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A HISTORY OF BRITISH INSURANCE

A HISTORY
OF
BRITISH INSURANCE

BY

HAROLD E. RAYNES

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PREFACE

No comprehensive history of British commercial insurance has previously been written. There is the fine "*History of Lloyd's*," by Wright and Fayle; there are the investigations of Frederick Hendriks in the early volumes of the "*Journal of the Institute of Actuaries*" and there is Cornelius Walford's uncompleted work in his "*Cyclopedia of Insurance*" compiled in the seventies of the last century. The last is rather material for history than a history itself. Both for the student of insurance and for the historian of commerce a work of the present character has become essential, and is perhaps best written by one who has spent some forty years in the industry.

In the present work no attempt has been made to include the history of social insurance or, what may be regarded as related thereto, industrial life assurance. When, however, as not infrequently occurs, some knowledge of the commercial and industrial background is required in order to understand insurance developments, that background has been given in brief outline.

Most of the investigations for the present work have been made during the period of the war when much material had been removed from London. The author has, however, been greatly assisted by Officials of the Record Office and of the Corporation of London and others, who have made extracts of documents not readily available. Inevitably there must be some errors of fact where data have been collected from so wide an area. The author will be deeply obliged if readers who notice errors will kindly communicate them to him, so that corrections may be made in any future edition.

H. E. R.

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CHAPTER I

ORIGIN OF MARINE INSURANCE IN ITALY

FOURTEENTH-CENTURY renaissance in Northern Italy—Florentine commercial families—Their collection of papal taxes and remitting to Rome—Their export of wool from England—Relationship with English kings—Florentine partnerships—Commercial practices—Bills of exchange—The *commenda* and other forms of partnerships in commercial ventures—The treatment of the element of risk—Loans on bottomry—Earliest records of premium insurance—Contracts made in fairs in Champagne—Earliest policy in form of fictitious loan—Pegolotti's fourteenth-century work on commercial practices including insurance—Insurance a common practice among merchants at the end of the fourteenth century—Spread of practice to Barcelona—Ordinances of Barcelona, 1435—Insurance in Bruges at the end of the fourteenth century—Cases in the Courts in the fifteenth century—Insurance ordinances in Florence, 1523—Form of policy given in ordinances—Fall of Florentine republic, 1529—Effect of discovery of new world—Maritime insurance ordinances of Spain—Insurance usages at Antwerp and London

THE fourteenth century was one of amazing vitality among the cities of Northern Italy. This early stage of the Italian Renaissance showed itself alike in politics, art, literature, and commerce. A system of capitalism arose and commercial families grew to great wealth, gaining a predominance not only in their own cities, but by representatives of their houses in many of the commercial centres of Europe. Freeing themselves from the necessity of personal military service, which they passed on to specialists (the *condottiere*), Italian city magnates were able to devote themselves to the more civilized functions of art, literature, and commerce.

Some outstanding Florentine families made history in their commercial practices during the fourteenth century: their records have provided the earliest examples of the bill of exchange,[1] and the evidence that insurance, both marine and of the transit of goods by land,[2] was practised from the beginning of the fourteenth century. Originally confined to the members of a family, partnerships tended to embrace business connections outside, but control rested with the dominant family which founded the *societas*. Such was, for example, the house of Peruzzi. About the year 1300 more than half the capital belonged to the Peruzzi family, but some sixteen other families were interested. There were five or six directors, and the firm was represented in Naples, Bruges, London, Cyprus, Rhodes, and Tunis.[3] One of the Frescobaldi, a similar

[1] Edward Jenks, "The Early History of Negotiable Instruments," *Law Quarterly Review*, 1893, Vol. IX, pp. 70–85.

[2] W. R. Vance, "Early History of Insurance Law" in *Select Essays on Anglo-American Legal History* (C.U.P.), and E. Bensa, *Il Contratto di Assicurazione*, p. 20.

[3] Clapham, *Cambridge Medieval History*, Vol. VI, Chap. XIV.

family business, was a member of the council of Edward II. Another great family business house, perhaps the originators of marine insurance, was that of Bardi, whose London representative financed Edward III.

That the Italian cities became predominant in commerce in the Middle Ages was not unnatural. Rome was the centre of Christendom and drew taxes from every part of Western Europe. External taxation could be paid only in goods and the Italian cities, therefore, became centres of trade in which wealth accumulated and the citizens became expert in all the machinery of commerce and financial transactions. The great houses of the Frescobaldi, the Peruzzi, and the Bardi through their agents virtually collected and remitted the taxes to Italy. From England the export to Italy was in wool to be made up into cloth of the finest sort in Florence. While taxation originated, and perhaps stimulated, the flow in the direction of Italy, it gave the opportunity to the Italian merchants through their representatives to secure additional trade by financing the monarchs of the countries in which they operated.

In England Florentine merchants were not confined to London. They bought wool at Stamford and shipped it at Boston or Lynn. Northampton also was a source of supply. They traded with many monasteries throughout the country. A contemporary, Francesco Balducci Pegolotti in his book "*La Pratica della Mercatura*" gave a list of the monasteries in England from which wool might be bought in the fourteenth century and against each the quality of the wool.[1] Although the Jews who came over in the time of William I forestalled them, the Lombards from the thirteenth century shared with them all financial transactions and exchange in the City of London; and when Edward I expelled the Jews in 1290 the Lombards were left in possession of the field and held for about half a century a monopoly in finance. Coming first as Italian papal tax-gatherers the Lombards and other Italian agents educated the English merchants in commercial practice and made London one with the chief European centres of trade, where the body of rules known as the Law Merchant prevailed. The time was suitable and indeed ripe for the commercial education of London merchants. The wars with the French in the reign of Edward III resulted in the bringing of much booty to England and city trade so prospered that merchants grew rich and the way was paved for them to take over when the Lombards in their turn left. This happened partly as the result of the failure of the House of Bardi through Edward's default to them on the loans made him by their London representative.

[1] W. Cunningham, *Growth of English Industry and Commerce*, Part I, p. 628, 5th Edition, 1927.

As the medieval source of much of modern commercial practice the Italian business house or *societas* is deserving of some close study. It was not originally a joint-stock concern but a rather wide partnership based on the family of the founder or founders, a continuing association of equal partners each responsible for the partnership contracts. Besides the word *societas* the word *compagnia* was used and, in formulae of partnership, phrases such as "men who eat our bread" (com-panis) were found.[1] A firm was known separately from its partners—the first principal name being given and the other partners covered under the words "et socii." A register of partners was kept and the withdrawal of a partner had to be carried out *per instrumentum publicum*. According to a Florentine guild statute of 1301: "If any one practising . . . or having a share in any societas of the craft has renounced or shall renounce it in future, each renunciation shall not be valid nor be admitted by the consuls unless he shall show that he withdrew from that firm by means of a public document and the consuls shall have that document published throughout the whole craft."[2] Representatives of these houses attended the fairs of Western Europe to trade both in merchandise and in money. From the second half of the twelfth century the Champagne fairs became predominant and were the meeting-place of merchants from both the Mediterranean and the northern cities. Debts were settled there and gave the opportunity for profit in exchange of innumerable currencies by the money changers. Of these fairs there were six in the Champagne, each running for six weeks without overlap, and many documents have been preserved of contracts under which European rulers and ecclesiastical dignitaries agreed to repay loans to Italian lenders at one or other of the Fairs.[3] Among these Italian firms bills of exchange came into use early in the fourteenth century; they were indeed about coeval with the introduction of marine insurance. The earliest bill of exchange which has been preserved is one dated 5th October, 1339, drawn by Barna of Lucca on Bartalo Casini and Company of Pisa, payable to Landuccio Busdraghi and Company of Lucca in favour of Tancredi Bonagainla and Company. Another one dated 18th May, 1404, is also in Italian, although none of the parties is Italian. It was drawn at Barcelona.[4] The language points to the Italian origin of these instruments. The earliest marine insurance policies recorded in London were also in Italian. The Italian bill commenced "al nome di Dio amen"; the phrase "In the name of God, amen"

[1] W. J. Ashley, *Economic History and Theory*, 1912, Part II, p. 415.
[2] Mitchell, *Early History of Law Merchant*, p. 131.
[3] Clapham, *Cambridge Medieval History*, Vol. VI, p. 486.
[4] Edward Jenks, "The Early History of Negotiable Instruments," *Law Quarterly Review*, 1893.

has not long been omitted from Lloyd's policy. The elaborate and widespread organization of such a house as Bardi was used by more than one crowned head in Europe as banker and a source of loans. The fact that they had great funds in Italy permitted their agents to receive money in a European city, use it locally for loans, and pay at direction in Rome. In 1317 the papal collector of taxes in Hungary, fearing the perils of the sea, obtained exchange from the house of Bardi ("timens maris pericula fecit cambium cum societatis Bardorum") who undertook to pay at Rome in Florentine money that they had received in a number of currencies.[1] Bills of exchange were known as *lettere di pagamenti*. They differed from modern bills in that a fourth name appeared, that of the presenter or recipient on behalf of the payee. On bills that have come down to us the name of the drawee is endorsed.[2]

Another form of partnership, besides that of the family business house, developed in medieval commerce, a form of partnership known as the *commenda*. It was a temporary partnership in which one of the parties provided the capital and shared in the risks and the profits. It was not a loan at interest; had it been such it would have transgressed the canons against usury. Where risk and profit were shared there was no objection to transactions of this nature, and the records of the early Italian cities have produced scores of such agreements relating principally to overseas trading. In the essay on "*Law Merchant*" by W. Mitchell (C.U.P., 1904) an example is given of one made in March, 1155.

> "I Petrus de Tolosi admit to have received from you Otto Bonum pounds [? of silver] one hundred and twenty-seven which I am to take for trading to Salerno or from here to Sicily, and as to the profit which the Lord will give, I am to have one quarter and on return I am to remit to your order."
>
> (Ego Petrus de Tolosi profiteor me accipisse a te Ottone Bono libras centum viginti septem quas debeo portare laboratum Salernum vel ex hinc apud Siciliam et de proficuo quod ibi Deus dederit debeo habere quartum et reditum debeo mittere in tua potestate.)

In the early stages there was for overseas trading a partnership for a particular voyage. Instead of a merchant himself travelling with his goods by sea and disposing of them at various ports, he would commit them to an agent for the purpose. The agent or *tractator* received as his reward a one-fourth share of the profit and the merchant who had ventured his goods received the balance. The agent or tractator was not necessarily in command of the ship,

[1] Clapham, above, p. 487.
[2] Jenks, above.

and he might act at the same time for a number of merchants who subscribed either capital or goods. It is easy to see how this form of trading facilitated the introduction of marine insurance. If this *societas maris* was not actually the origin of marine insurance, the existence of such partnerships must have encouraged it. With the growth of wealth and the emergence of funds held in trust for wards, the commenda offered a form of investment. Pope Innocent III, in 1206, recommended to the Archbishop of Genoa that in cases of dowry the capital should be committed to some merchant so that an income might be derived "by means of honest gain."[1] In such cases it was natural that as much as possible of the element of risk should be removed. Trading, however, whether by land or sea was fraught with great dangers during the Middle Ages, and the merchant, whether he acted for himself or for a ward whose money was committed to him, ran a serious risk of losing all he had ventured, as the tractator took no responsibility other than that of good faith. In many of the old contracts we find words expressly excluding the responsibility of the tractator "ad risicum et fortunam Dei maris et gentium."[2] The principle was set out in the twelfth century: "If it happen that a man entrust to another man his property to carry over sea for gain—'en aventure de mer et des gens'—and pirates happen to fall in with them and carry off all that he is carrying, or the weather is bad and wrecks the vessel and all is lost, reason commands that he is quit in all and he needs make no amends."[3] According to Pegolotti ("*Pratica della Mercatura*," 1335–1343), Florentine bills on England contained one or other of the phrases "rendu sauf en terre" or "en aventure de mer et des gens"[4] and the banker's commission differed according to the phrase used. The excess charge made when "sauf en terre" was inserted instead of the second phrase "en aventure de mer et des gens" represented in effect premium for insurance.

The loan on bottomry went some way towards providing a sharing in the risk of trading by sea. It was a transaction well known to the ancient world and consisted of an advance upon a ship for the period of the voyage. If the ship came safely to port the loan was repaid with a premium of an amount commensurate with the risk, but if the ship should be lost or miscarry the borrower was to be free from the onus of making any payment either of capital or interest. The wording of the ancient form of a contract of this

[1] Ashley, above, p. 419.
[2] W. Mitchell, *The Law Merchant:* see Chap. on Early Forms of Partnership (C.U.P., 1904).
[3] *Ibid.*, p. 142.
[4] E. Bensa, *Il Contratto di Assicurazione*, p. 9 (French translation by Jules Valéry 1897).

nature was compared with that used in the nineteenth century, as set out in McCulloch's "*Dictionary of Commerce*" by the late Frederick Hendriks, showing that essentially it had been unchanged during the period of over 2000 years.[1]

The bottomry loan was revived by the medieval Mediterranean traders. It was generally held not to infringe the doctrine against usury, since no profit or interest was payable without the concurrence of risk. If the trading venture failed, there was no payment; if the venture was successful, then the lender was entitled to reward in virtue of the risk he had run. Such loans seem to have been revived in Italy from the beginning of the thirteenth century and the custom followed the route of commerce to the Northern European ports.[2] While the loan on bottomry was a suitable investment for the wealthy Florentine merchant who could average his ventures, it was not so suitable for a trust fund held on behalf of a ward. The next step of separating the risk of loss of ship and goods from that of the loan probably took place about the end of the thirteenth century.

The books of the Florentine house of Francesco del Bene & Co. of the early fourteenth century have been preserved. In them there are accounts of sums it paid to the firm of Bardi for insurance—the house of Bardi apparently acting as forwarding agents; and there is extant a receipt of the year 1329 acknowledging payment of 272 golden florins "in pagamento de risico et securitate facta de dictum dominum Gasfatem supradicto Nicolao Guicciardini pro supradictis mercantiis." The documents show that the freight and insurance were arranged simultaneously with the owner of the ship.[3] The shippers, and possibly the house of Bardi, were the first underwriters of insurance risks. Some of these early entries of insurance relate to risks of export of cloth over land. One such, quoted by Vance from Bensa's book, may be translated as follows—

> (To) Messrs. Lapo e Dosso de' Bardi and Company (we) owe from 19th April, 1319, for risk of cloth sent here arranged at the market of "Proino Santaiuolo" in 1318 and brought from Flanders via Brabant, Champagne, and France to Florence at their entire risk for the cost and the expenses incurred in addition . . . which cloth brought to Pisa cost with all expenses l. (silver pounds) 1947 s. (sous) 19d. (deniers) 3

[1] F. Hendriks, "Ancient and Modern Forms of Bottomry Loans," *Journal of the Institute of Actuaries*, Vol. II, 1851.

[2] Ashley, above, p. 422–3.

[3] Mitchell, *The Law Merchant*, above, p. 143. See also W. R. Vance, "The Early History of Insurance Law," above. The extracts from the books of del Bene & Co. were first given by Bensa in *Il Contratto di Assicurazione nel Medio Evo*, 1884.

(for settlement) in florins, which at the rate of l. 8 s.15 per 100 of risk, as was agreed, amounts to l. 607 s.19 (for settlement) in florins.[1]

The market at which the contract was made—Provins—was one of the six great fairs in Champagne at which European merchants and financiers attended. The risk was one, like many of the early insurances, over land. The contract seems to have been made in the currency terms of France, the l. standing for livre (or libra) pound weight of silver. The s. was the sou coined by Louis IX (1226–1270) at the rate of twelve deniers to the sou (apparently 20 sous went to the pound). The d. was the denier, the small silver coin which for centuries was used in Western Europe. It appears that settlement was to be made with Bardis in florins—the gold issue of this being first minted in Florence in 1252.[2]

The wording of the contracts covering the insurances of Flemish cloth and other goods effected by Francesco del Bene & Co. of Florence have not come down to us, but a contract separate from that of freight and one of insurance of 1347 has been preserved, and was quoted by Bensa in his "*Il Contratto d'Assicurazione nel Medio Evo.*"[3] It is drawn in the form of a fictitious loan without interest, a sort of inverted bottomry bond, probably because a contract embodying a fixed premium payment for covering a risk might savour too much of the element of interest and therefore transgress the edicts against such payments. It is written in commercial Latin, and an English translation is as follows—

> In the name of God, Amen. I Georgius Lecavellium, citizen of Genoa, acknowledge to you, Bartholomeus Bassus, son of Bartholomeus, that I have received and accepted from you in Genoa one hundred and seven pounds (of silver) as a free and friendly loan. I renounce every advantage in law of requiring proof of having acquired accepted or counted the said money. These one hundred and seven pounds, in Genoa, or its equivalent in money, I agree and promise in solemn covenant to return and restore to you or your acknowledged messenger by myself or my representative.
>
> Being well preserved and sound in mind, that if your ship called the Santa Clara which is now being prepared in the pool of Genoa, God willing, to go and sail presently to Majorca, shall have sailed, having been navigated by direct route from the port of Genoa to Majorca, shall have arrived at that place safe and sound before the expiration of the next six months coming, then in that case the present contract is null and void

[1] W. R. Vance, p. 105.
[2] *Cambridge Medieval History*, Vol. VI, p. 487.
[3] Mitchell, *Early History of Law Merchant.*

as if it had not been made. I personally assume all the risk and responsibility for the said amount of money until the said ship shall have arrived at Majorca, being navigated by direct route as above. And also if the said ship shall be safe and sound in some other place before the said six months the present contract is likewise null and void as if it had not been made. And likewise if the said ship shall have changed its course the said contract is null and void and as if it had not been made.

In the said manner and under the said conditions I promise to make settlement, otherwise I promise to you to pay and incur the penalty of double the stipulated amount of the said money together with restitution of damages and expenses which may arise on that account or be sustained in litigation, the aforesaid remaining secure under pledge and security of my property goods and possessions.

Made in Genoa in a room in the house of Carlus and Bonifacus brothers of Ususmares, in the year from the birth of our Lord 1347, following the custom in Genoa on the 23rd day of October about eventide.

Witness Nicolaus of Tacuis, draper, and John of Rachus, son of Bonantus, a citizen of Genoa.[1]

The document does not itself express the events on which the sum is payable, but it does say what are the events on the happening of which the contract is void: hence, if the specified events do not occur, then the contract could be enforced as a loan transaction. Later contracts, from 1368 onwards, instead of being drawn as loans are drawn in the shape of a sale.[2] In a contract of insurance of 1397 drawn at Florence, the perils against which the insurance was made were enumerated as "of God, the sea, of nations, fire, jettisons, restraints by lords (? princes) or peoples or any other person, of letters of marque, of arrest, and of every other case, peril, chance, impediment or mishap which in any way could occur or might have occurred, no matter how or under what conditions the cases might occur, excepted only what concerns custom dues and ballast (? stowage)"[3] In some of these expressions we are approaching those standard in the sixteenth-century marine insurance policy adopted in the office of insurance in London and afterwards incorporated in the Lloyd's policy based thereon.

In the book written by Francesco Balducci Pegolotti (a member of the firm of Bardi) about the year 1315, entitled "*La Pratica della Mercatura,*" besides giving an account of the wool trade and the list of English monasteries already cited, he refers to the contract

[1] The above translation, with a few modifications, appeared in a pamphlet on *The Documentary History of Insurance*, Prudential Insurance Co. of America, 1915.
[2] Mitchell, above, taken from Bensa, Docs. 8, 1–200.
[3] Mitchell, p. 150.

of insurance as "a rischio de mare e di genti." Another Florentine merchant, Giovanni di Antonio da Uzzano, who wrote a book of the same title ("*La Pratica della Mercatura*") about the year 1400, gave some details of the premiums charged for insurance of wool from London. He says: "And for marine insurance from London to Pisa the rate is always 12 to 15 per cent on the value, and sometimes more according to the dangers apprehended either from pirates or other sources." Later in his manuscript, when referring to Bruges, he says: "For carriage by land as far as Milan, 6 florins per cent of weight and coming by sea 6 florins per sack of 250 pounds conveyed to Pisa: for marine insurance 12 to 15 florins per cent according to season, and for insurance by land 6 to 8 florins per cent."[1] A copy of Pegolotti's manuscript was made by Filippo Frescobaldi in 1461 and was, in 1851, in the Riccardian Library at Florence (No. 2441). It was printed with Uzzano's work in 1765, the two being the third and fourth volumes of the work "*Della Decima e delle altre Gravezze in Firenze*," by F. G. Pagnani.[2]

All commercial contracts among the Mediterranean trading cities were drawn by public or professional scribes who, by the thirteenth century, had attained a position of considerable importance. At Genoa, about the middle of the thirteenth century, there were 200; at Pisa, towards the end of the century 300, and in the fourteenth century at Milan, there were over 500. One notary in Marseilles drew, in 1245, more than one thousand commercial documents in the year and on one occasion sixty in a single day.[3] In these documents a fairly uniform phraseology was adopted—*stylus mercatorum*—and this uniformity of expression tended to a uniformity of practice and interpretation of the words used. The later Florentine policies of insurance contained expressions which passed into English marine insurance, and were adopted in the semi-official form of policy as written in the Elizabethan office of assurance in London.

Much progress in the practice of insurance was made in the fourteenth century: Bensa, from his investigations, stated that one notary in Genoa drew no less than eighty contracts of insurance in the year 1393 and that the acceptance of risks was so extensive that in Genoa some had no other mode of livelihood.[4]

[1] Hendriks, above, *J.I.A.*, Vol. II, p. 135–6.
[2] Cunningham, Appendix D, p. 628.
[3] Mitchell, quoting from Goldschmid's *Handbuch des Handelsreichts*, Vol. I, 1891.
[4] Bensa quotes the jurist Bosco: "Marcus propter lucrari fecit plures assecurationes sicut faciunt plurimi mercatores de Janua *quorum aliqui de nullo alio vivunt quam de huius modi quaestu.*" (From the *Consilia* of the jurist Bosco, 1399–1435, Mitchell, p. 151.)

Almost as soon as insurance became a practice at Florence and Pisa, it must have spread to those other commercial cities with which their merchants were connected by trade. The partners and agents of the Florentine houses were spread like a network throughout Europe, and a practice adopted at one end of a trade route would naturally be adopted at the other. Already there was a general body of business practice among merchants in connection with their trading with one another. Custom and use brought these commercial practices into some measure of uniformity, and insurance in its practices was no exception to that tendency to uniformity which marked the custom of merchants in their relations with each other on such matters as charter parties, bills of lading, and bills of exchange. The contact in commerce between Barcelona and Pisa must have introduced the practice of marine insurance to the former city, and to Barcelona we have to accord the first attempt in 1435 to regulate the practice by an Ordinance. The object of the Ordinance was to prevent fraudulent abuses and to give a preference in treatment to their own ship-owners. A translation given by Martin in his "*History of Lloyd's*"[1] runs: "In order to extirpate all manner of frauds that may take place in effecting insurances on ships great and small, and on goods and merchandise, it shall not be lawful first to take out insurance in Barcelona on vessels owned and freighted by foreigners; secondly, to take out insurances on foreign vessels freighted at Barcelona for more than one half their value; and thirdly, to take out insurances on vessels owned and freighted at home for more than three-fourths of their value. It is further ordered that in the case of contravention the insurances made shall not be payable and the insurers shall not be liable to be sued for payment, but shall at the same time retain the premiums paid for such assurances." Other provisions of this Ordinance of 1435 are of interest, as they give a clue to the current practices: "To prevent disputes between parties there shall be no priority of time or privilege on the part of the underwriters of the same insurance, even if subscribed on different days, the like obligation and the like contract binding on the first name holds on the others."

From this it is seen that a number of underwriters, severally liable, contributed to cover a risk, and that some time was necessary to secure sufficient names to cover a risk. It was provided that "the notaries and other persons who write out policies of insurance shall be bound to see that they are properly drawn, clearly and distinctly, without confusing terms and that they are signed in the first instance by the insured or his representative who shall declare on oath the

[1] Fredk. Martin, *History of Lloyd's and Marine Insurance*, 1876, p. 23.

particulars of insurance." To prevent the issue of wager policies, the underwriters "likewise must declare on oath that the insurances are real and not fictitious," and the policies are not to use the words "value more or less or done or not done." It was provided, further, that "all who take out insurances are bound to pay the stipulated premium, completely and absolutely at the time of the contract, observing also that the fact of such payment is entered on the policy," and "to have this done the contract shall have no force or value either for the insured or for the insurer, but from the moment of payment being made and received."[1]

Some association in practice between marine insurance and bills of exchange is shown in the following extract from the ordinances: "Underwriters shall be obliged to pay for damages or total loss, not later than four months after the same has been truly asserted under penalty of prompt execution *as in the case of letters of exchange* and where no news has been received of an insured vessel, as it happens sometimes that ships go down without leaving a trace of their movements, the insurers must pay for the loss at the end of six months after the date of the receipt of the last report." As we have seen above, bills of exchange were sometimes drawn "en aventure de mer et de gens." and the ordinance regulating the payment of the policy of marine insurance seems to have as its object the making of the one complement the other. The early contracts of marine insurance were referred to as bills of surance or bills of assurance in London.[2]

As a centre of the wool trade, Bruges would not be long behind the Italian cities in adopting the practice of insurance. We have seen that Uzzano in about the year 1400 quoted the rates of premium for insurance of wool from both London and Bruges, but there is evidence that insurance was practised at Bruges itself some time earlier. There is in existence a "*Chronicle of Flanders*," beginning from the year 621 to the end of 1725, gathered from the ancient writings by "M. D. and F. R.," Bruges, 1736. In this work there is a passage of which the translation runs: "At the request of the inhabitants of Bruges in 1310 he (the Count of Flanders) permitted the establishment in the town of a Chamber of Insurance, by which the merchants were enabled to insure their merchandise exposed to the risk of the sea, or other hazards, for the consideration of a few pence per cent, as is practised at the present day. But in order that so useful an establishment to the merchants might not be dissolved as soon as founded, he enacted various laws and forms

[1] Martin, above, p. 25.

[2] See contemporary translation of the "Broke" policy of 1547, Selden Society, Vol. II, p. 48.

which the insurers as well as merchants were bound to conform to."[1] If the date of the establishment of the Chamber of Insurances were correct, it would mean that Bruges would hold the honour of being the city first practising marine insurance. Considerable doubt has, however, been expressed as to the truth of the statement. It is a statement uncorroborated by other writers contemporary or earlier than 400 years after the alleged event. It seems strange that no record exists of the Chamber, which should have left some deposits of its transactions in the mercantile history of Bruges. Although Pardessus, when writing early in the nineteenth century, had not access to the records of early Italian insurance brought to light by Bensa, he was not able to accept as authentic the Bruges Chamber of Insurance in 1310.

Whether we accept its existence or not, genuine evidence exists that marine insurance was practised in Bruges during the fourteenth century, as there is record of a judgment being given by the College of Echevins of 12th April, 1377, in an action under a charter "vanzecgger-scepe" to recover the value of certain parcels of silks and stuffs which had been lost.[2] The form of the contract is not given, and it may have been that the right of action arose under a contract for delivery of merchandise, or a letter of exchange in which there was doubt as to the condition "sauf en terre" or "en aventure de mer et des gens." There is, however, no doubt that wool sent from Bruges to the northern Italian cities was insured by Italian underwriters in the fourteenth century, and as representatives of the Italian mercantile houses were resident in Bruges, it is scarcely likely that in such a large and wealthy city underwriting of risks was not undertaken there either by Italian or Flemish merchants. Bensa, indeed, refers to a transaction in 1370 at Bruges, the underwriter being a Genoese.[3] In the fifteenth century numerous cases of insurance came before the College of Echevins at Bruges. From these considerable light is thrown upon the customs and opinions held of the nature of the contract. In 1459, Marc Gentil, a merchant of Genoa, brought an action before the College of Echevins, of Bruges, against M. Arnulphi of Luques, C. Lommelin of Jeunes, and A. Tany of Florence. Marc had effected an assurance with the defendants and several other merchants on goods on a ship which had been lost with all its cargo. The plaintiff demanded that the defendants should pay to him the sums which each of the assurers had subscribed according to the schedule in the said assur-

[1] Translation made by Hendriks (*J.I.A.*, II, 147) from Pardessus, *Lois Maritimes*. Vol. I, p. 356,
[2] C. F. Trenerry, *Origin and Early History of Insurance*, p. 264.
[3] E. Bensa, p. 48 of 1884 edition, Genoa.

ance ("requerrant que les dix deffendeurs lui payassent les sommes par chacun deulx asseurees selon le contence de la cedule de ladite assurance par eulx soubsescripte").

The defendants admitted that they had underwritten the sums set out in the assurance, but that according to custom in matters of assurance, Marc should transfer to them the rights he had in the merchandise which had been held in his name on the ship and which might be recovered or salved. On the other hand, Marc held that payment should be made without delay and that if they then wished to bring an action against him they could do so "en temps et en lieu sans par ce povoir retarder la solution dicelle asseurance."[1]

In another case of 1468, Jean Vasques had assured with Jacques Dorie, merchant of Gênes, and partners certain sugar merchandise loaded at the Isle of Madeira in the ship *Fortado*. The ship was wrecked on the English coast and Vasques claimed the amount insured. The College of Echevins ordered payment on security being given for the restitution of the whole or part, in case the insurers proved in the following six months that the goods or part thereof had been salved and sold by the captain or mariners of the said ship. Barratry on the part of the captain of a ship was not covered under marine insurance either by Italian underwriters or by those of Bruges. Bensa quotes an opinion by the jurist Bosco (1399–1435): "By the common and unwritten custom of the country, and by the general and tacit understanding of those concluding the contracts, there is one exceptional case in which the risk pertains to the insured, to wit, when it is proved that the things were lost of set purpose by the fraud and contrivance of the captain."[2] In 1456 a case came before the Echevins of Bruges in which Gerard Plouvier, citizen of Bruges, and Saldonne Ferrier, a Catalan merchant, had effected an assurance with "la Compagnie de George Spingle" on a ship of which the captain was a certain Jacques Ribys de Columen. The defending insurers pleaded that they were not liable as the captain had committed barratry and, according to custom, barratry of the captain is never covered under insurances ("selon la coustume sur ce entretenue, rebaudise de patron n'esté point comprise soubz la généralité des cedules des assurances"). The insurers were ordered to pay under surety with a right to prove within a year and a day that the captain had committed barratry on the voyage, in which case the sums paid were to be returned to the insurers.[3]

In Italy and in Barcelona insurance contracts by the legislation

[1] Trenerry, p. 270.
[2] Quoted by Mitchell, p. 149, from the French translation of Bensa's work.
[3] Trenerry, p. 271.

in the fifteenth century of the various cities were void when the loss of the ship or goods was known by the insured at the time of making the contract. In Bruges the same principle seems to have held in a case in which Marc Gentil (this time the underwriter—in a previous case the insured) sued Estienne Stemmode, the former alleging that the latter, the insured, knew at the time of effecting the insurance that his ship was unseaworthy.[1]

As a great entrepôt of the wool trade, Bruges in the fourteenth and fifteenth centuries had as residents merchants from most ports of the Mediterranean and Northern Europe, so that the usages in connection with marine insurance could be declared and explained as well in Bruges as they could be in Pisa, Genoa, or Barcelona. The Court of Echevins administered justice in accordance with these declared usages and, unless specific legislation, as it did sometimes in the fifteenth and sixteenth centuries, provided otherwise, one body of common practice and rules ran throughout the Mediterranean and Western Europe. In 1469 a case came before the Echevins of Bruges in which a Portuguese merchant (A. Feorandi) sued a merchant of Venice (P. Ambrosani) and his associated insurers for payment under a policy in respect of a ship captured at sea by Spaniards.[2] The verdict should have been the same whether the action had been brought in the countries of any of the parties. Merchants of any nationality could effect or accept assurances in Bruges and, as we have seen, the same man might at one time be the insured, while at another the underwriter. This was in accord with the historical development from the temporary partnership (*commenda*) of merchants in a mercantile venture. Each underwriter was strictly liable for only so much as appeared against his name in the contract. A partnership might accept a line, as we have seen in the case of the action against "la compagne de George Spingle." At a later stage full and rather elaborate contracts were drawn, emanating from the Italian cities; but in the fourteenth century in the Mediterranean and in the fifteenth in Northern Europe simple contracts were used embodying a statement of the value and property covered in a schedule ("selon le contence des cedules" being the expression used by plaintiffs in demanding payment). Payment of a claim was expected in full and immediately on proof of loss, and a counter-claim for any share in salvage was to be made subsequently; if the merchant shipping the goods was unable to collect the moneys under a bill of exchange on sale of goods, because they were lost, he expected to receive in full and as expeditiously the proceeds of his bill of assurance. Disputes were settled

[1] Trenerry, p. 271.
[2] Trenerry, Note on p. 271 of case in 1469.

not by the contents of these early documents, but according to the declared practice.

The stage reached by marine insurance at the beginning of the sixteenth century among the Mediterranean merchants is revealed in the ordinances of Florence in 1523. These were set out in full by Nicolas Magens in his "*Essay on Insurances*," Vol. II.[1] Magens was a merchant originally of Hamburg, where his work was first published, and subsequently of London, where he settled and issued the further and expanded edition. The work is in two volumes, and may be said to be the first textbook on insurance in English. Magens shares with Gerard Malynes, whose "*Lex Mercatoria*" was first published in London in 1622, the honour of writing on marine insurance with real understanding for English merchants. In his second volume, Magens sets out the ordinances relating to insurance, average, and bottomry of various states and cities.

The Florentine Ordinances, he says, were sent to him from Leghorn in 1751 as being "observed as laws on the Exchange at Leghorn to this day." As a whole, they must have been a codifying of practices observed prior to the 28th January, 1523—the date of codification. They were drawn by five deputies appointed at Florence for regulating insurances. All insurances had to be made in accordance with the regulations, unless there were some special circumstances admitted by the five deputies, when the special condition had to be inserted word for word in the book of these magistrates, so that all might be aware of it. The deputies had power, if they found it for the common good, to fix rates (No. 4). When insurances were made on ships which at the time of the contract were already lost, no action could lie against the underwriters till the matter had been investigated by "six merchants and six others joined in commission with them" (No. 5). The deputies might employ persons for salving a ship or cargo (No. 6) and assess for expenses the merchants and insurers concerned (No. 7). Without permission of the deputies, no money for goods thrown overboard or ransomed could be exacted nor premiums already paid returned (No. 8). In a final clause it was provided that the deputies should take cognizance of all matters relating to insurance "and that at least four of them should join in the sentence: which they were to give according to what they should think just and equitable in such case." They therefore constituted both an administrative body and a judicial tribunal.

Two forms of policy were attached to the regulations. The first was in general terms and was intended to cover goods on a named ship. The second provided for insurances in the Gulf of Ancona,

[1] Nicolas Magens, *An Essay on Insurances*, London, 1755.

Raugia (Ragusa?), etc. where insurances had to be made conformable to ordinances in use in those places. No name of the ship was included in the second, as it was designed apparently for coastal traffic in which the goods might be transferred from one vessel to another, or when it was not known beforehand upon what ship the goods would be loaded. Some points in the general policy were—

(1) The insurance began from the time the goods were loaded and lasted till they were brought ashore at their destination.

(2) The ship could touch at any other place, could "sail forwards and backwards, to windward or leeward, according to the pleasure of the master, and everything might be transacted which necessity should require."

(3) The perils insured against were of the sea, fire, jettison, reprisals or robberies of friends and foes, and all other cases, perils, tempests, disasters, impediments, and misfortunes, even such as cannot be thought of, that might happen . . . the insurers were likewise answerable for barratry of the master, saving only the stowage and the paying of customs.[1]

(4) In the case of disaster (which God avert) the insurers were obliged to pay the sum insured within two months of the day the news of the loss was brought to Florence, and, in case of no news being received within six months, the insurers were to pay, but return was to be made should subsequently the goods be found to be safe.

(5) In case of loss the insurers were to pay first and, subject to leave of the five deputies, obtain sureties for repayment by the insured, and if within eighteen months the insurers established their case, the insured was to return the amount he had received under the assurance plus 20 per cent. This additional 20 per cent was apparently imposed to discourage claims by the insured for immediate settlement on doubtful evidence.

The present-day marine insurance policy includes a number of features which were included in the Florentine policy. In his "*Marine Insurance*," Gow says of the perils insured against: "The perils of the sea is followed in the policy (i.e. Lloyd's) by long enumeration of other perils strung together without very obvious connection, occurring much in the same order as in the Florentine policy of 1523. The only explanation of this order that offers itself as at all likely is that the perils were added one by one simply as they were found in the history of insurances to become necessary for the proper protection of the insured."[2]

[1] Barratry of the master does not appear to have been covered in the previous century.

[2] William Gow, *Marine Insurance*, 5th Ed., p. 101.

In the Florentine policy the captain had the right "to touch at any other place, to sail forwards and backwards, to windward or leeward, and everything may be transacted which necessity shall require." The corresponding provision in Lloyd's present policy is: "It shall be lawful for the said ship . . . in the voyage to proceed and sail and touch and stay at any port or place whatsoever . . . without prejudice to the insurance." The words in the Florentine policy "and everything may be transacted which necessity shall require" seems to correspond to the "sue and labour" clause of to-day—"and in case of any loss or misfortune it shall be lawful to the assured . . . to sue labour and travel for in and about the defence safeguard and recovery of the said goods . . ." In the two forms of policy attached to the Ordinances no premiums are mentioned. We shall see that the early English policies also omitted reference to the premium.

It is probable that the Florentine regulations and the form of policy represent the accumulation of marine insurance experience during two centuries of the later Middle Ages. The practice originated with the wealthy Florentine mercantile families, spread north to Bruges and west to Spain while Florence was at the zenith of her career. Marine insurance followed her merchants and bankers in their network of commerce with which they brought together the trading centres of the medieval world. Florence and the Italian cities generally laid the foundations of commercial practice of the modern world in their instruments governing the mechanism of overseas trade: the contract of short-term partnership in a trading venture, the bill of exchange and the bill of lading, and the policy of insurance. The downfall of the Florentine Republic in 1529 brought an end to that brilliant period of Italian inspiration in which Florence had been pre-eminent. With the discovery of the New World, the centre of gravity moved westwards and a new stage of mercantile development took place in Spain, France, the Northern European cities, and England.

The changed conditions in geography and commerce are reflected in the marine insurance regulations made under Philip II of Spain: those relating to Spain in 1556 and those for Antwerp in 1563. Antwerp then numbered among its residents a larger body of wealthy merchants than any other city of Europe, but into Spain, through the port of Seville, was poured the gold and silver from El Dorado of the West. In the year 1500 Spain possessed only a few islands of the Western Indies, including Cuba, which she acquired through the discoveries of Columbus in 1492, but by 1540 she had acquired a great empire in the west through a few bands of adventurers under such men as Hernando Cortes in Mexico (1520), Francisco

Pizarro in Peru (1536), and Gonzalo Pizarro on the Amazon (1541). Bands scoured Uruguay, Chile, California, and Florida.

Knowledge of the New World spread through Europe. Its riches made a glamorous appeal to adventurous spirits, and men sailed across the Atlantic in tiny craft—some of 30 tons burthen—which even with to-day's improvement in design and building would be regarded as hazardous feats of seamanship. The opening of the New World had coincided with the closing of a part of the Old due to the movement westward of the Turks and their control of the Eastern Mediterranean. As a port, Barcelona gave place to Seville, navigation of the Mediterranean to that of the Atlantic. The Old World looked west instead of east, and commercial history was being made in Antwerp and the ports of Spain rather than in the Italian cities of Pisa, Leghorn, and Venice. The old trade routes were forsaken and the modern period had begun.

The Ordinances of Philip II for marine insurance in Spain were made in 1556, within a year of his accession and the retirement of his father, Charles V, to the monastery of Yuste. The Ordinances may be described as the first comprehensive effort to organize the business. The government had before it the new and particular problems of distant maritime ventures. It exercised control through the brokers who were licensed; to them were remitted the negotiations with the underwriters, preparation of the policies, the witnessing of the signatures thereto, and acting generally in accordance with the regulations under the ægis of a Chamber of Insurance. Failure to comply with the regulations meant loss of the licence and payment of a heavy fine.[1] The policy was to be signed by the underwriters and the broker, and the latter had to keep a book in which all the important particulars of policies were inserted. The evidence of the broker and entry in his book were sufficient against the underwriter and his representatives in the event of his death—an important point with the long voyages across the Atlantic. Brokers were not allowed to take any share in underwriting.

For ships going to the Indies, no more than two-thirds in value was to be insured on hulls; freight, artillery, and ships' provisions were to be included; and a separate policy on the hull had to be effected from that on cargo. Should a policy be taken out after a ship had been lost, and the assured could have heard (whether he did so or not) of the loss at the time the contract was made, the policy was void and the premium returnable. If no news of a ship sailing for or from the Indies after the lapse of eighteen months from the date she left port was received, she was deemed lost and the sum assured became payable, the assured making a "resignation to

[1] Ordinance by Philip II at Valladolid, 14th July, 1556, *Magens*, Vol. II, p. 30.

the insurers." If more was insured under a policy than the cargo was worth, the name of the last underwriter was to be struck off and the excess premium returned; the remaining underwriters shared the risk proportionately. The forms of policy which were embodied in the Ordinances made reference to some of the provisions in the Ordinances themselves, but the perils covered were not inserted in the policies. Article XLII, however, specified these as "the sea wind Fire Enemies Friends and any other accident that happens or can happen except Barratry of the Master or a Deficiency of the Merchandise."

In curious contrast were the Ordinances sanctioned by the same monarch for his possessions in the Netherlands. Those of Antwerp were passed in 1563 and are of particular importance, as from the policies effected in London during the sixteenth century it is clear that the usages of the Exchange at Antwerp and those of Lombard Street in the City of London were similar. The Ordinances were divided into two main sections, the first relating to navigation and the second to assurances. The first section was subdivided into three, with headings (*a*) of Shipwrecks, Jettisons, and Averages; (*b*) of ships which damage one another; and (*c*) of ships' laws, breaches thereof, and other things relating to justice. The marine insurance Ordinances are complementary to the navigation laws in the first part.

All assurances after the date were to be made "after the custom of the Exchange at Antwerp," and policies had to follow the form embodied in the Act. The draft policy[1] could be used either for ship or merchandise. On merchandise the risk continued from the hour "that the said goods and merchandise shall be brought to the above mentioned port (Antwerp) . . . in order to be shipped on board the said vessel and to continue till brought ashore at the port of destination." There was the clause as to sailing backwards and forwards or steering any course whether by necessity or choice of the commander. The perils insured against and run at the risk of the assurers were set out in the policy as "from the sea, fire, winds, enemies, letters of marque and counter-marque, from arrests and detainments of kings, princes, and lords whoever they may be, and from all perils and accidents whatever that may happen, let it be in what manner it will, or one could imagine it might be, and they insure the assured from everything and put themselves in his place to secure him from all loss and damage." The policy further provides that: "In case of accident as aforesaid the assurers . . . do give to the said . . . the assured and his agents power

[1] The draft policy given (*Magens*, Vol. II, pp. 24 and 25) is one for a voyage from Seville to Antwerp.

to use the necessary means for preserving the said goods and merchandise for the benefit of the said assurers promising to pay all the charges that shall accrue for the preservation thereof, whether anything be recovered or not, and to give entire credit to the accounts of such charges as made by the persons who disbursed them." The premium is mentioned in the policy in the words "and the said assurers acknowledge to have been paid for the consideration and price of their assurance, by the hands of John Erriques (presumably the broker) at the rate of seven per cent, and the said assurers agree and consent that this policy of assurance shall be of as much force as if the same had been made or passed before any magistrate, public notary or otherwise all without fraud or deceit."

The Ordinances which follow the form of policy provided that no assurance should be made after the risk had commenced, that all should conform to the custom of the Exchange at Antwerp, and the sum assured should be paid if within a year and a day after the date of underwriting no information had been received of the ship. Ships in ballast or less than half loaded could not be insured for more than half their value. Before an insurance of a ship was permitted, it had to be valued by an expert, but even this did not prevent the reopening of the question of value in the event of loss. Insurance against barratry of master and crew was made illegal. In the event of deliberate over-insurance or double insurance, policies were void. In the case of double insurance effected in ignorance, it was to be held that the first policy effected should remain in force and the premium in respect of the balance of value was to be returned less one half of 1 per cent.

It will be seen that most of the regulations are directed towards prevention of fraud and the healthy transaction of the business. Merchants in London, from references in policies to the usages of the Exchange at Antwerp, were aware of the code, and wherever the rules were of general application it seems that Lombard Street conformed to them.

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CHAPTER II

EARLY MARINE INSURANCE IN ENGLAND

ITALIANS in Lombard Street, London—Their skill in commerce and finance of commerce superior to that of Jews—The commercial area of North-West Europe and England's connection therewith—The Hanseatic League—Their merchants in London, known as Easterlings, settled at the Steelyard—Beginnings of the Merchant Adventurers—Their rivalry with foreign merchants settled in London—Cloth exports in time of Henry VIII—Maritime control—Rise of Admiralty Courts—Records of the courts include the earliest references to insurance—Dispute over marine insurance policy in 1562—Allegation of use and custom of bills of assurance—Two earliest policies in Italian on goods aboard the *Santa Maria*, 1547 and 1548—Customs of Lombard Street, London, and bourse at Antwerp—Perils insured against in policy of 1563 with thirty-seven underwriters—Dutch policy printed in 1638—Meeting of merchants in Lombard Street—*Billa obligatoria*, their nature and cases thereon before the Court of Admiralty—Bottomry bonds—Instances of their use—Effect of earliest Navigation Acts—Improvements of harbours and Government's encouragement of overseas trade

THERE is every reason to believe that the practice of marine insurance came to us directly from the Italians or the Lombards, who established themselves in London and other parts of England as merchants for purchasing wool, and as financiers collecting and remitting papal dues. Their skill in finance, being more directly related to international commerce, was based on a broader foundation than that of the Jews, who entered the country with the Normans in the eleventh century, and as a consequence the Lombards exercised more control of commercial life of the country than the Jews. For a time, after the expulsion of the Jews in 1290, as we have seen above[1] they had a monopoly of finance. In later medieval Europe there were two principal areas of commercial life and growing wealth from trade and manufacture. One consisted of the Italian cities, the first of which to emerge from the chaotic conditions of the Dark Ages and the invasions of the Normans, the Muslims, and the Slavs, was Venice. Pisa and Genoa soon followed Venice, and by degrees the danger of sea routes in the Mediterranean was reduced sufficiently to make trading possible with Marseilles and even eastern ports in the hands of Saracens. The other area was that of the Low Countries and the German ports on the Baltic, for a time cut off from the Mediterranean by the Saracens, who held its northern coast. The northern European area of commerce was founded on the shores of the Baltic and on river traffic of the Rhine, Meuse, and Scheldt. Bruges was then connected with the sea by the Gulf of Zwin, and it became a centre of trade which slowly spread

[1] Page 2.

as far as Paris and other French towns. Of these two commercial areas England belonged by geography to the northern, but politically and historically as a portion of Christendom, its connection with Rome and Italy was direct and significant. While therefore the bulk of commercial practice was common both to English merchants and those of the Flemish and German cities, much was learned directly from the representatives of the Lombard commercial houses resident here in the thirteenth and fourteenth centuries.

It is necessary to stress this feature of common practice by merchants, no matter of what national origin. They were a sect apart and fundamentally had no real place in the medieval feudal system based upon land. That system contemplated each small area within the control and protection of a lord as a self-sufficient unit in which each person had his place and contributed to the small community, and only one institution had wide and wealth accumulating ramifications—the Church. The merchant was an anachronism in this structure, and his usages, his contracts, and often his person had no legal recognition in the system. In truth, the feudal system never was complete, and there was in England perhaps less rigidity than on the Continent—in France, for instance. In wool, lead, tin, and hides, but principally in wool, England exported to the Continent, and received cloth and wine in exchange. In this trade the professional merchants of the Continent were, till the fifteenth century, predominant and had their residence here under royal protection.

The rise of the northern European cities, like the Italian, owed something to the lack of any strong national trend or control. The cities of both commercial areas were autonomous and were marked by a strong individualism and independence. The first nucleus of the Hanseatic League comprised Hamburg, Bremen, and Lubeck,[1] but its membership grew till at one time in the fifteenth century it numbered over seventy towns and villages in the Baltic basin. They continued the trade with the East, opened by the Scandinavians from Gothland, by way of Russia and the Black Sea or the Caspian, and with Flanders, France, and England. They combined as a league to retain the Baltic trade as a monopoly, suppress piracy, and to promote wider trade by securing concessions and residential privileges in England and Flanders. Such concessions were not made to the individual cities as such, but to the merchants. In the fourteenth century the merchant seems to have been a member of his profession before he was a citizen, and he conducted his life as a member of his guild or the mercantile fraternity. In London the early Hanse merchants from the Baltic

[1] Cunningham, *Growth of English Industry, Early and Middle Ages*, p. 183.

were known as Easterlings; they had their Hanse house or guildhall, and were a very important influence on our commercial life. If the Italians gave their name to Lombard Street, the Hanse merchants gave their name to our standard silver coin—sterling, as short for Easterling.[1] The German league had their home in London at the Steelyard—the building was only finally destroyed to make way for Cannon Street Station. Flemish merchants also had a home of their own. From the later fifteenth century their power declined, and as the English merchants learned their profession they ousted the foreign merchants from London and other English towns,[2] but only after the foundation of a permanent intercourse in trade with Germany, Flanders, France, and Italy had been laid.

As the English learned the business of commerce, it was not unnatural that they should look with a jealous eye on the foreign merchants in their midst who made the profits on exporting English wool and other commodities, and, copying their rivals of the Hanse and the Flemish merchants, they associated themselves for gaining a foothold in foreign markets. In 1296 the Duke of Brabant conferred privileges of residence and self-government on English and other merchants at Antwerp similar to those enjoyed by the merchants of the Hanse in the Steelyard in London. The English merchants availed themselves of their privilege and established themselves there, exporting from England wool, skins, lead, and tin, which had been the exports undertaken by the Hanse merchants. They also exported another commodity—cloth of English manufacture. It was the beginning of the Company of Merchant Adventurers: they were called into being not by a Charter from the English Crown—though such followed—but by a grant of rights by a foreign prince. Effective competition by an organized English body of merchants was directed against the hold of the foreign merchant on the English export market. "At the end of the thirteenth century, alien merchants, whether Germans, Italians, or Flemings,[3] had larger capital, better ships, better methods of insurance." The fight between the two organizations might have lasted much longer had it not suited the Tudor monarchs to create a monopoly of trade through certain channels in the hands of the Merchant Adventurers so that they might more effectively tax exports. The expanding trade from England had permitted the Hanse merchants at the beginning of the reign of Henry VIII to

[1] H. A. L. Fisher, *History of Europe*, Vol. I, p. 256.
[2] See short essay on the Hanseatic League in *Encyclopædia Britannica*.
[3] George Unwin, *Studies in Economic History*, "The Merchant Adventurers' Company," p. 142.

export annually 20,000 pieces of English cloth. In 1549 it had increased to 44,000 pieces. The withdrawal therefore of the licence to the Hanse merchants was a drastic step, yet it was carried out in 1552 and 1553 during the short reign of Edward VI and on the advice of Thomas Gresham. Under the influence of her husband, Philip of Spain, Mary restored their privilege, but under Elizabeth and with the return of Gresham to favour, the policy of the expulsion of the League was pursued, coupled with that of fostering the trade of the Adventurers. By the Charter granted to the Company in 1564, the monopoly of the Company in the trade with the Netherlands was safeguarded, and the Company entered into the closest relations with the Government for purposes of collection of taxes and advancing money. To their policy of fostering the Merchant Adventurers, a considerable measure of the success in restoring financial credit in the time of Elizabeth must be ascribed.[1]

With this short description of the background of English commerce as it was when English merchants joined on an equal footing with those of other countries to share in international trade, we may gain a better understanding of the methods by which England reached that pre-eminence in this field she attained at a later stage. An entry, after a well-established body of rules in regard to maritime affairs and recognized commercial practices had been achieved, provided a suitable outlet for her growing spirit of nationality and the individuality of her merchants. There is no evidence that there was included among English mercantile practices in the fourteenth century that of marine insurance. Our chief source of information on early insurance when it became general is that gained from cases which came before the Admiralty Court. The Admiralty Court was the creation of a period about the middle of the fourteenth century when two Admirals of the King's Ships (*amiraux de nostre navire d'engleterre*) were given judicial functions to deal with maritime cases which could not be settled in the Common Law Courts, where cognizance of maritime practice was unknown.[2] Prior, however, to vesting the admiral with judicial powers, courts were held—outside the Common Law Courts—in seaport towns for merchants and mariners, and they administered the "law maritime." Records of cases have come down to us from courts held at Ipswich, Yarmouth, and Padstow. When the Admiralty Court was created, conflict arose between it on the one side and those older courts of Common Law on the other, which resulted in some delimitation of the functions of the Admiralty Court in the reign

[1] Unwin, p. 150.
[2] B. G. Marsden, *Select Pleas in the Court of Admiralty* (Selden Society, Vol. I, p. xii, *et seq.*).

of Richard II.[1] Subsequently certain ports were exempted from the jurisdiction of the Admiralty Court.

In the fourteenth century, piracy seems to have been the major risk run by the ships at sea. Both Flemish and Genoese ships were spoiled by English pirates, and Edward II had to satisfy claimants out of his own pocket. We have seen the importance of the Flemish and Italian connection to English finance and trade at that time. In 1330 Edward paid £152 to the Bardi for the spoil of a cargo of wool in a ship sailing from Southampton. In 1336 he did the same "out of Grace to Genoese merchants."[2] Before the middle of the fourteenth century, piracy between English and foreign seamen was generally tried before special tribunals, upon which an admiral sat, appointed for the purpose. In 1360, instead of separate admirals for the fleets of the north, south, and west, one admiral over all was appointed and power was granted to him to administer justice according to maritime law (*secundum legem maritimam*)[3] with power to appoint a deputy—the intention seeming to be that the deputy should be a judge. It was the duty of the deputy "to make summary and hasty process from time to time according to the ancient law marine and ancient customs of the sea without observing the solemnity of the law."[4] In 1482 a judge was first appointed by patent to hear such cases as belonged to the Admiralty. An extension of the powers of the Admiralty Court was made in 1540 by Henry VIII (32 Hen. VIII, c. 14) to try summarily matters of freight and damage to cargo, and a great increase in the business took place. From the year 1524 a record of the cases before this Court has been preserved, and it is from the record of these cases that our earliest knowledge of insurance in this country is derived. Though no other contemporary record of insurance transactions is available, those of the Admiralty Court are sufficient to show that the practice was well established and must have been introduced at a much earlier period.

There is no reference to insurance in the *Black Book of the Admiralty*, which was described by Dr. Eaton in 1664 as "ancient statutes of the Admiralty to be observed both upon the ports and havens, the high seas, and beyond in the seas, which are engrossed upon vellum in the said book and written in an ancient hand in the ancient French language." In the Black Book there are included the old sea laws of Oleron and those of Wisby. Both probably date from a time before the practice of marine insurance existed. The

[1] 13 Ric. II, c. 5, and 15 Ric. II, c. 3.
[2] Marsden, *Select Pleas in the Court of Admiralty*, Vol. II, p. xxviii.
[3] *Ibid.*, p. xlii.
[4] Mitchell, p. 15.

oldest copy of the laws of Oleron is one preserved by the Guildhall in London, and is of a handwriting of the fourteenth century. These laws were derived from the judgments of the maritime court of the Island of Oleron in the Duchy of Guienne, and related particularly to the wine and oil trade. They were observed both in England and Flanders in the fourteenth century, and were included in the Purple Book of Bruges. They seem to have followed the wine trade to the north seaports and on into the Baltic.[1]

While it is not the first record among the Admiralty papers to make a reference to insurance, the case of *Ridolphye* v. *Nunez* is a suitable one to quote, as it gives an allegation as to practice in the London Marine Market. The case arose on a marine policy dated 12th March, 1562. The name of the insured was not inserted in the policy; the latter was signed by seven underwriters, six of whom took lines respectively from £25 to £66, and the seventh was Robert Ridolfye, who underwrote £100 of the risk. The policy commenced: "Assecurar: Jesus. the XII off Marche 1562 . . . Robert Ridolphe and company doe assiure as well for their accompte as for any other. . . . " Apparently Robert Ridolphye & Co. acted as agents or brokers for principals who were not named. Robert Ridolphye himself took the largest line of £100. The other underwriters refused to pay when a loss occurred on the grounds that the insurance was not in the plaintiff's name and that he had no interest in the ship insured.

There is an allegation as to custom with the file of papers which reads: "The use and custom of making bills of assurance in the place commonly called Lumbard Strete of London and likewyse in the Burse of Antwerpe is and time out of mind has been amongst merchants using and frequenting the said several places and assurances used and observed that the party in whose name the bill of assurance is made is not bound to specify in the same whether the goods assured are for his own or for any other man's accompte but that he may cause goods to be assured under his name which shall or may be for the accompte of whatsoever person he shall think good without specifying the same in any otherwise than it is and hath been commonly used in the said bills in this manner following, viz. A. B. causeth himself to be assured from L. to M. upon goods appertaining to them or to whatsoever other person they do pertain, etc. And if any misfortune chanceth to the same goods in such sort assured the said party in whose name the bill of assurance is made may demand and ought to recover them against the assurers by virtue of the said custom as his own proper goods although they

[1] Sir Travers Twiss, the *Black Book of the Admiralty*; see also article by Twiss on "Sea Laws" in *Encyclopædia Britannica.*

pertain to some other. And such bills of assurance so made have been by all the said time and be of as much force and strength and do bind the assurers as well as if the same were auctentique (*sic*) by a notary public. And further he doth allege that commonly merchants by all the time above declared have and do cause their goods to be assured from port to port by their factors and other their friends having no interest or property in the goods assured and yet the assurance good and the assurers bound to answer the loss of such goods if any happen."[1] The defending underwriters were ordered to pay by the Court.[2]

The point which the allegation established is not of so much importance to us as the general information which this contemporary and authentic evidence furnishes. There is first the confirmation of the common practices in London and Antwerp. There is, secondly, the expression "time out of mind hath been amongst merchants using and frequenting" these two places. This can give no information as to the exact time when insurance was first practised in either place or which of them first adopted it, but it is certainly not unreasonable to suppose that the memory in either market would extend to three generations, and that somewhere in the early part of the fifteenth century marine insurance was practised in Lombard Street. As we have seen, the practice existed in the last quarter of the fourteenth century in Bruges and from the beginning of that century in Florence, when the transit risk by land from the Flemish towns to those of northern Italy was covered by insurance equally with the risk by sea. The word "policy" was not used till later in English—the contracts were *bills of surance* or *assurance*. The expression "bill" gives a historical connection with the other commercial documents emanating about the same time, such as the bill of exchange. The bill of assurance was a document under which a sum could be collected on the failure of the goods or the ship to arrive. A bill of exchange when goods were behind it would be met, provided they did reach their destined market. The notion of insurance as indemnity had not then been worked out. There was evidently the custom, as we shall see from some of the early policies, of drawing their bills of assurance, as with bills of exchange, without the employment of a notary. They were short informal documents depending upon the custom of merchants for their interpretation just as did the bill of exchange. It is worth noting, as evidence of Italian origin, the word "assecurar" at the heading.

The first two policies upon which recorded actions were brought

[1] Marsden, Vol. II, p. 52.
[2] Marsden, Vol. II, p. 132.

before the Court of Admiralty, and which have been preserved, are both in Italian. They were found by Mr. Reginald G. Marsden in his researches among the Admiralty files at the Record Office and were published among the *Select Pleas*, Vol. II, A.D. 1547–1602, by the Selden Society. There are about twenty insurance cases amongst the files, in spite of the fact that it was a common practice to settle disputes by arbitration of merchants familiar with commercial practice. In some of the policies an arbitration clause was embodied. The Admiralty Court was not a very satisfactory one for the settlement of insurance disputes, and after 1580 it is possible that still more resorted to arbitration or to the Court specially set up for the purpose. Neither the Admiralty nor the Common Law Courts had knowledge of the custom of merchants or the practice of insurance, and we find petitions to the Council on behalf of insured "that he hath no remedy by the order and course of the common laws of the realm, and that the order of assurance is not grounded upon the laws of the realm but rather a civil and maritime cause to be determined and decided by civilians." In another petition we have "forasmuch as the matter . . . consisteth and standeth much upon the order and usages of merchants by whom rather than by course of law it may be forwarded and determined."[1]

The earliest of the policies on the files is dated in London, 20th September, 1547. The original policy (Nod. 147) is on the file endorsed "File 27" but is in a bundle labelled on the outside of the dust cover No. 26. It is written in a neat Italian hand and occupies fourteen lines on good white paper. There are some binding and filing holes, but it is easily decipherable. While the body of the policy is in Italian, the subscription by the underwriters and the amount for which they are responsible are in their own handwriting in English. There is a contemporary translation attached which reads substantially (some words not being decipherable)—

> John Broke causeth himself to be assured from Cadiz unto this town (London) upon Malvaises in the Island of Candia in the ship called the *Santa Maria* of Venice of which the Captain is Francis Fidely, the adventure beginneth from the day and hour that the said ship with the said Malvaises set sail to the port of Cadiz and that it may dure until the time that they be discharged or unladen in this city of London on land at good safety: as to the adventure that the assurers shall stand at it is to be understood that this present writing hath as much force as the best made or dicted bill of surance which is used to be made in this Lombard Street of London.

[1] Marsden, Vol. II, p. lxxvi.

To this policy there are two underwriters, who apparently added in their own handwriting the words accompanying their signatures: "I William Maynard, Mercer, am content to assure upon the good ship in manner and form above written for twentyfive pounds: written this twentysecond day of September 1547." The second adds: "I Thomas Lodge am content to assure upon this good ship the sum of twentyfive pounds sterling the twentysecond day of September 1547. I say £25."[1]

The second policy seems to relate to the return or a subsequent voyage of the same ship. It covers a cargo of English cloth. The wording is also Italian, and there is a contemporary translation which runs—

> In the name of God, Amen. The twentysixth day of November 1548. Tomaso Cavalcanti and Giovanni Girale and Company of London make themselves to be assured by the order and account of Paule Ciceny of Messina upon the ship called the *Santa Maria* of Porto Salvo, captain Matutyno de Maryny upon a hundred pieces of carseys and fryseys to be laden in Hampton until they be arrived in Messina and discharged on land in good safety and the assurers be content that this writing be of as much force and strength as the best that ever was made or might be made in the Lombard Street according to the order and customs whereof everyone that assureth as they that cause them to be assured, are content to be bound: and God send the good ship in safety.

Here, again, the underwriters, of whom there are nine, all English names, add words in English. William Maynard is again among them for £25 on the 4th December, 1548. From the second policy it would appear that Paule Ciceny of Messina may have acted as agent and broker—perhaps for both policies, and this accounts for their Italian wording. The ship is described in the first policy as of Venice and in the second as of Porto Salvo. The names of the captains are also different.

Actions under both policies were brought against Maynard. Under the first he paid £10, and refused to pay the balance on the grounds (*a*) that he had received no notice of abandonment, (*b*) that he had received no part of the salved goods, and (*c*) that there had been deviation. Under the second policy the defence was "that if any of the goods so assured should within the time of the assurance of the same happen to fall to any wreck or mischance and yet some part of the same happen to be saved, that part or portion of the said goods wares and merchandise which shall be saved and rescued should and ought to be divided equally between the assurers

[1] Marsden, Vol. II, pp. 47–49.

of the same rateably according to every assurer's portion, or at leastwise accounted for and by some means certified unto the assurers before any assurance can be demanded of them, being not bound by the nature and condition of the contract of assurance but only for that part or portion that is specified." Maynard was, indeed, resting on the custom and usages of Lombard Street, although they were not specifically set out in the contract. It may well be that by the middle of the sixteenth century the custom of merchants in London and Antwerp were as definite and binding as the statutory regulations of the Mediterranean cities.

In another policy (File 28, No. 45), dated 5th August, 1555, in London an action was brought against one of twenty-two underwriters with the allegation that the assurers are liable if they do not within two years, or one year of the ship sailing, certify or bring to the knowledge of the assured the goods assured.[1] There are some special features in this policy not included in the two already cited. The policy assures Anthony de Salizar of Antwerp from any part of the Isles of India of Calicut unto Lisborn, in the ship called *Santa Cruz*, captain Fernando and Peter de Lovona, upon all kinds of merchandise laden in the ship by the hands of Diego de Frias or Anthony Ferrara. In it there are the words "and we bind us to bear the adventure of the said merchandise and the costs of the assurances And we will that he shall not be bound to bring any bills of lading but only the charge of his oath: and so we are contented to bear the adventure; and we will that the assurance shall be so strong as the most ample writing of assurance which is used to be made in the Street of London or in the bourse of Antwerp or in any other form that shall have more force: and if God's will be that the said ship shall not well proceed we promise to remit it to honest merchants and not to go to law."

In this case it appears that the premium is to be included in the sum insured; although the amount is not mentioned, it would be very substantial for a voyage from India. The waiving of the production of the bill of lading is also a feature, probably due to the distance and the possibility of its loss in another ship. The coupling of Antwerp with London is also important as determining the character of the cover implied and the indication that common principles in marine insurance held among merchants in both ports. Finally, there is the promise to submit to arbitration, a practice which must have kept many cases from coming to the Court.

Another policy which formed the basis of an action in the Admiralty Court was dated 6th December, 1557[2] and covered both

[1] Marsden, Vol. II, p. 49.
[2] File 30, No. 151, Marsden, Vol. II, p. 50.

the cargo (raisins) and hull from Velis Maliga to Antwerp. "The assured Antony Brashet by the order and commission of Frances Brashet his brother . . . doth likewise cause to be assured . . . from the said pool or road of Velis Maliga . . . unto the pool of Antwerp upon the body apparel and freight of the ship . . . undertaking that this present writing have as much force as the most strongest writing of assurance which is used to be made in the Lombard Street of London . . . and for the observation of the premises the assurers shall hereunder subscribe with their proper hands. God preserve her." There are ten subscriptions, one by a Gabriell Galvani for £17 10s., whose name appeared in an earlier policy as underwriter. The sum of £25 was underwritten by a firm: "We George Smith & Company are content for the sum of £25, half of the ship and half of the goods."

A policy (copy only on the file) which appears in File 31, No. 152,[1] in an action *Ravens* v. *Hopton*, 1558, covering £20 on goods and merchandise to London, was executed at Bilbao by George Hopton, who undertakes therein "to bear all manner of casualties and misadventures that may happen upon the same according to the order of the poteses of Lombard Street if any mishap do chance to pay the same according to the order of the poteses made in the said Lombard Street . . . in witness of troth I have made this with my own hand and have set my name in the town of Bilbao in Spain. Given the first day of February anno 1558."[2]

In a policy effected by Master John Whyte, Lord Mayor of London, on 22nd November, 1563,[3] we find more formality and a statement of the perils insured against. It covered fruit, raisins, and any other merchandise "from Vellis Malaga or Malaga or Bay of Cadiz" upon the good ship *Jaymes* of Ypswyche to the City of London. The policy includes the statement: "Be it further understood that the merchants which hereunder have written do by this present warrant and assure the aforesaid fruit raisins and merchandise and every part and parcel of the same during the time and times aforesaid from the danger of the sea from fire and water, men of war, enemies, corsairs, pirates, thieves, letters of mart, barratry of master and mariners, jettisons, retaignment by king or prince or by any by their authority or by any other person or persons whomsoever and from all other perils and dangers whatsoever . . . and if any mischance do happen to the said fruit raisins or merchandise . . . then the merchants which hereunder have written do bind themselves . . . in manner and form as in like

[1] Marsden, Vol. II, p. 51.
[2] Marsden, Vol. II, p. 51.
[3] Marsden, Vol. II, p. 53, File 37, No. 74.

case is accustomed to be done by the bourse called Lombard Street in London and further they are content that this bill to all intents be taken to be of as much force and effect as in like case is the best bill which as touching assurance is accustomed to be done in this bourse called Lombard Street in London aforesaid And as God will so be it." This policy approaches the form of the Florentine one of 1523: it includes the barratry of master and mariners—a risk excluded by the Ordinance of Antwerp of 1563.[1] A point of interest is that the underwriters, or merchants as they are called, bind themselves according to the *bourse* called Lombard Street.

The importance of London as an underwriting centre is shown in a policy dated, in London, 8th January, 1565,[2] effected by Pieter de Moucheron, merchant, and burgess of Antwerp. A contemporary translation from the original French is among the papers, and shows that the original policy must have followed the form used in Antwerp and embodied in the Ordinance which had recently been passed in 1563. After setting out the perils insured against, there follows: "And generally by any other inconvenient, thought or not thought, there chanced loss or damage to the said ships and merchandises in all or in part We the said insurers set ourselves in the place of the said Demoucheron for to save and warrant him of all losses and damages in what manner that they might chance." The insurance covered three ships, the *Dragon*, *Lizard*, and *Esperance*, in a trading voyage from Havre to Central America. They were attacked by the King of Portugal's fleet in the Sagres river, and the *Lizard* and *Esperance* were destroyed—the *Dragon* returned, but was damaged in collision at Havre. The total value of the three ships and their cargoes was £4998, and the damage to the *Dragon* was put at £147 10s. and to her cargo £40. There were other policies which came before the Admiralty Court on these and another ship—the *Greyhound*—on the same expedition.[3] No less than thirty-seven underwriters subscribed to the policy, who "acknowledge to have assured Pieter de Moucheron . . . after the use of this Street of London and of the bourse of Antwerp." We have already seen that merchants of foreign cities sought marine insurance in London[4] and complained that they could not obtain enforcement of their contracts through the Common Law Court.

A later policy dated 1st May, 1638, came before the Court. It was in Dutch and on a printed form, the particulars of the voyage, the goods and names, being inserted in the spaces left for them.

[1] *Magens*, Vol. II, p. 25, Ordinance No. IV.
[2] Marsden, Vol. II, p. 54, File 39, No. 20.
[3] *Ibid.*
[4] *Ibid.*

The insurance was carried out in Hamburg and was subscribed by thirteen underwriters—to cover aniseed and other merchandise from Bari (in Italy) to Amsterdam. There is a contemporary translation in which the word policy (pollicie) is used, the contract ending: "and do acknowledge ourselves paid for the price of this insurance by the hands of Arnt van Haesdonck at the rate of 7 in the hundred—All in good faith without any fraud or guile According to the form and custom of the Exchange at Antwerp whereunto we do submit (or refer) ourselves not being contrary to these presents: Binding thereunto all our goods: Renouncing in good faith and as with our oath all exceptions and cavillations contrary to these presents This was done in Hamburg One thousand six hundred thirty and eight: Renouncing for the effect aforesaid the Order for Insurance made at Antwerp and all other Orders (or Ordinances) Statutes and proclamations contrary to this pollicie. If any difference shall happen the parties are content to submit themselves unto three indifferent merchants of this Exchange what they or any two of them shall award shall be held by the parties of as much force as if the same were decreed by his imperial supreme Court so that the parties shall not go there against neither use suit of law."[1]

This is the first policy we have cited which gives the rate of premium. In the early English policies it was not the practice to quote the premium. It is possible that the rate of premium was deliberately suppressed on account of different rates of premium being paid to the underwriters. It may have been difficult to place substantial sums at a common rate of premium: there were, however, some recognized rates. Gerard Malynes, in his "*Lex Mercatoria*," first published in London in 1622, says: "Concerning the prices of assurance or premio (as the Spaniards call it) it is differing in all places according to the situation of the place and the times either of war or peace or danger of pirates men of war rocks inaccessible places seasons of the year and such like and the premio was never less than this for assurances are made for Amsterdam and Middlesboro at 3 per cent and the like from London to Rouen, Dieppe, Edinburgh in Scotland and Hamburg and from London to Bordeaux and Rochelle Lubeck Denmark 4 per hundred and also for Barbary, for Lisbon Biscay Ireland Danzig and Sweden 5 per hundred, Gibraltar Malaga and the Islands 6 and 7, for Leghorn Civita Vecchia 8 and 9, Venice 10, Russia 9, Santa Domingo 11 and 12 and for East India 15, nay for going and coming hath been made at 20 per centum."

From the contracts which have been preserved among these Admiralty Court proceedings, a fairly clear view may be gained

[1] Marsden, Vol. II, p. 59.

of marine insurance as it was practised in London in the sixteenth century. Evidently a market of long standing, founded on the practice of the Italians or Lombards, had been established in Lombard Street, such that the customs and usages had become stereotyped and were well known to merchants. Lombard Street seems to have been a market generally for foreign merchants, with marine insurance only one of their activities. Stow, in his survey of London, says; "Then have ye Lombard Street so called of the Longobards and other merchants, strangers of diverse nations assembling there twice every day, of what origin or continuance I have no record more than that Edward II in the 12 of his reign confirmed a messuage some time belonging to Robert Turke abutting on Lombard Street towards the south and toward Cornhill on the north, for the merchants of Florence which proveth that street to have had the name of Lombard Street from the reign of Edward the second. The meeting of which merchants and others continued until 22nd December in the year 1568 on which day the said merchants began to make their meetings at the Bursse, a place then new builded for the purpose in the ward of Cornhill and was since by her Majesty Queen Elizabeth named the Royal Exchange."[1] The name Lombard Street first appears in 1318, when a tenement there was granted to the merchants of the Society of the Bardi at Florence;[2] this is evidently the messuage to which Stow refers. It was in Lombard Street that Henry VIII, by his 32 Hy. VIII, c.14, provided for the posting up of sailings for the assistance of merchants.

A similar bourse existed at Antwerp, and the usages there corresponded to those in Lombard Street. In case of dispute between parties, arbitration was probably the most satisfactory method of settlement, the arbitrators being chosen from merchants well versed in mercantile practice; and when taken to a court of law, the Admiralty Court which administered laws of the sea would call for the usages of merchants, as in the case of *Ridolfye* v. *Nunez* above. The English contracts were short in form, without elaborate clauses, depending upon their interpretation by the custom of Lombard Street. The underwriters were themselves merchants who might at another time require cover for ship or goods from their mercantile neighbours. The insurance was probably considered by the merchant, who subscribed his name to an amount, as a share in a mercantile adventure and a means of spreading his mercantile risks. The ships and cargoes of those days were very small compared with modern standards, and it is

[1] Kingsford's 1908 edition of Stow's *Survey of London*, from the text of 1603.
[2] Calendars of the Patent Rolls, Ed. II, iii, 246. (Reference given by Kingsford.)

likely that ships of 20 tons burthen owned in partnership frequently went uninsured.

Loans on bottomry as a means of sharing in a mercantile venture as practised by the Italians do not seem to have been common at the time. Certain transactions known as *billa obligatoria* came before the Admiralty Court in the first half of the sixteenth century, but they were advances made during the course of a voyage, usually for necessities or repairs for which the master could not pay by other means[1] or for purchase of goods as cargo. In the year 1536, in the case of *Gale* v. *Browne*, William Browne, a merchant of Tenby, in Wales, owner of the *Trinity*, borrowed £10 10s. of Henry Whelar, the agent of Gale in Spain, for the necessary use of the ship, and gave a bill (*scriptum obligatorium*) by which he charged the ship and goods "the which ten pounds and ten shillings stirling I promise and me bind to pay unto the said Thomas Gale or to his assigns within 20 days after the safe arriving of the said good ship into the river Thames . . . In witness whereof I have affirmed three bills of one tenor, the one to be complied and paid and the other to stand as void and of none effect[2]. Written the 4th day of January anno 1536 in Cadiz . . . "

In the following bill there are words implying that the lender bears the risk and that he receives his money only on safe arrival. "This bill made the 3rd day of May in the year of our Lord God 1526 witness that I John Palmer of Maldon merchant owes unto Peter Wyldank of London brewer the sum of 25 sterling the which the said Peter doth bear the venture in a ship called or named the James of Maldon to Shetland and from Shetland to Maldon or any port there it shall fortune the said ship to discharge her lading from all manner of mischance and I the said John Palmer bindeth me and my ship and all my goods by this bill to pay the said Peter his Executors or assigns 25 pounds sterling money within five weeks after the said ship called the James of Maldon come in safe into any port of Reyne of England And in witness of the trewth I the said John Palmer hath subscribed my name and set my seal herein the day and year above written."[3]

These early bills obligatory seem to be variants of and perhaps grew out of the bill of exchange. The following is the wording of a true bill of exchange which came before the Court in 1533: "Be it known to all men that I Thomas Thorne, haberdasher of London have taken up by exchange of Thomas Fuller merchant of the staple of Calais the sum of £60 sterling which sum of three score pounds sterling to be paid to the said Thomas Fuller or to the bringer of

[1] Marsden, Vol. I, p. lxxii. [2] Marsden, Vol. I, p. 55. [3] Marsden, Vol. I, p. 29.

the bill in manner and form following that is to wit the 24th day of August next after the date of this bill to pay £30 sterling and the 20th day of September next following to pay other £30 sterling to the which payments well and truly to be paid to the said Thomas Fuller or to the bringer hereof at the days before written I the said Thomas Thorne bind me mine heirs executors and assigns and all my goods In witness whereof I the said Thomas Thorne have written this bill with mine own hand subscribed my name and set to my seal the 18th day of April anno 1528." The bill was a bearer document, the sum being payable to Thomas Fuller or to the bringer of this bill, whereas the bill obligatory of 3rd May, 1526, was payable to "the said Peter his executors or assigns." In the Courts' decree on this bill of exchange, *Fuller* v. *Thorne*, it is referred to as a civil and maritime contract (*ex quodam contractu civili et maritimo*) and as letters obligatory (*per litteras obligatoris*).[1] It is possible that lenders found it so difficult to collect their debts from borrowers who had lost their ship and goods that they made a virtue of necessity, and undertook the risk of loss of ship charging therefor in the rate of discount under the bill. Certainly in the wording of the two documents at the time of Henry VIII there is not a great deal of difference.

The word "bottomry" first appears in Admiralty Court proceedings in 1593 in the case *Franchiottie* v. *Schroder*. An extract from the decree of the Court reads (in translation): "And further it was . . . agreed between the aforesaid parties . . . that in case the said ship . . . should suffer shipwreck . . . or perish by any other misfortune . . . that they (the lenders) should bear or sustain the risk of the sums . . . lent by them and should discharge . . . (the borrower) from repayment . . . as clearly appears . . . by two writings, or mercantile bills, called in English bills of bottomry (*per duo . . . scripta seu billas mercatorias, anglice billes of bottomrie*)."[2]

The general practice among merchants is set out in the nineteenth clause of the City of Antwerp Ordinance on Assurances: "No body shall take or ask any money upon the bottom of the ship (commonly called Bottomrie or Exchange upon the Hull or Keel of the ship) . . . unless the master of any vessel by any misfortune of the sea enemies or other unavoidable accident . . . stand in want in a foreign country . . . in which case he may take upon the bottom of the ship the quarter part of the value of said bottom, and no more, unless necessity oblige him to take a larger sum . . . neither shall he expose to sale or alienate any goods on board such

[1] Marsden, Vol. I, p. 41. [2] Marsden, Vol. II, p. 176.

vessel as long as he can find bills of exchange or bottomree upon the bottom of such vessel. . . ."[1]

In a case on a Dutch bottomry bond executed in London the 2nd September, 1570, Feck Pieters borrowed £24 16s. on the keel of the *Jonas* from Lieuen de Bruyn "at the peril and adventure" of the latter. Under the bond, Pieters undertook to pay to de Bruyn "*or to the bringer hereof* att London within eight days after arrival safely and shall have ridden four and twenty hours at anchor."[2] Another bottomry bond in Dutch which came before the Court in 1575[3] provides for payment to the lender *or assigns*, which appears to have been the more common practice in bottomry contracts. The English contracts used the words "pay to the said (lender) his heirs executors or assigns."[4]

At the time of the early Tudors, the English merchants were considerably behind the Flemish, the Spanish, and Italian merchants in commercial practice and knowledge of banking and insurance, but more and more London merchants were ousting the foreigners from Lombard Street and developing their own shipping. We have seen Lombard Street coupled with the Bourse at Antwerp in insurance contracts, at least a sign that the former was no mean competitor, but Antwerp was the first city in Europe by the end of the fifteenth century. In it were the wealthiest merchants and bankers from Germany, finding Antwerp, with its outlook to the west and important trade with Lisbon in spices from the East, better suited to them than Augsberg, which lay on the old overland route to Venice via the Brenner Pass and the River Inn. The English Merchant Venturers themselves had transferred their factory from Bruges to Antwerp in 1446.[5] Antwerp was the distributing centre for Northern Europe.

Henry VII recognized the great importance of shipping, and wine and wool could be imported into this country only in English ships unless licence were given to ship in foreign vessels. Licences were granted sparingly by Henry VII, in spite of the revenue he collected thereby. Henry VIII applied the principle at first rather more loosely, but in 1540 a Navigation Act (on a broader foundation than that of Richard II of 1381) was passed, the preamble to which gives important information on the attitude towards shipping at the time. The Act was passed "for the maintenance of the navy" and states that "the navy or multitude of ships of this realm in times past hath been, and yet is, very profitable, requisite, necessary

[1] Magens, Vol. II, p. 28.
[2] Marsden, Vol. II, p. 75.
[3] Marsden, Vol. II, p. 76, File 47, No. 54.
[4] See more elaborate bond, File No. 163, Marsden, Vol. II, p. 77.
[5] *Camb. Modern History*, Vol. I, p. 507 *et seq.*

and commodious as well for the intercourse and concourse of merchants transporting and conveying their wares and merchandises as is above said and a great defence and surety of this realm in time of war as well to offend as to defend, and also the maintenance of many masters mariners and seamen, making them expert and cunning in the art and science of shipping and sailing and they and their wives and children have had their livings of and by the same and also hath been the chief maintenance and supportation of the cities, towns, villages, havens and creeks near adjoining unto the sea coasts." The Act goes on to point out that the provisions made for imports in English ships have not been complied with. They were re-enacted, and freights for various goods and from various ports were set out, but what from the point of view of the history of marine insurance is particularly noteworthy is that arrangements were made for the publication in Lombard Street of notice of the sailings of ships.[1]

Such official regulations would have been of very little value unless protection were given to English ships at sea: this was a particular concern of the Tudors; Henry VIII, when war broke out between France on the one side and Spain and England on the other, entered into agreement with Spain that each would furnish 3000 men and ships to protect the seas in their respective areas—the English area extended as far as Brest. For the purpose the English Admiral had under his control eighteen ships, the largest, the *Regent*, of 1000 tons and the smallest of 70 tons. These were centred on Cowes for victualling, and rates of pay for officers and crew and soldiers were fixed. Not only was protection given from enemies and pirates, but navigation was assisted by the foundation by Henry VIII of the fraternity of the Holy Trinity at Deptford, who by their charter of 1514 were entitled to make "all and singular articles in any wise concerning the science and art of mariners," and to make ordinances "for the relief, increase and augmentation of England."[2] Elizabeth later gave them power to erect beacons and sea marks, and take under their control the buoys and ballastage. Harbours, including Rye and Winchelsea, were improved in 1549, and piers at Dover and Scarborough were constructed.

These measures were largely the expression of the nation's growing aspiration towards overseas adventure and trade. The latter was not confined to the English; it was part of the general widening of outlook which accompanied the later renaissance. It was an age of discovery, and the New World opening up in the

[1] 32 Henry VIII, c. 14. [2] Cunningham, p. 497.

West called to the imagination of Western Europe; ships and overseas trade took on a new glamour and merchants, such as Sir Thomas Gresham, became statesmen, their views moulding policies and legislation.

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CHAPTER III

THE ELIZABETHAN CHAMBER OF ASSURANCES

INTEREST of Privy Council in mercantile affairs—The trading companies—The bourse at Antwerp and Lombard Street in London—Migration of merchants from Lombard Street to Royal Exchange, 1570—Influence of Sir Thomas Gresham—Petition to Privy Council by disputants under marine insurance policies—Their reference to Lord Mayor—Privy Council's inquiry as to insurance practices—Office of Assurances set up in Royal Exchange—Patent to Richard Candler to act as Registrar—Appointment of Commissioners—Protest of brokers and notaries—Standardization of marine insurance policy—Practices of Office shown by action on a life assurance policy—Functioning of Commissioners with the Admiralty Judge—Act of 1601 "touching Policies of Assurances used among merchants"—Further Act of 1662—Registrars subsequent to Candler—Royal Exchange destroyed in fire of 1666—Accommodation found in Second Royal Exchange, but office of waning importance—Pepys' references to insurances in the Royal Exchange—Importance of the office in the Royal Exchange in the history of marine insurance

ONE of the outstanding features of the Elizabethan administration through that organ of Tudor government, the Privy Council, was the interest taken in all matters mercantile and especially of the expansion of the mercantile marine. Marine assurance itself, as being part of the machinery of commerce, came within its careful purview and became subject to regulation. Mercantile expansion required that the country should become a strong naval power, and that this should be achieved was the settled policy of Elizabeth's great minister, William Cecil, Lord Burleigh. The circumstances of her reign favoured his ambition. The rivalry of the two continental powers, France and Spain, gave us an opportunity of building up our strength while these two antagonists weakened each other, and under the wise guidance of Cecil our maritime power was strengthened till it became predominant. Bounties on the building of ships were regularly paid; construction and improvement of harbours were undertaken. In 1565 a warrant was issued for commissioners under the Great Seal for superintendence and care of ports and havens, as well as for the suppression of pirates.[1]

As the fishing industry provided the best source from which men for the Navy and mercantile marine could be obtained, fishing was encouraged: the observance of fish days each week and the whole of Lent was made compulsory. Privateering was permitted and encouraged: during the quarrels with Spain it offered much profit to individual adventurers—as also did the slave trade with the Spanish

[1] Cunningham, *Growth of English Industry and Commerce—Modern Times*, p. 63 *et seq.*

colonies. Apart, however, from the call of reckless adventure, much honest trading was done, especially by the chartered trading companies, who exported English cloth: the Muscovy Company founded in 1555, the Levant Company of 1581, and the East India Company of 1599. Further organization was encouraged in those bands of merchants, the Merchant Adventurers, who had received patents to trade in Northern Europe. All these carried English trade into ever-widening circles.

On the outbreak of war with Spain, the Netherlands (then under the Spanish dominion) were cut off from trade with us, more to their disadvantage than to ours, and the Merchant Venturers transferred their factory from Antwerp to Hamburg, Antwerp thenceforth losing prestige to London. In our competition with Spain we had, in the long run, the advantage of them in that our expansion was based upon the export of our own manufactured goods, cloth made from wool grown in the country, whereas their trade depended largely upon the artificial stimulus of the treasure and precious metals taken from the ancient civilizations of Central America. So soon as the treasure had been dissipated in Europe in wasteful wars, decay set in.

The close association through the Merchant Venturers and others with the commerce of the Netherlands, and particularly with Antwerp, led to the City of London adopting some of their commercial practices and institutions. One of such was the erection of a bourse similar to that of Antwerp. It was the custom of merchants to meet twice a day in the open air in Lombard Street to deal with bargains, exchange, and insurance, a practice going back to the Florentine merchants and bankers. The building of a bourse for merchants was first proposed by Sir John Gresham, when he was mayor, father of the more famous Sir Thomas Gresham. There is a letter from him addressed to Cromwell, minister of Henry VIII, asking for assistance for the compulsory purchase of part of the site from Sir George Monnoux.[1] It remained, however, for the son to carry through the project. He proposed in 1565 to the Court of Aldermen that if they would provide the site he would build the bourse at his own expense, and the site was chosen in Cornhill. The building was erected there, the upper part being reserved for shops, the rents of which Sir Thomas retained, and on his death, subject to a life interest therein to his widow, he left the building to the Corporation of London and the Mercers Company (of which he was a member) for the maintenance of Gresham College. The meetings of the merchants, hitherto held in Lombard Street, were on completion of the building removed to the "Bourse" in the Ward

[1] J. W. Burgon, *Life and Times of Sir Thomas Gresham*, 1839.

of Cornhill. Queen Elizabeth visited the City in state on 23rd July, 1570, and, having dined with Sir Thomas Gresham, went to the bourse and "after she had viewed every part thereof above the ground, especially the pawn (the shops on the upper floor) which was richly furnished with all sorts of the finest wares in the City, she caused the name of the bourse by an herald and trumpet to be proclaimed the Royal Exchange, and so to be called thenceforward and not otherwise."[1]

Marine insurance hitherto carried on among the merchants in their daily meetings in Lombard Street thus became centred in Sir Thomas Gresham's Royal Exchange. Sir Thomas himself may have had no inconsiderable part in the practice of marine insurance. That he was familiar with it is evident from his correspondence while in Antwerp as agent of the ministers of the Crown. He had the delicate task of procuring gunpowder and munitions, and shipping them to London for possible use against Spain at the time the Netherlands were part of the possessions of the Spanish Crown. At times he had to conceal the true nature of the goods he was shipping and ran considerable personal risk. In a letter written from Antwerp on 23rd September, 1561, he said: "I perceive that the King of Denmark, and the Duke of Holst and the Duke of Brunswick hath released all the Queen Majesty's armour and munition: whereas I have all the ways and practice I can for the despatch thereof, but I can by no means compass it. Therefore for the better despatch thereof afore the winter doth come there is shipped in two ships these parcels as followeth:

> Shipped by the grace of God in (the Ship) *Martyne Styleman* 740 corselets, 572 corriers, 560 morrions which was the goods that was lost at Dyttemarche and under the arrest of the King of Denmark and the Duke of Holst and his brother.
>
> Shipped in the *Christopher* of Dyttemarche 42000 weight of saltpetre and 720 long corriers.

all which goods doth amount to the sum of £4000 which I have caused to be assured after the rate of £5 upon the hundred for the more suretie of the seas which I beseach the Lord to send in safety: likewise as these cannot be got on ships for London the rest shall be shipped with as much expedition as maybe . . . It may please you to take order with My Lord Treasurer that my bills of exchange may be paid for the preserving of my poor name and credit, which doth not a little disquiet me, for that as the 15th of the present month there was not a penny paid."[2]

[1] Stow's *Survey* (Cornhill Ward).
[2] J. W. Burgon, *Life and Times of Sir Thomas Gresham*, 1839, Vol. I, p. 401.

At other times Gresham in shipping gunpowder to London did not always cover the whole by insurance. In June, 1560, £2000 worth of powder was "adventured on each ship" and only £1000 assured, but he requested "for security that three or four ships of war might be sent and convoy them to the Tower in London."[1] Gresham's correspondence was carried on with one of the Secretaries of State, of whom, from 1539, there were two, both members of the Privy Council, which in Elizabeth's time was a small compact body with an attendance of about eight to twelve. In the latter part of her reign the total membership was no more than twelve, of whom the principal members were the secretaries; indeed Secretaries Cecil and Walsingham were, in effect, the chief ministers of the Crown.[2] As a small board of experts constantly in attendance wherever the Court might be, and sitting without the presence of the monarch, the Privy Council became a powerful instrument of government. From the Minutes which have come down to us, we can see the diversity of matters they dealt with and the efficiency with which they handled them. Matters of trade were by them regarded as of the highest importance. Of marine insurance during the period from 1571 to 1577, there were no less than twenty-one recorded Minutes. The Privy Council took a very strong line in fostering the health of marine insurance in the City of London.

A number of petitions were received by them for help in securing payment of sums due, sometimes to foreigners, sometimes to English assured, from underwriting merchants. At a meeting of the Council on 15th December, 1573, a complaint by one Soning was submitted that he could not secure payment from underwriters for a loss of a ship. The matter was referred by the Council to Alderman Osburn and five other City merchants, or any four of them, to seek some agreement between the parties, and, if they could not do so, then to report back as to what should be done, so that such steps may be taken that "justice and equity appertaineth."[3] The Alderman and other merchants seem to have acted as arbitrators and to have given an award which only part of the assurers would accept, and Soning was still unable to secure payment. A letter was ordered to be sent by the Privy Council on 17th February, 1573–4[4] to the Lord Mayor pointing out that non-acceptance of the award "tendeth to the derogation of so ancient a custom as assurance amongst merchants and breedeth great discredit to the parties that the Lord Mayor should send for the parties and use the best entreaties he could and

[1] J. W. Burgon, *Life and Times of Sir Thomas Gresham*, Vol. I, p. 323 note.
[2] D. L. Keir, *Constitutional History of Modern Britain*, 1938, p. 113.
[3] J. R. Dasent, *Acts of the Privy Council*, 15th Dec., 1573.
[4] 1573 in the Old Style, when the calendar year ended 31st March.

if they still refuse then to warn them to appear here to declare what reason they had."

In 1574 the case of Peter Martiner or Pierre Martines came before the Privy Council on four occasions.[1] The complainant was a merchant of Spain, who stated he could not secure payment under a policy subscribed by certain London merchants. The case was on 5th July submitted to the Admiralty Judge, "who should refer it to independent parties to consider." In December a letter was sent, this time to the Lord Mayor, asking him to confer with such as be most skilful in these cases and "certify my Lords what laws, order and customs are used in those matters of assurance to the end they may be put in use accordingly." The case of Martines was not settled, and a further letter from the Privy Council was sent on 6th February, 1674–5, to the Lord Mayor pointing out "that such dealings tended to discredit the City"; that he should call "unto him such merchants skilful in these matters for his better assistance, hear both parties and take such final order therein as should be agreeable with justice—if they refuse to stand, then notify their lordships who would take such action as should be expedient." Finally, on 27th February, 1574–5, the recalcitrant underwriters appeared before the Privy Council and agreed on arbitrators, two for each side, and "if they cannot end it then both parties refer it to the prudent Alderman Hayward betwixt this and Easter."

The practice of referring insurance disputes to the Lord Mayor, who was to have associated with him merchants acquainted with insurance usages to act as arbitrators, seems to have become a common one, but the Council did not allow to drop the questions they had addressed to the Lord Mayor as to what were the usages and customs of insurance. On 15th June, 1575, a letter was ordered to be sent to the Lord Mayor asking him to "certify their Lordships what had been done for setting down some orders for matters of assurance which their Lordships required to be done long ago."[2] Among the documents of the City of London there is a letter from Sir Francis Walsingham (Secretary of State) to the Lord Mayor under date 21st February, 1576 (? 1575–6), on the same subject "touching the orders set down for assurances and requesting that Mr. Norton or some fit person might be appointed to confer with him upon the subject."[3]

Although no full statement of practices as to marine insurance was furnished to the Privy Council, a step was taken towards organizing the market therein, which had gravitated to the Royal

[1] J. R. Dasent, *Acts of the Privy Council*, 15th Dec., 1573.
[2] J. R. Dasent, *Acts of the Privy Council*, 15th June, 1575.
[3] W. H. Overall and H. C. Overall, *Remembrancia*, 1878.

Exchange from Lombard Street, by making the registration of all insurances compulsory and the erection of an Office or Chamber of Assurance in the Royal Exchange on the lines of the one at Antwerp. Whether this was due to the influence or advice of Sir Thomas Gresham, for many years Her Majesty's agent in Flanders, and resident in Antwerp, we cannot say. He was constantly in correspondence with the Secretary of State, and the patent[1] dated 21st February, 1575 (1575–6), was granted to Sir Thomas Gresham's representative in London, Richard Candler, who had handled various matters on his behalf with the Privy Council.[2]

The preamble to the patent read: "For as much as it is credibly given us to understand that for want of good and orderly keeping in registers the assurances made within the Realm of England among merchants . . . the trade of merchandise have been and yet be often times greatly abused by evil disposed people who for their private gain and advantage have assured one thing in sundry places thereby intending any loss should happen, to recover in all said places, and so often times have done, to the great loss and hindrance of divers such honest merchants as did assure the same. And the ancient custom of merchants in Lombard Street and now in the Royal Exchange by that means almost grown out of estimation which heretofore as we are informed hath been the chief foundation of all assurances." It would appear from this that the establishment of the office was the result of the information and advice as to the practices of marine assurance given by the Lord Mayor representing the City merchants. The patent, dated, 21st February, 1575, was granted to "Richard Candler, gentleman, his deputy or deputies the office of making and registering all manners of assurances policies intimations and other things whatsoever that happen shall be made upon any ship ships goods or merchandise."

Candler as the agent and associate of Sir Thomas Gresham, a member of the Mercers' Company as was Sir Thomas, was probably a very suitable person for such an office. He must have had a knowledge of the practices of merchants at Antwerp as well as in London, and was fully aware of the many evils of double or over-insurance of ships and merchandise, for which the obvious remedy was the compulsory registration of such insurances so that underwriters might see the terms of, and the total amount of assurance placed on, any venture. The office was not without independent control for, under Her Majesty's Commission, Commissioners were appointed under the nomination of the Lord Mayor to settle fees

[1] Patent Roll, 17 Eliz. Parl., 9 M. 41.

[2] Burgon. See note in Vol. I, p. 323, and references to Candler in *Acts of the Privy Council*, 1571–75.

payable to the Registrar and other related matters. From the "letter books" and registers of the Common Council and Court of Aldermen, records of the appearance of such Commissioners extend from 1576 to 1661 for the purpose of taking t' e oath; thereafter by the amending Act of 1662[1] the oath before the full Court was made unnecessary.

In a letter from the Privy Council of 15th June, 1575, it was suggested that the fees customarily charged in other countries should be adopted. The schedule of fees drawn up by the Commissioners did not, however, meet with the approval of Candler, who compared them with those paid at Antwerp, and he submitted his criticisms to Mr. Secretary Walsingham, with the schedule, on 23rd May, 1576. For the entering and registering a policy he was to be entitled to charge 1s. and a further charge of 1s. for each £100 subscribed by underwriters. On this Candler wrote: "Although there is 5s. upon the hundredth allowed (at) Antwerp for like registering approved by certificate yet nevertheless if the said Commissioners do agree the said rate either more or less the said R. Candler must and will hold himself contented therewith." Against this there is a marginal note in Walsingham's writing: "An unreasonable difference between Vs. per cente and XIId. p cent." Candler took a stronger line on the next item. The Commissioners allowed him 5s. for certificates, 2s. 6d. for copies of policies if required, 6d. for searches. His indignation here got the better of him, and he wrote on the schedule: "The Commissioners have none authority nor warrant to rate such things, neither are they any value to be accounted of, but thrust in to make some shew of living and thereby slyly to convey from the said Richard Candler the greatest part of his office—the making of policies and intimations to him granted in the said letters patent by special words." Walsingham's marginal comment on this is: "Decipt full shews Commissioners ought not to exceed their commission." Candler drew attention to the fact that the Commissioners were cunningly substituting option for compulsion in his making of policies and intimations "by their bill of rates, wherein they say that the said Richard Candler shall have XIId. for the making of every policy *that shall be brought to him to be made* and that it shall be lawful to the said Richard Candler to make Intimations *as other notaries may* and not otherwise." Candler's comment on this was: "That if every man may make policies that will, the case will be such that the said Richard Candler shall not have the registering of the tenth policy of assurance that shall be made, for that he shall not know on whom to complain for not registering their assurances and so his office will

[1] 14 Car. II, c. 23.

not be able to countervail his charges." Walsingham clearly saw the matter from the public's viewpoint, for his comment on this was: "So long as every man may make his own policy the deceipt in assurances will never be redressed, which is the greatest cause of the erection of the said office as appeareth by the Letters Patent."[1]

It may be that the effort of the Aldermen to impose a schedule by fees and the waiving of compulsion in certain respects, such that the patent would prove valueless, was the result of an agitation by the brokers and notaries who had hitherto drawn policies. The following account of the brokers and their action is given in Strype's edition of Stow's "*Survey of London.*" It is important as showing the mode of transacting insurances at the time . . . "They were called Broggars in a statute 10 Richard II and in Latin they are styled abrocarii or brocarii, an office of antiquity and credit: formerly they were to be recepti ac jurati: again, none to be brocars in any mystery unless chose by the same mystery. Further, none of them to make contracts of usury or bargain unless he brings the buyer or seller together. Now brokers are such as are assistants to the merchants in buying and selling and in their contracts concerning also in the writing of insurances and policies and such like and therefore formerly they had their dealings near the Exchange and were freemen of the City and so much depending on their truth and honesty they were sworn and bound with sureties in divers and sundry great sums of money for their honest and true dealings in their faculty: about the year 1574 there were thirty of them and no more."

