DC9 insurer paid claim in 2 days

By MARIE KRAKOWIECKI

ATLANTA—Southern Airways Inc. was insured in the London aviation insurance market for hull and liability losses on its DC-9 jet which crashed in New Hope, Ga., killing 68 people.

Hull insurance totaled $9 million. The claim was paid within two days of the accident. Alexander Howden Insurance Brokers Ltd., the London broker on the account, set up a chain between its own bank and a bank in Atlanta, as well as a chain of emergency telephone lines, in order to pay claims of this nature.

In this case, the check for $9 million was presented to the airline on Alexander Howden's behalf by the firm which acted as the U.S. surplus lines insurance broker, South East Aviation Underwriters Inc., Atlanta.

Michael Glover, chairman of Alexander Howden, detailed how the airline's insurance arrangement had been worked out.

Workers survey crash site of Southern Airways DC-9 flight destined for Atlanta.

Mr. Glover said from London that South East Aviation Underwriters had handled Southern Airways insurance for many years. About five years ago, Southern Airways picked Alexander How-

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Court case could set self-funded trust rules

By GREG DAVID

CHICAGO—The Hospital Welfare Assn. benefit committee has filed suit in federal court against the trust's administrator and former attorneys in what could become the most important court case involving a self-funded multiple employer trust.

If successful, the suit could establish ground rules for the trusts which are filing as employe benefit plans under the Employe Retirement Income Security Act (ERISA). The suit may also break new ground by extending liability to a benefit trust's attorneys.

The now-defunct Hospital Welfare Assn., based in Arcadia, Calif., at its peak provided medical and death benefits to more than 10,000 employers representing as many as 30,000 individuals. Originally insured with Old Republic Life Insurance Co. of Chicago, the trust went self-funded in May 1976 and collapsed last month. One actuary estimated the trust's deficit at $4

This story continues the three-month Business Insurance investigation of the growing crisis of self-funded multiple employer trusts.

million; another put the deficit at $2.2 million to $3 million.

The suit asks the court to appoint a receiver to consolidate the trust assets and terminate its operations effective on April 1. It also

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RIMS Preview

They try harder

Women in risk management find their key to the manager's office is superior performance and their lease is an ability to cope with suggestions of sexism. **Page 11.**

How good is RIMS?

The grades risk managers hand out to their local RIMS chapters would spark envy from any organization. But some risk managers do not give the same high marks to the national organization. **Page 11.**

Those hospitality suites

Insurance companies and brokers say the hospitality suites they sponsor at the RIMS conference are a must. This year that must will cost more than ever. **Page 15.**

Other preview stories:

- SHOULD RISK managers be certified? No way, say the risk management professionals. **Page 16.**
- THE TYPEWRITER affair, or how RIMS handles its own risks. **Page 18.**
- SEVERAL SPECIALTY organizations have sprung up outside RIMS. **Page 19.**
- A MOVE is underway in Canada to form a separate risk management organization. **Page 24.**

Product liability

Utah has become the first state to enact a comprehensive product liability reform measure. **Page 7.** Meanwhile a House panel fails to come up with specific legislation during a hearing. **Page 62.**

One of THOSE lawyers

A generation ago insurance companies paid modest settlements in personal injury cases. But a new breed of lawyer is able to win ever larger awards. Meet Philip H. Corboy, Chicago's attorney for the maimed. **Page 48.**

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- AN UNUSUAL insurance program is being developed for Alaskan fishing vessels. **Page 2.**
- THE NEW steel agreement contains major improvements in health and retirement benefits. **Page 4.**
- THE PRICE ANDERSON Act limiting liability in a nuclear accident is struck down. **Page 40.**
- THE SWINE FLU liability controversy may last five years. **Page 41.**
- FOUR STATES are trying to prevent liability problems from derailing Conrail. **Page 42.**
- MOVE OVER, Washington lobbyists. RIMS may join your ranks. RiskWatch. **Page 82.**

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Cost of pregnancy bill disputed; battle begins

By JERRY GEISEL

WASHINGTON—In what has emerged as a major legislative battle, opponents of a pregnancy disability benefits bill charged it could cost an astronomical $1.6 billion while supporters estimated the cost at only $130 million.

Testifying before a House subcommittee, G. Brockwel Heylin, counsel for the U.S. Chamber of Commerce, said the annual cost of legislation making it discriminatory for employers to exclude pregnancy from their disability income plans could be as much as $1.62 billion.

