Carter's experts favor optional health program

By JERRY GEISEL

WASHINGTON—The Carter Administration appears to have moved away from proposing universal, mandatory national health insurance in the program it is to send the Congress this fall.

Instead, the Administration is likely to support a scaled down program that would have only a small impact on corporate employe benefit plans and leave the role of private insurers in the health care system largely intact.

While vowing that a comprehensive program will be laid on Congress's doorstep in time for hearings this fall, Health, Education and Welfare secretary Joseph A. Califano warned that he did not expect enactment of national health insurance before 1980.

Other HEW officials candidly admit that national health insurance remains years away. But they believe formal introduction of the Administration's proposal will rekindle interest in the concept.

Introduction of a proposal will allow President Carter to fulfill

Continued on page 35



HEW secretary Joseph Califano does not expect Congress to okay national health insurance before 1980.

Early retirement trend wanes as inflation bites

By JOANNE GAMLIN

LOS ANGELES—The new extended mandatory retirement age isn't the only wave changing retirement patterns today. Companies around the nation are finding that early retirement, a flood only a few years ago, is ebbing.

Though more companies continue to institute incentives for early retirement, observes consultant Donald E. Sullivan, statistics from larger corporations reveal that fewer employes than anticipated are leaving their jobs before the normal retirement age.

"In short, early retirement is on the backburner," says James G. Ozark, a management consultant with Hewitt Associates in Los Angeles. "It has hit a plateau."

The plateau of early retirement still has a few peaks because IBM and Boeing report that more employes at their companies are opting for early retirement. But more corporations—including American Airlines, Armour Foods Co. and Weyerhaeuser Co.—report decreased interest in early retirement among their

Continued on page 36

N.Y. to back down on fronting dispute

By REBECCA A. FANNIN

NEW YORK—Overwhelmed by a barrage of opposition to its proposed regulation to restrict fronting operations, the New York insurance department concedes that it should try a different approach to correct fronting abuses.

"The proposal was a classic case of too strong a remedy for an illness," admitted Michael E. Curan, deputy superintendent of the life department.

Although the insurance department has been swayed by unanimous opposition from all insurance industry segments, an official decision hasn't been made on how the proposal should be revised.

Mr. Curan said a decision probably won't be made until next month at the earliest since he is still "digesting all the material and testimony submitted." Mr. Curan will discuss the proposal with superintendent of insurance Albert L. Lewis, who will make the final decision.

The original proposal was written in the life department to crack down on abuses in credit life insurance, where insolvencies such as Old Security Life Insurance Co., were directly due to fronting in employe benefit insurance contracts.

But the proposal's intent was broadened by the property division's decision to restrict any licensed insurer from reinsuring the bulk of a risk to a corporation's captive insurance company, a practice known as fronting.

The insurance department had argued that fronting prevents the department from regulating large portions of risks placed with unlicensed captive insurance companies usually located offshore.

But risk managers joined brokers, insurers and reinsurers at a recent public hearing to tell the insurance department that the proposal would seriously hurt captives, which have provided insurance buyers a means of obtaining affordable coverage otherwise unavailable.

Acknowledging that the pro-

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The inside story

Product liability

An advertisement claiming product liability could constitute a $100 billion drain on the economy appears to be exaggerated. **Page 8.** Meanwhile, two more states approve tort reform and the Commerce Department reveals its recommendations for federal action. **Page 11.**

Elsewhere:

- RISK MANAGERS discover reductions in the property insurance market. **Page 4.**
- BENEFIT MANAGERS use ERISA to climb the ladders in their corporations. **Page 6.**
- SCHOOL DISTRICTS on Long Island consider self-insuring their exposures. **Page 14.**
- 22 CHICAGO suburbs flee toward a pool for all their risks. **Page 15.**
- TANKER CASUALTIES increase 69% while lost tonnage sets a record. **Page 16.**
- SOME HMOs may not be good financial risks, says the GAO. **Page 18.**
- FIRE PROTECTION and insurance programs must be interrelated. Perspective, **page 27.**

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Week of April 17, 1978

business insurance

the national newsmagazine of loss prevention, risk financing and employe benefit management

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Insurers revert to old methods in handling punitive damages

By KATHRYN J. McINTYRE

$125 million punitive damage award against Ford is reduced. Page 2.

CHICAGO—Insurers are reverting to their long standing customs for handling claims involving punitive damages in the wake of the Insurance Services Office (ISO) withdrawal last month of its endorsement specifically excluding punitive damages from liability insurance policies.

That move killed the ISO filed endorsement for new or renewed policies and no one appears to be resurrecting the exclusion by filing independently for its broad use.

Most insurance companies are killing the exclusion retroactive to its inception out of fairness to policyholders unlucky enough to have purchased or renewed insurance during the five months the endorsement was sporadically in effect. They include Continental, Fireman's Fund, Kemper and St. Paul Fire & Marine insurance companies.

Others, such as INA and Zurich-American, are waiting for their attorneys' opinions on declaring the exclusion null and void. CNA and Great American Insurance Cos. say simply they will not use the ISO exclusion as the defense against paying a punitive damage award. The American Home Group of AIG, however, hasn't decided what to do.

Travelers Insurance Co., which attached the exclusion to policies on a selective basis, plans to review each one at the request of the policyholder. Travelers could retain the exclusion on certain risks and attach it to specific new ones, said secretary Thomas A. Jackson, citing pharmaceuticals, certain chemical risks, major oils and railroads and railroad-associated risks as possible candidates.

There apparently won't be many premium adjustments needed with the exclusion's withdrawal since insurers say there was little buy back activity. But in the few cases in which policyholders were charged for deletion of the exclusion, premiums will be adjusted, insurers said.

Elimination of the exclusion of punitive damages from liability insurance policies also shelved INA's endorsement for providing insurance in cases of vicarious liability. SAFECO Cos., which was filing a similar endorsement around the country, hasn't decided what to do with its policy.

Whether or not such an endorsement is needed now is debatable. Underwriters' opinions on whether an insurance policy again silent on punitive damages affords

Continued on page 34

Truck association 'rents' product liability solution

WASHINGTON—Perhaps you thought about setting up a captive, but the high start up costs and capital requirements made you back off.

Well, if you can't own a captive, you may want to consider renting one.

That's just what the Truck Body & Equipment Assn., (TBEA), a major industry trade group, is in the process of doing and the rental concept may just be the answer to the group's insurance needs.

Under the proposal, TBEA members would rent a Bermuda captive named Nittany Insurance Ltd., an affiliate of IM of America of Chevy Chase, Md., that already is being rented by several other trade associations.

Nittany will write first dollar coverage for most casualty lines including product liability, workers compensation, general liability and automobile liability. Limits of coverage will be $1 million per occurrence and $1 million annual aggregate.

The idea of renting a captive goes back to February 1977 when IM of America was commissioned to find an answer to TBEA members' product liability insurance problems.

At the time, TBEA members faced a confused market. There were complaints that quotes to members were unfair and arbi-

Continued on page 35

Risk managers find savings in property markets

By REBECCA A. FANNIN

NEW YORK—Two markets couldn't be as different as the property and casualty markets.

While risk managers have been forced to assume higher deductibles and higher rates for casualty insurance, many have been able to win rate reductions or better coverage for property insurance.

The property market's good health has been spurred by improved loss prevention and good loss experience. Insurers as a result are scurrying to increase their profitable property business.

But while the current diagnosis is good, brokers and risk managers are concerned that capacity will be limited for future property exposures that could run into the billions of dollars.

"The capacity problems could occur in just six months from now," said Ronald L. Pollard, director of corporate insurance for El Paso Natural Gas Co. His company has on the drawing boards plans for a coal gasification plant worth $1 billion and there's "not enough insurance dollars to cover it," he added.

"It'll be a challenge to find capacity for coal gasification plants," agreed Lorne V. Palmason, senior vp of Marsh & McLennan Inc.

But outside of such speciality risks such as oil, marine and nuclear insurance, it's not uncommon for risk managers to get 10% rate reductions even without shopping the markets.

"We've had rate reductions of 10% every year during the past two to three years for our property insurance," said Richard F. Grennan, risk manager for the Nebraska Public Power District.

"The market for property insurance has picked up although we haven't gone out looking," Mr. Grennan said, adding that in the past year or two more markets are contacting the public utility. Nebraska Public Power has chosen to remain with INA, which writes the bulk of the utility's fire and extended coverage.

"The market is definitely softening," said Daniel E. Sullivan, manager of insurance and risk for Northern Telecom Co. in Montreal. "You can approach any market with good experience even with vast exposures."

Northern Telecom, which has $1.5 billion in exposures, got a 10% reduction for its property insurance overall, partly because of "super loss prevention."

Paul B. Harvey, manager of insurance for Litton Industries in Beverly Hills, said he will seek a 25% rate reduction, "given the fact that the property is so competitive.

"That 25% might be a little steep, however. We did have a sizable reduction in property rates two years ago," he added.

Robert E. Rich, director of corporate insurance for Gold Kist Inc. in Atlanta also is satisfied with his company's property rates, which haven't increased during the past three years.

Federal-Mogul Corp. in Detroit also "did OK in the markets" after undergoing a recent renewal when the company sampled different insurance carriers, said Ronald W. Stasch, corporate risk manager.

Dorothy Astarita, corporate insurance manager for AMF Inc. in White Plains, N.Y., said she's found insurers to be "receptive to requests for rate reductions." But she added "rate reductions have been brought by our own efforts in improving a risk." She said the rate has been decreased "six or so times in recent years."

Risk managers in multinational corporations complained of little competition for their huge accounts.

"There's only three carriers who can handle or service our accounts," said Russell Drake, director of risk management and insurance for Borden Co. in Columbus, Ohio.

Mr. Drake said his company's exposures values are in excess of $3 billion and that only the Allendale Mutual Insurance Co., other units of the Factory Mutual System and IRI can handle it.

Although the Hartford Fire Insurance Co. and the Travelers Corp. would argue that they could handle, "I haven't found them to be that competitive," he added.

Spencer J. Traver, director of risk management for B.F. Goodrich Co. said he "hasn't seen a year when the property markets haven't been competitive." But he added that for the multinational accounts, such as his, only a limited number of carriers can handle the account.

Broker Samuel Alcorn, national vp of Bayly, Martin & Fay Inc. in Los Angeles, however, noted now that "new boys are coming into the market, the managing general agents and insurers are cutting rates to get business."

Besides the managing general agents, he added, other markets are emerging such as the Allianz Insurance Co. and some foreign underwriters such as Japanese carriers and the Royal Belge out of Europe. The Royal Belge has appointed Montgomery Collins, a unit of INA, as its managing general agent. ■

Amoco losses will exceed $20 million

LONDON—Costs of the Amoco Cadiz disaster are now being reviewed at Lloyd's, which expects that it and other U.K. insurers will have at least a $20 million bill to meet.

But the overall damage from the tanker casualty, which lasted two weeks before the massive oil spill ended, is likely to be much larger and other insurers may be involved.

Estimates of the full cost of the disaster will not be known for many months, as the French government will have to decide who will be compensated.

The Amoco Cadiz was valued at $12 million and its cargo at $22 million. Up to $30 million is available from the pollution funds run by the oil industry as a whole.

So this makes up a potential cost of more than $60 million if full compensation is sought. But as far as marine insurers are directly concerned, they are not responsible for the whole amount as there was a deductible of $5 million on the hull insurance.

The cargo was largely self-insured by Shell, though there might be certain layers which come back into the market and much of the pollution coverage was held either by the oil companies through their own voluntary resources or by the Amoco Cadiz through its normal P & I (protection and indemnity) coverage. ■



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Segal survey disclosed

ERISA 'benefits' managers in corporate climb

NEW YORK—Employe benefit managers are climbing higher on the corporate ladder because their responsibilities, staffs and work load increased with the enactment of ERISA, a survey conducted by Segal Associates indicates.

Levels of compensation should also rise as a result of the growing complexity of the employe benefits field, according to Neil Burger, a senior vp with Segal.

Salaries currently range from $15,000 to $30,000 for 70% of benefit managers. Much of that percentage falls in the $20,000 to $25,000 range. In addition, over 30% of respondents enjoy a bonus compensation arrangement, with 41% of this group entitled to a bonus of 10% to 20% of annual salary.

The survey, conducted late in 1977 among 1,000 respondents, yielded a 22% return, considered excellent for a mail survey, Segal said.

Benefit managers view their new importance optimistically. Approximately 96% of respondents characterized their future in the employe benefits field as very bright or moderately bright.

An overwhelming majority of benefit managers also find satisfaction in their work, the survey revealed. More than half of those responding consider their work very fulfilling, while 43% consider it fulfilling. Only 16% indicated that they would prefer different careers and this group would choose closely allied work in personnel or management.

Since benefit management is relatively new as an occupational specialty, the survey said, few benefit managers had prior training in their field before assuming their present position.

Only 22% had some prior special training in benefit management, but 68% subsequently tried to make up for this deficiency by participating in outside seminars such as those sponsored by the American Management Assn.

The survey results indicated that the best route to benefit management among college graduates appears to be through a business related major, such as accounting, economics, management, industrial relations and finance.

However, Segal said a business education wasn't of critical importance since 27% of benefit managers majored in humanities, English or social science.

According to employe benefit managers responding to a recent *Business Insurance* survey of its Benefit Board, finance is the most important training a benefit executive can have (*BI*, Dec. 12, 1977). The board listed on-the-job training in benefit management, personnel experience or an insurance company background as the next best backgrounds.

Benefit managers for the most part are well-educated, according to the survey. About 75% said they had taken some graduate-level training. Among that group were 60% who received master's degreees and 5% who earned Ph.D.s.

The survey also found that most benefit mangers were in their 30s. Men in the field outnumbered women by more than 4-to-1.

Within the corporate structure, the majority of benefit managers report to top policymakers, 47% to a vp or higher and 5% to the president and/or chief executive officer.

More benefit managers responding to the *BI* survey reported to the vp of personnel than any other corporate officer. The next most popular reporting relationships were to the director of compensation and benefits, director of industrial relations and vp or manager of employe benefits.

The majority of benefit managers, over 60%, use the word manager as part of their title, while more than 7% identify themselves as vp or assistant vp.

The responsibilities of benefit managers vary widely, embracing over 200 different areas, the survey found. The most common include pension benefits, group hospital and medical, group life, disability, profit sharing plans and employe benefit communications.

ERISA compliance was labeled as the number one problem for employe benefit managers, followed by communicating benefit programs. Their other top problems are employe wage and salary demands, administrative coordination and employe demands for benefits.

Nearly 50 other problems were volunteered by the respondents, among them cost containment, HMO compliance and state and federal controls.

Benefit managers generally supervise small departments with an average of nine full time employes including clerical workers, the survey said. The average number of executives or professionals is 3.4 per department.

Since the enactment of ERISA, most benefit managers have seen an increased work load and responsibility, yet only 38% have hired additional professionals and only 47% additional clerical workers.

The increased responsibility, however, doesn't necessarily indicate additional authority in hiring, the survey found. Only 51% of responding benefit managers have the authority to hire professional benefit specialists. ■

Stephen L. Way International

Stephen L. Way is pleased to announce the appointment of Thomas W. Whitaker, Jr. as President of their California subsidiary. Mr. Whitaker assumed his new duties April 1, 1978.

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Settlement options on life policies

WASHINGTON—The role of life insurance in providing security for a family isn't necessarily limited to a lump sum payment of a policy's proceeds.

Instead of taking the policy's proceeds in cash, the American Council of Life Insurance reports, many policyholders and beneficiaries set aside the money for annuities and other plans with the life companies.

In 1977 an estimated $1 billion—or 7% of all benefits of life insurance policies—were set aside under such supplementary contracts. Accumulated set-aside funds of settlement options totaled last year almost $9 billion, the Council says.

Some of these contracts provide a regular income, either for specified periods of time or for life. With others, the funds are held at interest until called for by the beneficiary, with the company paying interest on the money in the meantime, the Council points out. ■

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	December 31, 1977	December 31, 1976
ASSETS		
Bonds (amortized value)	$336,387,671	$252,747,353
Stock (at market value)	9,235,178	2,155,618
Cash	3,331,938	815,417
Accounts receivable—premiums	17,408,095	12,180,011
Funds held by ceding reinsurers	30,285,930	39,211,187
Other Assets	6,756,876	5,872,895
TOTAL ASSETS	$403,405,688	$312,982,481
LIABILITIES, CAPITAL AND SURPLUS		
Loss and Loss Expense Reserve	$191,590,718	$127,640,397
Unearned Premium Reserve	96,254,330	90,203,428
Reserve for Commissions, Taxes and other liabilities	27,307,609	10,406,690
TOTAL LIABILITIES	$315,152,657	$228,250,515
Capital paid up	2,500,000	2,500,000
Contributed Surplus	75,001,598	75,001,598
Unassigned Surplus	10,751,433	7,230,368
POLICYHOLDERS' SURPLUS	88,253,031	84,731,966
TOTAL LIABILITIES AND POLICYHOLDERS' SURPLUS	$403,405,688	$312,982,481

Information is from the Company's Annual Statement as filed in Delaware, the state of domicile.

Prudential Reinsurance Company subsidiary of The Prudential Insurance Company of America

Prudential

Ad claiming product losses drain U.S. economy may be exaggerated

By JERRY GEISEL

WASHINGTON — A monthly publication for executives in charge of buying industrial packaging and materials handling equipment claimed in national advertising in late March that product liability losses will drain a whopping $100 billion from the economy by 1980.

Modern Materials Handling's figure would mean product liability losses totaled $21 billion more than the total property/casualty insurance premiums collected by U.S. insurers in 1977.

The $100 billion figure is almost as high as the $125 billion defense budget expected in 1979. It also represents about 4% of the Gross National Product expected at the end of the decade.

There's some doubt about the Modern Materials estimate, especially when compared with the information compiled by the Insurance Services Office in its massive study of product liability claims for a nine-month period in 1976 and 1977. The ISO study—released last fall—is widely believed to be the best statistical evidence to date on the extent of product liability problems for manufacturers.

ISO said the total payout for claims in its nine-month study, representing most of the product liability insurance in the U.S., was only $257 million.

According to Gordon Thomas, the managing editor of Modern Materials Handling, the $100 billion estimate is based on soaring increases in product liability suits, a big jump in the size of the average award to plaintiffs and a hefty rise in the percentage of juries finding in favor of the plaintiff.

Mr. Thomas said the $100 billion projection, which refers only to courtroom awards, was based on information the magazine was aware of as of January 1977. Since then various tort reform proposals and mounting publicity may have significantly reduced product liability problems, he contended, making the $100 billion projection too high.

Mr. Thomas said that according to the Defense Research Institute, the number of product liability suits rose from 100,000 in 1966 to 500,000 in 1971. On that basis, Mr. Thomas projected the number of suits might rise to 1.2 million by 1980.

But Donald Hirsch, DRI associate research director, said the organization did not estimate that suits increased from 100,000 to 500,000.

The Insurance Services Office (ISO) estimated in fall 1977 the total incurred claims in 1976 for all U.S. insurers of product liability were between 60,000 and 70,000.

Modern Materials Handling also said that according to Jury Verdict Research Inc., a Cleveland research firm, the percentage of juries finding in favor of the plaintiff increased from 43% in 1965 to 54% in 1974. The magazine projected that figure would increase to 61% by 1980.

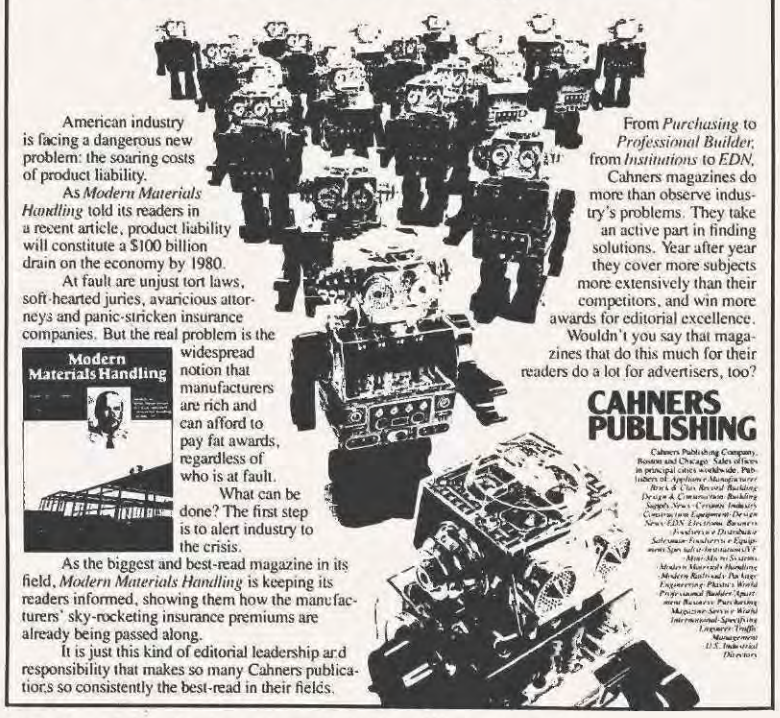
ISO, however, reported in its closed claims study that less than 25% of defendants are found liable in cases that result in a court verdict.

The magazine also reported that Jury Verdict Research found the average award to the plaintiff jumped from $11,644 in 1965 to $79,940 in 1973.

Margaret T. Gorman, director of research for Jury Verdict Research, said the 1973 estimate represents the arithmetic average of all jury verdicts that made up its sample; the 1965 estimate is based on a sample of between 70 and 100 verdicts, Ms. Gorman said.

But the payment a plaintiff receives after the appeals process is exhausted usually is considerably less than the initial award. ISO found the average payment for product liability claims involving bodily injury to be $13,911 and $2,798 per property claim. ■

Product Liability. A good idea that's become a nightmare.



American industry is facing a dangerous new problem: the soaring costs of product liability.

As *Modern Materials Handling* told its readers in a recent article, product liability will constitute a $100 billion drain on the economy by 1980.

At fault are unjust tort laws, soft-hearted juries, avaricious attorneys and panic-stricken insurance companies. But the real problem is the widespread notion that manufacturers are rich and can afford to pay fat awards, regardless of who is at fault.

Modern Materials Handling

What can be done? The first step is to alert industry to the crisis.

As the biggest and best-read magazine in its field, *Modern Materials Handling* is keeping its readers informed, showing them how the manufacturers' sky-rocketing insurance premiums are already being passed along.

It is just this kind of editorial leadership and responsibility that makes so many Cahners publications so consistently the best-read in their fields.

From *Purchasing* to *Professional Builder*, from *Institutions* to *EDN*, Cahners magazines do more than observe industry's problems. They take an active part in finding solutions. Year after year they cover more subjects more extensively than their competitors, and win more awards for editorial excellence. Wouldn't you say that magazines that do this much for their readers do a lot for advertisers, too?

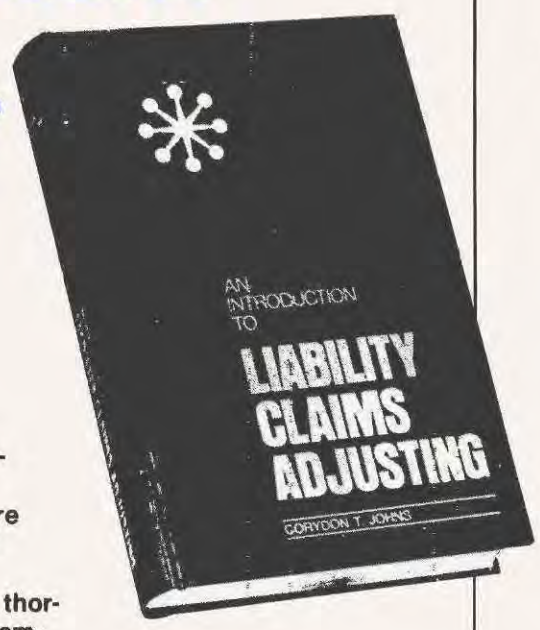
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Improve underwriting, warns M&M's Clements

NEW YORK — Insurers must develop improved underwriting techniques if the product liability crisis is to be eased, says Robert Clements, Marsh & McLennan executive vp.

Addressing members of the New York CPCU chapter, Mr. Clements called for changes in the way product liability risks are structured and improved cooperation among underwriters as a way of controlling claim costs.

He contrasted the situation in product liability with the improved property market, which Mr. Clements said, reflected better underwriting practices. Property underwriting today involves "more than extrapolation of loss figures," he noted.

Property underwriters not only are more adept at distinguishing a good risk from a poor one, but also can recommend steps to improve a risk that has had a severe loss, he added.

Difficulty in obtaining product liability coverage has led many manufacturers to institute improved loss prevention and loss control techniques, but the insurance industry has yet to respond with improved underwriting practices, Mr. Clements maintained.

Specifically, he recommended getting away from horizontal layering of product liability policies and having insurers participate vertically in the entire risk. Horizontal layering leads to conflict among insurers participating in a settlement, a practice that works to the claimant's advantage, Mr. Clements said.

In addition, horizontal layering makes it more difficult for the underwriter to gain a comprehensive view of the total product liability exposure, he said.

This leads to problems when excess underwriters are forced to become primary insurers as a result of claims exceeding the primary insurance company's aggregate loss limit. Lately, it has been normal for the aggregate limit to be the same as the per occurrence limit on a layer of coverage, Mr. Clements observed.

He cited one case where a primary insurer agreed to pay his $1 million maximum exposure on one claim, passing on 65 additional claims to the excess underwriter.

A workable definition of a product liability occurrence must also be agreed upon by insurers, Mr. Clements said. Such a definition would reduce the opportunity for disagreement over such issues as when the "occurrence" actually took place, he explained.

In addition, the occurrence must be defined to take into consideration situations where large numbers of claims arise from as the result of a common cause or problem.

Considering such claims as one "occurrence" could eliminate the need for underwriters to rely on aggregate limits in determining capacity, Mr. Clements added.

