

LRC. The paper also shows in detail the claims experienced under the Law Society of N.S.W.'s voluntary indemnity insurance scheme, which has covered about half of the State's solicitors in recent years. For example, in respect of claims made between 1968 and 1978, over \$1 million had been paid out by the end of 1978, and a further \$2.5 million was allocated to claims which had not been finalised. Conveyancing, and the failure to commence court actions within prescribed times, were the most common sources of all claims and of the larger claims. Up to the end of 1978, one claim had been settled for over \$100,000 and another four were regarded by the insurers as likely to involve payments of more than \$100,000. The Commission's survey shows steep increases in the level of claims under the voluntary scheme. Over a five-year period the annual number of claims under the scheme has trebled and the annual amount paid out on them has risen about eight-fold. These increases far exceed the relatively small increases in the number of solicitors insured under the voluntary scheme.

## rape conference concludes

Among the porcupines, rape is unknown.

Gregory Clark

The national conference on Rape Law Reform foreshadowed in the last issue of *Reform* took place in Hobart, Tasmania on 28-30 May 1980. It was attended by a large number of persons interested in the reform of rape laws and the provision of services for victims of rape and like sexual assaults. The conference was opened by Mr. J.B. Piggott, Chairman of the Tasmanian Law Reform Commission and Mr. Brian Miller, the Attorney-General of Tasmania. Chairman for the first session was Mr. Frank Walker, N.S.W. Attorney-General. The presence of the Victorian Attorney-General, Mr. Haddon Storey, Q.C., and representatives from all other States and Territories ensured a good cross section of information, views and opinions on rape law and its reform.

Amongst the papers delivered to the Conference were:

- A keynote address by Dr.V. Nordby on 'The Michigan Sexual Assault Law and Evaluation Study'. Dr. Nordby has been a leading figure in the reform of rape law which has taken place in Michigan, U.S.A.
- Papers on the reform of the substantive law of rape were delivered by Mr. William Cox, Crown Advocate of Tasmania, Ms. Helen Curran, Solicitor N.S.W., and Mr. Greg Woods, Head of the Attorney-General's Criminal Law Review Division in N.S.W.
- The reform of evidence law as it applies to rape trials was analysed by Dr. Jocelyne Scutt (Australian Institute of Criminology) Ms. Lisa Newby (W.A.) and Ms. Rosemary Kyburz, M.P. (Queensland).
- An analysis of police attitudes and problems relating to rape victims, their support and counselling was examined by Colonel Fogarty of the Tasmanian Police and Ms. Lee Henry of the Hospital Care Centre in Perth, W.A.
- The politics of rape law reform was examined by Mr. Peter Duncan, M.P., the former Attorney-General of South Australia and Ms. Marjorie Levis of the Women's Electoral Lobby of Tasmania.
- The ALRC was represented at the Conference by Commissioner Smith, the Commissioner in charge of the Evidence Reference. Some of the most important changes proposed for the reform of the law as it affects rape trials concern reforms of the law of evidence, e.g. cross-examination of the complainant as to her previous general sexual history.

Among the most interesting issues raised in the conference were the reports on the 'follow-up' of rape law reform already introduced in some jurisdictions. Both in South Australia and Victoria studies have been conducted concerning the operation of law reforms introduced in those States, such as those requiring the leave of the trial judge for cross-examination of the rape victim. The reports given to the conference emphasise the need in law reform to see the process as a continuing one which does not finish, even with the implementation of a report produced by a law reform agency. Studies of the 'follow-up' of law reform enactments will almost certainly point to the need for further reforms as repercussions

which were not anticipated come to light and, in some cases, laws are seen not to work precisely as intended.

At the closing session, on the basis of consensus resulting from the reports of rapporteurs, a series of conference resolutions were passed. The resolutions dealt with such matters as:

- the urgent need for reform of rape laws and procedures to encourage reporting and treatment of victims;
- removal of immunities protecting men against prosecution for rape within marriage;
- removal of artificial immunities against prosecution for males under 14 years;
- introduction of a gradation of offences of sexual assault;
- control of cross-examination about prior sexual history;
- attention to the particular problem of rape victims in country towns;
- recruitment of women to police service to assist in rape cases.

Further details of the conference may be obtained from the Tasmanian Law Reform Commission, 39 Murray Street, Hobart, Tas.

In the business of follow-up of law reform, the most important Australian development is probably the establishment of the Institute of Family Studies in Melbourne. The Director of the Institute is Dr. Donald Edgar. The Institute has now published its 'research directions' proposing a draft research plan between 1980 and 1987. The basic aim of the Institute is to study the actual operation, in practice, of the Family Law Act 1975, with its major reforms of family law throughout Australia. Amongst the research directions:

- the aim is to build a 'comprehensive, detailed and theoretical understanding' of factors affecting family life in Australia;
- collection of demographic, statistical and other research information;
- supervision of research grants, whilst preserving flexibility in research capacity.

The research program envisages capital city seminars on research needs and priorities. It lists a number of content areas. One interesting study

proposed is of the 'extended family' in the modern Australian context.

## medico legal again

The art of medicine consists of amusing the patient whilst nature cures the disease.

Voltaire, circa 1770

The imminent birth of Australia's first 'test tube' baby again puts the focus on medico legal law reform. During the last quarter developments have continued to occur relevant to the modernisation of the legal system to accommodate radical changes in medical and surgical techniques.

- In the Northern Territory, the Human Tissue Transplant Act 1979 was passed. The Act makes provisions concerning the removal and use of human tissues and includes the definition of 'death' and other recommendations contained in the ALRC report *Human Tissue Transplants* (ALRC 7). With regard to the definition of 'death', the Act states that for the purposes of the law of the Territory, a person has died when there has occurred –
  - (a) irreversible cessation of all function of the brain of the person; or
  - (b) irreversible cessation of circulation of blood in the body of the person.
- The final Communiqué of the meeting of the Commonwealth Law Ministers in Barbados on 2 May 1980, included reference to legal regulation of human tissue transplants. The Commonwealth Ministers (including Australia's Senator Peter Durack, Q.C.) considered it 'important that unsatisfactory procedures should not be permitted to develop'. It was agreed that information on legal developments would be exchanged and the Commonwealth Secretariat in London is to consider a combined medico-legal workshop on the issue. The ALRC proposed legislation is now in operation in Australia in three jurisdictions: A.C.T., Qld. and N.T.