'Up the Organization' on employe benefits

Safety services first 6
Supplemental benefits 23
Class action suits 31
Group life sales 54

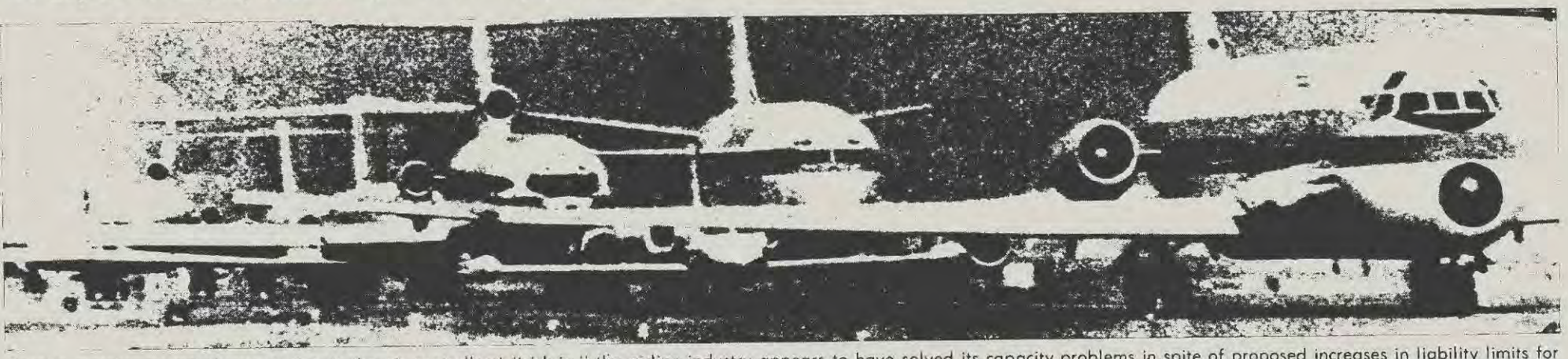
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Despite massive airport tie-ups owing to the air controllers' "sick-in," the airline industry appears to have solved its capacity problems in spite of proposed increases in liability limits for international flights. Articles on this page and page 22 detail new developments in airline insurance. —Wide World photo

Bahamas' regulation

NASSAU, Bahamas—The legal department of this island's government is compiling a set of regulations to bring into force the Bahamas' first insurance act. Charles A. Donaldson, registrar of insurance companies, told *Business Insurance* that the target date for putting the law to work is May 1.

"My department is in the formation stage," said Mr. Donaldson, who is the first to hold the position of registrar, "and right now I'm a committee-of-one working on the problem of marginal insurance companies." He said also that he had received calls and inquiries from companies and individuals interested in the status of the insurance code.

Under the law, insurance companies will be required to register with the government and submit particular information concerning their shareholders, directors and reserves. There will be separate stipulations for life and nonlife companies.

"We are keeping an eye out for the suitcase-type companies that like to sneak into a country," he told the magazine, "and I think we've scared a lot of them away already."

Propose no-fault plan, higher liability for foreign flights

MONTREAL—A proposal now before the governing council of the International Civil Aviation Organization (ICAO) would increase liability for deaths and injuries to international air passengers to $100,000 on a no-fault basis.

According to one airline insurance manager who had taken a cursory look at the plan, the proposal is "a lot like New York Gov. Rockefeller's proposed no-fault auto insurance."

The governing council, which is made up of 27 of the organization's 109-member nations, could pass the proposal on to the entire body.

UNDER THE proposed agreement, airlines would be liable for payments of up to $100,000 for each passenger. The present Warsaw Convention limits airline liability at $8,300, including death, injury and personal property. The United States, however, withdrew from the Warsaw pact in 1966 in favor of the Montreal Agreement that raised the liability limit to $75,000.

Under the current set-up airlines that are based in or touch down in this country must carry liability insurance in amounts equal to $75,000 per seat. If the current agreement were to be revised upward to $100,000 per seat it is likely that many international carriers would have to change their insurance programs.

"As a general rule," one airline risk manager told *Business Insurance*, "the large U.S.-based international carriers (TWA and Pan Am, for example) do have insurance programs that allow for at least $100,000 per passenger." He noted, however, that many international carriers flying into this country do not have insurance programs with liability limits that high.

"ASSUMING that they (ICAO) go this route," the source said, "it will mean that every airline that wants to fly into this country will have to revise its insurance program." An aviation insurance underwriter contacted said he doubts the proposal, if adopted, would have any serious effect on the capacity problem. "There's capacity in the world market if they want it," he said.

Higher limits of liability for airliners using this country have been expected for some time. The United States had been pushing for limits as high as $150,000. According to Pardo Tovar of Colombia, chairman of the IACO's legal committee, the $100,000 proposal is "a satisfactory compromise solution."

The most significant part of the proposal, according to most airline sources queried, is the fact that it would hold airlines liable regardless of fault. Under present agreements in force an airline can clear itself of liability if it can prove the accident was not its fault. The proposal therefore would eliminate some litigation. ■

ASIMers back Bailey; blast premature report

MIAMI BEACH—The board of directors of the American Society of Insurance Management rejected a suggestion by ASIM's advance planning committee that the group drop James E. Bailey as legislative coordinator and hire instead a young attorney to work in New York.

A key ASIM officer said that ASIM's board appreciates the work Mr. Bailey has done and that his contract was recently renewed to retain him for another year.

At the ASIM conference here last week the society's board also discussed expansion of the group's activities in the field of employe benefits.

Meanwhile, A. Gordon Hanau, manager of the system insurance department of Consolidated Natural Gas Service Co., Pittsburgh, and a member of ASIM's nation-

Continued on page 46

Late news

$68 million builder's risk policy

MINNEAPOLIS—A $68 million builder's risk policy has been written on a 57-story complex being built on Nicollet Mall here. The policy was arranged by P. M. David of the David Agency in Minneapolis and is written with St. Paul Fire & Marine Insurance Co. Portions of it are being reinsured with Aetna Casualty & Surety and Hartford Fire Insurance Co. The latter companies will in turn reinsure some of the risk with Lloyd's of London.

Mobil pays $105,000 for D&O

NEW YORK—Mobil Oil Corp. has for the first time purchased directors' and officers' liability insurance. The cover is split among American Home Assurance Co., Lloyd's of London and other British insurers. The annual aggregate premium, as reported to stockholders, is $105,035.52. The policy covers 48 employes of the parent company and certain subsidiaries.

Airline captive headed for Bermuda domicile

NEW YORK—The airline insurance captive combine, which is scheduled to begin operation Jan. 1, 1971, has withdrawn an application for domicile in Switzerland and will instead be located in Hamilton, Bermuda, if the island consents. Government approval is not expected to be a problem.

A spokesman for Air Transport Insurance SA here told *Business Insurance* that the change in domicile will have little appreciable effect other than a geographical one on those airline risk managers who will be doing business with the consortium. In effect, it will simply mean that business traveling will be to Bermuda instead of Lucerne, the spokesman said, noting that there will be no basic changes in the make-up of the companies.

Air Transport Insurance Ltd. and Air Transport Guarantee Ltd. had originally hoped for a home in Switzerland because of the country's neutrality. The country was said to be more attractive to the captive for diplomatic reasons, since the combine will be doing business with more than 100 nations.

AS IT STANDS now, the two companies have joint reserves of $26 million. When plans are finalized and operation has begun it is expected the combine will jointly handle insurance amounting to $200 million.

According to Air Transport Insurance's two top officers, Sir Giles Guthrie, chairman, and Clarence C. Pell, director general, the operation has the support of "nearly 80% of the world's revenue passenger airlines." It has not received any declarations of intent to join from airlines in Iron Curtain countries. It is believed they would have found a Swiss domicile more favorable.

According to Mr. Pell, the decision to go to Bermuda "was prompted by concern that formation of the companies might not be completed in Switzerland by Jan. 1, 1971, the date planned to start active underwriting. Switzerland," he added, "never has been sympathetic to our problem and it threatened to postpone us

Continued on page 46

Nixon Administration health care cost solution: Medicare Part C

WASHINGTON—The Nixon Administration has proposed an imaginative step toward bringing into line the nation's rapidly rising health care costs—a step that could not only avert a national health insurance program, but possibly also change the entire private health insurance system in America.

Thrust behind the proposal is the establishment of a new Part C of Medicare, which would offer oldsters all the benefits now available under Part A (hospital insurance); and Part B (medical) as well as preventive care. Medicare beneficiaries would be offered a choice between continuing in the current Part A-part B program, or switching to enrollment in the Part C plan.

Part C services would be provided by private "health maintenance organizations," which would be paid a flat fee by the government, negotiated in advance. Ceiling on the payment would be 95% of the per capita cost the government has paid for conventional Medicare benefits in the locality. with a great many strong points.

IT IS CLEAR that the proposal could not be implemented immediately because of the paucity of group medical practices around the country that could offer such a service. In fact, some states have laws prohibiting the practice of medicine in this fashion.

The Administration says it recognizes this problem and that it plans to "use the economic leverage of the Federal government to encourage the states to remove these barriers."

All stops will be pulled out to encourage physicians to align themsleves into groups to practice more efficiently, the Administration says. However, it admits that the process "may take many years."

Such a trend would have profound implications for private health insurance, for it would give corporate risk managers—and private individuals—another alternative to consider, and one with a great many strong points.

IT IS LIKELY that the envisioned multitude of "health maintenance organizations" throughout the nation would establish aggressive sales forces to call on corporations and individuals—just as insurance agents now do—to enroll more and more patients in their plans.

The Administration says it sees these organizations as being highly competitive. No organization would be given an exclusive franchise to serve Medicare clients. In order to attract consumers, the health group would have to compete with other potential organizations, doctors and hospitals.

Some of these organizations might be large corporations, the Administration points out. In contrast, it continues, a group of doctors may elect to combine for this purpose for part of their time and continue their conventional medical practice as well.

Also, an existing hospital may combine with its medical staff to form such an organization, or it may develop arrangements with others and sub-contract its services at a fixed fee.

SAFEGUARDS would be necessary to assure the dissemination of reliable information about the various health maintenance organizations—the benefits they provide, their service areas, enrollment procedures, and other pertinent information—so as to assure that each individual would be able to make an informed choice among alternatives available to him, the Administration said. ■

Tugboaters' pensions up

NEW YORK—The recent tugboat workers' settlement, which ended the 60-day strike by Local 333, United Marine Division, National Maritime Union, includes a pension improvement for union members, in addition to lower retirement age, 55 instead of 65.

"We used to give pension payments in a flat rate of $175 per month for 20 years of service," a spokesman at the Marine Towing and Transportation Employes Assn. told *Business Insurance*. But now we're basing payments on a scale of $10 per month per year of service. This means that an employe will get at least $200 a month for 20 years and more if he works longer."

Tugmen will also get a 61% wage increase over the next three years, with oil barge workers getting a special $50-a-month overtime allowance in addition to regular overtime payments. ■

Political risk insurance going fast in Canada

OTTAWA—The Canadian government's recently instituted political risk insurance program for exporters selling goods in unstable regions of the world is proving so popular that the $50 million originally allotted for the program may have to be increased in the near future.

The Foreign Investment Insurance Program arranged by Export Development Corp. (EDC) applies only to new Canadian investment abroad. Policies offer protection against losses from such things as war and revolution, expropriation or confiscation (such as that which happened to many U.S. companies when Fidel Castro took over in Cuba), and inability to repatriate earnings or capital.

Export Development Corp. officials have limited the insurance to maximum coverage of $5 million per customer. A customer, however, can take out three separate policies of $5 million for each of the main risks involved.

THE ACTUAL coverage against political risk has not yet become operative, but the EDC is granting waiver letters to potential customers. In effect, this means the exporter can go ahead with his project, protecting the eligibility requirement of "new investment" as a condition of coverage. The delay stems from bilateral negotiations still uncompleted between Canada and the countries in which the insurance is to be applicable.

In each case, a bilateral agreement will stipulate that Canada has a right to take over the investment assets in the affected country in the event of an actual loss by the exporter, which the EDC must then pay off.

The new insurance coverage is designed to encourage Canadian investors to take a chance in politically risky countries. According to the EDC, which has processed many applications at this date, the insurance program is accomplishing this purpose with exporters who have been nervous in the past about assuming the risk of a political takeover in a new market. ■

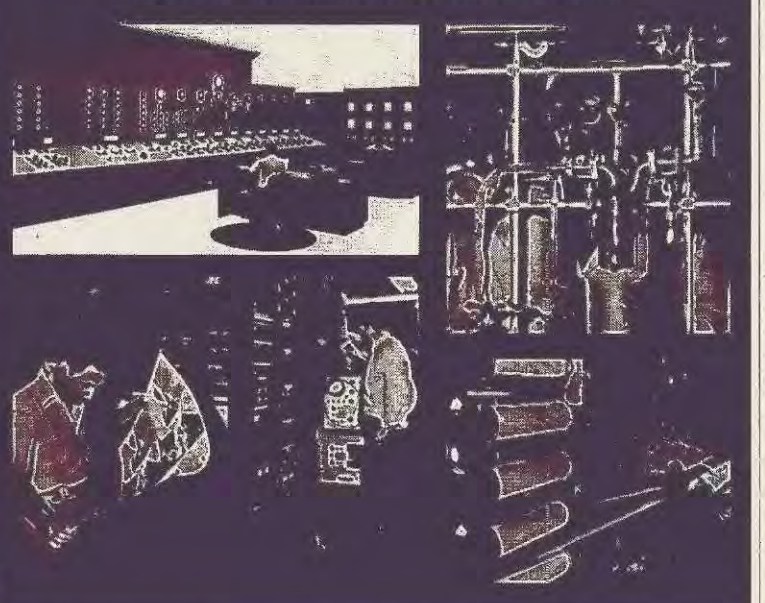
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New Hancock executives proceed cautiously

BOSTON—When Robert E. Slater suddenly resigned as chairman and chief executive officer of John Hancock Mutual Life Insurance Co. in December, the unofficial reason given for the exit was "a dispute over policy matters."

Mr. Slater, 53, had moved John Hancock rapidly through the turbulent '60s and into new fields such as mutual funds and variable annuities. Some say he was also keen on getting the mutual company into the property and casualty field.

Rumors that Hancock will enter the property and casualty field in the near future have persisted in recent months. The new executive team that sits in on such matters now neither squelches nor fans the flames. "We're still considering the possibility," is the official answer. However, some persons close to the nation's fifth largest life insurer say that with Mr. Slater gone Hancock's board would just as soon let the idea die a natural death—for the time being, at least.



Gerhard D. Bleicken

INTERVIEWS with Hancock's new chairman and chief executive, the new president and the company's executive vp for group operations seem to confirm at least one thing: John Hancock will be taking a good, long look before it leaps hereafter.

The new chief executive is Gerhard D. Bleicken, 57, who was formerly vice chairman of the board and senior executive vp. His new president and chief operations officer is Frank B. Maher, 63, formerly executive vp for field management and marketing. The executive vp for group operations is Victor A. Lutnicki, who has held that position since 1967.

"John Hancock has been a leader and innovator for the last 20 years," Mr. Bleicken told *Business Insurance* when asked what the consumer might expect from the company now that he holds the reins. "We certainly intend to be innovative in the future. But," he added with more than a little emphasis, "we're going to insist more strongly than ever that things be profitable. We look upon ourselves as an insurance company first. But we're also in the financial business—and that business is profits."

Profits for the company essentially will mean the sale of more individual and group life insurance, more public investment in the two John Hancock mutual funds that just closed their first year of business with $13.2 million in ivestments, and pensions.

IN THE LATTER area, according to Mr. Lutnicki, Hancock recently closed its largest sale in a group annuity plan with one of the large motor companies. The account produced a $1 million premium. "Basically it's an employer-funded pension plan that offers the employe three alternatives when he comes up for retirement: cash value, a fixed-dollar annuity or a variable annuity," the executive vp said. The company also intends to market an individual variable annuity plan before the end of 1970.

According to Mr. Maher, response to the company's entry into the mutual fund business has been less than overwhelming from Hancock agents. Although a seven-week strike by more than half of the company's 12,000-man sales force contributed to the less-than-hoped-for response, Mr. Maher also noted that agents are looking at mutual funds "with mixed emotions."

"We have 3,000 agents licensed to sell the funds at this time and we would hope for an eventual total of 6,000" the president and chief operations officer said. "By the end of the year we would like to have 4,500. But," he noted, "some of our top agents aren't even taking the exam to qualify as mutual fund agents." To that, however, he added an admonishment: "In self defense the agent is going to have to become a more sophisticated person. He's selling in a more sophisticated market than he was before."

Without a property and casualty company Hancock cannot of course be expected to move into the area of mass merchandising these products on a group basis. Might this, however, be a reason the company would give more than a sideward glance to the property casualty field?

"THIS IS JUST my personal view. I don't think that as a company we have a position; but," Mr. Lutnicki answered, "there are some things that are better handled on a group basis. We know you can effectively write group life, health and pensions. We've looked at this (group auto and homeowners, for example) for a long time. You just don't have that commonality that makes for group writing."

Asked the same question, Mr. Bleicken is equally cautious of the concept that some insurance people are predicting as the wave of the future. "I don't know whether it's an area for us," he said.

At the moment, the subject that seems to concern him the most is health care—the cost, availability and quality of health care, which his executive vp. Mr. Lutnicki calls "the single biggest problem facing insurers today."

"Actually," Mr. Bleicken said, "we've got to come to group practice. There's no question about it. But," he added, "financing it is another problem."

IN AREAS OF diversification, Mr. Bleicken said, Hancock is "assessing its situation." The company had been thinking of a travel agency, he said, but more for its own internal travel than anything else. However, he is not sure whether legal considerations might prevent the insurer from entering into such an arrangement. A string of such agencies, perhaps, so that Hancock, like other insurers, might eventually get into what is predicted to be a booming leisure time business? ■



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Bayh proposal for major disaster cover puts industry's back to wall

WASHINGTON—Sen. Birch Bayh (D., Ind.) has introduced legislation that would give the insurance industry until June 30, 1971, to provide major disaster coverage around the nation. If this were not done, the government would establish its own program, using as a base compulsory participation by all structures covered by loans or mortgages insured by the FHA, the VA or any other government agency.

Critics and supporters agree on one aspect of the legislation—that it would give the government a massive organizational capability and financial base in the property and casualty field that would allow it to expand with relative ease into any other area of the field it deemed not properly handled by the private sector.

"The implications to the property and casualty insurance industry of this bill make the Annunzio proposal look benign," one insurance lobbyist told *Business Insurance*.

REP. FRANK Annunzio (D., Ill.) introduced legislation last May to provide for the direct writing of crime insurance to small businesses by the Small Business Administration.

The Bayh bill, of course, deals with another problem. But, insurance men are quick to point out that the giant Federal insurance base provided by it would be easily adaptable to inner-city crime insurance.

For that matter, they continue, it is feasible that it could be expanded to answer any number of yet unforeseeable insurance problems—such as a major capacity crunch in a specific area. The government has a great deal more leeway than the private sector in determining who will subsidize whose insurance problems, they point out.

In introducing the proposal, Sen. Bayh said it would of course be preferable if "satisfactory, sensibly priced insurance coverage" against damages to private property caused by major disasters could be established by the insurance industry.

HE SAID HE recognized that it might be necessary to provide for some kind of national reinsurance or subsidy to induce private insurance companies to embark on such a venture, adding that he was certain Congress would be receptive to any reasonable propcsal from industry for a joint Federal-private approach.

If industry does not act, however, a government program will have to be established, he said. Industry would be encouraged to participate in the financial and the risk-sharing aspect of this program, he continued.

The key to such a program would be a broad base of policyholders, Sen. Bayh pointed out. This could be accomplished by mandatory inclusion of federally insured mortgators and by offering inducements to other parties to participate.

One of those inducements would be to inform them that no Federal disaster funds would be made available to parties who are not participants in the Federal disaster insurance plan.

THE PLAN WOULD be financed initially by a $500 million Treasury draw. Coverage would be divided into two categories: First, a basic minimum amount, the premiums for which could be fixed at a rate below established costs; second, amounts above the minimum, which would be charged at rates not less than those estimated to be needed for all costs of providing that protection.

Priority would be given to coverage of residential properties housing from one to four families, but could be extended to other residential, business, agricultural, non-profit or public properties.

The basic coverage for residential properties housing up to four families would be $15,000 aggregate liability for any single dwelling unit, $30,000 for any structure containing more than one dwelling and $5,000 aggregate liability for the contents of any dwelling unit.

If other types of property were found to be eligible for coverage, any single structure in those specified categories would have an aggregate liability of $30,000.

THE PROPOSED national disaster insurance program is part of Sen. Bayh's Omnibus Disaster Assistance Act, designed to reform all aspects of the government's disaster relief programs.

The bill grew out of hearings in January by Sen. Bayh's Senate special subcommittee on disaster relief on the Federal role in providing assistance to the thousands of people and scores of communities in Mississippi, Louisiana and Virginia that suffered devastating losses in the wake of Hurricane Camille.

Following the hearings, Sen. Bayh was highly critical of the insurance industry's handling of adjustments and of its refusal to provide any coverage at all for new structures to replace those swept away by the storm.

The proposed omnibus bill would replace the basic disaster relief acts of 1950, 1966 and 1969 with one comprehensive measure, which would be administered by a new agency—the Office of Disaster Assistance—within the executive office of the President.

AMONG THE sections of the 1969 disaster relief act that would be made permanent under the omnibus bill is the special unemployment compensation program for persons losing jobs because of a major disaster but who are not eligible for such compensation under the laws of their states.

Although the first payments under the program were not made until late in December, a large number of jobless individuals have already received substantial financial help, Sen. Bayh said.

More than 22,500 in Mississippi and 2,000 in Virginia had filed claims with the Labor Department by Feb. 21. Of that number nearly 19,000 in Mississippi and 1,300 in Virginia have received one or more payments ranging between $30 and $48 a week. ■

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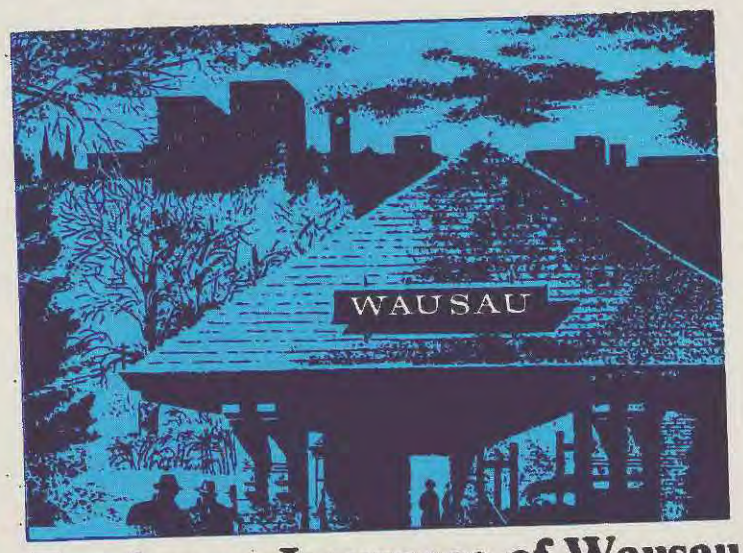
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We think insurance ought to work for a living.

Safety services most important insurers' contribution: Whitman

CHICAGO—New concepts of insurance service to match new techniques of risk management were stated for insurance loss prevention personnel by Digby B. Whitman, managing editor, marketing communications, Employers Insurance of Wausau.

Speaking to the Mutual Engineers' Conference here, Mr. Whitman said, "In both insurance and medicine, it is only preventive efforts, not remedial, that can ever by wholly successful. This has always been true. But its truth is being increasingly forced upon the attention of the insurance industry, its customers, and the public as a whole today.

"Huge masses of exposure are moving steadily up from the condition of being insurable and forgettable into areas in which indemnity is no longer even an effective soporific, let alone a remedy.

"Auto losses today—to state a plain fact plainly—are technically uninsurable. Yet we are still arguing about different methods of fulfilling our *old* function of premium distributor. This is like treating smallpox by powdering out the pockmarks.

"THE HIGHWAY problem is not one of dollar but of *deaths*, no more to be solved with money than a leak can be solved with a mop. Medical malpractice claims, in many parts of the country, are approaching a volume presenting a clear and present danger to the quality of medical skills and techniques. What good is malpractice insurance if the doctor can't afford to buy it?



Digby B. Whitman

"Product liability exposures are multiplying so fast that they are becoming more of a headache to manufacturers than to the insurer. We know of manufacturers who are currently spending as much as ten percent of their total products value—not inventory, but *sales* value; certainly much more than they pay for products insurance—on quality control programs."

Mr. Whitman continued, "What we are now witnessing, on the part of knowledgeable insurance buyers, is a movement away from the negative attitude of 'Insure it and forget it!' to an affirmative attitude of 'Insure it and *prevent* it!'

"Today," Mr. Whitman said, "insurers sell (safety services) ahead of anything else. And the risk managers with whom we deal are beginning to *value* them ahead of anything else." Professional insurance buyers, he said, are taking protection for granted, taking price for granted, and pounding the table for *service*.

"OUR MOST salable product," he asserted, "is the collective capability of our safety consultants, including our fire technical representatives. The goal of our safety experts is to protect not just our company but our customer, and indeed all of society, against loss. The target visualized is not losses as financial setbacks to particular persons or entities, but loss per se, losses *as* losses."

Mr. Whitman added, "Stated in the simplest terms: We are witnessing a change in the basic condition that shapes the sphere we occupy in the economy. Under the past condition, the losses incidental to progress were within the capacity of society to absorb. While this was true, the public could permit itself the comfortable illusion that those losses were insurable; that they were 'paid for' by insurance. Under the new condition, technology has reached a point where society can no longer afford to accept avoidable losses, no matter how they are divvied up.

"The illusion is being shattered. Losses are beginning to be seen for what in fact they are—*losses:* damage and destruction and injury and death.

"Our economy," he said, "is losing too many too expensive clods too fast. I have instanced automobile, medical malpractice, and products liability as loss hazards already stretching their indemnity boundaries. There are plenty of others. In the property field, they have created the so-called 'capacity gap.'

"In the aircraft industry, the new passenger jets, offering exposures estimated at $200,000 a seat or $96 million per plane, constitute a headache for which indemnity is nothing but aspirin, and the problem of sonic boom is standing on tiptoe just offstage. And what demands, backed by what degree of pressure exerted by what forces, may be imposed upon our industry by the all-front crackdown on environmental pollution that seems close at hand?" ■

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State law punishes unemployed

SPOKANE, Wash.—A new Washington state unemployment insurance law, which became effective April 5, succeeded in depriving job insurance recipients of checks for one week.

Morris R. Slavins, manager of the Spokane office of the Employment Security Department, said the change to the new law meant all persons previously drawing unemployment compensation were required to re-apply.

"No checks will be issued for the first week," Mr. Slavins said, "as required by the law for all new persons drawing benefits.

"AND THOSE applying, whether newly jobless or former recipients under the old law," he added, "will have to wait an additional nine days before receiving checks covering the previous week."

Gov. Dan Evans said the "one week gap was not the intention of the legislature" when the new law was adopted.

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Info for Buyers offers material that *Business Insurance* believes will be of value to its readers. The complete name and address of each supplier of information is listed so that readers can write directly to the publisher, simply saying that they saw the item in *Business Insurance*.

Readers are invited to submit items for inclusion in this column. A sample of the literature should be sent to: Info for Buyers, *Business Insurance*, 740 Rush Street, Chicago 60611.

• Machinery and Allied Products Institute, 1200 Eighteenth St., N. W. Washington, D.C. 20036, has released two memorandums in booklet form entitled **Directors' and Officers' liability Insurance —Results of a MAPI Survey of Company Experience**, and **Directors' and Officers' Liability Insurance.** The survey is a compilation of answers to a number of questions concerning D&O liability insurance which perplex corporate executives. Of the 261 companies responding to the questionnaire, 144 carry D&O liability insurance. The second memorandum considers briefly the liabilities of directors and officers, including recent increases in such liabilities, corporate indemnification of directors and officers, some pertinent public policy considerations, the nature of D&O insurance liability and the possible division of premium costs in the individual case between the company and the officials covered by the policy. Single copies may be purchased for $2 each and both booklets may be purchased as a package for $3 from the company.

• **The Use and Handling of Compressed Gases** is a 30 page booklet covering some of the chemical hazards and properties of compressed gases. General physical properties of gases, specific properties of some industrial gases, design, installation, and operation of systems are some of the material covered. The booklet can be purchased for 25¢ from the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402.

• Eleven charts dealing with today's credit problems has been compiled by the American Credit Indemnity Co. of New York in booklet form. Bank loans and trade credit, rate of growth in working capital and liquidity of manufacturing corporations are some of the areas covered. **Signs of the Times, 1970** can be obtained from the firm at 201 N. Charles St., Baltimore, Md. 21201. Information in the charts was obtained from Dun and Bradstreet, U. S. Bureau of Labor Statistics, Securities and Exchange Commission, and others.

• **Safety Inspecting For** is a booklet that discusses types of inspections, steps in a safety inspection, and tips on how to conduct inspections. It can be purchased for 10¢ from the Superintendent of Documents, U.S. Printing Office, Washington, D.C. 20402.

• **The Narcotic Addict Rehabilitation Act of 1966** is a pamphlet distributed by the U.S. Dept. of Health, Education and Welfare explaining who is and who is not eligible for rehabilitative treatment and how non-profit organizations may obtain grants for rehabilitive purposes under this act. Copies are available at $5 per 100 or 10¢ each from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

• **Safe Lifting** is an eight page booklet published by the U.S. Government Printing Office, Washington, D.C. 20402, listing and diagraming the eight steps involved in lifting heavy loads. The booklet is available for 15¢ from the Superintendent of Documents.

• Industrial Insurance Management Corp., insurance consultants, has prepared a booklet outlining the firms' operating divisions including data on the heads of the divisions and a list of its customers. For a free copy write the company at 909 East Boulevard, Post Office Box 3842, Charlotte, North Carolina 28203.

• Detectalarm is a product of Alarmtronics Engineering, Inc., 154 California St., Newton, Mass. 02195. It is an electronic audio detection system designed for economical protection from burglary, intrusion and vandalism. For further information write the company.

• **Life Insurance Price Measurement** is a 22 page booklet written by Joseph M. Belth, a professor of insurance at Indiana University. The booklet is divided into four sections: Section I describes the level-price method; Section II describes the benefits-premiums method; Section III compares selected data from 15 major companies gathered in 1968-69; and Section IV contains the author's conclusions. The booklet is available for $1 from the Bureau of Business Research, Indiana University, Bloomington, Ind. 47401.

• The U.S. Bureau of Mines conducted radiation ventilation studies in six large underground uranium mines to investigate the extent of radium exposure experienced by the miners and to analyze the ventilation systems to see what changes were required to achieve recommended radiation standards. **Radiation-Ventilation Relations in Six Underground Uranium Mines** can be purchased for 30¢ by writing the Superintendent of Documents, U.S. Printing Office, Washington, D.C. 20402.

• A research study sponsored by the Council of Profit Sharing Industries and Towers, Perrin, Forster & Crosby has resulted in a 9-page booklet covering the major objectives of the study: how management and employes look at profit sharing; how effectively management communicates about profit sharing, and; how much of a motivator profit sharing is. **Effective Profit Sharing Plans** is free from COPSI, 29 North Wacker Drive, Chicago, Ill. 60606.

• **How to Establish a Flexible Keogh Retirement Plan** is a 24-page booklet issued by Certified Portfolios Inc. Four different sample formulas for use of the plan are included as well as legal forms necessary to initiate a CPI Keogh Plan and sample purchase and sell orders. To receive the book write Charles R. Billman, Certified Portfolios Inc., Client Service Center, 500 Newport Ctr. Dr., Newport Beach, Cal. 92660.

• Data on medical care utilization in the U.S., the United Kingdom, and Yugoslavia is collected in **International Comparisons of Medical Care Utilization,** a 74-page booklet priced at 70¢ per copy available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The report describes the conduct of the study and gives the findings and conclusions together with summary tables incorporating standardized rates.

• A 34-page survey containing national vital and health statistics data in booklet form can be obtained for 45¢ per copy from the Superintendent of Documents, U.S. Government Printing Office, Washington, D. C. 20402. **Regional Utilization of Short-stay Hospitals, United States 1965** covers discharged patients, days of care, and average length of stay for the four major geographic regions—Northeast, North Central, South, and West.

• Certified Portfolios Inc. has released **How to Establish a Flexible Corporate Retirement Plan.** The brochure is a guide to the development of a plan for the corporate employer based on CPI's variable master plans. A worksheet is also provided for the reader. To obtain your copy write Charles R. Billman, CPI, Client Service Center, 500 Newport Ctr. Dr., Newport Beach, Cal. 92660.

