CHAPTER 42

1993 One-Stop Shopping

The mouse that roared

The fever was back. Companies flocked to the island, among them companies from Hong Kong. Consequently, the Bermuda stock market was launched. By 31 December 1993 there were 1315 international insurers and reinsurers and 235 insurance brokers/managers on the Bermuda register.[563] Capital and surplus of the Bermuda insurance industry was at an astonishing US $30 billion with assets in excess of US $70 billion by the end of the year. 1993 marked the point at which the international business sector's contribution to GDP surpassed that from tourism. Whether Bermudians liked it or not, international business had become the major lifeline. *Lloyd's List* reported the new mix as follows—

> 'The influx of catastrophe reinsurers helped change the risk profile of the market's new incorporations from one dominated by pure captives to one dominated by companies reinsuring unrelated risks. While captives wrote 33.9% of the business of all new companies that formed in 1992 that share fell by half to 16.4% in 1993.'[564]

Edward Ion, Insurance Editor for *Lloyd's List* wrote—

> 'There is a special atmosphere in Bermuda these days, the kind of which even seasoned insurance professionals say they have never experienced before. It has been created by fresh and much needed capacity for the world's depleted and anxious insurance markets. The capacity has come like oxygen to a drowning man—and there is plenty of it. Quite simply, Bermuda has in the past 12 months developed into a major insurance market—some would say *the* insurance market....
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> '...Sceptics say the Bermuda phenomenon of the past 12 months has been purely to do with the problems in London and insurance markets all over the world. In a crude sense, that is true. Bermuda had benefited from business in all types of lines that needed to be placed when London could not respond.
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> 'Some in the London market argue that Bermuda's expansion is speculative and short-term. As soon as London stabilizes and capacity returns, the so-called "smart-money" will disappear as quickly as it arrived.
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> 'Others take a more positive view. They believe that Bermuda has finally lost its (largely undeserved) reputation as being "slightly too exotic" for mainstream operators, with its occasional hiccups such as the spectacular Mentor Insurance collapse. They have seen first hand that the momentum in Bermuda has become an almost irresistible force and believe it is very much here to stay as a leading insurance centre. The facts and figures used to support this are impressive...'[565]

[563] 'International Companies 1997 Their Direct Impact on the Economy of Bermuda', by Brian Archer, Report of an independent study carried out by the Ministry of Finance, Government of Bermuda

[564] *Lloyd's List* magazine focus, June 1994, 'Bermuda Treasure Island Insurers unearth capacity cache, Growth continues with more reinsurers arriving', by David Marchant, p. 4

[565] *Lloyd's List*, Bermuda, July 1993, 'Insurance crusade is aimed at growth, Island's new capacity is like oxygen to a Drowning man', by Edward Ion, Insurance Editor, pp. 1 & 3

All this excitement prompted the following report from *Lloyd's List*—.

'The 1993 statistics compiled by the Registrar of Companies in Bermuda indicated "the continued development of Bermuda as the world's premier offshore insurance domicile", according to Bermuda's chief insurance regulator, Malcolm Butterfield. He has revealed in press releases that there were 1,315 international insurers and reinsurers on the Bermuda register at December 31, 1993. Mr Butterfield said this figure was by far the largest of the world's offshore centres.

'Although 61 new international insurers and reinsurers were added during the year, there was a net loss since 70 companies were removed from the register—12 more than were removed in 1992. But Mr Butterfield said that the sheer scale of the new formations outweighed any losses to the register. "The number of companies formed last year (1993) was of less significance than their size and quality," he said. "Of the new additions, eight incorporations were heavily-capitalised property catastrophe reinsurance companies, whose formation has brought close to US $4 billion in new capital to the Bermuda market over the past year. Many of the removals involved companies that had been inactive for some time. Removals are an inevitable fact of life in a mature insurance jurisdiction such as Bermuda."'[566]

Bermuda received worldwide attention because of the influx of new capacity, prompting an article in *Business Insurance* that set forth, among other observations, the following comments—

'Destruction is often the catalyst for creation, and that's certainly the role that Hurricane Andrew played in the creation of the Bermuda catastrophe reinsurance market. Hurricane Andrew "largely created the market because the losses were so unexpectedly high," said Don Kramer, President of Tempest Reinsurance Co. Ltd. and vice Chairman of ACE Ltd. in Hamilton, Bermuda.

'The reason there wasn't a significant catastrophe reinsurance market before Andrew was simple, according to Sean Mooney, senior VP and economist at the Insurance Information Institute in New York. "Prior to 1989, there never had been a US $1 billion insured cat loss anywhere in the United States. Since 1989, we've had nine of them, so the whole perception of the potential size of catastrophes has changed. That of course, changed the demand for reinsurance, particularly the amount of cat reinsurance that would be needed," he said. "Hurricane Andrew, reinforced by the losses stemming from the January 1994 earthquake that devastated the Northridge section of Los Angeles, changed perceptions on the potential size of mega catastrophes," said Mr Mooney.

'Charles Hays, executive VP and chief financial and administrative officer of Hamilton, Bermuda based Mid Ocean Reinsurance Co. Ltd., launched in mid-1992 the first of the Bermuda catastrophe reinsurers. He noted that "Mid Ocean was actually conceived and people were raising money before Hurricane Andrew happened. But," he added, "Clearly Andrew was of such magnitude that it was the catalyst that really changed the market."

'Tempest Re's Mr Kramer said that insurers had been lulled into complacency by years of relatively low catastrophe losses. He said they approached their reinsurance needs in "almost as amateurish" a way as homeowners who never update their homeowners policies to reflect the increased value of their house and contents and then discover they are woefully underinsured when disaster strikes. "So a storm hit and they were hit with huge losses," he said. "Because state insurance regulators would not let them make up their losses through massive rate increases, they had to seek another solution," said Mr Kramer. "I think the industry wanted to see a private solution rather than a government solution," he added.

'Russell Smith, VP-underwriting for Renaissance Reinsurance Ltd. in Hamilton, Bermuda, said that as a result of Andrew, "risk management entered a new level for a lot of insurance companies" as they attempted to understand the full extent of their exposures. For reinsurers, "it was a great opportunity to do reinsurance in a more professional and more analytic way. That has meant greater use of ever-more sophisticated computer modelling," he said. Mr Smith noted that Renaissance Re is a "very model-driven operation." As the catastrophe reinsurance market has matured, capacity has grown. Mr Smith said

[566] *Lloyd's List* magazine focus, June 1994, 'Bermuda Treasure Island Insurers unearth capacity cache, Growth continues with more reinsurers arriving', by David Marchant, p. 4

that putting together a hurricane catastrophe reinsurance program of US $800 million, while not easy, is probably doable in the current market.

'John Cashin, executive VP of Willis Faber North America Inc. in New York, agreed that putting together a program of such a size by tapping worldwide rather than simply Bermuda markets is doable. A Willis Faber report issued last month noted that catastrophe reinsurance buyers with good loss records enjoyed significant rate reductions on both April 1 and July 1 renewals.'[567]

As a result of Hurricane Andrew, the tide quickly changed for Bermuda. Many of the former sceptics began to heap praises. *Lloyd's List* took note—

'...for a group of islands only 21 square miles in area and a fixed population of just 60,000 people, Bermuda has become "the mouse that roared" in the world of insurance and reinsurance. Over the past 18 months, the British colony has attracted over US $4.5 billion of new capacity in the property catastrophe and excess liability markets. The domicile has grown from being primarily a captive insurance centre to become a one-stop shopping centre for insurance buyers.

'While the London market has lurched from one disaster to another, Bermuda has picked up the slack to such an extent that Finance Minister David Saul said that "Bermuda is becoming the second Lloyd's of London."'[568]

As is so often the case, praise was followed by criticism. Several other jurisdictions viewed Bermuda with envy and did not trust the new capacity, thus prompting many around the world to label the Bermuda capital as opportunistic. Still, Bermuda created excitement around the world. Bermuda's arrival in the world insurance community as a separate market offering a wide range of products away from captive management to reinsurance prompted several more specialist insurers to consider new ventures on the island. *Lloyd's List* reported—

'The new companies, several of which are still under wraps, have caused a ripple of excitement not just on the island but around the major markets of London, New York, and Continental Europe. Their imminent existence undoubtedly has been brought on by the huge success of Mid Ocean, the property catastrophe reinsurer and the continuing track records of the ever growing finite/financial reinsurance companies that now inhabit the crown colony.

'...The investment houses in New York so heavily involved in the new projects have been quick to recognise that a fundamental restructuring is now taking place in world markets, and that Bermuda and other offshore domiciles will be the major beneficiaries.