Insurance industry efforts to date concerning product liability have centered on external controls such as tort reform.

However, failure to change underwriting practices could lead to someone bringing suit against the insurance industry for putting on the market a product that is "unfit for the job it's supposed to do," he warned. ■

Two more states approve product liability bills

WASHINGTON—Two more states have passed product liability reform measures as the drive to deal with product liability insurance problems through tort reforms continues to pick up steam.

Nebraska and Minnesota state legislatures approved major reform bills last month. The Minnesota bill has been signed by the governor but the Nebraska legislation still needs approval.

Earlier this year, South Dakota, Indiana, Tennessee and Kentucky enacted product liability reform measures. Legislation passed in Georgia needs the signature of the governor before it can go into effect. Utah, Colorado and Oregon passed bills last year.

The Nebraska bill (L.B. 665), which cleared the legislature in late March on a 36-9 vote, requires product liability suits to be filed within 10 years of the date the product was first sold. In addition, suits must be filed within four years after the date of injury or accident.

Product liability suits based on the strict theory of liability are prohibited against the seller of a product unless the seller also manufactured the product.

For product liability suits based on negligent or defective design, testing or labeling, manufacturers are allowed to argue their product met the state of the art. State of the art is defined as "the best technology reasonably available at the time."

The bill would allow damage awards to be reduced to the extent that a plainfiff's own negligence contributed to the accident. Evidence of prior measures that would have made the accident less likely to occur, would be inadmissible to prove negligence.

The bill would go into effect three months after the legislature adjourns, pending the signature of the governor.

The Minnesota bill (H. F. 338) limits the period of liability of manufacturers, distributors and retailers to the ordinary useful life of the product. Useful life is defined as the period the product can be used "with reasonable safety" by consumers.

Furthermore, suits must be filed within four years of the time of injury or accident.

The bill prohibits asking for specific damages if the amount sought is more than $50,000. Above the $50,000 limit, a plaintiff only can ask for the "recovery of reasonable damages."

Punitive damages only could be awarded in civil actions where there is clear and convincing evidence that the actions of the defendant show a "willful indifference to the rights or safety of others."

The awarding of punitive damages would be based on such factors as the seriousness of the hazard to the public that resulted from the defendant's misconduct, the profitability of the misconduct to the defendant and the duration of the misconduct.

Awards would be reduced to the extent that a plaintiff's negligence was responsible for the accident.

In cases where two or more parties are held liable, contributions to awards would be in proportion to the percentage of fault attributable to each party. ■

Tax breaks, model legislation key Commerce product liability options

WASHINGTON—The Commerce Department recommends that businesses be given a tax break for setting aside funds to pay for product liability losses.

Annual deductions would be permitted for monies paid into a special reserve or to a captive insurance company located in the U.S.

The tax deduction proposal was one in a series of recommendations the Commerce Department made in its "Options Paper of Product Liability and Accident Compensation Issues" that was released to the public this month. The recommendations are now under study by Carter Administration staffers.

Permitting tax deductions for product liability reserves is viewed by the Commerce Department as an immediate short term solution to the nation's product liability problems.

Some of the long-term recommendations made in the report include:

- Draft a model product liability law that could be implemented at the federal law or adopted by the states.
- Draft legislation to permit the formation of federally charted captive insurance companies.
- Draft legislation to make workers compensation the sole source of recovery for product-related workplace accidents.

The Administration has not given any firm indication on when or if it will take action on the recommendations called for in the paper, though several sources said a White House response might come in early June.

Under the tax deduction proposal, which has a great deal of support in Congress, a business could deduct annually from its tax liability, $25,000 or 2% of sales, whichever is less, for funds paid into a reserve. Tax deductions would be permitted annually until the reserve equaled 10% of sales.

Larger deductions would be given to businesses with severe product liability problems. The paper defines severe as being unable to obtain a premium quote for product liability coverage of up to $1 million, or if the quote for up to a $1 million of coverage is more than 3% of sales.

Businesses with severe problems could deduct $100,000 or 5% of sales, whichever is less. Annual deductions could continue until the reserve equaled 15% of sales.

•

Copies of the "Options Paper on Product Liability and Accident Insurance" cost 75 cents each and may be obtained by writing the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Prudence rule is explained

NEW YORK—How do you act as a prudent man under ERISA and still pursue a wide range of investment strategies?

The answer is provided in a new book—"The Prudent Man—Making Decisions Under ERISA"—recently published by Pensions & Investments magazine, published by Crain Communications Inc., which also publishes *Business Insurance*.

The book outlines a course of action which, if followed, should relieve pension professionals of concern about the prudence concept.

The book was developed from a six-hour conference sponsored by P&I which brought together eight of the country's leading authorities on pension investment to address the problem of prudence.

Neither a transcript of the conference, nor a group of articles, the book is an organized narrative which draws on the expertise of the participants, supplemented by additional material.

The eight experts who contributed their knowledge to the book through the conference were James D. Hutchinson, chief administrator of pension and welfare benefit programs for the Department of Labor during ERISA's first two years; Michael Gordon, a chief draftsman of ERISA as chief minority counsel to the Senate Labor Committee that wrote the law; David L. Babson, founder and chairman of David L. Babson and Co. and a recognized dean of independent investment advisers; Marc Gertner, a leading pension fund attorney and widely quoted commentator on ERISA; William S. Gray III, senior vp of Harris Trust and Savings Bank in Chicago; Thomas Richards, manager of pension fund operations for Allis-Chalmers Corp.; William Dreher, principal of Peat Marwick Mitchell & Co. and national director of employe benefit, actuarial and investment supervision services, and Joseph Reich, president of Reich & Tang, an investment management firm.

According to these experts, the prudent course of action ". . . is ultimately a well-documented, rational and businesslike approach to serving the needs of the beneficiaries, in the context of the unique needs and objectives of each fund, through currently accepted professional investment practices."

This type of approach also should result in more effective fund management, the book points out. ■

New counsel

Franklin W. Nutter has joined the Reinsurance Assn. of America as counsel. Mr. Nutter was formerly general counsel to the National Flood Insurers Assn.

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editorial opinions

Jimmy's better idea and other comments

THE CARTER ADMINISTRATION has a better idea. On national health insurance, that is. In a test of wills, Carter is determined to buck his top advisers and proceed with a national health plan.

But, we can be grateful for small favors, it appears. He'll supposedly keep the private sector heavily involved in health insurance, and he'll allow employers to opt out of the national plan if they want to continue covering employes with private group health insurance programs. Employers aren't getting off scot-free, of course. They'll reportedly have to pay a surcharge of 5% of what would have been the applicable group premium to participate in the national plan, to pay for a catastrophic program.

This might prove to be very, very expensive for some employers, particularly if the government, in its devious way, rates premiums so high that these "surcharges" for the private sector become part of the basic funding for a high-risk, high-loss porkbarrel program.

Furthermore, it seems unfair to us to force employers willing to fund and administer good private health benefit plans for their workers to subsidize those individuals and employers who don't choose to be self-reliant.

Employers had better take themselves collectively to Washington to find out more about what this "surcharge" for opting-out of the national plan will entail. Sounds fishy to us.

The no-fault approach

AS THE SENATE COMMERCE Committee considers a national no-fault auto law, another report on the workings of the Michigan no-fault program and the Colorado system indicate that no-fault isn't such a bad system after all.

The latest study shows that payments to crash victims are made faster and more efficiently, with the amount of payments also increased. But insurance premiums haven't gone up. In Michigan they've actually declined, while in Colorado, where many suits can still be filed over who was at fault, premiums have gone up only slightly.

Despite all the bad-mouthing of no-fault, a well-written law with a high enough threshold of damages and tough provisions on who can sue appears to work.

Work comp benefits

AN INCREASE of 265% in the maximum weekly workers compensation benefit probably seems like a lot when you think of the impact of such disability payments on workers comp premiums. It's no wonder insurers and buyers alike are squealing.

But look at the other side of those payments for permanent total disabilities. According to a study just completed by the Alliance of American Insurers, the maximum average weekly benefit jumped by that whopping portion in seven years, to $170.

That's the maximum average weekly payment for a totally disabled person? What a disgrace. Imagine what it was like seven years ago if you were permanently disabled on the job . . . you would only have collected a maximum average weekly benefit of a measly $70.

After scrutinizing some of the states where work comp benefits are still extremely low, we're surprised there hasn't been overwhelming labor pressure for federal work comp legislation. A good many states still have reason to be ashamed of themselves.

New York and fronting

NEW YORK INSURANCE REGULATORS were responsive to their publics on the matter of fronting arrangements to a degree not often seen in government.

Admitting that its proposed regulation was tantamount to overkill, the New York insurance department agreed that it should try a different approach to regulating fronting arrangements. With this swift decision, on the heels of a noisy and crowded public hearing, ended the idea of outlawing all fronting arrangements in the state where unlicensed or non-admitted insurance companies were involved. This surely would have hit the captive movement hard and would have exacerbated the capacity crunch for liability insurance.

Now we'll hold our breaths until the revised regulations are released.

Mandatory retirement

IT MAY BE LAUDABLE to do away with mandatory retirement at age 65, but we wonder if anyone has thought about the workers compensation implications.

Just a few months ago, when the subject first came up and it looked as if mandatory retirement laws would raise the age to 70, employers weren't thinking much about the work comp angle. But in recent weeks, we've heard questions raised time and again about the possibility of older workers having more accidents, with injury benefits reflecting even higher salaries. Do older workers have the physical and mental ability to keep up with technological demands?

And what does a higher retirement age mean to safety programs? It's been suggested that separate safety training programs be established for different age groups of workers, reflecting their changing needs and attitudes. Corporations may end up having geriatric wings to serve older workers, providing special services. We'll discuss it more at the Senior Citizens Safety Group meeting.

letters

Business Insurance *welcomes letters from its readers. Please keep your comments as brief as possible and we reserve the right to edit or shorten letters for clarity or space. Please send your comments to Letters to the Editor,* Business Insurance *Magazine, 740 N. Rush St., Chicago, Ill. 60611.*

Salaries

To the editor: In reference to your story about risk managers' salaries in the March 6 issue, we thought your readers might be interested in some of our own salary observations.

As professional executive recruiters, we have placed many insurance executives both for Fortune 500 companies and major insurance brokers. We are constantly studying the compensation packages paid insurance executives in order to advise our clients how to be most competitive to attract superior insurance personnel.

It is ridiculous to believe that any risk manager would be earning $15,000. Perhaps they meant an analyst.

On the opposite side of the salary scale we find it hard to believe that $60,000 is the highest paid salary for a risk manager. This is particularly true since we placed three risk managers in 1977 with earnings in excess of $60,000. In addition, we are currently working on two searches for RM's that will also pay in excess of $60,000.

Robert Murphy
President, Robert Murphy Associates, New York, N.Y.

Advance notice

To the editor: Although its original intent was to protect the state's insureds against arbitrary policy cancellations and/or refusals to renew, the state of Illinois may have created a new monster when it acted to require all insurers to give their insureds at least 30 days advance notice of their intent not to renew.

We now receive such a notice 30 days before expiration of almost every one of our policies covering Illinois operations and then a call from our agent advising that the company is merely protecting itself and that it has every intention of renewing.

But what if the insurer chooses not to renew? They have already complied with the Illinois Insurance Code. And we, the insured, could find ourselves scrambling for last minute coverage on a risk so large and complex that it ordinarily takes 60 to 90 days to receive a quotation in the normal course of business.

True, this should be the agent's responsibility. But again, what if he takes the word of the carrier at

Continued on page 36

business insurance

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Legislation also eyed

N.Y. school districts consider self-insuring

NEW YORK—Several Long Island school districts are considering going to self-insurance for their property and liability programs as a result of rising costs and restricted availability of coverage in the commercial market.

In addition, escalating municipal liability premiums throughout New York have prompted the state senate insurance committee to consider legislation to ease the problems.

Although the Freeport School District on Long Island spent $54,000 for its total insurance program in 1976-77, the district has budgeted $153,000 for insurance during the 1978-79 school year, said John Sexton, assistant superintendent for business.

Twenty-two Chicago suburbs consider pooling all their risks to save $1.3 million. Page 15.

School districts on Long Island have typically been faced with liability rates which are 2½ to three times greater than two years ago, he noted.

The Freeport district was threatened with cancellation of liability coverage on its athletic program. However, the original carrier, Merrimack Mutual Fire Insurance Co., agreed to stay on the program after Freeport consented to a $5,000 deductible.

Mr. Sexton said he and his brokers attempted to market the athletics coverage to 50 insurers without success.

In addition, on property coverage, the district has not been able to come up with insurance covering 80% of the losses required by state law for its high school and one of its junior high schools, despite buildings that are among the newest in the district and have better fireproofing than most.

Other districts faced similar problems. According to a state education department survey, the Valley Central School District, in Upstate Orange County, faced a jump in liability premiums to $124,800 for 1977-78 from $10,841 for 1974-75.

Municipalities in New York have also seen skyrocketing liability insurance rates. Ramapo, N.Y., experienced a 3,000% rate hike, with its insurer agreeing only to carrying $500,000 in excess of $500,000 of losses.

However, an official of the insurance committee said the problems in New York appeared to be primarily ones of affordability, rather than availability. The insurance committee recently held hearings into the problem and is expected to introduce some form of legislation before the current session ends late this spring.

Mr. Sexton and other school officials are hoping for passage of a bill which would allow the districts to set up loss reserves rather than allowing extra money to go back into general funds. Allowing school districts to accumulate loss funds over the years would facilitate self-insurance, he noted.

Significant savings should result from self-insurance since insurer loss reserves for many districts run far greater than claims paid and premiums have been far greater still, he explained.

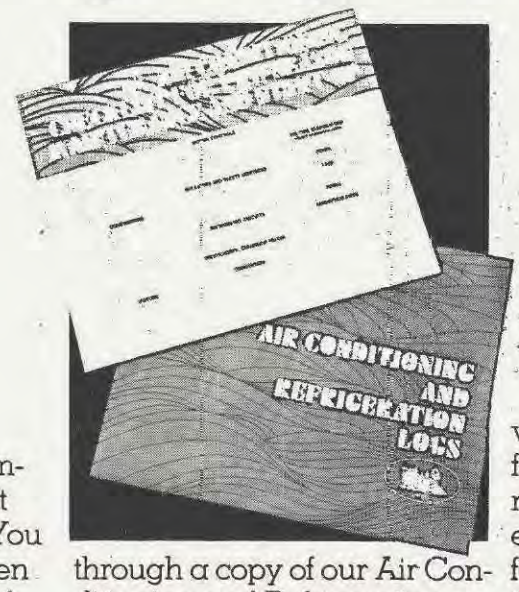
Over the past three years, Freeport paid out over $200,000 for insurance and had claims of only $7,400, Mr. Sexton added.

Further, he predicted that, should the current situation not be reversed, Long Island school districts might consider joining together to form a captive five years down the road. ■

Toro lawyer tapped

James E. Olds, product counsel on the legal staff of The Toro Co., has been elected to a one-year term on the board of directors of the National Product Liability Council. The council seeks to develop legislative solutions to the problem of product liability. It has 150 members, mainly corporations and trade associations.

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22 Chicago suburbs flee toward pooling all risks

CHICAGO—Twenty-two Chicago suburbs are looking forward to pooling their risks next year and saving 34% of their anticipated insurance costs.

Under a program recommended by consultants Risk Planning Group of Darien, Conn., the municipalities are planning to create a trust this fall for sharing general liability, workers compensation, automobile and property losses.

Arthur J. Gallagher & Co. of Rolling Meadows, Ill., is testing the London market for excess insurance and the noted Chicago municipal law firm of Ancel Glink Diamond & Murphy has been retained to handle creation of the trust and serve as risk management administrator for the first year. "We think we'll mostly have legal questions the first year," said William Muhlenfeld, executive director of the Northwest Municipal Conference, one of the two local government organizations that jointly hired Risk Planning Group to explore risk funding alternatives for the insurance-starved communities.

The Northwest Municipal Pool will be the first such trust outside of California, said Risk Planning Group president Felix Kloman, citing the Contra Costa County Municipal Risk Management Authority as the first and only other public liability pool for more than workers compensation. San Francisco-based Warren, McVeigh & Griffin were the consultants to that program (*BI*, Feb. 20).

Risk Planning Group recommended an intergovernmental risk sharing agreement to provide the 22 Chicago area municipalities with broader insurance protection, better loss prevention services and the capacity to purchase excess insurance at better rates. "And above all," Mr. Muhlenfeld said, "to remove the instability that has characterized municipal insurance markets."

Under the program, each municipality will assume the first $1,000 of a particular loss and turn to the trust to cover the balance. The trust will probably assume the first $250,000 of each loss and purchase excess insurance, but the trust's retention is subject to the terms set by the excess insurers.

A municipality's contribution to the trust, which is expected to have $1.5 million to $2 million in annual losses, will be based on a rate applicable to $100 of revenues. Risk Planning Group found a high correlation between losses and gross revenues in each of the communities that range in population from 4,000 to 70,000. In later years, contributions to the trust to cover expected losses and expenses will be modified by the individual municipality's loss experience.

If projected losses, cost of services and excess insurance prices were accurately projected, the 21 cities and one township that are to form the trust can expect to save $1.3 million compared to their current insurance buying practices, said Risk Planning Group. "It's the most intelligent use of the insurance market: bearing risk, sharing risk then transferring risk," observed Mr. Kloman.

The municipalities will have invested $60,000 in their effort by the time the trust begins operation, Mr. Muhlenfeld said. The consultant's portion is $45,000, much less than it would have been if each community had requested an individual risk management analysis, he observed.

Formation of the trust now hinges on the continued commitment of the municipalities, the availability of excess insurance at a reasonable price and the approval of the state's industrial commission and insurance department.

If the trust doesn't fly, the municipalities could turn to the municipal reciprocal insurance company being formed in Illinois by a Downstate insurance broker (*BI*, July 1977).

Governmental Interinsurance Exchange (GIE) is expected to begin next month insuring the risks of about 25 municipalities, two-thirds of them from the Chicago metropolitan area and the balance from Downstate Illinois. GIE will provide insurance for general liability and automobile liability and physical damage risks to $1 million. It will not accept workers compensation risks as the Northwest Municipal Pool will.

Risk Planning Group investigated the reciprocal in its search for risk funding alternatives for members of the Northwest Municipal Conference and DuPage Mayors and Managers Conference, but it decided that a trust serving a narrow geographic region would be more responsive to the needs of the communities than a statewide reciprocal. The consultants also suggested the trust could operate at a lower overhead cost than the 20% established for GIE. ■

Storm damage

Wind, hail, ice and flooding has caused an estimated $5 million in insured losses in Missouri, Illinois and Indiana in late March. The American Insurance Assn. said the heaviest damage occurred in Springfield and Decatur, Ill. The storm has been assigned catastrophe number 42.



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Tanker center reports

Oil spills jump 69%; record tonnage lost

By ELLIS SIMON

NEW YORK—The number of oil spills increased 69% last year and the amount of tonnage lost set a record that has already been shattered this year, according to Arthur McKenzie, director of the Tanker Advisory Center Inc.

The number of oil spills in 1977 rose to 49, up from 29 in 1976. Resulting cargo loss was a record 213,080 tons, a record that has already been surpassed this year as a result of the Amoco Cadiz disaster, which released 220,000 tons of oil off the coast of France, Mr. McKenzie said.

Tonnage losses in oil spills are bound to increase each year, Mr. McKenzie predicted with apprehension. As the size of the average tanker increases, so does the size of the potential oil spill, he explained.

Worldwide tanker incidents for 1977 numbered 834, a slight increase over the 819 reported for 1976, according to Advisory Center figures. However, statistics for both years are well below the 1,273 and 1,168 incidents reported for 1973 and 1974 respectively.

Total losses for both 1977 and 1976 numbered 20. However fatalities stemming for all incidents were 113 for 1977, exactly half the 1976 figure.

The greatest number of incidents, 256, involved contact with fixed objects or being struck while at anchor. Other causes included machinery damage, 169 incidents; strandings, 70 incidents; weather damage, 70 incidents; fires and explosions, 57 incidents; collisions, 36 incidents, and miscellaneous causes, 176 incidents.

Fires and explosions accounted for 50% of the total losses and 67 fatalities. Other total losses were attributed to weather damage, four losses; strandings, two losses; collisions, one loss, and miscellaneous causes, two losses.

Other causes of deaths among crew members included weather damage, 39 deaths; collisions, two deaths; contact with a fixed object or being struck while at anchor, one death, and miscellaneous causes, four deaths.

Tankers built prior to 1961 accounted for 70% of the total losses, although such ships accounted for only 28% of the worldwide tanker fleet, Mr. McKenzie noted. Tankers built between 1956 and 1970 were involved in a greater than average number of incidents, both partial and total losses.

By weight, ships in the 20,000-tons to 99,900-tons class had a greater than average number of incidents.

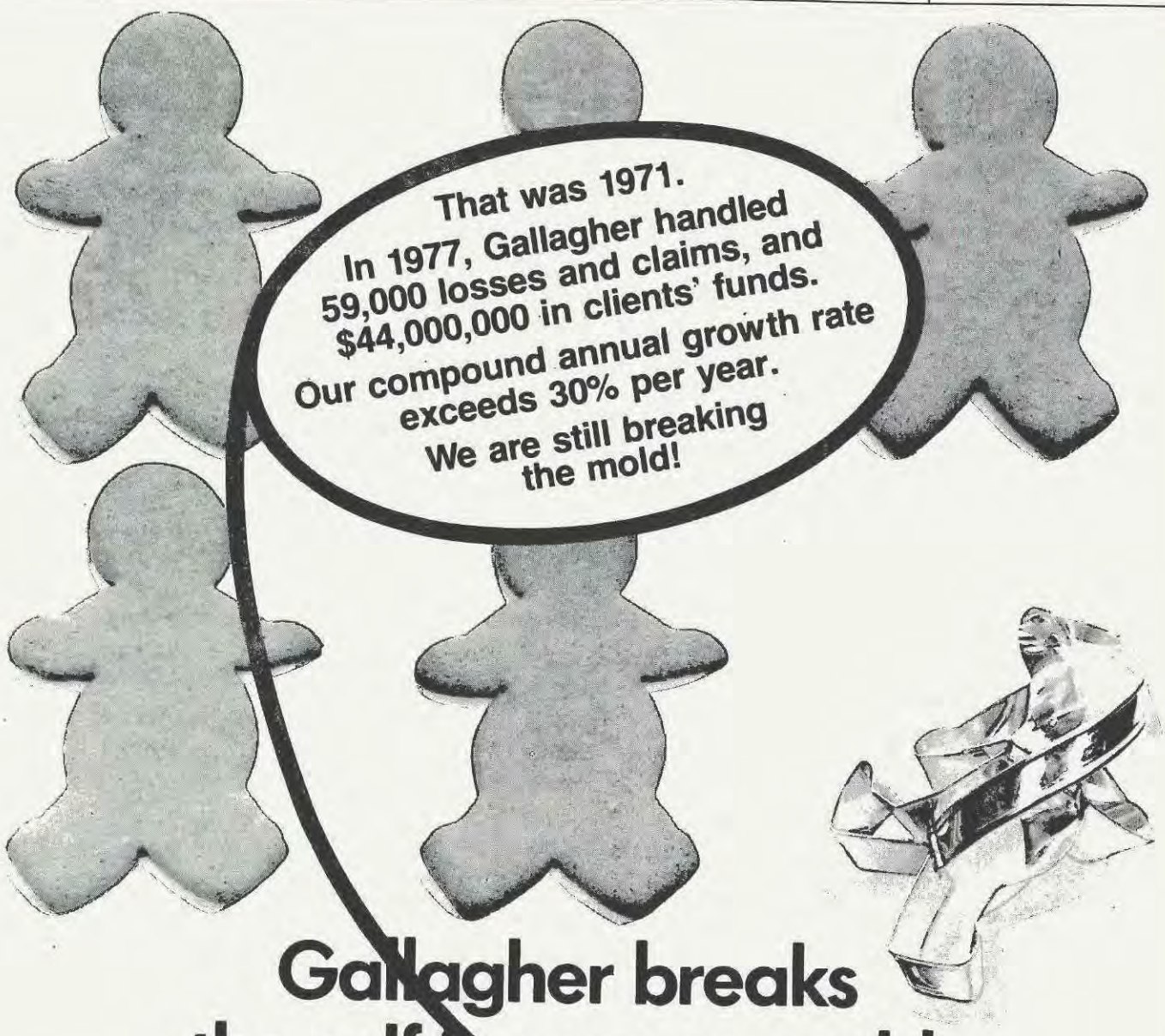
Among nations with fleets of 100 ships or more, the American, Liberian, British and Greek fleets exceeded the average incident rate of 19.7%. Mr. McKenzie noted sharp rises in incident rates among the American (24%) and British (34.5%) fleets while the Panamanians and Liberians, traditionally poor operators, improved their records.

All fleets in the 30 to 100 vessel range had better-than-average loss experience. Among fleets of less than 30 vessels poor loss experiences were reported by the Venezuelans, 23.1%; Kuwaitis, 27.3%; Saudis, 28.6%; Filipinos; 37.5%; Cypriots, 40.9%; Algerians, 44.4%; Chileans, 50%, and Australians, 73.3%. ■

French insurer joins NAM pool

NEW YORK—L'Abeille-Paix IGARD, the non-life unit of the largest private insurance group in France, has become the seventh member of North American Managers Inc.

NAM acts as the exclusive U.S manager for international insurance companies that want to participate in the U.S. market, usually by handling U.S. risks of their own nation's multinational firms. The direct and reinsurance business of NAM is pooled among member companies. ■



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london line

Marine losses sail past $300 million, says Lloyd's

By JOHN H. MILLER

LONDON—Major shipping losses last year cost the insurance industry well over $300 million, according to figures released by Lloyd's intelligence department in a special survey of casualties where the hull and machinery value was at least $1 million.

