European law: tide of change

John Cooke arrived at the conference on Thursday evening by helicopter; and proceeded to justify this extravagance by giving a thorough and lucid analysis of the likely impact of European Community law on the Irish insurance industry.

Mr Cooke is president of the Consultative Commission of the Bars of the European Community. His paper, entitled "EEC Insurance Law—The Incoming Tide", showed how far reaching was community law in promoting free trade. It also showed how difficult it could be to define the scope of that law.

"It's rather like walking on Sandymount strand," he said. "You may think you are on firm ground with the tide still some distance out, but while you are not looking it has flowed in behind you and you find you are cut off."

As an example of how the Irish Government might already be cut off, Mr Cooke considered the potential for conflict between the 1936 Insurance Act, a nationalist measure enacted by the de Valera Government, and the Treaty of Rome. Section 10 of the Act, which is still in force, obliges a foreign insurance company wishing to issue a policy to an Irish resident to obtain a licence from the Irish Government.

"On the face of it, that is precisely the sort of measure the Treaty of Rome is designed to eliminate," Mr Cooke said.

He pressed home the point by showing how the European Court's reading of the EC co-insurance directive ran counter to national law. The court found against the Irish Government last year for breaching the directive by insisting on the establishment of coinsurers in the member state where the risk was situated.

"The major significance of the case," Mr Cooke told delegates, "is that it raises a question mark about the continuing validity of Irish domestic insurance legislation."

He acknowledged that harmonisation of community law on insurance was a difficult matter—and recognised as such by the European Court—because "the insurance sector is particularly sensitive from the point of view of consumer protection". Where the failure of a major insurer "can affect a very substantial section of the entire population", it was understandable that governments should be anxious about the standards set for foreign companies, he said.

Irish thoughts turn towards Strasbourg

Galway was the location; but the thoughts of delegates at this year's Insurance Institute of Ireland conference were more often directed towards Strasbourg, nerve centre of the EEC.

Insurers are likely to be at the eye of a storm currently brewing over the Irish Republic's ratification of the Single European Act, a consolidating piece of legislation to formalise bonds between EEC member states which received automatic assent from Britain.

In Ireland an anti-EEC campaigner, Raymond Crotty, has challenged the country's ratification of the Act on the grounds that it entails foreign policy commitments at variance with the constitution. The Irish Supreme Court agreed, and a referendum on the Act is to be held on Tuesday May 26.

The consequences of a "no" vote cannot be predicted with certainty; but they are enough to alarm the insurance industry. With gross premium income amounting to 11% of the Republic's gross national product in 1984, insurers and the Government fully recognise the need for free access to European markets, and fear a return to isolationism. The home market of 3·5m people will not support the expansion in the financial services sector which the Government hopes to promote.

For this reason, the theme of the III conference, "Insurance: A Growing Legal Encirclement",—decided upon before the referendum on the Single European Act was a gleam in Mr Crotty's eye—was highly topical. Speakers well versed in European affairs had been signed up to address the conference, and explain how the Treaty of Rome and judgements delivered by the European Court could be expected to affect the Irish insurance industry.

The other aspect of the theme of legal encirclement was the affect of Government legislation on the industry. Views on this were more often aired in the bar or tea room between speeches than during the speeches themselves.

However, Seamus Brennan, the trade and marketing minister who has a watching brief over the insurance industry, had some sharp things to say about the burden of insurance costs on the Irish economy. The threat of legislation—notably over commissions to brokers—lay behind his public appeal for a "partnership with the Government in an all-out attack on insurance costs".

Mr Brennan's speech could fairly be called "key-note", touching as it did on most of the Government's grievances against insurers, and drawing forth most of insurers' complaints about the Government. Delegates at the conference heartily endorsed Mr Brennan's hope that financial services might become a growth sector within a revived national economy, but asked: "Why, then, do you saddle us with taxes and premium levies which weaken our competitive position against other European countries?"

In spite of the strength of feeling behind such views, the atmosphere that prevailed at Galway last week was cordial and relaxed. Seamus Brennan is a popular figure, even when the policies he espouses enjoy less than wholehearted support. "I like his style," one delegate said after the speech on Friday morning: "He doesn't frighten the horses."

Dermot Ryan, claims manager of Royal Insurance in Dublin, receiving the chain of office of the Insurance Institute of Ireland from past president, Audeon Kirwan. The Insurance Institute of Ireland is the Republic's equivalent of Britain's Chartered Insurance Institute. The two bodies maintain close contact and students take the same exams.

Broker's eye view

Andrew Gale, consultant to the Bowring Group on EEC affairs, gave delegates a brokers' eye view of the benefits of membership of the European Community.

He pointed out that since 1975, the number of people employed in the services sector in the EEC had exceeded the number of people employed in agriculture and manufacturing put together.

He defined services as "anything you can buy and sell but cannot drop on your toe".

Exporting insurance to the EEC

The new Fianna Fail Government is hopeful that financial services—and in particular insurance—will play an important part in turning around the country's ailing economy.

Equally optimistic is Con Power, director of Economic Policy at the Confederation of Irish Industry, who delivered an upbeat speech on "The Development Potential of Insurance as a Traded Product".

Mr Power said that the EEC offered insurers a market of 320m people, almost one hundred times larger than the Republic's own population of 3·5m. Moreover, the per capita output of Ireland's population was only 70% of the EEC average, he said.

He pointed out several advantages to the country in developing internationally traded services: they were labour intensive (unemployment in the Republic currently runs at 19%); they did not require the import of raw materials and therefore placed no burden on the balance of payments; and they cost less to establish and develop than "some heavy product industries".

Alluding in part to the Single European Act, Mr Power said that Ireland could either take full advantage of the opportunities Europe presented, or "return to being a small inward looking community serving its own small home market . . ., in which consumers will be restricted by a very narrow range of choice."

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