• General Reinsurance Corp. is offering a 24 page booklet entitled **Glossary of Reinsurance Terms.** It carries a glossary of bonding, casualty, property and life reinsurance terms. A free copy can be obtained by writing the firm at 400 Park Avenue, New York, N. Y. 10022.

• The Wolfe Auto-Surveillance Super-8 is a fully automatic and battery-powered camera system that offers a continuous range of programming from one exposure every second to one exposure every minute for up-to 60 hours of time-lapse photography. The unit is 6x7x7½" in size, offers automatic through-the-lens, exposure adjustment over a range of 25 to 25o ASA, and the zoom lens may be adjusted from 8.5mm wide-angle to 35mm telephoto. The system is priced at $420 f.o.b. Seattle. More information can be obtained from the company, Wolfe Security Products, Inc., Second Floor, Pier 59, Seattle, Washington, 98101.

• The National Safety Council estimates that 19.2% of the compensable work injuries with permanent—partial disability involves machinery; 3.1% of work-injury fatalities involves machinery. Inadequate guarding or distraction are the major causes of occupational injuries involving machinery and other power-operated equipment. **Safeguarding Machinery** is an 8 page booklet listing the reasons for using guards and includes a table of standard materials and dimensions for guards. The booklet can be obtained for 10¢ from the Superintendent of Documents, U.S. Government Printing Office, Washington, D. C. 20402.

• **Industrial Furnaces** is a 90 page pamphlet (86B-TR) offered by the National Fire Protection Assn. for $1.75 per copy. It covers Class B furnaces which approximately operate in excess of 1400°F. The standard deals with location, construction, heating systems, ventilation, safety controls and fire protection considerations. For a copy write the association at 60 Batterymarch St., Boston, Mass. 02110.

Dems ask strong occupational health bill

WASHINGTON—In a session boycotted by Republican members, the House education and labor subcommittee has voted favorably on a Democratically drafted occupational health and safety bill that would bind employers with the broadly-worded legal obligation to provide a "safe and healthful work place." It would also give the Secretary of Labor the power to set safety standards for all workers not currently covered by Federal rules.

Bill watchers predict the proposal will have little trouble getting past the full House Labor Committee, but they have mixed views about its chances in the House Rules Committee. Similar legislation died in the rules committee in 1968.

Chances are, however, that the bill will get to the floor and there face a stiff fight with House Republicans rallying behind the Nixon Administration's much softer proposal.

THE SENATE labor subcommittee, chaired by Harrison Williams (D., N.J.), will probably report out a bill similar to the House subcommittee proposal. It also will face a stiff fight when it reaches the floor.

Although the House bill is much stronger than the one President Nixon proposed, it is not as objectionable to the business community as was the Johnson Administration bill, which would have given the Labor Secretary virtually unlimited powers to set and enforce safety standards for industry.

Initially, the House bill simply provides that the secretary could expand the coverage of standards that have already been developed by other Federal agencies and private standard-setting organizations for use in such programs as Walsh-Healey. Within two years, however, the Secretary could revise and tighten up these interim standards.

The Nixon Administration wants a five-member board, appointed by the President, to set standards. Democrats charge that the board would rapidly become a rubber stamp to transform industry-developed standards into Federal law.

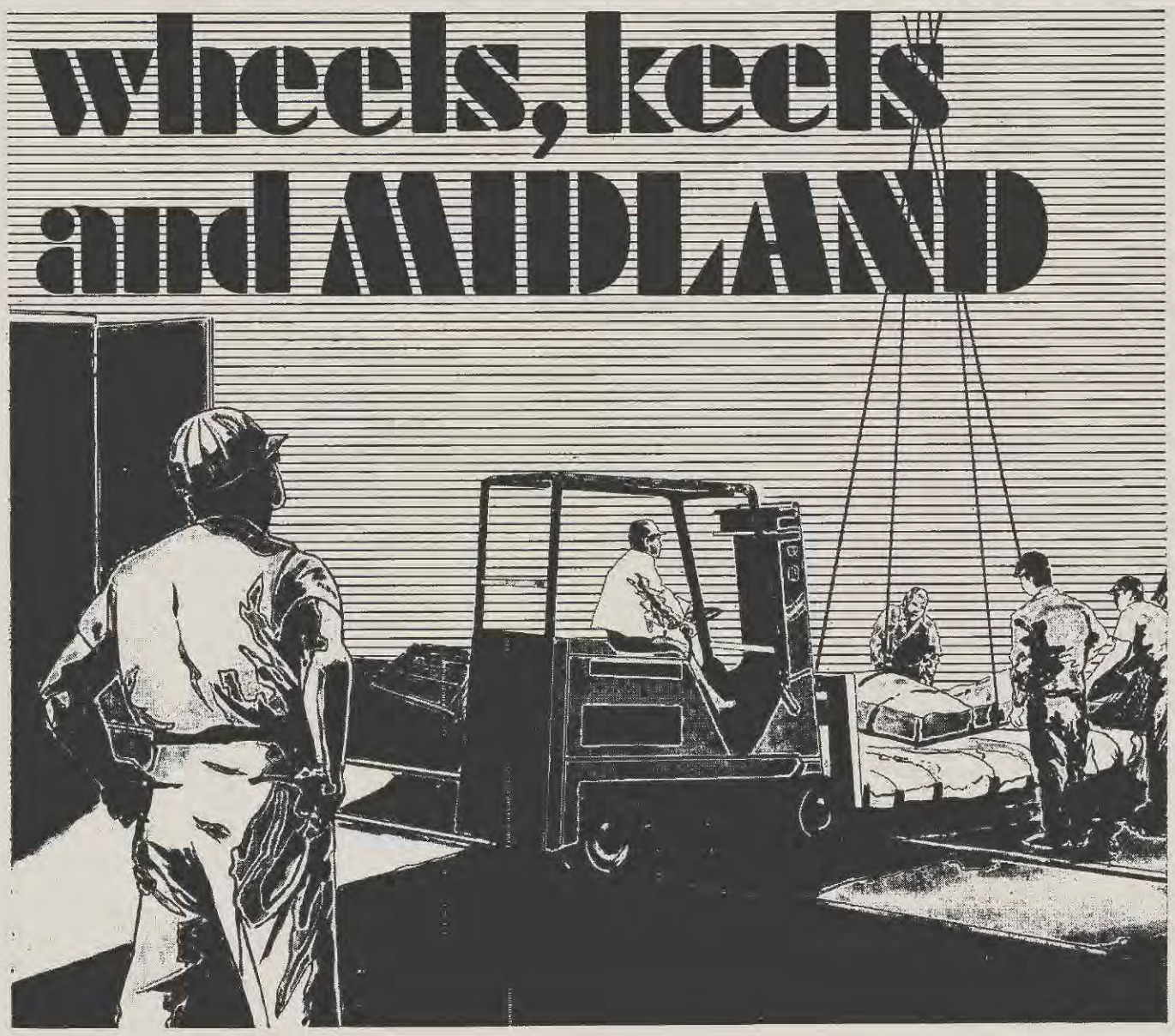
IN THE AREA of enforcement, the Labor Department would be allowed to assess penalties up to $1,000 if it found that a "serious danger potential" existed because of a violation of a standard. ■

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Bangor Punta forms security arm; hopes to help curb thefts of stocks

NEW YORK—In the wake of increased thefts of securities on Wall Street, insurance rates have been soaring out of sight and cancellation notices are not unheard of. (It has been rumored that one broker was forced into a merger when faced with such an insurance dilemma.)

Brokers in the meantime are looking around for an answer to the problem, an answer that insurance companies have been unable to supply until now.

They need look no further, if you believe the sales pitch of a couple of former bank security officers, who recently left the employ of two large New York banks to set up Smith & Wesson Security Services, a new subsidiary of Bangor Punta.

THE ANSWER, according to William G. Barry, president of the new firm, and John Swift, his vp, is simply one of security—or lack of it.

Mr. Barry is a former vp of Bankers Trust Co. Mr. Swift held a similar position as top security officer at First National City Bank. Prior to their bank jobs both had spent 15 years in the service of the Federal Bureau of Investigation. "I worked on extortions and kidnappings," Mr. Barry said. "John here was in organized crime."

Bangor Punta Corp. formed the subsidiary early in January and hired Mr. Barry to run it for them. Mr. Barry in turn hired Mr. Swift.

In an interview here the other day, both men belabored an old point: security on Wall Street is abominable. Then, they added, there is no reason for it. They feel confident, in other words, that if the same security techniques used at the nation's larger banks were used in brokerage houses losses could be cut significantly—and insurance premiums as well.

"THE CONCEPT as we see it," Mr. Barry said, explaining the service the firm will offer to both brokerage houses and smaller banks that may not have an expert security force, "is in four parts.

"First, we offer a security survey; that is, we take a look at a brokerage house or bank operation and identify the areas of risk and suggest ways to cope with whatever problems we find."

The second service Smith & Wesson is offering is in the area of consultation. "We'll act as a security department for a firm that might not have the resources or the desire to set up its own fullfledged security department." Included as part of the consultation service, for instance, would be bi-monthly checks of the security system.

As a third part of the service, the firm will do pre-employment security checks on prospective employes. "This is an important cornerstone on which to build a secure atmosphere within a company," Mr. Barry said, noting that all too often undesirable elements can infiltrate a business. As an example, the former FBI agent noted that not long ago the daughter of a La Cosa Nostra captain applied for a job at a bank. A security check revealed her identity because it was a fairly large bank with a good security system. However, she might have gotten on the payroll had she applied to a smaller bank or brokerage house.

A FOURTH service the Bangor Punta subsidiary intends to offer in the future is a "premium guard service." "By premium," Mr. Barry said, "I mean 'expensive' guard service." His guards, he said, will not be former traffic officers on the city police force but seasoned investigators.

The problem on Wall Street, as Mr. Barry sees it, is one of the underworld becoming more and more sophisticated.

"The underworld now realizes that securities are of value. They've gotten a lot more sophisticated, they realize they can pledge these as collateral for loans and have devised other ways to take what once appeared to be non-negotiable instruments and make them negotiable," Mr. Barry said.

At the same time, however, brokerage houses have not faced up to the problem by setting up proper security systems. Others have lagged behind as well, the firm president intimated, noting that the Federal penalty for transporting stolen securities—the same for transporting stolen "goods"—is only five years, while the penalty for transporting money from a bank robbery is 20 years.

ALSO CITED by Mr. Barry was the fact that the number of securities being moved daily on Wall Street has more than doubled in recent years while staffs have not. "Why," the Smith & Wesson Security Services chief said incredulously, "large lots of securities are still being accepted at brokerage houses and marked 'subject to count.' No one gets around to counting them for hours."

Mr. Barry said that better systems must be devised by brokerage houses. Some, he noted, have recently hired former FBI men and other experienced criminologists to set up such systems but only the larger houses could afford to do this.

"It's my opinion that not all brokers can afford this route. That's where we come in. We can be somewhat like a fire department. Why buy a fire engine when you can use the local fire department?"

Asked what kind of success Smith & Wesson could guarantee a prospective client, Mr. Barry commented:

"SUCCESS, in essence, is taking prudent measures to protect your assets, customers and employes. Prudent is the key word here. The success we might have is in lowering the odds against such losses. Criminals have become more sophisticated in the value of securities. There's no reason that security specialists shouldn't be as sophisticated. You can't just take a former traffic cop and say, 'OK, you're a security man,' " Mr. Barry said.

While Smith & Wesson has been operating since January, the firm has not yet moved into high gear. At the moment, most of its business is in the area of pre-employment screening. Clients so far are both stock exchanges, several brokerage houses and a few other business concerns that are security conscious.

What does Smith & Wesson do

Continued on page 47



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From reports made to the New York State Insurance Department

Atlantic Mutual Insurance Company

Admitted Assets

Cash in Banks and in Offices		$ 4,326,524
Securities:		
United States Government	$33,870,212	
Other Bonds	52,879,735	
Preferred Stocks	1,829,620	
Common Stocks	40,259,600	$128,838,167
Premiums Receivable not over Three Months Due		9,268,103
Other Assets		7,300,341
TOTAL ADMITTED ASSETS		$149,733,135

Liabilities

Reserves:		
Claims and Claims Expense	$48,232,077	
Unearned Premiums	40,270,006	
Expenses and Taxes	2,466,062	
Reinsurance in Non-Admitted Companies	1,993,843	
Miscellaneous	44,636	$ 93,006,624
Other Liabilities		10,657,070
		$103,663,694
Voluntary Reserve	$36,069,441	
Guaranty Fund	3,000,000	
Surplus	7,000,000	
SURPLUS AS REGARDS POLICYHOLDERS		$ 46,069,441
TOTAL		$149,733,135

Securities carried at $2,077,737 are deposited for purposes required by law.

Common Stocks include the stock of the Centennial Insurance Company, wholly owned, at cost.

Securities are carried at values prescribed by the National Association of Insurance Commissioners. On the basis of December 31, 1969 actual market quotations for all securities owned, this Company's total Admitted Assets would amount to $131,781,230.

Centennial Insurance Company

Admitted Assets

Cash in Banks and in Offices		$ 1,486,325
Securities:		
United States Government	$10,613,048	
Other Bonds	19,566,636	
Preferred Stocks	613,980	
Common Stocks	11,102,062	$41,895,726
Premiums Receivable not over Three Months Due		3,089,368
Other Assets		2,868,372
TOTAL ADMITTED ASSETS		$49,339,791

Liabilities

Reserves:		
Claims and Claims Expense	$16,077,359	
Unearned Premiums	13,423,335	
Expenses and Taxes	822,320	
Reinsurance in Non-Admitted Companies	664,614	
Miscellaneous	14,281	$31,001,909
Other Liabilities		4,085,636
		$35,087,545
Capital	$ 1,500,000	
Surplus	12,752,246	
SURPLUS AS REGARDS POLICYHOLDERS		$14,252,246
TOTAL		$49,339,791

Securities carried at $1,922,635 are deposited for purposes required by law.

Securities are carried at values prescribed by the National Association of Insurance Commissioners. On the basis of December 31, 1969 actual market quotations for all securities owned, this Company's total Admitted Assets would amount to $42,889,669.

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'Insurers no longer eager to hop on buyers' bandwagon:' Black

CHICAGO—A view of today's insurance market, as it has evolved from the past with its own problems and those inherited from the troubled foreign market, was presented by Crawford A. Black to the Chicago chapter of the American Society of Insurance Management Inc. Mr. Black is exec vp of Corroon & Black Co., New York-based brokerage operation.

In the past, Mr. Black said, the climate was such that markets "responded to buyers' needs as if they were afraid insurance might go out of style. It seemed that anyone with anything to insure could do it and, as a result, in many instances, the market was being over-sold."

The buyer was in the driver's seat, he said, and in many cases underwriters were so eager to "hop on the bandwagon" that they were not aware of the potential impact of certain exposures.

PACKAGE policies became the "in thing," Mr. Black told the ASIM group, and it was the feeling that coverages that had in the past produced poor underwriting results on their own would do better under the package concept. "Experience, hopefully, could be hidden or otherwise rationalized," he added.

The competitive nature of the market, resulted in premium dollars often representing more value to companies from an investment point of view than they did as a true measure of the insurer's evaluation of the risk involved, he commented.

A series of major and near major catastrophies burst the buyers' bubble, and in Mr. Black's words, the "day of reckoning arrived, but not all at once." The Cities Service loss in Lake Charles, La., Hurricane Betsy, the 1967 riots, the McCormack Place fire and the Torrey Canyon illustrated to underwriters here and abroad that something was fundamentally inadequate in their approaches.

With the resultant change in underwriting philosophy professional engineering reports, maximum-probable-loss estimates and prompt compliance with loss prevention recommendations were required to obtain and keep insurance.

THE EXCESS markets, he explained, were affected not only by the series of losses but also by inflationary dissipation of premium income, increasingly sophisticated facilities developed by expanding technology and spiraling construction costs. They began to feel their limitations.

There is a resultant lack of market today, he pointed out, in the sense that from a buyer-broker point of view "negotiations have become more protracted and painful."

"As brokers, in order to satisfy your requirements," he said, "we find ourselves utilizing world markets that heretofore were relatively elusive." Many French, Swiss, Japanese and other sellers of insurance, he added, are beginning to play a moderate part in today's placing; and many captive companies are now considering writing certain lines for companies in which their parents have an interest, or have no interest at all, as long as their reinsurance program remains intact.

"Today," he said, "the market is no longer in the hands of the buyers but, rather, in the hands of the sellers." Conglomerates that own insurance companies, he pointed out, are not schooled in or committed to the insurance fraternity and they expect profit from their insurance operations and will not be content with income solely from investment.

"HOWEVER, both domestic markets and underwriters at Lloyd's indicate that perhaps there is some light at the end of the tunnel," he said, noting that what buyers find at the end, in his opinion, will not resemble anything they have known in the past.

"It is our opinion, gathered from our discussion with various underwriters," he told the group, "that high limits of liability on property damage insurance contracts may no longer be entertained by underwriters, unless, as buyers, we are prepared to purchase the maximum-probable-loss potential as the limit of liability. This is . . . a possible solution to the capacity crunch. . . ."

File-and-use laws in more and more states, Mr. Black said, may correct the problem of rate inadequancies. His predictions for the future also included increased management accountability on the part of insurance companies to their stockholders; a trend toward establishment of rates on a prospective basis, making inflation easier to live with; and increased Federal intervention.

"It is true that the premium level bases will be higher," he said of the future posture of the market, "but on the other hand we will be buying insurance in markets that should offer continuity without premiums being increased spontaneously." Large corporations probably will be asked to assume greater retentions of their own risk, he concluded, and excess insurance costs "will probably be steeper. . . ." ■

Crime victim bill clears U.S. Senate

WASHINGTON—Sen. Ralph Yarborough's much discussed bill to establish a commission to compensate the innocent victims of crime in the District of Columbia has finally cleared the Senate after a five-year battle.

While covering only Washington, D. C., Sen. Yarborough (D., Tex.) hopes the idea will help spur interest in the idea in states that haven't already enacted similar legislation. California instituted a victim compensation plan in 1965, New York in 1966, Hawaii and Massachusetts in 1967 and Maryland in 1968.

The trend raises interesting questions in the area of employe benefits, because, to the degree that anything is being done in this area nationally, it is private industry through its life, health, accident, disability, wage replacement programs and, in some states, workmen's compensation.

Under the Yarborough bill, innocent victims of crime could be compensated up to $25,000 for bodily injury or death by a Federal Violent Crimes Compensation Commission to be established by the act. Residents of the District of Columbia would be compensated from District funds, visitors from the general treasury. ■

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following the funds

Reciprocity between funds and managers said to be disappearing

NEW YORK—Reciprocity is a device that has been described as "a good business relationship" between a corporation and its creditors. There was a time, some pension fund managers admit, when one hand would wash the other. A corporation, for example, would give its pension fund to a bank or insurance company for management in return for the assurance that preferential treatment be given when the firm needed, say, to borrow funds for expansion.

While "good business relationships" still do exist, a survey by *Business Insurance* indicates that the practice between insurance companies, banks, and industry is fast disappearing, perhaps due to increased public scrutiny of pension funds. The funds, in other words, are becoming more and more aware that they must show good bottom-line results.

"Basic conflicts of interest arise when the investment manager of a retirement fund has to worry about his bank's interest in a company (due to loans) when he is deciding whether to buy or sell the company's stock," explained a Washington political source. "In much the same way, the performance of a fund, crucially important for future increases in employe benefits from the fund as well as future company costs of the plan, takes a back seat in importance when the fund is treated as an exchanged commodity for loans for the company."

IN 1968, a staff report of the sub-committee on domestic finance, an arm of the House Banking and Currency Committee, revealed the reciprocal process whereby some corporations maintain their lines of communication with their creditors.

One instance cited in the report was that of Pan American Airways. Through a series of interlocking board directorships, the airline parceled out its pension funds to and received loans from a variety of companies. Metropolitan Life shared two common board directors with Pan Am and had $46 million in loans outstanding to the airline. Chase Manhattan had three board directors in common with Metropolitan Life. In turn, the insurance company held 6.7% of Pan Am stock, $8.5 million in outstanding loans to Pan Am and managed one of the airline's pension funds.

In addition, Metropolitan Life shared two directors of the board with the First National City Bank of New York, which had $7 million in outstanding loans to Pan Am and managed two of its pension funds.

Pension funds are attractive to banks, according to a source on the subcommittee staff, not only because of the trustee and/or management fees garnered, but also because it is convenient for a bank to temporarily add any fund cash on hand between sales and purchases of assets to its own lending pool. A bank sometimes makes as high as 13% on short-term loans made from this pool. These profits belong to the bank, and to the extent retirement fund money is used for this purpose, the fund is not receiving the full earnings to which it is entitled.

SUCH RELIANCE on reciprocal agreements appears to be waning, however. "We are still approached by corporations occasionally," said Ralph Ervin, exec vp, of First Pennsylvania Banking and Trust Co.'s investment management department, "who are looking for a loan in exchange for giving us their retirement fund to manage. In fact we have actually lost a fund management account because the company wanted a loan on the basis of the fund's placement with us." But reciprocity is over with at First Pennsylvania, he declared, explaining that the bank had made a transition about a year ago from such reciprocal involvements in favor of higher performance as its major competitive criterion.

"In the past pension funds usually did go to a company's lead bank," he noted. "However, now potential trustees are looked at on the basis of their performance records primarily." Another reason, he pointed out, is that a company's stockholders are becoming much more concerned about a respectible rate of return.

One trust company in New York made a point of its lack of conflicts of interest in its advertisements. In the ad the Fiduciary Trust Co. of New York, which manages the $600 million UN staff retirement fund, stated: "We are authorized by our New York State trust company charter to engage in a wide variety of banking activities. We don't . . . (because) . . . we do not want conflicts of interest that might influence the investment decisions we make for our clients."

"If XYZ Co. has $4 million deposited in a bank," explained Daniel E. Peterson, exec vp of Fiduciary Trust, "it might very well affect investment management decisions to buy or sell XYZ stock owned by the fund accounts managed by the bank."

"THERE SHOULDN'T be any tie-in between whether we lend money to a corporation and whether we manage that corporation's retirement fund," declared Mark Saulnier, exec vp of the Bank of New York's trust department. "No company has ever approached us asking for a loan in return for their pension fund. I feel it's unethical and I don't know that it's being done," he said.

"While it is true that sometimes companies are reluctant to take business away from a bank that lends them money," he noted, "it would be surprising if a large company would come to a bank with reciprocity in mind." Mr. Saulnier explained that a bank that offers complete financial services to its customers will naturally try to sell all of those services to its customers.

He agreed with Mr. Ervin of First Pennsylvania Banking and

Continued in page 45

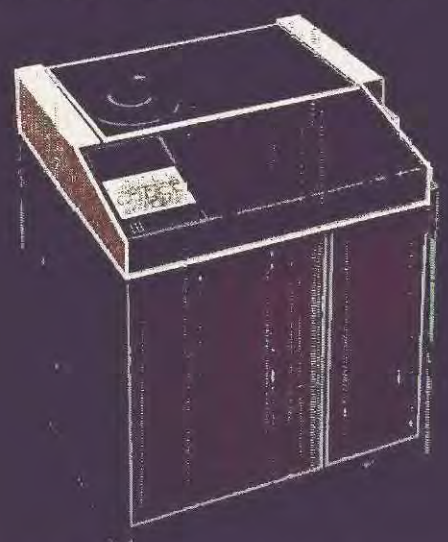
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World insurance markets head for clash over merits of jumbo captive

LONDON—World insurance markets are heading for a head-on clash over the merits of the airline captive for the future jumbo-jet era.

Established insurers here express the opinion that there is adequate capacity available under existing cover to meet any demands.

But prospects that the two new captives, to cover primary and excess risks, will start operations as soon as feasible are now equally firmly accepted. Newest reports in London, however, are that they will be based in Bermuda instead of Lausanne.

THIS COMES after the announcement that the CAB had approved their creation (*Business Insurance*, Mar. 16), but that Swiss approval was awaited.

The two companies, Air Transport Insurance S.A., for primary risks, and Air Transport Guaranty S.A., for excess risks, were supposed to have started operations on last Jan., but have been held up until Jan. 1 of next year.

The Financial Times, of London, now reports that the plan to base them in Switzerland has run into difficulties that could delay their start still further.

So they will be set up instead in Bermuda, which has a favorable business climate for international companies of many different kinds, and will have branch offices in New York and London.

Sir Giles Guthrie, former chairman of British Overseas Airways Corp., will remain head of the "captive" set-up, with Clarence C. Pell as director-general, it is reported.

BUT BRITISH insurers still see no need for the airline captives to open up.

John H. Hine, of the British Aviation Insurance Co., and chairman of the Aviation Insurance Offices' Assn., informed *Business Insurance* in London:

"The advent of the jumbo jet has presented insurers with two main problems. The first was to find the capacity to insure both aircraft and passengers. This seems to have been achieved without much difficulty. The aviation market has clearly shown that it can absorb both hull and passenger risks, so all doubts about capacity appear to have been groundless.

"The second problem facing insurers is to fix the right premium. This has proved to be more difficult and complex than the question of capacity.

"THESE BIG AIRCRAFT have introduced completely new problems and unknown factors that underwriters had to study very carefully before coming to a decision on premium rates. But the market is now in a position to handle confidently the new demands that the jumbo jets are making."

Mr. Hine declared that Pan Am, TWA, American Airlines, BOAC, Lufthansa, Alitalia and Air France were among major operators which had already achieved cover for jumbo jets.

But he warned aviation insurers that, with ninety jumbo jets likely to be in service by the end of 1970, it was unlikely that plans to set up the captives would be abandoned. ■

U.S. workers laid off get Federal pay

WASHINGTON, D.C.—The U.S. Tariff Commission has decided to take the 1962 Trade Agreement Act out of mothballs and grant government adjustment benefits to American workers laid off because of competition from foreign trade. The AFL-CIO has been filing petitions for aid for the past seven years but the commission denied any relief, until now.

The landmark decision came when the steelworkers union filed petitions for 600 people who lost their jobs because of cutbacks at Armco Steel Corp. in Ambridge, Pa., and U.S. Steel, American Bridge Divisions, in Pittsburgh and Los Angeles.

The two U.S. Steel plants produced power transmission towers and parts, and the Armco mill constructed welded pipe. All three businesses were forced to close because they could not compete with the cheaper foreign market.

ACCORDING to the 1962 law, unemployed workers will be paid $80 a week for 52 weeks. People over 60 will get 13 additional weeks of payment and workers in retraining programs will get 26 extra weeks. If a worker must move to another town to get a job, he will receive a relocation allowance.

Union leaders feel the breakthrough should have come long ago. When the steelworkers filed their petitions they wrote a letter stating that government decisions may boost world economy, but on the individual level they were "disastrous for some people."

Meyer Bernstein, international director of the steelworkers union said that the U. S. Tariff Commission should take "a new and more humane look at the problem."

The sudden shift in policy has encouraged many other unions to call on Uncle Sam. A Federal aid handling union queries said he had heard from representatives of electrical and flat-glass workers, tile makers and piano craftsmen.

"My phone has been ringing constantly," he said. ■

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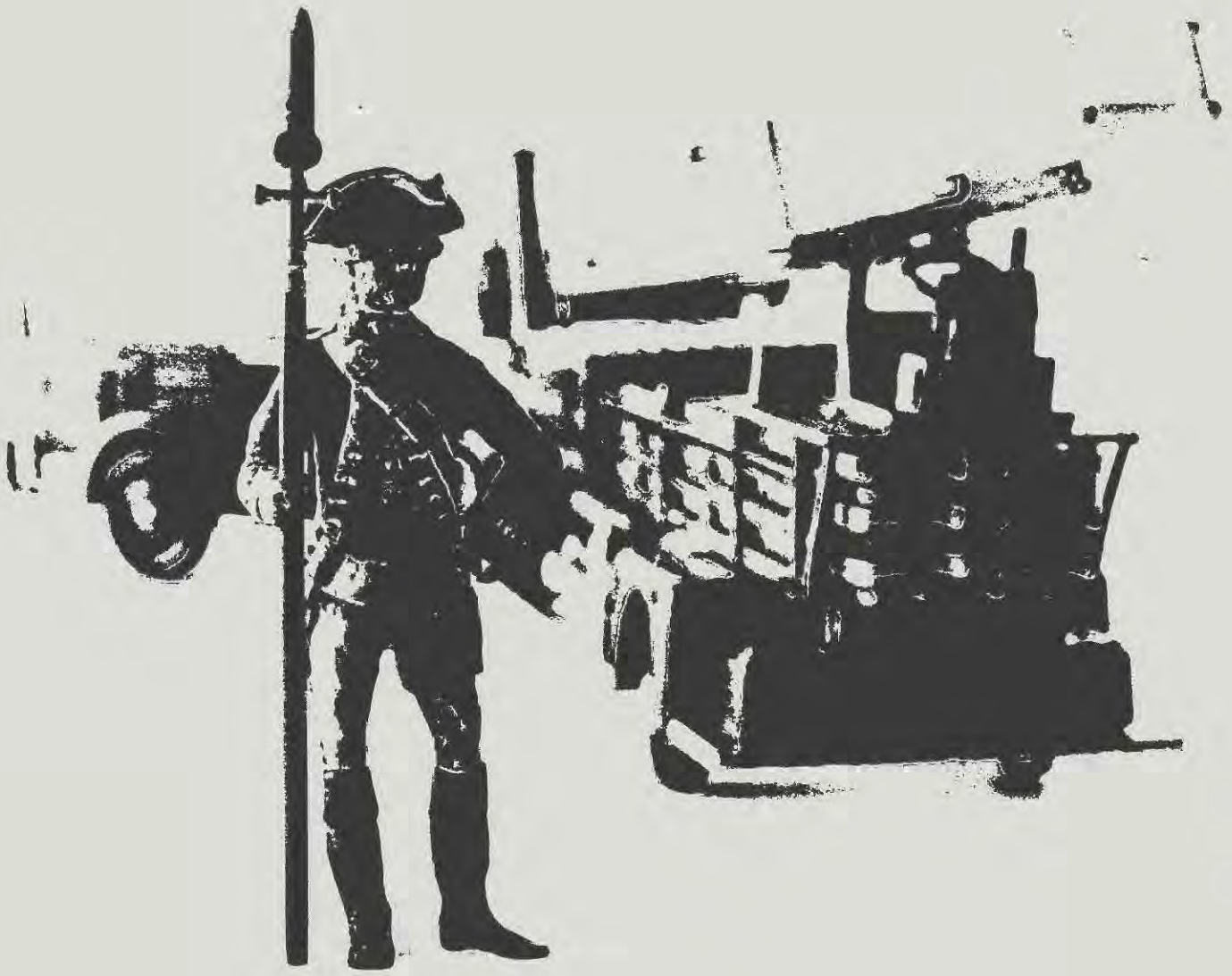
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Officers must pay $4.4 million; D&O would not have covered

WASHINGTON—The Supreme Court has declined to review and thus leaves standing a lower-court decision that holds two former officers of what was Defiance Industries Inc. liable to the company for damages of $4.4 million.

Defiance Industries, which last fall was merged into El-Tronics Inc. after a lengthy proxy battle, did not have director's and officer's liability insurance, according to a source close to the defunct firm. However, persons knowledgeable in the controversial form of insurance coverage doubt that D&O would have applied since an exclusion in the standard policy "excludes coverage for profits to which a director or officer is not legally entitled."

The two officers, cited in a derivative suit filed by a Defiance stockholder, are Victor Muscat, a former chairman and president of the company, and R. L. Huffines Jr., a former chairman.

THE DERIVATIVE action, filed against the two for the benefit of Defiance Industries, was brought in connection with the company's 1962 acquisition of Insurance & Industrial Enterprises Inc.

Prior to the acquisition, Mr. Muscat and Mr. Huffines, along with an associate, Edward Krock, owned 77% of Insurance & Industrial shares outstanding. The firm's principal asset was its holding of a majority stock interest in National Bankers Life Insurance Co., a Texas insurance company.

The suit, brought before a Federal district court, charged that Mr. Muscat and Mr. Huffines caused Defiance to pay an excessive amount for the Insurance & Industrial shares it acquired and that the two men and Mr. Krock personally acquired certain Insurance and Industrial shares which they then sold to Defiance. The suit also challenged the proxy material Defiance used to get stockholder approval of the acquisition.

Defiance, according to the action, acquired all of the 100,000 Insurance & Industrial shares outstanding in 1962, and exchanged 4.875 shares of Defiance Class B common for each Insurance & Industrial common share. The Federal district court found that the exchange ratio was based on a valuation of $70.51 per Insurance & Industrial share and ruled the amount excessive. The judge decided the proper value would have been $40.53 a share and held that Defiance thus suffered a loss of almost $3 million.

