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EDITORIAL

Many members appear to have enjoyed our last issue in January '88 and your Editorial Committee will do their best to maintain your interest.

In this our May issue we reprint two papers being those presented at our February and March '88 Meetings for members who were unable to be present. Both subjects are very topical and will serve as a useful reference document.

The Unfair Contract Terms Act is much in the news at the moment and a new contributor to our Journal Karen Willis a Solicitor with Barlow Lyde & Gilbert has prepared a very helpful analysis of the current case law relevant to Surveyors and Contracting Out Clauses. Two of the cases are to be heard on appeal in the House of Lords and the outcome will be awaited by the profession with considerable interest.

We are most grateful to Jonathan Foster for obtaining for us a very topical article written especially for this Journal by an experienced American Trial Lawyer C. Thomas Ross. His commentary on the USA Jury System is most outspoken and no doubt many of our members will agree with his views. We would be pleased to hear from you if you wish to comment.

Finally a cautionary tale from one of our Vice Presidents Gordon Shaw and a further article from Mark Dawbarn (our Specialist Life Correspondent) with another article on Joint Life Policies to follow in our September issue (unfortunately there was not room for both).

A pleasant Summer break to all our members with the hope that as many as possible will attend the Day Conference and AGM on 20th September next (see Forthcoming Events Section) as well as the Chairmans Lunch on 15th June.

Derek Cole

FROM JUSTINIAN TO PIN-STRIPE MUTUALS, OR MY GOODNESS HOW INSURANCE CHANGES.

**A talk given by Michael Summerskill, Chairman of
Thomas Miller Professional Indemnity, on 9th Febraury 1988**

It is tempting to look at early history, such as that of Greece and Rome, to find traces of mutual insurance as we now know it. The important characteristics of mutual insurance I give as a sharing by the insureds in the outcome, be it a surplus or a deficit, with the twin corollaries of the exclusion of any other interest from such surplus or deficit and a readiness by members to contribute to the deficit, and to share in the surplus. They will also have overall control of the fund and, usually, of the claims.

Of course, when you think about it, you contribute to a deficit now, when the premiums are raised because of someone else's large estimated claim, just as much as, if not more than, when a Supplementary Call, is charged by a Club, 3 or 4 years later but on the basis of what is actually paid out.

There have been many formulae, through the ages, which might meet the description of insurance. When we look at early texts we find, in the maritime field, the nautical loan as described in Justinian's Digest, perhaps Greek in origin, as a loan to fit up a ship for a voyage, it being repayable on her safe return. And so we are swept into an area where our modern labels do not stick, as, enthusiastic as any lepidopterist naming specimens, Stroud's Judicial Dictionary in one hand and a legal notepad in the other, we try to