This total was roughly the same as in 1976 and included four costly losses on Liberian vessels, including the $15 million ore/bulk/oil carrier Exotic, which at 70,337 tons was the largest ship to be lost in 1977.

Two other Liberian tankers, the $16.8 million Hawaiian Patriot and the $11 million Universe Defiance, also added to the disaster list that is still worrying marine insurers because nearly 60% of the stricken ships came from flag-of-convenience nations.

Heading the list is Panama, which produced nearly four times the normal shipping loss ratio in both 1977 and 1976. Experts from the Liverpool Underwriters' Assn. who have studied the problem declare:

"The efficiency of the ship inspection service which the Panamanian authorities promised to establish nearly two years ago must be called into question for these losses are giving marine underwriters grave cause for concern."

But there are hopes that the steady rise in shipping casualties in the past eight years may have peaked for a time and the main concern is the number of fires that have been occurring on ordinary merchant vessels.

Underwriters in the U.K. market are now waiting anxiously to see what will happen if many of the currently laid-up vessels are brought back into service in the event world economies take a turn for the better.

Lack of demand has been one of the key problems facing the marine industry.

CU results

Commercial Union moved into a profitable position on its U.S. results last year compared with its disastrous situation in 1976 when it lost nearly $50 million in its various operations there.

Returns for its U.S. business in 1977 show a profit of more than $6 million, with contributions from all major classes except workers compensation, whose experience is still improving however.

Its statutory operating ratio was cut from 106.4% in 1976 to 98.2% last year and there were particularly good results in the last three months of the period.

Underwriting results worldwide still showed operating losses last year, but these were cut to $40 million from $95 million in 1976, and investment income doubled company profits from nearly $90 million in 1976 to more than $200 million last year.

General Accident lost $7 million on its U.S. account last year, compared with $22 million in 1976 and cut its operating ratio from 104.2% to 100.4%. Royal Insurance made a $400,000 profit compared with a $32 million loss in 1976.

Forecasts are being made in the U.K. that these improved results in many classes of business will continue through 1978. ■

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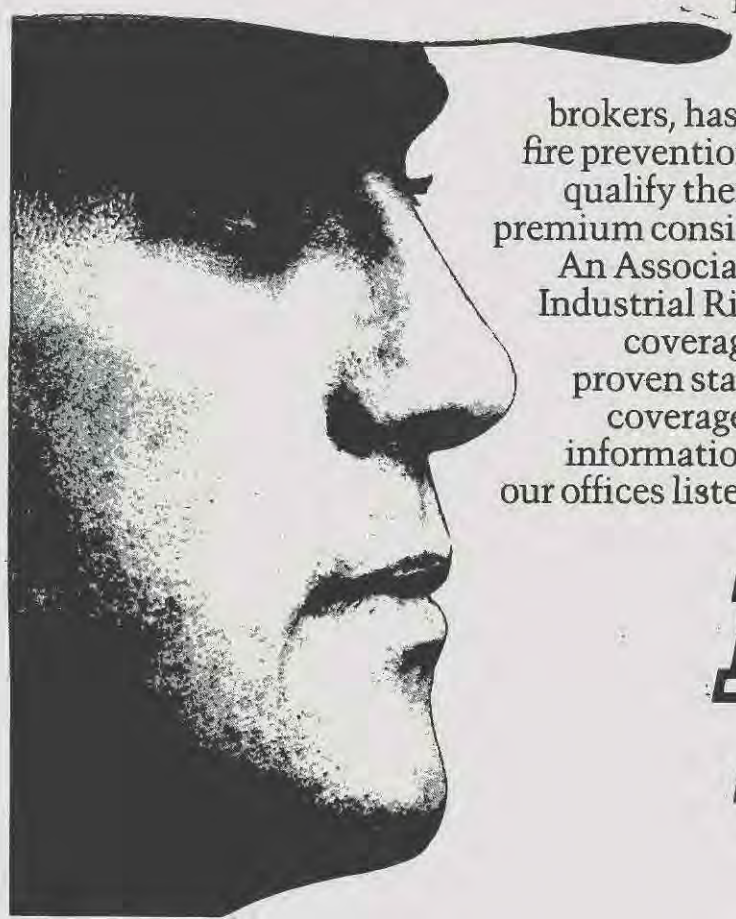
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Some approved HMOs may not be okay: GAO

WASHINGTON—Some federally qualified health maintenance organizations may not be good risks, the General Accounting Office warns.

In a study of 14 HMOs, the GAO found "six have a poor chance of breaking even within five years and six have a fair to good chance."

The findings, to be published by July, were presented to the Senate Human Resources health subcommittee at a hearing on S. 2534, an HMO bill proposed by Sen. Richard S. Schweiker (R-Pa.) and Sen. Edward M. Kennedy (D-Mass.). The bill would increase funding and financial assistance for HMOs, establish a managerial training program and require annual financial disclosure to the Department of Health, Education and Welfare.

Increased government support for HMOs was endorsed by the Department of Health, Education and Welfare and challenged by GAO.

"HEW has not demonstrated the ability to effectively administer and monitor the loan program already in effect," observed Gregory J. Ahart, GAO human resources division director. "We found that, as of February 1978, the loan office had no formal uniform loan policy" and had inadequate staff, he said.

HEW Undersecretary Hale Champion conceded the department was having "a problem" getting properly trained persons to fill available jobs because, he said, HMO management is a new field.

GAO blamed managerial capability and cost and revenue projections for its "doubts about the soundness of some HMOs." The GAO study was based on interviews with 247 employers whose businesses were within the membership area of the 14 HMOs. Most employers were offering the HMO as a dual choice.

"Employers informed us that the HMOs have not used the dual choice requirement to force them to offer their plans but instead relied on marketing the merits of their plans," Mr. Ahart said. Employers reported no significant economic effect from offering the HMO as an option.

Mr. Champion responded that a revised regulation would soon be proposed requiring employers to have payroll deductions for the HMO, where they have the capability. That proposal is also in S. 2534. It would have employers "unbundle" benefit packages "so that HMOs can compete on an equal footing," the undersecretary said.

Private investment will be encouraged under regulations to be issued soon, promised Mr. Champion. They will define conditions needed to become federally qualified but will be accompanied by tougher disclosure rules.

GAO criticized the varied quality assurance found among the 14 plans it studied. Seven HMOs had not fully implemented quality assurance programs. Mr. Champion indirectly acknowledged this, noting that 37 new positions will be created for "work in the qualification and compliance area" of the HMO program.

Prospects for HMOs to break even were the main focus of GAO's testimony. "Although an HMO may break even, it must be recognized that breaking even does not automatically mean that an HMO can generate enough surplus revenue to repay its federal loan and finance future growth," stressed Mr. Ahart. ■



HMO? Health Maintenance Organization. It is a health care plan that offers employers and employees an alternative to existing group insurance programs.

HMOs can provide quality health care at a reasonable cost. This is one of the reasons why Prudential actively supports the HMO concept.

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By making HMO membership available to employees, employers may receive benefits of their own—improved morale, lower absenteeism, and less rapidly rising costs.

Prudential has a managerial role in four HMOs—the South Shore Health Plan and Central Essex Health Plan in New Jersey, Prucare in Texas, and the Rhode Island Group Health Association. These HMOs have already helped thousands receive the health care they need.

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Group Insurance

NAS to offer buffer policy

CHICAGO — Excess and surplus insurers NAS Ltd. is offering a new first layer "buffer" policy designed to facilitate access to the excess insurance market.

NAS Ltd. president Thomas Cath said the new policy would provide a maximum limit of $1 million. In general the policy requires underlying limits of $100,000 for employers liability; $300/$300 bodily injury and $50/$50,000 property damage for general liability, and $100/$300 bodily injury and $50,000 property damage for auto liability. ■

Workers comp benefits jump, says Alliance

WASHINGTON — The average maximum weekly workers compensation benefit for permanent total disability has jumped 265% in the last seven years, according to statistics compiled by the Alliance of American Insurers.

In December 1970, the average weekly benefit in the 50 states and the District of Columbia was $64; in January 1978, the maximum average benefit was $170.

The state with the highest weekly benefit was Alaska with $607.85; in 1970, Alaska's weekly benefit was $82.55. Benefits have jumped 636% in Alaska in the seven-year period, a larger percentage increase than any other state.

The second and third highest benefits are paid in the District of Columbia and Illinois; the District of Columbia benefit was $367.22 and the Illinois benefit was $306.73.

At the beginning of 1978, the lowest weekly benefit was in Oklahoma with a maximum of $50; Arkansas was the second lowest at $77.

In 1970, weekly maximum benefits of more than $100 were found in only three states: Arizona, Hawaii and Michigan. By 1978, the $100 threshold had been crossed by 44 states and the District of Columbia.

Between July 15, 1977, and Jan. 15, 1978, weekly maximum benefits rose an average of 9.4% around the country, increasing from $161 to $170 in that six-month period.

The weekly benefit figures came from the Alliance's 1978 Survey of Workers Compensation Laws. *Business Insurance* calculated the percentage increases. ■

$119 million suit is filed

LOS ANGELES—Three former shareholders of A. J. Industries charge the company and its present owners and board of directors violated Securities & Exchange Commission rules when the company "went private" last spring.

The shareholders seek $19 million in compensatory damages and $100 million in punitive damages in a class action lawsuit filed in federal district court here.

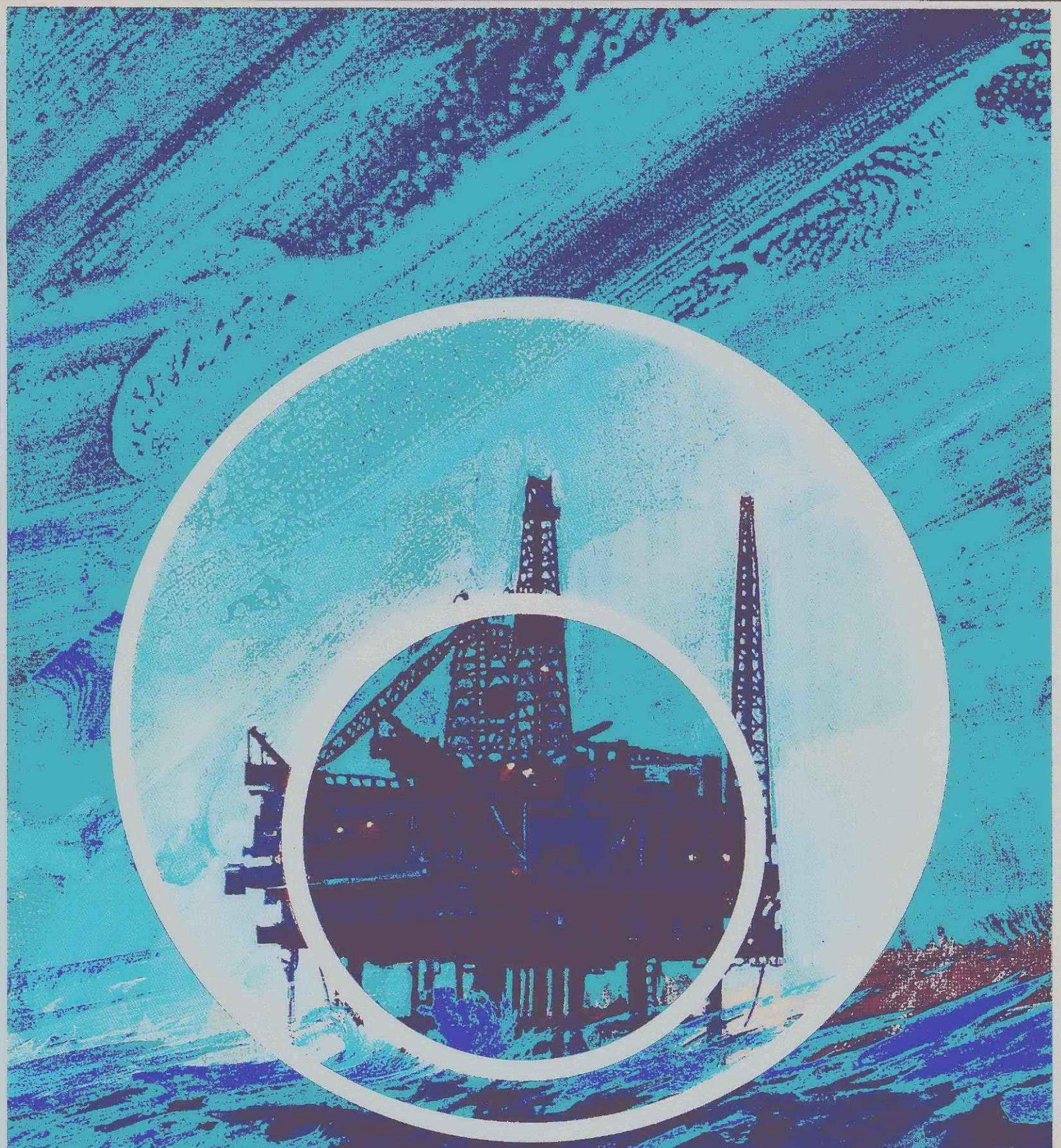
A. J. Industries, formed in 1897 as the Alaskan Juneau Gold Mining Co., carries directors and officers insurance, a company spokesman said. But the company declined to reveal the D&O insurer or the extent of coverage. The company's broker, William Thom, also declined comment.

Last April, A.J. Industries, a mini-conglomerate in the transportation and metal products businesses, was acquired by Rokker Industries Inc. of San Francisco for $25.6 million. Rokker is a private corporation organized by the San Francisco merchant banking firm of Kohlberg, Kravis, Roberts & Co.

At the time of the acquisition, A. J. shareholders agreed to sell their stock for $5 a share.

The lawsuit charges that Rokker Industries and its subsidiary, Rokk Acquisition Corp., and the Kohlberg firm, along with A. J. Industries, violated SEC rules in the sales because the stock was actually worth $9.77 a share.

The suit also charges that the net worth of A. J.'s real property assets alone was $39.8 million or $7.76 a share. ■



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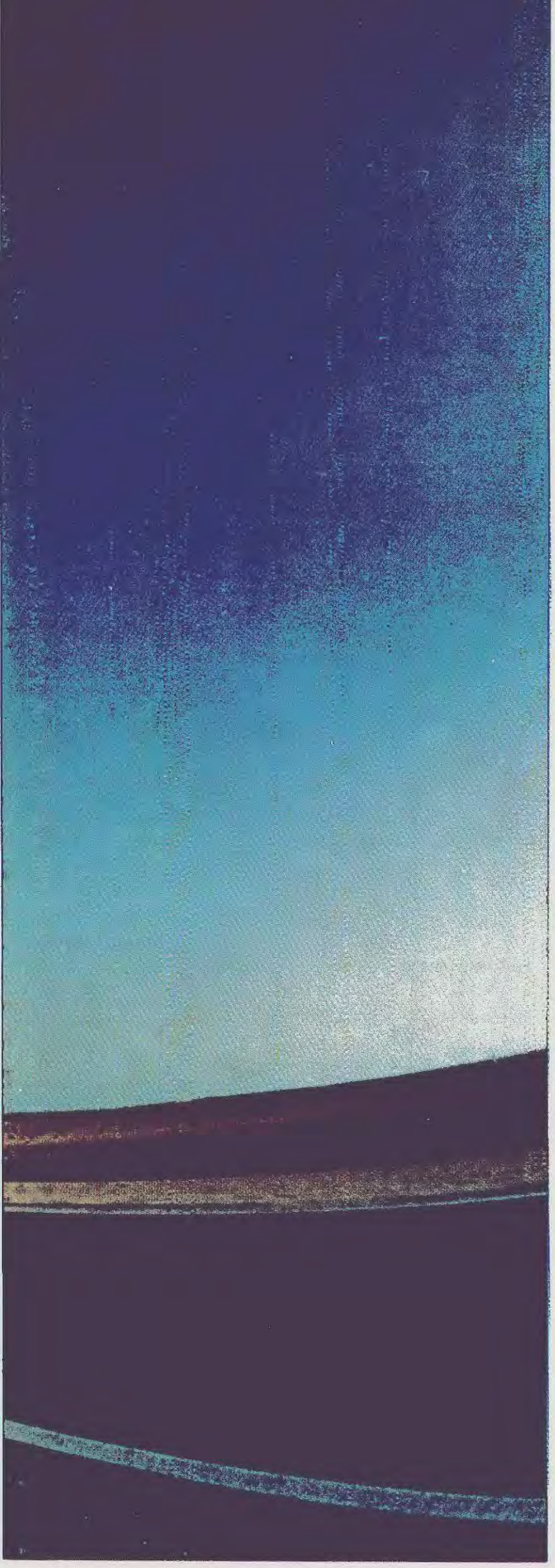
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INA International, whose network of worldwide facilities is the largest of any single U.S. based insurance company, has developed a number of operating standards that should prove of interest and benefit to agents and brokers.

This is the second in a series.

around the states

Michigan allows rate hike with warning

LANSING—Michigan insurance commissioner Thomas C. Jones approved a 25.2% rate increase for workers compensation insurance, but not before warning insurers that he would reject future increases unless ratemaking methods are improved.

The rates are expected to cost employers an additional $111 million in premiums annually.

Mr. Jones said insurers were warned in February 1977 that their ratemaking procedures were unacceptable, but that insurance companies took no actions to meet the objections.

"Only the clearly demonstrated need for a rate increase compels me to act against this background of intransigence and obstinacy on the part of the association," Mr. Jones said.

The increase is retroactive to December 1977.

The rate increase and the criticism of the ratemaking procedures were suggested in a report by Chicago University law professor Spencer Kimball (*BI*, April 3).

New ski law

AUGUSTA—Maine Gov. James Longley signed into law legislation designed to make it easier for ski resort operators to obtain liability insurance.

The measure places the full risk for downhill accidents on the skier, as did existing law. It would, however, allow lawsuits in cases of actual negligence on the part of the ski area, including poor maintenance.

It also makes it clear that ski area operators could be sued in the case of tramway accidents.

The new law, which will take effect in time for the next season, reduces to two years from six years the time after an accident when a lawsuit may be filed.

Conversion law

MADISON—Legislation has been offered in the Wisconsin assembly that would guarantee reasonably priced conversion insurance to persons who leave group insurance plans.

The measure allows persons who leave a group health plan to choose either the same benefits provided by the group policy for six months or coverage on an "expense occurred" basis.

Rep. Thomas Hanson, author of the bill, said persons who had left group health insurance plans made up one of the largest segments of medically uninsured individuals.

He said the bill was needed because persons who left the group policy, if it offered a conversion plan at all, found that it included fewer benefits and protections and cost much more than the group plan. "Rather than take the conversion insurance, they go without," Rep. Hanson said.

Woodrow Eno, a spokesman for the Health Insurance Assn. of America, said his group supported the conversion policy concept but was opposed to mandated benefits.

He also objected to provisions that he said would force companies to write conversion insurance at a loss and pass on the burden to group policyholders.

WC hike rejected

PROVIDENCE—The Rhode Island department of business regulation has rejected a proposed increase of 18.3% in workers compensation insurance rates.

The decision came on a petition from the National Council on Compensation Insurance, a private organization that sets the industry's rates. Although denying the petition, the department did tell the council that it would accept rate increases of 17% for manufacturing firms, 2% for contracting firms and no increase for other categories of employers.

The original increase request was broken down by the council as 27% for manufacturing, 11% for contracting and 8.7% for other categories.

Edward H. Balfour, deputy state insurance administrator, said the council was unable to provide sufficient proof to the department that the requested increase was necessary.

In its decision, the department directed that the current 8% surcharge made to small firms placed in the assigned risk pool be discontinued.

Suit restriction OK'd

ST. PAUL, Minn.—The Minnesota supreme court ruled that an injured employe collecting workers compensation benefits under North Dakota law cannot also sue his employer for damages under Minnesota law.

The case involved Theobaid Trautman, a truck driver who suffered permanent injuries in a fall at Standard Oil Co.'s American Oil terminal in Moorhead in 1968.

Mr. Trautman was awarded total disability payments of $50 a week from the North Dakota workers compensation fund, with American Oil listed as his employer.

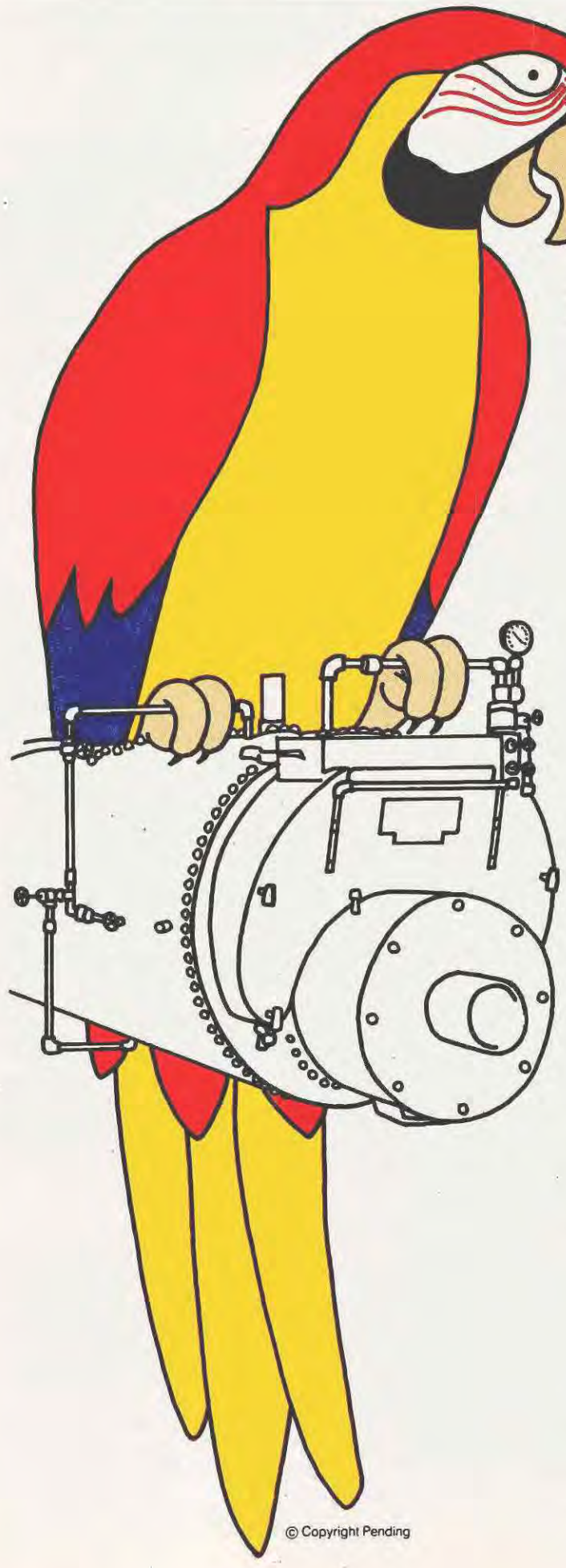
Mr. Trautman brought a lawsuit against American Oil in 1972, alleging the company was negligent. There was dispute during the court action whether Mr. Trautman was employed by American Oil or by its Fargo agent, Vern Nichelson.

The Minnesota Supreme Court held that the question of who was the employer was settled by the North Dakota workers compensation bureau. That decision is binding in Minnesota and precludes a lawsuit for damages in addition to the workers compensation benefits, the court said.

Hawaii amendments

HONOLULU—Hawaii has amended its workers compensation rules to require reimbursement for travel expenses incurred by an employe while obtaining medical treatment for an industrial accident.

In accordance with changes to the state's disability law, rules have been amended to provide that pregnancy is deemed to be an illness within the meaning of the law; that an insurance carrier or self-insured employer who denies a claim for benefits must notify the department of the denial prior to sending a notice of denial to the employe. ■



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Banks join to provide their fiduciary insurance

WASHINGTON—A group of financial institutions is banking on its colleagues for insurance protection.

You help me and I'll help you is the idea behind an innovative insurance program Johnson & Higgins has developed for 45 banks as an answer to the group fiduciary liability that the pension reform law (ERISA) has imposed on banks.

First State Insurance Co. of Boston will serve as the funding mechanism for the banks to provide for themselves insurance that otherwise would be unavailable to them in the conventional market.

The origin of the program begins with the passage of ERISA, which created massive potential liabilities for banks managing pension trusts. Under ERISA, banks not only are liable for the financial integrity of their own employe benefit plans, but also have fiduciary responsibility over the benefit plans they manage for clients.

Since some banks may manage benefit plans with assets of more than $100 million, banks suddenly faced an enormous unknown future liability.

Faced with this ticking liability time bomb, an ad hoc committee of 45 banks turned to Johnson & Higgins to come up with a solution before the bomb went off.

Johnson & Higgins's first step was to develop a carefully constructed questionnaire to elicit information about ERISA-type losses the banks suffered before ERISA as well as ERISA losses.

Once the questionnaire was completed and analyzed, there was some discussion of establishing a captive to provide coverage. But J & H along with the Washington law firm of Covington & Burling advised against.

Given the high degree of regulation and the unsettled legal issues that continue to surround captives, the banks "had to be purer than Caeser's wife and absolutely observe the letter of every regulation in everything they did," said Richard J. Rice, vp at Johnson & Higgins.

Instead, Johnson & Higgins, working with First State Insurance Co., came up with a program that will meet the approval of a steely-eyed regulator and give banks group fiduciary coverage they need at an affordable price.

The heart of the program involves retrospective rating. Instead of paying the full standard premium, a bank would only pay 75% of the standard premium and then be subject to a retrospective rating penalty as losses occur.

"The advantage here is that one does not have to pre-pay one's losses as would be likely in dealing in the conventional insurance market resulting in a significant cash-flow advantage to the banks," said Johnson & Higgins's Mr. Rice.

Rates will be based on the degree of control a bank exercises over the funds it manages. A bank that had total responsibility over benefits would be charged a lower rate than a bank that shared responsibility with another party.