'...At the moment the new companies appear to be moving in to fill the gap in high level property reinsurance that proved such a tight market at the 1993 renewal and sparked Mid Ocean's success.'[569]

Financial reinsurers changed by US accounting and regulatory rulings

Despite FASB 113 and EITF93-6 being implemented the year before, their impact on the financial reinsurance sector began to take effect in 1994. According to Graham Pewter of Catlin Westgen Group, it was the passage of FASB 113 and EITF 93-6 that propagated true financial reinsurance. It was because of these rulings that risk was introduced into financial products for the first time. Therefore it can be argued that 'finite risk', a term coined by Centre Re, was created because the industry was pushed into it as a result of regulation. *Business Insurance* reported on the United States regulations, which affected the financial insurance markets—

[567] *Business Insurance*, 25 August 1997, 'Andrew sparks growth of Bermuda cat market—disaster fuels demand for reinsurance...' by Mark A. Hofmann

[568] *Lloyd's List*, magazine focus, June 1994, 'Bermuda Treasure Island, Insurers unearth capacity cache, The mouse that roared at the insurance world', by David Marchant, pp. 1 & 3

[569] *Lloyd's List*, July 1993, 'Bermuda, Specialist insurers see increasing opportunities'

> 'The financial reinsurance market is beginning to get its bearings again following accounting and regulatory changes that could have driven some financial reinsurers off the map. After an initial period of turmoil and confusion, which still lingers to some degree, financial reinsurers are now developing products that meet new requirements resulting from these changes.
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> 'Earlier this year, the Financial Accounting Standards Board adopted regulations that curtail the accounting benefits of certain types of financial reinsurance and require, among other things, greater transfer of risk. "It certainly does not spell the end of finite risk insurance," said W. Dave Brining, senior VP and chief financial officer of Scandinavian Reinsurance Co. Ltd. in Bermuda, a financial reinsurer. "The motivations that existed prior to those changes in accounting are still there, so finite risk insurance is still responding to those," he explained. "However, if financial reinsurance transactions are less numerous in the future, and they'll be less clever in the future," said Alan Levin, senior VP of rating agency Standard & Poor's Corp. in New York, it will be "probably very difficult to repeat that kind of volume…Furthermore, financial reinsurance products will incorporate more risk."'[570]

Global Reinsurance reported on the changing finite risk market—

> 'The turning point for the finite risk market was 1993, according to Stephen H.R. Young, associate, underwriting, Scandinavian Re. Until then finite risk products had been focused on retrospective covers and timing risk. Mr Young explains: "New generally accepted accounting principles were adopted in 1993 that forced buyers to purchase tailor made solutions that addressed prospective exposures including timing and underwriting risk."'[571]

The rulings between United States regulators sent the financial reinsurance world into a tailspin. Clients and markets were confused about what constituted a fair transfer of risk and some even stopped looking into the benefits of financial reinsurance for a while. Yet there were those who realised that there was a benefit to reinsurance which had a bottom-line focus and were keen to pursue this options.

ACE decides to go public

While financial reinsurers in Bermuda were going through yet another transition, ACE decided to go public, as XL had done two years previously. Rosemary Jones reported events for *The Bermudian*—

> 'ACE completed its first public offering and was authorized for listing and trading on the New York Stock Exchange, under ticker symbol ACL. Among other things, it provided liquidity to the original investors and corporate access to international equity markets.
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> 'It took ACE two years longer than XL because some of its original shareholders were concerned that ACE would lose its customer focus and become something very different than what was originally conceived. "There were a lot of people who were very concerned that if ACE were to go public, we would forget our roots and we'd treat our clients just like any other insurance company." At the time of XL's announcement to go public, ACE was firmly opposed to the idea. "We went back and polled our shareholders again roughly one year after XL had gone public," says Scott. "By that point in time, the sentiment had changed."'[572]

According to Walter Scott, former Chairman, President and CEO of ACE, one shareholder questioned the need for him to retain his company's capital in ACE now that it was prospering. The US $10 million each shareholder had put into ACE in 1985 to stabilise the insurance market was

[570] *Business Insurance*, Spotlight report, 1 November 1993, 'Financial reinsurers bounce back from accounting setbacks, FASB changes making financial reinsurance more traditional', by Judy Greenwald, pp. 24, 28, 29

[571] *Global Reinsurance*, Bermuda Edition 1998, 'Finite risk faces the future', by Valerie Denney, pp. 70–71

[572] *The Bermudian*, Focus on Business, January 1996, 'ACE, the First 10 Years', by Rosemary Jones, pp. B25–B 32

worth US $45 million by 1993. This shareholder felt this significant amount of capital could be better deployed by his company elsewhere. Soon others began to realise just how much funds they had tied up in ACE and began to agree that it was time the company went public.

After XL and ACE went public, the management of both companies met with stock analysts and investors to tell them how they were doing. Much to their surprise they were met with a hostile reaction because the shareholders said they had too much capital and they either needed to give some back or utilise it in their business. It was because of these reactions that both companies changed their mission statements to expand into other areas. According to Thorn Rosenthal, partner at Cahill, Gordon and Reindel in New York, this desire to please shareholders and analysts drove first XL and later ACE under the direction of Brian Duperreault to become what they are today.

In the opinion of Karole Dill Barkley, Director of Standard & Poor's, these were watershed events for Bermuda, when XL and ACE went public, because they attracted the attention of capital markets and analysts from elsewhere.[573]

First Bermuda Insurance Symposium

The first insurance conference ever to be organised by Bermuda's international insurance industry was held May 25-28 at the Marriott's Castle Harbour and it created much excitement in the industry. According to Robin Spencer-Arscott, the idea for the conference was the brainchild of Suzie McKeegan, President of the Whitfield Group. She conceived the concept in 1991 for an insurance market conference produced by the industry for the industry on a not for profit basis with surplus funds to be used to further the education of industry personnel thus financially supporting the industry continuum. During this conceptual stage, she approached Spencer-Arscott, a pioneer in the Bermuda insurance industry, with this idea which he embraced enthusiastically and together they met with the Bermuda insurance company leaders, associations and affiliated industries to get their input and buy-in to the concept. They created a hard working organising committee, which then worked for more than a year seeking approval to proceed, soliciting prospective sponsors and confirming a stellar roster of great industry speakers. In May of 1993, the inaugural Bermuda Insurance Symposium was launched featuring speakers including William Mather of Gillette, Stephen Wilder of Disney, Patrick Peugeot of SCOR and Colin Murray, Deputy Chairman of Lloyd's. Local speakers included Premier John Swan, Finance Minister Dr David Saul, Walter Scott of Ace, Robert Mulderig of Mutual Risk Management and David Ezekiel of International Advisory Services.[574] *Business Insurance* reported 130 exhibitors representing 14 companies at the exhibit area and more than 460 executives and other guests registered.

Jonathan Crawley, a Symposium committee member, told *Bottom Line* that —

> 'The Symposium is of historical importance to the insurance industry in Bermuda and the international business community in general. I hope it will be viewed by the insurance industry worldwide as an historic occasion in that it is the first time the Bermuda insurance industry and the Government have hosted a conference like this. It is, perhaps, long overdue.

The article continues—

> 'To emphasise the Island's unique role in international insurance, the theme and title of the Symposium is "Bermuda –the ART Capital of the World."
>
> '...Included in the ART market are captive companies, of which Bermuda is home to about 50 per cent of the world's total; rent-a-captives, of which Bermuda is home to over 80 per cent of the world's total; and the large capacity facilities of OIL, TOPS, ACE, XL, and CODA which are all based in Bermuda.

[573] Interview with Alan Levin, Karole Dill Barkley, Olga Kalinina, Standard & Poor's, 30 October 2002

[574] Notes from Robin Spencer-Arscott

Also included are risk retention groups, in whose management Bermuda directly plays no role, and self-insuring funding mechanisms, in which Bermuda directly plays no role. 'Financial reinsurers and policy-holder owned mutuals or captives, such as RAIL and SCUUL, are also encompassed in the ART market…

Brian Hall, Chairman of Bermuda's Insurance Advisory Committee was quoted as saying—

'…The aim of the Symposium is to showcase Bermuda's talents to the rest of the world…We are going to represent Bermuda as the world's leading ART jurisdiction. In simple terms, if someone is looking for alternative risk transfer, we don't want to leave them in any doubt as to which is the best jurisdiction to handle it. For anyone who still doesn't know – it is Bermuda."'[575]

Mid Ocean excels

When Mid Ocean was formed in 1992, it was given what the management team thought was an aggressive budget of writing US $200 million in premiums in its first year. *Lloyd's List* reported on Mid Ocean's success as follows—

'The company, set up with a capital of US $350 million, originally intended to write premiums of US $200 million in its first year. But such was the demand for its capacity, it actually wrote US $200 million in premium income in the first six months following a busy January 1, 1993 renewals which were confirmed with a success in the Japan April 1 renewals.'

'A dramatic development for the company came early in June when it was announced that the Mid Ocean shareholders had set up a new company in the Cayman Islands—Mid Ocean Ltd. —to act as a holding company which will soon go public in New York with an initial public offering that could raise US $250 million.

'The news coincided with a decision by Mid Ocean chief executive Ian Heap to retire on the grounds of ill health. The 67 year old's move was not entirely unexpected and many observers of the Bermudian market credit him with much of the company's early success. He is to be succeeded by Michael Butt, the former chief executive of United Kingdom composite Eagle Star.

'…Mr Heap told Lloyd's List the Mid Ocean managers had taken the decision to expand to take advantage of the current hardening rates and it was the group's intention to recruit two more leading underwriters with successful track records before the end of the year.

'…Mr Heap described Mid Ocean's underwriting philosophy as 'conservative', although the group has become more aggressive as confidence grew out of the positive initial reactions. "We began cautiously putting down lines of no more than US $4-5 million and certainly not leading business. But in April, we began placing lines of up to US $10 million and this may continue," he said.

'A key point about Mid Ocean and one of its many fascinations in the market is that it does not use the retrocessionary market for support. Mr Heap explains the philosophy: "I have always believed you should retain the maximum business that your capital can support. We do not believe there is a need for retrocessionary cover at this stage."