THE DISTRICT court judge also ruled that Mr. Muscat, Mr. Huffines and Mr. Krock, prior to the acquisition, bought 10,507 Insurance & Industrial shares at $20.94 a share, which they then exchanged for Defiance shares at the $70.51 ratio. Ruling that the three appropriated an opportunity that belonged to Defiance, the judge held them liable for $206,357. The sums, plus interest, brought the total figure to almost $4.4 million.

"If the main issue is this—and I suspect it is—then this is clearly excluded by standard D&O," one expert told *Business Insurance*.

In addition, the district judge ruled that the Defiance proxy statement was "false and misleading" because it "overstated" the earnings of National Bankers Life.

A Federal Appeals court affirmed the district court. Mr. Muscat and Mr. Huffines sought Supreme Court review, but the high court declined. ■

SAN DIEGO JANUARY 26, 1911



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Reserves charged

SAN FRANCISCO—Participation in the Richmond, Cal., Unified School District "work experience program" has cost the Crocker Citizens National Bank charges against its unemployment insurance reserve account.

A precedent decision by the unemployment compensation appeals board involves a Richmond high school girl hired as a trainee student clerk on Sept. 4, 1968, who worked part time until June 9, 1969. The student was employed in a summer job in a similar program from June 17 until Sept. 3, 1968.

She was terminated as a trainee on June 9, because she was to graduate from high school on June 11, and full time work with the bank was not available.

AN UNEMPLOYMENT insurance hearing referee had ruled the student was entitled to jobless benefits chargeable against the bank's reserve account. The bank contended "an employer should not be penalized for participating with the schools in a worthwhile public service."

The appeals board ruled the bank could be relieved of charges based on the summer employment but not for the September-June period when the girl worked as a student trainee.

"We understand," the board ruled, "and appreciate the employer position that its reserve account should be relieved of benefit charges but unfortunately we are powerless to grant such relief.

"It is our responsibility," the board said, "to interpret and apply the law. We have no authority to change it. Only the state legislature can perform that function." ■

N.J. riders could sue in class action

PHILADELPHIA—By combining New Jersey's liberal class action law with an 1873 statute that holds rail companies liable for damages incurred by passengers suffering from the trains' failure to "run at regular times to be fixed by public notice," a commuter here hopes to give his 38,000 counterparts some means to combat what he calls Penn Central's chronically late and crowded daily commuter service.

"The New Jersey class action law," said James B. Craver, a University of Pennsylvania law student, "allows people to come together if they have the same claim.

"I think that under this law, commuters in general could recover large claims which could be put into a pool. The court could then dole out the money as commuters prove their damage."

Giles on the law

Alabama high court defines role and duty of an insurance broker

By JOHN W. GILES
Attorney at Law

WASHINGTON—We are indebted to the Supreme Court of Alabama in a recent case for some clear-cut language on the duty of an insurance broker.

There is no question that when an insurance agent or broker, with a view to compensation, undertakes to procure insurance for a client and unjustifiably or negligently fails to do so, he becomes liable for any damage resulting therefrom. An insurance broker is the agent of the insured in negotiating for a policy, and owes a duty to his principal to exercise reasonable skill, care and diligence in effecting insurance. While such broker is not obligated to assume the duty of procuring a policy, without consideration for his promise, he must exercise ordinary care in the performance of such duty when assumed. When a broker undertakes to place insurance for another, it is his duty, in case he is unable to do so, to seasonably notify his principal. He is bound to proceed with all reasonable diligence to ascertain whether he can place the insurance, and in case of failure, he must give the notice, but the duty of giving the notice does not arise until after the lapse of a reasonable time in which to make due efforts to place the insurance.

(Alabama Supreme Court No. 4 Div. 317. *Timmerman Ins. Agency* v. *Miller*. Sept. 25, 1969.)

* * *

ARE YOU, AS A manufacturer, sending out faulty instruction sheets with your product? If you are, you are opening the door to a suit. Witness this tragic case:

The purchaser of a trailer hitch was attempting to attach it to his car. He was following the illustrated instructions prepared by the manufacturer for assembling the hitch and mounting it on his model of car. The instructions directed the removal of the single bolt and nut from the strap holding the gasoline tank. The removal of the bolt and nut caused the gasoline tank to fall to the ground. The explosion and flash fire which resulted caused fatal burns to the purchaser's son, who had been standing nearby. The purchaser brought this action against the manufacturer in which he alleged that the fire was caused by its negligence. The jury found that the manufacturer was negligent in preparing an instruction sheet which would lead purchasers of its trailer hitch to believe that the bolt securing the gasoline tank of the automobile should be removed. On appeal the court affirmed the judgment, even though there was some evidence of the father's negligence.

(*Acme Products Co.* v. *L. A. Wenzel*. Texas Court of Civil Appeals. First District—Nov. 20, 1969.)

* * *

WHAT IS THE latest word on the definition of an explosion?

The U. S. Court of Appeals considered a case concerning the sudden release of steam pressure in an autoclave, when its door unhinged. In holding this an explosion covered by an Illinois property damage policy, even though no sudden build up of abnormal pressure was present, the court said that there is no difference between the violent bursting of a steam boiler that is suddenly heated, and one that gradually builds up an abnormal amount of pressure. In circumstances involving a container, an explosion occurs when the pressure inside the container exceeds the strength of the container and results in a sudden release of the pressure. Neither a sudden build-up of pressure nor the presence of an abnormally high pressure are necessary for such an occurrence to be deemed an "explosion."

(U. S. Court of Appeals, *7th Pre-case Concrete Products Inc.* v. *Home Ins. Co.*—11/10/69.)

* * *

IF A SHIP is damaged in a collision in the port of New Orleans, or any other American port, is it necessary to have repairs made in a Spanish or Japanese shipyard where the cost is 66% of American prices?

This question was recently raised in the U. S. Circuit Court of Appeals. The answer is that the ship may be repaired in an American shipyard at American prices, and if the owner does not wish to repair the ship at all, he is still entitled to the cost of the repairs. An injured shipowner is entitled to be placed in the same position he occupied before the collision. The damages assessed should be sufficient to restore the vessel to the condition in which she was at the time the collision occurred.

(U. S. Court of Appeals—5th, —*Tug June S.* v. *Bordagain Shipping Co.*—10/22/69.)

* * *

THE incontestability clause in an employer's group life insurance policy does not bar the insurance company from claiming that the decedent did not work regularly for the employer.

The Court of Appeals says clearly that the incontestable clause in a policy, after the passage of the stipulated period, proscribes defenses which go to the validity of the policy, whether because of non-compliance with conditions or the falsity of representations or warranties. It never intended to enlarge the coverage of the policy, to compel an insurance company to insure lives it never intended to cover or to accept risks or hazards clearly excluded by the terms of the policy.

(C. A. *First Pennsylvania Banking & Trust Co.* v. *United States Life Ins. Co.*—11/17/69.)

* * *

IN A RECENT case in California, the insurer was obligated on its liability insurance policy to defend the insured in an action brought by the mother of the 15-year old boy who was injured when gunpowder that he had purchased from insured's gun store exploded at the home of the boy's companion.

Because the injury resulted from the insured's negligence in selling the product to a minor, rather than because of a defect in the product, the insured's liability was not excluded by the "away

Continued on page 18

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opinions

That auto peril

IF THERE had been any doubt about it, the auto insurance toll was confirmed again by the recent annual report of State Farm Mutual of Bloomington, Ill., the nation's largest car insurer.

State Farm in 1969 lost $81.8 million on its auto underwriting, enough to put the company $26.7 million in the red despite an investment income during the year of $63.5 million.

Much has been said about including investment income in the calculation of insurance rates. Generally we believe that this idea has much merit. But State Farm's experience last year casts doubt on the proposition that insurers, particularly those who write considerable auto insurance, are certain to make money.

State Farm's President Edward B. Rust blamed a share of his company's losses on the "delicacy" of cars on the road today and the severe pressure inflation exerts on the cost of repairing cars. "What America needs now is a good ten-mile-an-hour bumper," Mr. Rust asserted, adding that a five-mile-an-hour nudge can cause several hundred dollars' damage to the delicate vehicles that populate our highways.

State Farm's auto losses underscore the importance of a recent statement by Dr. Herbert S. Denenberg, Loman professor of property and liability insurance at the Wharton School of the University of Pennsylvania.

Dr. Denenberg, attacking both the evolutionary Cotter plan and the American Insurance Assn.'s revolutionary no-fault plan for auto reparations reform, called for "fundamental reform" of the system.

"The soft side of the equation," said the professor, "says we can work miracles by cute new methods of compensating automobile victims. The hard side of the equation says we need to look toward more fundamental reform. This fundamental reform calls for a re-examination of our methods of delivering insurance, health care and legal services. Fundamental reform also calls for re-examination of our loss prevention methods, our highway systems, our licensing laws and our criminal and tort law."

He continued, "New ideas that touch more than the tort system are needed. That kind of revolution is not enough."

Dr. Denenberg's charge is a tall order, but it asks no more than what must be done to correct the imbalance in auto insurance costs. Ten-mile-an-hour bumpers might help Mr. Rust's company into the black, but only a fundamental re-examination and revision of our auto reparations system can correct the cost problem.

Until now the great national debate over auto victim compensation has generated much sound and fury, but very little reason or tangible results. Insurance associations scrap with each other. Even companies within the associations disagree violently about alternative proposals. Bar associations stubbornly resist any suggestion that their members may be bleeding excessive fees from insurers under the tort system. Medical and hospital societies strongly defend their schedules of fees and charges.

In short, we have a kind of civil war going with every special interest group pointing to inflation and careless drivers as the causes for rising costs of auto accident indemnity. The causes of rising costs are as deep as Dr. Denenberg indicated and they are found in all of the elements of insurance, health care and legal services.

Corporate risk managers have much at stake in solving the auto insurance dilemma. Direct costs of motor fleet insurance coverage are involved, of course. But it is also apparent that the cost of auto insurance is a major factor in crimping insurance capacity. Insurers that might otherwise provide needed coverage for major risks are hampered by rising loss ratios on auto coverage.

Risk managers should follow Dr. Denenberg's advice and take the "hard side" by going to the roots of auto insurance costs. They should find their way through the plethora of press releases on reform schemes to speak out against outrageous injustices maintained by special interests.



Foreign affiliates of U.S. corporations expect to increase their plant and equipment expenditures by 20% in 1970 to a projected total of more than $12 billion. The sharp increase in such expenditures places additional responsibilities on risk managers to protect the properties and liabilities of overseas operations.

Source: Office of Business Economics, U.S. Department of Commerce

Goad to the states

SEN. WARREN Magnuson (D., Wash.) has stirred some healthy controversy in Washington by introducing a bill to establish a Federal Insurance Guaranty Corp. that would protect the public against insurance company insolvencies with funds assessed from solvent insurers. It would also impose certain Federal inspection procedures.

The bill (S. 2236) got surprise support from the American Insurance Assn., a move viewed as a step by the association toward endorsement of Federal insurance regulation.

At last report, Sen. Magnuson was said to be revising his bill to make it palatable to a wider segment of the Congress and the insurance industry, which has traditionally opposed any move toward Federal control of insurance.

Yet the significance of Sen. Magnuson's bill may be found in the news that eight states this year have adopted post-assessment insolvency plans and 15 other states are considering such proposals. The Magnuson proposal has served as a goad to the states to take long-needed action in the matter of insurance insolvencies.

Illinois, which has the nation's most shameful record of insurance insolvencies during the past decade, is considering a post-insolvency assessment plan that would cover unsatisfied claims against insolvent insurers ranging from $100 to $300,000. The board governing the fund would aid in the prevention of insolvencies by notifying the state insurance director of any indication that an insurance company could be insolvent or in a hazardous financial condition.

Protection against insurer insolvency is an important public need, a need especially meaningful to unfortunate victims of auto accidents whose claims may go unsatisfied. Even if Sen. Magnuson's bill is blocked in Congress, it will have served its purpose by chiding the states into adopting protection plans.

Good news

THERE WAS good news in the mail last month for 25.5 million Americans who receive Social Security checks. Benefit payments for March were 15% higher, an increase signed into law by President Nixon on Dec. 30. Later this month checks will go to Social Security recipients to provide them the amount of the increase for the months of January and February.

Social Security Commissioner Robert M. Ball announced that the increase raises the monthly benefit total by $345 million to more than $2.5 billion. He added that the income to two trust funds out of which Social Security cash benefits are financed will exceed outgo by about $3.5 billion this year even with the benefit increases.

Yet even with the 15% increase, Social Security benefits provide not nearly enough to sustain benefit recipients in inflationary times. The average monthly benefit for a retired couple, for example, has gone up from $170 to $196 per month. A disabled worker with a wife and a child now receives about $273 per month. These figures demonstrate the need to extend and expand the nation's private pension programs and to keep them current with the inflationary spiral.

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letters

On a limb

To the Editor: I am unable to express the depth of my resentment toward your Mar. 30 editorial regarding Jim Bailey and the service he has rendered ASIM. Your unperceptive reporter is listening to a small group influenced by one dissenter who would like to see Mr. Bailey go.

I suggest you get hep or get off the subject with an appropriate apology or you will lose more subscribers than you can imagine in spite of your otherwise very satisfactory service.

I suggest you be in Miami on Apr. 6 and interview individually or collectively, if possible, the legislative committee and the officers and directors of ASIM.

If I am any judge at all of the reactions of the mass of our membership, you are way out on a very weak limb and had better try to find a graceful way of climbing back to the main trunk.

R. W. Bland
Legislative Chairman, Greater Kansas City Society of Insurance Management, Kansas City.

Editor's note: Business Insurance *reporters will be on hand at the ASIM meeting in Miami to cover the conference and to get reactions.*

Products defense

To the Editor: Thank you for the address of the National Commission on Products Safety. They were not able to give us the information we require.

Has anybody compiled a history on the insurance companies attempts to disclaim liability to its policyholders in product liability cases?

M. Leonard Lewis
President, Atlas Tack Corp., Fairhaven, Mass.

Editor's note: You might get some help from the Defense Research Institute Inc., 1212 West Wisconsin Ave., Milwaukee, Wis. 53233. DRI has compiled extensive material on the defense of product liability claims.

Sharp eyes

To the Editor: You're putting out the best insurance periodical I see, and I see a lot of them.

In regard to your story concerning the basketball players injured by ABC's cameras (Mar. 16), these people have the script all wrong. Didn't they see "The Fortune Cookie" with Jack Lemmon and Walter Matthau? The cameraman (Lemmon) is supposed to get a shyster lawyer (Matthau), cook up a phony claim, and sue ABC. These guys have got it backwards.

As long as I'm writing you: In same issue, page 1, column 3: didn't INA *formally* oppose the plan (not *formerly*)?

And page 3, column 1, the falling glass story—why no comma after second word ("recently")? Without it, story opens as though it was going to go on like this:

Until recently walking into the newly-constructed Union National Bank Building and Knocking her teeth out, Gloria Schnook was a raving beauty. Now she's just raving.

And same story, second paragraph—its *gleaming*, friend, not *gleeming*. Somebody has been watching too many TV toothpaste commercials.

Stephen Gilkenson always does a wonderful job, I think—though at times he's a little too swift

Continued on page 34



Why does Max Factor insure with AFIA?

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Giles . . .

Continued from page 15

from the premises exclusion clause," since that clause amounted to a product's liability exclusion clause. As you can see, the insurance company here argued that this tort on the part of the insured, involved the element of product's liability. The court saw clearly that the agent and the insured both understood the coverage to exclude accidents occurring away from the premises, because of a defect in the product. There was clearly no defect in the product in the case. The gunpowder exploded, as expected, when detonated.

(*McGinnis* v. *Fidelity & Casualty Co. of New York*. California the Fifth District. Sept. 3, 1969.)

* * *

CAN AN INSURANCE company, after electing to defend an action later withdraw from the case?

The problem is considered in a recent case in Texas. The argument was that the insurer had no right to "renege" on the defense, once it has put in a defense. The insured was unable to cite any authority and the court indicated that its research did not indicate that the proposition advanced had any merit. The court cites City of *Wichita Falls* v. *Travellers Ins. Co.* 137 S.W. 2nd 170, as authority for the proposition that an insurer may withdraw its defense after it has elected to defend. (*Consolidated Underwriters* v. *Lloyd W. Richardson Corp*, 444 S.W. 2nd 781.)

* * *

IF AN INSURANCE company issues a brochure that represents greater coverage than that contained in the policy when issued, is the company bound by the brochure?

In the case, the brochure represented that the coverage would be in effect when the premises were *not* open for business. Before the term of the policy expired, cash was stolen from the store during business hours. The insurance company refused to pay. The court said that the insured relied on the representations in the brochure, and that they should be considered as terms of the insurance contract. It appeared that the insured was insured for "all risk comprehensive crime insurance." This indicates that the insured would be covered for all losses to the extent of the coverage stemming from the crime committed against the property. The insured could rely on the fact that the formal policy would embody this coverage in formal terms. (*Berth* v. *State Farm Fire and Casualty Co.*—257 At. 2nd 671.)

* * *

IF YOU HAVE your wife sterilized, and she suddenly shows up with twins, can you recover from the doctor who performed the operation? Do you have a cause of action for breach of warranty and negligence?

The court says that you do. A contract to perform an operation sterilizing a woman is not contrary to public policy, says the court, and the child is not to be thought of as unwanted and unloved, but only as *unplanned*. The court was not prepared to discuss the subject of damages, but held that a cause of action did lie. (Fla. Ct. of App. 2nd District—*Jackson* v. *Anderson*—1/9/70.)

* * *

DO DEALERS who fail to remedy car defects, expose themselves to suits for strict liability? They do in New Hampshire, says the supreme court.

In the case, after the owner had purchased a new car, he discovered that the lights would not work properly when turned on the high beam. He took it back to the dealer, who tried several times to fix the lights but was unsuccessful. In spite of this, the owner continued to drive at night, but he kept the lights on low beam. One night while driving, he thought he saw a deer on the road ahead of him. He tried to turn the lights on high beam, but the lights went out, and he was injured when the car left the road.

The injured man made no claim that the dealer was negligent and relies solely on his right to recover on either warranty or strict liability in tort. The dissenting opinion held that it could not subscribe to the idea of imposing liability upon retailers who have done nothing wrong and against whom no wrong can be inferred because they had no means to control either the quality or design of the product or to discover any defect. (N. H. Supreme Court—*Buttrick* v. *Arthur Despard & Sons*. 12/30/69.)

* * *

BURGLAR! BURGLAR!—A false alarm spelled bad news for a bank in Louisiana.

The complaint alleged that a bank, negligently, willfully and wantonly set off a false burglar alarm and that the plaintiff was injured when his automobile was struck by a vehicle with which a police car collided while answering the false alarm.

The supreme court of South Carolina said that it was proper for a jury to decide whether the conduct of the driver of the police car, also alleged to be negligent, was reasonably forseeable by the bank. (*Gosset* v. *Burnett*. 164 S.E. 2nd 578.)

* * *

IF YOUR NEW and shiny computer, built to solve all your problems, does not work, is the computer service liable to you?

The U. S. district court for the district of Minnesota has said that you can recover if the machine has compounded your problems rather than solved them. The system did not meet the representations made for it, observed the court. (See *Clements Auto Co.* v. *Service Bureau Corp.* 4/16/69 USDC—Minnesota.)

* * *

IN A RECENT New Jersey case, the Hertz Truck Leasing Service was held liable under the doctrine of strict liability upon the rationale that the nature of the rental business is such that the lessor who puts motor vehicles in the stream of commerce in a fashion not unlike a manufacturer or retailer, exposes the bailee, his employes, passengers and the traveling public to a greater quantum of potential harm from defective vehicles than usually arises out of sales by the manufacturer. (See *Cintrone* v. *Hertz Truck Leasing Service*. 45 N. J. 434.)

In other words there should be no meaningful distinction between the mass lessor of motor vehicles and the mass producer of motor vehicles.

Now comes a very recent case in California in which an attempt was made to hold Shell Oil Co. liable for leasing a defective truck. But the California court wisely distinguished this situation from the New Jersey case.

In the California case there was nothing to indicate that Shell was in the business of leasing trucks, or that it put trucks in the stream of commerce in the fashion of a manufacturer or retailer, or that it had leased any trucks other than the one involved in this case. This was an isolated lease and, said the court, the doctrine of strict liability in tort did not apply. (Cal. Ct. App. 1st App. Dist. *Price* v. *Shell Oil Co.* 7/2/69.) ■

New manager named

Michael B. Taylor, formerly assistant insurance manager at Music Corp. of America, has been named corporate insurance manager at Monogram Industries Inc., Los Angeles, a diversified manufacturing company.

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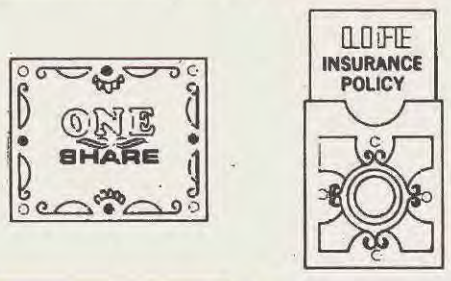
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Airport insurance vending machines

Those quarters may be wasted—unless . . .

WASHINGTON—Does the speed of the modern jet age and the increased tempo of all who are in its vortex impose on a flight insurer the obligation toward prospective policy buyers of explaining the distinctive differences of the several available flight insurance policies?

Does the insurer's attractive sales booth complete with neon signs and a ravishing blonde heralding the need for an availability of "flight insurance" and other catchy advertising comeons carry the distinct message to the scurrying public that the coverage is for the intended traveler's round trip rather than for a definite period of time?

Must the insurer take affirmative steps by extra-contract information statements, to overcome the apprehension of the passenger whose haste may have misled him into buying something which was not adequate for his purposes?

THESE AND other questions have recently been discussed by the courts. For example, a decision by the U. S. Court of Appeals a short time ago illustrates the possible pitfalls of these split-second purchasing decisions at an airport.

In the case, a resident of Kansas with the intention of flying to Texas for her brother's funeral went with her husband and son to a Missouri airport, picked up her ticket and noticed the defendant insurer's vending machine for dispensing flight insurance. The policy it dispensed was a straight flight policy for the round trip, or for 12 months, but covered aircraft accidents only. No one in the family had the change to operate the machine so they went to the insurer's selling booth and purchased from the insurer's agent a policy which, unknown to them, was a general accident policy—with much wider coverage, but expiring only *four* days after the date of purchase.

On her return flight from Texas, the wife was killed when the aircraft crashed at a Missouri airport about 12 hours after the policy had expired. The insurer denied liability. The U. S. District Court reformed the contract from a general accident to a straight flight policy and gave judgment to the beneficiary for $25,000, holding that the insurer had breached its duty in failing to tell the purchaser that several types of insurance policies were available and to explain fully the provisions and limitations of these policies. On appeal, it was held that practical considerations of air travel and the instability flowing from opening up written contracts to oral assertions prevented the holding that the insurer has the duty to give the sort of explanations about these policies as the trial court said it had, and that this case must be controlled by the express terms of the policy. No recovery was allowed.

What are the high points in other decisions by the courts on these "instant" flight policies?

FORTUNATELY for the policyholder, it is a well settled rule in the construction of these policies that in the case of an ambiguity the policy will be interpreted against the insurer. In a recent Federal case in applying this rule the court said in these situations the insured ordinarily pays his premium and makes the contract *before* he has seen the policy, and in almost every case he starts his trip before he has had time to read it. He is even provided the means of mailing his policy to the beneficiary before boarding the plane.

In several cases where flight insurance was purchased from a vending machine at the airport, the inability of the insured to ask questions of and bargain with the insurer has been noted and a liberal construction of the policy has been made in favor of the insured and the beneficiary.

As we have noted, several cases have held that the insurer is under no duty to inform the insured that several types of flight policies are available, nor to explain fully the provisions and limitations of those policies. The philosophy is that the right of the public to be free from fraud and oppression wrought by those in a superior bargaining position must be balanced with the realities of doing business, the enforcement of contracts, and the instability that flows from opening up written contracts to oral ascertions.

Of course, where the insurer clearly requires an applicant for flight insurance to personally sign the application form, and the applicant fails to do so it has been justly held that no contract of insurance was effected and the

Continued on page 20

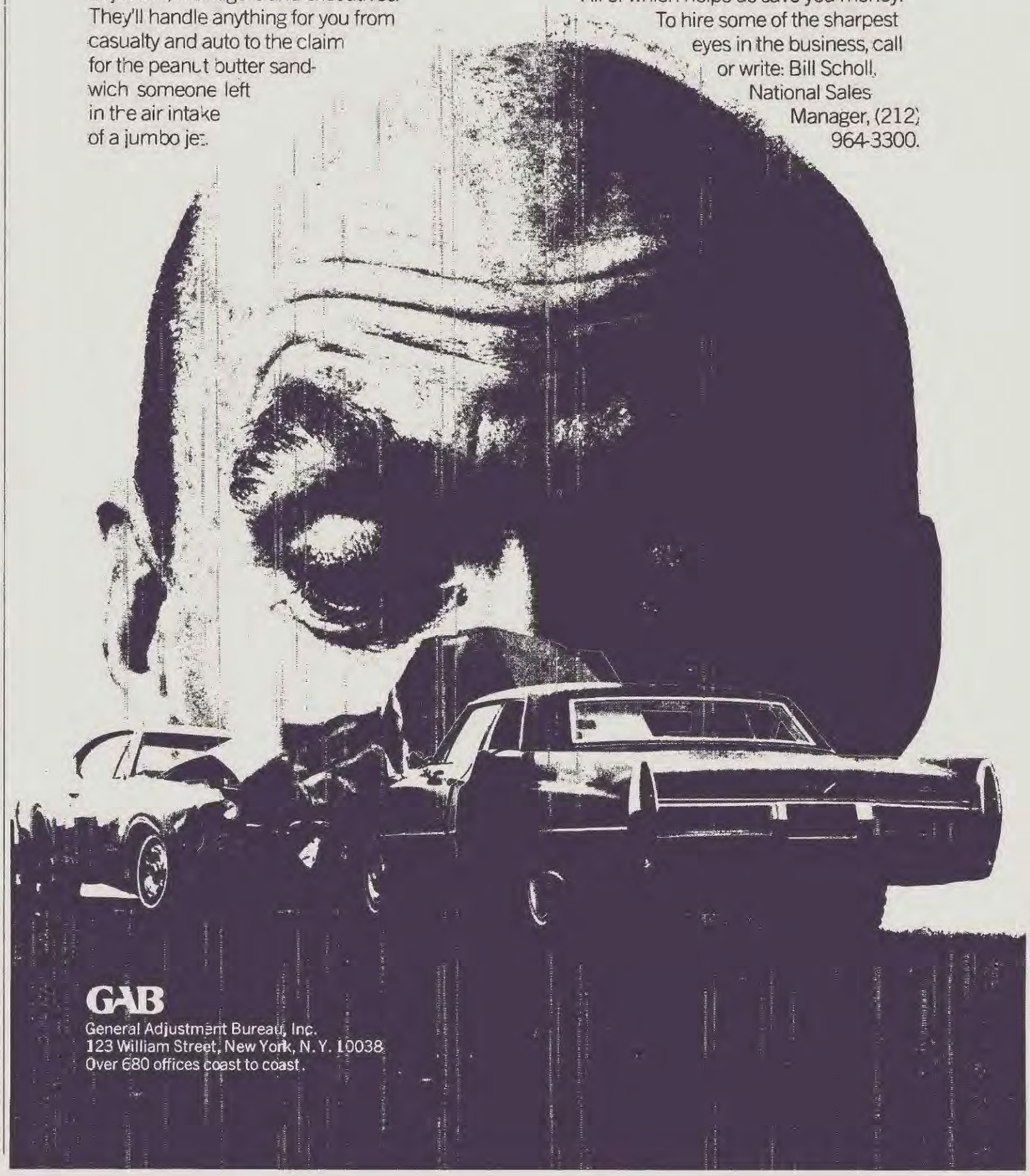
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Firms unworried by India insurance takeover

NEW YORK—Although the Indian government is likely to take over all general insurance companies in that country and eliminate the independent seller, U.S. firms with interests there are not flying into a panic. In fact, they've been expecting the move for some time. They also feel confident that the government which will probably give them the boot any day now, will be dusting off the welcome mat for them in a few years.

"The take over would be a natural," said a spokesman of American International Underwriters (AIU), which represents companies with offices in 14 Indian cities. "The government has controlled life insurance companies and India-owned banks since 1956. We've been expecting general insurance (fire, marine, liability, etc.) to be involved in this too."

The AIU recently sent a representative to India to review the situation.

"A few weeks ago we heard a rumor that nationalization was going into effect and that the bill pending in India's parliament would be passed," another AIU man told *Business Insurance*. "But our representative says it hasn't happened yet."

AN OFFICIAL at AFIA explained that if the take over comes, insurance companies would all be run by a government agency.

"The company turns over its portfolio, closes and goes home," he said. "It just doesn't exist any more."

He said most companies won't be sorry to leave.

"Take over is a trend in emerging underdeveloped countries," he observed. "They either take over or charge a company so much for being there that they can't make a profit."

INDIA HAS A reinsurance corporation which demands a cut of each company's profits. According to an AFIA official, this rate has quadrupled in the last few years and sometimes the government takes $4,000 or $5,000 out of the company kitty for a policy sale.

A director of Overseas International Brokerage, which places automobile insurance in India, noted that there is a severe penalty for not complying with this rule.

"If someone is caught with an American or other foreign policy that is not backed by the reinsurance board, he is jailed and charged sometimes as much as five times the premium rate," he said.

With these problems most companies won't miss India if they're asked to leave but according to this broker and others, once the country gets on its feet economically, India will miss them and invite them back.

"WHEN A depressed area is just beginning to emerge, it usually has a grasping attitude and wants to keep everything inside its borders," he said. "But soon it will realize that if a country doesn't have free circulation of money with the world it turns into a swamp and if it tries to stop someone from making a buck, it won't make any either."

An underwriter at Employers-Commercial Union Insurance Group, which has 10 branches in India, noted that Argentina and France had chased out foreign businesses in previous years, but now they were encouraging outside business to take root.

"Once a country has emerged, governments find that they can't handle the demand for the businesses they've taken over," he said. "They always swing back and open the door again."

A manager at the International Insurance Co. feels that nationalization would be more of a political move than an economic one.

"THE government tells people it is doing this to cut down on insurance costs by eliminating

Continued on page 37

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Assets

Investments:	
United States Government Bonds	$ 26,696,896
Tax Exempt Bonds	226,848,012
Other Bonds	10,571,393
Preferred Stocks	15,410,985
Stocks of Subsidiary and Affiliated Companies	18,589,601
Other Common Stocks	95,983,699
Total	$394,100,586
Cash in Banks and Office	5,264,519
Premium Balances in Course of Collection (not over 90 days due)	25,431,448
Accrued Interest	3,761,489
Other Admitted Assets	15,799,482
Total Admitted Assets	$444,357,524

Liabilities

Reserve for Claims and Claim Expenses	$182,857,383
Reserve for Unearned Premiums	104,619,162
Funds Held Under Reinsurance Treaties	13,464,094
Reserve for Commissions, Taxes and Other Liabilities	21,293,362
Total Liabilities	$322,234,001
Capital (shares authorized 3,000,000; outstanding 1,089,000; par value $6.66 2/3 each)	$ 7,260,000
Surplus	114,863,523
Surplus to Policyholders	$122,123,523
Total	$444,357,524

Securities in the amount of $16,479,307 at December 31, 1969 are deposited as required by law. Bonds are stated at amortized values in accordance with the requirements of regulatory authorities and would be approximately $192,121,853 at December 31, 1969 if valued at market.

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Quarters . . .

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insurer was not liable for the applicant's death on a flight.

IF THE VENDING machine says distinctly by a notice on it, that you cannot buy more than $25,000 worth of insurance and you buy more from the machine, the courts have held that the excess over the stipulated amount is void.

Most airplane policies limit the coverage to regularly scheduled flights, so that if you do have one of these vending machine policies, you should not travel on unscheduled flights, as, if you are injured or killed, your beneficiary may not recover a nickel. Also if you are going a number of places, all of which are set forth in your ticket—and the insurance covers this flight schedule, you must remember that your policy does not cover side trips and if you intend to take any, you must get additional insurance covering the contemplated side trip.

Sometimes a flight insurance policy requires that the ticket for the original flight be exchanged for a new one in the event that the insured wishes to make a substitute flight. In California where an insured was killed while on an air taxi substituted for a flight that was a part of his original itinerary, and the insured had not exchanged his original flight ticket for the air taxi ticket, the court held that the policy covered the insured's death, despite the policy requirement that the first airline ticket be exchanged for the substituted ticket, when there was a change in the itinerary.

