

editorial

Lawyers—and their Clients—under Threat

The oral hearing in the *AM & S Europe Ltd* case before the European Court of Justice in November has further underlined the moves by the Commission to resist, in practice, claims that documents are protected by legal professional privilege (see *BLR*, December 1980, p 362). The European Court has made it clear that the question of the existence and extent of a doctrine of legal professional privilege in EEC law is of major relevance to the case but the Commission seems to have rather avoided expressing any view on this question in the course of the oral hearing.

Another disturbing development is the concerted attacks in Parliament by opposition members on Mr Peter Rees QC, Minister of State at the Treasury. In essence they are questioning the propriety of Mr Rees holding a Treasury ministerial appointment after having given in the course of his practice at the Bar professional advice to the Rossminster tax planning group and its clients. Since Mr Rees is the Government's acknowledged technical expert in taxation matters it is not surprising that his advice was in demand while he was in practice prior to his ministerial appointment. Applying his logic, no barrister who has acted for a client against the Government would be eligible for appointment as Attorney General and many other possible disqualifications spring readily to mind. Since many practitioners at the Bar harbour political ambitions they would have to become rather selective in their choice of clients. Might not the Bar code of conduct need to be amended to allow an exception to the normal "cab rank" rule on acceptance of briefs where a barrister's legitimate political aspirations would be placed at risk? Other professions too might need to consider the implications also – for instance accountants might need to be careful over the companies they audit in case the client company might be engaged in

a business not considered to be socially acceptable.

While business lawyers understandably do not have the time to dwell overmuch on overtly "human rights" questions, it is to be hoped they will recognise these threats to their independence and their clients' interests and play their part in opposing these moves.

And Now We Are Ten

In this first issue of 1981 it is cheering to be able to refer, in the context of an otherwise gloomy world situation, to a positive development in international trading relations: the accession on January 1 of Greece to the European Communities. The realisation by the Government of Greece of the interdependence of European countries is underlined by the following statement by the Bank of Greece: "Once we are in the Community, economic decisions which have a direct bearing on Greece's development drive will no longer be taken over our heads; henceforth we shall be actively involved in the decision-making process as full and equal members." It is no secret, however, that there is opposition within Greece to full membership of the Community. Certainly if Mr Papan-dreou and his "Pasok" party are elected to power in Greece he will press for a referendum to sanction withdrawal. His views are also shared in the UK by a conference decision of the Labour party (though the referendum element would probably be dispensed with here).

The newly constituted Commission under the Presidency of M Gaston Thorn and including its first Greek member, Mr George Kontogeorgis, looks likely to face a challenging term of office. Under the Presidency of Mr Jenkins the Community has increasingly become a forum for political as well as trading co-operation among the European powers. It is perhaps in this context that the accession of Greece, and in due course Spain and Portugal, will have its greatest significance.