confined to novels. It made no difference, held the US judges, whether the programs were 'burnt into the microchips, inseparable from the computer's circuitry'. Mr Suss declared that his victory was 'the first breach of the American and Japanese technological monopoly'. The *Australian Financial Review* (16 December 1983) reported that Apple had lodged an appeal to the Full Court of the Federal Court from Justice Beaumont's decision. According to the same report, the decision has 'rocked the computer industry'. It is also claimed that the Federal Attorney-General, Senator Evans, in consultation with Science and Technology Minister Jones, is considering whether any action should be taken. In late December Senator Evans announced that the government would introduce amending legislation, if need be retrospective, to provide protection for computer softwear.

Needless to say, the editorialists went to town. According to the *Australian Financial Review* (9 December 1983) the Apple decision of Justice Beaumont 'strikes at the core of software controls'. Various commentators for the computing industry urged that computer programs should be covered by copyright. The Melbourne *Herald* (13 December 1983) took the competing points:

> The lack of legal protection will deter overseas firms from exchanging hi-tech know-how with their Australian counterparts, and it might give us an unwelcome reputation as producers of imitations. If there are counter arguments suggesting greater development through an 'open go' they should be put and the legal problems sorted out. Our laws must catch up with world technology.

The *Sydney Morning Herald* (14 December 1983) suggested a law reform compromise:

> Computer technology falls into a grey area between literary works and inventions. Both the copyright and patent laws have been stretched to cover it ... This country's copyright legislation, the Australian Copyright Council points out, is notorious for not anticipating the predictable. Computer software and its protection showed all the signs of becoming an issue in 1969 when the Act came into force. But the law still has no explicit provision to cover computer software ... If the Attorney-General decides to strengthen the Act to protect the computer companies he should also consider reducing the life of protection given to the industry to something like 16 years provided by the Patents Act [rather than the 50 years of protection given to the copyright owner].

Let the last word be had by the *Australian* (9 December 1983) which declared, inelegantly but vividly, that the Apple decision had 'opened a can of literary worms'. Perhaps the new Copyright Law Committee under Justice Ian Sheppard, also a Judge of the Federal Court of Australia, will produce an Australian solution in tune with domestic needs and harmonious with the efforts of the World Intellectual Property Organisation (WIPO), UNESCO and other bodies to adapt laws made in earlier times to the needs of transient media and rapid technological change.

lawyers, action.

Humility is a quality not always inborn in those who dedicate themselves to advocacy.

Melford Stevenson J, cited T E F Hughes, The Art of Advocacy, 1983.

reports accepted. The NSW Premier, Mr Neville Wran QC, has announced the intended implementation of important aspects of the New South Wales Law Reform Commission's reports on reform of the legal profession of that State. In an address on 12 November 1983 to the Annual Assembly meeting of the Young Lawyers' Section of the Law Society of New South Wales, Mr Wran indicated that his government had 'accepted in principle' the concept of community participation in the governing bodies of the NSW Law Society and the Bar Association. He also announced that a Public Council on Legal Services would be established. One function of the Council would be to overview the operation of the complaints and discipline systems introduced in relation to NSW lawyers. The creation of such a Council, consisting principally of public members, was one of the NSWLRC's most important recommendations.

Mr Wran also stated that the government would introduce legislation proposing a number of new institutions:

- A Professional Standards Board to determine complaints about lawyers with regard to 'bad professional work' which falls short of professional misconduct. This Board will comprise practitioners and public members. When hearing a particular matter, the Board will comprise two legal practitioners and one public member.

- A Disciplinary Tribunal will be established to determine complaints of professional misconduct. It will comprise a judge, practitioners and public members.

- A Complaints Committee, which will include public members as well as practitioners, will be responsible for investigation of complaints received by the Law Society and the Bar Council concerning legal practitioners.

changes come. The above aspects of the NSWLRC's recommendations continue to be the subject of detailed consideration by the NSW Government. According to reports from the NSWLRC, consultation is being held with the NSWLRC Commissioners responsible for the reports delivered over the past few years concerning reform of the legal profession. The Commission is now preparing its fourth and final report on the reference. This deals with:

- solicitors' trust accounts;
- solicitors' fidelity fund;
- professional indemnity insurance.

Meanwhile, in advance of reforming legislation, both the Law Society of NSW and the Bar Association have introduced certain changes or adopted policies which move in directions favoured by the NSWLRC in its reports and discussion papers in the legal profession inquiry. Many of these developments occurred whilst the inquiry was progressing. Some of them have been referred to in previous issues of *Reform* (see eg [1982] *Reform* 82, [1982] *Reform* 128 and [1983] *Reform* 1 58). The time has come for *Reform* to offer a checklist of recent developments:

- non-lawyers have been added to most of the committees of the NSW Law Society which represents solicitors in the State. However, at the moment they are chosen by the Society rather than independently of the profession;
- the Law Society has accepted the NSWLRC recommendation that it be required to make an annual report to Parliament;
- the Bar Association has indicated its willingness to add non-lawyers to some of its committees;
- the Bar Association has also proposed that a joint committee, representing the Law Society, the Attorney-General's Department and the Bar, should meet at regular intervals to monitor aspects of the regulation and structure of the legal profession;
- the Law Society has accepted in all major respects the new complaints and discipline scheme which the NSWLRC recommended. It has sought early legislation in this area;
- the Law Society has taken preliminary steps towards collecting, clarifying and expanding its current material about professional standards;
- the NSW Bar Association has proposed a new two-tier disciplinary system;
- the Bar Association has indicated its willingness to relax the two-counsel rule, but only to a minor extent;
- the Association has relaxed, also to a minor extent, the rules relating to barristers attending conferences without instructing solicitors and outside their own chambers;
- the Law Society has supported the NSWLRC recommendation that

barristers should have contractual capacity and be entitled to sue for their fees;
- the Society has supported the NSWLRC recommendation that barristers' fees should be subject to regulation and taxation to the same extent as solicitors' fees.

