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Article abstract

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The State of Canadian General Insurance in 1985

by

Christopher J. Robey[1]

M. Christophe J. Robey présente ici une étude des résultats de l'assurance au Canada en 1984 et, sous certains aspects, en 1985. Il montre que, dans l'ensemble, l'exercice a été plus mauvais que le précédent, car si les tarifs ont été augmentés, l'effet n'a pu se produire immédiatement. Ce n'est que petit à petit, au cours des mois suivants, qu'il se fait sentir. Dans une deuxième partie, l'auteur apporte des précisions intéressantes sur les principaux événements de l'année 1985 et sur certaines dispositions prises ou étudiées par les gouvernements intéressés.

As was suggested by the fourth quarter 1983 results, 1984 reversed the improving trend in the Canadian property and casualty insurance industry which had followed the disastrous year of 1981. The dollar loss in 1984 was the largest ever for the industry, at $961.6 million, although the loss ratio was more than 2.5 points better than that of 1981.

The results of private property and casualty companies during the last five years have been as follows[2] :

YEAR	NET PREMIUMS WRITTEN	NET PREMIUMS EARNED	LOSS RATIO	UNDERWRITING RESULT	INVESTMENT INCOME
1980	5,577	5,356	76.26%	– 591.0	810.8
1981	6,420	6,043	80.84%	– 942.4	1,066.4
1982	7,241	6,916	74.43%	– 521.7	1,120.3

[1] Mr. Robey is Vice President of le Blanc Eldridge Parizeau, Inc., member of the Sodarcan group.

[2] All statistics are taken from the annual statistical issues of Canadian Insurance magazine, unless otherwise stated.

1983	7,531	7,416	71.21%	– 377.1	1,294.9
1984	7,874	7,757	78.12%	– 961.6	1,401.6

All figures in millions of dollars.

As can be seen, investment income remained sufficient to cover the underwriting losses, however the net profit to the industry dropped from $917.7 million to $440 million, again the poorest result since 1981.

Provincial government insurers produced almost the same loss ratio in 1984 as in 1983, with the underwriting loss increasing slightly as net premiums earned increased by 4.71%. Results of provincial government insurers since 1980 have been as follows :

YEAR	NET PREMIUMS WRITTEN	NET PREMIUMS EARNED	LOSS RATIO	UNDERWRITING RESULT	INVESTMENT INCOME
1980	818	757	104.77%	– 192.6	103.4
1981	1,060	976	95.78%	– 134.3	154.5
1982	1,189	1,128	96.37%	– 151.0	173.6
1983	1,234	1,200	93.55%	– 131.5	166.2
1984	1,284	1,257	93.23%	– 135.3	203.7

All figures in millions of dollars.

Results of private and government insurers combined have been as follows :

YEAR	NET PREMIUMS WRITTEN	NET PREMIUMS EARNED	LOSS RATIO	UNDERWRITING RESULT	INVESTMENT INCOME
1980	6,395	6,113	79.79%	– 783.7	914.2
1981	7,481	7,019	82.92%	– 1,076.8	1,221.0
1982	8,431	8,045	77.51%	– 672.8	1,293.9
1983	8,766	8,616	74.32%	– 508.7	1,461.2
1984	9,159	9,014	80.23%	– 1,096.9	1,605.4

All figures in millions of dollars.

A total of 119 companies or groups writing a general property and casualty portfolio had direct written premiums in 1985 of $5 million or more and, of those 119, only 24 had a combined ratio below 100%. The best combined ratio was that of Pool Insurance at 41.87%, while the greatest dollar profit was that of the Groupe Commerce at $10,057,000 ; second highest dollar profit was that of the Belair, a subsidiary of the Groupe Commerce, at $4,451,000.

At the other end of the scale, the worst combined ratio was that of Arkwright Boston at 206.65%, followed by Protection Mutual at 184.69%, while the largest dollar loss in the group was that of the Royal at $93,231,000 (combined ratio 123.47%), followed by General Accident at $51,235,000 (combined ratio 122.04%).

