

There are only two other major categories of unsecured creditor which an insurance enterprise is likely to have - its employees and the taxman. A preference for policyholders is likely to prejudice these two. Since prejudice to the employees would be a political stumbling block, the Commission has, in article 18.1, included employees among those who have a claim on the earmarked technical reserve fund. This is at variance with the basic concept of the directive and still further reduces the likely usefulness of trying to divide the assets into two funds.

Article 18 contains the order of preference applicable to the distribution of the earmarked fund and it creates a major difficulty. Claims on direct insurance contracts are given preference over claims on reinsurance contracts. Thus if an enterprise writes a book comprising half direct insurance and half reinsurance, its direct customers are very well off because they have a preferential claim over the reserves relating to the reinsurance business, which cushions any shortfall in the reserves generally. The reinsurance customers, on the other hand, are prejudiced by being left with the crumbs which fall from the direct customers' table. Therefore a ceding insurer is well advised to deal with a pure reinsurer in preference to an enterprise writing a mixture of business, while the direct customer should prefer the mixture to an insurer who does direct business only. It is not the function of winding-up rules to introduce this sort of distortion into the market. Article 18 as drafted is unacceptable.

The directive has not been introduced to meet any identified need; the Commission has not referred to any cases in which policyholders of a failed insurer suffered injustice because of the large share of the assets taken by other categories of creditor. It is a deeply flawed proposal which must be drastically amended if it is to be adopted at all. No tears will be shed if it is abandoned.

## **HONORARY SECRETARY'S REPORT 87/88**

This has been my first year as Honorary Secretary of the Association and I have been somewhat awed by the excellence with which Ken Davidson and his secretary Jean Gerrish did the job before me. I have quickly discovered that the position of Honorary Secretary is very rewarding and enjoyable, but one which is burdened with a great deal of administrative routine. It was clear that a change of Secretary was the right time to reappraise how this routine was handled and your Committee decided to employ part-time help in the form of Kathy Maclaren (née Dixson), who not only copes with all the routine (thus avoiding the occasional panic) on the secretarial side, but has also been able to take a lot of the day-to-day work from the Treasurer.

Obviously this sort of help costs money and that is the main reason for the

recommended increase in the subscriptions for the coming year. However your Committee is confident that this level of subscription can be maintained for several years, and that good secretarial services can be provided out of it.

The Association has, in the last year, welcomed 41 individual and 11 firms and companies as new members.

Under Derek Cole and his Editorial Committee the new look journal has rapidly assumed an important place in insurance legal writing and its circulation has increased by rather more than the membership. Anybody who has seen a copy must be impressed by the professionalism with which it is produced, and the quality of the contributions.

The lunch-time speakers continue to be an important part of our programme and in the past year have attracted rather more interest than previously. This is almost certainly due to the Committee's deliberate efforts to increase awareness of the functions, and in the next season the buffet lunches will provide additional reasons for attending.

There has been a lot of criticism of the venues for the chairman's and president's lunches every year and your Committee is at the moment actively trying to find other venues within the City of London with better facilities.

The Association is now getting ready for the next AIDA conference in Copenhagen in 1990 and we have been asked to participate in two working parties on the themes, which deal with insurance company regulation, and the insurance industry's response to international disasters. Anybody who would like to volunteer for one of these working parties should get in touch with me.

Once again the Association has been very actively involved in the insurance market and it is gratifying to see how often we are now consulted by a very wide range of bodies both in the law and in insurance.

R.H.-J.