cludes that the argument that conveyancing costs in South Australia using land brokers are cheaper than in Victoria using solicitors cannot be sustained. The Report recommends that the existing monopoly of solicitors on conveyancing be maintained but that scale fees be abolished in certain cases. It will be interesting to compare these proposals with any proposals by the N.S.W.L.R.C. Inquiry into the Legal Profession.

Decline and fall of professions?

> "Being a hero is about the shortest-lived profession on earth.
>
> Will Rogers, *Roger's Thesaurus*, 1962

Recent weeks have seen the question asked whether the professions, like heroes, are on the way out.

Not so if the report of the English Royal Commission on Legal Services has its way. The main recommendations of the Royal Commission?

- *Solicitors/Barristers*: The two branches of the profession should remain separate with no partnerships between them or with other professions.
- *Advertising*: Solicitors should be permitted to advertise special skills and publish brochures.
- *Remuneration*: Calculation of fees should be made clearer to clients.
- *Conveyancing*: To be strengthened. Contracts for sale of land, presently uncontrolled, should form part of the monopoly on paid land conveyancing.
- *Advocacy in Higher Courts*: The barristers' monopoly to remain. In-house barristers not to be allowed to appear in court as advocates.
- *Professional Negligence*: Upper limits to liability to negligence by lawyers to be introduced.
- *Law Centres*: A system of citizens law centres should be established by government.
- *Legal Aid*: A higher threshold than at present and legal aid to be extended to tribunals and made a statutory right in higher criminal courts.

The report of the Royal Commission let loose a flood of anguished commentary. It was "the dog that didn't bark" according to Professor Michael Zander. Michael Beloff said it "lacks pulse and passion". "A damp squid" declared the *Daily Mail*. "Expensive and ineffective", "more pompous than ever" "what a waste" "an expensive Stg.1.25m flop".

The Guardian (4 October), more soberly describes the report as "a suspended sentence"

> "Any Royal Commission judged "magnificent" by the bodies which have been under scrutiny is in for a hard time. The lyrical reception by the legal profession's two main trade unions yesterday to the report of the Royal Commission on Legal Services will rightly raise public suspicions. Why such unqualified praise? Well look at the recommendations. ... By strengthening the solicitor's hold on conveyancing, the Commission has missed the best means of reducing charges ... South Australia, which has had licensed conveyancers for over one hundred years, has demonstrated how properly controlled house-sales specialists can bring down the costs of conveyancing without undue risks to the public.

Although The Thunderer was not yet back on the streets when the Royal Commission report was published, *The Economist* (6 October) did its best. Under a photograph of judges in ceremonial procession was the caption "Solidarity for ever". After dealing with individual points, *The Economist* then made a few general remarks:

> "How did the Commission go so wrong? It worked too closely with the lawyer's professional bodies. A major piece of research, that into solicitors' remuneration, was carried out jointly with the solicitors' organisation, the Law Society, which was thus able to influence the nature and scope of the questions asked. But the public at large was not taken into the Commission's confidence. Nor did other groups enjoy the privilege. The Commission issued no working papers or research reports ... Unfortunately, none of the few useful proposals made ... is examined in terms of costs and priorities. The proposals on legal aid beggar belief. The effect would be to direct massive sums of pub-

> lic money to help the well-off pay solicitors for work such as drafting wills or advising on tax. The inadequacy of the Commission's research, its failure to articulate principles and its heavy dependence on the professions for information means that its conclusions lack conviction. A valuable opportunity has been lost at a cost of Stg.1.m. The public has received poor value.

Meanwhile Australia's own inquiry into the legal profession, that by the N.S.W.L.R.C., has now elicited a submission of the Law Society of New South Wales representing 6,000 solicitors in that State. The Society criticises the discussion papers (reviewed in [1979] *Reform* 50). Recurring points:

- There has been no proof of any "widespread clamour" for change in discipline or government of the profession.
- The N.S.W.L.R.C. has pressed a particular line "rather than assuming the traditional objectivity and impartial role that is more in keeping with the functions of a Commission chaired by a Supreme Court Judge".
- The reforms proposed would cost more than $3.m a year to operate, according to management consultants engaged by the Law Society.

At the end of his term of office, Mr. Don Mackay listed reforms which the Law Society of New South Wales had introduced on its own initiative.

- A non lawyer has been appointed as a guardian to ensure that the Society deals properly with public complaints against solicitors.
- Non lawyers are about to be appointed to the Solicitors' Statutory Committee, a disciplinary body.
- Solicitors will soon be able to advertise fees for basic consultation, hours, qualifications and foreign language qualifications.
- Solicitors are now forbidden from borrowing from their clients.
- Solicitors are forbidden from drawing up wills (except for their immediate family) where they stand to gain financially.