The following list gives the results obtained in 1984 by a selected group of insurers, showing their ranking in brackets, based on direct premiums written and net premiums written (including reinsurance assumed) :

COMPANY	DIRECT PREMIUMS WRITTEN		NET PREMIUMS WRITTEN		UNDER-WRITING RESULT	COMBINED INDEX (%)	
						1984	1983
Co-operators	459,364	(1)	440,740	(1)	-25,754	105.86	101.67
Royal	437,638	(2)	403,016	(2)	-93,231	123.47	110.50
Phoenix Continental	298,446	(3)	215,313	(10)	-29,118	113.79	—
Lloyd's	276,825	(4)	360,985	(3)	-11,916	103.13	91.27
Economical	273,835	(5)	254,006	(4)	-37,118	115.09	103.66
Wawanesa	246,294	(9)	242,372	(7)	-10,493	104.72	104.24
Prudential Assurance	222,922	(11)	205,233	(11)	-10,893	105.29	99.49
Laurentian General	189,927	(13)	182,243	(14)	-11,357	106.13	103.66
Wellington	186,265	(14)	166,306	(15)	-32,193	119.22	108.09
Simcoe Erie	160,122	(17)	50,962	(41)	- 4,239	109.92	112.09
Dominion of Canada	148,154	(18)	143,082	(17)	- 6,342	104.45	98.97
Groupe Commerce	139,643	(19)	128,958	(18)	10,057	92.44	82.15
Pilot	134,968	(20)	98,286	(22)	826	99.14	97.23
Canadian General	128,749	(22)	110,079	(21)	-16,890	115.02	108.90
American Home	126,968	(23)	16,039	(68)	1,034	92.43	103.23
Canadian Indemnity	113,019	(26)	79,025	(25)	-15,403	119.60	113.06
Commonwealth	112,595	(27)	58,549	(39)	- 2,219	104.34	105.79
Gerling Global	102,776	(28)	61,079	(37)	- 350	100.15	97.95
Canadian Home	96,050	(29)	79,643	(24)	- 1,589	101.99	97.56
Groupe Desjardins	92,048	(30)	76,315	(27)	118	99.97	99.50
Scottish & York	73,207	(35)	10,288	(84)	- 6,559	152.07	119.57
Guarantee of N.A.	73,120	(36)	62,772	(35)	2,961	93.83	89.58
I.I.M.	71,208	(37)	68,097	(29)	- 6,418	109.66	95.86
Northumberland	60,549	(44)	43,099	(44)	- 2,517	105.57	113.66
Federation	56,610	(46)	47,477	(43)	- 1,490	103.49	89.99
Provinces-Unies	52,430	(48)	37,243	(49)	- 1,400	103.76	103.93
Crum & Forster	45,177	(49)	33,063	(51)	- 9,058	130.63	102.41
Anglo-Gibraltar	37,852	(55)	13,524	(72)	- 1,555	110.99	114.54
Belair	32,161	(58)	31,710	(53)	4,451	86.26	84.22
La Capitale	32,097	(59)	31,004	(54)	1,854	93.50	85.18
Symons General	30,054	(61)	14,186	(70)	- 683	104.90	97.58
Union Canadienne	29,601	(63)	29,690	(55)	- 1,113	103.69	109.92
Sovereign General	28,916	(64)	25,897	(59)	- 4,929	119.45	108.38
Saskatchewan Mutual	25,588	(68)	18,196	(63)	666	96.23	95.84
Markel	20,822	(74)	16,166	(67)	- 6,618	139.83	111.30
Société Nationale	20,183	(76)	14,090	(71)	- 528	103.45	98.34
Les Cooperants	17,152	(81)	9,470	(90)	- 1,869	124.62	110.64

Equitable General	16,984	(83)	16.270	(66)		924	94.67	90.51
Canada West	15,789	(86)	9,713	(87)	–	494	105.11	99.80
La St. Maurice	15,690	(87)	9,338	(92)		205	97.94	94.99
Nova Scotia General	14,735	(90)	10,178	(85)	–	847	108.45	100.75
Albion	13,024	(94)	6,669	(102)	–	937	115.89	105.84
Grain Insurance	10,676	(99)	4,730	(106)		33	99.30	98.31
L'Industrielle	9,878	(101)	9,535	(89)		539	94.64	90.37
Northern Frontier	8,947	(106)	2,887	(117)	–	292	111.94	117.89
Unique	8,682	(107)	5,538	(104)		206	96.04	101.16
North Waterloo Farmers	8,574	(108)	7,615	(96)	–	170	102.16	95.18
Concorde	8,370	(109)	1,002	(137)		7	99.21	129.39
Peace Hills	5,438	(118)	2,538	(121)	–	182	107.44	—

All figures in thousands of dollars.

