a further complaint that overseas qualifications are not always given their appropriate recognition for entry into a particular profession or occupation. This is a problem which calls for redress if equality of opportunity for all Australians means what it asserts. Of course it is essential that our standards be not lowered but we must be wary of assuming that our training for the professions, trades and other occupations is necessarily superior to that prevailing in other countries.

The National Employment Strategy for Aboriginals, introduced in 1977 with the purpose of increasing the employment opportunities for Aborigines has established programmes for training and for employment of Aborigines in the Australian Public Service and in Australian Government Statutory Agencies. And South Australia has played its part and continues to play its part in providing training and employment opportunities for Aborigines. Nevertheless the current unemployment rates for Aborigines are such that it is clear that the need for affirmative action for them remains urgent.

The South Australian Equal Opportunity Act is in the forefront of legislation in prohibiting discrimination on the ground of physical impairment in employment, membership of associations, education, superannuation. It is not unlawful discrimination under the Act to fail to employ a person who requires special assistance which cannot reasonably be provided or where access cannot be provided.

In her 12th Annual Report the Commissioner for Equal Opportunity states that during the year 1987-1988 seventy complaints were received concerning discrimination suffered by people with some physical impairment. I note that twelve such complaints were from people who suffered from metabolic disorder or epilepsy. A number of people diagnosed as having epilepsy or diabetes complained to the Human Rights Commission when I chaired it that they were subjected to discrimination, largely through ignorance on the part of those with whom they worked or had dealings. Certainly it is alarming for a person who is unskilled in the treatment of illness to witness someone in an epileptic seizure or a diabetic coma. But the fact is that very many people who have one or other of those complaints are able to cope for years without any visible signs being apparent. Where the seizure or the coma occurs appropriate treatment will usually provide quick relief and complete recovery. It is not only for the benefit of the patient but for the benefit of the whole community that he or she be not penalized in employment or otherwise merely because the sensibilities of others may be affected if the person having the complaint happens to suffer a seizure or a coma.

I would make a similar judgement concerning those who have obvious physical disabilities. A person who has suffered a severe physical disfigurement but is capable of performing a particular job should not be denied the right to do so merely because others, who have not encountered similar misfortune, may find the sight of the disfigurement distasteful.

By a Bill introduced into Parliament in March 1989, a further step forward is proposed. That is the prohibition of discrimination on the ground of intellectual impairment which is defined as meaning "permanent or temporary loss or imperfect development of mental faculties (except where attributable to mental illness) resulting in reduced intellectual capacity."

Of course a person suffering from intellectual impairment as defined will not be entitled to claim that he or she was discriminated against in relation to employment if denied work which he or she is unable to perform adequately and without danger either to the worker or to others or to respond adequately to likely situations of emergency. The same provisions apply at present in relation to those who have physical impairment.

This Bill represents a major step forward for those who have one of the intellectual impairments as defined. One class of persons to whom the amendment will apply is to those who have suffered some brain damage as a result of accident. Although advances in treatment result in the survival of greater numbers of victims of road accidents than hitherto there is no appreciable diminution in the numbers of them who have suffered brain damage. Some are and will remain unemployable. Others are capable of re-entering the work force and should be

encouraged to do so. The proposed amendment may assist in getting them back to work and contribute substantially to their rehabilitation.

A further important government initiative is the proposal to outlaw discrimination on the ground of age. Perhaps Parliament has already gone some way towards this in the recognition that retired judges can properly be called upon to act as auxiliary judges. Under the new legislation I recently spent a month back on the bench of the Supreme Court of South Australia notwithstanding the fact that I am well past the compulsory retirement age.

A former Vice-Chancellor of one of our Universities, who is my age, has spent, since his retirement, six months of each year in South Australia and six months in California. He has undertaken research into Alzheimers Disease which may be of considerable value. But he has now returned to live permanently in the United States of America because, at his age, he can not attract Commonwealth research funds whereas the United States has legislated against discrimination on the ground of age and therefore he is able to and does attract very large amounts of research money in that country.

But by and large I would expect that the greatest beneficiaries of the proposed anti-age discrimination legislation would be those between the ages of 40 and 55 who have lost employment in consequence of business amalgamations or for other reasons which do not relate to the employee's capacity for work and who are now informed that they are too old for the positions for which they apply. Once again South Australia may be in the vanguard with reforming human rights legislation.

What of the future? I do not believe that the need for equal opportunity legislation, for a Commissioner for Equal Opportunity and for an Equal Opportunity Tribunal will diminish in the foreseeable future. The legislation has a predominantly educative value and the role of the Commissioner in her day to day operations and of the Tribunal in its determinations is also an educative role. The educative role of the Commissioner is set out in the statute. She is required, among other things to foster and encourage among members of the public informed and unprejudiced attitudes with a view to eliminating discrimination. She may institute, promote or assist in research and may make recommendations to the Minister as to reforms. She does not, however, have a function similar to that of the Commonwealth Human Rights and Equal Opportunity Commission which is charged to enquire into any act or practice which may be inconsistent with or contrary to any human right. Her enquiries are limited to investigations of complaints. Her role would be strengthened if she had a general right of enquiry similar to that which is given to the Commonwealth Commission.

It is not appropriate for her to seek to promote complaints when she or her officers have reason to believe that there is, in any quarter, a disposition to flout the provisions of the statute. But the rights which the legislation is intended to guarantee should not be abrogated merely because those who could complain choose not to do so, possibly through apprehension of repercussions.

Finally, should not South Australia, which has led the way in so many areas of human rights legislation, continue to do so by introducing a Bill of Rights?

Australia has ratified the United Nations International Covenant on Civil and Political rights and has thus bound the nation to observe the rights therein set forth. But the Commonwealth has not succeeded in producing a Bill of Rights acceptable to all or even to the majority of citizens. Why is this so? I believe that some of the opposition to a Bill of Rights stems from the fear of the unknown. But this is not the sole reason for the opposition. Some opponents point to totalitarian countries whose constitutions embody a Bill of Rights and which appear to us to have little, if any, regard for human rights. But the mere non-observance of rights which they have proclaimed should not deter us from asserting such rights.

Others point to the litigation arising out of the provisions in the Constitution of the United States of America which are designed to safeguard human rights. It is true that such provisions have given rise to considerable litigation in that country. However the litigation which the South Australian Equal Opportunity Act has engendered has been of no more than minuscule proportion. I doubt whether a Bill of Rights, if it were part of the South Australian legislation, would significantly increase the volume of our litigation. It should ensure that both common law and statute law would be so interpreted as to give effect to the principles by which we have bound ourselves under the Covenant.

Some say that we do not need a Bill of Rights because the common law and statute law together can provide a remedy for all wrongs; or alternatively that, if there is a wrong for which no remedy is available, this should await an amendment to the legislation. It is clear, however, that there are some lacunae in our law and that legislative amendments are necessarily slow. Human rights should be assured and should not be required to wait upon amending legislation.

The preamble to the International Covenant on Civil and Political Rights affirms that "the individual having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the rights recognized in the Covenant". Those who wish to promote the recognition of human rights would do well to consider the advisability of enshrining such rights in our State legislation.

I thank you all for listening to me patiently on this occasion upon which I have been accorded such a signal honour and I thank particularly those who determined that my name should be given to this Oration.

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DAME ROMA MITCHELL

The Honourable Dame Roma Mitchell DBE is one of South Australia's and Australia's most distinguished women. In her long, career she has gathered many honours, among them:

First woman Queen's Counsel in Australia (1962)
First woman Supreme Court Judge (1965-1983)
First woman Chancellor in an Australian University
First Chair of the Human Rights Commission (1981-1986)