But that figure, which is based on a 20-week disability period, was challenged as "based on several greatly misleading assumptions," by a major supporter of the bill. Citing medical opinions given during the recent General Electric case in which the Supreme Court ruled that employers did not have to include pregnancy in their disability plans, AFL-CIO special counsel Laurence Gold said at least 90% of pregnant women are disabled for six weeks or less.

Based on a six-week disability period, Mr. Gold placed the cost of mandatory disability benefits at only $130 million annually.

As reported earlier, legislation introduced by Rep. Augustus Hawkins (D-Calif.) would require employers to cover pregnancy on the same basis as other illnesses in disability benefit plans.

The bill would not force businesses without existing plans to pay benefits for pregnancy disabilities. But in a separate measure introduced by Rep. Hawkins, an employer could not reduce the number of weeks benefits are paid in order to pay for the added costs of including pregnancy in its disability plan.

The Chamber of Commerce warned the bill would discourage employers from establishing disability plans because of the potentially high costs of including a pregnancy benefit.

Under current law, a disability plan can be as narrowly focused as an employer desires to reduce the cost.

Rep. Hawkins' bill, the Chamber noted, "would attach expensive pregnancy disability require-

Continued on page 6

Expenses key Hall upheaval

By BARBARA JEAN GRAY and JOANNE GAMLIN

BRIARCLIFF MANOR, N. Y.—A disagreement between Frank B. Hall & Co. Inc. and a subsidiary over $400,000 of reimbursed personal and "other" expenses has resulted in the resignation of one of the firm's officers and top producers.

William A. Baxter, executive vp and director of the parent firm, was asked to resign March 16 following an audit of the books of the Los Angeles office. Mr. Baxter was found to have run up $58,831 of disallowed expenses between 1973 and 1976. He has already paid these expenses back to Hall.

He then voluntarily resigned as chief executive officer of the subsidiary, Frank B. Hall of California. Mr. Baxter was also Pacific Southwest regional manager of the parent company, a position that will not be filled. Mr. Baxter's former subordinates will now report directly to the parent firm's chairman.

Business Insurance has learned that the investigation of the expenses was triggered by Frank B. Hall's auditors, that most of the expenses were incurred in 1975 and 1976 and that Frank B. Hall also investigated the expense accounts of its 60 other domestic offices without finding similar abuses.

Mr. Baxter also had a financial interest in a plane rented on occasion by Frank B. Hall. In addition, Mr. Baxter guaranteed a bank letter for credit for a client so the client could purchase insurance.

Mr. Baxter has a one-year contract as a consultant to the parent firm, earning $100,000. In addition he will receive commissions on new business.

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Reed Shaw develops unusual captive plan for Alaskan vessels

By SUSAN ALT

SEATTLE—Reed Shaw Stenhouse of Washington has organized an unusual—if not unique—insurance program covering Alaskan fishing vessels which will eventually result in an association captive insurance company. The company may turn out to be the biggest group insurer ever formed.

What makes the plan even more remarkable is the fragmentation of the fishing industry in Alaska, a collection of very small businesses operating a total of 15,600 vessels in Alaskan waters. Such groups traditionally have presented difficult insurance problems because collective actions are virtually impossible to coordinate.

But, in this case, government provided the impetus through a four year study of the growing problems of vessel safety and insurance. Losses have been horrendous, and domestic insurers have entirely disappeared from the marketplace. London was still writing coverage, but rates have been soaring, reflecting the rising total losses of vessels which capsize or burn.

A seed money grant from the federal and state government financed the safety study and resulted in formation of the Alaska Fisheries Safety Advisory Program (AFSAP). This body drew the conclusion that they had to time any voluntary safety standards program to a monetary advantage. Insurance was the obvious vehicle for gaining a return for making very substantial investments in vessel safety.

At this point, AFSAP put out feeler letters to most brokers handling Alaskan fishing boat insurance, primarily firms based in Seattle, as well as to underwriters familiar with the risks.

"We were the only firm that responded with a specific program," according to Bob Bowden, senior vp of Reed Shaw and head of that firm's Seattle office.

The program could mean as much as $78 million worth of premium business for Reed Shaw if all 15,600 vessels paying $5,000 a year in premiums for their coverage could be signed up. But Reed Shaw is targeting $15 million to $30 million in annual premiums going into the Bermuda captive which it will form and manage for the vessel owners. Mr. Bowden expects to sign up 50% of all Alaskan vessels in the first year.