'Mid Ocean does not have a uniform deductibles policy either, preferring to take each contract on an individual basis.'[576]

The Capital Summer

At last Bermuda attained the global insurance position it had been seeking ever since AIG and Fred Reiss came to the island. There was a significant inflow of new companies, highly capitalised at any-

[575] *Bottom Line*, May 1993, Bermuda Insurance Symposium, 'State of the Art, Bermuda's one stop insurance supermarket', by David Marchant, pp. 25–29

[576] *Lloyd's List*, Bermuda, July 1993, 'Bermuda stresses the need for growth', pp. 8–9

where from US $100 million to US $1 billion, and estimated to exceed US $4 billion in all, which was invested in new Bermuda reinsurers, writing primarily property catastrophe reinsurance. Kevin Stevenson wrote for *The Bermudian* as follows—

> 'The summer of 1993 will go down as a turning point in Bermuda's burgeoning international insurance industry. The island saw more than US $3 billion in additional capital come into the island on top of the existing US $19.86 billion in capital and surplus. 'The new companies include property catastrophe reinsurers, excess liability and directors & officers insurers, and in one case, a reinsurer for a major Lloyd's of London underwriting agency. "To get major, quality insurance companies like these is fantastic news for the island," says Bank of Butterfield chief general manager Mr Michael T. Collier. "The new insurance company formations clearly show that, if we set our systems in place and demonstrate that Bermuda is a good domicile, then new businesses will come here. This is the beginning of what could be many more new company formations. It was said not long ago by one major player that Bermuda could expect to see ten major company formations by the turn of the century. Well, we've seen nearly that and people are talking about an awful lot more."
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> '..."The impact of the new players in terms of the Bermuda market is that they absolutely do nothing but good," says Mr Arthur Deters, President and CEO of the International Risk Management Group Ltd. "We are now seeing the development of a real Bermuda insurance market, not the fiction of the early 1980's. These new companies are very substantial operations being set up by well-known companies, and they are helping Bermuda become a real insurance market for the first time. It's the greatest thing that has happened to Bermuda since the introduction of the captive industry."'[577]

Several of the new companies that formed in Bermuda are described below—

> **Total Loss Offshore Production Structure (TOPS)** '...was formed to provide cover for offshore North Sea platforms. TOPS is managed from Bermuda and was established in response to the difficulty of finding high level cover in London. It is capitalised at US $200 million and now covers 50 North Sea production structures. TOPS offers policyholders the highest—US $100 million—layer of protection against the total loss of a policyholder's oil or gas rig. The company started with US $100 million in cash and liquid assets plus another US $100 million was made available through an agreed cash call provision among shareholders. The company has not bought reinsurance protection because of its high cost and the desire to bring genuine, fresh capacity to the tightening markets.'[578]
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> *The Bermudian* reported that **Renaissance Reinsurance Limited (Ren Re)** '...was the first of the cat companies in 1993 to begin operations in the June with an initial capitalisation of US $140 million. "In the wake of Hurricane Andrew and other major catastrophic events in recent years, insurers' ability to continue to provide coverage has been severely constrained by a reduced supply of catastrophic reinsurance," says Mr James Stanard, Renaissance Re's Chairman, President, and CEO. "The formation of Renaissance Re will help meet this demonstrated need and we are in a position to move quickly to do so."'[579]
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> Some years later Stanard recalled that the capital for Ren Re was raised differently from other companies because no investment bankers were used. The capitalisation of Ren Re was very much a third party transaction. Stanard was with USF&G at the time and, when his boss there agreed to sponsor Ren Re, Stanard approached GE pension funds through Norman Blake, who knew Dale Frye at GE. Frye liked the Ren Re concept and signed on at once. With GE Pension funds on board, they went to Warburg Pincus, who signed on as well.
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> Stanard also said that Ren Re did a lot to advance the science of modelling. Prior to Hurricane Andrew, primary companies did not have good data on exposures. After Andrew everyone made catastrophe data a priority. That was why his company developed the Renaissance Exposure Management System

[577] *The Bermudian*, October 1993, Focus on Business, 'The New Players', by Kevin Stevenson pp. 37, 52 & 60

[578] *Lloyd's List*, Bermuda, July 1993, 'TOPS comes on stream this year', p. 10

[579] *The Bermudian*, op. cit.

(REMS), which is the most sophisticated cat modelling system currently in use. Stanard says underwriters have to be able to use it effectively while applying their underwriting skills.[580]

International Property Catastrophe Reinsurance Company (IPC) was set up by American International Group to specialise in providing property catastrophe reinsurance worldwide, including personal and commercial lines, on an excess of loss basis. *The Bermudian* reported—

'The company's policyholders are expected to be major insurers and reinsurers and its business will be generated primarily through reinsurance intermediaries. IPC was initially capitalised at US $300 million and began operation on 30 June 1993. "The property catastrophe reinsurance market has experienced a severe capacity shortage since the unprecedented catastrophes of 1992 and we expect this supply-demand imbalance to continue for some time to come," says AIG Chairman Mr M. R. Greenberg. "Many participants in the catastrophe reinsurance market place have sharply reduced their capacity for accepting such risks or have withdrawn from the market altogether."'[581]

Starr Excess Liability Insurance Company (Starr Excess) began operations on 30 June 1993. 'It was primarily sponsored by American International Group and General Reinsurance. Other significant investors and shareholders in Starr included Primerica, Munich Re, Aon Corporation, and Oppenheimer Group. It was incorporated with a total committed capital of US $500 million, US $100 million of which is fully paid and the company could make additional calls on the remaining US $400 million, on a pro rata basis.'[582]

Starr Excess came to Bermuda with the initial strategy of maintaining stable prices and sound underwriting practices. It introduced to the excess liability market an underwriting policy form different from that of the dominant XL and ACE policies.

Starr's policy did not allow for integrated occurrence cover on non-products. It would allow a client to stack (add) claims for a common occurrence for a product, though not for a non product, should all of the claims occur within a five year batch window. As an example—if a medication caused side effects beyond those known at the time of testing, all resultant damages would be combined into one covered occurrence, provided the losses could legitimately be claimed as suffered within five years before or after the date at which the damage became apparent. However, if an insured faced claims such as discrimination, each claim would be treated as a separate incident because the Starr policy does not allow non-products claims to be added together. Then, if the separated claims fell below the attachment point, those claims would be excluded from the policy.

Both the XL and ACE policies would have allowed this type of loss to be integrated and all claims to be added together to reach the attachment points. The insurers would then be on the line to pay for these claims. Starr was the first real competition in Bermuda for XL and ACE on the excess liability side.

Chubb Atlantic Indemnity—was formed in July 1993 but managed by International Risk Management, as it had no office on the island. Chubb was initially started with US$20 million in capital and was formed to "capitalize on the growing opportunities presented by the alternative risk transfer market," says Mr John B. Stites, Chubb's vice president and manager of the company's alternative risk transfer department.[583]

Tempest Reinsurance Co. Ltd.—formed in October 1993 by General Reinsurance and other institutional investors with Capital & Surplus of USD 500 million to operate as a monoline property catastrophe company.[584]

[580] Interview with Jim Stanard December 4, 2002

[581] *The Bermudian*, October 1993, Focus on Business, 'The New Players', by Kevin Stevenson, pps. 37, 52 & 60

[582] *Starr Excess Fact Sheet* produced by Bowring, Fourth quarter 1994

[583] *The Bermudian*, October 1993, op. cit.

[584] *Business Insurance*, 1 November 1993, 'Path to Bermuda quickly becoming crowded', by Judy Greenwald, pp. 3, 10, & 11

Centre Cat—formed in October 1993 by Morgan Stanley Partners Fund; General Motors Corporation pensions trusts; Zurich Re Centre Holdings; Centre Re Ltd., AT&T pension fund; Chubb Corp., Chemical Bank Venture Partners; and Plymouth Rock Insurance Company with US $312 million in Capital and Surplus. The company was set up to write property/catastrophe exclusively. It was to take a 'risk-based capital approach' to building its portfolio, and allocate surplus across geographical zones, with a maximum capacity of US $50 million—US $75 million per geographical zone.[585]

Global Capital Reinsurance Limited—formed in October 1993 by Goldman Sachs & Co., Johnson & Higgins, Underwriters Re Corporation and others with US $450 million in Capital & Surplus. The company was set up to write worldwide property catastrophe reinsurance and property per-risk business.[586]

Compass Reinsurance Ltd.—formed in November 1993 by SCOR S.A; and others with an estimated Capital and Surplus of US $300million. The company was formed to write property catastrophe business exclusively and some back office functions were to be carried out by Commercial Risk Partners Ltd., largely owned by Scor Re.[587]

Partner Re—Swiss Reinsurance Co., of Zurich announced August 30, 1993 its plan to set up a new catastrophe insurance company, Partner Reinsurance Co., in association with affiliates of John Head & Partners, a US merchant bank, and with institutional investors.[588]

Partner Re began operations in November 1993 with a total initial capitalization of US$255 million. Partner Re's plan was to raise an additional US$500 million through an initial public offering in the US, Europe, and Japan, for a total capitalization of more then US$700 million. Partner Re was to be managed by International Risk Management.[589]

Underwriters Capital (Merrett) Ltd. (U.C.M.) Ltd. was set up to provide reinsurance to the nine syndicates managed by the Merrett group, a major Lloyd's of London underwriting agency. The company is the first of its kind under the recently amended bye-law at Lloyd's that now permits the use of corporate capital to increase the capacity of Lloyd's syndicates, which in the past has been provided strictly by individuals who pledged their entire personal wealth to become member of underwriting syndicates.[590]

Regrettably only a few months after U.C.M. was set up in Bermuda, according to *The Bermudian* magazine, "the deal unravelled with the market loss of confidence in Stephen Merrett, one of Lloyd's most powerful underwriters, and the deputy chairman of the Lloyd's council.

"Merrett was forced to resign from the council amid the Lloyd's debacle, pleading pressure of work. For some months, his group had been under the microscope due to the poor performance by its syndicates, which were also criticized for bad management and faced litigation. The subsequent defection of three senior underwriters forced Merrett to transfer ownership of his syndicates to other agencies. In December, U.C.M. was finally bought out by Terra Nova Insurance Company Ltd., a United Kingdom insurer and reinsurer."[591]

LaSalle Re Co. Ltd. formed as a property catastrophe reinsurer in December 1993 by Aon Corporation, CNA Insurance Cos., and Corporate Partners, a fund affiliated with Lazard Freres & Co with Capital & Surplus projected between USD 300mil to USD 500mil.[592]

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585 ibid.

586 ibid.

587 ibid.

588 *The Wall Street Journal*, 31 August 1993, 'Alluring Island, New Bermuda Insurers are draining business from London market but their catastrophe lines run some of the same risks that devastated Lloyd's, The boom on Victoria Square', by Greg Steinmetz

589 *The Bermudian*, October 1993, Focus on Business, 'The New Players', by Kevin Stevenson, pp. 37, 52 & 60

590 ibid.

