BOOK REVIEWS

Hazardous Waste, Toxic Tort, and Products Liability Insurance Problems 1987, Course Handbook Series, Number 419 by Irene A. Sullivan (New York: Practising Law Institute, 1987), 576 pages.

Reviewer: Martin T. Katzman, Oak Ridge National Laboratory

Liability for hazardous waste, worker injury, and defective products has been swept up by the revolution in toxic torts. Such torts are characterized by a delayed response of the body to chemical assaults and by a difficulty in extricating particular cause from the many potential assaults to which the body is exposed. With increasing public awareness of toxic injuries, substantial pressures developed on the traditional rules of the legal system. Under the traditional statute of limitations, plaintiffs lacked standing to sue for injuries that did not materialize for a decade or so after exposure. The inability of the victim to know about many toxic exposures, much less to control them, made the negligence standard of liability, which places a burden for reasonable behavior on the part of the victim, appear unfair. Finally, there is the difficulty of tracing a particular molecule of a toxic substance to a specific generator. Changes of judicial doctrines regarding statutes of limitations, negligence vs. strict liability, and joinder of defendants have ramifications on the predictability of losses from the insurer's point of view.

In addition, the mass nature of many toxic injuries raises problems in enumerating the number of insured occurrences. Assume a chemical leaks into groundwater over the years, resulting in one hundred injuries. Is this one occurrence or one hundred? What if the manifestation of injuries is scattered over a period of years? The answers make all the difference in the world in determining an insurer's exposure.

The requirement of firms to undertake pre-emptive cleanups under the Federal environmental statute (the Resource Conservation and Recovery Act) has imposed a new exposure on insurers. Are they liable for first-party cleanup, before any material damage has occurred? How does the insurer's duty to defend apply in such cases?

The answers to these questions vary from state to state. It is not surprising that practising lawyers, especially those involved with insurance litigation, have difficulty in keeping up to date with the rapidly changing institutional framework within which they operate. The present volume is the syllabus of a one-day continuing education course for such practitioners. In addition to including excerpts from specific cases, it comprises at least two specifically written chapters on each of the following topics: the duty to defend under Comprehensive General Liability policies, the impact of "choice of law" on coverage disputes; trigger-of-coverage for latent injuries and diseases, asbestos property damage valuation and coverage; hazardous waste litigation; and defining the number of occurrences (single vs. multiple) in a case of mass claims.

The papers were written by the instructors, all of whom are practising attorneys. While the volume may have served the purposes of the course, it poses several difficulties as a scholarly reference work. Visually, the collection appears as a hodgepodge of different manuscript preparation styles, fonts, line spacing, and margins. In an era of word processing, such craftsmanship is inexcusable if a volume is intended for general distribution.

Second, and most important, the book deals with recent changes in insurance law rather than an overview of the field. While economists generally appreciate marginal analysis, a general reader who wants to learn about the insurability of toxic torts would find this volume difficult. With its emphasis on the most recent changes, the volume may have a short half life, to borrow a phrase from our physicist colleagues. Indeed as indicated by the letter of transmittal from the publisher to the editor of this journal, law books like this go out of date quickly. By the time this review appears, perhaps a majority of the innovations considered will have been obsolete. As such this work is not appropriate for the general scholar of insurance and risk management.

Marketing Life Insurance in a Bank or Thrift by Jerome R. Corsi (Westview Press, 1986), 223 pages.

Reviewer: Richard PonArul, Professor of Finance, California State University, Chico, California.

In the last two decades the once-distinct activities of insurance, investment, and banking have been losing their identities and merging into one rubric. The emerging trend of depository institutions becoming retail outlets for insurance related products is the focus of this book. Billed as a professional handbook in New Banking, the book is designed to be a source book for bankers and thrift managers who intend to enhance their product line with insurance products. The book is a collection of articles written by practitioners in the insurance and banking areas and could serve as a reference book on the various insurance products.

The articles, arranged into six sections, cover three major aspects of insurance marketing by depository institutions: a) the types of products, b) the legal and regulatory details, and c) the strategies for entering into the insurance area. The strategy part is embellished with case studies and survey results about successful implementation.

The first three chapters describe the annuities and life insurance products. The discussion is self-contained and exhaustive. Chapter 2 by Pat McDonnel