"The practices of this calling were about the said year like utterly to be undone as the notaries before were and upon the same cause, viz by a patent obtained by Candler that none but he or his deputies should make and register policies and instruments of assurance which time out of mind were done by notaries public and by the sworn brokers of the City. These brokers, therefore, petitioned the Lord Mayor[2] and Court of Aldermen to be a means to the Queen that the premises might be revoked otherwise it would be their utter undoing: that it would also be an infringement upon the liberty of every good citizen who before might make his writing and assurance himself and use neither broker nor notary except he pleased himself, nor was it good that one man should have an office of divers men's livings." They pointed out further "that the merchants had good choice of notaries and brokers who upon a sudden might be ready and diligent to serve their turns as well in the making their policies as in procuring subscriptions of the same as

[1] *State Papers Domestic*, Eliz., Vol. CVIII, No. 27.
[2] See also terms of petition itself, *Lansdowne MS.*, pp. 28, 29, 30.

also in making intimations and other writings incident thereunto, by which speedy despatch divers losses and inconveniences which otherwise might happen were prevented . . . that it would be a great bondage to merchants to be held to one particular person who might either for favour or award dispatch one man and for displeasure or ill will delay another, that merchants who intended some secret yet lawful voyage would be glad to pass their writings privately to such notaries and brokers as they know would be secret . . . " A petition by the notaries was couched in much the same terms.[1]

In spite of the petitions the patent was not revoked, but it appears that not all policies were at first made and registered at the office. A letter was, on the instructions of the Privy Council, on 30th July, 1576, sent to the Lord Mayor pointing this out and "requiring the Lord Mayor that the writing wherein the said rates (i.e. the table of fees payable) be by him and the rest set down may be published at some Exchange time when the merchants shall be most gathered together." This proclamation was carried out, and a copy of it is in the City Corporation Records of about July, 1576 (Jor. 20, ii, fo. 293). It sets out the main terms of the patent and mentions the registration fee of 2s. per cent of the sum assured—the figure claimed by Candler in his complaint to the Privy Council, referring to the fees as those "which the Lord Mayor and the others have thought meet to be had by the said Richard Candler." Policies, according to the proclamation, not registered were to be null and void. From the terms of this proclamation it appears that the Commissioners who approved the final schedule of fees included the Lord Mayor, the Mayor of the Staple, Sir Thomas Gresham, and the Governor of the Company of the Merchant Adventurers, who acted under a patent granted by the Queen.

The Privy Council seem to have regarded the general lines upon which the Office of Assurances should be run were to be committed to writing and the mode of keeping the records submitted to them, for in their letter to the Lord Mayor of 30th July, 1576, he was sharply reminded "that the books of orders of assurance which his Lordship hath so often times been written unto for may be finished with expedition and brought unto their Lordships to be confirmed for the better avoiding of such suits as they be daily troubled with for want thereof, and if any person shall hereafter disobey the observance of any point of her Majesty's grant made to the said Mr. Candler that his Lordship take order with every such as shall appertain."

[1] The petitions of both notaries and brokers are set out in *Lansdowne MS.* 113, pp. 28, 29, 30.

Six months thereafter the Court of Aldermen at last produced the report asked for by the Privy Council devising "certain good orders concerning matters of assurances." It was a rather long and rambling document, but it is in the form of an effective resolution by the Court of Aldermen. Reference there is made to the necessity "to set down in wording such good and laudable orders . . . agreeable to the ancient orders heretofore used in Lombard Street unto which orders all other countries have submitted themselves many of which have been already set down by two Aldermen deputed to the task but which had not then been fully completed." By this resolution (29th January, 1576–7) seven merchants were to be appointed annually to attend twice a week (Monday and Thursday) to sit in the Office of Assurance in the Royal Exchange to try, examine, and also to end all controversies, doubts, and questions as shall be brought before them concerning assurances. Any orders or decisions made by them were to be set down in writing by the Registrar of Assurances. In fact, the Registrar (Candler), or his deputy, was to act as a sort of Clerk to the Commissioners. Each of the latter was to take oath before the Court of Aldermen before entering on his duties. (*City Corporation Records Letter*, Book Y, fo. 126.)

There were two important results from the creation of the Chamber of Assurances. First, in consequence of the policies being drawn by one person, or in one office, the clauses became standardized, and, as we shall find, a form was adopted which has essentially persisted to the present day. The second was a lull in the litigation in the Admiralty Court owing to the facilities for arbitration through the expert Commissioners. The circumstances of the first policy which has been preserved is of interest because it throws light on the way the office was conducted. Extraordinary as it may seem, it is a life policy, and, as appears from the record, not the first of such life assurances. The policy is cited in an order given by Dr. Dale and Dr. Caesar (the Admiralty Judges) and ratified by the Privy Council on 8th March, 1587.[1]

The complainant was Richard Martin, citizen and Alderman of London, and the defendants were the sixteen underwriters of the policy. The Order of the Judges, which includes a full recital of the policy, is as follows—

> "It appears that the defendants did by writing subscribe with their own hands bearing date the 18th day of June in the year of our Lord 1583 make a certain contract of assurance with the said complainant, named amongst merchants a policy, the tenor whereof ensueth:
>
> In the name of God Amen Be it known unto all men by

[1] Brit. Mus. *Lansdowne MS.*, 170, p. 123: Quoted *J.I.A.*, Vol. XVI, p. 419.

these presents that Richard Martin citizen and alderman of London doth make assurance and causeth himself to be assured upon the natural life of William Gibbons, citizen and salter of London, for and during the space of twelve months next ensuing after the underwriting hereof by the assurers hereafter subscribed fully to be complete and ended. The which assurance we the persons hereafter named, merchants of the City of London for and in consideration of certain current money of England by us received at the subscribing hereof of the said Richard Martin after the rate of eight pounds sterling per cent (whereof we acknowledge ourselves and every of us by these presents truly satisfied and paid) do take upon us to bear And we do assure by these presents that the said William Gybbons[1] (by what addition so ever he is or shall be named or called) shall by God's grace continue in this his natural life for and during the space of twelve months next ensuing after the underwriting hereof by every of us the assurers or in default thereof every of us to satisfy content and pay or cause to be satisfied contented paid unto the said Richard Martin his executors administrators or assigns all such several sums as we the assurers shall hereafter severally subscribe promising and binding us each one for his own part our heirs executors and administrators by these presents that if it happen (as God defend) the said William Gibbons to die or decease of this present world by any way or means whatsoever before the full end of the said twelve months be expressed then we our heirs executors or assigns within two months after the intimation thereof be to us our heirs executors or administrators lawfully given shall well and truly content and pay or cause to be contented and paid unto the said Richard Martin his executors administrators or assigns all such sum or sums of money as by us the assurers shall be hereafter severally subscribed without any further delay.

It is to be understood that this present writing is and shall be of as much force strength and effect as the best and most surest policy or writing of assurance which hath been ever heretofore used to be made upon the life of any person in Lombard Street or within the Royal Exchange in London and so the assurers be contented and do promise and bind themselves and every of them their heirs executors and administrators by these presents to the assured his executors and assigns for the true performance of the premises according to the use and custom of the said Street or Royal Exchange and in testimony of the truth the assurers have hereunto severally subscribed their names and sums of money assured God send the said William Gibbons health and long life Given in the Office of Assurance within the Royal Exchange aforesaid the 18th day of June 1583."

[1] In the Order sometimes spelt "Gybbons," sometimes "Gibbons."

William Gibbons died on the 9th May next after the making of the said contract, and notice thereof was given to the assurers. The defendants refused to pay on the grounds that Gibbons "lived the full twelve months accounting 28 days to every month."

In giving a decision in favour of the plaintiff, the judges said that "divers learned in the civil law as also the Lord Mayor and the Aldermen his bretheren as are specially deputed by virtue of an order made by the Lord Mayor and the Aldermen and ratified by orders of Her Majesty's Council Commissioners for the hearing of all matters of assurance, and others as well as notaries and merchants, Englishmen and strangers had declared their opinions that by the contract made according to the custom and usage of Lombard Street and the Royal Exchange, the month is to be accounted according to the course of the Kalendar and not after 28 days to the month. . . and for as much also as Richard Candeler the Clerk of the Assurances by whom the contract was drawn and penned affirmed on oath that the meaning was that the assurers were bound for a full year . . . It is therefore ordered by us . . . that the defendants and every of them shall pay . . . the several sums of money specified . . ." This decision was given notwithstanding that the judges admitted that "by the laws of the Realm in contracts for matters done and happened within this Realm between man and man *being not merchants* not made after the manner or usage of merchants, the month is taken to be accounted after the rate of 28 days to the month." This is an example of the application of the law merchant within which the contract was brought by virtue of being transacted between merchants and the statement contained as to the precedent of Lombard Street.

Other points of interest in the case are that the policy is the first in which reference is made to the custom of the Royal Exchange in association with that of Lombard Street. It has been used ever since in making policies; the words in Lloyd's policy to-day are "and it is agreed by us the insurers that this writing or policy of assurance shall be of as much force and effect as the surest writing or policy of assurance heretofore made in Lombard Street or in the Royal Exchange or elsewhere in London." The meaning of this is lost to us to-day because the law merchant as touching insurance has been absorbed into the common law; but when, as in the case of Gibbons, there was a conflict as to meaning, the true intent was derived by the allegation of merchants who knew the usages of Lombard Street among merchants. It is impossible to say how frequently policies were issued on human life, but from wording in the judgment two of the underwriters who had subscribed to the policy which was the basis of the action had previously subscribed

to an insurance on the life of William Gibbons. It cannot, however, be argued from the use of the words "shall be of as much force strength and effect as the best and most surest policy or writing of assurance which hath been heretofore used to be made upon the life of any person in Lombard Street" that such assurances were common. The words were merely the adaptation of those of marine insurances generally to bring them into the ambit of recognized mercantile law and usage.

We see that Candler drew and "penned" the policy, and was called upon oath to affirm its meaning. Perhaps one of the most important things brought to light by this case is that certain City merchants were specially appointed Commissioners by the Lord Mayor and Aldermen, and that such appointment was ratified by the Privy Council, for hearing and ending of all matters of assurance. Gerard Malynes throws some light on the control of the Chamber by Commissioners. In his "*Lex Mercatoria*," published in 1622, he says: "And whereas here in London the meeting amongst merchants was in Lombard Street in London as aforesaid . . . all the policies or writings of assurances which there were and now yet are made do make mention that it shall in all things concerning the said assurances as was accustomed to be done in Lombard Street in London which is imitated[1] in other places in the Low Countries. These assurances are made in the said office in the West End of the Royal Exchange in London. . . . The Commissioners for the said assurances are chosen yearly (or at least some of them) in the beginning of every year. And at Rouen at the time when the merchants of all nations choose their Prior and Consuls. The chief authority with us doth rest in the Lord Mayor of London confirmed by an Act of Parliament in the later time of Queen Elizabeth (as you may understand by the manner of proceedings for assurances)." The Act of Parliament referred to by Malynes is that of 1601, setting up a Policies of Assurance Court, but prior to this it is implied that Commissioners were functioning, advising, administering, and arbitrating in disputes.

William West in his "*Simboleography*" first published in 1598, with a further edition in 1615, set out many forms of commercial documents, and among them under the heading "Instruments in Merchants Affairs" are two policy forms which seem to be copies of originals, one of them a marine insurance, to which we will refer later, and the other a life assurance.[2] The life assurance is expressed as of the date 14th May, 1598, only thirteen years later than the Gibbons' policy, and was one also executed at the Office of

[1] In this, as we have seen, he was incorrect.
[2] British Museum Library, 1380, k. 11.

Assurance; the final words before the subscription of the underwriters are: "Given in the Office of Assurance within the Royal Exchange in London the 14th day of May 1596." A number of the clauses are identical with those of the Gibbons' policy given above and indicate that they were common form. There is one difference which is worth noting as stressing the function of the office. There appear the words: "It is to be understood that this present writing of assurance *being made and registered according to the Queen's Majesties Order and appointment* shall be of as much force and effect as the best and most sure policy of writing of assurance which hath ever heretofore used to be made in Lombard Street or now within the Royal Exchange in London." The clause differs from that of the 1583 policy by inclusion of the words in italics. In the 1596 policy there is implied a warranty as to health and residence of the life assured, for there are the words: "which said T. . . B. . . is now in health and well and meaneth not to travel out of England." The policy covered a term of five months and was at the rate of 5 per cent. The subscription of the first underwriter is given: "I, Jake B. . . am content with this assurance (which God preserve) for the sum of fiftie pounds."

Evidence of the functioning of this Commission is abundantly clear from various letters from the Privy Council. On the 24th May, 1578, a letter was sent from the Privy Council to the Commissioners for causes of Assurance relative to a complaint by one Hippolite Briamonte under a marine insurance policy which had been sent to the Privy Council[1]. Later letters in relation to the same case were sent on 2nd January, 1579, and 11th September, 1580. While the Commissioners acted as arbitrators in disputes, their powers were at first limited. Dr. Lewis, the Judge of the Admiralty, held a patent from the Queen in 1575 to hear cases arising on freight, charter parties, bills of exchange, and assurances. Some doubt seems to have been felt as to this patent, for the Court of Aldermen referred it to counsel to consider as to its validity (*City Corporation Records Letter*, Book Y, fo. 254*b* and fo. 267—see also Marsden, "*Select Pleas in the Court of Admiralty*," II, p. XIII). To avoid any conflict, the Privy Council joined Dr. Lewis's name with the Commissioners in their letter of 11th September, 1580. The Council then referred to the Commissioners a marine insurance complaint, addressing the letter to Dr. Lewis, William Maham John Harvie, and the rest of the Commissioners for Assurances in the City of London.[2] Another letter dated 31st May, 1580, was

[1] Dasent, *Acts of the Privy Council* under the dates mentioned.
[2] Marsden, *Selden Society Publications*, Vol. XI, p. XII. Lewis held office till that year; thereafter Dr. Caesar was appointed Admiralty Judge.

sent to the Judge of the Admiralty and "the rest of the Commissioners for Assurances" in respect of a petition by Andrew Jessie of Toulouse, whose case was recommended by the French Ambassador. The Admiralty Judge must, therefore, have been a member of the Commission, and the function of the Commission must have been more than merely that of administration of the Office of which Candler held the position of Registrar; the Commissioners must have constituted a court of inquiry and arbitration.

After about twenty-five years of existence it seems that the powers of the Commissioners were not sufficient, and a petition was received by the Privy Council from merchants in the City. An extract from the Acts of the Privy Council under date 29th March, 1601, is of importance and gives the wording of a letter to the Lord Chief Justice of Her Majesty's Bench (and) Judge of the Admiralty: "We send you herewith a petition that hath been exhibited unto us in the name of merchants that use to assure goods wherein they complain that certain orders devised and set down some years sithence and confirmed by us touching assurances among merchants upon the Exchange are not put in execution but greatly impugned by wilfulness and froward disposition of some who refuse to submit and conform themselves to the order of Commissioners appointed to hear those causes, being chosen by skilful merchants and sworn by the order of the Lord Mayor to deal indifferently and uprightly to the great trouble of honest traders and the encouragement of such merchants as have no meaning to perform their bargains. For as much therefore (as) we think it necessary that some good and settled order should be established and observed touching assurances, being a matter that much importuneth the continuance and increase of trade within this realm, and then was thought fit that such differences as might fall out betwixt merchants touching this matter should be handled and decided among themselves by such as have best knowledge and experience in those affairs, which falleth not unto the skill of every man. We have thought good, therefore, to refer the matter to your good consideration and do send you this said petition, praying your Lordships to call before you such merchants as you shall think to be of good judgment and knowledge in these cases, and so having well informed yourselves what former course hath been taken touching this matter of assurances, to advise withall of some good order for the best ease security and good of the merchants that do assure their goods which may hereafter be established by her Majesty and observed among themselves as well for the ending of such matters as are now depending as for all others that shall hereafter come in question touching the matter of assurance, that the said merchants may the better

follow their trades without incumbrance or molesting the one the other by suits at law both to the hindrance of traffic and of her Majesty's customs. Wherein praying you to use that speed as conveniently you may we bid your Lordships and the rest right heartily farewell."[1]

The petition from the City merchants and the action of the Privy Council quickly bore fruit. In the same year, 1601, a Parliamentary Committee was formed which took evidence, and among those attending was Gerard Malynes (the author of "*Lex Mercatoria*," 1622), who refers to the Committee as responsible for the Bill brought before Parliament. The Bill itself was introduced by Francis Bacon on 7th December, 1601, and his speech has been preserved.[2] He referred to the Bill as being the fruit of the Committee's labours, and that by it a certainty of gain may be obtained by the merchant through his policy of assurance. "This is the loadstone that draws him on to adventure and to stretch even the very punctilio of his credit." From the speech it is evident that the Bill was the second drafted, the first vesting power in the Court of Chancery, but the one actually introduced appointed a Court of Commissioners "for two reasons: first because a suit in Chancery is too long a course, and the merchant cannot endure delays; secondly, because our Courts have not the knowledge of their terms, neither can they tell what to say upon their causes, which be secret in their science proceeding out of their experience."

The Bill was entitled "An Act touching Policies of Assurances used among Merchants" and had a second reading on 11th December, 1601, when it was "committed unto Sir Walter Raleigh, Mr. Doctor Caesar, Sir (*sic*) Francis Bacon, Sir Stephen Soame, and others and the Bill was delivered to Sir Francis Bacon, who with the rest was appointed to meet tomorrow in the afternoon in the Court of the Wards at two of the clock."[3] With some amendments the Bill was read a third time on 14th December and was duly passed.[4] Its preamble is in the style of Bacon himself, and as the introducer he probably drafted it—

> And whereas it hath been time out of mind an usage among merchants, both of this Realm and of foreign nations, when they make any great adventure (especially into remote parts) to give some consideration of money to other persons (which commonly are in no small numbers) to have from them assurance made of their goods, merchandises, ships and things adventured, or some parts thereof, at such rates and in such

[1] *Acts of Privy Council*, 1601, Vol. 31, New Series.
[2] *Harley MS.* 2283, f. 92, *a–b*. (Quoted by Spedding Ellis and Heath in their edition of Bacon's works, 1857.)
[3] D'Ewes' *Journal*, p. 684. [4] 43 Eliz., c. 12.

> sort as the parties assurers and the parties assured can agree, which course of dealing is commonly called a policy of assurance, by means of which policies of assurance it cometh to pass, on loss or perishing of any ship, there followeth not the undoing of any man, but the loss lighteth rather easily upon many than heavily upon few, and rather upon them that adventure not than those that do adventure, whereby all merchants, especially the younger sort are allured to adventure more willingly and more freely.

There follows what seems to be a reference to the period subsequent to the erection of the office of assurance, since it relates to the benefits of the arbitration of disputes by discreet merchants appointed by the Lord Mayor: "And whereas such assurers have used to stand so justly and precisely upon their credits as few or no controversies have arisen thereupon and if any have grown, the same have from time to time been ended and ordered by certain grave and discreet merchants approved by the Lord Mayor of the City of London and speedily to decide those causes until of late years divers persons have withdrawn themselves from that arbitrary course and have sought to draw the parties assured to seek their moneys of every several assurer by suits commenced in Her Majesty's Courts to their great charges and delay." From the absence of litigation in insurance in the Admiralty Courts subsequent to 1575, the preamble seems to have been justified.

The Court set up by the Act consisted of a Judge of the Admiralty, the Recorder, two doctors of Civil Law, two common lawyers, and "eight grave and discreet merchants." Any five of them were empowered to act as the Court "with full and authority to hear examine order and decree all and every such cause and causes concerning policies of assurances in a brief and summary course as their description shall seem meet without formalities of pleadings or proceedings." The powers granted to the Aldermen and citizens of London nominated by the Lord Mayor "to settle rates and fees and to deal with other matters" do not seem to have been interfered with. Candler held the patent, penned the policies and registered them, but under some supervision by the Commissioners.

The Court had powers to warn any parties to come before it as also to examine on oath any witness, and to commit to prison "that shall wilfully contemn their final orders or decrees." The Commissioners were to sit at least once a week in the Office of Assurances or in some convenient public place. There was a right of appeal by any grieved person to the High Court of Chancery. Owing to the character of the Court, some of the merchants sitting thereon might be interested in a case coming before it, and it was

therefore laid down that "no Commissioner shall intermeddle in any cause or matter of assurance where himself shall be cited a party assurer or assured: nor that any Commissioner (other than the Judge of the Admiralty and the Recorder of London) shall deal or proceed in the execution of any such commission before he shall have taken his corporal oath . . . to proceed uprightly and indifferently between party and party." The oath was taken by commissioners appointed even before the Act of 1601.[1]

In the year 1662 a further Act (14 Car. II, c. 23) was passed increasing the powers of the Commissioners and reducing the number to form a quorum. There had been a growing competition or rivalry between the Court of King's Bench and the Court of Assurance, in which, not unnaturally, the popular Court gained predominance. The Common Law Judges held that the statute "only meant to give the Court below cognizance of such contracts as relate to merchandise" and "did not extend to such suits brought by the Assurers against the Assured, but only such as were prosecuted by the latter against the former."[2]

The strong Privy Council which, in Tudor times, had dealt with commercial matters in such an able determined manner had, with the Stuarts, given place in matters of trade to a Special Council or Committee of Trade. Such had been created by Charles I and continued by the Protector. In Charles II's reign this council worked by sub-committees, and their recommendations were embodied in a report to the King by a Privy Councillor.[3] The character of this committee may be judged by an Order addressed by the King to the Lord Mayor of London, in 1660, "to give notice to the Turkey merchants, the Merchant Adventurers, the East India, Greenland and East land Companies and likewise to the unincorporated trades for Spain, France, Portugal, Italy and the West Indies Plantations of the King's intention to appoint a committee of understanding and able persons to take into their particular consideration all things conducible to the due care of trade and commerce with foreign parts: and the King willed them out of their respective societies to present unto him four of the most active men, of whom His Majesty might choose two of each body, and to these merchants added some other able and well experienced persons to be dignified also with the presence and assistance of some of His Majesty's Privy Council." Together they were authorized by a Commission under the Great Seal to be a Standing Committee "to enquire into and rectify all things tending to the advancement

[1] *Corporation of London: Rep.* 1596, three entries indexed under "Insurance."
[2] James A. Park, *A System of the Law of Marine Insurance.*
[3] Cunningham, *Growth of English Industry*, "Mercantile System," p. 200.

of trade and insert into all treaties such articles as would render this nation flourishing in commerce."

The Report of this Committee[1] on the Statute 43 Eliz., c. 12, stated: "We conceive that the review of that Statute is requisite from the several defects we have observed therein. The said Statute doth not restrain the cognizance of all contracts and policies of ensurance (which for the most part are determinable upon customs and usages of merchants and other maritime laws) unto Commissioners appointed with exclusion of all other judicatures to whom such customs and usages are little known." Other weaknesses indicated by the Committee were that the Court could not summon witnesses from abroad; that its decrees reached only "to imprisonment without Bayle etc. and not to Estates real and personal"; that the changing of the Commissioners annually was prejudicial; and that as the Commissioners had no renumeration, they were tempted to neglect their duties.

By the terms of the original Act of 1601, it required five to form a quorum. The later Act (14 Car, II, c. 23) of 1662 reduced the number to three, provided one of them was a doctor of civil law or a barrister of five years standing. The Act gives further powers (as recommended by the Committee) to summon witnesses and in case of contempt of Court by non-appearance, after due notice, to punish by imprisonment or fine. Under the original Act a Commissioner, before taking office, had to take his oath before the Lord Mayor and Court of Aldermen. If the Court of Aldermen was not sitting, delay was caused; the new Act therefore permitted the oath to be taken before the Lord Mayor alone. Other powers given to the Court included those of examining or causing to be examined witnesses beyond the seas and to proceed to execution against a party's goods as well as his person. In respect of persons staying for a short time only in the country, evidence might be taken before any one of the Commissioners, provided both parties were notified and given the opportunity of examination. These powers should have added considerably to the ability of the Court to deal with insurance disputes, while the centralized system of drawing and registration of policies in the Office in the Royal Exchange standardized procedure, and promoted knowledge of what were the common usages. The record of oaths taken by the Commissioners before the Court of Aldermen closes with those appointed in 1661.

The use of a broker to place a risk with underwriters seems still to have been the rule—there exists what is apparently a broker's account with various underwriting merchants for risks placed from

[1] *Rawlinson MS.*, A478, Bodleian Library, quoted by Blackstock, p. 39.

16th October, 1654, to 19th December, 1655.[1] The underwriters, if we may assume them to be such, are tabulated under the headings of the streets—Bartholomew Lane, Crutched Friars, Mark Lane, St. Helens, Old Fish Street, Threadneedle Street. The premiums or the rates of premiums are tabulated against the names. In some small cases it seems, however, that the Registrar or an assistant may have placed the risk with underwriters. This seems to be implied in the extract from Leybourne (below, on page 61). There is also a petition by a Richard Barnes of Great Yarmouth, of 1630, to the Privy Council that he might be relieved of a levy for protection against Dunkirk pirates, as he had already paid £5 for assurance in London in the Assurance Office in respect of his fishing boat for that season.[2] The Assurance Office seems to have been a place where claims, possibly as the result of decisions in arbitration by the Commissioners, were paid. Two bonds are recorded under which sums each of £100 have to be paid on 2nd February, 1638–9.[3]

The Office of Registrar could not have been unremunerative in view of the applications for the post. The fees were quoted in the Report of the Council of Trade, 5th February, 1661–2, as 2s. for every £100 insured and 2s. 6d. for making a policy. There were other fees which could be charged in the event of disputes requiring documents and in respect of Court procedure. Following the original patent granted to Richard Candler in 1575, one was granted to C. Heybourne and R. Candler jointly in 1605,[4] and in 1610 to the brothers Giles and Walter Overbury.[5] The last two farmed the office out for £400 per annum to a William Couper and George Prior, according to a statement made by Job Williams, when the latter petitioned for the office of Registrar for twenty-one years at £450 per annum. Williams further alleged that Prior was incompetent for the office.[6] He does not seem to have been successful in his application, for a grant was made in 1627 to Richard Bogan.[7] In 1638 an application was made by a William Leake for the office or reversion to it when it should fall vacant, he to hold it during the lifetime of two lives to be named by himself.[8] If in addition to the prescribed fees the Registrar or an assistant could claim commission for placing assurances where no broker was employed, it is easy to see that the office was, for those times, comparatively lucrative and the holder could afford to pay a rent of £450 per annum.

[1] *Rawlinson MS.*, A21, f. 26 (Bodleian).
[2] *State Papers Dom.*, Charles I, Vol. CLXXX, No. 94.
[3] *State Papers Dom.*, Charles I, Vol. CCCLVII, Nos. 33 and 34.
[4] Patent Roll, 2 James I, part 9.
[5] Patent Roll, 7 James I, part 32.
[6] *State Papers Dom.*, Vol. CLIV, No. 24, 1629.
[7] Patent Roll, 3 Charles I, part 3, No. 11.
[8] *State Papers Dom.*, Vol. CCCLVIII.

Charles Molloy, writing in his "*De Jure Maritimo*" of 1676, a century after the establishment of the Chamber, said: "Assurances are either public or private, public when they are made and entered in a certain office or Court commonly called the 'Office of Assurance' in the Royal Exchange in London, and the same are called public for it is free for any man to resort and see what another hath assured upon his adventure. Private is when an assurance is made but the assured keeps the same secret not deeming it fit that any should see or know their cargo or adventure or what premio they have given or assurances they have made and the same being never entered in the office is known by the name of private assurance." Registration at the time Molloy wrote must have ceased to be compulsory, but it is interesting to know that the office was still in the Royal Exchange. Gresham's Royal Exchange had been burnt down in the fire of London in 1666, and accommodation must have been provided in the new building.

The office of Assurances must have been functioning still in 1693 (in the rebuilt Royal Exchange), as it is then referred to by W. Leybourne in his "*Panarithmologia.*" In this work he gives for the uninstructed the process for insuring goods: "Suppose you ship £300 of goods for Jamaica, you being unwilling to run so great a hazard yourself, you go to the Assurance Office behind the Royal Exchange in London and there acquaint the Clerk you will insure for £200 or £250, or if you will the whole £300 (for you may insure the whole or any part) upon such ship for so much goods as you have on board. The Clerk presently speaks to other men that are merchants that make their trade to ensure, and you agree with them at a price, so much in the hundred and this is called premio. The man that is your ensurer runs all the hazard that can be imagined until your goods arrive safe in Jamaica. Before you pay the premio, you have a policy of insurance signed by the man or men who agree withal, for you may deal with two, three or four, to underwrite for you several sums. This policy of insurance ought to be copied in the Office of Insurance in a book kept there for that purpose and for which you pay a certain sum unto the clerk or clerks sitting at that time."[1] From Molloy it appears that the custom of registering all policies with the office had ceased to be necessary, and from Leybourne apparently the holder of the office of Registrar could himself, or his clerk, act as broker.[2]

Pepys, under date of 23rd November, 1663, in his diary is

[1] W. Leybourne, *Panarithmologia*, London, 1693.

[2] The last patent appointing a Registrar was granted by Charles II to Sir Allen Broderick for his own life and the life of William Broderick and thirty years thereafter (Rec. Off. C.66/3065). It was referred to in a Proclamation by James II (*Tudor and Stuart Royal Proc.* Vol. III, 13th April, 1586).

concerned about the insuring of a cargo of hemp for the navy to be landed at Newcastle, and after consultation with the Lord Treasurer he went to the Exchange where he, with Sir W. Rider of Africa House, in Broad Street, tried to place the insurance at 15 per cent, but none would accept at under 20 per cent—apparently the ship was overdue. Pepys did not think he could pay this rate without order. He consulted the Lord Treasurer again and Sir Ph. Warwick, who would give him no advice but left it to Pepys himself "to do what I thought fit in this business of the insurance, and so back to the Temple . . . I homewards, and called at the Coffee House and there by good accident hear that a letter is come that our Ship is safe at Newcastle: with this news I went like an asse presently to Alderman Blackwell and told him of it and he and I went to the Africa House to have spoke with Sir W. Rider to tell him of it, but missed him. Now what an opportunity had I to have concealed this and seeming to have made an insurance and got £100 with least trouble and danger in the whole world."[1]

Another touch to the description of insurances placed at the Royal Exchange is given by Pepys under date 18th April, 1664: "So I, after discoursing with the Joyces, away by coach to the 'Change; and there among other things, do hear that a Jew hath put in a policy of four per cent to any man, to insure him against a Dutch warr for four months; I could find it in my heart to take him at this office, but however will advise first."[2] From the diary we find that Pepys frequently passed from the "'Change to the Coffee House," meeting and conversing with merchants. This practice among merchants in the City is significant in view of the subsequent history of marine insurance.

A description of the Royal Exchange, built after Gresham's Exchange was destroyed by the fire in 1666, is given by Maitland in his "*History of London*" (1756). The "outside was furnished with shops of various sorts, bookseller, stationers, watchmakers, cutlers, hosiers, hatters, toymen and officers of various sorts in the ship and mercantile way." The ambulatory and uncovered courtyard within was reserved for the merchants and brokers, each class with its particular area. In the ambulatory were the merchants interested in East India, Virginia, Jamaica, Holland, etc. In the centre there were "walks" for merchants trading with Turkey, Barbados, Canary, France, and Italy, and brokers and dealers in stocks. From the merchants meeting in the Exchange there should have been little difficulty in securing the underwriting of risks for policies subscribed in the office.

[1] *Diary, Samuel Pepys*, Vol. I, Wheatley's Edition, p. 334, Bell, 1942.
[2] *Diary, Samuel Pepys*, Vol. II, Wheatley's Edition, p. 104, Bell, 1942.

No historical work on insurance has ever done justice to the real importance and significance of the "Office of Assurance," which as an institution lasted for over a century and was instrumental in moulding marine insurance in this country during its formative period. Although there was a break between its termination and the rise of the greater institution—Lloyd's—it was from some points of view the forerunner of the later organized market for individual underwriting. It also seems to have fostered some freedom of initiative and versatility among underwriters, as, for example, assurance on lives. Chambers of Assurance in other countries, such as those in France and Antwerp, had to submit to many legislative regulations which restricted the area of their operations. In London, although the office developed a formal marine policy—that used to-day by Lloyd's with but few alterations—the Commissioners were not otherwise bound by anything but custom and usage. Those customs and usages, the growth substantially of 150 years, were interpreted and incorporated in the system of English marine insurance law by the great mercantile jurist of the eighteenth century, Lord Mansfield.

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CHAPTER IV

THE STANDARDIZED MARINE INSURANCE POLICY

MARINE policy drafted in Office of Assurances—Contrast with continental forms and earlier London policies—Policies preserved in century following 1575—The *Tiger* policy of 15th February, 1614—The *Thomas of Leith* policies of 1637—Comparison with present-day Lloyd's S.G. form—The *Three Brothers* policy of 1657—First policy to be printed or engraved—Molloy in 1682 on optional registering—The *Golden Fleece* policy of 1680 not registered and no reference to Royal Exchange—Additional clause to policy in eighteenth century—Standard wording in Acts of 1795, 1867, and 1906

How the common form of Lloyd's printed policy became settled has been said "to be one of the riddles of commercial history."[1] It seems clear enough that it was designed by those merchants of the City of London who were appointed by the Lord Mayor as Commissioners acting in conjunction with the holder of the patent as Registrar for the Chamber of Assurances set up in 1575. The policies before that date, a number of which have been cited above in Chapter II, were drawn in no common form and must have given rise to many disputes as to their interpretation. As we shall see, from 1575 onwards the document became one of common form. The necessity for this may have been impressed upon the Commissioners by the Privy Council when, in July, 1576, they insisted "that the books of orders of assurance which his Lordship (the Lord Mayor) hath so often times been written unto for may be finished with expedition and brought unto their Lordships to be confirmed for the better avoiding of such suits as they be daily troubled with."[2] Models of marine insurances carefully drawn out to include most of the then principles of marine insurance had been adopted in the ordinances of some continental countries. There was one in Italian included in the Florentine Ordinances of 1523 and another in those of Antwerp of 1563, and yet another in the Spanish Ordinances of 1556.[3] The London Chamber's policy was not a slavish copy of any of these; it seems to have been a committal to writing of the practices and principles accepted by English merchants.

A number of originals or contemporary copies of English marine policies, effected in the century following the erection of the office, have come down to us. William West, in his "*Simboleography*," first published in 1615, gave the wording of many legal documents, and amongst them, under the heading "Instruments in Merchants

[1] Wright and Fayle, *History of Lloyd's*, p. 143.
[2] *Acts of the Privy Council*, 30th July, 1576.
[3] Magens, *An Essay on Insurance*, Vol. I, p. 4 *et seq.*

Affairs," examples of Charter Parties, Bills of Lading, Bills of Exchange and one of a Life Policy, to which we have already referred, and a marine "assurance or policie upon goods laden in a ship to be transported from one port to another." Both the life and marine policies seem to be copies of originals; the life policy is given as of date 14th May, 1596, and the marine policy as of the "fortieth year of the reign of our sovereign Ladie Elizabeth" (say, 1597 or 1598). While the life policy specifically states that it has been registered according to the Queen's Majesty's order and that it was "Given in the Office of Assurance within the Royal Exchange," there are no similar words in the marine policy. It has the words: "It is to be understood that the present wording shall be of as much force and effect as any other writing of assurance which is used to be made at the Royal Exchange in London or at the Burse in Antwerp." It does not include the words "lost or not lost" and there is no "sue labour and travel" clause. The perils insured against are given in the clause "Touching the adventure and peril which the assurers hereunder named are contented to bear and take upon them in this present voyage is of war fire enemies rovers jettison letters of mart detainment arrest restraint of princes or of all other perils and fortunes whatsoever they be or however shall chance to the hurt of the said goods or any part thereof." The wording here is slightly different from the policies which contain the specific statement that they have been registered or given at the Office of Assurance, and it is possible that the draft is a copy of a policy which was not taken to the office for registering in spite of the order. Complaint that compliance with the order was not completely fulfilled was made by the Privy Council to the Lord Mayor in 1576.[1] On the other hand, it might have been the draft of a policy which was never actually executed. Had it been executed there would have been added, as in the *Tiger* policy below, "Given at the Office of Assurances within the Royal Exchange in London."

With the exception of the draft given by West above, all the marine insurances dated during the century following 1575 bear evidence of having been registered at the Office of Assurance. The policies are—

(*a*) 15th February, 1613–4[2], goods on the *Tiger* of London.

(*b*) 4th July, 1637, goods on the *Thomas* of Leith.

(*c*) 2nd September, 1637, goods on the *Thomas* of Leith.

(*d*) 16th February, 1656–7, goods on the *Three Brothers* of London.

The *Tiger* policy is not an original but a contemporary copy of

[1] *Acts of Privy Council*, date 30th July, 1576.

[2] In the modern calendar : 1614.

the original made for legal purposes, and is preserved at the Bodleian Library (MS. Tanner, 74, Folio 32) dated 15th February, 1613 (1614). The insurance was "upon woollen and linen cloth kersies iron and any other *goods and merchandises* laden aboard the *good ship called* the Tiger of London of the burthen of 200 tons or thereabouts *whereof is master under God* in this *voyage* Thomas Crowder *or whosoever else shall go for master in the said ship or by whatsoever other name or names the said ship or the master thereof is or shall be named or called.*" The words in italics are also in Lloyd's marine policy of to-day. The policy has the expression "lost or not lost", the right to "touch and stay" at intermediate ports, and the "sue, labour and travel for in and about the defence" of the goods in words practically identical with those of the present Lloyd's policy. The perils insured against also scarcely differ by a single word from those now in use.

There are two clauses on the *Tiger* policy which are specific to the particular insurance. The "touch and stay" clause is in the following form: "And it shall and may be lawful for the said ship to touch and stay at any port or places on this side Zante as well on the Barbary as the Christian shores and there discharge and relade and take in any goods merchandise and money at the discretion of the master and factors upon the adventure of the assurers without prejudice to this assurance and if in the case any part of the said goods shall be discharged out of the said ship at any port or places before mentioned the assurers shall take no benefit or advantage thereby in case of loss or average upon the rest of the goods. But the assurers still bear their whole adventures if there be so much goods remaining aboard the said ship as shall be assured the assured's adventure of 10 per cent deducted in as full and ample manner as if no part of the said goods had been discharged out of the said ship before her coming to her last port of discharge any order custom or usage or anything in this policy mentioned to the contrary notwithstanding." This may have been a clause adopted where goods discharged at one port were to be substituted by fresh ones loaded in their place. The reference to the assured's own risk of 10 per cent, common at the time, is interesting.

The second clause in the *Tiger* policy not in others ran: "Although news or knowledge of any loss have already come or by the computation of one league or three English miles to one hour might have come to London before the subscribing hereof, any order custom or usage heretofore had or made in Lombard Street or now within the Royal Exchange in London to the contrary notwithstanding." This must be read in conjunction with the words "lost or not

lost." Under the ordinances of Florence (1523) and Spain (1526),[1] assurances were void if a vessel were lost at a date within which knowledge could have come to the parties at the date of subscription by the assurers. In view of the possible taking of cargo aboard at ports subject to similar ordinances, it was evidently thought that the insertion of the clause to take the assurance outside such an ordinance was necessary.

References to the Office of Assurance and the Commission of 1575 are important. After the "sue labour and travel" clause there are the words: "It is to be understood that this present writing and assurance being made and registered according to the King's Majesty's order and appointment shall be of as much force strength and effect as the best and most surest policy or writing of assurance which hath been heretofore used to be made lost or not lost in the aforesaid Street or Royal Exchange." At the end of the policy there are the words "Given in the Office of Assurance within the Royal Exchange in London the fifteenth day of February anno 1613."

The copy policy is wholly written on the face of a double sheet of tough white paper of about foolscap size. In the left margin the clause relating to the right to touch and stay at any ports and places on this side Zante, etc., the lines are bracketed together and repeated below. It would appear that some legal question on the subject of deviation had arisen, for after the repetition of the clause there are the words: "The Question is (i) whether it be lawful or no for the said ship to touch twice at one port in this present voyage within the scope limited if the master and factors do think so fit; and (ii) though there were no express covenant that had relation to the factors' discretion, yet in case the ship (having discharged her goods) should in the interim of time while moneys were providing go 24 hours sailing thence and return in safety without loss of time or prejudice proved (no more than if the ship had stayed so long together in port) whether the assurance ought in conscience to be made void or no."

The two policies on goods on the *Thomas* of Leith are originals and, although short reference is made to them in the Calendar of State Papers,[2] no one has, so far as can be traced, ever previously taken notice of them or turned up the original documents at the Record Office. They are the earliest original policies in the modern marine insurance form adopted by the Office with the underwriters' subscriptions attached.

[1] See Magens, Vol. II, p. 2, Ordinance No. 5 of Florence, and p. 32, Ordinance No. 7 of Spain.

[2] *State Papers Domestic*, Vol. CCCLXIII, No. 31, and Vol. CCCLXVII, No. 15.

The first policy dated the 4th day of July, 1637, covered goods, merchandise, and money from St. Sebastian to New Haven (Havre) in France. It is somewhat carelessly written, and one clause has evidently been omitted by the clerk who wrote it. In the common form of policy the word "according" comes in twice; the clerk has jumped from the first time it appears to the second, and omitted the words "to the rate and quantity of his sum herein assured: this writing and assurance being made and registered according . ." etc. The second policy covered the return voyage from Havre to St. Sebastian upon goods and merchandise, and was dated 2nd September of the same year. That the policy adopted as common form by the office of Assurance is the foundation of the marine insurance policy used to-day by Lloyd's may be seen by setting down the clauses in parallel columns. The clauses are numbered for ease of reference, but no numbers appear in the originals. Lloyd's policy is a form printed and applicable to either ship or goods or both: the wording has been taken from Gow's "*Marine Insurance.*"[1]

	Policy of 2nd September, 1637, as Drawn at the Office of Assurance	Lloyd's Marine Policy in Use To-day
(1)	In the name of God, Amen,[2] Timothy Allsop of St. Sebastians merchant as well in his own name as for and in the name and names of all and every other person or persons to whom the same doth may or shall appertain in part or in all	Be it known that .... and/or as agent as well in his own name as for and in the name and names of all and every person or persons to whom the same doth may or shall appertain in part or in all
(2)	doth make assurance and causeth himself and them and every of them to be assured	doth make assurance and cause himself and them and every of them to be insured
(3)	lost or not lost	lost or not lost
(4)	from Newhaven in France to Sebastians	at and from .....
(5)	upon any kind of goods and merchandises laden or to be laden aboard the good ship called the *Thomas* of Leith 140 tons or thereabouts	upon any kind of goods and merchandises and also upon the body tackle apparel and ordnance munition artillery boat and other furniture of and in the good ship or vessel called the.....

[1] William Gow, *Marine Insurance*, 5th Ed., 1931, p. 29.
[2] These words were formerly in Lloyd's Policy.

(6) whereof is master under God in this voyage Robert Longland or whosoever else shall go for master in the said ship or by whatsoever other name or names the same ship or the master thereof is or shall be named or called	whereof is master under God for this present voyage.... or whosoever else shall go for master in the said ship or by whatsoever other name or names the same ship or the master thereof is or shall be named or called
(7) Beginning the adventure from the lading of the said goods aboard the said ship at Newhaven in France and so shall continue and endure until the same ship with the said goods shall be arrived at St. Sebastians aforesaid and there landed in safety	beginning the adventure on the said goods and merchanises from the loading thereof aboard the said ship..... upon the said ship etc. and shall so continue and endure during her abode there upon the said ship with all her ordnance tackle apparel etc. and goods and merchandises whatsoever shall be arrived at..... upon the said ship until she hath moored at anchor in good safety and upon the goods and merchandises until the same be there discharged and safely landed.
(8)	and it shall be lawful for the said ship etc. in this voyage to proceed and sail to and touch and stay at any ports or places whatsoever without prejudice to this insurance
(9) The said goods etc. is rated priced and valued at the said sum of	The said ship etc. goods and merchandises etc. for so much as concerns the assured by agreement between the assured and assurers in this policy are and shall be valued at
(10) Touching the adventures and perils which we the assurers are content to bear and do take upon us in this voyage are of the seas men of war fire enemies pirates rovers thieves jettisons	Touching the adventures and perils which we the assurers are contented to bear and do take upon us in this voyage they are of the seas, men of war fire enemies pirates rovers thieves

	letters of mart and counter mart arrests restraints and detainments of kings and princes and of all other persons: barratry of the master and mariners and of all other perils losses and misfortunes that have or shall come to the hurt detriment or damage of the said goods or any part thereof	jettisons letters of mart and counter mart surprisals takings at sea arrests restraints and detainment of all kings princes and people of what nation condition or quality soever, barratry of the master and mariners and of all other perils losses and misfortunes that have or shall come to the hurt detriment or damage of the said goods merchandises and ship etc. or any part thereof
(11)	and that in case of any misfortunes it shall be lawful to the assured their factors servants and assigns or any of them to sue labour and travel for in and about the defence safeguard and recovery of the said goods or any part thereof without prejudice to this assurance To the charge whereof we the assurers shall contribute each one according to the rate and quantity of his sum herein assured	and in case of any loss or misfortunes it shall be lawful to the assured their factors servants and assigns to sue labour and travel for in and about the defence safeguard and recovery of the said goods and merchandises and ship etc. or any part thereof without prejudice to this assurance to the charge whereof we the assurers will contribute each one according to the rate and quantity of his sum herein assured
(12)		*and it is expressly declared and agreed that no acts of insurer or insured in recovering saving or preserving the property insured shall be considered as a waiver or acceptance of abandonment.*[1]
(13)	This writing and assurance being made and registered according to the King's Majesty's order and appointment shall be of as much force and effect as the surest policy or writing of assurance heretofore made lost or not lost in Lombard Street or Exchange	And it is agreed by us the insurers that this writing or policy of assurance shall be of as much force and effect as the surest writing or policy of assurance heretofore made in Lombard Street or in the Royal Exchange or elsewhere in London

[1] This clause was added in 1874, *Wright & Fayle*, p. 370.

(14)	And so we the assurers are contented and do hereby promise and bind ourselves each one for his own part our heirs executors and goods to the assured their heirs executors administrators and assigns for the true performance of the premises	And so we the assurers are contented and do hereby promise and bind ourselves each one for his own part our heirs executors and goods to the assured their executors administrators and assigns for the true performance of the premises
(15)	confessing ourselves paid the consideration due to us for this assurance by Mr. George Willingham	confessing ourselves paid the consideration due unto us for this assurance by the assured
(16)	after the rate of four pounds per cent	at and after the rate of
(17)	In witness whereof we the assurers have hereunto subscribed our names and sums of money assured: Given in the Office of Assurance within the Royal Exchange in London the 2 of September, 1637.	In witness whereof we the assurers have subscribed our names and sums assured in London

OVERBURY

In the case of the Lloyd's policy there follows as an N.B. the memorandum which was incorporated in their policy in May, 1749, which reads—

> *N.B.* Corn fish salt fruit flour and seed are warranted free from average, unless general, or the ship be stranded: sugar tobacco hemp flax hides and skins are warranted free from average under five pounds per cent; and all other goods, also the ship and freight are warranted free from average under three pounds per cent unless general or the ship be standed."

The form of Lloyd's policy given above is known as a clean policy.[1] At the head are the letters S.G., which, although for long in doubt as to their meaning, have been clearly established as standing for "Ship and Goods." There were in the eighteenth century three printed forms, one marked "S," another "G," and the third "S.G.," the two first relating to policies for the ship only and the goods only.[2]

[1] Gow's *Marine Insurance*, 5th Ed., p. 31.
[2] Wright and Fayle, Chap. VI.

The signature "Overbury" which appears in both the policies on goods in the *Thomas* of Leith was that of the Registrar of the Office of Assurance. A patent had been granted to Giles and Walter Overbury on 14th December, 1610.[1] There were subscriptions by thirteen underwriters to the policy of 2nd September, 1637, three for £200 and ten for £100, making £1600 in all. The words commonly used were—

> £200 I Rich. Shute am content with this assurance which God preserve for two hundred pounds Sept. 2nd 1637.

After the first seven underwriters had signed there appears a memorandum which presumably applied to all—

> Md. the Assurers are by consent of the assured freed of all arrests and embargoes that have or shall happen in any ports or places in the King of Spain's dominions either by the said king or any of his subjects in regard to the goods being French goods, written the day and year above said.

After all the subscriptions by the underwriters, there are the words "Registered and examined etc. 13 September, 1637." This was the date on which the last underwriter signed. Separate receipts are added by the underwriters for their premiums. In some of these receipts the word "insured" first appears, and one signatory refers to the two hundred pounds he has "underwritt in this Pollicy." The words "insured" and "underwriter" must have been in use in the Royal Exchange at the time.

While there is so much of the 1637 policy executed in the Office of Assurance in identical wording with that of present day Lloyd's policies, there is another original policy also "given in the office of Assurance," dated 16th February, 1656, which brings the form still nearer. The policy covers £400 on goods and merchandises laden on the good ship called the "*Three Brothers* of London 250 tons or thereabouts" from Macassar in the East Indies to London. The policy is among the archives of the India Office and is of importance as it is the earliest in English to be engraved or printed.[2] The second half commencing with "Touching the adventures . . . " is script engraving and among the perils insured against there are the words "surprisals and taking at sea," which are not in the 1637 policy, nor in the *Tiger* policy of 1613, nor in William West's draft of the marine policy of 1597–8. There are also the words "of what

[1] Patent Roll, 7 James I, Part 32.

[2] Wright and Fayle in their *History of Lloyd's* have overlooked the printing of this policy. Perhaps they examined a photographic facsimile. I have examined the original and there can be no doubt of the engraved form—one probably kept in stock in the office.

nation condition or quality soever" following "detainments of all kings princes and peoples." These words appear in Lloyd's policy. In fact, the wording printed in the *Three Brothers* policy had reached its final form for the perils insured against and has been reproduced exactly in subsequent policies for nearly three hundred years. The *Three Brothers* policy finished up with the words, written by hand: "In witness whereof we the assurers have subscribed our names and sums assured given in the Office of Assurance in London the 16th of February 1656." Beneath the subscriptions of the four underwriters, each for £100, there is the written statement: "Registered and examined the 24th February."

Finally, some of the verbal discrepancies between the 1637 policy and Lloyd's policy are removed in the draft policy given by Leybourne in his "*Panarithmologia*" of 1693,[1] which he describes as obtainable in the Office of Assurance. In it there is the clause "and it shall be lawful for the said ship in this voyage to stop and stay at any port or places between London and Port Royal without prejudice to this insurance," which, with a slight verbal difference, is in the Lloyd's policy under clause (8) above. Following it we have "the said goods and merchandises by agreement is and shall be valued at three hundred pounds sterling without further account to be given for the same," which corresponds to the Lloyd's clause (9) above.

An original policy dated 20 January, 1680, is preserved in the library of Lloyd's "upon any kind of goods and merchandises and also upon the body tackle apparel ordnance munition artillery boat and other furniture of and in the good ship or vessel called the *Golden Fleece* burthen 250 tons or thereabouts" from Lisbon to Venice. This policy has its clauses printed in normal printing type. There is no statement that it has been registered at the Office of Assurance, nor is there any reference to the Royal Exchange. The Clause corresponding to that No.(13) in the Lloyd's policy above, reads "and it is agreed by us the insurers that this writing or policy of assurance shall be of as much force and effect as the surest writing or policy of assurance heretofore made in Lombard Street or elsewhere in London." The reference to the Royal Exchange may have been omitted temporarily following its destruction in the Great Fire, or it may have been deliberately omitted in those cases where the policy was not registered at the office in the Royal Exchange. Molloy, in his third edition of "*De Jure Maritimo*," 1682, said: "Assurances are either public or private, public when they are made and entered in a certain office or Court, commonly called the Office of Assurance in the Royal Exchange . .

[1] W. Leybourne, *Panarithmologia*, London, 1693, p. 36–37 of Appendix.

private is when an assurance is made, but the assured keeps the same secret, not deeming it fit that any should see or know their cargo or adventure . . . and the same being never entered in the office is known by the name private assurance."

No doubt by 1680 a substantial proportion of the marine insurances were no longer registered. Molloy goes on to say that "only those entered in the Office of that Court can be sued or determined there" (43 Eliz, cap. 12).[1] The registering was then directly associated with the Court, and it is probable that it was understood that policies which did not associate the words "Royal Exchange" with Lombard Street were unregistered.

While the wording of the policy adopted by the Office became common form, this did not preclude the insertion of an additional clause or memorandum. In the case of the *Golden Fleece* policy of 1680, there is an addition: "Md. The assurers do hereby covenant promise and oblige themselves in case of loss happening (which God forbid) to satisfy and pay their several sums of money herein assured within one month after such loss without any abatement whatsoever, any use or custom to the contrary notwithstanding and in consideration whereof they are to have and receive one pound p. cent more than the rate before expressed." There was an additional memorandum, as we have seen, in the case of the *Thomas* of Leith, of 1637.

In 1779 an attempt was made to carry through alterations in the printed form of marine insurance, as used at Lloyd's, in favour of the assured. This met with opposition and a meeting of subscribers was called. The innovations were condemned, although some minor revisions were made; thereafter at the head of the policy were inserted the words: "Printed according to the Form revised and confirmed on 12th day of January, 1779."[2] Further rigidity to the old wording was perhaps given in 1795, when an Act (25 Geo. III, c. 63) was passed, under which stamp duties were levied on marine insurances of 2s. 6d. per cent, and printed policies had to be furnished to applicants on payment of the bare stamp duty. The wordings of the policies were given in a Schedule to the Act; these included three forms for individual underwriters: (*a*) on Ship; (*b*) on Goods; and (*c*) on Ship and Goods, and also the forms of policies used by the Royal Exchange and the London Assurance Corporations. Again in 1867 the form of the standard marine policy was incorporated in an Act of Parliament (30 and 31 Vict., c.23), when the Act of 35 Geo. III, c. 63 was repealed and new duties imposed on sea insurance policies. In this 1867

[1] Charles Molloy, *De Jure Maritimo*, 3rd Ed., 1682, Vol. II, p. 166.
[2] Wright and Fayle, p. 127

Act the Inland Revenue were to furnish printed forms of marine insurance policies at an office in the City of London in the form set out in Schedule E to the Act. The policy form was the one of S.G. (ship and goods) in Lloyd's wording and identical with the S.G. policy in the schedule to the 1795 Act, with the exception that in place of the commencing words "In the name of God, Amen," there was substituted the words: "Be it known that." The policies of the form S. (ship alone) and G. (goods alone) were not included, nor were the forms as used by the Royal Exchange Assurance and the London Assurance Corporations, which were embodied in the earlier Act.

In the Marine Insurance Act, 1906 (6 Edw. VII, c. 41), which codified the law of marine insurance, a copy of the policy was again inserted. There was, however, no compulsion under the Act that it should be used.

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CHAPTER V

BEGINNINGS OF FIRE INSURANCE

HAVOC caused by fire in congested city areas—Relief through fire briefs—Their method of application—Abuse of system and Act of 1705—Reason for late appearance of fire insurance—Proposed scheme of 1638—Sir William Petty's reference to insurance in other countries in 1662—Building of London after the fire of 1666—Commencement of fire insurance about 1680 by Barbon's office, later called the *Phenix*—Corporation of London's scheme—The *Friendly Society* of 1684—The *Hand-in-Hand* of 1696—Basis of premium of Barbon's office and nature of cover—Security offered—History of the Corporation's scheme—Competition between the two—Magnitude of business—Adverse criticism of Corporation's scheme causes its withdrawal—Origin and constitution of the *Friendly Society* and competition with the *Fire Office*—Petition in 1686 for patent from Crown—History of the *Hand-in-Hand*, established 1696 by deed of settlement—The *Sun Fire Office* founded by Charles Povey in 1708—Early history and constitution of the *Union Fire Insurance Office* of 1714 for insuring of goods—Its association with *Hand-in-Hand*—The *Westminster Fire Office* of 1717—The *Bristol Crown* of 1718—The *Friendly Society* of Edinburgh of January, 1720—Early success of office

WHILE marine insurance in this country developed from the mercantile practices of the Italians, fire loss was, up to the Stuart period, regarded as something to be met by the community generally or by the individual sustaining it. Fires were of constant occurrence, sometimes devastating whole towns where houses of timber were huddled together with only narrow lanes separating them. Defoe, in his tour through England and Wales, wrote of London before the great fire of 1666: "But the manner of the buildings in those days, one storey projecting beyond another, was such that in some narrow streets the houses almost touched one another at the top and it has been known that men in case of fire have escaped on the top of the houses by leaping from one side of a street to the other; this made it often and almost always happen that if a house was on fire the opposite house was in more danger to be fired by it according as the wind stood than the house next adjoining on either side," and "the streets were not only narrow and all built of timber, lath and plaster, or as they were very properly called, paper work; and one of the first range of buildings in the Temple to this day is called Paper Buildings from that usual expression."

Organized relief of loss from fire was not absent. The early guilds gave some protection to their members in the event of loss by fire, but the greater measure came from organized charity in a system which probably reached its peak in the seventeenth century before fire insurance took its place. Authoritative *briefs* or letters were issued and distributed throughout the country to each parish. Collection of donations was made by Churchwardens after the

brief had been read in churches by the clergy. The records of many of such briefs and the amounts collected have been preserved from the sixteenth and seventeenth centuries. But the calamity of fire was not the only one which they were designed to relieve. The following is a list taken from the registers of the parish of Clent in Worcestershire[1]—

Year	Briefs for Fires	Other Briefs
1672	4	1 redemption of enslaved Christians in Turkey
1673	7	—
1674	3	—
1675	1	1 rebuilding of churches
1676	4	1 do.
1677	1	—
1678	3	1 rebuilding of St. Paul's, London
1679	2	—
1680	2	1 redemption of slaves in Algiers
1681	—	1 repairs to church, St. Albans 1 relief of persecuted French Protestants

Briefs issued under the authority of the King in Council were known as King's Briefs. They were obtained only by application of responsible persons from the Lord Chancellor. One such typical brief relating to a fire at Marlborough in 1653 during the Protectorate of Cromwell may be quoted.[2] Cromwell himself contributed £2000. In the brief the Council "with tendrest words commiserating the much to be lamented condition of the said distressed inhabitants. . . . recommended the same to the charity of well disposed persons . . . and they have appointed Alderman Andrews, Alderman Tichbourn, Alderman Ireton . . . to be a Committee to set at Sadlers Hall . . . for the carrying out of this business." The Committee printed the Order for circulating through the High Sheriffs of the counties to every parish. The Order was to be announced in churches on the first Sunday after its receipt, with an exhortation to liberality by the officiating clergyman, and the collection was to be made on the following Sunday. The Churchwardens were to set down the amounts collected on the back of the Order, and the latter, together with the sum collected, was to be sent to the Receiver-General for each county.

This system of briefs was subject to much abuse. Fraudulent ill-deserving cases might and did obtain responsible support, and briefs were issued. The amount subscribed bore no relation to the

[1] Relton, *Fire Insurance Companies*, p. 408.
[2] Quoted by Cornelius Walford, *Insurance Cyclopaedia*, p. 313.

needs, and the frequency of demands became an irritation to church-goers. Pepys, in his diary under date 30th June, 1661, states:[1] "to church, where we observe the trade in briefs is come now to so constant a course every Sunday, that we resolve to give no more to them." In 1705 "an Act for the better collecting charity money on briefs by Letters Patent and preventing abuses in relation to such charities" was passed.[2] In the recital it stated: "Whereas many inconveniences do arise, and frauds are committed in the common method of collecting charity money upon briefs by Letters Patent, to the great trouble of the objects of such charity, and to the great discouragement of well disposed persons . . ." Briefs were not finally abolished till 1828.[3]

The application of the principle of insurance to fire loss was late in arriving, and was by no means so easy as in marine ventures. For the latter, a marine insurance could be opened and closed within a period of a voyage. The cargoes or the ships were of known value, and could be underwritten in small fractional sums by a number of amateur merchants or bankers who were prepared to take a short-term risk. Such a system was convenient both for underwriter and assured. To insure the owner of a property against loss by fire a long-term contract was required, or at least one which could be renewed from year to year. Premiums, as compared with those applicable to marine ventures, would be small and many more risks would need to be aggregated to form an average. With fire insurance, the intermittent occurrence of a conflagration necessitated the building up of a reserve in good years to meet abnormal losses in bad ones. All the features, indeed, of fire losses indicated that insurance by an *ad hoc* group of underwriters was not possible. A permanent organization with a fund, and a staff to collect premiums and settle losses, were essential for fire insurance.

The belief that the risk could be covered by insurance existed before the Great Fire of London, although there is no evidence that it had been so covered. In 1638 a petition[4] was made to the King for a patent to run for forty-one years according to certain propositions. The petition was made by William Ryley and Edward Mabb. They proposed that the owners of houses in the city and suburbs of London, Westminster, and Southwark, by paying twelve pence per annum for every house of £20 per annum rent, and *pro rata* for larger or smaller rentals, should have a right to have a house rebuilt in case of destruction by fire. For security, the

[1] Vol. II, p. 57, H. B. Wheatley's edition.
[2] 4 Anne, c. 14.
[3] 9 Geo. IV, c. 42.
[4] *State Papers Dom.*, Charles I, Vol. CCCLXXXIX, 1st May, 1638.

petitioners offered to deposit with the Chamber of London £5000, the interest upon which was to accumulate till the total capital and interest should reach £10,000. Continual watch on all parts of the city was to be maintained, and engines constructed and kept ready for quenching fires with reserves of water in convenient places. Towards the end of the petition a further inducement was offered for the grant: "And there shall be allowed £200 per annum towards the rebuilding of the steeple of Saint Paul's Church until finished."

On the 16th October, 1638, His Majesty was pleased to grant the Patent[1] and the Attorney-General was instructed to prepare a Bill, but we hear no more of the matter thereafter. Possibly the disturbed condition of the country discouraged such an enterprise. In any case, the scheme seems to be a confused one; presumably the insurance side was contemplated as a private enterprise in which the promoters would expect the profit, but the protection against fire and the quenching of fires on the lines indicated could scarcely be carried out without the assistance of the city authorities. A municipal fire insurance office existed in Hamburg, and Magens[2] speaks, in 1753, of such being of old standing, the maximum sum covered in the case of any house being 15,000 marks. Merchandise was not covered; he says: "everyone concerned in this Fire Cassa contributes to a loss in proportion to what his own house stands insured for." Sir William Petty, in his "*Taxes and Contributions*"[3] in 1662, uses the phrase "like to insurance in some countries of houses from fires for a certain small part of the yearly rent." This seems to indicate that at the time he wrote there existed no scheme of fire insurance in England.

The Fire of London in 1666 and the great expenditure of capital in the subsequent rebuilding again directed attention to the subject of fire insurance. It is not surprising, therefore, that the first genuine experiment in fire insurance was made by a speculative builder. Nicholas Barbon was originally designed for medicine, but found building more profitable. While tradition holds that he set up an office for insuring houses against fire in 1667, the year after the Great Fire, there does not appear to be any evidence that any such office was set up till 1680. In fact, contemporary evidence goes to show that no fire insurance was transacted in London at any earlier date.[4] There is no doubt that the time was ripe and suitable for the introduction of fire insurance. Fresh money had

[1] Ibid., 1637–38, p. 392.
[2] Vol. I, p. 31.
[3] Sir Wm. Petty, *Taxes and Contributions*, 1662.
[4] Both Walford and Relton seem to have been over-credulous in ascribing fire insurance to the earlier date on the strength of a statement in Hayden's *Dictionary of Dates*.

been extensively invested, and owners were anxious to protect their investments against loss or damage by fire to property.

Between 1680 and the end of the century four notable fire insurance ventures were launched, each having its particular individuality. Three of them came through their early years successfully, and one of them endured to the present century. Of these four, the first, the *Fire Office*, afterwards called the *Phenix*[1] was a proprietary, or partnership, venture with a fund vested in trustees as security for the fulfilment of the insurance contracts written by the partnership or "undertakers," who were themselves responsible personally. The second, almost simultaneous in appearance, the Corporation of London, may be described as an abortive experiment in municipal insurance. This venture came to an end in less than two years. The third, the *Friendly Society* of 1684, was again a partnership with losses to be met on the assessment principle, with a maximum contribution by a policyholder for any one fire. It seems to have existed for about a century. The fourth, launched in 1696, was founded with more attention to its constitution than the two partnership concerns already mentioned. It was a purely mutual association, with a constitution and rules embodied in a well-drawn deed of settlement dated 12th November, 1696, and enrolled in the Court of Chancery on 23rd January, 1698. All policyholders were members and signed the deed of settlement. While its full title was the "Amicable contributors for insuring houses from loss by fire," it soon became known as the *Hand-in-Hand* from its fire sign. The office remained an independent and successful institution down to 1905, when it was absorbed by the *Commercial Union Insurance Company*. The founding of these companies, their earlier history, and an account of their methods of conducting their business must be given in some detail.

The first official notice of the *Fire Office* is that contained in the "*True Protestant Domestick Intelligence*" of 7th May, 1680,[2] in which it was stated: "There is a new office to be kept at the backside of the Royal Exchange, London, and will be opened on Thursday next. They do undertake for a reasonable rate to secure the houses in London and the suburbs thereof from fire and, if burned down, to build them again at the cost of the office, for which end is provided a considerable bank of money and a fund of free land to such a value as will secure those that agree with the office. There being now in print a particular thereof, we need not give you any further account." This was followed by an advertisement in the "*City*

[1] Not connected with the present *Phoenix Assurance Company*.

[2] Brit. Mus. Newspapers, No. 77, 1679–80, quoted by both Walford, Vol. III, p. 444, and Relton, p. 28.

Mercury," No. 241, on the 12th May, 1680,[1] that persons who propose to insure houses from fire attend the office in Threadneedle Street against the Exchange between nine to twelve and from three to six in the afternoon, when subscriptions from those wishing to insure would be taken. A further advertisement set out the terms of the proposals.[2] The premium was at the rate of 6d. per annum in the £ rent on brick houses and double for timber houses, with allowance for ground rent. For this premium the office was to rebuild the house or to pay the party whose house was destroyed £100 for every £10 per annum rent, as often during the term of seven years as the house was burned down. Damage also was covered where the house was "neither burnt down nor demolished but only broken or damnified." If the repairs required were "not carried out at the expense of the office within two months after the said damages made," then the office were to forfeit the whole sum expressed in the policy as if the house had been burnt down.

On the 4th June, 1680, an advertisement appeared in the "*City Mercury*" calling upon those who had subscribed (by way of premiums) to attend a meeting at the office in Threadneedle Street to appoint "Trustees and Council" for the settlement of a fund of ground rents amounting to £2106 per annum secured on—

Essex Buildings	£1050 p.a.
Lower End St. Martin's Lane . . .	347
Devonshire Buildings, Bishopsgate . .	709
	£2106

Nicholas Barbon was the prime mover in the formation of the *Fire Office* of 1680. In Nathaniel Luttrell's "*Brief Relation*"[3] it is stated (3rd October, 1681) that N. Barbon "hath set up an office for fire insurance and is likely to get vastly by it." In the formation, Barbon had for partners, Samuel Vincent, John Parsons, and Felix Calvert, as appeared from the hearing of the Petition for a Patent by the *Fire Office* to the Privy Council in 1687. In this petition there is the statement that "they and their partners about six years since did invent and set up a new undertaking and an office for insuring houses from fire and did settle three score thousand pounds in ground rents for paying of losses and have since paid for such houses twenty thousand pounds." There is no indication in this that the office took over any earlier business of Barbon's, as Relton and Walford suggest; in fact, the words imply that they were the first in the field.

[1] Bodleian, Ashm. 1675 (9), quoted by both Walford and Relton.
[2] Brit. Mus., 816, m. 10/67.
[3] Nathaniel Luttrell, *Brief Relation*, Vol. I, p. 135, Oxford, 1857.

An attempt has been made to construe some words in a broadsheet published by the *Fire Office* in 1680, under the title "Arguments for the Insurance of Houses from Fire," that the office had experience in fire insurance from 1666 or 1667. In the broadsheet it is attempted to prove that the terms offered for the insurance are reasonable and that the subscriptions will meet the losses: "The best way to prove this will be to examine from the time past, and begin since the Great Fire of London . . . . Now if it be computed what (are) the losses from fire since the year 1666, it will be found that within these 14 years there has not been less than 35 fires in and about London (a list of the fires is then given), and this must be granted, if the office could have supported itself under those many losses when they gave no assistance to the extinguishing and preventing of the fires, it may be reasonably supposed to exist under the future casualties when it is assisted by the contrivance and industry of a company of men versed and experienced in the extinguishing and preventing of fires."[1] The argument in the broadsheet appears to be that *had* insurance cover been in existence during the fourteen years since the Great Fire of 1666, then on the basis of the subscriptions quoted, losses would have been met. To place the commencement of fire insurance before 1680 is straining the evidence. Thomas Delaune said, in an edition of "*Present State of London*" in 1690: "This ingenious and useful invention was first put into practice about eight years ago and is now brought to great perfection," and then by his account of the business shows that he is referring to the *Fire Office* at the back of the Royal Exchange.

Two further broadsheets were published by the office before policies were issued in 1681.[2] The first commenced: "These are to give notice that the office and security formerly proposed for insuring houses from fire after the rate of 6d. per £ for brick houses and 1s. for timber is now perfected and settled and persons concerned in the security will attend every day at their office on the backside of the Royal Exchange from the hours 9 till 12 in the forenoon and from 3 till 6 in the afternoon to subscribe policies for all persons desirous to insure their houses as far as the number of 3000 houses . ." It further transpired that the form of the policy had been settled by Counsel, and a table of discounted premiums was quoted. The minimum term for which cover was granted was seven years, but instead of paying 6d. per £1 of rent annually the applicant could pay under discount; thus for seven years' insurance the single payment for a rent of £10 per annum was £1 5s., against £1 15s.

[1] Walford, *Insurance Cyclopedia*, Vol. III, pp. 445–6.
[2] Brit. Mus., 816 m. 10/68 and 73.

cost if paid by annual premium for seven years. The single premium for an eleven years' policy covering the same rent per annum was £1 15s.; for twenty-one years, £2 10s.; and for thirty-one years, the maximum term quoted, £2 15s. The sum insured corresponding to the £10 per annum rent was £100.

The magnitude of the business transacted by the office in the early years is shown in an edition of their proposals of 1712.[1] The office then went under the name of the *Phenix*, from the emblem on their policy. In the document it is stated that the office had been erected for thirty-one years, had sustained losses to above £50,000, all of which had been punctually paid. The *Phenix* seems to have disappeared sometime in the first half of the eighteenth century. Strype mentions it by name in his edition of "*Stow*" in 1720, but William Maitland, in his "*History of London*" in 1755, does not include its name in his list of offices.

The second scheme which we have to consider, which eventually developed into that of the Corporation of London, originated from suggestions by Benjamin Delaune, the author of "*The Present State of London.*" They were embodied in a petition to the Common Council of the City of London on 8th December, 1669, and the Council Record stated that the petition was considered and would be considered again at the "first Common Council after Christmas next." The further consideration took place and it was referred to a Committee, where it seems to have fallen into abeyance. In 1674 a member of the Corporation, Mr. Deputy Newbold, presented a petition embracing the chief features of Delaune's scheme under the title of "London's Improvement and the Builders Security Asserted by the apparent Advantages that will attend their early charge in raising such a joint stock as may assure a rebuilding of those houses which shall hereafter be destroyed by the casualties of Fire."[2] The opening paragraph of the pamphlet is of importance, as it provides additional evidence that no fire insurance existed in London before 1680. It runs: "The several fruitless attempts that have been made in projecting a design for the assuring the building of houses burnt down may be some discouragement to offer more on the subject." The author must have been cognizant then of Barbon's scheme for the *Fire Office*, which had not then been finally launched and, of course, he had knowledge of that of Delaune. The scheme was a mutual one, and contemplated that the owners of the new houses built in London should associate for mutual insurance by contributing to a common fund 5 per cent of the value of the houses which, invested, would produce sufficient to rebuild

[1] Held by the present Phoenix Assurance Company.
[2] Brit. Mus., 816 m. 10/64.

or repair the houses of those members destroyed by fire. He estimated that there were "not less than 12,000 houses of the new brick building in the City of London. These, one with another, may be taken as of the value of £250 each, which at 5 per cent would produce £12 10s.; consequently if only a third of the owners came into the scheme (4000) a fund of £50,000 would be available to perpetuate the rebuilding"; and he pointed out the advantage of this over that "by which a premio is paid for an assurance for one year by a private hand tending to a private profit." The last words have been taken by both Walford and Relton to refer to private underwriting of insurance by Barbon. They might with equal probability apply to the scheme Barbon had in contemplation, and which we have seen matured the following year, the "undertakers" being Barbon and his partners under the business name of the *Fire Office*. This view is rather confirmed by another reference to other schemes; Newbold concluded his paragraph with the words: "so it will be more safe and satisfactory and more acceptable to them than should any other assurance be attempted to be on foot by a private hand and tending to a private profit."

Newbold's scheme came before the Common Council of the City in 1674, 1675, and 1679. On 17th June, 1681, a report signed by six members was considered.[1] The report embodied the opinion that the design would be of great advantage, but as there would be great difficulty "in fixing a corporation whereby some security may be invested and in settling the assurance to be satisfactory to the proprietors, they were of the opinion that instead of the Corporation the Chamberlain of London might undertake the scheme; they thought that instead of Newbold's suggestion of 5 per cent of brick houses the figure might be reduced to 2½ per cent and that any surplus should go to the Chamberlain and not be divided among the adventurers—further, that as Newbold had been at such pains and some charge in presenting the scheme he should receive compensation by being one of those managing the affair."

A committee for insuring houses in case of fire met and reported in November, 1681. The Court approved the proposals and the Court authorized the printing of them, while an official resolution was passed that "this Court doth agree and resolve to undertake the insuring of all houses within the City and Liberty from fire and to present the same with all expedition." An administrative committee was formed and a secretary appointed; rules were drawn up and a table of premium rates for insurances in perpetuity, as well as for terms of years from one to a hundred, based on £100 capital or £10 per annum rent. For timber-built houses the rates

[1] Walford, Vol. III, p. 446.

were double those for brick-built. Land and ground rents to the value of £100,000 were to be settled for the security of the insured.

The first entrants to the scheme included several Aldermen and others who effected long-term assurances covering a considerable number of houses. Invitations were made to such persons "who intend to insure with the City to bring to the Chamber notes in writing in what Parishes and Wards their houses are situate, by what signs they are called, the names of the tenants or occupiers and the value and the time they intend to insure upon them."

This action on the part of the City naturally evoked strong criticism from those responsible for the *Fire Office*, which was included in a broadsheet.[1] It was claimed therein "that the gentlemen of the Insurance Office at the backside of the Royal Exchange were the first inventors of the design"; they had copies of that of their opponents, and the latter had undercut them by small sums; the *Fire Office* granted insurances for terms not beyond thirty-one years, and they gave a comparison between the premiums charged—

Term	Fire Office per £100 Value or £10 p.a. Rent	Corporation of London per £100 Value
	£ s. d.	£ s. d.
Perpetuity	—	3 6 8
100 years	—	3 2 5
51 years	—	2 17 6
31 years	2 15 –	2 8 7
21 years	2 10 –	2 – 11
11 years	1 15 –	1 8 4
7 years	1 5 –	1 – 9
1 year	5 –	3 9

After pointing out that the rates of the Corporation are inadequate, the gentlemen of the *Insurance Office* said they were resolved rather to run the hazard of losing than that the City should make advantage out of their invention: therefore they revised their rates to something less than those of the Corporation and carried their table up to terms of 100 years! The criticism which probably did most damage to the Corporation was the emphasis on "the impropriety of those citizens that managed the revenue of the City" who were "but stewards of the rest through rashness and want of knowledge, venturing the public revenue of the City on a project that brings loss and thereby prejudice the whole body of citizens." The Corporation as such made no reply, but sought the assistance of an unbiased friend who wrote two letters under the initials of

[1] Brit. Mus., 816 m. 10/66.

"L. R." A paragraph from one letter is worth quoting: "But if they (i.e. the gentlemen of the *Insurance Office*) had been the first inventors of this design, yet I doubt not that I shall make it evident that it is far more to the public good that the City should be entrusted with the management of it than these, or any other private men, because (1) the City can settle a better security, (2) it is more reasonable the City should enjoy the profits arising from it, (3) it would be of ill consequence to entrust these private persons and foreigners with the management of it, and (4) it would be no prejudice to the City or citizens to have it in their hands."[1] These four points were expounded at some length. The correspondence was not dignified and the criticism of the Corporation for entering into the commercial field too strong to be resisted. Such insurances as had been effected were terminated by the Corporation pursuant to a resolution of 13th November, 1682, and the Chamberlain was instructed to repay the money which had been advanced.

The *Fire Office* was not long left without a competitor, one of a very different class. A pamphlet was published the next year, 1683, making known a new venture, *The Friendly Society*, which sponsored a "New Way or Method for Securing Houses from any considerable loss by fire, by way of Subscription and mutual contribution."[2] In October of the same year a further pamphlet was issued[3] with details of the scheme. The conditions of membership were set out. A member on joining the Society paid down as deposit the sum of 6s. 8d. per £100; he entered into an undertaking that he would subscribe, if called upon, up to 30s. for each £100 insured towards any claim arising under any one fire sustained by a member; and, thirdly, he paid an annual premium of 1s. 4d. per £100 insured. The original deposit of 6s. 8d. was returnable at the termination of the insurance. These figures related to brick houses—all were doubled for timber houses. For an average brick-built house of £300 value a member would pay a deposit of £1, an annual premium of 4s. and submit to a levy of not more than £4 10s. to answer any loss that might happen to a property insured. In justification of the proposed terms, it was pointed out that in London and Liberties in the fifteen years following the Great Fire there were near 100 houses burnt, which, at £300 per house, would amount to £30,000 or £2000 per annum during the fifteen years, and to meet this loss by a levy on the estimated 20,000 houses would amount to 2s. per annum, "which is less than men will generally give to Briefs which happen in a year."

[1] Brit. Mus., 816 m. 10/80.
[2] Brit. Mus., 816 m. 10/77.
[3] Brit. Mus., 816 m. 10/78.

A deed embodying the rules and management was executed on 28th August, 1684, and enrolled in the High Court of Chancery.[1] Trustees were appointed, and the undertakers who gave the security were William Hale of King's Walden, in the County of Herts, Esq., and Henry Spelman of London, Esq., neither of whom, however, secured any special privileges under the deed, Among the original trustees was the Lord Mayor of London. The office was established in Falcon Court, over against St. Dunstan's Church, in Fleet Street.

The *Fire Office* commenced an attack on the *Friendly Society* with as much vigour as it had used against the City Corporation. In a letter over the initials N. B. (Nicholas Barbon) the security of the *Friendly Society* was criticized and the experience of the *Fire Office* in the three years of its existence cited. It had insured 4000 houses, the average premium being £4 10s. per house, or a total of £18,000 and £7000 had already been paid in losses besides charges. The insurances were for seven, eleven, and some twenty-one years, and they had repaid almost half the premiums before a fourth part of the terms were expired. He pointed out the weakness in the levy system, saying "how can a man be insured for seven years when the number of those who are to pay the loss is uncertain?" He finished his criticism: "There can be no insurance unless there be a fund settled that is both certain and able to make good the loss."[2] A reply[3] by H. S. (Henry Spelman) was published, the important part of which ran: "If the money insured on any house burnt, blown up or demolished be not paid by the insurers within fifty days after the rate is set, the trustees by mortgage or sale of lands or rents are empowered to pay the same."

In 1686 the *Fire Office* sought to steal a march on their rivals by applying for a patent for the exclusive privilege of making and registering assurances on houses against fire within the bills of mortality of London. The petition[4] by Samuel Vincent, Nicholas Barbon, John Parsons, and Felix Calvert was submitted to the Privy Council on 8th April, 1687. It set forth that they and their partners "about six years since did invent and set up a new undertaking, and an office for the insuring of houses from fire in and about the City of London and Westminster and did settle three score thousand pounds: that divers persons have set up another office of insurance to the great discouragement and damage of the petitioners and humbly pray His Majesty to grant to them the office of making

[1] Close Roll, 36 Chas. II, Pt. 13 (c. 54/4627).
[2] Brit. Mus., 816 m. 10/74.
[3] Brit. Mus., 816 m. 10/75.
[4] Relton, *Fire Insurance Companies*, 1893.

and registering all assurance policies and contracts of houses from fire within the Bills of Mortality for thirty-one years, they having insured for so long a time." After hearing the partners of both the *Fire Office* and the *Friendly Society*, the Council recommended[1] that a warrant be prepared for His Majesty's signature that a bill be prepared empowering the partners of the *Fire Office* to continue their method of insuring houses with a clause prohibiting the partners of the *Friendly Society* and all others from insuring any houses for one year; that at the expiration of one year the undertakers of the *Friendly Society* may proceed in their method of insuring houses for the space of three months, and then desist for three months and then again for three months more—the *Friendly Society* to continue with alternative three-monthly periods of activity and quiescence. This Gilbertian solution of the dispute does not seem to have been put into effect, for apparently both offices functioned and there came into the field in due course further competitors. In 1705 the *Fire Office* changed its name to the *Phenix Office*, the title being taken from the emblem on its fire mark.

In 1696 the fourth venture in fire insurance came into being and was destined for long to survive the two already existing. It was the association called at first the *Amicable Contributors for Insuring Houses from Loss by Fire*,[2] the title being changed by usage about ten years later to the *Hand-in-Hand*, after the symbol on its fire mark. The association was established by deed of settlement dated 12th November, 1696, enrolled in the Court of Chancery, on a wholly mutual basis, the members being the policyholders themselves. In the *Friendly Society* there were undertakers who received the annual charge in consideration of their guarantee and to cover expenses which left, no doubt, some profit for themselves. The *Amicable*, or to take its later name, the *Hand-in-Hand*, provided in its deed of settlement no guarantee other than the limited subscription to any loss of 10s. per £100 insured.

The first prospectus, which is essentially a canvassing leaflet showing the advantages of their own scheme over that of the *Friendly Society*, is not very clear as to the actual cost of insurance.[3] Every member paid down 12s. per £100 for a seven years' insurance on a brick-built house, of which, if he withdrew at the end of the seven years, he received back 10s. During the time he was insured he paid 7s. as premium each year and was liable to contribute up to 10s. in respect of any loss. On the other hand, he participated in any profits derived from interest on the original deposits, which in course of time accumulated to a considerable sum, and other sources, perhaps forfeitures and excess of contributions over losses. The

[1] Relton *ibid.* [2] Brit. Mus., 816 m. 10/87. [3] Brit. Mus., 816 m. 10/88.

net result was that his premium contribution was covered by his share in profits, and according to their estimate the policyholder who went through the seven years' period and received back his original 10s. found that his seven years' insurance had cost him only 2s.[1]

The early experience of the *Hand-in-Hand* was very favourable. Hatton in his "*New View of London*" said, in 1708, "that insurances were made as in the project of Mr. Spelman (the *Friendly Society*) only here they propose profit to their members of what interest they can make of the sum paid in, but then such members do bear their proportion of all incident charges of the office which the *Friendly* do not. The office has no land security as the other two have—their number is upward of 1300 members. This office is chiefly carried on and supported by workmen and those concerned in building, who sign the policy."[2] The last fact, as Walford remarked, probably explained their early success.

The deed of settlement of 12th November, 1696, was enrolled in the Court of Chancery on 23rd January, 1698.[3] Among its thirty-six Articles it was provided that twenty directors were to be elected by a majority vote of members each November, seven or more of them were to attend two days at least each week between the hours of three and seven, five of whom made a quorum. The directors were to elect six trustees. Policies were to be issued to cover one house only and a member was to pay 2s. 6d. for a policy, in addition to his deposit and premium. If any house were insured with any other office, then the insurance with the Society was to be null and void. Failure to pay contributions involved forfeiture of the deposit. Other articles show that the society had profited by the experience of the existing offices and had copied earlier practices, such as the definition of a total loss (destruction of first floor upwards) in settlement of claims, the appointment of watermen and other labourers to quench fires, and the use of a fire mark to be affixed to houses insured by the office. The treatment of timber-built houses was common, i.e. the charge was double that of brick-built ones. The *Fire Office* (*Phenix*) copied the deposit and assessment system of the *Friendly* and *Hand-in-Hand* in their prospectus of 1700,[4] which embodied two tables: (*a*) applicable to ordinary insurance without assessment or levy for losses; and (*b*) with initial returnable deposit of 5s. (or 10s. for timber structure) per £100 insured, with a small additional premium, on the profit-sharing principle. On the sale

[1] Relton, p. 72.
[2] Hatton, *New View of London*, Vol. II, p. 787.
[3] Walford, *Insurance Cyclopædia*, Vol. V., p. 635. Wording set out in full.
[4] Brit. Mus., 816 m. 10/97.

of a property insured with them, the *Friendly Society* permitted the transfer of the insurance to the purchaser,[1] and the *Hand-in-Hand* under their deed of settlement provided that on the death of a member the interest in the insurance passed to his representatives.

The seventeenth century closed, therefore, with three fire offices established in London and carrying on business, competing with each other, but in most respects granting similar cover for houses. In 1707[2] an institution gained a charter from Queen Anne to transact, among other objects, fire insurance of household goods and stock-in-trade. The corporation had been established a few years earlier as the *Charitable Corporation* for advancing to the "industrious poor" sums of money, chiefly upon furniture, at legal interest; and fire insurance of the pledged goods was first added, then insurance was extended to other than borrowers. Under the deed of settlement "any person paying 2s. 6d. . . . shall have a receipt for it and upon delivering the same to the Committee shall have an order gratis obliging the Corporation to make good two-third part of any loss, not exceeding £37 10s. and so in proportion for any greater sum within seven years." At the end of the seven years the sum was to be returned with 4 per cent per annum interest, less amounts required to make good losses.[3]

This is the first we hear of insurance of furniture against fire. The Corporation, however, does not appear to have been a serious competitor to the next venture in this field, that started by Charles Povey, in 1708, at Traders' Exchange House, Hatton Garden, for insuring movable goods, merchandises, and wares from loss and damage by fire. Under the scheme a mark representing the sun was nailed on the walls of houses containing goods so insured, to be taken down so soon as the owner ceased to pay his quarterings. From its sign the office, which seems to have had no more behind it than Charles Povey's personal security, became known as the *Sun Fire Office*. The late Mr. F. B. Relton, a former official of the *Sun Fire Office*, made an exhaustive investigation into the history of his company and into the history of its founder, Charles Povey. Much of the result of his investigations is of domestic interest only, but the matter of general historical value in the early period of this important company may be summarized therefrom.[4]

The *Exchange House Fire Office* granted fire insurance up to £500 at quarterly premiums. The policies did not provide an indemnity, but at the end of each quarter the money in the bank (probably

[1] Brit. Mus., 816 m. 10/107.
[2] Walford, *History of Fire Insurance*, under this date.
[3] *Ibid.*
[4] F. B. Relton, *Fire Insurance Companies of the 17th and 18th Centuries*, Part II, 1893.

an iron box or safe) was divided among claimants of the quarter in proportion to their respective losses, not exceeding £500 for each policy. The scheme seems to have been adapted from that of the *Amicable Society* for lives. From the amount payable on settlement of loss, 5 per cent was deducted for charges and expenses of "officers and others employed to make enquiry how and by what means the fire happened as is usual with other fire offices." This office existed only a little over two years, and during that time it issued 4240 policies.[1] Povey also projected a scheme for covering houses and goods against fire outside the London area, and towards the end of 1709 entered into an arrangement with a group of men under the title of the *Company of London Underwriters*, by which he sold the fire business in being of the *Exchange House Fire Office* and the scheme projected for fire insurance in the country. As consideration, Povey received a lump sum and an annuity. By a deed of 23rd March, 1709–10,[2] transferring the *Exchange House Fire Office* to the *Company of London Underwriters*, the transferred company is referred to as "alias *Sun Fire Office*," and the transfer is made, rather curiously, to "the said Anthony Vane, Thomas Carthew, Aaron Baker . . . in trust, nevertheless to and for the use and on behalf and for the benefit of the said *Company of London Insurers*." As the *Company of London Insurers* was not incorporated, it could have no separate existence in the eyes of the law from that of the trustees themselves. In their main deed of settlement of 7th April, 1710, there is the confusion again introduced by treating in some of the clauses each of the three, the *Company of London Underwriters*, the *Sun Fire Office*, and the parties signing the deed, as separate identities. The concern, by whatever name we call it, was a partnership of twenty-four partners, and profits were to be divided equally and, subject to various constitutional changes, is with us to-day, the institution which more than any other has contributed to the industry of fire insurance in this country.

The proposals embodying the basis upon which the *Sun* intended to operate were incorporated in a pamphlet of 10th April, 1710.[3] Membership was open to persons within the weekly bills of Mortality of London, to whom was issued a policy "seal'd with company's common seal" by three directors upon payment of 3s. 6d. of which 1s. was the stamp duty and 2s. 6d. for the first quarter, for which payment the member was entitled to have loss or damage by fire repaired and made good to him whether in his house or movable goods, merchandise, furniture, etc., under one roof, subject to continuing to pay 2s. 6d. per quarter. Money, plate, jewels, china, tallies, and writings were not insured. In addition to the benefit

[1] *Relton.*, p. 274. [2] In the modern calendar: 1710. [3] Brit. Mus., 816 m. 10/83.

of insurance, each member was entitled to a copy of a printed newspaper published by the company, entitled the "*British Mercury.*" Out of each "quartering" the sum of 1s. was to be applied to a Fund or Bank to be equally divided at the end of each quarter among the sufferers in proportion to their prospective losses "not exceeding £500" under each policy. For the payment of the quartering, grace of ten days was given. The company engaged for quenching fires and salving goods thirty lusty, honest, able-bodied firemen with liveries and badges. A copy of the policy was attached to the "proposals."

In August of the same year the proposals were extended to any place within Great Britain, with quarterings increased to 3s., but the part thereof devoted to the Fund remained at 1s. Agents were appointed in provincial towns. Further proposals were issued in 1716, but these did not alter the scheme materially. The "*British Mercury*" had by then given place to the "*Historical Register,*" and the deduction from claim payments was reduced from 5 per cent to 3 per cent, "which is less than other fire offices deduct." In 1720 the part reserved from the quarterings for the fund was increased to a moiety.

In 1714 was formed the *Union Fire Insurance Office* or (after its fire mark) the *Double Hand-in-Hand* by "several citizens for insuring of goods and merchandises from loss by fire in the way and upon the like terms with the *Hand-in-Hand Office*, which is fairly calculated for the public good and not for the private advantage of any particular persons." A deed of settlement was drawn up and executed by the subscribers. It was dated 16th February, 1714, and enrolled 3rd July, 1715.[1] At the outset the office confined its activity to the cities of London and Westminster, but in 1716 the limit of the *Union's* insurances was widened to the same area as the *Hand-in-Hand*, the districts surrounding London.

The conditions attached to the deed included the following: the subject-matter of the insurance was to include merchandise, movable goods, wares, utensils and implements of trade, household goods, furniture, and such like, except ready money, jewels, glass and china-ware, plate, pictures not in trade, books of account tallies, bills, notes, and other writings, and in 1716 it was provided that no barrow, ricks or stacks, either of corn, hay or straw, be insured. Insurances were granted for seven years or less, and the maximum value allowed on stock, goods, or effects in one house, wharf, yard or other building or place to be £1000. The charge for insuring each £100 was to be 2s. premium and 10s. deposit, parliamentary stamp duty, and 3s. for policy and fire mark. All

[1] Enrolment No. C. 54/5070/No. 9.

members shared in profits, and on expiration of the policy received back the deposit. Each member was, however, liable to subscribe up to 10s. per cent of his sum assured in case of any single fire. If any property were insured with any other office, cover by the Society would cease.

One of the most interesting provisions was that contained in Article 31 of the deed, showing the close relationship with the *Hand-in-Hand*. In case of dispute with members, the directors of the *Hand-in-Hand* were to act as arbitrators and their decision was to be final, and for maintaining good relationships with the *Hand-in-Hand* the *Union* would not ever intermeddle with insurance of houses or buildings. Not till 1805 was this provision broken when the *Hand-in-Hand* commenced to insure goods and the *Union* to insure buildings.[1] In 1717 a discrimination was made between the charges for goods enclosed between walls other than brick and stone. The premium and deposit for these more hazardous risks was then put up from 12s. to 18s. Two years thereafter they seem to have adopted a practice similar to the *Hand-in-Hand* of charging 3s. in place of 2s. for goods in timber-built houses, and in 1720, when their insurances extended to the country classification, went still further in accordance with the following table of charges per £100 insurance.

District	Non-hazardous				Hazardous			
	brick		timber		brick		timber	
	Premium	Deposit	Premium	Deposit	Premium	Deposit	Premium	Deposit
	s.	s.	s.	s.	s.	s.	s.	s.
London . .	2	10	3	15	3	15	6	15
Extensions (country) . .	4	10	6	15	6	15	8	20

As with other companies, the *Union* appointed men with livery and badges to assist at fires, "with carrs for the safe and speedy removal of goods as necessary and convenient." In 1716 the *Union* published a detailed list of claims paid to date amounting to £31,195 and a further list in 1735.[2]

Three years after the foundation of the *Union* another fire office was formed in 1717—the *Westminster*—on the model of the *Hand-in-Hand*. At the outset the members joined in a guarantee fund and policies were issued to them for a minimum period of seven years. This office had its original home, as did the *Hand-in-Hand*, at Tom's Coffee House, St. Martin's Lane, near Charing Cross. According to the advertisement in the "*Daily Courant*" of 12th October, 1717,

[1] Relton, p. 101. [2] Brit. Mus., 816 m. 10/101 and 102.

the *Westminster* "was set on foot and carried on by some hundreds of principal inhabitants of the liberties of Westminster, where all persons may insure their houses and their brick and timber buildings which are situated within the bills of mortality and parts adjacent by depositing in the common stock 12s. for every £100 insured seven years on brick buildings and double for timber: at the end of the insured term 10s. of the said 12s. and the like proportion for timber buildings will be returned to the person that paid the same or to his assignee, the other 2s. being applied to defray office rent, booke salaries and other contingent charges. In this office all persons concerned are equal sharers in the profits arising from the interest of the stock or other ways of which a dividend will be made; that will be another additional advantage to every person that insures with the society."[1]

The origin of the *Westminster*, according to the deed of settlement of 13th February, 1717–8, lay in "the great inconvenience put upon them by removing the *Hand-in-Hand* office from the liberty of Westminster to Snow Hill although erected by the inhabitants of Westminster and by them carried on with the greatest success for many years." Their constitution laid down that "it shall not be in the power of the directors or general meetings to remove the office from the liberties of Westminster, any member that shall motion the removal to forfeit his deposit.[2] In the first year the levy on members to cover the losses amounted to 11d. per £100 on brick and 1s. 10d. on timber buildings. In June, 1721, the dividends to members in three years amounted to 2s. $4\frac{3}{4}$d.[3] on brick and 4s. $5\frac{1}{2}$d. on timber. The office had a successful career and to-day exists as a subsidiary of the *Alliance Assurance Co.*

The first provincial office to be established for fire insurance of which there is record was one in Bristol, a city then second only to London in commerce and a centre of marine insurance by individual underwriters on the same lines as carried on in London. The office, the *Bristol Crown*, was established as a partnership concern in 1718. From one of the early policies issued in 1726, the insurers were: "Wm. Freake, Isaac Hobhouse, John Cox and other co-partners concerned in an undertaking for insuring houses and goods from and against loss or damage by fire in the cities of Bristol, Bath and several other parts of Great Britain."[4] At the head of the policy is a crown, which gave the name to the office. From the Articles of Agreement octogintapartite, completed 17th February,

[1] Relton, p. 112.
[2] Deed of Westminster, now associated with the Alliance—kindly produced by the Alliance Assurance Company for inspection.
[3] Query: typographical error for 2s. $2\frac{3}{4}$d.?
[4] Relton, p. 115.

5 Geo. I (A.D. 1718–9), and enrolled 4th January, 1719–20,[1] there were originally eighty partners, and under an earlier deed 500 policies had been issued which were to remain in force. The authorized joint stock was £40,000 and the office was at Cooke's Coffee House in Bristol.

The first fire office to be established in Scotland was the *Friendly Society*, in Edinburgh, by deed of settlement dated 13th January, 1719–20. The society was a mutual one and according to the deed, which had to be signed by each member, the contributor or successor in the property insured was to be entitled to a perpetual insurance thereof and to a proportionate interest in the stock which should arise from the said contributions and dividends of profits that should be made therefrom, "such stock and profits to be inseparably annexed to the buildings insured." This attachment of the insurance to the building instead of indemnity to a particular person, a peculiar feature of the office, was confirmed by their Act of Parliament (Geo. II, 2, c. 22) in 1728. By that Act the directors were empowered to take bonds carrying interest "from such as have signed the articles for contributing or entered into covenants to contribute . . . to the general fund." These bonds, after being registered, were a charge on the insured property. From the records given by Relton it appears that the account of a member was debited with the premium and interest thereon less dividends, and the balance continued as a charge on the property. Goods were insured from 1767. The society pursued an independent career till the business was taken over by the *Sun* in 1847. It was incorporated by a Scottish procedure under "Seal of Cause" of March, 1728, under Seal of the City of Edinburgh, and issued by the Lord Provost and Treasurer of Edinburgh "in pursuance of the Power vested in us by our ancient Charter of Erection."[2]

The considerable measure of success which attended these early institutions which first transacted fire insurance was partly due to the form in which the insurance was offered. Of the first six schemes which came to fruition in London or Westminster only one, the *Fire Office*, afterwards the *Phenix*, gave under the contract an absolute guarantee in exchange for a fixed premium and this office proved the most ephemeral; moreover, its claims experience in its early years, by its own confession, was such that more than the earned premium had been expended. It is probable that its demise was due to the lack of reserve for the unexpired period of cover given by its contracts. All the other London offices had taken two wise precautions. They avoided making a definite estimate of

[1] Furnished from Record Office copy, c. 54/5140/No. 6.
[2] A. B. Du Bois, *The English Business Company after the Bubble Act*, 1720–1800.

the cost of the insurance beforehand, making their assured contribute rateably (but within specified limits) to the claims actually experienced; and they bound their assured members together for the term of assurance, usually seven years, by taking a deposit which was returned only at the end of the period.