591 *The Bermudian*, Focus on Business, January 1995, 'Fathers of Fortune', by Kevin Stevenson, pp. 2–4, 6, 7, 12

592 *Business Insurance*, 1 November 1993, 'Path to Bermuda quickly becoming crowded', by Judy Greenwald, pp. 3, 10, & 11

Not only did Bermuda see the arrival and the creation of many new companies. The formation of the new property catastrophe reinsurance market in Bermuda brought executives from some of the major insurance centres around the world. Along with the new corporations came an array of finest quality management, to join the established leaders of Bermuda who, for so long and with so little encouragement or none, had borne the burden and heat of the day. *Lloyd's List* reported on the new Bermuda reinsurance marketplace as follows:

From the safety of what some consider to be their glass houses, the London market has been lobbing some fairly hefty stones at Bermuda, casting doubt on the 'security' of its reinsurers and speculating that short-term venture capital makes up much of the money that has flowed to the island recently. Bermuda, in contrast, believes the quality of the sponsors of the new companies and quality of their management teams are strengths. Below is a look at chief executives and chief underwriters of all the new property catastrophe reinsurers.

Mid Ocean Re:

Chief executive: Michael Butt. Not only one of the most experienced and accomplished businessmen in Bermuda, but anywhere else for that matter. He became CEO of Mid Ocean in May 1993, having been a director of the company since November 1992. From 1987 to 1992, he was a director of British insurance and tobacco giant BAT Industries – including the period when Sir James Goldsmith and others unsuccessfully tried to take over the company – and chairman and chief executive of Eagle Star Holdings Plc and Eagle Star Insurance Company. From 1982 to 1986, Mr Butt was chairman of Sedgwick and vice-chairman of Sedgwick Group. Mr Butt is a member of the board at Marceau Investissements in Paris and the European Institute of Business Administration in Fontainebleau, France.

Chief underwriter: Henry Keeling. Mr Keeling joined Mid Ocean on January 1, 1993. He served as director of Taylor Clayton (Underwriting Agencies) and deputy underwriter for the A. Taylor Syndicate 51 at Lloyd's of London from 1984 until 1992. Prior to that, he served with Leslie & Godwin in London & Tokyo, and with the Mercantile & General.

Global Capital Re:

Chief executive: Larry Doyle. He was president and chief executive of New England Reinsurance Corporation, First State Insurance Company and the New England Insurance company from 1986 to April, 1993. Mr Doyle was also senior vice president of ITT Hartford Group and president of ITT Hartford's International Division from 1981 to April 1993. Prior to assuming responsibility for the International Division, Mr Doyle held various insurance management and claims positions with ITT Hartford Group in Europe and the US, including staff assistant to the chief executive. He has more than 27 years of insurance and reinsurance management experience.

Chief underwriter/North America: Robert L. Nason. Senior vice president and director from 1988 to June, 1993 and vice president from 1983 to 1987 of Trenwick America Reinsurance Group. Mr Nason served as assistant vice-president of an affiliate of Commercial Union Insurance Company and property facultative manager of an affiliate of Commercial Union Reinsurance Company from 1977 to 1981 and commercial property underwriting supervisor from 1975 to 1977 of Kemper Insurance Group. He has over 20 years of experience in the direct insurance and facultative and treaty reinsurance areas.

Chief underwriter/International: Stephen Outerbridge. Mr Outerbridge is a rarity among chief underwriters in the new property cat companies in that he is a Bermudian who went away to carve out his career before returning to the island last year. He was chief underwriting officer – international from 1992 to 1993, director/international reinsurance underwriting and head underwriter from 1988 to 1992 and manager-international property and casualty from 1984 to 1988 of Hartford Fire International Reinsurance. Mr Outerbridge served in Asia as the resident director of Continental Reinsurance Hong Kong from 1979 to 1984 as underwriter and assistant underwriter of London Security Reinsurance, London from 1976 to 1979. He has over 18 years of experience in international reinsurance, management, underwriting and production.

International Property Catastrophe Re:

Chief executive: John Dowling. Mr Dowling's career in reinsurance spans 30 years, during which he has served in underwriting, marketing and management positions with several major UK insurers. For much of this period, he specialised in the marine area. In 1985, he joined Eagle Star as group marine manager and held a succession of senior positions with the company. He was appointed to the board in 1993.

Chief underwriter: James Bryce. Mr Bryce began his insurance career in 1971 in the Royal's commercial lines division in New York. He joined AIG in 1975 as a treaty underwriter and held a number of underwriting positions with American International Underwriters and National Union Fire Insurance Company of Pittsburgh. In 1984, he was named senior vice president of Transatlantic Reinsurance Company, where he oversaw all reinsurance assumed and later held senior positions with Transatlantic in Tokyo and Hong Kong. Most recently, Mr Bryce was vice-president of the Reinsurance Division of AIG Europe (UK) in London.

Renaissance Re:

Chief executive and staff underwriter: James Stanard. Mr Stanard is the only chief executive among the new companies who doubles up as chief underwriter. He has over 20 years of property and casualty experience, most of it in reinsurance. In early 1991, he joined USF&G as part of the new management team as executive vice-president and member of the office of the president responsible at various times for claims, commercial lines underwriting, reinsurance assumed and reinsurance ceded. From its founding in 1983 (to 1991) Mr Stanard was executive vice-president at F&G Re which he described as "one of the most successful reinsurance start-ups in history". From 1971 to 1983, he held various actuarial, underwriting and management positions at INA Re, Chubb and Prudential Re.

Centre Cat:

Chief executive: Paul Hasse. Mr Hasse was previously a principal of McKinsey & Company, working in the San Francisco office. An insurance practice leader for North America, his client work included product/market strategies for innovative insurance and lending products, organisational restructuring, cost reduction efforts, underwriting and pricing movements and IT strategies. He edited McKinsey's P&C Insurance Annual, led several practice research efforts and wrote a book on auto insurance reform. Before joining McKinsey & Co., Mr Hasse worked as a director of operations and marketing at Redwood Fire and Casualty Insurance Company (a subsidiary of Berkshire Hathaway). From 1982 to 1983, he served as a White House Fellow under President Ronald Reagan as the special assistant to the chairman of the National Endowment of Arts.

Chief underwriter: Charles Kline. Mr Kline was managing director of Guy Carpenter & Co. in the US Treaty Division, responsible principally for property reinsurances of various clients. He was in Guy Carpenter's International Treaty Division prior to 1987, where he worked with numerous clients, including the principal multinational insurers in the US and Europe and the majority of the insurers domiciled in Japan. From 1984 to 1987, Mr Kline managed Guy Carpenter's Japanese relationship.

LaSalle Re:

Chief executive: Victor Blake. Mr Blake has worked in the insurance industry for more than 35 years. He is chairman, as well as chief executive of LaSalle Re. He is also chairman of CNA International Re, which joined with other reinsurance companies under the CNA Financial Corporation umbrella to form one management unit. Together, they generate almost USD1bn in premiums and, on a combined basis, they would rank among the top 20 reinsurers worldwide.

Chief underwriter: Guy Hengesbaugh. Mr Hengesbaugh, through his position as executive vice president and chief underwriter of CNA Bermuda Services Ltd., is in charge of its underwriting relationship with LaSalle Re. He was previously director and underwriting manager in the assumed reinsurance division/specialty operations department for the Chicago-based CNA Insurance Companies. Mr Hengesbaugh was responsible for an underwriting team of five underwriters and an assumed portfolio representing USD 168m of premium out of a total divisional volume of USD 400m. His team at CNA placed special emphasis on US property catastrophe, retrocessional, and London market excess business. Mr Hengesbaugh joined CNA in 1985. In 1988, he was named an underwriter with CNA's London-based reinsurance affiliate. After his return to Chicago, he held various underwriting and senior account positions until he was appointed director in 1992.

Partner Re:

Chief executive: Herbert Haag. Mr Haag's professional experience included three years with La Genevoise, Swiss Insurance Co; two years with a leading Swiss building material manufacturer as head of insurance department, and 24 years with Swiss Re, including ten years in Hong Kong and Japan. His last positions at Swiss Re (until November 1993) included: executive vice-president, Head of Region 3, which comprised North and South America, Asia, Africa, UK, Spain, Portugal and Greece; member of the executive committee and foundation council of Swiss Insurance Training Centre; chief operating officer of European General Reinsurance Company of Zurich; and chairman of the board and member of various service subsidiaries of Swiss Re.

Chief underwriter: Heinz Vollenweider, 48. Twenty-five years of experience with Swiss Re, including: corporate planner/Swiss Re group, facultative property underwriter Europe, marketing Germany (all lines of business), manager property department/Swiss Re/Zurich, product co-ordinator property/Swiss Re Group, and staff position/Swiss Re Group management.

Tempest Re:

Chief executive: John Hollis. Mr Hollis has 45 years of experience in the insurance industry, having started work as a Lloyd's broker in 1948. He took up a post as a junior underwriter at R.J. Merrett's non-marine box in 1953. From there he moved in 1966 to become deputy underwriter for General Re's London branch. In 1982, when the branch was converted to a subsidiary company, General Reinsurance, Mr Hollis was appointed general manager.

Chief underwriter: David Roe. Mr Roe has 20 years of experience in the London reinsurance market, the past 15 of which have been spent with the UK subsidiary of Liberty Mutual Insurance Company, where he held the position of managing director. Mr Roe was responsible for establishing the company's overall underwriting strategy and for underwriting the non-marine treaty reinsurance portfolio, which included a substantial property catastrophe account.[593]

Robin Spencer-Arscott comments—'the formation of these companies was very exciting and gave Bermuda huge recognition in the worldwide insurance industry. I felt extremely fortunate in being one of the original directors of LaSalle Re and watching from a front row seat the incredible growth of these property/cat companies.'

The work of the pioneers had come to harvest and the world had come to their shores.