If the one hundred and nineteen companies with direct premiums of $5 million or more are divided into four groups, on the basis of their direct premiums, the top thirty had premiums of at least $92 million and four of them had combined ratios below 100%. The lowest combined ratio of the top thirty companies was 92.43% for the American Home, however this company had net premiums of only $16 million, compared to direct premium of almost $127 million ; the Groupe Commerce had the next lowest at 92.44%. The highest was 123.47% for the Royal. The average of the combined ratios for the group was 108.57% in 1984 compared to 102.51% for the same companies in 1983 ; it should be noted that this is the average of the combined ratios, i.e. the total combined ratios for the thirty companies divided by thirty, not the ratio for all the companies combined.

The second group of thirty companies had direct premiums written between $84 million and $32 million and six of them had combined ratios below 100%. The lowest combined ratio was that of the Belair at 86.26% and the highest Protection Mutual at 184.69%. After Protection Mutual came Scottish & York with 152.07%. The average of the combined ratios for this group was 113.66%, dropping to 111.21% if Protection Mutual is excluded ; in 1983 it was 104.85%.

The third group of thirty companies had direct premiums between $31 million and $14.5 million, the best combined ratio being that of Commerce & Industry at 72.13%. It should be noted, however, that Commerce & Industry had net premiums of only $714,000, compared to direct premiums of more than $25 million. The next best combined ratio in the group was that of Federated Mutual at 88.07% and five others had combined ratios below 100%. The worst combined ratio was that of Arkwright Boston at 206.56%, followed by Insurance Corporation of Ireland at 144.08%. The average of the combined ratios for the group was 112.33%, dropping to 108.96% if Arkwright Boston is not included ; in 1983 it was 97.61%.

The last group, of twenty-nine companies, had direct premiums of less than $14.5 million and seven of them produced combined ratios below 100%. The lowest combined ratio was that of Pool Insurance at 41.87%, the next best being John Deere at 79.18%. The highest combined ratio came from Coronation with 168.70%. The average of the combined ratios for this group was 113.46% compared to 103.77% in 1983.

Of the one hundred and nineteen companies altogether, only twenty-five improved their combined ratio in 1984 over 1983, four in the top group of thirty, seven in the next group, six in the third group and eight in the last group.

Perennial profit makers Pilot and Grain Insurance & Guarantee were profitable yet again in 1984, although the Pilot moved up to a combined ratio of 99.14% and Grain Insurance & Guarantee to 99.30%, suggesting that their profitable run is in danger in 1985. The other most successful companies in recent years, which again showed a profit in 1984, have been Guarantee Company of North America, profitable since 1976 and American Home, with only one year of loss (1983) since 1970.

Special note should be made of John Deere Insurance Company, which has been profitable in every year since its founding in 1980.

A group of Quebec based insurance companies, all writing only or primarily in that province, have been profitable since 1982, showing the extent to which the results in that province have run ahead of the rest of the country. They are Groupe Commerce, Belair, Capitale, Equitable General and L'Industrielle ; also concentrating their business in the same province and profitable in the last two years are the Groupe Desjardins and St. Maurice.

Canadian owned companies, which saw their market share drop from 36.36% in 1982 to 33.35% in 1983, climbed back to 35.36% in 1984, their loss ratio increasing from 72.01% to 78.36%. British companies held virtually their same market share, dropping only from 24.16% to 23.80%, while the loss ratio increased from 66.01% to 77.56%. Foreign companies lost market share to the Canadian group, dropping from 42.49% to 40.84%, while their loss ratio increased less than for the other two groups, from 73.59% to 78.25%.