The premium charged would be based on the rate times the volume of funds the bank manages. Retentions will range from $250,000 to $1 million.

Under the program, First State Insurance Co. would pay the loss. Then the bank that suffered the loss would reimburse First State for its retention.

After that, the bank involved would pay 10% of the loss that remained after the retention was applied. The outstanding amount then would be divided up by all the participating banks. The premium the bank paid would determine what percent of the loss it would be responsible for.

For example, if a bank with a $1 million retention suffered a $10 million loss, it would first reimburse First State Insurance Co. for $1 million and then pay a 10% penalty or $900,000 of the remaining loss.

The $8.1 million that remained would be divided among the banks; if all 45 banks that commissioned Johnson & Higgins participate in the program, the percentage that each bank would pay on this loss would range from 0.5% to 4%, Mr. Rice estimates. ■

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Fraud charged in $1 million Fiat claim

By JOHN H. MILLER

LONDON—Senior executives of the Fiat auto group in Italy have been accused of trying to trick Lloyd's and other U.K. insurers over a $1 million fire claim.

Leading underwriters in London have finally agreed to pay the claim, which concerned autos intended for the U.S., after reviewing the terms of the policies and related factors.

The row broke out in Parliament when a Conservative member of Parliament, Jonathan Aitken, alleged that the claim had been paid under pressure from other market interests.

Now Lloyd's has agreed to hold an internal inquiry into the conflict over the fraud allegations. The changes have been reported to Signor Agnelli, head of the Fiat group. Scotland Yard also has been called in to study the M.P.'s disclosures.

Reports prepared by a top firm of U.K. insurance investigators, suggest that there was a dealer's racket involving more than 300 fire-damaged autos.

Altogether the Lloyd's market has paid out $183,751 and insurance companies in the U.K. another $360,000 to meet the fire claim. It was placed in the marine market since it arose from a fire in November 1974 on a Norwegian ship, the Savonita, which was carrying 2,000 autos from Fiat's Northern Italy plant to its U.S. distribution network.

The rest of the claim has been largely met by the shipowner's P&I (protection and indemnity) club under general average rules for cargo risks that it held for the vessel.

Complaints about the nature and extent of the final payouts are regarded within the market as an internal quarrel between brokers. Lloyd's defends its position on the ground that while its contracts exclude deliberate fraud, there are occasions when the reputation of the London market can best be maintained by shrewd commercial attitudes.

Doubtful claims are sometimes met so as to avoid wasting time over lengthy and uncertain legal arguments and this helps to support Lloyd's tradition of acting with good faith in its worldwide business.

Mr. Aitken asserted there were doubts about other Italian insurance losses which had been paid in recent years. Marine insurers cannot recall any other risks to which this criticism could apply, but with the need to clear the air there may well be further discussion within the market over its attitude to suspicious claims.

The incident arose after the Savonita left the port of Savona with a large cargo of Fiat autos on board for New York.

The ship had to turn back after a few hours at sea because of a small fire in one hold. When it returned to the port at Savona there was an argument over demurrage and other matters and more than 300 of the autos were unloaded.

The ship itself is accepted to be blameless and insurance problems only arose when claims were made for some of the burned cars, which had been written off by Fiat as a total loss.

Subsequent investigations alleged Italian company executives and one dealer misled the insurance market over the real salvage value of the damaged cars, which to all initial signs were almost worthless. The probe was carried out by Graham Miller & Co., an international firm of loss adjusters with offices both in London and the U.S.

Chief investigator Bob Bishop was satisfied, after buying one of the cars in perfect condition, that there had been wrong valuation of the damaged cars at some stage of the loss claim.

Mr. Aitken told the U.K. Parliament, "The autos were insured by an Italian marine insurance company known as SIAT, which is controlled by the Fiat group, and were reinsured by SIAT on the London market.

"The 301 autos which had been written off by SIAT, the Fiat insurance subsidiary, as a constructive total loss had been sold to a Fiat dealer, Signor Dotoli, for 15% of their value.

"He then resold them at 80% of their value and was aided in this nefarious enterprise by certain senior Fiat executives," Mr. Aitken charged.

The matter was reported to London underwriters, who initially refused to offer more than 10% in settlement and resisted any major payout.

They even took advice from a leading U.K. criminal attorney, John Mathew, who reported, "There are positive indications of fraud and a full police inquiry would probably produce enough evidence to bring charges."

But after long discussions involving two firms of brokers who were by now acting for the parties, the leading underwriters felt there was not enough evidence to challenge the claim as other sources contended it was a legitimate claim for a loss.

So to save further arguments, they agreed to make a 96% settlement as a voluntary gesture and this was accepted by the Italian company which had reinsured the risks.

It is felt that one factor which influenced Lloyd's was that any fraud would have been committed in Italy and might therefore be hard to prove in an English court without material evidence that might be required from abroad under U.K. court rules.

Trade secretary S. Clinton Davis later told Parliament that Mr. Aitken had not given a full account of the story and that there were no grounds for criticizing Lloyd's officials. ■

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Fuqua plans consolidation after merger

By ELLIS SIMON

ATLANTA—Fuqua Industries hopes to save $1.5 million by consolidating the casualty program of merger partner National Industries, says vp-risk management Robert S. Spencer.

Fuqua was the surviving partner of the 1977 merger despite the fact that National's sales were twice as large as sales of Atlanta-based Fuqua.

The casualty consolidation will involve placing National's general, auto and product liability coverage into Fuqua's captive, Fuqua Insurance Co., and self-insuring workers compensation in states where this is permitted.

The cost of the program will be approximately $3 million versus $4.5 million had National continued its previous coverages through the commercial market with retrospectively rated policies, Mr. Spencer said.

National's liability coverages are structured with a $100,000 retention by the firm and reinsurance ceded to the Fuqua captive by Old Republic Insurance Co. of Chicago, which acts as a fronting company.

The captive is a participating reinsurer in each of three excess layers above the retention, Mr. Spencer continued. The layers are $400,000 over $100,000, $500,000 over $500,000 and $1 million over $1 million.

Fuqua moved to self-insure National's workers compensation program as soon as approval was granted by the various states, Mr. Spencer said. In states where Fuqua was previously self-insuring, approval was automatic. Fuqua self-administrates its compensation claims from the Atlanta headquarters. One claims adjuster has already been hired and additional hirings are planned as a result of the merger.

Consolidation of insurance had high priority with chairman J.B. Fuqua, when the merger was consummated, Mr. Spencer explained. National's risk manager was transferred from Louisville to Atlanta to join Mr. Spencer's staff.

By contrast, there are no plans in the foreseeable future to integrate the insurance programs at J. Ray McDermott & Co. and Babcock & Wilcox when a proposed merger between those two firms is completed, said Walter Falencki, McDermott's corporate risk manager.

Although changes might be made later, everything will be run on the same basis as before, he said. Mr. Falencki has had some discussion with risk management people at Babcock & Wilcox, however.

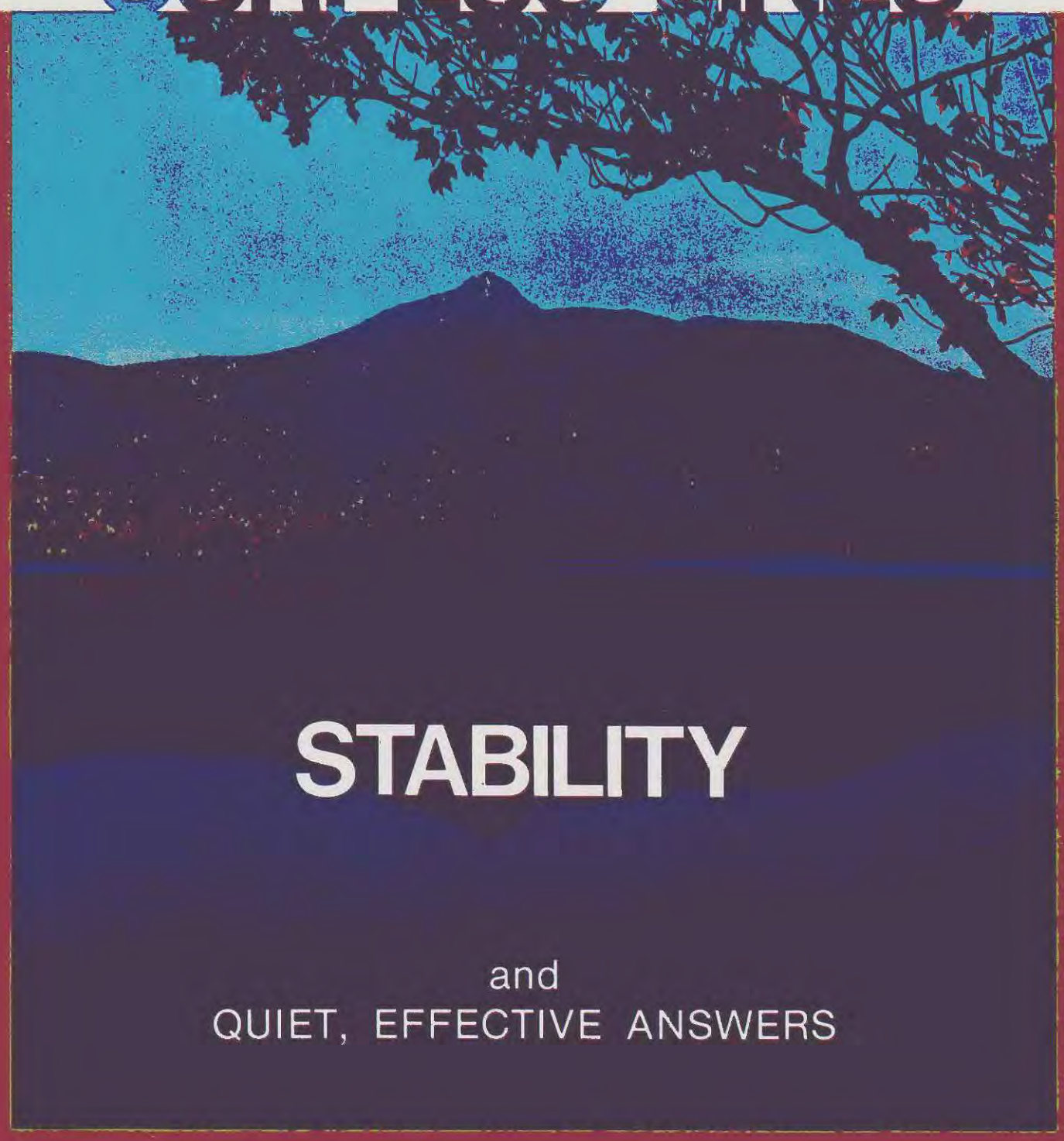
Still to come for Fuqua and National Industries is integration of coverage on National's properties. However, National has 21 profit centers operating in 37 states and the program must be put carefully together, Mr. Spencer said. ■

K.C.'s Guardian buys N.Y. broker

NEW YORK—Financial Guardian Insurance Agency Inc. has acquired New York insurance brokers Allen-Kernan-McKown Inc. Terms were not disclosed.

Financial Guardian chairman Lee Beets said the move would strengthen his firm's international market. Financial Guardian is based in Kansas City. ■

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PERSPECTIVE

Your insurance plan must be intertwined with fire protection

By Kenneth E. Berg
Senior vp
The FPE Group

FIRE PROTECTION and insurance *must* be related. When fire protection improvements are discussed with an industrial property owner, the very first question he asks is, "How much will the improvements reduce our insurance premium?" When municipal decision makers are approached to expand or decrease fire service, buying new apparatus, installing new alarm systems or making water supply improvements, the first question they ask is, "How will the changes affect our ISO grading?" My objective is to explore the implications of this relationship and its impact on cost management.

The dictionary definition of insurance and the definition most frequently used by the insurance industry is "a contractual coverage against a specified contingency or peril." Today, however, most people think of insurance as simply financial protection against fortuitous loss. Both definitions mean essentially the same thing.

Another approach is to view insurance as a financial tool that uses current dollars to fund future losses. The stockholders of a corporation use today's dollars for insurance premiums to protect the future stockholders from an event that has not yet occurred. This future financing aspect of insurance is now being critically reviewed.

Insurance alternatives

Risk management commonly defines insurance as "a financial tool for the transfer of static risk."

There are several viable alternatives to insurance. You can:

- Develop financial lines of credit. This technique answers the criticism of using today's dollars for tomorrow's possible losses. Under this alternative, current stockholders are not penalized if a loss occurs. Money is borrowed to rebuild a damaged facility and future stockholders are charged for future losses.
- Eliminate the risk. If there is nothing that can be damaged or destroyed, insurance is not needed.
- Reduce the risk. By reducing the probability and severity of expected (and unexpected) loss, the need for insurance is diminished.
- Assume the risk. Common techniques for risk assumption are self-insurance, planned non-insurance and deductibles.

Fire protection is considerably easier to define than insurance. It is simply a technique for reducing the severity of fire damage. The alternatives to fire protection, however, are surprisingly like the alternatives to insurance. They include:

- Instead of reducing the severity of damage, developing lines of credit to pay for the expected loss.
- Eliminating the risk.
- Reducing the risk.
- Assuming the risk.

Fire prevention, on the other hand, is something quite different. Fire prevention is a technique for reducing the frequency of fire occurrence. The two alternatives to fire prevention are insurance and fire protection.

Losses vs premiums

The most obvious way in which fire protection and insurance are interrelated is in the area of fire losses and insurance premiums. The standard explanation of this relationship is as follows: Insurance premiums, because they are actuarially determined, reflect fire loss experience and, in order to allow for overhead and profit, are set at approximately twice the amount of the occurring fire losses. Various regulatory agencies, such as state insurance commissions, control premiums to prevent excessive rates and excess profits. This standard explanation, however, does not coincide very well with the facts.

In 1977, according to Engineering News Report, about $12.3 billion was spent in the U.S. on industrial-class new construction. Building contents, including inventory and equipment, usually represent three times a building's cost for a total new value of about $50 billion. If that amount of new construction is used to estimate the total value of industrial buildings in the U.S., a total value of about $2.5 trillion can be assumed. The Fortune 1,000 companies alone report their own assets at about $1 trillion and that figure is based on depreciated value.

According to the National Fire Protection Assn. (NFPA) there is $800 million of loss annually in industrial fires in the U.S. Based on these two figures, $800 million/$2.5 trillion, the fire-loss-to-value ratio is 0.00032. If insurance premiums are twice the fire loss rate, average industrial insurance premiums should be 6.4 cents per $100 value or a 6½ cent rate. Clearly, something is amiss.



The speed with which fire fighters can respond to a fire at your plant is a key factor in insurance costs.

The fire protection and insurance interrelationship also affects municipalities. The relationship between insurance rates and the ISO grading of a municipality is shown in the table "Municipal Fire Defenses." For a one-story frame mercantile building with an area of approximately 5,000 square feet located on the coast of California, the insurance rates vary from 28 cents to 93 cents per $100 value. The ISO gradings are determined by the deficiency point system which places quantitative values on four major components of municipal fire protection.

ISO's grades

The class of the municipality is obtained by subtracting the deficiency points from the maximum. This type of grading creates a very direct relationship between fire protection features and the cost of insurance:

In the private sector, the level of protection is not so clearly defined. In the subsequent discussion, an arbitrary numbering scale of one to 10 will be used as follows:

Level of Protection

substandard	1	poor
	2	
	3	
	4	tolerable
	5	
reasonable	6	
	7	satisfactory
	8	
	9	superior
HPR	10	

To illustrate the relationship between insurance rates, ISO grading and other fire protection factors, we will use a hypothetical manufacturing plant, the Whichit Man-

Continued on page 30

Speaking Out

Here's a 'radical' solution to court woes

By Peter Downes
Manager of Insurance
American Trading & Production Corp.
Baltimore



There are three types of individuals seeking changes in our legal system, says Speaking Out columnist Peter Downes. They are the reformer, the revolutionary and the radical. Mr. Downes is a radical.

EARLY IN FEBRUARY *Business Insurance* published a Product Liability Score Card and there was a front page story outlining current activities in the tort reform area. As soon as I saw it I started to write down all the things I think ought to be done by way of legal reform, with the object of penning an article on the subject. But by the time I filled the fourth page I abandoned the project. I gave up simply because I was bewildered and wondered where in heaven's name one might start.

There are those who say that this is my normal state of mind, but discounting this, I feel that there is some justification for my bewilderment. Opening the paper one morning, for example, I read that the president of the American Bar Assn. was demanding an apology from chief justice Warren Burger for having said that 50% of the lawyers practicing at the American bar are incompetent. According to the story the figure should not have been more than 20%, but as the chief justice said, 20% is still a lot of lawyers and in any event he stood by his statement.

This in turn led me to think a little. Since just about all judges have been practicing lawyers at one time or another, may it not be said that a large number of them are incompetent too? Indeed, since such highly competent lawyers as there are resist becoming judges because of the massive drop in income which they sustain, may it not be said that most judges are mediocre when they are not incompetent? Reviewing some decisions which have been passed down by judges from time to time, I often wonder about this.

It seems to me that the only people who appear really satisfied with the present legal system to any degree are plaintiffs trial lawyers. Suggest a reform and immediately they leap to the defense of things exactly as they are. They are against automobile no-fault insurance, against product liability reforms and many other things as well. In fact, it seems that they would prefer that nobody comment on legal matters at all except themselves, even going to the point of taking an insurer to task for saying a safety

Continued on following page

PERSPECTIVE

Irish must relate benefits to pensions

By Peter H. Prost
Director
Dineen Life & Pensions Ltd..
a division of Bland Payne Dineen Group

WHILE PROFIT SHARING and medical insurance plans are an integral part of an employe's benefit package in the U.S., and are often regarded by employes as more important than pensions benefits, in Ireland employers must center their fringe benefit around the pension scheme for tax considerations.

It is widespread practice in Ireland for companies to supplement state pensions with their own benefit plans. The average weekly earnings in manufacturing industry are currently $117 (approximately). The state pension for a single person payable from age 65 amounts to $28.50 per week (24% of average earnings) and to $49.90 (43% of average earnings) for a married couple. The state also provides a long term disability pension of $25.40 per week for a single person and $42 per week for a married couple. Additional benefits are provided for dependent children.

The Irish revenue authorities have encouraged the growth of private plans by the following tax concessions which apply to contributions made to a plan which they have approved:

- The contributions are allowed to accumulate in a fund which is exempt from both income and capital gains tax on its investments.
- Both employe and employer contributions rank as deductible expenses against income and corporation tax.
- Contributions made by an employer are not assessed to the employe as part of his remuneration for tax purposes.
- On retirement, part of an employe's benefit may be taken as a cash sum free of tax.

Benefit restrictions

Normally a comprehensive plan in Ireland will provide retirement and disability pensions for members and death benefits (including widows' and children's pensions) for dependants. The revenue authorities restrict the benefits which may be provided by an approved scheme, the most important restrictions being that the maximum pension is two-thirds of final salary of which a portion may be commuted to provide a maximum tax-free lump sum of one-and-a-half times salary and the maximum lump sum death-in-service benefit is four times salary.

Within these restrictions, employers will tailor their benefit plans to suit their companies' particular requirements.

A most important feature to be borne in mind in putting together a pension scheme in Ireland is the account (if any) which will be taken of state benefits in settling the pension formula.

In certain circumstances an employe retiring on maximum occupational pension plus state pension could find himself financially better off after retirement than he was before retiring. For this reason, schemes whose benefits are integrated with state benefits are gaining popularity. Moreover, it appears likely that state benefits will be substantially improved during the next few years to bring Ireland into line with other EEC countries.

Integrated approach

Much of the expense of these improvements will have to be borne by employers so that a pension scheme whose cost diminishes as state benefits improve has obvious attractions. In this connection, it should be noted that the government has announced its intention to introduce an income-related state pension scheme and has issued a discussion paper on the subject.

A further factor to be considered is the question of employe contributions. Opinions differ widely in Ireland as in other countries on this subject. A recent survey of schemes in Ireland indicated that approximately 50% were contributory, whereas in the U.K. about 80% of schemes are contributory. A certain amount of dissatisfaction with contributory schemes was being created by a revenue prohibition on refunds of contributions to employes who left service and whose pensionable earnings had exceeded $9,750 per annum. This regulation was revoked in 1977, except for directors owning more than 20% of the company's equity, so that employes leaving employment can receive a refund of contributions plus reasonable interest subject only to a tax deduction of 10% for which the trustees are accountable.

Since contributions when paid attract tax relief at the employe's marginal tax rate (i.e. up to 60%) there is a substantial gain to the employe. An employe taking a refund of his own contributions forfeits any right to benefits in respect of the employer's contributions whether as cash or deferred pension or transfer value. The revenue authorities will permit employes to pay additional voluntary contributions to a scheme and allow tax relief subject to an overall maximum employe contribution of 15% of annual earnings.

Under existing legislation in Ireland there is no compulsory preservation of benefits on leaving service. This situation is likely to change in the near future and the government is presently looking at means for introducing compulsory preservation of benefits. Many new schemes in Ireland are anticipating this change in legislation and are including vesting provisions from the inception of their schemes along similar lines to the compulsory preservation requirements in the U.K. which apply to employes leaving service after age 26 having completed five years pensionable service.

In the past, Irish trade unions have tended to concentrate upon pay rather than other benefits. This attitude is changing and pension schemes are beginning to attract a fair share of attention in negotiations. Unions are also starting to request representation at the management/trustee level in pension schemes.

Funding options

A variety of funding options are available to pension schemes in Ireland. These range from insurance contracts participating in the profits of the life office concerned to tax-exempt index-linked funds. The latter are, in effect, mutual funds which are restricted to pension schemes.

The larger employers tend to set up their funds on a directly invested basis with the investment expertise provided by their own investment department or, more frequently, by outside investment managers. A portfolio management service is available from the larger banks or from a number of specialist pension fund managers in Dublin or London.

Almost all U.S. companies which have been established in Ireland in recent years have concentrated on the export market to receive the exemption from corporation tax on profits, which will continue until 1990. This development has had an impact on the funding of the retirement benefits and, frequently, companies decide to partially defer the funding of these benefits until the expiration of the tax holiday. In this way, retirement benefit costs are kept to a minimum in the early, tax-free years and are increased in later years when they are allowed as an expense for tax purposes.

Other benefits which are sometimes provided include short term sick pay schemes, saving schemes, personal accident schemes and share option schemes. In Ireland, medical insurance is handled by a government agency, the Voluntary Health Insurance Board, and insurers are prohibited from offering any form of medical or dental insurance notwithstanding the fact that the Voluntary Health Insurance Board does not offer any dental coverage.

If, therefore, a company wished to establish a medical or dental plan, it would have to be on a self-funded basis. Premiums paid to the Voluntary Health Insurance Board qualify for full tax relief against personal tax and it is, therefore, normal for these premiums to be paid by the individual. ■

Worth Repeating

Insurers fail product liability



IT APPEARS THAT INSURERS are panic pricing product liability insurance. This conclusion was made by several witnesses and may be supported by other subcommittee findings. These included an erroneous perception by insurers as to an increased frequency in the number of product liability claims—when none has been shown, a perception exacerbated by erroneous national advertising; an unwillingness to write product liability insurance as a result of a decrease in the underwriting capacity of many insurers, and the fact that during the medical malpractice crisis an IRS representative indicated that medical malpractice reserves were overreserved by 30% to 45%.

Moreover, the record keeping of product liability insurers is abhorrent: They keep no separate data for product liability insurance. Representatives of The Hartford Insurance Co. stated before the subcommittee that "the paucity of information" that they were able to provide was "an embarrassment."

This lack of intelligible data is exacerbated by otherwise irresponsible conduct within the insurance industry. For example, several insurers, as well as a public relations organization within the insurance industry, engaged in deceptive advertising. They stated that the number of product liability claims annually was one million, a figure which was subsequently revealed to be overstated by 700% to 800%. Further, several insurers used the so-called "lawn mower case" in their advertising, a horror story which was subsequently revealed to be unsubstantiable. It is especially disheartening that these advertisements help mold the judgment of insurance company underwriters.

—Product liability report of the U.S. House committee on small business, released by Rep. John LaFalce, D-N.Y.

A 'radical' solution . . .

Continued from preceding page
pin may be dangerous. One cannot help feeling that they could not care less about anybody other than themselves and the fortunes they hope to build.

So perhaps we should look to the legislatures for change, but in the last analysis this will hardly suffice by itself. By far the greater number of legislators in the U.S. are themselves lawyers. Hence, we have a situation whereby legal changes are being legislated by members of a profession who, according to Mr. Burger, are themselves incompetent to a significant degree.

I think therefore that anybody pondering the situation for more than two consecutive minutes may well feel as bewildered and frustrated as I am. And being frustrated, we all tend to react and demand that changes be made anyway. Reviewing those who demand such changes, it seems to me that they may perhaps be classified under three broad headings—the reformer, the revolutionary, and the radical.

The reformer tends to be conservative. He is only too conscious that nobody seems to know what the law is anymore. In the course of business he conducts himself within the limits of what he hopes is the law and then suddenly finds himself mulcted of heavy damages. He pleads that his conduct was well within the limits of cases previously decided by the courts, but he is told that the law has changed. If he asks "Where, when and by whom?" he may get the answer, "Here, now and by us."

The reactionary

His reaction is often that of saying that we should put the law back to where it was so that we may all know where we stand. He thereupon supports proposed legislation which will limit causes of action and make entry to the courts more difficult. He will feel justified in doing this since he also feels that the system is being abused. Indeed, in the short run he may well gain some advantages from the laws which are passed, but in the long run he seems doomed to suffer under a system that will be worse than the one he has now. His failure is that he ignores the needs of the revolutionary.

