

## THE PRESIDENT'S LUNCHEON 1984

This traditional event was held, as usual, in the Elizabethan Suite of Barrington House, Gresham Street, London, EC2 on 13th December 1984. Welcoming the distinguished guests, Sir Denis Marshall, the President, noted that the British Insurance Law Association had two unusual features. Firstly, its members were drawn from a variety of disciplines within the field of Law and Insurance and, secondly, its officials (notably the Secretary and Treasurer) worked on a voluntary basis. He suggested that because of the cross-fertilisation between Insurance and the Law, the Association could perhaps make a more positive contribution with regard to new legislation.

Introducing the speaker, the President said that Sir David Napley had been a personal friend for many years and that they had both served on the Council of the Law Society for 22 years. Although a practising solicitor, Sir David was a master in the technique of persuasion.

Sir David held his audience with an address which combined much wit with some thought-provoking comments about various aspects of current legal developments.

Even badgers found a niche when Sir David referred to a retort by Lord Arran who, when once asked why a Bill to liberalise homosexuality should attract a much larger parliamentary audience than one to protect badgers, said that there were not so many badgers!

On the question of the measure of damages Sir David, in pointing out that in personal injury cases our judiciary had held matters within very reasonable bounds, said that this far-sighted approach had contributed in no small way to the control of inflation. Compensation paid invariably alleviated the victim's situation, but in any event the fact remained that no level of damages can effectively make up for the often

considerable pain and suffering which is experienced after an accident. Looking at the USA, Sir David pointed out that one consequence of the massive awards of compensatory and punitive damages over there was that it was now often quite difficult to obtain medical malpractice insurance.

Sir David then went on to examine the merits or otherwise of the jury system, especially in cases of fraud. In an atmosphere conditioned these days by pressure advertising, he said it was easy to confuse the question: "Is it a good thing?" with: "Why have it at all?" Many a tyrant has in the past done away with juries and a Home Office Review Committee is currently considering revision of our jury system in criminal cases.

A jury must, added Sir David, be given a starting point. Quite obviously a judge must continue to be denied access to the jury room, but nevertheless it continues in every jury trial to remain a complete mystery as to how the jury actually worked and reached its decision. Were jurors confused? Were certain jurors influenced by their fellow jurors? How far should a judge analyse the situation and give the jury precise directions as to essentials? At all events, Sir David emphasised, a jury must have a starting point from which to proceed in their consideration of the case.

(Andrew McCrindell)