The primary reason for the increase in the market share of Canadian companies was the sale to Canadian interests of the Canadian operations of Firemans' Fund, re-named Wellington Insurance Company, which had 1.59% of the market. A further increase is possible in 1985, since at least three foreign-owned companies are up for sale and may be purchased by Canadian interests – Pilot (0.94% of the market), the Canadian branch of the Employers of Wausau (0.39%) and the Canadian branch of the Insurance Corporation of Ireland (0.13%).

While reinsurers' results also deteriorated in 1984, compared to 1983, the deterioration in their loss ratio was less than half that of the private property casualty industry, 3.26 points compared to 6.91 points, and the underwriting loss increased by only 18.54% compared to 155% for private insurers.

Results for the last 5 years for reinsurers have been as follows (licensed reinsurers only and excluding reinsurance assumed by companies also writing insurance)[3] :

YEAR	NET PREMIUMS WRITTEN	NET PREMIUMS EARNED	LOSS RATIO	UNDERWRITING RESULT
1980	424.3	392.9	76.63%	– 53.9
1981	516.6	479.3	83.79%	– 108.0
1982	561.8	550.1	79.59%	– 73.2
1983	560.9	563.1	76.32%	– 70.2
1984	569.6	570.6	79.58%	– 83.2

All figures in millions of dollars.

(3) Statistics for this table are taken from Canadian Underwriter magazine.

As can be seen from the following table, reinsurer's combined ratios ranged from a high of 146.50% for MGFA, albeit on a small volume, to a low of 93.37% for S.M.R.Q., the specialist farm mutual reinsurer in Quebec.

COMPANY	REINSU-RANCE ASSUMED		NET PREMIUMS WRITTEN		UNDER-WRITING RESULT	COMBINED INDEX (%) 1984	1983
Canadian Re	115,286	(1)	60,674	(2)	−13,459	121.29	133.96
Munich	88,977	(2)	80,931	(1)	− 2,163	102.78	103.85
SCOR of Canada	54,190	(3)	26,561	(8)	− 5,233	122.25	107.11
R.M.C.C.	53,881	(4)	23,806	(9)	− 3,914	114.14	117.75
Mercantile & Gen	45,470	(5)	39,781	(4)	− 9,125	123.50	111.66
Universal Re	44,901	(6)	44,678	(3)	− 7,099	113.54	105.29
Gerling Global Re	39,885	(7)	29,735	(7)	353	99.15	97.99
General Re	34,957	(8)	34,957	(5)	− 5,384	115.89	147.96
American Re	33,386	(9)	33,386	(6)	− 7,672	123.82	108.95
S.M.R.Q.	26,452	(10)	19,836	(12)	1,320	93.37	92.02
Prudential Re	25,630	(11)	20,936	(11)	− 3,849	118.10	123.44
Transatlantic Re	20,392	(12)	5,809	(24)	− 1,963	135.25	189.54
Skandia	20,295	(13)	18,816	(13)	− 5,986	133.00	114.32
Employers Re	19,120	(14)	21,505	(10)	− 607	103.04	117.28
Farm Mutual Re	14,729	(15)	9,834	(16)	− 199	101.98	89.95
Victory	14,600	(16)	14,867	(14)	− 1,692	111.12	114.02
Sphere Re	14,229	(17)	10,235	(15)	− 1,226	112.57	107.37
Nerco	11,373	(18)	7,832	(21)	− 330	104.88	122.86
Nationwide	11,246	(19)	8,825	(17)	− 2	100.02	102.85
Allstate	10,250	(20)	7,892	(20)	− 4,102	142.86	109.07
Hannover Ruck	8,560	(21)	8,560	(18)	− 685	108.68	149.10
Frankona Ruck	8,092	(22)	8,092	(19)	268	96.12	95.44
S.A.F.R.	7,693	(23)	7,693	(22)	− 320	104.40	107.49
Storebrand	5,918	(24)	5,842	(23)	− 855	114.72	99.29
Great Lakes	5,690	(25)	5,624	(25)	− 956	117.23	103.78
Ancienne Mutuelle	5,655	(26)	3,861	(28)	− 454	113.06	127.22
Kemper Re	4,646	(27)	4,369	(27)	− 781	119.75	143.00
Transcontinentale	4,593	(28)	4,593	(26)	− 428	110.96	92.60
Philadelphia Re	4,195	(29)	1,819	(31)	− 832	142.11	60.15
Gen. Security of N.Y.	3,034	(30)	3,034	(29)	− 557	121.49	66.34
Reins. Corp. of N.Y.	2,933	(31)	2,370	(30)	− 245	110.29	119.29
MONY Re	2,878	(32)	1,603	(32)	− 81	105.28	137.56
M.G.F.A.	2,521	(33)	1,349	(33)	− 604	146.50	—