The revolutionary regards the present system as an Augean stable that needs sluicing out here and now. The legal decisions of centuries are just so much crud so far as he is concerned and everybody would feel cleaner and healthier if we sweep them out for the garbage man to take away. One may deplore the revolutionary, but it will be fatal to ignore him. His real or imagined needs must be coped with or he will try to tear the whole edifice apart.

If the reformer is ineffective and the revolutionary intolerable, our only hope is the radical. The radical, in the classical meaning of the word, seeks the root of the problem before trying to determine what changes are necessary or desirable. He differs from the reformer in that he does not tackle problems piecemeal without regard for the underlying causes of those problems.

The radical

As a radical myself, I am inclined to believe that we have forgotten what the purpose of law really is and that a word like jurisprudence is no more than a verbal curiosity. Consequently, if we wish to produce meaningful changes in the law that will be beneficial to the greatest number, we must not only restate the purpose of the law but make sure that our judges and lawyers are themselves well versed in the subject.

Nevertheless, in practical terms I think the radical is the still small voice in the wilderness with little chance of being heard. The struggle to come will be between the reformers and the revolutionaries and in the long run I would be inclined to put my money on the revolutionaries. ■

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Would regulated commissions help?



Hohenadel



Lowenfield

Would it help or hurt the sellers of insurance if state regulators imposed minimum and maximum commission rates for the different lines of insurance? *Business Insurance* posed that question to four agents/brokers around the country.

Frank Hohenadel, president of Hohenadel, Webster & Beebe Associates in Chicago: "I would be opposed to the state getting into that. Agents and brokers are independent contractors and I think we should be able to enter into that individually with the companies we represent. I can see the possibility where the state, if it's regulating rates will also put some kind of limits on commission as a component of the rate, but to make commission schedules mandatory would be entirely opposed to the whole concept of independence in the operation of your own business."

Ralph Lowenfield, president of the Concord Insurance Agency in El Paso, Tex.: "It would hurt. I just believe in free enterprise and believe in the long run, free enterprise will help. I think we should get back closer to it. As the various elements of our industry fall more under government control, we get further from it."

James Sanders, president of Sanders & Sullivan Inc. in San Jose, Calif.: "I don't know of any reason I would want any more regulation than we already have. I think it's a mistake to invite the government into more areas than they are alreacy in. It just means more paralysis. I would rather deal directly with the insurance companies."



Sanders

John N. Voorhees III, president of Ulrich, Voorhees, Warner Associates in Piscataway, N.J.: "The system, as it exists, is probably the best system we can have without hurting the public or producers more. The only viable solution is to allow agents and brokers to negotiate commissions on an individual contract basis with the companies which is what the larger brokers are doing now. The imposition of any kind of restriction is really not going to help anybody except insurance companies. If I can build a better mousetrap, shouldn't I be compensated more? If not, what we end up with is an operation with virtually no profit motive and all I will do is the minimum amount of service."



Voorhees

Jobless market . . .

Continued from preceding page
minimums for the stop loss coverage.

Additionally, many entities were unaware of the options, insurance spokesmen said. And if the entities did not make the decision to self-insure prior to Jan. 1, they lost that option for one to three years depending on the state and had to use the taxation method.

At the time the entities were making this decision last December, a group led by the county of Los Angeles legally fought to block the legislation altogether. They were turned down by a federal district court judge, although his refusal to issue a preliminary injunction is on appeal. The development cast additional uncertainty on the decision making.

Finally, because the federal government is actually funding the unemployment compensation for the first six months of the year, the urgency to decide between reimbursement or taxation was diminished.

The Associated Risk Managers of Illinois expected $1 million in excess premiums in the state, claimed James L. Sandner, chairman of the national organization's income producing committee. "But now we'll be lucky if we top $100,000."

In addition to being an officer of the national commercial mass marketing network of 400 agents and brokers, Mr. Sandner is president of Brokers' Risk Placement Service, the ARM surplus facility in Illinois.

1% Illinois rate

Nationally ARM had envisioned between $15 and $20 million in premiums, he estimated, but "probably not more than $500,000 was written."

Illinois's 1% premium tax rate was not uncommon among states, he said.

"The problem with excess risks is that when the rate got set at 1%, the stop loss had to be very low. That made it more desirable to pay the premium.

"The larger risks still can choose the reimbursement method and we provide the excess contract for them. But the tax rate probably cut the market down by 95%. Where we had 20 prospects at a 2.7% rate, we went down to one at 1%."

Illinois entities having chosen the reimbursement method may convert to the premium tax after one year but may not shift from taxation to reimbursement for two years.

ARM represents Safety Mutual in the marketing of the program. Its 400 agent/broker members were introduced to the program last fall which offered them a 10% commission.

"We started monitoring the unemployment comp for state entities about six months ago," related Mike Orr, vp at Corroon & Black/Dawson & Co. in Seattle. "We presented as thorough a program as we could in Alaska.

"But we have not sold that much. We have been singularly frustrated and totally amazed at the high level of confusion in the state entities. Those who studied it through have elected the reimbursement method; many have even thought it through far enough to pick a service company. But when it came down to actually purchasing excess coverage, very few did it. They have not had to fork out the money yet and won't have to for several months."

In Alaska, the tax rate was set close to the private sector 4.8%. In that state, the rate was averaged with workers in the canning, logging and fishing industries which are known for their highly seasonal employment, the broker said.

In Washington, "quite of few of the entities have purchased service companies and some kind of excess, but not as many as should."

Echoed Robert B. Eadie at Corroon & Black/Blair, Follin, Allen & Walker, "Everyone thought the unemployment compensation would go. We thought we would be able to sell it all day long.

"At first it seemed like a great idea and it may still be."

But among the stumbling blocks are Tennessee's 1.5% premium tax rate and several small entities, he said.

The Tennessee Municipal League, whose $6 million to $7 million liability coverage is handled by the office, is investigating the possibility of a pool. If one is formed, Mr. Eadie said, Corroon & Black would administer the pool using a service company to handle claims.

Minimum requirements

But for those not in a pooling arrangement, the smaller risks have trouble meeting the minimum premium requirements, the Nashville broker added.

Safety Mutual charges a reinsurance rate of approximately 7% of the amount the entity would have to pay under the taxation method, Mr. Werner said. Of that figure, 80% is the minimum which is also subject to an audit. Additionally, the insurer requires a deposit.

The Lloyd's policy has a $2,000 minimum premium for two years including credits, said Bill Jaques, vp of production for Stewart Smith Mid-America.

Both policies require the entity to use a service company for handling claims. These services usually run between $2.00 and $2.50 per employe and are offered by about five or six companies across the country, including one brokerage subsidiary.

Martin Boyer, Chicago-based subsidiary of Frank B. Hall & Co. Inc., rated the unemployment compensation business a big increase for its unemployment compensation department although the department is only one year old, according to assistant vp Bob Peterson.

A larger service company was not as sanguine. "We haven't had a rush of brokers coming to us to place business and I don't think our competition has had many more," said R.E. Harrington Inc.'s district manager John Kumnick.

"The reason why the insurance has not been a strong selling point thus far is because the liability of the governmental entities at this point is practically nil. The need for insurance will pick up in 1979.

"But now when someone files a claim to receive benefits, the benefits will be based on prior earnings. Prior earnings only started to be taken into account as they occurred in 1978. Most states define the base period as the first four of the last five completed calendar quarters."

The exception to this are nine states which mandated unemployment compensation prior to this year. They are Ohio, Wisconsin, Connecticut, Florida, Maine, Oregon, Montana, Michigan and Iowa.

Brokers' experience in those states has not been much better than in the 41 newly added. Oregon, which mandated the coverage three years ago, is an example.

"There we're having a difficult time because if people have not had a problem, they're questioning why they should buy coverage now," said Roderick V. Hamel, executive vp for C.P. Grosenick Inc., which wholesales the Safety Mutual policy.

No experience

Because no actuarial experience has been established for the coverage it makes convincing the entities of the necessity of coverage all the more difficult. "We don't know whether there's going to be an economic downturn or a taxpayers' rebellion or a levy failure for a school district."

The federal government's funding of the coverage for the first half of 1978 is responsible for the lag in the entities buying coverage, the Seattle wholesaler said. "A lot of the cities and school districts—the vast majority of them—have decided to go on the reimbursement method. Now the decision is whether to go bare or have catastrophic protection. A lot of the school districts have their levy elections coming up. Their fear is that if they have a levy failure they may not be interested in writing coverage."

Both Mr. Hamel and Stewart Smith's Mr. Jaques reported that their commissions to primary brokers on this business were about 10%.

The same lack of experience which cramps selling, makes rating the product difficult, Mr. Hamel said. "However, we do think that from our experience with non-profit hospitals in the last five and one-half to six years we have a feel for it."

Hospital analogy

Non-profit hospitals and universities were the first classifications to be given the self-insuring or reimbursement option as an alternative to being taxed on unemployment compensation.

The comparison between the hospitals and state entities is not complete however. In 1972 when 5,800 hospitals and universities nationally were given the choice, the premium tax rate was set at 2.7%. Since that would mean a higher tax cost than the 1% range for many the state entities now, it was easier for them to decide to self-insure when they were mandated to provide the unemployment compensation for the first time in 1972.

The premium tax rates are merit rated and therefore can be adjusted. It is here where the experience of the hospitals might offer the greatest hope for the unemployment compensation for the state entities.

"It's not uncommon for the hospitals to pay a 4% tax now," said Mr. Jaques. "And we recently wrote a not-for-profit hospital where the tax went up considerably but not because of their experience. ■



Photo: Barbara Jean Gray

'The larger risks still can choose the reimbursement method and we provide the excess contract for them. But the tax rate probably cut the market down by 95%. Where we had 20 prospects at a 2.7% rate, we went down to one at 1%.'

—James L. Sandner,
Associated Risk Managers

Bill to require agent explanation

RICHMOND, Va.—Agents would have to supply a written explanation for denying coverage to an insurance applicant under legislation originally offered by the bureau of insurance's state corporation commission. Insurance companies also would be prohibited from turning down an applicant solely on the basis that he had been turned down by another insurance company.

The legislation would apply to all personal lines. A spokesman for the commission said she believed the concept to be unusual for property/casualty coverages and unique for life and health.

The proposals were included in a recent study by the commission entitled "Competition in the Property and Casualty Insurance Industry: An Evaluation of Alternative Methods of Rate Regulation." ■

Profit sharing pacts

Agent groups oppose unilateral revisions

CHICAGO—At least two independent insurance agents' state affiliates have taken stands against unilateral insurance company changes in profit sharing agreements.

The Independent Insurance Agents of Indiana tabled until this summer a resolution to rescind a letter of censure against the Insurance Company of North America. It will be rescinded when the INA does what it promised, to keep closer communication ties with the agents, IIAI president Horace M. Lukens III said.

The protest was issued last fall when the Indiana agents felt INA's new profit sharing agreement was not in accordance with its policy opposing unilateral and arbitrary amendments or replacements to the contingency contracts.

"We're not happy with the way in which this was handled by the company," Mr. Lukens said. "It wasn't INA particularly. They just happened to be there when it happened. It's the way these companies do things. They come into an agency and say, 'If you don't sign it, you don't have an agreement.' We believe it's necessary to have bilateral discussion. Agents differ. There should be different criteria for different agencies."

Among the provisions at issue is the annually negotiable aspect of the contract.

INA vp Richard B. Light said that provision was 10 years old.

"They have a number of questions they've been asking for the last 10 years. The truth of the matter is that the new profit sharing agreement is hardly any different from the previous 1969 version. It's actually a clarification of the old agreement which had been suggested by other agents," he said.

The Indiana agents met with INA officers in January to resolve the issues and reported that they received assurances that the company would take steps to keep agents abreast of contract changes and decisions regarding them.

In Connecticut, the independent agents lodged protest over Aetna Casualty & Surety's new national policy of including the auto residual market results into profit sharing calculations.

One Aetna agent in the meantime has noted an increase in his profit sharing agreement as the result of bilateral negotiation.

Cooper, Love & Jackson won an increase in its profit sharing contingency in exchange for the agent's agreement to reconcile its monthly statements off Aetna's accounts current. The arrangement has been effective for one year and chairman Clifford Love said "it's been going very nicely."

Mr. Love declined to cite the percentage increase, although sources reported it is 2%.

The Nashville agency generates over $500,000 in gross revenues of which 70% are commercial.

Cooper's arrangement with Aetna is not unique. There are actually quite a few in the geographical area, according to general manager of the branch for the Nashville area James L. Busby. As a profit center the branch has several options at its discretion one of them being the arrangement at Cooper, Love & Jackson. ■

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Excess broker picks a go-between role

NEW YORK—After an initial false start, one London broker has transformed its U.S. operation into a "front office" to facilitate the flow of business between the continents.

Greenway Insurance Brokers Ltd. has as its domestic address what it regards as an "intelligence terminal" rather than a conventional excess/surplus brokerage firm.

At R. Greenway Inc. here "we take information, churn it around and send it off to London," said president Ian R. Greenway.

A major share of the office time is spent acting as translator. In insurance circles there's quite a language barrier between the two continents even though all people are presumably speaking the same mother tongue, he said.



'We can tell our clients how London works and help them in dealing with Lloyd's.'

—Ian R. Greenway,
R. Greenway Inc.

Among the several terms often misunderstood are "theft" which in London incorporates all forms of false appropriation while "burglary" has no legal meaning. This contrasts to the U.S. interpretation of burglary which limits burglary to false appropriation of another's property with visible signs of forcible entry.

"Your DIC is an example," he pointed out. "It now reads 'excluding burglary and theft.' Originally it said only 'theft.'"

The biggest ambiguities center on the terms coinsurance and average. "Average in London means 100% coinsurance. It's the marine term average.

"Coinsurance in London means the insured or insurance company bearing half the risk. In London if you issue your policy with three companies, the first is the leading company and the others are coinsurers. If a London corporation has a policy with what the U.S. would call 20% coinsurance, in London it would mean that the insurer pays 20% of all claims."

The brokerage arm here "is for the small to medium broker who cannot spend the time learning about London as the big brokers do and who have people going there every week.

"We can tell our clients how London works and help them in dealing with Lloyd's," Mr. Greenway said.

The entire approach of Greenway is different, the 22-year-old president claimed. "Other London brokers with physical plants in the U.S. hire Americans and train them in the English procedures. We deal the other way. Our people are trained the London way."

Two of the firm's six person staff, including Mr. Greenway, are natives of London.

"We don't penalize the brokers for dealing with us through the facility here. Most London brokers retain about 5%. We split our 5% between New York and London."

About 80 excess/surplus lines brokers now book with his firm, Mr. Greenway said, about 12 on a regular basis. The firm deals only with excess/surplus brokers and views itself as a relay between them and London.

"We do all the paperwork, all the front end operations." Then it places all of the business with Greenway Insurance Brokers Ltd. where Mr. Greenway's father Raymond is managing director.

The New York facility isn't really an office, the younger Greenway contended, "it's just an extension of our London office. We give U.S. brokers information right down to the policy forms just as if they'd flown to London. That saves them seven days they would have lost in dealing with the mails.

"We also don't have a cross interest as do excess/surplus brokers who deal with their markets."

But the route of the traditional excess/surplus broker was the one originally taken by the firm when it first opened the office here in 1974. "But we felt we had made a mistake. We tried to operate like an excess/surplus broker and dealt only with primary brokers in New York. We did about four risks in six months. So we stopped."

Though he declined to cite gross revenue figures, Mr. Greenway estimated the office would handle a premium volume of about $4.5 million this year.

Most business is presently generated on the East Coast but the firm hopes to have a California office by the end of this year.

The young president has a broker's license, an excess/surplus broker's license for New York and is hoping to attain the designation of the Association of Chartered Insurance Institute (England's counterpart to the Chartered Property & Casualty Underwriter) this year.

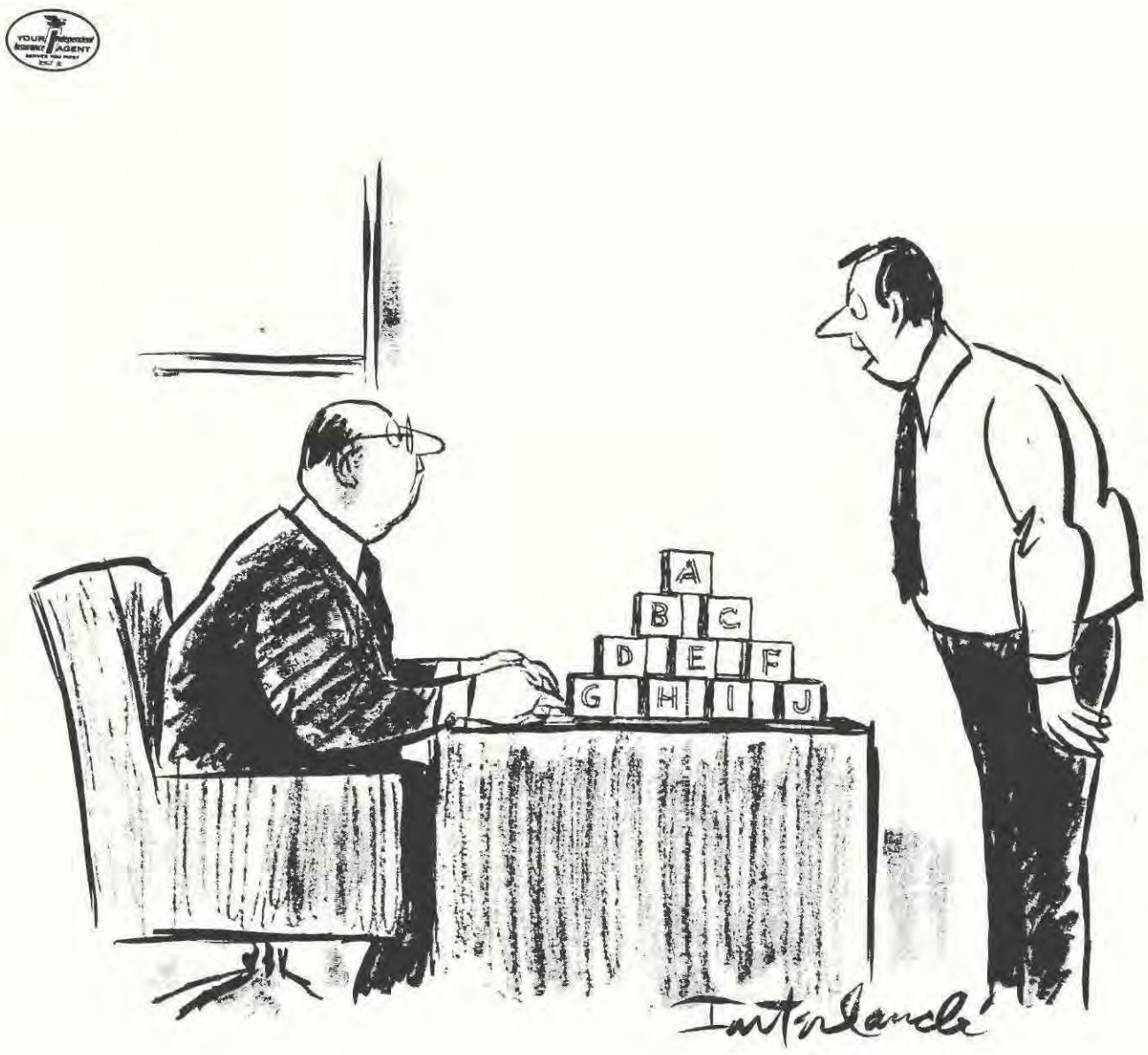
Of the coverages placed by the Greenway firm with its London broker parent company, product liability, especially for the cosmetics industry has been the fastest growing, Mr. Greenway said. Marine, on the other hand, has not grown as fast.

Premiums are still rising for low value housing and that trend is now moving to higher value property. **—bjg**

Consumer panel completes test

WASHINGTON—The insurance consumer action panel, a consumer complaint-handling program for unresolved property/casualty grievances, has completed its one-year test by the Professional Insurance Agents association.

A report of the test program recommended the formation of a consumer research institute in the insurance industry to prevent crises before they require "mandated action." ■



"Your suggestion's a little late, Higgins. 'Plain talk' policies have already been invented."

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letters

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Profit sharing

To the editor: I have just completed the Feb. 20 *Business Insurance* coverage of the fine book, "Major Criteria in Profit Sharing Agreements." Charles Hostetler's work was first called to my attention following its presentation to the Independent Insurance Agents of Ohio annual meeting last October.

In explaining Allstate's current omission from the rankings, *Business Insurance* seems to perpetuate an error about "materially lower commission rates." That was the same reason given for not listing us in the proper order in the book. While the *Business Insurance* article does explain that we will be included in the next publication, it also leads the reader to reason that he would get a good contingency commission only at the price of a "materially lower commission rate."

That error was first pointed out in a letter to Doug Avery of the Ohio insurance agents' group and was corrected in an Ohio addendum dated Jan. 17. Other corrections contained in that addendum were accurately portrayed in the article.

We have paid 15% commission on all personal lines since the inception of our program in 1974. Our contingency agreement was specifically structured to provide significant additional earning potential to growth-minded agencies showing good loss results.

Should your readers have any questions at all about our agency agreement, I'd be glad to discuss them and to refer them to agencies who have experienced the results of our profit sharing agreement.

By the way, the $5,308 figure cited by *Business Insurance* in its illustration of Allstate's program should be $5,803, a figure I assume to be a transposition error.

Howard H. Carasik
Agency development director, Allstate Insurance Co., Northbrook, Ill.

The judgment that Allstate's commission rates were "materially lower" was made by agents Charles Hostetler and Dan Messelt in the preparation of their October booklet. The agents corrected the 15% rate by handwriting into the booklet following publication. The correct figure for Allstate was indeed $5,803.

Excess/surplus broker listing

A special excess/surplus lines broker directory is being planned for the Sept. 4 Agent/Broker section of *Business Insurance*. We're interested in listing the names and specialties of as many excess/surplus lines brokers as we can. The format will be similar to that of our annual Agent/Broker Profiles directory.

We already have the names of many excess/surplus lines brokers, but we want to make sure we have as many as possible. Will you please send us the names and addresses of the excess/surplus lines brokers you use so we can send them the questionnaire? Mail them to Barbara Jean Gray, *Business Insurance*, 740 Rush St., Chicago, Ill. 60611, or phone 312-649-5274.

Lloyd's brokers

Lloyd's currently has 275 brokers according to its 1978 directory. This is an increase of seven brokers compared to four years ago, when the directory listed 268 London brokers with whom it conducts business. There have been subtractions as well as additions made to the roster.

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Canadian broker eyes physical presence

Dale jockeys for new position in U.S.

TORONTO—Canada's third largest public broker is jockeying for position to make a physical entry into the U.S. commercial brokerage market.

So far Dale & Co. has been a factor in its southern neighbor's business only through brokering agreements. These have contributed only minimally to the firm's $14 million gross revenues, president Kenneth M. Gilbert said in a recent interview in Chicago.

Dale's expansion is now aimed south for two major reasons, the executive enumerated. Many of its clients, primarily contractors and oil refiners, have migrated to the U.S. Just how many commission dollars this has meant Mr. Gilbert couldn't assess, but the moving clients have been instrumental in spurring Dale on.

"We used to be able to say to our moving clients that we didn't have an office in, say Denver, but we could get accounts serviced by Fred S. James or Frank B. Hall," he said. "Now those accounts are saying to us 'Reed Shaw has an office there, why don't you?' "

The other major reason for the firm's U.S. hopes is that the possibilities of creating new profit centers through external growth have been practically exhausted in Canada.

"We have had good success in Canadian acquisitions, but there are only so many of consequential size and the possibilities have just about come to an end."

The broker acquired two Canadian brokerage firms in 1977 and one this year, but generally speaking Mr. Gilbert described the choices there as "pretty well picked over. The climate for the buyer is better in Canada. The U.S. however is not a buyer's market. Agents are not as keen to listen to what we have to say as in Canada where firms are more interested in selling. In the U.S. agents say, 'Why sell to Dale rather than Corroon & Black or any other major broker?' "

Political changes in Canada have played a role in the decline of the Canadian business climate, he said. Montreal, which had been the firm's largest office accounting for 50% of total business, now represents 20%.

Overall the broker has 18 offices in Canada.

Mr. Gilbert has been president of Dale & Co. for four years. He is also president of Dale Ross Holdings Ltd., the parent company. The other operating companies of the group are Boyd, Phillips & Co., marine surveyors and average adjusters, an employe benefits company and a management company.

The public broker posted a 5% increase in gross revenues in 1977. Commissions and fees totaled $14.4 million compared to $13.6 million in 1976. Net income rose to $1.2 million, a 21% jump over the previous year's $1 million. On a per share basis this meant $2.08 compared to $1.75 or a gain of 19%. After amortization, earnings per share were $1.68 as opposed to $1.36.

In the U.S. Dale is looking for brokerage firms with revenues around $1.5 million and will acquire through a share participation. This method is meant to make the offer more attractive and "hopefully the principals will do a little bird dogging for us in other potential acquisitions," Mr. Gilbert said.

"We're looking for someone specializing in contracting and oil refining. For starters, we would be happy to have someone geographically close to the Windsor border in a city like Detroit or Buffalo."

The Canadian broker would not consider setting up shop in the U.S. from scratch. "We think it's important to have a native son or local boy. Just to set up shop here cold would be a disaster I think," Mr. Gilbert continued.

"We're interested in leaving a good share of the ownership with the present owners with the agreement to buy the remainder over the years so they can help us get established. We think that would be a better approach than just buying 100% entirely and we think it would be more appealing to the individual sellers too."

The move into the U.S. is not without concern for the Canadian broker because it brings up the possibility of estrangement of present business partners. Firms with which Dale has split brokerage commissions on correspondent business will become competitors. "It's a risk that we will alienate some people but I don't think that alienation need necessarily follow," Mr. Gilbert said.

Reed Shaw Stenhouse also hopes to dramatically increase its U.S. business. See related story on the next page.