London begins to lose market share

Among the fundamental changes affecting the international scene was a marked rise in the level of capitalisation needed to enter the reinsurance market. *National Underwriter* published the comments of leading London insurance industry experts, who showed that, over the previous five to ten years, the cost of acceptance as a credible reinsurer had increased by half or had even doubled. What had been average levels of capitalisation only a year previously, some US $23 million to 31 million, were now barely sufficient to meet minimum requirements, these having risen through levels in the '30s to levels probably closer to the 40 or even the 60 million dollar range. Whereas in the past a company might have begun with minimal staff and as little as five million dollars, the rising

[593] *Lloyd's List*, June 1994, 'The men with millions at their fingertips by David Marchant', pp. 10, 12 & 13

demands for high capitalisation and expensive staff made an impact on markets like London which in former times had been home to many small companies.

Another trend that put pressure on London was the persistence of a soft market in the United States. This made it difficult for London to compete, in so far as London's rates had increased for some classes by as much as 100 per cent. Lloyd's had always been the mainstay for excess of loss and catastrophe. In order to maintain that position it had to attract new capital. Yet Lloyd's had suffered such massive losses itself that it had difficulty attracting capital to the very syndicates that would write excess of loss.

Meanwhile it was clear that Bermuda now presented serious competition to London, because London depended on international business. From being merely a haven for captives Bermuda had matured to become a major player in its own right, home to sophisticated companies with combined capital in excess of US $3 billion and a place in the front rank of global insurance. Indeed, the Reinsurance Association of America reported that in 1991 Bermuda had actually surpassed the UK in respect of business received from the United States, premiums worth US $2.51 billion having been ceded from the US to Bermuda in that year, as compared with US $2.4 billion ceded from the US to London.

The various experts expressed differing views as to whether business lost to Bermuda in the previous year and likely to be lost in the coming year or so would return to London when market conditions had stabilised. Some thought that, with the capacity shortage existing in London and the rating levels attainable, excess of loss was potentially a very profitable class of business and if rates stayed high then capital might well be attracted back to London. Others were in doubt as to whether business that had been lost by London would ever come back, unless London could offer the same services more cheaply. There remained the possibility that Bermuda would actually start to take away from the London market business, indeed potentially the better business, that would then be lost for the foreseeable future.[594]

Greg Steinmetz, of *The Wall Street Journal* also reported on the changing marketplace—

> 'Driving the activity (in Bermuda), in part, is the soaring corporate demand for the type of big-ticket catastrophe insurance sold here. But perhaps the main impetus is the trouble at Lloyd's of London. Before devastating losses pushed the 306-year-old insurance market to the brink, the coverage now being written in Bermuda would have been written at One Lime Street, London. But with Lloyd's hobbled, "Bermuda is replacing a significant part of the London market," says Hugh Rosenbaum of Tillinghast, an actuarial consulting unit of Towers Perrin. The companies favour Bermuda, rather than New York, or Hartford, because of its easy regulations, low taxes and skilled labour force.
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> 'But how much longer Bermuda can eat away at Lloyd's business is open to question. Despite years of horrendous losses, Lloyd's, with US $13 billion in capital, remains a formidable presence in the global insurance market. No one can match Lloyd's in insuring cargo ships and commercial airlines. And Lloyd's is working hard to win back business. "We're not going to play second fiddle to anybody," says Lloyd's Chairman, David Rowland.
>
> 'Moreover, the Bermuda companies are writing some of the same kinds of insurance—the excess liability policies that protect companies against multi-million dollar losses, and the catastrophe reinsurance that allows insurers to lay off, on other insurers, part of their risks—that got Lloyd's into trouble.
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> 'Maurice Greenberg, Chairman of American International Group, terms a shakeout inevitable. "There will be winners and losers in Bermuda, like everywhere," says Mr Greenberg, whose company has recently started two Bermuda ventures. "That will test the market."

[594] *The National Underwriter*, Section II/U.S. Reinsurance report/5 July 1993, 'London Business Shipping Out To Bermuda' by Lisa S. Howard, pp. S14, S18, S19

'But Mr Robert Clements is undaunted. He observes that ACE Ltd is in its eighth year of strong profits. The way ACE writes insurance, he adds, makes it less susceptible to the sorts of claims that devastated Lloyd's. Nor is he worried about competition. Despite the new entrants into the Bermuda market, he believes that the demand won't be satisfied for years. "There still isn't enough insurance capacity," he adds.'[595]

Douglas McLeod of *Business Insurance* added these comments from various sources—

'..."It's upsetting to Lloyd's and the Lloyd's brokers because it's a serious competitive element," Kirk Roeser, President of Gill, Roeser Inc. in New York, said of the Bermuda companies. "This Bermuda group is a force to be reckoned with. It's smart capital."..."The glamour of having Lloyd's as the lead reinsurer on your treaty is gone," said David Forrest, Senior VP with the US branch of Abeille Reassurances in New York.'[596]

In *Bottom Line* for November 1993 Laura Wetherell took note that, despite the way in which the London commentators had so often from their position of dominance disparaged Bermuda in the past, there was no gloating by Bermuda now as the scales began to turn. On the contrary the Bermuda companies and commentators preserved a decent reticence, sensitive not to appear as the 'aggressive predator attacking the struggling London insurance marketplace.'[597]

Where was the captive market?

As Bermuda became increasingly important in the traditional side of insurance, many wondered what had happened to the captives. In an article by Kevin Stevenson entitled 'Captives still captivating' *Kevin Stevenson* provided an update in *The Bermudian*—

'While Bermuda's newest insurers and reinsurers are grabbing the limelight, the bedrock of the Island's insurance industry—the captive insurance movement—is doing just fine. And managers say the captive insurance industry is benefiting from the influx of new companies as the Island's business infrastructure continues to develop. "The broad level of expertise that we have built up over the years clearly has resulted in captive management companies looking very different to ten years ago," says Mr David Ezekiel, President of the Island's largest independent captive management company, International Advisory Services, Ltd. "In the past, people looked at captive managers as nothing more than glorified bookkeepers, who were not looked upon for providing initiatives, planning, and solutions. But we are a long way from that now. Bermuda's captive insurance management business has developed significant underwriting, claims, and consulting expertise, which now really allows most of them to play a vital management role."

'Mr Ezekiel says that in the past, especially for single parent captives, typically the risk manager of the parent company made all the decisions. "Now there is much more of a team effort," he says. Part of this growth in resident expertise was the result of the proliferation of association-type captives between 1984-1987. The association captive relied upon the captive manager much more heavily than did the single parent companies. "I think this really was the catalyst for bringing in a much broader range of expertise," says Mr Ezekiel. "As a result, the successful captive manager no longer takes a passive role. The industry is much more service oriented. There is a more pro-active approach taken than in the past. Bermuda has been able to keep up, and this has been spurred on by what is happening in the non-captive area, which has expanded the domicile to such an extent that we have a real insurance industry, where the captive side is just part of the whole."'

[595] *The Wall Street Journal*, 31 August 1993, 'Alluring Island, New Bermuda Insurers are Draining business from London market but their catastrophe lines run some of the same risks that devastated Lloyd's, The boom on Victoria Square', by Greg Steinmetz

[596] *Business Insurance*, 1 November 1993, Spotlight report, 'Reinsurance Trends, Changes in market benefit reinsurers in U.S., Bermuda, "Flight to quality" tips the scales in the favour of largest brokers and reinsurers', by Douglas McLeod, pp. 3, 4 & 6

[597] *Bottom Line*, November 1993, 'Capital Gains', by Laura Wetherell, pp. 35–41

Stevenson continued—

'Bermuda continued to see a steady flow of captives to the island. However, the numbers would never be as high as they were in the 1970s and 1980s because, as Robin Spencer-Arscott, Chairman and CEO of captive manager Rollins Hudig Hall (Bermuda) Ltd, said, "Let's face it, we've already got most of the Fortune 500 companies here."

Malcolm Butterfield, Registrar of Companies is quoted in the same article as saying—

'It is readily apparent that Bermuda continues to be the leading offshore insurance domicile with a majority of the new captives worldwide choosing Bermuda as their place of incorporation…In 1992, Bermuda continued to attract a number of significantly capitalized insurers writing excess layers of risks. An interesting result was the increase in European countries choosing Bermuda. The future impact from this development on Bermuda insurance industry appears promising.'

The article further continued, 'What has Bermuda-based captive managers more concerned is the increased competition not necessarily between domiciles, but between captive managers in the same domicile. And they say this competition is good for Bermuda as a whole.'

Mr Brian Webb, VP of B.F.&M. Management Ltd commented that—

'Competition within Bermuda is very intense…Our industry is not dissimilar to most of those in the financial services sector. Risk managers are much more cost and services conscious and they are seeking creativity or added value from captive managers. This is driven primarily by costs, People in this environment are taking a much longer and harder look at who's doing what for how much and how they're doing it. The softer the market the more prominent the expense factor.

'Risk Managers are looking first and foremost for very personalized services, high levels of creativity in making suggestions on how they can do business in the industry. They look to us as a resource in the provision of information, programme design, financial statements, and the ability to provide detailed financial statistics and interpret them.

'There are more players coming into this market in terms of more captive management providers, domiciles and more consultants in the US, specializing in alternative markets, not to mention the growth in the number of rent-a-captives in recent years.

'Also, Bermuda maintains a higher profile now, and with that increased exposure comes a higher level of expectation. All you have to do is look at the brokerage function. Not ten years ago it was just one casualty brokerage. Now you have finite reinsurance brokerage, and most recently growth in (the) property sector. There have been massive changes in the level of services required. This increased level of sophistication has many industry leaders confident that Bermuda can remain in the forefront of the captive industry.[598]

Kathryn McIntyre, editor of *Business Insurance* also stated that—

'By 1993, captives were forming in so many other places that we at *Business Insurance* switched the opening graphic of our captive report from Bermuda to a compilation of the captive domiciles around the world. True, Bermuda is still the single largest captive domicile in the world, but it is no longer home to more than half of the world's captives. Other domiciles are scrambling for the business that they have realized is desirable business and good for their economies.'[599]

Threats to the future?