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CHAPTER VI

THE FOUNDATION OF THE CHARTERED COMPANIES AND LLOYD'S

DISAPPEARANCE of the Office of Assurances in the Royal Exchange—Importance of brokers—Losses of underwriters in 1693—Merchant insurers' bill of 1693—Current practices of marine insurance—Proposed *Corporation of Ensurers*—Special report of Committee on joint-stock promotions—Evidence in respect of insurance ventures—The Billingsley promotion—Unfavourable report by Attorney and Solicitor-General—Application for Charter on behalf of the *Mines Royal and Mineral and Battery Works*—The Onslow venture—Attorney-General's report thereon—The Chetwynd venture—Charters granted with exclusive rights—Effect of financial conditions following the bursting of the South Sea Bubble—Charters obtained by both corporations for fire and life assurance—The Coffee Houses as centres of news and business—Lloyd's Coffee House in Tower Street—Removal to Abchurch Lane—Maritime connection maintained—Publication of Lloyd's List—Private underwriting centralized at Lloyd's—*Lloyd's Register of Shipping*, about 1760, issued by a Society of Underwriters at Lloyd's Coffee House—Removal of underwriters to 5 Pope's Head Alley, then to Royal Exchange in 1772

WHEN, after a hundred years of existence, Commissioners ceased to be appointed,[1] the work of the Office of Assurances had been substantially completed. A form of policy had been adopted which had been practically unaltered since its first appearance; the form was given in commercial and legal works of reference in almost identical terms in 1598 and 1693,[2] and a printed form had been used at least since 1656.[3] The customs and usages of marine insurance had become better known and set out in text-books of mercantile law.[4] The sphere and the importance of the mercantile community in relation to other sections of society had grown immensely with increasing trade to all parts of the world, and in accordance with general legal development the common law Courts inevitably were compelled to embrace commercial law as it grew in importance. In the circumstances, the functions both on the administrative and on the judicial sides of the Office, or Chamber, of Assurance became first optional, and finally fell into disuetude.

The existence of the office did not drive the brokers out of business. Their function indeed seems to have been more solidly established as commerce grew. No body of specialist underwriters

[1] By 14 Car. II, c. 23, Commissioners were no longer required to take the oath before the full Court of Aldermen: thereafter other sources of information are wanting.

[2] By Wm. West, in 1598, in *Simboleography*; and by W. Leybourne, in *Panarithmologia*, in 1693.

[3] *Three Brothers* policy at India Office.

[4] *Lex Mercatoria*, by Gerard Malynes, in 1622; and *de Jure Maritimo*, by Charles Molloy, in 1676—both running to a number of subsequent editions.

had yet developed, and the service of a broker was resorted to both by merchants in London who wished to place their insurances and by merchants abroad who took advantage of the London market. These brokers had their offices in or around the Royal Exchange: "A number of Office Keepers at the Exchange at London, who act as brokers have for a great many years past made it their constant business to procure persons of good substance to insure and underwrite policies, by whose means the merchants have been readily served."[1] These office keepers or brokers "picked up insurances here and there as they could."[2] No separate part of the Royal Exchange was reserved for merchants who underwrote policies as such. We have seen that a broker's account in 1655 with underwriters showed addresses in Bartholomew Lane, Crutched Friars, Mark Lane, St. Helens, Old Fish Street, and Threadneedle Street before the fire of London.[3] No doubt merchants in the "Walks" in the Exchange who would take a share in an insurance venture were easily approachable. In "*A New View of London*" Hatton says: "Offices that insure ships or their cargo are many about the Royal Exchange, as Mr. Hall's, Mr. Bevis's, etc., who for a premium paid down procure those that will subscribe policies for insuring ships (with their cargo) bound to or from any part of the world, the premium being proportioned to the distance, danger of seas, enemies, etc."[4]

The progress of marine insurance had not, however, been uniformly successful. When the Smyrna Fleet in 1693 was attacked by the French under Admiral Tourville in the Bay of Lagos and most of the ships were either taken or lost, it was for merchant underwriters a catastrophe of the first magnitude and many were unable to meet their underwriting commitments. Defoe refers to "an incredible number of ships" which had been lost: "The weight of this loss fell chiefly on the trading part of the nation, and amongst them the merchants, and amongst them again upon the most refined capacities as the insurers." . . . "and an incredible number of the best merchants in the kingdom sunk under the load, as may appear a little by a Bill which once passed the House of Commons for the relief of merchant-insurers, who had suffered by the war with France."[5]

Defoe was referring to the Merchant Insurers Bill.[6] This matter

[1] Special Report from the Committee to report and examine on subscriptions to fisheries, insurances, etc., B.M. 357, b. 3/30, p. 21.
[2] *Ibid.*, p. 26.
[3] *Rawlinson MS.*, A.21, p. 26, quoted in Martin's *History of Lloyd's*.
[4] Hatton, *A New View of London*, 1708, Vol. II, 787.
[5] Daniel Defoe, *Essay on Projects*, 1692, reprint 1887, p. 77.
[6] *House of Commons Journal*, Vol. XI, p. 25 *et seq.*

was first submitted to the House on 9th December, 1693, when leave was asked "to bring in a Bill to enable Merchant Insurers that have sustained great losses by the present war with France the better to satisfy their creditors," and on 13th December, Mr. Waller presented the Bill. On 21st December, however, a petition was made to the House by creditors begging to be heard before passage of the Bill. The petition was ordered to lie on the table till the second reading of the Bill. Then on 9th February, Daniel Foe (the baptismal name of Daniel Defoe) petitioned that his name might be added to the merchant insurers in the Bill "as he also has sustained divers losses by insurances since the war with France and having met and proposed a means to satisfy his creditors some few of them will not accept." This petition, with the one from the creditors, was submitted to the Committee to whom the Bill had been sent. On 22nd February, 1693–4, Mr. Waller reported that some amendment had been made in Committee and a second reading was given, Daniel Foe's name being added to the list. The Bill was read a third time on 27th February, 1693–4, and Mr. Waller was ordered to carry it to the Lords. The latter rejected it on 9th March, 1693–4.

There must have been some loss of prestige of the London market on account of the abortive attempt to force a composition upon creditors, and it may have resulted in the practice becoming more common whereby foreign orders placed with London brokers were accompanied by the request for a guarantee by the broker. This practice was referred to in the evidence given to the Attorney-General when the Committee sat to consider and report on the various subscriptions for fisheries insurance, etc., in 1719–20. One witness, Mr. Aston, said that for the most part he had "been allowed by his correspondents after the rate of one per cent and half per cent for standing bound for the insurers over and above the usual half per cent for causing the insurance to be made."[1] He added that he had never lost a penny for standing bound for the insurers. These brokers did not necessarily follow that occupation; the merchant himself might act as such. The evidence of John Barnard, merchant, throws some light on the character of the London market; he stated that he was conversant with the insuring of ships for fifteen years and upwards, both as assured and assurer: "There are about one hundred persons of good repute who insure ships and merchandise. Foreigners from all parts of Europe have recourse to insurance in London—he had frequently been insurer for foreigners whereon five, ten, and twenty thousand pounds and upwards had been insured in one policy. At Cadiz (a place of great

[1] Special Report by Committee, B.M. 357, b. 3/30, p. 27.

trade) the premiums on English and Spanish ships during the last peace were frequently double the premiums given here in London on the same ships—his partner there to insure ships had received double the premium that was given in London. Foreigners allow their correspondents here a premium to insure the insurers, occassioned because the foreigners do not know the insurers, and they can afford to give it because of the low premiums."[1]

Some estimate of the amounts placed in London was given by John Bourne, a broker of twenty-five years' standing, who kept an office in the Royal Exchange; he said that the sums insured in the City "amounted to several millions yearly." Bourne produced a list of 163 persons who were prepared to subscribe policies.[2]

The procedure of settling disputes by arbitration followed by the Office of Assurances, although no commissioners were then being appointed, was still followed at the end of the seventeenth century. In his evidence Bourne said that disputes were generally left to the arbitration of persons "to be indifferently chose between them," and if the assured were resolved to go to law, the insurers usually agreed that if an action were brought against one of them the others would abide by the judgment. Other evidence was to the same effect.

The system of individual underwriting of marine insurance risks was common among all mercantile cities and ports of Europe, but the promotion of a large joint-stock corporation had been proposed as early as 1629 in Holland. The project was sponsored by the States General and submitted to the deputies of the several Provinces, with the recommendation that "they were persuaded that the Company or general Chamber of Insurance once put into train, the merchants would carry on much securer trade by sea than heretofore, and that besides it would afford a means of releasing the Provinces from large extraordinary subsidies which the latter declared they could no longer continue." The States General were prepared to subscribe 4,000,000 florins, two-thirds of the capital. The company was to be empowered to trade as well as to insure. The scheme, however, did not commend itself to the Provinces and was rejected.[3] A proposal was made also in England in 1660 for a Corporation of Ensurers with a joint stock of £500,000,[4] which, although recommended by the Council of Trade to whom it was referred, never actually matured.

The idea, however, of such a chartered corporation did not die.

[1] Special Report, B.M. 357, b. 3/30, p. 44.
[2] *Ibid.*, p. 45.
[3] Hendriks, *J.I.A.*, Vol. IV, p. 123.
[4] *State Papers Domestic*, Charles II, Vol. LXVI, No. 53.

Merchants were becoming accustomed to the chartered corporation in which the members might pool their business risks and draw a share of profits proportional to the stock held, and when in the second decade of the eighteenth century proposals again came forward for erecting a corporation to undertake marine insurance, it was not that novelty to the merchants of the time which we at this distance from the event might assume. The petitions for charters which we shall have to consider were made primarily by merchants who were accustomed to insure their ships and goods, or undertake liability from others wishing to do the same; they intended to do collectively what they had hitherto done individually. Unfortunately the schemes were put forward at a time of great speculation and became mixed up with the speculative finance of the Bubble era.

Much information concerning the conditions of marine insurance at the time and of the circumstances in which the Charters to the *Royal Exchange* and the *London Assurance* were finally granted may be obtained from the Special Report of some eighty pages of the Committee appointed "to enquire into and examine the several subscriptions for fisheries, insurances, annuities for lives and other projects . . . in the cities of London and Westminster." A shorter report appears in the House of Commons Journal, Vol. XIX, but the earlier Special Report is a rare document. The copy in the British Museum Library is in a volume of pamphlets, entitled "Bills."[1]

From the evidence given to the Committee it appears that in 1716 or 1717 the firm of Bradley & Billingsley, solicitors, acting on their own behalf as well as for friends, "formed a scheme for erecting an office with a joint stock of one million sterling, a sufficient part whereof should be deposited for the present and the rest to be called up as there might happen to be occasion." Mr. Case Billingsley gave a draft of the scheme to Sir William Thompson, who was then the Attorney-General, and Billingsley said it was returned to him by Sir William with the statement that it was an excellent scheme and advised him to open the subscription list. This he did at Mercers' Hall, where it remained open for five months, and he, Billingsley, "courted" private insurers, inviting them to come in with the promise that they would get direction of the office.[2] Then on 25th January, 1717–8, a petition signed by Justus Beck, Alexander Cairns, and others, numbering in all 287, was made for a charter of incorporation. The addresses of the petitioners were given against their names, and they appear to be merchants or business men in London and Westminster. The petition recited

[1] B.M. 357, b. 3/30. [2] Report, p. 32.

that the "merchants and traders . . . do frequently sustain great losses for want of an encorporated company of insurers with a joint stock to make good all such losses and damages of ships and merchandise at sea as shall be insured by them, and the establishment of such a company . . . will be a very great security and encouragement to trade and navigation, enable merchants to make quicker returns, employ more hands, increase the number of seamen and preserve many of their families from that ruin to which they are now exposed by being assurers in a private capacity." No monopoly was asked and it was pointed out that the erection of the corporation would in no way interfere with any other corporation.

A counter petition signed by 375 persons (without addresses or descriptions) was put forward praying that before granting a charter they might be heard by their counsel, and pointing out that the insurance of ships and goods was absolutely necessary, and should be furnished at rates as low and moderate as possible. Further "that a number of Office-keepers at the Exchange of London, who act as brokers have for a great many years past made it their constant business to procure persons of good substance to insure and underwrite policies by whose means the merchants have been readily served . . . that a corporation will be a great discouragement to the present without giving any greater security."[1]

A similar petition against the charter was submitted by merchants and traders from Bristol. The petitions for and against were on 2nd February, 1717, referred to the Lords Commissioners of Trades and Plantations, also to the Attorney-General and the Solicitor-General.

In support of their case the petitioners for the charter produced affidavits from witnesses—one, John Emmett, stated that for several years he had traded with Holland and Hamburg, and had not made one insurance in Great Britain—it was safer and cheaper to insure in Amsterdam.[2] Two merchants, one of Amsterdam and the other of Rotterdam, said that frequently merchants residing in England gave order to merchants in Holland to make insurances for them there and they had themselves received such orders. Witnesses against the charter, on the other hand, held that insurances in London were made cheaper than anywhere in Europe, and as to the superior credit of a corporation they answered "that a corporation has no sense of shame."[3] Several witnesses alleged that at present the best men on the Exchange insure, and very few Englishmen insure abroad and many foreigners make insurances here. James Mendez said that the reason for "his orders from foreigners was the lowness of the premiums and the vast sums which

[1] Report, p. 21. [2] *Ibid.*, p. 26. [3] *Ibid.*, p. 27.

might be insured here and greater facility for recovery of losses and averages: business was so well done in London and such real reputation both at home and abroad it could not be better." One of the petitioners, Sir Justus Beck, gave it as his opinion that if the charter were granted, all foreign insurances would be made with the company, and that about three years since it was true many English insured at Hamburg as judging it more secure.

From perusal of the evidence, one is forced to the conclusion that whatever defects the London market might have, it was in no way discredited as compared with continental cities and was, indeed, the greatest at the time. Such conclusion no doubt the Attorney-General and Solicitor-General came to, but their action may have been influenced by the blatant attempt by Billingsley to bribe them. They received their fees for attendances and interviews, but on the 6th March, 1717–8, both the Attorney-General and Solicitor-General received letters from Bradley and Billingsley, the solicitors, saying they had a discretionary commission and, therefore, the moment they have the charter "our fee to you will be one thousand guineas." This was followed up by a further letter: "We have reserved room in the subscription for ten thousand pounds for you which if you think fit may be subscribed by any one that you can trust, which we doubt not will be a good estate to you."[1]

In their report, which was dated 12th March, 1717–8, Sir Edward Northey, the Attorney-General, and Sir William Thompson, the Solicitor-General, summed up unfavourably to the application for the charter: there was no such corporation for insuring ships in Europe; the making of an experiment in a thing of this sort, if it should prove a failure, would be of the utmost consequence to trade, and that they could not advise the erection of a corporation against which there were so many and so great objections.

Somewhat over a year later, on the 9th May, 1719, a petition came before the Privy Council from the "Governors Assistants and Societies of the City of London and for the *Mines Royal* and *Battery Works* and for Assuring Ships and Merchandise," praying for incorporation to carry on the said undertaking, but not exclusive of other corporations, and stating that a subscription had been raised therefor of £1,152,000. The persons behind the application were substantially the same as those who had made application for the earlier charter. Since the adverse report of 1718 they had bought up the shares of the two old chartered companies, the *Mines Royal* and the *Mineral and Battery Works*, set up for quite other purposes by Elizabeth, and after tacking on the additional

[1] Report, p. 30.

words "and for assuring Ships and Merchandise" to the title, had proceeded to transact marine insurance. The subscription list had been opened at Mercers' Hall and 10 per cent of the stock subscribed had been paid up. As in the earlier case, counter-petitions were made by merchants, brokers, and office-keepers from London and Bristol, and in this case they had a strong point to make in the use made by the charter applicants of the two old corporations. In the body of their counter-petition they said "that the projectors did not think to wait for Your Majesty's determination . . . but did clandestinely go about to treat for the interest under one or more of charters granted in the reign of Queen Elizabeth and James I." Both the petition for and those against were referred to the Attorney-General Lechmere (successor to Sir Edward Northey). Evidently finding that their petition on behalf of the two defunct companies was prejudicing their case, the petitioners lodged a further petition for a charter, and secured the powerful support of Lord Onslow, who appears as the leading petitioner and his name, therefore, became attached to the project. They no longer prayed for the charter on behalf of the *Mines Royal* and the *Mineral and Battery Works*, but said they had for some time been carrying on the business of insuring ships and asked for Royal Letters Patent for incorporating them, the petitioners and others who had subscribed the joint stock of £1,152,000 to assure ships and merchandise.[1] This revised petition was passed on to Attorney-General Lechmere on 8th January, 1719–20.

It would appear that the Attorney-General had prepared his report before considering the one of 8th January, for he dealt with the latter in a supplement to his main report. The main report was dated 3rd March, 1719, and the supplementary one 5th March, i.e. two days later. The main report was a long one, reciting much of the petition and of the evidence, but its concluding paragraphs leave no manner of doubt as to his opinion in respect of the petition on behalf of the *Mines Royal* and the *Mineral and Battery Works:* "I am humbly of the opinion that the transactions which are before stated to have been carried on for the insurance of ships and merchandise under colour or pretence of the charter . . . are illegal and unwarrantable and if drawn into precedent would be of dangerous consequence to the public, those charters being granted for the particular ends specified and limited therein . . . not giving sufficient authority to the corporations . . . if they are existing to carry on a business or employment of so particular a nature as that of insurance of ships and merchandise and which is

[1] P. 30.

wholly foreign to the design of those incorporations."[1] In reference to the petitioners, he said: "It doth appear that the design of the petitioners for a charter in making use of the said old charters was to make the experiment of insuring ships and merchandise as a corporation and that they have carried on that undertaking, though in that respect without legal authority, yet without any complaint from the persons with whom they have made insurances or any objection to the fairness of their proceedings . . . whether it be fit for your Majesty to grant a charter for erecting a corporation with a large joint stock for insuring ships and merchandise, that being a matter of the greatest moment to the general trade of the kingdom, deserves the most mature consideration and it does appear that the insurance of ships and merchandise being a public and national concern has been in some measure under regulation by two Acts of Parliament now in force, the first made in 43 Eliz., c. 12, the second in the 14 Car. 2, c. 23[2] . . . I am of the opinion that such a corporation not being made in any manner exclusive of others, and being granted under such regulations as are suitable . . . may be of great advantage to trade, but whether it is advisable to erect such a corporation with so large a joint stock, as is mentioned in the petition, may deserve particularly to be considered."

In his supplemental report of two days later, 5th March, 1719, in which he dealt with the second petition made without naming the *Mines Royal* and the *Mineral and Battery Works*, and with which Lord Onslow was associated, he said: "The persons who are now the petitioners . . . are the same persons who prepared the former petition, though in a mistaken form . . . the present petitioners were the first promoters of this method of insurance by a corporation . . . and hope that no mistake in the form of their proceedings shall obstruct your Royal favour to them."[3] All three of these petitions for charters, the first reported on adversely by Sir Edward Northey and Sir William Thompson, then respectively Attorney-General and Solicitor-General, and the later two upon which Attorney-General Lechmere reported in March, 1719–20, may be said to belong to the early history of the *Royal Exchange Assurance*, for when the charter for that corporation was finally granted it was to the group of men who had been responsible for the three petitions.

We have now to consider two petitions from another group of persons which resulted eventually in the charter being granted to the *London Assurance Corporation*. The first petition was made to the

[1] Special Report, p. 48.

[2] Of these Acts, of which account has been given, the first set up the Court of Assurances and the second gave it further powers.

[3] Special Report, p. 50.

King in Council during the hearing and consideration by Lechmere of the others. It was prepared in opposition to that on behalf of the *Mines Royal* and the *Mineral and Battery Works*. It recited that a joint stock of £1,200,000 had been subscribed, and in praying for the charter the petitioners stated that they were not desirous of excluding any other person or corporation from insuring ships and merchandise. Through the good offices of Lord Chetwynd, the petition was presented to the King.[1] The subscriptions had been obtained at Garraway's Coffee House after a preliminary sorting out of a list compiled by Stephen Ram, a goldsmith, in which too many stockjobbers appeared.[2] The list was headed by Lord Chetwynd for £15,000. While the subscriptions were being taken, another list of applicants and subscribers was being arranged by James Colebrook, and £800,000 in applications had been received. Co-operation of the two was suggested and achieved, so that another petition for a charter was made for the erection of a corporation with a joint stock of £2,000,000 in substitution of the one for £1,200,000. The petition referred to the applicants as being "a very considerable part of the body of merchants on the Exchange of London." The subscription list itself was signed by Lord Chetwynd, Sir William Chapman, and 512 others, and was dated 22nd December, 1719.[3]

Sir Nicholas Lechmere's report on the substituted petition for the £2,000,000 stock, headed by Lord Chetwynd, was made only a few days after making the one sponsored by Lord Onslow. It was dated 7th March, 1719–20. Summing up, he said that it appeared that the sense of the greater part of the merchants of London was in favour of such an incorporation, but that no satisfactory reason had been furnished for a joint stock of as much as £2,000,000 and that the ends of trade would be served by a far less joint stock, and he finished his report with the words: "But if your Majesty shall be graciously pleased to erect such a corporation under proper regulations I am humbly of opinion that it is by no means advisable to create two or more corporations of that nature."

Sir Nicholas Lechmere was accused in the House of accepting bribes in connection with the petitions, but after a full investigation he was completely exonerated. There certainly appears nothing in his reports suggestive that he was other than impartial. While indicating that a corporation with a moderate capital seemed to be the desire of the merchants and that such might be of great advantage to trade, he did not recommend that a corporation should

[1] Special Report, p. 55.
[2] Bernard Drew, *The London Assurance—A Chronicle*, p. 4.
[3] Special Report, p. 55.

have exclusive rights either against any other corporation or against individual underwriters. He did not recommend two corporations, and he favoured neither the Onslow nor the Chetwynd group.

No further progress might have been made had not the two interested parties resorted to genuine bribery; this time of his Majesty himself who was deeply in need of money. Some collaboration must have taken place, for both groups offered £300,000 for charters, and on 4th May, 1720, the Chancellor of the Exchequer delivered a message to the House that his Majesty had received several petitions for erecting corporations to insure ships and merchandise, and that the petitioners having offered to pay a considerable sum of money to his Majesty's use, he was of the opinion that the erecting of two such corporations exclusive of all other corporations may be of great advantage to trade. He therefore hoped for their concurrence to enable him to discharge the debts of his civil government without burdening his people with any new aid or supply.[1] A Bill was introduced which not only authorized the incorporation of the two companies each for a joint stock of £1,500,000, but provided that no similar should be created, and by Clause 18 provided that, after 24th June, 1720, all undertakings tending to the prejudice of trade, and all subscriptions thereto, or presuming to act as corporate bodies without legal authorities and all acting under obsolete charters, should be deemed illegal and void. This, the Bubble Act (6 Geo. I, c. 18), has been dealt with elsewhere. It had for its title "An Act for the better securing certain powers and privileges intended to be granted by his Majesty for two Charters for Assurance of Ships and Merchandises at sea, and for lending money upon Bottomry, and for restraining several extravagant and unwarrantable practices therein mentioned." The Bill received Royal Assent on 11th June, 1720.

The £300,000 which each corporation had promised gained them a monopoly against all other corporations, and all societies and partnerships, "as now or hereafter shall be entered into by any persons for assuring ships or merchandise at sea, or for lending money on bottomry." There were certain saving clauses inserted by the Government in the Statute as to termination of the monopoly upon notice and repayment of the sums paid to the Government, and a right after thirty years of termination without notice if the monopoly should prove hurtful to the public. In accordance with the Act, charters were granted, the one to incorporate the Onslow group of petitioners as the *Royal Exchange Assurance* corporation and the other to the Chetwynd group as the *London Assurance* corporation.

The capital of the *Royal Exchange* had by the applicants been

[1] *House of Commons Journal.*

subscribed to the extent of £1,500,000 and that of the *London*, on the final petition, £2,000,000. The subscriptions had in both cases been easy enough to secure while the fever of speculation had been at its height, but conditions were very different when the subscribers were called upon to pay. The period of the South Sea Bubble had passed and, with the bursting of the bubble, ruin of many of those who had subscribed had followed—the two influential peers who has associated themselves with the ventures were themselves heavily involved. Both companies managed to pay or give security for the first £150,000 to the Government, but the balance, which was to have been paid in instalments of £50,000 during the ten months after incorporation, they were unable to find, and both petitioned the Lords Commissioners of the Treasury to be relieved of further payments,[1] "as his Majesty's and the Legislators' tenderness has been compassionately extended to others who were unfortunately involved in the precipitall undertaking of the last year." The circumstances were exceptional, the influences behind the two ventures were important, and as it was impossible to make the corporations pay sums which they themselves were unable to collect from their members, the Government excused the balance, provided the full sum of £150,000 from each, for which part had been previously satisfied in securities, was received by the Treasury.

The condition was carried out, but the resulting financial position of the companies, especially the *London*, was that they started under the handicap of insufficient capital for working and lack of public confidence.[2] The *London Assurance* stock, on which only 10 per cent was paid at first, and which had risen to 160 per cent "or sixteen times the capital actually subscribed, fell in the month (October, 1720) to 60 and, insurance losses following soon after, to 15 and even 12 per cent, and towards the close of the year the promising company scarcely existed but in the complaints made by the proprietors against the directors." The corporation had had to resort to the Bank of England for a loan in 1720, and finding difficulty in repayment they received "a peremptory demand from the Bank by letter of 3rd February, 1721."[3] Within a few years both companies recovered, and it was stated in the proceedings before the Parliamentary Committee sitting upon marine insurance in 1810 that in the earlier period of their existence the companies had about 10 per cent of the marine business in London, the balance being done by individual underwriters.

[1] *The London Assurance—A Chronicle*, p. 25.
[2] Postlethwayt, *Universal Dictionary of Commerce.*
[3] Sir John Clapham, *The Bank of England—A History*, Vol. I, p. 121.

In 1721 both the *Royal Exchange* and the *London Assurance* corporation sought and obtained similar supplemental charters to enable them to undertake fire and life assurance, additional and separate capital being raised of £500,000. They secured powers to operate throughout England and Wales, the Kingdom of Ireland, and other parts of his Majesty's Dominions beyond the seas. Both companies are flourishing institutions, transacting all classes of insurance business after two-and-a-quarter centuries of public service.

The business of the brokers and individual underwriters did not suffer in consequence of the erection of the two corporations. In truth, the monopoly of transacting marine insurance to these two institutions except for that written by individuals served as a protection to the latter for a century, during which fire and life assurance companies were being constituted, but no further marine insurance companies were possible. It gave such underwriters a period, free from any substantial competition, in which to organize themselves into the world-renowned *Lloyd's*, where marine insurance by specialized underwriters met in a definite market, a necessary requisite for a business in times of bad communications.

An opportunity for merchants of similar business to meet together in congenial surroundings occurred in the seventeenth century in the rise of the coffee-houses in London. The important part these played in the social life of the times may be realized by turning over a few pages of Pepys; very frequently we find him passing from 'Change to one of the coffee-houses in proximity to the Royal Exchange: "To the coffee-house and thence to 'Change, and there with Sir W. Warren to the coffee-house behind the 'Change and sat alone with him till 4 o'clock" (10th October, 1664). "Then to the Exchange where I hear that the King had letter yesterday from France, that the King there is in a (way) of living again, which I am glad to hear." "At the coffee-house in Exchange Alley I bought a little book" (28th May, 1663). "He and I to the coffee-house in Cornhill, the first time that ever I was there, and I found much pleasure in it, through the discovery of the company and discourse" (December, 1660).[1]

Coffee-houses became centres in which news was passed on and discussed, business transacted and, later, auction sales held. In the last quarter of the seventeenth century many advertisements are to be found of sales of ships and cargoes at City coffee-houses. One such coffee-house was that of Edward Lloyd in Tower Street, a suitable position for maritime circles. The Custom House, the Navy Office, and Trinity House were all in proximity. In 1691 Edward Lloyd removed from Tower Street to premises having frontage on

[1] *The Diary of Samuel Pepys*, H. B. Wheatley.

both Lombard Street and Abchurch Lane, thus surrounding the corner site of the two streets, which was occupied by a hosiers' shop,[1] where he was near the other famous coffee-houses of Garraway's, Jonathan's, Baker's, and Elmer's, "chiefly frequented by brokers, stock-jobbers, Frenchmen, Jews, as well as other merchants and gentlemen."[2]

Lloyd seems to have carried his maritime connection with him and to have cultivated it in a most enterprising manner. From 1696 to early 1697 he published a newspaper—"*Lloyd's News.*" In it there was news received from various places—news that was of general interest and news that was of particular interest to his own customers. The paper consisted of a single sheet printed back and front, and appeared three times a week. A facsimile of No. 20 is given in Wright and Fayle's official "*History of Lloyd's.*" At the foot of the back there are the words "Printed for Edward Lloyd (Coffee man) in Lombard Street." In all seventy-six numbers were issued. Unfortunately he earned the censure of the House of Lords by publishing a small error in their proceedings, and was ordered to correct it in the next issue. Instead of correcting the statement he decided to cease publishing the paper.[3] There may have been other causes for abandoning the project, for the not unreasonable demand that the error be corrected scarcely seems sufficient cause in itself.

References to sales to take place at Lloyd's Coffee House are frequent in the papers of the time, "*Tatler,*" "*Post Boy,*" "*London Gazette,*" "*Spectator,*" and "*Daily Courant,*" accompanied by the name of the broker and his address, such as "Thomas Tomkins, broker in Seething Lane," "Samuel Eyre, broker, who is to be spoke with every day at Lloyd's Coffee House" ("*Spectator,*" May 20th, 1712).[4] Apparently by 1712, a broker needed no address other than that of the coffee-house where he could always be found. In collecting the advertisements of sales at Lloyd's for fifteen years from 1698, Martin pointed out that while at the outset they are of a general nature, they became increasingly confined to the sale of ships and cargoes. The coffee-house had become a definite centre of maritime business, and was of sufficient general importance to be the scene of articles or essays by Addison in the "*Spectator*" and by Steele in the "*Tatler.*"[5]

Edward Lloyd died on 15th February, 1713, and the coffee-house passed under his will to his servant, William Newton, who shortly before the death of Lloyd had married the latter's daughter.

[1] Wright and Fayle, *A History of Lloyd's*, p. 16.
[2] Strypes' Edition of Stowe's *Survey of London.*
[3] Wright and Fayle, p. 24.
[4] Martin, *History of Lloyd's and Marine Insurance*, p. 85.
[5] *Ibid.*, p. 105–6.

Newton died in 1714, and his widow (the daughter of Lloyd) married again, her second husband being Samuel Sheppard, who became Master of Lloyd's Coffee House. Sheppard died in 1727, his wife having predeceased him, and the coffee-house passed to his sister and her husband, Thomas Jemson. Jemson died in 1734 and his executrix, Rebecca Sheppard (spinster), obtained administration, and in 1738 the House passed to her nephew Richard Baker, who may previously have managed it for his aunt.[1]

It must have been during the time Thomas Jemson was Master of the Coffee House that "*Lloyd's List*" was proposed—a paper which has continued to the present day and, with the exception of the "*Gazette*," has the longest record of publication. The actual appearance of the paper may have occurred after Jemson's death in 1734, so that his successor, Richard Baker, was responsible for its maintenance.[2] A facsimile of No. 560 of 2nd January, 1740–1, is given in Wright and Fayle's official "*History of Lloyd's*." Under the title and after the date appears: "This List which was formerly published once a week will now continue to be published every Tuesday and Friday with the addition of the stocks, Course of Exchange, etc. Subscriptions are to be taken at three shillings per quarter, at the Bar of Lloyd's Coffee House in Lombard Street. Such Gentlemen as are willing to encourage this Undertaking shall have them carefully delivered according to their Directions."

"*Lloyd's List*," No. 560, consisted of a single sheet; on the front was printed (1) the rates of exchange, London on Foreign Cities; (2) Aids in the Exchequer "given for" and "paid off"; (3) the price of gold, pieces of eight, and silver; (4) the price of annuities; (5) the price of cochineal; (6) announcement of State lottery prizes and blanks; (7) stock quotations. On the back is the marine list of arrivals and sailings; after the list of those arriving at the Downs, there is the item "Winds at Deal." In all there are approximately 100 arrivals and sailings in the Marine List of 2nd January, 1740–1. This information was obtained from special correspondents. Some time prior to 1788 the lists were sent by agents at the ports to the Postmaster-General, marked "Lloyd's," and they were then handed direct to a messenger from the coffee-house, so that information was obtained at the earliest moment. The publication of "*Lloyd's List*" must have been partly the result of, and partly the incentive to, the centralizing of private underwriting in the coffee-house, but it is impossible to fix any actual date for this. In the petition against the charters in 1718, there is no mention of Lloyd's Coffee House and there is no reason then to associate that institution

[1] The sequence of ownership is traced in Wright and Fayle, p. 32 *et seq.*
[2] Wright and Fayle, p. 72.

more than any other of the local coffee-houses with the home of individual underwriting. Merchants who would take a share in a venture could be found at Lloyd's, but they could be found at other houses and in the Exchange itself. Some twenty years later, however, when "*Lloyd's List*" was being published, Lloyd's must have been entitled with some justice to claim to be the centre where underwriting merchants gathered to transact business more than elsewhere. By 1760, however, Lloyd's was definitely the main home of individual underwriting, for about that time a Register of Shipping was maintained, a copy of which for the year 1764–5 has been preserved. It was issued biennially at first and later annually by "A Society of Underwriters at Lloyd's Coffee House."[1] It was printed and issued to each member, who subscribed at a cost of twelve guineas, the recipient of the volume being subject to fines and penalties if he allowed any other than a member to read or consult the book. This is the first clear indication of an organization of professional underwriters who were the nucleus of the later *Lloyd's*.

The Register contained then twelve columns, the second gave the current names of ships in alphabetical order, while in the first was inserted any former name. The remaining columns contained the master, port, port of destination, tonnage, guns, men, date and place of building, owner, and letters which showed the condition or description of the ship and its equipment. The last column was partially filled in, with spaces available for members to insert their own signs as to the condition of the ship. The letters A, E, I, O, U gave a grading as to the hull, and G. M. B. (good, middling or bad) the state of equipment. There were later modifications of the signs, which eventually led to the first class being known as "A 1."[2]

With the specialization of marine insurance it became apparent that a coffee-house open to all and sundry—many of the frequenters being there purely for social purposes—was not an ideal place for carrying on a technical and highly-skilled business. The atmosphere was mixed: genuine insurance was associated with ship-broking, stock-broking, and with merely frivolous gambling. Throughout the eighteenth century, gaming and wagering were common in all classes of society, and the element of speculation in insurance was sufficiently akin to the hazard of wagering to encourage the latter where the former was practised. Under the guise of insurance, numerous betting transactions were made. A contemporary attack on *Lloyd's* in the "*London Chronicle*" of 1768 is cited by both

[1] Wright and Fayle, p. 74.
[2] Martin, p. 327; Wright and Fayle, p. 86.

Martin, and Wright and Fayle in their histories: "The introduction and amazing progress of illicit gaming at Lloyd's Coffee House is among others a powerful and very melancholy proof of the degeneracy of the times. It is astonishing that this practice was begun and has hitherto been carried on by the matchless effrontery and impudence of one man. It is equally so that he has met with so much encouragement from the principal underwriters who are in every other respect useful members of society, and it is owing to the lenity of our laws and want of spirit in the present administration that this pernicious habit has not hitherto been suppressed. Though gaming in any degree (except what is warranted by law) is perverting the original and useful design of that coffee-house, it may in some measure be excusable to speculate on the following subjects: Mr. Wilkes being elected member for London, which was done from 5 to 10 guineas per cent: do. for Middlesex, from 20 to 70 guineas per cent: Alderman B——d's life for one year, now doing at 7 per cent: on Sir J—— H—— being turned out in one year, now doing at 20 guineas per cent. But when policies come to be opened on two of the first peers in Britain losing their heads within a year at 10s. 6d. per cent, and on the dissolution of the present Parliament within one year at 5 guineas per cent, which are now actually doing and underwrote chiefly by Scotsmen at the above Coffee House it is surely high time for the administration to interfere and by exerting the rigour of the laws against the authors and encouragers of such insurances (which must be done for some bad purpose) effectively put a stop to it."

This extract is interesting for what it obviously sets forth, but it is perhaps more interesting for what it implies, i.e. that Lloyd's Coffee House was by 1760 the recognized house or centre of underwriting of risks, marine and otherwise. The same could not have been said forty years earlier at the time the two charters to the marine insurance companies had been granted. By 1769 the condition indicated in the "*London Chronicle*" set out above had become sufficiently intolerable to make it requisite for the marine and insurance fraternity to seek separate accommodation. Had there been rooms available at the Lombard Street Coffee House these might have been rented for the purpose, as was the case of some of the London Clubs. They took, therefore, rooms at 5 Pope's Head Alley, where it was proposed to found a new Lloyd's Coffee House, and the lease was taken in the name of a waiter from the old Lloyd's.[1] The accommodation was not good, but the members, if one may now refer to them as such, were a more homogeneous body.

The proprietors of the old house, as was only natural, tried to

[1] Wright and Fayle, p. 98.

hold their customers and they continued to publish "*Lloyd's List.*" The New Lloyd's, however, were able to make an arrangement with the General Post Office to receive notifications of arrivals and sailings, and they also published a "*Lloyd's List.*" In the first issue it was announced : "The Marine List and Course of Exchange will be printed and delivered on Tuesday next, the 28th instant, continued under the name of New Lloyd's which will be carefully delivered." The intention of the New Lloyd's was definitely to supplant the old. Both coffee-houses catered for the shipping fraternity and sales of ships were advertised in the Press as taking place. Both editions of "*Lloyd's List*" continued to be published, but with the loss of such a substantial section of its frequenters the old house slowly decayed. According to Wright and Fayle, the last sale of a ship that can be traced is that of the *Wagler*, an American prize, by the order of the Admiralty Court in January, 1783.[1] By 1785 the old premises had been vacated and the Sewer Rate Book refers to them as empty. From 1st January, 1789, the "*New Lloyd's List*" dropped the word "New" from its title.[2]

In administration, the New Lloyd's did not differ from the old. The members did not control the coffee-house; it was run by the waiter who had come with them from the old premises. During, however, their short residence at Pope's Head Alley an organization of members was achieved in which there has been no break in continuity to the present day. The building proved unsuitable, and the frequenters determined to find a home more in accord with their requirements. On 13th December, 1771, seventy-nine of the merchant underwriters and brokers entered into an agreement to pay £100 each "into the Bank of England in the names of a Committee, to be chose by ballot for the building of a New Lloyd's Coffee House." Here we may say commenced the organized institution—a membership of seventy-nine, a common agreement, a subscription, and a committee. The committee was elected, and minutes of the meetings were recorded and have been preserved, the chair at meetings being taken by Martin Kuyck van Mierop. A number of proposals were considered, and the lease of one house was actually acquired before John Julius Angerstein, one of the seventy-nine subscribers but not a committee man, negotiated the lease of two rooms in the Royal Exchange, on the floor above the Exchange, on the north-west corner.

Angerstein, in the early history of *Lloyd's*, was an outstanding character. He has been described as "merchant, philanthropist, and amateur of fine art.[3] His family, originally Hanoverians,[4] had

[1] Wright and Fayle, p. 124. [2] *Ibid.*, p. 124.
[3] *Dictionary of National Biography.* [4] Wright and Fayle, p. 114.

emigrated to Russia, and he, at the age of 15, came to England and served in a merchant's office trading with Russia. At an early age he made his mark as a broker and underwriter at the old *Lloyd's*, but his influence extended far beyond these immediate business interests. In 1793 he obtained a loan of exchequer bills for merchants and the temporary relief of trade by negotiation with Pitt, and averted a City financial crisis. He devised for the Government a scheme of lottery by which they could raise money in their urgent need. He was a great collector of pictures, and much of his collection passed at his death to the National Gallery. Having accumulated a "princely fortune," he retired in 1811.

In securing the lease of the rooms at the Royal Exchange he seems to have acted, at least in the negotiation, on his own responsibility, and only subsequently called together a meeting of the subscribers to inform them of what he had done. His influence was, however, such as to carry them with him in the enterprise. The lease was taken in the name of the committee men, and they then granted a tenancy at will to Fielding, the coffeeman and leaseholder of the Pope's Head Alley premises, and Tayler, one of the old waiters, in accordance with the resolution, "that the said Thomas Fielding and Thomas Tayler become tenants at will to the subscribers to the New Lloyd's Coffee House, etc., and that they reserve to themselves the power to turn out, replace or make such alterations as they shall think the merits of the parties may require."[1] The office of master of the coffee-house included wide duties. "In addition to carrying on the coffee-house and supervising the subscribers' rooms, it was the business of the master to keep the books of arrivals and losses, copy the port letters, see to the prompt posting of all intelligence received and be ready to answer the enquiries of subscribers." He wrote and signed letters under the direction of the committee, collected subscriptions, made applications personally or by letter to those who neglected to pay their £15, and did his best to exclude such defaulters from the subscribers' rooms.[2]

The subscribers to the original agreement, seventy-nine in 1771, had increased by 100 within three years of coming to the Royal Exchange. The levy of £20 which had been made upon members on their liability proved more than enough, and £5 was returned. Fresh members were thereafter accepted on payment of a single sum of £15, an annual subscription being paid, in addition, to the master of the coffee-house for the use of the rooms and services. With the rapid expansion of membership, two additional rooms were taken in 1791.

[1] Wright and Fayle, p. 117. [2] Wright and Fayle, p. 169.

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CHAPTER VII

EARLY HISTORY OF LIFE ASSURANCE

LIFE assurance in the first Royal Exchange—Connection with marine insurance—Problem of the value of annuities on lives—Early associations to provide death benefits to members—Oxford University Press scheme—The *Amicable Society's* scheme—Life assurance transactions of the *Royal Exchange Assurance* and the *London Assurance* Corporations—Growth of statistical knowledge—Halley's mortality table—De Moivre's table—Foundation of the *Equitable*—First actuaries—Richard Price's "Reversionary Payments"—Early history of the *Equitable*—Gambling Act of 1774—Decisions in Courts thereon—Competing life offices at end of eighteenth century

A REFERENCE has already been made to the earliest life assurance policy, record of which has come down to us, dated 18th June, 1583, for £382 6s. 8d., for which sum sixteen underwriters were responsible. This was an assurance on the life of one William Gibbons[1] for twelve months at the rate of 8 per cent and was registered at the Chamber of Assurance. In the Admiralty Court proceedings it came out that the policy was "drawn and penned by the clerk to the Chamber, Richard Candeler." In the body of the policy there were the words "It is hereby understood that the present writing is and shall be of as much force strength and effect as the best and most surest policy or writing of assurance which has been heretofore used to be made upon the life of any person in Lombard Street or now within the Royal Exchange." From the proceedings it transpired that there had been effected a previous assurance on the life of Gibbons.

Such life assurances during the late sixteenth century seem not to have been uncommon. William West, in "*Simboleography*,"[2] gave among his instruments used in merchants' affairs a form of life assurance policy which seems to have been a copy of one issued through and registered in the Office of Assurance. In wording, it is very similar to that on the life of Gibbons, but it is for a term of five months and the rate is 5 per cent on the life of T. B., "which said T. B. is now in health and well and meaneth not to travel out of England." The policy finishes with "Given in the Office of Assurance within the Royal Exchange in London the 14th day of May 1596," and the wording for the underwriters is in the form "I John B. am content with this assurance (which God preserve) for the sum of fifty pounds, the 14th May 1596." The health of the life to be assured and his prospects of foreign travel were evidently considered before the assurance was made.

[1] Brit. Mus., MSS. Lansdowne No. 170, fo. 123.
[2] William West, *Simboleography*, 1598, and a further edition, 1615 (Section 664).

These early short-term life assurances were probably effected to provide collateral security for advances. Malynes, writing in 1622, gives an example of a policy of life assurance: "One, Master Kiddermaster having bought an office of the six Clerks of Chancery and taken money of others caused for the assurance for many years together £2000 to be assured on his life after four or five in the hundred until he paid the money, which is very commodious."[1] Here it seems that the assurance continued for the term of the loan, but probably, as in the case of Gibbons, separate one-year term policies were completed and no permanent contract was effected. The premium seems moderate as compared with that payable for Gibbons; an increased rate for the latter may have been asked on account of health or increasing age.

Leybourne in his "*Panarithmologia*,"[2] after referring to marine insurances, and how they may be effected at the Office of Assurance behind the Royal Exchange, adds: "Other assurances are made on the lives of men and women on a rate that is moderate for by this means if you buy any place or office that is worth £1000 or more or less and you have not money enough to purchase you borrow £400 or £500. Now if you die and are not in a condition to pay the money it is lost, but if you ensure your life then your friend that you did borrow it of will have his money honestly paid to him."[3]

The connection of life assurance with, and probably its origin from, marine insurance may be seen from an extract from a translation of the French treatise "*Le Guidon*" for merchants trading in Rouen, by an unknown author. It was quoted by Cleirac in 1661.[4] "Notice will be taken of what is practiced in this country by those who undertake distant voyages, as to the coast of Italy, Constantinople, Alexandria or other like voyages in the Mediterranean and Atlantic seas, on account of the fear which they have of the galleys, fustes, and frigates of the army of the Turk, or corsairs who make a traffic of the sale of Christians whom they capture as well on the sea as on land, which creates an occasion for the masters and captains of this country, when they undertake such voyages, to stipulate with their merchant freighters or others for the restitution of their persons in case they are captured and this they can do even for the people of their crew. In such a case the master must in the policy estimate his ransom and that of his companions, at so much per head, declare the name of the ship, the stay or touchings which it will make, the duration of each stay and as to whom the ransom is payable. The

[1] Gerard Malynes, *Lex Mercatoria*, 1622.
[2] W. Leybourne, *Panarithmologia*, 1693.
[3] *Ibid.*
[4] Hendriks, *Journal of the Institute of Actuaries*, Vol. II, p. 228, quoting from *Les Us et Coutumes de la Mer*, by E. Cleirac, 1661.

ensurer is bound to pay the sum for the ransom fifteen days after verification and certification of the captivity without waiting for the usual two months delay and without other formality of seeing freitage, bill of lading or charter partey; it will suffice to produce the attestations of capture and the policy. Another kind of insurance is made by other nations upon the life of men in case of their decease upon their voyage to pay certain sums to their heirs or creditors. Creditors may even insure their debts if their debtor remove from one country to another: the same can be done by those having rents or pensions so as in case of their decease to continue to their heirs such pension or rent as may be due to them. . . ." Magens's volume of the assurance regulations of various countries shows that ordinary life assurances were illegal in France, Prussia, and Genoa. In some cases the prohibitions seem to have been made to stop the gambling on lives of prominent persons, anticipating our own Gambling Act (19 Geo. III, c. 37). Early life assurances in England seem to have been justified by genuine insurable interest.

While life assurance in its origin was associated with marine insurance, public attention seems to have been directed to schemes of annuities with benefit of survivorship about the same time that the early fire insurance schemes were being promulgated, and there was some similarity between the collective finance of these two future branches of insurance. In 1674 a Mr. Wagstaffe[1] laid a scheme before the City Authorities, who thought so highly of the project that they appointed a Select Committee to carry it into effect. Subscribers of £20, or multiples of £20, were to be associated according to their ages, each subscriber was to have an annuity of £6 per cent, and, as some of the subscribers died off, the survivors would obtain proportionally increased annuities. "This extraordinary gain being not only lawful but very advantageous there can be no other way proposed whereby in laying out so small a sum as £20 there can be produced so great an increase as by survivorship will certainly accrue to many persons and especially to the longest liver of this rank." The scheme does not seem to have matured, nor even progressed as far as the Corporation's experiment in fire insurance. It is, however, worth noting three features of the scheme: the first that a permanent contract was involved, the second that the members were to be classified according to age, and the third that it was essentially a method of raising money for the City Council.

Cunningham points out that[2] "the reason for preferring public

[1] Brit. Mus., 518 h. 1 (15). See note in Cunningham, *Growth of English Industry and Commerce*, p. 491.

[2] *Growth of English Industry*, p. 491.

management would probably be clearer if we knew more of the private adventure offices that seem to have sprung up at this time." Among the fire insurance pamphlets preserved by the British Museum, some of which we have already noticed, there is a print of a petition regarding a certain Dorothy Petty.[1] In it it was recited that the said "Dorothy (who is the daughter of a divine of this church of England, now deceased) did set up an Insurance Office on births, marriages and services in order to serve the public and get an honest livelihood for herself. The said Dorothy did have such success in her undertaking that more claims were paid and more stamps used for her certificates and policies in her office than in all other the like offices in London besides, which good fortune was chiefly owing to the fairness and justice of her proceedings in the business. For all the money paid into the office was entered in one book and all the money paid out in claims was set down in another book, and all people had liberty to peruse both so that there could not possibly be the least fraud in the management thereof." The reference to the other like insurance offices is interesting; this was before the Bubble period.

Many schemes no doubt were swindles and promoted primarily for the benefit of their authors, but this did not hold universally. Where permanent employment among any fair-sized body of men obtained, conditions were favourable for a scheme of mutual insurance. One such of no little interest was set up by the "Workmen of the University Printing House, Oxford," to the regulations of which each workman subscribed. A print of the fifteen rules, the yearly accounts from 1707, when the scheme commenced, to 1715, and the table of benefits signed by the twenty-one employees is preserved in the Bodleian. The first rule runs: "That yearly on the first day of March, at nine of the clock in the forenoon, the said workmen or the major part of them, shall assemble in the Printing House of the said University, or in such other place as they shall agree upon and shall then and there choose two of the said workmen to be keykeepers of the chest hereinafter mentioned (one whereof shall be always a compositor, and the other a pressman) and every of the said workmen so long as he shall continue in Oxford, shall pay to the compositor, or in his absence the pressman for the time being, the sum of one shilling upon Saturday in every third week for ever; and likewise at each of the three usual reckonings of the year, viz: Christmas, Easter and the Wakegoose, every of the said workmen during the time aforesaid shall pay to the said compositor, or in his absence the said pressman for the time being, the further sum of one shilling over and above the payment aforesaid."

[1] Brit. Mus., 816 m. 10/82.

For the sum of £1 per annum thus collected, on the death of a member there was paid to his widow or next-of-kin a sum depending on the length of time he had been a subscriber. After one year the amount was £1 10s.; five years, £8; ten years, £16 10s.; fifteen years, £25; and after twenty-two years, double the sum paid in, i.e. £44. Sums in the chest could be advanced at interest to members up to half the total amount paid in by the member, but repayment by weekly instalments was compulsory during the ensuing year. In eight years from the outset the fund, after paying claims to date, amounted to £106, the membership then being twenty-one. In a short statement at the end, signed by two trustees, one of whom appears to be one of the workmen, there is added: "This design had been so beneficial and useful to the members of it . . . that they have been prevailed with to publish their articles as well to obviate what objections might be made as to encourage all persons whose families entirely depend upon them for their subsistence to use the same or some such method, for want of which the poor widows and children are often left in bad circumstances . . . It might be made more extensive and useful if gentlemen and magistrates would encourage the forming of such societies by being trustees of them."

Another fund established on mutual principles, not restricted to any particular class, was devised by John Hartley, a bookseller in Fleet Street, in 1705, which was destined to have a long history. It was a simple one: A fixed number of 2000 shares in the joint stock of the association was to be offered to the public. For each of these shares the applicant paid 10s. in the early years, which was afterwards raised to £7 10s., and an annual sum of £6 4s. by quarterly instalments of £1 11s., the first of which he paid with his £7 10s. Any person between the ages of 12 and 45 was eligible for membership, subject to certain reservations. The contributions received during the year, less the outgoings, were to be divided at the close of the year between the representatives of the members who had died during the year. No variation was made in the annual subscription according to age; the only restriction was that of the age interval, 12 to 45 years, during which the public were eligible.[1]

John Hartley obtained influential support for his scheme; among those who co-operated with him were the Bishop of Oxford and Sir Thomas Alleyn, Bart. Offices, consisting of two rooms above Hartley's book-shop, were taken and a charter of incorporation was sought. This was granted in 1706, and an announcement appeared in the "*London Gazette*" on the 12th August of that year: "These are to give notice that a Court of Directors of the *Amicable Society*

[1] Walford, "History of Life Assurance," *J.I.A.*, Vol. XXV, p. 207 *et seq.*

for a Perpetual Assurance Office (now incorporated by Her Majesty's Letters Patent under the Great Seal of England) was held at Mr. John Hartley's booksellers against St. Dunstan's Church in Fleet Street on the 30th July last when the Directors and Register being sworn for the due execution of their respective offices according to the direction of the Charter, they have thought fit to order that policies shall begin and be continued to be delivered out and on and after the 6th instant at the said Mr. Hartley's where proposals may be had and attendance will be given from ten to twelve before noon and from three to six after noon." Premiums were placed in an iron chest until they were required and on the 15th December, 1709, there is a minute: "That the chest books and other things of the Society be removed to the office between the two Gates of the Temple before Thursday next and that the weekly Court be held there for the future." These premises were occupied for only two years, and after some changes of residence the Society took a lease for thirty-one years of Serjeant's Inn Hall and Chapel, which was rebuilt in 1792. Although not occupied by the *Norwich Union Life Office*, the successors to the *Amicable*, that building stood and was owned by the *Norwich Union* till it was destroyed by enemy action in the winter of 1940–1.

By the limitations of its shares to 2000 and the restriction upon any member to a maximum of three, the sum payable on any single death was not large. An annual dividend of £1 4s. was paid on each share to its proprietor, so that the contribution of £6 4s. during the year was reduced to a net sum of £5. The premiums charged by underwriters at the time for one year's insurance was £5 per £100 of sum assured, and this practice probably guided the promoters of the *Amicable* in fixing their own net contribution. As the amount available was divided among the representatives of those dying in the year, the sum payable per share was a fluctuating sum and, in course of time, the disadvantage of such indeterminate benefits became recognized; in 1757, therefore, when the Society held £25,000 3 per cent stock, it engaged that the dividend at death should not be less than £125, and in 1770 the minimum was raised to £150, the membership at the time being 1120. The result of the guarantee was that membership reached its limit of 2000 shares. In 1770 the Society had a fund of £33,000 3 per cent stock, and in its advertisements it claimed that during its fifty-nine years of history it had paid to 3643 claimants the total sum of £378,184 and that the sums paid on death in the seventeen years prior to 1770 had averaged £154.[1]

The following table shows the sums realized by the shares of

[1] Richard Price, *Observations on Reversionary Payments*, 3rd Ed., p. 151–2.

the members. The rapid rise after 1770 was probably not fully understood at the time; it was due to expansion of the membership following the increase in the guaranteed minimum and, consequently, the reduction in the average age of the total membership, new and old—

Year	Amount Paid[1] per Share	Year	Amount Paid per Share
	£		£
1765	125	1772	182
1766	210	1773	259
1767	151	1774	207
1768	148	1775	180
1769	165	1776	194
1770	161	1777	155
1771	203	1778	208

In 1786 the amount reached £303 and thereafter the restriction on the membership had the reverse effect, and before long the directors had to sell stock to make up the amount payable to the guaranteed minimum. In 1790 power was taken to increase the membership to 4000, and in 1807 a new Charter was obtained permitting the Society to take any number of members and to transact life assurance in the modern sense of a premium based on the age at entry for a guaranteed sum at death. During the course of the eighteenth century, as the true principles of life assurance became known as a result of the founding of the *Equitable*, the old *Amicable* met with criticism, particularly by Price in his book on Reversionary Payments[2] first published in 1769. Francis Baily, writing in 1810, describes the *Amicable* as founded at a period when the subject of life assurance was but little understood: "Its original plan was consequently in many instances exceedingly defective, absurd and inequitable"[3]—criticism perhaps a little too severe. The Society did provide a very real benefit to its members and its long history is testimony to this.

By their supplemental charters the *Royal Exchange* and the *London Assurance Corporations* received the power to grant life assurance as well as fire insurance, and through the remainder of the century they exercised this power, but the business was incidental to their main sphere of marine insurance. The life insurance policies first issued were one-year term assurances, with a rate of premium

[1] Walford, *Insurance Cyclopedia*, Vol. I, p. 80.
[2] Richard Price, *Observations on Reversionary Payments*, Vol. I, p. 148 *et seq.*, 1792 edition.
[3] Francis Baily, *Doctrines of Life Annuities*, p. 479, 1813 edition.

constant for lives accepted irrespective of age. The rate of premium was £5 or £5 5s. The first life assurance policy of the *London Assurance* was issued in 1721, and it was recorded in the marine policy register[1] for the sum of £200 "for William Lord Bishop of Sarum on the life of Cheverton Hartopp Esq. . . . aged about 31 years for one year, agreed at 5 per cent, the assurance to commence this day of June 6th 1721." Care was exercised in the selection of lives, as may be seen in the instructions issued by the *London Assurance* to its agents in 1725.[2] The proposer had to appear before the agent, who was to inquire after his state of health and manner of life, whether he had had the smallpox and what was the purpose of the assurance. For any person in a good state of health, having had the smallpox and not exceeding fifty years of age nor under ten years, the premium was five guineas per cent, and for child-bearing women the premium was six guineas per cent. Not more than £500 assurance was permitted and the period was not to extend beyond one year.

The magnitude of the business transacted was small—the premiums for life assurance in the first year were £170 and £338 in the next year, and £844 in 1723. In 1725 they reached £2085 and, thereafter, fluctuated very much; towards the end of the century practically no life assurance business was transacted.[3] In 1808 the Corporation adopted the general practice of basing the premium rate on the attained age at entry, and thereafter the business expanded.

The *Royal Exchange*, which transacted life assurance in a similar manner to that of the *London*, maintained an accumulating account showing the total premiums received to date and the corresponding claims and refunds. The very moderate volume of business transacted is shown in the following table (furnished from their books by the Corporation).[4]

Up to the End of Year	Total Life Premiums Received to Date	Corresponding Claims and Refunds
	£	£
1724	3,367	2,284
1740	10,708	10,760
1750	14,510	15,170
1760	18,446	15,944
1769	22,993	16,611
1783	33,840	18,263

[1] Bernard Drew, *The London Assurance—A Chronicle*, p. 135.
[2] *Ibid.*, p. 60.
[3] Bernard Drew, *The London Assurance—A Chronicle*, p. 135.
[4] These figures do not agree with those quoted by Hendriks, *J.I.A.*, Vol. IV, p. 308.

In 1783 the *Royal Exchange* started life assurance with a graded scale of premiums, and the life assurance premium income rose fairly rapidly to about £27,000 at the end of the century.

For the conduct of life assurance as a permanent contract at a level annual premium based on the age at entry, there is required (*a*) the careful record of mortality statistics, and (*b*) a considerable amount of mathematical technique in the use of the statistics. Neither of these were sufficiently advanced at the commencement of the eighteenth century to permit of more than those schemes which we have described of the *Amicable*, and the Oxford University Press employees, which created funds by the subscriptions of members out of which sums could be paid on the death of members, the amount of which could not be correctly forecast. To-day social and many commercial activities are almost invariably based on statistical information, the record of which is furnished from innumerable governmental and other sources with which a large portion of the public are familiar.

Quantitative thinking in matters of national commerce seems to have resulted from the mercantilism of the Elizabethan era. In mercantilism our national prosperity was considered to be dependent upon international trade, and the progress of this prosperity could be measured by the magnitude of our favourable balance of trade. This balance, the excess of exports over imports, was presumed to be made up by the import of bullion, and the bullion so absorbed represented an increase in national wealth. It is not with fallacies of the doctrine that we are concerned, but the effect upon statesmen who held it.

Attention was drawn to the necessity of maintaining correct records of exports and imports, and of consistency in the treatment of data. It spread the knowledge of simple arithmetic among the governing class, who hitherto had been extraordinarily ignorant on the subject. In the Commission appointing the Committee of Trade by Cromwell's parliament, instructions ran: "They are to consider of some way that a most exact accompt be kept of all commodities imported and exported through the land to the end that a perfect balance of trade may be taken whereby the Commonwealth may not be impoverished by receiving of commodities yearly from foreign parts of a greater value than what was carried out."[1] In the time of the Stuarts the more scientific writers, such as Sir William Petty, used the term "political arithmetic," which Cunningham has referred to as the "counting of similar objects or amounts at different periods"[2] but he warned readers against placing much

[1] *Acts and Ordinances of the Interregnum*, ed. Firth and Rait, Vol. II, p. 404.
[2] W. Cunningham, *Growth of English Industry and Commerce*, Part II, p. 928.

reliance on such figures as are put forward, for "information in a numerical form has an appearance of accuracy and completeness may be misleading." What was true in the field of commercial statistics was even more so in that of vital statistics. Estimates of population in the seventeenth century can be made only on the most meagre data. Births and deaths were registered in towns, but often the ages of those dying were omitted, and as there was no census of the population, the value of the records of births and deaths was much reduced. From them alone a true picture of the rates of mortality from age to age could only be drawn in a static population, which, owing to migration, did not obtain.

There was, however, a growing interest in the problems connected with mortality. Halley, the astronomer, read a paper before the Royal Society which was printed in 1693, from which the introductory paragraph may be quoted:[1] "The contemplation of the mortality of mankind has besides the moral, its physical and political uses, both which have been some years since most judiciously considered by the curious Sir William Petty in his National and Political Observations on the Bills of Mortality of London owned by Capt. John Graunt. And since in a like treatise on the bills of mortality of Dublin. But the deduction from these bills of mortality seemed even to their author to be defective: first in that the number of people was wanting; secondly that the ages of the people dying was not to be had; and lastly that both London and Dublin, by reason of the great and casual accession of strangers who die therein (as appeared in both by the great mass of funerals above births), rendered them incapable of being standards for this purpose, which requires, if it were possible, that the people we treat of should not at all be changed, but die where they were born, without any adventitious increase from abroad or decay by migration elsewhere."

A problem to which attention was particularly directed was that of ascertaining the value of an annuity for life at various ages. A practice had arisen of raising capital by the sale of annuities; the governments of both Holland and England did this. In Holland John de Wit, as Grand Pensioner, wrote a report in 1671 on the value of life annuities.[2] His data were some records of annuities previously granted by the State. It is obvious from his report that he had a clear conception of a mortality table as it applied to a group of annuitants. Annuities were then payable half-yearly, and he assumed that these annuitants at the date they purchased annuities would have an average expectation of survival, but would suffer

[1] *Philosophical Transactions*, Vol. XVII, p. 579 (also *J.I.A.*, Vol. XVIII, p. 251).
[2] Hendriks gives a translation, *J.I.A.*, Vol. II, p. 232.

reduction in their number by deaths which for the first fifty years would be constant at 2 per annum or 1 per half-year. Then at the end of fifty years he assumed that the deaths each year for the next ten years would be only two-thirds of those dying each year in the first fifty years; and at the end of sixty years the decrement per year would be reduced to one-half that of the decrement of the first fifty years: further, that this fraction would be reduced to one-third for a final seven years and that all the annuitants would be dead at the end of seventy-seven years from the commencement. By summing the decrements for seventy-seven years he obtained the figure for the initial body of annuitants to which the table applied. Except at the turning points where there was a change in the decrement, this table would show a continually increasing rate of mortality with the duration. With its use he was able to calculate the average value of an annuity at the time of purchase based on interest at 4 per cent. Probably he chose the decrement from observation of the data. The table would have limited application, as it showed mortality of the whole body of annuitants, only varying with duration from the date of purchase, and not with the age attained by the individual annuitants.

Halley, in his paper to the Royal Society, used the bills of mortality of the City of Breslau, which he said had not the defects of those of London and Dublin: both the ages and sexes of all that died were monthly delivered and compared with the number of births for five years, 1687 to 1691 inclusive. In these five years 6193 persons were born and 5869 buried, whence he argued there was an increase in the population of sixty-four per annum. By tabulating against each year of age the number dying at that age from the bills of mortality, he obtained the decrements in the mortality table from birth to 100, the oldest death registered. Then by summing these deaths from the oldest age backwards, the column of living at each age resulted. The smallness of the data led to many irregularities—numerous ages having against them no recorded deaths—and he had to adopt what actuaries now call a process of graduation to smooth out the irregularities in the curve. Having set out his table of living persons at each age, he says: "Thus it appears that the whole people of Breslau does consist of 34,000 souls; being the sum total of the persons of all ages in the table."

Halley gave various uses which could be made of his table. The first was that of finding the number of men between the ages of eighteen and fifty-six in Breslau, those capable of bearing arms: "The second use," he said, "of this table is to show the differing degrees of mortality, or rather vitality in all ages." Another problem he dealt with under use four: "By what has since been said

the price of insurance upon lives ought to be regulated, but the difference is discovered between the price of insuring the life of a man of 20 and 50, for example, it being a 100 to 1 that a man of 20 dies not in a year, and but 38 to 1 for a man of 50 years of age." He further (under use five) pointed out that on the table depends the valuation of annuities upon lives: "For it is plain that the purchaser ought to pay for only such part of the value of the annuity as he has chances that he is living." He worked out a table of annuity values at 6 per cent interest for quinquennial ages, which shows the value of £1 per annum at age ten to be 13.44 years' purchase and at seventy, 5.32 years' purchase. At the time the Government were selling annuities at 14 per cent, or approximately seven years' purchase, irrespective of age, and Halley pointed out the advantages of such an investment for a life of young age.

Whilst de Wit's treatise was the earlier, it was distributed privately, and there is no reason to believe that Halley had seen it. In reading the two original contributions to the science of life contingencies, one cannot help feeling that the work of de Wit is that of an amateur, a highly successful one, but that of Halley is a contribution of a finished mathematician.

Between the years 1718 and 1727, Abraham de Moivre, F.R.S., published various essays on the doctrine of chance and the value of annuities. In his calculations he adopted a life table in which the column of survivors at each age is reduced by a constant decrement. From Halley's table this does not constitute a great departure, and having regard to the character of the data upon which Halley based his table, de Moivre's was an approximation which produced annuity values not greatly differing from those of Halley. De Moivre has thus the honour of putting forward the first mortality table conforming to a mathematical expression, i.e. an arithmetical progression.

Another Fellow of the Royal Society, Thomas Simpson, Professor of Mathematics at the Royal Military Academy at Woolwich, after publishing a work on the laws of chance, applied his knowledge to the construction of a mortality table from the bills of mortality of London, and gave the values of annuities at various rates of interest. William Morgan, the actuary of the *Equitable*, when writing in 1828, ascribed the origin of that Society "in a great measure to the justly celebrated Mr. Thomas Simpson who recommended the formation of such an Institution." To no single person, however, can be ascribed the honour of founding the first institution, which conforms to what we know as a life assurance office. In the fifty years following Halley's paper to the Royal Society, the use of the mortality table and its application to the solution of problems

connected with life contingencies had become known, not only to mathematicians in the strict sense of the word, but to many amateurs with some mathematical knowledge. Conditions were therefore ripe for the commencement of life assurance on a scientific basis.

The preliminary meetings for the formation of the *Society for Equitable Assurances on Lives and Survivorships* were held in 1756.[1] One held on the 2nd March was advertised on the 28th February, and on the 8th March there appeared in the "*Public Advertiser*": "The gentlemen who have assisted at two former meetings at the Queens Head in Paternoster Row will meet again tomorrow the 9th March at six in the evening precisely to make a further progress therein. Note: it is proposed to insure lives either for a single year or for a number of years certain or for the whole of life on premiums proportionate to the several years of the insured (provided the same be not less than 8 nor greater than 67) which premiums will be in most cases much cheaper than usually paid, in some cases not a half of them, and the risk is proposed to be borne by the whole body as in the *Hand-in-Hand* and *Union Fire Offices*." The decision to adopt the constitution of a mutual society of members indicates that the *Hand-in-Hand* and the *Union Fire Offices* were held in high esteem, and were, in the fire insurance field, successful competitors to the two chartered corporations, the *Royal Exchange* and the *London Assurance*, then thirty-five years old.

A name early associated with that of the *Equitable* is that of James Dodson, mathematical master at Christ's Hospital,[2] who in 1756 had been refused admission to the *Amicable Society* on account of his age, and sought to form a society on a more equitable plan on the principle laid down in Dr. Halley's paper, viz: "that the price of insurance on lives ought to be regulated by the age of the person on whose life the insurance is made." Dodson, a pupil of de Moivre, was appointed to his position in Christ's Hospital in 1756 and died 23rd November, 1757. He was author of the "*Antilogarithmatic Canon*" and the "*Mathematical Repository.*" He was admitted a fellow of the Royal Society in 1755. Quoting from an early pamphlet on the founding of the *Equitable Society* and circulated among the directors, de Morgan said:[3] "In this year (1756) James Dodson having been refused admission to the *Amicable Society* on account of his age determined to form a new society upon a plan of assurance on more equitable terms than those of the *Amicable*, which takes the same premium for all ages. Having communicated this plan to

[1] Walford, in his *Cyclopedia*, and in a separate publication, gave a detailed history of the *Equitable* in its early years.

[2] The mathematical school attached to Christ's Hospital provided the mathematical training for navigation.

[3] *Journal of the Institute of Actuaries*, Vol. XIV, p. 353.

several persons they proposed to join him therein if the Society could be established by Charter. The number of persons which engaged in the design were at first fifty-five, and before they proceeded towards obtaining a Charter, they set about providing a fund, and previous even to their consideration they held consultation about the plan of reimbursement and recompense that should be made to Mr. Dodson and themselves. Accordingly it was determined that 15s. should be paid by every person making assurance with the said Society, 5s. whereof should be paid to the said James Dodson for his life for his plans and his trouble in planning the said Society and making the necessary calculations and the 10s. to go among the other persons."

The application for the Charter was presented at the Secretary of State's office in April, 1757, and was referred to the Attorney-General and the Solicitor-General. It was opposed by the *Amicable Society* and the two other Chartered bodies, the *Royal Exchange* and the *London Assurance*.[1] The Report by the Attorney-General and Solicitor-General was not made till 28th July, 1761, and in the meantime Mr. Dodson had died on 23rd November, 1757. In the report[2] it was recommended that the petition for a Charter should be declined on the grounds, first, "because it appears to us altogether uncertain whether the project will or can succeed in the manner in which it is proposed," second "the success of the scheme must depend upon the truth of certain calculations taken upon tables of life and death whereby the chance of mortality is attempted to be reduced to a certain standard: this is a mere speculation never yet tried in practice and consequently subject like all other experiments to various chances in execution. The Tables upon which the calaculations are built are the Bills of Mortality of London and the Breslau tables, and admitting them to be strictly accurate (of which there is strong reason to believe the contrary) they are composed of diseased as well as healthy persons, of those who are embarked in dangerous as well as other employments, without pointing out the proportion they bear to each other, and yet as the petitioners propose to insure only such even of the healthy as are not employed in dangerous occupations, the register of life and death ought to be confined if possible for the sake of exactness to such persons only as are the objects of insurance, whereas the calculations offered embrace the chances of life in general, the healthy as well as the unhealthy parts thereof, which together with the nature of such persons' occupations are unknown numbers. We are the more apt to doubt the event because it has been represented to us by the affidavits of

[1] Walford, in article on "Equitable Life Assurance Society," *Insurance Cyclopedia*.
[2] Brit. Mus., Addl. MSS., 36225, p. 186 B.

Mr. Savage that all the profit that has been received by the *Royal Exchange Assurance* from the time of its commencement to the present time amounts only to the sum of £2651 4s. 6d., the difference between £10,915 2s. 2d. paid in premiums and the sum of £8263 17s. 8d. disbursed as losses, which small profit must have been near exhausted in the charges of management. If then this Corporation who are charged with taking unreasonable premiums have reaped no greater profit we can hardly expect a more considerable profit to arise from lower premiums, and the hazard of loss will be increased in proportion as the dealing will be more exclusive. . . . If the petitioners then are so sure of success there is an easy method of making the experiment by entering into a voluntary partnership of which there are several instances now subsisting in the business of insuring . . ." The report was signed by C. Pratt and C. Yorke, and dated Tuesday, 14th July, 1761.

Apart from the fallacious argument that because the mortality table upon which the premiums were based had been drawn from a mixed class of lives, the premiums themselves might be inadequate, the report was a well-considered and reasonable document. On the knowledge as it then was, and in view of the evidence given by the *Royal Exchange*, we can scarcely quarrel with the advice given by these two cautious lawyers. Seventeen of the original fifty-five promoters determined to found the society under a deed of settlement on their refusal of a charter, and a deed of 7th September, 1762, was finally executed. "No table of calculations was procured till the 12th January, 1764, and the directors relying upon Mr. Mores for fixing every premium in the intermediate time. But at length such a table of lives was procured from the executors of Mr. Dodson, and a resolution was put on the Minutes for giving £300 to the children of Mr. Dodson as a recompense for the same."[1] Effect was given in the deed to the collection of 15s. per £100 of assurance as an entrance fee, which was to provide for the payment to Dodson's children and the costs incurred by the original promoters. The provision was a constant source of disturbance to the Society in its early years;[2] it was the only unsavoury side in the promotion of the institution.

In addition to a prospectus, Mr. Mores drew up a list of by-laws to govern the practice of the business. For the acceptance of a life, unanimity was required on the Board after the applicant had appeared before them at one of their weekly meetings and had made the necessary declaration. After the latter had been read, "the

[1] Quoted by de Morgan from a pamphlet prepared for the directors of the *Equitable* in July, 1769, *J.I.A.*, Vol. XIV, p. 354.

[2] Walford's history of the *Equitable* in his *Cyclopedia*.

party shall be withdrawn . . . and the question put (1) whether the party shall be permitted to make assurance upon and for the continuation of his own life, and if the same pass in the negative, then (2) whether . . . for a number of years certain, and if the same pass in the negative then (3) whether for a single year. When the premium shall have been fixed the party shall be again called in and the person presiding shall declare to him the resolution of the Court." Assurances were only permitted by one person on the life of another when the former could prove that he had an interest in the life of the latter, and the assurance was then permitted only to the extent of that interest. If premiums were not paid within thirty days of the date they fell due, the policy became void, but if paid within three calendar months of the due date with a fine of 10s. per £100 sum assured, the policy could be revived if the life assured was in good health at the time of the revival.

An "actuary" was appointed, and his duties are indicated in the declaration he had to make as set out in the by-laws. The declaration reads: "I . . . having been chosen into the office of actuary to the Society for . . . do declare and promise that during so long as I shall continue to exercise that office I will exactly and regularly keep all and every the books and accounts of the said Society, not making any entry therein which ought not to be made, nor omitting anything which ought to be recorded therein, and that I will duly enter all such sums of money as shall be received or paid by me (or by any other person by my order or with my privity) for the use of the said Society, and will not conceal the same or any part thereof from the trustees or from the Court of Directors of the said Society and I will carefully and diligently attend to the execution of the said office and will truly and faithfully discharge the same and every part of the duty thereunto appertaining according to the utmost of my abilities and power."[1] The post then, as it has remained ever since, with but few exceptions, was that of chief administrative official. With the growth of the many problems of a mathematical nature connected with life assurance, a specialized actuarial training became necessary, which in the next century called into being the Institute of Actuaries.

By the original deed of settlement, Mr. Mosdell, who was an accountant, was appointed actuary. He died in 1764, but there was then appointed Mr. James Dodson, a son of the original Dodson who calculated the table of premiums. He was only twenty-one when appointed, and the post seems to have been given to him as some satisfaction for financial obligations to the family. In 1767 Dodson resigned on receiving a Custom House appointment,

[1] Walford, *Insurance Cyclopedia*.

and John Edwards was appointed. None of these men had any particular mathematical qualification. Edwards was a good and methodical accountant, but of him Morgan said: "Unfortunately he was not sufficiently informed upon the subject to avail himself of the statements which he had prepared with so much labour; therefore they served only to mislead him in deducing results."

Some digression is here necessary to tell of the progress being made in the study of life contingencies by Richard Price. He was born on 23rd February, 1723,[1] at Tynton, near Bridgend, Glamorgan. He came of a dissenting family and was educated at one of the dissenting academies for the nonconformist church. These academies in the eighteenth century were renowned for their good education.[2] Price, in addition to his theology, gained a good foundation in mathematics and philosophy. After qualifying for the ministry, he became a family chaplain to a Mr. Streetfield of Stoke Newington, and later was appointed to a Presbyterian church. For many years he lived at Newington Green, in Stoke Newington. Having no children of his own, he took into his house his nephew, William Morgan, who was subsequently to be for very many years of its formative period the actuary of the *Equitable*.[3]

Price, in consequence of his mathematical interests, became a close friend of Benjamin Franklin and Priestly. For certain papers on the theory of probability he was elected a Fellow of the Royal Society in 1765, when he was forty-two years old. In 1769 he read a paper to the Royal Society on "Observations on the Expectations of Lives," and in the following year he published in the "*Transactions of the Society*," "Observations on the Proper Method of Calculating the Values of Reversions Depending upon Survivorships." This work led Price to pay attention to the various annuity and pension societies which were being promoted about that time, most of them granting benefits to specific classes in society.[4] He was consulted by those sponsoring a scheme of annuities for the widows of persons connected with the law. He found the scheme unsound and it was, he says, laid aside. Finding therefrom that the public needed authoritative instruction on the subject, he wrote what we now consider the greatest classic in actuarial science, "*Observations on Reversionary Payments*," published in 1771. In it he expresses himself freely on fraudulent and ill-conceived schemes and gives high commendation to the *Equitable Society*. That Society then

[1] Roland Thomas, *Richard Price*, p. 8 (Oxford Univ. Press, 1924).

[2] G. M. Trevelyan, *English Social History*. See reference to "Dissenting Academies," p. 365.

[3] Roland Thomas, *Richard Price*, Ch. III.

[4] See his accounts and criticisms of the various societies in his *Reversionary Payments*.

consulted him, and he became associated with it as a consultant for many years. Price became a familiar figure, riding on his white horse between his home in Newington Green and the *Equitable* office near Blackfriars Bridge.[1] In recognition of his services, the Directors of the *Equitable* presented him with some scientific apparatus, a telescope, a microscope, and an electric machine.

In 1773, on the death of Edwards, the actuary appointed in 1767, Dr. Price seems to have been consulted, and thought of his nephew, William Morgan, then living with him and who had been training for a medical career.[2] Morgan was appointed assistant actuary in 1774 and actuary one year later. He held the post for fifty years. To Price and Morgan we largely owe the honour that this country has been the cradle of actuarial science.

Morgan, no doubt under the guidance of Price, carried out his first valuation for the *Equitable* as at 1st January, 1776. He first compared the mortality experienced with that of the three tables: Dodson's, the one on which the original premiums had been calculated, Simpson's, and Halley's. He then compared the present value of the sums assured with that of the future premiums and the assets—a surplus being shewn of £25,143. The investments of the Society then consisted of £47,175 stock in the Public Funds, valued at 86½ per cent. A facsimile of the beautifully executed valuation sheet was published in the "*Journal of the Institute of Actuaries*" on the centenary of Morgan's death on 2nd May, 1833,[3] with an appropriate contribution by the then actuary. Of the surplus shown (£25,143), the sum of £11,000 was distributed in cash to the policyholders, the only cash distribution ever made by the Society. In subsequent distributions in 1781, 1786, 1791, 1793, and 1795 reversionary bonuses increasing with the duration of the policies were allotted.

From 1772 surrender values were paid for policies in accordance with a resolution of 5th March, 1772: "that for the future the Court of Directors be empowered to accept the surrender of any member's policy and to purchase the same upon such terms as shall seem to them reasonable and equitable." William Morgan retired from the *Equitable* in 1830 after fifty-six years' service. During his administration the expenses of the Society were less than 2 per cent[4] of the premium income. The Society paid no commission for the introduction of business. Within a period of twenty years from its

[1] R. Thomas, *Richard Price*, p. 57.
[2] *Ibid.*, p. 57.
[3] Sir William Palin Elderton, the then actuary of the *Equitable*, in the *J.I.A.* See also Sir William's paper on "William Morgan, F.R.S." in Vol. XIV, p. 1, of the *Transactions of the Faculty of Actuaries*.
[4] Sir William Elderton, *Transactions of the Faculty of Actuaries*, Vol. XIV, p. 8.

foundation the Society, partly as a result of scientific advice and partly as the result of businesslike administration, had adopted the chief characteristics of life assurance as we know it to-day—level premiums for whole life assurances based upon age at entry, careful selection of lives and limitations of the amounts of sum assured, periodical valuations and distribution of profits among the policy-holders as increasing reversionary additions to the sum assured, and finally the payment of equitable surrender values to members withdrawing. Walford, in his history of the Society, stated: "It has been said that the history of the *Equitable* is the history of life insurance in this century. If that is not strictly true, it is nearer the truth than the uninformed could imagine."

For nearly thirty years the *Equitable* had no competitor transacting life assurance as a permanent contract at level annual premiums based on the age at entry. Life assurance, however, did continue to be transacted as an annual contract both by the two chartered companies and by individual underwriters. Park, in his "*System of Law of Marine Insurances*," devotes a chapter on insurance upon lives (first published in 1786). He refers to the old *Amicable*, to the *Royal Exchange* and *London Assurances*; also to the *Equitable*, but to no other societies or companies. He says: "Private underwriters also may enter into policies of this nature, as well as another, provided the party making the insurance chooses to trust their single security."[1] He cites a number of cases of dispute which came into Court. They seem to relate to individual underwriting, and he gives the usual wording of the contract: "The said insurers, in consideration of the sum paid, do assure, assume and promise that the said A. B. shall, by the permission of Almighty God, live and continue in their natural life for and during the said term, or in case he the said A. B. shall, during the said time or before the full end and expectation thereof, happen to die by any ways or means whatsoever, suicide or the hands of justice excepted, etc."

An actual policy, dated 8th September, 1785, effected in Glasgow, is given by Walford. It assured the sum of £600 and reads: "For and in consideration of three pounds three shillings sterling for one hundred pounds sterling, and so in proportion for any greater or lesser sums by us severally hereunto subscribed and to us respectively paid by Robert Walkinshaw, Sheriff Clerk of Renfrewshire . . . we do . . . promise to pay . . . unto the Executors Administrators or Assigns of the said Robert Walkinshaw the full sum or sums of money hereunto by us subscribed . . . in case the said Robert Walkinshaw shall die or cease this life by any ways or means whatsoever suicide and the hands of justice always excepted

[1] J. A. Park, *A System of the Law of Marine Insurance*, p. 430 of 2nd Ed.

between the seventh day of September current and the seventh day of September next, both days included. . . . The above named Robert Walkinshaw warranted in good health the seventh current and not to depart the Kingdom of Great Britain during the term of the policy." The policy is subscribed by five underwriters, one for £200 and the other four for £100 each.[1] These one-year term policies were not thrift policies nor effected for the protection of the assured's family. William Morgan, in the preface to the second edition of his "*Principles and Doctrines of Assurance*," says: "In the year 1779 when these observations were written, the business of assurances on lives was but little understood and but little practised. . . . The assurances for the benefit of surviving families at this period were but few in comparison with those which were made on the lives of those improvident persons who, in the disposal of their property, seemed to have as little consideration for their families as for themselves; and as the price of an annuity on a life, however young, very rarely exceeded seven years' purchase, the assurances were seldom made for a longer time: so a very small proportion was made on the whole continuance of life, or with any other view than to secure a purchaser from the risk of losing the price of his annuity."[2] Purchasers of a life interest at the price of seven years were apparently content to take one-year term assurances, adjusting the amount annually as they wrote off the original capital out of income.

The short-term assurances were not always effected for the purpose of protecting money advanced or money invested in the purchase of life interests. They were taken out extensively on the lives of public men merely for the purpose of gambling. There is a much quoted passage in Francis's "*Annals of Life Assurance*,"[3] in which he says: "Policies were opened on the lives of public men with a recklessness at once disgraceful and injurious to the morals of the country. That of Sir Robert Walpole was assured for many thousands and at particular periods of his career, when his person seemed endangered by popular tumults, as at the Excise Bill, or by party hate, as at the time of his threatened impeachment, the premium was proportionately enlarged. When George II fought at Dettingen, 25 per cent was paid against his return. The rebellion of 1745, as soon as the terror which it excited had passed away, was productive of an infamous amount of business. The members of Garraway's, the assurers of Lloyd's, the merchants of the Royal Exchange, being unable to raise or lower the price of stocks any

[1] Walford, "History of Life Assurance," *J.I.A.*, Vol. XXVI, pp. 18–20.
[2] William Morgan, *Principles and Doctrines of Assurance*, Preface to 1821 edition.
[3] Francis, *Annals of Life Assurance*, p. 141.

more by reports of the Pretender's movements, made sporting assurances on his adventures and opened policies on his life. . . . The seals of a prime minister, or the life of a highwayman, answered equally the purpose of the policy mongers; and India or Minorca, Warren Hastings or Admiral Bing, were alike to them if they could put money in their purses. There was absolutely nothing on which a policy could be opened that was not employed as the opportunity of gambling."

The result of this misuse of the practice of insurance was the introduction of legislation in 1774. The Act (14 Geo. 3, c. 48) is entitled "An Act for regulating Insurances upon lives and for prohibiting all such Insurances except in cases where persons insuring shall have an interest in the life or death of the person insured." The Act is still in force and is known as the Gambling Act, and is of great importance in insurance history as enunciating the necessity for "insurable interest" by the party effecting the insurance. The preamble to the Act sufficiently indicates the purpose: "Whereas it hath been found by experience that the making of insurances on lives or other events, wherein the Assured shall have no interest, hath introduced a mischievous kind of gaming." The first clause provides that from and after the passing of the Act "no insurance shall be made by a person or persons bodies politic or corporate on the life or lives of any person or persons, or any other event or events whatsoever wherein the person or persons for whose use, benefit, or on whose account such policy or policies shall be made, shall have no interest, or by way of gaming or wagering; and that every such assurance contrary to the true intent and meaning hereof shall be null and void to all intents and purposes whatsoever." The second clause made it unlawful to issue a policy without inserting therein the name of the person interested or for whose use such policy was made. The third clause provided that in all cases when the insured had an "interest in such life or lives, event or events, no greater sum should be recovered than the amount or value of the interest of the insured in such life or lives or other event." The fourth clause excluded the operation of the Act from marine insurance. Wagering policies in marine insurance were prohibited by an earlier Act (19 Geo. 2 c. 37).[1]

The third clause of the Act admits of two constructions: that the maximum sum which could be recovered under a policy was that of the interest of the insured at the date of effecting the assurance, or that at the time of the claim. If the latter construction be placed on the clause, a life assurance would be no more than an indemnity like fire insurance. While policies were effected only as

[1] See infra p. 167.

short-term assurances, no great hardship was incurred by this construction, but in the case of the *Equitable Life Office* the contract was one to pay a certain sum of money on the death of a person in consideration of the due payment of an annuity for his life, the amount of the annuity being calculated in the first instance according to the probable duration of life, and when once fixed was constant and invariable.[1] For such a contract to have been interpreted by the Courts simply as one of indemnity would have been most unfair. By the verdict in the case of *Godsall* v. *Boldero*, which related to certain assurance on the life of Pitt taken out by creditors, it was held that no sum could be collected under the policies, as the creditors had already been paid from the sums voted by Parliament.[2] Whatever the actual practice in settling claims under whole-life assurances effected by persons other than the life assured may have been, this case of *Godsall* v. *Boldero* was held as a precedent until 1855, when it was overruled by *Dalby* v. *The India and London Assurance Co.*,[3] when it was clearly laid down that the insurable interest governing the sum insured by the policy was that at the outset. It was argued in that case that the express terms of the contract provided a fixed sum at death; to interpret it as one providing a fluctuating sum or no sum at all would be contrary to practice and fair dealing and common honesty. The only effect of the statute is to make the assured value his interest at its true amount when he makes the contract.

The *Equitable* remained without a competitor in the field of ordinary whole-term life assurance till the last decade of the eighteenth century. In 1789, however, a Bill was introduced to incorporate[4] the *Westminster Society*, for granting and purchasing annuities and insurances upon lives and survivorships, with a joint stock of £300,000 divided into shares of £3000 each, on which the sum of £1000 was to be paid up immediately and the £100,000 so raised to be invested in 3 per cent consolidated Bank Annuities, and a further sum of £10,000 annually to be so invested till the total of £200,000 should have been reached. The *Amicable* petitioned against the Bill on 30th March, 1789,[5] alleging that in reality no more than £100,000 capital was available for the business. The Bill, however, passed the Commons, but was thrown out in the Lords, the Chancellor, Lord Thurlow, taking the same ground as the *Amicable*, that the capital was not sufficient for the public protection. As with the *Equitable*, having failed to obtain a charter, its promoters established themselves in 1792 under a deed of settlement, but avoided the

[1] C. J. Bunyon, *Law of Life Assurance*, 1891 edition, p. 10.
[2] *Ibid.*, p. 27. [3] *Ibid.*, p. 28.
[4] *H.C.J.*, Vol. XLIV, p. 153, etc. [5] *H.C.J.*, Vol. XLIV, p. 240.

constant early *Equitable* squabbles between those who had incurred the initial expenses and the member policyholders by raising sufficient capital to cover initial costs and enable the company to function safely in its early years. The capital was £150,000 in shares of £500; the sum of £50,000 was paid up and invested in the public funds in names of trustees.

The original prospectus issued to the proprietors made it clear that the Society intended to compete with the *Equitable* by granting life assurance as a family protection. "A person may," the prospectus ran, "for a small annual premium secure to his widow, his children or dependants, a sum to keep them from the distresses and poverty which his death might otherwise occasion." The table attached gave one-year and seven-year term rates and whole-life assurance rates by level annual premiums throughout.[1] This *Westminster Society* was the first proprietary life office to be established, but it endeavoured to limit the liability of the shareholders to the amount of their share holding by making the provision that "every person must sign an agreement which will be the basis of the contract between him and the Society," prior to the granting of any insurance or annuity. It adopted a proposal form identical with that of the *Equitable*, but in contrast with that office it paid commissions and appointed agents in the provinces. The office had no great success, nor lengthy history, nor did it secure any considerable business. It opposed the application of the *Globe* for a charter in 1799 on the grounds that the company would obtain "various privileges and advantages over your fellowmen."[2] The chief interest in the promotion of this office is that it is the first of a series of life offices established on the joint-stock principles, in which the profits were to enure for the proprietors, and that in granting whole-life assurance it became the first competitor of the *Equitable*. It was soon followed by the *Pelican Life Office*, established in 1797 on the same principles as the *Westminster* of 1792—it was a proprietary office under a deed of settlement, and was established in association with and as a sister office to the *Phoenix*. The century ended, therefore, with the commencement of a line of competitors which, by their formation and in their methods of conducting life assurance, gave clear evidence that the principles laid down by the *Equitable* were sound.

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CHAPTER VIII

CONSTITUTION OF THE INSURANCE COMPANIES OF THE EIGHTEENTH CENTURY

EVOLUTION of the modern business company—Incorporation of the medieval craft guilds—*Company of Merchant Adventurers*—Charter granted in sixteenth century to trading companies of merchants—The *East India Company*—Other joint-stock companies—Evolution of company administration and joint-stock principles—Creation of eighteenth century joint-stock companies without charter of incorporation—Set-back to practice through the Bubble Act in 1720—The South Sea Bubble—Charters of the *Royal Exchange Assurance* and the *London Assurance* Corporations—Constitution of the early fire insurance offices—How such companies were controlled—The general meetings and voting thereat as set out in deeds of settlement—Change of attitude of Government towards unincorporated companies later in eighteenth century, evidenced in report of 1761 upon application for charter by the *Equitable Life Office*—Recognition of such companies in 1782—Tendency towards a common form in later deeds of settlement—Conception and practice as to capital and limitation of liability

THE modern business company has a long line of descent. The route can be traced by various bridges right back to its ancestors, the craft guilds of medieval times. From the craft guilds came the merchant venturers, from whom in turn sprang the regulated trading companies; these gave place to joint-stock chartered trading companies having international influence, and by their successful operations justified the creation of banks and insurance companies incorporated by charter with special privileges or monopoly. Then in the eighteenth century came the joint-stock company without charter, but with a constitution embodied in a deed of settlement, which paved the way to the final stage, the business company freely incorporated under the Companies Acts in the nineteenth century.

Incorporation, that is to say, the creation of a legal personality, apart from the persons who may be the temporary members, in English law can only be given by the Crown or Parliament. The principles and practice of the earliest chartered bodies persisted for long periods, and the forms were applied to associations created for quite different purposes. Among the earliest chartered bodies were the craft guilds. The Weavers received their charter from Henry II, the Goldsmiths theirs in 1327, the Mercers in 1373, the Haberdashers in 1407, the Fishmongers in 1435, the Vintners in 1437, and the Merchant Taylors in 1466.[1] These charters granted powers to the bodies concerned to make by-laws to regulate their trade and to bind not only their own members but all who plied the trade.

[1] Samuel Williston, "History of the Law of Business Corporations before 1800," *Select Essays on Anglo-American Legal History*, Vol. III, p. 195 (Camb. Univ. Press).

As a bridge between the craft guilds and the later-regulated companies came the Company of Merchant Adventurers. This company was coeval with the guilds and drew a large proportion of its members from the Mercers of London. The secretary of the company (John Wheeler) in 1601, in his "*Treatise of Commerce*," writes of the company: "It consisteth of a great number of wealthy and well experimented merchants dwelling in diverse great cities, maritime towns and other parts of the realm, to wit: London, York, Norwich, Exeter, Ipswich, Newcastle, Hull, etc. These men of old time linked and bound themselves together in company for exercise of merchandise and seafare, trading in cloth, kersie and all others as well English as foreign commodities vendible abroad."[1] The guildsman was becoming a merchant and carrying his wares overseas, instead, as previously, of supplying a local market or waiting for the merchants of the Hanse to come to him and buy his goods for export.

In the sixteenth century we see an extension of the principle and charters were granted to associations of merchants to trade in a specific area, to regulate and protect that trade for their members. Charters were granted to the Eastland Company in 1579 (a revival of an earlier company of 1404), the Russia Company in 1553, the Turkey Company in 1592—on the model of the craft guild charters, including incorporation. These companies played as important a part in the economics and politics of the sixteenth and seventeenth centuries as did the craft guilds in the medieval social and urban life. The associations were not of the character of joint-stock companies; each member adventured on his own account or in partnership with some other member or members. Some of the constitutions under charters granted to the North American colonies were of the character of the regulated company.

If the Company of Merchant Adventurers be regarded as a bridge between the craft guild and the regulated company, the East India Company may be said to bridge the gap between the regulated company and the incorporated joint-stock company, such as the Hudson Bay Company (chartered by Charles II in 1670) and the South Sea Company, chartered in 1711. The East India Company, chartered by Elizabeth in 1600, started as a regulated company, but the amount of capital required for equipping an expedition to the East Indies was so large, the risks so great, and the time before the venture terminated so long, that members combined to finance each expedition jointly. Then, in 1612, instead of raising stock for each voyage, the directors fixed it for a period which avoided the calling of capital for each voyage. In 1657, when a fresh charter

[1] Ashley, *Economic History and Theory*, Part II, p. 217.

was obtained from Cromwell, the permanent joint-stock principle was established. The introduction of the joint-stock principle was one of fundamental importance in the history of corporations; it is the main source of company law and practice of to-day. It was, however, strange at the time and, when coupled with monopoly of trade, was unpopular with the public. The Muscovy Company, which seems to have adopted the joint-stock principle even before the East India Company, was criticized in the House of Commons in 1604: "The Muscovy Company consisting of eight score persons or thereabouts have fifteen directors, who manage the whole trade: these limit to every man the proportion of stock which he shall trade for, make one purse and stock for all and consign it into the hands of one agent at Moscow, and so again at their return to one agent in London, who sell all and give such account as they please. This is a strong and shameful monopoly both abroad and at home, a whole company by this means is become as one man, who alone hath the uttering of all the commodities of so great a country."[1]

The next step came with the creation of joint-stock corporations for purposes of profit, but by means other than overseas trade, where large aggregation of capital was required, such as the supplying of water to cities such as the New River Company, land drainage such as that of the fens, turnpike roads, canals, banks, and insurance. Two companies formed on the joint-stock principle in the reign of Elizabeth, fostered by Cecil and incorporated, both in 1568, are of particular interest in view of their later history.

Like other companies of the time, they were of public importance and it was in the national interest that they were erected. Ordnance was urgently needed for the defence of the country and therefore iron, tin, lead, and copper had to be obtained. The first of these companies provided iron and copper for ordnance, and mined both in the North and in Somerset. The second undertook to dig for calamine stone, used in the manufacture of brass, and iron, tin, and lead; a mill for drawing wire was built at Tintern. The first institution was called the *Company of Mines Royal*—and the Queen's Minister, Cecil, became its Governor. The second concern was the *Mineral and Battery Company*.[2] Neither of these companies seems to have been very successful, and in the eighteenth century attempts were made to convert their purpose to marine insurance, a procedure declared illegal under the Bubble Act of 1720.

A proposal was made in 1660 to bring marine insurance within the area of a business of national importance to be carried on by

[1] *Commons Journal*, quoted by Cunningham, *Growth of English Industry, Modern Times*, p. 240.

[2] Cunningham, *Growth of English Industry and Commerce*.

a chartered company. The project which came before the Council of Trade was one for the erection of a "Corporation of Ensurers," and was put forward by Colonel John Russell, William Brereton, Sir William Killigrew, and others. A society under Royal Patent was sought "to transact sea insurance in the following manner. Suppose the premias one with another amount to £5 per cent, that importations and exportations incurred be about one-half of what is yearly traded for, and that the whole may amount to about ten times as much as customs, thus according to a rational guess—

The customs being . .	£700,000
The whole trade . . .	7,000,000
The moiety. . . .	3,500,000

and thus will the premias amount to £175,000 per ann., but it is hoped and may be rationally concluded (when the office shall be thoroughly established and merchants perceive the certain benefit) scarce a cargo will be sent to sea without first insuring, and many cargoes more than now will be adventured to sea that there may arise above double the above-mentioned profit to the undertakers and it may in time be hoped to become the general insurance office of Europe especially encouraged by Act of Parliament."[1]

This prospectus was submitted to the Coucil of Trade and their deliberations were embodied in a report to the King: "They had carefully considered the proposals and do find that they design a bank of joint stock of £500,000 or more if it be necessary, to be raised by them and such other gentlemen, noblemen and merchants as shall associate with them . . . that they are contented that their stock shall be deposited in the hands of the *East India Company* upon a moderate interest or be disposed in some public secure and profitable way which may create the greater credit . . . and so become an encouragement to all merchant owners of ship or goods and others, as well aliens as natives . . . to be readily and sufficiently assured upon all adventures of ships or goods, outward and inward and to and from all ports and places whatsoever." The committee then recommended that the charter should be granted "with these provisos, that the stock may not be withdrawn or any part thereof without six months' notice, but the Society in case of any loss shall make satisfaction without those abatements now in practice and that all persons may be at liberty to insure elsewhere." The company was not formed, and it is possible that the promoters were discouraged by the last proviso mentioned by the Council in their report—that no monopoly should be granted.