advertising and trusts. The NSWLRC reports recommended major changes to the rules governing advertising, specialisation, trust accounts and the fidelity fund. In these areas too, in advance of legislation, the professional associations have moved in the direction of reform:

- the Law Society has indicated its willingness to accept minor relaxation of the restriction on advertising about fees;
- the Society has decided not to proceed with its proposed specialisation scheme criticised in the NSWLRC third report;
- the Society has indicated its support for the NSWLRC recommendations relaxing the rules about solicitors participating in community discussion of legal and other issues;
- the Bar Association has proposed that barristers be entitled to list their preferred areas of practice in the annual Law Almanac;
- the Bar Association has also relaxed its rules relating to public comments by barristers and the use of business cards;
- the Law Society, at the insistence of the Attorney-General, has maintained solicitors' contributions to the Fidelity Fund at the substantially increased level introduced the previous year, which it had said would be for one year only;
- the Society has decided to undertake a private test of client verification on a random basis of the records relating to trust money;
- the Law Society has also obtained a report from expert consultants on computerisation of solicitor's trust accounts;
- it has continued to increase the frequency of inspections of trust accounts and improved its monitoring of solicitors' private companies;
- the Law Society has also accepted the general concept of requiring solicitors to maintain a register of mortgages.

sadly neglected. The changes that have been introduced and still more the prospect of legislative reforms of the powerful and vocal legal profession of the Premier State inspired editorial writers to pick up their pens. The *Sydney Morning Herald* (27 January 1983) had already suggested, when Frank Walker QC retired as Attorney-General, that reform of the legal profession might be his lasting monument:

> Much of [Mr Walker's] achievement in the large area of reform of the legal profession appears not on the surface but, like an iceberg, beneath it. This is seen in the many changes the Law Society of New South Wales and to a lesser extent the New South Wales Bar Association have made to the rules governing their members, spurred as they were by the penetrating inquiry into the legal profession which Mr Walker had the New South Wales Law Reform Commission carry out.

Mid-year, the same journal kept up the pressure, calling (20 April 1983) for:

> attention to the recommendations of the New South Wales Law Reform Commission for reconstituting the regulatory and disciplinary machinery of the legal profession ... The Law Society has, with prodding, gone some of the way to putting the lawyers' own house in order, but for the job to be done properly, government action will almost certainly be necessary.

Now, Premier Wran has indicated that government action will be taken. Meanwhile, an editorial in the *Australian*, commenting on the recommendations of the inquiry into the future of the legal profession in Western Australia (see below) concluded that these might be beneficial:

but only if implementation is undertaken with appropriate urgency – a course sadly neglected following the release of the New South Wales Law Reform Commission's proposals more than a year ago.

Now it seems, neglect is over and action is in. The prospect of such important and far-reaching reforms, achieved in part by persuasion and in part by legislation, causes heartburning in some circles. As with all reform, it remains to be seen whether the objectives of the NSWLRC will be achieved. But the first step is implementation. And that is clearly now in prospect.

w a moves. As noted above, moves are proceeding in Western Australia in tandem with NSW. The first of two reports to be submitted by the Clarkson Committee on the future organisation of the legal profession of WA has now been delivered to the WA Attorney-General, Mr J M Berinson. The main recommendations are:

- continuation of the amalgamated profession but with a voluntary independent Bar;
- general supervision of the legal profession through a Legal Practice Board including five QCs dealing with admission to practice;
- the Law Society of WA to continue its present voluntary functions together with certain public functions relating to discipline;
- a Complaints Committee should be established, independent of the Law Society and the Legal Service Board. A Legal Practitioners' Disciplinary Tribunal is also to be appointed, together with a Law Complaints Officer responsible to the Complaints Committee but paid from public funds;
- a Legal Practice Institute is to be created to provide practical training for persons intending to practise as legal practitioners;
- compulsory professional indemnity insurance is to be introduced;
- existing methods for appointing QCs are to be maintained, viz on the recommendation of the Chief Justice.

A feature of the recommendations is the introduction of lay members to a number of the proposed bodies, although they will be in the minority. The Law Society of WA has welcomed a number of the recommendations including the introduction of the lay component into the complaint and discipline field. Some time ago the voluntary complaints committee system had lay members appointed to it. However, the Society has been critical of the complexity of a number of the proposals and is preparing a detailed submission. Meantime, in another legal move in the West, it has been announced that the WA Post-Secondary Education Commission has recommended that a course of Legal Studies be established at the Murdoch University, whose Chancellor is Sir Ronald Wilson, a justice of the High Court of Australia. There is speculation in the West that Murdoch may become a second law school for the State, if Mr Wran's warning at the start of the next item is deemed inappropriate on the other side of the Australian continent.

faultless compo scheme

Don't become lawyers. There are too many of them!
Premier N K Wran QC to students of Forbes High School outside the Banco Court, Sydney, *SMH*, 5 November 1983, 1.

n s w search. The search in New South Wales for an acceptable no-fault motor accident compensation scheme continues to attract a large measure of media and professional attention. Readers of *Reform* will recall the outline of the NSW scheme in [1983] *Reform* 105. In place of the present system of damages actions would be substituted a statutory no-fault scheme aimed to eliminate chance in the compensation of transport accident victims. But this reform would be bought at the price of abolishing damages actions and providing compensation often below present levels for a limited group of accident victims.