The court stated that the policy limitation referred to the situation in which a passenger freely chooses to change his original itinerary, not to the contingency in which he seeks to follow it, and in order to do so, obtains alternate transportation because of flight cancellation. In these situations, compliance with the ticket exchange requirement is often extremely difficult or impossible, and compliance with it does not materially affect the insurers' risk.

It is hardly necessary to mention the importance of timely notice of claim, if you are injured or killed. Most policies provide 20 days in which to give notice, but if you are alive after the crash, give notice immediately, and it is to be hoped that your beneficiary will do the same. All such policies should be payable to a named beneficiary and not to the estate of the insured to avoid the inclusion of the proceeds into the estate, thus increasing the inheritance tax load. ■

"This $300 suit is going to cost this hotel $300,000 before I'm through."

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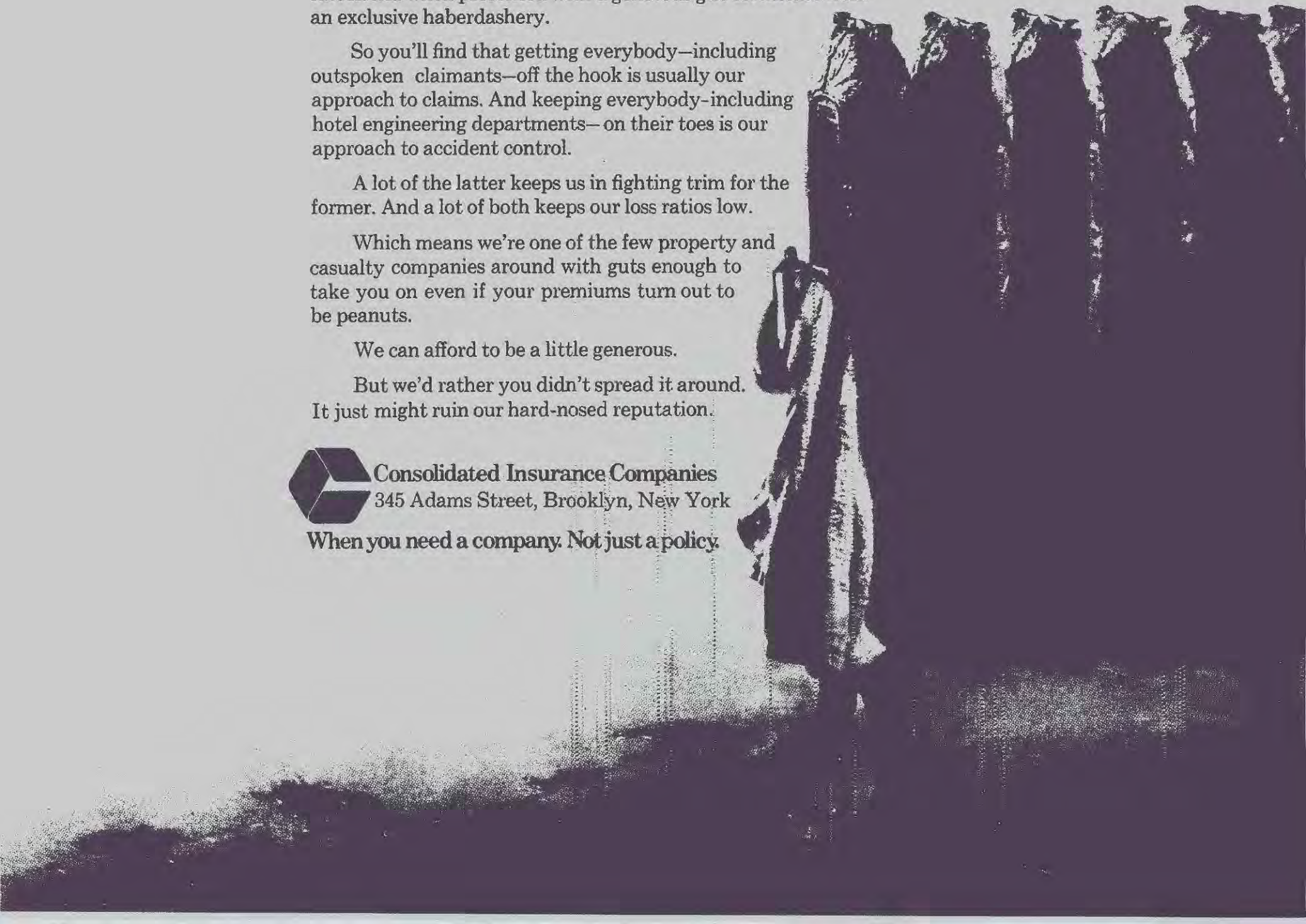
So you'll find that getting everybody—including outspoken claimants—off the hook is usually our approach to claims. And keeping everybody-including hotel engineering departments—on their toes is our approach to accident control.

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Fishermen seek $100 million oil pollution damages from Chevron

NEW ORLEANS—The Chevron Oil Co. is the target of pollution suits in which potential damages amount to more than $100 million. The actions, initiated here last month, are a result of damages done by several Chevron wells that have been spewing crude oil into the Gulf of Mexico for well over a month.

Chevron's basic insurance program, as reported earlier in *Business Insurance*, involves a first layer of self-insurance (as much as $10 million) with an excess cover written in London.

In one of the suits, filed by nine shrimp fishermen in behalf of 2,000 fellow offshore trawlers, damages of $70 million will be sought if the young shrimp crop is hard hit by oil slicks floating in the Gulf.

THE SECOND suit was brought by Numa and Paul Dennis. It seeks potential damages amounting to $31.5 million and is brought on behalf of 1,000 oyster fishermen. In recent years, according to the petition filed on behalf of the fishermen, income from the state's oyster beds has exceeded $5 million a year.

The Chevron oil slicks, according to the petition, have spilled out from an offshore well operated by Chevron about 75 miles southeast of New Orleans. They threaten approximately 400,000 acres of oyster beds, it states.

Secretary of the Interior Walter B. Hickel has said that the pollution "disaster" might have been prevented if the wells had been equipped with a safety device called a "storm choke," which closes off the oil flow in the event of an emergency, such as the explosion at a Chevron well, Feb. 10, which set off a fire that burned out of control for more than a month. Secretary Hickel has cited Chevron for not complying with Federal regulations put into effect last year calling for installation of the devices on offshore drilling platforms.

The action against Chevron is not the first or only legal move against some of the country's big business enterprises for activities that allegedly polluted or would pollute the environment. In addition to suits by individuals, Federal and state governments have joined the barrage.

THE NIXON Administration, for example, has filed suit to stop Florida Power & Light Co. from discharging heated water in Biscayne Bay. The court action is the first the Federal government has taken in an attempt to stop thermal pollution.

The suit asserts that the utility company's thermal pollution of the bay is "rapidly ruining marine life."

In another oil pollution action, the State of Florida is seeking $250 million from Humble Oil & Refining Co., a subsidiary of Standard Oil Co. of New Jersey, alleging that a tanker chartered by the company spilled oil in Tampa Bay and thus damaged Florida's reputation as a tourist center.

The state is seeking the judgment to recover loss of at least 5% of business by Florida's tourist industry. The suit was filed in Federal district court at Tampa against Humble and Shipping Development Corp. of Panama, owner of the tanker, which ran aground in Tampa Bay in February.

IN CALIFORNIA, meanwhile, four major auto manufacturers and the Automobile Manufacturers Assn. are being sued by the state for "conspiracy to halt development of auto antismog devices." The suit seeks redress for civil damages caused by auto exhaust pollution and parallels a comparable criminal action brought by the Federal government earlier. That action was settled by a consent decree.

The state says that the extent of damage smog has caused to the residents of California hasn't yet been determined but that it expects the amount will run into the billions of dollars. The suit seeks treble damages.

In the action, California is arguing that the four major auto makers and the trade group conspired to halt development of auto antismog devices and that, because of this, resultant pollution caused damage to the environment.

The suit asks the court to order the companies to install smog control equipment on used cars in California at the expense of the manufacturers. The companies named are General Motors, Ford, Chrysler and American Motors. ■

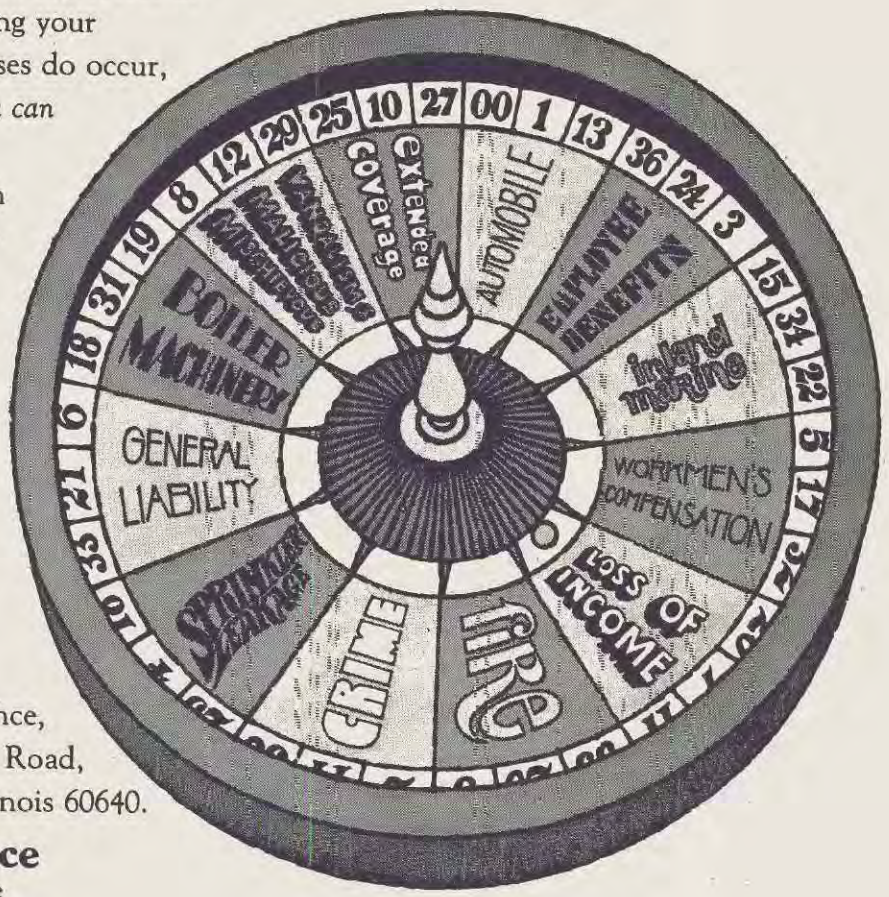
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Ask strict adherence to fee schedule

SAN FRANCISCO—The California Workmen's Compensation Institute here this week recommended "strict adherence to the legally established medical fee schedule" in paying anesthesiologists providing treatment in workmen's compensation cases.

The recommendation goes to member insurers writing more than 70% of the workmen's compensation premium in California.

The action by the institute's management committee followed a review of complaints and refusals to treat by individual and organized anesthesiologists in San Diego, San Mateo County, Long Beach, San Francisco and elsewhere.

ANESTHESIOLOGISTS refused to treat unless usual and customary fees were paid, contending that the official fee schedule adopted by the California division of industrial accidents was "inadequate."

"The schedule," the committee reported, "represents *prima facie* reasonable reimbursement in the normal, usual case and there is nothing in the complaints by the physicians to indicate they have been providing other than normal, usual treatment."

The committee contended "there are remedies available to dissatisfied physicians other than a blanket refusal to treat.

"The state schedule itself," the committee declared, "provides for additional payment in complicated and difficult cases and a petition may be filed with the division asking specific or general modification. To date no such petition has been filed."

The state fee schedule is based on a relative value study adopted by the California Medical Assn. ■

Supplemental lay-off benefit plan set by North American Rockwell

EL SEGUNDO, Calif.—Although North American Rockwell has been forced to cancel its 10-year-old extended lay-off benefits plan because of lack of funds, the company has agreed to establish a supplemental unemployment benefit plan in the fall, which is similar to that used in the automotive industry. North American negotiates such plans with the UAW.

"Our old plan was essentially a book exchange," North American Rockwell's insurance manager, William Altstaetter, explained to *Business Insurance*. "We set aside 3¢ per hour per man to provide for an extended lay-off benefit. It was not like a funded, trusteed, pension-type plan; we simply allocated that amount into an account for that purpose," he said, explaining that a man was paid a lump sum made up of $75 per week for each year of service for up to 15 years during lay-off periods.

In addition, the allocated funds were used by the company to continue premium payments on the employe's group hospital, surgical and life coverage for up to one year, depending on his seniority.

WHILE THE lump sum payments have been discontinued, the company will not interrupt group insurance premium payments, he said.

"The program had been going on for 10 years," Mr. Alstaetter pointed out, explaining that because of the economic down-turn the aerospace industry has experienced in the last 18 months (5,000 employes had been laid off by North American by April 1), less and less money was being credited to the lay-off benefits fund while more and more benefits were being paid out. "We simply reached the point of no return," he said.

The company's eventual goal is 50% involvement in private commerce and 50% of its business in government contracts, Mr. Altstaetter noted. Currently North American has only 40% of its capacity tied to private commercial production (from weaving to printing machines).

The supplemental unemployment benefits plan (SUB) North American will adopt in the fall will be identical to the SUB plan now in effect throughout the automotive industry as developed in negotiation with the UAW.

FORD MOTOR CO.'S plan covers some 168,000 workers and at maximum funding level totals $168.9 million ($1,001 in benefits per man). Any employe with one year's service is eligible under the Ford plan. The supplemental benefit, which includes his state unemployment compensation, is equal to 95% of his after-tax straight-time wages minus $7.50 for work expenses he doesn't incur while laid off. The benefits are paid for up to 52 weeks, and once the state unemployment compensation eligibility is expended the Ford plan shoulders the entire amount until the expiration of the 52 week period.

The Ford SUB plan fund is administered by Manufacturer's National Bank of Chicago. The union-management agreement that created the plan stipulated that all funds must be invested in federal government securities.

Ford contributes to the plan according to the level of the fund. At 81% of maximum funding, the company contributes 5¢ per hour compensated. Between 50% and 81% of maximum funding the company's contribution is 6¢ per hour. Once the fund goes below 50% the company ups its contribution to 7¢ per hour. Currently the fund is at 52% of its maximum level ($88 million), according to a spokesman at Ford. ■

Ship insurer hikes rates on vessels

NEW YORK—Annual hikes of 5% to 7% in ship repair costs coupled with the advent of larger, more valuable ships have been cited by the American Hull Insurance Syndicate as the reasons behind the $10.5 million in ship casualties claims paid in 1969, a 48% increase over the previous year.

The syndicate has raised its premium rates for 1970 from 5% to 10% above those of last year. The syndicate is comprised of 55 companies which currently write coverage for some 2,700 ocean vessels. Allen E. Schumacher, syndicate manager, said that "further corrections" in the 1970 rates would be made.

The syndicate's largest 1969 claim ($2.5 million) stemmed from the partial loss of a 33.6 kiloton tanker which burned after a hose, used to pump oil ashore at Amsterdam, broke open.

While claims originated with collisions, fires and explosions, strandings and machinery damages, hikes in repair costs (5% to 7% annually) have persisted over the past five years.

In addition, Mr. Schumacher noted the rise in value of the single ship, pointing out that some of the giant, recently-built oil tankers now at sea are valued at $25 million each. Container ships, under construction, were expected to be valued at $33 million each, dwarfing the value even of the four to six conventional freighters each new ship is designed to replace. The American syndicate currently will insure a single ship for up to $15 million. ■

Shipper says claims are reduced

MANCHESTER, Eng.—One of the leaders of containerized shipping on the North Atlantic is boasting a dramatic decrease in insurance claims in recent months. Reduced insurance rates have not come as yet, however, although a company executive expressed hope recently that they may be coming shortly.

Manchester Liners, whose 13-vessel fleet now includes four container ships, reports that after 40 Manchester-Montreal container voyages its claims record for the company's guaranteed under-deck stowage has been reduced by 50% below what it is normally with conventional carried cargo.

Robert B. Stoker, as executive of Manchester Liners, noted "Our shippers on both sides of the Atlantic have been quick to grasp its advantages and we are grateful to them for their response." ■



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American competition for fire risks anticipated by Britain's insurers

LONDON—Fiercer American competition in the British fire insurance market is anticipated by William C. Harris, general manager of Phoenix Assurance Company.

Reviewing plans for the next ten years, he warned the Insurance Institute of London that American companies are well established in Britain, and play an important part, especially in the obvious field of American-owned risks.

But he does not accept that American-styled packaged deals are always the right type of policy for the British market.

HE DECLARED: "In small and simple cases such policies, which combine widely different coverages in one document, might be convenient. But the industry is a long way from the stage where any single company can provide simultaneously the best terms in every section of insurance."

He declared: "In small and simple cases such policies, which combine widely different coverages in one document, might be convenient.

"But they do not reduce the cost. The industry is a long way from the stage where any single company provides simultaneously the best terms in every section of insurance.

"As long as that is true, packaging must be of doubtful value."

* * *

GENERAL Accident Assurance Corp., Perth, Scotland, reports that it lost $2,615,000 on its U.S. underwriting accounts last year, compared with a $2,589,000 profit in the previous year.

But it has told its stockholders that this figure is based on the requirements of the American statutory accounting system, and is subject to certain adjustments, mainly over marine business, before being incorporated into the group worldwide results.

For it points out that its operating ratio, which was fractionally changed at 99.80% against 98.34%, shows a marginal profit. Net premiums earned were $210,776,000 in 1969, against $197,453,000 in 1968.

Net premiums written in 1969 were $220,376,000, against $199,653,000. Claims ratio to earned premiums was 68.16% compared to 66.09% in 1968. Commission and expenses ratio to written premiums was 31.64% in 1969, and 32.25% in 1968. Investment income from the U.S. was $19,414,000, this year, against $17,603,000. The group faces a cutback in results elsewhere in the world towards the end of last year.

* * *

FIRE DAMAGE cost Britain $300,000,000 last year, the British Insurance Association reports. This hikes the damage by 20% over the previous year, and makes higher premiums likely in 1970.

Hazardous industries include chemical and allied industries (especially plastics), timber and furniture manufacturing, and metal, vehicle and textile production.

Protesting lack of real security against fire hazards, Ernest Bigland, of Guardian Assurance group, and chairman of the insurance companies' fire liaison panel, declared: "There are more sprinklers in buildings in Chicago alone than in Britain and France put together. The United Kingdom has a long way to go to catch up."

But insurance premiums may be cut in some sectors, such as offices, garages, hospitals, breweries and tobacco manufacturers, which had good fire-prevention records last year.

* * *

PLANS FOR A massive deep-water port off the Scottish coast to handle trans-atlantic and other giant vessels are finding tremendous attention among marine insurers in Britain. Especially if it is approved by local authorities around Glasgow, Scotland, as it may help to ease new hikes in tanker premiums that are bound to come.

But so far Oceanspan 1970-2000 is just the dream of some enterprising Scotsmen, headed by noted shipbuilder and banker Sir William Lithgow.

Firms called in for consultation on the project include Willis, Faber and Dumas, well-known London underwriters, for there is a special regard in the scheme to world insurance.

A report on its insurance benefits states: "At present insurance costs for new big tankers and bulk carriers are very high. Operating companies feel that the world of marine insurance has reacted with mild hysteria to the growth in the size of ships. But underwriters do not share the view that insurance premiums for large vessels will fall, and point to recent experiences in that field.

"There is upward pressure anyway because of of inflation and rising repair costs. But the routes and ports to be used by such vessels may influence premiums, for there is evidence that big tankers and bulk carriers are already enjoying lower insurance costs if they use safe routes and ports.

"There are likely to be definite advantages, through lower marine insurance costs, in using the Clyde Estuary."

* * *

COMMERCIAL Union, of London, has reduced its world underwriting losses from $14,000,000 in 1968 to $10,000,000 last year. Profits in Britain and elsewhere helped to offset American losses, including the $5,000,000 Camille cost, which were cut from over $21,000,000 in 1968 to $18,500,000 in 1969. Results of the Northern and Employers merger are expected to be reflected shortly. With investment income taken into account, the company's annual profit before taxation was raised from $44,000,000 to $53,000,000.

* * *

VIOLENT CRIME in London rose by a quarter last year, re-

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Products liability claims out of control: Insurer

UTICA, N. Y.—The president of Utica Mutual Insurance Co. has declared that the "whole realm of products liability is getting out of control in terms not only of frequency, but in severity," and suggested a possible solution that might be presented by the insurance industry "would be a national products liability pool or syndicate" for poor risks.

Making the suggestion in a recent speech before the Central Massachusetts Chapter of the American Society of Insurance Management Inc. recently was Victor T. Ehre.

"Probably one of the biggest headaches of the corporate insurance buyer today is the placement, and with adequate limits, of products liability and products recall coverages," Mr. Ehre said, noting that the latter coverage is still only available on a limited basis.

"PRODUCTS liability coverage from a profit standpoint has been deteriorating by leaps and bounds within the last ten years," the president declared. "From only a handful of legal cases some 15 years ago," he went on, "the annual number of these cases has mushroomed to the present rate of more than 200,000 a year and is still climbing. The field has become the rich new lode for the diggings of plaintiffs' attorneys."

Noting that there are several reasons for the dramatic increase in products liability litigation, Mr. Ehre pinpointed three of them.

First, he explained, "the American consumer is becoming more aware of the new legal responsibility of the manufacturer to produce absolutely safe products."

Another is the fact that "nationally recognized manufacturers become huge targets for the plaintiff big game hunters, and the courts are supplying the fire power to shoot them down. The courts," the Utica Mutual chief executive went on, "have literally determined the rules and standards of care for the manufacture and sale of all products. The courts' progression towards strict liability has been steady and relentless." He noted that some 35 or 40 states have now adopted the more liberal standards and that absolute liability may be the ultimate objective.

"ACCORDINGLY, the manufacturer must design his product with an eye for intended and even unintended uses if a jury feels the latter should have been foreseeable. The requirement of privity of contract has long since been abandoned," Mr. Ehre noted. "The carrier may find itself in the suit many months or years after the accident because it has been brought into the suit as the insurer of a risk that is on the tail end of the chain of those alleged to be responsible. Moreover," the Utica president declared, "there is no escaping jurisdiction of suit, no matter where the manufacturer is located, as long as his goods are 'in the stream of commerce.' Products attorneys use the shotgun approach and bring the suits on the grounds of negligence, warranty and strict liability," he said.

Cited as a third reason—and one that compounds the other two—is the exercise of subrogation rights, or a preference for the products liability route as opposed to workmen's compensation benefits.

"The workmen's compensation carrier pays its loss and subrogates against a manufacturer. The employer of an injured employe suggests to and cooperates with him in order to sue under products liability and keep the loss out of the employer's workmen's compensation experience. Often," said Mr. Ehre, "the union representative gets into the act much on the same basis."

One solution that has been suggested, Mr. Ehre continues, is that the manufacturer sell the machine or equipment to the user under a hold harmless agreement. "That's fine for the future," the Utica Mutual president said, "but doesn't solve the exposure on all of the machines and equipment that have been sold in the past. Another solution," he said, "is to provide insurance by the same carrier for both the manufacturer of the product and the distributor or user—but the exposure is often such that no carrier wants either—much less both," he added.

UNTIL RECENTLY, Mr. Ehre said, products liability was "one of the most profitable classes of insurance left to the underwriter." For 15 years leading up to 1966, he said, underwriting profits in the general liability insurance class (in which products liability is included) had averaged 15%. In 1966, the Utica Mutual president said, it dropped to about 6%. The next year profit disappeared entirely, he said, and the class produced a loss of about 2%. In 1968 the loss rose to 5% and another loss is expected for 1969, he noted.

Cited as one reason for the huge increase in insurance company costs by Mr. Ehre are legal fees. "We recently concluded a case in which we won a suit after a three months trial and the attorney's fee was $17,000, not including previous costs for pre-trial preparation. We can hardly afford such Pyrrhic victories," Mr. Ehre said.

Elaborating on this point later for *Business Insurance*, Mr. Ehre said that Utica Mutual had had excellent experience in the general liability field for years, noting that the company had an average of "not much over a 30% loss ratio."

"Then," he said, "around the tail end of '68 and in '69 that loss ratio jumped about 20 points. And it's entirely due to products liability cases."

THE CASE that involved the $17,000 legal expense was a policyholder that manufactures punch press and metal stamping equipment, he noted. The company has been with Utica Mutual since 1914 and has an excellent safety control record with the products it manufactures, he said. "But," he noted, "when the people get these machines they sometimes modify them. In the last two years every guy who has lost a hand in one of the machines—whether he is encouraged by his employer, a union organizer or an attorney or someone else, I don't know—turns around and sues the manufacturer.

"Another company we write manufactures amusement rides. We've had them since 1915 and whenever there was an accident the injured person almost always sued the operator. Now they go after the manufacturer, who usually has more money and higher insurance limits." Mr. Ehre cited two recent losses Utica Mutual

Continued on page 32

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The company cannot, without approval of the agent, cancel a policy which has been in force for 60 days. Exceptions, of course, are for nonpayment of premium, non-report of basis of premium, or increase in hazard, or misrepresentation of a material fact at the time of acceptance.

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Hold leasing firms liable for damages

SAN FRANCISCO—The state supreme court of California ruled that professional leasing firms can be required to pay damages for physical injuries caused by defects in the equipment or vehicles they lease.

The unanimous decision extends to leasing companies the same strict liability in tort previously held for manufacturers and retailers.

The leasing firms previously have been held by lower courts to be liable to damage suits only if their specific negligence could be proved, usually in failure to inspect the equipment leased.

THE CASE ON which the Supreme Court ruled involved Merton Price, an airplane refueler who was injured at San Francisco International Airport in 1964 when a ladder broke on the back of a gasoline fueling truck.

The truck had been leased by Shell Oil Co. to the Flying Tiger Line, a freight by air carrier.

Associate Justice Raymond Sullivan, in the ruling, wrote "having in mind the market realities and the widespread use of the lease of property in today's business world, we think it makes good sense to impose on the lessors the same liability for physical harm which has been imposed on the manufacturers and retailers.

"The former, like the latter, are able to bear the cost of compensating for injuries resulting from defects by spreading the loss through an adjustment of the rental.

"A PERSON IN the U-drive-it business," Justice Sullivan continued, 'puts motor vehicles in the stream of commerce.

"And this is done," he added, "in a fashion not unlike that of a manufacturer or a retailer.

"The car lease or car rental firm," Justice Sullivan said, "subjects its vehicles to more sustained use on the highways than most ordinary car purchases and, statistically, presents more potential danger or harm to the renter and to the public at large.

"Essentially, the paramount policy to be promoted by this Court rule is the protection of otherwise defenseless victims of manufacturing defects and the spreading throughout society of the cost of compensating them."

JUSTICE Sullivan also cited other recent liberalizations of the liability law, including holding subdividers and builders to be liable for defects in homes.

"The leasing firm, like the home builder," Justice Sullivan said, "places an article on the market knowing that it is to be used without inspection for defects."

Shell Oil Co. had argued that it was liable for damages only if negligence could be proved. It also argued that it was not a professional leasing firm and that Flying Tiger had assumed liability in the lease contract.

The Supreme Court ruled Shell had similar lease contracts with other firms and used a printed lease form as "clear marks it was in the leasing business." ■

Kodak sick leave costs up 40%

ROCHESTER, N.Y.—Eastman Kodak's 46,000 employes are taking advantage of a liberalized sick leave pay plan and, according to a company official, cost Eastman an extra $4 million last year.

The 15-month-old plan, which eliminated a three-day wait for sick pay and provided immediate full hourly salary, hiked the company's benefit payments up to $14 million in 1969. In 1968 when the waiting period was in effect, sick pay costs were 40% lower, costing Eastman $10 million.

London . . .

Continued from page 24

ports Scotland Yard chief Sir John Waldron. He says the figures are "serious, but not catastrophic", and are due to the permissive age which people are now living in. But he points out that Britain does not yet have the same amount of violent crime as the U.S. or Germany. Shoplifting went up by 50%, robbings by 17%, and murder and other serious assaults by 22%, in London last year, however.

In a speech to businessmen in London, he declared:

"Every one of you should take advantage of police advice in the battle against crime. My crime prevention officers are equipped to assess crime risks. They are at the top with their knowledge of scientific developments.

"They have access to all types of intelligence about criminals in Britain which can be applied to crime prevention."

* * *

FARMING is the third most dangerous occupation in Britain. It stands in the list of hazards after mining and construction work. This disclosure comes from the Royal Society for the Prevention of Accidents, which reports that there were 10,000 accidents on farms last year. But the fatal risk of tractors overturning is being cut down by the use of special safety frames which have to be fitted to all new vehicles.

* * *

COMMERCIAL Union reports disappointing results from its American underwriting experience last year, but hopes for better results as soon as the cost of pooling its business with Employers Group Associates, Boston, has been surmounted.

Its company chairman, Ronald C. Brooks, announced that it will be necessary to offset costs by reductions in staff numbers in 1970 and succeeding years.

He stated: "Integration with the Employers Groups has made considerable progress, but the initial effect has been to increase management expenses because of the immense physical problems involved over moving offices and staffs in the U.S.A."

* * *

A GROUP of Los Angeles businessmen is to visit Britain to see how it is tackling pollution problems.

They will hold discussions with firms engaged in noise control, water and air pollution, and urban transport.

The London Chamber of Commerce has invited ten delegates from the Los Angeles Chamber of Commerce, headed by its president William Simpson, to make the trip in mid-May.

The visit follows one from the San Francisco Chamber of Commerce to London in February. ■



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Thalidomide awards hit $900,000 in Britain

LONDON—Damages totalling $900,000 have been awarded in Britain's High Court to 18 thalidomide sufferers and their parents. The children are among a group of more than 300 British children who were born deformed after their mothers took the drug during pregnancy.

Altogether, Distillers Co. (Biochemicals) Ltd. faces a $12.5 million pay-out to youngsters who are crippled, and the manufacturer's consequential liability claim against a Lloyd's insurance syndicate is still to be heard in the law courts.

But the cases that are now going through the courts are cited as examples of the different kind of effects the drug may have had, and so are being taken piecemeal. The insurance claim will be heard after they have all been settled, as reported in *Business Insurance*, Feb 2.

In the latest batch of cases some children got $55,000, under a settlement in which any allegation of negligence against the British company, which marketed the drug under licence from Germany, were withdrawn.

Others got $25,000, as they had less severe handicaps through their deformities. Mothers of the crippled children got between $10,000 and $2,500 for shock and loss of earnings, and their fathers also got pay-outs for expenses they had incurred.

In Germany, a massive pay-out of $30 million has been promised by the drug firm Chemie-Grumenthal to help more than 2,000 West German children whose mothers took the drug, which in Germany was named Contergan. Secret talks to settle full details of their compensation are still going on. ■

Gump's sued for fire damages

SAN FRANCISCO—A $472,000 damage suit has been filed in Superior Court here by Schneider Brothers Inc., a fur store, charging the famed Gump's Department store with liability for damages suffered in a spectacular December, 1968, fire.

The suit claims $300,000 in physical damage, $72,021 for business loss and $100,000 because the fur salon had to relocate to a less suitable site.

Named as a defendant along with Gump's was Esther Shuper, a trustee for owners of the building which was damaged in the late evening fire. The fire caused total damages of $2 million.

Feedback on benefits important: Consultant

CHICAGO—Management's reasons for having employe benefits are defeated if communication of benefits is ineffective, according to Albert S. Schlachtmeyer, consultant with Hewitt Associates of Libertyville, Ill.

Mr. Schlachtmeyer told an American Management Assn. meeting here, "Company executives are willing to pay for good benefits to keep employes from becoming dissatisfied with the benefit program and with other nonbenefit areas of the company's operation. But if a company neglects to tell employes how and when benefits pay, and how the whole benefit package fits together to provide a program of security, then employes may get dissatisfied.

"In meeting employe information needs, management can rely on recent research and technical advances. We know much more today about the communication process. We have the contributions of the behavioral scientists to guide us," he said.

"New techniques of employe communication, such as individual pay-and-benefit status reports, have come of age with the computer. And we now recognize the value of feedback from employes. That's important. Management in the past has spent far too much time and money in talking to employes and not nearly enough in listening." ■

Malpractice claim is paid by VA

NEW YORK—A $100,000 award has been made in a malpractice claim brought here by a patient who lost the use of his leg due to a badly placed stitch during an operation in a Veterans Administration hospital. Neither the doctor nor the hospital is insured for malpractice.

The Veterans Administration, the object of the claim, made by Oliviero Baudanza, a Marine Corps veteran of Brooklyn, does not insure against malpractice. Such claims resulting in awards are paid out of federal funds, according to a spokesman for the local Veterans Administration regional office here.