A 15-year-old-law laid the groundwork for establishing many of the relationships. A Canadian law requires insureds to buy insurance from a licensed Canadian broker or pay a 10% penalty. That paved the way for U.S. brokers of migrating clients to make arrangements with the Canadian locals.

Conversely as Canadian firms moved into the U.S. or just opened branches there, Dale contacted U.S. brokers to service those operations on the spot. Fred S. James has been the firm's main correspondent to date, Mr. Gilbert said.

As to the reaction of all U.S. brokers regarding Dale's plans for acquisitions, the president said, "None of them feel good about it, but there's more potential for us and quite often the relationships can continue on anyway. Overall, we feel it's worth the risk." —bjg ■



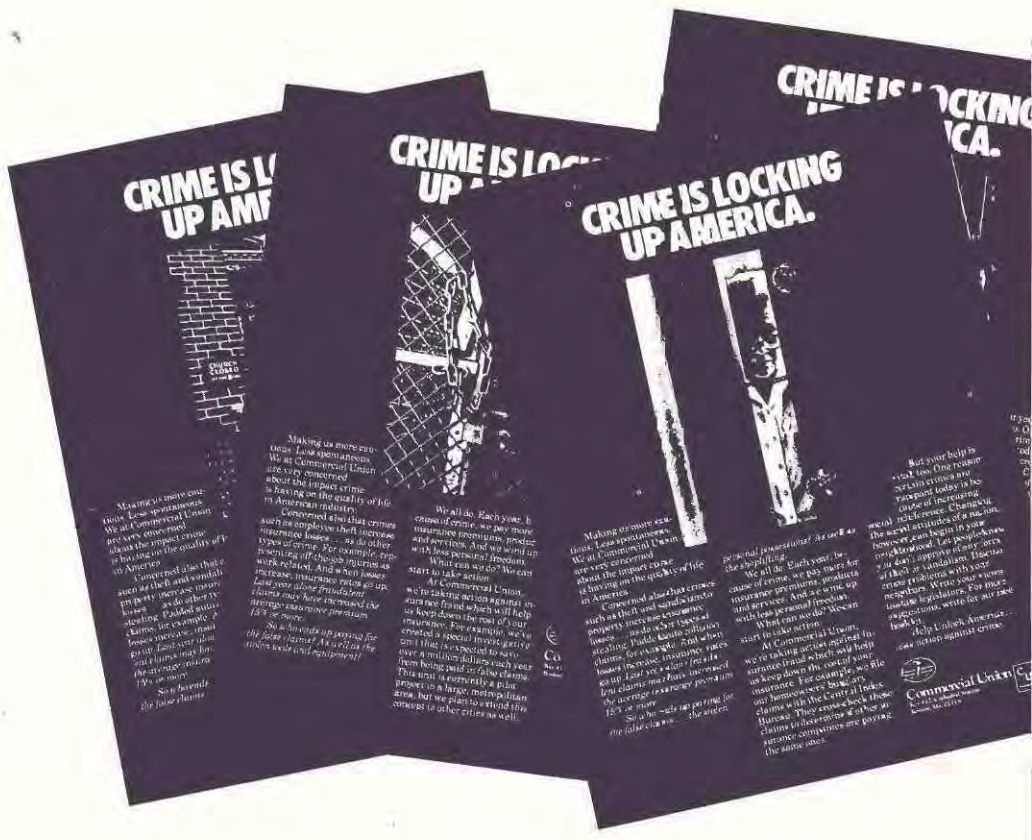
Kenneth M. Gilbert says there are not many large Canadian brokers left for his firm to acquire for expansion.

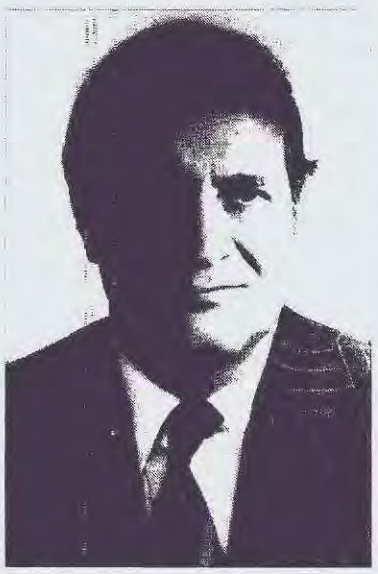
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Anthony Salvatore says Reed Shaw generates $25 million in revenues in the U.S., well into the top 10 brokerage firms in this country.

Unit to provide 50% of parent firm's volume

Reed Shaw plans major move in U.S.

CHICAGO—The U.S. arm of Canada's largest public broker is gearing up to become 40% or 50% of the firm's total operations within a few years.

Reed Shaw Stenhouse Inc. presently contributes 20% of the total gross revenues of the worldwide firm, according to president Anthony F. Salvatore. Total income in 1977 for the Toronto-based brokerage house was $127.6 million. That puts Reed Shaw Stenhouse's 20% share at approximately $25 million in gross revenues, well into the top 10 brokerage operations in the country.

The operating company here is one of the 29 units that function worldwide. It is the third largest contributor to overall revenues, following Canada and U.K. operations.

The four-year-old firm has been growing at a rate better than 15%, Mr. Salvatore said, while the parent company's rate has been hovering around the 15% mark.

Both rising premium rates and the U.S. firm's acquisition policy have contributed to the increases. External growth has been through the acquisition of existing firms and starting up new offices.

For Reed Shaw Stenhouse both methods often go hand in hand in the same city. Its most recent acquisition of the $500,000 revenue Standard and Main brokerage firm was such an example, Mr. Salvatore added. The new addition is located in Denver where it was merged with the office Reed Shaw opened in 1976.

"Where we start up a new office in a city, we'll still look for acquisitions as well. Our reasons for moving into a new city would be to develop some expertise that might find a way of rooting itself. The majority of offices started from scratch do well, but in others growth is not as fast as we would like to see it."

The firm also has multiple locations in Washington, D.C., New York and San Francisco. Totally, Reed Shaw has 24 addresses in the U.S, including specialty brokerage operations such as the marine average adjusting firm of Great Eastern Associates. Houston was identified as the fastest growing office.

Reed Shaw's first acquisition into the U.S. in 1974 was also its largest. Insurance Consultants Inc. is headquartered in St. Louis and also has offices in Kansas City, Chicago, Pittsburgh, Fort Lauderdale and Orlando.

Thus far, all acquisitions have been for cash, although the idea of using stock is something "we have thought about," the president said. "It depends on the size of the acquisition."

Although there are no present plans on the drawing boards for another start up office, Mr. Salvatore said, "If we have a client or number of clients who require attention, we wouldn't hesitate to head up an office."

The firm is also talking to 10 or 20 other parties on possible acquisitions, he said.

"Acquisitions take a long time to complete," a trend which hasn't changed much in recent years. "There are not any major-sized houses who are interested in combining. There are not as many large firms who might be candidates as there used to be and the other ones are harder to convince."

The recent high profit years for brokers might work in favor of acquisition-minded firms like Reed Shaw, Mr. Salvatore believes. "If anything, the good years may make them more eager to merge because they can ask a better price."

The president's definition of the 'right acquisition candidate' consists of a commercially oriented firm with revenues over $500,000 and with "compatible (managerial) people with good professional knowledge and recognition in their market area."

Energy business is an area the firm is especially interested in.

The corporate firm's U.S. market penetration philosophy hinges on two points according to the 1977 annual report; purchasing capability and the quality of opportunities. "On the first point, we believe that we are in a position to make substantial future acquisitions either through the issuance of shares in particular circumstances or by way of increased debt, in addition to self-generated funds," the annual report said.

"With respect to the second point we are continually examining alternatives, of which many appear attractive. Our broad objective is to double our U.S. volume of business in the next few years which will be achieved in large measure by the acquisition of operations meeting our standards in terms of overall performance. Understandably, this is a process that cannot be rushed."

Prior to its physical presence in the U.S. Reed Shaw had a number of brokering agreements with firms here. "We still have a few but they are gradually being dissolved," Mr. Salvatore said. "Where there's a contract we come to an understanding. We look to our own people in the U.S."

The operating company structure of Reed Shaw Osler allows for individual autonomy, he continued. "We do have boards that interlock for the international network, although basically we're left pretty much on our own to do as we see fit.

"If our clients expand, we have grass roots operations which will give them attention throughout the world. We have direct access to people within the family in London. Whenever we need information we can go to them. Likewise, whatever expertise we have is available to them." —bjg ■

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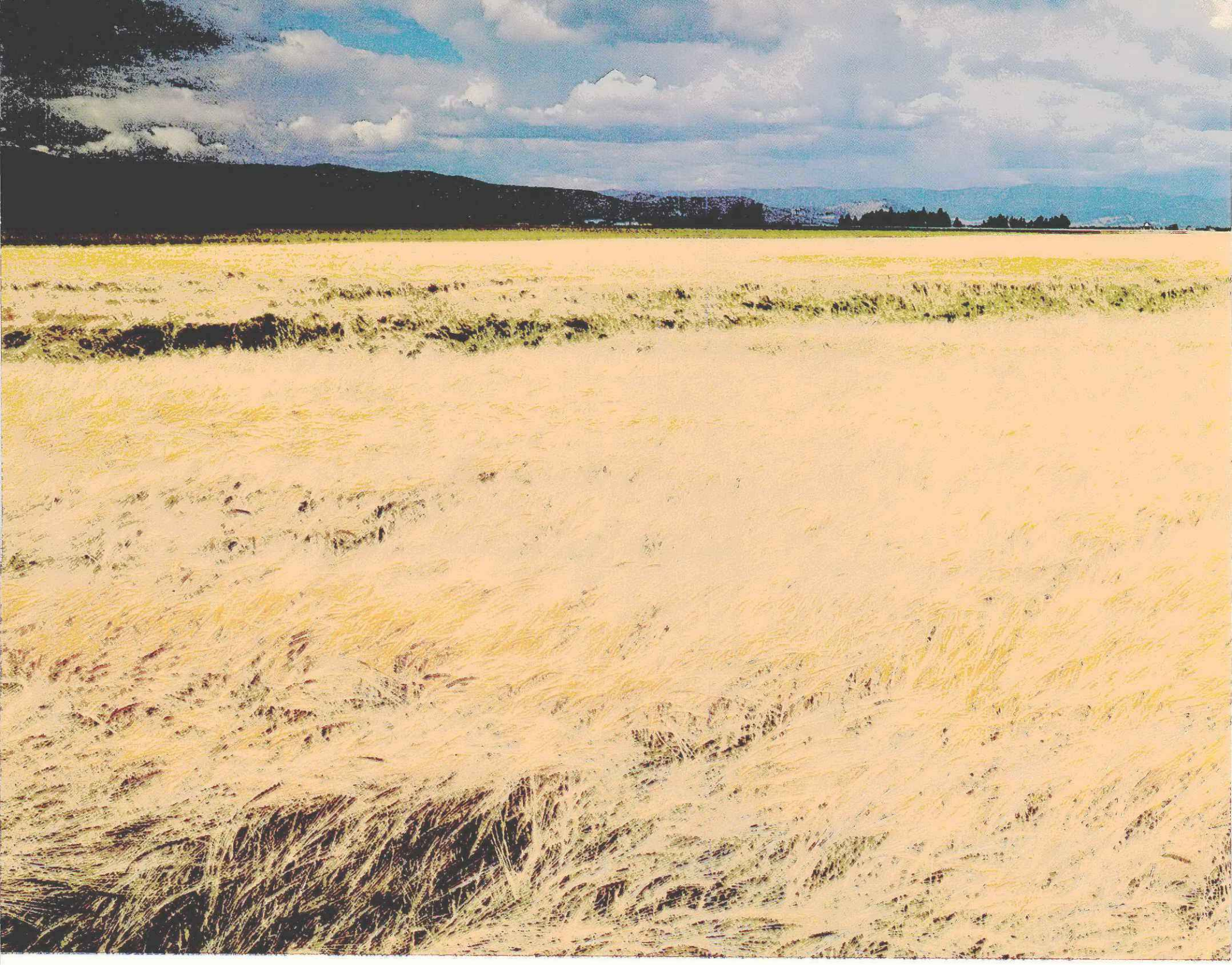
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Applicants must pass test

New $1 million E&O policy unveiled

By MARGARET LeROUX

SAN FRANCISCO—A new errors and omissions insurance and loss prevention program for agents and brokers is being marketed by Risk Analysis & Research Corp. The $1 million errors and omissions policy is being underwritten by First State Insurance Co. with deductibles varying according to size of the agency or firm.

President Edward B. Howell declined to comment on specifics of rates but noted they are competitive. "The coverage is available nationwide on a non-admitted basis in most states," he said.

Applicants for coverage must complete a test consisting of 85 true or false questions and an essay. The exam is based on material contained in a 142-page book, "Targeting In on Professional Liability" written by Mr. Howell and Richard P. Howell.

"When a firm successfully passes the exam, one of our field surveyors will visit the firm, meet with the principals and if any shortcomings are found, coverage will be denied," Mr. Howell said.

In establishing the professional liability loss prevention program for agents and brokers, Mr. Howell is attempting to repeat the success he achieved with architects and engineers.

"In 1967 the soil and foundation engineers lost their insurance because of an extremely high loss ratio. We started working with them in 1968 and improved their loss prevention so that now not only are they insurable but they have a loss ratio of 2% as of 1977," Mr. Howell said.

The professional liability loss prevention program for agents and brokers incorporates many of the same principles used in working with architects and engineers, Mr. Howell said.

As a group, agents and brokers are facing increased errors and omissions claims. According to the Independent Insurance Agents Assn. of California (IIAAC) frequency of claims increased to 25.25 per 100 "in force" policies in 1977, compared to 13.52 claims per 100 in 1976.

In agencies producing less than $500,000, the percentage of agents reporting claims was 20.2%, the IIAAC said; from $500,000 to $1 million, 23.8%; $1 million to $5 million, 38.5% and more than $5 million, 50%.

The principle causes for claims against agents and brokers included failure to provide coverage (43.6% of claims), failure to provide adequate coverage (29.7%), misrepresentation (7.9%) and improper cancellation (5.9%).

"Where failure to provide coverage is seen by some as an error or omission, we see it as lack of management control," Mr. Howell said. "An agent subordinates an important task and in the process it becomes less important."

"We recommend a fail-safe approach for new accounts, renewals and cancellations," he continued. "Targeting In on Professional Liability" includes a detailed new account checklist, coverage analyzer, exposure checklist and cancellation checklist.

The book stresses the importance of professionalism—an entire chapter is devoted to the subject. "In training new employes, I can't stress enough the importance of getting across to them the importance of a sense of professionalism," Mr. Howell said. "It's tough to get across a sense of trust in today's jaded business world."

One of the biggest challenges facing agents and brokers today is the need for planning, Mr. Howell said. "Some agencies or brokerage firms have never set down what their goals and objectives are . . . what they'd do if certain contingencies appeared."

In setting down the issues, strategies for achieving objectives become clear and usually achievement goals or anticipated outcomes can be spelled out, the book states.

The book also stresses the importance of communication between the agent or broker and client as well as with the insurers. Among remedies to avoid professional liability claims it recommends:

- Spend more time with clients in face to face contact.
- Treat every complaint about your service as an emergency situation . . . strategize on how to treat those complaints so that a disgruntled client does not become the source of a later claim.
- Beware of extreme words . . . redflag them to make certain they are amply qualified.
- Continuously bear in mind the frailties of communication and memory. Maintain records to back up each important action you take.

The general theme of both the text and the professional liability loss prevention program for agents and brokers is contained in the introduction. "Be fair, empathize and treat people with concerned sincerity and you will avoid professional liability claims." ■

Agent held liable for nonrenewal

SAN FRANCISCO — An insurance agent was held fully liable for a loss filed on a non-renewed homeowners policy and was ordered to indemnify the insurer by a Texas Court of Civil Appeals.

The decision, described in a recent edition of the Professional Liability Reporter, found that the agent had failed to perform his duty to renew the policy or notify the insured of nonrenewal.

The insurer was statutorily obligated to give 30 days written notice of any intention to decline renewal prior to expiration. In this case, the insurer apparently didn't intend to decline renewal but neither did it renew or notify the insured believing the agent placed the policy elsewhere.

Fire destroyed the insured's home and he sued both the insurer and the agent. A jury found in favor of the plaintiff. The insurer and the agent requested full indemnity from each other, but the loss was apportioned 51% to 49% between the agent and the insurer.

The appellate court ruled the insurer couldn't be held liable on grounds of negligence since it was required to notify the insured only if it had intended to decline renewal and that had not been the case. The court then found that the lapse was caused by the agent mistakenly recording in his files that the policy had been renewed. ■

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The Home Insurance Company

A City Investing Company

Despite problems, mass marketing comes of age

By Kenneth J. Ford

President
MarketDyne International



Kenneth J. Ford became president of MarketDyne International in May 1971 after serving as executive vp since the organization's founding in June 1970.

THE INSURANCE CO. OF NORTH AMERICA (INA) saw sales potential for the mass marketing of commercial insurance at a time when some companies weren't emphasizing this business. That's why MarketDyne International was founded in 1970. During the interim, we've seen false starts by some underwriting companies in this area and complete de-emphasis of commercial lines mass marketing by others. Some of these companies are just now reentering this market, finally realizing that the success of MarketDyne and similar organizations wasn't simply a fluke of some business cycle. Mass marketing of commercial lines is beginning to come of age.

In 1970, we started operating with fewer than 20 trade association clients endorsing the property/casualty and workers compensation underwritten by Pacific Employers Insurance Co., an affiliate of INA. Today, there are more than 200 programs marketed by MarketDyne and in 1977 these generated considerably more than $120 million in premiums for Pacific Employers.

MarketDyne International is a general business corporation specializing in marketing and marketing consulting. We obtain the endorsement of trade associations and provide marketing expertise to INA service offices and a network of independent agents. The program offered combines property/casualty coverages with a loss control plan.

Under a safety group, association members can obtain competitively rated coverages that are tailored to meet their individual requirements. Premiums are pooled with those of other participating members and at the end of the year the underwriters review the pool. If a sufficient amount remains after claims, reserves and administrative costs are deducted, a dividend may be paid to policyholders. The dividends are declared by the board of directors, Pacific Employers Insurance Co.

Of course dividends can't be guaranteed in advance using the safety group approach. However, during 1977, about $6 million in dividends were returned to participants, an increase of some $3 million above the dividends returned during 1976.

From an initial staff of 10 people, MarketDyne has grown to almost 50 persons. Many of these are located in the field at one of our four regional headquarters or six district offices. These offices have as their primary responsibility the individual market penetration at the association member level; close management coordination with INA service offices, independent agents, and state trade association executives, and obtaining the endorsements of regional, state, and local association managements.

There's nothing magic to account for MarketDyne's success. The formula continues to be having good people working harder and smarter to meet objectives. Of course it helps to be in a marketing situation where "everyone wins." The endorsing trade association comes out ahead because they are able to offer a program of real value to members and prospective members. The association members "win" by obtaining competitively priced coverages through a program that offers them the opportunity to substantially reduce the net cost of insurance. Agents find that profits and growth become reality, not empty phrases, because they are now writing business they otherwise haven't been able to get. And certainly the underwriting company is writing an ever-increasing share of a continually-developing marketplace.

There are still some misunderstandings. For example, the name "commercial lines mass marketing" is a source of confusion. Many agents and risk managers (and some association executives) remember the somewhat chequered history of personal lines mass marketing and for various reasons are reluctant to pursue what they perceive to be just another version of the same old thing.

We should have a new, more definitive term for what we do. "Mass promotion" might be more accurate or "membership marketing." Simply stated, we supply the marketing dimension to a trade association-endorsed commercial insurance program.

Another misconception is based on how some of our competitors may operate. Although the heart of our marketing thrust is through a network of more than 200 independent agents with whom we have contractual arrangements, any licensed agent or broker can place his insured into one of our safety groups. Under our method of operation, an agent need not presently represent INA to place his client into a group of ours. He would, however, make the appropriate arrangements with the INA service office.

Another pitfall we have avoided is lack of communication with our endorsing trade associations. We

Continued on following page

you a new way to-value buildings.



Home Key Agent William B. Conner, President of Robinson-Conner, Inc., explaining the benefits of Valumatic to Ralph F. Keilch, Executive Director of the multimillion dollar Doctors Osteopathic Hospital in Erie, Pa.

Mass marketing . . .

Continued from preceding page
believe that we have a responsibility to keep our client associations up-to-date on the success of what is substantially their program for members. Our staff regularly counsels with the managements of endorsing trade associations. We bring them up-to-date on our marketing efforts, common loss causes, and which members cannot or will not participate.

We don't believe that there's anything to be gained by hiding the facts. After all, the success of these programs depends on a long term relationship with the endorsing associations. In an increasing number, these business relationships have endured for five years or more and in a few cases have lasted since MarketDyne was established.

What is the future for mass marketing of commercial insurance through trade associations? We're optimistic. But we're also realistic.

Current estimates of the annual premium potential of trade association insurance packages is more than $11 billion annually. Frankly, I believe it could be much higher than that amount. And I know that we have but scratched the surface of the total market.

Trade associations are becoming more sophisticated every day. We are ever alert to refinements and improvements in our marketing techniques and our methods of reaching and communicating with trade association management and membership.

When we first started in business, association executives often confused elements of our program with group life or health and accident programs with which they were more familiar. Today, they ask questions about coinsurance and reinsurance, captive companies and "gap layer" coverages for general liability. Many trade executives have become extremely knowledgeable in the area of product liability. In some cases, associations have hired risk management consulting firms. They know the options available to their membership and they insist on the best possible program at the lowest net cost.

As I see it, insurance carriers, risk managers and those of us in the insurance industry who are in the business of creating and selling trade association insurance programs will have to be even more sophisticated in all areas of underwriting, marketing and loss control to properly serve their future needs. This will mean fewer coverages that can be taken from a "shelf" of available plans. It will require more highly tailored policies.

We look for a greater use of captive insurance companies and more self-insurance. Associations will expect those involved in commercial mass marketing to provide risk management services. We certainly don't discount the possibility that someday we're going to have to combine commercial property/casualty programs with other types of insurance coverages and financial services.

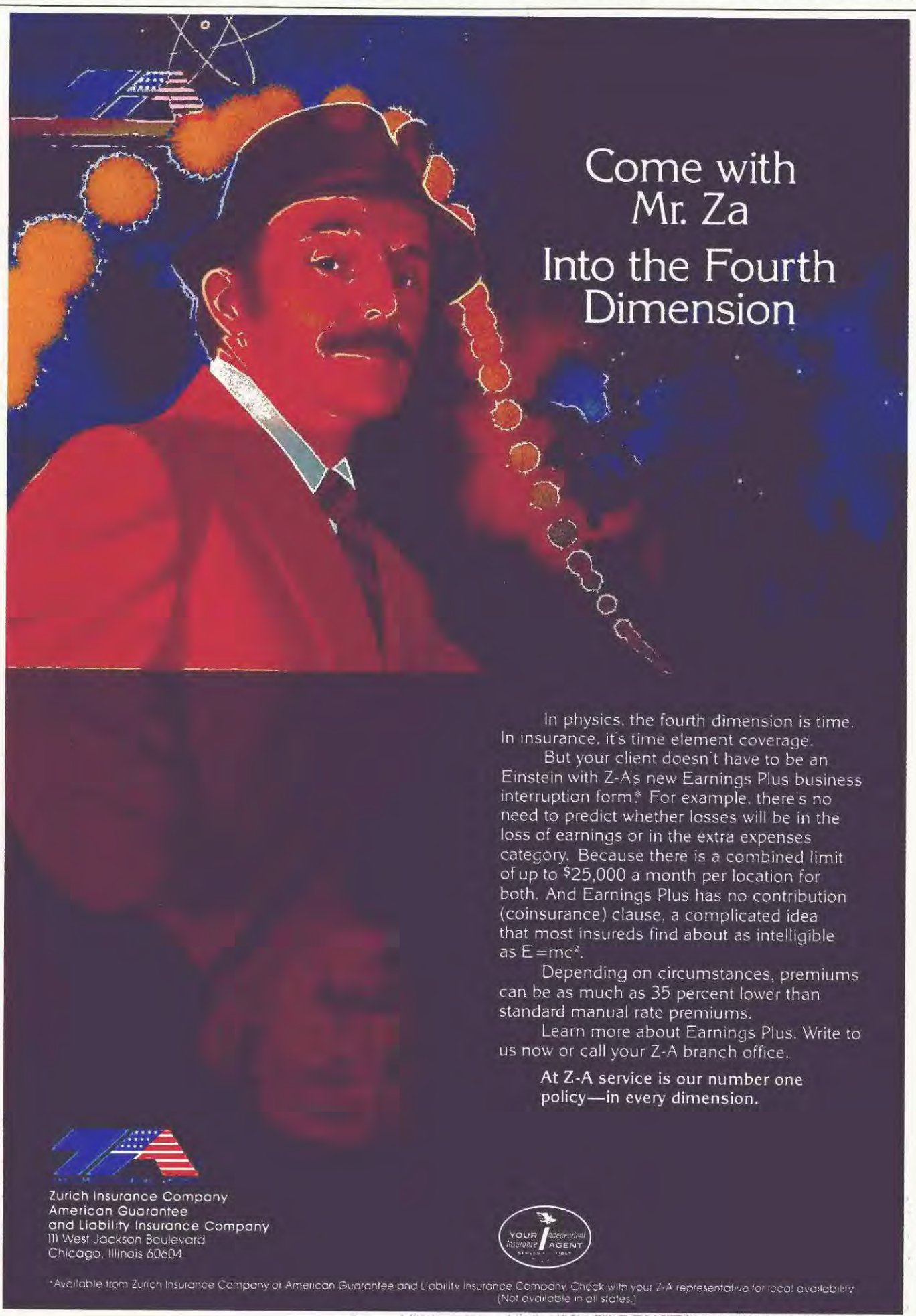
Despite MarketDyne's optimism about a stronger marketplace for trade association business in the future, our experience has shown that most agencies—even the larger ones—lack the facilities needed to properly manage a trade association insurance program. They need the back-up and marketing expertise provided by a national specialist in the field. The volume of business may look tempting, but there's normally far more involved than simply obtaining an endorsement and sending out a few direct mail letters to the association members.