All figures in thousands of dollars.

In a year when reinsurers' loss ratio as a whole deteriorated by 3.26 points, almost half the reinsurers nonetheless succeeded in showing an improved combined ratio over 1983, although only three had a combined ratio below 100%, compared to eight in 1983. For S.M.R.Q. and Frankona Ruck, it was the second consecutive year of profit, while Gerling Global Re has shown a profit in every year since 1979.

Twenty-one of the thirty-three professional reinsurers have operating offices in Canada, while the other twelve operate entirely from their home base, with only a chief agent in Canada ; it should be noted however that the degree of underwriting authority for treaty business given to the Canadian offices of those operating in Canada varies substantially from one reinsurer to another. It is interesting to note that the twenty-one reinsurers with operations in Canada, which combined write nearly 90% of the premium of the thirty-three reinsurers, reduced their assumed reinsurance by 8.05% in 1984, while improving their loss ratio from 78.58% to 78.25%. On the other hand, the other twelve reinsurers increased their writings by 19.36%, while their loss ratio increased from 76.43% to 81.47%.

Of course, with reinsurers, it is difficult to draw definite conclusions from a change in premiums written or loss ratio, since a change in the balance of the portfolio between proportional and non-proportional business can result in changes in these figures, which do not necessarily reflect a corresponding change in performance.

A look at the results by line show that all classes shared in the dismal record of 1984, with only liability and hail showing a better loss ratio than in 1983, although the liability loss ratio remained over 100%.

The reduction in the volume of automobile premium in 1984 compared to 1983 is because not all provincial government insurers have been included in 1984 ; it does not represent an actual drop in volume.

The results for the last five years by line of business have been as follows :

CLASS	YEAR	NET PREMIUMS WRITTEN	NET PREMIUMS EARNED	LOSS RATIO (%)
Auto (Liability)	1980	1,379,844	1,339,890	74.65
	1981	1,530,902	1,454,862	84.14
	1982	1,767,839	1,679,028	80.29

	1983	1,808,722	1,798,873	84.79
	1984	1,794,655	1,801,197	99.67
Auto (Damage to the vehicle)	1980	1,113,516	1,059,423	97.25
	1981	1,341,805	1,221,249	97.95
	1982	1,595,192	1,490,269	72.15
	1983	1,683,834	1,659,714	63.00
	1984	1,750,277	1,733,252	68.66
Auto (All Sections)	1980	3,324,322	3,169,285	89.23
	1981	3,984,015	3,698,107	91.36
	1982	4,586,377	4,341,248	81.19
	1983	4,778,557	4,713,323	79.05
	1984	4,665,143	4,628,125	87.46
Property – Personal	1981	520,768	482,000	76.58
	1982	1,159,338	1,010,759	65.39
	1983	1,347,355	1,299,950	56.50
	1984	1,519,652	1,482,897	59.73
Property – Commercial	1981	408,822	389,900	76.89
	1982	933,998	862,411	73.91
	1983	1,011,880	986,547	59.51
	1984	1,100,480	1,065,885	69.14
Property – Total	1980	2,096,905	2,003,482	72.56
	1981	2,429,872	2,274,742	76.04
	1982	2,720,819	2,556,104	69.89
	1983	2,841,450	2,759,040	59.29
	1984	2,912,404	2,852,488	63.42
Liability	1980	442,093	413,896	56.96
	1981	483,925	458,627	72.57
	1982	503,405	500,766	84.05
	1983	506,358	497,487	105.78
	1984	567,238	543,079	102.10
Surety	1980	62,148	60,844	32.20
	1981	73,071	69,321	22.90
	1982	77,055	77,061	32.97
	1983	74,700	74,959	36.41
	1984	82,238	77,059	45.43
Marine	1980	46,939	46,072	78.20
	1981	61,759	59,508	73.92
	1982	54,765	54,161	84.72
	1983	57,021	55,315	64.07
	1984	66,585	65,322	69.79
Aircraft	1980	43,495	42,200	89.74
	1981	52,642	49,322	76.15
	1982	53,851	54,745	70.58
	1983	48,943	49,151	78.69
	1984	54,843	48,355	81.90