Mr. Baudanza claimed that during a 1968 operation for a service-incurred hernia at Ft. Hamilton Veteran's Hospital in Brooklyn, the attending surgeon accidentally stitched a femoral nerve, causing permanent damage to his left leg.

After investigating the claim, the Veterans Administration did not contest the action. ■

Study safety of cable cars

SAN FRANCISCO—Board of Supervisors President Dianne Feinstein this week asked the city's Public Utilities Commission to develop plans to improve safety conditions on cable cars.

Her action was stimulated by attorney Jerrold E. Levitan who defended Arthur Coats, Hyde Street cable car grip man who was acquitted of manslaughter in the deaths of two persons in a December 1967 cable car accident.

Mr. Levitan charged that Mr. Coats had been given inadequate training and supervision and that safety devices on the cable car had failed under stress.

Mrs. Feinstein said she believes that a "full scale inquiry should be started, into the adequacy of supervision and training of cable car operators as well as the adequacy of safety devices." ■

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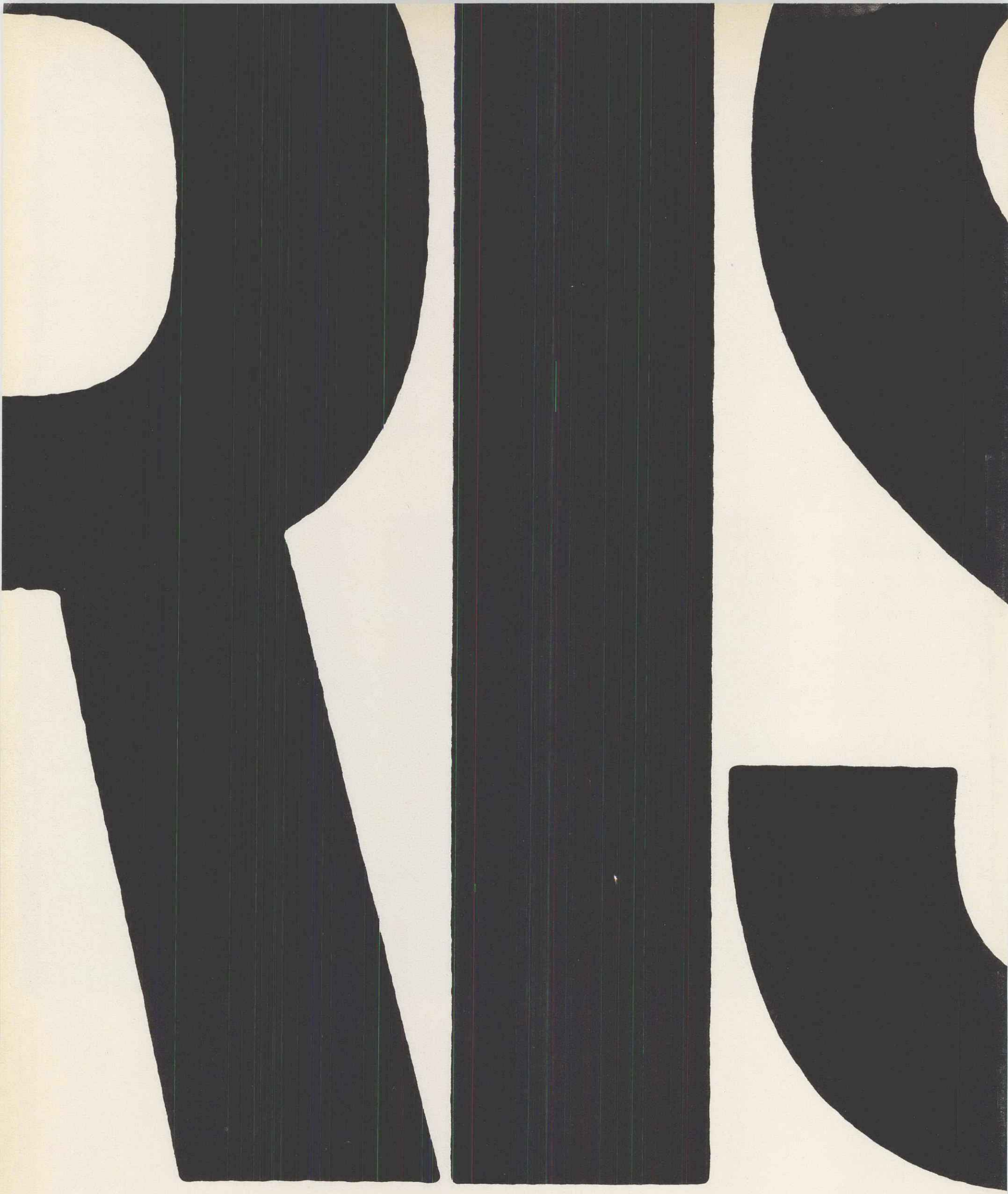
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Joint malpractice team works well in Tucson

TUCSON, Ariz.—Tucson's unique medical-legal malpractice panel, the first one of its kind in the country, is now being copied in other communities across the country, according to co-chairmen Stanley G. Feldman and Dr. Ian Chesser.

"Some 80% of the cases which come before the panel are decided in favor of the physicians," Mr. Feldman said.

The panel, described by Mr. Feldman in the February-March issue of Trial, the national legal magazine, was devised in 1957 as a joint committee of the Pima County Bar and Medical Associations.

A SCREENING panel of doctors and lawyers hears claims of malpractice in which the complaining patient is offered a list of three medical specialists to consult about the claim. The specialists cooperate with the panel in discussing the apparent validity or lack of validity of a claim. The physician and the claimant are represented by lawyers before the panel, which hears about one or two cases a month.

Assignment of the specialist-advisers is made to assure that the claimant's lawyer has all necessary information about the case.

"The rules don't prevent either lawyer from producing any other expert witnesses and any lawyer who disagrees with the findings of the panel has a duty to continue the case in court," Mr. Feldman wrote.

The panel settles two questions: "Is there any substantial evidence of malpractice?" and "Do the facts tend to show a reasonable medical probability that the claimant was injured thereby?"

MR. FELDMAN said that some carriers have refused to submit to hearings on the grounds that the panel stimulates the filing of claims. He noted that the St. Paul Insurance Co., which carries the majority of malpractice insurance policies issued to doctors in Arizona, has refused to pay for attorneys for doctors requested to appear before the panel. ■

Messick promoted

Clarence R. Messick has been named manager of the employe benefits department of R. B. Jones Inc., Kansas City, Mo., insurance agency and brokerage operation.

Antitrust charges filed against medical group

SAN FRANCISCO—A $24,000,000 antitrust suit has been filed in Federal court here against the California Medical Assn. and others by United Medical Laboratories Inc., of Oregon.

The suit alleges the state medical association as well as the American Medical Assn., the College of American Pathologists, the American Society of Clinical Pathologists, the California Physicians Service and all county medical associations in California had conspired to monopolize the business of clinical testing in pathological services.

United, claiming to be the largest clinical laboratory in the U.S., also asked for a preliminary injunction to stop "discrimination by medical authorities against clinical laboratories."

THE SUIT ALLEGES that the College of American Pathologists had agreed in a consent decree with the U.S. Department of Justice last June in Illinois to stop discriminating against commercial laboratories in favor of local pathologists.

The Oregon firm charges that all those named "engaged in restraint of trade and commerce and attempted to eliminate competition to pathologists by commercial laboratories.

"During the 1960's," the suit declares, "pathologists of the nation decided that a fully automated and computerized laboratory could do clinical tests more efficiently and at lower cost than could United.

"The pathologists then launched a campaign against United, using advertising and publicity to develop a public image that the use of commercial laboratories was hazardous, risky and could result in improper diagnosis."

UNITED, THE suit continued, "does $20 million yearly in gross sales by providing laboratory service to practicing physicians who mail blood and urine samples to Portland for evaluation."

Albert G. Miller, president of the California Medical Association, asserted the anti-trust action "is without merit."

Howard P. Hassard, legal counsel to the Association, said the Oregon laboratory "first brought its complaints to California physicians only a week ago at which time the Association promised to re-examine all its standards for laboratory fees to see whether there has been any discrimination as charged."

The Oregon firm's "real problem", according to Dr. Miller, "is the stiff competition it is receiving from the many automated clinical laboratories that have started in California in recent years." ■

U.S. denies liability for riot damages

WASHINGTON—The Federal government claims that there is no law under which it can be held liable for damages in the April, 1968, riots in this city that caused several million dollars worth of damage. The governmental determination is in reply to suits by 26 insurance companies.

The insurance companies' suits sought an estimated $17 million in damages from the government, claiming it took too long in deploying Federal troops to put down the disorders that followed the news of the assassination of Dr. Martin Luther King Jr.

The suits also claim that there was not enough emphasis on protection of policyholders' property and, as a result, the government, not the insurers, should pay the damages. In its answer filed in U.S. District Court the government detailed preparations that led to eventual deployment of troops on the streets of Washington, Apr. 5, 1968. The government did admit, however, that there was some delay mustering forces due to telephone tieups and damage to communication lines by the rioters. ■

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Business says class action rights are dangerous

WASHINGTON—The American Advertising Federation and other business organizations tried to convince the Senate's consumer subcommittee this week that the benefit to consumers from proposed legislation creating "class action" rights does not offset the dangers that are created for business.

"Class action suits are long, involved, complex and expensive proceedings," AAF said in a statement filed with the subcommittee. "As a result, such suits are likely to be brought against the more established business man based on his ability to pay, rather than against the hard core fraudulent operator—who not only may be difficult to locate but who lacks the resources to make such a suit worth the effort."

William B. Morris, vp, Carling Brewing Co., Cleveland, testifying for the U.S. Chamber of Commerce, described class action as a remedy which is "misdirected" and "does not meet the overriding need of establishing a workable method to prevent frauds and deceptions." The subcommittee received similar statements from others, including Grocery Manufacturers of America and Assn. of Home Appliance Manufacturers.

THE DRUMFIRE of business attacks on "class action" developed as the subcommittee moved into what are expected to be its final hearings on administration bills strengthening the FTC, and creating a limited class action right. The subcommittee is also considering separate legislation sponsored by Sen. Joseph Tydings (D., Md.), which creates broad class action rights without the restrictions contemplated in the administration bill.

As the hearing opened, Sen. Frank Moss (D., Utah), the subcommittee chairman, noted that he had received "little adverse comment" on a proposal he has advocated which would authorize FTC to award damages to consumers injured by fraud and deception.

At least one witness, New York attorney Milton Handler, an expert on FTC, displayed sympathy for the idea that FTC's role could be broadened to include some form of civil penalties against offenders. Though he argued that the advantages of class actions do not offset the drawbacks, he said Congress might consider a plan which would let FTC impose "a reparation order" against companies which are found guilty of fraud and deception.

George P. Lamb, representing home appliance manufacturers, contended the appropriate forum for cash relief for consumers is the local court. He said FTC should be permitted to get preliminary injunctions, but only where there is danger of irreparable injury or serious harm.

The subcommittee also heard from witnesses who defended the "class action" concept as a deterrent which helps consumers. One of them, Phoenix attorney Jay Dushoff, described how Geneal Motors agreed to replace potentially hazardous Chevrolet truck wheels at its own expense after he filed a class action in behalf of 2,000,000 truck owners.

In support of the proposal to let FTC use court injunctions, the Chamber of Commerce said that the "single overriding need in the whole field of consumer remedy" is legislation "which will assure that potential consumer injuries arising out of frauds and deceptions are stopped before they can occur."

The Chamber pictured the likelihood that the prospect of huge fees and vast damages from class action suits would lead to harassment of legitimate business, but said that the mechanism is so complicated it would not bring expeditious redress for consumers. The Chamber reported that class action rights under the recently enacted "truth in lending" law already have resulted in eight actions in a single federal district.

AAF cautioned that proposals which let FTC get temporary restraining orders must be limited to assure proper notice and hearing on the merits to advertisers. "Bringing an immediate halt to a campaign would have the effect of killing it because of the often short-term nature of given advertising designed to sell specified items within a designated period of time," it said.

MOST WITNESSES directed their criticism at "class action" in general, without specifically discussing the limited version proposed by the Nixon administration. But AAF said that the Nixon plan, which contemplates a class action right only after the FCT or Justice Department acts first, will also be harmful.

Because the business man who signs a consent settlement with FTC exposes himself to class action by consumers, AAF said, FTC may find business men less willing to elect to settle under these arrangements, which frequently avoid long drawn out legal fights.

AAF also contended the prospect of class action lawsuits might force advertisers to put less, rather than more, information in their ads. ■

Writes Beckwith

The Travelers Insurance Cos. is now writing, for an annual premium of $240,000, all group and liability coverage on a combined basis for the Beckwith Machinery Co. of Pittsburgh. Beckwith employs over 400 persons. Last year's sales volume exceeded $35 million.

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Claims of $1.4 million may face ship line over typhoid outbreak

LONDON—World-famous shipping line Peninsular and Oriental faces a hefty $1.4 million bill for a sudden typhoid outbreak which halted its popular cruise liner Oronsay (27,632 tons) for three months in Vancouver last January.

Lessons for shipping and other business interests to be learned from this rare set-back in such waters have been outlined for *Business Insurance* by its British headquarters.

Officials there stated that, even though P and O will have to bear a substantial part of the cost itself, it is satisfied with its current insurance viewpoint.

IT WILL BE recalled that the disease struck so suddenly that the vessel was tied up in quarantine, with 900 passengers on board, until the crewman who "carried" the typhoid was identified by Canadian port authorities.

Headquarters officials in London estimate that about half the bill is represented by revenue lost through disruption of its sailing schedule as a result of the hold-up, namely $700,000.

But this aspect is *not* covered by insurance. The reason, it is explained, is that although loss of earnings and/or charter hire insurance is obtainable, its principle application is to owners who charter their vessels and who face a fixed loss (the daily charter hire) in the event of delay.

The rest of P and O's heavy bill, about another $700,000, is made up of actual expenditure while quarantined, such as port charges, towage, medical expenses and health investigation costs.

THE COST OF caring for passengers, some of whom cut short their cruise, and other obviously consequential expenses, will also have to be met by the shipping company.

Reviewing the position specially for *Business Insurance*, David J. Knight, secretary of P and O Lines, Ltd., said:

"My firm, a subsidiary of the P and O Steam Navigation Co. responsible for the operation and management of its passenger ships, does not enter them into a P and I Club.

"In general terms P and I Clubs do cover quarantine risks and liabilities which arise from disease or injury. Much of the actual expenses in Vancouver which we have had to face, as distinct from any estimated loss of revenue, would have been recoverable if our vessels had been entered in a P and I Club.

"BUT FOR A number of reasons we have always elected not to enter our tonnage in P and I Clubs, even though many other major shipping lines are in them. This even includes other separate members of the P and O Group, but not ourselves.

"My section of the group, which is responsible for the Oronsay, and other vessels, has always felt that in the long term it is more economic to carry these risks ourselves.

"We do have some special 'tailor-made' insurance, which provides cover subject to a substantial excess for some of the liabilities normally protected through P and I Club entry.

"This incident at Vancouver has been expensive to the company, but it must be realized that we have not had an outbreak of this nature on our ships in living memory.

"So our insurance approach will not be altered, and there is unlikely to be any fundamental rethinking on it."

Sir Donald Anderson, the P and O shipping group's chairman, has confirmed that the overall loss on the typhoid outbreak has more than wiped out any profit expected from the Oronsay's operations this year. Normal yearly profits of the whole group are about $25,000,000. ■

Oil refinery is negligent

MONROE, Mich.—Ashland Oil Refinery of Ashland, Ky., has been ordered to pay a woman $450,000 for injuries received when an auto in which she was a passenger skidded on oil spilled in front of the refinery's gates, went out of control and crashed.

A Monroe County circuit court jury made the award to Diana Fay Compton, 21, who was permanently paralyzed from the waist down as a result of the 1966 accident.

Miss Compton's attorneys had argued that the refinery was negligent in allowing an oil deposit to accumulate on a highway outside its main gate. ■

Utica . . .

Continued from page 25

suffered on this account. One was a $400,000 judgment and the other was for $270,000. "And," he added, "our problems are small by comparison to those being suffered by other companies I talk to."

The root solution to the problem, he said, "would be absolute prevention in product design. I think all of us can do a better job in product design and in safety engineering, but absolute prevention is impossible. Unless there is some compromise between public wants and public needs for certain products and the consumerism-inspired programs and procedures to hold the manufacturer absolutely responsible for the use of his product, certain products and services will be completely abandoned because (1) the insurance cost factor will become prohibitive, or (2) there will be no insurance market available for those products.

"The manufacturer certainly can't afford to self-insure this exposure," he went on. "Because of the catastrophic nature of the loss and the highly specialized technique of the defense, products liability insurance does not lend itself to an assigned risk plan such as we have for automobiles," he said, noting that perhaps a pool or syndicate would be the answer.

"Something similar to what the industry is developing in the way of a national workmen's compensation pool for substandard or less desirable compensation business" might be the answer, Mr. Ehre said. "This would spread the loss of the less desirable risk over the whole insurance industry. Of course," he added, "as has happened with the flood insurance program and the FAIR plan for property insurance in riot-prone areas, the Federal government may get into the act, perhaps as a reinsurer." ■



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Hospitalization cover troubles Arkansas utility

LITTLE ROCK—Arkansas' largest domestic company finds that the straight-up cost of hospitalization insurance coverage for its employes is one of the most pressing problems in the firm's employe-benefit program.

O. H. Carmichael, head of Arkansas Power and Light Company's benefit programs, said recently that, "With inflation pushing prices upward, insurance for hospitalization is going up tremendously. It's hard to keep up with, but we watch it every day."

He said the company, which employes 2,700 workers, keeps its people informed monthly as to important changes in hospital costs and other benefit programs. The firm carries a major medical expense program with Great American Life Insurance Co. The group plan covers 80% of hospital cost up to $5,000, with the first $75 deductible and payable by the employe.

MR. CARMICHAEL said the company selected this plan over others to keep families from being wiped out financially from effects of a long illness or injury. He explained that 80% of the power company's workers were linemen, groundmen, power production workers, engineers and similar employes. These employes' jobs can be hazardous, although the firm's safety record is exceptionable.

The benefits manager added that an increase in cancer affliction among employes made this plan even more desireable. Hospital room cost in Little Rock has increased from an average of $24 a day for a semi-private room in 1967 to $34.50 per day in 1970. Percentagewise, the increase would be about the same throughout the state.

Mr. Carmichael said, "We have had no complaints with this program. They are satisfied. The program has put them in pretty good financial shape."

Arkansas Power began in 1913 and since has merged with Mid-South Utilities, a group of investor-owned electrical power companies in Arkansas, Louisiana and Mississippi. The firm first offered $1,000 in life insurance in 1927, hospitalization coverage in 1930, a pension program in 1943 and long-term disability in 1964.

ALL PROGRAMS are optional, Mr. Carmichael said, but the company constantly reminds its employes of the financial disaster awaiting the person who fails to enroll in the programs.

The company pays the cost of the first $1,000 in life insurance and the employe pays 60¢ per $1,000 monthly for any additional coverage, with the company picking up the remainder of the life insurance cost. Mr. Carmichael said the employes normally carry life insurance death benefits that amount to 2½ times their annual salary. The average would be $20,000 in death benefits, he said.

Because of inflation the amount of life insurance carried by employes is watched "very closely," he said. Just recently, the average death benefit in the group plan was raised from two-times the annual salary to the present 2½ times, he said.

Arkansas Power employes had $52 million of life insurance in force on Jan. 1, he said. Metropolitan Life Insurance Company is the carrier.

JOHN HANCOCK Mutual Life Insurance Co. handles the firm's retirement annuity pension plan. Employes contribute 3% of the first $3,000 salary each year plus 4½% of any earnings over $3,000. For service after Jan. 1, 1957, the retirement annuity pays back yearly to the employe at a rate of 1% of the first $3,000 of total earnings during the year plus 1½% of the balance over $3,000.

Here again, Mr. Carmichael said, the firm guards against the high cost of living. He said the company directs the insurance company to use the funds it contributes to the annuity to place a portion of the money in growth stock. Also Arkansas Power periodically checks its retired personnel's income status and upgrades their income according to the purchasing power of the dollar bill, he said.

The Bankers Life and Casualty Co. carries the firm's long-term disability insurance. The company splits the cost of this coverage with the employe. The plan pays a benefit totaling 65% of the first $600 of monthly salary and 50% of the excess to a maximum indemnity of $1,500, less any legally required compensation paid (workmen's compensation, etc.).

Mr. Carmichael said about 20 workers a year are disabled for one reason or another. He said the average length of time off the job due to injury or sickness is eight months.

"WE TOOK A look at our own experience in this matter and worked it into this program," Mr. Carmichael said. He said that in selecting the benefits, the company found out what the employes needed to make it through these difficult periods and then adopted it.

Mr. Carmichael has been in the company's personnel department for about 45 years and will retire next year. Over the years, he said, hundreds of employes have been counseled by him.

He said that he urges them to review their programs frequently, change beneficiaries when they are first noted, set up insurance payments as they will be needed in cause of death and so on.

"There are a few of our people who don't take our life insurance," Mr. Carmichael said. "They don't think they're going to die."

HE SAID THAT insurance "doesn't offset death," but the security of the employes' families is most important in the company's overall relationship with its employes and public.

A district supervisor visits each company family that has had a death, he said. "The supervisor tells them the alternatives they have with the money they are to receive," he said. "From there it is up to the family to decide what they should do."

Mr. Carmichael said, "We don't think we have a serious problem in our entire program." ■

On retirement board

Bartlett T. Grimes, vp and treasurer of Fireman's Fund American Life Insurance Co., San Francisco, has been appointed by Gov. Ronald Reagan to a four-year term on the board of administration of the public employes' retirement system of California.

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Builder-vendors liable for faults in construction

WASHINGTON—In two separate actions in Arkansas and Vermont, state supreme courts have held builder-vendors liable for faults in the construction of houses. The Arkansas case involved water damage caused when rain seeped into a house from ductwork imbedded in a concrete floor, even though vendee had signed a sale contract, prior to delivery of deed, that stated he had inspected the property prior to delivery of deed, that also stated he had inspected the property and did not rely on any warranties.

The court stated that six states have moved away from the doctrine of caveat emptor in the sale of new houses and have recognized an implied warranty—of inhabitability, sound workmanship, or proper construction—in the sale of new houses with builder-vendors: Colo., Idaho, New Jersey, So. Dakota, Texas, and Washington.

These cases, said the court, "express concern that buyers of new homes, especially in large developments, are not on an equal footing with the builder-vendor. They are no more able to protect themselves than are buyers of mass-produced automobiles. The reasoning of these cases is so persuasive that the rule will be adopted for Arkansas. However, to avoid injustice, the new rule will be made applicable only to the present case and to causes of action arising after this decision becomes final.

"THE BUILDER-vendor argues that the vendee waived all warranties, express or implied, by a clause in the contract for sale in which the buyer stated that he inspected the property and did not rely upon any warranty as to age or physical condition of improvements. Even assuming that the preliminary contract was not merged into the warranty deed, this clause did not exclude an implied warranty with respect to this particular defect. The ductwork was laid beneath a concrete floor and could not possibly have been discovered by even the most careful inspection. The contract clause applies only to defects that might reasonably have been discovered in an inspection made by a purchaser of average experience in such matters."

Chief Justice Harris and Justices Fogelmand and Byrd dissented in part, holding that "It must be shown that the cause of the injury is an agency or instrumentality within the defendant's exclusive control and that the cause is not due to any contribution or action on the part of the plaintiff, in the case of Wawak v. Stewart

In the Vermont case of Rothberg v. Olenik, the state's highest court also noted that the caveat emptor doctrine has been severely limited in application. It held that the builder-vendor of a house that had faulty foundation and floors and an improperly graded lot was liable to the original vendee for breach of implied warranty of structural fitness. Judge Keyser wrote, "there is no rational doctrinal basis for differentiating between the sale of a newly constructed house and the sale of an automobile or any other manufactured product."

(Vt. Sup. Ct., *Rothberg* v. *Olenik* 2/3/70.)

(Ark. Sup. Ct., *Wawak* v. *Stewart*, 2/2/70.) ■

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Insurance, safety put skids on grand prix

STUTTGART, Ark.—Thousands of sports car fans were disappointed this week when the Stuttgart junior chamber of commerce announced that the 12th annual Grand Prairie grand prix had been canceled because of zooming insurance cost and new safety regulations.

Jaycee Race Chairman David Bickerstaff said that liability insurance cost had risen for the two-day event from $3,800 in 1968 and $4,400 in 1969, to $8,000 for this year's event. He said the high cost of the coverage was prohibitive, even with a $3,000 contribution offered by the state chapter of the National Sports Car Club of America.

Another factor was NSCCA's new regulation that all spectators must be protected by a fence barrier. Mr. Bickerstaff said that insurance companies had had a bad year in 1969 because of numerous accidents involving cars smashing into crowds.

"THE UNDERSTANDING I had on it was that they had quite a few accidents across the country last year," he said. "It's not only us; it's hitting tracks all across the nation."

Mr. Bickerstaff said the Jaycees insurance covered liability for drivers, spectators and personnel around drivers' cars and work area. He said there was a $500,000 liability maximum in case a car careened into a crowd. The race, one of the biggest in the South, drew upwards of 12,000 fans each day.

Mr. Bickerstaff said the only barrier to protect the crowds in the past was 50-gallon drums filled with water. The drums were placed around the 2.6-mile track at strategic points.

"Maybe if things work out, we will have a grand prix next year," Mr. Bickerstaff said.

letters

Continued from page 16

with the put-down. (None in this Gurash story, though.) Re "strange layout man" in your Mar. 16 Letters column: you shouldn't lay it on the photographer like that. Today the photographer is supposed to be the hero, not the goat. The editor wears the black hat. Haven't you seen "Medium Cool" yet?

Your whole enterprise is, to coin a phrase, a breath of fresh air.

Michael O'Malley
Editor: Marketing Communications, Employers Insurance of Wausau, Wausau, Wis.

Editor's Note: Not all our readers are as sharp as Mr. O'Malley.

ASIM, not AMA

To the Editor: I read your paper regularly and find it most informative.

However, on page 34, Mar. 2, Dates for buyers, you mention under the date of April 7-10 the American Management Assn. annual national risk management conference to be held in Miami Beach, Fla., and this of course is an error as this is the American Society of Insurance Management Inc. conference. I am sure you are aware that ASIM is not connected at all with the American Management Assn.

We would appreciate your making correction in next publication.

J. W. Salisbury
Insurance Manager, The South Coast Corp., New Orleans, La.

Editor's Note: The correction was made.

Article reprint

To the Editor: In your issue of last July 21, there was an article bearing the headline, "Convicts form group to counsel on bad check writing prevention." May we have your permission to reprint this article in full?

James J. Fogarty
Treasurer, Fair Lanes, Inc., Baltimore, Md.

Editor's note: Permission granted provided that you credit Business Insurance *and mail us a copy of the reprinted material.*

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D-4

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HCA HOTELS

Agents call Trans Alaska coverage 'illegal'

JUNEAU, Alaska—Alaska's Insurance Director W. W. Fritz has been presented a series of charges by the Alaska Assn. of Insurance Agents against the Trans Alaska Pipeline System alleging an "illegal" plan to provide liability and workmen's compensation coverage.

The agents allege the system proposes to provide all insurance coverage in the two areas during construction of the 800 mile pipeline.

The plan, according to the agents, would prohibit purchase of insurance by contractors involved in building the pipeline and would place "all of the insurance through Universal General Agency Inc."

THIS AGENCY, according to the association, is "wholly owned by Humble Oil Co. which in turn is one of the owners of TAPS and this is a violation of state law prohibiting restraint of trade and monopoly."

The complaint alleges the "coverage plan for the TAPS project is a wrap-up that clearly violates state insurance code provisions and endangers competition in the insurance market place.

"The use of Humble's position to force UGA into the market is a prime example of this danger," declares the association "and would permit insurance market domination by Petroleum Casualty Co., a Humble subsidiary."

According to the complaint, premiums for general liability and workmen's compensation coverages on the pipeline project will total $15 million a year or more.

"THIS COMPARES," the association contends, "with a total annual volume for the two classes combined in Alaska in 1967 of only $11 million.

"If coverage is placed by Universal, that agency," the complaint continued, "would control 60% of the relevant market and would immediately create a monopoly problem."

The AAIA also cites "precedent" cases which it claims show that the wrap-up "amounts to an illegal tie-in arrangement."

Executives of the pipeline system contend that their "Coordinated Insurance and Safety Program" was designed to "eliminate delay, confusion and waste in handling coverage on the $1 billion project which will require two to three years to complete."

AS MANY AS 50 contractors and subcontractors will be involved in construction of the new pipeline.

"Under our proposal," the TAPS executives contend, "it is the owners of the project who will be paying the tremendous premiums for the insurance program and the owners will obtain all workmen's compensation, employers liability and comprehensive liability insurance."

Other types of coverage, TAPS executives pointed out, may be obtained by contractors from agencies or companies as they may desire.

Each policy purchased by owners of the system would be for $1 million combined single limit.

TAPS TOLD THE insurance director that Dawson & Co. would be used as agent and the prime contact with Alaskan contractors and that Universal "may be utilized" for liaison between insurance firms and local Alaska agencies.

The insurance director also was informed by TAPS that "The Alaska Pacific Assurance Co. of Alaska has been selected by TAPS as the workmen's compensation carrier, on the basis of competitive bids.

"Travelers, the second low bidder, was selected to reinsure the workmen's compensation contract and Dawson & Co., a member of the AAIA, was selected as Alaska agent." ■

Gen. Tire pays product liability claim

SPOKANE, Wash.—A $25,000 settlement has been reached in a superior court suit filed by Donald A. Griesemer, of Spokane, who said he suffered jaw fractures, loss of teeth, and eye, arm and shoulder injuries when a tire he was inflating after mounting it on a rim catapulted up and struck him.

The case was in the final phase of trial before jurors in Judge Williard J. Roe's court when the settlement was announced.

In the products liability action against General Tire & Rubber Co., the manufacturer, Mr. Griesemer contended wire beading in the tire had rusted or corroded, causing the tire to explode.

The youth and his parents had sought $65,156 in damages. A trial amendment changed the amount sought to $98,408.

Partial loss of vision in the youth's left eye was among injuries claimed as permanent. The youth was using equipment in a service station in Metaline Falls, Wash. ■

Truck driver sues over lung disease

OROVILLE, Cal.—Frank D. Grant celebrated his 54th birthday by filing a $500,000 lawsuit here against American Tobacco Co.

Mr. Grant charged that his 30 years of regular smoking of Pall Mall cigarets had given him emphysema.

Married and the father of seven children, Mr. Grant said in his suit that he was forced to abandon his work as a truck driver a year ago because of the lung disease.

The suit, filed by Chico attorney Jordan Peckham, declares that Mr. Grant is now "permanently and totally disabled."

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Time magazine absolved of libel in 'top Cosa Nostra' identification

WASHINGTON—Time magazine cannot be held liable because it published a group photograph of men seated at a table with their lawyers, and referred to the occasion as a meeting of "top Cosa Nostra hoodlums," the District of Columbia circuit court of appeals ruled in a libel suit filed by Mr. Wasserman, one of the lawyers pictured.

The court held that no liability could exist without a showing of actual malice by the magazine, since the lawyer was engaged in a matter of public interest and concern.

The article accompanying the photograph referred to the occasion as a meeting "bigger than Appalachian" of top Cosa Nostra hoodlums. The occasion was referred to as a delayed lunch that had been interrupted by the police because the men were wanted before a grand jury in Queens. A judge had set bail at $100,000 each, and this had been paid, and that the grand jury got only grunts for answers.

ANOTHER attorney, Mr. Rogano, sued Time for libel, and a Florida court held that if the statement was false and made with actual malice, that is, with knowledge of its falsity or in reckless disregard of whether it was true or false, the statement was not protected by the First Amendment.

The D.C. Federal court said: "It is undisputed that Time knew that Mr. Wasserman, like Mr. Rogano, was an attorney for one or more of the men in the group referred to in the article and was not one of those called before the grand jury and released on $100,000 bail. Time's position is that by attending the delayed lunch meeting the attorneys were playing a part and were engaged in a demonstration defiant of the law, which justified Time in its editorial decision reached in good faith not to refer to appellant and Mr. Rogano as attorneys, but to place them in the same category as the others in the article as we have set forth. Such a decision on the part of the editors of Time, however, would not preclude responsibility for any defamation known to be false or made with reckless disregard for the truth. . . .

"Unless the court finds, on the basis of pretrial affidavits, depositions or other documentary evidence, that the plaintiff can prove actual malice in the N.Y. Times sense, it should grant summary judgment for the defendant. . . ."