Keeping pace with Bermuda's success came threats from the United States government, which sought to impede future growth of the Bermuda international insurance industry. Kevin Stevenson reported as follows—

[598] *The Bermudian*, October 1993, Focus on Business, 'Captives still captivating', by Kevin Stevenson

[599] Speech by Kathryn McIntyre to members of Bermuda Insurance Institute, 12 January 1995

'These legislative threats include the National Association of Insurance Commissioners' anti-fronting model act, and the proposal to increase the US Federal Excise Tax from one per cent to four per cent on premiums paid to non-US reinsurers, and a piece of proposed Federal legislation to take jurisdiction over the regulation of solvency of certain non-life insurance companies away from individual states.

'The FET (Federal Excise Tax) subsided for this year (1993) when it wasn't included in the Budget Reconciliation Bill. …The NAIC anti-fronting proposal has been ongoing for three years, and just last month it was passed at a meeting of the NAIC's Special Issues E Committee. It will now go before the NAIC's Executive Committee at its December meeting in Hawaii for approval. "What's in play as far as Bermuda is concerned is what is the definition of a captive insurance company," says one knowledgeable New York State-based insurance lobbyist. "And the definition that has been accepted so far has as one condition of being a captive that a company has to be accredited under state insurance accreditation requirements."

'Currently the most popular state in the US for captives is Vermont, which is not an accredited jurisdiction. So neither Vermont nor Bermuda is included under the definition of a captive insurance company for the purpose of applying an exception for reinsurance ceded to captives.

'The anti-fronting legislation would prohibit or regulate the placement of certain reinsurance contracts that were merely passed through a domestic insurer's books without the domestic insurers taking responsibility for underwriting or claims handling. The threat to Bermuda is that for the first time Bermuda-based captives may not be on as level a playing field as the domestic US companies in accredited jurisdictions. Whether these provisions have any actual impact on Bermuda may be dependent upon other provisions in the model act.

'While the anti-fronting model bill is not legislation, the NAIC would endorse it as good legislation for state legislatures to adopt.

'Congressman John Dingell has also for the second consecutive year reintroduced a bill to assert Federal jurisdiction over the Regulation of Solvency of Insurance Companies. The basic idea of the Bill is to set up a Federal regulatory commission which would become responsible for regulating US domestic and alien insurers and reinsurers to make sure that they have sufficient capital and surplus in the US to prudently conduct an insurance business.

'So far the Bill has included an exception so that it is not applicable to either association or wholly-owned captive insurers, whether incorporated domestically or outside the US, if such captives write purely related party risks.

'There is also the wild-card threat out there in the form of President Clinton's Task Force in National Health Care reform headed by his wife, Hillary Rodham Clinton. Among other proposals, the task force is considering folding workers' compensation into the basic health benefits package it wants to make available to everyone under its health reform plan, and imposing a significant payroll tax to pay for the plan.

'Currently, the health bills of people injured on the job are paid by workers' compensation insurance, which employers are required under state law to provide. A significant number of Bermuda captives and other self-insurance schemes provide workers' compensation to their parent companies, and receive the benefit of favourable loss experience and other cost savings through preventive safety programmes, etc.

'The fear in Bermuda is that should the proposal work its way into the final health care reform programme, it could adversely affect a lot of self-insurance schemes located in Bermuda. It has been estimated that insurance companies could lose approximately 40 per cent of their workers' compensation premiums and control over services provided to injured workers if the plan to roll job-related medical benefits into a universal health programme is adopted.'[600]

[600] *The Bermudian*, October 1993, Focus on Business, 'Captives still captivating', by Kevin Stevenson pp. 35, 39, 41–42

The Bermuda Fire and Marine case returns

The Bermuda Fire and Marine Insurance Company collapse came back to haunt Bermuda because of its far-reaching corporate ethics implications and because Bermuda was in the spotlight for its unprecedented growth. Those who wanted Bermuda's credibility to be damaged clung to this collapse as though it were proof that Bermuda's regulatory environment was lax.

The *National Underwriter* ran an article by David Marchant entitled 'Bermuda insolvency may be challenged'—

> 'Bermuda's credibility as an international offshore center will be put to the test following allegations by some US creditors that a number of the island's most influential players may have stripped some US $40 million in assets from a local insurer which collapsed on November 2, leaving liabilities of about US $100 million.
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> 'The insolvency and winding-up of Bermuda Fire and Marine Insurance—which suffered disastrous losses by reinsuring pollution and other high-risks through the London-based H.S. Weaver's Stamp between 1968 and 1983—is being watched closely by the United States insurance industry.
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> 'Creditors of the company include the ITT Hartford Group, Crum & Forster, the Federation of Jewish Philanthropies (a New York-based non-profit insurance organization) and Transit Casualty, one of the largest property-casualty insolvencies in US history, with liabilities of around US $4 billion.
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> 'At the centre of the row is an arrangement on September 5, 1991, whereby Bermuda Fire and Marine broke up into two separate legal entities by selling its profitable domestic life, motor, health and marine business for US $56 million to a new company, confusingly called BF&M Ltd, controlled by the same people.
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> 'Funding for the break up came largely through a complicated stock split which gave Bermuda Fire and Marine 980 shareholders one share in the new company for every two years held in Bermuda Fire and Marine.
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> 'United States creditors claim the real purchase fee was effectively worth only some US$14 million because, only a few days after the transaction, the directors of Bermuda Fire and Marine paid themselves and other shareholders an *in specie* stock dividend totalling some US $40 million.
>
> 'In addition, for two years after the split, BF&M was paid management fees to manage Bermuda Fire and Marine, which went into run-off after the deal. Creditors are also concerned because eight days before the sale, a change was made allowing Bermuda Fire and Marine preferred stockholders to sell their preferred shares back to the company for their issue price of US $5 per share. Before that change in status of preferred shares, preferred stockholders could only change their preferred stock into common shares of Bermuda Fire and Marine, which were soon worthless after the split.
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> 'Creditors say this allowed preferred shareholders to take out at least US $9 million, while they value the dividend that was paid to common shareholders at over US $31 million. Some United States creditors view the whole manoeuvre as a blatant attempt by Bermuda Fire and Marine's directors to keep the assets of the 'good' part of the company out of their hands and have vowed to challenge the deal under Bermuda law.
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> 'One creditor, speaking on condition of anonymity, said: "My interpretation is that they, in effect, stripped out over US $40 million which would otherwise have been available to creditors. It appears that the local people have taken steps to protect themselves at the expense of overseas creditors. It's almost unbelievable what they've done. I don't know how they expect to get away with it."
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> 'What has added spice to the row is that Bermuda Fire and Marine's directors at the time of the split included some of Bermuda's most powerful people. They include former Government Senate leader Charles Collis, who is Chairman of both Bermuda Fire and Marine and BF&M; Donald Lines, who is President and CEO of Bermuda's biggest bank and largest local firm, the Bank of Bermuda; and Fernance Perry, Chairman of the local broadcasting station. Some of the island's leading accountants and

lawyers were also directors, as were three Justices of the Peace, two current members of Parliament and one who was an MP at the time of the split.

'Critics say the case has also highlighted the potential for conflict-of-interest on the small cluster of islands that has a total population of 60,000. Mr Collis, for example, is a partner in the local firm which gave advice on the legality of the break-up. And a partner in the accounting firm which audited and approved the books of Bermuda Fire and Marine at the time of the deal is the brother of Mr Lines, David Lines.

'Bermuda Finance Minister David Saul surprised many observers by publicly approving the deal earlier this month. "The Ministry of Finance believes what they did was correct. It would appear sensible to split their international and local business," he said.

'Commenting on possible adverse effects to Bermuda's reputation, he added: "I think the international community will probably yawn. They will look at it as a little Bermuda company that dabbles in the big wide world and got burnt."

'Creditors believe Bermuda Fire and Marine took fright after the collapse in 1990 of the KWELM group of companies, currently in liquidation with debts of between US $5 billion and US $9 billion, which also wrote business on the Weaver's Stamp. Some in Bermuda's international insurance and reinsurance industry, which has attracted well over US $4 billion in new capital over the past 12 months, believe the row could have serious implications for the country's image abroad and see it as a test of the impartiality of Bermuda's legal system.

'The head of one of Bermuda's largest international insurance firms, who did not want to be named, said "The outcome of this has incalculable ramifications for Bermuda as an offshore financial center. If the island is perceived abroad as not being able to regulate itself properly, then the repercussions for the future of international business here are huge."

'Bermuda Fire and Marine was put into voluntary liquidation on November 2, just over two years after the break-up of the company, after pressure from Transit Casualty liquidators, which claims to be owed some US $23 million. Bermuda Fire and Marine had been having problems getting money from its reinsurers, three of which are currently suing the Bermuda insurers in London in an effort to get out of their obligation on the grounds that they were allegedly misled when agreeing to provide coverage.

'Burleigh Arnold, who is liquidating Transit Casualty, said he had notified Bermuda Fire and Marine in September that he would apply to wind up the company because it had not paid reinsurance claims.

'Joel Glass, counsel for the Federation of Jewish Philanthropies, which claims to be owed more than US $10 million, said: "there are definitely unanswered questions about the split. We have certainly made the company aware of our concerns previously. We will go forward with an in-depth investigation of what was transferred."

'Mr Glass said if his organisation believes the deal to be illegal, it will go after the assets of the profitable break-away company, BF&M, which is Bermuda's biggest local insurer. If creditors cannot legally do this, they said they would sue the directors and officers of Bermuda Fire and Marine at the time of the split.

'Mr Collis said US creditors "do not appreciate or understand what we've done for them." Bermuda Fire and Marine he said, "made provision…for all of the potential future liabilities and considerations', based on a report by Tillinghast. After selling its domestic business to BF&M, Bermuda Fire and Marine had "US $10 million in excess of liabilities, as advised," Mr Collis said.

'Critics of the deal say that Tillinghast underestimated the reserves needed to meet future claims from every year between 1984 and 1990 except for 1988.