The seventeenth and eighteenth centuries saw much industrial

[1] *State Papers Domestic*, Charles II, Vol. LXVI, No. 53.

development, and commercial organization by means of the chartered companies capitalized on the principles of joint stock, but with these institutions there was generally some element of privilege or monopoly. In some cases, where public service or transport was concerned, this was natural and essential; in others the privilege was not essential, but was secured by a substantial loan to the Crown. For a charter reconstituting its rights, the *East India Company* made a loan to the Government of £3,200,000 in 1708. The capital of the *Bank of England* was a loan to the Government, and as a consequence it secured its privileged position. The *South Sea Company* also made a loan of its capital to the Government. The *Royal Exchange* and the *London Assurance* for their marine charters each promised to subscribe £300,000 (reduced to £150,000 each after the bursting of the "Bubble") in the same direction. In these charters the Crown was not alone concerned; by the time of the Stuarts, while the charter of incorporation could come from the Crown, the grant of privilege and monopoly of trade had become the function of Parliament and was jealously guarded.

In marine insurance, underwriting is satisfactorily carried on by individual underwriters, but fire and life assurance require the security of a permanent association of members, either on a mutual basis or by proprietors in joint-stock capital. The insurance companies of the eighteenth century, called into being by the urgent need for fire insurance, made a considerable contribution to the history of, and the progress in, joint-stock principles. The emergence of the companies resulted in a policy of expediency and only slowly were the principles of company law evolved. The fact that a share in a company was no more than a fraction of all rights and obligations of the total body of shareholders took a long time to realize. The notion held was that the property of the company was held by the directors or trustees in trust for the shareholders. The consequence of this attitude is seen in the fact that the *New River* shares were treated as real property; later, when the true principle was becoming known, we find in 1781 the shares of the *Chelsea Water Works* were held to be personalty.[1] The tradition that the company was a body of members each counting as one was seen in the voting power at meetings of shareholders, each member present having one vote. It was the first rule of the *East India Company* that the units of the company were members, not shares, and a right of the members to vote was akin to that of a member of a municipal corporation or guild. In time it became customary for a charter or deed of settlement to state how many votes should be given to larger shareholders.

[1] Williston, *History of Law of Business Corporations*, p. 217.

In the *Greenland Company* each subscriber of £500 had one vote and a subscriber of £1000 or more had two votes.[1]

The growing knowledge of the meaning of incorporation was shown in the reply to the Attorney-General and Solicitor-General by those seeking a charter in 1742 for the Royal Africa Company to engage in privateering at the expense of Spain. The Attorney-General and the Solicitor-General had said: "In the prayer in the petition it is desired that not only the company but such others as shall join and unite with them in their undertaking should have the power proposed; but as those other persons are not named we cannot think it advisable for His Majesty to grant a commission of this consequence to unknown persons of whose fidelity, character and fitness for such engagements His Majesty can have no satisfaction." To which the company replied: "Your Memorialists humbly beg leave to observe that all companies are creatures of the State and therefore are called bodies corporate and politic, that the grant which your Memorialists now humbly apply for is to them in their corporate capacity and not to any private persons whatever and they humbly apprehend that it is no ways material to the State who the individual members of any corporation may be, provided they are His Majesty's good and faithful subjects and the corporation honestly pursues the ends of their institution. Your memorialists therefore do not comprehend the tendency of Mr. Attorney- and Solicitor-General's distinction between a corporation in its corporate capacity and the individuals of which it is and may at any time be composed, for since corporations may be compared to rivers which always continue the same though the waters are always changing, your Memorialists humbly conceive no inference can be drawn from such a distinction to the prejudice of the Petitioners."[2]

The joint-stock company without charter, but with a constitution embodied in a deed of settlement, was a creation substantially of the eighteenth century. It represented a new development in business organization, and while the new institution, in so far as it could, sought to get the benefits of incorporation, it had, in fact, no legal recognition. Association in partnership for business purposes was a natural process when the partnership consisted of two or three individuals who could be bound by an agreement with each other. Under such a partnership, however, the transfer of the interests of one partner to a fresh person would need the concurrence of the remaining partners and the making of a fresh agreement. The transferability of shares in a partnership in the same way that transfer

[1] Williston, *History of Law of Business Corporations*, p. 225.
[2] Du Bois, *English Business Company after the Bubble Act*, pp. 88–9. (Oxford University Press.)

of stock in chartered companies was carried out was a device of very doubtful validity, and companies issuing such shares after the passing of the Bubble Act of 1720 appeared to be illegal.

The progress of this type of business organization suffered a very serious setback at the end of the second decade of the eighteenth century due to the orgy of speculation, culminating in the financial collapse and restrictive legislation of 1720. As the period coincided with the early history of British insurance companies, some account of the main events leading up to the collapse of 1720 and its influence on insurance and other business organization must be given.

At the accession of George I in 1714 there were three great corporations whose credit was bound up with the credit of the Government: the *Bank of England*, the *East India Company*, and the *South Sea Company*. The two former were Whig institutions, and the last created by Harley in 1711 on the lines of the former, viz. by the gift of a monopoly but on the condition of loans to the Government, or bolstering up the Government's credit by offering shares in the company in exchange for Government stock held by the public. Apart from Government loans, there was very limited outlet for the accumulation of capital and, as the stocks of these corporations offered a profit, in addition to the interest on the large Government stock they held, the shares appealed to the public, and the Government stock had been absorbed by the Corporations without difficulty. The process by 1717 had become a policy, and the capital of the *South Sea Company* was in that year increased to £11,746,844. In 1719 the directors of the *South Sea Company* conceived the idea of dealing with the whole of the outstanding debt of the Government, both long and short, by offering an exchange of their shares for Government stock on terms exceedingly attractive to the Government, which included a reduction in the rate of interest. Not to be outdone by its younger rival, the *Bank of England* made a counter-offer to Parliament, and the two institutions bid against each other till the Bank would go no further and the terms offered by the *South Sea Company* were accepted—terms, which, when taken into consideration with the magnitude of the transaction, were, in the opinion of shrewd men such as Walpole, impossible of fulfilment.

While the negotiations were proceeding, the fever of speculation had grown, and to meet, or perhaps shall we say, to take advantage of the public's receptivity, innumerable joint-stock concerns were projected; charters of incorporation applied for; and the price of stock of existing companies doubled, trebled, and quadrupled. In the words of the author of the official Parliamentary History of 1720: "The whole nation was become stockjobbers: the South

Sea was like an infectious distemper which spread itself in an astonishing manner. Every evening produced new projects which were justly called bubbles . . . These were countenanced by the greatest of the nobility. The Prince of Wales was Governor of the *Welsh Copper*, the Duke of Chandois of *York Buildings*, the Duke of Bridgewater formed a company for building houses in London and Westminster. There were near a hundred different kinds of projects or bubbles and it was computed that above a million and a half was won or lost by these unwarrantable practices by which many unwary persons were defrauded and impoverished and a few crafty men enriched to the great detriment of domestic trade."[1]

On the day Parliament rose in the summer of 1720, a Royal Proclamation was made declaring these unlawful projects should be deemed a common nuisance and prosecuted as such, with the penalty of £500 for any broker to buy or sell any share in them. While this had the effect of generally dampening the ardour of the projectors, their activities did not cease, and it was followed by an Order of the Lords Justices on 12th July to put a stop to all further proceedings, and embodying a statement "that all petitions that had been presented for patents and charters be dismissed." The Order of the Justices gave a list of applications numbering some 156, of which about one in five seems to be a project for some form of insurance. Maitland, in his "*History of London*," gives also a list of projects which substantially agrees with that of the Order. He says: "The sums intended to be raised by the above-named airy projects amounted to about three hundred millions of funds. Yet the lowest of the shares of any of them advanced above cent per cent, most above four hundred per cent and some twenty times the price of the subscription." Before the summer had ended the bottom had fallen out of the market. Maitland gives the prices of the chief speculative counters before and at the peak of the boom, as follows—

	At First Sold at	At Peak of Bubble
	£ s. d.	£
South Sea	86 – –	1100
Bank of England	100 – –	260
East India	100 – –	405
African	100 – –	200
York Buildings	10 – –	305
Lustring	5 2 6	105
English Copper	5 – –	105
Welsh Copper	4 2 6	95
Royal Exchange Assurance	5 5 –	250
London Assurance	5 – –	175

[1] *Parliamentary History*, Vol. VII, Col. 654.

It was in this atmosphere of feverish speculation that the *Royal Exchange* and the *London Assurance* had their birth. That birth in 1720 followed a lengthy period of gestation, as we see in their respective histories, and the Act which authorized the Crown to grant charters to the two corporations dealt also in later sections with the mischievous unincorporated joint-stock concerns. The Bill (which subsequently became the Act 6 Geo I, c. 18) was introduced in pursuance of the report of a Parliamentary Committee (H.C.J. XIX, p. 341, etc.) and a resolution to the effect : "That the House do agree with the Committee in the said Resolution that for some time last past several large subscriptions have been made by great numbers of persons in the City of London to carry on public undertakings upon which the subscribers have paid in small proportions of their respective subscriptions, though amounting in the whole to great sums of money and that the subscribers have acted as corporate bodies without any legal authority for their so doing and thereby drawn in several unwary persons into unwarrantable undertakings: the said practices manifestly tend to the prejudice of the trade and commerce of the kingdom—Ordered—That leave be given to bring in a bill to restrain the extravagant and unwarrantable practice of raising money by voluntary subscriptions for carrying on projects dangerous to the trade and subjects of the kingdom: and that Mr. Secretary Craggs, Mr. Walpole, Mr. Comptroller, Mr. Chancellor of the Exchequer and Mr. Hungerford do prepare and bring in the bill."

The first seventeen sections of the Act dealt with the two insurance corporations. The eighteenth, after reciting the projection and collection of subscription by unauthorized and unincorporated undertakings, proceeds: "And whereas . . . the said undertakers or subscribers have since the 24th June 1718 presumed to act as if they were corporate bodies and have pretended to make their shares or stock transferable . . . without legal authority either by Act of Parliament or by any charter from the Crown . . . and in some cases the undertakers or subscribers since the 24th June 1718 have acted or pretended to act under some charter . . . formerly granted by the Crown for some . . . particular purpose . . . therein expressed . . . and have used . . . the same charter for raising joint stock . . . for their own private lucre which were never intended by the same charters." The section then enacts that, after 24th June ,1720, all undertakings tending to the prejudice of trade, and all subscription thereto or presuming to act as corporate bodies or raising transferable stock without legal authority, and all action under obsolete charters shall be deemed illegal and void. Section XIX makes illegal the receiving or paying money

on subscription to the stock of such undertakings, and this extends to the transfer of any shares on any such subscription. The Act did not extend to undertakings created prior to 24th June, 1718, nor did it restrain the carrying on of any trade in partnership "as hath been hitherto usually and may be legally done according to the laws of the realm now in force." While the clause prohibiting a company chartered and incorporated for one purpose from engaging in objects of a different nature was clear enough, the position of associations or partnerships formed after 1718 with transferable shares was ambiguous. Would another company like the *Sun Fire Office* with twenty-four partners, with no public issue of shares, be illegal? Would a partnership of members in a mutual insurance scheme such as the *Hand-in-Hand* be safe?

Before we can answer this question it is necessary to consider the constitutions of the insurance offices established before the Act and the two corporations authorized therein. These were (1) the *Fire Office*, or *Phenix* of 1681; (2) the *Friendly Society* established by deed dated 28th August, 1684; (3) the *Hand-in-Hand*—deed dated 12th November, 1696; (4) the *Amicable Society* for a perpetual assurance (life assurance) office—charter 25th July, 1706; (5) the *Sun Fire Office*—deed 7th April, 1710; (6) the *Union*—deed of Settlement 16th February, 1714–5; (7) the *Westminster*—deed 13th February, 1717; (8) the *Bristol Crown*—deed of partnership dated 17th February, 1718; and (9) the *Friendly Society* of Edinburgh—deed 13th January, 1720. Of these companies only one—the *Amicable* —was incorporated at the date of the 1720 Act. The *Friendly Society* of Edinburgh was incorporated subsequently, in accordance with Scottish procedure, by Seal of Cause by the Lord Provost of Edinburgh in 1726. However, all, except possibly the first—the *Phenix*—had constitutions based upon deeds of settlement or co-partnership in which the rights and obligations were set out in more or less detail.

The first, the *Fire Office* or *Phenix* as it came to be known from its fire mark, seems to have been a partnership of underwriters working under a trade name for profit. In the application made for a patent to the Privy Council, in April, 1687, the petition was made by Samuel Vincent, Nicholas Barbon, John Parsons, and Felix Calvert—and they stated that they and their partners had set up an undertaking about six years since for insuring houses from fire. In a leaflet of 1700,[1] the number of partners, or insurers as they were called, were sixteen, of whom only one, Sir John Parsons, was included among those making the application for the patent in 1687. This office seems to have disappeared after the Act of 1720.

[1] Brit. Mus., 816 m. 10/97.

It is not quite so easy to place the constitution of the *Friendly Society*. It was promoted by two men, William Hale and Henry Spelman, and they gave security by conveying land to trustees (amongst whom was Sir Christopher Wren), and they, the partners, were known as undertakers. The deed of establishment was dated 28th August, 1684, and was enrolled in the High Court of Chancery. From the proposals, or Breviate of Establishment,[1] insured members undertook to make contribution to the losses of fellow-members, and, if losses were not met within a stated time, the trustees were authorized to realize the assets vested in them by the undertakers and with the proceeds to pay such losses. There does not seem, however, to be any right by insured members of control of the institution. Indeed, in spite of its name, its constitution seems to have been in its early days a partnership of two carrying on a business for profit. Defoe, in his "*Essay on Projects*" (1697), refers both to the *Fire Office* (*Phenix*) and the *Friendly*, and says: "I wont decide which is the best, or which succeeded best, but I believe the latter brings most money to the contriver."[2]

In the case of the *Hand-in-Hand* (*Amicable* contributors for insuring from loss by fire), control lay definitely with the insured members under the deed of 12th November, 1696, enrolled 23rd January, 1698, consisting of thirty-six clauses. The insured members were styled contributors and exercised control through general meetings (Clause 6), two to be held in every year or more frequently if members insured in the aggregate for £10,000 should require one. Members in general meeting could make amendments to the settlement. The affairs of the association were adminsitered by twenty directors to be elected by members, but not more than ten directors holding office in the preceding year could be re-elected (Clause 5). The directors were to appoint trustees to execute policies and other instruments, and in whose name the assets of contributionship could be vested. Half-yearly accounts were to be made up and the net profits were to be divided amongst the members according to the value of their several insurances (Clause 35). The interest of any member in the contributionship was to pass to his executors, administrators, or assigns.

The *Amicable Society for a Perpetual Assurance Office* was described in its charter as "a voluntary Society for the mutual benefit of its members . . . to provide for their wives, children and relations by an amicable contribution." By the charter of 25th July, 1706, the Society was constituted one body corporate and politic in deed and in name . . . with perpetual succession and with power to take,

[1] Brit. Mus., 816 m. 10/76. See also 816 m. 10/78.
[2] Quoted by Relton, p. 62.

purchase and hold property . . . and to make and raise a joint stock or fund . . . to be managed and directed by twelve members to be annually elected directors . . . and at any general court (not consisting of less than twenty members) it was lawful for the members to make by-laws not repugnant to the laws of the realm. At General Courts each member was to have one vote. The directors were to be elected at a General Court to be held within forty days after 25th March in each year, and at least four of the twelve of the preceding year were to remain in office. Five members were elected annually to audit the accounts, to examine receipts and payments, and to lay before the quarterly and annual General Courts the accounts of the Society.[1] Here again the control was in the hands of the insured members.

The *Sun Fire Office*, which has contributed so much to British insurance history, was founded by a deed of 7th April, 1710.[2] It is a deed of partnership between twenty-four partners rather than a deed of settlement. It consisted of a preamble and four clauses. The preamble refers to the setting up of the *Company of London Insurers* called by the name of the *Sun Fire Office*, parties to the deed, for insurance against fire of houses and goods, the proposals for insurance already issued, a further design to extend its operations throughout Great Britain and Ireland, and the payment before signing of the deed of £20 by each member of the company. The first clause after the preamble sets out that the name of the company is to be the *Company of London Insurers* and shall never exceed twenty-four persons, and that whenever the interest of a member should devolve to a woman or infant the share must be transferred to some person to be approved at the next General Court, or a deputy appointed to act as a member subject to approval by the General Court; failing such, the share was to devolve on the other members of the company, share and share alike. The second clause set out that all losses were to be borne by all alike "in the nature of co-partnership"—all to make good calls made upon them by a General Court. The third clause provided for the distribution of profits among the twenty-four members, and the keeping of "just and perfect accounts" of all dealings in books kept for that purpose and presented at General Courts. General Courts were to be held after all quarter-days, at which by-laws could be made: thirteen or a major part of the members of the company to make a General Court. At the General Court provision was made for the election of one member as treasurer; another to be secretary for the ensuing year; and a committee of seven, of whom the treasurer and secre-

[1] Walford, Vol. I, p. 74.
[2] Held by the Sun Insurance Office.

tary were to be members, four to form a quorum. The fourth and last clause provided for the transfer of shares, which had to be done in the books to be kept for that purpose, and a fee of 5s. paid. No transfer was to be valid till entry had been made.

In this deed we have elements both of a partnership contract and a joint-stock company: the procedure to be adopted should a woman or infant succeed to the interest of a member and the limitation of the total membership to twenty-four are things which one would expect in a partnership deed rather than in a deed of settlement of a joint-stock company. On the other hand we have the procedure of a General Court; election of directors; and the provision for the transfer of shares, a share register, and a registration fee.

The *Union Society* for the insurance of goods and merchandise from loss by fire was established by deed of settlement of 16th February, 1714–5 and enrolled 3rd July, 1715,[1] in close association and constitutionally on the same lines as the *Hand-in-Hand.* A guarantee fund seems to have been formed, but the guarantors do not appear to have received any remuneration. Certain constitutional features in the well-drawn deed may be quoted in more detail as indicating the stage reached in company procedure.

For the management of the Society there were to be twenty-four directors to whom no payment was to be made for their services (Article 2). Two General Meetings were to be held each year, one in March and the other in September. A General Meeting could, however, be summoned at any time at the request of twenty members insured in the aggregate for £20,000 or more. Fourteen days' notice of meetings was to be given in the "*Gazette.*" To constitute a General Meeting, there was to be a minimum attendance of forty-eight members. Any General Meeting was empowered to amend the existing Articles and to make additional ones, which were to be confirmed by a second General Meeting and then "enrolled in the Chancery."

At the September meeting twenty-four members were to be chosen by ballot to serve in the ensuing year as directors, sixteen of whom were to be chosen from the number of those who had been serving in the previous year. At the March General Meeting the annual financial report was to be made. The directors were to choose from their number six trustees, of whom three were to sign policies, and all securities, mortgages, etc., were to be in their names.

The *Westminster Fire Office* was established by deed of settlement dated 13th February, 1717–8,[2] and enrolled 15th February of the same year. The deed was based on the principles adopted by the *Hand-in-Hand* and the *Union*—a mutual contributionship. Control

[1] Rec. Office C.54/5070/No. 9.
[2] Year 1718 in modern calendar.

lay with the insured members, each of whom signed under seal a deed under which he undertook to pay to the directors and trustees calls up to a maximum of 10s. for brick- and double that sum for wood-built houses for each £100 insured by the member. He also undertook to abide by the terms of the original deed and any by-laws made at a General Court. The deed, with innumerable signatures, is still preserved by the Office, which continued to exist as a "contributionship" until it passed to the *Alliance* in 1906.

The *Friendly Society* of Edinburgh was established by deed of settlement of 13th May, 1719–20. It was a mutual society, but the interest in the Society passed with any transfer of the property to the new owner. Nine directors were elected at a General Meeting to be held in January of each year; provided three new directors were elected, old directors could be re-elected. Payment to directors was prescribed at 2s. 6d. each for an attendance. At General Meetings members had one vote for every £3000 insured; proxies were permitted. Annual accounts were to be laid before members in January. In 1726 the *Friendly Society* was incorporated under Seal of Cause by the Lord Provost of Edinburgh.

The *Bristol Crown*, formed under Articles of Agreement dated 17th February, 1718, and subsequent deeds, all enrolled in the Court of Chancery, was a partnership: Under the deed there were eighty partners, of whom forty had entered into articles and had issued 500 policies. The authorized capital was £40,000 and the office was at Cooke's Coffee House in Bristol.[1] A policy issued 29th September, 1726, speaks of the insurers as William Freake, Isaac Hobhouse, John Cox, and other co-partners. It was signed by the three men named, and witnessed by Thos. Trackell, "secretary to the said co-partners." No name is given in the policy to the concern: it is simply an undertaking by the persons named above "and other co-partners concerned in an undertaking for insuring houses and goods from . . . fire." At the head of the policy there is a crown, the sign of the company, and from this it took its name. Relton had evidence that in 1743 there were about eighty partners, and in 1837 when the business was transferred to the *Sun* there were about fifty partners.

The constitutional lines of the two corporations created by the first seventeen sections of the Act of 1720—the *Royal Exchange* and the *London Assurance*—were laid down therein. The original members to be named in the charter, and all persons who were duly admitted thereafter were to be one distinct and separate body politic and corporate for the assurance of ships and for lending money on bottomry, with power to choose their governors, directors, and other

[1] Record Office, 4th Jan., 1719 [C.54/5140/No. 6].

officers and servants in such manner as described in their respective charters. Each corporation was to act under its seal. Each might hold lands and messuages up to a value of £1000 per annum (Section (1)). Each could raise capital not exceeding £1,500,000, to be called capital stock (Section 6). On failure to pay calls, the profits were to be stopped to members till the call had been satisfied; interest on calls unpaid was to be charged at the rate of 8 per cent per annum (Section 7); power was given to borrow money under their common seal and to advance on parliamentary security—all bonds issued by them were to be free of stamp duty (Section 8); shares of the corporation were to be personal estate and not real estate (Section 9); by-laws could be made by members (Section 11); during the existence of the two corporations no other societies were to assure ships or lend money on bottomry or "upon the account or risque of persons acting in a society or partnership" (Section 12); no Governor, sub-governor or director was to be such of both corporations nor to hold shares in both at the same time (Section 14); on three years' notice or at any time within thirty-one years, on payment of £300,000 (the amount to be advanced to the Government) the corporation could be determined by Parliament (Section 15). There seems to have been no limit to the liability of members for calls, but the remedy for non-payment of calls was restricted under the Act to retention of profit by the corporation, with power of the corporation to sell the shares for satisfaction of arrears and the "rendering the overplus to the proprietor." In the event of the failure of one of the corporations to meet its liabilities, it is possible that members would have been liable to subscribe without limit at common law. The charters authorized by the Act were granted to both institutions on 22nd June, 1720, empowering them to transact marine insurance and to lend on bottomry. In the next year both corporations sought and obtained further charters which permitted them to do fire and life assurance. The charters were dated 29th April, 1721, and under them separate corporations were erected—the *Royal Exchange Assurance of Houses and Goods from Loss by Fire* and the *London Assurance of Houses and Goods from Loss by Fire.* The charters were granted to the original marine companies, and therefore the fire companies were of the nature of the modern wholly-owned subsidiary. The second charters seem to have been granted on the undertaking to pay the balance of the two sums of £300,000 to the Government due under the 1720 Act and of which £188,750 was then outstanding from each corporation. Of this balance, each paid £38,750 and all further sums were under Section 26 of 7 Geo. 1, c. 18 remitted in the post-bubble conditions.

While in the pre-bubble insurance companies a classification into proprietary and mutuals may be made, not too much importance should be implied to the division. Constitutionally all, if unincorporated, were partnerships; in the case of the proprietary, the profits went to members who had subscribed capital; in the case of mutuals all members were insured members, but they had subscribed capital, were subject to calls, and received the profits. In both types of company a charter of incorporation might be obtained: of the mutuals the *Amicable Life* and the *Friendly* of Edinburgh were incorporated (the *Friendly* not till 1726), and the *Royal Exchange* and *London Assurance* were examples of the incorporated joint-stock company authorized under the Bubble Act itself. In all cases a constitution was laid down in writing either under a deed of settlement or a charter, and any internal difficulties among members would be settled by reference to the deed. The objects of the company were set out therein and there was a certain rigidity in them as with the modern memorandum of association. The Bank of England took counsel's opinion in 1707 as to whether the *Sword Blade Company*, a concern created by Letters Patent in 1689 for making hollow sword blades, could undertake banking business. The opinion given was that the *Sword Blade Company* was incorporated for the purpose of manufacturing and might not engage in banking business.[1] There was legal effect given to this opinion in the Bubble Act.

We see in these early companies that general meetings or Courts of Members were held at half-yearly or other intervals, at which audited accounts were submitted and by-laws could be made. These general meetings could be summoned by some prescribed number of members. Voting at meetings was usually not in direct proportion to the share or interest held, whereas the medieval craft guild and the regulated trading company had treated every member as equal in general courts. In the case of the *Friendly Society* of Edinburgh, we have discrimination in voting rights, as members had one vote for every £3000 insured. In the case of joint-stock companies, a practice had grown up among holders of shares, where no provision for increased voting was made in the constitution, to transfer temporarily part of their shares before a general meeting. By so doing they were able to control appointments of directors and officers. The practice was considered wrong, and in 1766 this "splitting of stock" became less effective, for by 7 Geo. III, c. 48, holders of shares or stock of less than six months were not entitled to vote. While ultimate control lay with members in general meeting, administration of the business was remitted to a

[1] Du Bois, Chap. II, p. 138.

court or board of directors, and the provision as to their number and mode of election was laid down in the constitution. It is interesting to notice how continuity in policy and practice was sought by insistence that part of the directors should continue in office, while there should be new blood drawn from other members of the company.

Although a large part of the essential elements of the modern business company can be found in the constitution of these early insurance institutions, much development took place during the century when the panic of 1720 had died down. By the middle of the century the attitude of the Government itself seems to have changed: the formation of fresh companies was tolerated and the prohibitive clauses in the Act were not tested. Incorporation had many advantages, but as the Government would only grant it in exceptional cases, the ingenuity of lawyers during the century was directed to the drawing of deeds of settlement to give as nearly as possible an association on the model of the *East India Company*, the *South Sea Company*, and the two insurance corporations—the *Royal Exchange* and the *London Assurance*. The more tolerant attitude of the Government, in the atmosphere of which the insurance companies in the later part of the century were established, is revealed in the report of 1761 on the application for incorporation made by the *Equitable* (life assurance society) in 1757. It ran: "The Crown has very wisely been cautious in incorporating traders because such bodies will either grow too great and by overwhelming individuals become monopolies, or else by failing will involve themselves in the ruin intendent upon a corporation bankruptcy. As trade seldom requires the aid of such combinations, but thrives better when left open to the free speculation of private men, such measures are only the expedient when the trade is impracticable upon any other basis than a joint stock as was thought the case in East Indies, South Sea, Hudson's Bay, Herring Fishery, and in some others erected upon the principle, but there does not appear to be any necessity in the present case because the business of insuring lives is carried on not only by the two great companies already named, but such policies are duly underwritten by numbers of private men. If then the petitioners are so sure of success there is an easy method of making the experiment by entering into a voluntary partnership of which there are several instances now subsisting in the business of insuring." The large voluntary partnership was, therefore, actually encouraged for this purpose.

Then a further step in recognition was taken in 1782 by the Act of 22 Geo. III, c. 48. Unincorporated joint-stock fire insurance companies were given specific recognition. Section 10 of that Act read: "And whereas great part of the business of insurance against

loss by fire is transacted at offices kept by companies not incorporated, but consisting of a great number of partners, be it therefore enacted that the licences . . . shall be granted to such two or more such partners as and for the whole company or partnership, and in every such case the licence shall continue in force until the end of the year . . . notwithstanding the deaths of all the persons to whom such licence shall be granted for the benefit of such company or partnership." The licence in question was one which all fire insurance offices were to obtain so that the collection of duty by the Stamp Office might be facilitated.

At the founding of the *Phœnix* in 1782 there is recorded at a meeting of 25th June, 1782: "Mr. Dawes then read the Bubble Act in order to the consideration of the question whether we should proceed in our application for a charter or not."[1] An application for a charter was made by the promoters, but it was declined for the reason, according to Sir F. M. Eden,[2] that the Attorney-General considered the public as likely to be better served by voluntary association of respectable individuals than by incorporated societies. As strengthening their position, the directors placed in the preamble to their deed of settlement a reference to the licensing provision under the 1782 Act in respect of unincorporated associations.[3] In their minutes of a court of directors of 12th August, 1786, they describe their company—the *Phœnix*—as a company trading upon a stock of transferable shares.[4] Apparently, therefore, custom and practice in unincorporated joint-stock ventures had become too strong for the enforcement of those provisions of the Bubble Act as were aimed at such forms of association.

In the deeds of settlement of these eighteenth-century insurance companies which were binding on the shareholders, and which each member had to sign, precedent was substantially followed, but individual requirements were added making for development and improvement throughout the century. Considerable care was taken in the promotion of the *Phœnix* and precedents were carefully examined. In the minutes of the early meetings of March, 1782, there was an incomplete draft of the settlement deed, much of which had been copied from the deed of the *Bristol Fire Office* (of 1769, transferred to the *Imperial* in 1839),[5] and as a further guide the directors had borrowed the *Sun Fire Office* deed. In a minute of 21st January, 1782, the promoters of the *Phœnix* resolved: "That if any question should arise concerning the operation of the above resolution before final execution of the deed of settlement of the

[1] A. B. Du Bois, *The English Business Company after the Bubble Act*, p. 36.
[2] *Insurance Charters*, Part II, p. 15. [3] Du Bois, p. 80.
[4] Du Bois, p. 240. [5] Relton, p. 206.

company it shall be regulated according to the copy of the *Bristol* deed of settlement now in the hands of and authenticated by Mr. Jarman." When the companion office—the *Pelican Life*—was established in 1797, its deed of settlement followed the general design of that of the *Phœnix*.

The idea of capital as regards a company which was held in the eighteenth century was not too clear. Postlethwayt, in his "*Dictionary of Commerce*,"[1] the first edition of which appeared in 1751 and the fourth edition, after his death, in 1774, said: "Capital amongst merchants bankers and traders signified the sum of money which individuals bring to make up the common stock of a partnership when it is first formed. It is also said of the stock which a merchant at first puts into trade for his account. It signifies likewise the fund of a trading company or corporation in which sense the word stock is generally added to it. Thus, we say the capital stock of the Bank. The word capital is opposed to that of profit and gain, though the profit also increases the capital and becomes part of the capital when joined with the former." The definition is sound, but the idea of the permanency which modern company law attached to "subscribed capital" is wanting.

The increase in the capital of a company without any corresponding increase in subscribed money by the proprietors was not unknown. The *Sun Fire Office*, by a resolution in 1741, raised its "stock and fund" from £48,000 to £72,000, the "subscription stock" of its members being correspondingly increased in their books. A further capitalization of profits was carried out in 1752. The *Hudson Bay Company* in 1720 trebled the amount of its capital stock.[2]

As a set-off to the arbitrary increase of capital by the *Sun*, it may be mentioned that the company made a return of capital to its shareholders in the years 1745, 1747, 1749, 1752, and 1756. In 1758 apparently a similar payment was called an extra dividend. The purchase and the holding of their own shares was a common practice by the eighteenth-century companies, as also were loans to shareholders on the security of their own shares.

The limitation of liability of shareholders, which was regarded as of paramount importance in the promotion of the insurance companies at the end of the eighteenth and beginning of the nineteenth centuries, does not seem to have weighed so much with earlier promoters. Mere incorporation did not give this limitation. It was, however, made a feature by counsel in the application for a charter by the Warmley Copper Co., in 1768, before the Committee of the Privy Council. It was stated: "In case of common partnership

[1] Vol. I, p. 448. [2] Du Bois, p. 357.

every man's fortune is liable *in toto* for the misconduct of any one in the partnership transactions. What we pray is that they may not be liable beyond what they have subscribed."[1] In spite of the disabilities under which unincorporated joint-stock companies stood, a number were promoted for fire insurance in the last quarter of the century, particularly in the provinces where probably the London companies could not work so effectively—such as the *Manchester*, 1771; the *Bath Sun*, 1776; the *Liverpool*, 1777; the *Salop*, 1780; the *Leeds*, 1783; the *Newcastle*, 1783; the *Norwich*, 1785; the *Worcester*, 1790; the *Wiltshire and Western*, 1790; the *Norwich General*, 1792—all unincorporated and established for profit of shareholders.[2]

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[1] Du Bois, p. 95. [2] Relton.

CHAPTER IX

MARINE INSURANCE LAW IN THE EIGHTEENTH CENTURY

ABSENCE of any codification—Disappearance of Court of Insurance—Lack of reported cases before eighteenth century—Importance of Lord Mansfield's decisions—His simplification of procedure—Form of marine policy had already become standardized—Restriction on partnership underwriting imposed in 1720—Insurance of enemy-owned ships—Proposed marine insurance legislation of 1748—Marine Insurance Act of 1746—Policies issued in blank and Acts of 1785 and 1788—Decisions in Courts on questions of construction—The case of the *Mills Frigate* and principle of seaworthiness—Principle of average—Meanings of the word as used in policy—Decisions on abandonment—Necessity that loss be immediate consequence of some peril insured against—Lord Mansfield's wide sources of authority

NICOLAS MAGENS in his valuable work on insurance, published in 1755, gave in his second volume the codes of insurance law, or regulations governing the business in various maritime countries on the Continent of Europe. No such code of law was drawn up in this country until the codification in 1906. The contract of insurance here was interpreted in the light of customs of merchants in Lombard Street and the Royal Exchange, and these were, in the main, the same as those of Hamburg, Antwerp, and Amsterdam. The Court of Assurance established by the Act of 43 Eliz., c. 12, with its supplemental powers derived from that of 14 Car. II, c. 23, had resulted in the practical exclusion of litigation in insurance cases from the common law courts during the seventeenth century, and we have few recorded cases until we come to the eighteenth century, when, as a result of the foundation of the two chartered companies, against whom action could only be taken in the common law courts, the latter took the place of the former Assurance Court of Elizabeth. The two Acts were, however, still in force, and this was pointed out by the Attorney-General in his report on the application for the Charters of 1720,[1] but the appointment of Commissioners had lapsed.

Lawyers of the century were prejudiced against particular courts. Park in his "*System of the Law of Marine Insurance*," published in 1786, pointed out that one reason for the disappearance of the Court of Assurances "appears on the face of the statute itself, namely that its jurisdiction was not sufficiently extensive being confined to such causes only as arose in London."[2] Three cases cited by him showed the further limitations of the Court. The

[1] *House of Commons Journal*, p. 341 *et seq.*
[2] Park, *System of the Law of Marine Insurance*, Introd., p. xli.

first, that of *Bender* v. *Oyle*, related to an insurance on the life of a person in which a prohibition was issued from the Court of King's Bench against the case proceeding in the Court of Assurances on the grounds that the latter had jurisdiction only of contracts relating to merchandise.[1] In a second case, *Dalbie* v. *Proudfoot*, the Court of King's Bench was of opinion that the jurisdiction of the Court erected by Elizabeth "did not extend to suits brought by the assurer against the assured, but only to such as were presented by the latter against the former." A third case, *Carne* v. *Moy*, "seems to have struck a more severe blow at the existence of this Court . . . for it was there held no bar to an action on a policy of insurance at the common law to say that the plaintiff had sued the defendant for the same case in the Court erected by the Statute of Elizabeth and that his suit was then dismissed." Park then goes on to say: "These causes co-operating together probably with some instances of partiality of the judges, this Court fell into disuse, no commission having been issued for many years, but insurance causes are now decided, like all other questions of property, and by the mode of trial most agreeable to the nature of our constitution by a trial in a Court of Law."[2]

The common law gave no guidance on matters of the mercantile practice of marine insurance. At the beginning of the eighteenth century there was little or no statute law to govern the courts in interpreting insurance contracts—at least no statute law of England, although there was a considerable body of legal regulations of insurance contracts on the Continent.[3] As to case law, owing to the absence of reported cases in the Policies of Assurance Court, the few reported which came before the Admiralty Court were quite deficient. "Hence it must necessarily follow that as there have been but few positive regulations upon assurances the principles upon which they have been founded could never have been widely diffused nor generally known."[4] The last words are those of a lawyer surveying the mercantile practices of insurance from the cases which were the subject of litigation. The point of view of merchants, themselves familiar with the body of custom and usages applicable to their business during the centuries' growth, would be very different. The settlement of disputes between merchants by the method of arbitration and reference to the Policies of Assurance Court, where experts sat to determine issues, held in the comparatively limited scope of the business, provided a cheap and expeditious mode of settlement. There is no doubt, however, that the rapidly

[1] *Park*, p. xli. [2] *Ibid.*, p. xlii.
[3] See Magens' *Essay on Insurances*, Vol. II.
[4] Park, Introduction

increasing volume of trade, necessitating insurance and the widening of the market itself, compelled the attention of the official organs of state through both the legislature and judiciary. Insurance was a matter of public interest needing public recognition. The eighteenth century saw the absorption of the principles and customs, established throughout the centuries by merchants of many nationalities, into the law of the country, some by statutory means, but most by the slower but cumulative process of reported decisions in the common law courts.

The century was fortunate in that a judge of outstanding ability was appointed as Chief Justice of King's Bench in 1756 in the person of Lord Mansfield. To him we owe, by his decisions in leading cases, much of the marine insurance law as it stands to-day. This does not mean that every rule established by his decisions was new: such may have been the rule honoured in practice among merchants and underwriters for centuries previously, but by his decisions in the court the practice secured the force of law. It was reported and was available to be cited in subsequent litigation as a precedent which must be followed. By the time Park produced his work on the subject in 1786, he was able, and with justice, to entitle it "*A System of the Law of Marine Insurance.*"

In simplifying procedure and preventing postponement and evasion of hearing of cases, Lord Mansfield did much of great value. Before his time the practice had grown up, when underwriters refused payment, for the assured to bring separate actions against each underwriter on a policy and to proceed to trial on all, an unnecessary expense both to assured and underwriter. To counter this, the underwriters applied to the Court of King's Bench to stay the proceedings in all actions but one on undertaking to pay the amount for which they might be liable with costs should the case go against them; in spite of this offer many assured refused consent to the application, and the Court did not feel disposed to make the rule without such consent. Lord Mansfield pointed out the advantages of proceeding on a single action, and obtained from the underwriters a promise not to file any bill in equity for delay, nor to bring a writ of error, and to produce all books and papers that were material to the point in issue. This was generally acted on and was known as the Consolidation Rule.[1]

Another improvement in procedure is best given in Park's own words: "In former times the whole case was left generally to the jury without any minute statement from the bench of the principles of law on which insurances were established, and as the verdicts were general, it is almost impossible to determine from the reports

[1] Park, p. xlv.

we now see upon what grounds the case was decided. Nay, even if a doubt arose in point of law, it was afterwards argued in private at the chambers of the judges who tried the cause, and by his single decision the parties were bound. Lord Mansfield introduced a different mode of proceeding, for in his statement of the case to the jury he enlarged upon the rules and principles of law as applicable to the case and left it to them to make the application of those principles to the facts in the evidence before them. So that if a general verdict were given the grounds on which the jury proceeded might be more easily ascertained."[1] Now with the reported statements made by Lord Mansfield to the jury we have a recorded body of principles of the law of marine insurance.

The form of the marine policy in the time of Lord Mansfield was, apart from the Memorandum introduced in 1749, almost identical with that adopted nearly two hundred years before in the Office of Assurances, and had been printed, as to the body of it, for more than one hundred years. The *Three Brothers'* policy of 1656, now in the library of the India Office, is partly engraved on foolscap-sized paper in neat script. The wording was, therefore, even in the eighteenth century, archaic, and Park observed: "But its antiquity cannot preserve it from just censure, it being very irregular and confused, and frequently ambiguous from making use of the same words in different senses."[2] Moreover, although it was customary to use the printed form of policy for special risks, additional written clauses were inserted in the blanks to apply to the case in hand which might conflict with the printed part: "These written clauses and conditions are to be considered as the real contract; the Court will look to them to find out the intention of the parties, and will consequently suffer such conditions to control the printed words in policies of insurance."[3]

Until 1720 there was no restriction upon those qualified to underwrite a policy of marine insurance. Under the Act which authorized the Crown to grant charters to the two corporations, the *Royal Exchange* and the *London Assurance*,[4] all other corporations, and all societies and partnerships, were restrained from "granting, signing or underwriting any policy of assurance. . . . upon any ship or ships goods or merchandises at sea. . . ." This restriction upon underwriting by any other than (*a*) individual underwriters, who were personally responsible for their own share underwritten on a ship or goods, and not each for the other; and (*b*) the two corporations authorized by the Act held for a century. An interesting case as to the interpretation of this prohibition against partnerships as

[1] Park, Introd., p. xlvi. [2] Park, p. 15.
[3] Park, p. 5. [4] 6 Geo. 1, c. 18.

underwriters came before the Court in 1789. The plaintiff was an underwriter and the defendant was a broker, and the underwriter had underwritten the sum indicated, half for himself and half on behalf of the broker—a custom not unusual at a much later date. A loss occurred and the insured had been paid. The underwriter sued the broker for his moiety. Lord Kenyon, C.J., said: "I am of opinion the plaintiff cannot recover: for this is clearly a partnership within the Act of Parliament. If a single name appears upon the policy, as in this case, the insurer shall never be allowed if a loss happen to defeat a bona fide insurance by saying to an innocent person there was a secret partnership between another and myself, and therefore the policy is void. But here the plaintiff is himself the underwriter, who comes to enforce an illegal contract and the party cannot apply to a court of justice to enforce a contract founded in a breach of the law."[1]

In the early eighteenth century there were no restrictions upon insuring in London ships or merchandise belonging to the enemy. The "mercantilists" argued that there was a profit in the insurance contract which accrued to the underwriters and brokers and brought therefore bullion into the country. Restrictions, were, however, imposed in 1748[2] when assurances on ships belonging to France (then at war with us) and merchandises or effects laden thereon were prohibited "during the present war." Any policies so effected were declared to be void and a penalty of £500 was imposed upon those transgressing the statute. A second statute passed in 1752 sought by prohibiting assurances on foreign vessels to the East Indies to protect the trade for the East India Company which had by statute in 1723 been given a monopoly among His Majesty's subjects for trading in the East. The prohibition against insurances of foreign ships did not, however, extend to those belonging "to the subjects of such sovereigns who before the said seventh day of October, 1748, have granted charters . . . to trade within the said limits" and whose subjects were then in 1748 so trading. The operation of the Act was limited to a period of seven years. These Acts, and the tenor of the debate in Parliament,[3] indicate the importance of London as the market for marine insurance at the middle of the eighteenth century.

During the war with France the subject of marine insurance received considerable attention in Parliament and a series of resolutions were adopted as "heads of an Act for the better regulating of insurances."[4] They were, however, not embodied in statute

[1] Park, p. 8. [2] 21 Geo. II, c. 4.
[3] *Parliamentary History*, Vol. XIV, pp. 108.
[4] *House of Commons Journal*, 24th March 1747–8.

form, although much of the matter became law subsequently by decisions in the Courts during the remainder of the century. In the "*House of Commons Journal*" of 24th March, 1747–8, we have: "Mr. Hume reported from the Committee appointed to consider the heads of a bill for better regulating assurances on ships and goods laden therein and for preventing frauds therein, that the Committee had come to several resolutions which they had directed him to report to the House, which he read in his place, and afterwards delivered in at the table where the same was read and agreed to by the House."

The first resolution embodied principles laid down by Lord Mansfield in *Lewis and Another* v. *Rucker:* that assurance upon goods or freight where the interest of the assured is valued at a certain sum, or where no value is set thereon, the assured, shall, in case of loss, recover only at the true value of the goods at the place where the same were shipped, and the net freight which would be only that due if the ship had arrived safe, together with the premium for such assurance. Policies, however, were not to be prohibited where a value was fixed upon weight, measure or tale, or cask, bale, parcel or package, according to usage, and in the event of loss such values were to be the basis of settlement. The second resolution referred to assurance on ships. Whether they were valued policies or not, the assured had to insert in the assurance the estimated burthen, whether it were British, plantation or foreign built, and value. In case of loss, in spite of the value inserted in the policy, the assurer was entitled to call the value in question and the assured was to recover only the true value up to the limit of the sum assured by the policy. The third resolution governed the assurance of the wages of the master or mariners: the amount of these, either per month or for the voyage, were to be inserted in the policy, and in case of loss could be ascertained—the amount claimed was not to exceed the wages to the date of the loss, and if the time of the loss could not be ascertained, the wages were not to exceed those for the time usually taken for such voyage and such as would have been paid if the ship had arrived safely.

Another resolution related to claims for barratry of the master and mariners. Another stipulated that, in the case of an assurance of goods from any port in Europe, the assurer was to state for whose account the assurance was made, and where goods were shipped from any port of Asia, Africa, or America there was further to be stated to whom the goods were consigned. Where important information was given by the assured, broker or agent relative to ship or goods, such information was to be inserted in the policy as a warranty, and no evidence could be given subsequently that

any warranty was given other than those embodied in the policy. When the interest of the assured fell short of that specified in the policy, a return of premium was to be made in proportion to the amount of the deficiency (less a percentage). In case of partial loss of ship or goods, the assured was not to have the right to abandon his interest to the assurer, but could recover only the value of his loss.

Although these resolutions were not embodied in any statute, the Government did complete a very important piece of legislation dealing with marine insurance in 1746. The reason and the purpose of the Act are sufficiently set out in the preamble, which runs[1]—

> "Whereas it has been found by experience that the making of assurances, interest or no interest, or without further proof of interest than the policy, hath been productive of many pernicious practices whereby great numbers of ships with their cargoes have either been fraudulently lost and destroyed or taken by the enemy in time of war and such assurances have encouraged the exportation of wool and the carrying on of many other prohibited and clandestine trades which by means of such assurances have been conceded and the parties concerned secured from loss, as well to the diminution of the public revenue as to the detriment of fair traders, and by introducing a mischievous kind of gaming or wagering under the pretence of assuring the risk on shipping and fair trade, the institution and laudable design of making assurance hath been perverted and that which was intended for the encouragement of trade and navigation has in many instances become hurtful of, and destructive to, the same."

In Section 1 of the Act it was provided that no assurance should be made on any ship belonging to His Majesty or any of his subjects, or upon goods laden thereon, "interest or no interest, or without further proof of interest than the policy or by way of gaming or wagering, or without benefit of salvage to the assurer, and that every such insurance shall be null and void." An exception was made in the second section for assurances so drawn on "private ships of war fitted out . . . solely to cruise against His Majesty's enemies." The Act further provided (Section 4) that it should not be lawful to make reassurance unless the assurers should be insolvent, become bankrupt, or die. This Act remained in force till 1906, when it was repealed by the Marine Insurance Act, but its more important provisions were re-enacted in Section 4 of the 1906 Act and the Marine Insurance (Gambling Policies) Act, 1909.

The reason for the exclusion of privateers from the operation of

[1] 19 Geo. II, c. 37.

the Act was given in a case (*Fitzgerald* v. *Pole*) which came before the House of Lords in February, 1754, and quoted at length by Magens[1]: "Many merchants . . . desiring to engage in fitting out privateers, the great expense of which consists in the outset, the victualling, the stores, the advance money paid to sailors, etc., they bethought themselves whether they could divide the risk by insurance. By the first kind of insurance (open policies) they could not do it, because there was no cargo and the value of the ship was not the measure of the owners' expense and risk."

The prohibition of reassurance, other than as described, may seem strange to us, but at the time it was attended with the abuse of concealment of material information.[2] There was a case which came before Lord Justice Lee in 1743: John Thurmond had accepted £100 by way of reinsurance on the *Polly* from Carolina, from the original underwriter Giles Rooke. Thurmond refused payment, alleging concealment of important information. From the trial it appeared that, before the reinsurance, Rooke had received information that a ship, the *Collet*, had sailed from Carolina ten days after the *Polly* and had arrived in England seven days before the reinsurance had been made. This information he did not pass on to Thurmond. Although the jury found for the plaintiff, the judge declared it as his opinion that the concealment was sufficient to discharge the defendant from the policy, "for" he said, "these contracts are made upon mutual faith and credit, and that to conceal such circumstances which may make any difference in the adventure is fraudulent."[3]

During the eighteenth century it was the practice sometimes to effect policies of insurance *in blank*, as it was called, i.e. without specifying the name of the person for whose benefit the assurance was effected, "a practice which had been found in many respects to be mischievous, and productive of great inconveniences."[4] In 1774 this had been prohibited as regards assurances on lives,[5] and in 1785 a similar piece of legislation was enacted in respect of ships and merchandise.[6] Under this statute it became illegal for any person in Great Britain to make any policy of insurance on a ship or merchandise without inserting in such policy his name as the person entitled therein. The terms of this statute proved unsatisfactory in the working, and it was repealed three years later by a fresh statute,[7] which provided that it was not lawful to effect any policy of assurance on ships or merchandise, or other property whatsoever, without first inserting therein the name or usual style

[1] Vol. I, p. 544. [2] Magens, Vol. I, p. 85. [3] Magens, Vol. I, p. 85.
[4] Park, p. 15. [5] 14 Geo. III, c. 48. [6] 25 Geo. III, c. 44.
[7] 28 Geo. III, c. 56.

of the firm of one or more of the persons interested, or without instead thereof first inserting the name or usual style of the firm of the consignor or consignee of the goods or property to be insured, or the usual style of the "firm of dealing" residing in Great Britain who receives the order to effect the policy, or the agent who gives the order or is employed to negotiate the insurance. Any policy effected contrary to the terms of the statute was void.

From the middle of the eighteenth century, case law became an important source in the system of British insurance law. First, as to questions of construction: there are two leading cases, both of which are given in some detail by Park. They are *Tierney* v. *Etherington*, and *Pelly* v. *The Royal Exchange Assurance*. The first was an action on a marine policy in 1743[1] "on goods in a Dutch ship from Malaga to Gibraltar and at and from thence to England and Holland, both or either, on goods as hereunder agreed, beginning the adventure from the loading and to continue till the ship and goods be arrived at England or Holland and there safely landed." The agreement was: "That upon the arrival of the ship at Gibraltar the goods might be unloaded and reshipped in one or more British ship or ships for England and Holland, and to return one per cent if discharged in England." From the evidence it appeared that when the ship came to Gibraltar the goods were unloaded and put into a store ship (which it was proved was always considered as a warehouse), and that there was no British ship there. Two days after the goods were put into the store ship they were lost in a storm. The question was whether there was a loss within the construction of the policy.

Lee, C.J., said: "It is certain that in the construction of policies the *strictum jus* or *apex juris* is not to be laid hold of, but they are to be construed largely for the benefit of trade and for the insured. Now it seems to be a strict construction to confine the insurance only to the unloading and reshipping, and the accidents attending that act. The construction should be according to the course of trade in this place, viz. that when there is no British ship there, then the goods are kept in store ships. Where there is an insurance on goods on board such a ship that insurance extends to the carrying the goods to store in a boat . . . there is no neglect on the part of the insured for the goods were brought into port the nineteenth and were lost the twenty-second of November. This manner of unloading and reshipping is to be considered as the necessary means of attaining that which was intended by the policy, and seems to be the same as if it had happened in the act of unshipping from one ship to another. And as this is the known course of the trade it

[1] Magens, Vol. I, p. 85.

seems extraordinary if it is not intended. This is not to be considered as a suspension of the policy, for as the policy would extend to a loss happening in the unloading and reshipping from one ship to another, so any means to attain that end comes within the meaning of the policy."[1] The plaintiff had a verdict.

The second case (*Pelly* v. *The Royal Exchange Assurance Co.*) is one on a marine policy which came before Lord Mansfield. The plaintiff, being part owner of the *Onslow*, an East India ship then lying in the Thames, and bound on a voyage to China and back to London, "at and from London to any port or places beyond the Cape of Good Hope and back to London free from average under ten per cent upon the body, etc. of the said ship." The perils insured against were those ordinarily covered under marine policies on ships. "The ship arrived in the river Canton in China where she was to stay and clear and refit and for other purposes. Upon her arrival the sails, yards, tackle etc. were by the captain's orders taken out of her and put into a warehouse or storehouse, called a bank-saul, built for that purpose on a canal bank, or small island lying in the said river . . . called Bank-Saul Island, in order to be there repaired, kept dry, and preserved, till the ship should be keeled, cleaned, and refitted. Some time after this a fire broke out in the bank-saul belonging to a Swedish ship and communicating itself to another bank-saul, and from thence to that belonging to the *Onslow* and consumed the same together with all sails, yards etc. belonging to the *Onslow* that were therein."

From the case it was established to be the universal custom for European ships going to China to unrig and deposit the tackle, etc., in a bank-saul in the river Canton, the process being for the benefit of the owners, the insurers, and insured. The ship was again rigged in the best condition that the circumstances permitted and arrived back in the Thames. The question was whether the insurers were liable.

Lord Mansfield said: "By the express words of the policy the defendants have insured the tackle, apparel and other furniture of the *Onslow* from fire during the whole term of her voyage . . . without restrictions. . . . The event which has happened is a loss within the general words of the policy and it is incumbent upon the defendant to show from the manner in which this misfortune happened or from other circumstances, that it ought to be construed a peril which they did not intend to bear. . . . The insurer, in estimating the price at which he is willing to indemnify the trader against all risks, must have had under his consideration the nature of the voyage to be performed and the usual course and manner of

[1] Park, p. 40.

doing it. Everything done in the usual course must have been foreseen. . . . The objection (of the defendants) is that they were burnt in a bank-saul and not in the ship . . . the answer is obvious —first the words make no such distinction: secondly the intent makes no such distinction. . . . Here the defendants knew that the ship must be keeled, cleaned, and refitted in the river Canton: they knew that the tackle would then be put in a bank-saul: they knew that it was for the safety of the ship and prudent that they should be put there. . . . They have taken a price for standing in the plaintiff's place . . . therefore we are of opinion that the insurers are liable for the loss."[1]

The principle adopted by the Court in these two cases was followed in many subsequent cases. The custom or usages of the trade must be considered in deciding whether the insurer is liable or not. "Every underwriter is presumed to be acquainted with the practice of the trade he insures, and that whether it is recently established or not. If he does not know it he ought to inform himself."[2] "All these principles," said Park, "were fully laid down by Lord Mansfield in a very few years after he took upon him the administration of justice in this country; and they have been frequently recognized and invariably pursued in a multitude of decisions upon such policies since that time."

One famous case which established in English law a principle which was in accord with the laws of all maritime nations of Europe was that of the *Mills Frigate*. Park devoted a whole chapter to it, and the principle upon which it was decided—that of seaworthiness. It was an action on a policy of marine insurance, lost or not lost, at and from the Leeward Islands to London, and any goods, wares, and merchandise, and upon the body tackle, etc., of and in the good ship or vessel called the *Mills Frigate*. The principle established by the case was that at the time of insurance every ship must be in a fit condition to undertake the voyage, and even if there is some latent defect, as was argued in the case of the *Mills Frigate*, which is wholly unknown to the parties, it is sufficient to void the contract on the vessel and her cargo. This is now part of the general principle of insurance law. "There is in the contract of insurance an implied agreement that every thing shall be in that state and condition in which it ought to be, and therefore it is not sufficient for the insured to say that he did not know that the ship was not seaworthy, for he ought to know that she was so at the time he made the insurance. The ship is the substratum of the contract between the parties, and a ship not capable of performing the voyage is the same as if there were no ship at all, and although the defect may not be known

[1] Park, p. 44. [2] Mansfield in *Noble and Ors.* v. *Kennoway*. (Park, p. 45.)

to the person insured, yet the very foundation of the contract being gone, the law is clearly in favour of the underwriter because such defect is not the consequence of any external misfortune or any unavoidable accident arising from the perils of the sea or any other risk against which the underwriter engages to indemnify the person insured."[1]

One of the most intricate subjects connected with marine insurance is that of settlement of losses: it has given rise to a special profession—that of the average adjuster, and has been the cause of much of the litigation under marine insurance policies. The complexity of the subject was enhanced by the introduction of the Memorandum into the marine policy, in 1749, by *Lloyd's*. The clause, as confirmed by *Lloyd's* in 1779, is the final one in the printed form of policy, and reads: "N.B. Corn fish salt fruit flour and seed are warranted free from average, unless general, or the ship be stranded; sugar tobacco hemp flax hides and skins are warranted free from average under five pounds per cent, and all other goods, also the ship and freight, are warranted free from average under three pounds per cent, unless general, or the ship be stranded." One object of this clause was clearly to exclude small vexatious claims, the cause of irritating disputes between the parties, such losses often being due to the perishable nature of the goods themselves. In some form the clause was adopted much earlier on the Continent. It will be noticed that the first class of goods are completely excluded from average "unless the ship be stranded."

The word "average" is confusing because it is used in two different senses. When the word is used without a qualifying adjective, it would be better defined as "particular average," which denotes a partial loss of the goods themselves. General average (or gross average) has a meaning best interpreted historically. Maritime law is much older than marine insurance law: the latter could only be framed with due consideration to the former. It was a principle of the old Rhodian Law (quoted in the j'*Digest of Justinian*," Book XIV, issued about A.D. 530)[2]: "When 'ettison of goods takes place for purpose of lightening the ship, let that which has been jettisoned on behalf of all be restored by the contribution of all . . . a collection of the contribution for jettison shall be made when the ship is saved." This liability to contribute to a "general average" or a loss sustained for the benefit of all interests in the ship and her cargo existed apart from any insurance cover, but when in course of time merchants come to insure their ships and cargoes, contribution to a general average loss naturally

[1] Park, p. 228–9. [2] Gow, *Marine Insurance*, p. 285, 3rd Ed.

ranked as a valid claim under their insurances and fell upon the underwriter.

The use of the words "general average" by marine insurance interests now implies a class of *claim or loss* under the policy, but the earlier meaning was that of a *contribution* of each to a general loss. A general average claim may be made, therefore, under a policy insuring specified goods which all come safely to port. "Average," when used in other branches of insurance, such as fire insurance, has quite another meaning.

By various decisions the principle of general average became extended during the century to losses other than pure jettisons. Lord Mansfield laid it down that for any expense to qualify as a general average "it must be an expense absolutely necessary, and such as could not be avoided owing to some of the perils stated in the policy." In a case *Birkley* v. *Presgrave*, in 1801, Lord Chief Justice Kenyon laid down the principle with greater clarity: "All ordinary losses and damages sustained by the ship happening immediately from storm or perils of the sea must be borne by the shipowner. But all those articles which were made use of by the master and crew upon the particular emergency, and out of the usual course, for the benefit of the whole concern, and other expenses incurred, must be paid proportionally by the defendant as general average."[1]

During the eighteenth century, by a series of court decisions, the principle of abandonment became clearly defined in English law. A total loss does not necessarily mean that the thing insured is absolutely lost and destroyed: we may mean by the expression a "total loss" that by some of the perils "it has become of so little value, as to entitle the insured to call upon the underwriters to accept of what is saved, and to pay the full amount of his insurance, as if a total loss had actually happened." Indeed, the word abandonment conveys the idea that the whole property is not lost; "for it is impossible to cede or abandon that which does not exist."[2] The doctrine of abandonment was common to the laws of all maritime nations, but as elaborated in English law during the eighteenth century, in various significant details, the rules differed here from those obtaining on the Continent. In the French treatise "*Le Guidon*" it is laid down that the insured may abandon to the underwriter and call upon him for total loss if the damage exceed half the value. No such fixed ratio of loss held in English law, but it did in France, Spain, and Germany. In various countries in Europe there was a definite time within which notice of abandonment was to be made: six weeks for losses on the coasts of the country where the insurance

[1] Gow, *Marine Insurance* 3rd Ed., p. 289. [2] Park, p. 143.

was made; three months in certain other provinces; four months on the coast of Holland, Flanders, and England; a year in Spain, Italy, Portugal, etc.; and two years for the coasts of America and other distant countries. In England the insured, on receiving accounts of his loss, had to make his election whether to abandon or not. If he decided to abandon he had to give the underwriters notice in a reasonable time, otherwise his right would be waived and he could not afterwards recover for a total loss.[1]

A case which was treated as a precedent was *Goss and Another* v. *Withers*. It was an insurance on a ship, the *David and Rebecca*, from Newfoundland to Spain or Portugal, loaded with fish. After leaving her port the ship was taken by the French on 23rd December, 1756; the ship remained in the hands of the French for eight days, and was then retaken by a British privateer and brought into Milford Haven on 18th January. Immediately notice was given to the insurers of abandonment. In the trial it came out that before the ship was taken by the enemy she had, through stress of weather, been driven from her convoy and partially disabled, some of the cargo being thrown overboard, and the rest went bad at Milford Haven. Two main questions arose in the action against the underwriters: the first was whether the capture by enemies was not a total loss, the underwriters becoming liable thereby; and the second, whether the insured had a right to abandon the ship to the underwriters after she was carried into Milford Haven.

As to the first question, it was held that the ship was to be considered lost by the first capture, although not condemned by a prize court, and the insurer was liable for a total loss. "The insurer runs the risk of the insured and undertakes to indemnify: he must therefore bear the loss actually sustained, and can be liable for no more." If, therefore, the owner recovers the ship he is entitled to nothing other than any costs he had been put to for salvage or other expense, and the insurer is entitled to the ship. "During the eight days," said Lord Mansfield, "the plaintiff was certainly entitled to be paid by the insurer as for a total loss, and in case of recapture, the insurer would have stood in his place."[2] As to the second question, the right of the insured to give notice of abandonment of the ship after she arrived at Milford Haven, Lord Mansfield went on: "The loss was total when it happened: it continued total as to the destruction of the voyage. . . . The cargo was in its nature perishable, destined from Newfoundland to Spain or Portugal: and the voyage was absolutely defeated as if the ship had been wrecked and a third or fourth of the goods saved. . . . We are therefore of the opinion that the loss was

[1] Park, p. 172. [2] Park, p. 150–1.

total by the capture and that the right, which the owner had after the voyage, was defeated, to obtain restitution of the ship and cargo."[1]

Another important principle was laid down by Lord Mansfield, in 1785, in the case of *Jones* v. *Schmoll*. To enable the insured to recover under a policy, it is necessary that the loss shall be a direct and immediate consequence of the peril insured. The case arose under an insurance on slaves from West Africa to the West Indies. There was a memorandum on the policy that "the assurers were not to pay any loss that may happen in boats during the voyage (mortality by natural death excepted) and not to pay for mortality by mutiny, unless the same amount to £10 per cent to be computed on the first cost of the ship outfit and cargo, valuing negroes so lost at £35 per head." At the outset of the voyage from West Africa there was a mutiny among the slaves and the crew had to fire on them—some as a consequence were killed, some died from wounds, while others died "from chagrin . . . and from abstinence and several from fluxes and fevers," in all fifty-five, and the rest when they reached the West Indies were in such a condition through the mutiny as "to be lessened in the estimation of the planters." It was held that, as to the last item, underwriters were not answerable for the loss of the market or the price of it, which was a remote consequence and not within the peril insured against by the policy. Those killed in the mutiny and those who died of wounds came within the terms of the policy; but the third class, those who died of despondency or fasting, did not.[2]

Lord Mansfield, in his decisions and directions to the jury, took the greatest trouble to search and to use records of custom both here and abroad, and of the ordinances and codes which existed in other countries at the time. From these he extracted the principles, and applied them with logic and discernment to the cases before him. He cited foreign cases freely: on one occasion "he cited the Roman Pandects, the Consolato del Mare, laws of Wisby and Oleron, two English and two foreign mercantile writers, and the French ordinance, and deduced from them the principle which has since been part of the law of England."[3]

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[1] Park, p. 152. [2] *Ibid.*, p. 56. [3] Scrutton, *Mercantile Law*, p. 15.

CHAPTER X

MARINE INSURANCE AT THE END OF THE EIGHTEENTH CENTURY

MARINE insurance in the wars of the eighteenth century—Comparison of conditions at the end with those at the beginning of the century—Privateers and commerce raiders—Brokers' and underwriters' profits—Underwriting outside Lloyd's Coffee House—Brokers' discretion in approaching doubtful underwriters—Brokers' guarantee of underwriters—Small actual losses through insolvency of underwriters—Use of slips as evidence of contract and avoidance of stamp duty—Handicap of slow communications—Establishment of marine insurance companies in India—Amounts of insurances carried by them—Marine insurance companies in North America—Fraudulent claims and litigious underwriters—Failure of marine insurance companies in Hamburg—Underwriters absenting themselves from the Rooms in the fall of the year—Insurance by mutual association of shipowners—Business more difficult with the two corporations than with Lloyd's—Statements made by the corporations in defence—Pitt's reference to the magnitude of marine insurance in 1795

WHILE the last quarter of the eighteenth century witnessed the growing importance of fire and life assurance, it is to the marine branch that we must turn as the one which permitted and fostered the great expansion of overseas trade in a period of unprecedented difficulty. The maintenance of open sea routes was necessary for our trade: that was the sphere and achievement of the British Navy. The penetration and the opening up of new and distant markets was the share allotted to the British merchant, but his enterprise had to be accompanied by a sound system of commercial practices; marine insurance was an important one of them.

The period of sea struggles was the testing time of marine insurance. During the American War of Independence (1775–83) and the French wars (1793–1815) the expanding trade of the country was subject to continual losses, at times of great magnitude, by enemy action at sea, in the main covered by marine insurance in the London market and at *Lloyd's*. The history of thirty-five of these forty years of marine insurance has been revealed in the minutes of evidence given before the Select Committee of the House of Commons on marine insurance in 1810. It may be compared with the conditions shown about a hundred years earlier by the former Committee's Report.[1] Many of the practices set out in 1719–20 persisted in 1810, but the market had been much organized and specialized during the intervening century with the history of the chartered companies and the rise of *Lloyd's*.

In the evidence, underwriters, brokers, and merchants referred to events and practices in the business drawn from experience extending back to the time Lloyd's Coffee House took up its

[1] See p. 101 *et seq.*

quarters in the Royal Exchange. Witnesses drew upon personal recollections against a background of the war at sea in which the belligerents were locked in a deadly grapple "tramping under foot the rights and interests of weaker parties, who, whether as neutrals or as subjects of friendly or allied powers, looked helplessly on."[1] The French sought to exclude the English completely from the commerce of Europe, and the English retaliated by preventing neutral vessels from entering hostile ports unless they had first touched at an English port. Warfare was not confined to ships of the regular navies of the belligerent powers. Armed privateers were fitted out by private persons, under commissions known as "letters of marque," as commercial ventures for preying on enemy trade at sea. The captured vessel or goods of an enemy constituted a prize subject to the jurisdiction of the Prize Court—in this country the Admiralty Court. The awards of the Court made the venture often a very profitable one, but one naturally subject to great hazards.

Enemy commerce raiders, whether operating from the American Atlantic coast, the French West Indies, or from the Channel ports of France, took great toll of our merchant shipping, and a system of convoy sailing under the protection of men-of-war grew up. Ships were collected in a particular port and sailed together, sometimes to the number of two or three hundred, and in some cases five hundred, or even a thousand, from points of particular danger, such as the Baltic.[2] To encourage the sailing in convoy, rebates of premium were given if the voyage were so made. In spite of this, however, constant complaints were made of captains who, because of the slow progress of the fleet, broke the convoy to reach port and gain for their owners the benefit of an early arrival in the market.

The high premiums which went with the increase in the risk of capture attracted more into the market. Larger margins were required by prudent underwriters. The profits no doubt varied considerably, but a normal "general account" was expected to show some 40 per cent gross profit. The remuneration of the broker consisted of 5 per cent of the premiums and 2 per cent of the balance of the premium after claims and averages had been paid. This share in the profits was said to approximate to 5 per cent of the premiums on a good general account.[3] The two commissions were together estimated by some brokers at approximately one-quarter of the total underwriting profit. The commissions were paid by the underwriter, whether the one offering the business were a recognized broker

[1] Mahon, *The Influence of Sea Power upon the French Revolution*, Vol. I, p. 199.
[2] Mahon, Vol. II, pp. 203–4.
[3] See evidence of Reid and Brown before Select Committee of 1810.

or not. Many merchants avoided employing brokers; they were their own brokers and had direct access to the underwriters in the coffee house.

As a result of the expanding business of a remunerative character, men of capital were attracted to the market, and the rooms of Lloyd's Coffee House in the Royal Exchange were so thronged with underwriters, brokers, and merchants that additional accommodation had to be found. Angerstein, in his evidence before the Select Committee, pointed out that facilities for insurance had kept pace with the increase in trade and commerce, and within the last fifteen years two more rooms in the Royal Exchange had been taken, while the boxes which formerly held four had been increased in size to take six, but the rooms were still crowded. *Lloyd's*, however, was not the only market. Besides the two chartered companies, marine insurance was carried on by private underwriters at their own counting-houses and at the Jamaica and the Jerusalem Coffee Houses, and at the Coal Exchange.[1] There were, moreover, underwriters at Bristol, Liverpool, Hull, and Glasgow, where additional lines on a large or difficult risk might be placed.

An account of the placing of a difficult risk was given by George Simpson, M.P., a partner in Bruce Fawcett & Co., of Bombay. He quoted from a letter written from their London House on 26th April, 1801, to their Bombay House: "We have insured on the *Scaleby Castle* £109,000, viz. £93,000 here, £10,000 at Manchester and £6000 at Hull, and in consequence of your directions shall proceed as far as possible. We have great doubts that it will be practicable to do above £25,000 more. We have all the responsible private underwriters on our London policy and must now apply to the public offices. We expect only one of them will take any risk and that will not be more than £10,000 with advanced premium. We shall write to Bristol immediately and perhaps to Glasgow for insurance at those places." In a subsequent letter of 10th May, the firm wrote: "After all our endeavours it will not be possible to complete your order for insurance of the *Scaleby Castle* and we have done to the following extent, all but the *Royal Exchange* at 10 guineas:

		£	£
London	Private Underwriters	£92,600	
	Royal Exchange	10,000	
			102,600
Manchester			10,000
Hull			6,000
Glasgow			4,700
Greenock			3,400
Bristol			11,400
Liverpool			10,000
			£148,100

[1] Angerstein's evidence before Select Committee.

The witness added that he thought an application had been made to the *London Assurance Corporation*, but they declined because the ship was manned by Lascars. While this example might lead one to think that the market could not absorb large risks, the weight of evidence did not substantitate such an assumption. A good broker could place much larger risks than an inexperienced one. Angerstein, in reply to an inquiry whether he would have found difficulty in insuring £160,000 on the *Scaleby Castle*, from Bombay to London, at *Lloyd's*, replied: "I certainly should not." He instanced the case of the *Diana Frigate*, in 1807, from Vera Cruz to Great Britain, when he placed with private underwriters £631,000 and with one of the companies £25,000. The whole sum done with private underwriters was at one rate of premium.

There were occasions when real difficulty was experienced by expert brokers in placing risks, but this was due either to the undesirability of the risk, or the refusal of the owner or shippers to pay a premium considered adequate on the market. Angerstein instanced the difficulty he had in doing £49,700 on the *Lascelles* in the month of September, an old East Indiaman, "which is not a fit one to bring home a West Indian cargo: she must have been worth £90,000 or £100,000 in all, ship, cargo and freight." He had to go to other brokers for assistance, as his principals would not increase the premium. In the end the whole was placed. The ship had to put into one of the islands for repairs and there was considerable average. Among the names secured by the brokers there were ten bad ones, while among his own there was only one.

Failures among underwriters were not uncommon: there were many in 1780, when Cordova captured the bulk of the outward bound convoy of the East and West India fleets; and, according to Angerstein, there were considerable failures again at the outbreak of the war with France in 1793 as a result of the losses. Failures of underwriters did not necessarily mean heavy loss to the insured. It was the custom of the broker to hold the premium for twelve months; some underwriters, indeed, did not call for settlement for much longer, and there was usually sufficient in the event of failure by the underwriter in respect of "the premiums for the risks run off as well as the risks still pending to form a fund adequate for the payment of losses on outstanding risks."[1] A good broker was, however, careful with what underwriters he opened accounts, restricting such to those in whom he had confidence. With 150 to 200 names, all normal business could be placed. Angerstein restricted his to 200, and he was able to say that for one house for whom he had acted as broker during twenty-two years he had placed

[1] Getting's evidence.

insurances for £8,483,081. In respect of these he recovered, for losses, averages, and returns, £490,324, and was short through insolvent underwriters only by £2131, upon which he had received dividends reducing the loss to £1120. Other witnesses spoke of similar experience as to the lightness of actual losses through insolvency

The possible failure of underwriters was, however, a factor definitely in mind, and particularly among merchants abroad when placing their marine insurance in London. It was consequently a practice of some, as it was a hundred years earlier, to ask the broker or merchant in London who placed the insurance with the underwriters to guarantee the latter. The premium for this was charged at 10s. per cent: thus, J. D. Rucker of Rucker Bros., a house having Hamburg interests, stated in his evidence that it was a general condition made by their correspondents that they should guarantee underwriters, and that the condition had arisen from the delays and losses which merchants abroad sustained in recovery of the sum insured. Geo. Simpson, of Bruce Fawcett & Co., stated that losses due to failures had been so small that they had never charged them to their constituents, but had taken them themselves. Angerstein, who never guaranteed underwriters, pointed out that in the case of one house for whom he placed insurances with *Lloyd's*, that had he been asked to guarantee underwriters he would have received a premium of over £42,000, against which his net losses would have been only £1119 19s. 1d.

Geo. Sheddon, a merchant, and for thirteen years an underwriter at *Lloyd's*, said that from 1792 to 1802 his firm had occasion to insure a great number of vessels on cross voyages from British Provinces to the West Indies and Jamaica and vice versa, and from America to St. Domingo: "It proved a very bad account from the number of privateers out in the West Indies and from the number that rendezvoused in American ports where their prizes were carried in, in consequence of which the underwriters paid our houses more than the whole premiums during the war, the sum of £17,326 7s. 2d. The premium upon a single voyage was at first 5, in consequence of the captures it increased to 8, 10, 15 and 20 and as high as 25 was given. The losses of £196,776 7s. 5d. exceeded the premium in the account during the war by £17,326 7s. 2d. In the whole of the nine years we were obliged occasionally to put some of the policies into the hands of brokers to complete. The only deficiency we ever had was in the case of one ship that had to be insured, the ship and freight at 15 guineas, there remained a small sum to complete it which would have been done certainly at 18, but I gave it to a broker to finish at 15 guineas—one of those underwriters was

deficient by £49 3s. I have since received a dividend of 3s., so that the loss has been reduced to £36 17s. 3d."

There is little doubt that losses by failure of underwriters were small and of no serious nature when the business was handled by good brokers. In spite, however, of all the precautions of the master and the waiters at the coffee-house, there was constantly a fringe of persons in the rooms who had never paid their subscriptions and were not deputies of those that had. Among these unauthorized persons, and among the clerks of genuine members, were many who would take a line on risks when they had no sufficient capital to justify such action. Such names would, of course, never appear upon Angerstein's slips, but they possibly constituted some of the bad names on the *Lascelles* policy, which he was only able to complete by employing other brokers after he had exhausted those with whom he himself ran accounts.

The necessity for discrimination when considering with whom he would open accounts tended to limit the amount of cover a particular broker could secure on any risk, and was probably the origin of the belief in some quarters that *Lloyd's* underwriters could not absorb all the available business. Rucker, before the Committee, said it was difficult to effect more than £40,000 on one ship (foreign) or £50,000 on a West Indian ship. Rucker formerly resided in Hamburg where business was largely placed with companies, and his house had been established in London only five or six years. Possibly he was not the best judge of the London market. Angerstein said he could bring cases of £200,000 or £300,000 placed without any advance on the premium. Considerable skill and knowledge were required to enable a person to transact a large business as an insurance broker.[1] Angerstein gave a good example of the way a broker placed his business. "Regular risks," he said, "are from this country direct to a port in America and different parts of Europe and from thence back, and regular traders are called regular risks in general. Cross risks are from foreign country to foreign country. Neutral vessels trading with licence to and from ports of the enemy are considered as cross risks. Regular risks are done more easily than cross risks. The chartered companies do not do cross risks."

"If I have a cross risk to insure, if it is from America, I go to the box where there are Americans to give me information. If I have a cross risk from Turkey, I go to another where I can get information, and so it is from the Baltic or any other port. I generally go to the box of the people who can begin the policy for me better than others and I by that means get it done, for it is no

[1] See T. Reid's evidence.

use applying to a Baltic merchant on an American risk—he knows nothing about it. There are so many people frequent the Coffee House: if an underwriter does not himself understand it, he soon gets information, and makes me master of the subject at the same time."

Then, as now, the slip was used for the purpose of recording the lines written by the individual underwriters, and it was the custom of the underwriter himself to initial a slip against the amount he was prepared to underwrite. It seems that to avoid stamp duty the slip was taking the place of the policy as evidence of contract. In the year 1808 the Attorney-General commenced to prosecute merchants for using slips instead of putting their names upon policies.[1] Warnings to members against the practice were given by posting up notices in the coffee-house, and as a measure of precaution the underwriters for a time refused to initial the slip which had to be filled in by the broker or merchant himself "against the next morning" when the policy was prepared, stamped, and signed by the underwriter. Stamp duty previously had been much evaded.

Peter Warren, an insurance broker, gave an instance of the rapid dispatch with which business could be completed at *Lloyd's*. "A gentleman accustomed to foreign insurances, an agent of one of the first houses in Europe, gave an order for £50,000 to do on a very short voyage from L'Orient to London, which required dispatch, and he gave it me in the morning when the business was over. At three o'clock he came up and enquired what progress I had made. I told him his insurance was done and he might take the policy home with him, upon which he exclaimed with a strong asseveration: 'It would have taken a week at Amsterdam'."

The business of underwriting was not always profitable. In his evidence, Geo. Sheldon, who had twenty years' experience, said there were large claims about 1794 and 1795 due to detention and condemnation of Dutch ships previous to hostilities between this country and Holland. "Upon my father's underwriting account we paid about £190,000 on the two years arising in part from detention of the Dutch ships in British ports. To the best of my recollection my father's losses upon the seizure of vessels by the Emperor of Russia of British ships in Russia were £20,000—those of other underwriters were on the same scale. French squadrons made sweeps off the coast of Africa during the war." Angerstein said: "I have never wrote so little as the last two or three years: I think the premiums are too low. My office has never had so many losses as in the last year: I cannot tell how they come from ships miscarrying or one accident or another."

[1] Evidence of T. Reid.

A handicap to the position of London as the marine market of the world was the slow methods of communication, a clog on commerce which it is difficult to realize fully in the present day. Insurance on goods from India to be placed in London had to be written before it was known upon what ship they were laded, and underwriters were more cautious in the lines they wrote on "ship or ships," as they could not tell how much they might have from this and other sources on the same ship. Indeed, their risk might be ended before they knew its magnitude. Rates, therefore, for goods on "ship or ships" ruled higher than those where the name of the ship was known. An instance of the difficulties involved was given by John Barr, of Paxton, Cockerell, Traill & Co. "On the 28th April, 1804, I effected an insurance on ship or ships from Calcutta to London for £119,050 to which there were 167 names, and on the 2nd May, 1804, another for £174,400 to which there were 194 names. In doing the latter I found considerable difficulty in procuring respectable underwriters, many of those to whom I applied to increase the sum which they had subscribed declining to do it until such time as the names of the ships on which they had already underwritten were declared. I had another policy to do amounting to £250,000 on ship or ships from India, but after the difficulty I had experienced before I was advised not to attempt getting any more effected till I should be enabled to make a declaration of the interest on the preceding policies. About the end of September accounts were received of the capture of the *Althea*, though still no advice came respecting the interest of the two first-mentioned policies. Towards the middle of October the list came to hand of the distribution of the whole of the interest of the first policy and part of the second, whence it was ascertained that £43,753 attached to these two policies were shipped on the *Althea*. In consequence of the capture the premium on ship or ships from India rose from 15 to 25 guineas and as the time for covering the interest of the £250,000 could no longer be delayed with safety I was obliged to get it done at this heavy premium on the 12th November, 1804, all at *Lloyd's* . . . The lines on the £250,000 policy were begun at £5000 each."

Long distances and slow and uncertain communications, aggravated by war conditions, while being one cause, were not the sole cause for the establishment of marine insurance companies in India. William Bridgman, of Porchester & Co., merchants, stated that these companies were necessary for the security of local commerce there: "For some years, I believe, prior to 1803 the practice existed of insuring in India—the practice is not solely due to the difficulty of communicating with England. The 'country' trade in India is

very considerable—sufficient to support several insurance companies." Most of the Indian insurance companies were established after 1797. There were seven in Calcutta, five at Madras, and at Bombay one of the Calcutta companies had a branch. The insurances transacted locally were of two classes, those most difficult to be transacted at a distance. The first was that of property shipped from Indian and Eastern ports to Europe and America, and the second the country trade of India, i.e. goods shipped from port to port in India or to and from other ports in the east. Figures were given by J. W. Russell, of the house of David Scott & Co., who acted as agents of two of the Indian companies. From the establishment of the *Calcutta Insurance Company* in 1798 to 1809, insurances on goods shipped to Europe and made payable to David Scott & Co. as agents amounted to £2,411,157 in the eleven years, i.e. an average of £220,000 per annum. The corresponding figures for the two years, 1807 and 1808, for the *Ganges Insurance Co.* were £292,252. Russell put the aggregate insurances effected with the Indian offices upon risks to Europe at £1,500,000 per annum, and he said that since the establishment of the companies in India "not one third of the shipments to Europe were now carried in London."

About the same time that marine insurance had been started by local institutions in the East, there had been a similar process in the West—America. Prior to 1795, it was said by one witness[1] before the Select Committee that insurance had been done in America by individual underwriting, but in 1795 the first marine insurance company had been established in Massachusetts, and at the time the evidence was given there were nineteen such companies in that State, with, however, no exclusive privileges. One reason for the development was the fact that the British underwriters were not liable if ships or goods of an enemy country, or if consigned to enemy ports, were captured by British cruisers or privateers. The witness said that of consignments from America to England, nineteen-twentieths were insured in America at lower rates than was possible this side: the companies were thriving and paying good dividends.

Jenkin Jones, who had travelled in North America and the West Indies for the *Phœnix Fire Insurance Company*, had collected the Acts of Incorporation of thirty American companies, and he said there were many more than this. None had been established then in Canada, but there was one company in Newfoundland and another in Nova Scotia. The complaint by the American merchants against British underwriters was that they were litigious and that occasionally there was a loss of money. In America, by 1810,

[1] Samuel Williams, American merchant in London.

private underwriting had practically disappeared. The charge made against British underwriters that they were litigious could possibly be satisfactorily answered by citing the numerous frauds to which they were subject. One underwriter, J. F. Throckmorton, instanced a number of cases in his experience of the most fraudulent attempts to make bogus claims upon him. The first he gave was that of the *Eagle*: "An order came to have her insured: we found it afterwards to have been fully known to the party wishing to insure, who lived in Philadelphia, that the ship was lost already." No doubt there were litigious underwriters at the coffee-house, and they were encouraged to be so by the touting attorneys who made a practice to frequent the rooms: Angerstein himself admitted this. "I am very careful with whom I open accounts—with some litigious people I must do business, but I take all possible care my accounts are not above 200. I do not call underwriters calling for papers acting a wrong part for there are so many fraudulent insurances, and I am sorry to say I am afraid I have made many through my office, that I do not wonder when proofs are called for: the demands from foreigners particularly are beyond belief."

On the other hand, even in those days *Lloyd's* underwriters had gained a reputation for generosity in cases where no claim lay through honest misrepresentation on the part of the insured. Angerstein said: "I have known underwriters pay a loss where the merchant has made a mistake and called it ship instead of goods, or goods instead of ship, and underwriters knowing it took no advantage and paid the loss."

In the commercial cities of Northern Europe, marine insurance by companies had made progress. There were two at Stockholm, one at Gottenburg, and about six at Copenhagen, where insurance was on a large scale, as they "had a pretty extensive trade in East and West Indies."[1] In Hamburg "perhaps six or eight years ago there were upwards of thirty insurance companies—I have been informed that there are not above five or six remaining and some have closed their accounts and paid in full because they have found it not worth going on, others from heavy losses have not been able to pay in full, about 4s. to 15s. in the £." Grill pointed out one reason why merchants might prefer a policy issued in Hamburg or Amsterdam: "If a ship puts into port for repairs and these take two or three months, the underwriters in this country do not allow wages or victualling of the crew: In Hamburg and Amsterdam they do." However, he held that English underwriters stood in very high esteem on the Continent "both in point of honour and character."

A complaint made against *Lloyd's* underwriters seems to have

[1] C. Grill's evidence.

had some substance in it. It was that during the months of August to December they absented themselves from the coffee-house to avoid being asked to underwrite the heavier risks of autumn and winter.[1] It was the season, too, when there were the largest risks to insure: "The Jamaica July fleet, the latest West India fleet, the Baltic, the Mediterranean and Newfoundland convoys, the homeward bound East Indiamen, not to mention the numerous fleets and vessels taking their departure from Great Britain for Ireland, are mostly then at sea, and with the exception of part of the West India July and August fleets are to insure in these months."[2]

One underwriter, who attended every month of the year, quoted his figures from January to July (seven months) as sums insured £173,050, with premiums of £15,990; and from August to December (only five months) as sum insured £230,000, with premiums of £30,411. Angerstein gave one reason why these months were difficult ones at *Lloyd's*, and showed how disputes might be avoided: "It is always a time between the seasons—there are northern risks—the merchants wants them at summer premiums and the underwriter wants them at winter premiums and there is constantly a dispute, but to do that away we put in returns for sailing at particular fortnights, the first fortnight in September, the last fortnight in September, and so on, from the Baltic."

Good underwriters, when absent from *Lloyd's*, would leave a deputy to write for them. Forsyth, an underwriter of twenty-three years' standing, while agreeing that there were absences in September to December, said that for himself he had been absent five months in the year 1807 and about six weeks in 1808, but apart from that he had not been away above three or four weeks at any time "these many years." He "always exacted a higher premium in the fall of the year." It is possible that the deputizing by one underwriter for another when the latter was absent was the origin of the practice of professional underwriters writing for a syndicate of names. Forsyth said that before he underwrote on his own account twenty-three years ago, he had been clerk to his uncle at *Lloyd's:* a member of a family writing both for himself and another or others of his family would appear to be a natural procedure.

Towards the end of the eighteenth century there were established a number of friendly associations among shipowners for the mutual insurance of their ships. Whether these were illegal, as the Select Committee implied, or not, they seem to have been fairly strong in the north of England, especially in the coal transport trade, in which they probably had their origin. There seem to have been

[1] Evidence of Lindsay and Rucker before the Select Committee.
[2] Report of the Select Committee.

about twenty of such associations. Obvious conflict with the charter of the two 1720 corporations was avoided by each member of the association underwriting a share in the risks for which he was individually responsible. Such an association of men in similar business, known to each other, was able to transact their common insurances on the most favourable basis, avoid commission and much in the way of expenses, and exercise careful selection as to membership of the association and the class of vessel insured. There were such clubs in Scarborough, Whitby, Sunderland, Shields, and Newcastle. Twelve months' policies were issued, properly stamped, and agreements were made governing the mode of average settlement. Each underwriter in the association was responsible for the specific sum against his name in the policy.[1]

A few associations were established in London; the secretaries of two of them—the *Friendly Insurance* and the *London Union Society*—appeared before the Committee. The former society, which was established in 1804, arose from "several gentlemen thinking it better to insure as is the practice in the north of England in clubs than to go to the Coffee House: they insured transport ships only against losses and averages, capture by the enemy being excepted." There was no fixed number of members: at the time of the evidence there were seventy to eighty and about eighty-two or eighty-three ships covered. The amount of averages and losses paid in the previous year had been about $1\frac{1}{4}$ per cent. By their selection of membership and care they were able to save a considerable sum as against the normal premium in the market. Inferior ships and those badly built were not accepted.

The *London Union Society* was an earlier association revived in 1803; its membership in 1810 was about eighty, with ships insured about 100. When the losses had all been paid, the secretary estimated they would be about £5 or £5 10s. per cent for 1809. He believed that at *Lloyd's* the premium would have been about nine guineas per cent for such ships in the coal trade.

From the evidence of brokers and merchants it was clear that the two chartered companies had never taken that important position in marine insurance which their special privileges might have given them. They seem to have pursued an ultra-cautious policy during the period of great expansion in marine insurance. While declining all inferior risks, they charged as a rule a higher rate of premium than the rest of the market for good ones. A number of witnesses testified to this—a difference of 2 per cent being common, i.e. where a risk could be placed in the coffee-house at six guineas, the companies wanted eight. Policies at *Lloyd's* were prepared by

[1] Evidence of J. Cheap and J. G. Wilson.

the brokers, who inclined to more liberality in the clauses than the companies, who prepared their own policies. It was estimated that the aggregate written per annum by the two companies did not exceed 4 per cent of the total risks available.[1] They did not take "cross risks" nor any on a third-rate ship.

Unlike *Lloyd's* underwriters, the companies required security from brokers for the premiums on the risks placed with them. Even Angerstein had to provide a guarantor in respect of his account due to the company. The comment by one broker (James Lindsay) on the *Royal Exchange Assurance* was that the risks had to be more defined, and the premiums in general larger: "There are in addition clauses and restrictions not imposed by *Lloyd's*. They require the exact voyage to be laid down more exactly than *Lloyd's*."

Officials of the two companies gave evidence. Risks were written at the *Royal Exchange* by the sitting director, and the lines taken on good ships varied from £5000 to £10,000, while on an East Indiaman they would take up to £20,000. For goods in "ship or ships" they would take more. A case was instanced of the previous summer when cover was required for £80,000 on goods from the Island of St. Croix: difference "over some average clause" arose between the sitting director and the person offering the risk, with the result that, although they were prepared at first to take the whole, it was split equally between the *Royal Exchange* and the *London*—the goods came over in five or six ships. Baltic rates were not declined, provided the broker would pay their premium. On the subject of the offer of inferior risks, James Holland, of the *Royal Exchange*, said: "There are a great many persons come about the office whom we may describe as seagulls, who only come when there is an appearance of stormy weather: if gentlemen came all the year round we might take them, but when they come only in winter we feel it necessary to decline them." The lines taken by the *London* were very similar to those of the *Royal Exchange*. Both companies would have accepted more business, their representatives said, if more were offered.

Pitt, as Chancellor of the Exchequer, when introducing his Budget and imposing a duty of 2s. 6d. per cent on the sum insured on marine insurance policies, paid a tribute to the London market in 1795. Referring to the imposition of the duty, he said: "That it was not likely to be felt anywhere as a material inconvenience, and as a collateral circumstance of satisfaction in stating this, it did itself afford a strong proof of the extent of the commerce of the country—he alluded to the insurance on ships and cargoes. Insurance was carried on with so much advantage to the country from

[1] Report of the Select Committee.

the good faith that was observed by our underwriters that many reputable merchants thought a slight additional tax was not likely to hazard a diminution in insurance. The tax he meant to impose was 2s. 6d. on every £100 capital: this he computed at £130,000."[1] The total sums insured would be £104,000,000 in a year to produce £130,000 at 2s. 6d. Having regard to the magnitude of individual risks placed at *Lloyd's*, as mentioned by witnesses before the Select Committee of 1810, the aggregate of over £100,000,000 could no doubt have been substantiated.

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[1] *Parliamentary Debates*, Vol. XXXI, Col. 1311.

CHAPTER XI

ATTACK ON MONOPOLY OF THE CHARTERED COMPANIES

LLOYD'S and the Chartered Companies—Promotion of the *Globe*—Failure to secure a Charter in 1803—Further applications in 1806 and 1810—Proposed marine insurance company with capital of £5,000,000—Select Committee appointed 1810—Alarm of underwriters and brokers—Report of Committee, 8th April, 1810—Disadvantages of existing position exposed—Recommendation for the removal of restraints—Influence of Adam Smith and free trade principles—Bill for repeal of monopoly before the House, May, 1810, and again 1811—Bill defeated—*Lloyd's* organization overhauled—New regulations for membership of *Lloyd's*—Final and successful attack on the monopoly in 1824—Huskisson's speech in support of repeal—Royal Assent to bill, 24th June, 1824

WE have seen that the monopoly held by the two chartered companies for the transaction of marine insurance by joint-stock institutions had worked out as a distinct advantage to those who had originally opposed it, the individual underwriters. By the end of the eighteenth century they had taken advantage of their position to organize themselves into a centralized market at Lloyd's Coffee House, which had gained a high international reputation. Only about 4 per cent of the total business was written by the two companies, who had failed to take advantage of their unique position. Such a monopoly, although not prosecuted to the full, was against the economic thought of the age, and opposition to it was natural.

The fight against this monopoly was led by Sir Frederick Eden, the personality behind the promotion of the *Globe Insurance Company*. The first proposals of the *Globe*, circulated in 1799, included in their objects fire and life assurance, endowments for children, provision for widows, the granting of annuities, and sums payable at future dates. An application for a charter was made through a Bill promoted in the House of Lords, which received Royal Assent on 12th July, 1799. The Act enabled his Majesty to incorporate by charter a company to be called the *Globe Insurance Company* for the insurance of lives and against loss or damage by fire, and for other purposes mentioned. The promoters of the company, however, were not able to complete their arrangements within the limits imposed, and no charter was, in fact, granted.

Sir Frederick Eden did not abandon his project of securing a charter, and a fresh application was made in 1801, which was referred to a Committee of the House. This Committee referred it to the Attorney-General and the Solicitor-General to consider certain alterations proposed by the petitioners. The report of the Law

Officer of the Crown was considered, and the Committee reported in March, 1803, that it was not expedient to grant the charter. Having failed to obtain their charter, the promoters proceeded, as did the *Equitable* some forty years before, to establish themselves under Deed of Settlement, which was dated 2nd June, 1803, and the *Globe* started so successfully that the company, in 1805, took the sixth place in the list of fire offices when classified according to the magnitude of stamp duty paid, a position, as Walford remarked, "far in advance of some offices a century older."[1]

A third attempt to secure a charter was made by Sir Frederick Eden and his co-directors in 1806; this time they included in their objects marine insurance. In a memorial to the Lords of the Treasury, and in the preamble to the Bill subsequently introduced, they pointed out the disabilities under which partnerships such as their own were placed compared with individuals and incorporated companies under the Annuity Act of 1777 (17 Geo. 3, c. 14), in virtue of which the names of all beneficially interested in the purchase of life interests or annuities had to be registered, a "proceeding well nigh impossible when the shareholders of a large company such as the *Globe* were concerned."

Following the precedent of 1720, in the fresh application the petitioners promised that of the capital to be raised £100,000 should be paid to the Treasury within three months of the date of the Act of incorporation. The draft Bill was introduced on 10th June, 1806.[2] Petitions against were lodged by the *Phœnix Fire Office*, the *Royal Exchange*, the *London Assurance*, the *Pelican Life*, the *Sun Fire*, the *Westminster*, the *British Fire* and the *Albion* offices. On the 24th June, 1806, the Second Reading was moved by Sir T. Metcalfe, the objects stated being for the insurance of ships, goods, and merchandise at sea, and for lending money on bottomry and other purposes therein mentioned. The Bill was opposed by Sir J. Anderson and other Members on the ground that it would be an infringement of the rights of the *Royal Exchange* and *London Assurance* corporations. Supporters of the Bill contended that competition was favourable to the public; trade and shipping had vastly increased since the charters had been granted; that corporations were necessary to meet the accumulation of business; and that the company proposed to contribute £100,000 to the public funds and without requiring exclusive privilege. One Member, Mr. Paule, alleged that £7,000,000 annually was insured in India for want of corporations in England for effecting insurance, more confidence being placed in companies than in individual or private

[1] Walford, *Insurance Cyclopedia* under *Globe Insurance Co.*
[2] *House of Commons Journal*, 10th June, 1806, p. 390.

insurers. The motion for the Second Reading was carried,[1] but the evidence heard from the opposing petitioners seems to have discouraged the promoters, for the Bill did not appear before the House again.

In 1810 another attempt to break down the monopoly of the two chartered companies was made, but on this occasion the *Globe* interests were not alone in their attack. The persistence of Sir Frederick Eden and his co-directors seems to have awakened the City to realization that the privileged position of the existing marine insurance interests could not be maintained much longer, and the time was ripe for the creation of a great insurance company with a nominal capital of £5,000,000 to be subscribed by merchants and others in the City of London, who could place their insurances with the company, a situation reminiscent of that of 1719. A subscription was opened towards the end of 1809.[2] Not only did the scheme receive support of merchants jealous of the growing wealth of *Lloyd's* underwriters, but some of the underwriters themselves and some of the insurance brokers supported the formation of the company. Among some of the members of the coffee-house there was a real doubt as to the continuance of *Lloyd's* as substantially the only market in London, and they felt that it was worth while hedging by putting some of the profits made during the war into the venture.

The promoters of the new company introduced their petition to the House on the same day that the *Globe* submitted theirs—8th February, 1810—and the House ordered both petitions to be laid on the table. After referring to the existing charters, the petition for the new company went on to say that "the trade and commerce of the kingdom have increased so much since that period that those companies do not at the present moment insure three parts in one hundred of the ships goods and merchandise at sea or going to sea insured in Great Britain whereby several insurance companies have been established in East and West Indies and America to the great loss of the revenue and the inconvenience of the merchants in this country . . . and the petitioners who are mostly merchants and others in the City of London having insurances to make on ships and goods at sea or going to sea finding additional means wanting to secure property in this situation and thereby to promote the general safety of the trade and commerce of the Kingdom are desirous of forming themselves into a company with a capital of £5,000,000 for the insurance of ships and merchandise . . . and praying that they may be enabled to do so either by the repeal of the exclusive privilege granted to the said

[1] *Hansard*, 24th June, 1806. [2] Wright and Fayle, p. 242.

two companies or by being empowered to make such insurances as a company notwithstanding the said Act. . . . "[1]

The petition of the *Globe* pointed out that since 1720, when the existing charters were granted, "the shipping, British and Foreign, entered inwards at the several ports of Great Britain on the average of several years past have been quantupled and on the average of five years to 5th June, 1805, the annual exports from Great Britain have also quantupled in official value and that foreigners have been accustomed to effect marine insurances in this country to a considerable amount, but in order to provide new means of effecting marine insurances which increased trade appeared to require a great number of companies have recently been established within a very recent period in British East Indies, Hamburg, America and elsewhere and that it hath ever been deemed a wise policy to encourage the insurance of foreign property as the means of bringing wealth into this kingdom and of increasing the revenue, and it is conceived that if the legislature were to provide new facilities for effecting marine insurances by the establishment of one or more company . . . a considerable increase of foreign insurances might be expected." The petition finished with a list of assets which the *Globe* proposers were prepared to secure in any manner that Parliament might require.[2]

On the 14th February, 1810, a motion was submitted for the appointment of a Committee to consider and report on marine insurance. Marryat, a member of *Lloyd's* himself, a man of some command of rhetoric, spoke against the appointment of the Committee. In his speech he dealt primarily with the petition of the £5,000,000 company, as it was from the point of view of *Lloyd's* underwriters the more dangerous. "The parties who apply for an incorporation can have but two objects in view: to obtain either exclusive or particular privilege and to obtain exemption from responsibility beyond the amount they engage to invest as capital in the intended undertaking: the plan of this new company comprises both these objects . . . there is nothing to distinguish this case from other cases of applications made by individuals for privileges not enjoyed by the community at large." He referred to the fact that the subject "was completely investigated so lately as July, 1806, by the Committee appointed on the *Globe Insurance Company's* Bill, before whom it was satisfactorily proved that our means both in point of extent and solidity were completely adequate to every possible occasion." In support of this he stated that, in 1771, the subscribers to *Lloyd's* were only seventy-nine and at the

[1] *House of Commons Journal*, 8th February, 1810.
[2] *Ibid.*, Vol. LXV, p. 54.

time he spoke they numbered 1500. In speaking of the importance of brokers who were affected, he said: "I am aware that the occupations of an insurance broker and underwriter are generally considered as demanding but very superficial attainments, but a candid investigation of the subject will prove this idea to be erroneous. An insurance broker can only qualify himself for his business by considerable study and application. He must learn how to fill up policies of every description with all the various clauses adapted to every possible circumstance. He must be able to make accurate declarations of interest. . . . He must know how to make up complete statements of averages and partial losses on every species of merchandise. . . . He must be informed of the current rates of premium on every voyage . . . and he must be well acquainted with the character of the different underwriters to guide him in the selection of names he takes up on his policies." He spoke also of the qualifications and responsibilities of underwriters: "Those who commence underwriting without the necessary qualifications, or continue underwriting without the necessary caution, generally soon find their error in their own ruin and the injury of those with whom they are connected."[1]

Mr. Baring, in support of the appointment of a select committee, showed the weakness of Mr. Marryat's case: "He thought that the arguments urged by the hon. gentleman against monopolies strongly applied against the matters complained of in the petition. If Parliament were of the opinion that this could be best effected by incorporated companies as at the passing of the Act of George the First then he would be disposed to say that the new company should be incorporated . . . his own opinion was decidely that the better mode would be to throw the business open generally. If, however, it should be thought expedient to establish another company, he considered that it should be confined altogether to marine insurance . . . As the other companies extended their insurance to fire and lives they must be materially prevented from attending sufficiently to the marine insurance branch."[2] The motion to appoint the Select Committee was carried by a small majority.