(CA D.C. *Wasserman* v. *Time Inc.*, 3/3/70.) ■

Buys adjustment firm

B.T.B. Corp., a diversified company engaged in financial services, manufacturing, distribution and real estate, has acquired the outstanding capital stock of Federated Fire Adjustment Co. Inc., Great Neck, N.Y., according to Edward H. Weitzen, president of B.T.B. At the same time, B.T.B. announced it had sold its subsidiaries, Associates Plumbing Co., Benton Roof Co. and Powerplant Systems Inc.

Mother sues pill firm for child's death

SAN FRANCISCO—The third suit against a birth control pill manufacturer has been filed in superior court here, this one for $250,000, alleging a "wrongful death."

Mrs. W. Dell Lowe charges in the current suit that birth control pills produced by Syntex Corp. "caused blood clotting and the death last March 28" of her 18-year-old daughter, who had taken the pill for four months before she died.

A coroner's report said the death was due to blood clots lodged in the lungs, according to attorney John W. Herron.

THE SUIT CONTENDS that "the container in which the pills were sold failed to warn the consumer that blood clotting was a side effect of taking the birth control pills."

Earlier two damage suits totalling $150,000 had been filed for physical ailments allegedly suffered by two women who took birth control pills.

Miss Donna Goucher, 21, sought $100,000 from Wyeth Laboratories for a blood clot she claimed to have suffered after taking Orval, a Wyeth birth control pill.

In the other suit, Mrs. Eleanor Smith, 29, Santa Rosa, mother of two, claimed she suffered "brown blotches" on her face after taking Norlestrin, a Parke Davis & Co. pill, for four years. She asked $50,000. ■

Work comp class action gets a 'no'

SAN FRANCISCO—A class action demanding interest on workmen's compensation insurance awards between the date of granting and date of ultimate payment has been denied by the California workmen's compensation appeals board, in a unanimous *en banc* decision.

The cases were filed a year ago with the appeals board. They named nine carriers writing an estimated 80% of the state's workmen's compensation premium volume.

The amounts sought ranged from a few cents to a high of $20. Civil suits containing the same allegations are pending in superior court here where the court has already overruled demurrers filed by the carriers.

THE DISTRICT court of appeals also has denied writs of prohibition and in six of the cases, the California supreme court has refused petitions for rehearing of the denial of the claims.

The current denial by the appeals board is on the basis that existing remedies available "are just as advantageous and of just as much benefit to each applicant, individually, as is class litigation."

In overruling its referees, who had decided the appeals board was not authorized to "entertain class actions" the board used the broad language of the state labor code to justify its acceptance of the cases.

The board also estimated that "the task of indexing, abstracting and certifying awards involved" would occupy the time of all available personnel for 146 working days. ■

Directors and Officers frequently ask:

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In recent years there has been an acceleration of the stockholder derivative type suit with a higher and higher standard of care required of those professional managers of business who have been selected by the shareholders—the corporate directors and officers. There is an increasing likelihood of damage suit litigation which can be both harmful and costly. The danger is ever present. Yet, not every company needs this protection. Size is not the only criterion.

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Hearing loss affects 16 million senior citizens

By GEORGE LANGWORTH

(This is the last of three articles on noise pollution.)

NEW YORK—Aside from disability compensation and government penalties for non-compliance with noise regulations, industry has a vested interest in noise abatement for more far-reaching health reasons.

"We have come to appreciate that deafness," said Dr. Joseph Sataloff at a recent conference of the Industrial Hygiene Foundation, "no matter what its cause, is a serious threat to the well-being of our population and especially to our skilled labor, as well as to industrial executives. Sixteen million senior citizens in all likelihood have a substantial degree of hearing loss that prevents them from enjoying television, listening to the radio, going to theaters, movies, and even to church. Their impaired hearing ability makes their added years a misery rather than a pleasure. We doctors help them live longer but certainly not to lead happier lives."

Obviously, noise-induced hearing loss plays a big part in this problem. However, just what its role is is still an object of debate among experts.

"IF ONE WERE to read the newspapers and the popular journals, one would learn that noise can cause about any human ill that you could name," said Dr. Aram Glorig of the Callier Hearing and Speech Center in Dallas.

"If one searches the scientific literature," he continued, "one has a great deal of difficulty finding any evidence to support many of the statements that are made in the popular literature. We have looked at many, many thousands of men in a preliminary sort of way in order to determine whether or not people who work in noise have more of these problems than people who do not. As far as we can determine from industrial records, we can find no increase in fatigue or irritability or tendencies to nervousness."

In contrast to Dr. Glorig's comments, Dr. Sataloff explained that complaints of irritation from sustained moderately high levels of noise (especially if its high-pitched noise) is subjective. It seems that everyone has a different tolerance for noise. "This irritation causes a feeling of annoyance or discomfort and may result in a decrease in efficiency if one is trying to concentrate on a problem or frustration if one is trying to hear meaningful sound such as a conversation or music," Dr. Sataloff said.

"This kind of irritation is worse if the noise is intermittent than if it is steady, because adaptation to ambient noise occurs fairly rapidly and the initial discomfort disappears. In fact, the absence of accustomed noise may be as psychologically disturbing as the appearance of unaccustomed noise," he noted.

DR. SATALOFF agreed with Dr. Glorig on the absence of any evidence that pointed to any long-term effects on health resulting from these subjective annoyances.

Possibly everyone has heard of the familiar complaint of noise-induced dizziness or giddiness (vertigo). In reply to a query on vertigo, Dr. Glorig said, "Controlled exposure conditions in which noise is the only extraordinary stimulus do not confirm these statements except under special conditions in which very intense low frequencies are present, and sometimes very high intensities will vibrate the eyeballs causing visual effects which may be interpreted as vertigo. These are temporary effects and disappear when the stimulus is stopped."

Detectable hearing loss is caused basically by two kinds of noise. The first type is the noise-induced hearing loss, caused by a relatively loud (more than 90 decibels on the A scale—90dBA) noise exposure over a considerable period of time. The second is termed acoustical trauma, due to a sudden incident, such as a blow to the head, an explosion or a blast.

"These two hearing losses not only differ in terms of time, but they also differ in terms of the hearing record," explained Dr. Glorig. "A noise-induced hearing loss is a slow, steadily increasing process that occurs over a period of many years; but the acoustical trauma loss can show a flat audi-

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India . . .

Continued from page 20

agents, but it's going to cost the government just as much to run the business as it cost the agent, and the government will get reimbursed for the expenses in taxes, paid by the people," he observed.

An underwriter at Royal-Globe Insurance Co., which has been in all principal Indian cities for the last 100 years, also sees the move as political.

"I think Mrs. Ghandi is attempting to pacify the leftist faction in the government," he said. "They have been pushing for a take over of foreign-owned banks, but Mrs. Ghandi doesn't want to do that because it will harm diplomatic relations with countries owning these banks. So, she's thrown out general insurance nationalization as a gimmick to quiet radical demands."

An Indian underwriter who came to America last year and is working for Continental Insurance Co., disagrees.

"I WORKED FOR an Indian insurance company for 12 years," he said. It will no doubt be taken over by the government soon and this is bad for the businessman, but on the whole it is very good for the country. Nationalization of industries helps the poor and makes available to them what only the rich could afford. The government is carrying out this work in all sincerity and without corruption."

He feels it is very likely that independent agents will be back in business eventually, but that immediate problems demanded most discussion and attention.

"Although the nationalization bill has not been passed yet, I'm sure it will be," he said. We must eliminate the intermediary agent and his profit. We must close down the show, as you say. Right now that's what the country needs."

Over 130 general insurance companies would be affected if the bill passes. ■

The typhoon struck Guam at 9:15 AM. Within minutes, buildings and lives crumbled. Guam was in a shambles. The local AIU representative's office in Guam was hit and hit hard. An employee later described the scene this way: "The first thing we did was make sure we were all alive. Then we started assessing the disaster. Requests went out for AIU adjusters to Tokyo, Manila, New York, Hong Kong and Paris. Within hours they arrived, and for countless days and nights without sleep, we processed claims and issued checks. $3,000,000 in checks were written in that little storm racked office in Guam."

Guam is a small island in the Pacific. But, the American International Underwriters was there within hours after disaster struck. This kind of insurance service is not unusual for AIU. We have offices and agencies in over 100 countries throughout the world. Our people speak the local language. They know the local laws, customs and business methods. They are at home anywhere.

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When a typhoon hit Guam, this little room suffered $3,000,000 in damages.



Noise . . .

Continued from page 37

ogram (a linear record of the extent of the hearing loss), a rising audiogram, or a sloping audiogram. The acoustical loss can improve over a period of time; or it can become worse over a period of time," he explained.

HEARING LOSS in the U.S., measured in terms of a person's difficulty in hearing speech, affects only a small percentage of the population—8% to 10% of the population has a hearing loss that is moderately to severely handicapping. However, this involves some 16 to 20 million people. In order to reduce this number through adequate hearing conservation programs there is still much to be learned.

Dr. Sataloff pointed out 11 areas that must still be explored more extensively by both labor and industry before adequate conservation criteria can be devised. This must be done he said, "to obviate empirical answers from being proposed by superficially informed though well-intentioned personnel"—a problem that has plagued traditional research in this area. The questions he poses are:

- What is meant by individual hypersensitivity to noise?
- Is it possible to get substantial degrees of hearing impairment in relatively low industrial noise levels such as 90 dBA?
- What are the effects of intermittancy of exposure upon the speech frequencies?
- Does noise-induced hearing loss progress when exposure stops?
- How can good longitudinal studies to establish damage risk criteria be obtained?
- What is the effect of various noise intensities on nerve-deafened ears?
- How can more effective ear protectors be obtained?
- How can the science of noise reduction be advanced?
- How can programming and teaching methods to improve acceptability and better use of ear protectors be developed?
- How can presbycusis (hearing loss attendant to the aging process) and other causes of nerve deafness be distinguished from noise-induced hearing loss?
- Are there any non-auditory effects of noise that may be disabling?

PRESBYCUSIS is beginning to be taken into account in workmen's compensation law provision for noise-induced hearing loss. Dr. Glorig explained that he and his staff "measured hearing in about 2,500 people whose occupations were non-noisy and found that they showed a certain loss as a function of age. If you eliminate from this 2,500 people anyone who has ever shot a gun, ridden a motorcycle or ridden in an airplane, the sample is reduced to about 328 people."

Dr. Glorig disagrees with those states that take presbycusis into account in their workmen's compensation laws. "The American Academy of Ophthalmology and Otolaryngology has decided that because there is less than 15 decibels of loss due to presbycusis in the frequencies that are important for speech (500, 1,000 and 2,000) there is no need to correct for presbycusis in compensation cases. This is because most compensation laws provide for compensation payments only when the hearing losses are in excess of 15 dBA."

Much discussion has been devoted to ear protection in the form of earplugs, muffs, cotton and a form of glass wool. The best of these devices (cotton is the poorest) reduces the noise level by only about 20 dB.

Dr. Glorig explained that "blocking the air conduction pathway (to the inner ear) will give only so much attenuation because sound energy gets to the inner ear by way of vibrations through the skull. You cannot go beyond this unless you put a man in a complete suit."

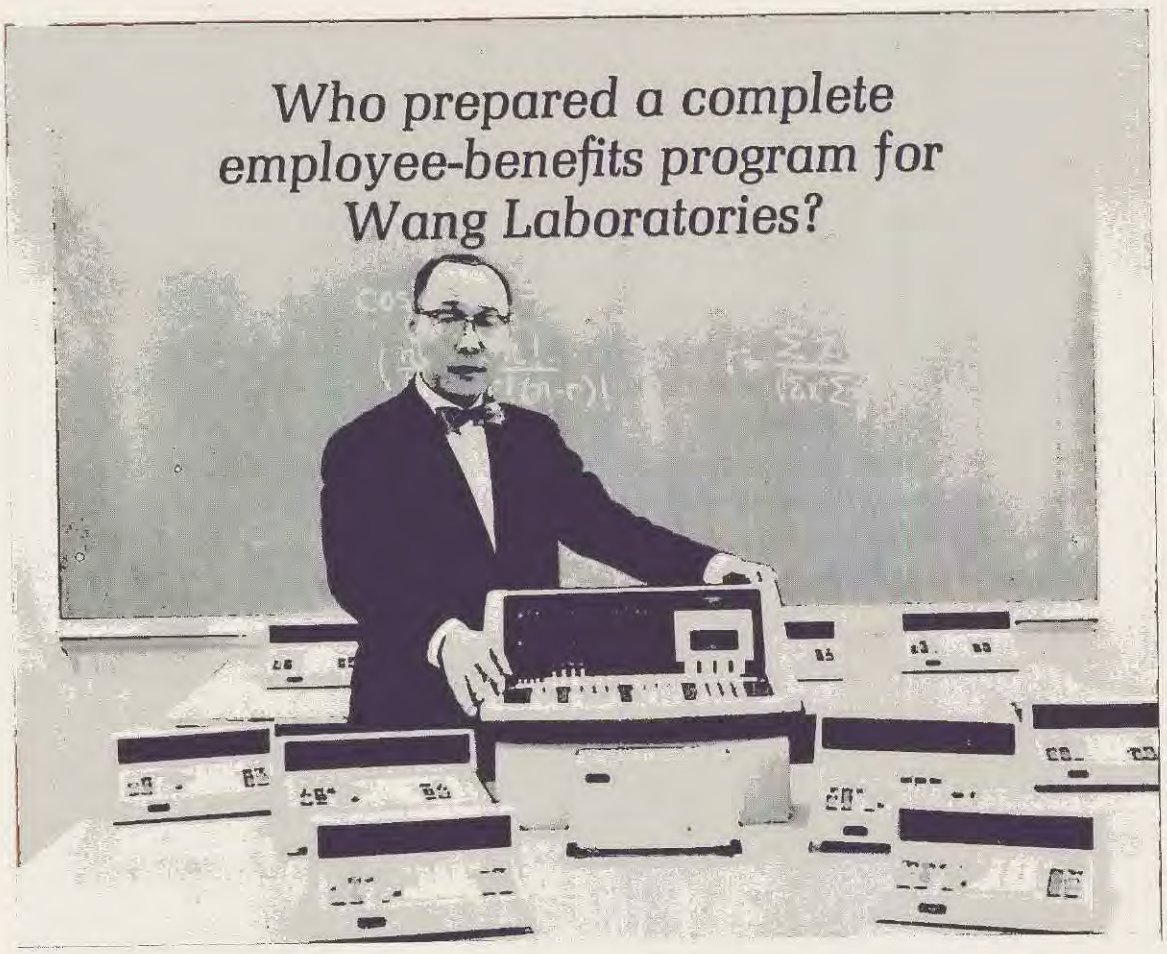
WHICHEVER form of ear protection is used, Dr. Glorig remarked the "principal factor is acceptability. The best ear protector is the one that is worn." As previously reported in this series, a diversity of complaints have impaired the effectiveness of ear protection devices because people have refused to wear this because of discomfort, such as heat, and because the devices tend to mess up women's hair.

One of the best existing hearing conservation programs is the one sponsored by the International Brotherhood of Boilermakers. The pamphlet outlining that program states that "industrial deafness first appeared with the advent of steam power and the steam boiler. It was an occupational hazard for workers whose trade was the preparation of riveted boilers. These workers developed hearing loss in such numbers that the malady was dubbed 'boilermakers' disease.' "

The Boilermakers' program includes three steps: a noise-exposure analysis, a provision for control of noise exposure and a measurement of hearing acuity among the workers.

Noise exposure analysis includes octave band analysis of noise levels so that their potential effects may be evaluated. The duration and distribution of exposures during a typical work day are suggested in table form by the Boilermakers. This table conforms to the noise exposure table incorporated in the Walsh-Healey Act.

Continued on page 44



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benefit tax slants

IRS requires that fund investment be for 'exclusive benefit of employes'

By JOSEPH S. ROBINSON

NEW YORK—Strange as it may seem, the Internal Revenue Code contains no specific limitation on the type of investment that a qualified pension or profit-sharing trust can make.

However, the Revenue Service has set forth certain guidelines in Revenue Ruling 69-494. It stipulates that the investment of such trust funds must be made for the exclusive benefit of employes. Further requisites are that certain financial information must be furnished and that it must not engage in "prohibited transactions."

A list of investment requirements which will meet the "exclusive benefit of employes" test follows:

- The trust should pay no more than the fair market value at the time of the purchase.
- The trust should receive a fair return on its investment.
- Sufficient liquidity should be maintained in the trust to meet distribution commitments.
- The "prudent investor" rule must be adhered to—i.e. there should be adequate safeguards plus diversity of trust investment so that all the investment "apples" are not placed in the one "basket."

PROHIBITED transactions are defined in Section 503 of the Internal Revenue Code and the regulations thereunder. The following acts are considered "prohibited" where investments are made in the employer's stock under these transactions:

- Loans to the employer without adequate security and reasonable interest.
- Purchase of employer's securities for more than adequate consideration, and
- Any transaction which diverts substantial funds to the employer.

Here's a checklist of financial information which the pension or profit-sharing trust must furnish if it wants to invest in securities of the employer corporation.

- Balance sheets for the last two taxable years.
- Comparative statements of income and profit and loss for the past five taxable years.
- An analysis of the surplus account for the last five years specifically showing the amount and rate of dividends, and
- A statement accounting for all material changes from the latest dates of the aforesaid statements to the date of filing the information.

There's more: The trust (in addition to information about the employer) must include a schedule itemizing the nature and amounts of the assets in the trust fund. Also, there should be a statement which sets forth the amount to be invested in the company stock, the nature of the investment, the present rate of return, and the reason for the investment.

* * *

DISCRIMINATION in Pensions will not be tolerated by the courts.

For example, different retirement ages for male and female is considered taboo. Other stipulations which provide unequal conditions of retirement for men and women are likewise ruled out. (See *Rosen* v *Public Service Electric & Gas Co.*, Ct. of App. 3rd Cir.—1969.)

What about age discrimination in pension setups? Here, an exception to the law on age discrimination is allowed in the observance of the terms of a legitimate employe benefit plan which is not a subterfuge to evade the purposes of the law against age discrimination in employment. In other words, the existence of a valid pension plan which designates age as a factor governing benefits does not violate the law; but the plan may not constitute the basis for denial of employment to any individual.

* * *

A PROFIT-sharing plan, as we all know, is an excellent way to build up good will and incentive among employes. But sometimes a plan can backfire—as happened in the following case.

C and C Corp. set up a profit-sharing plan which included employes of Division (a subsidiary company). The plan called for full vesting of benefits after 10 years of service. C and C Corp. later sold Division and fired its employes. Those employes who worked less than 10 years sued for payment of a fully vested share—claiming they were dismissed through no fault of their own.

Held: No full recovery because there was no complete vesting. Since termination by the sale of Division was not specifically excepted under the plan, the employes must forfeit their unvested share. ■

Power firm settles suit

BUFFALO, N.Y.—A public power company here has settled out of court with a customer who claimed civil negligence when a utility pole's loosened connection interrupted the customer's refrigeration, causing damage to over $2,500 in foodstuffs.

Food Arena Inc., plaintiff in a suit brought against Niagara Mohawk Power Corp. here in city court, claimed that a utility pole erected nearby to service the supermarket had not been inspected since the early 1950s when it was first installed.

Consequently, the plaintiff charged, the loosened connection was never discovered nor repaired and resulted in a power failure in November of 1965.

The plaintiff also argued that Niagara Mohawk failed to honor its contract to provide power because of negligence.

Niagara Mohawk denied any negligence. However, on the fourth day of the trial, the power company—which is self-insured for liability—agreed to settle out of court for the value of the damaged foodstuffs plus all interest which had accrued on the principal since the incident. The settlement, for $3,150, avoided a jury trial and a possible precedent-setting decision. ■

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Tax credit may reduce insurance need

by William H. Rodda,
president, Marine Insurance Handbook, Inc.,
Chicago, Ill.



William H. Rodda

POSSIBLE income tax credits should be considered when buying insurance. Potential credits for casualty and theft losses to property may justify high deductible insurance coverage or assumption of the risk by a property owner. An important factor is the property owner's income tax bracket and its effect upon the net loss.

A loss to property from a casualty or theft may be deducted from income under Federal income tax provisions. Such losses to business property or property held for the production of income are deductible in full. The loss normally would be deducted from income in the firm's usual accounting procedures.

Two important questions that must be resolved are (1) whether the loss is from a casualty or a theft as defined by the Internal Revenue Service, and (2) the amount of the loss.

It is interesting that a casualty for income tax purposes is similar to the interpretation of "risk" for insurance purposes. Internal Revenue Service says that a casualty is the complete or partial destruction of property resulting from an identifiable event of a sudden, unexpected or unusual nature. Insurance company interpretations of "risk" insist that there must be an occurrence that is not anticipated and that has an element of chance. The effects of the IRS definition and of insurance interpretations are almost the same.

EXAMPLES OF casualty losses are damage by hurricane, tornado, flood, storm, shipwreck, fire, accident, an automobile accident regardless of who is at fault as long as the property owner was not willfully negligent, mine cave-in, sonic boom and vandalism. All of these would also be considered as the result of risks under an "all risks" type of insurance policy. Many "all risks" insurance policies do exclude losses from flood and other causes, but these causes are risks.

The insurance company concepts of risk and the Internal Revenue Service definition of casualty are alike in excluding many losses of a gradual nature. Progressive deterioration is something which is expected to occur and is neither the result of a risk nor a casualty. IRS is somewhat more exclusive than insurance thinking as to some losses such as the breakage of china from handling or from action by a family pet. These losses probably would be considered as covered by an "all risks" insurance policy in the absence of a specific exclusion.

Theft is treated specifically in the income tax rules. It is the unlawful taking and removing of money or property with the intention of depriving the owner of it. It includes but is not limited to larceny, robbery and embezzlement. Insurance policies covering theft follow much the same ideas except that they may contain restrictions as to loss from certain places such as an unlocked automobile. Misrepresentation is not a theft under IRS rules. In contrast, loss from misrepresentation might be considered theft by trickery or deceit under the definitions in some insurance policies.

The mere disappearance of money or property is not the result of theft as far as income tax deductions are concerned. There are many insurance policies which do cover losses from mysterious disappearance. Personal fur and jewelry policies cover such losses. The loss of a gem stone from a piece of jewelry is covered by a personal jewelry policy. It seems unlikely that IRS would recognize this as

Continued on following page

Simplify policy due dates with ties to fiscal periods

by Joseph Singer, Ph.D.,
financial vice president and treasurer,
IMC Magnetics Corp.,
Westbury, N. Y.

(The following, which first appeared in the New York Certified Public Accountant, will be very basic to insurance "professionals." However, firms that do not have a "professional" on the premises, may find Dr. Singer's comments useful.)

IN MANY business enterprises, regardless of size, insurance policies in respect to insurance and payment periods of premiums are handled haphazardly and, consequently, in a costly and uneconomical manner. Companies take insurance as the need arises and merely renew the insurance from year to year. These renewal periods and new insurance policies are scattered throughout the year.

Companies having many insurable items such as buildings, transportation fleets, inventories, workmen's compensation and liability coverage accumulate so many policies and renewal dates that full-time clerk personnel may be needed to handle the paper work involved and watch the renewal dates and premium payments. Even in smaller companies, handling insurance takes up time of the accountant or bookkeeper or office manager disproportionate to other activities.

I once observed a company which had as many as 400 policies and, because of the manner of handling, half the time of a clerk in the financial division was taken up. The time involved was not only the time of watching the expiration and the renewal dates, but, also the continuous allocation of the premiums paid between the part chargeable to the current fiscal period and future periods.

THIS CAN be avoided if a company establishes a principle that the period of the insurance policies coincides with the fiscal period of the company and that all insurance premiums—so far as they have to be prepaid—be paid the first day of the fiscal period. In this way, continuous watching is avoided, no allocation of premiums into different fiscal periods is necessary and all policies may be handled once a year. This handling of insurance doesn't take up more than one or two working days a year and, for smaller companies, probably not more than several hours.

'Even in smaller companies, handling insurance takes up time . . . disproportionate to other activities.'

The accounting handling should distinguish between fixed premium policies and between reporting policies.

a) The *fixed premium policies*, such as fire and theft, should be paid—as stated—immediately and the appropriate expense accounts should be debited for the entire premium paid or a "prepaid premium account" opened and each month one-twelfth transferred to the appropriate expense accounts. In both cases, no overlapping another fiscal year occurs.

b) In *all policies based on reporting*, such as workmen's compensation or inventories, where an advance deposit is given to the broker (insurance company), the advance should be debited to the account payable of the broker or the insurance company. The premium due for the past month should be calculated, and the "premium reserve account" credited and the appropriate expense items debited. The report should be sent to the insurance company and, after having received the account, the final correct amount should be credited to their payable account and debited to the "premium reserve account." This account should be adjusted accordingly to the debit or credit (as the case might be) of the appropriate expense account. The balance due should be paid to close the reporting period and a new advance payment should be made for the next period.

AT THE END of this period the premium due should be calculated and the "premium reserve account" credited and the appropriate expense items debited. The report should be again sent to the insurance company and, after having received their account, the final correct amount should be credited to the payable account and debited to the "premium reserve account." This account should be adjusted accordingly to the debit or credit (as the case might be) of the appropriate expense account. The balance due should be paid to close the reporting period and a new advance payment should be made for the next period. To prevent confusion, each advance payment should be a different dollar amount. Any advance billing by the insurance company for estimated premiums should be ignored and no entries made in the books.

The broker should be advised to render separate statements: one for the fixed premium policies, and a separate one for the reporting policies. Separate folders for each type of insurance should be kept and proper check maintained that deposits made for estimated premiums (plus or minus adjustments) equal the *actual* amounts due.

If, during the year, a new insurance policy is obtained, the policy period should cover the balance of the fiscal year plus an additional year, if to do so reduces annual premium cost. For example, if a company has a calendar year end and new insurance is added in August, 1970, then the initial policy may be taken until December, 1971, if economically justifiable. Allocation between periods of prepaid and expired insurance is required in the initial premium period only. Thereafter, insurance expires at a time coincident with the company's year end.

This method of accounting for insurance policies clarifies estimated credits and subsequent adjustments are omitted. Only *actual* amounts due or paid are entered in the payable account of the broker or insurance company. This procedure also simplifies the audit of the independent auditor. ■

Continued from preceding page
a deductible loss in the absence of any casualty which caused the stone to be lost.

INVENTORY SHRINKAGE is an important cause of loss in many business operations. This is excluded by most insurance policies. However, these would be reflected as business losses under usual accounting procedures, and as such would be deducted as losses for income tax purposes.

The amount of loss that may be deducted for income tax purposes is the difference between the value of the property immediately before and immediately after the casualty. The value before the casualty would have to be adjusted downward for depreciation, and upward for any improvements which were made after purchase. The value after the casualty must be adjusted for remaining salvage value, insurance recoveries or other recoveries, such as the forgiveness of debts by creditors.

The owner of property must prove that the claimed loss did result from a casualty or theft. This would be easy in the case of a fire, windstorm or other event which caused extensive and visible damage. It would be more difficult with theft losses or other events where the casualty itself was not obvious. The obligation of the property owner is much the same as his responsibility to prove that he sustained an insured loss.

The Internal Revenue Service regulations provide for a $100 deductible for casualty and theft losses to personal (that is, nonbusiness) property. The individual who wishes to deduct a casualty or theft loss must itemize his deductions on Form 1040, and he can deduct only the amount of loss above $100. Each casualty or theft is treated separately and the $100 deduction applies to each occurrence.

THE PERSON OR businessman who is buying insurance should take into account any possible casualty or theft deductions from his income tax. This is especially important to those whose income tax bracket is above 50%.

One man's wife, for example, had a jewelry schedule worth $200,000. He had difficulty buying insurance until he offered to take a policy with a $10,000 deductible. His income tax bracket was 70%, so that a $10,000 deductible would result in a net loss to him of only $3,000.

Another man had a $10,000 diamond ring which insurance companies were unwilling to insure. The best offer he could get was at three times the filed jewelry rate, or about $75 per thousand, which is $750 a year for $10,000 coverage. His income tax bracket was high enough so that loss of the ring from a casualty would cost him a net of $4,000. He decided to keep his $750 a year and take his chances of a $4,000 loss.

'Business interruption insurance should be considered on the basis of its effect on successful continuation of the business.'

It is to be hoped that the insurance agent or broker in both of these cases pointed out to their clients that an income tax deduction could not be taken if the loss resulted from disappearance of a kind not covered by Internal Revenue Service rules. Personal jewelry insurance would cover a disappearance loss.

INSURANCE FOR business property against some hazards may be extremely expensive. Insurance companies are reluctant to write flood insurance, for example, on property at a fixed location. Flood insurance may be available under jewelers' block or some of the other package policies, but usually at very high rates if the threat of flood is sufficient to justify the coverage. There are three alternatives. One is to buy the coverage at the available rate. The premium is a deductible business expense. This may be justifiable if the business operations can afford it.

A second possibility is to carry no insurance and to assume the risk. Important considerations would be (1) the income tax bracket which would determine the net proportion of loss from flood, (2) the apparent chances of flood, (3) whether there would be sufficient warning of an impending flood to permit total or partial salvage of the threatened property, and (4) the amount of premium for insurance in relation to the probable net loss after income tax credit.

A third possibility is the use of unsurance with a substantial deductible. The deductible should be set at a figure which marks the line where a loss would embarrass the business operation financially. For example, the company executives might decide that they could absorb a $25,000 loss. A $50,000 deductible would produce a $25,000 net loss for a company in a 50% corporate income tax bracket. It would be much easier to get an insurance company to write a flood coverage with a $50,000 deductible than without.

Premium for a deductible policy can be based upon remote chances of a serious flood. Thus the insured would be protected against a catastrophe flood loss; the premium would be a deductible business expense; and any smaller flood losses could be absorbed after figuring credits for income tax allowances.

DEDUCTIONS FROM income for tax purposes usually are made in the year in which the casualty or theft occurred. There are a couple of exceptions to this general rule. Theft and embezzlement losses are deductible in the year when they are discovered. It is not necessary to prove the year in which the theft or embezzlement occurred, but merely that it did happen and when it was discovered.

A special rule applies to casualty losses from natural disasters where the President of the United States has declared a disaster area. If such a loss occurs between the end of the taxpayer's taxable year and the time prescribed for filing his return, the taxpayer may elect to make the deduction in the year of the casualty or in his previous tax year. This election may be important to a businessman whose profits will fluctuate substantially between the two years. It can be of considerable importance to a business whether the area is proclaimed a disaster area.

Business interruption losses are handled differently from property losses. There is no provision for specific credit in income tax for business interruption losses, but such losses would affect the profit picture of a business. Thus the loss would reduce the profit which is subject to tax. Business interruption insurance should be considered on the basis of its effect on successful continuation of the business.

Extra living expenses of an individual because of a casualty are not allowable as property loss for income tax purposes. However, the Tax Reform Act of 1970 does make one change that is favorable to anyone who has extra living expenses and who has insurance to cover that loss. A former ruling of the Internal Revenue Service required that any insurance recovery for extra living expense be reported as income. Such insurance recoveries are no longer taxable as income. The tax laws are still inconsistent in that a taxpayer can take a deduction for a casualty loss to property but any extra expense that he incurs because of the casualty cannot be deducted. ■

Dear Gerry

Justifying conservation items

by Gerald W. Wilson,
analyst of corporate insurance,
New York



Gerald W. Wilson

DEAR GERRY: *You state that savings on insurance premium is the wrong justification to use in getting property conservation appliances. What other justification is there?*

ANSWER: The same justification as for not putting in protective appliances—namely arguments concerning utility and profitability, i.e. the costs versus the odds. In using such reasoning all the consequences can be considered if expressed in time, extra expense, increased cost of replacement and in meeting production schedules and maintenance of sales. In some instances both the supportive and risk statistics can lend credence to your arguments. Boosting the decision upstairs by plant management is the usual result of advancing such arguments. And, the risk manager had better be ready to justify at the advanced level. Sometimes the operation is so marginal that appliances really are too expensive or a waste of money.

DEAR GERRY: *In a guest editorial in another publication, you said that a safety man would not make a good insurance manager. I came up the safety route and. . .*

ANSWER: I did not say that. I said in part: "A person trained in the areas of safety specialities simply because he deals with one aspect of risk handling does not automatically nor easily assume the role of a risk management specialist." I also pointed out that safety was an engineering specialty aligned to line management and personnel-function oriented. Risk management is a financial speciality aligned to staff or top management. There is considerable difference in orientation and ideas of what may be important. There is no reason to take the facts of life as an insult.

The recognition of these facts may cause some avoidance of some costly problems and results. Unless a safety-trained person recognizes the differences in concept, he can be a danger in a sensitive risk management spot. Many excellent insurance managers have come from diverse business backgrounds whose orientations would appear unsuitable. What is marked about them is their knowledgeability of what their company expects of them and their obligation. You didn't say whether or not you made the transition, and, if you did, whether or not it was easy. If you don't realize that a change in concept was required, you could be in real trouble and not know it.