'Mr Collis disputed creditor claims that they are owed US $100 million. "They are only potential future claims," he said. "The company is unable to be sued on claims for the future. No suit can be made for these sums. They are not effective debts. That's an important factor."

'However, the long-tail nature of the pollution and other high-risk reinsurance which Bermuda Fire and Marine provided has prompted many analysts to predict that extensive future claims can reasonably be expected to be reported. US creditor Transit Casualty, for example, is owed only US $2.6 million in cash, but claims that Bermuda Fire and Marine has failed to post letters of credit for US $8 million and says there is a further amount of some US $23 million in incurred but not reported claims.

'BF&M has defended the break-up of Bermuda Fire and Marine and claims a "fair market price" was paid for its domestic business. BF&M has also sought to reassure its shareholders, who number over 1000 Bermudians, that "there is no basis for any claim against their company by creditors of Bermuda Fire and Marine."

'The provisional liquidators, Ernst & Young, said it was too early to comment on the solvency of Bermuda Fire and Marine. "Nevertheless, the joint liquidators have been provided with copies of draft financial statement for the year ended December 31, 1992. These show that the company has a positive net worth and may ultimately be able to meet obligations to creditors," Ernst & Young said. "However, the company was experiencing cash-flow problems due to uncertainties regarding the ability or willingness of reinsurers to meet their obligations," Ernst & Young added. "In addition, there were difficulties in relation to determining accurately loss reserve requirements."

'In a further development, the United Kingdom's Department of Trade and Industry is reportedly concerned that Bermuda Fire and Marine, which had a license to operate in London, may have broached asset/liability ratio laws.

'Under UK insurance laws, Bermuda Fire and Marine is obligated to keep sufficient assets in the United Kingdom to meet future claims during the period that its London business is in run-off.'[601]

Corporate Officers and Directors Assurance Ltd. (CODA) acquired by ACE

With a board that comprised as many as 34 members, the management of ACE was somewhat diffused. The company lacked direction. It was financially successful but its capital was ineffectively deployed. The question was whether to remain an excess liability carrier with some Director's & Officer's (D&O) business or whether to diversify. Many on the board would have opted for the status quo, simply because that was as far as their concept of ACE extended, but Walter Scott, Chairman, President and CEO, convinced them that at least some diversification was essential and led the company to acquire CODA in November of 1993. He thought it had a unique product. CODA offered the broadest form that was available in the D&O marketplace. Scott later recalled that traditionalists, among them Bob Clements and Bob Newhouse, thought it was inappropriate for ACE to acquire CODA, precisely because of that very same broad form and the types of risks it underwrote. Indeed, when Scott first suggested acquiring CODA the board turned him down. After a second presentation, however, the idea was approved and CODA subsequently turned out to be one of ACE's most profitable ventures.[602]

Bermuda International Conciliation and Arbitration Act 1993

As the new companies came to the island so the Bermuda business and government sectors quickly realised that they were onto something huge in the international arena. The Bermuda International Conciliation and Arbitration Act of 1993 was designed to encompass the provisions of UNCITRAL, the Model Law of the United Nations Commission on International Trade Law. An article in *Bottom Line* set forth the reasoning for this measure—

[601] *National Underwriter*, 15 November 1993, 'Bermuda Insolvency May Be Challenged', by David Marchant, pp. 1, 6 & 7

[602] Interview with Walter Scott, 19 November 2002

'Not only does this provide a much easier framework within which to conduct arbitrations, but it also limits the involvement of the courts, leaving the arbitrator(s) and the participants in the arbitration with a clear understanding of what is expected of them'...In view of Bermuda's 'unique situation with its rapidly emerging insurance and reinsurance business, 1993 was an opportune time to adopt an internationally recognised set of rules which would enable major international commercial disputes to be resolved by arbitration. The UNCITRAL Model Law is internationally recognized and also Bermuda is a party to the New York Convention, which accords mutual recognition to other Convention countries in respect of the enforcement of foreign arbitrational awards. As such it would seem that any remaining hurdle to a primary position in international arbitration has been overcome...

The Act also made it easier for parties to arbitrate in Bermuda by not requiring work permits for arbitrators or parties to arbitrations coming to Bermuda. At the same time, there is no requirement that any arbitrator of a dispute should be a local arbitrator, and the Government of Bermuda, through its various ministries, has recognised the importance of international commercial arbitration to Bermuda and is willing to assist in the smooth running of arbitrations.'[603]

1993 ends on a high

It was the third worst year on record for catastrophes, among them the World Trade Center bombing, the March storms, the Midwest floods, the California fires, the runoff losses from Hurricanes Andrew (US $16.5 billion) and Iniki, several large environmental liabilities, among them asbestos, lead paint, electromagnetic fields and pollution, and the Bermuda Fire and Marine débâcle, not to speak of rising medical claims with, for example, an increase in the number of unsatisfactory breast implants. Despite all these disasters the Bermuda international insurance industry ended 1993 on a high.

David Marchant reported on its success as follows in *Lloyd's List*—

'Bermuda, which did not have a single property catastrophe reinsurer until Mid Ocean opened in November 1992, now receives approximately 25% of the world's premiums, according to some of the island's businessmen. That staggering kick-start has led to Bermuda being "absolutely vital to the world's reinsurance market," said James Bryce, Senior Vice-President underwriting with International Property Catastrophe Reinsurance Company Ltd. ...The parameters of the world insurance scene were being redrawn by Bermuda cat companies, he (Bryce) said. IPC chief executive John Dowling added: "Bermuda is here to stay. The whole framework of reinsurance changed fundamentally with the major losses beginning in 1987 with the storms in the UK, then Piper Alpha, (Hurricane) Hugo, the Phillips Petroleum incident, (Hurricane) Iniki, etc. The scale of catastrophes was so huge that the outflow of capital in the form of claims in the reinsurance marketplace was so great that the whole fabric of the market was shaken."

'..."Even with prices moving dramatically upwards, the aggregate capacity, even including new companies such as ours, really did not leave the market with any more capacity than it had before," said Mr Dowling. "My guess is that there's still an overall shortfall in capacity today. People say there's been US $4billion in new capital and think that's filled the hole that was there. But that hole was huge. And it got even deeper after the Northridge earthquake in LA and other losses this year."'[604]

Laura Wetherell of *Bottom Line* continued with respect to the success of Bermuda—

'In the aftermath of a global revolution in the insurance market, there is no dispute that Bermuda has emerged as a major reinsurance centre. Now, Bermuda must prove to its sceptics that its regulations are sufficiently Herculean to govern the complex new reinsurers. And Bermuda must also develop its infrastructure to cope with these ambitious companies with expansionist aims.

[603] *Bottom Line*, April 1998, 'Offshore Arbitration' by Warren Cabral, p. 30

[604] *Lloyd's List* magazine focus, June 1994, 'Bermuda Treasure Island Insurers unearth capacity cache, A haven born from world turmoil', by David Marchant p. 7 & 8

'The shift in worldwide reinsurance market is linked with massive withdrawal and reduction of capacity over the last four years as a result of vast underwriting losses. An estimated 30-40 per cent of the world's reinsurance capacity has been withdrawn and an estimated US $30-40 billion of global reinsurance capacity has vanished.

'Bermuda's fast market growth is considered to be astounding for a small economy. ...more than US $4.5 billion of new capital is entering Bermuda, a substantial amount when measured against an estimated US $40 billion of total capacity in the global reinsurance marketplace.

'Investment bankers Lehman Brothers stated in its August report that the United States property catastrophe market alone needs another US $25 billion capacity to satisfy its demands. Although Bermuda is still a relatively small market compared with New York and London, its impact in terms of publicity and perception of jurisdiction has been significant. It is now heralded as a true international insurance marketplace.'[605]

Could Bermuda handle the new companies?

Bermuda was definitely on the rise again, much to the surprise of many of its business forerunners. For the first time, they saw just how significant it was to be in the global insurance marketplace. Many CEOs of the industry's largest insurers and brokers questioned whether Bermuda's infrastructure would be able to sustain their growth. These concerns also were reported by *Bottom Line*—

'Local industry observers, like Arthur Deters, CEO and President of the International Risk Management Group, stress that the significant reduction in capacity at Lloyd's of London—still undeniably a major market providing worldwide catastrophe reinsurance—is not a key reason for the growth of the Bermuda market. "It is more valuable in terms of its publicity," said Deters. "If the rest of the worldwide reinsurance market were going in the same direction as it is now and Lloyd's was the force it was 15 years ago, the same thing would be happening regardless. The Lloyd's factor is significant as it forced the timing of what has happened. Lloyd's has not been the starting gun, but the accelerant to what would have otherwise happened."

At the Seventh International Reinsurance Congress, the first congress since the injection of some US $4 billion in capacity to Bermuda, there was a lot of talk about whether Bermuda's infrastructure could handle this unprecedented growth. Laura Wetherell continued—

'(Michael) Butt says the real fear about Bermuda is its future ability to support the ambitions of companies like Mid Ocean. Robert Golden, President and CEO of Heddington Insurance, Texaco's captive, describes the influx of reinsurers as "thrilling", but cautions that the new companies must be monitored and the industry protected from becoming "overheated". "Bermuda is not that big," says Golden. "It can't take that many new companies with the full infrastructure needed to run them. These companies need outsiders to provide services."

'The concern about the infrastructure, though, is rebutted by most senior executives in Bermuda. Roger Gillett, Senior VP at Johnson & Higgins (Bermuda), is also President of the Bermuda Insurance Managers' Association. "I can only see demands on infrastructure as very positive for Bermuda", he says. "Most reinsurers are small in terms of employees. In the past, whatever Bermuda has recognised as a deficiency has been wisely supplemented by local ability. Why would anyone complain that a new market has been created? Frankly, it was there to do. The traditional markets could have stepped back into the catastrophe markets, but they didn't. They have stepped away. These companies have come in to take up the slack and make substantial profits because at the moment demand outstrips supply."