The most successful way to provide trade association members with optimum coverages and trade executives with maximum results, we believe, is through a national marketing operation working hand-in-hand with local independent agents and brokers.

Nothing we can foresee changes that concept.

As the requirements of associations and their members become more sophisticated, however, the insurance industry will be challenged to meet the increased demands. If we can't solve them within the insurance industry, you can be certain that the associations, which possess enormous lobbying clout, will find other ways.

Commercial lines mass marketing through trade associations is alive and extremely healthy. We have only just begun to realize its full potential. ■



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Eliminating independent tag studied

TORNOTO—A proposal to drop the word "independent" as it applies to insurance agents is among several suggestions being studied by the Ontario provincial government here.

The question over the term "independent" is the result of a study of all phases of the insurance industry, commissioned by the provincial government. It found confusion in consumers' minds over the fact that agents act as brokers in the public interest but actually are contractually affiliated with insurance companies.

One of the suggested amendments to the insurance code would restrict the term agent to direct writers and insurance company captive agents.

Ontario has 10,000 licensed general agents and 15,000 life agents.

The Independent Insurance Agents and Brokers of Ontario has been in discussion with the government on the proposed changes, according to president Peter R. Vanderkolff.

"For 15 years we have been looking to clean up our act because of this confusion, so we have met on an on-going basis with the government," he said. "We hope our members will shift to broker status, which does not mean our role will change."

Among the suggestions which the organization takes issue with is the government's proposal to make all brokers corporate, totally eliminating sole proprietorships. The purpose would be to have a means of attaching assets, but the agents' association feels that doesn't make sense, Mr. Vanderkolff said. ■

GAO proposes tax clarification

WASHINGTON—The General Accounting Office has proposed that Congress define more precisely criteria for employed and self-employed workers for tax purposes in order to reduce present ambiguities.

In a report to the Joint Committee on Taxation, the GAO noted that the common law criteria for employment status is the degree of control exercised by the employer over the employe. In several occupations, including insurance agents, the employment status is unevenly interpreted by the Internal Revenue Service and often results in double taxation, according to the report. ■

Women's group charges pay bias

M&M's Chicago office probed for discrimination

CHICAGO—Marsh & McLennan here has been the subject of two federal investigations of alleged wage and sex discrimination.

A recently completed investigation by the wage and hour office of the Department of Labor is now pending in the solicitor's office where it will be determined whether or not a suit will be filed against the broker under the fair labor standards act and the equal pay act.

Charges were initiated by Women Employed, an activist group of 1,000 women workers in Chicago's downtown area. The group charges that about 50 women employes at the M&M office have been discriminated against. Totally, the office here employs about 600.

Mayer, Brown & Platt, M&M's attorneys here, declined to comment.

Specifically, Women Employed charges that women performing the same duties as men with the same educational background and experience were being paid less in the job classification of account executives. The group also charged that women trained men employes for higher positions which the men moved up to but the women did not.

Documentation for these discrimination charges was provided to the group by its members who are employes of Marsh & McLennan, the group said. The organization is asking for immediate pay increases to bring women's salaries up to men's with comparable job duties plus back pay.

Female employes of Marsh & McLennan approached the organization in 1975, said Women Employed insurance division director Callie Kennedy. Since then the group has met with M&M management here to discuss grievances and has requested such things as job posting and a public affirmative action plan. The discussions did not resolve the dispute and Women Employed filed a complaint with the wage and hour office in 1976.

During this period, the organization and the WE members of Marsh & McLennan also contacted women employes in other M&M offices.

Since the discussions with management began some WE members have had salary increases of as much as $10,000, Ms. Kennedy said.

The second investigation presently underway is being conducted by the office of federal contract compliance programs (OFCCP). The insurance compliance staff of that group conducts investigations of affirmative action programs required of all federal contractors under Title 7 of the equal employment act. Investigations are conducted by quasi-random selection and upon specific charges, both of which were factors in the M&M office investigation, a spokesman for the department said. Hiring, promotion practices, placement and minority representation are among the elements analyzed in such investigations.

Women Employed requested that Marsh & McLennan be investigated by the OFCCP in 1976.

The organization claims credit for winning $500,000 in back pay for women employes at CNA in Chicago and $5,000 from Great American Insurance through similar actions.

In a June 1976 report the organization reported that the median income for men in Chicago's insurance industry was $11,250 compared to a median income for women of $5,725 based on "current census data."

The report also quoted a 2.3% figure for the number of Chicago insurance women earning $10,000 or more annually compared to 57.2% for the men. ■

Here are the rules for probes

WASHINGTON—When is an insurance broker a federal contractor subject to the federal contract compliance program?

Agents and brokers are viewed as subcontractors by the office of federal contract compliance program because they are the legal link between parties who have a need (clients with federal government contracts) and parties who provide for that need (insurers).

To qualify for federal contractor status, a broker must also have at least 50 employes or be a subcontractor in the following activities to clients who have contract with the federal government for $10,000 or more:

- Procurement of insurance.
- Procurement of performance or fidelity bonds if the client is the sole contractor.
- Provision of life, health or pension plans through collective bargaining.

The insurance compliance staff of the OFCCP reviews and enforces affirmative action plans under Title 7 of executive order 11246, the equal employment act.

All brokers who are federal contractors according to the above criteria must have an affirmative action program on file at their headquarters. The plan is subject to investigation by the ICS which reviews programs on a quasi-random selection basis, upon specific requests or when the prime contractor (the client) has been identified to receive a $1 million or more federal contract. The affirmative action plan must also be available to all employes.

The OFCCP has a technical assistance provision to supply clarifying information for compliance.

A firm found not in compliance with the program is given 30 days to negotiate with the OFCCP or show cause why it shouldn't be debarred from continuing with the contract. Failing those two alternatives, the firm has 15 more days to comply before the government may remove the opportunity to procure the insurance. ■

Inflation

The 1972 dollar is worth $.68 today, the Indiana Independent Insurance Agents here said.

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Photo: Barbara Jean Gray

For the first year the two terminals will cost Cash, Sullivan & Cross money, says partner Jim Fowler.

Agents' terminals . . .

Continued from page 30A

crease the number within the year.

Continental Insurance Co.'s program is by far the most advanced with 117 terminals "up" in agencies and 19 installations in various stages of discussion. Called Insco systems, the insurer's subsidiary hopes to have 175 terminals operating by the end of the year, according to assistant vp Anthony DeMotta. The agency equipment consists of a cathode ray tube (CRT) for new business input and data retrieval and a printer for policy issuance.

The Travelers Corp. has 82 CRTs in agencies and eight systems that include a CRT and a printer. The latter program is called the Travelers' Agents Computer System (TACS) and the company believes it will increase both of these programs this year, said second vp of personal lines Robert Sklenar.

The Hartford Group has 35 CRT and printer units operating and is in the process of installing two more.

Aetna Casualty & Surety's seven-agency network will be expanded selectively, reported assistant vp of personal lines Bryan Scott. Aetna's hardware consists of a CRT and a printer.

Reluctant firms

Not all insurers with programs, however, are charging full steam ahead.

Hawkeye Security Insurance Co. has four CRTs installed but is not planning to expand the pilot program presently. "We're not necessarily looking for volume now as we were a few years ago," said data processing vp Lyle Schrum. "The minicomputer is where the computer trend for agents is today and with it, the choice of interfacing with any company. That's the state of the art we have to keep abreast of. Agents wouldn't necessarily want to get tied down to one company and that's what companies with these programs tend to do."

AID Insurance Co.'s computer terminal network is in three Midwestern agencies and the one-year-old program is still regarded as a pilot according to marketing vp George Moore. The insurer expects to complete its cost effectiveness study of the project by the end of the year.

Fireman's Fund Insurance Co. has installed one computer terminal but regards it as a one shot deal rather than an agency program. No other agency installations are planned, according to a Fireman's Fund spokesman. The single terminal is in the Sun City office of the Phoenix-based Cash Sullivan & Cross.

Not only in terms of the number of terminals installed but also in the sophistication of services offered, Continental is the most advanced. Through its agents accounting system, the insurer provides agency accounting services. Presently 13 agents use this service (both Continental agents and non-agents) and submit their data by mail. Another eight agents who have Continental terminals use the terminals for these functions, getting 24 hour turn around time on some items.

Cost effective?

Not every company however is shooting for this. Travelers, for example, said it has no desire to put agency accounting services on their computers.

Unigard Insurance Co. pilot tested agency computer terminals but felt they weren't cost effective.

"We tried three terminals just to learn," explained director of administrative services Ron Steiner. "Nobody particularly wanted to take them out but we couldn't see putting more in. The minimum cost is $500 per month for us.

"We get good service in our branches so the agency terminals were of little value. Unigard has a five day turn-around time on personal lines new business and endorsements which is our goal."

The agency terminal networks in existence are extensions of EDP systems the insurance companies first established in their branch offices. And that trend of automating branches is not flagging. Recently Commercial Union Assurance Cos. launched a $17 million project to install IBM 3790 systems in its 30 branch offices. A spokesman said that while no plans are underway at this moment to put terminals in agencies, that possibility has not been ruled out.

Because the agency installations represent a capital investment for insurers, they often require that a minimum premium volume be placed on the machines. Continental requires a $500,000 book; Aetna 3,000 to 4,000 policies in force; Fireman's Fund and AID have no requirements because of the experimental nature of their programs, Travelers requires $500,000 and The Hartford $750,000, according to their agents.

To date, the terminals have been used for placing only personal lines, but commercial lines are just around the corner. Hartford agents said workers compensation programs are in use in the company's branches and will be available to them within months. Continental is gearing up for commercial auto and commercial property.

Basically the terminals in use today are used for placing new private auto, homeowners, personal fire dwelling and personal comprehensive policies. They are also used for any changes and en-

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dorsements on these policies. At most new policy issuance with the CRT only takes a few days, at best a few minutes. Changes and endorsements usually get next day service.

Of the 18 agents with these terminals who were interviewed by *Business Insurance* all except one are primarily commercial lines agents.

Most insurers with agency terminals said they approached the agents with the concept when they began their programs three or four years ago. Gradually however, the tide has turned and the agents are now approaching them. A few, such as Continental and Hartford, said that their business with the agents who have terminals has definitely increased, although it is hard to determine to what extent the growth is a result of the terminal.

Over the years, most insurance companies have removed terminals from agencies for a variety of reasons including failure to meet volume requirements. Travelers's Mr. Sklenar added, "We'll probably do more (terminal removal) in the future because we are continually looking at existing agencies to check whether their commitments are being kept and whether it's to our advantage."

Meeting the volume requirements is no problem for most agents. The ease and simplicity of placing new business on the terminal usually means they go to that insurance carrier as a matter of first choice, they said.

Declining business

There are however exceptions.

"When our Travelers terminal was installed a year ago, the $350,000 requirement we had was no problem," said Bob Biggerstaff, personal lines manager for the Earl Bacon Insurance Agency. "But our business with the Travelers is on the decline from them. When we put it in, we were looking at growth, but because of their rating structure they're not as important to us now as they were then." The Tallahassee, Fla., agency places about 20% of its personal lines business with Travelers.

"Our size is probably not conducive to computer operations," Mr. Biggerstaff added. "If I had a computer for all four personal lines companies, it would be great but it's not going to happen." The agency generates about $650,000 in revenues.

These concerns were echoed by Dick Womack, president of McGriff & Seibels Inc. in Birmingham, Ala. "What happens and will be happening more and more is that the Travelers or whatever the company is, makes a rate filing and that throws the business out of it. Then you're sitting there with a machine you're not using."

McGriff & Siebels was originally in the Travelers's program but the agency got rid of the printer.

Generally speaking, Mr. Womack rated the terminals "super. There's only one major problem. The companies' equipment is not compatible with one another. We need some interfacing ability, rather than having a separate piece of equipment for the 20 companies which we represent."

The concept envisioned by the research arm of the Independent Insurance Agents of America—a national network linking agents to all of their companies—is not the answer in the view of Mr. Womack. "In my opinion, the plans are poor. You don't think for one minute that The Travelers, Continental or The Hartford that have a system will scrap a $40 million system to go with the others."

Indeed, The Travelers and Hartford questioned the cost effectiveness of a national network of terminals and Aetna said it has reservations because of the complex nature of interlocking technical systems.

Hawkeye's Mr. Schrum volunteered, "We're working with Univac to give us better facilities to interface with some other systems. There are a lot of people in the field and they're not all the same."

Not all agents are capable of performing insurance company underwriting and policy insurance in the opinion of one agent.

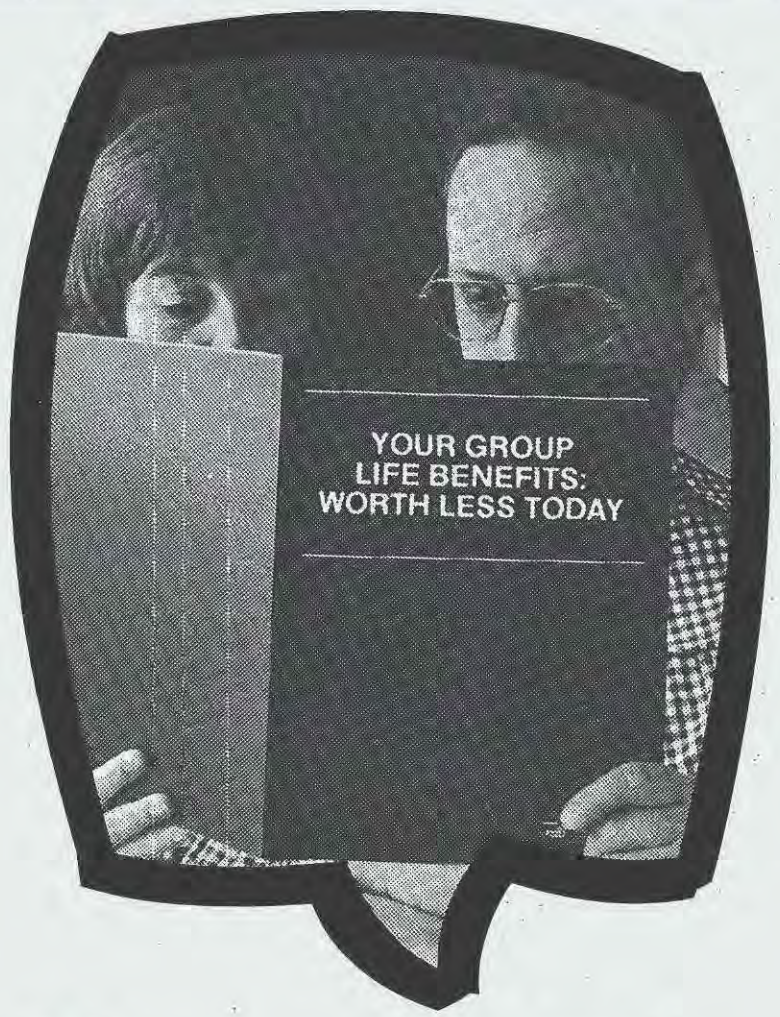
"In my estimation, it (the concept of terminals in agencies) will work only on certain agents," said Mr. Harrison at the Bouchard agency. "When terminals are put into agencies, the agents must do exactly what the companies do.

Continued on following page

Agency Computer Terminal Networks

Insurance company	Number of terminals	Hardware capabilities	Volume requirement	Expansion
Continental Insurance Co.	117	CRT, printer	$500,000	Yes
The Travelers Corp.	82 6 (TACS)	CRT CRT, printer, controller	$500,000* "	Yes "
Hartford Group	35	CRT, printer	$750,000*	Yes
Aetna Casualty & Surety	7	CRT, printer	3,000 to 4,000 policies in force	Yes
Hawkeye Security Insurance Co.	4	CRT	none**	No
AID Insurance Co.	3	CRT	none	No
Fireman's Fund Insurance Co.	1	CRT, printer	none	No

*Information supplied by agents since companies declined to divulge.
**Agent participates in maintenance upkeep on a pro rata basis.



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Mail to: State Mutual Life Assurance Company of America, Worcester, MA 01605. Attn: Mr. Crawford. BI-3

Agents' terminals . . .

Continued from preceding page
They must have a knowledge of coding and adapting to the limits of the company. That's not a strong point of agents."

Mr. Harrison said he spent 14 years with the Travelers including time on the installation of some computer terminals in a number of agencies.

But other agents apparently withstand this pressure well, since both agents and insurers said that differences of opinion on underwriting have been few and far between.

Only in a few cases has AID disagreed with the underwriting decisions of Holmes, Murphy and Associates Inc. in Des Moines. "There have not been very many (disagreements)," remarked vp Bob Dee. AID is very pleased with the one-year-old computer terminal, the agent said, "and we feel the same."

Many of the agents and brokers interviewed said they were so pleased they would readily welcome a second terminal in their agency. However, Mr. Harrison dissented on this point. "In fact, I have tried to give Travelers theirs back. I don't think if Travelers were working on time that the advantages the computers give me would offset the costs."

Several CRTs?

The idea of several terminals in one agency is also impractical, he added. "I have a room now that's ten feet by 30 feet. In it, I have nothing but computers (The Travelers computer and the agency's ARC minicomputer). If you expand that to the 14 or 15 companies that I represent, you'll see that something has to give."

Cash, Sullivan & Cross has a Fireman's Fund computer and a Continental computer in its Sun City branch. The Phoenix-based agency's office manager, John Hasemeier, conceded that space could get to be a problem if the agency's hopes to install an agency minicomputer materialize.

Though Cash Sullivan & Cross is pleased with the terminals since "these are the companies we selected to use in that particular operation even before the terminals," it wouldn't welcome another at this time, partner Jim Fowler said. Both the Fireman's Fund and Continental terminal have been in less than a year. "For the first year, it will cost us money (the equivalent of a salary for one keypunch operator) because we're having to do some of their work, like coding, for them. After that, then it will be beneficial and hopefully it will more than compensate." ■

Tyler Fletcher . . .

Continued from page 30A
called at the agency. Using the underwriting guidelines of Hawkeye Security Insurance Co., she can place the business with Hawkeye or its subsidiary United Security. Or, with a few pecks of the keyboard, she can get a quote on new business in a matter of minutes.

Ms. Baker performs the same functions with all auto policies placed with Hawkeye.

The quick quotes on the computer terminal cut that job to a fraction of the half hour or 45 minutes it would take manually, the women estimate. New business put into the "scope" is issued in a few days, compared to a wait of weeks under the former method.

The EDP hardware is rented by the agency's largest personal lines carrier, Hawkeye Security Insurance Co. The agency is linked to Hawkeye's Des Moines, Iowa, headquarters by way of the insurer's Springfield, Ill., branch office.

Once a day each of the women requests the cathode ray tube (CRT) to list the previous input errors made on their circuit the previous day. Out prints a list of discrepancies entered into the terminals for all of the agencies and branch offices in a given geographical area the day before. The women at branch 4043, watch for their branch number and make the corrections as needed.

At 4 p.m. each day the machine is turned off here. But the main computer in Des Moines continues to work and prints all of the new policies requested during the day.

The new policies are then mailed here where they are checked. A copy is sent to the Springfield branch. And that, said agency principal Arthur L. Tyler "is the first physical evidence that the company has that it is on the risk."

Theoretically, the agency could eliminate the daily report altogether and just rely on the computer terminal's memory bank. But Tyler Fletcher prefers to maintain tangible files.

The only information the agency can call up on the terminal's information retrieval system is its own book of business. This includes not only the new policy information but also loss information stored on personal and commercial lines. It cannot recall input from other agencies on the system or branch offices.

Ms. Baker and Ms. Watson were trained to operate the computer terminal in a two-day course in Des Moines when the equipment was installed in November 1974.

Tyler Fletcher Fink was the first of four agency terminal installations done by Hawkeye. Although the agency does not have a minimum volume requirement or annual growth objective, it does apply a percentage of the premium volume toward the maintenance of the operation.

The agency has no desire to commit all of its personal lines business with Hawkeye or its United subsidiary, Mr. Tyler said. "However, without a doubt we have placed more business with them because of the terminal. It's so simple, so easy. It's the path of least resistance."

When the terminal was installed some other personal lines business was also converted to Hawkeye where feasible, the principal added. That was primarily from companies that didn't have adjusting facilities as good as Hawkeye's.

Tyler Fletcher Fink Ltd. generates over $500,000 in revenues of which 85% is commercial lines. The firm has four principals and five clerical staff.

The savings provided by the computer terminal are in time and errors, Mr. Tyler explained. "It eliminates the need to mail a lot of stuff to Springfield and reduces chances for error. Normally when we make an application or change, we would have to fill out a form which is mailed to Springfield where it's handled again to be put into the computer. With the computer terminal we have eliminated handling by one human being. Anytime you can do that you're reducing your margin of error.'

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BI4/5

ERISA creates problems in divorce, council told

By JOANNE GAMLIN

LOS ANGELES—The pension reform law's preemption of state laws is causing havoc with California's community property laws, the Labor Department's advisory council was told here this month.

Attorneys and other pension experts told the council, formed to advise the Labor Department on pension and other employe benefit matters, that the Labor Department needs to issue regulations to clarify the situation which often involves divorces.

The experts asked the department to either issue regulations preventing non-participating spouses from taking a portion of an employe's pension benefit or agree that it will not take action against plan administrators who comply with court orders giving a pension to a divorced spouse.

Plan administrators are now caught between a rock and a hard place, various experts argued. Administrators could be charged with violating a court order if they fail to make distribution of plan benefits, yet they could see their plan's tax exempt status stripped if they do.

Pension and welfare plan administrator Ian D. Lanoff launched the preemption session by saying that he interprets ERISA's preemption provisions as "wide in scope, far-reaching and broad."

However, "an issue on which we have not come to a conclusion are laws on the books that come to regulate employe benefit plans such as community property laws in California," he said.

After the participants had presented their cases, however, assistant Labor secretary Francis X. Burkhardt asked, "Is the rising divorce and remarriage rate indicative of a social cost to be borne by the employe benefit plan or is it something that should be borne by the individual?"

He seemed to indicate that the department can be expected to issue a regulation on the issue in the future.

M. John Lippman, vp of regulation and compliance for ADP Pension Services of Newport Beach, Calif., urged the group to press the department for a regulation barring plans from being joined in divorces.

"As things stand now, we are sitting back, waiting to be joined in a dissolution action," Mr. Lippman said, pointing out that his office now receives about four to five court orders a week from attorneys representing non-participant spouses. His firm administers plans for small employers.

"We say to the employer, 'What do you want us to do? If we distribute the plan, the plan could be disqualified. If we don't, your trustee will be held in contempt.' "

Court orders also come to ADP Pension Services requiring that a trust account for the non-participating spouse be set up and the benefits split.

"The spouse is to be treated as an inactive participant in this case," he related. "If I have ever seen a case of alientation under ERISA, this is it."

His clients, he said, are too small to take the conflict into federal court for resolution. They tell ADP to follow the court orders, he said.

Thus far, no plan has lost tax exempt status by doing this, he told Mr. Burkhardt. Nevertheless, he indicated that his organization lives in fear that this could occur.

International Business Machines, which has 10% of its workforce in California and is increasingly becoming involved in the issue, does want to take it to federal court, said Robert Stone, IBM attorney and a representative of ERIC or the ERISA Industry Committee. He said he won a case in San Jose superior court on the ERISA preemption issue but no precedent was established because the other side did not appeal.

"My concern is whether you can force the plan to make the payments to the non-employed spouse," he asserted, noting that IBM had had 25 attachments in California so far this year.

"It would be helpful if, when we do go into federal court, that we have a DOL regulation that said it is contrary to the interests of the plan participants for the plan to spend all this time and money on processing divorce actions," Mr. Stone said.

Robert Blum, a San Francisco attorney, told the council that he spoke for the wives, many of whom find their sole support after a divorce to be their former mate's pension benefits. Mr. Blum said he would like a regulation that would assure the pension plan administrator that he would not face disqualification if he complies with a court order for distribution. ■

dates for buyers

April 20-21. NAEHMO will hold its second annual meeting on **Health Care Cost Containment** in Kansas City, Mo. Topics will include dual choice regulations, how to negotiate with an HMO, determining the employer's contribution, how to communicate the HMO option, how to administer an HMO and follow-up to the National HMO Conference. Cost: $175, NAEHMO member; $225, non-member. Contact National Assn. of Employers on Health Maintenance Organizations, 1134 Chamber of Commerce Building, 15 S. 5th St., Minneapolis, Minn. 55402; phone 612-338-4823.

April 24-25. Insurance history, investment evaluation, ethics regulation, legislation and public attitudes will be examined during the **Society of Insurance Research Spring Seminar** in Indianapolis, Ind. Cost: $75. Contact James Jones, Nationwide Insurance Co., One Nationwide Plaza, Columbus, Ohio 43216.

April 26-28. The **Assn. of Private Pension and Welfare Plans Inc.** will hold its annual meeting in Washington, D.C. The meeting will focus on amendments to ERISA and include a Congressional reception. Cost: $200, members; $250, non-members. Contact Sue Meldrim, Assn. of Private Pension and Welfare Plans Inc., Suite 909, 1028 Connecticut Ave., N.W., Washington, D.C.; phone 202-659-8274.

April 27-28. International Marine Risk Management Conference to be held in London. The conference will look at different aspects of marine risk. Among the topics will be the shipowner's view of commercial risk, tanker owning, scrapping as a solution to over-tonnage, the future of shipbuilding, a banker's view of commercial risk and commercial risks in port operations, ship safety, safety training, P&I aspects, underwriting risks—U.S. and U.K. markets and a broker's view of marine risk. Contact Caroline Atkinson, Keith Shipton Developments, St. John's House, 124/127 Minories, London, EC3; phone 488-2071.