That the situation caused by the petition had raised serious alarm to the underwriters and brokers of *Lloyd's* was evident. A meeting was held on 29th January, 1810, at which a unanimous resolution was passed that it would be "highly detrimental to the subscribers of this House in general, and ruinous to numerous individuals who have made insurance their sole business, if any new company should be legally authorized by charter or otherwise to effect marine insurances."[3] A committee was formed to oppose the

[1] *Hansard*, Vol XV, p. 401. [2] *Ibid.*, Vol. XV, p. 422. [3] Wright and Fayle, p. 243.

application, among the members of which were Angerstein and others who later gave evidence before the Select Committee. Marryat (M.P. for Sandwich) was one. The Committee were to protect the interests of the coffee-house, the first step falling to Marryat in the House.

A month was taken by the Select Committee to hear evidence, and from the minutes of that evidence a reconstruction of the practices of marine insurance can be made for about a generation ending with the date of the inquiry, the outline of which has been given in the previous chapter. The report of the Committee was dated 18th April, 1810. At the outset the Committee stated that they had considered the subject in the following order—

(1) the nature of the exclusive privilege conferred upon the *Royal Exchange* and the *London Assurance Corporation*; and the manner and extent of its exercise of those corporations;

(2) its effect upon marine insurance, and the state of and means of effecting marine insurance in this country; and

(3) the importance of a better system to the commerce and revenue of England, and to all parties concerned.

Under the first heading the Committee pointed out that, after thirty-one years from the date of granting the privilege, the Government were empowered to repeal the rights without any previous notice or any repayment of the sums originally paid to them by the two corporations. They quoted the figures given to them of the average amount of marine insurance effected with the *Royal Exchange* and the *London* for the previous five years, and made the comment that "the amount insured by the *London Company* would be hardly more than a single mercantile house might require, and both added together would not exceed what two of the most considerable individual underwriters would write in one year. The extent does not amount to four parts in one hundred of the total insurances effected in Great Britain. . . . It appears probable that the companies by relaxing in some degree the rigour of their terms might command much additional business . . . Though their transactions as far as they go are of service (and it is not intended by your Committee to recommend anything to prevent their continuance) yet their right to exclude all other societies and corporations from doing what they can with their monopoly so inadequately performed, themselves appear, according to the Act of Incorporation, 'inconvenient and prejudicial to the public and as such may and should be repealed'."

Under the second heading the Committee found that "the most obvious effect has been to drive the business of marine insurance

into a situation directly the reverse of that intended by the Act of Parliament, that is, it has been obliged to resort almost entirely to individual security from the consequence of which it was the object of the Act to retrieve merchants and traders. Its effect in the City of London has been to compel individuals to assemble together in order to underwrite separately, while it has prevented them from associating to make insurance jointly. Hence the establishment of Lloyd's Coffee House, where every person meaning to underwrite must attend during the time necessary for that purpose. But the first merchants in the City of London do not and cannot attend at Lloyd's Coffee House. This exclusive privilege therefore operates as a monopoly not merely to the companies but to Lloyd's Coffee House. . . . From individuals being prevented from associating as in other trades much inconvenience must infallibly result both to the insurers and insured and the security of the latter lessened. The necessity of applying to so many single persons either for signing a policy or for settling a loss and the having in case of death no surviving partner to deal with are, with many other circumstances . . . such obvious disadvantages that there can be little doubt that partnerships and associations will be formed if the law should permit it, and at all events merchants and underwriters being left to manage their own concerns unfettered by any restrictions will soon fall into that system best suited to their general convenience."

The Committee ended this second portion of their report with the position of the other ports of Great Britain: "The outports of the kingdom are exposed to very great hardships by the insurance law as it now stands. The merchants of Liverpool, Bristol, Hull, etc., cannot legally associate together: they can have no joint security for their insurances. . . . This is manifestly unjust and has been so inconvenient that the rights of the companies have been disregarded and it appears that . . . there are upwards of twenty known associations in different parts of England for the purpose of marine insurance."

As to the third section of their inquiry, the best system for all concerned, the report went on: "That mode of effecting marine insurances must be best which gives the best security at the cheapest rate; and that which gives the best security at the cheapest rate is the enabling merchants to insure each other. If such a system could be established it is probable that the price paid for assurances will not much exceed the aggregate value of the losses sustained on each class of risk insured." The report quoted Adam Smith on the advantage of companies for banks and insurance, and it is apparent that while their words might be taken to be a recommendation

of mutual insurance societies, they had in mind a company working for profit, but of which the shareholders should be those merchants who would place their insurances with the company. "It was not the intention of your Committee to recommend the enforcement of any particular system of law, but on the contrary, to release this branch of the business from the restraints now existing and to leave it to shape itself as it then infallibly would do in conformity with the true interests of the public."

"By an economical insurance (and what stronger proof can exist that it is uneconomical than when brokerage even amounts to one-fourth of the underwriters' profits) the prices of all imported articles are enhanced. The same is the case with the raw material for our manufacturers and in the importation of manufactured articles. We shall, on the return of peace, want every advantage that wisdom can devise to meet the competition from low wages on the Continent."

The effect of the new Free Trade principles and *laisser-faire* in business are very marked in this report. It has been accused of one-sidedness and of doing scant justice to *Lloyd's*, but an impartial reading does not bear that out. The opinions expressed in the report are those of common-sensed business men who clearly saw the anomaly in the situation and the unintended result of the 1720 legislation. The report was terminated with three resolutions, all quite unexceptionable in the light of the evidence—

> "(1) that it is the opinion of the Committee that property requiring to be insured against sea and enemies risks should have all the security which can be found for it, whether that security exists in chartered corporations, in other companies or through individuals;
>
> (2) that it is the opinion of this Committee that the exclusive privilege of marine insurance of the two chartered companies should be repealed, saving their charter and their powers and privileges in all other respects and that leave should be given to bring in a bill for this purpose; and
>
> (3) that it is the opinion of this Committee that with respect to the two petitions which have been referred to them it should be left to the discretion of the petitioners to bring their respective cases under the consideration of the House by bills for carrying into effect the prayer of the petitioners if they shall think proper so to do."

The report was in no sense an attack on the principle of individual underwriting; in the course of it certain criticisms were levelled against existing practices, such as the high remuneration of the

broker, and the absence of underwriters from the coffee-house during the fall of the year when large and the more perilous risks were to be placed, both of which facts were brought out in the evidence. The Select Committee sought for the removal of the monopoly of the two chartered companies, leaving the business open to competition between the existing two, any further companies, individual underwriters, partnerships of underwriters, and mutual associations of merchants insuring their own ships.

On presentation to Parliament it was ordered that the report and appendix "do lie upon the table and with the appendix be printed." On 22nd May, 1810, the report was referred to a Committee of the whole House, and on 24th May, Mr. Baring presented a Bill to repeal so much of the Act of 6 Geo. I as gave the *Royal Exchange Assurance* and the *London Assurance* the right of underwriting marine insurance to the exclusion of all other partnerships or societies. The Bill was read a first time. Against the Bill petitions were lodged by the two chartered companies on 25th May, and on 30th May a petition was lodged by "several underwriters, brokers, merchants, shipowners and others engaged in commerce in the City of London, that the petitioners may be heard against the Bill."[1]

For the time being the Bill was not proceeded with, but it was again introduced on 19th February, 1811. Mr. Baring presented it, and it was read a first time. It was to be read a second time on 28th February, after hearing the petitions of the *Royal Exchange* and *London Assurance*. The Bill was, however, defeated in a small House by a majority of one, i.e. twenty-six to twenty-five. For a further period the two chartered companies and individual underwriters were left with their monopoly against all other forms of association.

One would naturally have expected that the inquiry and report of the Select Committee of 1810 would have had the effect of inducing those responsible for the institution at Lloyd's Coffee House to overhaul its structure and methods. That overhaul was made, but the direct cause was not the recent threat to its peculiar monopoly but to an internal dispute. It had become the practice of the Secretary to the Admiral on the Baltic Station to correspond with Bennett, the Secretary to *Lloyd's*, giving him confidential information of naval and political interest, as well as movements of shipping in the Baltic. Having regard to the character of the information, the Committee did not feel themselves justified in posting up more than the movements of ships; moreover they "were not aware that the correspondence had been formally sanctioned by the Admiral."[2] Unfortunately very heavy claims arose from enemy

[1] *House of Commons Journal.* [2] Wright and Fayle, p. 261.

seizure in 1810 in respect of ships in Swedish, Prussian, and other Baltic ports. Underwriters with their losses in mind heard of the additional private information contained in the confidential portion of the correspondence and, rightly or wrongly, came to the conclusion that had it been revealed they might have saved themselves from incurring such losses, and the Committee were accused by them of suppressing information.

A special Committee of Investigation was appointed on 5th April, 1811[1] "to examine into the manner in which information has hitherto been conveyed to members of this house at large and particularly with reference to that material information received last year from the Secretary of the Admiral upon the Baltic station." The Report of the Committee was made to a General Meeting on 23rd May, 1811, when, in addition to passing a vote of censure on the House Committee for not publicly communicating the contents of the Baltic letters, a resolution was adopted to form a committee of twenty-one subscribers "to consider and recommend such regulations as in their opinion will tend to the future good management of the concerns of this House." This Committee of twenty-one was elected at a subsequent General Meeting, which, incidentally, would not confirm the vote of censure inscribed in the minutes of the previous General Meeting, and after taking evidence, made a report with a draft set of Rules and Regulations attached.[2] The main features were the definition of persons eligible, and the conditions upon which such persons might become subscribers of *Lloyd's*. They were to be merchants, bankers, traders, underwriters, or insurance brokers, subject to election by ballot by the Committee; persons desiring election had to furnish a recommendation by six subscribers, who might have to appear before the Committee to answer any inquiries the latter might make. Subscriptions were raised to £25, and members and their substitutes had to pay an annual sum of four guineas.

The governing body was to be a Committee of twelve, three of whom were to retire annually by rotation. The members to retire first were those elected by the lowest votes; such retiring members were not to be eligible again for twelve months. This Committee was to choose three of its members to be trustees of its funds, and two to form a Committee of Correspondence to attend daily to examine all information received, post it up for members, and attend to correspondence. The Committee could appoint agents "to act for the benefit of underwriters wherever they may think proper." The existing system of "masters" was to be maintained, three to be appointed, and there was to be an adequate number of waiters and

[1] Wright and Fayle, p. 263. [2] *Ibid.*, p. 268; and Martin, Ch. XV.

doorkeepers. A Secretary to the Committee was confirmed (John Bennett, Jnr.,) being one of the masters. A trust deed binding subscribers to abide by the rules and regulations was to be executed by every subscriber.

In their "*History of Lloyd's,*" Wright and Fayle said that the reorganization of 1811 "marked the passage from the heroic to the constitutional age of *Lloyd's.*" Whether or not this is a happy description of the event, there is no doubt that by framing a settled constitution through a binding trust deed before the era of company legislation, *Lloyd's* fitted itself securely into the business world. When the period of company organization arrived, the Coffee House thus stood secure as the main marine insurance market of the City of London.

The position of privilege held by the two chartered companies and *Lloyd's* had only been maintained by a majority of one in a thin House in February, 1811, and it was obvious that the monopoly would again be attacked. This took place in 1824 on a petition for the repeal by the *Alliance British and Foreign Fire and Life Assurance Company*, which had very strong banking interests behind it. This time the Government itself was in favour of repeal. In May of that year it was moved in the Commons that the Act 6 Geo. 1, c. 18 "might be read: Ordered that leave be given to bring in a Bill to repeal so much of the said Act as restrains any other corporations than those in the Act named and any societies and partnerships from effecting marine insurances and lending money on bottomry: and that Mr. Fowell Buxton and Dr. Lushington do prepare and bring it in."[1] Petitions to be heard against the Bill were lodged by the *London Assurance*, the *Royal Exchange Assurance*, *Lloyd's*, and underwriting merchants and brokers at Hull and Newcastle-on-Tyne.[2]

Mr. Huskisson on 17th May, 1824[3], speaking in support of the Bill, referred to some of the findings of the Committee in 1810, and went on to say: "There were four modes in which all commercial business might be conducted: by corporation, by partnerships, by joint-stock companies, or by individuals. Now why was it that the business of marine insurance could be carried on advantageously only by the two extremes of these modes? . . .He had the greatest respect for the gentlemen of *Lloyd's:* they had always exhibited the most honourable conduct under circumstances of considerable difficulty, had proved the character and resources of this country in a manner highly creditable to themselves and beneficial to the public. But the question was whether the interests of the public ought not

[1] *House of Commons Journal*, Vol. LXXIX, p. 378.
[2] *Ibid.*, 26th, 27th, and 28th May, 1824. [3] *Hansard*, Vol. XI, p. 772.

to be attended to in the arrangement under consideration." The Bill was read a first time.

One of the leaders in opposition was Mr. Grenfell, who maintained that they could not interfere with the charters of the corporations. "There was the case of the *Globe Insurance Company* in 1806, which was composed of the most respectable names; but the Bill was rejected. In 1810 several merchants formed themselves into a similar company, and a Bill was brought into that House which was opposed by himself and some others . . . the Bill was accordingly thrown out. . . . He thought that in tenderness to vested rights, which should be sacred, they could not without gross violation touch the charter."

In spite of the opposition, the House was evidently in sympathy with repeal. On 15th June the Bill was passed and received Royal Assent on 24th June, 1824.[1] That the withdrawal of the monopoly so long held was not inimical to the interests of the protected institutions may be seen from the position they hold to-day in public esteem and international commerce.

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[1] *House of Commons Journal*, 24th June, 1824.

CHAPTER XII

INDUSTRIAL CHANGES AND THE GROWTH OF FIRE INSURANCE

THE Industrial Revolution—The preceding commercial revolution—Pre-eminence of England in commerce—Period divisions of the industrial revolution—Mechanical power—Cotton goods industry—Effect on fire insurance—Adam Smith on insurance—Proportion of property insured in London—Provincial fire offices—Annual *ad valorem* duty on fire insurance—Sums insured between 1783 and 1850—Relative position of fire offices—*The Phoenix Fire Office*—The *Norwich Union Fire Office*—Changing character of property insured at end of eighteenth century—Aggregation of risks and treatment thereof—Average and other conditions in policies—Importance of "proposals" as part of the contract and terms set out therein—Publicity of fire offices—Park's definition of fire insurance—His treatment of indemnity—Decisions in the Courts—Mansfield's interpretation of "civil commotion"

IN relating the early history of marine insurance it has been necessary to give at the same time a short account of the commercial practices and the general framework of international trade in which marine insurance grew up. Again in the eighteenth century it is necessary to consider the framework of economic society, one which was rapidly changing and giving an opening to the application of insurance principles which would have been impossible at an earlier stage.

The latter half of the eighteenth century included in this country the history of the first phase of what we call the Industrial Revolution. While later extending to all parts of the world where western civilization holds, it had its origin here. It is not easy to say why that eruptive force commenced then—a force so violent in its action as to revolutionize society in the course of some three or four generations to a degree more profound than had occurred in any previous millennium. We can see physically how stage by stage proceeded, each apparently the outcome of the former, and each having within it the incipient features of the next.

We can, however, say that certain more favourable conditions had been reached in England than in other countries. First, it should be borne in mind that the Industrial Revolution was preceded by a commercial revolution, not quite so spectacular and proceeding at a more moderate tempo, spread over about two-and-a-half centuries. The discovery of America and the route to the East by way of the Cape had revolutionized the old course of trade. Instead of the Mediterranean, the Atlantic became the area of maritime activity, and from a position on the extreme edge of the trade network England became a country in the most favourable

geographical position. The colonization of the North American coast and the pre-eminence of English influence there, with the defeat of the French in Canada, opened up a vast trade between this country and North America. It was a trade in commodities for the mass of the people, not luxuries for the few. In the Far East, by 1700, the English had established themselves in Canton and created the great tea trade which was to convert the British public to tea-drinking. In the Middle Ages the English sweetened their food with honey, but in the eighteenth century sugar was substituted, and was imported from the West and East Indies. Tobacco and cotton were required from the American plantations. This trade rested on the solid foundation of demand from the mass of the English people.

In the ocean trade we had gained a supremacy among the other continental peoples. Spain and Portugal, pre-eminent in the sixteenth century, exploited the New World for the sake of its treasure: their trade lacked the broad foundation after acquired by ours. Holland, our rival in the seventeenth century, and more skilful than ourselves in the finance of commerce, was defeated by our Navigation Acts and naval warfare. At the outset of the eighteenth century France and England were on a parity as manufacturing countries, but as the century progressed England drew ahead. This commerical revolution in which we were so favourably placed resulted in the accumulation of wealth, free from the modes of dissipation on the Continent, where so many of the countries became theatres of war.

The social structure of England was, moreover, more favourable for the introduction of new methods in industry than most countries of the Continent. With perhaps the exception of Holland, our break from medievalism was more complete than elsewhere. France, our greatest economic and political competitor, was still bound by the restriction on freedom for the many and privileges for the few, the inheritance from the Middle Ages. When emancipation did come to that country at the end of the century, its violence resulted in an upheaval, a check to industry, while ours was undergoing rapid development. Here conditions in the eighteenth century permitted a freedom of thought and action, encouraged initiative, and ease of movement, and though far more handicapped than can well be realized to-day, our conditions were more advanced than those elsewhere.

The accumulation of capital permitted the larger scale of operations in the latter part of the eighteenth century, such as the digging of canals, the making of turnpike roads, the increased productive units in iron and coal. Company finance was emerging

from the obscurity following the Bubble Act, and, as we shall see, successful institutions, such as the *Phœnix Fire Office*, were established; while the older ones, the *Sun*, the *Hand-in-Hand*, the *Union*, and the *Westminster Fire* offices expanded. Owing to the monopoly given to the Bank of England, joint-stock banks were impossible, but innumerable private banks arose, and unfortunately many disappeared as rapidly; survivors, however, passed into the nineteenth century to be absorbed ultimately into the great joint-stock banks of to-day.

In the Industrial Revolution two periods are generally recognized: that prior to the railway age and that following the building of the railways. The first covered about seventy years, from 1770 to 1840, and included the rise of the cotton industry, the digging of the canals, the application of steam power in manufacturing, and the extension of good turnpike roads. The first canal was designed by Brindley for the Duke of Bridgewater in 1759–61; before the construction of the canal the Duke's coal had been carried from the mines by horseback from Worsley to Manchester at a cost of 10s. per ton.[1] In 1777 the Grand Trunk Canal, 96 miles in length, connected the Trent and Mersey; by another canal both were connected with Bristol. In 1792 the Grand Junction Canal made a waterway from London through Oxford to the Midlands.[2]

In 1773 Watt, with his experimental steam engine, left Glasgow to associate himself with Boulton at the Soho works near Birmingham. By the time the partnership was dissolved in 1800, and their sons took over the business, Boulton and Watt had supplied engines for pumping in the mines in Cornwall, the collieries in Staffordshire, and for other purposes in London and the Midlands. By improvements in his engines, including the use of the governor, his rotary engines were introduced to the manufacturers of the Midlands and the textile industry, thus making possible a great expansion in the production of cotton goods. Between 1775 and 1800 Boulton and Watt set up 289 steam engines of a total horse-power of 4543 in England, of which 55 were in Lancashire, 41 in Middlesex, 31 in Staffordshire, 25 in Shropshire, 22 in Yorkshire, and 21 in Cornwall; the largest number—84—went to the cotton mills,[3] with the collieries next with 30.

At the beginning of the eighteenth century England depended for cotton piece goods upon imports from India by the East India Company. Cotton fabric became popular both for wear and decorative purposes; so much so, that the Government, fearing for the woollen industry, placed various restrictions on the imports.

[1] J. L. and B. Hammond, *The Rise of Modern Industry*, p. 75.
[2] Arnold Toynbee, *The Industrial Revolution*, p. 71.
[3] J. Lord, *Capital and Steam Power*, p. 174, 1923.

Printed cotton goods from India, China, and Persia were prohibited except for re-export; and it was only by steps during the century that the growing demand by the public for cotton materials was permitted to be satisfied. Of cotton wool itself, the average import for the five years, beginning 1701, was 1,170,881 lb. imported from the Levant. Fifteen years after it had increased by about a million pounds, but for the years 1786 to 1790 the average had increased to 25,443,270 lb., and by the close of the century it had more than doubled to 56,010,732 lb., chiefly imported from the United States, where cotton seed had been brought in 1787.[1]

This enormous expansion in the import of raw cotton was required by the development of the cotton textile industry, which as a source of wealth overtook that of wool. It was made possible by the series of inventions and improvements in the processes of carding, spinning, and weaving, which in the latter part of the century converted the industry from one carried on in the home to one in the factory, where expensive and elaborate machinery was driven by power, first by water and then by steam. Collateral discoveries in the chemistry of bleaching and dyeing of cloth were made. Prior to the use of chlorine in bleaching in 1799, it had been the practice to hang the cloth up for some months after soaking in sour milk; by the new process the period was reduced to a few days. New dyes were discovered, and the printing of cloth was done by means of rolling cylinders instead of by blocks.

One result of the Industrial Revolution was a great expansion in material capital, of factories, machinery, and warehouses; of shipping, docks, and mercantile buildings for the transport of goods; and of the stock of consumable goods themselves. For the protection of all this property the demand for insurance grew in proportion to the value of the property: in particular, that of fire insurance. As will be seen from a study of fire insurance rating, the system of tariffs is intimately associated with the historical development of industry itself, and without a knowledge of the industrial development of the late eighteenth and early nineteenth centuries the system of fire insurance rating would be almost incomprehensible. As the simplicity of early processes in manufacturing became complicated by subdivision, an original simple system of fire insurance rating itself became complicated in following the modifications of the risk, by additions or rebates to the original premium rate, for the various processes and environments through which goods passed in the course of manufacturing. The English and Scottish fire tariffs of to-day bear upon them the imprint of the past century-and-a-half of industrial history.

[1] L. C. Knowles, *The Industrial and Commercial Revolution in Great Britain*, p. 47.

By the time the Industrial Revolution was beginning to gain momentum, fire insurance with the few offices established early in the eighteenth century had gained a place in public regard; and the element of risk, with the desirability for its elimination for merchants and manufacturers, was understood. Adam Smith, in 1776,[1] wrote: "That the chance of loss is frequently undervalued, and scarce ever valued more than its worth, we may learn from a very moderate profit of insurers. In order to make insurance, either from fire or sea risk, a trade at all, the common premium must be sufficient to compensate the common losses, to pay the expense of management and to afford such a profit as might have been drawn from an equal capital employed in any common trade. The person who pays no more than this evidently pays no more than the real value of the risk, or the lowest price at which he can reasonably expect to secure it. But though many people have made a little money by insurance very few have made a great fortune; and from this consideration alone it seems evident enough that the ordinary balance of profit and loss is not more advantageous in this than in other common trades by which so many people make fortunes. Moderate, however, as the premium for insurance commonly is, many people despise the risk too much to pay for it. Taking the whole kingdom at an average, nineteen houses in twenty, or rather perhaps ninety-nine in a hundred are not insured from fire. Sea risk is more alarming to the greater part of people and the proportion of ships insured to those not insured is much greater. Many sail, however, at all seasons and in times of war without an insurance. This may sometimes be done perhaps without any imprudence. When a great company or even a great merchant has twenty or thirty ships at sea, they may, as it were, insure one another. The premiums saved upon them all may more than compensate such losses as they are likely to meet with in the common course of chances. The neglect of insurance upon houses is in most cases the effect of no such nice calculation, but of mere thoughtlessness, rashness, and presumptuous contempt of the risk."

While Adam Smith was able to grasp at this early date the economics of insurance, his estimate of the proportion insured to uninsured was based on no statistics and must be accepted with extreme caution. After 1782, some statistics as to the amount of property insured against fire became available when the first *ad valorem* duty was imposed on sums insured under fire policies, and we shall refer to them later. By the time the third quarter of the century was ending, the percentage of property insured in the cities of London and Westminster must have been considerable. The

[1] Adam Smith, *Wealth of Nations*, Book I, Ch. X, par. 1.

activities of the firemen of the companies and the fire marks affixed to insured property brought considerable publicity. Accounts of the fire insurance companies are not available, but Maitland in his "*History of London*,"[1] in 1739, stated that the number of houses within the bills of mortality of London then insured with the *Hand-in-Hand* amounted to 42,676, with sums insured of £9,231,400; and the number within the same area insured with the *Westminster Fire Office* was 7852 insured for £2,059,121. He said: "I endeavoured to obtain accounts from the other fire offices, but not succeeding I shall by the help of the above, attempt to show the constructive value of all the houses within the bills of mortality . . . but first it will be necessary to acquaint the reader that the several fire offices, to prevent their being imposed upon, insure (at most) only three-fourths of the value of each house, which fourth part uninsured being added to the aforesaid sum, it will increase to £15,054,028, which is the constructive value of the said houses. But as the number total of all the houses within the bills of mortality amount to 95,068, the value of the said houses according to the aforesaid method of calculation must amount to the sum of £28,592,463 6s. 10½d."

That so large a proportion of the property in London should have been insured with the two offices as early as 1739 is somewhat astonishing. The number of insured houses covered by the *Sun*, the *Royal Exchange*, and the *London Assurance* were not included, but they must have been considerable, especially those of the *Sun*. The *Union* confined itself to the insurance of goods till 1805. According to the information supplied to Pitt, in 1797, in connection with the proposed increase of fire insurance duty, the *Sun* had covered in 1720 sums assured in all of £10,000,000.[2] If we assume that this represents three-fourths of the constructive value of the insured property and that the bulk of it related to buildings in London, and then allow some figure for the *Royal Exchange* and *London*, it seems obvious there must have been some error in Maitland's estimate or that the London property was very fully insured at the time.

Whatever the true figures were, it seems that the offices substantially met the demand in London for the fifty years following the grant of the fire charter to the two corporations in 1721. Some growth, however, took place in the provinces, where societies were generally established by deed of settlement, and drew their business primarily from the locality in which they were established and from agencies in country towns not far distant. In their classification of

[1] Wm. Maitland, *History of London* (Entick's, Edin., 1772), Vol. II, p. 735.
[2] Relton, p. 385.

risks into common, hazardous, and extra hazardous, they followed the London offices. The business of most of them was transferred ultimately to one or other of the progressive London offices as the latter extended their system of agencies throughout the country.

In 1767 was established the *Bath Fire Office*, which later became known as the *Old Bath Fire Office*. It formed agencies at Chippenham, Tetbury, Melksham, and Sarum, and continued in being till 1827, when the business was transferred to the *Sun*. We have already referred to the *Bristol Crown:* a further office was established in the same city in 1769, known as the *Bristol Fire Office*, which lasted till 1839, when its business was transferred to the *Imperial*. At some time in its history it established branches in the north and west of England. In 1771 the *Hibernian Insurance Company* was formed in Dublin, which lasted till 1839, when the *Sun* acquired its connection. In the same year, 1771, the first *Manchester Fire Office* was formed, but it could not have lasted long, for its name was not among the list of offices paying duty in 1796. Another office was established at Bath in 1776, which lasted for over sixty years, known as the *Bath Sun*. Liverpool saw its first fire office in 1777, which advertised that it would cover from loss or damage by fire buildings, goods, wares, and merchandise. The office came to an end in 1795. An office which lived for over a century was the *Salop Fire Office*, established in 1780, which was ultimately incorporated under the Companies Act. Its business was transferred to the *Alliance* in 1889. In Leeds an office started in 1782, but ceased to transact business when the duty was imposed. An office established in Newcastle-on-Tyne in 1783 existed for nearly eighty years, when its business was transferred to the *North British* in 1860.[1]

The world-famous *Norwich Union* does not seem to have been the first underwriter of fire insurance in the city of Norwich: there had been some ventures on the mutual principle previously, and the first Secretary, Thomas Bignold, had had experience with these mutual societies before joining the *Norwich Union*. Relton gives extracts of the prospectus of one such society, dated 1785, involving a co-partnership for thirty years, at the end of which the partnership property was to be divided among the members. Other places where fire offices transacting a small amount of business were established before the end of the century were Glasgow and Worcester. The *Wiltshire and Western Assurance Society*, having four co-equal offices at Warminster, Trowbridge, Bradford-on-Avon, and Frome, was formed in 1790. In 1822 the

[1] These provincial offices are referred to by Walford in his "History of Fire Insurance" in his *Cyclopedia*, and by Relton in his *Fire Insurance Companies of the Eighteenth Century*, 1893.

office changed its name to the *Salamander Fire Office;* in 1835 its business was acquired by the *Sun.*

Before 1782 every policy issued was subject to a stamp duty, but in that year there was imposed, in addition to the stamp duty, a duty payable per annum on the sum insured by every fire policy. This *ad valorem* duty commenced at the rate of 1s. 6d. per cent, but was raised to 2s. in 1797, to 2s. 6d. in 1805, and 3s. in 1816, at which figure it remained till 1864, when it was reduced to 1s. 6d. and was finally removed in 1869. In 1786 foreign property insured by British companies was made exempt from the duty, and in 1810 the duty was removed from Colonial insurances. In 1833 relief from duty was given to agricultural insurances. Complaints against the iniquity of this tax did not cease to be made throughout the period it was in force. While the duty was standing at 3s., the annual tax payable to the Government was double the premium on insurances of brick buildings, and, as was pointed out, constituted a deterrent to insurance or encouraged material under-insurance.

From the point of view of the historian of fire insurance, the tax has served one useful purpose, as there are official records of the amounts so collected, which therefore furnish us with the basis of estimating the total insurances in force. From estimates made by Mr. George Coode, in a report on fire insurance duties, addressed to the Chancellor of the Exchequer, dated 29th November, 1856, the following figures (subject to a correction made by Mr. Samuel Brown, the author of the article) are given[1]—

SUMS INSURED (IN £ MILLIONS) AGAINST FIRE, DEDUCED FROM RETURNS OF THE PERCENTAGE DUTY (COODE'S REPORT)

YEAR	LONDON OFFICES	COUNTRY OFFICES	SCOTLAND	IRELAND	TOTAL FOR GREAT BRITAIN
1783	147·4	—	—	—	173·4
1790	142·1	—	—	—	144·9
1800	195·7	—	—	—	204·9
1810	304·9	46·0	—	—	347·3
1820	315·3	77·9	—	—	391·3
1830	356·3	129·6	—	—	478·2
1840	466·8	179·5	43·5	30·5	720·3
1850	558·0	201·6	48·5	34·9	843·0

In the year 1805, Sir Fredk. Eden, the Chairman of the *Globe Insurance Company,* obtained from the Inland Revenue the returns of the duty paid by the individual offices. The figures were quoted by Walford,[2] and show the relative position of the various offices

[1] Samuel Brown, *J.I.A.*, Vol. VII, p. 263.
[2] *Insurance Cyclopedia*, Vol. III, p. 420.

as to sums insured under their policies. While duty was at 2s. 6d. or 3s. on the £100 sum insured, the premium income could not differ very materially from the duty paid. The table below gives a full list of the offices transacting fire insurance at the date—

DUTY PAID FOR THE FINANCIAL YEAR ENDING 5TH JANUARY, 1806

London Offices

	£
1. Sun	92,845
2. Phoenix	59,162
3. Royal Exchange	44,096
4. Imperial	23,141
5. British	18,744
6. Globe	17,249
7. Westminster	12,278
8. Hand-in-Hand	12,121
9. London Assurance	6,210
10. Union	4,783
11. Albion	3,568
Total	£294,197

DUTY PAID FOR THE FINANCIAL YEAR ENDING 5TH JANUARY, 1806 (*contd.*)

Country Offices

	£
1. Kent	4,752
2. Newcastle-on-Tyne	3,759
3. Bristol Town	3,321
4. Norwich	3,064
5. Salamander	2,829
6. Liverpool	2,790
7. Bath (Old)	1,599
8. Worcester	1,427
9. Norwich Union	1,347
10. Hants, Sussex, and Dorset	1,313
11. Bristol Crown	1,258
12. Bath Sun	1,137
13. Essex Equitable	1,036
14. Birmingham	925
15. Fenchingfield	52
16. Wooler	43
Total	£30,652

Scottish Offices

	£
1. Friendly	2,948
2. Glasgow	1,956
3. Dundee	1,521
4. Aberdeen	971
5. Caledonian	663
Total	£8,059

Ireland
(Year 1801)

	£
Dublin	4,197
"In the Country"	218
Total	£4,415

Duty was at the rate of 2s. 6d. on the £100, so that the total sums insured in respect of the duty of £337,323 would be about £270,000,000. Eden estimated the insurable property of all kinds in the British Isles at the time as £590,075,000.[1] Right up to 1868 while the returns were made, the *Sun* maintained its position considerably in advance of the other offices, the second place being taken by the *Phœnix*. In their petition against the application for a charter by the *Globe*, the *Sun* stated that they had paid "a million and a half to the Revenue of this Kingdom in respect of duty payable upon property insured against loss by fire."[2] From 1831 onwards the amounts of duty collected from the individual offices were, by the authority of Parliament, published annually, and give, so long as the duty was payable, an accurate picture of the volume of business transacted by the companies and their relative position as to premium income. In 1831, the first year of full publication, there were fifteen London offices mentioned in the Returns and twenty-five country offices, the duties paid (at 3s.) being £551,200 and £201,605 respectively, representing sums insured of £367,000,000 for London offices and £134,000,000 for the country offices.

The relative increase of the country offices is remarkable, an indication, perhaps, that they were securing a large proportion of the fire insurances of the manufacturing districts. The leaders among the country offices were then the *Norwich Union* (duty paid £68,357) and the *West of England* (duty paid £25,684).[3]

The high rate of duty on fire insurance policies naturally led to attempts at evasion. To meet one such, an Act was passed in 1828. As the stamp duty was an *ad valorem* one on the sum insured by the policy, the insurance could, with comparative safety for the insured, be placed at an amount considerably less than the value of the property in the case of estates where, by the plurality of the risks, there could be little chance of fire spreading from one building to another. The insurance companies connived at the practice, provided that the correct premium for the aggregate of risks was paid to them. In the preamble to the Act (9 Geo. IV, c. 13) the practice was recited, and by two clauses it put a stop to such further evasion. By the first it provided that where there was a

[1] David Macpherson, *Annals of Commerce*, Vol. III, under date 1801.
[2] Eden, *Insurance Charters*, Appendix, p. 10. [3] Walford, Vol. III, p. 422.

plurality of risks a separate sum insured was to be placed upon each property, and it was thereafter unlawful "to insure one gross sum upon two or more such separate subjects." Secondly, there was a proviso that properties might be insured for an aggregate amount if a clause were inserted in the policy "stipulating that in the event of any loss or damage by fire . . . the insurer should be liable to pay . . . such proportion only of the loss as the sum insured should bear to the whole collective value of the said property at the time the fire should first break out." The Act seems effectively to have prevented subsequent evasion and must have given some publicity to the average clause.

Two offices, one in London and the other in the country, both of which we have mentioned in the lists, had well established themselves before the end of the century, and both as powerful institutions survive to-day—the *Phœnix* and the *Norwich Union*. The *Phœnix* was established in 1782, primarily by sugar refiners in London, who, on account of the hazardous nature of the risk, had been unable to gain adequate fire insurance at reasonable rates from the offices then in existence. The promoters made an application for a charter in 1783, but this was refused, the opinion being expressed by the Attorney-General, afterwards Lord Kenyon, "that he considered the Public as likely to be better served by voluntary associations of respectable individuals than by incorporated Societies."[1] The *Phœnix*, or as it was first called, the *New Fire Office*, had commenced business in 1782 as an unincorporated association, and was not deterred by the refusal of the Attorney-General for a charter from actively proceeding with its project as a partnership with 6722 shares of no special value. As with the *Sun*, the *Royal Exchange*, and the *London Assurance*, the policyholders were not liable for more than the premiums. A good contract was given and no deduction was made in settlement of claims.

The *Phœnix* quickly gained public support, as can be seen from the table above, reaching before many years a position in premium income second only to the *Sun*. As with the other London companies, it had its own staff of firemen, each with his distinctive badge, and the public were informed that should any of the firemen "misbehave or be negligent on duty the office will be much obliged for information, it being their (the directors') determination to retain only such men in their employment as are deserving of public confidence." A special effort was made to cultivate country business, and in the proposals for the country it was indicated that the company could insure houses, buildings, farmers' stocks,

[1] Eden, *Insurance Charters*, Appendix, p. 15 (extract from petition by the *Phœnix* against that of the *Globe* for a charter).

goods, merchandise, ships in harbour or docks, and ships building from loss or damage by fire. Agents were appointed in most of the principal cities and towns of Great Britain. The *Phœnix* seems to have been the first company to establish an agency on the Continent—one in Hamburg in 1786.[1]

The *British Fire Office* was established towards the end of the century. In the petition of the company against the application for a charter made by the *Globe* in 1799, the *British Fire Office* speaks of having been established several years ago[2] "for insurance against fire within the United Kingdom of Great Britain and Ireland and all other parts and places within His Majesty's Dominions upon an ample capital. . . . That in every considerable town throughout the United Kingdom there are offices under the direction of your petitioners for making fire insurances." The business was transferred to the *Sun* in 1843.

The *Norwich Union Fire Office* was established as a mutual concern in 1797 by Thomas Bignold, who, as mentioned above, had been connected with earlier fire insurance in Norwich. The original "proposals" for insuring buildings and goods from loss by fire gave the title and address as "Union Fire Office on the Gentleman's Walk." The basis upon which the office intended to work is set out in the first two articles of the proposals. They were: "(*a*) Whereas the insuring from loss or damage by fire tends to the preservation of many families from poverty and ruin, advantage of which hath been taken for the interest of the managers and persons concerned, in several offices of insurance, this office is erected with a view to the sole benefit of the persons insured, amongst whom all the profit is divided in proportion to each person's insurance. (*b*) At the expiration of policies, or at whatever time the property to be insured ceases, all persons may on application to the office receive the deposit together with the dividends of profit made every year from the premium and interest of money after the charges of the office are paid, deducting their contributions towards losses during the time they have been insured."[3]

The office was administered by twelve directors without salary, chosen by and from the insured, four new directors being appointed each year. As was to be expected from such a constitution, the chief officer, the Secretary, gained a dominant position. Thomas Bignold was to receive 5 per cent of the premiums, out of which he was to provide offices and pay salaries of clerks—terms which certainly cannot be described as onerous for the members. The original deed of settlement provided that no business should be

[1] Walford, Vol. III, p. 486.
[2] Eden, *Insurance Charters*, Appendix I, p. 13. [3] Relton, p. 237.

done in London. Early in the nineteenth century they broke their rule and, later, in 1821, reconstituted the society with a capital of £550,000 subscribed, of which £66,000 was paid up. Of the profits, three-fifths were to go to the policyholders and two-fifths to the shareholders, but of the shareholders' fraction one-half was to be applied to the creation of a reserve fund, the arrangement to last for thirty years. Substantially the administration of the Society remained in the hands of Thomas Bignold and subsequently in those of his son, Samuel Bignold, both of whom were paid a commission on the business out of which clerical and other expenses were defrayed. In spite of internal disputes, which resulted in Thomas Bignold being removed from the position of Secretary in 1818, the office has had a history of nearly a century and a half of prosperity.[1]

The changing character of fire insurance business towards the end of the century as industrial development proceeded is seen from the list of great fires given in Walford's "*Cyclopedia.*" In 1792 there were two: one in a cotton factory in Sheffield involving a loss of £45,000; and the other, also a cotton mill, in Manchester, with a loss of £100,000. Two years later there was a great fire at Wapping in London and Ratcliffe Highway, when, besides 630 houses, there was burnt an East India warehouse, causing destruction of £40,000 of sugar and other merchandise. The total loss in this fire was estimated at a million.

In 1795 the greater part of the Town Hall and Exchange at Liverpool were burnt, and the same year saw the loss by fire of a large spinning factory in Manchester. In 1796 Liverpool was again the scene of great destruction of warehouse property and its contents. There was a loss the same year at Hunslett, Leeds, from the burning of a cotton mill. In 1797 Liverpool docks were involved in a great fire.

For great aggregations of property, which was a feature of the factory system and the storing of quantities of goods in warehouses, necessary in the expansion of overseas commerce, fire insurance became essential, and each great fire with its spectacular destruction of wealth drove home the lesson to manufacturers and property owners. Unfortunately the limited number of offices was insufficient for the requirements, and it seems that throughout the century there was great temptation to those offices taking commercial risks to depart from the principles of safe underwriting. At the outset of their history most of the early offices set a limit, which was quite moderate, to the sum insured on one building, but they did not avoid an accumulation of risk in one area. In the year 1720 the *Union* suffered a loss of £20,000 in a fire at Wapping, which they

[1] See Walford's *Cyclopedia*, under heading "Bignold."

claimed "was far more than befell any other office at the time."[1] It involved a contribution of 7s. 6d. per cent from insured goods in brick houses and a proportionate one from insured goods in timber houses. The danger of a number of insurances in one locality seems to have been realized from this experience, for in 1725 the Board of the *Union* ordered the amount of insurances in houses on London Bridge to be reduced from £17,000 to £5000.[2]

The *Hand-in-Hand* took at its own risk £16,000 upon Bedford House; £33,000 on Woburn Abbey; and £20,000 on Carlton House, the residence of the Prince of Wales.[3] In 1766 this office received a warning against these large insurances by a loss of £25,758 in one fire in Cornhill. Other fires in that year brought the losses to a total of £53,535, a figure not surpassed till 1893. In 1748, when there was a great fire in the City which burnt down the building of the office itself, the *London Assurance Corporation* sustained losses to a total of £18,463 against premiums for the year of only £6563.[4]

During the eighteenth century no reassurances, either facultative or by treaty, were made between offices, but property might be, and was, insured with more than one office when its value exceeded the limit taken by a single office. In the "proposals" of the offices an article was generally found corresponding to that of the *London Assurance*, which, in 1726, read: "To prevent frauds, if any buildings or goods assured with the Corporation are, or shall be assured with any other company or society, the policy granted by the Corporation is to be null and void unless such assurance is allowed by endorsement on the policy." There was generally added that the office would pay in such case of other assurances, duly notified, their rateable proportion of any loss.[5] In the proposals of the *Sun* in 1794, there are indications that they catered considerably for mercantile risks. In Article V there is a statement that a special agreement "may be made for large sums assured, and for mills or buildings containing any kiln, steam engine, stove or oven used in the process of manufacturing." At the time the *Sun* had considerably the largest premium income among the fire offices, but many risks must have been larger than they could assume, and in these cases some collaboration between the offices must have taken place to provide full insurance.

As an example of the placing of large fire risks, the Albion Mill may be instanced. The Albion Mill, in Blackfriars, London, was the first flour mill deriving its power from a steam engine. It was

[1] *Bicentenary of the Union Assurance Society*, 1714–1914, p. 18. (Private circulation.)
[2] *Ibid.* [3] *Bicentenary of the Hand-in-Hand*, p. 16.
[4] *London Assurance—A Chronicle*, p. 132. [5] Walford, Vol. III, p. 408–9.

opened in 1786, and Boulton and Watt, the makers of the engine, were shareholders in the partnership. The building, designed for the purpose, consisted of six floors, with the granary at the top. Within five years of its building the mill became a total loss by fire on 2nd March, 1791, claims being settled by the following offices[1]—

	£
Royal Exchange	20,000
Union	20,000
Hand-in-Hand	10,000
Sun	5,000
Phœnix	5,000
	£60,000

The development of the terms of the contract and classification of risks undertaken by the offices is best shown by a comparison of the proposals issued at successive periods. When the provincial offices were established in the later years of the century, they followed the models adopted by the London offices. The two chartered companies had, when they commenced fire business in 1721, the experience of the earlier offices to guide them. The classification adopted by the *Royal Exchange* and the risks excluded are given in the following extract from their 1721 proposals: "The Corporation will assure any college, hall, house or any other building and all goods, wares and merchandise (except notes, bills, tallies, books of accompt, ready money, china and glasswares, jewels, plate, pictures, writings, corn, hay and straw not in trade) to their full value, the assured paying but 5s. per annum for every £250 on brick or stone buildings or goods and merchandises therein enclosed, and 8s. per annum for every £250 on timber, plaster, and thatched buildings or goods and merchandises therein enclosed if the sum assured exceeds not £1500, but for any assurance exceeding that sum the assured to pay 7s. 6d. per annum for every £250 on brick or stone buildings or goods and merchandise therein enclosed and 12s. per annum for every £250 on timber, plaster, or thatched buildings or goods and merchandises therein enclosed. And whereas assurances to brewers, distillers, chemists, apothecaries, powdermen, ship and tallow chandlers, sugar and bread bakers, dyers, soap boilers, oilmen and colourmen are more hazardous than others, such persons are to pay 7s. 6d. per annum for every £250 so assured on or in brick or stone, and 12s. for every £250 on or in timber, plaster and thatched buildings; and looking and other glass, and china wares in trade, being more hazardous goods, are to pay the same."[2]

[1] O. A. Westworth, "The Albion Steam Flour Mill," Economic History Supplement to *Economic Journal*, Jan. 1932.

[2] Relton, p. 158.

The proposals of the *London Assurance* advertised about the same time were almost in identical terms.

The proposals of 1726 embodied a somewhat different premium basis, the minimum premium of 5s. for a sum assured of £200 being accepted, and thereafter higher sums assured up to £1000 were accepted at 2s. 6d. per cent. For sums assured over £1000, but not exceeding £2000, the rate was 3s. per cent on the whole sum assured and for £2000 to £3000 the rate was 4s. per cent on the total on brick or stone buildings. For goods in brick or stone buildings the minimum premium accepted was 7s. 6d. for a sum assured of £300 or less. For greater sums assured, goods might be covered on the same rate basis as the buildings. In the 1726 proposals the definition of brick or stone buildings was extended to include those covered with slate, tile, or lead, and having walls of brick or stone. For timber and plaster buildings the minimum premium was 8s. for a sum assured up to £200, and thereafter at the rate of 4s. per cent up to £1000. For sums assured of £1000 to £2000 the rate was 5s. per cent on the whole. Timber and plaster buildings, together with goods therein, could be insured for 12s. per annum up to £300.[1] For the more hazardous risks of apothecaries, chemists, colourmen, bread and biscuit bakers, etc., and for such goods as hemp, flax, and tallow, pitch, tar, and turpentine, the premiums were the same as those for timber and plaster buildings and their contents. Promise was made in the proposals for special agreements and ratings of such risks as houses and goods on London Bridge, sugar bakers, and thatched buildings, and on china, glass, and earthenware. Greater sums assured than those in the schedule could be covered by agreement. When several buildings or buildings and goods were covered in one policy, a sum had to be set on each.

Other important modifications introduced in 1726 were: (*a*) For the prevention of fraud, policies would be void if other insurances were taken out on the same property, unless such other insurances were allowed by endorsement on the Corporation's policy, and (*b*) an average clause was applicable in cases of insurance in excess of £1000, on goods or merchandise, the terms of which were: "When more than £1000 is assured by the Corporation on goods and merchandise in one building, and such goods and merchandise in case of fire are not totally consumed the Corporation is liable only to pay and make good such proportion of loss or damage sustained as the sum assured bears to the whole value of the goods and merchandise," and (*c*) loss by fire happening by invasion, foreign enemy, or usurped power was excluded. There was an arbitration clause in both the 1721 and the 1726 proposals.

[1] Relton, p. 163–4, from the Guildhall Library, B.27.

The *Sun* in their 1727 proposals introduced a classification which lasted, as a practice for both themselves and other offices, to the middle of the nineteenth century in the shape of a table of (*a*) common insurances, (*b*) hazardous insurances, and (*c*) doubly hazardous insurances. It comprised Article IV of the proposals: "The rates for insurances may be seen in the following table. Under the head of 'Common Insurances' are to be understood any buildings covered with a slate tile or lead roof and having the front and rear and side walls of brick or stone and wherein none of the hazardous goods and trades hereafter specified are deposited or carried on. Under that of 'Hazardous Insurances' are to be understood timber and plaster buildings and goods and merchandise therein, not hazardous, or brick or stone buildings wherein hazardous goods or trades are deposited or carried on. Under that of 'Doubly Hazardous' are to be understood all thatched buildings, all timber or plaster buildings wherein hazardous goods or trades are deposited or carried on, and also the following trades and buildings, as sugar bakers and distillers in brick or stone buildings, any china glass or earthenwares, houses on London Bridge, and all mills. The hazardous trades and goods are apothecaries, chemists, bread and biscuit bakers, ship and tallow chandlers, stable keepers, inn holders and malt houses, hemp, flax, tallow, pitch, tar, and turpentine, hay, straw, and fodder of all kinds, and corn unthreshed.

THE ANNUAL PREMIUM TO BE PAID FOR INSURANCES

SUMS INSURED	COMMON INSURANCES	HAZARDOUS INSURANCES	DOUBLY HAZARDOUS INSURANCES
£	*s. d.*	*s. d.*	*s. d.*
From 300–1000	at 2 – %	at 3 – %	at 5 – %
1000–2000	at 2 6 %	at 4 – %	at 7 6 %
2000–3000	at 3 6 %	at 5 – %	—

If insurances are desired for any larger sums than are specified in the table, or any other insurances more than ordinarily hazardous by reason of the trade, nature of the goods, narrowness of the place or other dangerous circumstances, a special agreement is to be made for the same." The rating of these special risks must have necessitated a survey of the risk, a practice which probably crept in as mercantile risks became more common; no doubt such were made by agents who, in the eighteenth century, were appointed with careful discrimination.[1] The *Sun* 1727 proposals contained a clause to the

[1] Relton, p. 302, states of the *Sun*: "Early in 1714 a surveyor (bricklayer and carpenter) was ordered to view the houses already insured and likewise that shall be henceforth insured, and in 1715 all insurances in the country were to be surveyed."

effect that "no loss or damage by fire happening by invasion, foreign enemy and commotion or any military or usurped power" would be made good. Riot was not added to the exclusions till 1831.[1]

In 1776 new proposals were issued by the *Royal Exchange*, which, while retaining much of the matter of their earlier proposals, embodied the classification into Common, Hazardous, and Doubly Hazardous insurances, the premiums being set out in a table similar in form to that of the *Sun* and with identical rates of premium, the only difference being that the minimum premium was removed and the first item in the sum insured column was £100 to £1000, instead of £300 to £1000.

By 1794, when the *Sun* issued new proposals, the Industrial Revolution had proceeded far enough to make new classification necessary, particularly when steam power was being used in the mills. While retaining the usual division into common, hazardous, and doubly hazardous risks, Article V of the proposals read: "If insurances are desired for any larger sums than are specified in the table of annual premiums a special agreement may be made for the same; special agreements may also be made for mills and stock therein or for other insurances more hazardous than those described . . . (as sugar bakers, distillers, varnish makers, chemists' laboratories; manufactories of any commodity deemed hazardous, as flaxdressers, sailcloth makers, ropemakers, floor-cloth painters, coach-makers, musical instrument makers, umbrella makers, and refiners of saltpetre, spermaceti and oil, cotton flax and lint spinners, with all the operations attending the manufacturing of these materials from the raw state into thread for the weaver or such like) by reason of the nature of the trade, the narrowness of the place or other dangerous circumstances; which special hazard must be inserted in the policy to render the same valid and in force."[2]

While the *Sun* relied upon the proposals as forming the basis of the contract and issued a copy of them at the same time as they issued the policy, the full conditions were not inserted in the policy itself. The policy stated that it was issued according to the tenor of the printed proposals. The full conditions were not inserted in the policy till 1816.[3] The *Royal Exchange* embodied in their policy itself certain exclusions. The contract was not to be binding on the Corporation if the "house at the time when any such fire shall happen shall be in the possession of or let to any person who shall use or exercise therein the trade of a sugar baker, apothecary, chemist, colourman, distiller, bread or biscuit baker, ship or tallow

[1] Relton, p. 329. [2] Relton, p. 332–3. [3] Relton, p. 335.

chandler, oilman, stable-keeper, innholder or maltster or shall be made use of for the stowing or keeping hemp flax oil tallow pitch tar or turpentine."[1]

Publicity in the eighteenth century was much more crude than it is to-day. In their broadsheets, companies did not hesitate to mention their competitors by name, and to point out the defects of the competitors' contract and the superiority of their own. The practice of fire insurance was considerably advanced, however, by the spectacular machinery adopted by the offices in preventing the spread and the quenching of fires. The fire marks in prominent positions on the walls of insured buildings constituted admirable publicity signs. The attendance of uniformed firemen with their engine in the narrow London streets must have added to the thrill which went with the dread cry of "fire" but their appearance advertised the work of the fire offices. Each office had its body of men in uniform and badge. The practice of the *Union* was to give a shilling to the man who first gave notice of a fire; the same sum was paid to all who turned out at the alarm, with 5s. for every ten hours that each worked. The foreman carried a silver-tipped staff. The firemen had instructions to inquire and discover what houses were on fire or endangered, and to remove the goods therefrom. If there proved to be no insurance with the *Union*, they were to offer their services to the people most exposed and to hire cars for the removal of goods to places of safety. Bags were provided for conveying small articles. Once a year, at the time of the annual meeting, these men walked in a procession through the principal streets of London and Westminster, and distributed proposals to the public. The practice was continued for nearly a century.[2] The firemen of the *Hand-in-Hand*, with their silver-headed staves to mark the first centenary of the company's history, made a similar procession.[3] Lampoons and rhyming parodies of the later eighteenth century made not infrequent references to the fire offices, their firemen, and their engines, and prove that the names of these few offices and their services had taken a definite place in the mind of the public.[4]

There are certain important cases on fire insurance which were decided by the Courts in the eighteenth century. Park, in his "*System*," devoted a chapter[5] to the subject, from which it is obvious that the law of marine insurance had enabled jurists to

[1] Relton (see copy policy, p. 571); and Park, *A System of the Law of Marine Insurance*, Appendix IV.
[2] *Bicentenary*, 1714–1914, p. 13–14.
[3] *Bicentenary of Hand-in-Hand*, pp. 21 and 23.
[4] See Relton, p. 80.
[5] J. A. Park, *A System of the Law of Marine Insurance*, Ch. XXIII.

understand the contract and to see in what direction it differed from that of marine insurance. Park started off with a clear definition: "An insurance of this sort is a contract by which the insurer, in consideration for the premium which he receives, undertakes to indemnify the insured against all losses which he may sustain in his house or goods, by means of fire within the time limited in the policy." He pointed out that the rules by which the fire insurance societies are governed are given to every person at the time he insures, "so that by his acquiescence he submits to the proposals and is fully apprised of those rules, upon the compliance or non-compliance with which he will or will not be entitled to indemnity."

Although marine insurance policies may be transferred, Park pointed out that fire insurance policies are not in their nature assignable, "for they are only contracts to make good the loss which the contracting party himself shall sustain; nor can the interest in them be transferred from one person to another without the consent of the office." One of the earliest cases of fire insurance (*Lynch* v. *Dalzell*)[1] turned on the question of assignment. On the 25th July, 1721, the *Sun Fire Office* granted a fire insurance policy to Richard Ireland for the insurance of his house, the Angel Inn, Gravesend, and the goods and merchandise therein, the dwelling-house not exceeding £400 and the goods £500, and for the stable £100, all occupied by James Peck. Richard Ireland died and his sole executor, his son Anthony, brought the policy to the office and had it endorsed to the effect that the same belonged to him, and paid the premium for cover from Christmas, 1726, to Christmas, 1727. On the 24th August, 1727, the house was destroyed by fire, and Roger Lynch made a claim on the *Sun Fire Office*, alleging that he had purchased the house and goods from Anthony Ireland, and that his loss amounted to £1000 for house and goods. Ireland had, in fact, by deed of 24th June, 1727, assigned his lease to Lynch for £250, but the goods apparently were intended for one Thomas Church, to whom a bill of sale had been made out.

The *Sun* claimed that the policy was not assignable and that no other person than Anthony Ireland was entitled to any benefit thereunder. In the proceedings it came out that an assignment of the policy had taken place, but that, though it bore a date before the fire, it had, in fact, been signed afterwards. The *Sun* proved that they did not insure any persons longer than they continued their property in the thing insured. Lord Justice King held that "these policies are not insurances of the specific things mentioned to be insured, nor do such insurances attach on realty or in any manner go with the same by any conveyance or assignment: the party

[1] Park, p. 450, 2nd Ed., 1790.

insuring must have a property at the time of the loss or he can sustain no loss and consequently can be entitled to no satisfaction. . . . These policies are not transferable without the express consent of the office. The appellant's case is at best founded only on an assignment never agreed for till the person insured had determined his interest in the policy by parting with his whole property and never executed till the loss had actually happened." His Lordship dismissed the bill.[1]

In a subsequent case (*The Saddlers Company* v. *Badcock and Others*) in respect of a claim under a *Hand-in-Hand* policy effected in 1734, Lord Chancellor Hardwicke, in the course of his judgment, said: "I am of opinion it is necessary the party insured should have an interest or property at the time of insuring, and at the time the fire happens. It has been said for the plaintiff that it is in the nature of a wager laid by the insurance company and it does not signify to whom they pay, if lost. Now these insurances from fire have been introduced in later times and therefore differ from insurances of ships, because there *interest or no interest* is almost constantly inserted, and if not inserted you cannot recover unless you prove a property. By the first clause in the deed of constitution in 1696, the year the Society called the *Hand-in-Hand* office incorporated themselves, the Society are to make satisfaction in case of any loss by fire. To whom, or to what loss, are they to make satisfaction? Why, to the person insured and for the loss he may have sustained, for it cannot properly be called insuring the thing, for there is no possibility of doing it, and therefore must mean insuring the person from damage. The case of *Lynch* v. *Dalzell* in the House of Lords shows how strict the Court and that House are in the construction of policies to avoid frauds. The Bill must be dismissed."[2]

Another important subject dealt with by the Courts was the interpretation to be placed upon the exclusion in fire insurance contracts of loss or damage by fire happening by an invasion, foreign enemy, or any military or usurped power. An opinion had been expressed that the exclusion could only relate to fire by means of an invasion from abroad or an internal rebellion when armies were employed to support it. In the case of *Drinkwater* v. *London Assurance*, the policy contained a clause that the Corporation should not be liable in case the property should be burnt by an invasion by foreign enemies or any military or usurped power whatsoever. The defendants claimed that the property was burnt down by a usurped power. The case came before Mr. Justice Gould at the Norfolk Assizes, and he gave a verdict in favour of the plaintiff and awarded damages of £469 subject to the opinion of the Court.

[1] Park, p. 452–3. [2] Park, p. 454–6.

The circumstances of the fire were that "a mob arose at Norwich on account of the high prices of provisions and spoiled and destroyed divers quantities of flour and thereupon the proclamation was read and the mob dispersed for that time. Afterwards another mob arose and burnt down the malting office in the policy mentioned." The case was twice argued at the Bar and the Court took time to deliberate, after which the judges differed, but there was a majority of three to one for the plaintiff. Lord Chief Justice Wilmot said: "Upon the best consideration I am able to give this case I am of opinion that the burning of the malting office was not a burning by a usurped power within the meaning of the proviso. Policies of insurance like all other contracts must be construed according to the true intention of the parties. Although the Counsel on one side said that policies ought to be construed liberally, on the other side that they ought to be construed strictly, in a doubtful case I think the turn of the scale ought to be given against the speaker because he has not fully and clearly explained himself. . . . The words 'usurped power' may have a good variety of meanings according to the subject-matter where they are used, and it would be pedantic to define the words on their various meanings, but in the present case they cannot mean the power used by a common mob. . . . The difference between a rebellious mob and a common mob is that the first is high treason, the latter a riot or felony. Whether was this a common or a rebellious mob? The first time the mob rises the magistrates read the proclamation and the mob disperse, they hear the law and immediately obey it. The next day another mob arises on the same account and damages the houses of two bakers: thirty people in fifteen minutes put the army to flight, they were dispersed and heard no more. This mob wants a universality of purpose to destroy to make a rebellious mob or high treason. . . . Upon the whole I am of opinion that there must be a judgment for the plaintiff." Judgment was given in accordance with the majority of three to one.[1]

Another case came before Lord Mansfield. It arose on a claim under a fire policy issued by the *Sun* in respect of property burnt in London in the course of the Gordon Riots in June, 1780: "when rioters traversed the city for several days burning and destroying Roman Catholic chapels, public prisons, and the houses of various individuals, the ostensible purpose of this assembling being to procure the repeal of a wise and humane law (which had passed for some indulgences to Roman Catholics) and who were at last only dispersed by military force." In the *Sun* policy there was an exclusion of any loss or damage by fire happening by any invasion, foreign

[1] Park, p. 445.

enemy, civil commotion, or any military or usurped power whatever. In the course of his address to the jury, Lord Mansfield said: "In the year 1720 the *London Assurance* put into their policies all the words here used except *civil commotion.* Whatever fire happens by a foreign enemy is clearly provided against; when they burn houses or set fire to a town that also is provided for. What is meant by military or usurped power? They are ambiguous and they seem to have been the subject of a question and a determination. They must mean rebellion where the fire is made by authority as in the year 1745 the rebels came to Derby, and if they had ordered any part of the town, or a single house to be set on fire, that would have been by authority of a rebellion. That is the only distinction in this case—it must be by rebellion got to such a head as to be under authority. In the year 1726, some years after the *London Assurance* had done it, the *Sun Fire Office* put in an exception and in 1727 they put in other words: they do not keep to the form of the *London Assurance:* they do not say by invasion from foreign enemies merely: they clearly provide against rebellion, determined rebellion, with generals who could give orders. Though this be so guarded the *Sun Fire Office* did not think it answered their purpose, and therefore they took the words *civil commotion.* Not only using those words applicable to guard against a foreign enemy, against a rebellion where there are officers and leaders that can give authority and power, but they add other words as general and untechnical as can possibly be used: *civil commotion,* not civil commotion that amounts to high treason: they use a general expression—if the mischief happens from civil commotion, taking the largest and most general sense of the words that the language will allow . . . The single question is whether this has been a civil commotion. . . . The present was an insurrection of the people resisting all law, setting the protection of the Government at nought, taking from every man who was the object of their resentment that protection as appears from the evidence given by the witness upon the facts and which you will know as well as if no witness had been produced. What was the object and end of this insurrection? It took place in many parts of the town at the same time and the very same night: the mob were in Broad Street, St. Catherine's in Coleman Street, at Blackfriars Bridge and at the plaintiffs. What is the object? General destruction, general confusion. It certainly was meant to aim at the very vitals of the constitution. It was not a private matter under the colour of popery only to destroy all papists under a pretence or a cry of 'No Popery.' But the general object was destruction and confusion. The Fleet Prison was burnt down: Newgate was burnt down the night before. The Kings' Bench Prison is burnt and all the prisoners

set at liberty. The New Bridewell is burnt: the Bank attacked: consider the consequences if they had succeeded in destroying the Bank of England. The Excise and Pay Office on Broad Street were threatened. Military resistance and an extraordinary stretch were made and justified by necessity. There was a great deal of firing, many were killed; and the houses of a vast number of papists were burnt and destroyed. What is this but civil commotion? . . . I think a civil commotion is this, an insurrection of the people for general purposes, though it may not be to a rebellion where there is usurped power." The jury found for the defendants.[1] The argument, given at some length, is typical of Lord Mansfield's style, an analysis with such relentless logic as to leave no doubt in the mind that his was the only conclusion which could possibly be accepted. There was, too, an element of rhetoric in his delivery which added force to his judgments: his short description of the Gordon Riots can take an honourable position next to that in "*Barnaby Rudge.*"

At the time Park wrote in 1786, the principle of *uberrima fides*, as applying generally to insurance contracts was clearly recognized. He finished his work—one may call it a great work, for it was certainly the standard work for at least two generations—with a paragraph that is worth quoting, since the great expansion of the field of insurance in the next century depended on the element of confidence between the parties to such contracts. "As the purest equity and good faith are essentially requisite, as has already been shown, to render the contract effectual when it relates to marine insurance, so it need hardly be observed that it is no less essential to the validity of the policy against fire: because in the latter, as well as the former, the insurer, from the nature of the thing, is obliged in a general measure, to rely upon the integrity and honesty of the insured, as to the representation of the value and quantity of the property, which is the object of the insurance."[2]

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CHAPTER XIII

LAISSER FAIRE IN PROMOTION OF INSURANCE COMPANIES

ADAM SMITH on joint-stock companies—Revival of insurance promotions towards end of eighteenth century—The *Phœnix* established in 1782—Its early history and constitution—The *Pelican Life Office*—The *Globe*—The *Albion Fire and Life*—The associated companies: The *County Fire* and *Provident Life*—The *Eagle Insurance Company*—The *Atlas*—The Scottish companies: *Caledonian* and *North British*—Provincial companies—Three classes of life assurance offices—Competition between mutual and proprietary life offices—Abuse of joint-stock enterprise—Promotions of 1824–5 and of 1834–5—Parke's criticism before the Select Committee of 1841—Important further insurance companies promoted in the period—The *Alliance* and the *Guardian*—Separation of insurance funds by the latter

WE have now to consider a period not too creditable in insurance history immediately before and during the early days of company legislation. Company law owes much to the experience of the joint-stock insurance ventures in the early years of the last century, but perhaps it owes as much to the failures as to the successes of those institutions. We have seen the effect of the Bubble Act to discourage fresh joint-stock ventures. For a period of fifty years after 1720 no new joint-stock insurance companies were established in London, but during this quiescent period the insurance institutions already in existence had familiarized the public with the idea of permanent associations for the provision of insurance, and Adam Smith himself had blessed the joint-stock principle in this connection. "The only trades which seeem possible for a joint-stock company to carry on successfully without an exclusive privilege are those of which all the operations are capable of being reduced to what is called a routine, or to such a uniformity of method as admits of little or no variation. Of this kind is the first, the banking trade; secondly, the trade of insurance from fire and from sea risks, and capture in time of war; thirdly, the trade of making and maintaining a navigable cut or canal; and, fourthly, the similar trade of bringing water for the supply of a great city."[1]

His generalization that routine trades are the ones most suitable for joint-stock enterprise (without exclusive privilege) is somewhat weakened by his later assertion as to the condition upon which a joint-stock enterprise should be established: "For it ought to appear with the clearest evidence that the undertaking is of greater importance and of more general utility than the greater part of common trades, and secondly that it requires a greater capital than can be

[1] Adam Smith, *Wealth of Nations*, "Everyman" Edition, Vol. II, p. 243.

collected into a private co-partnery. If a moderate capital were sufficient, the greater utility of the undertaking would not be sufficient reason for establishing a joint-stock company, because in this case the demand for what it was to produce would readily and easily be supplied by private adventurers. In the four trades above mentioned both these circumstances concur."

As a revival of the joint-stock enterprise in insurance after the long period of quiescence, the early history of the *Phœnix* is interesting. Its establishment was indicative that the existing fire offices were in certain directions failing to meet all the growing demands of traders and manufacturers. Short reference has already been made to the company, the second of that name. Sugar baking in the eighteenth century was an important industry in London, and before the time of Napoleon and the introduction of sugar beet on the Continent the British merchants had a large share in the sugar trade of Europe. In consequence of the inflammable nature of the product, the sugar-baking risk was a hazardous one and only two of the established fire offices would undertake it—one charged "the enormous premium of 25s. per cent, while the other quoted 18s." Even at these high premiums no greater cover than £5000 could be obtained although "the buildings alone cost £1000 to £10,000 and the fixtures and stock in trade were seldom valued at less than £5000 and in some cases exceeded £20,000."[1]

After numerous preliminary discussions, twelve merchants met on 20th November, 1781, in the Langbourne Ward Coffee House to form an association of sugar refiners for insurance of their property against fire, and the "trade" generally was invited to join. The immediate capital to be raised was £15,000 from 300 shares, upon each of which £50 was immediately called up. Each shareholder was to be liable for a further £250 in virtue of a general meeting held on the 18th January, 1782.[2] A share was considered as appropriate for each "pan" employed by the manufacturers, so that each proprietor was expected to take an interest in the company in proportion to his position in the trade. An application for a charter was made, but this was unsuccessful.

The promoters formed some association with a new fire office in Bristol and the proposed deed of that office was used as the basis of its own. The deed was dated 19th August, 1783, and the company became known as the *New Fire Office Company*. Its first policy was issued on 17th January, 1782. The rates charged for the best class of sugar bakers were 12s. per cent for buildings and 18s. for stock and utensils. The office accepted general business, and removed

[1] *Phœnix Assurance*, 1782–1915.
[2] A. B. Du Bois, *English Business Company*, 1720–1800, p. 237.

publicans and carpenters from the schedule of hazardous trades. The other bid they made for support was to make no deduction on settlement of losses. They claimed to be the first office to do so. As with other offices, they became known by their fire mark, and adopted the name of the *Phœnix*. By 1806, when the *ad valorem* duty was shown for each office, the *Phœnix* ranked second to the *Sun* in the volume of business transacted.

As the business expanded, the directors increased their capital and showed a growing expertness in dealing with their shares. At the final establishment of the company there had been issued 325 shares in 1782. In 1786 each share was divided into three, so that they subsequently numbered 975; then, in the next year, a further 225 were issued; and in November, 1794, after a heavy loss due to the Ratcliffe fire, 867 further shares were issued, making a total of 2067. From 1794 to 1800, as their position became more assured, they bought in and cancelled 628 shares, leaving in September, 1800, only 1439.

The position of the *Phœnix* having become sufficiently assured in 1785, the directors considered the possibility of commencing life business; but as the consent of every shareholder would have been required, they decided, when "a capital freehold house" almost opposite in Lombard Street was for sale in 1797, to purchase it and to start a separate company for life assurance. The intention was to offer the shares to the existing *Phœnix* shareholders, but though close association was maintained between the two offices, this does not seem to have been done. Eight directors of the *Phœnix* were to go on the board of the new company and seven were chosen from the subscribers to the *Pelican* shares. While the companies remained separate there were many shareholders common to the two institutions. Ultimately, in 1907, after the *Pelican* had become associated with the *British Empire Mutual Life Office*, it was absorbed in the *Phœnix* group.

The fire company paid its first dividend in 1786, and for several years the rate was steadily increased till 1794, when the premium income was approximately £90,000. It then incurred a loss to the extent of £50,000 in consequence of the Ratcliffe fire, to which reference has been made, as being the occasion for the issue of additional capital. In 1807 the company sustained a greater loss, one of approximately £200,000, through a fire in the island of St. Thomas, West Indies. It was the occasion of a further issue of shares, part of which were subsequently repurchased.[1]

The next important joint-stock venture we have already dealt with

[1] *The Phœnix*, 1782–1915. Most of the early history of the *Phœnix* has been derived from this publication by the Office itself.

to some extent in connection with marine insurance—the *Globe*. When the promoters failed to obtain a charter on their earlier applications, they decided to establish themselves under a deed of settlement. This deed was dated 2nd June, 1803, and therein was recited: "Whereas a subscription was opened at the banking house of Messrs. Glyn & Co., Birchin Lane, and Messrs. Devaynes & Co., Pall Mall, by several of the parties to these presents for the purpose of forming a proprietary fire and life insurance office, provided the same could be formed without subjecting the individual shareholders to personal responsibility beyond the stock and funds of the company."[1] Strictly speaking, this provision could only be fully effective if the company were incorporated and secured the provision under its charter. Failing this, practical effect could be given to protect the shareholders by expressing in every contract issued a limitation which would be binding in the terms of the contract itself. With an insurance company, where almost all its contracts are in writing, this was feasible, and among joint-stock companies it became a practice before limited liability was secured under company legislation.

The *Globe* contemplated securing a charter, and issued stock on the lines of the *Royal Exchange* and *London Assurance* in place of shares. The capital of the *Globe* was £1,000,000 and, as stock, was paid up in full. While at the time it must have been a disappointment and an apparent restriction on commercial progress that the *Equitable Life Office*, the *Phœnix*, and the *Globe* failed to secure charters of incorporation, perhaps in the long run it was fortunate that they had to take their places with the other unincorporated insurance companies and to prove by experiment that the joint-stock principle was sufficiently elastic to apply a large aggregation of capital by many shareholding members to commercial enterprise.

During the first ten years of the nineteenth century there were founded in London, in addition to the *Globe*, the *Albion Fire and Life Insurance Company*, the *County Fire Office*, the *Eagle Fire and Life*, the *Hope Fire and Life*, the *Atlas Fire and Life* insurance offices, and in the provinces the *Essex and Suffolk*, the *Kent*, the *Hants, Sussex, and Dorset*, the *Finchingfield*, the *Liverpool* (the second of that name), the *Birmingham*, the *West of England*, and the *Sheffield* insurance companies. In Scotland were founded the *Caledonian*. the *Hercules*, and the *North British* insurance companies; and in Ireland there was started the *Hibernian*. In all, nineteen companies were formed in the decade, a number of which became flourishing concerns and contributed much to insurance history. As institutions founded

[1] Walford, *Insurance Cyclopedia*, under "Globe."

on the joint-stock principle they are of general interest, and as early insurance companies they are of particular interest to us. Some reference to their constitution and early history is necessary. Collectively they represent a fresh impulse in commercial enterprise.

The *Albion Fire and Life Insurance Company* was founded, in 1805, under a deed of association with a capital of £1,000,000 in 2000 shares of £500, upon which £50 was paid. The principle of a proprietary insurance company undertaking the risk of insurance, as distinct from mutual insurance, was stressed in the original prospectus: "It is one of the advantages of the company to the public that it holds out no profession of sharing profits with those it insures. Persons insured are not liable to calls to make good the losses of others."[1] The company made a strong bid for business both for fire and life. A "large commission" was allowed to solicitors, brokers and others "who effect life insurance." Upon fire insurance, Walford said that it entered with more zeal than discretion. The duty payable on its fire insurance for the first quarter amounted to £3568, a large sum for a new company. In 1827 it gave up the transaction of fire business. In 1807 it had obtained an Act of Parliament to sue in the name of the secretary. The company at an early date established an agency in New York and transacted business in various parts of the United States, and, when deposits for life assurance were required by New York in 1854, the company complied with the law and deposited its $100,000. In 1857 the business was transferred to the *Eagle*, each shareholder receiving £207 14s. 7d. for a share upon which £50 had been paid.

The *County Fire Office*, founded in 1807 by J. T. Barber Beaumont, who was about the same time responsible for the *Provident Life*, had some individual characteristics. The intention was to seek support from the counties where there was a demand for fire insurance and a desire for local responsibility. In each of the counties of Bucks, Bedford, Berks, Hertford, Leicester, Lincoln, Middlesex, Northampton, Nottingham, Oxford, Warwick, and York, local boards of directors were formed and annual meetings were held for many years. The shares of the company were also allotted to those interested on the basis of a definite fraction for each of the counties. Another characteristic of the company was that it made a feature of sharing profits with its policyholders each seven years, provided the insurances were maintained for that term. In 1849 there was made a modification of this profit-sharing: a fixed return of premium was then made on policies with a seven years' duration. The capital of the company was £400,000 in

[1] Walford, *Insurance Cyclopedia*, Vol. I, p. 50.

4000 shares of £100, upon which £10 was paid. In 1813 the company obtained an Act under which it could sue and be sued in the name of a director.[1] No dividends were paid to shareholders till the end of the second septennial period. In 1824 the company stood fifth on the list for amount of duty paid on fire insurance policies. For a century the company maintained its independence, and then it came with its sister office, the *Provident Life*, into the *Alliance* group of companies. The *Provident Life Office* was established in 1805 with a capital of £250,000 in shares of £100.

In 1807 the *Rock Life Office* was formed with a capital of £1,000,000 in shares of £25, upon which £5 was paid. It pursued an independent existence for a century, and in 1909, when its life assurance fund amounted to somewhat over £2,000,000, its business was amalgamated with the *Law Union and Crown Insurance Company*.

The *Eagle Insurance Company* was also founded in 1807 to transact fire and life assurance. Its deed of settlement was dated 17th December, 1807. Its nominal capital was £2,000,000 in 40,000 shares of £50 each, with £5 paid up.[2] In the original prospectus the more prominence was given to fire insurance, in which the company introduced some new features: (*a*) they paid rent in respect of claims on premises rendered untenantable by fire without any additional premium; (*b*) a reduction of 10 per cent in the premium on country properties; (*c*) an extra of 6d. per cent was charged for London waterside properties; and (*d*) damage by lightning was covered.[3] In the deed of settlement it was provided that the liability of shareholders should be limited to the amount of their shares, and that shareholders should insure for fire and life with the company within four months of becoming members,[4] a provision not uncommon in deeds of settlement at that time. The company obtained, under Act of Parliament in 1813, the right to sue and be sued in the name of their secretary or other member of the company; under the Act the names of members were to be enrolled in Chancery together with new members becoming such after the date. In the prospectus it was stated that solicitors, brokers, and others would be allowed a liberal commission.

The *Eagle* does not appear to have been very successful in its fire insurance, although it secured a fair volume. In 1826 there was an amalgamation of the business with that of the *United Empire*, and the chief officer of the *United Empire* was made chief officer of the amalgamated company. A reconstruction of the board was made and a Committee appointed to consider the advisability of discontinuing fire insurance. The recommendations of the

[1] Walford, Vol. II, p. 138.
[2] Walford, Vol. II, p. 430.
[3] Walford, Vol. III, p. 558.
[4] Section (19) of Deed.

Committee resulted in the transfer of the fire business to the *Protector Fire Office*. The *Eagle* continued to transact life assurance, and the business became ultimately merged in the present century in the *Eagle Star* group.

The *Atlas Assurance Company* was established by deed of settlement of 1st September, 1808. The capital was £1,200,000 in 24,000 shares of £50 each, upon which £5 was to be paid up, i.e. 10s. at the time of subscription, £1 on signing the deed, 30s. two months after, and £2 in four months. The rest of the capital was to be called up only under actual necessity. In 1814 the Company obtained an Act to sue and be sued in the name of its chairman or secretary. The company was to be managed by eighteen directors holding sixty shares each, but a few years after its establishment, the number of directors was reduced to twelve, and in 1820 their minimum shareholding was increased to 100. The liability of the shareholders was under the deed limited to the amount of their shares. Every shareholder was to insure with the company to the amount of his shares within six months of his entry, or pay annually to the company so much as the clear profit on such insurance would have amounted to. The constitution of the company was to be altered only by two-thirds of the subscribers at a general meeting convened for that purpose. A "general court," consisting of not less than thirty members, was to be held every year, and an "extraordinary general court" could be called on the requisition of twenty-four or more members holding not less than ten shares each and who had held their shares for twelve months previously.

The board meeting of the *Atlas* was called a "court of directors," three to form a quorum. Clause 67 limited the liability of shareholders, and it is typical of the practice of insurance companies formed at the time. The clause read: "The Court of Directors shall cause all policies and annuity deeds that may be granted by the company to refer to the printed proposals and shall cause a copy of the printed proposals so far as the same shall relate thereto to accompany each policy and annuity deed, and shall cause the clause hereinafter contained against the individual responsibility of any member beyond his or her share in the capital of the company or the effect thereof to be inserted in the said policies and annuity deeds." This provision of the deed was carefully carried out in all the fire and life insurance and annuity contracts issued.

In 1816 the *Atlas* adopted a scheme of participation in profits both for fire and life policyholders. For life policyholders profits were to be divided septennially, and the first bonus was paid in 1823. On fire policies in force five years, with sums assured of £300 and upwards, returns of premium were to be made in respect

of profits. The first return, consisting of 25 per cent of the premiums, was made at the end of 1822. The Company established agencies with local committees in Ireland at Dublin, Cork, Limerick, Belfast, and Londonderry. The Irish business was separated from that of Great Britain for the purpose of deducing profits.

In Scotland the *Caledonian Insurance Company* was founded in Edinburgh in 1805. A deed of association was executed on 9th August, 1805. Its business was first confined to fire insurance. In 1833, however, it was extended to cover life assurance. In 1840 it commenced business in London. The capital originally authorized by the deed was £100,000 in 1000 shares of £100, of which only a small portion was called up. In 1846 the company obtained an Act of Incorporation "for enabling the company to sue and be sued, to take and to hold property; for confirming the rules and regulations of the said company."

The *North British Insurance Company* was founded in Edinburgh only four years after the *Caledonian*. A prospectus appeared on the 17th April, 1809, in which the capital was to be £500,000 in shares of £200, upon which 10 per cent was to be paid on subscribing "and no proprietor to hold more than ten shares. The proprietors will be liable for all debts against the company to the extent only of the shares subscribed by each, which condition will be inserted in all policies." In an article published at the time of the issue of the prospectus there is a statement: "The insurance companies of England early availed themselves of our want of capital and enterprise, by appointing agents in Scotland who for more than a century have drained from us the profits from this species of secure and useful speculation. More than twenty English insurance companies have at this moment agents in Edinburgh and other parts of Scotland by whom about three-fourths of the whole of the insurance in Scotland is transacted, and the immense advantages they reap from it may with certainty be inferred from the late rapid increase of these English insurance companies."[1]

At a meeting of subscribers on 19th October, 1809, it was resolved to start business on 11th November, and Messrs. Brougham and Moncrieff, wine merchants and insurance brokers, were appointed joint managers. The proprietors may have had reason to doubt the truth of the assertion as to immense advantages which the English companies had reaped, for in the first year of its history the company met with a severe reverse. "On the 4th June, 1810, the King's birthday was as usual celebrated in Glasgow by a display of fireworks. A rocket entered the open window of a dry goods warehouse causing fire 'to cotton goods of various description and

[1] *North British and Mercantile Insurance Co. Centenary*, 1909, p. 8.

although police and firemen were called, the latter were all drunk, it being the evening of His Majesty's birthday and they were no use. The fire was literally allowed to burn and thereby occasion a loss of many thousands of pounds." The managers personally investigated the affair and reported that several of the principal proprietors in Glasgow had expressed the opinion that the "loss the office will sustain ultimately will do great good to the establishment." The loss was promptly met, amounting to £6464, a substantial sum for a company with a paid up capital of only £22,000.[1]

In 1823 it was decided to transact life as well as fire insurance, and for the purpose in the following year the capital was increased to £1,000,000 in 500 shares of £200 and £10 paid. The whole was not subscribed till 1845, when the paid-up capital became £50,000. In 1824 a Royal Charter was obtained. Branches were opened in a number of the larger towns in the North of England, and in 1832 one was established in London. At the accession of Queen Victoria in 1837, the fire premium income amounted to £9049 and the life premiums to £54,909 per annum. In 1859 the company took over the *Newcastle Fire Office*, founded in 1783, and obtained a valuable connection in Northumberland and Durham.[2]

An interesting provincial company—the *West of England Fire and Life Insurance Company*—was established at Exeter in 1807. The capital was £600,000, of which 10 per cent was to be paid up. At the outset, fire insurance was alone transacted and policies were issued in 1808. A large and very strong board of local directors was formed, who transacted business in Devon, Somerset, Cornwall, and Dorset at the rate of the London companies' tables. These were for common risks up to £10,000 at 2s. per cent, hazardous up to £6000 at 3s. per cent, and double hazardous up to £3000 at 5s. per cent. In the prospectus it was stated: "Abundant provision having been made for all purposes the responsibility of the proprietors will be limited to the amount of the capital, namely £600,000, and it will be a stipulation in every engagement entered into by the company that the proprietors shall under no circumstances be answerable for more than the amount of their respective subscriptions. The proprietors were entitled first to 5 per cent per annum on the amount of paid up capital, and out of the profits every fifth year three-fourths was to be set aside as a reserve till such reached £20,000; thereafter the three-fourths was to be divisible among the proprietors. The remaining one-fourth was to be divided quinquennially among the policyholders in proportion to the aggregate amount of their respective payments."[3] The *West of England*

[1] *North British Centenary*, p. 24. [2] *Ibid.*
[3] From Prospectus kindly lent by the Commercial Union Assurance Co.

built up a great name for itself in the area indicated by its title and pursued an independent career, coming eventually into the *Commercial Union* group in 1894.

While the joint-stock company with transferable shares had by the first decade of the nineteenth century become the normal form of association for fire insurance, the mutual system still persisted where groups of property owners by locality or business made such a combination feasible. As an illustration of such an office, the case of the *Essex Equitable Insurance Society* may be cited. It was formed at Colchester, arising out of a meeting of property owners at the Moot Hall on 8th November, 1802. The notice convening the meeting pointed out that premiums charged for insuring property in the county were too high, "as it was a well-known fact that the losses that happen by fire in the county have a very small proportion to those that take place in London."

The first deed of settlement was executed in 1804[1] for the transaction of insurance on a mutual basis, the liability of each member being unlimited. The sum assured on any one risk, however, was restricted to £3000, and any property situate within 10 miles of London was declared to be outside the Society's operations. By a deed of 1807, the title was changed to the *Essex and Suffolk Equitable Insurance Society*, and a share capital of £20,000 was raised in the same year, of which 10 per cent was paid up. The subscribers were known as "stock members," and were entitled only to 5 per cent interest and a bonus of 2 per cent "for the risque of guaranteeing the residue" (i.e. the 90 per cent uncalled). Stock members had the right to vote at annual general courts: their influence, however, could have been but slight. In the 1807 deed it was stated that the "stock members and insured members shall be and continue a society by the name of the *Essex and Suffolk Equitable Insurance Society*."

There was no limitation in the liability of stock members in the policies issued until 1868 but in that year, as a result of Counsel's advice, a limitation was inserted that stock members were liable only to the extent of their share in the capital stock of the Society, and as to insured members, if the funds of the Society were insufficient, "then members at large of the Society shall be liable to pay or make good the same in proportion to their respective insurances." Neither stock nor insured members appear ever to have been called upon under these clauses. The board consisting of representatives of the counties managed the business well, farming stock and property

[1] The history of the Society is given in the *Essex County Standard* of 7th January, 1931. The Colchester manager, Mr. R. G. Bultitude, has kindly furnished additional information.

being the main class insured, and for many years a bonus of 30 per cent of the premiums was returned to the insured.[1]

In 1820 the proprietors of the *Essex and Suffolk* decided to start a "Society for taking out insurances on lives" with separate capital and the *Essex Life Insurance Society* was duly launched, but survived only seven years. The fire insurance society, however, pursued a successful independent course until 1911 when it came into association with the *Atlas*. The *Finchingfield Fire Insurance Association* was a similar association of landowners in Essex founded in 1804 for insuring property in the locality: its business was transferred to the *Sun Insurance Office* in 1829.

In life insurance during the same period which covered the establishment of the above companies, three forms of institution may be separated. There was the joint-stock company formed under deed of settlement with transferable shares unassociated with any other concern, such as the *Rock Life Insurance Office* of 1806 with its deed enrolled in the Court of King's Bench, capital £1,000,000 with shares of £25 and £5 paid up. There were the joint-stock companies formed separately, but with common directors, as a fire office, as the *Pelican* (associated with the *Phœnix*), the *Provident Life* (associated with the *County Fire*), and the *Sun Life* (associated with the *Sun Fire*, but established a century after the fire office). There were lastly the mutual life offices, constituted as a body of member policyholders, such as the *London Life* formed in 1805 and the *Scottish Widows' Fund Life Office* formed in Edinburgh in 1815. In spite of the long-term contract involved in life assurance with its level premium to cover an increasing risk and the consequent necessity of accumulating substantial reserves, there were no restrictions on the formation of insurance companies nor legal obligation to accumulate the reserves required for solvency: indeed the necessary actuarial knowledge to deduce correct premiums and compute appropriate reserves was held by but few. We have seen that Price had solved the basic mathematical problems connected with ordinary life assurance and the *Equitable* had put them into practice. In 1808 Francis Baily published his "*Doctrine of Interest and Annuities Analytically Investigated and Explained.*" A second edition appeared in 1813. The work did much to spread actuarial science at a time when with the increase in the number of companies transacting life assurance it was greatly needed.

Baily, who on the title page described himself as "of the Stock Exchange," was a vigorous critic of some of the institutions and practices with which his work dealt. Enamoured of the history and practices of the *Equitable*, he, in spite of his profession, had no love

[1] Walford's *Insurance Cyclopedia* under heading "Essex and Suffolk Equitable."

for the new joint-stock life insurance companies and his attitude towards them was shared by many others. As an illustration of contemporary thought, a quotation from his book may be given. He writes:[1] "Towards the end of the last and the beginning of the present century, several new public companies were formed for the purpose of making assurances on lives, granting annuities etc. viz: the *Westminster Society* in 1792, the *Pelican* in 1797, the *Globe* in 1799, the *Albion* in 1805, the *Rock* and the *Provident Institution* in 1806 and the *Eagle*, the *Hope*, the *London Life Association* and the *Atlas* in 1807. None of these societies, however, are confined solely to the granting of life assurances, since they all unite thereto the purchase or sale of annuities, and five of them (in addition to the other two branches) are engaged in fire insurance."

"It is not my intention to enter into the nature and form of all these different societies, since the major part of them do not, so far as the subject of this work is concerned, profess to hold out any peculiar advantages to the public. But as two of them in particular differ materially in this point from the rest, I shall devote a few lines to their separate explanation and examination. The *Provident Institution* was formed in 1806 with a view (quoting from the prospectus) to enable the industrious and economical to appropriate their savings most beneficially to their different objects of prudence or affection, and encourage that laudable disposition of affording an ample guarantee for the fulfilment of the benefits proposed without curtailing them by commercial views of profit. With these objects several hundred noblemen and gentlemen have entered into a subscription of £250,000 to constitute an original capital, and having taken upon themselves the sole responsibility of the establishment, they render the assured and the annuitant proprietors and enable them equally to participate in profits, after the expenses of an economical arrangement are defrayed in which the *Provident's* directors, trustees, and auditors act gratuitously. Thus by the specific sum insured and the division of contingent profits every member of the institution has the fullest value possible for payments without being subject to any calls or risks whatever."

Baily, in his criticism of these prospectus assertions, goes on: "Their proposals at sight appear to be the same as the *Equitable Society* since all the proprietors are stated to participate equally in the profits in the concern. There is, however, this material difference, that in the *Provident Institution* those profits are shared in conjunction with the several hundred noblemen and gentlemen who have guaranteed the capital and who appear not to have wholly

[1] Francis Baily, *The Doctrine of Annuities and Assurances*, Ch. XIV, p. 493 (1813 Ed.). (His dates are incorrect.)

lost sight of the commercial views of profit in establishing their concern."

He criticizes the *Rock Life Assurance Company* on the same lines: "In the Rock the assured are not mutual assurers one with the other: neither do they participate equally in the profits of the concern. For though at certain periods (of not less than seven years) an estimate is made of those profits and two-thirds of the same, after deducting the sum of five thousands pounds therefrom, are divided among all the policies, as in the *Equitable Society*, yet the remaining third instead of being improved for the benefit of all the parties is appropriated to the use of the proprietors only."

Both the *Provident Life* and *Rock Life* survived any ill-effect of Baily's criticism, and long since justified their membership of old-established life offices before becoming absorbed into the organizations of great composite companies early in the twentieth century. Baily's criticisms, however, started a controversy which perhaps has not even yet died out, i.e. as to the relative merits of the two types of institution for life assurance, proprietary and mutual. For nearly a century-and-a-half the two types have competed with each other and both have done well for their policy-holders. Profit-sharing became normal among these early offices founded with joint-stock capital, competition with the mutuals such as the *Equitable* and the *London Life* probably being the cause. As at the time (1813 or thereabouts) all the life offices were quoting the same rates of premium[1] based on the Northampton Table of Mortality, with interest at 3 per cent, apart from stability (which of itself was of the utmost importance) the advantages of the different offices would be shown by the value to be placed upon the profit-sharing rights.

The adverse comments by Lord Chief Justice Ellenborough, in 1808, on the constitution of joint-stock companies with transferable shares[2] may have been the cause for the quiescent period in the second decade of the nineteenth century, or it may have been that economic conditions did not favour the promotion of joint-stock companies till the 'twenties. During the Napoleonic wars, prices had been rising to a peak in 1809. Much money had been made in shipping and manufacture, and capitalists were venturesome, but from 1809 prices fell rapidly and conditions were not favourable for commercial development generally. With 1820, however, more confidence was felt among the moneyed classes. The Bank of England resumed gold payments against its notes in that year: capital was obtainable more easily; speculation was in the

[1] Baily, *Doctrine of Life Annuities and Assurances*, Ch. XIV, p. 501 (1813 Ed.).
[2] *The King* v. *Dodd*, East's *Reports in Easter Term*, 1808, Vol. IX, p. 525.

ascendant; and joint-stock enterprise again became popular, reaching its height in 1824 and 1825. Among the promotions coming before the public in those years the largest class of applications came from those for fire and life insurance institutions.

In his evidence before the Select Committee on Joint-stock Companies in 1841, Joseph Parkes, a solicitor, who had had a considerable experience in joint-stock enterprise, compiled a list of companies from prospectuses he had collected for schemes projected in 1824 and 1825. "The schedule of prospectuses for capital, there are 160, listed month by month from January, 1824, to January, 1825, inclusive. The crescendo seems to have been reached by January 1825 in which sixty-six ventures are listed including foreign loans, railways, canals, insurance, banking,

Class of Company	Capital	Amount Paid
	£	£
Mining Companies (Great Britain)	10,400,000	520,000
South American Mining	14,475,000	1,447,500
Foreign Loans	26,950,000	19,000,000
Railroads	21,942,500	219,425
Canals, Docks, etc.	14,134,000	282,680
Fire and Life Assurance	32,040,700	2,242,800
Waterworks	2,680,000	26,500
Gas	7,370,000	737,000
Loan, Pawnbroking, Investment, Annuity, and Banking	22,160,000	2,216,000
Colonial Companies	2,000,000	200,000
Steam Navigation, etc.	3,680,000	368,000
Provisions, Milk, and Flour	3,160,000	158,000
Totals	£160,992,200	£27,417,905

mining and other companies."[1] A summarized classification from Parkes' list is given above.

If we exclude capital for foreign loans and public utilities, the amount for fire and life assurance companies represents nearly a third of the balance, and with the exception of foreign loans the amount actually paid up is the largest item in the whole list. Parkes added that "numerous other schemes to which equal publicity was not given in 1824 are known to have been projected throughout the United Kingdom." He gave in his evidence very valuable information of a second period of speculation, that of 1834 to 1835, when railways and joint-stock banks were demanding capital: "I should say that it was about nine years before the mania broke out again . . . in the spring of 1834 there appeared to set in a

[1] Select Committee's Report, Question 2343 *et seq.*

similar mania in speculations—I should say its height was in the year 1834 to the beginning of 1835—I have made a table which I will deliver. I think most of the railways of that period miscarried—I was concerned for and against several." From Parkes' list of this period the following is a summary—

LIST OF JOINT STOCK COMPANIES, 1834–36

COMPANIES	NOMINAL CAPITAL
	£
88 Railways	69,666,000
71 Mining	7,035,200
17 Packet and Navigation	3,533,000
20 Banking	23,750,000
9 Conveyance (Coach and Omnibus)	500,000
11 Insurance	7,600,000
5 Investment	1,730,000
6 Newspapers	350,000
4 Canal	3,655,000
7 Gas	890,000
7 Cemetery	435,000
65 Miscellaneous	16,104,500
	£135,248,700

Parkes added that in his opinion the speculation of the year 1835 "was nearly equal in sterling amount and number of companies to the bubbles of 1824–5 and that many were more ridiculous." At the date of his evidence, 1841, he said: "There has been no similar period of feverish speculation since then—there has been great panic among all companies and grievous loss, particularly in mining companies in 1837–8."

Among the insurance companies of these speculative periods are some which have become household words. Credit for the final removal of the monopoly of marine insurance by joint-stock companies held by the *Royal Exchange* and *London Assurance* must be given to the promoters of the *Alliance*. This company was founded in 1824 by very strong banking and financial interests. Nathan Rothschild and Sir Moses Montefiore invited the association with them of Samuel Gurney, an influential member of the Society of Friends, together with John Irving and Francis Baring, who occupied leading positions in the sphere of banking and finance."[1] In the capital proposed, some indication is given of the ambitious nature of the enterprise: it was £5,000,000 divided into 50,000 shares of £100 each, with an immediate call of £10, "which in all probability be the only demand on the proprietors." No mention of marine

[1] *Alliance Assurance Co., Centenary*, 1824–1924.

insurance was made in the original prospectus, but this was only because the Bubble Act (6 Geo. I, c. 18) was still in force. After taking legal advice the promoters determined to use their influence to have a Bill introduced for the repeal of that part of the Act of 6 Geo. I relating to the transaction of marine insurance by joint-stock companies or partnerships. The assistance, or the sympathy, of Mr. Huskisson, the President of the Board of Trade, was obtained and the co-operation of Mr. Fowell Buxton—to whom, after their object had been achieved, the directors presented "a piece of plate of the value of two hundred pounds" for his disinterested services.[1] The account of the repeal is dealt with elsewhere. The deed of settlement of the *Alliance British and Foreign Life and Fire Assurance Company*, as the company was styled, dated 4th August, 1824, included among its objects the granting of assurances against loss or damage by fire "and on ships and merchandises at sea," and it was intended to commence marine underwriting in September, 1824; but a shareholder, who was said to have been a member of *Lloyd's*, objected to this, as marine insurance had not been mentioned in the original prospectus upon which the capital had been subscribed. The directors then decided to establish a separate company to transact marine insurance, the marine company indemnifying the *Alliance Fire and Life Company* against further losses for any marine business written previously, and to pay expenses incurred by the fire and life company in connection with the repeal of the marine clauses of the 1720 Act. All the directors of the marine company were directors of the fire and life company, but not all the directors of the latter company took their seats on the marine board. The shares of the marine company were independently held, and it was not until 1905 that those of the *Alliance Marine* were acquired by the *Alliance Assurance Company*.

