

program should automatically make title search enquiries, and rating and land information data base enquiries, automatically debit the client's account and bill when the level reaches a certain level.

- **Automatic communications:** Throughout the file the program should be able to generate the letters advising on the progress, requisitions and other routine matters.
- **Automatic calculations:** The program should be able to automatically calculate the necessary adjustments, balance purchase price, and

settlement figures.

- **Settlement appointments:** The computer programe should arrange settlement times for all parties when all parties have a similar system running which is openly accessible.
- **Settlements:** Presumably as an alternative to the above requirement, there should be a purely electronic settlement involving electronic funds transfer, payment of stamp duty, and alterations to the Titles Office data base.
- **Notification:** On confirmation of settlement either the

Titles Office or the solicitor's programe will automatically update the rating authorities records, notify the purchaser and generate a fee invoice, and update the firm's records.

It must be noted that the implications of such an integrated program for the future role of lawyers is said to be limited to the standard, the routine and the domestic type of conveyancing practices, where the new technology would allow the lawyer to compete with the alternative services now on offer.

- **Partner in the Melbourne firm of Darvall McCutcheon**

## COMPUTER EVIDENCE

• by Douglas Meagher QC

This paper dealt in part with the possibilities of litigation arising out of the use of expert systems. Much of his analysis was based on the MYCIN programme.

MYCIN is a computer program designed to provide advice comparable to that of a specialist, to aid doctors in the diagnosis and treatment of meningitis and bacteraemia infections.

These diseases develop during hospitalisation, require swift action, and may be fatal. MYCIN has been running in the United States for some twenty years. It has an error rate of about 37%, which is, however, a better average than specialists in the field.

The author predicted that it is only a matter of time before this system, or like systems, come before a

court through:

- a claim in negligence through a doctor's failure to use the program and correctly diagnose the disease;
- a claim in negligence where the program was used and a failure to diagnose or correctly prescribe occurred (sue doctor, who joins supplier of program, who

joins hospital as vicariously liable for staff negligently entering data etc); or

- the programme could be called as and 'expert witness', or more likely relied upon by an expert witness, in a trial, to show what the diagnosis should have been.

These possibilities raise many issues, and the paper examines some of them briefly.

There is a growing range of 'expert systems' available, including litigation evaluation, and the issue should be a live one.

The remainder of the paper concentrated on the admissibility of evidence generated by computer.

Computer printouts are strictly speaking not records of transactions, or even copies of records, but only information selected and extracted from the record, in accordance with the instructions given to the computer. Difficulties therefore arise in treating computer generated records as evidence in court.

In those States where authentication of documents is not mandatory and where "document" has been given an extended meaning to include disc or tape, computer evidence may be admitted under these provisions (to a lesser extent in criminal matters). Another solution has been specific legislation to allow for the admission of computer records. The

author examines these provisions in detail and finds their usefulness doubtful. He argues for basing admissibility on common law principles, which may be developed to accommodate further developments as they arise.

The author also outlines the areas in which the probative value of computer evidence may be attacked - data entry, hardware and software - and the relative difficulties associated with such attack. He concludes that the resulting cases on discovery will be long and arduous, and will require practitioners skilled in their understanding of computers both to adduce the evidence and to attack it.

## COMPUTER EVIDENCE-PRACTICAL SOLUTIONS TO A CONTEMPORARY PROBLEM

• by Ian Nosworthy

The two major objections to the admission of computer evidence have been the best evidence rule and the rule against hearsay. Ian Nosworthy examines these objections, and the various answers to them.

Correctly understood, he argues, the best evidence rule does not provide any

obstacle to the admission of computer generated information. However, in almost all cases the admission of computer output necessarily involves the making of an exception to the hearsay rule.

There have been two major approaches to the admissibility of computer

evidence: the 'computer specific' approach and the 'business records' approach whereby business records are an exception to the hearsay rule. The computer specific approach has been taken in Victoria, Queensland, A.C.T. and South Australian computer specific legislation. The business records exception