

## First step in Insurance Inquiry

"And down in fathoms many went the captain and the crew;  
Down went the owners - greedy men whom hope of gain allured:  
Oh, dry the starting tear, for they were heavily insured".  
*W.S. Gilbert, 1877*

Reform of law governing insurance contracts is in the air. One of the Australian developments that most interested overseas participants at the Law Reform meeting in London was the Woodhouse report for a scheme of national compensation. New Zealand has now a new *Insurance Law Reform Act 1977* which secured the Royal Assent on 29 July 1977. It deals with :

- \* Mis-statements.
- \* Incorrectness and materiality.
- \* Arbitration clauses not binding.
- \* Time limits on claims.
- \* Salesmen to be agents of insurer.
- \* Certain exclusions are forbidden.

Meanwhile, in Australia, the A.L.R.C. has produced its first paper on the important reference it has to review insurance contract law. A.L.R.C. issues paper No. 2 *Insurance Contract* (June 1977).

After dealing with the scope of the insurance power under the Australian Constitution and the present federal and State legislation in Australia, the *Issues Paper* refers to a number of cases as demonstrating a need for reform. These include *Zeil Nominees* (1976) 50 A.L.J.R. 106, *Babatsikos* [1970] V.R. 297 and *Huddleston* [1975] V.R. 683. The *Issues Paper* draws frequently on the report of the N.Z. Contracts and Commercial L.R.C. of 1975.

Specific issues touched on in the *Issues Paper* are :

- \* Insurable interests.
- \* Uberrima fides.
- \* Warranties and conditions.
- \* Agency and brokers.
- \* Control of the terms of insurance contracts.

The paper includes reference to the administrative control in operation in Germany and New York, general legislative control as under the Michigan *Insurance Code* and judicial control. The *Issues Paper* has been widely distributed to interested bodies, particularly throughout the insurance industry and comments are now being sifted. With the help of consultant, Mr. F.E. Letcher, a former insurance manager, the Commission is also scrutinising the enormous range of general insurance contracts in operation throughout Australia. The Commissioner in charge of the reference, Mr. David Kelly, says that a *working paper* on the reference can be expected before the end of 1977.

## Privacy across the border

"I ... think foul scorn that ... any prince of Europe should  
dare to invade the borders of my realm".

*Queen Elizabeth I, Speech at Tilbury*

Computers are now linked internationally. The business section of *The Economist* (20 August 1977) asserts that "computers gossip gaily to their foreign friends". Overseas contact with computers in Australia is specifically referred to. One source of concern is the difficulty of exerting Customs and other government controls. A further problem is the international diminution in individual privacy which can arise if personal information is not only accessible within a State or even within this country but is available to any newcomer, even those overseas.

"An individual can key into data communications networks and transmit the contents of datafile discs without anybody being any the wiser about what he has done".