

LUNCHTIME MEETING ON 4TH MAY 1990
THE DEFENSE RESEARCH INSTITUTE
Archie S. Robinson, Attorney,
Robinson & Wood, Inc.

The Defense Research Institute (DRI) is a professional society for lawyers who defend in civil litigation. Lawyers in the United States tend to be more specialized than is perhaps true in Great Britain. As under the British system, the distinction between those lawyers who try cases and the many who do not is a very real one in the U. S. But the distinction rests more on practical considerations rather than a formal dichotomy in the profession. A real division in the bar exists, however, between lawyers who represent plaintiffs on the one hand and lawyers who represent defendants on the other. This division is especially pronounced in the major metropolitan centers of our country, but even in the smaller communities there is still a tendency to find either a defense lawyer who does a little plaintiff's work or a plaintiff's lawyer who has a defense case now and again.

Historically, members of the DRI were known as the insurance defense bar. That identity, of course, was more accurate in the happier days of yore when everyone had insurance and the insureds had little interest in becoming involved in the resolution of claims made against them. Increasingly, DRI members are retained not by insurers to represent insureds but instead by defendants who either have no insurance coverage or have such large retentions that they must and likely wish to manage the claims and litigation themselves.

DRI now has over seventeen thousand members. The statistically average DRI member practices in a firm of ten to twenty lawyers and spends the vast majority of his or her time in litigation. There are, of course, many members whose work settings depart markedly from this "average." We have members who are sole practitioners; we also have members who hail from firms of several hundred lawyers. Some member firms are almost exclusively litigation oriented, while for others litigation is only a small part of the total work of the firm.

Although a distinct minority, some of our members are involved with other aspects of the litigation process than defending claims. Typically, these members are concerned with insurance coverage questions, subrogation claims for insurers, or workers' compensation matters (i.e., employment related injuries).

As an organization DRI's primary role is to support the efforts of the defense bar. We approach this in a number of ways. We are seen by many of our members as virtually

an educational institution. We do substantial continuing legal education programming, including seminars dealing with insurance related topics, such as insurance coverage, with issues of substantive law, such as medical malpractice or products liability, and with trial techniques. We publish a monthly magazine and a number of monographs and other special publications. We also maintain two special data collections. One is a collection of briefs on a variety of topics and the other is an expert witness index.

In the last few years, DRI has come to realize that support for the entire defense bar involves more than just our traditional activities. Together with the International Association of Defense Counsel, the Federation of Insurance and Corporation Counsel, and the Association of Defense Trial Attorneys, the DRI formed a coalition with a number of major corporations called Lawyers for Civil Justice. Its objective is to support tort reform legislation at the State level.

Traditionally, DRI has been very active in encouraging the founding and growth of defense lawyer associations at the State level. Our theory is that these State groups can be instrumental in bringing about legislative reform. DRI has also taken steps to improve the public relations image of the defense lawyer and the defense effort in general. We have spent and expect to continue to spend substantial sums of money in this area.

Finally, DRI has embarked on two special projects this year which may well extend beyond my term in office. The first is to address what has been perceived as a deterioration in the relations between the defense bar and the insurance industry. An irritating interface has developed between the two groups, caused largely, we believe, by increasing public pressure for reduced insurance premiums in the face of escalating costs of defense. DRI is anxious to promote dialogue and consideration of possible solutions with CEO's of two dozen or so of the leading insurance companies. A roundtable discussion is being scheduled for San Francisco, California in early November of this year.

The second special project seeks to determine how the defense bar can be of assistance in getting more civil cases to trial, especially in the federal courts. This complex problem has many facets which are beyond the control of lawyers – including governmental finances, high criminal case loads in metropolitan areas, etc. – but it is hoped that the defense bar has the capability to recommend improvements in the administration of justice. We intend to convene a Judicial Roundtable later in the year to address this issue.

DRI is firmly committed to the jury trial system and to the defense lawyers' role

therein. DRI, therefore, continues to work hard to identify how the existing tort system can be improved and to implement necessary changes. The stakes are too high to do otherwise.

BOOK REVIEWS

1. "Marine War Risks"

By Michael D Miller

(Lloyd's of London Press, £75).

In this book, the first work devoted entirely to war risks insurance, Michael Miller draws on his long experience in the mutual insurance field to tackle a complex subject from the legal practitioner's point of view.

The book opens with a brief history of the war risks policy. There follows an analysis of marine war risks by reference to the specified perils in the policy, for example, "war", "civil war", "revolution", "insurrection", and the like, each of which are discussed in their own chapter with the author's conclusions. Insurance on "freight" receives a separate discussion, though there is no separate treatment of the war risk problems associated with cargo, and the book is addressed more to the shipowner, and his advisers, rather than to the cargo owner or underwriter.

There are chapters on "sue and labour" and "held covered". These deal with the more recent authorities, and concentrate on the points of law that frequently arise in practice.

The author commends the mutual insurance Clubs for dealing with claims in the light of their "practical shipowning expertise and knowledge", which is contrasted with a legal approach based on, "fixed and sometimes over-rigid principles of the law . . . drawn from precedent". The illustrations of the Clubs' approach which follow, though interesting, do not fit very happily into what is seen to be intended primarily as a guide to a complex *legal* subject.

The Appendices do not include a MAR form (the standard marine policy *form*) and refer rather confusingly to the Institute Time Clauses - Hulls (the standard hull *clauses*) as, "The Marine Policy Form". This is not a mere pedantic objection, but illustrates the point that Mr. Miller draws on the strength of his own background experience, rather than always approaching his subject from a wider academic viewpoint.

This work falls into the category of practical advisers' legal guide. Seen in this light,