Another company of importance in the history of insurance, established rather before the first speculative period described by Parkes, was the *Guardian*. The promoters were mostly bankers, and the careful finance of the company in its early history may no doubt be ascribed to the caution of London Bankers. The original shareholders were carefully selected with a moderate maximum holding. At the early meetings of the promoters, Mr. A. W. Robarts, of the banking firm of Sir William Curles Robarts & Carter, took the chair; subsequently Mr. Stewart Marjoribanks of Messrs. Thos. Coutts & Co., was elected chairman of the court of directors.[2] Messrs. Martin Stone & Martin (later Martins Bank, and still later Bank of Liverpool and Martins, Ltd.) were appointed bankers, and they or their successors have remained the principal

[1] *Alliance Centenary*, p. 77–8. [2] *Centenary of the Guardian*, 1821–1921.

bankers of the company ever since. The subscribed capital was £1,252,500 in 12,525 shares of £100, with £10 paid. In 1822 the capital was brought up to £2,000,000 by the issue of 7475 further shares.

There were certain features in the deed of settlement of the *Guardian* which showed a growing knowledge of insurance company finance, and are worth citing. The limitation of cover on any one risk was laid down: for fire insurance, £10,000 on common, £6000 on hazardous, £5000 on doubly hazardous, and £3000 on special risks; for life assurance, £5000 on any one life. Article 69 is of particular interest as forecasting a principle to be imposed by statute upon all insurance companies. The Article provided: "That the produce of the premiums and profits to arise and be received upon or in respect of policies of insurance against loss by fire . . . shall be denominated the Fire Insurance Fund, and the produce of premiums and profits to arise and be received upon or in respect of policies of assurance on lives . . . shall be denominated the Life Assurance Fund, and the produce to arise and be received upon or in respect of the sale of annuities . . . shall be denominated the Annuity Fund . . . and that separate and distinct accounts shall be kept and separate investments made of the respective premiums profits and produce constituting the same several funds." Under Article 70 the funds of each department were to be primarily liable for the losses and expenses of the department. The directors adopted the principle of paying very moderate dividends and of utilizing the profits for paying up the uncalled capital. In the Centenary volume a table is given, showing how the £200,000 paid-up capital in 1822 was, by 1860, increased to £1,000,000 by successive transfer from profits.

The *Guardian* by 1824 had reached the position of seventh on the list in order of magnitude of London fire offices—a position it held also in 1841.[1] Its life department was very successful, and life assurance was in those days exceedingly profitable to the proprietors, who took a much larger share in the profits than now. In the early years both the fire fund and the life fund paid a sum to the proprietors as "compensation afforded by subscription capital." Such compensation from the funds between the years 1821 to 1860 amounted to £156,000 from the fire and £32,000 from the life fund. In addition, there were profits in the period amounting to £79,199 from the fire fund, £562,444 from the life fund, and £18,320 from the annuity fund. From these profits and interest on proprietors' funds there had been paid out £1,089,250 by way of dividends, £800,000 towards paid-up capital, and reserve funds of

[1] Walford, *Insurance Cyclopedia*, Vol. V, p. 570.

£45,000 had been created. No dividend had been paid on the shares till 1829, when a modest 10s. or 5 per cent was paid: the dividend steadily increased to 50s. by 1860, costing £50,000. The record of the *Guardian* during that period is indicative of what fire and life assurance business, when well managed by conservative boards of directors, could achieve.

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CHAPTER XIV

COMMENCEMENT OF JOINT-STOCK COMPANY LEGISLATION

PROMOTION of fraudulent insurance companies—Effect on scrip-holders—Transfers of shares in blank—Lack of information from accounts of companies—Comparison between joint-stock banks and insurance companies—Position in Scotland—Select Committee of 1841–3—Incorporation by Letters Patent, 1837—Gladstone's Joint-stock Companies Acts of 1844—Returns of insurance companies registered under the Act—Promotion and failure of small life assurance companies registered under the 1844 Act—Select Committee appointed 1853—Joint-stock Companies Act of 1856 from which insurance companies were excluded—Anomalous position of insurance companies registered under 1844 Act—Act of 1857, which "deemed" the 1844 Act to be still in force for insurance companies registered thereunder—Companies Act of 1862—Classification of insurance companies according to constitution

UNFORTUNATELY the *Guardian* and the *Alliance* were not typical of all the insurance companies promoted in the period which gave them birth. The large profits which arose from the ample life assurance premiums based on the Northampton Table of Mortality constituted a powerful incentive to company promoters in the two speculative periods of 1824–5 and that of ten years later, and the substantial sums which by advertisement could be obtained as consideration for annuities (although on terms which could yield no ultimate profit) were an equal attraction to fraudulent concerns posing as joint-stock companies with powerful backing. There was no restriction whatever upon promotions, and such concerns as the *West Middlesex General Annuity Assurance Company*, with a stated capital of £1,000,000 in 20,000 shares of £50 each, and its associated fraudulent institution, the *Independent West Middlesex Fire and Life Insurance Company*, both of Baker Street, London, came into existence to prey upon the public by offering attractive terms for the sale of annuities. These concerns were first examined by the Select Committee of 1841, upon which W. E. Gladstone sat as chairman.

Of the *West Middlesex Companies*, the shareholders were fictitious; signatures were obtained in exchange for 7s. 6d. or 5s. 6d., and the deed of settlement was drawn up by a law writer. From the evidence it appeared that the sum of £200,000 had been obtained by the sale of annuities to the public, the evil done being aggravated by the fact that the amounts were extracted from the poorer but thrifty people who had put by savings for old age. In the Report of the Committee, it was stated that examination had taken place of certain companies, seven of which were insurance annuity and loan companies, and three mining and general companies. In

eight of these cases the "concern is represented to have been founded by mere adventurers and upon schemes evidently fraudulent or greatly miscalculated. In one of the remainder the company was bona fide in its object and in its construction but, owing to the negligence of the directors in superintending the exchange of certificates and shares for scrip, and the cancelling of the scrip, one of the officers was enabled to possess himself of the latter and deposit it as collateral security for loans to himself by which the shares became merely doubled in number. The officer is represented to have been the more easily enabled to practise such a fraud as the directors left the management in all branches to him as they considered him a very superior man, being a man of science in an independent station of life and a government contractor."

In another case the Report stated: "An insurance office was established by an individual upon the terms of receiving in the capacity of manager and concoctor £1000 per annum under the direction of men of the highest character and responsibility, but left to the conduct of that individual who defrauded them. . . . Another insurance office was established by one or two persons, one an uncertified bankrupt upon terms highly advantageous to himself as resident manager and shareholder of 100 shares, but which owing to disputes among parties was dissolved after effecting insurances to a considerable extent. On behalf of this company a prospectus was issued containing highly respectable names. It appeared from some legal proceedings that the number of shareholders was only eleven, who were all directors."

But fraud or incompetence of promoters and managers were not the only difficulties encountered in joint-stock finance of the time. Shareholders became partners in a company and by signing the partnership deed, or taking over shares by transfer deed from those who had been parties to the partnership deed, they became subject to the obligations of the partnership and were liable for calls made by directors on the shareholders. On the promotion of a company, applicants paid only a deposit and received scrip which could be sold without transfer deeds and the holders of such scrip, not conveyed by deed, were not bound to the obligations under the deed of settlement.[1] In times of speculation the scrip changed hands rapidly at advancing premiums, out of all proportion to the small sum paid as deposit. The result was pointed out by John Duncan of 72 Lombard Street, in his evidence: "The practice of issuing scrip and getting it into the hands of parties who are regardless of whether the company goes or not, has led at last to those scrip-holders becoming masters, and they will not go on with the

[1] Evidence of J. Duncan, Solicitor. Question 2020–1.

concern. They will have the money divided amongst them, and they become so troublesome that the directors cannot go on in face of them, they have no hold on them: they have not signed any deed of settlement: the prospectus is the only thing by which they are bound, and the prospectus simply allows the forfeiting of money already paid, but the power of getting in any more money does not exist on the part of the directors, and therefore however useful the company may be it must crumble to pieces."

Somewhat similar to the trading in scrip was what is now known as a transfer in blank. To quote Duncan again: "A man will buy from another fifty shares and he takes from him a transfer and implores him not to fill up the name of the buyer but to execute it in blank . . . the consequence is that the transfer will serve for a whole twelve months to sell those shares" repeatedly, so that the first and subsequent purchasers who "ought by law to have paid duty to the government have not done so. There is no penalty for transferring in blank."[1] The directors of good companies made a practice of having information as to the transferees of shares, and to register the new holders only if they were satisfied as to his stability and *bona fides* in accordance with powers given them by the deed of settlement. In fact, one witness, E. C. Bigg, a director of the *Legal and General Life Assurance Society*, founded in 1836, stated that his Society published a list of shareholders from time to time, as did also the *Law Life Assurance Society*. He thought, also, that it should be made compulsory to make a yearly "return of the accounts" to all shareholders, with a verification of the existence of the funds. Mr. Ansell, the actuary to the *Atlas*, in his evidence before the Committee, stated that the *Protector Life Assurance Office*[2] also furnished a list of its shareholders and the number of shares held by each.

The abuses which took place in this unregulated period in connexion with joint-stock insurance companies should not, however, lead us into under-estimating the valuable contribution the well-conducted companies were making to that form of financial organization which was to become typical of the later nineteenth-century commerce. For public utility enterprises, where compulsory powers were required and monopoly was natural, such as canals, gas, and water, joint-stock association was essential, as the large capital required could have been raised no other way, but these companies had to have special powers. The joint-stock principle was as suited for banking as for insurance, but in banking it had made no progress in England because of the monopoly in joint-stock banking enjoyed by the Bank of England. By the Act of 1708 it

[1] Select Committee, Question 2080. [2] Founded in 1824.

was illegal for more than six partners to carry on banking business in England and Wales, a limitation not removed till 1826. London was served in 1832 by the Bank of England and some sixty-two private banks, and in the provinces there were about eight hundred private banks.[1]

The London private banks were of good class and stability, but the same cannot be said for the provinces, where there were many failures. From 1815 to 1830 there was not a year but in which at least three banks failed, and during the fifteen years there were 206 bank failures. The facility of joint-stock banking with a system of controlled branches would have contributed much to economic progress in the first quarter of the nineteenth century had such been available in England.

In Scotland the joint-stock principle was applied to banking much earlier than in England. In 1836 there were only thirty-six banks in Scotland, few of the private banks included in this number doing important business. There were three chartered banks, the *Bank of Scotland*, the *Royal Bank of Scotland*, and the *British Linen Company*[2] The *Bank of Scotland* had successfully developed branch banking from 1774, and in 1826 had sixteen branches. The *Commercial Bank*, founded in 1810, was not incorporated by charter till 1831, but it, with the *British Linen Company*, rapidly developed branch banking and in 1826 the *Commercial Bank* had thirty-one and the *British Linen* twenty-seven branches.[3] In England at the time branch banking was practically unknown, and in place thereof there was the large number of local private firms, many without great stability or good administration and lacking the resources given by a joint-stock bank with a multiplicity of branches. Private firms in banking, when well and cautiously conducted, could and did thrive, and in course of time, when the law permitted, they gradually became absorbed into the great joint-stock banks.

On the other hand, there was no such half-way house possible in fire and life assurance. The character of the business, the collection of small premiums, and the assumption of large risks, compelled extensive membership not confined to a town or district, and there was no alternative to the joint-stock proprietary company or the wide association of mutually assured members. The latter form was more suitable for life assurance where the longer contract and the stake in the association, which members had by virtue of the reserves, bound them together. It may be fair to say that what the banks did to educate the public in successful joint-stock enterprise in Scotland, the insurance companies did in England and at

[1] Clapham, *Economic History of Great Britain*, 1820–50, p. 264.
[2] *Ibid.* [3] *Ibid.*, p. 267.

an earlier date. In industry, up to the date of the Select Committee's inquiry, enterprise was in private hands; shipbuilding, coal and iron production, and ship-owning were also in the hands of private persons, or families in partnership, and only in the later period of the century did the private firms become converted into joint-stock companies.

The opinion expressed before the Select Committee by Mr. Duncan, that facility for creation and legal recognition of joint-stock companies would not affect the structure of business enterprise generally, was clearly set out. He said: "I think it is quite a mistake to think that such would be the result of a change in the law: my impression is that it would enable several companies to come into existence for useful objects, but that it would have anything like the effect of making a change so that individual tradesmen should be found not to exist, merchants to shut up their counting houses and joint-stock companies to become the prevalent mode of dealing, I think is not at all likely to happen. I think that the joint-stock system would be confined very much to matters of magnitude or matters of considerable risk and speculation . . . the system . . . is a mere addition to existing trade."[1] In the Report itself, upon which the mark of Gladstone is indelibly stamped, there were twenty-three clauses of specific recommendations made in the light of the evidence submitted. The two bills ultimately introduced by Gladstone as President of the Board of Trade in 1844 embodied the recommendations, and they passed with but little opposition.

The 1825[2] Act to repeal that part of the 1720 Act which restrained the formation of joint-stock companies with transferable shares, conferred additional powers on the Crown "with respect to the granting of Charters of Incorporation to trading and other companies." The powers are mentioned in the second section of the Act, viz: "It may be lawful to declare that members of such corporations shall be individually liable for the debts of such corporation to such an extent as His Majesty may direct." While the repeal of the Bubble Act removed the stigma attaching to joint-stock companies, it still left them unrecognized institutions in the eyes of the law. That some extension was anticipated in the applications for charters seems clear from the fact that charters might thereafter be granted providing for what was already a feature of the unincorporated joint-stock company, i.e. the liability of the members for the debts of the corporation.

[1] Evidence of Select Committee on Joint-stock Companies, 1841–3. Question 2302–3.

[2] 6 Geo. IV, c. 91.

This "Chartered Companies Act" in effect did nothing of constructive service for insurance companies: they continued to act under their deeds of settlement and, instead of seeking charters, obtained what was almost common form now, a private Act to enable them to sue and be sued in the name of an officer. Such applications became so frequent that, in 1825, companies formed for banking purposes obtained the privilege without the necessity of a specific Act of Parliament. Periodical returns had to be made and fees paid, and in 1834 these privileges were extended so that any company, subject to proving to the satisfaction of the Crown that it was a *bona fide* concern and could have official approval, might, upon application, receive them.[1]

In 1837 a further step was taken with the intent to remedy the position of joint-stock companies by a statute entitled "An Act for the better enabling of Her Majesty to confer certain powers and immunities on trading and other companies (7 Wm. IV and 1 Vict., c. 73). In its preamble it refers to the two earlier Acts (6 Geo. IV, c. 91 and 4 and 5 Wm. IV, c. 94) stating "the provisions of the said Acts have not been effectual for the purposes thereby intended and it is expedient to repeal the same." This it does in Section 1, and in Section 2 it empowers the Crown to grant by letters patent to persons associated for trading or other purposes the "privileges which according to Common Law could be granted to a company by Charter of Incorporation." Further sections enacted that letters patent so granted may provide that suits may be carried on in the name of one of the officers of a company appointed for this purpose, that the individual liability of members may be restricted, and that the deed of partnership for such companies must be executed to provide for (*a*) the amount and number of shares, (*b*) the name and style of the company, (*c*) the date of commencement, (*d*) the business or purpose of the company, (*e*) the place of business, and (*f*) the appointment of two or more officers to sue and to be sued. Returns had to be made to the Office of Enrolments, Court of Chancery, giving facts contained in the deed and any changes in name, place of business, and changes of membership. Persons ceasing to be members remained liable till the transfer of their shares was registered. For Scotland, the returns had to be made to the General Registry Office in Edinburgh.

In the 1837 Act we see laid down the groundwork of modern company legislation, but it was still necessary to obtain an official sanction to the company by securing letters patent. Without letters patent, joint-stock company enterprise was still restricted to the unwieldy partnerships lacking legal recognition, and fraudulent

[1] 4 and 5 Wm. IV, c. 94.

companies could and did continue to be promoted without restraint. Such concerns were under the necessity of making no returns of their purpose, deed of settlement, shareholders, or capital; they were unregulated, and the stories of some of them make very unsatisfactory reading in the report of the 1841 Select Committee. Some of the life assurance companies founded under reputable auspices, such as the *Law Life* and the *Legal and General*, already referred to, voluntarily made public information. Their deeds of settlement were enrolled in the Court of Chancery, and a list of shareholders was printed and furnished to those interested. Audited accounts were issued to shareholders, and in the evidence furnished to the Select Committee by Mr. Morgan on behalf of the *Equitable* a form as used by that office was commended as a basis for all.

In Peel's Ministry, in 1842, Gladstone was Deputy-President of the Board of Trade, with Lord Ripon President in the Lords, but in May, 1843, Gladstone succeeded Ripon to the Presidency with a seat in the Cabinet. It was in his position as President that he signed the Report and handled the Bill for Registration, Incorporation, and Regulation of Joint-stock Companies and the separate Bill for the Winding Up of Companies in 1844. The first Bill contained some eighty clauses with Schedules A to K, inclusive. It applied to all joint-stock companies with the exception of banking, schools, scientific and literary institutions, friendly societies, loan societies, and building societies, established under statutes relating to such societies. It did not extend to companies established in Scotland, unless they had branches in other parts of the United Kingdom. It included in its scope every partnership consisting of more than twenty-five members. The definition of joint-stock company included "any partnership where capital is divided into shares transferable without express consent of all co-partners."

Apparently it had been intended to deal with insurance companies separately, but Gladstone brought them into the Bill[1] just before it was introduced by including, after the definition of joint-stock company, the words "and also every assurance company or association for purpose of assurance or insurance on lives or against any contingency involving the duration of human life, or against the risk of loss or damage by fire or by storm or other casualty or against the risk or loss or damage to ships at sea or on voyage to their cargoes or for granting annuities on lives and also every institution enrolled under any Act of Parliament relating to Friendly Societies which institutions shall make assurances on lives or against any contingency involving duration of life . . . to an amount

[1] *Hansard*, 3rd July, 1844, col. 275 *et seq.*

exceeding £200 whether such institutions shall be joint-stock companies or mutual assurance societies or both."

In his speech,[1] Gladstone stated that the Bill was founded on the Report of the Select Committee, and that the principal object of the Bill was that there should be established a Public Office to which all parties might go for the true history of joint-stock companies; the formalities for the registration of existing companies were few and simple. "It was most ridiculous to suppose that the Bill was conceived in a spirit adverse to the joint-stock company; the Bill proposed to establish publicity of joint-stock companies and a certain degree of regularity in their proceedings." Of the Bill there was criticism by Members, but there was little real opposition and both Bills were passed, that for the Registration, Incorporation and Regulation of Joint-stock Companies (7 and 8 Vict., c. 110) and that for the Winding-up of Companies registered thereunder (7 and 8 Vict., c. 111).

Provisional and complete registration were prescribed in the Act as recommended in the Report, and upon complete registration all companies could use the name of the company in all acts and legal processes, adding the word "Registered." The company became incorporated and had a common seal, and legal documents were to be signed by two directors and sealed with the common seal. Half-yearly returns were to be made to the Registrar of Joint-stock Companies of all changes of membership. At the request of a member, an immediate return of his transfer was to be made, and until such return had been made a member remained liable under his shares. All joint-stock companies covered by the definition established before the Act had to register, but this did not grant incorporation nor give other privileges under the Act. Established companies other than insurance companies could, if they wished, comply with the requirements under the Act for complete registration and acquire incorporation.

The effect of the Act was to leave a clear line of demarcation in the case of insurance companies between those formed before the Act and those formed thereafter. The later ones were in all cases registered and incorporated. The position in which insurance companies were so placed seems to be the result of the somewhat hurried decision to bring them into the general Act instead of regulating them under a separate piece of legislation, as had at first been intended, and in the case of banks had actually been carried out. For the banks there was passed (7 & 8 Vict., c. 32) an Act to regulate joint-stock banks in England, which was dated the same day, 5th September, 1844, as that relating to other joint-stock companies.

[1] *Hansard*, 3rd July, 1844.

Some of the principles applicable to banks, at least as to capital, might have been in contemplation for insurance companies—a joint-stock bank could not commence business until at least £100,000 was subscribed with at least £50,000 paid up. It soon became evident that the Joint-stock Companies Act of 1844 did not sufficiently protect the public in respect of insurance companies, particularly life assurance companies. The returns made to the Registrar were not immediately published: but in April, 1849, it was ordered that the returns of the names, places of business, and objects of all assurance companies completely registered under the 1844 Act were to be presented to the House, stating the date of complete registration, and also copies of every account by such companies which had been returned to the Registrar since the date of registration. When these were presented, it was ordered that they be printed.[1] In 1852 and 1853[2] similar orders were passed to bring the returns up to date, which again were printed, and were available at the time of the report of the Select Committee which was appointed in March, 1853.[3] These returns and the report and evidence of the Select Committee now constitute a valuable contribution to insurance history between 1844 and 1853. The returns were brought up to date, and printed in 1856 and 1863.

The lack of any restriction on the formation of insurance companies was the cause of excessive promotion in a field where business was limited, and therefore the success of fresh ventures with small capital was improbable. Two serious articles appeared in the "*Assurance Magazine*," the first in 1850, only six years after the Act, and the second in 1853.[4] This magazine was the semi-official organ of the Institute of Actuaries, and later became the Journal of that body. In its early years it did not confine itself so rigidly to life assurance and those branches of business where mathematical and statistical science are prominent. In these two articles the anonymous writer had life assurance primarily in mind; in the earlier he stated: "It cannot be considered that the business of life assurance in England is at the present time in a satisfactory state. There is reason to believe that not a year passes in which the average expense of it to the assured is not increased. For it is much to be questioned whether the amount of assurance annually effected is materially greater now than a few years back. . . . we are disposed to think that the business transacted by the new companies is to a great extent taken over from the old ones and that the total quantity is very little, if at all, increasing. Not so, however, the

[1] *House of Commons Journal*, Vol. CIV, pp. 220, 249, and 278.
[2] *Ibid.*, Vol. CVII, pp. 18, 85, and 159. Vol. CVIII, p. 819.
[3] *Ibid.*, Vol. CVIII, p. 319. [4] *J.I.A.*, Vol. II, p. 171; and Vol. III, p. 33.

expenditure. Since 1844, certainly not less than fifty new companies have sprung into existence, and if we estimate the average annual expenses in each of them at £2000 only, which is probably much below the mark, we have an additional drain upon the pockets of the assured of not less than £100,000 per annum. This is a wholly unnecessary one since were all newcomers abolished tomorrow and their policies transferred to the offices previously established the latter would have hardly sufficient to occupy them." The writer pointed out that in the early years the expenses exceed considerably the income of the company and the capital is therefore absorbed as well, while no sufficient reserve is made for future claims, and he went on to say: "More than all we think the Government by the apathy with which it regards the proceedings is incurring a heavy responsibility; especially as a remedy of a simple, and unobjectionable character so readily presents itself. We allude to such a measure as that adopted in America. Much, if not all of the evil now so paramount would be got rid of by insisting upon a moderate deposit as a security for the proper organization and conduct of such undertaking." The deposit he suggested was £10,000.

In the article two years later the writer states: "In the accounts of the companies recently formed it is by no means uncommon to see that at the end of three or four years not only all the premiums received have been swept away but a considerable portion of the subscribed capital also, and what is still a more fatal symptom the small income obtained from assurances exhibits from year to year scarcely any perceptible increase." In this article there was pointed out the difficulty of ascertaining the true position of companies owing to the lack of any satisfactory form of presenting the accounts, a shortcoming applicable to the old-established companies as well as the more recent—"many of them give out a mere cash account with which the public has nothing to do, and from which it can derive no useful information, and scarcely one does, as it is imperatively necessary that it should, viz. first state the receipts of the year and the charges of it and then append a balance sheet."

During the year following the Act, ninety-two new assurance companies were registered, of which thirty-nine were completely registered and fifty-three provisionally registered. In the following year, 1846, there were fifty-two, of which thirty-two were completely registered and twenty provisionally registered.[1] Up to the end of April, 1853, in all, 311 insurance companies had registered under the 1844 Act, of which only 140 had completely registered, and of the 140 only 96 were in existence. These figures were before the Select

[1] Walford, "History of Life Assurance in the United Kingdom," *J.I.A.*, Vol. XXVI, p. 440.

Committee appointed by Parliament on 8th March, 1853, and, adjusted for the small difference in the period included, were quoted by Mr. Wilson, the Secretary to the Treasury, in the House when he moved a resolution for the appointment of the Select Committee on Assurance Associations.[1]

In his speech, Mr. Wilson had life assurance companies primarily in mind, and pointed out the difference between them and other institutions formed under the 1844 Acts. The liabilities of the latter were not permanent—with a bank a person could withdraw his deposit and place it with another; in fire insurance the risk was mainly for one year, but with a life office the case was entirely different. He looked upon their institutions much more as a sacred trust for the future than as a means of mercantile operations for the present. The accumulated capital of these companies in Great Britain was, he said, £150,000,000, and the income no less than £5,000,000, a sum equal to the whole of the revenue from income tax. He read an extract from a report by the Assistant Registrar of Joint-stock Companies: "This Act had not been long in operation when public attention was forcibly directed by the discovery of a series of frauds which . . . may be described as of unexampled magnitude. Some half dozen adventurers, any one of whom would have found it difficult to obtain credit to the most limited extent, boldly announced to the world the formation of an imaginary assurance company with capital of £1,000,000 and constituting themselves into a board of directors and assuming the outward character of a wealthy and flourishing corporation, contrived, by holding out tempting inducements to the ignorant and unwary and proffering to conduct business on unusually liberal terms, to defraud the public in the course of about four years to the extent of upwards of £200,000."

Commenting on the deficiencies of the Act of 1844, the balance sheet, he said, was presented in so many different forms as to create a delusion and prevent any clear idea of its contents. In the case of twenty-five offices who had submitted their accounts, it appeared that while the sums received as premiums for the last year of account amounted to £462,032, the costs of management had reached £375,000, leaving only a balance of £86,732. Mr. Wilson, who had an intimate knowledge of the finance of life assurance offices—he was the founder and first editor of the "*Economist*"—paid a tribute to the value of life assurance funds to the landed interests in the facility for which mortgages for improvements might be obtained from them, and he added that the loans which had been raised on the security of the Government for the improvement

[1] *Hansard*, 8th March, 1853, Col. 1327.

of the West Indies and other parts of the British Dominions had been chiefly taken by insurance offices. In the discussion by members there was a tendency to regard the 1844 Act as responsible for the creation of the mushroom company. The recommendation to appoint a Select Committee on Assurance Associations was carried.

The inquiry of the Select Committee was directed to the Joint-stock Companies, and, more particularly, life assurance companies. Before it appeared the Registrar and Assistant Registrar of Joint-stock Companies, the Registrar of Friendly Societies, Mr. Finlaison (the late Actuary to the Commissioners of the National Debt), Dr. Farr at the head of the Statistical Department of the Registrar-General's Office, and many of the most eminent of the actuaries of insurance offices. It became clear from the evidence that Mr. Wilson's statements in the House were fully justified. The Act of 1844 was extremely defective, its provisions were imperfectly carried out, and there was no power to enforce the provisions. Instances of abuses were given in Section 3; prospectuses issued to the public differed materially from the representations made in the provisional registration. For complete registration the Act required that the deed of settlement should be signed by share-holders equal to one-fourth in number representing one-fourth of the proposed capital. This was evaded by false and fraudulent signatures being obtained, or by companies commencing with very small capital and upon complete registration greatly increasing the amount, as they had a right to do, without recourse to the Registrar.

The Act of 1844 had contemplated that the public would be protected by the return of the annual balance sheet, but as no form in which it was to be returned had been laid down, and the Registrar had no power to compel the return to be made, the provision had failed in its purpose. Opinions, indeed, had been expressed that instead of it proving informing to the public, the balance sheets published had served rather to deceive. The Committee considered that more definition should be given to the balance sheet and power of compulsion given to the Registrar. It thought that the distinction made between companies established before and those established after the Act should cease, and that it would be of advantage if all insurance companies were brought under one law.

The Committee expressed the opinion that the position of established companies was better than they had been led to expect. The great abuses were akin to swindling rather than to ordinary trade, and it would be difficult to prevent them by legislation while people were so careless in the conduct of their affairs, but it drew

attention to the great facilities which then existed for the promotion of insurance companies, as well as other companies, with no reasonable prospect of success, and not infrequently with no intention of transacting business. The Committee believed that considerable traffic had been carried on in the mere creation of companies which never had any real prospect of a *bona fide* existence.

The evidence given by the older offices tended towards the application of one general rule, to make such annual returns and to approve such other tests as could be given without an undue interference with their business—a safe and uniform system giving reasonable security for the respectability and solvency of insurance companies.[1] In putting forward recommendations, the Committee was distinctly apologetic for so far transgressing the generally accepted principles of *laisser faire*, but it justified itself "on the ground that the obligations undertaken by such associations have reference to a very remote uncertain period; that the object which persons have in view in effecting insurances upon their lives is generally of an important and solemn character, viz. the provision for widows and orphans, that unlike any ordinary transactions of trade a contract once entered into cannot be discharged or abandoned if doubts as to the stability of an office should arise without a great sacrifice . . . persons are thus placed in the anxious and unhappy dilemma of being compelled to persevere in paying premiums from year to year with some suspicion and doubt as to the ultimate advantage of doing so. . . . On these conditions, as a special case it has been contended . . . that interference on the part of the Government is not only justifiable but a matter of high duty."

Having thus salved their consciences, the members of the Committee proceeded to the more constructive part of their report in Section XII. First, the business of assurance differs so much from ordinary business that the provisions of the 1844 Act, so far as they affected assurance societies, should be repealed and that such concerns should be dealt with in a separate Act. Secondly, whatever duties were imposed upon the Registrar and by any new Act, these should carry with them the power to enforce compliance. Thirdly, that the difference between the old offices, established before the 1844 Act, and the new ones should be removed; that both should be placed under one general system of regulation—the periodical returns to be imposed upon both. Fourthly, it was recommended that no new company (presumably insurance company) should reach complete registration until a capital should have been subscribed and fully paid up of £10,000 to be invested in public funds under such regulation as Parliament might deem fit.

[1] Section VII.

The fifth recommendation dealt with the form of account to be returned, but no fixed form could be made applicable to all cases; the Committee recommended that a complete investigation should be made at least once in five years, as was usually prescribed in the deeds of settlement, but this investigation should show a complete valuation of the risks and liabilities and of the assets to meet the same, and that all such valuations made for shareholders or members should be registered at the office of the Registrar; for intermediate years a statement should be furnished showing the premiums received during the year; the amount of expenses; the number and amount of new policies issued; the total number and amount of liabilities on all current policies; the total amount of premiums received on them; the total capital, showing the manner of investment (i.e. cash, Government securities, mortgages, and other securities to be indicated); the average rate of interest received on each class of security; the amount, if any, upon which interest is in arrear; the table of mortality and rate of interest used in calculating the premiums. In the case of proprietary companies, there should be stated also the amount of subscribed capital, how much paid up, and how invested. The Committee considered that the accepting money on deposit was wholly inconsistent with the business of life assurance, and recommended that the practice should cease.

The report ended: "Your Committee will conclude their Report by calling attention to a part of the evidence which advocates the formation of an incorporated society of actuaries with a view to issue of diplomas or certificates to persons qualified to practise as actuaries. If any effort should be made to induce Parliament to grant such an incorporation, the Committee are of the opinion that it will be worthy of consideration, but that further consideration would be useful before such measures should be adopted, as considerable difference of opinion prevails on the subject among the actuaries themselves."

No immediate action was taken on the Committee's Report. The Joint-stock Companies Act of 1856 (19 and 20 Vict., c. 47) did not apply to insurance companies, although it repealed the Act of 1844 under which so many insurance companies had registered. In this connection, Mr. Lowe said, when introducing the Bill:[1] "The second exception (the first being banks) which I also regret relates to insurance companies, which have been omitted in deference to opinions that we are bound to respect. I do not think that the provisions of the Bill will ever be applicable to companies established on the principle of mutual insurance, which are not joint-stock

[1] *Hansard*, 1st Feb., 1856, Vol. CXL, Col. 132.

companies at all, but I am convinced they might be applied with advantage to other kinds of assurance companies. We have omitted them, however, in deference to the opinion of the Select Committee of the House which sat on the subject in 1853 and which declared in its report that the business of assurance companies differed so much from that of ordinary companies that it was desirable to repeal all the provisions of the Joint-stock Companies Act so far as they related to assurance societies and to deal with them in a separate measure."

In the course of discussion on the Bill it was stated that the Government had no intention of legislating on the subject of insurance companies until the general question of joint-stock companies had been settled. "A bill relating to life assurance companies was a most difficult subject—how to establish restrictions which while apparently offering security to the public would not be easily evaded; till they were able to do this and provide a measure which gave security it was better to do nothing. The enquiry made by the Select Committee three years earlier had had the effect of materially improving these associations."[1] As the 1856 Joint-stock Companies Act repealed the 1844 Act and no Bill to deal exclusively with insurance companies was promulgated, the position of those insurance companies which had registered under the 1844 Act, now repealed, was difficult to define, as they were excluded from the provisions of the 1856 Act. An attempt to regularize their position was made by passing the Act of 25th August, 1857 (20 and 21 Vict., c. 80), to provide that the Joint-stock Companies Act of 1844 be deemed to be still in force as regards companies carrying on insurance business and registered thereunder, or as respects companies thereafter to be formed for the said purpose. Here the position remained till the Companies Act of 1862 (25 and 26 Vict., c. 89), which applied to all companies and provided that no company or partnership of more than ten persons should be formed after the commencement of the Act for the purpose of the business of banking, and no company or partnership consisting of more than twenty persons should be formed carrying on any other business, unless it were registered as a company under the 1862 Act, or formed in pursuance of some other Act of Parliament or of letters patent, or were a company engaged in working mines . . . subject to the jurisdiction of the Stannaries.

The Act of 1844 was repealed and the insurance companies which had registered thereunder were required to register under the 1862 Act.[2] In spite of the Select Committee's Report of 1853, the Government provided no separate treatment of insurance companies,

[1] *Hansard*, 6th Mar., 1856, Vol. CXL, Col. 1951–2. [2] Section 209.

but hoped that by their comprehensive piece of legislation, applicable to joint-stock companies generally, the abuses to which the Report had drawn attention might be substantially reduced. Subject to amendments, it remained the basis of company regulation till the Companies Consolidation Act of 1908, which repealed it.

The 1908 Act, again in its turn, gave place to the Companies Act of 1929. The main framework of company regulation was, however, erected by the 1844 and 1862 Acts.

The Act of 1862, while requiring the insurance companies which had registered under the 1844 Act to register thereunder, left others with their former constitutions unaltered, and MacGillivray thereafter identified nine types of insurance institutions—[1]

1. Incorporated by charter.
2. Incorporated by special Act of Parliament.
3. Unincorporated, but authorized under letters patent under 7 Will. IV and 1 Vict., c. 73.
4. Formed before 1844 as common law partnership or mutual association, and formally registered under that Act.
5. Formed between 14th July, 1856, and 25th August, 1857, as a common law partnership or association.
6. Formed under the 1844 Act and registered under the 1862 Act.
7. Formed as a friendly society and registered under the Friendly Societies Act.
8. Formed as a trade union, whether registered or unregistered.
9. Formed after the 1862 Act and registered thereunder.

Friendly society legislation is not directly within the scope of this work, but in so far as it encouraged the formation of mutual life assurance associations, which subsequently took their place among other life assurance offices, and even by their shareholding took an interest in other classes of insurance business,[2] some reference must be made thereto. Legal protection had been given to friendly societies in 1793; they were formed for assistance of their members, or the dependants of members, in distress, and out of contributions relief was given at times of infirmity or sickness to members themselves and to those dependent upon a member at his death. The regulations governing the contributions and benefits were covered by a body of rules, but through lack of financial and actuarial knowledge a policy of hand-to-mouth had perforce to be followed. Funds which should have been husbanded for the future were distributed

[1] MacGillivray on *Insurance Law*, 2nd Ed., p. 10.
[2] E.g. the *Friends' Provident* and the *Century*.

in immediate benefits. In many cases the contributions were wholly insufficient to provide the benefits set out in the rules.

Some doubt as to the legality of these institutions seems to have been held prior to 1793, but as the Report of a Select Committee, set up to consider them in 1825, states: "Your committee apprehend that although the Act of 1793 appears to begin by rendering lawful the institutions of friendly societies, there neither was at that time nor is now any law or statute which deprives the king's subjects of the right of associating themselves for mutual support."[1] Another Select Committee sat in 1827, and in 1829 an Act was passed consolidating the laws relating to friendly societies,[2] in which no restriction was placed upon the amount of life assurance which might be granted by a society registered under the Act; and in 1834 further favourable treatment was meted out to these institutions by the Act—4 and 5 William IV, c. 40. The purposes for which societies might be formed were: "For mutual relief and maintenance of all and every member thereof, their wives, children, relations and nominees in sickness whereof the occurrence is susceptible of calculation by way of average or for any other purpose which is not illegal."

There was no objection under the 1834 Friendly Societies Act to form associations with the object of granting life assurance or annuities to their members. Walford gave a list of nineteen such offices,[3] of which the following are well-known to-day—the *Clergy Mutual*, the *Friends' Provident*, the *National Provident*, and the *Provident Clerks* (now the *Provident Mutual*), all of which have passed their centenaries. These societies enjoyed privileges such as freedom from stamp duties, right to invest their funds with the Commissioners of the National Debt on favourable terms, the nomination of beneficiaries for their policy moneys at death, and a system of arbitration in the case of disputes. It was not until 1846 that the maximum sum assured at death was fixed—£200—upon which policies were free of stamp duty to members of friendly societies. Societies granting policies beyond this amount could not thereafter invest their money in the Savings Bank or with the Commissioners of the National Debt, and thereafter the advantage of life offices registering as such largely disappeared.

[1] See Walford's article on "Friendly Societies" in his *Insurance Cyclopedia*.
[2] 10 Geo. IV, c. 56. [3] *J.I.A.*, Vol. XXVI, p. 309.

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CHAPTER XV

EXPANSION OVERSEAS

MAGNITUDE of foreign business of British companies and *Lloyd's*—A growth of the past century—North American business—Modes of transacting overseas business—Early developments of the *Guardian*, the *Phœnix*, and the *Alliance*—Numerous agencies appointed by the *London Assurance Corporation*—The Liverpool companies and North American connections—The *Royal*, the *Liverpool & London & Globe*, and the *Queen*—The *London & Lancashire*—Effect of the Chicago and Boston conflagrations—Legislation and control in U.S.A.—Assets of British companies there in 1880—Loss ratios—*National Board of Fire Underwriters* established in 1866—Position of British companies in U.S.A. at end of century, and in 1937—British insurance companies in Canada—Legislation following that of U.S.A.—Life assurance of British companies in North America of limited extent—Transaction of life assurance by Scottish companies abroad—The *Gresham Life* and the *Norwich Union Life* insurance companies in Europe—European insurance legislation—Special position of British marine insurance abroad—Insurance in the Far East—The *Union of Canton*—Foreign reinsurance treaties—Growth of reinsurance companies in Europe—Effect of network of treaties through reinsurance brokers and companies

A RECENT investigation by British insurance companies from data that are available to them has shown that the overseas premiums received by them exceed £80,000,000 per annum.[1] This does not include the very large amounts received by or on account of *Lloyd's* underwriters, nor does it include premiums for life assurance, much of which must be invested in long-term securities for the reserves for local policyholders. These premiums are received through foreign agencies of the companies, branches established abroad, subsidiary companies operating abroad, and direct payments to the United Kingdom for foreign risks. It represents the price of insurance cover for fire, marine, accident, and aviation risks provided directly or indirectly by British companies. This overseas business represents about 60 per cent of the total transacted by such companies. It is not drawn from a few countries alone, but from practically every country in the world with the exception of Russia. The largest share comes from business transacted in the United States—a remarkable thing when one considers that in so many spheres the economic development of North America is now more advanced than here. Substantially it is a growth of the past century; it has been subject to an uneven progress and has been often in the teeth of determined competition from local institutions, national prejudice, and adverse legislation. The companies have won their way by sheer merit in the conduct of their business, persistent enterprise, and the superior financial security they have

[1] Estimated in 1943.

offered to their policyholders over local institutions. From inquiries made of the British Life Offices in 1943, the policies issued by overseas branches and agencies were estimated at 52,000, assuring sums assured of £16,000,000, subject to annual premiums of £750,000.

In protecting his property against loss, the owner's chief concern is security, and he effects a policy where that may be obtained, where be believes his claim will be met in full and without excess of delay and formality in its settlement. "What," asked a Canadian journal in 1870, "would have become of the sufferers by the Chicago fire of 4th September, 1869 (loss $2,500,000, insurance $1,600,000), if they had to depend upon the ten Chicago and four Illinois companies that were on the risk? Insurance capital knows no south, no east, no west. Whether the company's home office is in Liverpool, London, New York, Boston, or Hartford is not in question, but is the company able to sell first-class indemnity?"[1] The British companies which entered the American market last century were able to sell this first-class indemnity, and the very catastrophes which destroyed many of their American competitors served only to establish the British concerns there the more securely.

The development of the British companies drawing resources from such a wide area was not unnatural. Local companies whose business was confined to one state or country could not withstand the effects of one large conflagration. In the United States large cities were springing up, ill-designed and badly built, which centred within them great aggregations of material wealth and which in, or after, a period of drought favoured the spread of a fire, fanned by any strong wind, to every part of the city. Such catastrophes, while not frequent, had to be reckoned with, and any fire insurance company which desired to maintain present and future stability was under the necessity of accumulating large reserves over and above those normal for the year's current risks. This reserve, drawn from very large areas, was available for excessive claims in the case of a conflagration in one. Only those companies with widespread risks could satisfactorily meet the requirements of fire insurance in such countries as North America, and the success of the British companies must be partly ascribed to the character of the business and partly to the enterprise of those managers who prosecuted their advantageous position of being among the first to acquire sound technique of fire insurance.

Insurance expansion overseas has proceeded by three main methods, the first by the appointment of agents who held a power of attorney to represent the companies. Such agents were usually

[1] *Toronto Monetary Times*, quoted *Post Magazine*, 17th December, 1870, p. 403.

merchants with an established position, who had high local reputations and business interests, or, at a later stage, specialized insurance brokers who might hold a power of attorney for several home companies for whom they would write business. The second method, which in its early stages was more expensive, was that of founding a branch of the office in the locality, with a manager and staff. The third and, generally speaking, the last to appear, was that of founding a subsidiary company incorporated in the country where business was to be prosecuted, or the purchase of a company already operating and registered in the country. A fourth method may be mentioned which, while giving a home company an interest in foreign local business, scarcely adds to the overseas organization, that is, participation in local business by means of a reinsurance treaty between a home company and one operating in the locality where the original business is written. While one or other of these methods may have been particularly favoured by a company and all are in existence to-day, generally speaking the three—agent, branch, and subsidiary—are, historically, the modes of development in the order mentioned.

The insurance companies at the beginning of the nineteenth century occasionally covered a foreign risk for fire insurance even when they had no local agent acting under power of attorney. The *Guardian* in the early eighteen-twenties seem to have done this—their minutes include a reference to a "proposal from the British factory at St. Petersburg for insuring the English Church and appurtenances thereunto belonging to that city in the sum of £17,000, and resolved that the same be accepted." In 1822 it was resolved that "West Indies or American risks in Turkey and the Levant be entirely avoided." There is evidence that cover for fire risks on property abroad had been undertaken by other companies, and an Act was passed in 1810 providing for the collection of stamp duty on such policies for which satisfactory provision had not been made under 22 Geo. III, c. 48, of 1781. The 1810 Act (50 Geo. III, c. 35) in its preamble read: "And whereas many persons having property in Trinidad and in other of His Majesty's islands and possessions in the West Indies and elsewhere beyond the seas cannot procure the same to be insured against loss by fire to the amount desired by the public corporation or companies by whom insurances against fire are most commonly made, and they cannot procure insurance to be made upon such property by individuals because of the regulations of the said Act of the 22nd year of H.M.'s reign which are found inconsistent as applied to them. . . ." The Act provided for the collection of duty on policies issued by individual underwriters—no doubt members of *Lloyd's*. Some

fire insurances were issued at Lloyd's Coffee House, for there was a large insurance of £20,000 on the Albion Mills in the West Indies when they were burned down in 1791. (Referred to by Wright and Fayle, p. 219, and quoted from Akermann's "*Microcosm of London.*") Whether much fire insurance was transacted by *Lloyd's* or other individual underwriters it is impossible to say: probably not prior to 1810, on account of the disability. The voluminous evidence before the Select Committee on Marine Insurance does not show any complaint by the underwriters of their being in a disadvantageous position for transacting fire insurance. The preamble of the 1810 Act, however, clearly indicates that fire insurances by the corporations and those few home offices then operating did grant some cover for foreign risks.

The *Phœnix* is the company which, under the management of Jenkin Jones, has the reputation of being the first to found an American agency or branch. The *Phœnix* established an agency in New York in 1805, and followed that by appointing agencies in other American cities. The one in Philadelphia closed in 1810 and that in New York in 1815. In the Southern States they seem to have remained till the Civil War in the 'sixties.[1] The war of 1812 meant, of course, the suspension of British business in the United States, and not until we were half-way through the century did the British companies make any determined effort to enter the field again.[2]

The *Alliance* early took an active share in overseas insurance. The directors in 1824 resolved that foreign assurances, both fire and life, should be taken in the capitals and principal towns of Europe, in the British Colonies of America, the West Indies, and the British Settlements in India. A "Foreign Assurance Committee" was formed to manage the business, and statements of the company's intentions were prepared and translated into French and German for transmission to their foreign correspondents. Powers of attorney were given to foreign agents, one resolution reading: "That full powers be given to the present Agents of the Company in Calcutta, India, and Bombay to settle such losses as may occur in their respective agencies." In 1825 it was decided "that an agency be established in the Northern States of the American Union, and that in the meantime the premiums received be remitted periodically to this country." Powers to settle losses were granted to agents in Montreal and Quebec where the company was represented. Business in Jamaica not proving satisfactory, the company ceased to prosecute it there in 1826. After an experience of about thirty years, the *Alliance* curtailed their commitments in the United States,

[1] Walford, *Insurance Cyclopedia*, Vol. I, p. 65.
[2] *Liverpool & London & Globe, Centenary*, p. 26.

and in 1851 "after a consideration of the circumstances and results of the company's business in Canada for many years past it was resolved that prosecution of fire insurance business by the company there should be abandoned," and this became effective in 1853. Fire insurance in San Francisco was closed down by the company also in 1853.

In spite of its old foundation, the *London Assurance* did not prosecute foreign insurance till the path had been blazed by others. Its expansion, however, is typical of the big composite insurance companies which now draw their premium income from every quarter of the globe. By appointing well-known merchant houses of high reputation, they secured a volume of business at an expense lower than could have been secured had they been under the necessity of establishing their own branches with officials and premises. Although the idea seems to have been in the minds of the governors of the Corporation, it was not until 1853 that action was taken, but that year saw the appointment of a number of agents in India and the Far East, and elsewhere, among whom were—

Arbuthnot & Co., at Madras.
Dent & Co., at Hong Kong.
Dent Beale & Co., at Shanghai.
Hunter Ireland & Co., at Mauritius.
Hamilton Ross & Co., at the Cape.
Guthrie & Co., at Singapore.
James Swan & Co., at Colombo.
Ewart Latham & Co., at Bombay.

A few years later the sphere of the Corporation's activities were still further extended by the appointment of agents at Foo Chow, Rio de Janeiro, Buenos Ayres, Pernambuco, Valparaiso, Port Elizabeth, Montreal, Nagasaki, Penang, and Yokohama. In 1865 a bid was made for Australasian business by the appointment of Dalgety & Co. at Melbourne and others in Hobart Town, Adelaide, Sydney, and Dunedin. In 1872 agents were appointed for fire insurance in New York, and four years later in conjunction with the *Ocean Marine*, agents were appointed for marine insurance under the management of Johnson & Higgins.[1]

In North America the career of the *Liverpool & London* (later the *Liverpool & London & Globe*) has been outstanding and, although not the earliest, its history in that field is the most important. Such is not surprising in the case of a company with its home office in Liverpool, having regard to the trade interest between that port and North America. In 1848 the company appointed Alfred Pell

[1] *The London Assurance—A Chronicle.*

its agent in New York, and in the third year of his agency he collected fire premiums to the amount of $32,940. The company then decided to set up a branch office in New York, with a board of directors and Pell as the chief officer. In the year 1849 the company appointed Bowring Bros. as their agents in Newfoundland. In 1853 an extended tour was taken by the secretary to the company—Mr. Swinton Boult—to New York, New Orleans, and San Francisco; at the last-mentioned city an agent was appointed "under stringent regulations touching the acceptance of risks." In Montreal a branch was set up with a local board of directors, and this plan was adopted both in Melbourne and Sydney. On the continent of Europe agents were appointed in Hamburg and Lisbon, and in the East at Bombay, Calcutta, Canton, Hong Kong, and Shanghai; elsewhere about the time agencies were granted in Rio de Janeiro, Valparaiso, and Manila. The year 1856 saw further agencies opened in Havana, Brazil, Sierra Leone, Auckland, Singapore, and Buenos Ayres. In fact, the company could by 1860 claim that it possessed world-wide connections.[1] On attainment of its centenary in 1936, the company was able to say that many of their overseas agents had unbroken association with them extending over fifty, sixty and seventy years; whilst in four cases an uninterrupted period of over eighty years was recorded.[1]

A second Liverpool company—the *Royal* (which became associated with the *Liverpool & London & Globe* in the present century)—commenced foreign business in 1845 by appointing agents at Calcutta and Brazil, and in the next year in Batavia, Demerara, Manila, Singapore, and New Brunswick. In 1847 agents were appointed in Barbados and Gothenburg, and in 1848 they did the same at Sourabaya. The four following years saw agencies in St. John's, Newfoundland, Montreal, Sydney, and Melbourne. The resolution to enter the United States was taken in 1851, and a Committee of the Board was appointed to carry this out. To this end the manager of the company visited America in that year, and Mr. A. D. McDonald, the Secretary to the Knickerbocker Insurance Company, was appointed in association with several prominent New York business men to form a Board of Management or Advisory Committee. Mr. McDonald continued to act for the company till his death in 1879. In 1852 the company extended its connections in the United States by appointing agents at Philadelphia and Cincinatti. In 1891 the *Royal* acquired by amalgamation the *Queen Insurance Company*, also of Liverpool, established in 1858, a company which itself had established a very large business in North America, as will be seen below in the figures of the British companies operating there.

[1] *Liverpool & London & Globe Centenary.*

One other great Liverpool (and London) company, now one of our largest composite insurance institutions, dating from 1861, which took a major part in America and general overseas expansion, was the *London & Lancashire Insurance Company*—at first a purely fire insurance company, which, by a vigorous prosecution of business through its own connections and a policy of acquisition of subsidiaries, now controls a vast overseas business. From the first year of its history the directors made a bid for foreign business by resolving to enter France, Holland, Jamaica, India, Australia, and elsewhere.[1] The early years were difficult ones for the company. In 1866, through a conflagration in Yokohama, the company sustained a net loss of £20,000. In 1879 the company commenced its policy of absorption of companies with established foreign connections, for in that year it took over the *Safeguard* of New York and the *Hoboken*, while in the following year it acquired the *Adriatic* of New York. These three American acquisitions resulted in an increase of premium income of £80,000.[2] In 1890 the *London & Lancashire* acquired the Pacific Coast business of another American company, the *Anglo-Nevada*, carrying with it a premium income of £78,000. In the next year two further American offices were absorbed, the *Southern California* and the *Norwalk*. The 'nineties saw acquisitions by the *London & Lancashire* in the British Empire, for in 1894 it purchased the business of the *South Africa Insurance Company* of Cape Town and the fire connections of two Australian offices, the *British and Colonial* of Sydney and the *National of Australia* of Melbourne. Two years later the *Mercantile of Waterloo* in Canada and the *City Mutual* of Sydney were taken over. In South America the company bought the fire business of *La Buenos Ayres* (1896) and *La Plata* (1898). The policy of expansion in this foreign field was the work of Mr. F. W. Pascoe Rutter (later Sir Fredk. W. Pascoe Rutter), who was head of the Foreign Department from 1885 to 1889 and General Manager in 1898. In the last two years of the century the company took a still larger stake in the United States by acquiring four more American offices, amongst which was the *Orient of Hartford*, with a premium income of £265,000.[3]

Without the explanation afforded by history, the position occupied by the British insurance companies in North America would appear phenomenal, for in no other economic sphere do British interests hold such a substantial position among those enterprising North American peoples. As we have seen, a number of British offices were established there before the Civil War of 1860, but it was in the half century after the close of the war that the British insurance companies came to depend to such an extent

[1] *After Fifty Years*, p. 18. [2] *Ibid.*, p. 38. [3] *Ibid.*, p. 44.

upon American premium income in their revenue accounts. In 1938 it was estimated that 70 per cent of British fire premiums was obtained from the United States.[1] In the middle of the century competition and intermittent conflagrations had brought the business of fire insurance into a parlous condition, causing failures of insurance companies and loss to the public. The British companies, drawing strength from the reserves built up in the United Kingdom and other parts of the world, were able to withstand the catastrophic fires of Chicago and Boston in 1871 and 1872 respectively in a manner the American offices were unable to do. The claims were met promptly and in full, with the consequence that merchants, manufacturers, and property owners generally gained a complete confidence in the British institutions, so much so that cover granted through British subsidiaries is now scarcely recognized as one provided from a foreign source—the American names of a few of our great insurance companies have become household words in North America, as has the Singer sewing machine here.

So important did the North American field become to the British companies in the latter half of the century, that some account of the legal framework in which they had to operate is necessary. Since insurance is a commercial activity, it is subject to separate law for each State, although most have followed a fairly uniform pattern. In 1851 the legislature of New York State passed an Act to regulate the proceedings of life and fire insurance companies, and to require deposits as a test of financial respectability. An Act of 1859 appointed an Insurance Superintendent and established an Insurance Department, the expenses of which were met by fees to be paid by the companies and persons affected by the regulations. In 1866 a further Act was passed, and thereafter briefly the position was: (1) Before it could transact business a company had to secure a certificate from the Insurance Superintendent; for this purpose it had to file certain particulars with him as to its objects, amount of capital, etc. When the Superintendent was satisfied, he issued the certificate, and after a six weeks' delay for advertisement, books might be opened for subscriptions. (2) No insurance company could on one capital carry on more than one kind of insurance, life, fire or marine; each business had to be totally distinct. (3) No company could commence insurance business till it had made a deposit of $100,000, and no company could be organized on a paid-up capital, to be invested in approved securities, of less than $100,000. (4) Returns had to be made annually giving

[1] Gabriel Smith, "Comparison between Home and Foreign Fire Insurance," *J.C.I.I.*, Vol. XLII, p. 177.

the number of policies issued in the year and amount of insurance effected thereby, particulars constituting a revenue account and balance sheet, and a statement of business in force set out in a prescribed form. Printed forms for the purpose were issued by the Superintendent, who could modify them in his discretion. Tabular extracts from them were printed and published. Much of these requirements had relevance only to life assurance. (5) Considerable powers lay with the Superintendent, who could make an investigation of the affairs of a company should he think proper; once in five years the Superintendent had to make a valuation of all obligations of every life insurance company, and if he considered a company insolvent he would close its doors.[1]

The life assurance business of British companies in the United States was never very substantial. In 1860 twenty-two insurance companies in the States contributed their experience for the purpose of deducing a combined mortality table; of these only two were British—the *Royal* and the *Liverpool & London*.[2]

The magnitude of the fire and general business in the United States of the British companies, deduced from the returns made under the regulations, may be seen in the following table of U.S.A. assets constituting the insurance reserves for the year 1880.[3]—

Office	Total U.S.A. Insurance Assets
	$
Commercial Union	1,743,441
Guardian	879,772
Imperial	918,904
Lancashire	908,081
Liverpool & London & Globe	4,402,601
London & Lancs.	933,714
London Assurance	1,231,913
North British & Mercantile	1,808,673
Northern	784,964
Norwich Union	626,373
Phœnix	545,822
Queen	1,542,354
Royal	2,705,580

Some idea of the quality of the business may be seen from the United States fire premiums (shown in sterling equivalent) and loss ratios from the returns for the year 1878, a year including no conflagration.

[1] *Post Magazine and Insurance Monitor*, 16th April, 1870.
[2] *J.I.A.*, Vol. IX, 234.
[3] *Post Magazine Almanack* for 1880, p. 67.

Office	Fire Premiums for the Year	Loss Percentage
	£	
Commercial Union	178,264	47
Guardian	30,540	38
Imperial	74,500	48
Lancashire	132,398	47
Liverpool & London & Globe	484,425	52
London Assurance	97,468	33
North British & Mercantile	230,682	50
Northern	74,427	44
Queen	181,520	53
Royal	323,229	45

While the regulation of insurance companies by an Insurance Department was imposed from above by State legislation, the companies themselves got together for the purpose of improving conditions. In 1866 there was formed the National Board of Fire Underwriters, and commenting thereon the "*Insurance Times of New York*" said: "It was called into existence as an organization for self-preservation against the effects of ruinous competition which for more than five years had disgraced the name of underwriting, and brought ruin on many companies having at one time fair prospects and impaired seriously the capital of some forty or more of the companies in this State." There was considerable misconception by the public as to the purpose of the Board, and the Committee in their Report of 1868 attempted to remove it by a general statement, which is worth quoting: "It is a well-known fact that for years before its organization the business of fire insurance was conducted with only such system, uniformity, experience or skill as the isolated and necessarily limited administration of individual companies might develop. There was little or no interchange of views among underwriters, little or no fellowship, and an absolute repugnance to a union of experience for the guidance of the common business. So far from anything like a system of statistical information being carried out under existing circumstances, there was an effort to prevent an aggregation of the great mass of facts, so important when combined yet so valueless when isolated. . . . The business is essentially one of average and that company has been most successful which has studied that first principle of our business."[1]

The testing of the British and other insurance companies in the United States came in the years 1871 and 1872, when occurred the great fires of Chicago and Boston. The fire in Chicago commenced on 9th October, 1871; it was fanned by a strong south-west wind

[1] Quoted by Walford, *Insurance Cyclopedia*, Vol. III, p. 508.

COMPANY AND ASSOCIATED OR SUBSIDIARY COMPANY	PREMIUMS FOR FIRE, CASUALTY, AND MARINE
	$
COMMERCIAL UNION	6,015,133
American Central	2,271,429
British General	398,083
California	1,397,682
Commercial Union Fire of N.Y.	878,486
Palatine	969,583
Union	995,493
Total Premiums for Group	$12,925,889
LONDON & LANCASHIRE	3,307,974
Law Union & Rock	699,244
Marine	1,922,155
Orient	1,632,445
Safeguard	414,307
Standard Marine	1,036,078
Total Premiums for Group	$9,012,203
NORTH BRITISH & MERCANTILE	7,118,597
Commonwealth	2,016,556
Homeland	1,056,147
Mercantile of America	2,023,998
Ocean Marine	181,532
Pennsylvania Fire	4,477,217
Total Premiums for Group	$16,874,047
PHOENIX	3,089,822
Columbia of New Jersey	691,367
Imperial	924,983
Union Marine & General	647,934
United	920,243
Total Premiums for Group	$6,274,349
ROYAL	8,888,693
American & Foreign	1,310,557
British & Foreign Marine	616,985
Capital Fire of California	125,234
Federal Union	653,289
Liverpool & London & Globe	8,706,735
Newark Fire	3,010,836
Queen of America	6,935,857
Star of America	1,753,782
Thames & Mersey Marine	453,306
Total Premiums for Group	$32,455,274

and destroyed about 12,000 buildings, covering nearly five square miles. The property with its contents was valued at £33,000,000. The insurances in force on the property amounted to £20,045,000 and the adjusted losses were put at £19,310,743. The six British offices paid £1,182,521, of which the major share fell to the *Liverpool & London & Globe* (£699,790), and the *North British* (£494,407), which compared with £820,000, the largest of the claims borne by a single office, the *Aetna* of Hartford. This fire caused the collapse of many offices. The effects of the Boston fire was shown in the loss ratios of the British offices for the year—the *Liverpool & London & Globe* was 104·17 per cent and the *North British* 97·65 per cent. British offices to the number of twenty-three received fire premiums in their accounts for £4,093,613, and the total losses were £3,081,858 or 75 per cent.[1]

The Boston fire broke out on 9th November, 1872, destroying 748 houses in an area of 60 acres. From the figures given by the Government of Massachusetts, the value of the property destroyed was £15,000,000 and the covering insurance to £13,218,816, of which foreign companies, mostly British, were responsible for £972,231. This fire also caused the failure of a number of American companies. The British companies, as in the Chicago disaster, paid up in full. The successive catastrophes had at least the good effect of causing an increase in rates of premium to a safer level.[2]

The unsatisfactory experience of these two years did not, however, drive the British offices from the field. At the end of the century there were over twenty British companies transacting fire insurance in the United States, with premium incomes varying from $180,206 to $4,979,422 collected there.[3]

Some forty years later, before the outbreak of the 1939 war, these figures had immensely expanded and to the fire insurance there had been added the large casualty business. Some idea of the magnitude of the British business in the United States may be gained from the figures relating to the largest of the composite giants for the year 1937.[4] (See table on p. 273.)

In Canada the British offices gained a firm footing for fire insurance. The total fire insurance premiums for Canada were, in 1868, a little less than $2,000,000. Of this, the British companies received in 1869[5]—

[1] Walford, Vol. II, p. 510.

[2] For accounts of the two fires, see Walford's *Insurance Cyclopedia*, Vol. IV, pp. 102–4.

[3] *Insurance Year Book*, New York, for 1899. Quoted by *Post Magazine Year Book*, 1900, p. 202.

[4] Extracted from Best's "Insurance Reports": *Post Magazine Almanack*, 1938–9, p. 534.

[5] Walford's *Insurance Cyclopedia*, Vol. I, 430.

	$
Liverpool & London & Globe	263,398
Royal	241,683
North British	144,822
Queen	94,048
Phœnix	86,061
Commercial Union	81,890
Imperial	64,522
London Assurance	55,931
Lancashire	40,487
Northern	18,115
Scottish Provincial	9,489
Scottish Imperial	4,878

Legislation in Canada followed quickly on that in the United States. An Act of 1860 required returns to be made to the Minister of Finance by companies not incorporated by the province. This Act was superseded by one of 1865 and amended in 1869. The Canadian companies were few and, as is seen from the above table, the larger proportion of fire business was transacted by British companies. By the legislation referred to no company could, after 1st August, 1868, transact insurance business other than ocean marine, in Canada, without first obtaining a licence from the Minister of Finance. Such could be obtained on making a deposit of $50,000 for each branch of insurance, with the provision that if a company combined life and accident, or fire and marine, it might deposit $50,000 for each combination of two branches. For existing companies the deposits could be made by instalments. Companies with head offices outside Canada had to furnish for filing a copy of their constitution, together with the power of attorney under which their agent acted. Foreign companies were to have $100,000 of unimpaired paid-up capital, any deposit made with the Minister of Finance to be treated as part thereof. Annual statements in a prescribed form had to be printed and laid before Parliament. As at the end of 1871, the British offices registered, and the classes of business for which they had made deposits, are given below—

Briton Medical	Life
Commercial Union	Fire and Life
Edinburgh	Life
Guardian	Fire
Imperial	Fire
Lancashire	Fire
Life Association of Scotland	Life
Liverpool & London & Globe	Fire and Life
London & Lancashire	Life
London Assurance	Fire and Life
North British	Fire and Life
Northern	Fire
Phœnix	Fire
Reliance Mutual	Life
Royal	Fire and Life

Scottish Amicable	Life
Scottish Fire	Fire
Scottish Imperial	Fire
Scottish Provident	Life
Scottish Provincial	Life
Standard	Life
Star	Life

The insurance legislation in North America, as in the case of Great Britain when that legislation came, was directed primarily to safeguard the life funds, and the regulations imposed by the governments needed much more trouble to fulfil in the life branch than in the fire branch. Before the introduction of legislation the British companies transacting fire and life business at home had tended to do both classes in North America. The case, however, became very different when the Insurance Superintendent or Finance Minister required the tabulation of the life business in a particular form for each country. Thereafter a small amount of life business was not worth transacting in such countries, and indeed the history of British life insurance in North America has been of little importance compared with that of fire insurance. The *Liverpool & London & Globe* office, which transacted such a large volume of fire business, did very little life insurance; it commenced life assurance in the United States in 1859, and ten years afterwards the life premium income was only £6545, while its fire premiums amounted to £425,152.[1] The *Albion*, a British office, started life business in the United States in 1851, and when that office amalgamated with the *Eagle* in 1857 the latter office continued for some years to transact life assurance. The *National Loan Fund*, another British life office, afterwards known as the *International Life*, opened in New York, but in 1859 the Insurance Commissioner in the State of Massachusetts declared it insolvent to the amount of some £200,000, and its certificate was then withdrawn in that State and also in the State of New York. In 1868 its policies were transferred to the *Hercules* (of London) and ultimately came into the hands of the *Empire Mutual*.[2]

While the United States did not constitute a very favourable field for life assurance, the British offices made considerably more progress in other parts of the world. One company founded in Edinburgh in 1846 made a bid for life assurance specially in the British Dominions. It was the *Colonial Life Assurance Company*, with a capital of £500,000 (capital subsequently increased to £1,000,000). Throughout its history it was closely associated with the *Standard*, and owed its origin to the actuary of that company, W. T. Thomson, who, from his investigations as to the mortality of

[1] Walford's *Insurance Cyclopedia*, Vol. I, p. 65. [2] *Ibid.*

lives proceeding abroad, assured by the *Standard*, came to the conclusion that the extra premiums charged for foreign residence were excessive. In the offer of shares made by circular to the shareholders of the *Standard*, it was stated that "the *Colonial Life Assurance Company* has been established for the purpose of extending to the Colonies of Great Britain and India the full benefit of life assurance, and for the purpose of giving increased facilities to persons visiting or residing in foreign countries." In 1854, and again in 1864, the company gave a statement of the amount of business in force and where it had been obtained among the various countries in which it operated—

Origin	1854 Sums Assured	Origin	1864 Sums Assured
	£		£
Great Britain	495,280	Great Britain	1,983,040
North America	351,404	British North America	1,256,241
West Indies	263,851	West Indies	794,189
East Indies, including Ceylon, China, Penang, and Manila	131,579	East Indies	499,546
		Ceylon	279,108
		Cape and Mauritius	313,100
Cape of Good Hope and Mauritius	19,399	Australia and New Zealand	84,099
		Other places	8,800

The close association with the *Standard* led to complete amalgamation with that office in 1865–6.

Another Scottish life office entered the foreign field at an early date. This was the *Scottish Amicable*, which in the year 1845 opened an agency in the West Indies. The office also transacted business in British Guiana and in South America. The manager of the Society, John Stott, investigated the mortality of the West Indian lives assured, numbering 995, for the years 1846–1876, and the result was published in the "*Journal of the Institute of Actuaries*" in 1878.[1]

The *Gresham Life Assurance Society*, founded in 1848, with an authorized capital of £100,000 in 5000 shares of £20, while intending at the outset to specialize in under-average lives, early changed its objective to that of prosecuting life assurance abroad, principally on the Continent of Europe. An agency was started in Paris in 1852, and its French branch was active and highly esteemed after a continuous history of nearly ninety years at the outbreak of war in 1939. In 1855 business was started in Turin; another, later the chief, branch for Italy was set up at Florence. In 1875 there were

[1] *J.I.A.*, Vol. XXI, p. 153.

branches of the company in France, Belgium, Switzerland, Germany, Bavaria, Saxony, Austria, Italy, and Egypt. In comparison with other British offices, the Society was in the aggregate doing a very large new business each year. Such was, however, expensive, since the rapidly expanding volume of assurances involved heavy initial expenses—more so on the Continent than in the United Kingdom. The premiums charged were, however, adequate, and at the valuations surpluses were realized and bonuses to the policy-holders distributed. With the adoption of restrictive legislation in so many European countries, life assurance for a foreign company became more difficult—the multiplicity of valuation and statistical returns eventually making it necessary to concentrate the prosecution of business in those countries only where the magnitude of the business justified the expense of separate valuations, and in some cases the maintenance of separate assets. The European war, 1914–18, further disrupted the continental business of the British offices. A policy of retrenchment was adopted by the *Gresham* in Europe, and at the outbreak of war in 1939 it had active business transacting branches in France, Spain, and Greece. Countries in other parts of the world have taken the place of European, such as India, Egypt, French North Africa, and Argentina.

Other British companies which formerly transacted life assurance in Europe have, since 1914, generally closed down for new business, the *Norwich Union* sharing with the *Gresham* the honour of preserving alive its French branch.

The restrictive legislation for the protection and control primarily of life assurance commenced in European countries about the same time as in North America. In 1860, G. Hope, the manager of the Gotha Life Insurance Bank, stated that the English companies did a considerable business in the large commerical and seaport towns of Germany. In the greater number of German States permission of the Government was necessary for establishing an agency, and licences were often refused, or granted only with troublesome conditions. The severest restrictions, he stated, were those in Austria, which would not then allow admission to its country of any foreign assurance company.[1]

Marine insurance does not need that well-organized network of branch and agency system of the underwriter in the foreign field in the same way, or at least to the same degree, as do the other classes of insurance. The risks arise in seaports, and are placed by merchants and brokers who have their own representatives in the market itself. Brokers have had a more definite and a more assured function to perform in British marine insurance than they have had in other

[1] *J.I.A.*, Vol. IX, p. 42.

branches. It is the broker who in marine insurance has had to establish foreign connections and correspondents, so that he may draw the business from all centres of trade. Throughout the nineteenth century the brokers were well organized in marine insurance, and the other branches only became of real importance to them in the present century. Lloyd's Coffee House was a meeting place of merchants, brokers, and underwriters, and as in the course of the nineteenth century control became vested in the specialized underwriting members of that institution, it became necessary to attract to and to hold in the rooms those who would bring business. When the income from the old subscriptions proved insufficient to cover the expenses of the expanding organization, it was the underwriting members who, by the alterations in the by-laws of 1843 and 1846, had to bear the brunt of expense lest they might drive away those who brought business to them. When members returned to the new Royal Exchange in 1844, after the fire, a room was reserved for merchants, and remained available until increasing demands for underwriters' boxes rendered it necessary to convert it to an underwriting room in 1854. While all subscribers had access to the Merchants' Room, an additional class was created who, by paying £2 2s. per annum, might have the use of it. Such special members comprised "merchants, bankers, shipowners, and others." A superintendent was appointed with a knowledge of foreign languages.[1] Their methods were successful, and there grew up firms who acted both as merchants and brokers, the insurance broking side of their business varying in importance according to the attention paid to it. A successful broker or merchant would become an underwriter, a member of an underwriting syndicate, who wrote through a deputy, usually a member of the syndicate, each name taking a line on the risk. As the century wore on, the broking business itself became more specialized, and periodically a partner, to maintain his foreign business, had to make tours abroad among his connections, and both *Lloyd's* and the marine insurance companies in London and Liverpool benefited.

Reference has already been made to the marine insurance companies in India at the time of the Select Committee's Report in 1810; they served the local trade in India and the Far East in those days of difficult communications. They were formed by the British merchants there, and behind them was British-owned capital. As the Far East was opened up the London marine market became still more difficult for the local trade of China and the Islands. Local facilities were necessary, and it was in these circumstances that the *Union Insurance Society* of Canton was established, an

[1] Wright and Fayle, p. 343.

institution one can scarcely leave out of the orbit of British insurance. The monopoly of the *East India Company* of trade in Canton expired in 1834, but before that year there were a number of free merchants who carried on business subject to a licence from the Company, among whom were Thomas Dent & Co. and Jardine, Mathieson & Co. The former were responsible for one of the most interesting insurance ventures with British capital in the East—the establishment of the *Union Insurance Society* of Canton. The importance of the trade from Canton may be gauged from the fact that the first "free ship" from Canton to London, after the termination of the monopoly of the *East India Company*, was the *Sarah* of 488 tons, dispatched by Jardine, Mathieson & Co. on 3rd March, 1834. The cargo consisted of silk, silk piece goods, nankeen, cassia bark, rhubarb, china-root, and sundries—the value of the silk and silk piece goods alone exceeded one million dollars.[1] Although insurance was available in Canton, there was only one firm who could pay claims there. In these circumstances Messrs. Dent & Co. decided to found the *Union*. The constitution was an elastic one—in some ways akin to that of the early *East India Company* itself. The shares were held by an association of trading firms for a term of three years, at the end of which time the venture was liquidated, the profits paid out and the shares re-allotted to a successive group, liquidation again taking place at the end of another three years. The original records have been lost, but the chairman, in his 1934 speech, stated that from the later records it is probable that the firms taking the largest interest in the first triennium were Dent & Co., Jardine, Mathieson & Co., Turner & Co., and Russell & Co., The first three were British and the last American. The system of triennial liquidations continued till 1874. In 1838, following the deadlock between the British and Canton Governments over the opium trade, the British had to leave Canton, but after peace was established the island of Hong Kong was ceded in 1842 and remained as a British Crown Colony. There the head office of the *Union* was established in close association with the merchants who were its founders. In 1874 a permanent constitution was adopted, the company having assets of $345,000, which rapidly grew to $1,000,000 in 1877, and five years later to $1,500,000. A policy of expansion was adopted and a London Branch formed. In 1906 the *China Traders' Insurance Co.* became associated with them; in 1913 the *China Fire Insurance Co.*, and in 1925 the *Yangtze Insurance Association*. After these various amalgamations the subscribed capital in 1935 took the form of 135,000 shares of £10 with £4 paid,

[1] Chairman's speech, 24th May, 1935, on centenary anniversary of the *Union of Canton*.

and the then assets exceeded £6,300,000. Of the capital, 81 per cent was owned by British shareholders. In the course of a century the *Union* had grown from a small local marine insurance company, brought into existence by a group of merchants in Canton, to a world-wide business.[1]

A fourth method by which British companies take a share in overseas business has been mentioned—that by way of reinsurance treaties. Treaty reinsurance is a specialized business, and while it may be said that the first treaty by a British company was made more than a century ago,[2] Germany was the country where the reinsurance treaty was primarily developed and studied. A treaty entered into in 1853 between the *Globe Assurance Company* of London (now *Liverpool & London & Globe*) and the *Wurttembergische* ceded a second surplus line of fire insurance from the latter company to the *Globe* in the words: "The *Wurttembergische* company cedes to the *Globe Assurance Company* in London by way of reinsurance that part of the sums insured by it which it does not desire to retain at its own risk and does not reinsure with the *Vaterländsiche Company of Elberfeld* with which it has for many years held a similar agreement."[3] At the time there was a number of treaties for fire insurance in force between German companies, and approaches were made to place treaties from an Austrian ceding company in London.[4] Though it does not appear to have been successful, the mode of treaty reinsurance was spreading considerably in continental Europe, and there was formed in 1853 the *Cologne Reinsurance Company*, whose manager visited England in 1855.

The desire for reinsurance facilities by continental companies with London offices was, however, persistent, and in 1862 a treaty was placed by the *Storebrand*, a Norwegian company, with the *Phœnix* of London, which was still in existence in 1931. The necessities for these treaty reinsurances were explained at a later date: "In many cases all the Norwegian and all the foreign companies working in Norway were already interested directly in the risk and could not, therefore, accept the additional cover required. It soon became obvious that such a state of affairs could not be continued and it was therefore necessary to obtain reinsurance facilities abroad."[5] From 1860 onwards treaties were placed and maintained by the *Phonix Insurance Company* of Vienna with London

[1] *Ibid.*
[2] Treaty between the "Nationale of Paris" and the Imperial of London, based on exchange of letters. See *History of Reinsurance*, Dr. C. E. Golding, 2nd Edn., pp. 62–3.
[3] *History of Reinsurance*, as above, p. 67.
[4] *Ibid.*, p. 70.
[5] *Ibid.*, p. 75.

companies, and the *Rossia Insurance Company* of St. Petersburg placed treaties in London and received reciprocal reinsurances from the London market.

The network of treaty reinsurance business was much advanced in 1863 by the establishment of the *Swiss Reinsurance Company*, which entered into a treaty with an English company in 1864,[1] only two years after that of the *Storebrand*, the Norwegian reinsurance company. The *Swiss Reinsurance Company* was founded by three insurance and banking interests: the *Allegemeine Vericherungs Gesellschaft Helvetia*, the *Schweizer Kreditanstalt* and the *Basler Handelsbank*. Owing to the immunity of Switzerland from the effects of direct warfare in the eighty years of its existence the *Swiss Reinsurance Company* has been able to take a more continuous and successful career than its competitor, the *Munich Reinsurance Company* founded in 1880. The first of the purely reinsurance companies established in England and now subsisting is the *Mercantile and General*, founded in 1907, which, as a subsidiary of the *Swiss Reinsurance Company*, has the benefit of the experience of its parent. British companies devoting the whole of their activities to reinsurance have not been very successful. In the main, the large British offices have adopted the principle of reciprocity in placing their treaties by direct negotiation at home and abroad. But with the development of the reinsurance technique on the Continent, brokers specializing in reinsurance have come into existence, among whom may be mentioned Sterling Offices, Ltd., and the firm of Fester Fothergill and Hartung. By the network of reinsurance treaties the interests of the British companies have become far more international than they would otherwise have been, and this has resulted in their taking a more extensive share in foreign risks.

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[1] *Ibid.*, p. 119.

CHAPTER XVI

ACCIDENT INSURANCE FROM 1844

MEANING of term "accident insurance"—Railway travel and personal accident insurance—Early accident insurance companies—Cover provided under policies—Experience of fraudulent claims—Extension to sickness insurance—Fidelity guarantee by insurance companies—Contracts by insurance companies accepted by Government departments—Conditions required to be included on Government's list of companies—Steam boiler insurance—Boiler Explosion Acts of 1882 and 1890—Electric power and general engineering insurance—Plate-glass insurance—Burglary insurance—Cultivation of these by fire offices and *Lloyd's* in present century—Early motor vehicle insurance—Facilities for insurance offered by accident companies and *Lloyd's*—Magnitude of the business shown in evidence before Committee on Compulsory Insurance—Road Traffic Act of 1930—Agreement between Insurers and Board of Trade, 1945—Aviation insurance—*Union of Canton* a pioneer—*British Aviation Insurance Company*—*Aviation and General Insurance Company*

INSURANCES undertaken by insurance companies are classified into four main categories, according to the nature of the event causing a claim. Marine insurance covers losses due to marine perils; fire insurance covers loss due to fire; life assurance provides payments on the happening of various contingencies involving human life; and accident insurance may be said to cover loss sustained by any other events. The division is artificial and there is much overlapping; the event which causes a claim under a contract of insurance involves an uncertainty, either whether it will ever happen, or, if the event is inevitable, such as death, when it will happen. From this point of view all classes of insurance may be said to be accident insurance. The term is, however, used vaguely to cover all those varied forms of insurance not included under the older classes of marine, fire, and life insurance. In North America the corresponding general term is "casualty insurance."

The first insurances to which the term "accident" was applied were personal accident insurances, and others now included under this general heading were not so included in the early history of these new branches of insurance: they were fidelity guarantee, steam boiler, and plate-glass insurance. Accident insurance—in the shape of personal accident insurance—followed, or perhaps accompanied, mechanical transport. Railway travel with its attendant risks, partly real, partly imaginary, and sometimes of spectacular magnitude, gave to promoters of companies under the 1844 Joint-stock Companies Act an opportunity which was not to be missed. Between 1845 and 1850 thirteen companies were provisionally registered for insurance against railway accidents. Only two of them, however, were founded and carried on business.

They were the *Railway Passengers Assurance Company* (provisionally registered 15th December, 1848, and completely registered 22nd March, 1849) and the *Railway Assurance Company* (provisionally registered 16th December, 1848, and completely registered 16th July, 1850). The latter company continued for only two years, when its business was transferred to the *Accidental Death Indemnity Company*, which was established in 1850.[1] The *Accidental Death* did not confine itself to railway accidents, but covered death from all accidental causes at a premium of £1 per annum per £1000 at death. As a pioneer, the company went still further, and for a premium of £3 10s. per annum it gave, in addition to the £1000 at death from accidents, compensation for non-fatal accidents of £5 a week, and up to £10 for medical attention during the period of disablement. Both these companies, the *Railway Passengers* and the *Accidental Death Indemnity*, are of historical importance: the former, allied with the *North British and Mercantile*, is carrying on a flourishing business to-day, and the business of the latter, after various vicissitudes, was amalgamated with the *Accident Insurance Company* in 1867, which, subsequently reorganized in 1870, was amalgamated with the *Commercial Union* in 1906 in the period when the great composite companies were establishing their accident insurance side by acquisition.

The *Accidental Death Indemnity* made its first appeal to the working classes, and on their failing to respond turned to the professional and mercantile classes instead. Here they found a demand, and a rapidly increasing premium income was secured, as shown in the following figures[2]—

Year	Premium Income
	£
1850	1,228
1851	2,668
1852	6,326
1853	10,752
1854	15,103
1855	18,059
1856	21,762
1857	25,530
1858	33,260

In 1859 the business of the company was amalgamated with that of the *Travellers and Marine Insurance Company*, the amalgamated business continuing under the name of the *Accidental Death Insurance*

[1] Walford's *Insurance Cyclopedia*, Vol. I, p. 8. [2] Walford, Vol. I, p. 8.

Co., the shareholders of the original *Accidental Death Indemnity* being repaid with a bonus of 25 per cent.

The *Railway Passengers Assurance Company* was empowered by a special Act of Parliament in 1849, under which it claimed a special privilege, for when assessing the damages against a railway company in respect of a fatal accident any sum payable under its policy was not to be taken into account; without such provision any sum payable under the policy would have had to be brought in. This position held generally till the Fatal Accidents (Damages) Act, 1908,[1] which enacted that any sum payable on death under any contract of insurance should not be taken into account in assessing damages. In 1855 the company enlarged the cover under its policies, so that it embraced compensation for death and disablement on account of accidents other than those arising from railway travelling. At the same time it withdrew the sum payable for fees for medical attendance, as it was thought by setting their maximum sum out in its policies there was a tendency for medical attention and consequent incapacity to last till the sum had been exhausted.

In 1855 the *General Accident and Compensation Company* was founded with authorized capital of £100,000. Among the classes of business undertaken were personal accident, plate-glass insurance, and "compensation for complete disability or total loss of health from any cause." The business was merged with that of the *Accidental Death* in 1859. In 1856 the *Norwich and London Accident and Plate Glass Insurance Company* was founded. For a premium of £2 15s. per annum their personal accident policy gave compensation of £5 weekly with a death (accidental) benefit of £1000, excluding any claim from hunting, shooting, steam engines, and machinery. These could, however, be included on payment of an additional premium of 15s., providing the occupation was non-hazardous; for such, special terms were quoted. The company was well managed and subsequently transacted all kinds of business permitted by its constitution, and maintained its independence till 1908, when it was amalgamated with the *Norwich Union Fire Office*.

With the extension of the cover granted under personal accident policies, offices seem to have suffered an adverse experience, partly due to fraudulent claims, partly due to want of discrimination in rating according to occupation. This led two actuaries—Professor de Morgan and Cornelius Walford—in 1857 to make a statistical investigation of the experience on an occupational basis,[2] from which they came to the conclusion that for some occupations the insurance could not be granted at any rates, and in a number the rates hitherto charged were too low. Insurable trades and occupations were

[1] 8 Edw. VII, c. 7. [2] Walford, Vol. I, p. 10.

divided by them into four broad classes, the first with the lightest experience being professional men with no special liability on account of occupation. The second were master tradesmen taking no part in manual work, as, for example, a master builder as distinct from a bricklayer. The third included mechanic and operative occupations generally, and the fourth hazardous occupations, where there was definite personal danger. The class of risks which they regarded as uninsurable were those in which a moral hazard was involved and which was wholly incalculable.

The *Accident Insurance Company*, into which the business and staff of the original *Accidental Death* had been merged in 1866, took a further pioneer step in issuing "specific compensation" insurance, in which compensation was paid for specific injury; for the loss of one eye £100 was paid, and £250 for both eyes; similar amounts for the loss of an arm or both arms, a leg or both legs; £50 for a hand; £25 for one or more fingers; and in the case of injury not included in the schedule, which totally incapacitated the insured, £1 per day (omitting Sundays) was paid up to a limit of 100 days.

Of the companies transacting personal accident insurance and registered between 1844 and 1862, the two transacting the largest business were the *Accidental Death Indemnity*, for which the figures have been given above; and the *Railway Passengers* (registered in 1849), which received premiums of £16,931 in 1857 and £22,435 in 1858. The compensation paid in the same years was £6839 and £8368 respectively.[1]

About forty years after the first personal accident insurance companies were established, a new venture was made in 1885 by extending compensation to disablement from sickness on the lines provided by friendly societies to their members. The *Sickness and Accident Assurance Association* of Edinburgh was the pioneer in this direction, their object being to insure income during disablement, but they did not intend to compete with friendly societies nor to seek business among artisans. The policies issued were continuing contracts under two headings, the first providing compensation during the first six months of illness and the second extending to the full duration of disablement. Under both policies the risk terminated at age sixty-five, and as an inducement to the policyholder to maintain his insurance, a bonus, depending on profits, was to be paid at the terminal age of sixty-five. The company took powers to do ordinary accident insurance, fidelity guarantee, and employers' liability insurance. At the general meeting in 1886 the chairman of the company was able to say that

[1] From the Accounts under the Annual Returns of Insurance Companies, registered under the 1844 Act, ordered by Parliament.

900 sickness policies had been issued at total annual premiums of £2500. In 1888 the company took over the business of the *Fidelity Accident Sickness and General Assurance Co.* of Aberdeen, and issued further capital, bringing the subscribed amount to £85,000, with paid-up of £17,000.[1] In 1897 it changed its name to the *Sickness Accident and Life* to cover the additional sphere of its activities, and in 1901 the name was again changed to the *Century*, under which title, since 1917, it has acted in association with its allied company, the *Friends' Provident and Century Life.*

Another company established in 1884, the *Medical Sickness Annuity and Life*, transacted a similar class of business for members of the medical profession. The company was registered under the Companies Act, limited by guarantee, the profits belonging to the members, and it has been successfully run. A few other companies have transacted sickness insurance under permanent contracts: the *Profits and Income* established in 1901, the sickness business of which was transferred to the *Legal and General Assurance Society*, who entered the market on the winding-up of the former in 1924; the *Yorkshire*, the *British General*, and the *Prudential* have all established specialized departments for this class of insurance. It has many characteristics of life assurance. The same care is necessary in the selection of lives by medical examination, and as the contract is permanent at a uniform premium based on the age at entry, the rate varying upwards with the entry age, a reserve is required by actuarial calculation. The sickness statistics used have been those of the friendly societies. The appeal has been primarily to the professional classes.

In 1893 a step was taken to add disablement from sickness to the ordinary annual contract accident policy. *The Law Accident and Contingency Society* (registered the previous year) included compensation for certain infectious diseases, and within a few years many other offices did the same.[2] There soon followed the inclusion of disablement for all classes of sickness and accident in the cover provided by companies, the latter retaining their right under a cancellation clause to return the unexpired premium and terminate the contract, a procedure which they could and did adopt if fraud or malingering were suspected. The general lines of the policy have remained much the same—a lump sum at death from accident of £1000, a weekly payment during disablement, a smaller sum during partial disablement, and a grading of the premium according to occupation, but not for age.

About the same time that personal accident insurance companies

[1] *Post Magazine*, 21st July, 1888.
[2] *Insurance Guide and Handbook*, Vol. II, p. 156, 1922 Edition.

were being promoted, another class of business which we now place under the broad heading of accident business came into being—fidelity guarantee. The first company established for granting insurances of this description was the *Guarantee Society*, with an authorized capital of £500,000 in £20 shares. It is in existence to-day as one of the allied companies of the *Yorkshire*, with which it became associated in 1914. In its prospectus the company stated: "*The Guarantee Society* has been established to obviate the defects of the system of suretyship by private bondsmen which is universally acknowledged to be attended with various inconveniences and objections. . . . *The Guarantee Society* undertakes on the payment of a small premium . . . to make good, in case of default by fraud or dishonesty, any loss which may be sustained to an amount specifically named and agreed upon in their policy, and by such means obviate the necessity for private sureties." The Society charged an annual premium of 10s. per cent and upwards according to the nature of the employment. A private Act of Parliament was obtained in 1842, providing for the usual legal proceeding for or against the Society in the name of an officer and setting out the nature of the business. Of particular interest was Section XVI, which enabled the Lords of the Treasury and heads of public departments to accept the security of the Society. Under an Act (50 Geo. III, c. 85), any person holding a Government post involving the handling of public moneys had to give security.

In 1845 another guarantee society was formed in Edinburgh, the *British Guarantee Association*, with an authorized capital of £250,000 in £10 shares, and in a private Act of 1850 the Treasury was permitted to accept their guarantee in a manner similar to that of the *Guarantee Society* of London. A Treasury Minute of 16th February, 1847, read: "My Lords have before them the form of a policy of guarantee which has been approved of and settled by the Law Officers of the Crown and which their Lordships' Solicitor has reported to be in proper form to be used in all the public departments and the same has been printed by the Association and copies thereof laid before the Board." A number of other companies were formed to transact the business, some in conjunction with life assurance. The ill-fated *European Life and Guarantee*, which was wound up in 1872, acquired a guarantee business from an earlier company, and commenced a policy of expansion in 1859 both in life and guarantee insurance. For the latter business a special Act was obtained under which a reserve for the guarantee business was set up, commencing at £20,000, and to be increased yearly by £2000 till it should reach £100,000. The fund was to be invested in Government securities in the names of three or more directors to be named by the Treasury,

and no part of the reserve fund was to be disposed of without the consent of the Treasury. The fund was to be liable for claims under the guarantees only after the assurance fund was exhausted. No single guarantee was to be issued for more than £5000 till the reserve fund amounted to £50,000, and thereafter the limit of any guarantee might be increased to £10,000. With such an arrangement the *European* before long was able to secure almost a monopoly of Government business. From 1869 the company's soundness became doubtful, and when it was wound up the guarantee business was transferred to the *London Guarantee*.

In 1867, before the crash of the *European*, an Act was passed[1] setting out general conditions which had to be complied with before the guarantees of a company could be accepted by Government Departments. They were: (*a*) a subscribed capital of not less than £50,000, with not less than £20,000 paid up; (*b*) special fund to be formed of not less than £10,000, to be increased by instalments of £1000 up to £20,000 to be invested in the names of three or more directors nominated by the Treasury. This fund was to be exclusively liable for guarantees after all the other assets had been exhausted; and (*c*) the limit of any single guarantee to £1500 while the special fund was less than £20,000, £3000 when the fund was between £20,000 and £30,000, and so on, rising to £10,000 when upwards of £50,000.

In 1869 the *London Guarantee and Accident* was established, and from its prospectus some light on the character of the business at that date may be gained. It stated: "The working of a select guarantee business shows that from 50 to 60 per cent of the premiums will more than meet the claims, while the expenses are small and decrease in proportion to the increase in the income. There are at present but two companies in England doing guarantee business of any considerable amount. One, although in a few hands and confining its operation chiefly to London, has proved highly profitable; the other more recently established with a comparatively small income has paid in the last year a dividend and bonus of over 15 per cent on the capital employed. These two practically represent the only supply for a want more or less present to every employer."

After 1880, when employers' liability insurance companies made their appearance, a number of these took powers in their constitutions to transact guarantee business, and in 1890 there were about thirty companies granting fidelity guarantee policies. With the facilities available, the area of the business widened and a demand for a company's guarantee in place of personal sureties arose in connection with Court grants where the handling of money or

[1] 30 and 31 Vict., c. 108.

securities occurred, as in the cases of receivers appointed by the Court, special managers, trustees and liquidators in bankruptcy or under deed of arrangement, administrators under the Probate Act of 1857, auctioneers selling property under order of the Court, committees of lunatics, collectors of taxes, and the like. Companies wishing to undertake this class of business had to get their names on the list of offices whose bonds were accepted, and for this they were required to furnish a copy of their articles of association and last published accounts, with a statement of the funds available for payment of claims under their bonds.

Another branch of accident insurance made its appearance about the middle of the last century: this was steam boiler insurance. *The Manchester Steam Users' Association* was established in 1854 and maintained an independent existence till it was amalgamated with the *British Engine Boiler Insurance Co.* in 1933, which has been allied with the *Royal Insurance Co.* since 1912. Another company, the *Steam Boiler Insurance Co.*, was registered on 11th March, 1858, and changed its name to the *Boiler Insurance and Steam Power Co.* in 1865; in 1896 it became the *Vulcan Boiler and General Insurance Co.*, taking over in the same year the *Yorkshire Boiler Insurance Co.* In 1920 the company, while retaining its independence, became allied with the *London Assurance*. Other companies came into existence about 1880, including in their objects employers' liability insurance as well as boiler insurance.

An early prospectus of the *Boiler Insurance and Steam Power Co.* (of Manchester) at the time of registering under the Companies Act in 1865 gave a description of the business transacted, which included: (*a*) insurance of steam boilers with buildings and machinery connected therewith, and any property or goods stored or contained in such buildings against damage from explosion of boilers or collapse of flues; (*b*) repairing or altering or keeping in repair boilers; (*c*) inspecting steam boilers and steam engines; (*d*) advising in all matters relating to the safe and economic production and use of steam; and (*e*) supplying manufacturers and others with steam power, etc.[1] The 1865 prospectus gave further information. It stated: "This company was formed for the purpose of affording to the users of steam power efficient periodical inspection of their boilers combined with insurance against all damage resulting from explosion with a view to preventing as far as practicable those frequent disasters so destructive both to life and property." During the first few years the operations were chiefly confined to the manufacturing districts of Lancashire and Yorkshire, "but the principle upon which it was formed and the advantages offered

[1] Walford, Vol. I, p. 328.

were attended with such success that the directors considered it necessary in the year 1865 to increase the capital of the company . . . and its operations were extended to all parts of the kingdom."[1] The company claimed that it had well-qualified inspectors in all the principal parts where steam power was used. In 1871 Walford stated that the average number of inspections annually made by the company exceeded 55,000, and upwards of 22,000 boilers had been insured with the company.

In 1882 a short Act was passed—the Boiler Explosion Act (45 & 46 Vict., c. 22)—under Section 5 of which notice had to be sent to the Board of Trade within twenty-four hours of the explosion of a boiler. In Section 3 a boiler means "any closed vessel for generating steam or for heating water or for heating other liquid or into which steam is admitted for heating, boiling, or other purpose." The Act did not apply to domestic boilers or to a boiler on a steamship, nor to an explosion as to which an inquiry could be made under the Coal Mines Regulation Act, 1872. The object of the Act, as given in its title, was "to make better provision for inquiries with regard to boiler explosions," and this was covered by Section 6. On receiving notice of an explosion, the Board of Trade could appoint a competent engineer to make preliminary inquiry, or it might without such preliminary inquiry direct formal investigation by a Court consisting of not less than two commoners, one at least of whom should be an engineer especially conversant with boilers, and one to be a competent lawyer, the Court to be presided over by one of the Commissioners to be selected by the Board of Trade. A report had to be made by the Court of the Board of Trade stating the causes and all the circumstances of the explosion, with evidence and any observations thereon. By a further Act of 1890 (55 & 54 Vict., c. 35), which, with the earlier Act, was to be known as the Boiler Explosion Acts, 1882 and 1890, the Act of 1882 was extended to explosions of boilers in any British ship.

This legislation substantially added to the importance and functions carried out by the boiler explosion insurance companies, of which in 1890 there were eight main companies centred in the manufacturing districts. A further development took place with the passing of the Factory and Workshops Act of 1901 (I Edw. VII, c. 7) under which every boiler in a factory or workshop had to be examined thoroughly by a competent person at least once every fourteen months (Section 11). The regulations were strengthened in 1911 and 1920 under the Factory and Workshop Acts, 1901 to 1920. The provisions of Section 11 were in 1911 extended to coal mines. The inspector had to make his report in a prescribed

[1] *Ibid.*

form, which was to be embodied in the factory register so that it could be seen by H.M. Inspector of Factories. This compulsory inspection was carried out by the engineering staff of the boiler insurance companies, and the necessary certificate was given by them.

With the increased use of electricity for power during the present century, regulations have been issued by the Board of Trade to meet the situation and protection of the public by virtue of the powers given to it under the Factory and Workshops Acts, 1901–1920, and periodical inspection of such machinery and equipment is required in factories, mines and quarries. Included also in the regulations are lifts, hoists, and cranes in factories, docks, wharves, and quarries. Notice of any accident has to be given as of explosions of boilers, and periodical inspection is necessary by an engineer who must give his certificate. The expansion of control and regulation by the Board of Trade to all class of power machinery has still further developed the work of the former boiler insurance companies, and with the evolution of the business in its widened scope it has become known as "engineering insurance." It is, however, far more than insurance, for with the insurance goes expert service, which is, perhaps, more important than the insurance itself. In a lesser degree this characteristic of service is found in other branches of insurance, such as fire insurance of commercial risks, where the advice of a surveyor is an important factor in the reduction of fire wastage. The actual insurance or indemnity given by the engineering companies has developed into three parts: the first against actual explosion, the second against breakdown of machinery, and the third against third-party injury. All the eight companies which functioned in 1890 have now become allied to the large composite companies, and engineering insurance is usually carried on through the engineering company as a subsidiary.[1]

Plate-glass insurance was another class of accident insurance which made its appearance in the middle of the last century, a time when expensive plate-glass was used for shop fronts. The demand for insurance against loss by breakage was met by the foundation of the *Plate Glass Insurance Company* in 1852, and two years afterwards by the *National Provincial Plate Glass Co.* The former maintained its independence till 1910, when it was absorbed by the *Commercial Union*; and the *National Provincial*, after certain changes in name, was, in 1909, brought into the *Royal Exchange* group. From the nature of the business, plate-glass insurance lent itself to local promotions and local control, and a number of insurance companies to transact local business were formed in the larger towns. They

[1] See W. J. Reynolds, F.C.I.I., *Engineering Insurance*, Vol. XXIX, p. 53; and H. R. Sketch, *Engineering Insurance* (Buckley Press, 1935).

were small and of a semi-mutual type: among them may be mentioned the *Bath* (1872), *Bradford* (1874), *Halifax* (1871), *Ipswich Mutual* (1886), *Isle of Wight* (1889), *Nottingham* (1886), and *Torquay* (1885). Altogether there were, in 1890, about forty companies transacting this business. Since then many more mutual companies have sprung up locally and have maintained independence. The business is not one of those set out in Section 1 of the Assurance Companies Act, 1909, and no deposits are required on formation. A local mutual association may be efficiently administered.

Burglary insurance was the subject of a number of early projects of joint-stock companies, but no successful launching of the business was achieved till the *Mercantile Accident and Guarantee Corporation* of Glasgow issued policies to cover the risk in 1889.[1] As an official of that company, the late Frederick W. Rutherford may be said to have been the pioneer in this branch of insurance. When the business of the *Mercantile Accident and Guarantee Corporation* was transferred to the *Scottish Alliance Insurance Company* in 1891, he successfully launched the *National Burglary Insurance Corporation*, whose head office was at 10 Moorgate Street, London. Other companies commenced to transact the business about the same time, such as the *Fine Art*, the *Goldsmiths and General*, the *Ocean Accident and Guarantee*, the *General Accident of Perth*, the *Law Accident*, and the *Security Company*. Competition became keen between these companies in the later 'nineties, but on the whole they successfully experimented with this difficult class of insurance where moral hazard is of first consideration. Their cover was of sufficient uniformity to permit reinsurance within the group, so that business premises containing considerable stock could be covered. Sometimes with large risks recourse could be had to *Lloyd's* underwriters for reinsurance, as members there were beginning to include it in their non-marine section.