Fidelity	1980	26,170	23,977	59.67
	1981	27,802	28,928	54.35
	1982	30,825	30,266	76.07
	1983	31,262	31,398	49.26
	1984	37,589	33,511	61.26
Hail	1980	13,830	13,752	53.14
	1981	22,795	23,007	92.34
	1982	19,652	19,669	126.82
	1983	24,447	24,440	103.72
	1984	22,157	22,041	76.14

All figures in thousands of dollars.

The following table, showing the results quarter by quarter, confirms the sad story and shows that it is continuing into 1985[4] :

CLASS	YEAR	LOSS RATIO BY QUARTER 1st	2nd	3rd	4th
Property – Personal	1984	59.7	61.9	62.1	56.6
	1985	65.0	70.6		
Property – Commercial	1984	64.6	63.9	64.6	77.4
	1985	76.7	75.7		
Property – Total	1983	61.3	55.8	62.2	59.6
	1984	62.1	62.8	63.3	66.1
	1985	70.0	72.8		
Automobile	1983	66.6	65.0	71.8	90.0
	1984	78.9	73.0	81.8	100.3
	1985	91.0	84.3		
Liability	1983	81.3	92.8	87.4	140.5
	1984	99.1	102.1	101.0	125.6
	1985	98.8	93.5		

The continuing deterioration into 1985 signals a year worse than 1984 for the industry as a whole, with the first \$1 billion loss anticipated, although reinsurers, who already were closing the gap on the market as a whole in 1984, may run better than the market in 1985, because of the substantial hardening in reinsurance terms

[4] Quarterly statistics are taken from The Quarterly Report of the Insurers' Advisory Organization of Canada.

which took effect at the beginning of the year as well as the first signs of improvement in commercial property business.

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As if the industry's results were not enough, executives of property/casualty insurance companies must be feeling under siege from all sides.

While Ontario automobile business remains the first concern, it
442 should now at least be taking on manageable proportions, since the effects of the Family Law Reform Act of Ontario and the judicial interpretations of S.E.F. #42 have been known for a sufficiently long period and the endorsement has now been replaced by S.E.F. #44. However, 1985 has seen a number of unconnected events affect the industry, most of which remain unresolved at the moment.

In March 1985, the Supreme Court of Ontario awarded $6,300,000 to a man who is paralyzed and cannot speak as the result of a dirt-bike accident in 1977, when he was 14 years of age. This award is almost twice that of the previous highest bodily injury award in Canada and is being appealed, both on the question of the finding of negligence and quantum. There seems to be a strong feeling that, even if negligence is upheld, the quantum of the award may be reduced by as much as half and the industry will be anxiously awaiting the result of the appeal.

On May 30th 1985, a hailstorm struck an area around Leamington, Ontario, causing several million dollars worth of damage, primarily to crops and greenhouses. The next day, May 31st, a series of tornados struck in various parts of Ontario, north of Toronto, particularly in the Barrie area, causing an estimated total insured loss of $115,000,000, $98,000,000 in property claims and $17,000,000 in automobile claims.

There is still debate on whether the two storms were the same or separate occurrences for reinsurance purposes, reinsurers having taken the position, for the most part, that they were separate occurrences, while some insurance companies are discussing the possibility of arbitration in order to establish whether or not that is indeed the case.