DEAR GERRY: *I am besieged with interrogatories on products claims. What is the best method to handle them?*

ANSWER: There are no best ways. There is only one cardinal rule and that is to get the information or suggested answers from those people in your organization that would have them and await any amateur attorneys screening the information and documentation. In short, get the facts concerning the acts of your company (not what the others involved did) to your defense attorneys.

One method is to hold a meeting with your corporate counsel, the defense attorney and department managers who would be concerned and hand out the questions for suggested answers one by one with the legal eagles giving the instructions and advice of what is expected. Since most interrogatories have a deadline to be met, one person should be appointed to assemble all the data.

If there are any operational lessons to be drawn be sure that those lessons are recognized by the persons in a position to institute the changes.

DEAR GERRY: *What is the 30-60-10 ratio?*

ANSWER: This refers to the old reinsurance excess premium allocation formula: 30% for losses (regular recurring); 60% for catastrophe; 10% for commission. With the *recognition lag* this formula has fallen into disuse.

DEAR GERRY: *What is meant by the recognition lag?*

ANSWER: It is that time between the actualities of any event and the moment that the statistical report reflecting the event is reported out. Usually adjustments must be made in the reported-out statistics to reflect the current situation. An example of the recognition lag would be the losses that would be charged against a workmen's compensation reinsurance layer. The recognition lag usually is involved at premium negotiation when potential losses are under discussion. The recognition lag affects most all aspects of business and government and is one of the incentives for computerization.

DEAR GERRY: *What about directors' and officers' liability?*

ANSWER: I have always felt that the selling practices have bordered on the scare tactics of life and hospitalization and the status symbol arguments of high-benefit level d&o. A broad personal injury liability coupled with a good attorney's errors and omissions liability coverage should give a more realistic package. I am still awaiting the loss ratios for d&o.

In my opinion premiums could be spent more appropriately. I would like to know the probable effect on insureds' behavior in the event of a claim by having this insurance. ■



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Noise suits still pending against L.A. airport

LOS ANGELES—Officials at Los Angeles International Airport remain unperturbed in the face of $2.3 billion in pending suits against the facility for property damage due to noise pollution.

"We've had several suits filed since the early Sixties," said Roger Wiseman, deputy city attorney in L.A., verifying the amount of damage claims currently pending against the airport.

"Most of the suits have taken the form of an 'inverse condemnation' complaint," Mr. Wiseman noted, explaining that complainants argued that the airport has, in a sense, acquired an interest in their property because of the infringement of excessive noise without paying for the interest.

TO DATE, however, the suits have proven unsuccessful. "We've won our case in two suits in which no damages were paid," he said, adding that one suit was on trial currently.

The L.A. airport's noise problem is not unique with the by-now commonplace presence of continental and international jet service to many parts of the country. No other airport, however, has had quite the problem of so many damage suits filed against it for noise pollution.

"We're more of an exception rather than the rule in noise suits," Mr. Wiseman remarked, explaining that because the airport is surrounded by a heavily populated area concentrated near the runways used by jet airliners in take-offs and landings.

The airport has a general liability coverage. Presumably, however, the airport may not have to rely upon its insurance against possible liability in these noise pollution suits because of the new FAA regulations on noise.

"The FAA has brought out regulations on noise for present aircraft, aircraft to be certified in the future as well as the SST, a giant jet transport," Mr. Wiseman explained. "The 747 will probably be covered under another set of regulations since its situation is a bit different." However, with the advent of Federal regulations on noise limitations for aircraft, the government, rather than airports, may run the risk of being sued for unwanted noise by irate neighbors of landing strips once the aviation industry and airports have specific standards to which they can comply, he said. ■

Noise . . .

Continued from page 38

THE BOILERMAKERS' suggested control of noise exposure recommends that engineering methods are the best reducers of noise levels. These methods of environmental control include reducing the amount of noise produced at the source, reducing the amount transmitted through the air and structural members and substituting quieter procedures.

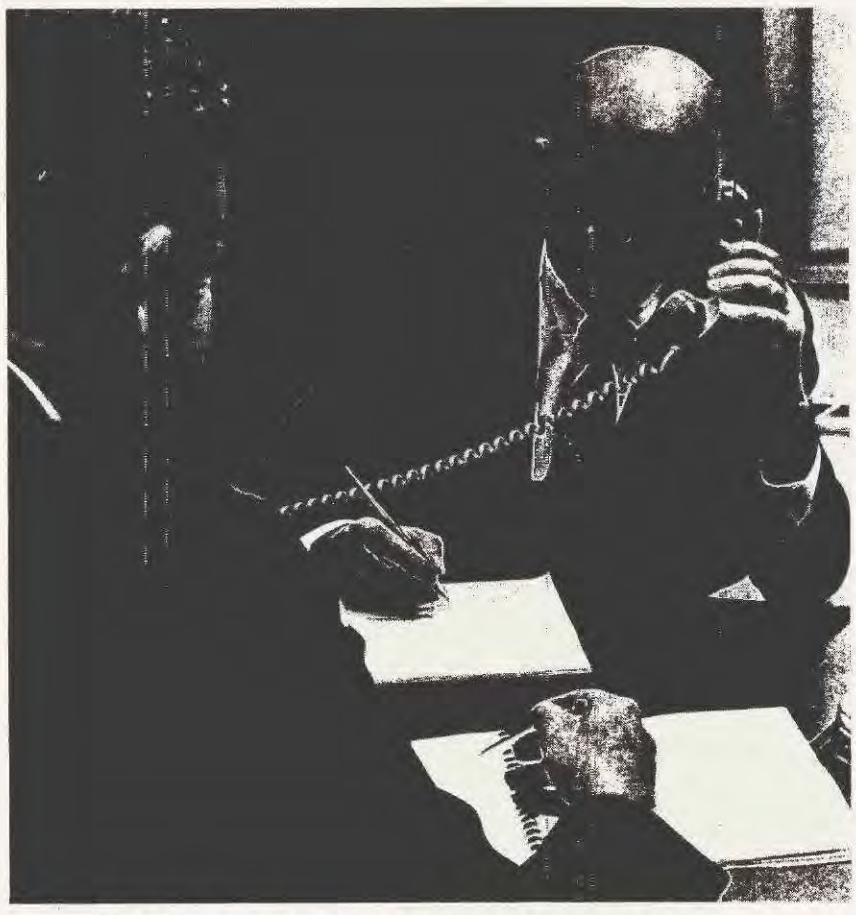
The union program notes that "when the amount of noise produced cannot be sufficiently reduced at the source, a combination of control methods may be required to conserve hearing, including personal ear protection devices individually fitted under medical supervision. This may be especially true when impact noises imposed upon background noise are involved."

Measurement of hearing acuity in the union's program includes a recommendation that "all employes who work in a high-intensity noise level be given a preplacement examination including an audiogram. Those who have been exposed to this intense noise before the hearing conservation program is established should also be given an audiogram after removal from the noisy environment for 40 hours. It is further recommended that these audiograms be given at periodic intervals as conditions warrant."

In addition, the union recommends that all noise survey results and studies and individual audiometric determinations be kept by the employer and should be available on request to the employe concerned. These records are useful for adjudication of workmen's compensation claims and for continuing effective control programs.

THE MOST IMPORTANT aspects of a hearing conservation program, according to the union's recommendations, are the competency of the staff administering the program and the place and methods by which audiometric measurements are obtained.

"By establishing effective conservation of hearing programs," said Dr. Sataloff in summation, "I believe it is possible in the forthcoming years to prevent handicapping hearing impairment in practically our entire working population." ■



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BI columnist, Olsen, is named to new post



John P. Olsen

NEW YORK—John P. Olsen has been named assistant counsel at Ingersoll-Rand Co., a newly created position.

Mr. Olsen, who is a *Business Insurance* columnist, will retain responsibility for his company's insurance program.

Reporting to him are R. Ciccarello, supervisor of property and casualty insurance, and J. J. Keetley, supervisor of group and workmen's compensation insurance at Ingersoll-Rand.

MR. OLSEN received a B.S. degree from the University of Virginia in 1945 and an LLB degree cum laude from the New York Law School in 1954. He has been manager of the insurance department of Ingersoll-Rand since 1965. ■

British lawyers drop car fault complaint

LONDON—A complaint about the steering on British cars (*Business Insurance* Feb. 16) has been completely withdrawn by lawyers in London's high Court.

British Motor Corp. had spent $30,000 in costs and research in the past year to prove that their 1100-type models are absolutely safe.

The litigants, a British diplomat and his wife, dropped their claim against the British Motor Corp. and the Dunlap Rubber Co. after being advised by lawyers that they could not hope to succeed. They had sought damages because their car ran off the road in Spain eight years ago.

Claims cable car accident caused her nymphomania

SAN FRANCISCO—A unique law suit has been filed in superior court here by attorney Marvin E. Lewis on behalf of a 29-year-old business woman who contends a cable car accident made a nymphomaniac of her.

Nymphomania, for the uninitiated, is an uncontrollable sexual desire in women.

Mr. Lewis claimed in court this week, during a jury selection, that his client "has been bedeviled by nymphomania since she was injured in a runaway cable car in Sept. 1964.

"HER SEXUAL partners," he declared, "have numbered in excess of 100, selected at random when the vibrations are right. She craves body contact."

Mr. Lewis described his client as a once devout Lutheran and a choir girl "who has had to have an abortion as a result of her inability to control her sexual activity."

Through Mr. Lewis she is seeking damages of $500,000 from this city's Municipal Railway, which is self-insured for such amounts.

Mr. Lewis told prospective jurors he would produce "psychologists who will testify her complaints are due to mental trauma caused by the accident."

THE ATTORNEY told the jury panel his client, a graduate in dance from the University of Michigan, was 23 at the time and had been here only two weeks when she took her fateful Hyde Street cable car ride. ■

Funds . . .

Continued from page 12

Trust Co., who pointed out that corporate pension officers were much more interested in the prospective trustee's performance track record than in any increased lending to be thrown in as a "sweetener."

"It is extremely reasonable," said one corporate pension officer, "that a company would attempt to increase its borrowing ability by moving its retirement fund money in times of tight money markets. I don't see why it would necessarily affect the fund's rate of return, however," he added.

THE FUND administrator explained that most of his counterparts were involved in a movement toward greater performance. "The fact that, in the past, a lot of companies just put their retirement funds with the nearest respectible bank and forgot it doesn't hold much water today," he said.

"They're realizing what increased performance means to the pension funds in terms of cost and greater benefits for the employes. In addition, insurance companies who lost out on the management of retirement funds to some extent back in the '50s are now making a real effort to get back into it. We are also faced with a myriad of these new independent investment counselors who are coming to us, saying, 'We're averaging 17% to 18% in our rates of return—much better than the banks—so how about it?' "

"We think that a rate of return of 10% to 12% over a long period of time is a more reasonable expectation. If the banks are going to keep the business I would think they must perform at about this level consistently to do it," he said.

Another large retirement fund administrator stated flatly that "if a money manager cannot stay at least 50% above, say, the Standard and Poore's 500 index or the Dow Jones' they're just not in the running as far as we're concerned." ■

County self-insures

Harris County (Texas) commissioners court decided the county will not carry liability insurance to pay for injury and damage claims. Commissioners said they believe it would be cheaper to pay for claims than to carry insurance. The action stems from the last Texas legislature's Torts Claims Act, which makes state and local governments liable for damage caused by negligence in the operation of their motor vehicles and other equipment. The law sets governmental liability limits at $100,000 per person.

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Cites BI's articles to Senate Committee

WASHINGTON—In testimony before the Committee on Commerce of the U.S. Senate, Mar. 18, Prof. Herbert S. Denenberg, Loman professor of property and liability insurance, Wharton School of Finance and Commerce, University of Pennsylvania, was asked if there are "serious abuses in the insurance marketplace calling for new and more effective remedies." In his testimony he said:

"One need not be critical of state regulation in asserting that there are many abuses in the insurance marketplace that indicate the need of new initiatives to protect the consumer. This is so despite the fact that all of the states have adopted unfair trade practices acts, most of which closely follow or coincide with the Model Unfair Practices Act approved by the National Assn. of Insurance Commissioners in 1947, and despite the existence of insurance regulation in every state and U.S. jurisdiction.

"One of the most recent abuses is the development of phony mail order insurers that are selling to corporate buyers. *Business Insurance* was influential in exposing some of these companies operating out of Missouri. Its expose led to action against so-called minimutuals operating beyond their authority. In the meantime, buyers all over the world, from as far away as Ethiopia, suffered damage as a result of the operations of these phony companies, which wrote insurance but did not pay their claims.

"In its most recent issue (Mar. 16, 1970), *Business Insurance* has a further report on questionable business activities. The report indicates that only last month the Missouri secretary of state ordered the forfeiture of the charter of a minimutual based there. It was exposed by *Business Insurance* about 15 months ago. Appendix 4 contains excerpts from *Business Insurance* on this and related matters. The managing editor of *Business Insurance* advised me that its reports on this matter have not yet been contradicted by anyone." ■

ASIM president

Larry Wallace has been elected president of the Dallas-Fort Worth chapter of the American Society of Insurance Management.

He is insurance manager of Otis Engineering Corp., Dallas. Other new officers include Dennis K. Morton, manager of general insurance for Dresser Industries Inc., vp.

Nixon approves increased oil spill penalties, liability

WASHINGTON—President Nixon early this month signed the Water Quality Improvement Act of 1970, which increases penalties for oil spills and extends the liability for the cost of cleaning them up.

Until now, persons found guilty of discharging oil from a vessel into navigable waters were subject to a fine of $2,500 for each offense. Owners of the vessel were subject to a fine of $10,000 for each offense.

If the U.S. cleaned up the spill, the owners were liable for cleanup costs up to a limit set by the Brussels Convention of 1954. The limit was $5 million, or $67 per gross ton of the vessel, whichever was less. However, to collect, the government had to prove gross negligence.

THE NEW ACT introduces the principle of absolute liability. Those responsible are liable "without regard to whether any such act or omission was or was not negligent."

Except where a spill from a vessel is the result of an act of God, an act of war, negligence by the United States or an act of a third party, the owner of the vessel is now liable for costs of cleanup incurred by the government up to $14 million, or $100 a gross ton, whichever is less. Subject to the same exceptions, owners of onshore and offshore oil drilling facilities are liable for cleanup costs up to $8 million. Moreover, if the government can prove willful negligence or misconduct, the owners of a vessel or onshore or offshore facility must pay the government the total cost for cleanup. ■

ASIM . . .

Continued from page 1

al legislation committee issued a statement blasting as "journalistic mid-wifery" a report in the March 30 issue of *Business Insurance* that told of the advance planning committee's recommendation.

"THE PREMATURE disclosure by the insurance trade journal, *Business Insurance,* of a legislation report formulated by the advance planning committee of ASIM was inspired but improper use of the communications media to achieve a tactical advantage in the advancement of the committee's proposition to scrap the society's present experienced national legislative structure and, in the words of the committee, substitute a legislative program directed by 'a young man out of law school—perhaps his first step in his business experience—for approximately three years . . .,'" Mr. Hanau said.

He added: "This report and its evaluation by *Business Insurance* indicates a profound and surprising lack of knowledge of government regulation of business and the level of competence needed to deal effectively with state and Federal agencies and legislators."

Mr. Hanau also said, "Mr. Bailey's accomplishments at the state legislative and insurance department level have been the result of time-consuming work and travel. This is the heart of the matter. It is the time and travel that must be devoted to this work if we are to have favorable results that cannot be given on a part-time, piece-meal basis by the vice president-legislation or any other member working full-time as a risk or insurance mamager." ■

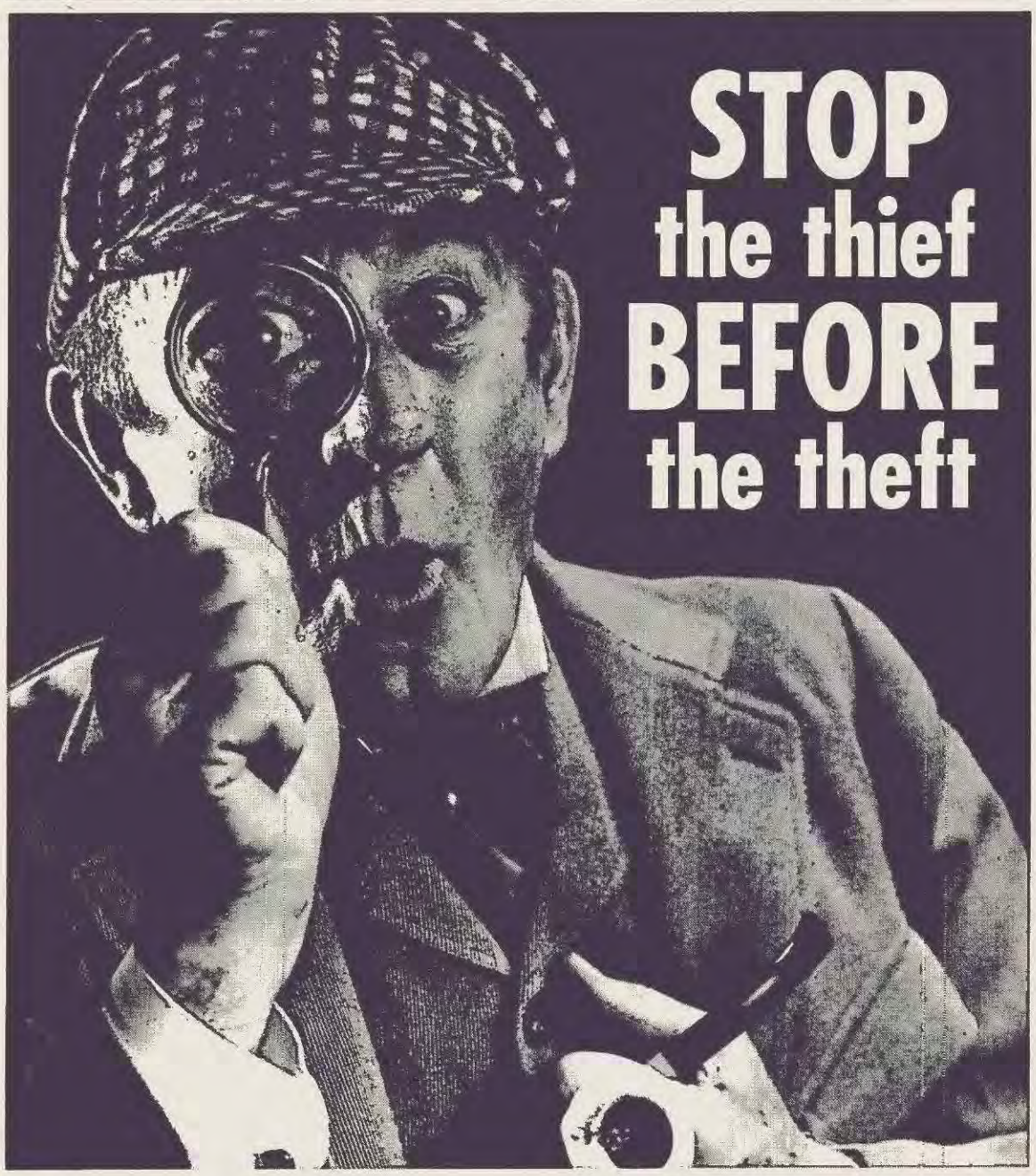
Captive . . .

Continued from page 1

out of existence."

WITH THE domicile problem all but solved, save for formal approval from Bermuda authorities, the captive has one last major hurdle to overcome. That is one of financing. Some in the airline industry have expressed serious doubts that the industry "will be able to afford to plow the necessary capital into the captive." The advent of the jumbo 747s and a general profit squeeze in the business has made some pessimistic that the industry will have the necessary capital to invest in a venture that may not pay off for many years.

In February the Civil Aeronautics Board approved the airline industry's plan to form Swiss companies to write 40% coverage for participating airlines. Industry people do not expect the switch to Bermuda will affect the CAB approval. ■



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California doctors seek national health plan

SAN FRANCISCO—A nationwide system of health insurance plans for everyone in the U. S. will be sought by California doctors, joined together in the California Medical Assn.

The system would be financed wherever needed by a sliding scale of Federal tax credits and direct government subsidies.

The campaign for such a system was launched during the annual meeting here of the state medical association, the 99th such gathering. It marks a major shift in the political philosophy of the organization that represents 24,000 doctors practicing within California.

CONSERVATIVE members had opposed any attempt to make full health care coverage available to all, on the basis that "such action would mean the end of free enterprise insurance and would create a monolithic, compulsory health system."

The CMA action on national health insurance was in response to a proposal by the American Medical Assn. that the government permit tax payers to deduct all costs of health insurance and all medical care bills from their income tax payments, with the tax credits on a sliding scale depending on family income.

The CMA delegates decided that this plan "would be inadequate by itself to assure quality health care for everyone."

The California proposal would permit families whose incomes are too low for substantial tax credits to be entitled to government vouchers to subsidize the purchase of health insurance policies.

THE VOUCHERS would be based on family income and would change in values as the cost of living rose or fell.

This commission now supervises the health insurance programs of nearly 10 million Federal employes and their dependents.

The CMA would call its plan the "Universal Voluntary Health Benefits Program."

Dr. Roberta Fenlon, San Francisco, new president elect of the CMA and the highest ranking woman in organized medicine in the country, praised the California proposal as "recognition by this state's doctors that they do have a strong obligation to assure high quality medical care for everyone." ■

Bangor . . .

Continued from page 10

to assure a prospective client to its own integrity?

Mr. Barry smiled and said that the question had not come up before. "Probably the only assurance we can give a ccstomer is our own track record (15 years in the FBI and service with a respected bank) and, of course, the fact that we're backed up by a respected company like Bangor Punta," he said. In addition, he noted, the firm does have adequate insurance and fidelity covers.

Robert B. Wiltshire, director of loss control, and insurance at Bangor Punta worked out the insurance details for the new subsidiary.

AMONG THE coverages, Mr. Wiltshire told *Business Insurance*, is a general liability cover with limits of $20 million. "This, of course, would cover us were he (Mr. Barry) to make a recommendation not to hire someone on the basis of information that may later be proved false." The cover is written by Employers of Wausau.

In addition, Smith & Wesson is insured under a $1.5 million fidelity bond, which is split between three companies. Employers has $100,000, Hartford Accident and Indemnity writes another $200,000 and the balance—$1.2 million—is with Federal Insurance Co., a member of the Chubb group.

"Right now we're developing coverages for errors and ommissions. Smith & Wesson doesn't have the exposure yet, but it will need errors and ommissions eventually. It's difficult stuff to get," Mr. Wiltshire said. ■

Safety/Security & Loss Prevention

Annual Issue of

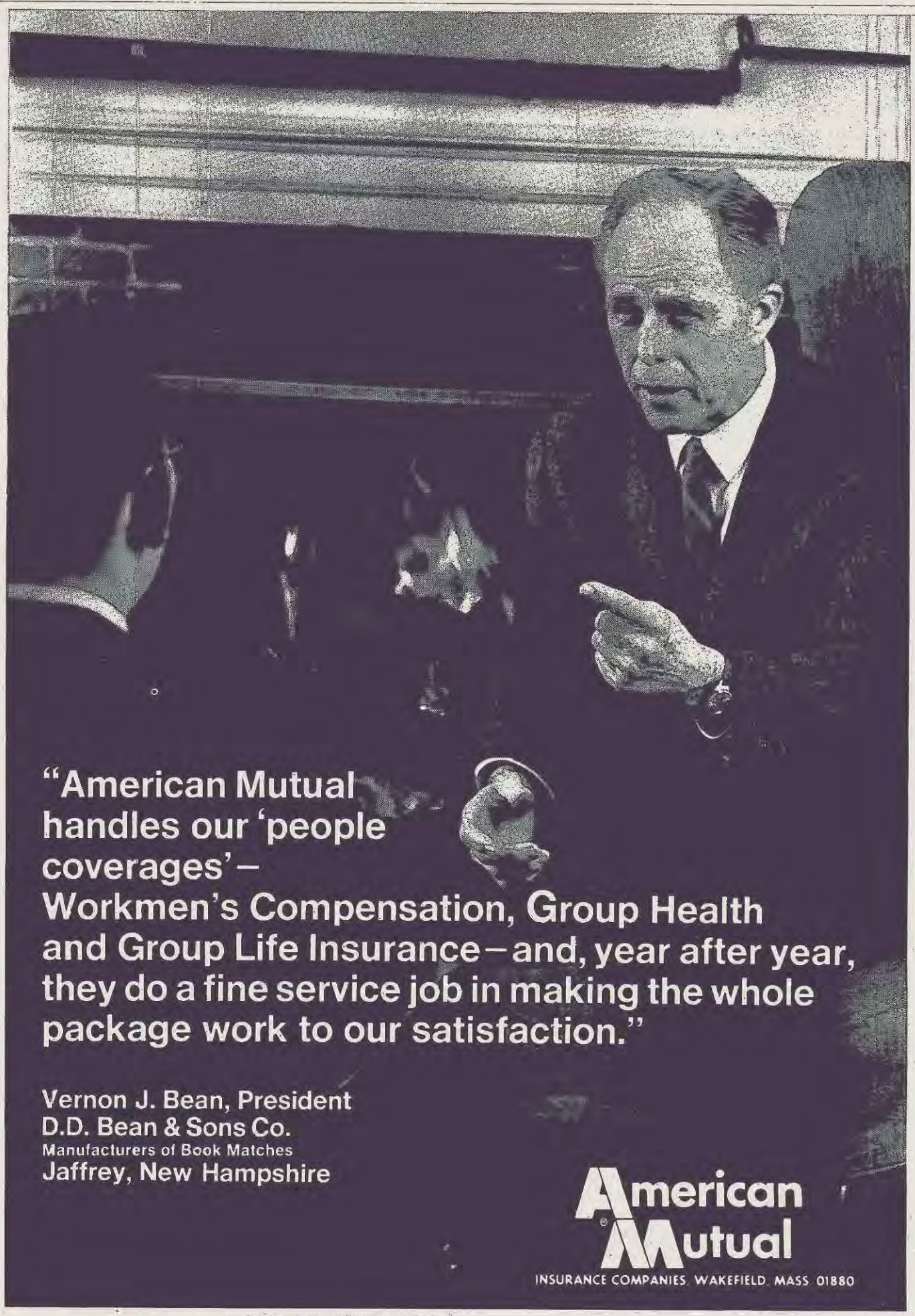
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Israeli pension and compensation programs provide frugal coverage

By EDWIN BLACK

TEL AVIV—When the youthful waves of Israeli immigrants diverted their every attention to the task of erecting a nation, the immediacy of that endeavor somehow made prospects of old age a far away phenomenon.

It has been only within the past 15 years that the serious thinkers have considered the need for old-age pensions and some form of workmen's compensation. Previously, the only provisions were in the nongovernmental workman's sick fund, promoted by the General Federation of Labor. It provided health services and occasional compensation for individuals injured in the course of employment.

But in 1957, with the original Israeli pioneers reaching the age of 60 or older, legislation was passed resulting in the present old-age and survivors, and workmen's injury insurance. But whether these plans adequately serve the needs of the insureds is a subject most officials would rather leave unanswered.

WITHOUT question, state insurance payments are low. The lowest monthly rate for a single person is equivalent to $15. Few recipients receive such a minimal amount, but some do. For this reason, the law permits a retiree to retain his retired status, collect his old-age pension, yet receive minor outside income up to the equivalent of $1,800 a year. A man with dependents can earn up to $2,400 each year without losing his status as a retiree.

Entrance age to the pension plan is 18 years to 60 (55 for women). One can enter the plan at any eligible age, and the qualifying period is at least five years with full contribution payments. The remarkable point about the plan is that the basic rate can be paid to a person with the five-year membership as well as the 40-year membership.

However, benefits do accrue with length of membership. After ten years of contributions, 2% per annum for each extra year of insurance is added to the pension, with a limit of 50%. To those that postpone their full retirement, an additional bonus of 5% per annum with a limit of 25% is added. This can increase pension payments considerably. In all cases the cost of living is taken into consideration and the pension modified accordingly, making the actual pension usually over $50 each month for a single person, and higher for a recipient with dependents.

WERE IT not for the development of several private pensions, state support would not be enough to maintain senior citizens in the Israeli economy. But the Israeli government excuses itself by saying the legislators had such private pensions in mind when forming the insurance laws. It is true that incomes from the workman's sick fund, called *Kupat Holim,* add to old age pensions, but many retirees are not covered by the General Federation of Labor plan. Provident plans exist, where a recipient is provided with a lump sum at the end of a tenure of service, and other regular pensions are benefits extended by some firms. But only 50% of the retirees are connected with these additional plans. The formerly self-employed, and other various categories of retirees are excluded.

Official defense for insurance inadequacies point toward the fantastic rate of immigration into the country. A high ranking finance official said, "Israel cannot alone bear the economic burden of increased immigration. While our small nation depends greatly upon the steady influx of new immigrants, we must do our best to provide for all equally. At least a man knows that if he comes here in his middle 40s and works, he will not be forgotten 20 years later. In fact he can come here when he is 55, and his five years of work will be enough to gain him a pension."

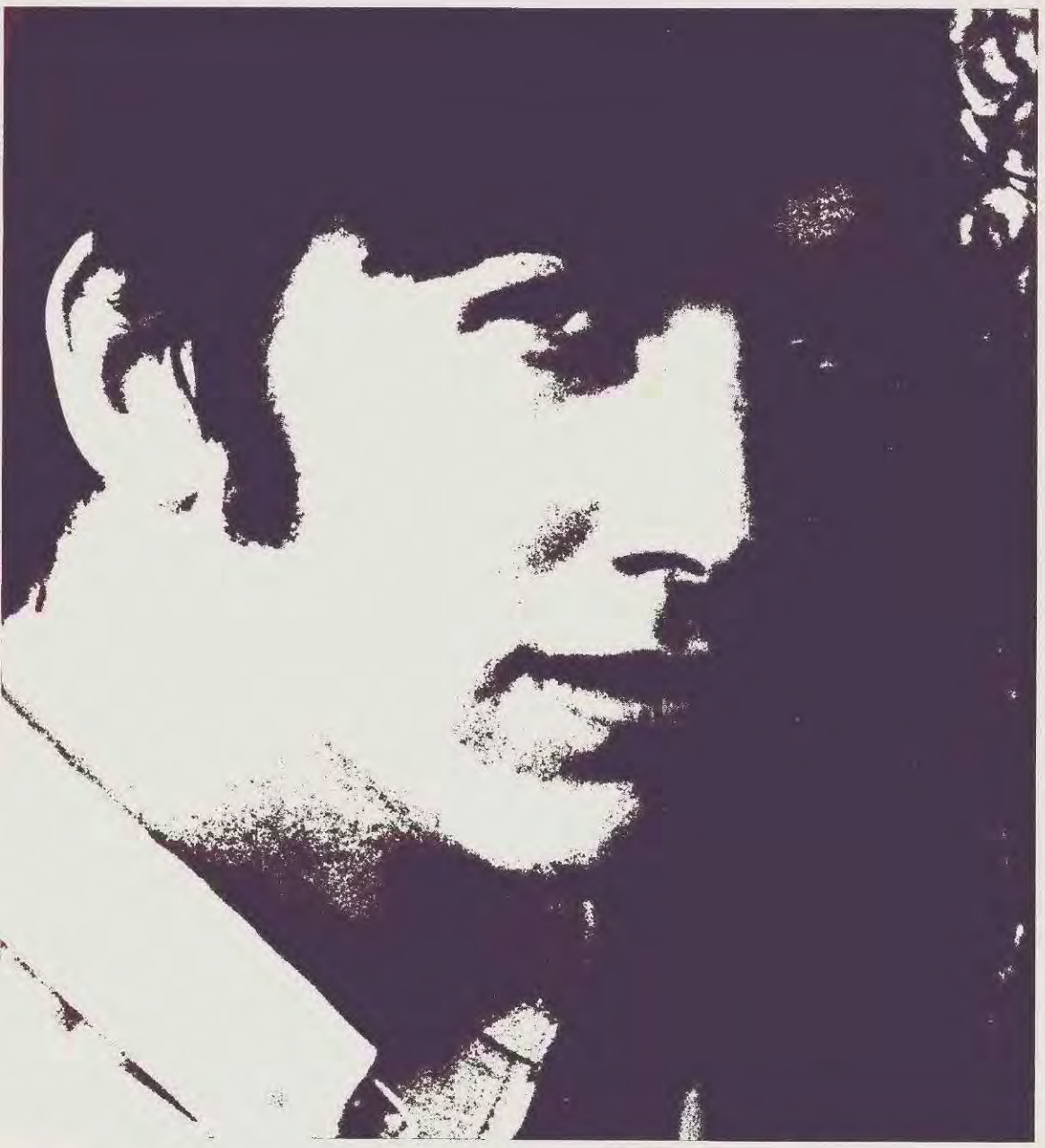
Next to disease, old age is the greatest cause of economic interruption, with only 6% of the entire population in the old-age category, as opposed to double that figure for Great Britain. But death provides its unfortunate share to economic interruption in Israel as it does everywhere. Israeli survivor's insurance comfortably covers expenses and provides for pensions.