April 30-May 2. Specialists in **coal mining operations** will discuss new techniques in underground and strip mining as they relate to insurance coverages at a workshop at the Inland Marine Underwriters Assn. annual meeting to be held in Skytop, Pa. There is no charge for attendance. Contact Suzanne Tongue, IMUA, 14 Wall St., New York, N.Y. 10005; phone (212) 233-7958.

May 21-24. Washington Legislative Update 1978, a conference for those who serve labor-management employe benefit plans. The conference is sponsored by the International Foundation of Employe Benefit Plans to be held in Washington, D.C. Meetings will be directed exclusively to the concerns of the Taft-Hartley pension and welfare trusts. Cost: $225, members: $285, non-members. Contact International Foundation of Employe Benefit Plans, 18700 W. Bluemound Road, P.O. Box 69, Brookfield, Wis. 53305; phone 414-786-6700.

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Chicago	312-435-2000	Houston	713-526-2771	St. Louis	314-569-2100
Cincinnati	513-381-6060	Los Angeles	213-381-3141	San Francisco	415-421-1676

Punitive damages . . .

Continued from page 1
the policyholder coverage under certain circumstances—and what those specific circumstances are—vary as much as the commitment to the ill-fated exclusion did, *Business Insurance* found in interviews with insurance company executives.

CNA, INA, St. Paul and Zurich-American are towing the hard-line that the insurance contract never was intended to cover punitive damages. They argue the endorsement was merely a clarification of existing practice and its elimination doesn't alter that. The American Home Group and Great American maintain the same position, but soften it somewhat by noting that claims handling will depend on the circumstances of each case.

Continental, Fireman's Fund, Aetna Life & Casualty, Kemper, Travelers, Liberty Mutual and The Hartford acknowledge that without the exclusion certain punitive damage awards are covered by their insurance policies.

"Generally, unless it's against public policy, we'll provide coverage for punitive damage awards in the case of vicarious liability," said Continental vp Woody Gordon. "But we hope we've made it clear that you can't adopt an attitude that all punitive damage claims will be covered. We'll investigate the claim and decide the question on the facts and the applicable state law."

As throughout the five-month debate on the insurability of punitive damages, underwriters still point with glee to states which deem insurance coverage for punitive damages to be against public policy.

Broader coverage?

Reading from a statement released to agents and brokers, Fireman's Fund vp Creighton White said the elimination of the endorsement from his company's policies "is not necessarily an indication of broadened coverage. The Fireman's Fund position continues to be that the nature of the conduct that gave rise to the imposition of punitive damages determines whether those punitive damages are recoverable under the terms of the policy."

Granting that's rather vague, Mr. White said his company intends to supplement it with additional position statements, especially regarding vicarious liability. "The policy language seems to indicate punitive damages awarded in cases of vicarious liability are covered where it is allowed," Mr. White said, "but we have to sit down and hammer that out."

Aetna Life & Casualty, which had planned to exclude punitive damages in liability insurance policies once an in-house implementation problem was solved, will maintain its existing practice now. "Our policy has been not to avoid payment for punitive damages," said Frank W. Barry, manager of product management in the commercial department. "If the action meets the definition of occurrence in the policy and the jurisdiction involved permits insurance coverage, then the policyholder has coverage," he said.

Kemper commercial lines underwriting manager George Kasbohm preferred to take the back door when discussing what his company would cover under the policy now stripped of its exclusionary endorsement for punitive damages. "Certain awards that are true personal punishment resulting from willful or knowing acts will still be treated as not within the policy definition. We are going to rely on the policy terms to defend against personal penalties and the major area of the policy that works on this is the definition of occurrence."

Limited experience

Travelers secretary Thomas A. Jackson concurred. "We don't believe that without the exclusion the policy would completely cover punitive damages. Insurance might be prohibited by state law. And where we felt the bodily injury or property damage was expected or intended, we would deny the claim."

Liberty Mutual has maintained that position throughout the five month fracas over the exclusion. "We are using the occurrence definition to deny coverage where there are intentional acts. But the punitive damages exclusion would have eliminated some claims we would cover," said John W. Purkis, vp and manager of intercompany and governmental relations. "We have said that the vicarious situation deserves coverage," he repeated.

The Hartford, which also never attached the exclusion to its policies, said, "We wouldn't pay a punitive damages award only if the insured were found guilty of something not covered by the policy —like an intentional act."

Whether or not the definition of occurrence in the policy will support an insurance company when it denies a claim for punitive damages remains to be seen, conceded Mr. Purkis. "We haven't enough experience to see how strong that is."

Insurers generally agreed that their experience with claims for punitive damages awards is limited, though some say they hardly ever see a suit anymore without a plea for punitive damages. Still, they agree the frequency of actual awards isn't there so primary insurers aren't terribly concerned about the exposure.

High limit excess insurers, however, such as the American Home Group, "are concerned about the jumbo awards," said executive vp Ernest Vaughn. But only rarely would an excess insurer attach a punitive damages exclusion, he said. "There could be a warranty that the underlying policies don't exclude it," he suggested, and if they did, then the excess insurance would follow form.

Embarrassment

Great American Insurance Cos., which is deleting the exclusion on its standard policies, is keeping the following form endorsement on its umbrella business which it has used all along.

Insurers generally agreed they will defend suits including pleas for punitive damages, but under a reservation of rights when they believe there is no insurance for a punitive award. In those instances, the insured would be invited to bring in his own counsel to defend against the punitive plea.

Most underwriters expressed embarrassment over the on-and-off industry stand on the punitive damages exclusion. There is also concern among some underwriters that their traditional defenses against paying punitive damage awards have been eroded by the introduction of the exclusion and then its withdrawal. It is feared that the courts may come to the conclusion the industry conceded there had been coverage by introducing the exclusion.

Insurance company executives are also anxiously awaiting some reaction from reinsurers who were credited with forcing the specific exclusion by excluding punitive damages from their reinsurance treaties. But Liberty Mutual's Mr. Purkis noted "my company did not run into problems with reinsurers for not adopting the endorsement."

Legislative relief

Fireman's Fund's Mr. White is consoled that at least the industry division over the exclusion and its withdrawal due to it "shows the industry is not a monolith. It is highly competitive."

He and other underwriters also hope the discussion of punitive damages generated by the endorsement may move ahead efforts for legislative relief from the growth in size and number of punitive damage awards.

Insurers generally agreed with ISO's suggestion that insurance companies, their trade associations and others work for the necessary reform of the use of punitive damages. But of the three major property/casualty trade associations, only the American Insurance Assn. has proposed any model legislation and at that it is part of its product liability tort reform package.

Though AIA addressed the application of punitive damages in its model legislation and proposes that punitive damages awarded should not exceed twice the amount of the plaintiff's special and general damages, it does not suggest that legislatures consider their insurability as ISO now is recommending.

Great American's senior vp Roger W. Gilbert said that the insurance industry's track record in lobbying leads him to "question what effect we would have—as a practical matter" in seeking legislative relief. But Mr. White advocates that the insurance industry work closely with the buyers of insurance, particularly the Risk & Insurance Management Society, to try to "replace the present uncertainty with certainty regarding when punitive damages should be awarded."

RIMS's position

Reg Beane, RIMS director of government and industry relations, quipped, "We thought a long time ago that the solution was tort reform. We are pleased ISO has adopted our position." RIMS is "looking forward to working with the insurance industry for tort reform," he said. "We want to see courts use punitive damages as they were intended, for intentional acts and for willful, wanton misconduct."

Under those conditions, RIMS agrees the punitive damages awarded should not be insurable. But it does want insurance protection in cases of negligence and when the acts of an employe are imputed vicariously to the employer, he said.

Agent/broker associations and two of the largest business groups—the National Assn. of Manufacturers and the Chamber of Commerce—candidly admitted that punitive damages are not at the top of their legislative lobbying priority list. At best the punitive damages issue is seen as a small part of the larger growing liability problem and at worst deemed insignificant.

Lest buyers of insurance feel the past five months of turmoil gave them nothing but headaches, they can sit smug in realizing their consumer clout has been recognized. As Great American's senior vp Mr. Gilbert said, "The next time there is an industrywide issue, we should do more research from the producer's and insured's point of views." ■

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Carter program . . .

Continued from page 1

his campaign promise of 1976 that he would recommend national health insurance in time for the next congressional elections.

"It would be politically costly if Carter didn't try to put something in," said Andrew Weinberg, research assistant at the Washington Business Group on Health.

Mr. Carter reportedly has been under intense pressure from labor unions, particularly the AFL-CIO, to light the torch for national health insurance or risk the loss of their support.

HEW staffers, along with other cabinet officials, are now putting the finishing touches on a paper, to be released in May, outlining the "declaration of principles" for national health care. They also are working daily on the formal proposal.

Under the plan, which is known as Publicly Guaranteed Health Protection, a federally operated plan would be established to provide basic coverage. Employer groups and individuals would be free, however, to opt out of the public plan by enrolling in a qualified private insurance plan.

A HEW official said the public plan would offer the greatest attraction to retired workers who no longer are covered under a group program and are too young to qualify for Medicare.

Community premiums

"People who have no or inadequate insurance continue to be the raison d'etre of a national health care plan," said one HEW staffer.

Community-rated premiums would be calculated for each health service area based on the level of benefits plus administrative expenses. Separate rates would be calculated for children, adults and the aged.

For the employed, companies would be required to contribute at least 75% of the premium; employes would kick in 25% of the premium.

Employers and individuals opting out to qualified private plans still would have to chip in 5% of the applicable premium under the public plan.

Employers who opt out for private sector coverage would have to provide this insurance for all their employes; individual employes could not opt out on their own.

It would be up to HEW to determine standards for qualification of employer group insurance plans. Rough guidelines for qualification are expected to be:

- Benefits at least as comprehensive as those in the public plan.
- Maximum patient financial liability could not be greater than that of the public plan.
- No exclusion of pre-existing conditions.

Reinsurance plan

An integral part of a national health care program would be a reinsurance system, according to administration sources. Under one proposal now being reviewed, a catastrophic reinsurance program would cover high medical expenses incurred by enrollees in both public and private plans.

When an insured's individual expenses shot over the specified limit, those expenses would be assumed by the federal reinsurance program.

Private insurance companies and the public plan would participate in the reinsurance program; employes could not enroll on an individual basis.

Although the above proposals currently carry the most weight, HEW staffers emphasize that the administration is not wedded to a fixed position and that many modifications can be expected before the proposal goes to Congress in fall.

HEW officials also pointed out that no matter what shape the final proposal takes, a lengthy phase-in period—perhaps five years or more—is considered likely. ■

Rented captive . . .

Continued from page 1

trary.

"There seemed to be little rhyme or reason why one member of the association would be quoted a low premium, while another member with a similar loss record and making the same product would receive a wildly different quote for identical coverage," said John Matternas, chairman of the board of IM of America.

For some members, premiums jumped from $800 to $140,000 for product liability. Other members simply couldn't get adequate coverage at any price.

At first, thought was given to a packaged mass marketing program. But Mr. Matternas found that insurance companies were not "very amendable" to providing a safety group program for the association because of the product liability exposure.

"Since we couldn't attract U.S. insurance, we came up with the concept of the captive," Mr. Matternas said. And since it was uncertain if the association should come up with the capital needed to get a captive rolling, it was more feasible to rent an existing captive.

TBEA's board of directors already has approved the idea of an association-sponsored insurance program. But the board still must clear the rental concept.

Mr. Matternas said 40% of TBEA's 550 members would have to participate to make the rental concept fly. A $12 million premium flow is anticipated during the first year. Five years from now, he believes premium flow will be around $22 million annually.

Premiums will be based on the sales volume of members. The range of premiums will be between $15,000 and $250,000 per member.

Rental fee

The rental fee, which will be included as part of the premium will be between 2% to 7% of premium. The exact amount of the rental fee will not be known until Nittany completes its current negotiations for reinsurance,

Policies will be issued by fronting insurers, arrangements that are also being firmed up.

The key to making the program work is loss control, Mr. Matternas said. Before an association member will be accepted, the company will have to meet professional engineering and safety standards established by Nittany Loss Control Services Co.

In addition, Nittany Loss Control will periodically inspect the companies to see that those safety standards continue to be met.

Loss control

Nittany Loss Control also will be responsible for supervising claims. An outside adjusting firm will handle the claims.

In addition, Nittany will retain legal talent that specialize in technological product liability defense. "We have got to have an expert defense mechanism," Mr. Matternas said.

Finally, to give Nittany more clout in case a claim does go to trial, a file of expert witnesses will be maintained.

It is not known yet how much members will save in premiums by opting for the captive. Premium savings will be determined by future loss experience.

The important thing now is not shaving premium costs as making coverage available at a reasonable price, Mr. Matternas said.

Renting out Nittany, which is managed by Bermuda-based Assn. Insurance Consultants Ltd., a firm that specializes in the managing of offshore captives, might do just that. ■

N.Y. backs down . . .

Continued from page 1

posed regulation was drafted too broadly, Mr. Curan said, "Perhaps we can correct what is wrong by just rigorous examination" instead of restricting fronting altogether.

Asked why the proposal was written so broadly and strongly, Mr. Curan replied that there are "certain people in the department who feel that fronting should be corrected at any price.

"And I'm not among those who feel that way," he added.

Mr. Curan said that Alvin Alpert, chief of the state's life bureau, who wrote the regulation is a "strict constructionist" in regulatory matters.

At the recent public hearing of the proposed regulation, Mr. Alpert had noted that since 1958 fronting by property and casualty insurers has been prohibited by two circular letters sent out by the department. He questioned those present why fronting practices had occurred despite the prohibition.

"It's certainly been pointed out that the proposal would be detrimental to insurers doing business here and would then have an adverse effect upon the policyholder," Mr. Curan said.

The state insurance department has received more than 50 letters in opposition to the proposal. Twelve people testified against it at the public hearing. ■

Tanker safety moves praised

LONDON—Marine insurers have welcomed moves toward greater tanker safety that have been adopted at an international conference in London after U.S. protests against pollution risks caused by major shipping casualties off its coasts in recent months.

The conference, which was held under the auspices of IMCO (Inter-Government Maritime Consultative Organization), decided on design changes for ballast tanks and improved standards for navigation aids.

The agreements have to be ratified by maritime nations before they become effective.

Underwriters will wait to see the effect of the new measures, however, before making changes in premiums. ■

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Early retirement . . .

Continued from page 1

workers.

And giant Sears, Roebuck & Co. of Chicago says that 45% of its workers about to retire told the company they wanted to work beyond the established retirement age. "The survey encompassed all those who were set to retire on Jan. 31, the end of Sears's fiscal year, except senior executives," a spokesman said.

Inflation is the major reason why employes are less likely to retire early, said Mr. Sullivan in the New York office of Towers, Perrin, Forster & Crosby, echoing most other retirement experts.

Mr. Ozark of Hewitt said the pension reform law diverted many companies from early retirement to compliance with ERISA. The end to the baby boom, which lessened pressure on employers to clear paths for younger workers, is also at work, Mr. Ozark continued.

Employers will become more concerned with evaluating the performance of workers as a result of the legislation increasing the retirement age to 70, Mr. Ozark observed. "Companies have long allowed people to coast to retirement, but with mandatory retirement set at age 70, that practice will become a luxury," he said. "It will be simply too expensive to permit incompetent employes to remain on payroll until that age."

IBM, Boeing

The experience at IBM and Boeing shows that early retirement is continuing strong at some companies. Eighty-five percent of the eligible IBM employes opted for early retirement in 1976 compared to participation rates that ranged from 65% to 90% for the preceding five years. IBM has not yet compiled figures on 1977.

The Boeing Co. also has seen no decline in early retirement, said a spokesman. However, Boeing recently enhanced benefits for employes choosing early retirement.

3M Co. in St. Paul and Del Monte Corp. in San Francisco also reported no slackening in the number of workers taking early retirement. Del Monte retirement planning manager J. H. Larsen said effective retirement planning can mitigate the impact of inflation. Two-thirds of Del Monte's employes continue to opt for early retirement in one form or another.

But other companies offer startling evidence of the decline in early retirement. American Airlines in New York, which saw the number of eligible employes taking early retirement increase to 68.4% between 1970 and 1976, is now witnessing a decline, says director of benefits Donald S. Scotland.

"We had a drop in the participation in early retirement in 1977," he said, "and now I predict a further downturn this year.

"People are skittish about inflation," he continued. "They figure that if they retire early with a reasonably decent income, it will be worth half that much in 10 to 15 years given a 6% or higher rate of inflation."

Armour Foods Co. in Phoenix, Ariz., and Weyerhaeuser Co. of Tacoma, Wash., also have witnessed a recent reduction in the number of persons opting for early retirement.

Like hoards of other firms, Armour Food Co. in the 1970s reduced the actuarial reductions for persons wishing to retire before age 65. Now it is experiencing a downturn in the number of persons opting for early departure, disclosed Bernard G. Brody, manager of employe plans.

Weyerhaeuser

"The drive for early retirement has sloughed off," he said, also citing the increasing cost of living as the cause.

Perhaps even more telling, he added, his counterparts at other companies seldom mention the subject any more.

Similarly, Richard B. Spitznass, manager of employe benefits at Weyerhaeuser Co., said that early retirement at his company has leveled out since 1974.

"With liberal early retirement measures, a company can lose a lot of good talent," he said. "I believe I would have been concerned if the escalation in early retirement had continued."

General Electric Co.'s employe benefit manager, Ted Bauer, also forecast a slump in early retirement's popularity. Outside of inflation, he contends recent labor negotiations that have underscored liberalized holiday-vacation programs rather than early retirement and a management belief that workers want to increase the length of their careers by "spreading out work over time" are lessening the trend.

Mr. Bauer also noted a shift in demographics which point to fewer young people entering the workforce in the next 20 years and improved longevity among older people. Together, these factors could result in later retirements, he believes.

Some companies haven't had to worry about the trend toward early retirement or the new mandatory retirement age.

Different approach

Manufacturers Bank in Los Angeles makes it a practice to recruit those aged 65 or older. In fact, several of its key officers will never see that age again.

The chief auditor, Parker A. Robinson, 75, is one of these. Mr. Robinson, who has been with the bank for the last 10 years after working as a bank examiner for 38 years, said that Manufacturers does maintain tough performance standards.

"You either get a raise every year or you get fired," he asserted.

Southern California, too, might see an upsurge in older working people. The reason is a new nonprofit firm in Glendale that gives free training to persons aged 50 and up who are out of work and need help in launching new careers. The center is called New Career Opportunities Corp Inc., and executive vp C.N. Parker said it is just now beginning to get off the ground.

The training of older persons for new careers has a brilliant future, said Mr. Parker, "because inflation is forcing everyone to wonder who he can survive 15 to 25 years after normal retirement." ■

Life Benefits Up

Life insurance companies paid an estimated $26.5 billion to policyholders, annuitants and beneficiaries in 1977, up from $24.6 billion a year earlier, the American Council of Life Insurance has reported.

people

Continued from page 38

vestment and Development Co. in Chicago, as previously reported. Mr. Sullivan previously was risk manager for five years at National Tea Co. in Rosemont, Ill., where he hasn't been replaced.

* * *

William L. Day, 43, is the new director of insurance for Rollins Corp. in Atlanta. He reports to John Janas, assistant to the president. Previously, the insurance duties were shared among corporate personnel. Mr. Day formerly was head of his own insurance consulting business.

* * *

Edwin G. Laney Jr., 24, is the new risk manager for Commercial Shearing Inc. in Youngstown, Ohio. Mr. Laney comes to the newly created position from the University of Georgia, where he completed a MBA with a concentration in risk management and insurance. He reports to treasurer Joseph Coates, who previously handled the risk management functions with help from the tax and accounting departments.

* * *

Ralph E. Pounds has been promoted to vp-personnel at Indian Head in New York. Mr. Pounds will handle employe benefits as well as compensation, industrial relations, personnel management and employe development as Indian Head's chief personnel executive. He succeeds **Bruno C. Czech,** who has resigned. ■

letters

Continued from page 12

face value that they intend to renew and hasn't prepared for a change of heart on the part of the carrier? Then we have an agent with egg on his face, but we also have an uninsured exposure. Or a last minute emergency quotation which is substantially higher than what was expected from the expiring carrier.

What this all leads up to is that, in self-defense, an insured must market his risk in advance of each expiring policy, even if he wants to renew with his existing carrier who "has every intention of renewing but is merely protecting itself." This means an overload of quotation requests throughout the insurance industry and a misleading reputation of the insured as being a "shopper."

The requirement for 30-day notice of non-renewal was certainly intended for the benefit of the insured. But something must be done to prevent such notices from becoming automatic. Otherwise insurance carriers who start out with every intention to renew a policy now have carte blanche privilege to change their minds about renewal, within the 30-day notice period and to leave the insured with no coverage—the same position the insured would have been in had there been no such notice requirement.

A possible solution is penalizing the carriers for an inordinate number of non-renewal notices which are later rescinded. The insured must be given a fighting chance to protect itself with insurance coverage without having to market its lines at every policy renewal.

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people

Steel firm's broker signs on as risk manager

Kenneth L. Kaufman, 39, joined Wheeling Pittsburgh Steel Corp. as risk manager, reporting to treasurer Robert T. Hensley. Mr. Kaufman previously brokered the steel company's account at Alexander & Alexander Inc. He replaces **Donald A. Miller** who joined DWG Inc. in Miami Beach as risk manager, a new position. Mr. Miller also once handled Wheeling Pittsburgh's account at A & A. Mr. Miller reports to Raymond J. Dettore, vp-insurance, at DWG, Inc.

* * *

Gerard F. Whelan, 45, has joined Elf Aquitaine Inc. in New York as director of risk management and insurance, a new position. Elf Aquitaine is a holding company for a French petroleum corporation which recently acquired two subsidiaries, creating a need for a risk manager. Mr. Whelan reports to president M. Rapaccioli. Previously, Mr. Whelan was insurance manager for Inmont Corp. in New York, where he hasn't been replaced.

* * *

Bill Partridge, 41, has been named risk manager for the Los Angeles Unified School District, replacing **Chick Hogan** who has been promoted to director of contractual relations for the district. Mr. Partridge was formerly assistant to administrative offices in the City of Gardena, Calif., where he handled risk management duties. In his position with the school district, Mr. Partridge will oversee workers compensation, public liability and fire insurance coverage. Prior to joining the City of Gardena, he worked for the state compensation fund for six years.

* * *

Mark Carter, 28, has joined Dresser Industries Inc. in Dallas as property/casualty administrator, reporting to Mike Sipe, manager of property/casualty insurance. Mr, Carter replaces **Robert R. Fogtman,** who recently joined Geosource Inc. as corporate risk manager, as previously reported. Previously, Mr. Carter was a claims investigator for Texas Power & Light Co. in Dallas, where he has been replaced by **William P. Brown,** 27. Mr. Brown had been with the company for one year as a customer service representative.

* * *

Four divisional safety managers have been promoted to loss control functions at the corporate level of Borden Inc. in Columbus, Ohio. The reorganization coincides with the move of **Ladd H. Baumgart,** 44, from safety and training manager at Borden to corporate manager of safety and loss control at Allegheny Ludlum Industries in Pittsburgh. Mr. Baumgart's position is a new one, reporting to Richard Hackenburg, corporate director of risk management. At Borden, **E.A. Ledet** has been promoted to corporate assistant director of loss control from safety manager of the chemical division. Assisting Mr. Ledet is **Donn B. Euwer,** 53, promoted to corporate manager of safety, training and evaluation from safety director of the northern dairy division. **Jack Scarborough** has also been promoted to the corporate level as manager of loss control in a consolidation of the northern and southern dairy divisions. Mr. Scarborough previously handled loss control functions for the southern dairy division. In addition, **Lou Thacker,** previously safety director for the foods division, has been promoted to the corporate level as manager of loss control for the foods division. In the chemical division, **Fred Heller** replaces Mr. Ledet as chemical division manager of loss control. Mr. Heller is assisted by **Dean Rothcaar,** promoted from safety coordinator to safety and hazardous material engineer in the chemical division.

* * *

Thomas P. Conroy has been promoted to assistant vp of corporate risk and insurance management at Pullman Inc., reporting to R. J. Kowalsky, vp-finance. Mr. Kowalsky said the promotion was a result of risk management's increasing importance in the corporation. Pullman has experienced significant changes in the availability and affordability of insurance, Mr. Kowalsky said. Mr. Conroy has been with Pullman for almost 37 years, serving since 1973 as director of corporate risk management. He worked his way up from property accounting supervisor to become insurance manager.

* * *

Richard P. Ackerman has joined R.J. Reynolds Industries Inc. in Winston-Salem as vp of assets and risk management, a new position. Previously, Mr. Ackerman was director of insurance for Westinghouse Electric Corp. in Pittsburgh. He's been replaced by **Michael W. Bryant,** 34, who was promoted from insurance manager.

* * *

Douglas B. Cook, 31, has been named risk manager for Noble Affiliates in Ardmore, Okla., replacing **Andrew Knight,** who became risk manager for Commonwealth Oil Refining Co. Inc., as previously reported. Previously, Mr. Cook was risk manager for Coastal States Gas Corp. in Houston, where he hasn't been replaced.

* * *

Laura Hinckley has left Container Corp. in Chicago as staff assistant in corporate insurance to join Fred S. James as an account executive. She was a staff assistant for six years. **Clifford Carthan,** 28, filled her former position for a short stint, but has since left the company.

* * *

Donald J. Sullivan, 29, is the new corporate insurance manager at Chamberlain Manufacturing Corp. in Elmhurst, Ill., reporting to treasurer **Harry Christian.** He replaces **Duane T. Kooi,** who was named risk manager for Urban In-

Continued on page 36

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