On June 28th 1985, the Federal Department of Insurance took control of the assets of the Northumberland General Insurance Company, which is now in liquidation. The Northumberland wrote primarily commercial and industrial business to the major brokers, although it also had a substantial portfolio of personal lines business in the province of Quebec. It had also moved into the United States, having a branch in New York and being approved as a surplus lines carrier in substantially all United States jurisdictions. In fact, the problems which led to its demise appear to originate with its United States operations, however it is still too early to say what the final outcome of the liquidation will be.

On July 5th 1985, the government of Ontario proclaimed what is commonly referred to as the "Spills Bill" to come into force on November 29th 1985. In fact, the "Spills Bill" is Part IX of the Environmental Protection Act passed in 1979, however the section concerning spills was at that time held back to come into force at a date to be proclaimed.

The full impact of the proclamation of the "Spills Bill" on the insurance industry is still the subject of debate, particularly since the final regulations have not yet been presented. The Ontario government is in the midst of discussing with the insurance industry the extent to which insurers and reinsurers are willing to provide coverage for spills, as defined by the Bill and the industry is still struggling with its response.

The main effect of the bill, on the surface, is to make the owners and those in control of toxic material absolutely responsible for cleaning up any spill, with the possibility of subrogation against any other responsible party coming later. At present, the party in control of a toxic substance is in a struct liability situation in the event of a spill and it is felt by many that the change from strict liability to absolute liability, particularly with the possibility of subrogation remaining, is not so serious an issue as it at first appears.

However, what has emerged as the industry's major concern is the increased cost of cleaning up a spill, since this will now be carried out under strict government supervision, with the possibility of the government actually taking over the clean-up if it is not satisfied with the response of the owner and the person in control of the substance spilled.

In addition is the serious problem of drawing up a suitable definition of "sudden and accidental" to be used in any policy wording providing coverage.

What insurance and reinsurance coverage will be available to the owners and those in control of toxic substances after November 29th is still under debate. At the time of writing, the most likely solution appears to be an industry pool with a capacity of $1,000,000 and government insurance over that.

In August 1985, the Ontario Human Rights Commission ruled
444 that charging a young single male driver higher automobile rates because of his age, sex and marital status was discriminatory. Unless the decision is reversed on appeal, it is a message to all automobile insurance companies operating in Ontario that they must remove such considerations from their rating and rely only on the insured's driving record.

Since the decision was made under the Ontario Human Rights Code, its applicability in other provinces is not immediately known ; however Alberta has already exempted insurers from the provisions of its human rights code and a similar provision exists in the Quebec code, although it is not yet in force.

The long-term effects will of course be more serious on motorists than insurers, since insurers will adjust their rate levels to obtain the same total premium as they collect under the present system, however the adjustments will be extensive and the spectre of having to return premium because of past discrimination is a harrowing one. Whether or not this will be required will be known when the Ontario Human Rights Commission decides on the penalty to be paid by the insurer on the specific case heard, as well as on the result of the appeal.

Another potentially major issue affecting more the structure of the industry appeared in June 1985, when the Minister of State (Finance) presented to the House of Commons a *Green Paper* setting out proposals for the revision of the regulation of Canadian financial institutions.

Basically, the thrust of the proposals, as far as they affect the insurance industry, is to permit the networking of sales forces amongst financial institutions operating in different sectors of the financial services industry, thus creating the possibility of financial supermarkets, or "one stop shopping" for financial services. However, it now appears that this goal may be delayed, because of other priorities for the Minister which have surfaced since publication of the *Green Paper*. Nonetheless, it does seem evident that interim legislation will be introduced on a priority basis to up-date the solvency requirements and regulatory powers currently in the federal insurance acts.

The changes in solvency requirements will see an increase in the minimum capital and surplus for a new insurance company to $5,000,000 – the effective minimum already imposed by the department under discretionary powers – limitations on the use of reinsurance as a whole and unregistered reinsurance in particular and alternative solvency measurements based on those in use in the European Economic Community. In fact, legislation will probably follow closely proposals presented originally by the Department of Insurance in September 1982 and on which there has already been substantial discussion within the industry and between the industry and legislators.