In their period of expansion the fire offices in the first decade of this century found it necessary to open departments for burglary insurance, either by securing an official with experience from one of the existing burglary insurance companies, or by purchasing the business of an existing company and taking over the staff. By drawing the attention of their existing fire insurance policyholders to the facility the office could give for insurance against burglary, a great increase in the number of policies held by the public was brought about. Before the decade ended all the fire offices had burglary departments, as did most underwriters at *Lloyd's*, who transacted non-marine business.

On the 17th June, 1895, Mr. Shaw Lefevre introduced the

[1] F. D. McMillan, Burglary Insurance Section of *Insurance Guide and Handbook*, Vol. II, p. 247, 1922.

Locomotives on Highways Bill to the House of Commons. The object of the Bill, he said, was to exempt carriages propelled by other than horse-power from the regulations of the Locomotives Act in cases where they were not used for traction purposes. "Hon. Members," he went on, "who had recently visited Paris would have observed that there were a not inconsiderable number of carriages propelled by petroleum, gasoline, steam and in some cases by electricity. In a trial run between Paris and Bordeaux a carriage propelled by petroleum won, having travelled at a rate of fifteen miles an hour. These carriages were completely under command and horses were not frightened by them." He pointed out that the use of these carriages was practically prohibited in this country by the regulations of the Locomotives Act. Under the provisions of that Act it was necessary that such locomotives should be in charge of three persons at least, one walking in front (carrying a red flag), one behind, and one driving, and the engine could not proceed at a greater speed than four miles an hour in the country and two miles in a town.[1] Owing to the change in Government this Bill was not passed, but a fresh one was introduced in the Lords on 23rd April, 1896, and became law without opposition.

To celebrate this freeing of the roads to motor traffic, a trial run between London and Brighton on the lines of that between Paris and Bordeaux was arranged for the 14th November, 1896. It is significant of the initiative of at least one accident insurance company, that the *Scottish Employers' Liability and Accident Company* (whose business was transferred to the *London and Lancashire Fire Office* in 1904) offered, through an agent, insurance for the competitors, which was to include accidents to passengers, damage to cars, and apparently direct third-party risks, for the letter offering the cover stated that "the above rates will not cover accidents caused by frightened horses." At the same time the office offered yearly insurances at the rate of 2 per cent of the sum assured plus £2 per car in London, and 30s. per cent and 30s. per car in the country.[2]

Before the end of the century a number of accident insurance companies were offering motor-car owners insurance, a pioneer in the business being the *Law Accident Insurance Society*. It became obvious in the first decade of the present century that a new class of insurance business of considerable magnitude was developing, and insurance companies, such as the *Car and General Insurance Company*, in 1903, were established for the purpose of working in this new area. Competition between the older accident companies, the new promotions, and *Lloyd's* underwriters depressed rates to

[1] *Parliamentary Debates*, Vol. XXXIV, Col. 1273–4.
[2] Correspondence in Library of the Chartered Insurance Institute.

unremunerative levels. Under the Assurance Companies Act, 1909, motor vehicle insurance was not one of the branches of business to which the Act related, so that both before and after the Act coming into force, companies transacting motor insurance, but not one of the specified classes, might be established without making a deposit of £20,000, a weakness which was the cause of a certain unhealthy condition in motor insurance until the passage of the Road Traffic Acts, 1930–1934. Thereafter a company which transacted motor vehicle insurance had to make a deposit of £15,000 irrespective of any other deposit it made and, as the importance of the third-party risk covered has become greatly increased in consequence of compulsion under these Acts to cover it by insurance, the stability of insurers has become much more the concern of the Government.

Before the passage of the Road Traffic Act, insurance companies transacting one of the classes of business to which the 1909 Act related, and also motor vehicle insurance, carried the premium income from the latter into their general accident account (with other items such as burglary, fidelity guarantee, and foreign casualty insurance), so that the total premium income from motor vehicle insurance was not shown. From 1931, however, a separate revenue account had to be returned to the Board of Trade in the form required by the schedules to the 1909 Act, and the premium income from the companies could be seen. A table prepared by the Board of Trade and published with the minutes of evidence taken before the Departmental Committee on Compulsory Insurance, 1936, is of much interest. There is shown below, for a series of years, the premium income of the companies in their general or miscellaneous account, and from 1931 that also of the motor vehicle insurance (both home and abroad). Assuming that the

PREMIUM INCOME DERIVED BY UNITED KINGDOM COMPANIES FROM MISCELLANEOUS AND MOTOR VEHICLE INSURANCE

YEAR	MISCELLANEOUS	MOTOR VEHICLE	TOTAL
	£	£	£
1925	44,454,000	—	44,454,000
1926	48,748,000	—	48,748,000
1927	51,694,000	—	51,694,000
1928	54,345,000	—	54,345,000
1929	56,312,000	—	56,312,000
1930	55,814,000	—	55,814,000
1931	22,750,000	32,532,000	55,282,000
1932	21,587,000	31,765,000	53,352,000
1933	21,891,000	31,266,000	53,157,000
1934	23,718,000	31,878,000	55,596,000

ratio of the motor vehicle insurance premiums to the total is the same in the earlier years, an approximation to motor insurance premium income before 1931 may be obtained. If we take the ratio as about 60 per cent, then motor vehicle insurance premiums must have been from £25,000,000 to £30,000,000 per annum from 1925 to 1930.

For the last tabulated years two companies showed premium income from motor vehicle insurance of £3,000,000 per annum, two income between two and three millions, and four income of between one and two millions.[1] To the Committee there was submitted the history of five companies which had become insolvent. The evidence in Appendix A stated: "Their careers present strikingly similar features. All alike indulged in reckless underwriting, and, when they found themselves approaching insolvency, increased their premium income to the utmost possible extent. Each of the companies in turn succeeded to the worst of the business done by its predecessors—precisely the class of business which more prudent concerns refused to underwrite."

Under Section 35 of the Road Traffic Act, 1930, it is an offence for any person to use, or permit any other person to use, any motor vehicle on a road unless there is in force a policy of insurance or a security in respect of third-party risks which complies with the requirements of the Act. These requirements are : (1) that the policy must be one by an authorized insurer, i.e. one issued by an insurance company or an underwriter who has complied with the provisions of the Assurance Companies Act, 1909, as amended by Section 42 of the Road Traffic Act, 1930, with respect to deposits and guarantees; and (2) that the policy must cover third-party claims in respect of the death of or bodily injury to any person caused by or arising out of the use of the vehicle on a road. There are provisions under the 1934 Act for preventing the intention of the Act proving ineffective by avoidance of policies on the ground of non-compliance with conditions or misstatements, or suppression of material facts.

In an agreement with the Minister of War Transport, dated 31st December, 1945, insurance companies and syndicates of *Lloyd's* underwriters undertook to establish "The Motor Insurers' Association," to which each would contribute. This association will meet claims by third parties in respect of judgments not satisfied within seven days, whether or not the person is covered by a contract of motor vehicle insurance. Further particulars of this agreement (No. 46785 of 1946, H.M. Stationery Office) are given in Chapter XX.

[1] Appendix A, p. 6, of *Minutes of Evidence of Departmental Committee on Compulsory Insurance.*

As with workmen's compensation insurance, the public, as well as the policyholders themselves, are so interested in motor vehicle insurance that its relationship with the State needs special consideration and treatment. It is dealt with in the chapter on insurance legislation.

Although a little aviation insurance was transacted both here and in America before the 1914–1918 war, its true history started in 1919, when risks were underwritten here by the *Union of Canton* and certain *Lloyd's* underwriters, of whom Heath's syndicate was prominent, acting through the *White Cross* insurance agency. The *Union of Canton* secured the services of Captain A. G. Lamplugh, who may be said to be the pioneer of British aviation insurance, and realizing that the centre must be in London, that Society sent him there, where he became underwriter to a group consisting of the *Union of Canton*, Heath's syndicate, and the *White Cross*. Unfortunately the association met a period of heavy claims in 1923, which was accompanied by much rate cutting by other *Lloyd's* underwriters who had entered the field. It was then that a remodelled association, known as the *British Aviation Group*, was formed, consisting of the *Union of Canton* and the *White Cross*, for whom Lamplugh acted as underwriter and adviser, the risks being borne in equal shares by the two companies.

The association was later expanded by the inclusion of certain of the larger composite insurance companies. In 1931 the *British Aviation Insurance Company* was formed to take over the connection of the group and the services of Lamplugh. The capital of the company was subscribed by seven of the large British composite insurance companies, the *Union of Canton*, Heath's syndicate, and the *Excess Insurance Company*. Some idea of the growth of the company may be obtained from the premium income at quinquennial intervals—

Year	Net Approx. Premiums
	£
1931	142,800 (first year of new company)
1936	148,000
1941	298,000
1945	279,000

The company now not only writes for itself, but has a number of associated companies who receive a share of the risks underwritten. It has recently launched a subsidiary called the *British Aviation*

Services, Ltd., to transact various services which may be said to be ancillary to the main insurance function of the parent company. These include settlement of claims, maintenance of intelligence service, records of pilots, and the giving of technical advice by experts.

A second company, also promoted by a group of composite insurance companies and *Lloyd's* interests, not associated with the earlier aviation company, was established in 1935, named the *Aviation and General Insurance Company*, with a capital of £500,000, half of which has been paid up. Its progress before the outbreak of the war in 1939 was limited: its premium income for 1939 was £52,926, of which £7955 was for personal accident insurance whilst flying. In subsequent years the premium income has increased to £120,332 in 1944, yielding a good underwriting profit.

Both companies have ample reinsurance facilities, due to their connection with the large insurance companies and *Lloyd's* underwriters, and if, as many think, there is a large future for aviation insurance, they should together secure a considerable share of the business. The development by means of an association of insurance companies and underwriters is an interesting one.

Under the 1946 Assurance Companies Act, aviation insurance is bracketed with marine and transit insurance as one class, to which Section 1 of the 1909 Act applies.

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CHAPTER XVII

INSURANCE OF LIABILITY UNDER THE EMPLOYERS' LIABILITY AND WORKMEN'S COMPENSATION ACTS, 1880–1946

SPECIAL interest of employers' liability insurance—The provisions of the 1880 Act—The common law position—Lord Campbell's Act—Principle of common employment—Act of 1880 merely removed the harsh treatment of injured employees under common law as interpreted in Courts—The *Employers' Liability Assurance Corporation*—Basis of premium rates—Magnitude of business in 1891—Contracting out of the Act—Workmen's Compensation Act of 1897—New situation created thereby—Scale of compensation—Workmen's Compensation Act of 1906—Industrial diseases—Holman Gregory Committee Report of 1920—Mutual associations of employers—Defects of the system—Workmen's Compensation Act of 1923—Arrangement with the *Accident Offices' Association* as to limit of expenses and profit—Workmen's Compensation (Coal Mines) Act of 1934—Conversion to State scheme of National Insurance

EMPLOYERS' liability insurance is one of the most interesting of the branches of commercial insurance; since 1897 it has also become one of the branches of social insurance, the first to make its appearance in this country. While the necessity to compensate has been imposed on the employer, no compulsion has been put upon him to cover his liability by insurance,[1] but so prevalent has become the practice of transferring the liability either to an insurance company or to a mutual indemnity association, that those who make no such provision are known as self-insurers. As the liability has been created by its own social legislation, the State has considered it incumbent upon itself to exercise some control over the institutions providing the insurance, and this control has been devised and exercised in consultation with the insurers themselves. The system by which social legislation has gone hand in hand with commerical insurance of the liability created has been experimental and has obviously not yet reached a final stage. In studying the history to the present time, we have to travel along two paths: the first that of the legislation making the employer liable for compensation, and the second that of the insurance which provides an indemnity to the employer to meet this liability.

It was the Employers' Liability Act of 1880 (43 & 44 Vict., c. 42) which gave to accident insurance that turn in its history which brought it into a sphere of importance measurable with the older forms of fire and marine insurance. That Act, coupled with the Workmen's Compensation Acts of 1897 and 1906, with resulting

[1] See, however, below under the Workmen's Compensation (Coal Mines) Act, 1934.

expansion of workmen's compensation insurance, may be said to be one of the major causes of the amalgamations and associations in the early years of the present century to form the great composite insurance offices in the shape we know them to-day.

The common law has always imposed a liability on a person who, through his negligence, was the cause of injury to another, and this was true in the case of a workman who suffered through the negligence of his employer. Until the Fatal Accidents Act of 1846 (Lord Campbell's Act, 9 & 10 Vict., c. 93), the right of action died with the injured person. Under that Act certain relations of the deceased were given the right of action against the negligent person. However, in the case of an injured workman generally no action could be taken against an employer either at common law or in virtue of Lord Campbell's Act, owing to what was known as the doctrine of common employment. This doctrine held that no servant injured by a fellow-servant in the course of employment could bring an action against his employer. The position was tested in the Courts in 1837 in the case of *Priestly* v. *Fowler*,[1] in which a butcher's boy was injured due to negligence of a fellow-servant who overloaded a van. In that case the judge exclaimed: "What, make a master liable if one of his servants injures another! If this is allowed, where shall we stop?"

There was a further doctrine observed by the Courts, viz. that in the terms of the contract of service the servant willingly takes the ordinary risks incidental to his employment. This principle also was cited in the case of *Priestly* v. *Fowler*. "But in truth the mere relation of the master and servant can never imply an obligation on the part of the master to take more care of the servant than he may reasonably be expected to do of himself. He is no doubt bound to provide for the safety of his servant in the course of his employment to the best of his judgment, information, and belief. The servant is not bound to risk his safety in the service of his master and may if he thinks fit decline any service in which he reasonably apprehends injury to himself."[2] This principle of *volenti non fit injuria* was upheld in the House of Lords in the case of *Bartonshill Coal Co.* v. *Reid* (1858, 6 W.R. 664) and, subject to the provisions of legislation since then, that is the position to-day.

The principle of common employment was in the Courts pushed to its logical conclusion irrespective of the grades of employees. The general manager of a railway was regarded as in common employment with the labourer on the line; the chief engineer on a ship with an ordinary seaman. This principle was to some extent

[1] *Priestly* v. *Fowler*, 3 M. & W., per Lord Abinger, C.B.
[2] Judge Ruegg, *Journal of the Chartered Insurance Institute*, Vol. XXXV, p. 169.

modified by the Employers' Liability Act, 1880. The Act made the master or employer liable for injuries caused to certain classes of employees by the negligence of their fellow-servants. It placed the employees in the position of members of the public so injured, and gave them the right to sue for the same compensation which members of the public could receive against the employer. The Act applied to the following classes: railway servants, labourers, servants in husbandry, journeymen artificers, handicraftsmen, miners, or persons otherwise engaged in manual labour who have not entered into work under a contract of service with an employer, i.e. to any person to whom the Employers and Workmen Act of 1875 applied.[1]

The effect of the Act was that an employee could sue for injury caused by any defect in the condition of the ways, works, machinery, or plant connected with or used in the business of the employer, provided that the defect arose from, or had not been discovered or remedied owing to, the negligence of the employer or of some person in his employment entrusted with the duty of seeing that the ways, works, machinery, or plant were in proper condition. It is important to notice that the Act introduced no new principle of workmen's compensation, but simply removed certain defences which an employer had hitherto held under the common law for damages if an employee was injured in his service through negligence.

One new feature was introduced by the Act in respect of the amount of compensation which could be claimed for any action brought under the Act—the compensation was related directly to the employee's earnings and the maximum compensation which could be awarded by the County Court was the amount estimated as the earnings for the three years prior to the date of injury. Under the common law a jury could award damages for injury of such amount as they thought fit.

The Employers' Liability Act, unlike the subsequent Workmen's Compensation Acts, did not introduce what we know as social legislation: it removed certain harsh treatment suffered by employees under the common law. The Act sprang from the sentiment and principles governing legislation in the nineteenth century, illustrated particularly in the Factory Acts. Not until the Workmen's Compensation Act of 1897 did Parliament attempt to do more than remove or temper the more obvious disabilities employees suffered as a result of the Industrial Revolution. The position was set out in the speech of Mr. Dodson, the President of the Local Government Board in Gladstone's ministry, at the second

[1] A. W. Baker Welford, *Law Relating to Accident Insurance* (Butterworth & Co.).

reading of the Bill (3rd January, 1880):[1] "The employer was not liable for injury inflicted by his employee on a third party where the third party was a man also in his employment. The law . . . was founded on two assumptions. One was that a man working with another had opportunities of knowing the qualification and disposition of his fellow worker and, therefore, protecting himself against any negligence on his part. Another reason assigned was that a workman accepted the risks naturally incident to the employment entered upon among which must be taken to be the incompetence of his fellow workman. It was in 1837 that the law first took this shape. . . . Gradually since that time the defence of common employment to claims against employers had been expanded in a series of judicial decisions till it had come to be held that every man in the employment of a particular master was a fellow workman of every other man in the same employment."

Opposition to the Bill in the House was vigorous, and various members advocated a system of insurance. A Member moved that "a Select Committee be appointed to consider and report on a system of general insurance against such accidents as are proposed to be dealt with by the present Bill." This was defeated, and the debate clearly indicated that the majority of opinion was in favour of placing personal responsibility on the employer instead of creating a system of mutual or State insurance. Mr. Joseph Chamberlain, speaking on the principle that compensation should be met from a fund to which both employer and employees should contribute, said: " . . . with respect to the alternatives of compulsory insurance, the hon. member (Mr. Knowles) said he was willing to pay £1 for £1 paid by his workmen and was willing that they should be not only for accidents occasioned by negligence but by all accidents to which workmen are liable. . . . He (Mr. Chamberlain) might say that the Government did not believe in the principle of compulsory insurance, of which no practical proposal had yet been laid before the House."[2]

The Bill was duly passed and it did not ruin employers. A general system of insurance would have spread the cost of compensation over employers, employed, and, presumably, the public at large; but by imposing the liability on the employer, the cost became one for the particular industry or employer, a precedent which was subsequently followed in the Workmen's Compensation Acts. The effect of the Act on insurance companies was to give them a new field, or a much widened field, for personal accident insurance. Some employers, such as railway companies, might be sufficiently large to handle their own liability; others, such as

[1] *Hansard*, 252, Col. 1086. [2] *Hansard*, 253, Col. 1768.

colliery owners, where a catastrophe risk existed, might form their own mutual associations, but most employers would need specific cover against the risk, and it was anticipated that accident insurance companies would come forward with plans to remove the burden of risk and settlement of claims from employers.[1] Unfortunately, with but few exceptions, such as the *Railway Passengers*, the accident insurance companies were small and had neither the staffs nor the experience to cope with large business, and it is well to bear this in mind when considering the subsequent history; had the large fire insurance companies been transacting accident insurance it is likely still greater advantage would have been taken of the opening of this new field.

Before the Act came into force, the pioneer in the new field, the *Employers' Liability Assurance Corporation* had been registered with a nominal capital of £1,000,000. The chief participants in the promotion were Mr. Leopold Salomons, a well-known figure in the financial world, and Mr. Samuel Watson, of Messrs. Watson Sons & Room, a firm of solicitors who have ever since maintained a specialist knowledge of the law and practice of accident insurance claims settlement. In its memorandum, among the objects of the company were: (*a*) to grant insurances to protect principals and employers, and otherwise to indemnify them from liability by reason of injury, damage, or loss occurring to or caused by agents, servants, and workmen or other employees in their employ or acting on their behalf; and (*b*) to grant . . . insurances to protect principals and employers and otherwise indemnify them from injury, damage, or loss by reason of the fraud or other misconduct of persons in their employ or acting on their behalf.[2] The board of the company was a strong one, including large employers of labour, and among the directors was Lord Claud Hamilton, who for many years held the position of chairman.

An elaborate schedule of rates was prepared by the statistician, Dr. William Farr, from data of little value: "When the practical men who formed the first board of the Corporation were presented with these figures they saw that they would be too impossibly cumbersome for application in practice and they set themselves to make a much simpler scale of rates based on entire trades instead of individual occupations."[3] The rates could only be experimental and were subsequently greatly modified—some increased to twenty times the original figure at the end of fifty years of experience. The first accounts of the Corporation in 1882 covered a period of only nine months, but the premiums received amounted to £35,707,

[1] *Post Magazine*, 13th November, 1880.
[2] *Employers' Liability Assurance Corporation Jubilee*, 1930, p. 28. [3] *Ibid.*

of which £30,547 represented employers' liability risks, £3761 general insurances, £1254 accident, and £145 fidelity premiums.[1] Out of the profits, £2500 of the preliminary expenses was written off and a dividend of 5 per cent was paid. In the next year the premium income was £63,598, and the profits were sufficient to write off the remaining preliminary expenses of £5000 and to pay a dividend of 6¼ per cent on the £100,000 of paid-up capital. Before the expiration of ten years the income of the Corporation exceeded £250,000, and the only other accident company with any comparable premium income was the *Railway Passengers*, whose total premiums for all classes of accident business amounted to £242,629 for 1891.

It is difficult to give any estimate of the total premiums received by the accident offices for the several classes of risk they covered, as there was no necessity for them to show the premiums in their accounts according to class, and those that transacted fire insurance could include the accident with the fire premiums. A general view, however, of the magnitude of the accident offices may be gained from the following table,[2] giving the premium income of

Company	Premium Income for 1891
	£
Accident	49,655
Crown Accident	12,045
Employers' Liability	287,562
Employers and Workpeople	12,527
Employers of Great Britain	30,707
Equitable	13,203
General of Perth	17,130
Imperial Union	34,612
Lancashire and Yorkshire	35,072
Law Guarantee and Trust	19,413
London, Edinburgh, and Glasgow	13,785
London Guarantee and Accident	51,190
Mortgage Insurance Corporation	46,529
National Guardian	10,026
Northern Accident	32,352
Norwich and London	77,010
Ocean Accident and Guarantee	60,719
Provident Clerks' Association	12,842
Provident Clerks' Guarantee	27,224
Railway Passengers	242,629
Scottish Accident	53,117
Scottish Boiler	12,279
Scottish Employers	41,112
Sickness and Accident	19,601

[1] Chairman's speech, *Post Magazine*, May, 1882.
[2] From Bourne's *Handy Assurance Director*, 1894.

those companies where it exceeded £10,000 for the year 1891, ten years after the Employers' Liability Act came into force. It may be taken as a general rule that accident business was not then transacted by the older-established fire and life insurance companies.

The Act of 1880 was not the success that its sponsors had hoped. In practice, proof of negligence was difficult and the cost of actions was considerable. Following the passing of the Act there was an increase in the number of claims—beyond those expected—and at first it was believed that employees were realizing their more advantageous position under the law. But later it became evident that they were encouraged to litigation.

Lord Claud Hamilton said at a meeting of shareholders of the *Employers' Liability Assurance Corporation:* "There is a large number of solicitors in different parts of the kingdom who are always ready to take up what I call fishy cases, on which they hope to bring us into Court, or at all events, if they do not bring us into Court, to frighten us with the expense which may be incurred so as to compel us to make a settlement. In the majority of these settlements the larger portion of the money paid does not go into the pockets of the claimants."[1] In cases where such claims failed and costs were awarded to the company, the latter would be unable to collect them. The result generally was that litigation absorbed an unduly large proportion of the premiums paid.

The efficacy of the Act was still further reduced by a decision in the Courts in the case of *Griffiths* v. *Earl of Dudley* (9 Q.B.D. 357) that it was legal for a workman to contract with his employer not to claim compensation for injuries under the Act. In 1893 Mr. Asquith introduced a Bill to remove some of the defects of the 1880 Act; in his words: "The Bill contains three vital principles: the first is that it abolishes the doctrine of common employment; the second is that it prohibits contracts by a workman renouncing his statutory rights and thirdly it simplifies the procedure by which the workman can seek his statutory remedy."[2] The Bill was abandoned when it came back from the Lords with the right to contract-out reinstated. The subject of workmen's compensation was, however, much before the public, and soon after their accession to power the Conservatives brought forward their Workmen's Compensation Bill in 1897, which embodied the new principle of compensation for accidents not necessarily caused through negligence. At the Third Reading on 15th July, 1897, Mr. Chamberlain, on behalf of the Government, said: "The principle is that every workman in the trades specified in the measure will in future be

[1] *Employers' Liability Assurance Corporation Jubilee*, 1930, p. 41.
[2] *Hansard*, 1893, Vol. VIII, Col. 1960.

entitled of right to moderate and reasonable compensation for all accidents which may happen to him in the course of the business in which he is engaged unless the accidents are caused by his own gross and wilful default. The second principle is that this compensation should be a charge upon the trade or employment in which the accident occurs."

The Bill proceeded on very different lines from the Employers' Liability Act of 1880; the latter had simply placed the employee in the same position as a member of the public as to right of action against the employer in the event of negligence of the latter or his agent. Mr. Asquith, now in the Opposition, was quick to pick up the new situation introduced by the Bill. In the course of the debate, he said: "This Bill has been received from the first with so much good will . . . that those who wish it well, as I certainly do, might on this occasion content themselves with the expression of the hope that it may weather the perils it has still to encounter elsewhere. What is the principle upon which the Bill rests? It is that it is to the interest of the community, as a matter of public policy, that the workman who sustains an injury in the course of his employment should, as far as money can do it, have the right to be indemnified. It is a new right you are creating for the workman, and a new obligation you are imposing on the employer . . . we are creating a new legal right and obligation similar in character when carried to its legal development to that which our ancestors created in the time of Queen Elizabeth when they established the poor law and recognized the right of every human being in the country, as a last resource, to food and shelter at the expense of the State."[1]

The Act was duly passed.[2] It applied to specified employments and occupations of the more hazardous description, among which were railways, mines, quarries, factories, engineering work, or buildings of over 30 feet in height. In 1900 it was extended to include agriculture, a departure from the principle that the Act should extend to hazardous occupations. Although of an experimental character, the legislation was effective in achieving what it set out to do. In 1903 a Departmental Committee was set up to inquire and report "what amendments in the law relating to compensation for injuries to workmen are necessary or desirable and to what classes of employment, not now included, the Workmen's Compensation Act can properly be extended, with or without modification." The Committee reported in 1904, and the 1906 Workmen's Compensation Act[3] was the result. This Act extended the benefits to workmen generally and to other workmen whose

[1] *Hansard*, 15th July, 1897, Col. 211. [2] 60 & 61, Vict., c. 37.
[3] 6 Edw. VII, c. 58.

remuneration did not exceed £250 per annum. It did not extend to persons whose work was of a casual nature and who were employed otherwise than for the purpose of the employers' trade or business, or to members of a police force, or to outworkers, or to members of the employer's family dwelling in his house, "but, save as aforesaid," it did cover "any person who has entered into or works under contract of service or apprenticeship with an employer whether by way of manual labour, clerical work, or otherwise, and whether the contract is expressed or implied, is oral or in writing."[1]

The scales of compensation were the same as in the 1897 Act, the maximum of £300 on death, and half-earnings during disablement up to £1 a week. The Third Schedule to the Act gave a list of six industrial diseases for which compensation could be claimed. At the time of the Act, Lord Samuel, then Herbert Samuel, was Under-Secretary at the Home Office, with H. J. Gladstone as Secretary. In his "*Memoirs*," Lord Samuel said that Gladstone deputed to him the drafting and conducting through Parliament of the part dealing with industrial diseases. He points out that this was the first time in this or any other country that a worker could get compensation for industrial disease in the same way as for occupational accident, and adds: "The procedure relating to industrial diseases worked satisfactorily and stands to this day. Thirty other countries have since legislated on these lines."[2] Nineteen trade diseases were subsequently added to the original six.

A scheme of compensation (Section 3) might be accepted in place of that under the Act, provided that the Registrar of Friendly Societies certified that it gave benefits not less favourable than those under the Act and provided that when contributions were payable by the employee additional benefits were included which were in value not less than the contributions. Increases in the weekly rates of compensation were made in 1917 and 1919 in consequence of the increase in wages, but no change was made at those dates in the maximum payment on death.

In May, 1919, another Departmental Committee was appointed to inquire into the working of the system of compensation to workmen and to consider whether it was desirable to establish a system of accident insurance under the control of the State, and to report what alterations in the law would be required to remedy defects in the existing law. The chairman of the Committee was Holman Gregory, K.C. The report, a valuable document in the history of Workmen's Compensation Insurance,[3] was dated 7th

[1] Section 13 of 6 Edw. VII, c. 58.
[2] *Memoirs* of the Rt. Hon. Viscount Samuel, 1945, p. 52.
[3] Cmd. 816, 1922.

July, 1920. Under the heading of "System of Insurance" it was pointed out that the system hitherto adopted in this country had been one of voluntary organization based upon private enterprise. The majority of employers had either availed themselves of the insurance offered by insurance companies or had become members of mutual associations. A considerable number, however, had carried their own risk and become self-insurers. With a view to expressing an opinion as to whether it was desirable to establish a system of insurance under the control of the State the following possible methods of organization were discussed—

1. (*a*) The establishment of a State fund either with a monopoly or in conjunction with private enterprise; or
(*b*) The organization of a State system of mutual assurance.
2. State control of rates, expenses, and profits of insurance companies, and the financial stability of mutual associations and self-insurers.

The Committee examined carefully the existing machinery of insurance by insurance companies, mutual associations, and self-insurers. At the time of the Report there were sixty-five insurance companies transacting workmen's compensation insurance, of which forty-eight were members of the *Accident Offices Association* and subscribed to a tariff, and seventeen were non-tariff companies. There were also underwriters at *Lloyd's* doing the business. Of the *Accident Offices Association*, the Report said: "It was formed because before 1906 the insurance of the liability for workmen's compensation was so far as insurance companies were concerned in an unsatisfactory and unorganized condition and it was desired to place the business on a satisfactory basis. The Association is now a recognized authority among insurance companies upon workmen's compensation insurance, affording as it does a medium through which all matters in connection with the business can be discussed and regulated." The Report stated that "Workmen's Compensation business is now largely in the hands of big composite offices whose financial stability was not questioned before us."[1] Employers were satisfied with the way the companies had dealt with their claims, and the payment of benefits by them had generally speaking been prompt and satisfactory to the workmen.

The figures of the companies were examined for the years 1911 to 1918 inclusive, showing the premiums received for 1911 as £3,095,670 and for 1918 as £5,074,229, with a total for the eight years of £31,165,222. Payments under policies for the same period were £14,586,207; commission, £3,877,143, expenses, £6,101,412;

[1] Section 10 of the Report.

and profit, £4,875,581. The percentage analysis of the outgo was therefore—

	Per Cent
Payments under policies and reserve for outstanding claims and unexpired risks	51·7
Commission	12·1
Expenses of Management	19·0
Profit and Loss	15·2
Additional Reserve	2·0
	100·0

From these figures it is seen that during the eight years the companies had made substantial profit. This was partly due to the fact that the period covered was one of increasing wages and premiums were based on wages, while there was a maximum to the benefits, so that the latter did not increase in proportion to the wages or premiums. Before 1912 the Committee had been informed that business had not been so profitable. The Committee's conclusion on the point was expressed in the words: "Whatever may be the circumstances in which the business was transacted the fact remains that during the last five or six years the employers have had to pay £100 in premiums for every £48 paid out in benefits to injured workmen. In our view this is wasteful and unsatisfactory. When a liability created by Parliament makes it imperative for the outstanding majority of employees to cover the risk by insurance we consider that it is the duty of the State to ensure that the business shall be conducted on a reasonable and economical basis."

The statistics relating to mutual associations among employers were not so easily obtained. The approximate number of employers who were members of mutual associations was put at 10,000, and from returns made to the Home Office by employers in respect of the seven groups of industries to which the Act applied, the compensation paid by the mutual associations is set out below, together with the amounts paid by the companies for the same years—

	Associations	Companies
	£	£
1910	945,328	—
1911	1,146,273	1,854,452
1912	1,306,549	1,997,899
1913	1,466,607	1,754,271

Information for the war years was not available from the Associations, and the payments under companies' policies were not given for 1910 in the report.

A reason given to the Committee for the establishment of the Associations was that it was considered the most economical method of insurance, and the verdict of the Committee was: "The evidence before us certainly led to that conclusion." Such associations were not brought under the provisions of the Assurance Companies Act of 1909, but a witness for the Board of Trade expressed the view that, had it been anticipated at the time of the passing of the Act that mutual associations would have increased so considerably, it is doubtful whether this exemption would have been allowed. The Committee themselves thought that, whatever degree of control was imposed in this respect on the insurance companies trading for profit should be imposed on the mutual associations.[1]

It was estimated that in the seven groups of industries there were over 20,000 employers uninsured. Besides the large concerns, this number included many small employers, such as small builders, farmers, employers of casual labour, and the employer with only one or two workmen.

In the opinion of the Committee the defects of the system as it then existed were: (*a*) in the case of the insurance companies, the absence of sufficient protection for the employer against excessive premiums; (*b*) in the case of mutual associations, the absence of any guarantee that sufficient moneys were being set aside each year to cover outstanding liabilities; and (*c*) in the case of self-insurers, the danger to the insured workman of losing his compensation owing to the inability of an employer to meet his obligation. These defects, they said, could be largely remedied without resort to a State system of insurance, though not without the introduction of a certain measure of control.[2] The recommendations made were: (*a*) that while larger employers might be allowed to carry their own risks, those who were unable safely to carry their risks should be compelled to insure; (*b*) that there should be State supervision of rates of premium with a view to restriction of the expenses and profits of insurance companies; (*c*) that mutual associations be placed under the same obligations as insurance companies as to furnishing information and returns, and as to setting aside funds to meet outstanding liabilities for claims and unearned premiums; and (*d*) that a commissioner, or a single official, should be appointed to carry out the necessary functions of control to be given him by legislation, among which should be that of granting licences to insurance companies and mutual associations, without which they should not be allowed to carry on the business of workmen's compensation insurance.

As to supervision of the rates of premium to be charged by the

[1] Section 13. [2] Section 21.

offices, the Committee, after consultation with the insurance companies who were members of the *Accident Offices Association*, drew up the heads of a working arrangement with the companies under which the expenses, commission, and profits should be limited to 30 per cent of the premiums, with triennial adjustments of the premiums to give effect to the limitation. Should the volume of premiums received by the companies rise substantially, then the loss ratio should represent a slightly higher figure than 70 per cent. Thus if the annual premiums received in a triennium by the combined offices exceeded 150 per cent of those in 1920, the loss ratio was to be increased to 72½ per cent, leaving a correspondingly smaller percentage to the companies for expenses and profit.

As to the benefits to workmen, it was felt by the Committee that adequate provision should be made to secure that the children of a fatally injured workman should have a reasonable chance of developing into healthy and intelligent members of the community. Since the Act of 1897 the amount had been a sum equal to three years' earnings, with a minimum of £150 and a maximum of £300. They recommended that, when a dependent widow and children were left, compensation should be awarded separately, the compensation to the widow being £250 and if there was a child or children under the age of fifteen, a further sum of £500 which should be paid into a central fund, from which weekly payments of 10s. should be distributed through County Court Registrars. A further benefit of £50 was recommended to a dependant such as a parent.[1] Had effect been given to the recommendations, the maximum compensation for fatal accidents would have been £800 irrespective of the wages of the deceased employee. As to compensation for total incapacity, the Committee recommended that the existing system of payment should be according to the employee's average wages—the weekly amount to be two-thirds of average weekly earnings, with a maximum weekly of 60s.,[2] and for partial incapacity, two-thirds of the difference between the average weekly earnings before the accident and the amount the injured person is earning or is able to earn thereafter in some suitable employment.

The Report was made while the effects of the post-war boom were still in evidence in wages and employment, and both were but little beyond their peak in 1920. Such conditions were, however, short-lived, and were followed by widespread unemployment and trade depression. In the circumstances, no Bill was introduced to implement the Holman Gregory recommendations till 1923. Then on the 16th February, the Labour Member, Mr. J. H. Thomas, tabled a Private Member's Bill based on the Report. It was debated

[1] Section 59. [2] Section 66.

on a Second Reading on 4th May, when Mr. Bridgman, the Home Secretary, stated that the Government themselves intended to introduce a Bill. He pointed out the difference in economic conditions between 1920 and 1923, and said the Government Bill would steer a course between the extremes of opinion. In reference to the remarks which had been made as to the proportion of premium received by the insurance companies which was paid out in benefits, he said: "In other debates it has been pointed out that the amount recovered from insurance companies is miserably small compared with the amount that goes in—in that I entirely agree."[1] He had given figures for 1921 and 1922 in reply to questions in the House. For 1921 the premiums paid to insurance companies were £7,519,830 and the total payments under policies £2,903,991.[2] For 1922 the figures were £5,672,658 and £2,863,324 respectively.[3]

The Government Bill which superseded the Labour Party's Bill was given a first reading on 15th May and a second reading on 30th May. Mr. Locker Lampson, on behalf of the Government, said that although the Bill was founded on the report of 1920, there were certain points on which it differed from the recommendations, the first was that it did not introduce compulsory insurance. "I do not for a moment say that the principle of compulsory insurance is wrong . . . but it involves the creation of a great deal of machinery and additional cost, and I think at the present time it would be inopportune to introduce it . . . the Holman Gregory Report also recommended that there should be State supervision of rates of premium . . . the Bill does not carry out that recommendation, but I am glad to say that we have arranged that it shall be very largely carried out by voluntary agreement with the *Accident Offices Association* . . . this is to the effect that the loss ratio which the total amount paid by the companies under the Association in year in respect of compensation, including reasonable medical and legal expenses, bears to the total amount of premiums received by the companies in that year, is to be not less than 60 per cent, or such other proportion, not less than 60 per cent, as may be agreed upon . . . and, further, if the amount paid in respect of compensation falls short of or exceeds the above loss ratio the companies will be bound to make a corresponding rebate, or will be entitled to make an additional charge, as the case may be, to the employers when the next premium is paid. The Committee recommended that 70 per cent should be paid in compensation, but circumstances have largely changed since the Holman Gregory Committee reported;

[1] *Hansard*, 4th May, 1923, Col. 853.
[2] *Hansard*, 22nd Feb., 1923, Col. 1282.
[3] *Hansard*, 15th Nov., 1923, Col. 3477.

there has been a very large fall in premiums owing to the immense quantity of unemployment and secondly we are not adopting compulsory insurance."[1]

The Bill was passed and the measure came into force on 1st January, 1924. It was not a Consolidating Act, but was supplemental to that of 1906, which remained the principal Act. No Commissioner was appointed nor was fresh departmental machinery set up. The benefits were improved and the arrangement with the *Accident Offices Association* was implemented; bodies not members of that Association and *Lloyd's* underwriters were, as competitors, indirectly affected by the agreement. Under the 1906 Act the sum paid at death had, till 1924, been unaffected (i.e. a sum equal to three years' earnings prior to death, with a minimum of £150 and a maximum of £300). The 1923 Act paid special consideration to the case of children of the deceased under the age of fifteen, and related the benefit more directly to the needs than was recommended by the Holman Gregory Committee. In addition to the compensation made under the 1906 Act, there was payable, under the 1923 Act, for each child under fifteen a fraction of average earnings multiplied by the number of weeks between the death of the father and the date when the child attained the age of fifteen years, an overall maximum of £600 being set as compared with £300 under the 1906 Act. For incapacity the 1906 Act gave weekly compensation of 50 per cent of average earnings during the previous twelve months; this had been increased to three-fourths in 1917 and to seven-eighths, with a maximum of 35s., in 1919. The 1923 Act reverted to the 50 per cent and a maximum of 30s. The Third Schedule to the Act, which specified certain occupational diseases to rank for compensation, as if disablement therefrom was due to occupational accident, was identical with that in the 1906 Act. Under the 1906 Act persons employed other than by manual labour were included, providing their remuneration did not exceed £250 per annum. This limit was raised to £350 by the 1923 Act.[2]

In the course of the debate on the 1923 Act a promise had been made in the House that a Consolidating Bill would subsequently be introduced. This was done in 1925 by an Act which substantially repealed the 1923 Act, and included such provisions of the 1906 Act as were still in force.

Although in 1923 the principle of compulsion recommended by the Holman Gregory Committee had not been adopted, one class

[1] *Hansard*, 30th May, 1923, Vol. CLXIV, Col. 1389.

[2] By the National Health Insurance Contributory Pensions and Workmen's Compensation Act, 1941, Part II, the £350 was raised to £420.

of employer has now been subjected to compulsion. Under the Workmen's Compensation (Coal Mines) Act, 1934,[1] it is provided: "The owner of a coal mine shall not at any time employ any workmen for the purpose of the undertaking carried on at that time unless there is in force either (*a*) a contract of insurance subscribed by an authorized insurer . . . which insures the owner against all liability . . . or (*b*) an instrument . . . for securing by means of a special trust fund the discharge of all owners' liability . . . in respect of the employment of workmen." The trustees under such trust had to obtain insurance to cover liability in excess of £1500 for fatal accidents arising from one occurrence. The authorized insurers in (*a*) were either insurance companies or underwriters (e.g. *Lloyd's*) coming within the terms of the Assurance Companies Act, 1909, or mutual indemnity associations, associations of employers for the purpose of mutual insurance of their members against the liability of their workmen which, if not established before 1934, had to make deposits of £20,000. In mining, the catastrophe risk is great and special methods have been adopted by the companies to spread the risk by reinsurance. The members of the *Accident Offices Association* solved the problem by forming a "colliery pool," the premiums being paid into the pool which bears the losses and each member office shares in the result of the pool.

During the fifty years in which the insurance companies and underwriters have taken such a substantial part in the administration of workmen's compensation since the 1897 Act, its character has changed and public opinion with it. The 1897 Act "did not give compensation for an injury as such, or for disability resulting therefrom, but only for loss of earning capacity."[2] Subsequent Acts have amended and enlarged the original sphere and departed from the early principles; there is the element of compulsion to insure by employers in the coalmining industry and there has been added compensation of 5s. a week in respect of each child under fifteen.[3] These "have made a substantial breach in the principle of compensation based on loss of wage-earning capacity."

As social insurance in the shape of pensions, health and unemployment insurance has developed during the present century, workmen's compensation has become more and more related to these, and it was perhaps inevitable that a time would come when all four would be State-administered within one or more related schemes. In December, 1938, a Royal Commission was appointed

[1] 24 & 25 Geo. V, c. 23.
[2] Cmd. 6551, Social Insurance, Part II, 1944, p. 7.
[3] Workmen's Compensation (Supplementary Allowances) Act, 1940, 3 & 4 Geo. VI, c. 47; and Workmen's Compensation (Temporary Increase) Act, 1943, 6 & 7 Geo. VI, c. 49.

to examine the law of workmen's compensation and the relation of the system to other statutory schemes for giving benefits or assistance to incapacitated or unemployed workmen. The Commission did not report and the war put an end to their activities, but in 1941 Sir William Beveridge was invited to make an inquiry into social insurance and allied services, with specific request to include workmen's compensation in its scope. His report recommended that the existing system of workmen's compensation should be superseded and that provision for industrial disability should be made a part of a unified scheme of social insurance of a contributory character—the benefits being paid out of a central fund which would be maintained by contributions payable by employers, workmen, and the State, and to be administered by a Ministry of Social Security.[1] While the Government have not adopted all the recommendations embodied in the Beveridge Report in their proposals for social insurance published in September, 1944, and the Bill submitted in October, 1945,[2] they do endorse generally the criticism of the existing system and propose to make a complete change by removing from the employer the liability to pay compensation for industrial disability. The new scheme is to be based on the accepted principles of social insurance, and in that scheme the assistance of the insurance company and underwriter will find no place. So ends a period of fifty years in which commercial insurance has played an important part in assisting in the administration of measures affecting profoundly the status and well-being of a large section of the public. The termination of the workmen's compensation departments of the composite insurance companies is not in the nature of a disaster, for profit arising from the business has been severely limited since the introduction of the agreement with the Board of Trade; it is, however, a matter of some concern to those offices which have made a speciality of this class of business.

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[1] Cmd. 6404.
[2] Cmd. 6551, Part II, p. 12; and second reading of Bill, 10th Oct., 1945.

CHAPTER XVIII

MARINE INSURANCE COMPANIES AND LLOYD'S

PROMOTION of marine insurance companies—The *Alliance Marine* and the *Indemnity Mutual Marine* in 1824—Complex constitution of latter—Early history of the *Indemnity* and of the *Alliance*—Promotion of weak companies—Among the stronger companies, the *Marine*, the *Ocean*, the *London and Provincial*, the *Thames and Mersey*, and the *Universal*—The three companies of 1863; the *British and Foreign*, the *Commercial Union*, and the *Union Marine*—Later companies—Effect of competition on *Lloyd's* underwriters—Current opinion in 1872 as to prospect of *Lloyd's*—Danson's accounts of underwriting results of the 'seventies—Reforms introduced into *Lloyd's*—Growth of underwriting syndicates—Changes in broking firms—Non-marine business at *Lloyd's*—Application of 1909 Assurance Companies Act to *Lloyd's*—The Signing Bureau

THE marine insurance companies which came into existence in 1824 and subsequently, after the monopoly of the two chartered companies was removed, have a history rather separate from the life and fire insurance companies. While a number of institutions were established for both fire and life assurance, marine insurance became the subject of single companies. This was partly due to the fact that substantial fire and life companies had already made their way without entering the marine field, and had established a traditional custom which their successors followed, even when the ban was removed; or, in part, it may be due to the different technique of marine insurance from that of fire insurance, a technique which had reached a high standard among the individual underwriters housed in Lloyd's Coffee Rooms in the Royal Exchange.

The fact that the *Alliance* did not transact marine insurance as well as fire and life, and that its founders had to establish a separate company, was due to their omission to state their intention to do so in their original prospectus. A shareholder was therefore within his legal rights in staying them from entering on marine insurance themselves. The independent *Alliance Marine Insurance Company* was formed in December, 1824, whereas the *Alliance British and Foreign Life and Fire Assurance Company* had been formed and commenced business earlier in the year. This delay enabled a competitor to get into the field first. In April, 1824, before the Bill to repeal the chartered companies' monopoly had been introduced, a meeting of shipowners and merchants had met at 52 Broad Street and passed a resolution "that it will be highly advantageous to merchants and shipowners to form a company for marine insurance on the principles detailed in Mr. Staniforth's plan, to be called a mutual assurance company." On the 11th

May a prospectus was issued under the title of the *Indemnity Mutual Marine Assurance Company*. As was revealed in the evidence before the Select Committee in 1810, mutual insurance clubs existed among shipowners in different parts of the country. Their position was somewhat doubtful, but the plan put forth by Mr. Staniforth seems to have been one which rested on the same principle of mutual insurance. The position was, however, sufficiently doubtful for the promoters to take legal advice and to give active support to the new Marine Insurance Bill.

The scheme for the company as devised by Staniforth was a complicated one. The capital was to be £5,000,000 in 50,000 shares of £100, upon which £5 was to be paid. Each shareholder was to insure with the company sums assured relative to the shares he held. Thus, a holder of one share was to insure £500 and one with 100 shares was to insure up to £10,000. The annual premiums on such assurances were for each shareholder to average not less than 3 per cent. There were further complications in the mode of distributing profits. There was, first, to be paid 5 per cent on the paid-up amount of the shares and the balance was to be divided into six parts. One-sixth was to be allotted among the shareholders as an addition to the paid-up capital, thereafter to rank with the original cash for interest at 5 per cent. Two-sixths were to be distributed in proportion to the amount of premiums paid "upon beneficial accounts." The remaining three-sixths was to go to shareholders in proportion to the current year's premiums. Each year was to be treated as if financially it was completely separated from the subsequent one, so that if a loss occurred it could not be carried forward but was met by a call on the shareholders. Some twelve pages of an early Minute Book were filled with illustrations of the working of the scheme.

As with other companies of the period, the liability of directors and shareholders was of special concern to the promoters, and counsel was asked what steps should be taken so that the funds of the company alone should be liable to the assured. Counsel advised that this could be achieved provided the appropriate clauses were put in the prospectus, the deed of settlement, and in every policy. A similar concern for the protection of the shareholders had been before the directors of the *Guardian*, and it is worth noting that though there was no connection between the two companies, five of the *Indemnity* directors were already directors of the *Guardian;* and of the full twenty-six no less than twenty-two of the directors were subscribers to *Lloyd's*. Without waiting for the full capital to be subscribed, offices were opened temporarily on 9th August, 1824, and the first policy was granted on 4th

August. For the period ending 31st December, 1825, the experience was not a very happy one, and the chairman at the Annual General Meeting in July, 1826, had to announce that, owing to disastrous gales in the autumn of 1824, the company had sustained heavy losses. "In addition, the East India Company's regular ship *Kent* insured at their office for £10,000 was burnt on her outward passage." The business, however, of 1825, if separated from the four-and-a-half months of 1824, would have yielded a profit. The income to the end of 1825 was £272,214, against "losses, averages, and returns of premium" of £228,807.[1] In accordance with the constitution, after some delay, a call of 13s. 6d. per share was made.

John Staniforth, the promoter of the company, retired from his post as managing director, and William Ellis was appointed underwriter and manager in his stead. The change marked a turning point in the history of the company, and indeed of the share in marine insurance taken by companies generally. William Ellis, son of one of the directors, served his company for over fifty-six years; he was an example of those nineteenth-century business men who, while pre-eminent in their spheres of business, contributed so largely by personal effort, wise philanthropy, and active propaganda to the improvement of the social conditions of their time. William Ellis was an intimate friend of Jeremy Bentham, James, and John Stuart Mill, and their circle, associating himself with their political thought. He founded the Birkbeck Schools, and gave generously to education, and these activities were pursued without detriment to the affairs of his company, which reached under him a foremost position.

His appointment as chief officer was immediately followed by a removal of the more cumbersome features of the company's constitution. First the restriction on business was rescinded and the company accepted risks from the public generally. The obligation to place insurances to the scheduled amount was withdrawn from the shareholders. The profits were to be divided in proportion to shareholding. The shares were restricted to those already issued and accounts were to be kept open for four years. Thereafter the company functioned as a normal joint-stock company, with subscribed shares to the number of 13,453 of £100 each (£1,345,300), upon which £5 13s. 6d. was paid.

The *Alliance Marine Insurance Company*, founded in the same year as the *Indemnity*, with a board of directors who were also members of the *Alliance British and Foreign Fire and Life Insurance Company*, was capitalized also at £5,000,000 in 50,000 shares of £100 each, with

[1] *The Indemnity Centenary*, p. 31.

£5 paid. During its early years it, equally with the *Indemnity*, passed through a lean time, but by 1829 was able to pay a dividend of 20 per cent for the period from the commencement of the company, which was followed by dividends of 5 or 6 per cent, with an occasional bonus: in 1838, 4 per cent bonus was paid; in 1841, 3 per cent, and 1843, 4 per cent. The practice of the *Indemnity* until 1840 was to pay consistently 5 per cent on the paid-up capital and to allocate further profit as an addition to the paid-up sum on the shares; thus by 1841 the shares, which originally were £100 with £5 paid, had £20 paid, and in 1860 there was £50 paid up. Cash dividends also had been substantially increased between 1841 and 1860.[1]

Both companies found their capital excessive for their requirements. In 1840 the *Alliance* converted each five shares into one, so that thereafter the capital was £1,000,000 in £100 shares, with £25 paid. In 1881 the *Indemnity* returned £15 out of the £50 on each share to its holder, and at the same time split the £100 share with its £35 paid into five with £7 paid. In 1886 the company returned a further £4 to the holders of its shares and registered under the Companies Act a limited liability company with shares of £15, upon which £3 was paid. In a century of history it never failed to make an annual return to its shareholders.[2]

The removal of the ban on marine insurance companies was followed by the formation of a number of weaklings, pursuing a history very different from that of the two established in 1824 and the two chartered companies of 1720. In his history of "*Lloyd's and Marine Insurance*" of 1876, Martin has listed them with notes of their inglorious records. While they lasted they constituted competitors, encouraged quotations of unremunerative rates and, when they disappeared, they left the world of marine insurance the worse for their existence. The following may be mentioned—

1826	The Sunderland
1826	The Tyne
1826	The Unanimous of Shields (wound up 1861)
1830	General Maritime Insurance Co. (wound up 1848)
1831	Liverpool Marine Insurance Co. (wound up 1850)
1834	Ocean Marine of Liverpool

With the exception of those indicated, these companies lasted for a very short time. In 1836, however, there was established the *Marine Insurance Company* in London, with a capital of £1,000,000, which, after the initial difficulties, took its place among the successful institutions transacting marine insurance. Its original £100 shares with £18 paid received large dividends in the times of marine

[1] Martin, p. 305. [2] For history of *Indemnity*, see *Centenary*.

insurance prosperity, and about thirty years after its foundation they rose to over £100 in the market.[1]

In 1839 there were seven new marine insurance companies, but only one, the *London Maritime Assurance Company*, lasted any length of time. It passed into liquidation in 1860. In 1840 two further companies, one in Edinburgh and the other in Newcastle, were founded and lasted for a few years. The Joint-stock Companies Act of 1844 was followed by a period of speculation and a number of marine insurance companies were registered, some of which proceeded no further, while others soon passed into liquidation. In 1859 activity began again and six new companies were registered, only one of which, *The Ocean*, became a successful company. Its capital was £1,000,000 in 40,000 shares of £25, and in the first year ending December, 1860, it received £136,970 in premiums and paid £60,000 in claims. The next year the business transacted was more, and in the third year the premiums approximated a quarter of a million, with claims of £168,594. During its first quinquennium the total premiums amounted to £1,289,258, while the claims were £874,277 and expenses of management £89,000. The dividend record up to 1871 was one of continual growth.

Three new successful companies came into existence in 1860. The Civil War in North America drove American marine insurance into the London market and created for some years an unusually brisk market, which assisted the new companies. The three were the *London and Provincial*, the *Thames and Mersey*, and the *Universal Marine Insurance* companies. The nominal capital of the *London and Provincial* and the *Universal* was £1,000,000 in each case, while the *Thames and Mersey* was put at £2,000,000. The paid-up capital was £100,000 for the *London Provincial*, £200,000 for the *Thames and Mersey*, and £250,000 for the *Universal*.

The early underwriting accounts of the *Universal Marine* were not profitable. For the six years ending December, 1866, it received £2,171,136 in premiums, but paid claims of £2,161,320 and incurred expenses of £110,074. Subsequently the account improved and good dividends were paid, reaching 15 per cent for each of the years 1871, 1872, and 1873. The average annual premium income from 1860 to 1875 was about £300,000.

The *London and Provincial* during its first quinquennium received premiums of £763,417, settled claims for £598,677, and incurred expenses of £90,872. Commencing with a low dividend of 1 per cent for 1862, it reached 20 per cent for the three years 1871, 1872, and 1873. The underwriting was more carefully exercised

[1] Martin, p. 308.

than in the case of the *Universal;* the largest premium income of any year in the first fifteen was £167,174 for 1868 and the average over that period was £135,000.

The *Thames and Mersey* started under the auspices of shipowners and merchants in London and Liverpool, and during the first five years received premiums of £2,799,142. While at first the company wrote a moderate account, the premiums rose to £539,531 in 1866 and averaged over the first fifteen years £470,000; after 1866, the premium income customarily exceeded £500,000. The dividends were good from the outset: 10 per cent for 1862, 1863, and 1864, reaching 25 per cent for 1871 and 1872, but fell away from this high figure subsequently.

In 1863 there commenced operations in marine insurance three more successful companies to counter some of the unsuccessful ones whose capital was lost within a few years of their inception. The three successful ones were the *British and Foreign*, the *Commercial Union*, and the *Union Marine Insurance* companies. The *Commercial Union*, which had its origin in the conditions of fire insurance following the Tooley Street fire, transacted fire and life business as well as marine insurance, and the marine side of the business was not commenced till 1863, when Mr. J. Carr Saunders was appointed underwriter. The *Commercial Union*, therefore, from its foundation started on the road as a composite company, transacting, like the *Royal Exchange* and the *London Assurance Corporation*, all three branches of insurance. In marine insurance under Carr Saunders, it was most successful, commencing with a moderate account of £100,000 per annum and rising to about £200,000 after a few years, and the shareholders by the end of the century had received from this department the largest share of their profits. The *British and Foreign Marine Insurance* company was founded in Liverpool by merchants of that city with a capital of £1,000,000 in £20 shares, with £4 paid. It did not commence business till early in 1863: in the three-year period to the end of 1866 it had written premiums of £1,160,074 and paid claims of £978,659, with expenses incurred of £74,391. From 1864 the company paid dividends of 10 per cent, rising to 20 per cent in 1868. Its average annual premium income in the first twelve years of its history was somewhat under £300,000.

The *Union Marine* also had its foundation in Liverpool among merchants and shipowners, with a nominal capital of £1,000,000 in £20 shares. In its first eleven months to the end of December it accepted premiums of £300,248, but its income was reduced to smaller dimensions in subsequent years. In 1867 the *Union* entered into an arrangement with the *Ocean Marine* of London, under which

each in its own city acted as agent for the other, thus increasing each other's income of profitable risks.

Of the crop of companies in marine insurance which followed those mentioned in the decade, two call for reference—the *Maritime* of 1864 had a nominal capital of £1,000,000 in £10 shares with £2 paid. In its first five years, to the end of 1869, it received premiums of £1,212,684 and settled claims of £1,009,238, while expenses amounted to £68,492; from 1865 to 1867 it paid 5 per cent, 10 per cent for the three subsequent years, 15 per cent for 1871, reaching a maximum of 20 per cent for 1872. Thereafter they fell away from this high figure. In the late 'sixties its annual premiums approximated £250,000. The other company, the *Home and Colonial Fire Life and Marine Insurance Company*, founded in 1864 with £1,000,000 capital in £50 shares, with £5 paid, commenced by transacting the three classes of business: in 1866 its fire and life assurances were transferred to the *Northern*, and the company, with the necessary alteration in title, continued marine insurance till 1890, when it was transferred to the *Royal Exchange*. In its first five years its premiums amounted to £933,441, claims to £825,481, and expenses to £69,798. Commencing with dividends of 4 per cent, it paid from 1869 dividends of 5 per cent for a number of years.

The *Globe Marine*, the *Merchants Marine*, and the *Standard Marine* were all companies which entered the field of marine insurances successfully in the year 1871; the first-mentioned was transferred in 1896 to the *Dutch Underwriters' Association*, while the other two exist to-day as allies of composite companies.

The foundation of these successful marine insurance companies, commencing with the *Indemnity* and the *Alliance*, and ending with the three we have just mentioned, brought about a great change in the market, which had hitherto been confined to *Lloyd's* and the two chartered corporations, and in some quarters the belief existed that the institution of *Lloyd's* as the principal London market in marine insurance was doomed. J. Towne Danson, the underwriter of the *Thames and Mersey*, in 1872, published a pamphlet on *Lloyd's*, in which he referred to the method of underwriting at *Lloyd's* as "the more ancient and less efficient mode of doing business," and he affirmed that underwriting "has passed, for the most part, from the hands of private underwriters into those of joint-stock companies." In his pamphlet there is much overstatement and excess of hostility shown, but he expressed what was in the minds of men in the marine insurance circles in the 'seventies. The companies sought and obtained successful underwriters trained at *Lloyd's* (e.g. the *Indemnity Mutual Marine* and the *Marine Insurance Company*

appointed such in the persons of Henry Haslam and F. A. White). About the time Danson was writing, there were some twenty sound companies competing for the business, apart from the more evanescent concerns, and each absorbing accounts of from £100,000 to £250,000 a year in premiums.

Profits made in shipping and commerce during the period of the American Civil War had to find some investment, and nothing was more natural than that a fair proportion should find its way into insurance. In *Lloyd's* itself there had been an increase in underwriting members from 378 in 1870 to 431 in 1872, in spite of the necessary qualifications imposed on new members. In addition, private underwriting outside *Lloyd's*, by merchants, shipbrokers, and shipowners made its reappearance, a practice that had almost died out, and foreign companies came into the London market.[1] This influx of additional business into a limited market, the premiums on marine insurances placed therein being put at somewhat over £10,000,000, had its inevitable result in the reduction of rates and unprofitable business. The accounts of the five pre-1844 companies, the *Royal Exchange*, *London Assurance*, *Indemnity*, *Alliance* and *Marine* were not available, but companies under the later Acts had to publish their full figures. There were thirteen of these, and Danson estimated that in the aggregate they wrote two-fifths of the business available, and during the three years—1872, 1873, and 1874—the net apparent loss on their underwriting was £483,229.

Premiums income in the subsequent years of the 'seventies fell materially. The aggregate written by the post-1844 companies—which may well have been two-fifths of that available—was given by Danson in his third review of "*Underwriting in England*,"[2] published in 1880, as follows—

	£
1873	2,298,313
1874	2,048,148
1875	1,743,831
1876	1,636,698
1877	1,525,068
1878	1,314,045
1879	1,323,906

The continuous fall was ascribed by Danson to (i) general reduction in rates of premium due to steamers taking the place of sailing vessels; (ii) reduction in amounts at risk consequent on diminished trade. By personal inquiry he found from figures furnished by sixteen companies in 1879 the average rate of premium was—

[1] See J. T. Danson, *The Underwriting of* 1872 (Effingham Wilson).

[2] J. T. Danson, *Underwriting in England in* 1879, published in Brussels, June, 1880.

	s.	d.
1873	22	1
1875	19	10
1877	18	6
1879	19	3

That *Lloyd's* survived this intense competition may be put down to a number of reasons. The first and perhaps the strongest was that it had taken its place for a number of generations in the framework of British commercial institutions, and that it is against our traditions to end such because they seem to be out of gear with other practices which have grown up. It is the British custom to amend, not to end. In the case of *Lloyd's* the competition, which at first resulted in a sort of apathy, during which the room became "scarcely more than a supplementary market" during the 'seventies and 'eighties of last century,[1] later brought about a new vigour and foresight due to the initiative of a few men; secondly, there was the rise of the great broking firms who controlled their own syndicates and fed them with good business; and thirdly, there was the introduction of non-marine business to *Lloyd's*.

The first step was to remove some defects of the institution in relation to the security given by members. The rate cutting brought about by the competition of the companies in a limited market meant not only the failure of a number of the companies themselves but also that of members of *Lloyd's*. From 1851 members were automatically struck off the list in the event of bankruptcy or entering into a composition with their creditors. Wright and Fayle, in their "*History of Lloyd's*," said that at one meeting in 1855 nine members and sixteen subscribers were so removed. Obviously, if the institution was to retain its character and good name, some additional security had to be found for underwriting members. From 1858 guarantees were sometimes asked from a new member. In 1865 an underwriting member was asked for £10,000 and a subscriber £2000, reduced later to £1000. The subscribers' guarantee constituted a security to the underwriters for premiums collected by the subscriber or broker. As an alternative to a bond by a guarantor, there arose the practice of accepting the deposit of securities to be held in trust for the liability under the marine account of the member. From 1870 deposits from members were compulsory, the minimum being £3000, which was increased in 1887 to £5000. In the same year existing members themselves set up deposits as trusts for their marine accounts, and in that year the deposits in all amounted to £2,144,355 and the guarantees to £1,129,500. This improvement in the security offered by *Lloyd's* marine policy has been ascribed to the efforts primarily of Mr.

[1] Wright and Fayle, p. 429.

S. I. Da Costa.[1] *Lloyd's* itself was incorporated by Act of Parliament of 25th May, 1871, its constitution as contained in its Deed of Association and By-laws being maintained as far as possible. The incorporation in no way rendered the corporate body responsible for the losses under insurances by individual members. Each of the latter remained solely responsible for his own commitments, with the added securities of his deposit and his guarantors. The principle of deposits and guarantees of members by a group of other members, each of the latter undertaking only a small liability on behalf of his principal, was maintained and developed so as to place the very highest security on a marine policy signed by *Lloyd's* underwriters. In due course it was extended to non-marine risks.

Coupled with what one may call the constitutional measures, there began in the 'eighties the growth of large syndicates of underwriters—or names—of whom one of them wrote: "For such a syndicate of twelve names Fredk. W. Martin[2] underwrote and was able to take a volume of business for himself and his names which would exceed that taken by one of the large companies." The lead he took was followed by others at *Lloyd's*, and while the companies did and always would take a great share in the marine insurances in the London market, *Lloyd's* maintained its place at the centre. The keen competition between *Lloyd's* and the companies did not prevent their association on occasions for common good. The York-Antwerp Rules for general average adjusting were considered by the Committee with the companies in 1878, and although *Lloyd's* seems to have been strongly opposed to the rules, they were accepted and by joint action modified from time to time. Joint action between some of the companies—the *Royal Exchange*, the *London Assurance*, the *Alliance*, the *Indemnity Mutual*, and *Marine*, and *Lloyd's*—had taken place even earlier in the formation of the Salvage Association, the services of which were available in salvage and damage repair alike to the companies and *Lloyd's* underwriters. The Association has a staff of surveyors and office buildings at Cardiff, and in other parts of the world.[3]

Whether it was due to the competition or to the increased volume of business which followed the growing initiative of *Lloyd's*, both underwriters and brokers underwent a measure of organization and specialization. There were three classes of members—underwriting members, non-underwriting members, and annual subscribers. Underwriting members might be described as having the right to accept risks on *Lloyd's* form of policy as well as possessing the privileges of the other two classes. The non-underwriting members

[1] Wright and Fayle, pp. 366–7.
[2] Wright and Fayle, p. 429.
[3] Wright and Fayle, pp. 392–5.

had the privileges of membership including the vote; and the annual subscribers differed from non-underwriting members in that they had no vote. In a fifty years' survey in 1934, the then Chairman of *Lloyd's*, Mr. Neville Dixey,[1] pointed out the change which had occurred in the character of membership—

	1883	1933
Non-underwriting members	150	54
Annual subscribers	589	322
Underwriting members	476	1532

In 1883 the average broker was an annual subscriber without any underwriting interest; the partners in a brokers' firm were content to attend the Room and leave its governance in the hands of underwriters, but during the fifty years partners began to take an interest in underwriting, becoming "names" in an underwriting syndicate for whom one, a specialist, wrote a line for each; a successful underwriter received further applications and additional names were placed on his syndicate. It was significant of the growth of the underwriting syndicate that, in place of writing by hand the names of the underwriters in a syndicate, a rubber stamp with the names was impressed on the policy—if a syndicate consisted of six names the total sum written for the syndicate would be inserted against the words in the stamp "each one-sixth." The reduction in the number of annual subscribers and non-underwriting members was another process, the broker becoming an underwriting member while still exercising his function as a broker. The truth is that a subtle yet an important process had been going on during the fifty years in the position and importance of the broking firms. At the outset of the period there might be two or three partners in a firm with three or four clerks—a large firm would have been one employing fifteen—at the end of the period large firms were converted into limited companies, with staffs of 100 to 500. The subtle change, however, was not one of increasing size alone. By means of agencies or branches at home or abroad, firms gained control of a far larger volume of business, both marine and non-marine, which they could place with their own connections, primarily with the syndicate of underwriters of which their partners were members, or they could place the business with such companies as could make it worth while either by way of commission or by reciprocating in the shape of reinsurance.

[1] *Financial News, Fiftieth Anniversary Number*, 22nd Jan., 1934.

In many ways a good firm of brokers, a limited company, now in some cases owning or controlling an insurance company, functions itself, almost as an insurance company with branches and agencies in many parts of the world. It may be the agent, appointed by power of attorney, in a city or a country having full powers to transact business for an important insurance company or companies. Many firms starting two generations ago by the individual efforts of the founders have grown into great businesses, which are likely to have a continuity on a par with other equally important commercial institutions. They are no longer intermediaries, the partners personally sharing risks at *Lloyd's*, but principals placing risks, marine and non-marine, with syndicates or companies they control. An interesting book written by C. Ernest Fayle, with inside knowledge, reveals the growth of one firm—Henry Head & Co.—which in its history has much that is typical of other big broking firms. Henry Head, born in 1834, started business as a broker in 1860 and became a member of *Lloyd's* in 1866. He rose to control one of the largest broking businesses at *Lloyd's*. Henry Head himself, with some other members of his firm, was an underwriting member, and acted as agent for a group of names taking a large volume of time risks on shipping. In addition, the firm had large interests in the shares of ship-owning companies for whom they acted as brokers. In 1897 the firm was converted to a limited liability company as *Henry Head & Co., Ltd.*, with six directors, of whom Henry Head himself was chairman, and Charles Wright—the historian of *Lloyd's*—was another director.

The other factor mentioned above as bearing on the expansion of *Lloyd's* after 1870, and the enlarged part played by the broker in *Lloyd's*, was the introduction of non-marine business. Cuthbert Eden Heath was the pioneer in this branch. In 1880 the business transacted at *Lloyd's* was marine insurance—the deposit and the guarantees extended to marine insurance alone. There was nothing against other risks being written, and, indeed, as we have seen, nearly a century earlier fire risks had been taken in the coffee-house, but *Lloyd's*, in fact and in public estimation, was purely a marine insurance market. Starting cautiously, Heath had written, in 1887, for a syndicate of fifteen names premiums for only £2300, rising to three times that figure in the next year, and by 1907 he wrote £100,000 for twenty names.[1] Other underwriters followed suit. The non-marine business was not written by new non-marine underwriters, but by marine underwriters, who grouped themselves into fresh syndicates.[2] In the early stages the business was mostly

[1] Wright and Fayle, p. 433.
[2] Neville Dixey, "The Corporation of Lloyds," *Financial News*, 22nd Jan., 1934.

fire, but burglary and employers' liability insurance followed, while in the present century motor insurance arrived. Non-marine business requires a lot of "servicing," of which a syndicate of underwriters was, of course, incapable; it was supplied by the brokers who organized departments of their business to meet the need.

Premium rates for fire, burglary, and employers' liability are small compared with those of marine insurance, and to write an average profitable account a considerable volume of premium must be taken and there must be specialization in the inquiries made, the scrutiny of risks, and the settlement of claims. Renewal notices and the collection of periodical premiums means further organization and routine which the large brokers were prepared to undertake. In the expansion of their business they associated with outside brokers (not *Lloyd's* subscribers) and agents in all parts of the country who had control or could canvass for fire and general business. It became known that there was an elasticity in the *Lloyd's* market as to rates and policy conditions not found among the large companies which observed the rules and conditions in fire insurance of the Fire Offices' Committee. The commencement of motor insurance in the present century, with its substantial premiums and high commission, gave another impetus to the broker who, by his connections, could secure business. In this, as with the other types of non-marine business, the showing of a slip and acceptance of the risk in the Room was unnecessary, since the syndicate for whom a large broker acted as agent could absorb the whole risk without going elsewhere. In *Lloyd's* non-marine business the concentration of all administration, in every process of insurance, was passing into the hands of the big brokers.

The separation of the functions of broker and underwriter, so essential in the traditions of marine insurance, had ceased; both were exercised by the directors of a limited liability company—the risk alone, in conformity with *Lloyd's* constitution, being run by the individuals (each for himself) whose names appeared on the policy. Some of those individuals would be directors of the firm. The present century has seen the rise of the process by which the big firm of brokers differs little from that of an insurance company. With the system of deposits, guarantees, and audit it is scarcely conceivable that underwriters would be unable to meet their losses to holders of policies.

The growth of non-marine business at *Lloyd's* was not achieved without some constitutional disturbance. By the Act of incorporation of 1871, the object was set out as "the carrying on of marine insurance by Members of the Society." By 1892 it was realized

that the public should be made aware of the fact that deposits and guarantees of underwriting members for securing the liabilities contracted at *Lloyd's* applied only to claims under marine insurances, and a notice in "*The Times*" was published to this effect.[1] The underwriter, however, chiefly concerned—Cuthbert Heath—had started with caution, and in respect of the syndicates for which he wrote he instituted an audit, and maintained reserves sufficient for running off current accounts before distributing profits.

The Insurance Companies Act of 1909 by its Section 28 (2) excluded *Lloyd's* underwriters from its main provisions, provided the members complied with the requirements set forth in the Eighth Schedule. Under that Schedule, sections deal with (*a*) Life Assurance, (*b*) Fire and Accident Insurance, (*c*) Employers' Liability Insurance, and (*d*) Bond Investment business. For each of these four categories the underwriter must make and keep a deposit of £2000, and furnish annually a statement in such form as the Board of Trade requires. In so far as Fire and Accident business is concerned, an alternative is given which subsequently complied with the practice of *Lloyd's*. Under this alternative all premiums for the class of business must be carried to a trust account and security must be given to the satisfaction of the Board of Trade (or if the Board so direct to the satisfaction of the Committee of the Association). The amount of the security was never to be less than the aggregate of the premiums received by the underwriter in the preceding year. There was to be an annual audit and a certificate given by the auditors both to the Association and to the Board of Trade.

By Lloyd's Act, 1911, legal recognition to the writing of non-marine business was given in the words: "The carrying on by members of the Society of the business of insurance of every description, including guarantee business"; and the mode of protection for the public under all *Lloyd's* policies is indicated in their further powers: "The Society may act as Trustees of any trust deed furnished by any member to meet his liabilities at *Lloyd's*." To enable members to comply with the Assurance Companies Act of 1909, the Society's regulations as to members furnishing security, the "Society may guarantee payment of claims upon insurance policies and guarantees underwritten by members and apply its funds to meet liabilities thereunder."

With the exception of one syndicate of underwriters, for whom Heath wrote, members have not taken other than risks under the headings (*b*) Fire and Accident, and (*c*) Employers' Liability insurances. In his life assurance risks, Heath confined himself to

[1] Date: 23rd March, 1892.

short-term assurances. For fire and accident the alternative procedure of paying premiums into a trust fund and furnishing guarantees has been adopted. The security is such that it may be accepted anywhere, and while there is no legal liability upon the *Corporation of Lloyd's* itself, it has the power, and has exercised it, to come to the assistance of an insolvent account. One example, and that an isolated one in its magnitude and character, may be cited. In the early 'twenties, when the popularity of motoring was commencing with the mass-produced cars at moderate prices, the system of hire-purchase became prevalent both for private cars and commercial vehicles. A link in the machinery of the transaction was the acceptance by the purchaser of a series of bills. These, if guaranteed by an insurance company of repute or by *Lloyd's* underwriters, could be discounted with a bank or finance company, so that cash was forthcoming for the vendor of the car. With caution, and subject to the necessary references, the business was satisfactory both to companies and underwriters, but without caution the business could be disastrous, for it is peculiarly susceptible to fraud. Bills would be put forward by dealers to cover cars taken by them from manufacturers which the dealer might be unable to sell, and consequently he would be unable to fulfil the obligation under the bills. But worse than this took place—bills were put forward for guarantee which had no actual sale of a car behind them, and were, indeed, nothing more than accommodation bills and were guaranteed by the unwary underwriter. One small syndicate of *Lloyd's* underwriters entered very extensively into the business, showing a lack of elementary caution both in the character of the risks they guaranteed and the magnitude of the liability, which could only involve them and their guarantors in disastrous failure. A special committee was set up to deal with the case and sift the genuine from the spurious claims. In the end a voluntary levy was made by *Lloyd's* members, which involved in the aggregate a sum of £500,000 to meet the liabilities.

The remedy for this misuse of a policy of insurance for credit or solvency guarantee of the worst type was that some sort of record and supervision of the contracts be embodied under the guise of *Lloyd's* policies. The machinery was to hand in the signing bureau, which had been set up as a matter of convenience rather than control. One of the former functions of "substitutes" for brokers at *Lloyd's*, (i.e. the clerks who attended the Room), was that of "policy pushing," the obtaining of the signatures of underwriters to the proposed policies for which the underwriters had already initialed a slip for the amount written. The policy, with the slip, would be left at the box of the underwriter for affixing the rubber stamp and

signature against the amount inserted, to be called for later when the clerk would find it, if he were lucky, in the wire basket, at the end of the box. A policy for any large sum with many underwriters subscribing would take a long time in the signing, and become soiled and crumpled in the operation. To avoid this process, the policies, although still prepared by the brokers on the appropriate and agreed forms, were taken for signing to a separate bureau—a building acquired for the purpose—at which the process of signing and recording could be carried out.

After the failure of the underwriting syndicate mentioned above, the machinery of the policy-signing office was tightened up, so that a record of members' transactions could be kept and could be subject to some supervision. All the numerous forms for marine and non-marine policies bore subsequently the words: "No policy or other contract dated on or after 1st January, 1924, will be recognized by the Committee of *Lloyd's* as entitling the holder to the benefit of the funds and/or Guarantee lodged by the Underwriters of the policy or contract as security for the liabilities unless it bears at the foot the Seal of *Lloyd's Signing Bureau.*" While the competition between the great composite companies and *Lloyd's* has since been as keen as ever, it has now to be fought on the ground of service rather than that of security; in respect of the latter they are equally impregnable.

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CHAPTER XIX

DEVELOPMENT IN TECHNIQUE AND ORGANIZATION IN FIRE INSURANCE IN THE NINETEENTH CENTURY

CLASSIFICATION of risks at the beginning of the century—Early agreements among Scottish offices in Edinburgh—Correspondence between Edinburgh and London offices in 1829—Establishment of the Glasgow Tariff and Managers' Rates—Reinsurance only with offices subscribing to the tariff—Reinsurance regulations of 1845 among Scottish offices—Early agreements among English offices—Special treatment of Liverpool warehouses—The cotton mills tariff —Object of additional premium for adverse features—Competition from non-tariff companies—Formation of the *Cotton Spinners' Mutual Fire Insurance Association*—Advantages of tariff offices in handling large insurances by reinsurance—The *Fire Offices' Committee* formed in London from meetings in 1860 —Its constitution in 1868—The Tooley Street fire of 1861—Its effect on the fire offices—Mercantile opinion on new tariff—Responsibility for London Fire Brigade transferred in 1865 from fire offices to Metropolitan Board of Works—Evidence before the Select Committee by Drummond of the *Sun Fire Office*—Strength of the tariff system—Creation of *Fire Offices Committee* (*Foreign*) in 1868–9—Organization of fire offices in 1939 under the Committee system —Profits insurance as a development of the present century

AT the end of the eighteenth century fire risks were classified into three main groups: common, hazardous, and doubly hazardous risks. Exceptional features were considered specially, and at least in the case of the *Sun* there were special ratings for mills and stock therein, and for buildings containing any kiln, steam engine, stove, or oven used in the process of manufacture. Some agreements as to rates seem to have been made in the third decade of the century, and a further stage was reached when correspondence took place in 1829 between Jenkin Jones of the *Phœnix* in London and Sutherland Mackenzie of the *Scottish Union* in Edinburgh. Mackenzie wrote on behalf of the managers of Scottish offices established in Edinburgh, a small body and easily mobilized for meetings. One was convened on the 18th July, 1829, at the Waterloo Tavern, Edinburgh, at which the correspondence with Jenkin Jones was submitted. It was the first of such meetings of managers which continued over a period of thirty-one years, terminating in their original form only when the *Fire Offices' Committee* was established in 1860. Their proceedings were recorded in minutes which have been preserved and are now at the Head Office of the *Caledonian*. This "Association of Managers of Fire Insurance Offices," established in Edinburgh, met at the office of one of their members, in the early years, generally at the *North British*, and in the later years at the *Caledonian*. Originally managers of six offices met: the *North British*, *Hercules*, *Caledonian*, *Friendly*, *Insurance Company of Scotland*, and the *Scottish Union*.

At the first meeting Mackenzie read to the members a letter from Jenkin Jones on the subject of agreement on rates for flax and cotton mills, in which he said: "I wish I could hold out to you the hope of any general improvement of premiums, but the present prospect is the other way, particularly in Scotland, where we find risks taken upon lower terms than anywhere else and it has been principally from the competition of Scotch offices that the flax and cotton mills have been run down there in a manner extremely impolitic and now difficult to remedy. We ourselves determined to raise the premiums on the flax mills about Dundee in spite of the remonstrances of our Agent, and we have determined to make 18s. our minimum for these. I am of opinion that an agreement among the Scotch Offices to do the same would be followed by all the English companies, though it might not be practicable to propose it in form. If you should determine to do so pray inform me and I will use what influence I have to carry it through." At their meeting the Scottish managers agreed on the 18s. for flax mills, and put the minimum for cotton mills at 14s., but before acting thereon Mackenzie was asked to ascertain whether the principal London offices would agree to do the same. They also adopted minimum rates covering about twenty items, including paper mills, spirit dealers, corn mills, and distillers.

In a letter from Jenkin Jones submitted at a later meeting, he wrote: "In most of the special risks enumerated in your letter the Scotch rates are lower than English—indeed we know of no place where we are so generally and extensively pressed for reductions of premiums as in Glasgow and always upon the alleged example of some local office. I made a strong effort to get revision of the cotton mill rates about a year ago and showed demonstratively by the results of experience of the principal offices that the average loss alone, expenses not provided for, exceeded 12s. per cent, but the *Sun* opposed the rise, though acknowledging its propriety, and the attempt fell to the ground though supported by all the other companies. I am of opinion, however, that if the Scotch offices act together upon improved rates they will be gradually followed."[1] In this letter Jones pointed out another difficulty in securing agreement on rates, and he said that nearly half of the offices made a practice of returning a proportion of the premium as profits. Another difficulty faced the Scottish offices in making a tariff for flax mills, and was brought before them at the same meeting at which Jones's letter was submitted. A flax spinner at Dundee pointed out in a letter that the proprietors of mills would probably form themselves into clubs for mutual insurance if the offices

[1] Letter dated 24th July, 1829.

advanced their rates. Although in these larger and more important risks, cotton and flax mills, agreement between the English and Scottish offices could not be reached, the Scottish managers agreed among themselves on rates for some thirty items, which were printed for the use of the offices and their agents in October, 1829.

Agreement with the London offices was difficult for the reasons as put forward from the south: (i) Companies offering profits would on an increase in premiums be merely "giving back with one hand what they sought to obtain with the other"; (ii) the Scottish offices had depressed rates and could be brought to a correct standard without any agreement; (iii) Scottish offices had encouraged a combination among spinners with a view to being paid "cost price" (for total loss) for old and imperfect machinery. In spite, however, of the many difficulties, agreement between the London and Edinburgh companies was reached before the end of 1829 on cotton and flax mills and Scottish distillers. Further agreements were reached in the next year, when Jenkin Jones paid a visit to Edinburgh, and by visits to Manchester and Leeds he secured promises of co-operation from fire managers there. On his return to London, he wrote: "I flatter myself that the efforts I have made to reconcile so many interests will be soon found to operate beneficially—the effort has been well received here and I have found all my co-labourers in London in good humour with each other and more than ever I think disposed to pull together to stop the evil of our competition going further. . . . We are generally losing money and adversity is a great teacher."

The year 1830 saw also agreement among the Scots on minimum rates for woollen mills, dependent on the number of stoves: 10s. 6d. for mills with one stove or two stoves, 12s. 6d. for mills with three or four stoves, and 15s. for mills with five or more stoves. They combined with the chief London offices in a tariff in 1831 on rates for drying stoves at Manchester, the offices concerned being the *Sun*, *Royal Exchange*, *Phœnix*, *Alliance*, *Imperial*, *County*, *Union*, *Protector*, *Atlas*, *Guardian*, *Globe*, *Manchester*, *West of England*, and *Norwich Union*, together with the Scottish group.

In 1833 Mackenzie paid a visit to London on behalf of the Scottish managers to endeavour to reach agreement on rates for Glasgow and Paisley warehouses, and he was armed with a resolution that "if he should fail in this it will be for the Scottish companies to consider whether it would not be prudent for them to establish agencies in Liverpool, which some of them have already been invited to do, and to take the mercantile risks of that place at the adequate rates paid there rather than compete with English offices

in Glasgow on the losing rates of premium." Mackenzie's visit, and perhaps the threat, were not without result, for in August of the same year the agents of "every fire insurance company doing business in Glasgow concurred in a minimum rate of 2s. in place of 1s. 6d. for premises in plurality of tenure occupied as shops and as manufacturers' warehouses." In subsequent minutes of the Scottish managers this agreement was known as the "Glasgow Tariff," and a schedule of printed rates, agreed in 1833, with subsequent amendments was called the "Managers' Rates." It was the policy of the Association that all doing business in Scotland should adhere to them, and to certain regulations relating to the payment and amount of commission and certain policy conditions.

The managers exercised some control of the situation by reinsurance agreements. It is difficult to say at what date facultative reinsurance by guarantee of part of the original policy became common usage. The practice existed in 1843, for in the "*Centenary of the Scottish Union and National*" it is stated that in that year the *Caledonian* was compelled to withdraw an offer of £2000 reinsurance because the *National* (the earlier name of the Company) shared profits with policyholders.[1] The *Friendly* also shared profits, but both offices as a result of the boycott fell into line with the majority and thereafter participated in their share of reinsurances. Another company, the *Western* of Aberdeen, paid commission of 15 per cent on premiums to all parties bringing business to the office. By the associated companies instructing their local representatives to place no reinsurances with them, the *Western* were brought to more regular modes of paying commission, and to accepting in 1845 the Managers' Rates and Glasgow Tariff.

In 1846 the practices among the Scottish companies as to reinsurance were regularized and made the subject of an agreement. There were eight signatures to the agreement, but from the list of retentions by individual offices it appears that ten companies at least participated. The regulations are of much interest and indicate a very definite step in fire insurance organization. The regulations may be summarized as follows—

(i) A guarantee was to run continuously with the principal policy unless the guaranteeing office gave notice fifteen days before the renewal date.

(ii) Guarantees were to be subject to variations in the principal policy, provided additional risk did not exceed a charge of 1s. per cent. Hazards of greater amount were to be notified and the guaranteeing office could withdraw.

(iii) Removals to be notified and guaranteeing office to have the

[1] *Centenary of the Scottish Union and National*, p. 161.

right to withdraw if adjoining property were already covered by it.

(iv) If proposals sent to one office by another, the former was assumed to have accepted the risk unless refusal was notified by return of post.

(v) It was accepted that each office retained its maximum on any case it wished to reinsure.

(vi) A copy of the original policy was to be furnished and the guaranteeing office was to endorse it in the form prescribed.

(vii) All losses, expenses, and allowances were to be settled by the original office without interference. Payment of its share of loss was to be made immediately after adjustment by the original office. Guarantee accounts were to be settled quarterly. Commission was to be 15 per cent. The principle of interchange of risks was to be to keep the premiums "Dr and Cr" as near as possible.

(viii) Any difference between companies relating to reinsurance to be referred to such managers and parties to the agreement as were not interested in the case—such arbitration to be binding on both parties.

The table of maximum retentions for the ten offices is of interest, as it shows the practices of the times. The figures probably indicated those the companies had hitherto been using, but which were now embodied in the agreement. They were tabulated under four headings: common, hazardous, doubly hazardous, and special. The largest retentions were those under common hazards and these varied among the companies, the *North British* and the *Scottish Union* taking £5000, while the *National* and the *Bon Accord* retained only £1000. For hazardous the maximum retained by any office was £3000 and for doubly hazardous £2000. Of the rates called "special," three offices took nothing, while the others took from £1000 to £2000. In some quarters there seems to be an impression that excessive lines were retained by fire insurance companies at the time.[1] If the practice of the Scottish offices was typical of the English companies, this impression does not seem to be correct. A second table was drawn up of maximum retentions "on each or any two or more buildings adjoining, but not communicating." This close association of the Scottish offices and the spreading of risks among them must have made for strength in the group as a whole. A side-light on the experience of the group is given in the "*Centenary of the Scottish Union and National.*" From 1841 to 1865 the loss ratio on business received by the *National* from other offices

[1] Dr. C. E. Golding, *History of Reinsurance*, 2nd Ed.

was 63 per cent while the loss ratio on their own "carefully selected" business from the public during the same period was only 55 per cent.[1]

While in England there was no organization such as the *Scottish Fire Office Managers*, agreement among the principal offices as to rates in certain classes of risk was attempted, and was partially and temporarily successful. Such was the Liverpool Warehouse tariff of 1826 with its subsequent modifications. Warehouses, with their stores of goods at the great ports of the country, were subject at periods to disastrous losses. Rates differed according to locality. In 1840 those in London for merchandise in dock warehouses were 2s. per cent for specific policies and 2s. 6d. per cent for floaters, without restriction as to character of the merchandise; whereas at Liverpool, with its unhappy experience, the rate was 10s. per cent, and an extra of 2s. for hazardous goods and a floating rate of 18s. per cent. The offices in their adversity were forced into agreements, and Liverpool, after the great fire of September, 1842, was divided into districts, a fresh tariff being issued in 1843 with considerable alteration in the basis of rating, the special hazard of cotton being recognized. Warehouses where no trade was carried on and containing cotton only were rated at 32s. per cent and one without cotton 28s., one with any class of merchandise 35s., a similar rate being charged for a warehouse where a trade was carried on.[2]

In an annual report of the *Liverpool Fire and Life Insurance Company* (later the *Liverpool & London & Globe*) there is reference to the special hazard of the Liverpool warehouses, largely due to faulty construction. The report goes on to say that, with the co-operation of all the insurance companies doing business in the town, the principle had been adopted that ratings should be temporarily increased with such reliefs when expenditure on improved construction was made as would cover the charge on capital outlay involved. The association of the offices led to a further step to their mutual good, when, in the early 'forties they formed a salvage association controlled and maintained by the tariff offices of Liverpool.[3]

While it would be outside the scope of this work to give a full history of the growth of the fire tariffs of the last century, a few of the more important are so essential to an understanding of the progress of fire insurance in this country that a brief reference to them must be made. The textile industry was the foundation of

[1] *Centenary of the Scottish Union and National*, p. 162.

[2] H. Brotherton, "History of the Liverpool Mercantile Tariff," *J.C.I.I.* Vol. XII, p. 261.

[3] *Centenary of the Liverpool & London & Globe*, p. 23–4.; and minutes of the Salvage Association itself, commencing in 1843.

our commercial expansion, and it was one of the first to be tariff-rated by the fire offices. The English offices had not that compact association which was so successfully achieved by the Scottish companies, but agreements among the leaders were made by the London and provincial companies. There was a cotton-mill tariff of 1842 based upon a classification of spinning mills according to number of hanks spun to the pound. Mills were divided into three classes: (i) those not spinning lower than 80's; (ii) those spinning lower than 80's, but not lower than 36's; and (iii) those spinning lower counts than the last. For normal risks the mill had to conform to certain standards: (i) built of brick or stone and covered with slate or tile or metal: (ii) in one tenure; (iii) heated by steam; (iv) boiler and fireplace outside the mill; (v) lighted by gas; (vi) no hoists, spouts or well-holes through floors; (vii) working single time only; (viii) process previous to carding to be performed in a building having an incombustible roof, having no direct communication other than external fireproof passage of not less than 10 feet in length, with wrought-iron door at each end, and openings for shaft and steam pipes; (ix) no spinning waste other than that produced by the occupier of the mill; (x) not more than six floors in height. A mill conforming to these conditions was rated at 12s., 14s. or 16s. per cent, according to the three classes mentioned above. To the basic rate was then added an extra for each of the ten features where the mill failed to conform to standard, the result being that with numerous defects a mill might be rated double the basic rate.[1]

This tariff represents an advanced stage of fire insurance rating for a date more than a century ago, and indicates careful surveying of risks and a diagnosis of sources and of spreading of fires. It is more than that, however. The difference between the best and the worst risks in cost production to the mill-owner on account of the premium paid was sufficient to induce him, when building a fresh mill, so to design his factory as to procure him the most favourable rate consistent with capital expenditure, or in the case of existing mills to carry out alterations such that the interest on the capital expended fell short of the premiums saved. This indeed was one object of the tariff (i.e. the encouragement of the owners in their own interests to improve the risk).

In the cotton boom of the 'seventies, when owners competed with one another in building large mills to supply more and more yarn per unit of overhead expenditure, changes were essential in the tariff rating, as it was found that the large mills were not the best risks.

[1] F. J. Kingsley, "Tariff Legislation and Risk Improvement," *J.C.I.I.*, Vol. XXII, p. 135.

In 1871 an extra of 1s. per cent was charged for every 10,000 spindles a mill contained above 30,000; and in 1872 the extra for height, which hitherto had been charged above six floors, was then imposed if there were more than four storeys, while the limit in spindles per factory to qualify for normal rates was reduced from 30,000 to 10,000. Still further charges were made in the next few years for size of mills. In 1876 a mill of six storeys, spinning 34's and containing 80,000 spindles, paid a rate of 58s. per cent against a rate of 39s. for one of 30,000 spindles four floors in height.

The peak in rates for the cotton tariff was reached in 1885, when an extra of 5s. per cent was charged for a mill of over 40,000 spindles and 2s. for every floor above four. Extras for other features of an adverse nature were introduced and an average clause was inserted in policies. It was at this point, however, that the tariff broke down, and each company sought to retain its business at the best rate it could. Not again till 1892 did a tariff become effective in cotton mills, and then at rates more lenient to the mill-owner.[1]

In many respects the history of the cotton mill tariff is typical of the other tariffs. At the end of the century there were about sixty, and each had grown up on more or less independent lines, but each historically consistent within its own sphere. In the other allied industries—woollen, worsted and flax mills—a normal rate has been subject to additions for defective construction, excessive height, floor openings, heating or lighting of hazardous character, night work, inside boilers, and plurality of tenure.

An interesting development in rating was that of the Liverpool Mercantile Tariff, which followed the Liverpool Fire Prevention Act of 1842, which, in its provisions, specified the requirements for construction of warehouses. The printed tariff adopted by the offices in 1843 gave a short summary of these, and the offices jointly appointed a surveyor who, after an inspection, gave a certificate for those warehouses which came up to the minimum prescribed. For the inspection and report the surveyor was paid £2 2s., and in his account for the second half of 1844 he certified 175 warehouses.[2]

The difference between the rates for certified warehouses and uncertified warehouses was considerable. In a warehouse where cotton only was stored and no trade was carried on the rate was 32s.: in one where no cotton was stored 28s., and in one where any class of merchandise could be stored 35s. All these rates were subject to a reduction of 8s. when a certificate by the surveyor was

[1] *Ibid.*, p. 139.
[2] H. Brotherton, "History of the Liverpool Mercantile Tariff," *J.C.I.I.*, Vol. XII, p. 261.

produced indicating that the warehouse was constructed in accordance with the Act, and a further reduction of 7s. was made for inclusive management. There were twenty-four offices whose names appeared in the surveyor's accounts and Brotherton, in his paper on the subject, divided them into three groups according to the magnitude of their risks. In the first there were the *Liverpool*, the *Sun*, and the *Phœnix:* in the second the *Royal Exchange*, the *Manchester*, and the *Imperial*. In the third class three Scottish offices were bracketed together as if they were sharing risks between them—we have seen that they had reinsurance agreements and this may have been the fact.[1]

It is significant of the application of tariffs to local conditions that warehouses in different cities had considerable diversity of treatment, partly the result of experience and partly perhaps the result of collective bargaining by owners. The common features were a low normal rate with extras for additional hazards. These extras, however, differed in separate localities for the same feature of hazard. In one place there was a charge of 1s. for every storey above five, and in another 6d., while in yet another no charge at all was made.[2] Openings through floors meant an addition to the rate of 6d. in one place and 1s. in another, and in others up to 4s. There were also a number of other discrepancies in treatment as to stoves and tenancy charges. The warehouse tariffs had every mark of having grown up semi-independently, regard being paid to special local conditions in respect of building construction, water supply, and the predominant character of merchandise deposited.

Offices, however, in administering a tariff never have had complete control, and nothing like a monopoly has been attained. Always there has been competition or potential competition which has had to be faced. A proportion of companies at all times have not adhered to the tariff, who, by underwriting each risk on what they regard as its merits may quote a rate below the strict interpretation of the tariff. Potential competition may rise from an increase in the non-tariff companies, either by secessions from the tariff or by promotion of fresh companies, a feature noticeable when business is especially profitable. Another source of potential competition is that of the association of manufacturers for mutual assurance. An early example of this occurred, in 1869, among the cotton mill-owners who formed at Manchester the *Cotton Spinners' Mutual Fire Insurance Association.*[3] In this case the particular complaint of the

[1] *J.C.I.I.*, Vol. XII, p. 261.
[2] F. J. Kingsley, "Tariff Legislation," *J.C.I.I.*, Vol. XXII, p. 162.
[3] *Ibid.*, p. 152.

mill-owners was that the companies were not giving them the advantage in premium reduction of the fire-extinguishing appliances installed. The Association charged the same contribution from their members as the tariff companies had when a risk was without the appliances, but made what they considered adequate reductions when such appliances were installed.

The great assets which the tariff offices had in the expansion of the business during the last century was their ability to handle large values by means of reinsurance. The tariff offices were the largest and the strongest of the companies, and with their knowledge of the reinsurance market, on the lines of that which we have noticed among the group of the *Scottish Fire Insurance Managers*, they could absorb and spread large risks in a more satisfactory manner than the non-tariff companies or any mutual association where the losses could not be spread outside the single industry concerned.

At times, however, the tariff offices have shown a lack of enterprise in conforming to changed conditions; such is probably inevitable when any change in rating requires the agreement of a large body of members. One instance of this occurred on the introduction of the automatic sprinkler installed in this country first in 1885. The invention was an American one, and had been in use for some years there before Mather & Platt, of Manchester, started manufacture of it after acquiring the patent rights. It was introduced first into the cotton mills, and the non-tariff companies, of which the *Cotton Spinners' Mutual* mentioned above was one, gave a discount of 20 per cent, afterwards increased to 30 per cent, in mills where it was installed, and the companies found that the discount was justified.[1] Unfortunately, the introduction came just after there had been a substantial revision in the cotton-mill tariff, that of 1885, and the tariff companies maintained their attitude of non-recognition. In the circumstances the tariff broke down and companies acted individually, making substantial reductions for sprinklered risks, till, in 1892, on a revision of the cotton-mill tariff, a healthier state was re-established and a number of non-tariff offices joined the association.[2]

While tariffs came into existence in England before 1858 by *ad hoc* agreements among the companies, there was no actual tariff association akin to the *Scottish Fire Office Managers*. Meetings and negotiations for agreement took place generally under the initiative and leadership of the *Sun* in London. It was in 1858 that the *Association of British Fire Offices* was formed. Charles Bell Ford, who was manager of the *Sun* from 1814 to 1856 and Deputy-Chairman

[1] *Ibid.*, p. 157. [2] *Ibid.*, p. 158.

of the Company till his death in 1860, took a large share in the formation of the tariff association, as it came to be called, and acted as its chairman. At the age of seventy-three, in 1857, he was writing to Dickie of the *Caledonian*: "I received your notice of the adherence of the *Equitable*, *Unity*, *North of Scotland*, and *Patriotic* to the tariff system and communicated the information to the offices at a meeting on Tuesday, the *Lancashire* and the *Royal* still standing out, I believe. Have you any hope of their coming in?"[1] Thereafter the correspondence on the subject of tariffs between Scotland and London was carried from London by John Richards of the *Sun*.

At the invitation of Richards two representatives from Scotland, M'Candlish of the *National* and Barlas of the *Scottish Union*, attended in London a "meeting of fire insurance companies in England on 9th December 1858." and reported on their return that "a very harmonious feeling pervaded the meeting and that all the representatives of the various offices present agreed to the tariffs of which printed copies have since been transmitted by Mr. Richards of the *Sun*."