THE SCOPE of survivors' insurance is the same as in old age insurance. The plan protects the family of the insured in the event of death. It also protects the insured in the event of a death among one of his dependents. The state provides a funeral grant for burial of the deceased. If the deceased is the insured, a lump sum equal to two-year's pension is paid to the widow who is under 40, childless and able to support herself. For other cases, the widow is granted a regular widow's pension tantamount to old age pension. The single exception is the age bracket between 40 and 50 with no children. These women get 75% of the widow benefits until retirement age, at which time they receive full widow pensions. There are the usual increments for orphans, with both widows' benefits and orphans' benefits linking to the cost of living index.

THE TRADITION of employer responsibility for work accidents was established before Israel became a state. As early as 1927, in what was known as Palestine, there was a workmen's compensation ordinance. After Israel became a state and looked to its insurance systems, the National Insurance Act replaced the ordinance. The plan, initiated in 1954, established under law the right of a worker to work-injury compensation, the right to medical rehabilitation, vocational rehabilitation where warranted, and lifted the main responsibility for such from the sole shoulders of business to primarily government.

National insurance not only lowered the premiums companies paid to insurance carriers, but also reduced the employer's contribution to the General Federation of Labor's workman's sick fund, which now would defray a lesser amount of the cost of medical treatment.

It is important to note, though, that the Israeli economic climate is a frequency of all factors, and the state routinely considers its role as against private roles. Therefore, some areas of compensation receive greater economic attention than others. ■



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Employe benefits, according to Book of Townsend

One of this season's best-selling books is the iconoclastic "Up the Organization: How to Stop the Corporation frim Stifling People and Profits" by Rober Townsend, the man who made Avis (and others) try harder. Two chapters on employe benefits are reprinted here with the permission of Mr. Townsend's publisher, Alfred A. Knopf Inc.

Incentive compensation and profit sharing

SOME OF this may not be applicable to your business, but the philosophy is.

To be effective, an incentive-compensation system of profit sharing should include the following characteristics:

It should be related as directly as possible to performance. Therefore, wherever a participant has primary responsibility for a profit center his incentive compensation is directly related on a percentage basis to the profits of that center. Where his relationship is more remote, or where his judgments are of a staff type, evaluation is based on the judgment of his boss, but this is far less desirable.

• Spend company time and effort on the preparation of profit-and-loss statements for profit centers to enable as many people as practicable to be measured that way.

• Recognize that to have maximum effectiveness, profit-center-related bonuses must be computed in accordance with an accounting system which everyone understands and recognizes as fair. Therefore, all overheads should be brought down to the bottom line for bonus purposes on principles agreed to in advance. In order to avoid hours of hair-splitting, review the fairness every six months.

• It is most desirable that a man be able to measure himself as he goes forward through the year, since he spends more time with himself than his boss does. Therefore his percentage of profits must be agreed to in advance.

• For maximum effectiveness, no ceiling should be put on a profit-measured bonus merely because it has become substantial. On the other side of the same idea, don't let any paternalistic feeling ameliorate the situation of a manager whose business has turned bad and who, for the first time, may receive no bonus at all.

EMPLOYES WHO do not have sufficient funds to support their reasonable family needs are distracted from their efforts. Accordingly, attempt to have salary measure the job itself and provide enough money for reasonable living costs. Incentive compensation is to measure variations in performance.

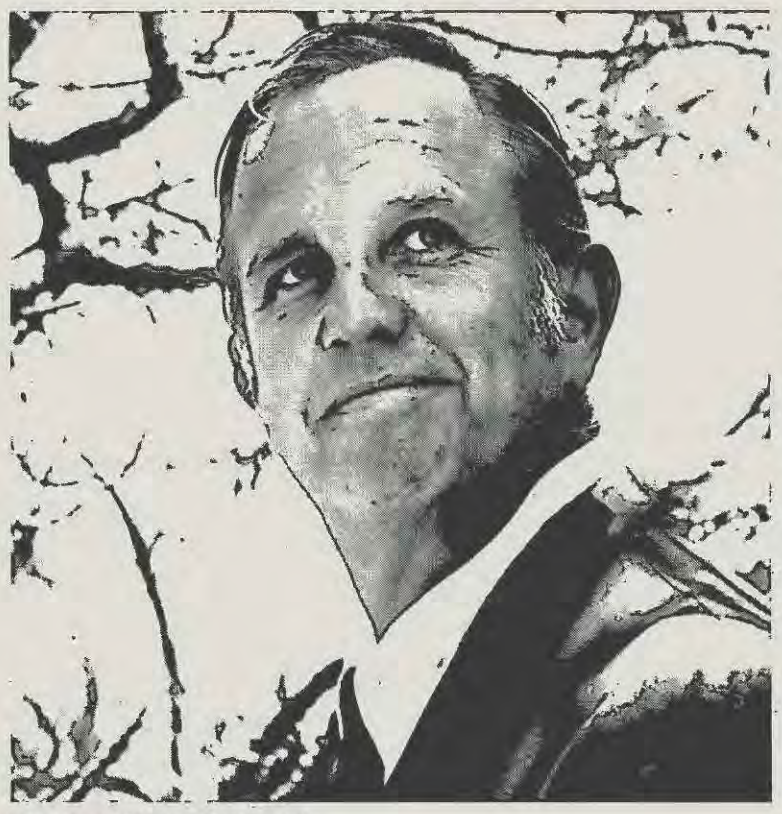
• Within these principles, limit executive base salaries, particularly at the top. For companies up to $100 million sales or $10 million pre-tax net, the chief executive officer and his three or four key executives could all be within a $40,000—$50,000 top range with very little differential among them. It isn't necessary for the chief executive officer to be paid more than the other officers, any more than a professional football coach has to be paid more than the star players. It is, of course, necessary to have a chief executive officer.

Get your board of directors to establish in perpetuity (a moral binder) that 15% of total pre-tax profit will be available for those eligible(1) for incentive compensation. The perpetuity is important. Otherwise the finks will try to reduce it when it becomes sizable.

Bonuses measured by profit centers are handled by formula. Changes in formula should be resisted.

• The determination of discretionary bonuses is critical and much more difficult. Fairness and full disclosure are the two keys to making the system work. With this in mind:

(1) Anyone who makes $15,000 or has other people reporting to him or her (supervisor of a key-punch shift for example might make $6000) could be eligible. In a very small organization (200 people or so) everybody should be eligible.



Iconoclast Robert Townsend

(a) The performance of every employe with one year of service who is a candidate for bonus participation must be rated by his boss in one of three categories. It is extremely important to resist pressures to increase the number of categories because complication tends to defeat the effort to be fair. Any manager should be able to place each of his people easily in one of three categories, but it becomes much more difficult with five or six categories.

(b) Generally speaking, ratings fall in the classification of unsatisfactory, satisfactory, and outstanding. It is anticipated that approximately 10% will be at each extreme. Any manager whose records show that he has no "unsatisfactory employes" may have an explanation to give to his boss. Similarly, one who has no "outstanding" employes over a lengthy period of time also has an explanation to give.

(c) Once the ratings have been made, the determination of bonuses is a purely mechanical job. Each unsatisfactory employe is given a rate of zero and will receive no bonus check. Each satis-

Continued on page 52

STATEMENT OF ASSETS AND LIABILITIES
December 31, 1969 and 1968

ASSETS	1969	1968
Cash in banks and on hand	$ 2,377,918.29	$ 3,484,416.78
Bonds:		
United States Government	19,859,309.96	22,703,647.27
Canadian Government	2,050,400.14	1,543,634.36
State, County and Municipal	92,089,147.01	82,251,978.80
Industrial and Miscellaneous	2,448,220.42	–
Total bonds	116,447,077.53	106,499,260.43
Stocks	51,709,731.08	50,863,481.00
Premiums in course of collection (not over 90 days)	2,641,690.77	2,352,734.03
Funds held by ceding insureds	13,586,433.35	4,419,717.08
Deposits under reinsurance treaties	3,035,964.43	2,552,084.38
Interest accrued and other admitted assets	2,357,807.30	1,446,386.42
Federal income tax refund	708,159.59	1,395,492.68
Total admitted assets	$192,864,782.34	$173,013,572.80
LIABILITIES, CAPITAL AND SURPLUS		
Reserve for claims and claim expense	$ 77,748,969.91	$ 65,944,632.01
Reserve for unearned premiums	60,415,756.36	46,239,821.15
Funds held under reinsurance treaties	7,592,659.65	6,382,452.15
Reserve for commissions, taxes and other liabilities	1,966,848.15	2,160,767.28
Total liabilities	147,724,234.07	120,727,672.59
Voluntary special reserves	1,998,615.45	1,732,759.80
Capital	*5,000,000.00	*5,000,000.00
Gross paid in and contributed surplus	5,830,339.55	5,833,001.75
Unassigned surplus	32,311,593.27	39,720,138.66
Surplus to policyholders	45,140,548.27	52,285,900.21
Total	$192,864,782.34	$173,013,572.80

Securities deposited as required by law are included above as follows: December 31, 1969, $5,851,480.06; December 31, 1968, $4,737,623.35. Bonds are valued on an amortized basis and stocks at prices prescribed by the National Association of Insurance Commissioners.

*Includes shares owned by the Corporation as summarized below, the cost of which has been excluded from total admitted assets and deducted from unassigned surplus:

	12-31-69	12-31-68
Number of shares	17,055	18,554
Par value	$ 85,275.00	$ 92,770.00
Cost	889,330.85	970,614.16

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Personal communication basis for safety success

By ROBIN SUHRBIER

(This is the last of a two-part series on Honeywell's safety program.)

MINNEAPOLIS—Personal contact with employes has been the secret to the success of Honeywell's aerospace division's safety program.

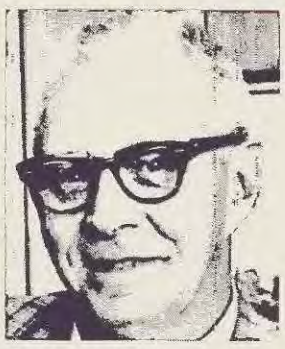
Gordon Dahlgren, safety director for the division, contended that working directly with supervisors, foremen and employes is the "only way to keep a good safety program going."

At Honeywell each of its divisions is responsible for developing and maintaining its own safety program. Richard Sweitzer, corporate manager of industrial hygiene and safety, acts in an advisory capacity to the divisions. Mr. Dahlgren, as do the other division safety directors, comes to Mr. Sweitzer for advice and direction in solving problems.

THE AERO division's frequency and severity injury rates, he said, have always been below the corporate average. This, Mr. Dahlgren believes, has been a result of the employes' awareness to the necessity of performing their jobs safely and the involvement of the supervisors and foremen in the safety program.

Each production area at the aerospace division is required to set up a safety committee that locates existing hazards and then sees that they are eliminated. The size of the committee depends on the number of employes in a particular area. Half the members of the committee are appointed by the union and the other half, by the foremen.

These committees, according to Mr. Dahlgren, make monthly tours of their production areas and submit reports of their inspection tours. The hazards that exist can usually be corrected by the department involved or the maintenance department; if additional help is needed Mr. Dahlgren steps in.



Gordon Dahlgren

The committees also make suggestions for any protective gear that might be necessary for employe safety. And once protective clothing, such as hard hats and eye glasses, has been issued it's up to the supervisor to make sure employes are wearing it.

ALONG WITH THE safety committees, each production department has a fire brigade that is trained at least once a year in handling fire extinguishers. These brigades also report any conditions that are unsafe.

The Minneapolis fire prevention bureau is called in to train employes in the various types of fire extinguishers.

Mr. Dahlgren keeps safety before his people by constantly publicizing it. For one thing in each building there's an electrical safety-first sign that tells the number of days the plant has gone without a lost time injury. The signs are placed for employes to see when they enter the buildings.

He's also placed several action signs throughout the buildings. In trying various methods to publicize safety, Mr. Dahlgren has found that employes remember electrical or moving signs. With other type signs, employes may walk past them every day without ever noticing them, he said.

AS PART OF THE safety awareness program, the aero division, in 1969, gave a prize for the best safety suggestion, over a three-month period.

Last year's safety suggestion winner received a color television set.

In 1969, the division also ran a safety slogan contest. Each month for a three-month period a new safety slogan was posted in the buildings and on a given day Mr. Dahlgren went around and asked employes if they recalled the safety slogan.

With all these methods, "we have been able to make our employes more aware of the need for safety and automatically think of jobs and safety together," he said.

Mr. Dahlgren receives from the corporate office workmen's compensation cost reports that he passes on to aerospace directors and managers so that they are aware of their department's progress toward good safety practice.

Combining all these techniques —constant personal contact, safety publicity and reports—has produced what "I believe is a very efficient overall safety program and a good safety record," Mr. Dahlgren said. ■

Capacity report issued

LONDON—Capacity problems for large risks have been studied by insurance experts from 18 West European countries at a special meeting in Vienna of the C.E.A. (*Comite European des Assurances*) which is recognized by UNO and major governments

British delegates have reported to their home-based insurance organizations that European insurers are unanimous in expressing the wish to cope with these new demands to the best of their ability.

A special working group to study the problem is being set by the C.E.A. as a result.

The report emphasizes closer international collaboration. ■



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Townsend . . .

Continued from page 49

factory employe will receive X per cent of his base salary. Each outstanding employe will receive 2X per cent. Extraordinary cases of multiple X per cent are also added in.(2) The bonus pool produced by the 15% of profits is then divided by total weighted salaries to produce the necessary computation of X per cent.

ASSUME A company with 3,000 employes, $100 million of sales, $10 million of pre-tax, pre-incentive compensation earnings. Fifteen per cent of $10 million gives us a pool of $1.5 million available for incentive compensation. Assume 400 people are on incentives related to profit centers and their formula bonuses add up to $1 million. This leaves $500,000 for discretionary incentive-compensation payments. Assume 50 people are eligible (base salary of at least $15,000 or have other people reporting to them). Assume 4 are rated unsatisfactory (no bonus); 42 are rated satisfactory (X per cent of base salary), and 4 are rated outstanding (2X per cent of base pay). In this year assume no ratings higher than 2X.

There were 42 people with satisfactory ratings. Each will receive incentive compensation of 52% of base salary. Four people were rated outstanding. Each will receive 104% of base salary as incentive compensation. This is an important barrier to break through. It lets some people really taste blood.

• This system can be prostituted and become a means of overpaying fat cats at the top. The chief executive at Avis never received a higher rating than X per cent (satisfactory), and in one year received an unsatisfactory rating.(3)

(d) The message is as important as the medium which is only money. Accordingly, bonus checks are NEVER DISTRIBUTED by the chief executive officer, except to those reporting directly to him. Each bonus check is physically handed to an employe by his boss and is accompanied by a conversation (hopefully a dialogue and not a monologue) about the amount of the check (or absence of check) and the reasons for the evaluation. The most important conversations are with the employes who get no bonus checks because at that time one gets their undivided attention.

Certain philosophical and psychological conditions follow from a system of the kind described above.

• In an ordinary economic sense, all management people are "partners" and, as such, have a major stake in one another's achievements.

• There is a tough-minded attitude toward "carrying old Joe or his nephew" since everyone in the bonus system is paying for a share of old Joe or his nephew. People tend to be fairly outspoken where their pocketbooks are concerned.

AT THE RISK OF repetition and to avoid misunderstandings, one might state the things which are not built into this compensation philosophy:

• No "thirteenth month" type of bonus or profit sharing by which every employe simply gets an extra pay period during the year, unrelated to his performance. Such an arrangement is worse than no incentive-compensation system because it misleads the directors and shareholders into believing that there is an incentive-compensation system when in fact there is none.

• No incentive compensation is paid to an employe who does not otherwise merit it because "he is counting on it." Such a payment is always injurious to the organization and other employes, since it tends to reinforce the meritless one in the practices which justified an unsatisfactory rating.

• No penalizing an employe—who has conducted himself well and shown tangible results—because of the failure of others either above him or elsewhere in the organization. Even during loss years when the company as a whole doesn't earn money, a few outstanding managers will receive incentive compensation or profit sharing based upon the results of the area under their control.

• No reducing the percentage participation of a manager because his bonus is "getting too high," since such fudging corrupts the entire system. Your stockholders should yearn to have all your incentive-compensation participants get four times their base pay in bonus.

• There are no secrets. No private payroll, for example. Since at least 15% of your employes should share in incentive compensation, it is very difficult to keep them in the dark about any expenditure with which they are unfairly burdened. Because all profit centers carry full overhead, unnecessary overhead items are known throughout the organization and vocally resented. Accordingly, your executive people should have none of the following items which would reduce bonuses and cause resentment:

a) Directors' fees.
b) Executive Committee members' fees.
c) Company-paid luncheon, golf, country, or yacht clubs.
d) Executive aircraft.
e) Executive dining rooms or executive washroom.
f) Chauffeur-driven vehicles.
g) First-class air travel.
h) Company-paid travel expenses for family members.
i) Corporate philanthropy.

Your people should be encouraged to earn as much bonus as they can and then spend it on clubs, limousines, other corporate luxuries, or save it, or give it to charity. However, the choice should be theirs. Don't ask your people to subsidize the ego of fat cats at the top.

(2) When you get through with the O, X, and 2X ratings, you ask, "Is there anyone with a 2X rating whose performance belongs in a class by itself?" If there is a 3X or 4X performance, it is generally acknowledged by acclamation.

(3) I rated myself and then submitted the rating to the board of directors for approval. It was understood that they could lower but not raise the rating (see President's Salary [Is He Really Worth $250,000?])

DISCRETIONARY INCENTIVE COMPENSATION

Eligible Employes	*Performance Rating*	*Aggregate Base Salary*	*Incentive Compensation*	*Percent of Base Salary*
4	Unsatisfactory (0%)			
42	Satisfactory (X%)	$820,000	$426,000	52
4	Outstanding (2X%)	71,000	74,000	104
			$500,000	

Townsend on stock options and democracy

THE TRADITIONAL approach is that options are for the top 1/10% of 1%—for one out of a thousand workers.

Misguided. More of your people must be owners. Your lawyers and investment bankers will try to talk you out of this sensible impulse, but the deeper you can spread ownership the better.

One of the reasons Sears Roebuck is an exception to the fat lethargy rule of big, mature, successful companies is that 200,000, or almost 60%, of their people own 35,000,000 shares, or 22% of the company, through the "Employes' Profit-Sharing Fund." This holding is worth more than $2 billion: over $10,000 per participant. ■

U.S. citizens spent $4 billion on dental health care last year

NEW YORK—Americans need toothbrushes and dentists more than they need a compulsory health insurance plan, according to Dr. Roger O. Egeberge, assistant secretary for health and scientific affairs of the Health, Education and Welfare Department.

Speaking to the International Assn. for Dental Research at the Americana Hotel here, Dr. Egeberge said money should be spent on training dentists and initiating programs to improve oral hygiene in this country.

He pointed out that there is a 10,000 to 12,000 shortage of dentists today and that because of this many people would not get the care they needed no matter what kind of insurance they had.

He also discussed the deplorable state of dental health in the U.S., noting that on the whole, private citizens shelled out approximately $4 billion a year for their teeth.



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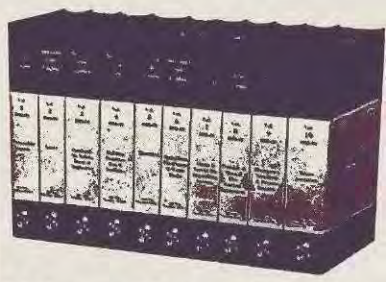
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For more information on FEDERAL GROUP BALANCED LIFE insurance, call Federal's Group Dept., Area 616/965-7351, or write: Federal Life and Casualty Co., Battle Creek, Michigan 49016 (an affiliate of The Home Insurance Co.).

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Jury awards auto accident victim $2.25 million for personal injury

MIAMI—A circuit court jury here has awarded $2.25 million in damages to a tragically injured Miamian in what was described as the largest judgment ever returned in an individual personal injury suit in the U. S.

The verdict was returned in favor of a 21-year-old man who attorneys said was left with "a true window into hell" after an automobile accident two years ago. The victim, Matthew Edmund Stahl, was crippled from the waist down.

Mr. Stahl's attorney rejected a million-dollar settlement before the trial, gambling that the jury would grant the $4.6 million he had asked.

THE SETTLEMENT was offered by the defendants, the Coca-Cola Co. of Atlanta, Ga., parent firm of the soft-drink bottlers; Morse Auto Rentals of Miami, and Robert Leslie Jacobs of Atlanta, who drove through a red light and collided with a car in which Mr. Stahl was an occupant on Jan. 25, 1968.

Court sources said the damages are covered by insurance ranging from $100,000 for Mr. Jacobs to $5 million for Coca-Cola.

The jury's only job was to determine damages. Judge Francis Christie ruled that Coca-Cola was liable for damages. Mr. Jacobs and Morse Auto Rentals had admitted liability before the case went to trial.

Morse rented Jacobs the car he was driving while attending a convention in Miami associated with his work for Coca-Cola.

DEFENSE attorneys did not question the destructive injuries, but they opposed the figures proposed by Mr. Stahl's lawyer, Murray Sams Jr., who will get 40% of the award as a contingency fee.

University of Tampa economist Dr. G. Lawrence Roberts testified it would cost $3.4 million to care for Mr. Stahl in the 53 years that insurance mortality tables suggest he has left to live.

Mr. Sams told the jury that the tragedy is more acute because "Matthew has a clear knowledge of what has happened to him and what will happen to him."

Mr. Stahl, who has to be maintained in a nursing home, will not improve further, doctors testified. ■

dates for buyers

April 13-14, Management Seminars Inc., Excess and surplus lines annual conference, Biltmore Hotel, New York City.

April 22-24, American Management Assn., Mass merchandising in the insurance industry, Biltmore Hotel, Los Angeles, Cal.

April 22-24, American Management Assn., Risk management, Biltmore Hotel, Los Angeles, Cal.

April 26-27, Indiana University School of Business, Sesquicentennial conference, Insurance in the future, Bloomington, Ind.

April 27-29, American Management Assn., Insuring fire, business interruption and boiler exposures, Dallas, Tex.

$6.5 million for possible oil clean-up

OTTAWA—The owners of the supertanker Manhattan, which earlier this month began a second scientific cruise in the Arctic, have assured the Canadian government that $6.5 million will be available to pay the cost of cleaning up any pollution that might result from the voyage.

The agreement was one of several made between Humble Oil Co. and the government to safeguard against any threat of oil pollution.

According to a spokesman at Humble, the oil company is meeting its "responsibility to the Canadian government by being a member of TOVALOP (Tanker Owner's Voluntary Agreement Concerning Liability for Oil Pollution)." The firm is self-insuring a portion of the risk and has a catastrophe cover to meet any excess exposure. The latter is believed to be written in London.

THE MANHATTAN, which successfully made westbound and eastbound trips through the Northwest Passage late last year, will head for Baffin Ban and the waters of the eastern half of the Canadian arctic archipelago this time.

The Canadian government agreed to the trip after the Department of Transportation presented a list of 24 regulations concerning equipment, personnel and the assurance of pollution clean-up.

The rules stipulate that the Manhattan be accompanied by ice breakers and that the vessel have pumps to remove oil safely in the event of an accident. The oil company also agreed to have a Canadian representative on the voyage, with the authority to decide when the ship may be encountering dangerous ice conditions. Humble will carry only enough oil for its own use and those of accompanying support vessels. ■

Wisconsin women's disability claims up

MADISON, Wis.—Less than one out of five workers injured on the job in Wisconsin last year was a woman, the State Department of Industry, Labor and Human Relations reported.

Even so, the 7,387 women who filed job disability claims in 1969, accounting for 18.2% of the total, constituted the highest percentage of female work injuries in the state's history, the agency said.

Women make up about one-third of the state's work force, it added. The 1969 female injury toll was more than double the 1960 figure.

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Met and Prudential: who is leading whom?

NEW YORK—Metropolitan Life Insurance Co. and Prudential are number one and number two in the top ten companies for 1969 sales of group and individual life insurance, but they disagree on who's what.

Metropolitan is technically at the top with an in force group life total of $76.8 billion, beating Prudential's $54.4. Prudential says yearly sales is the true indicator and is out in front with a 1969 group tally of $4.2 billion to Metropolitan's $3.2 billion. Also, Prudential's sales increased 24.4% over 1968 while Metropolitan's sales took a 4.5% dip.

"We've been outselling Metropolitan for 11 out of the past 12 years and we overtook them in assets in 1966," a Prudential spokesman told *Business Insurance*. "Met's sales force is bigger than ours, but still we've been out in front and I think sales hold a little more weight than in force total."

METROPOLITAN had mixed reactions to this comment.

"Prudential is generally considered number one," said one candid Metropolitan man. "I hate to admit it, but we just aren't the big one anymore, in spite of in force total."

Other Metropolitan officials disagreed.

"Sales always fluxuate wildly," said one spokesman. "Say a company has the General Motors account and its raises salaries across the board, increasing insurance. Then millions are added to sales. What counts is in force total and we're a great deal ahead of anybody here."

ANOTHER spokesman said there really wasn't much difference in the two companies.

"I suppose if we had the big increase and the higher yearly sales, we'd point to that too," he said. "But you have to look at the general picture over a few years. Our 1967 year was like their 1968 year. We sold more policies this year. They have more assets. It all works out but we certainly aren't taking a back seat."

GROUP AND INDIVIDUAL LIFE SALES, 1969

COMPANY	TYPE	SALES (To nearest Billion)	PERCENTAGE Up or Down From 1968	IN FORCE TOTAL (To nearest Billion)
Metropolitan	Group	$3.5	− 4.5%	$76.8
	Individual	9.7	+ 9.7%	80.7
Prudential	Group	4.2	+24.8%	54.4
	Individual	10.8	+ 2.1%	91.8
Aetna	Group	3.8	− 9.2%	49.0
	Individual	1.3	+ 6.2%	8.4
Equitable	Group	2.7	+23.6%	45.8
	Individual	3.0	+16.0%	24.0
Travelers	Group	3.3	−43.8%	44.0
	Individual	1.2	+10.2%	9.0
Hancock	Group	2.0	−11.0%	25.8
	Individual	5.1	− 1.8%	30.9
Occidental	Group	1.0	+ 5.3%	11.0
	Individual	2.6	+22.5%	12.0
New York Life	Group	1.0	+ .2%	9.3
	Individual	5.1	+13.0%	37.0
Lincoln National	Group	0.8	+23.3%	8.0
	Individual	3.0	+18.8%	16.0
Connecticut Gen.	Group	3.2	+23.0%	6.0
	Individual	2.8	+24.0%	11.0

"IT'S NOT that this year is so bad. It's that last year was so good," he said. "In 1968 we had a 73% increase because of the hike in insurance in the railroad contract. This was an unusual piece of business and makes it look as though we've lost sales in 1969 when actually we're just back to normal."

Gerhard D. Bleicken, chairman and chief executive officer of John Hancock said his companies 11% decline in group sales came because of a seven-week strike by over half of the company's 12,000 salesmen.

Hancock also showed a decline in the individual life area, dropping 1.8% under last year. All other companies increased, with Prudential's year's total of $10.8 billion and its in force total of $91.8 billion putting that company on top. ■

Pension fund kickbacks are charged

NEW YORK—The latest of six Federal charges of a kickback conspiracy involving the Teamsters' Central States Southeast and Southwest Area Pension Fund has been made here by the U. S. Attorney's office.

The Federal government has charged that during the period from mid-1961 until mid-1965 six mortgage loans were made to several concerns in which kickbacks of usually 5% of the size of the loans were paid. Recipients of the kickbacks allegedly included the head of the internal auditing firm (David H. Wenger) used by the fund as well as some 25 other persons (including some reputed mafiosi) who participated in arranging the six loans, according to Assistant U. S. Attorney Thomas Bradagan.

The Teamsters' Central States Pension Fund utilized the New York-based auditing firm of David H. Wenger Co. to examine certain portions of the prospective loan applicants' submission requirements, notably their financial worth, according to Mr. Bradagan.

The mortgage loans involving Federal kickback conspiracy charges involved Big Value Discount Stores, Fair Lawn Memorial Hospital ($875,000), La Guardia East Motel, Park View Hospital, Midland, Tex ($863,000), Dorom Realty Corp. for a bowling alley ($865,000) and $1.25 million to the Mid-City Development Co. for an industrial development in Warren, Mich.

Mr. Bradagan said that the Federal government's investigation into possible further charges involving the Central States Pension Fund is continuing.

It was reported in *Business Insurance* that in 1968 the Teamsters' Central States Southeast and Southwest Areas Pension Fund (with $628 million in assets) had one of the highest rates of return among the nation's top pension funds (12.1%), according to the Congressional Record. ■

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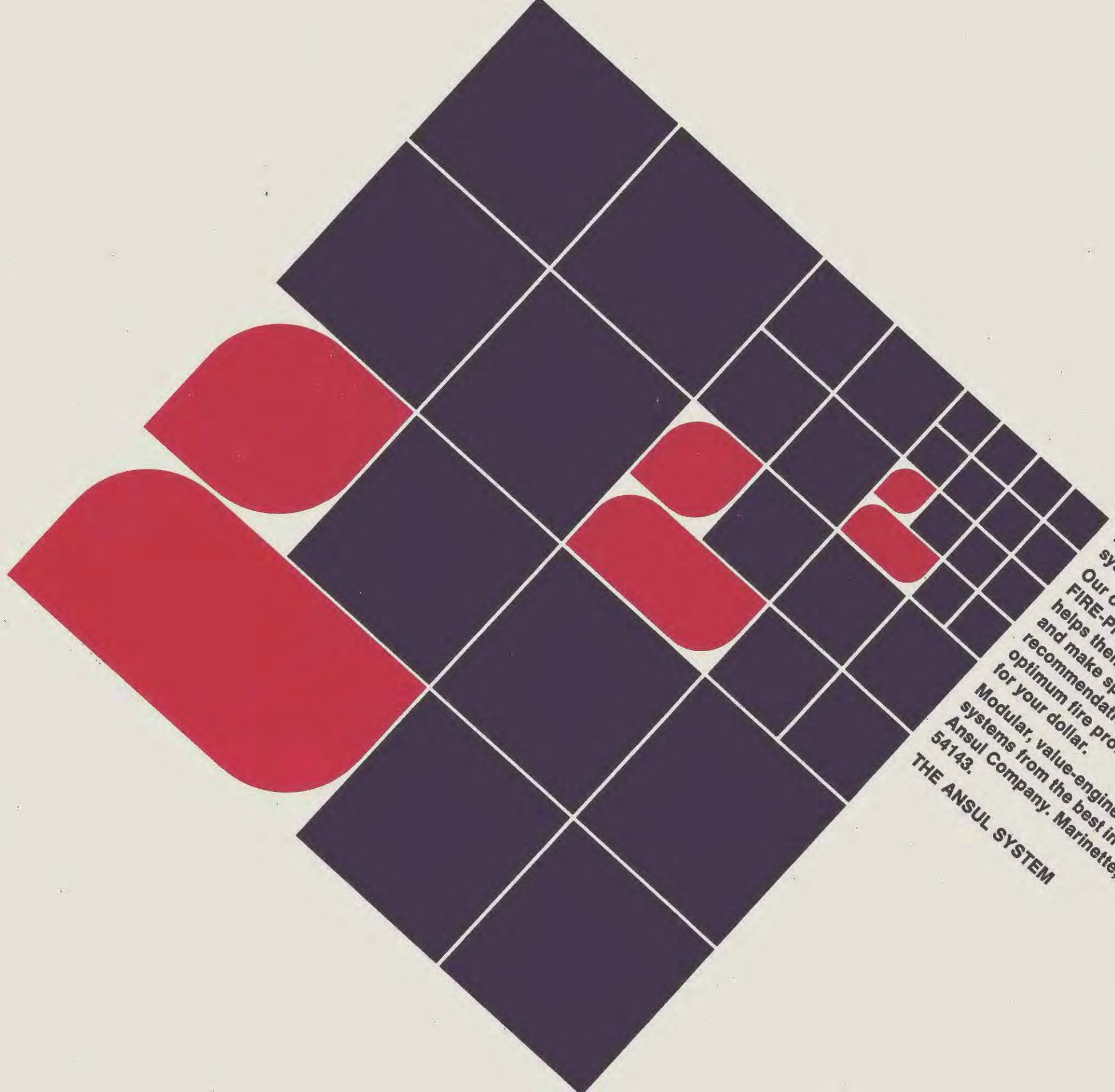
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