The same legislation will probably give wider powers to the Department of Insurance to intervene in the management of an insurance company before it reaches the point of insolvency, since the Department has found that, under present rules, it can often do little more than sit and watch as an insurance company gets deeper and deeper into difficulties. These powers are likely to be in the nature of the ability to issue cease and desist orders in respect of practices which the Department considers harmful, more regular financial reporting and the restriction on reinsurance with off-shore affiliates when the Department considers it to be in the best interests of policyholders.

Being discussed at the same time, although not necessarily part of the proposed legislation itself, is the establishment of a compensation plan[5] to protect insureds against loss resulting from the failure of an insurance company. The Insurance Bureau of Canada has submitted such a plan to the Superintendents of Insurance and the Minister responsible in Ontario has already announced his support for it,

(5) This plan is being presented in an article by Mr. Jean Robitaille under the title of « Pour la protection des assurés en cas de faillite de l'assureur », in this issue of our magazine (page 427).

although its final form is not yet known ; it is anticipated that other provinces will follow suit.

The plan provides for coverage for outstanding losses only, up to a maximum of $200,000 and with some level of co-insurance. It would be funded only after the failure of a company and the maximum assessment in any year for each insurance company participating would be 0.5% of direct written premiums, bank loans being used to cover any shortfall.

Implementation of the plan would be on a province by province
 basis and would first require changes in existing federal laws governing the winding-up of insurance companies, however it has been devised to require the minimum number of changes to existing laws in order to facilitate its introduction.

While interim measures, including a compensation plan, are expected to come into force in 1986, it is now not clear when the changes permitting networking of sales forces will become law, if at all. However, already a number of financial groups do exist and, to the extent that they wish to do so, they will undoubtedly develop imaginative ways to achieve the purpose of networking, while remaining within the rules as presently defined.

If the law does pass, or if alternative approaches are developed, it seems probable that personal lines business, the natural target for these financial supermarkets, would come under considerable competitive pressure during the last three years of the decade. While this may not be good news for the bulk of insurers, which write substantial volume of personal lines business, it may be encouraging for those companies specializing in commercial and industrial business, where it may well be possible to maintain higher rate levels while competition is focused elsewhere. This would also be of considerable encouragement to reinsurers, since little personal lines business is now reinsured on a proportional basis and, on excess of loss business, reinsurers have already shown during the last renewal season their renewed willingness to charge their own price regardless of prevailing insurance rate levels.

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Undoubtedly, news emerging from the property/casualty insurance industry in Canada will get worse before it gets better. 1985 results will almost certainly be worse than those of 1984 and the coming renewal season for reinsurance treaties will again bring increased prices and probably restrictions in cover. In addition, the problems presented by the "Spills Bill" must be dealth with and, undoubtedly, some of the changes in insurance regulation to be introduced in 1986 will not have the overwhelming support of the industry.

However, there may also be good news for those who seek it, promising improved results for 1986. The appeal on the Borland vs. Muttersbach case, which greatly increased what insurers thought the limit was under S.E.F. #42, will be heard in October 1985 ; in addition, the appeal of the $6,300,000 Brampton award will be awaited with more than a little interest.

But perhaps most significant will be an analysis of the quarterly results of the industry, particularly the third and fourth quarters of 1985. Substantial rate increases appear to have been introduced already, particularly on commercial business, both property and liability, but most particularly in liability. It is generally reported that automobile insurance rates will increase before the end of the year by 20% in Ontario and 10% in Quebec and will no doubt go up also elsewhere in Canada.

These rate increases, although substantial, have not come early enough in 1985 to have a significant impact on the loss ratio for this year, however the written premiums, as opposed to the earned premiums, in the last two quarters of the year will indicate whether a significant improvement can be anticipated in 1986.

It would be too much to expect the industry to return to profitable underwriting in one year, given the results of 1980 to date, and much may depend on factors outside the direct control of the industry, some of them as intangible at present as the possible development of financial supermarkets. Nonetheless, where the industry does control its destiny, it appears to have decided once again to exercise that control, perhaps the only encouraging sign in an otherwise bleak 1985.

October 4, 1985