Another innovation introduced in N.S.W. and the A.C.T. is a scheme by which people can secure a "legal checkup" for a nominal fee of $15. The aim of the scheme is said to be getting people with legal problems over the hurdle of fear of the imagined costs of going to see a lawyer. Victoria has a similar scheme.

Whether these innovations were stimulated by the N.S.W.L.R.C. Discussion Papers or not, it can be seen that there is an entirely different flavour in the debate in Australia from that evidenced in the newspaper comments on the English Royal Commission Report.

Some commentators see the newspaper criticisms as evidence of a wider malaise in the relationship between the professions and the community. Professor Ronald Sackville, Dean of Law at the University of New South Wales has published his views in a paper "The Professions under Scrutiny". In it he makes a number of comments on the regulation of doctors and lawyers. Professor Sackville's conclusion is that doctors and lawyers stand to lose the privilege of self regulation, less because they have deliberately misused it in the past but rather because of general pressures to render the professions more accountable to the public.

What are those pressures? Speaking to the same theme at a graduation ceremony in the Royal Melbourne Institute of Technology, the A.L.R.C. Chairman on 31 October 1979 listed the following factors

- increased access by ordinary citizens to the professions with a consequent decline in the "mystique"
- the proliferation of so called "professions" to include many new occupations
- the general growth in consumerism with demands for higher standards of service
- the growing role of government in funding professional incomes
- bad front page publicity in cases of misconduct

Mr. Justice Kirby said that professionals of the future would have a different relationship with society

> "The respect that was born of infrequent contact, unquestioning reliance and blind faith has gone forever. We should not lament the more realistic assessment of our foibles and judgment according to human standards".

On the question of the regulation of the professions, he called for "the right balance" between:

- the legitimate demand of the community for a voice in the expenditure of its wealth and
- the need to preserve independent professions that will encourage the old fashioned virtues of excellence, service and devotion to higher ideals.

Changes in South Australia

> "Politicians make strange bedfellows, but they all share the same bunk.
>
> Edgar Shoaff

The South Australian election which brought the administration of Dr. D.O. Tonkin to office was just in time for the last edition of *Reform*. We there noted the appointment of Mr. Trevor Griffin as State Attorney-General. A profile of Mr. Griffin in *The Advertiser* 27 September asserts that he comes to the Attorney General's job "very much as a lawyer, rather less as a politician". Presenting his commission to a full sitting of the Supreme Court of South Australia Mr Griffin said:

> "The principal responsibilities of my office are to ensure that the Rule of Law, as an essential element of our democracy, is upheld, that its administration facilitates that and that the review and development of our laws is continued responsibly and sensitively".

According to the article one of Mr Griffin's major interests is law reform. As previously noted before his election to Parliament, he was a member of the S.A. Law Reform Committee. A good many of his speeches in Parliament have dealt with law reform. The Attorney also stated:

> "Many reforms of the law have been in areas which can loosely be described as "lawyers law", away from the glamor of the public limelight. But I hold the view that often the quiet reform of lawyers law will have more significant consequences for the administration of justice than the more colourful reforms in the spotlight. The reforms of "lawyers law" are most important, and arise from the practical experience of the Bench and lawyers".

Interestingly enough, the first item in the Liberal Party policy on legal matters was the establishment of a permanent Law Reform Commission in South Australia.

> "There is a need for a permanent Law Reform Commission which will greatly facilitate law reform and the updating of our laws. South Australia is the only State without such a Commission. In recent years, with the growing complexity of our society and the volume and prolixity of legislation, this need has increased. Following the success of the Law Reform Committee ... when finances allow, we will set up a permanent Law Reform Commission with statutory authority and with adequate staffing".

In the policy, issued during the election campaign, the then Government was taken to task for having failed to implement a number of the recommendations of the S.A.L.R.C. Many of these were described as "non contentious". A commitment was made to effect reforms in a number of areas including occupiers liability, the law relating to investment of trust funds and the law relating to animals, upon all of which the S.A.L.R.C. had reported.

As further evidence of the growing utility of the A.L.R.C. to State Administrations, there are three areas in which the new government has entered a commitment to consider reports of the Australian Commission:

- *Privacy*: "We will consider the recommendations of the Australian Law Reform Commission on this matter when they are made".
- *Libel and Slander*: "We will take into account and be guided by the report of the A.L.R.C. We will co-operate with other states in producing uniform and reformed laws relating to defamation".
- *Compulsory Acquisition*: "We are alarmed that compulsory acquisition is being used almost as a method of government. ... We will take into account the report of the A.L.R.C. on Compulsory Acquisition when it is produced".