

## LEGISLATION AND REPORTS

The most important item of legislation, from insurers' point of view, promised by the government at the opening of the current parliamentary session, has only been unveiled since Easter. The Policyholders' Protection Bill has been launched into the House of Lords, partly because the Commons at this stage of the year is so preoccupied with the Finance Bill, but partly also, one suspects, because the Department of Trade reckons that if their Lordships maul the bill, governmental voting strength in the Commons may be able more easily to rectify the Lords' amendments; but whether the Bill will receive Royal Assent by July and what its precise provisions will be, must at present remain very open questions.

With hindsight, it is probably true to say that the insurance industry has only itself to blame for having to face, particularly, the imposition of a levy to ensure that the policyholders of a company that has failed (for whatever reason) will be paid at a higher level than that company's assets would otherwise permit. After the failure of the V & G, clearly it would have been possible for the companies to reach agreement with the then Department of Trade and Industry, to introduce stricter supervisory rules, to establish insurers' own guarantee fund and so on - and this to cover not only motor and general business but life assurance as well. But the industry has remained at sixes and sevens, so that no positive action has been taken - and even now there is clearly considerable indecision as to how Mr Peter Shore's Bill should be opposed. Unless insurers can close their ranks, and offer a clear, logical, practical alternative which at this late stage can command an adequate measure of parliamentary support, opposition is unlikely to be enough.

Of almost equal concern to the industry must be the outcome of the referendum on whether Britain should stay in the E.E.C. On this issue there can scarce be any dissenting voice in any section of the insurance market that the vote should be positively to stay in. But the result of the vote cannot be taken to be a foregone conclusion - it will be for everyone of us to make certain that the ayes have it on the 5th June.

Many members of this association must be part time journalists, occasional or more regular contributors to national, local or technical press on insurance and/or legal issues. So the dispute that has been going on for much of this year between Government, the newspaper proprietors and the journalists' union, over the Trade Union and Labour Relations (Amendment) Bill, is of direct interest to all specialist freelancers; and the freedom of the insurance industry to put its views firsthand through its own members can be now in issue. Lest you think that this is an unnecessary editorial cry of "wolf" -

can I mention that earlier this year staff on my local paper were refusing to print reports submitted by secretaries of local clubs, not because they objected to the content but, simply because these secretaries were not members of the N.U.J.

Though relatively few insurance men are ever concerned with the writing of defamation cover or the handling of claims for libel or slander, most members of this association will have more than a passing interest in the report of the Faulks Committee on the law of libel and will perhaps support the recommendations that the parties should no longer be able to insist on trial by jury, and that where juries are appointed, their task should be limited to stating the range of damages, while the fixing of the precise amount should be left to the judge.

Legislation affecting the daily transaction of insurance continues to come thick and fast. The Rehabilitation of Offenders Act will be operative in the summer, whereafter insurers will not be entitled to have answered questions on "spent" convictions or ancillary matters: motor and fidelity insurers must have the greatest concern at this change which gives the sometime convicted citizen the legal right to lie about the truth. But this kind of law must inevitably have Gilbertian consequences: if as a motor insurer I ask a proposer "Have you ever had any motor accidents?", he does not have to tell me about the one where he caused a £50,000 injury claims and for which he was convicted for dangerous driving, once that conviction is "spent", but he does have to tell me about the trivial bumper to bumper traffic accidents he has had which did not involve him in prosecution or conviction!

Likely to receive Royal Assent this summer is the government's Sex Discrimination Bill, drafted to give effect to the recommendations contained in last year's White Paper "Equality for Women". Clause 40 of the bill as introduced, permits discrimination "in relation to an annuity, life assurance policy, accident insurance policy or similar matter involving assessment of risk" where that discrimination has stemmed from "actuarial or other data from a source on which it was reasonable to rely". Purists may feel that because of the ejusdem generis rule the categories of cover so exempted need to be spelled out more precisely, since this bill imposes penalties for non-compliance.

Of considerable importance to motor and liability insurers is the Limitation Bill introduced in the House of Lords in March with the object of giving effect to the 20th report of the Law Reform Committee - "Limitation of Actions in Personal Injury Claims" published in 1974. The bill is a further legislative attempt to tackle

the problem of hidden injury and disease, by defining afresh the date of knowledge test and by conferring a discretion on the court to extend the time if it appears equitable.

When the Law Commission published its 58th Working Paper containing provisional proposals for the reform and codification of the law on breach of confidence, comments were invited by the end of April: a definitive report must be expected by the year end. The Law Commission's work was provoked by the report of the Younger Committee, published in 1972: that committee decided against recommending the establishment of any new law to give a general right of privacy, but thought that the Law Commission should examine our law on breach of confidence and proposed that a new civil action should be established to allow the individual harmed by disclosure of information obtained illegally, to obtain damages. In its Working Paper the Commission proposed the abrogation of the existing common law rules on breach of confidence and their replacement by three categories of statutory duty entitling the aggrieved citizen to sue for breach of confidence. The first category deals with commercial transactions, the other with the harm the individual may suffer: category two would give a right of action for pecuniary loss, category three would give a right of action for distress. If these new statutory duties are eventually established, both the definitions in and the scope of many public liability policies will need reappraisal.

At the beginning of February the Insurance Companies (Valuation of Assets) Regulations (S.I 1974 No.2233) made under s.78 of the Insurance Companies Act 1974, came into operation, and apply to the accounts produced by the companies this year. Nine categories of assets have been identified, including quoted shares and unquoted investments, investments independent companies, land and buildings, debts due and contractual rights, and equipment: for these categories the regulations prescribe in detail the methods by which the valuation of each category of asset is to be undertaken. These regulations were produced after long discussions with the company market, and the resulting standardisation must ease the D.o.T.'s supervisory problems. However assets are only one side of the coin, and parallel regulations dealing with the valuation of liabilities must surely be promulgated soon.

#### LEGAL EXPENSES INSURANCE

By the time this "Bulletin" is issued, B.I.L.A. members will have heard the thoughts of Maurice Bathurst Q.C. on legal expenses insurance - and we hope to include his paper in the next edition. Meantime we should record that a major step in this field has been taken by Phoenix Assurance in collaboration with Munich based Deutsche Automobile Schutz, which writes some £40 million legal expenses cover