'Reinsurers are drawn by Bermuda's beneficial time zones as Bermuda is located between the main insurance markets in the US and Europe. Another lure is Bermuda's flexible regulatory structure. Marsh & McLennan Management Services President Andrew Carr says an advantage of Bermuda's regulatory

[605] *Bottom Line*, International Business, November 1993, 'Capital Gains', by Laura Wetherell, pp 36–41

structure is that it allows insurers the freedom to design their own policy form. "Insurers can establish their own wording as opposed to being subject to a regulatory process in other environments, which mandates and dictates certain forms of policy," he says. "It is easier to assess risks you are insuring and to determine how you will have to respond when a claim arises…"

'Certain new players have made public their ambitions to grow into industry giants. If one major impetus for domiciling in Bermuda is easy regulations, does that make Bermuda more vulnerable to failing companies? "The reason why the regulations are flexible is largely because a huge proportion of the companies that are attracted here are simple captive insurers," says Gillett. "The new companies are not simple, but are also attracted to Bermuda because of the simplicity of the regulations. But because they are simple does not mean the regulations are inadequate. There is no place in the world where the strictest regulations have prevented company collapse. Our early warning process works."

'Finance Minister David Saul says: "The Registrar of Companies worries that if one of the companies gets into trouble it will ruin the reputation of Bermuda. But, over the last 16 years, the Insurance Advisory Committee has policed the industry with all the care and concern of a new mother."

'Registrar of Companies Malcolm Butterfield says, "Annual statutory returns, completed by insurance and reinsurance companies, contain mechanisms that will indicate any warning signs. We recognise the vigilance that we will have to use. Insurance regulations have become a high priority topic worldwide. The Bermuda market has recovered from a number of insurance failures, market trends swinging from soft to hard and also US federal insurance initiatives. This has triggered great attention to insurance regulations and makes us more cognizant and effective at carrying out the role of insurance regulation."

'The industry debated whether local regulations should be changed to encompass the variety of different insurers beginning on the island. Bermuda was no longer just a captive market. It was becoming a full-fledged insurance marketplace and many felt the regulations should be altered to take this change into consideration.

'…(Bob Golden said), "Writing regulations to cover captives is one thing and writing regulations for property catastrophe is again totally different from regulation for liability insurance. It is a very significant issue. These new companies have proper partners, but they do have the risk that they may be over-leveraged. I think regulations are always worth looking at because we want to preserve Bermuda's good name. We do not want insolvencies and companies running amok."

'…Analysts and the international media are starting to question whether the new companies will make a long-term commitment to Bermuda. However, the new reinsurers claim to employ tried and tested professionals, not novices experimenting in a new market. "Anything that appears to be succeeding rapidly always has its critics," says (Michael) Butt (CEO of Mid Ocean). "The captives in the Seventies went into third party business, wrote much in a hurry, saw that it was very bad business and then headed for the hills at speed. The new reinsurers are forming in a different, sounder, form and (are) backed by sponsors who are long-term players. There were too many minnows fighting in a large pond and (they) ended up eating each other (in the 1970s and 1980s). Capital formation in the nineties is of a different structure, consisting of larger single units, most with capital in excess of US $300 million, with one group of underwriters and one board who will manage that money more professionally…The reinsurance markets today are unquestionably influenced by quality. Companies, which are large and well capitalised, (and) are gaining market share. The definition of quality in catastrophe reinsurance, according to certain analysts, means a minimum of US $300-US $500 million in capital. We are selling security in the ultimate sense of the word. There is nobody behind us, our clients know that when that disaster happens we will actually be here so quality is vitally important to the perception of the client."

'(Finance Minister David) Saul is confident that none of the new influx are fly-by-night operations. "All businesses are here to make a profit, but none goes into insurance these days for a short-term profit and leaves because it harms professional reputations."'[606]

[606] *Bottom Line*, International Business, November 1993, 'Capital Gains', by Laura Wetherell, pp 36–41

Greg Steinmetz wrote a column for *The Wall Street Journal* in which he said—

'The new reinsurers, as well the excess liability companies, might have been set up anywhere. But Mr Clements and the others like this island, situated 600 miles east of North Carolina, largely because of its easy regulation. In the US, insurers have to seek licenses in every state where they operate and get approval for their policies. This diffuse regulatory system, aimed at protecting policyholders, creates what insurance people decry as the "50-state problem." Getting through the state bureaucracies takes a start-up company years. But in Bermuda, a company can get going quickly because officials mainly care about its financial health and don't second-guess business matters. "If we had to go around to all 50 states, we probably wouldn't be in business yet," Mr Clements says. The Tax Lure for reinsurers, Bermuda's main appeal, is absence of income taxes. Where invested premiums can accumulate tax-free, an insurer can build up a financial cushion against large claims, and thus grow more quickly. In fact generous returns are also critical for investors in catastrophe reinsurers, which are ultimately at the mercy of the weather. "You need to show strong returns because your investors are really on the hook," Mr Clements says.

'Can the Bermuda companies succeed where Lloyd's failed, when the liability companies and reinsurers alike are vulnerable to the same devastating forces? To a large degree, Lloyd's was a victim not only of the surprising awards by US juries but also of its own success. During the 1980s economic boom, everyone from professional athletics to unsophisticated grandmothers poured money into the market in search of easy money and prestige. Lloyd's ended up with more capital than it could effectively deploy, and as a result insurance premiums fell, underwriting became sloppy, and Lloyd's syndicates didn't charge enough to cover their risks.'[607]

Benefits for Bermuda

On 1 November 1993 *Business Insurance* ran an opinion column reassuring all those who were concerned about the new capital in Bermuda, that there was no reason for concern—

'The huge amounts of capital that are flowing into Bermuda are frightening some in the reinsurance market, who fear that the new capital may stimulate a new round of rate competition at a time when reinsurers are finally charging adequate prices, at least for property risks.

'Those fears are unwarranted.

'The most important component of the insurance industry, apart from management talent, is capital. Without it, no insurance or reinsurance can be written. Even a slight shortage of capital can lead to an imbalanced marketplace, which penalizes buyers and, in the long run, hurts the sellers, too.

'While the US $4 billion in new capital that the new Bermuda property catastrophe reinsures hope to raise likely will mean an end to price hikes for property cat coverage, we believe the management talent that the facilities have attracted will use that capital wisely and not undercut adequate rates.

'Back in the late 1970s and early 1980s, a number of Bermuda captives made an aggressive push into the commercial insurance and reinsurance markets, only to land in runoff or liquidation a few years later. But one must remember that those insurers truly represented "innocent capacity." They willingly undercut rates in an attempt to garner premium volume, and, by doing so, needlessly risked their capital.

'We have a hard time believing the established, well managed insurance industry players investing in the Bermuda facilities- well-known companies like General Re, Swiss Re, Aon, Marsh & McLennan, CNA, AIG and Johnson & Higgins, to name only some—will commit the same dumb mistakes.

'Others are worried that the Bermuda facilities will branch into other lines of business once the supply of property cat cover matches the demand. So be it. Big chunks of reinsurance and retrocessional capac-

[607] *The Wall Street Journal*, 31 August 1993, 'Alluring Island, New Bermuda Insurers are Draining business from London market but their catastrophe lines run some of the same risks that devastated Lloyd's, The boom on Victoria Square,' by Greg Steinmetz

ity will soon be needed if established insurers and reinsurers—including many of those that are now bad-mouthing the Bermuda facilities—don't begin to increase liability rates on a rational basis.

'The liability insurance market moves closer to a 1985-style capacity crunch each day that the price war for liability risks continues. When that occurs, insurance buyers—and primary insurers themselves —will be happy to know that there is additional capital in Bermuda ready to support liability programs.

'While the insurance industry is becoming more dynamic and creative, it still is stodgy compared with other financial services sectors. The Bermuda facilities represent a new exciting development in property/casualty insurance and reinsurance. If these reinsurers act responsibly, and there's little reason to think they won't, they can only benefit buyers of commercial insurance.'[608]

Just as Bermuda was on the cusp of major growth, two of its major players were lost to the international insurance industry. Verbena Daniels, 'Bermuda's First Lady of Business', died on 30 July 1993. Daniels was described as 'special', someone of whom Bermuda could be proud, for she lived her motto, 'To thine own self be true'. Then in November came news of the passing of the man who helped to put Bermuda on the map, Fred Reiss. Some say that, without Reiss, Bermuda would not have had the infrastructure in place to accommodate the new companies seeking her stable and friendly jurisdiction.

Bermuda faced many and varied social challenges in 1993. As people grew disenchanted with the way the island was being run, the PLP once more gained on the UBP. The United States announced that it would be returning all leased lands and closing down its bases within two years. The Canadian Forces Base was also to close. Premier Swan declared that he thought it time for Bermuda to seek Independence from Britain

Despite the social and economical challenges that faced Bermuda, 1993 was a watershed year for its international insurance industry, a year that changed the perception of how to start an insurance company and that signalled a new way of raising capital. The Appleby Spurling & Kempe *Guide to the Bermuda Insurance Market 2000* reported on the changes as follows—

'Perhaps the most enduring legacy of Hurricane Andrew and other catastrophic events in the early 1990s will be the movement by insurers to securitise insurance risks and thereby tap into the capital markets as a means of raising capital and capacity. The entire capacity of the insurance and reinsurance industries in the United States to pay a catastrophe claim is approximately US $275 billion. A single hurricane strike on a metropolitan area like Miami could result in claims in excess of US $50 billion. By contrast, the money available worldwide on the capital markets is approximately US $19 trillion, with an average daily standard deviation of US $133 billion. Hurricane Andrew and other catastrophes with large dollar insurance losses highlighted the need for more capacity and precipitated the development and marketing of securitised products as a means of accessing the capital market's practically limitless resources.'[609]

[608] *Business Insurance*, 1 November 1993, Opinions, 'Benefits from Bermuda', p. 8

[609] Appleby Spurling & Kempe, *Guide to the Bermuda Insurance Market 2000*, 'Catastrophe Bonds and other Securitised Insurance Products', pp. 3-13 & 3-14