M'Candlish again attended a general meeting of the *Association of Fire Insurance Companies* in London in June, 1860, a momentous meeting, and brought back with him an abstract of the minutes of the meeting. "That as the Scotch Offices' Committee has not been formally recognized it now be so." M'Candlish explained that this minute formed part of an arrangement by which the whole of the fire offices were divided into three committees, with a view to greater facilities in obtaining a concurrence of the various offices upon general questions. In consequence of the Scottish offices being thus organized as a separate committee of the whole body, Dickie was appointed chairman and McLagan secretary. It is interesting to notice that Dickie was present at the first meeting of the managers on 18th July, 1829, at the Waterloo Tavern, and signed the minutes of the last meeting of 29th June, 1860. Thus terminated after a history of thirty-one years an institution which had done much service to fire insurance, and incidentally preserved a record in its minutes of a history of the business both in England and Scotland during a period of much development.

It is as well to bear in mind that the association of 1858 was the outcome of much past history of combined action. There was a Liverpool mercantile tariff in 1826, and there is reason to believe that it was not the first. In the negotiation with the Scottish Managers we have seen that combined action had been taken in respect of corn, cotton, flax, and woollen mills. Mr. Hinshelwood, the present chairman of the *Fire Offices' Committee*, put the rating

[1] Minutes of the Scottish Managers.

agreements under those heads as eleven between 1840 and 1849, and in 1856 it was said that forty-seven companies "belonged to the tariff."[1]

In 1860, when the *Scottish Managers* became a committee of the greater body, there was, in addition, to the main committee in London one to meet in Liverpool or Manchester. In practice the two outside London developed into rating committees in Manchester and Glasgow. A Manchester committee had, in fact, been sitting for a considerable time before 1860, as the earliest minute of which record has been kept refers to a meeting in 1860 as its "fifty-first."[2] The main association does not seem to have been known as the *Fire Offices' Committee* till 1868, when a constitution was formally adopted.

The history of the association, and indeed the history of British fire insurance, was profoundly affected in its early years by the fire in the dock area in Southwark. The Tooley Street fire, as it has since been known, was a landmark in fire insurance history, not because it was a great conflagration involving the offices in claims of a million sterling, but because of the repercussions following the disaster, both in thought and practice of fire insurance. A vivid account of the fire was given by Percy E. Ridley, the late secretary to the *Fire Offices' Committee*, in a paper read before the Insurance Institute of London in December, 1930.[3]

The fire involved wharves and warehouses between Tooley Street and the river, on the south side to the east of St. Olave's Church, comprising from west to east: (i) Chamberlain's Wharf; (ii) Cotton's Wharf; (iii) Depot Wharf; and (iv) Hay's Wharf. The buildings of Chamberlain's Wharf were of brick and timber of old construction, and rated at 10s. 6d. per cent. The others were of good construction and regarded as first class, being rated at 4s. 6d. Within the buildings of Chamberlain's Wharf there were stored both hazardous and non-hazardous goods, including rags and oils. Cotton's and Depot Wharves, which adjoined, were occupied by one firm of wharfingers, and were stored with miscellaneous goods, including cotton, sugar, tallow, rice, gum, spices, jute, hemp, saltpetre, and provisions. Within Hay's Wharf there were stored sugar, jute, rice, and cotton.

The fire broke out at 4.30 on Saturday, 22nd June, 1861, on the second floor of one of the buildings on Cotton's Wharf where jute was stacked. It soon involved the whole of the building, and spread to an adjoining one on the same wharf where there was stored, in the cellar, butter, lard, and bacon; on the ground floor,

[1] A. S. Hinshelwood, *Lecture to Danish Tariff Union*, 1939.
[2] *Ibid.* [3] *J.C.I.I.*, Vol. XXXV, p. 25.

bags of rice, casks of tallow, ham, and cases of bacon; on the first floor, casks of tallow and bags of rice, on the third floor, more rice and tallow, and, in addition, "gums," probably resins, and chests of tea; and on the fourth floor, bales of cotton. The floors were of wood and were carried on unprotected iron stanchions.[1]

Braidwood was in charge of the fire brigades which were early on the scene, but were quite unable to cope with the fire. The engines were hampered by insufficient pressure of water in the mains and, as the tide was very low, water from the river could be obtained only by the two floats which operated from that side. Burning molten tallow spread everywhere, and poured on to the river and into Tooley Street, further impeding the men and engines, and the heat was such as completely to overcome those who approached too near. Braidwood, who had been indefatigable in his efforts and encouragement to his men to stem the fire, was, about 7.30, passing with others by the wall of one warehouse on Cotton's Wharf when there was a dull roar and the great wall of the warehouse bulged out. All but Braidwood and one accompanying him got clear, some by jumping into the river, before the wall crashed, burying Braidwood and his companion beneath the ruins, which thereafter were unapproachable. At 10 o'clock the fire was at its worst; all between St. Olave's Church in the west to Hay's Wharf in the east was one great fire, which continued to burn throughout Sunday. It was not till Monday that Braidwood's body was recovered.

The reaction of the offices following the fire was so extreme as to border on panic. With the exception of Chamberlain's Wharf, where a rate of 10s. 6d. had been charged, the risks were thought to be of the best of their kind. What caused much consternation was the inability of the fire brigade to stem the fire. But for the breadth of Hay's Dock and the eventual removal of two vessels therein, the fire would have spread farther to the east and involved warehouses beyond. There appeared no reason why another such fire should not break out where merchandise was stored in bulk and involve them in catastrophe. During the previous fifteen years the offices had lost money on warehouse risks,[2] and now, as a culmination of the experience, had come the Tooley Street fire. Had they to face a recurrent catastrophe of this nature as a feature of warehouse business?

The first step was materially to increase the rates for waterside warehouses. These, before the fire, varied from 3s. to 7s. At meetings of the offices on 5th and 6th July, 1861, a schedule of

[1] Ridley's paper on the Tooley Street fire.
[2] Select Committee's Report, evidence of the *Sun*.

rates was agreed with figures three to five times the above, but finally, at the beginning of August, a scale was adopted.[1]

Class I—12s. 6d.:	Subject to reduction of 5s. for improvements.
Class II—16s.:	Subject to reduction of 6s. for improvements.
Class III—21s.:	Subject to consideration for any improvements which may be made.

To qualify for the reduction for improvements, a certificate from the surveyor appointed by the offices jointly was required, a practice which had already been adopted in Liverpool.[2] A feature incipient in earlier tariffs was adopted as a definite principle in fire rating (i.e. so to penalize bad features of construction and conditions as to compel owners to improve their risks). A special committee was set up in August to deal with the rating of warehouses, known as the *Warehouse Improvement and Wharf Committee*, which still continues as the *London Wharf and Warehouse Committee*. Within three years the differential ratings made by the committee resulted in greatly improved construction of warehouse property.

When the first increases proposed by the offices became known in July, 1861, there was consternation among wharf property owners and London merchants, and a petition signed by several hundred of them was made to the Lord Mayor asking him to convene a public meeting to take into consideration the largely increased rates of premium demanded by the public fire insurance offices in consequence of the recent calamitous fire in Southwark, and, the petition went on: "We beg to submit to your Lordship the following brief explanation. . . . The principal offices have for a long series of years received an extent of premium from the insurance of merchandise and depots thereof which we believe to have been instrumental in promoting the increase in the value of their property to a very considerable extent after payment of all claims to which losses by fire have subjected them. The recent fire in Southwark was of an extent never equalled in the Metropolis since the foundation of insurance offices and consequently of an exceptional character. The offices have none the less in their panic occasioned by so serious a loss endeavoured to establish a tariff of premiums which, if submitted to, would render them far more than an equivalent of their risk—in fact it would convert an ordinary calamity into the basis of a permanent source of excessive profit. To exact the high rates now proposed by the offices, who by combination exercise a practical monopoly against which at present the mercantile community is powerless, would be to encourage non-insurance and thus to stimulate an improvident habit of trading."

[1] Ridley, p. 47. [2] Brotherton, *J.C.I.I.*, Vol. XII, p. 262.

The meeting was held at the Mansion House on 25th July, and it fell to Mr. W. Newmarch to put the case on behalf of the offices. He pointed out that fire insurance business was conducted on the principle of dividing the various risks into certain large groups. The mercantile risks of London were one large group, the manufacturing risks of Lancashire were another large group, and there were many other groups. "Now what the rate of premium ought to be for any of these groups was a matter of simple calculation. Taking, say, ten years as a given period, it was found that the offices would receive a certain amount of gross premium; out of that they would have to pay certain expenses, leaving a net amount for payment of losses. During the last ten years the mercantile insurances of London, taken as a whole, had been unprofitable. The late fire had inflicted a loss of one million sterling. Combining these two facts the meeting must admit that a case was constituted which justified the offices in making some addition to their premium rates. Then came the question: "To what extent should that addition be made? The experience of the great fire of 22nd June had shown the offices that large claims had arisen from indiscriminate storing of commodities, and that the fire was greatly aggravated by its character and results in consequence of the imperfect division of the warehouses."

"The offices proposed to form their new tariff upon those two principles. In making alteration in their existing tariffs they sought to improve the character of the risks by obtaining a better classification of goods, and to reduce to some reasonable limitation the previous extravagant size of the warehouses. When these improvements should be carried out the offices proposed to make very large remissions in the premiums, but even now the offices were prepared to discuss the question at issue in a fair and amicable manner."

In spite of Mr. Newmarch's reasoned speech, the meeting passed resolutions: (i) That the proposed rates on merchandise and the depots thereof as issued by the combined fire offices, who virtually formed a monopoly, were manifestly unjust and excessive . . . and would be the means of converting an unparalleled calamity into a permanent source of excessive profit; (ii) that the proposed rates would constitute an inducement to non-insurance; (iii) that the market value of the shares of the leading fire offices, which had suffered no material depreciation since the fire in Southwark, proved that on the average the previous rates were amply sufficient, and therefore that the meeting pledged itself to use all lawful means by the formation of a new company or otherwise, to oppose the establishment of the proposed new rates of insurance, and that

a committee be appointed to consider the best course to be pursued towards that end."

The result of the meeting were three. On second thoughts the fire offices adopted the more moderate tariff of August, 1861, indicated above. No less than eight new companies were proposed, but only two reached completion, the *Commercial Union* and the *Mercantile*. The latter, during its first year of existence, combined with the *North British* to form the *North British and Mercantile Insurance Company*. Thirdly, the public feeling expressed by the city merchants, the great loss occasioned by the fire itself, and the desire of the offices to hand over the responsibility for the London Fire Brigade, were the cause of the appointment of a Select Committee of the House of Commons "to enquire into the existing state of legislation, and any existing arrangements, for the protection of life and property against fire in the Metropolis." So far as the fire offices themselves were concerned, they had learnt their lesson from the Tooley Street fire, that the extinguishing of fires in the London area was no longer a function which should be left to them. Even before the Select Committee was appointed, a letter was sent by the Secretary of the London Fire Engine Establishment to the Home Office setting out the position and function of the fire brigade, voluntarily supported by the fire insurance offices. In the Report of the Select Committee, reference was made to the London Fire Brigade, the work of the fire offices, giving its formation and history. It told of the time before 1832 when each office maintained a fire brigade, and of the work of Mr. Bell Ford, of the *Sun*, in that year in persuading the offices to combine to form one brigade "for the purpose of promoting economy as well as greater efficiency." Thenceforward most of the leading fire offices had contributed to the cost, which at first had been £8000 a year, to maintain eighty men and nineteen stations. The expense had been gradually increasing till it reached £25,000 a year. The evidence of every witness bore testimony to the high efficiency of the brigade under Mr. Braidwood, and the Committee recommended that the services of those in the organization should be retained under any new arrangement.

The result of the Select Committee's report was the Metropolitan Fire Brigade Act of 1865. Under this Act the responsibility for extinguishing fires as from 1st January, 1866, passed to the Metropolitan Board of Works, and the organization and property of the former fire brigade were transferred to the new authority. There are two provisions in the Act of some importance in relation to fire insurance. The fire brigade were given power to pull down houses and take such measures as were required to put an end to a fire; any damage in this connection was to be deemed damage by

fire within the meaning of any policy of insurance against fire. The second provision was that each fire office was to contribute a sum to the expenses of the brigade at the rate of £35 in the £1,000,000 on the gross (i.e. before deducting reinsurance) amount insured by it on property in the Metropolis. The relief to the fire offices by the removal of responsibility for the brigade enabled them to give attention to forming the London Salvage Corps, a body whose functions were more specialized and appropriate to fire insurance.

Some of the evidence given to the Select Committee is of much interest as showing the conditions of fire insurance at the time and the effect of new companies coming in to compete in the market. Mr. Drummond, the managing director of the *Sun*, was asked whether, if there were an increase in fires, offices would be able to protect themselves by an increase in premiums. In his reply, he said that the competition was so great that this was not always possible. In the London area private house property was the most profitable for insurances. Warehouse property involved a far greater risk and paid a much higher premium; his own company had for the past fifteen years carried on the latter business at a loss, and he believed that was the experience of the other offices. In reply to a question what was the inducement to an insurance office to carry on business at a loss, he said: "There are certain branches which pay and certain branches which do not, and we have been obliged in consequence of competition very often to carry on a business at a loss for four or five years until those who compete have found that it is a losing trade for them too, when they have come in and the thing has gone back to a more remunerative scale of premium—I can instance the cotton-mill business: eight or nine years ago some of the local offices came largely into it and reduced the premiums nearly one-half. It went on for four or five years, the business being done at a positive loss upon that branch, and at the end of that time these local offices also found that they were doing a very bad business, and they said if you will agree we will go back to what the amount was before we lowered the premiums, which we did, and the business has been in a wholesome state since then."[1]

The repercussions of the Tooley Street fire, the protests of merchants, and the Select Committee's inquiry did not weaken the fire offices' system of tariffs; indeed, the *Guardian*, an office which had hitherto shared its profits with its policyholders, abandoned the practice and joined the tariff offices, and within a few years the *Commercial Union* itself was in the tariff fold. To maintain further

[1] Question 1643, etc.

solidarity and to strengthen their position against the non-tariff offices, a notice was issued in 1863 to members that guarantees must not be given to or taken from any office which did not adhere to the tariff system as to any class of risk in London or elsewhere in the United Kingdom, whether tariff or non-tariff and whether at tariff or non-tariff rates. In 1868, general rules were adopted by the *Fire Offices' Committee* governing the practice of reinsurance, one of which embodied the principle of no reinsurance being taken or given to non-tariff companies.[1] We have seen that this principle had been adopted by the *Scottish Fire Managers* before 1845.

In the year 1868–9 there was formed the *Fire Offices' Committee (Foreign)*. It had, and still has, a separate constitution from the *Fire Offices' Committee*. When the constitution of the latter was put into writing in 1868, the draft included an obligation to adhere to twenty-nine listed foreign tariffs,[2] but it was ultimately decided that the *Fire Offices' Committee* should confine its attention to business in the United Kingdom, and 1869 saw the emergence of the separate organization, the *Fire Offices' Committee (Foreign)*. In process of time, both of these organizations have settled down and share one chairman, secretary and assistant secretary, and one clerical and technical staff. There are, indeed, more than two entities, for the *London Rating Committee*, dating from before 1858, became the *London Wharf and Warehouse Committee*, and is still in existence; and there have been added, since 1868, the *Consequential Loss Committee*, the *London Continental Fire Insurance Committee*, and the *Committee for France*. Each committee has separate membership, constitution, and subscription.

As seen by the present chairman, the functions of the *Fire Offices' Committee* have been: first, the designing of tariffs and their constant review in the light of changing conditions; secondly, the handling of exceptional cases where the tariff may apply inadequately, or gives no satisfactory solution, or where special forms of insurance are required, such as floating policies, declaration policies, and insurance on buildings in course of erection; third, the framing of the policy itself and its clauses. Shortly after the founding of the *Committee* in 1864 a resolution was passed "that it was desirable to revise the printed policy forms now in use with a view to the adoption of the same form of policy and conditions by all offices proposing to do business at the same rates of premium. The Committee produced in 1870 a form of policy which was the basis of the Standard Policy and Conditions which became obligatory on members in 1922.[3] Other functions of the Committee have been those of arbitration in

[1] Golding, *History of Reinsurance*, p. 50.
[2] Hinshelwood's paper before the Danish Tariff Union, 1939. [3] *Ibid.*

disputes between members, the protection of common interests of members, and the improvement of risks with the advice of experts.

The *Fire Offices' Committee* has never embraced all the companies transacting fire insurance in the United Kingdom; always there have been some, and at times important, offices outside its membership. In 1939 there were seventy-two members (excluding twenty-seven acquired companies) and fifty-six associate companies. The Committee was responsible for ninety-seven fire tariffs in Great Britain. The three old rating Committees of London, Liverpool (or Manchester), and the Scottish one were co-ordinated in 1860 by general meetings in London, and have since then developed into seven Standing Committees functioning (in 1939) as to three respectively in Manchester, Leeds, and Liverpool; two in Scotland; and two in Ireland. Each is composed of representatives of companies in the district nominated by the *Fire Offices' Committee* and each Standing Committee acts in an advisory capacity to the main body.[1]

Misunderstanding as to the object of the tariff associations, and the effect of them, has recently found expression among the public. Without some such body, however, it is difficult to see how fire insurance in a well-organized economic community could be possible if each class of risk is to be made self-supporting, a necessary condition where insurance is granted by companies and underwriters in a system of private enterprise.

"Profits insurance" may be said to be a development of fire insurance rather of the present century than the last, but it has its place here as a natural outcome of fire insurance technique. While a fire insurance policy provides a full indemnity against destruction and damage to property caused by fire, it does not, unless specifically included, cover consequential losses for which the fire was a remote cause. There are indirect losses which, in many cases, are inevitable, mostly of an income and not of a capital nature, due to destruction of property. In a decision as far back as 1834, in the case of *Wright* v. *Pole*, where an innkeeper, who had insured his inn, claimed, as a result of fire, for his loss of custom, and for rent and expenses for hiring other premises, it was held that these were inadmissible.[2] In commercial risks these consequential losses may often be severe. The loss of profit sustained when a business ceases, through fire, to function as a going concern is a consequential loss. So is the continuing expenditure on overheads, such as salaries, wages, rent, and the like, which the owner is bound to sustain till

[1] Hinshelwood's paper before the Danish Tariff Union, 1939.
[2] Welford and Otter-Barry, *The Law Relating to Fire Insurance*, p. 262–3.

he can again, in new or reconstructed premises, carry on to full capacity.

On the Continent, from about the middle of the last century, "chomage" or percentage policies were granted to cover consequential loss from fire. The principle adopted was that the insured should insure for the possible loss of profits in a named sum, in addition to his ordinary sum insured under the normal fire insurance; and in the event of loss under the latter he should have paid to him, under the Chomage Policy, such proportion of the sum he had insured thereunder as the settled loss under the fire policy bore to the sum insured under the fire policy. A 25 per cent loss under the fire policy would mean a payment of 25 per cent under the Chomage Policy.[1] Such a practice has not been regarded favourably in this country; it can have little relation to the true loss of profits and encourages over-insurance.

During the present century, however, British fire offices have made a successful effort to meet the demand for what has come to be known as "Profits Insurance." The first development from the "chomage" or percentage policy was the "Time Loss" policy, under which the insurer pays to the insured for a period of twelve months from the date of the fire a sum in respect of each working day during which business is suspended in consequence of fire. If 300 days are taken as working ones during a year, then $\frac{1}{300}$ of the sum insured as normal profits is payable for each working day lost. More elaborate methods of computing the basis of settlement of claim have come into force as the business has developed, and a formula set out in the policy provides for settlement by considering separately the items of consequential loss due to: (*a*) net profits; (*b*) standing charges; and (*c*) increase in cost of working. The formula applicable to any particular case depends upon the nature of the business carried on, and is adjusted to the circumstances.

A pioneer in profits insurance was the *Profits and Income Insurance Company*, established in 1901, which took over a small profits insurance business from the *Western Insurance Company*.[2] By 1908 business of this nature had become sufficiently established to encourage many of the fire insurance companies to add it to their activities.

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CHAPTER XX

LEGISLATION CONTROLLING INSURANCE COMPANIES

REASONS for delay in legislation before 1870—Instability of insurance companies registered under 1862 Act—Unfortunate position of life policyholders—Case of the *Albert Life Assurance Company*—Life Assurance Companies Act, 1870——Deposits—Separation of funds—Uniformity of accounts and valuation statistics—Returns to Board of Trade and printing of abstracts—Amalgamation and winding-up—Amending Act of 1872—Necessity for widening the scope of the Act in the twentieth century—Introduction of 1909 Bill to Parliament—Similarity of principle to Act of 1870—Deposits for other classes of insurance—Separation of funds carried further—Additional information to accompany balance sheet—Debate in House on separation of funds without specific assets for each fund—Interpretation on this point in the Courts—Application of Act to *Lloyd's* underwriters—Statutory Rules and Orders—Assurance Companies (Winding Up) Acts, 1933 and 1935—Industrial Assurance Act, 1923—Classes of insurance added to list in Section 1 of 1909 Act—Clauson Committee's Report on 1909 Act—Compulsory insurance and Report of Committee thereon in 1937—Assurance Companies Act, 1946

THE first piece of legislation in this country designed specifically to regulate insurance companies was the Life Assurance Companies Act of 1870. Although, as its name implies, its first consideration was life assurance, in so far as there were companies transacting either or both fire and marine insurance as well as life, the composite companies in their general branches were affected by the Act. The difficulties of designing legislation which would be effective were much enhanced by the varying description of the institutions concerned, and the overlap of existing legislation relating to companies and friendly societies. Attempts had been made at legislation since the Select Committee's Report of 1853. Mr. Stephen Cave, when he introduced the 1870 Bill, said that between the years 1857 and 1861 inclusive there had been three attempts at legislation.[1]

As evidence of the necessity for some sort of regulation of life assurance companies beyond that of the Companies Act of 1862, which touched only a few, he gave some statistics of promotion, amalgamation, and failures. He divided the history of the formation of offices into three periods: The first, not very accurately, he described as one under which they were established under charter or Acts of Parliament, extending up to 1824. Up to that date, he said, thirty-nine had been founded and only one ceased to exist. The second period was one of promotion under deed of settlement from 1824 to 1843; during that period 105 were established and thirty-eight ceased. The third period was one of registration, when 219 were founded and no less than 170 ceased. This

[1] *Hansard*, Vol. CXCIX, p. 719, 20th Feb. 1870.

made a total of 366 founded, of which only 113 were existing, which was only six more than existed in 1844. He pointed out that some of these societies did fire and marine insurance, but he believed 285 purely life offices had been founded, and only 111 of these had survived.

Since the Companies Act of 1862, offices had multiplied and "yet there seems to be very little increase of stability—at the present time fifty-nine life offices are being wound up in Chancery, and many of these, like Aaron's rod, have during their term of existence swallowed up several others." In these amalgamations and transfers, groups of policyholders had no control of their destinies and passed from one administration to another, and with each transfer their funds were whittled down by repeated commissions, legal expenses, and bad finance. Mr. Cave said that in his investigations he had found that seven life offices had been transferred from company to company no less than four times; several had been transferred three times; and upwards of forty, twice. "*The Tontine* was wound up in June, 1849, and the business transferred to the *Marine*, which was transferred in 1853 to the *English and Irish Church*, which, however, proved a broken reed, and as if prophetically of what has since taken place, was transferred in 1861 to the *British Nation*—but the *British Nation* does not appear to have benefited by the transaction, because the *British Nation*—I hope it may not prove another evil omen—has since been transferred to the *European*. In another instance insurers found themselves in five offices in nine years, four being without their consent. One company in existence has absorbed no fewer than thirty-five others, and the *Albert* carried down in its fall twenty-four. These policyholders are, as the House knows, practically powerless. Unlike a body of shareholders, they are almost incapable of combination—except in mutual offices they cannot even claim to see the accounts."[1]

The failure of the *Albert Life Assurance Co.*, to which Mr. Cave referred, had greatly affected public opinion in favour of some control of life assurance. The company had been founded in 1838 as the *Freemasons and General Life Assurance, Loan, Annuity, and Reversionary Interest Company*, with an authorized capital of £500,000 in £20 shares, of which £3 was paid up. In 1849 the name was changed to the *Albert Life Assurance Society*. The company made steady progress on its own account for the first ten years, but thereafter it commenced a policy of expansion by absorption of other offices. By the end of 1865 it had absorbed twenty-six offices, additional capital being obtained by placing the balance of its authorized capital of £500,000 with larger calls on some shares than the original

[1] *Hansard*, Vol. CXCIX, p. 719 *et seq.*

£3. In 1867 and 1868 excessive surrenders took place, but in 1869 the directors ceased to pay surrender values and the stability of the company was in doubt. On 13th August, 1869, an application was made to Court for appointment of provisional liquidators. The failure was attributed to the amalgamations and the large costs entailed in the successive transfers of the businesses. During the years 1856 to 1865 these costs were put at £274,152.[1]

In spite of the incidents leading up to it, the 1870 Act was no panic legislation. As Mr. Cave pointed out: "It springs from the deliberate conviction of experienced men, whose attention has long been paid to the subject . . . the *Albert* has fallen, but it has not fallen alone, it has dragged down with it twenty-four offices it had absorbed. Let the House consider: This expenditure thus represents twenty-five sets of promotions, twenty-five bills for promotion expenses, twenty-five bodies of officials, twenty-four purchases of businesses with all the payments to the negotiators, solicitors, and counsel, besides compensation to officials and hush money to objecting shareholders and policyholders. It is not too much to say that £10,000,000 have been handled and that almost no assets remain."[2]

The provisions of the Act may be divided under five main heads: (1) deposits; (2) separation of the life fund; (3) accounts, returns, and other information for members; (4) amalgamation; and (5) winding up. Every company established after the passing of the Act within the United Kingdom, and any company which commenced to carry on the business of life assurance after the passing of the Act, had to deposit the sum of £20,000 with the Accountant-General of the Court of Chancery, and no certificate of incorporation would be granted by the Registrar until the deposit had been made. A return of the deposit was to be made only when the life assurance fund accumulated out of the premiums amounted to £40,000. By an Amending Act of 6th August, 1872,[3] it was provided that such deposit was deemed to be part of the life assurance fund. Thus the principle of the deposit recommended by the Select Committee of 1853 was carried out; the practice had already been adopted in America.

The separation of the life assurance fund was dealt with in Section 4. Every company transacting other classes of business as well as life, established after the passing of the Act, was compelled to keep a separate account for the life and annuity business, and all receipts in respect of this business were to be carried into it to

[1] See account of the *Albert* by Walford, in *Insurance Cyclopedia*.
[2] *Hansard*, Vol. CXCIX, p. 719 *et seq.* [3] 35 & 36 Vict., c. 41.

form a separate fund to be called the life assurance fund. This fund was to be as absolutely the security of the life policy and annuity holders as though it belonged to a company carrying on no other business than that of life assurance, and should not be liable for any contracts of the company for which it would not have been liable had the business of the company been only that of life assurance. In respect of existing companies, the provision as to the life assurance fund seems to have been badly drawn. It did not definitely say that existing companies already transacting life assurance, or which might thereafter transact life assurance, were to keep a separate account or create a separate fund; what the section did say was "and in respect to all existing companies the exemption of the life assurance fund from liability for other obligations than to its life policyholders shall have reference only to the contracts entered into after the passing of this Act, unless by the constitution of the company such exemption already exists." The ambiguity as to the effect of the Act on existing companies was cleared up in the Amending Act of 1872, which, after reciting the relevant portion of Section 4, went on "and doubts have arisen with respect to the construction of the said provisions . . . be it therefore enacted that the portion of Section 4 . . . shall apply to every company established before the passing of that Act provided that the Life Assurance Companies Act 1870 and this Act shall not diminish the liability of the life assurance fund for any contracts of the company entered into before the passing of the Life Assurance Companies Act 1870."[1]

Having provided these safeguards, the necessity for a deposit and the separation of a life assurance fund, the Act passed on to the next important purpose—that of furnishing information to the public, and especially to policyholders and shareholders, which should be sufficient to form the basis of a true estimate of the financial position of the company. For this some uniformity of presentation of accounts and valuation statistics was essential. The form in which the accounts and statistics was to be presented was therefore embodied in several Schedules to the Act. The necessity was imposed both upon existing companies and those to be established after the Act. By Section 5 every company transacting no other business than life and annuities had to furnish a revenue account and a balance sheet in accordance with the first and second Schedules respectively. By Section 6 companies transacting life in conjunction with other classes of insurance were to present separate revenue accounts for its life, its fire, and a third for its marine and other business, if any; and a profit and loss account in accordance

[1] Section 2 of 35 & 36 Vict., c. 41.

with the Third Schedule. The form of the balance sheet for such companies was to be that of the Fourth Schedule.

A company, once in every five years, if established after the passing of the Act, and not less than once in ten years if established earlier, was under the necessity of having an investigation into its financial condition made by an actuary, and an abstract of the report was to be prepared in accordance with the Fifth Schedule of the Act. The information required included the date of the valuation, the principles of the valuation and distribution of profits, the tables of mortality used and the rate of interest assumed in the valuation, the proportion of the premiums reserved for future expenses, a consolidated revenue account for the whole valuation period, a statement of the business valued; and, finally, a valuation balance sheet which was to show the surplus for the valuation period. In the Fifth and Sixth Schedules information was required sufficient to make a rough independent valuation of the liabilities, assuming the data furnished were correct. The Board of Trade, upon application, had power to alter the forms contained in the Schedules for the purpose of adapting them to the circumstances of a particular company.[1]

All these statements, both in respect of the annual accounts and the periodical valuations, duly signed by the persons stated in Section 10, were to be printed and deposited with the Board of Trade, and copies were to be furnished upon application to every policyholder and shareholder. The Board of Trade was to lay before Parliament annually the statements and abstracts deposited with it during the previous year.[2] Lists of shareholders, with addresses, were to be maintained and forwarded upon application to the policyholders or shareholders, and for companies not registered under the Companies Act, 1862, the deed of settlement was to be printed and, as with the list of shareholders, was to be available on a small charge for every policyholder and shareholder.[3]

Amalgamation of life assurance companies, under which heading there had been so much abuse, could only take place on confirmation by Court, and the procedure was laid down in Sections 14 and 15. Before any application for amalgamation or transfer of the business of one company to another could be made to Court, a statement of the nature of the amalgamation, copies of actuarial reports, and an abstract of the material facts embodied in the agreement or deed were to be sent to policyholders of the transferred company. The agreement or deed embodying the transaction was to be open for inspection for fifteen days after the abstract had been notified. The Court had no power to sanction an

[1] Section 9. [2] Section 24. [3] Sections 12 and 13.

amalgamation or transfer if policyholders with 10 per cent or more of the total sums objected. The Court, before giving sanction, could hear the directors or other persons it considered entitled to be heard upon the petition.

Provisions as to winding-up of a company were included in Sections 21 and 22. The Court was not to give a hearing to petitions for winding-up until security for reasonable costs should be given and until a *prima facie* case should have been established. Subject to this, the Court could make an order for the winding-up on the application of one or more policyholders or shareholders upon its being proved that the company was insolvent, taking into account its contingent and prospective liability under policies and annuities. Under Section 22, the Court, if it thought fit, might reduce the amount of the contracts in place of a winding-up order. Penalties were imposed under Sections 18 and 19 for non-compliance with the requirements of the Act. The amending Act of 1872 included an important section in reference to winding-up. In its Section 5 and its First Schedule there was laid down the basis for valuing a policy and an annuity in such procedure. The legislation was to be known as the Life Assurance Companies Acts, 1870 to 1872.

In the early years of the present century it became obvious that some regulation should be applied to those insurance companies which did not come under the Life Assurance Companies Acts, 1870 to 1872 (i.e. those transacting classes of insurance not in conjunction with life assurance). The case of employers' liability was temporarily dealt with by the Employers' Liability Insurance Companies Act, 1907.[1]

There was another type of business transacted by some insurance companies which needed regulation, known as bond investment business. This consisted in the issue of bonds or investment certificates payable at a certain date in exchange for premiums payable at short intervals during the term of the bond. The companies issuing such were small and often without financial backing. A large percentage of the premiums was spent in commission and expenses, and inadequate surrender values were paid to those bondholders withdrawing. In some cases it was obvious that the companies were not accumulating sufficient reserves to meet the liabilities when the contracts matured. The public who subscribed for these bonds were for the most part of the same class as effected industrial life assurance policies.

A Bill was introduced in 1909 by the then President of the Board of Trade, Mr. Churchill. At the Second Reading he gave some instances showing the necessity for such an Act. The first was that

[1] 7 Edw. VII, c. 46, wholly repealed by the Assurance Companies Act, 1909.

of a company which was registered in 1898, with a nominal capital of £100,000, to carry on all kinds of insurance business except life. It was able, therefore, to prey upon the public unhampered by the provisions of the Act of 1870. The total capital issued for cash was £1039. Fire and other insurance business was carried on by the company both here and abroad, and the total risks insured exceeded £1,500,000. The company was ordered to be wound up in 1905, and in the liquidation the assets realized £14. Another company was cited by him with a similar history.[1]

The President had had some preliminary negotiations with representatives of the large insurance companies, who had professed fear that the necessity to complete such schedules of particulars relating to their business as were required by companies transacting life assurance might be unduly troublesome. He stated, however, that they had been drawn up "so as to secure the maximum of security for the public and the minimum of inconvenience to the business of the companies."[2] The Bill was moulded on the Life Assurance Companies Acts, 1870 to 1872, as indeed its sub-title indicates, and subject to certain amendments in Committee it was passed.[3]

Section 1 of the Act set out the companies to which it related, i.e. any bodies, not being registered friendly societies or trade unions, whether established before or after the Act, whether established within or without the United Kingdom, who carry on therein assurance business of all or any of—

(*A*) Life assurance business: that is to say, the issue of or the undertaking of liability under policies of assurance upon human life or the granting of annuities upon human life.

(*B*) Fire insurance business: that is to say, the issue or the undertaking of liability under policies of insurance against loss by or incidental to fire.

(*C*) Accident insurance business: that is to say, the issue or undertaking of liability under policies of insurance upon the happening of personal accidents, whether fatal or not, disease or sickness, or any class of personal accidents, disease or sickness.

(*D*) Employers' liability insurance business: that is to say, the issue of or the undertaking of liability under policies insuring employers against liability to pay compensation or damage to workmen in their employment.

(*E*) Bond investment business: that is to say, the business of issuing bonds or endowment certificates by which the company,

[1] *Hansard*, 3rd Nov., 1909, Col. 1950–1. [2] *Ibid.*
[3] 9 Edw. VII, c. 49.

in return for subscriptions payable at periodical intervals of two months or less, contract to pay the bondholder a sum at a future date, and not being life assurance business as hereinbefore defined.[1]

In the above definitions the exact wording of the Act has been given. Two important omissions of insurance business from the list are noticeable: (1) marine insurance; and (2) sinking fund or capital redemption business. The latter was extensively transacted by companies doing life assurance, and its definition would be similar to bond investment business apart from the inclusion in the definition of the latter of the payment of subscriptions at periodical intervals of two months or less. In spite, however, of the omission, any company transacting any of the above classes of assurance, and also marine insurance or sinking fund business, was, and is, under the necessity of showing a separate revenue account of these two classes. (First Schedule to Act.)

The main provisions of the 1909 Act, as with the 1870 Act, may be divided under five main heads—

(i) Deposits;
(ii) Separation of funds;
(iii) Accounts, balance sheet, valuation and reports;
(iv) Amalgamation; and
(v) Winding-up.

Every insurance company to which the Act applies has, under Section (2), to make and keep deposited the sum of £20,000 with the Paymaster-General. There is no provision for return when the life assurance fund amounts to £40,000 as under the 1870 Act, and any company which had withdrawn its deposit had to make it again. The section (sub-section (4)) provided that when a company carries on more than one class of insurance business enumerated above, a separate £20,000 must be deposited for each class. This provision is, however, considerably modified in a later part of the Act relating to the five individual classes of business. If a fire insurance company had commenced that business before the passing of the Act, or had deposited £20,000 for any other class, no deposit was required.[2] A similar provision applied to accident insurance.[3] In the case of employers' liability business, the deposit was not required if the company had commenced business before the 28th

[1] Bond investment business came under the terms of the Industrial Assurance Act, 1923 (Sect. 42). The maximum interval for payment of subscriptions is there put at six months.

[2] Section 31. [3] Section 32.

August, 1907 (the date of the Employers' Liability Insurance Companies Act, repealed by the 1909 Act); and when the employers' liability fund amounted to £40,000, the deposit could be withdrawn, provided £20,000 remained deposited for any other class.[1] For bond investment business, no deposit was required when the company had commenced business before the date of the Act, and any deposit once made could be withdrawn, as with that for employers' liability insurance on similar conditions.[2]

The separation of funds was carried further than under the 1870 Act. A company carrying on more than one class of business had to maintain a separate fund for each class of business with an appropriate name. A company therefore starting business in each of the five classes of business enumerated after the passing of the Act could show five funds. In those portions of the Act relating specially to fire insurance and to accident insurance, it was provided[3] that separate funds for these classes were not necessary; the fire and accident business therefore could be carried into a general fund.

The words of the 1870 Act relating to the life assurance fund were repeated: "A fund of any particular class shall be as absolutely the security of the policyholders of that class as though it belonged to a company carrying on no other business than assurance business of that class." An important proviso was, however, added, which was not in the 1870 Act: "Provided that nothing in this section shall require the investments of any such fund to be kept separate from the investments of any other fund."[4] These words were added in the Committee stage of the Bill. A Member moved that they should be added at the end of sub-section (1) of Section 3. The amendment was accepted by Mr. Churchill, who stated: "It is not the intention, and never has been, that investments should be specially earmarked."[5] In the debate which followed, Sir F. Banbury held that this, if accepted, would alter the whole of the preceding section. "What was the object," he asked, "of having receipts kept separate and having a separate fund . . . it is evident that if the amendment is accepted the first part of the clause goes for nothing at all." A red herring seems to have been drawn across the track, made by Sir F. Banbury, by the consideration of the position of a large mortgage as part of the common assets, and whether separate deeds to cover the separate parts were feasible. Finally, a member asked: "Whether under the amendment the assets earmarked for life policyholders might be used for fire insurance claims, say in San Francisco," to which the

[1] Section 33. [2] Section 34. [3] Section 31 (E) and 32 (D).
[4] Section 3 (1). [5] *Hansard*, 24th Nov., 1909, Col. 247.

Solicitor-General (Sir Samuel Evans) replied: "No."[1] and the amendment was carried.

Separate revenue accounts were required for each class of business, specimen forms for the five classes being set out in the First Schedule to the Act. From a note at the commencement of the schedule it was provided that if marine insurance and sinking fund or capital redemption business were carried on, then separate revenue accounts for each of these were also required. Additional business, such as employers' liability insurance transacted out of the United Kingdom, were to be shown in a separate general account. When more than one class of business was carried on, a profit and loss account was required in a form set out in the Second Schedule. The Third Schedule set out the form of balance sheet, which every company to which the Act applied must conform. On the liability side, ordinary and industrial life assurance were shown as separate funds, which was in conformity with a note at the foot of the life revenue account stating that companies transacting both ordinary and industrial branches were to return particulars of the business in each department separately. On the assets side the item "Investments" was split up into much more detail than under the 1870 Act.

At the foot of the form of balance sheet there were included some important notes. When part of the assets were deposited abroad as security for policyholders there, each place and the amount deposited was to be stated, except that in the case of fire, accident, or employers' liability insurance it was sufficient to state the fact that assets had been so deposited. A statement was to be made as to how the value of the Stock Exchange securities in the balance sheet was arrived at, and a certificate was to be appended, signed by the persons signing the balance sheet, to the effect that in their belief the assets set forth were, in the aggregate, fully of the value shown therein less any investment reserve fund taken into account. For any company transacting life assurance business or bond investment business, however, the certificate was to be given only when a valuation return was made under the Fourth Schedule. A further safeguard was imposed, not included in the 1870 Act, that a certificate was to be furnished, when there was more than one fund, that no part of any such fund had been applied directly or indirectly for any purpose other than the class of business to which it was applicable. This certificate was to be signed by the auditor, as well as those signing the balance sheet.

The valuation particulars of the life business required in the Fourth and Fifth Schedules to the 1909 Act corresponded with

[1] *Hansard*, 24th Nov., 1909, Col. 255.

some modifications to the Fifth and Sixth Schedules in the 1870 Act. Under the 1909 Act, however, separate statements as to the valuation and tabulation of business in force had to be made for sinking fund business and also for industrial life assurance. From the tabulation of the business in force in the Fifth Schedule, it was intended that an independent investigator might make an approximate valuation of the companies' liabilities. Accident and employers' liability business was also covered in the Fourth Schedule, for separate statements were required as to the estimated liability for outstanding claims.

The provisions as to printing and issuing on application lists of shareholders and deeds of settlement, which had been included in the 1870 Act, were repeated, and there was added (Section 12) a provision that when a notice or advertisement mentioned the authorized capital of an assurance company, there was to be a statement also of the subscribed capital and the amount paid up. Amalgamation and the transfer of the business of an assurance company was dealt with substantially as in the 1870 Act. In Section 15, as to winding-up there was some change from the 1870 Act. The earlier Act permitted the application to be made by one or more policyholders or shareholders when, it having been proved to the satisfaction of the Court that the company was insolvent, the order could be made. In the 1909 Act the order for winding-up could be given by the Court on the application of ten or more policyholders owning policies of an aggregate value of £10,000, but the Court had the power to order the winding-up, under Section 137, of the Companies (Consolidation) Act, 1908, on the petition of the company itself, a creditor, or shareholder, in accordance with the provisions of that Act. Where an assurance company was being wound up by the Court, or subject to the supervision of the Court, or voluntarily, the value of a policy was to be estimated under the Sixth Schedule to the Act.

Under Section 28 (2) a provision was inserted that the Act should not apply to a member of *Lloyd's* or other association of underwriters approved by the Board of Trade who complied with the requirements of the Eighth Schedule to the Act. This schedule dealt with each of the five classes of business covered by the main Act, leaving certain discretionary powers to the Board of Trade. Under the 1907 Act relating to employers' liability insurance, underwriters were to deposit £2000 in such manner as the Board of Trade might direct; this was repeated and extended to life assurance and bond investment business. As to fire and accident business, the deposit of £2000 could be made or underwriters could place the premiums to a trust fund in accordance with the provisions

of a trust deed to be approved by the Board of Trade. Such underwriters were also to furnish security (by deposit or guarantee) which should be available solely to meet claims, the security to be not less than the aggregate of the preceding year's fire, accident, and other non-marine business.

Following the Act, and in compliance therewith, the Board of Trade issued on 6th June, 1910, certain Statutory Rules and Orders relating to both companies and members of *Lloyd's*. They deal with (*a*) the procedure as to deposit of the sums required by the Act and the release thereof; (*b*) the audit of accounts; (*c*) the custody of accounts with the Registrar of Joint-stock Companies; (*d*) qualifications of an actuary; (*e*) the audit, and certificate to be furnished to the Committee of *Lloyd's* in respect of underwriting members; and (*f*) the forms to embody the returns to be made by underwriting members of *Lloyd's* to the Board of Trade under Schedule Eight of the Act in respect of each class of business undertaken.

Although under the 1909 Act, figures had to be given separately for ordinary life assurance and industrial assurance, no separate fund was required. By the Industrial Assurance Act, 1923,[1] industrial assurance business for the purposes of the Assurance Companies Act, 1909, was to be treated as a separate class of assurance business, a separate deposit was to be made for it, and a separate fund was to be shown by a separate revenue account. In the Act a definition of industrial assurance business was given (i.e. the business of effecting assurances upon human life, the premiums in respect of which are received by means of collectors, provided that such business was not to include assurances the premiums in respect of which were payable at intervals of two months or more).

By Section 42 of the Road Traffic Act, 1930,[2] motor vehicle insurance business was made a separate class, to which Section 1 of the Assurance Companies Act, 1909, applied, and by Section 20 of the Air Navigation Act, 1936,[3] yet another class was introduced—aircraft insurance business, but the operation of this part of the Act was postponed to such day as the Secretary of State should order. With these three additional classes there were eight, all coming under the terms of Section 1 of the 1909 Act.

Within fifteen years of the passing of the 1909 Act it became clear that the legislation had not achieved all that had been hoped of it. Marine insurance had not been included as one of the classes in Section 1 of the Act and, if carried on by a company transacting only that class of business, was exempted from the provisions of

[1] 13 & 14 Geo. V, c. 8. [2] 20 & 21 Geo. V, c. 43.
[3] 26 Geo. V and 1 Edw. VIII, c. 44.

the Act. During the 1914–18 war, marine insurance premiums had been greatly swollen and large profits were made, but with the depression following the war and the great increase in cost of repairs the business entered a very trying period. Offices which transacted other classes of business as well as marine suffered in consequence of the marine account, and there were failures of companies in which the accounts other than the marine were satisfactory. In some cases bad finance and investment contributed. Two offices transacting life assurance failed. In these circumstances, attention was particularly drawn to the anomaly in the 1909 Act of a separation of funds, but without separation of balance sheet and assets; and a Departmental Committee was appointed on 30th July, 1924, under the chairmanship of Mr. A. C. Clauson, K.C. (later Mr. Justice Clauson), "to enquire and report what amendments are desirable in the Assurance Companies Act, 1909." A memorandum was prepared by the Board of Trade, which included, among other matters for consideration: (i) powers for the Board of Trade to intervene in cases of insolvency; (ii) separation of (*a*) balance sheets and (*b*) assets for particular classes of business, notably life assurance; (iii) the existing exemption of certain mutual employers' associations from liability to furnish returns; and (iv) position of marine insurance business as exempted from the 1909 Act in respect of companies carrying marine insurance alone.

In their report the Committee found that the main faults in the 1909 Act were—

(i) That the separation of assets as well as separation of funds was in certain cases necessary.
(ii) That owing to the growth of composite companies the assets representing the life funds were not secured to the life policyholders.
(iii) That the inclusion of marine, sinking fund, and capital redemption business within the area of the Act only when it was associated with one of the five defined classes (life, fire, personal accident, employers' liability, and bond investment) was wrong, and they thought all marine insurance companies should be included under the provisions of the Act.
(iv) That the powers of the Board of Trade were not sufficient to compel the winding-up of a company when the assets were not sufficient to meet its liabilities.

The Committee prepared a draft Bill which has been commonly known as the "Insurance Undertakings Bill." The report including the draft Bill, was presented to Parliament in 1927, but the Bill has never been formally submitted and the 1909 Act is still in force.

On point (IV) of the Clauson report, the Government took action. In consequence of the failure of certain smaller companies transacting motor insurance, greater powers were given to the Board of Trade to bring about the winding-up of insurance companies in virtue of two Assurance Companies (Winding-up) Acts, 1933 and 1935.[1] The powers given applied in respect of all classes of insurance business. In virtue of these Acts the Board of Trade may present a petition for the winding-up of an insurance company on the ground that it is unable to pay its debts within the meaning of Sections 168 and 169 of the Companies Act, 1929. Information for this purpose may be called for and an investigation made by the Board of Trade.

In the main the attitude of the State towards insurance companies was to impose as little regulation as was possible. During the last half-century, however, the activities of the State generally have taken on a more positive aspect than would have been thought right or proper in the individualistic Victorian period. The change seems to have originated from two sources: the first an attempt to safeguard the public from the results of accidents, whether in industry or on the road, in a highly mechanized society; and the second, the growing social conscience showing itself in social legislation. In compulsory third-party insurance under the Road Traffic Act, 1930, we have an example of the first; in the system of national health insurance an example of the second; and in the history of workmen's compensation insurance we see a combination of the two.

So far we have had insurance in three spheres made compulsory for the effective protection of the public: (i) The owner or other person using a motor vehicle must be insured against third-party claims in respect of death or injury to any person arising out of the use of the vehicle on the road; (ii) the owner of a coal mine must insure against all liability under the Workmen's Compensation Acts in respect of employment of workmen for the purpose of the undertaking carried on at the mine; and (iii) the owner of an aircraft must insure against liability which he may incur in respect of loss or damage to persons or property by an aircraft while in flight, taking off, or landing. So far as the workmen's compensation insurance is concerned, this will be wholly covered under the Bill before Parliament (1945),[2] and will form part of the social insurance system of the country.

The drift of opinion and tendency of State action in connection

[1] 23 & 24, Geo. V, c. 9; and 25 & 26 Geo. V, c. 45.

[2] National Insurance (Industrial Injuries) Bill. Second Reading, 10th Oct., 1945.

with risks undertaken by insurance companies where insurance has been made compulsory may be studied in the Report of the Committee on Compulsory Insurance of July, 1937.[1] The failure of five companies transacting motor vehicle insurance led, in February, 1936, to the setting up of the Committee "to consider and report whether any, and if so what, changes in the existing law relating to the carrying on of the business of insurance are desirable in the light of statutory provisions relating to compulsory insurance against third-party risks, and by employers against liability to their workmen." The recommendations made by the Committee for insurers transacting any class of compulsory insurance were—

(i) No insurer should be permitted to undertake any branch of compulsory insurance business unless licensed to do so by the Board of Trade, and the licence should be for one year at a time. The qualifications for a licence should be more than a mere compliance with the regulations of the 1909 Assurance Companies Act and any amendment or extension thereof. The criterion should be complete solvency of the insurer carrying the risk, whether insurance company, *Lloyd's* underwriters or mutual indemnity associations.

(ii) For the purpose of advising the Board of Trade in regard to the licences, three advisory Committees should be set up for—

(*a*) Insurance companies;
(*b*) *Lloyd's* underwriters; and
(*c*) Mutual indemnity associations

respectively. The members of the Committees for the companies and *Lloyd's* underwriters were to be appointed by the Board of Trade from persons nominated by the companies and *Lloyd's* respectively.

(iii) The assets which arise from life and other insurance contracts of a permanent nature should be effectively segregated and earmarked.

(iv) A central fund should be constituted as a second line of defence to meet the contingency of insolvency of an insurer licensed to transact compulsory motor vehicle or aircraft insurance business. To the creation of this central fund, insurers should contribute in proportion to their premium income in the branch to which the fund relates.

(v) Returns to be made by the insurers in a form prescribed by the Board of Trade.

[1] Cmd. 5528.

The licensing, the advisory committees, and the central fund are features which indicate a new phase of the relations between the State and insurance companies.

While not attempting to give full effect to the recommendations of the Clauson Committee of 1924, the Government in 1945 took steps to prevent the promotion of weak companies which might occur, following the termination of war in any class of business, such as marine, aviation, and transit insurance, not yet included as one to which the 1909 Act applied. To this end a Bill was drafted which, in collaboration with insurance interests, was accepted as non-contentious. The Bill received Royal Assent in March, 1946 (9 and 10 Geo. VI, c. 28). In it the 1909 Act is referred to as the Principal Act, and the four pieces of legislation—the 1909 Act, the Assurance Companies (Winding-up) Acts, 1933 and 1935, and the 1946 Act—are to be known as the Assurance Companies Acts, 1946. Industrial life assurance comes under its own Act of 1923.

Before the passing of the 1946 Act the classes of business to which the 1909 Act applied were—

(*a*) Life assurance,
(*b*) Industrial assurance (governed by the 1923 Act),
(*c*) Fire insurance,
(*d*) Accident insurance,
(*e*) Employers' liability insurance,
(*f*) Bond investment,
(*g*) Motor vehicle insurance;

and to this list the 1946 Act added another class entitled marine, aviation, and transit insurance. These eight classes the 1946 Act then separated into two divisions—

(i) "Long-term business," which is defined in the Act as all or any of the following: life assurance, industrial assurance, and bond investment business.

(ii) "General business," which is defined as assurance business to which the principal Act applies, not being long-term business.

It will be noticed that the two divisions do not exhaust the insurance business undertaken by insurance companies. There are, for instance, sinking fund and continuous disability insurance, having characteristics akin to the defined long-term business, and there are miscellaneous classes of business, such as burglary, plate-glass, and fidelity guarantee.

Under the Air Navigation Act of 1936 the operation of the subsection which brought aircraft insurance business as a separate class within the scope of the 1909 Act was postponed to such date

as the Secretary of State should appoint (Sect. 22). By the 1946 Act, aviation is bracketed with marine and transit insurance as one class to be included as such in Section (1) of the 1909 Act. The class includes contracts of insurance upon vessels or aircraft, goods and merchandise carried thereon, freight, and third-party risks (Sect. 1). As with accident and fire insurance under the 1909 Act, no separate fund for the new class is required, but a special Revenue Account for this class of business is to be submitted each year in accordance with the First Schedule of the Act. On both sides of the account the figures are to be separated into four columns, under the heading of income and expenditure, for (*a*) current year; (*b*) last preceding year; (*c*) previous years; (*d*) total, thus following the marine insurance form of account.

With certain exceptions as to existing companies, *Lloyd's* underwriters and mutual associations, none in future can carry on insurance business except a company incorporated under the Companies Act, 1929, or otherwise, and having a paid-up share capital of not less than £50,000 (Sect. 2). Again, with certain exceptions as to existing companies and others, a margin of solvency is required: a company carrying on "general business" (as defined above) is to be deemed, for the purpose of Section 168 of the Companies Act, 1929, to be unable to pay its debts if the value of its assets does not exceed the amount of its liabilities by whichever is greater: (*a*) £50,000; or (*b*) one-tenth of the "general premium income" of the company in its last preceding financial year, and the Assurance Companies (Winding-up) Acts, 1933 and 1935, will apply (Sect. 3). For the purpose of this Section the "general premium income" is defined in Section 2 (2) (*b*) as the net amount, after deducting reassurances of the premiums received in that year, in respect of all insurance business (including business to which the principal Act does not apply) other than long-term business. This means that the sinking fund and the continuous disability insurances are to be included, also the burglary, plate-glass, and fidelity guarantee insurance premiums: life, ordinary and industrial, and bond investment premiums alone are to be excluded in arriving at the "general premium income."

In computing the amount of the liabilities, "all contingent and prospective liabilities are to be taken into account but not liabilities in respect of share captial." The principle lying behind this test of solvency of setting off the aggregate of assets against the aggregate of liabilities is a dangerous precedent. If applied in a liquidation, and in the absence of other direction that might be followed, it might prove most unfair for the life policyholders. It is in opposition to the fundamental principle adopted by the Clauson Committee in

1927 in Sections 34 and 35 of their Report, and in the draft Bill prepared by that Committee. To meet objections of those particularly interested in the security of the life policyholders, there was inserted at the end of Section 32 a clause to the effect that nothing in this Section "shall be taken as affecting the manner in which on a winding-up any assets or liabilities are required to be dealt with."

If we may take as an example a composite insurance company with a well-conducted life business, nine-tenths of the profits from which belong to the participating policyholders, and with separate assets hypothecated to the life business, which have a market value of £100,000 in excess of the life fund liabilities, the surplus would be sufficient to protect a general account with a premium income of £500,000, but with assets, apart from those included for the life business, insufficient by £50,000 to meet its liabilities. It had been the hope of actuaries and others interested primarily in the security of the life policyholders that where assets could be identified as purchased by or hypothecated to the life account, such assets would enure to the life fund on liquidation. If, however, the principle of the 1946 Act adopted as a test of solvency were applied in a liquidation, this hope, based on Mr. Justice Bennett's judgment,[1] would be unrealized.

Under Section 4 deposits for new companies are abolished and, in the case of existing companies, deposits can be released to those companies which can show that they have an excesss of assets over liabilities required by the Act. Such regulations as are made by the Board of Trade under the Act or under the principal Act are to be laid before Parliament as soon as made, and they may be annulled by that authority within forty days. The Second Schedule to the Act provides for adaptation to special cases of (*a*) existing companies; (*b*) *Lloyd's* and other underwriters; (*c*) mutual associations; (*d*) friendly societies; and (*e*) miscellaneous cases.

The Act can only be regarded as emergency legislation, and leaves outstanding the recommendations of the Clauson Committee so important to the interests of the life policyholders.

In the House of Commons on 12th November, 1945, Mr. Barnes, the Minister of War Transport, was able to make a statement as to implementing one of the recommendations made in the Report by the Committee on Compulsory Insurance presided over by Sir Felix Cassel in 1937. He said: "It will be recollected that the committee recommended the establishment by insurers of a central fund from which to compensate third-party victims of road accidents caused by motor vehicles, in cases where the motorist concerned has failed in his statutory obligation to insure, or where the policy is

[1] *J.I.A.*, Vol. LXIX, p. 320, of 1938; and All E.R., 748.

inoperative for some reason, such as breach of its conditions. These cases are comparatively rare, but they constitute a class of hardship for which, in accordance with the principle underlying compulsory insurance, a remedy should be found. Legislation to give effect to the scheme proposed by the committee would be somewhat complicated, and I am glad to say that the insurers have made proposals for a voluntary scheme on similar lines which I am satisfied will achieve the same purpose. They are entering into agreement with me to set up an Insurers' Association as a corporate body, and to keep it supplied with funds, and this body will undertake to pay any amount awarded by the courts to a third party in respect of any liability required to be covered by the provisions of the Road Traffic Acts relating to compulsory insurance, where the judgment is not satisfied. This means in effect that where owing to absence of effective insurance the victim cannot get compensation from a negligent motorist, he will be able to get it from the Insurers' Association. The association is to be set up within six months, and details of the scheme will be published in due course. I am arranging to publish the text of the initial agreement."

"I should add that the Cassel Committee did not find it possible to deal with the case of a third party injured by a motorist who cannot be traced. In such a case no claim can be established against anyone, and the Committee considered that the grant of rights against the proposed fund would be calculated to lead to such abuses as to render such a course totally unsuitable. The Government cannot dissent from this view, and accordingly the agreement does not cover such cases, but I am glad to say that the insurers have informed me that they do not intend to exclude them entirely from their purview, and where there is reasonable certainty that a motor vehicle was involved and that but for its unidentifiability a claim might lie, they will give sympathetic consideration to the making of an ex gratia payment to the victim."[1]

The text of the agreement to which the Minister referred has been published (No. 46785, Jan., 1946) and is subscribed by (*a*) the Chairman of the Accident Offices' Association in respect of eighty-three of its members; (*b*) the Chairman of *Lloyd's* on behalf of nineteen syndicates of *Lloyd's* underwriters; and (*c*) thirty-four individual companies not included in those for whom the Chairman of the Accident Offices' Association was authorized to sign.

Authorities Quoted

Statutes, Parliamentary Debates, and Government Publications as in footnotes.

[1] *Hansard*, 12th Nov., 1945, Col. 1872.

CHAPTER XXI

THE COMPOSITE INSURANCE COMPANIES

COMPARISON between number of companies in 1939 and those in 1899—Change in character of companies—Effect of growth in accident insurance—Absorption of accident offices by fire offices—Similar process in respect of marine insurance companies—Somewhat different case of life assurance institutions—Disappearance of the proprietary life offices—Association among the fire offices themselves—Outline of amalgamation of the larger companies—Completion of the period of association—Reasons for association—Stable position and why maintained—Respective influences of brokers and *Lloyd's* underwriters on the position of companies—Services of companies not hindered by lack of further amalgamation—Competition by promotion of new companies

A LIST of the British and Dominion insurance companies doing business in 1899 in the United Kingdom included 435 names. Before the outbreak of war in 1939, the number was 456. The small discrepancy between the figures might lead one to suppose that there had been little change during the forty years in the organized system of insurance and the relationship between the companies. Any such superficial conclusion would, however, be very erroneous. With the exception of a few pairs of companies with common directors, such as the *Alliance Fire and Life* and the *Alliance Marine*, the *Imperial Life* and the *Imperial Fire*, the *Sun Life* and the *Sun Fire*, the *Provident Life* and the *County Fire*, the 400 odd British companies were in 1899 independent of one another. In 1939 the position was very different; by absorption and purchase of shares there had emerged a number of great insurance undertakings operating directly and through subsidiaries, many of the latter still known by the names in which they were listed forty years before, but which were now controlled by the senior partner in the group.

It may be said that these great organizations were the creation of the first twenty-five years of the century. Each group at the end of that period was transacting all kinds of insurance—fire, life, marine, and the many classes of accident insurance, both here and abroad. Some of the companies which later became the nuclei of groups were, at the commencement of this period, transacting only one line of business—fire insurance—such as the *London & Lancashire Fire Office;* others, of which there were several, transacted two classes of business—fire and life insurance—such as the *Caledonian*, *Liverpool & London & Globe*, the *North British*, the *Northern*, the *Royal*, the *Scottish Union and National*, and the *Yorkshire*. Only three transacted fire, life, and marine insurance: these were the *Commercial Union*, the *London Assurance*, and the *Royal Exchange*

Assurance. In general, it may be said that in 1899 the large majority of the companies were transacting only one line of business. Of those one-line institutions the marine insurance companies, almost without exception, have become allied with one or other of the large groups. The same holds true of the boiler and engineering companies, the fidelity guarantee companies, and the proprietary life offices. A few of the last have maintained independence, but have opened their doors to the other classes of business, such as the *Prudential*, the *Pearl*, and the *Legal and General*, and have passed into the category of composite companies.

In considering the process of association into larger units or combines, the peculiarities of each industry must be taken into account. In one industry a cause of concentration may be much more potent than in another, and the process carried to a greater extreme. The business of banking and insurance has often been regarded from some points of view as analogous. Both are institutions, with branches throughout the country, where payments are received, centralized, and then paid out again to the public; both institutions provide financial services and not commodities; the fixed capital of both consists primarily of their buildings for head offices and branches. The processes of amalgamation and association in the two industries have, however, proceeded on very different lines. While there are giants in the insurance field, they do not hold positions like the Big Five among the banks. The reasons for this may be clearer when we have studied the character of the amalgamations and associations into which the great composite insurance companies have entered during the present century.

Up to the last decade of the nineteenth century, accident insurance was regarded by the older established fire insurance companies as a business of no very great account, each class of accident insurance producing but a small premium income, and scarcely worth the concern of any fire insurance company which had a steady and remunerative fire insurance income. With the new century, however, the situation changed. The coming of the workmen's compensation, burglary, and motor vehicle insurance, and the attention brokers were paying to these classes of business, caused some fear to the fire offices that their connections might suffer if they could not accept the risks themselves or through an associated office. The cost of purchasing an accident company with its expert staff was not great to a wealthy fire office. In all, there were in 1899 only twenty-four accident offices, with premium incomes exceeding £25,000 a year, some of which had a sound and specialized business dating from the middle of the century. Such were the fidelity guarantee companies, the boiler insurance companies,

and the personal accident insurance companies. Of these twenty-four, twenty-one were amalgamated with, or by purchase of shares became controlled by, the fire and other insurance companies to form large composite insurance groups, and the remaining three themselves became the dominant partners of composite groups. The particulars of the transfers are shown in the following table—

Name of Company	Estab-lished	Premiums (for 1898)	Purchasing Company	Year
		£		
Accident Insurance Co.	1849	77,882	Commercial Union	1906
Engine Boiler and Employers' Liability	1878	42,133	Royal	1912
Globe Accident	1890	45,233	Commercial Union	1901
Horse Carriage and General	1875	34,021	Royal	1913
Imperial Livestock	1878	24,593	Commercial Union	1912
Lancashire and Yorkshire	1877	46,025	Scottish Union and National	1906
Law Accident and Contingency	1892	110,521	London and Lancashire Fire	1907
Law Guarantee and Trust	1888	75,099	Guardian (on liquidation of Law Guarantee)	1909
London Guarantee and Accident	1869	206,666	Phœnix	1922
National Boiler and General	1864	32,352	Alliance	1923
Northern Accident	1882	38,713	Royal	1906
Norwich and London	1856	137,262	Norwich Union	1908
Ocean Accident	1871	706,614	Commercial Union	1910
Palatine	1886	47,337	Commercial Union (with large fire income as well)	1900
Provident Clerks' Guarantee	1865	25,857	Northern	1917
Railway Passengers	1849	240,205	North British	1910
Scottish Accident	1877	47,487	Scottish Amicable Life	1919
Sickness Accident and Life	1885	40,944	Friends Provident	1919
Scottish Employers	1881	124,012	London & Lancashire Fire	1904
Scottish Metropolitan	1876	31,249	Northern	1923
Vulcan Boiler	1859	139,464	London Assurance	1920

The remaining three companies were, first, the *Credit Assurance and Guarantee*, which in 1901 was renamed the *British Dominions*, and subsequently became a component of the *Eagle Star* group. The second, the *Employers' Liability*, became the senior partner in three companies: the *Merchants Marine*, acquired in 1919; and the *Clerical Medical and General Life Assurance Society*, acquired in 1920. The third was the *General Accident*, now the *General Accident Fire and Life Assurance Corporation*, which purchased the fire insurance business of two small companies and, in 1924, the shares of the *General Life*. It transacts all classes of business, including marine, but maintains its original bias as a great accident insurance company.

The above acquisitions of accident business by the large fire insurance companies represent in numbers only a fraction of the purely accident companies actually transferred. There were many companies with premium incomes in 1899 of less than £25,000, some of specialized character, such as plate-glass, fidelity guarantee, and burglary insurance. Moreover, there were numerous companies, particularly those transacting motor-car insurance, which were subsequently promoted; and building up large premium incomes,

which were acquired by the large composite companies. The analysis of the subsequent history of these twenty-four largest accident companies existing at the close of the last century is, however, sufficient to show the general trend of the fire offices entering the accident field during the first twenty-five years of the present century.

The history of the marine insurance companies subsisting at the end of the nineteenth century is equally interesting. We have seen how these companies were established after the repeal of the monopoly held by the two chartered companies. At the beginning of the present century there were sixteen purely marine companies, firmly established with substantial capital, who were keen competitors with *Lloyd's* underwriters. Only three companies were transacting marine insurance in association with other classes: these were the *Commercial Union* and the two chartered companies. The subsequent history of the sixteen is shown in the following table; it will be seen that of the sixteen companies, only one, the *Sea Insurance*, remains independent and, of the rest, all except one were absorbed within the first twenty years of the century.

MARINE INSURANCE COMPANIES TRANSACTING BUSINESS IN 1899
(OTHER THAN THE THREE COMPOSITE COMPANIES)

NAME OF COMPANY	ESTABLISHED	CAPITAL SUBSCRIBED	TRANSFERRED TO, OR SHARES PURCHASED BY	YEAR
		£		
Alliance Marine and General	1824	1,000,000	Alliance Assurance	1905
British and Foreign	1863	1,340,000	Royal	1909
Hull Underwriters	1893	170,000	Provincial	1927
Indemnity Marine	1824	1,005,000	Northern	1916
London and Provincial	1860	1,000,000	Yorkshire	1913
Marine	1836	1,000,000	London & Lancashire	1917
Maritime	1864	500,000	Scottish Union and National	1914
Merchants Marine	1871	500,000	Employers' Liability	1919
Northern Maritime	1863	50,000	Union Marine and General (already controlled by Phœnix)	1917
Ocean Marine	1859	1,000,000	North British	1907
Reliance Marine	1885	500,000	Guardian	1916
Sea	1870	500,000	Still independent	
Standard Marine	1871	500,000	London & Lancashire	1907
Thames and Mersey	1860	2,000,000	Liverpool & London & Globe	1911
Ulster Marine	1867	100,000	Yorkshire	1918
Union Marine	1863	1,308,000	Phœnix	1911

The period during which the marine insurance companies were being absorbed was approximately the same as that over which a similar process had been going on with the accident companies.

The problem of the life assurance offices was somewhat different. These were divided into the two groups, the mutuals, in which the whole of the profits belonged to the policyholders or members, and the proprietary offices, with capital held by shareholders entitled to a proportion of the profits and to constitutional control. In respect of the former, there was neither attraction nor facility

for purchase by the fire offices, but the latter offered no obstacle to fusion by a purchase of shares at an attractive price. The mortgages which represented a proportion of the investments would control considerable fire insurances, and a good life business with its connections throughout the country aided the fire organization. The direct profits would not be great, as the shareholders of a life assurance company usually received only 10 per cent of the profits, while the balance went to the participating policyholders.

The following table gives a list of the proprietary offices transacting only ordinary life business in existence in 1899 (omitting a few small companies promoted in the previous nine years) and their subsequent history—

PROPRIETARY ASSURANCE COMPANIES DOING ONLY ORDINARY LIFE BUSINESS, 1899

NAME	ESTABLISHED	SUBSCRIBED CAPITAL	NOW ASSOCIATED WITH	SINCE
		£		
British Equitable	1854	250,000	Royal Exchange	1924
City of Glasgow	1838	600,000	Scottish Union and National	1913
Clerical Medical and General	1824	500,000	Employers' Liability	1920
Eagle	1807	1,678,675	Eagle Star	1917
Edinburgh	1823	500,000	Commercial Union	1918
English and Scottish Law	1839	1,000,000	Eagle Star	1918
Equity and Law	1844	1,000,000	Still independent	
General Life	1837	1,000,000	General Accident, Fire, and Life	1924
Gresham Life	1848	100,000	Legal and General	1933
Imperial Life	1820	750,000	Alliance	1902
Law Life	1823	1,000,000	Phœnix	1909
Legal and General	1836	1,000,000	Now transacting all classes other than marine	1919
Life Association of Scotland	1838	400,000	Still independent	
London, Edinburgh and Glasgow	1881	445,113	Pearl	1910
London & Lancashire	1862	100,000	Northern	1923
Pelican	1797	1,000,000	Phœnix	1907
Provident	1806	250,000	Alliance	1906
Provident Free Homes	1889	25,000	Still independent as the Provident Association of London	
Rock	1806	1,000,000	Law Union (now in association with the London and Lancashire)	1909
Sceptre	1864	45,425	Eagle Star	1917
Scottish Life	1881	250,000	Still independent	
Scottish Imperial	1865	500,000	Norwich Union	1906
Scottish Metropolitan	1876	150,000	Northern	1923
Scottish Temperance	1883	100,000	Still independent	
Standard	1825	500,000	Converted to mutual office	1925
Star	1843	100,000	Eagle Star	1917
Sun Life	1810	480,000	Still independent	
University	1825	598,000	Equitable Life	1919
Westminster and General	1836	100,000	Guardian	1906

Of these twenty-nine companies, seven alone are still independent and transacting only life assurance. Of these seven, the *Standard* was converted to a mutual office in 1925, and the *Sun Life* was still associated by common directors with the *Sun Insurance Office*, which transacts all classes of business other than life. Twenty-one of the companies have been absorbed by purchase of shares or otherwise by larger concerns transacting fire and general business, and

one, the *Legal and General*, opened its doors to fire and accident business in 1919, and later acquired the *Gresham Life* and the *Gresham Fire and Accident Companies*. The proprietary life companies have proved scarcely less vulnerable to absorption than the accident and marine insurance companies, and the process took place over much the same period, mainly within the first twenty years of the century.

A considerable amount of amalgamation and association by purchase of shares took place among the fire offices themselves. There were thirty companies, with head offices in England and Scotland, who at the end of the century showed fire insurance premium income, in the last fully recorded year of 1898, exceeding £100,000 per annum. Of these, exactly half have become absorbed or associated with other offices, fourteen with one or another of the surviving fifteen, and one—the *Norwich Union*—with the life office of the same name. The transfers or associations are shown in the following table—

Office	Premiums	Absorbed or Allied with	In
	£		
County Fire	283,545	Alliance	1906
Equitable Fire and Accident	214,459	London & Lancashire	1901
Hand-in-Hand	109,150	Commercial Union	1905
Imperial	612,545	Alliance	1902
Lancashire	705,788	Royal	1901
Law Fire	151,816	Alliance	1907
Law Union and Crown	137,909	London & Lancashire	1919
Lion	190,333	Yorkshire	1902
Liverpool & London & Globe	1,500,793	Royal	1919
Manchester	831,218	Atlas (fire business)	1904
Norwich Union Fire	941,011	Norwich Union Life	1925
Palatine	663,465	Commercial Union	1900
Scottish Alliance	155,463	Union in 1903 and thence to Commercial Union in	1907
Union	456,808	Commercial Union	1907
Westminster Fire	105,663	Alliance	1906

The surviving fifteen offices are shown in the following list. They are now all numbered amongst the substantial composite offices—

Alliance
Atlas
Caledonian
Commercial Union
Guardian
London & Lancashire
London Assurance
North British
Northern
Phœnix
Royal
Royal Exchange
Scottish Union and National
Sun
Yorkshire

It was in the fire insurance sphere that organization during the nineteenth century had developed most completely, and management, both at home and abroad, reached the highest efficiency. The tariff system had become general, and had been applied with caution by the offices and accepted with toleration by the public, since it had been placed upon its trial after the Tooley Street fire. Profits had been made and set aside as reserves. The fire offices at the close of the century were in a strong position. It is not astonishing, therefore, that the associations and amalgamations in the early nineteenth century centred round a sound and profitable fire business. When fire reserves were not sufficient to meet the cost of a desirable business with its goodwill, further resources were easily available either by raising money on debentures or the issue of further capital.

It was not invariably the case that the nucleus of the amalgamation was a fire office. Two outstanding examples may be cited: the *General Accident Fire and Life* and the *Eagle Star* insurance companies, the former developing from its accident business into fire, life, and marine insurance; while the latter company has been created out of an aggregation of companies—marine, accident, life, and fire. There is the case of the *Employers' Liability*, which allied with itself marine and life assurance companies. Two important industrial insurance companies, transacting ordinary life assurance as well as the main industrial business, entered the general insurance field, building up large fire and accident premium incomes. The *Prudential*, established in 1848, started a general business in 1920, and rapidly acquired large fire, accident, and marine accounts. The *Pearl*, established in 1864, took a similar course, avoiding only marine insurance business. Both institutions must now be numbered among the large composite companies.

Without going into much detail, the outline of the history of a few of the larger institutions during the period of association will make clear the purposes served and the methods adopted. The *Commercial Union* is one of the companies which has shown the largest expansion in the first quarter of the present century, much of which has been by purchase of the businesses of others and by exploiting the connection. In doing so, however, very heavy financial charges have had to be assumed, and profits, which otherwise would have been allotted to the shareholders, have been absorbed in extensions. At the time of their first large purchase of the century, the paid-up capital of the *Commercial Union* was £250,000 and there was outstanding £300,000 *West of England* 4 per cent debenture stock raised for the purchase of that company in 1894. For the *Palatine*, with its valuable fire business and not inconsiderable accident income, the

Commercial Union had to create, in 1900, £272,000 *Palatine* 4 per cent debentures, and draw £150,000 from their fire account, although such was the nature of the latter that there was still left therein almost a year's premium income.

In the *Hand-in-Hand* amalgamation, the *Commercial Union* did not have to raise any fresh capital, but had to assume a responsibility of £285,000 in respect of its guarantee of premium reductions and bonuses to policyholders. The chairman at their meeting of May, 1915, said "The *Hand-in-Hand* has provided us with a source of profit which will enable us to provide the sum of £285,000 in a period from ten to possibly twelve years. The *Hand-in-Hand* has a fire business of about £130,000 of the very best home quality which is very difficult to secure in other ways at the present time." The incentive to the policyholders of the *Hand-in-Hand*—a mutual fire and life society—was that the large funds built up for the fire business in lieu of capital could be released for the then members in the shape of reduced premiums and bonuses.

In his 1908 speech the chairman of the *Commercial Union* had to record further purchases of the *Accident*, the *Union*, and the *Scottish County and Mercantile;* and to finance the purchases the paid-up capital was raised from £250,000 to £295,000. There was issued £585,000 *Union* 4 per cent debenture stock and the sum of £200,000 was taken from the general reserve. By these acquisitions the accident premiums rose from £196,993 to £493,179 and, in 1910, the chairman was able to say that in ten years the premiums in the Accident Account "had increased sixteen times." Such a record did not put a stop to their acquisitions, for, in 1911, reference was made to the purchase of the *Ocean Accident and Guarantee*, whose "name and emblem was known throughout the world as the largest organization for dealing with accident business." For the purchase the *Commercial Union* gave £12 for each £1 paid up of *Ocean* capital—£7 in cash and £5 debenture stock—involving the purchasing company in £2,067,696. In the 1910 balance sheet the debentures outstanding for this and previous purchases were—

	£
West of England 4 per cent Debenture Stock	294,464
Palatine 4 per cent Debenture Stock	257,195
Union 4 per cent Debenture Stock	574,879
Ocean 4 per cent Debenture Stock	861,540

and on the asset side was an item "cost of businesses acquired" of £1,064,676.

Two more important purchases have to be recorded by the *Commercial Union*—these in the post-war conditions, when debentures could no longer be placed at 4 per cent. In 1925, at the annual

meeting, the chairman referred to the acquisition of three overseas companies, and of the *West of Scotland.* The purchases had, for the most part, been carried out by means of cash payments, but in the case of the *West of Scotland* 5 per cent debentures had been issued to the extent of £449,748, and these appeared in the liabilities in the balance sheet. The cost in the previous year had been treated as an investment and included under the heading "Railway and Other Ordinary Stocks and Shares"; but in the year 1924 the accounts of these subsidiaries had been incorporated with those of the *Commercial Union* and removed from the assets, so that the Railway and Other Ordinary Stocks and Shares had been reduced from £1,273,301 to £290,408.

The remaining large-scale purchase by the *Commercial Union* was made in 1926—that of the *British General*, a company transacting fire, life and accident business. For this purchase, £1,400,000 5 per cent debentures were issued, and a payment made of £542,000 in cash. The chairman pointed out at the general meeting that "this fire life and accident business thus acquired and which now passes under our control will form a desirable addition to our income, particularly in the home field and should prove a valuable investment." He stated that the total premiums of the parent and its subsidiaries for that year were over £18,000,000. Excluding foreign and dominion companies, the *Commercial Union* had, from the commencement of the century up to 1939, absorbed eleven British companies by amalgamation and ten by purchase of shares.

The *Royal* group, which includes its associate the *Liverpool & London & Globe*, is of even greater financial dimensions than the *Commercial Union*, but if we omit the *Liverpool & London & Globe*, the *Royal* absorptions of other British companies has not been so spectacular, and they were completed by an earlier date than those of the *Commercial Union.* Starting with a fire and life business, within the first decade of the century the *Royal* absorbed eight British companies by amalgamation and one (the *British and Foreign Marine*) as a subsidiary. Three more, including the *British Engine Boiler*, were taken as subsidiaries before the 1914–18 war, and one, the *Liverpool & London & Globe*, was acquired in 1919. The agreement for the fusion between the *Royal* and the *Liverpool & London & Globe* was entered into on 11th November, 1919, and at the general meeting of the *Royal* on 31st May, 1920, it was announced that the paid-up capital of the *Royal* had been increased from £736,170 to £1,398,896. As we have seen in connection with the expansion of British companies overseas, the *Royal* group has a vast business in the United States, transcending greatly even that of the *Commercial Union.*

The *London & Lancashire Insurance Company*, with fire insurance as its only line, commenced absorption of other British companies in the first year of the century, and completed them with a large transaction in 1919 by the purchase of the shares of the *Law Union and Rock*—a company which had already proceeded some way in absorptions. In all, since 1900, the business of ten companies has been taken over and part of the business of four others. Accident and marine businesses were acquired early. The chairman at the 1907 annual meeting stated that during the year the company acquired the business assets and liabilities of the *Law Accident Insurance Company* and the *Standard Marine*. These had involved them, in the case of the *Law Accident*, in the issue of £183,725 4 per cent debentures and, in the case of the *Standard Marine*, in the issue of 14,450 further shares with £2 10s. paid up. Speaking of accident business at the next annual meeting of 1908, the chairman said that "their progress in this direction had been gradual; they had been one of the pioneers among the fire companies to transact the business, and, having started in a very modest way seven years before, gradually built up their organization and acquired a valuable experience. When, therefore, accident business in its various departments assumed a more important significance they felt they were fully equipped to deal with it upon a still larger scale: hence their acquisition of the *Law Accident*." In 1906 the *London & Lancashire* accident premiums were only £169,688 and in 1907, after the purchase, they were £432,766. In developing their great business abroad, many native companies were acquired, both in the Dominions and in foreign countries. As with the *Commercial Union* and the *Royal*, a large business has been transacted for many years both by the parent company and subsidiaries in the United States.

The *North British*, like the *Royal*, transacted both fire and life business at the beginning of the century. A small accident business was commenced, but the premiums for 1909 were only £17,467 when they purchased the shares of the *Railway Passengers Assurance Company*. The chairman at the annual meeting in 1909 pointed out that "by this means the *North British* will obtain the benefit of a long-established organization by which the accident business which it now transacts may be developed and extended." For this purchase and others, the capital of the *North British* was increased by £1,225,000 4 per cent preference stock, of which stock £525,000 had previously been issued. In the 1910 accounts the shares of the *Railway Passengers* and the *Ocean Marine* (acquired three years earlier) were shown among the investment assets at £850,000 and £525,000 respectively. A further accident business was acquired in 1917 by the purchase of the shares of the *Fine Art and General*. The

North British operates in its own name and through subsidiaries in the United States, but purchases in the United Kingdom have not been numerous, and the company by the end of the second decade of this century had a well-balanced business which has continued to flourish under able management.

The *Alliance*, a fire and life assurance company, at the end of the last century transacted a well-selected business, and its policy then seemed to be to expand by careful acquisitions of business which had the same quality as its own. It purchased and amalgamated with its own the *Imperial Fire* and the *Imperial Life* in 1902, and the *Provident Life* in 1906. The sister company to the latter, the *County Fire*, it bought in the same year, but maintained it as a subsidiary. In the same year, 1906, the company purchased the *Westminster Fire*, but merged the business with its own, and in the following year it absorbed in the same way the *Law Fire*. The *Alliance Marine and General*, which had been established at the same time and by the same interests as the fire and life company, had always been under much the same direction, and occupied a head office adjoining the fire and life company. In the period of amalgamation it was not unnatural that a fusion should occur. This indeed took place in 1905, and opinion at the time was expressed in the comment: "Apart from the valuable connection secured, or rather consolidated, the acquisition of the site of the marine company's house has given the other a unique opportunity for a badly needed extension of premises. The mercantile influences of a marine business are always capable of rendering great service to a fire office and the *Alliance Company* is certain to flourish increasingly as a result of having three main branches instead of two."[1]

The chairman himself felt it incumbent upon him to make some general justification for these considerable acquisitions in his speech to shareholders at the annual meeting in 1906. The company had financed the transactions, not by issuing debentures but by issuing further shares, thus broadening the capital basis as their business expanded. He pointed out that "the policy the Board had adopted, although it had been subjected to some friendly criticism, had been one of considerable benefit to the shareholders. During the twenty previous years the value of their shares had doubled," and he thought "the fact of their having doubled the value of the shares by the wise and perhaps bold course they had adopted of purchasing and amalgamating other companies would speak well for the future." There is no doubt that the purchase by the *Alliance* of the fire businesses in the early years of the century were carried out with great shrewdness and, as subsequent history

[1] *Post Magazine* for 1906, p. 296.

showed, most valuable connections were secured, particularly so in the country agencies of the *County Fire* and among the solicitors controlling the good business of the *Law Fire*.

At the annual meeting in 1907, the chairman announced that "at the request of the company's agents and connections the directors had decided to open a department for workmen's compensation, personal accident, and burglary insurance; a sum of £50,000 had been transferred from the fire insurance account to commence a fund for the new department and the organization necessary to enable the directors to deal with the business was nearly completed." Fidelity bond business was, in 1919, made a feature of the company's activities by the acquisition of the *Bankers Guarantee Trust*, established in 1865. The *Alliance* was not one of the companies coming into the *Aviation Pool*, but became a shareholder in the *Aviation and General Insurance Company*. In 1923 the *Alliance* purchased the shares of the *National Boiler and General Insurance Company*, established in 1864, and in his speech at the annual meeting of that year, the chairman referred to their acquisition as "one of the leading companies transacting the insurance of boiler and engineering risks." The business, as with other subsidiary boiler and engineering companies, was to be carried on as a separate organization from its own head office in Manchester. With this acquisition, the *Alliance* completed its organization for the transaction of all classes of insurance business contemplated by a great composite office.

The *Phœnix* was one of the companies which started the century as a purely fire office. As such, it had an ancient and a fine history, but in 1901 some indication of changes in contemplation was given by the change in name from the *Phœnix Fire Office* to the *Phœnix Assurance Company*. In 1902 the businesses of the two life offices, the *Pelican*, founded by the directors of the *Phœnix* more than a century before, and the *British Empire Mutual Life*, were amalgamated; and the chief officer of the latter, G. H. Ryan (afterwards Sir Gerald H. Ryan, Bart.), became manager of the combined office, renamed the *Pelican and British Empire*. Then, in 1907, the business of the combined office was purchased by the *Phœnix Assurance Company*, and Ryan became the chief officer of the *Phœnix*, the shareholders of the *Pelican and British Empire* being paid by the issue of fully-paid shares of the *Phœnix*. The participating life policyholders had the right to the whole of the surplus arising in the participating section, a somewhat unusual feature.

In the same year the *Phœnix* commenced to transact accident business, and premiums were received to a total of £16,061. The connections of the company could therefore place with the *Phœnix*

their employers' liability, burglary, personal accident, and fidelity guarantee business. At the end of 1908 the accident fund was made up to £40,000. A further substantial life business was acquired in 1909, that of the *Law Life*, founded in 1823, which was paid for by the issue of further fully-paid shares and £1,000,000 4 per cent debenture stock. Marine insurance was added to the activities of the company in 1910, the chairman at the 1911 annual meeting stating that "this branch of their affairs had started on an unambitious scale with a view to facilitating the operation of the accident department and consolidating valuable connections." Although the marine business had been started on an unambitious scale, it soon went further than this, for in 1911 the shares of the *Union Marine and General*, a company founded in 1863, were purchased and a further issue made of *Phœnix* fully-paid shares and 4 per cent debenture stock. The total premium income for marine insurance in the first year after purchase was £480,330. The marine business was further expanded during the war years by the *Northern Maritime* being added to the *Union Marine* in 1917, and in the next year the combined marine premium income exceeded £2,400,000. A few other companies shared with the *Phœnix* the honour of exceeding the £2,000,000 mark in marine premiums for the year.

In the history of association among the insurance companies, that of the *Norwich Union Fire* with the *Phœnix* is one of the most interesting. A provisional agreement for the purchase by the *Phœnix* of the shares of the *Norwich Union Fire Office* was signed on 12th January, 1920, to take effect from the beginning of the year, to be paid for by the issue of 457,145 fully-paid £1 shares. In his speech to the meeting of shareholders in 1921 the chairman referred to the past steady progress of the *Phœnix* "without check or reverse." Now, with the association with the *Norwich Union* there had been a great access of business; the total premiums had more than doubled from £4,800,000 to £10,300,000. The combination of the two accounts had brought in a "better balance and a wider foundation in various sections of their business."

In his speech to the shareholders five years later, on 27th April, 1926, the chairman of the *Phœnix* related the circumstances in which they had sold the *Norwich Union Fire* shares to the *Norwich Union Life*: "It had for some time become apparent to us that the link between ourselves and the *Norwich Union Fire Office* could not remain limited to the financial tie created by the ownership of the shares of the *Norwich Union Fire Office*, but that closer organization of the two companies would have to be aimed at. Considerable thought had been given to the best means to be adopted and it became apparent that the results they had been striving for could not be attained

without disruption of the long-standing working arrangements between the two *Norwich Union* offices. These arrangements had been mutually beneficial, and, equally, any destruction of them would be mutually harmful. Whilst in the long run the co-ordination they were endeavouring to establish would have been to the interest of the *Phœnix*, the intervening dislocation and disturbance of the goodwill of the *Norwich Union Fire Office* would have been to their detriment." The removal of the *Norwich Union* assets, amounting to about £5,500,000, from the balance sheet of the *Phœnix* was compensated by the securities transferred from the *Norwich Union Life* Funds as the consideration. The *Norwich Union Life* accounts at the end of 1925 showed, as one of the assets, 44,000 shares of the *Norwich Union Fire*, £25, each £12 10s. paid up at a book value of £6,088,174, out of total assets of £25,718,166.

While the *Norwich Union Fire* shares were still held by them, the *Phœnix* entered into another very large purchase—that of the *London Guarantee and Accident*, a company which had shown a very rapid increase in its accident business in the preceding years. The absorption of this large business was not without its difficulties, as the chairman stated at the annual meeting in 1923: "In many respects," he said, "we have endeavoured to adjust the system and basis of reserves of our new ally to our own, and though I have no doubt you will cordially approve of the cautious policy, it is only right to point out that the very process of consolidation gives our accounts a somewhat unusual appearance and takes away all strict grounds of comparison with past accounts. Let me say at once that, making every reasonable allowance for the changes . . . we must frankly admit that the underwriting results of 1922 have been disappointing." After writing off £250,887 from the cost of the *London Guarantee and Accident* purchase, the asset remained in their 1922 balance sheet at £472,000.

The *Royal Exchange Assurance* took power to transact accident insurance in 1899. Its fire business had been rapidly growing, and at £433,508 for 1899 had quadrupled in income during the previous ten years. The premiums in the marine account were only £115,832 and the experience was poor. The accident premiums for the first year of experience were £9,965. The Corporation purchased in 1909 the shares of the *National Provincial Plate Glass Insurance Company*, established in 1854, which had absorbed a number of other companies transacting a like business. In 1917 the *Royal Exchange* entered into a much larger transaction by purchasing the *Car and General*—a company with a premium income of about £400,000. A little over ten years later another company, whose chief business was motor insurance, was acquired. This was the *Motor Union*, with

its associated companies, the *Federal British Insurance Company*, the *United British*, and the *British Commonwealth*. The premium income of the purchased group was over £2,000,000; both the fire and marine business each exceeded £270,000 in premiums and the total assets amounted to £2,682,602. The *Royal Exchange* shareholders were told that investigations showed the organization to be extensive, and the business largely good and carefully selected, and it was expected that the experience they had had in regard to earlier subsidiaries would be repeated; the present acquisition would be an added support to their world-wide organization. In 1925 the *Royal Exchange* had acquired a general business in the purchase of the *State Insurance Company* of Liverpool, with which went the *British Equitable* (purchased by the *State* in 1923). The total premiums of the *State* for 1924 had amounted to approximately £1,000,000, including £137,349, life; £133,415, accident; £45,428, marine; and £593,227, fire.

The other chartered company of like foundation, the *London Assurance Corporation*, has not entered into so numerous nor so considerable purchases. The *British Law Fire* was purchased in 1918, its chief business being fire, the premiums in the previous year having amounted to £125,000, and when added to those of the *London* of £803,000, brought the total fire premiums in sight of £1,000,000. By the purchase of the *Vulcan Boiler and General* in 1920, the *London Assurance* was able to offer another service to their commercial and industrial connections. A further purchase was made in 1930 of the *Guildhall*—a company which had been established in 1919 under the title of the *Autocar Fire and Accident Insurance Company*, and which under vigorous management had built up a considerable premium income.

Of the fifteen surviving fire offices set out on page 377, we have given an outline of the history of eight which have developed into great composite insurance companies, the remaining seven, i.e. the *Atlas*, *Caledonian*, *Guardian*, *Northern*, *Scottish Union and National*, the *Sun* (associated by common directors with the *Sun Life*), and the *Yorkshire*, have all pursued similar courses, and can offer directly or through their associates full services of a composite insurance company.

The process of association, it will be seen from the above, was practically completed within the first quarter of the century; thereafter the process was arrested, a little remarkable if we consider the comparatively substantial number of survivors competing in the limited home market. Various explanations for this may be put forward, no one of which by itself would probably be sufficient, but taken collectively they may interpret the reorganization of the

business during the first quarter of the century and its maintenance thereafter on a stable pattern.

In the first place, it may be noticed that the insurance companies in their association were not induced thereto through financial weakness. Generally speaking, the purchasing company had to pay for the shares of the acquired company a sum well above the price quoted in the market, the excess being an estimate of the goodwill of the company acquired. With but few exceptions, moreover, the acquired company was making profits, and paying dividends. In fact, in most cases the chairmen of the purchasing companies pointed out the profitable character of the businesses they were acquiring.

From the contemporary comments and explanations, two main reasons were adduced: the first, that the company bought was transacting a class of business which the parent company itself wished to transact in order to maintain or improve its connection. The experience and ability of the management and staff of the acquired company were more important than the profit which might be extracted from the business acquired. Time after time, statements were made to the effect that the facilities offered by the acquired company would enable the purchaser to give services hitherto lacking in its own organization. The conception had become general that British insurance companies, in order to maintain their wide connections, must give insurance services of every description and each should include, either on its own staff or in that of its subsidiaries, experts in the various new branches and departments. The second reason, not so frequently put forward, but evident, was the fluctuating character of one branch of insurance in its results. The fire and marine accounts, the latter particularly, showed intermittent periods of high loss ratios due to causes not common to both branches, and therefore not generally coincident. An office with an account in both branches, therefore, tended to stabilize profit results as compared with a company transacting only one. As the accident accounts grew, workmen's compensation and motor insurance offered a further theoretical stabilizing factor in profits to the large composite offices. Towards the end of the period, indeed, the aggregate volume of accident premiums approached the fire income, although not such a consistent profit-earning factor. It was the aim of every general manager to secure a well-balanced business and to offer to his connections, whether through branches or to the public, service in every field of insurance. To this end he was prepared to pay a high price for an experienced organization in any class which he had not hitherto included in his company's activities. The large reserves accumulated from past profits in fire insurance, therefore, went

in building up the organization in those expanding years of the present century.

A factor which made this wider service the more necessary was the extraordinary development of the insurance brokers. In London the position of the broker has always been an essential one in marine insurance on account of the system of individual underwriting carried on at *Lloyd's*. During the nineteenth century, brokers generally consisted of small firms of two or three partners who seldom handled more than marine insurance, each firm having a circle of connections in London and provincial seaports, and correspondents abroad for whom it placed risks in the London market. As *Lloyd's* underwriters went into the non-marine business, brokers cultivated a non-marine connection or, if one already existed, exploited it. It is probably difficult to say which was the more important, the demand by the underwriters, which commenced ten years before the end of the century so far as fire insurance was concerned, or the supply of non-marine business by the broker in his placings at *Lloyd's*. But whatever the cause, *Lloyd's* became a market and the brokers established non-marine sides of their business, adding partners who had experience therein, either by amalgamating with existing fire and general insurance brokers, or seeking a member of the staff of one of the fire or accident companies to manage that side of the business. In this way, much of the general insurance business became canalized through the *Lloyd's* insurance broker, and the great broking firms emerged during the same period that the composite companies came into existence, and *Lloyd's* became a great market in non-marine insurance.

The London brokers were, indeed, in a peculiarly favourable position, having intimate relationships, through their partners, with large syndicates of underwriters. With the syndicate they could place specially desirable risks at a lower premium than the companies would accept in consequence of the tariff classification. By the public their services in placing business in the cheapest market became recognized, and they gained a standing such that their services were demanded in ever-widening circles, and the great firms of general insurance brokers, each having its individual *Lloyd's* connection, arose. Such are Bain, Sons & Chatterton, Ltd., C. T. Bowring & Co., Ltd., Heath & Co., Ltd., Leslie & Godwin, Ltd., Matthews, Wrightson & Co., Ltd., Sedgwick Collins & Co., Ltd., Willis Faber & Dumas, Ltd., and many others. This canalizing of the sources of business compelled the companies to compete with the *Lloyd's* side of the brokers' connection by offering an insurance service in all its phases, which would not only be equal to *Lloyd's* in its underwriting facilities, but go beyond in its service

through its branch connections throughout the country with their local surveyors, inspectors, and facilities for claims settlement. An understanding of the whole of the London insurance market in the first twenty-five years of the present century is the only means to interpret the development of one part of it—the great composite offices.

This does not explain all the acquisitions which were made by the large companies. There were cases where a profitable business, but a stagnant or restricted business, was purchased, such, for example, as some of the fire insurance companies, the *County Fire*, the *Law Fire*, and the *British Law*. In these cases it was not a question of the purchasing company opening up a new branch of business, but of acquiring a new and profitable connection in the provinces or among solicitors with considerable insurances to place on behalf of clients. To canvass such for other business as well as the fire insurances would lead to an access of business which the subsidiary had been unable to transact in its independent days. So the single-line fire insurance companies disappeared; they had to choose between absorbing or being absorbed.

With the completion of their organization by the composite companies, a new phase was entered which may be dated as commencing a few years after the 1914–18 war, when amalgamation slowed down. The reorganization of British insurance to meet the changed conditions due to the opening up of the new fields had been achieved, and the large companies had no incentive to offer fancy prices to shareholders for the goodwill of a business similar to their own. The polity which existed was one based on a number of competing units, any one of which was as competent as another to handle the business of brokers or the public. Any further amalgamation would have to be an association between equals more in line with the association of the *Royal* and the *Liverpool & London & Globe* than by way of purchase of goodwill at a price much in excess of the market's valuation. For such closer association among the composite offices there has been no real incentive as yet. While no doubt there would ultimately be reduction in expenses by the closing of redundant branch offices, the strain of expenses has not been sufficiently felt to drive in the direction of amalgamation. Apart from the branch system, the large composite insurance companies are highly organized for the handling of business and intimately rely upon each other for reinsurance, giving thus by their treaty arrangements a service as good as they would if the units were reduced in number but increased in magnitude.

Although in fire and accident a tariff classification has been achieved by the companies over a large proportion of the business,

no position of monopoly exists as would be the case in some industries with effective price control. It is in a protected, price-controlled market where merger of the units becomes natural. In British insurance the industry organized on the three factors—the composite companies, the brokers, and *Lloyd's* underwriters—anything other than a competitive market is impossible so long as both *Lloyd's* and the companies are prepared to absorb all sound insurance. There is, moreover, another factor which in insurance cannot be ruled out: it is the potential competition of new companies. No great capital has been required for the promotion of an insurance company, and during the past thiry years we have seen many companies, sometimes commencing in a specialized business and subsequently grafting on to it other branches, building themselves up by moderate expansion and cautious underwriting, till they become competitors with the large and long-established companies.

After the 1914–18 war there was a considerable expansion in the number of companies. The large increase, normal in war-time, in the marine insurance business attracted fresh entries to the market. In 1918 forty fresh companies were registered, mostly marine, with nominal capital of £3,600,800—more than double the figure for 1917. Among these there were three with nominal capital of £500,000 each, one with £300,000, and several of £100,000. In 1919 forty-eight companies were registered with nominal capital of £13,715,350, five of which took powers to do life business and a number of others contemplated specializing in reinsurance. In 1920 new registrations dropped to thirty and in 1921 there were only fourteen.[1] There has been a general tendency for fresh promotion of insurance companies whenever there has been an expansion in the market, and neither legislation nor the organization of the business offers any real opposition. Accession to the ranks of companies has been the more facilitated by the canalizing of business through insurance brokers, who can create their own companies for handling a portion of their business.

The separation of the industry into many units might give the impression of a lack of co-ordination, of differences in the contracts of insurance granted by the various companies, or of methods of carrying them out. This, however, as between the companies would be an incorrect generalization; each certainly has its individuality, a product of its past history, but there is a remarkable uniformity in the services rendered and the insurance cover granted. In fire, accident, and marine insurance there is a considerable measure of agreement on standard clauses in policies, and in fire and

[1] *Post Magazine Almanack* for the respective years.

various classes of accident business in the rates charged. This is the result of constant association of the officers of the several companies on committees of the trade organizations, the Fire Offices' Committee, the Accident Offices' Association, and the Institute of London Underwriters. *Lloyd's* underwriters have their own association for collaboration on the various classes of insurance, but there is a lack of co-ordination between *Lloyd's* and the companies due to the keen competition between the two types of institution during the past forty years, in which the non-marine market has made such growth at *Lloyd's*.

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