

death by accident". It is a reform which amounts to a:

"unique plunge we took to remove what many considered the former injustice and illogicality".

There is still no word on the Australian counterpart. In default of a national, radical approach to accident compensation reforms, it is inevitable that smaller steps will continue to be taken to remove the grosser injustices of present accident laws. During the past quarter, two reports have been produced for the Victorian Government. The first, by Sir John Minogue, suggests reforms of no-fault motor vehicle accident compensation. The second, by Judge Harris, proposes changes in workers' compensation law.

Lawyers' Vanity?

"Until the Donkey tried to clear
The Fence, he thought himself a Deer,"
A. Guiterman, *A Poet's Proverbs*, 1924.

It has been said that few people are modest enough to be content to be estimated at their true worth. One of the busiest sessions at the New Zealand Law Conference related to a survey of the legal profession conducted by the Heylen Research Centre of Auckland for the New Zealand Law Society. The survey was addressed to a random sample of legal practitioners and of members of the public. It tested a number of factual matters (work done, salary received, legal assistance performed, the issues facing the legal profession). The most controversial items, however, related to questions addressed to the "image of lawyers" in New Zealand.

Non-lawyers at the conference accused the legal profession of being more concerned with their public image than with meeting the needs of the public. An Auckland journalist, Mr. Gordon McLaughlan, told the conference that the legal profession should not fall victim of an obsession with its public relations. "What you should really be thinking about is marketing and the services you provide." He criticised the intimidating opulence of legal offices, archaic language and the absence of lawyers from the suburbs. Reality and not image was what mattered, he said. Concern with helping people in legal need was more important than

concern with respectability and superiority.

The survey indicated pretty clearly that generally the public had a higher regard for lawyers in New Zealand than either lawyers had for themselves or expected the public to have of them. For example, to the assertion that "lawyers are highly qualified professional people" the lawyers' self-image was 77% in favour. Lawyers expected the public to agree 87%. In fact, 95% of the public agreed.

To the assertion lawyers are "honest, trustworthy people" 94% of lawyers generally agreed; they expected 68% of the public to agree. In fact 86% of the public agreed.

To the assertion "lawyers are tricky and sharp people" 13% of lawyers agreed; they expected 50% of the public to agree. Only 38%, however, did so.

Other interesting statistics in the survey were:

- 38% of practitioners would not choose to do law if they had the opportunity to start again without loss of time or money.
- 62% thought that insufficient practical training for law students was the major serious problem facing the profession (followed by increasing costs (59%), insufficient work for new graduates (50%) and continuing education (49%)).
- 35% spent most time in conveyancing, 10% family law, 9% company and commercial law and 9% in other litigation. 25% had no speciality.
- 40% of practitioners felt they had too much work to handle comfortably.
- Public criticism of lawyers related to their unapproachability, lack of communication, the long time it takes to get things done.

Although 93% of lawyers sampled said they had attended at least one lecture, seminar or workshop during 1977, the attendance dropped off quite markedly among practitioners over 46 years. When asked if some form of continuing education should be made mandatory for all practitioners in New Zealand, 49% of lawyers disagreed, 41% agreed. Practitioners under 35 years were more likely to agree than older practitioners. A large majority (72%) disagreed with mandatory recertification, although there was a feeling that the profession should tighten up on "less competent" prac-

tioners. All of this is now before the N.S.W.L.R.C. working on the reform of the legal profession.

Reforming Lawyers

"We are over lawyered . . . Lawyers of great influence and prestige led the fight against civil rights and economic justice . . . They have fought innovations even in their own profession . . . Lawyers as a profession have resisted both social change and economic reform."

President Carter, May, 1978.

The 100th Anniversary of the Los Angeles Bar Association was marked by a severe dressing down from President Carter. He described the legal profession as generally self-serving and more concerned with protecting "the hierarchy of privilege" than serving public interest.

"We have the heaviest concentration of lawyers on earth—one for every 500 Americans . . . No resources of talent and training in our own society, even including the medical care, is more wastefully or unfairly distributed than legal skills. Ninety percent of our lawyers serve ten percent of our people . . . When greater competition has come to the legal profession, when no-fault systems have been adopted, when lawyers have begun to advertise—in short, when the profession has accommodated to the interests of the public—it has done so only when forced to."

President Carter is not alone in his assault on the American legal profession. U.S. Chief Justice Burger recently warned:

"We may well be on our way to a society overrun by hordes of lawyers, hungry as locusts, and brigades of justices in numbers, never before contemplated."

Allowing that the legal profession is always "fair game", it must be acknowledged that the New Zealand survey above and, more particularly, surveys in N.S.W. and Victoria, demonstrate public dissatisfaction and a need for improvement in the organisation and methods of the legal profession.

Things are happening:

- A major review of the N.S.W. legal profession is proceeding, conducted by the N.S.W.L.R.C.
- A compulsory professional indemnity insurance scheme is about to come into operation in Victoria and a similar scheme is planned for other States of Australia.

- Legislation has been introduced in Victoria to provide for lay participation in disciplinary proceedings against solicitors.

The N.Z. survey disclosed that 82% of New Zealand practitioners agreed that compulsory negligence insurance should be introduced. The Victorian scheme, devised by the Law Institute of Victoria, covers solicitors against actions for negligence and fraud by employees. Dishonesty by the solicitor himself is presently covered by the compulsory Solicitors' Guarantee Fund.

In N.S.W., as in other States, a Law Society voluntary scheme has been operating for some years. About 70% of N.S.W. legal firms are parties to the voluntary scheme. The N.S.W. Law Society has recommended to the N.S.W.L.R.C. that solicitors in private practice should be required to take out compulsory professional indemnity insurance. Such compulsory cover was introduced in Canada in 1970 and England in 1975. The aim of compulsion is:

- To provide sufficiently large funds to cover potentially substantial claims
- To increase public confidence in the legal profession, in the knowledge that if a solicitor is negligent, the loss will be covered.

A Bill to introduce the scheme is presently before the Victorian Parliament. It is the *Legal Profession Practice (Solicitors' Disciplinary Tribunal) Bill* 1978. But the Bill contains other provisions that have proved more controversial:

- Extension of the definition of "misconduct"
- Changes in disciplinary procedures
- Inclusion of lay representation on disciplinary panels

The proposal for lay participation in disciplinary proceedings is not new. In Canada and the United States for some time, steps have been under way to introduce non-lawyer participation in the disciplinary tribunals (and even governing bodies) of law societies. A Lay Observer was appointed in Britain in 1974 and in New Zealand last year. The *rationale* is to leave as much self-regulation to the profession as possible, whilst ensuring adequate safeguards against injury to the public caused by self-interested introspection.