Mr. Bowden came up with the idea of initially insuring 100% of the value of the vessels if the vessel owners agree to begin meeting the new safety standards promulgated by AFSAP.

When premiums under the program exceed $2.5 million a year, Reed Shaw will establish and manage a Bermuda-based captive insurance company to underwrite hull insurance for the vessels. The underwriters insuring 100% of the vessel hull values would then cede back to the captive on a quota share basis 20% of the premiums to build up a surplus in the captive. As the captive accumulates more assets, it would assume a larger portion of the hull risks.

The underwriters participating in the program include Lloyd's and the London companies (75%) and the Norewegian market (25%) through Lloyd's broker Bain Dowes (Intl.) Ltd. Even after the captive is operating, insurance policies will continue to be issued by London so that they will be, in effect, fronting for the captive.

Potential savings for the vessel owners are substantial. Insureds with no claims in the first year earn an automatic 10% reduction in premium rates, with AFSAP standard compliance qualifying them for an additional 10% rate break on a graduated basis. If losses of a policyholder over the following three years of the program are under 50%, Mr. Bowden estimates that premium charges would then be cut up to 50% more.

The insurance contract, written for 36 months, also covers protection and indemnity (P&I) losses of the vessels, "but we're not going to put P&I into the captive when it's formed, because of the long tail problem," said Mr. Bowden. Only hull insurance will be written by the captive. "But we got the insurers to agree to tie the P&I insurance contract to the safety program also, with the provision that part of the profits from P&I will be paid into the captive, so that the captive will realize an advantage without taking any of the actual P&I exposure," said Mr. Bowden.

The coverage available includes $2 million limits on any one vessel, as well as P&I coverage "for any reasonable limit required." The plan includes liability coverage. ■

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18 insurers involved in Canary coverage

By MARIE KRAKOWIECKI

NEW YORK—At least 18 U. S. insurance companies have provided insurance for the worst disaster in aviation history, the March 27 crash of two jumbo jets in the Canary Islands. They think their participation could cost them more than $25 million, *Business Insurance* learned.

Lloyd's of London and insurance companies in the London aviation markets played a major role in providing coverage for the two airlines involved, Pan American World Airways and KLM Royal Dutch Airways.

But London was backed up by the French market, by the national market in the Netherlands and by the two largest aviation pools in this country, Associated Aviation Underwriters (AAU) and United States Aircraft Insurance Group (USAIG).

The 18 insurance companies which estimated their preliminary potential maximum exposures resulting from the crash were members of these pools.

They gave their figures to Loeb Rhoades & Co. Inc., a Wall Street investment banking firm which makes a market in insurance company stocks.

Robert G. Smith, an insurance analyst with Loeb Rhoades, explained that both Pan Am and KLM were insured by the companies which provided data, but that it was not possible to make a distinction from the figures about which insurers covered which airline.

In the week immediately following the crash, industry-watchers said damage claims from the crash could possibly exceed $400 million.

This figure has since been called too high by at least one aviation accident expert and attorney, Lee S. Kreindler of New York, author of the two-volume "Aviation Accident Law." Calling a class action suit for nearly $2 billion filed in California on behalf of the Pan Am victims "absolutely ridiculous," Mr. Kreindler said a more reasonable settlement figure to expect from the accident would be about $200,000 per victim, or about $115 million.

The lawyer, who will be working on the Canary Island case as a plaintiff's attorney, and who has handled the lawsuits for the survivors of Japanese victims of the crash of a Turkish Airlines DC-10 near Paris, pointed out that many of the victims on the Pan Am flight were elderly.

In general, settlements in crash cases are much lower for survivors of old victims than for survivors of the young, who may have growing families, he pointed out.

In most cases, the insurance companies said their estimates were for property/casualty exposures only, although Occidental Insurance Co., a Transamerica subsidiary, reported an $800,000 life insurance exposure, but no property/casualty loss.

Here is the breakdown:

- Aetna Life & Casualty—$5 million
- American International Group—$250,000
- American Express (through Fireman's Fund subsidiary)—$1 million
- American Reinsurance—$50,000 to $100,000
- Chubb & Son—$500,000
- Connecticut General—(under) $1.5 million
- Continental Corp.—$1.5 million to $2 million
- Crum & Forster—$1 million
- ERC Corp.—$500,000 to $1 million
- General Reinsurance—$2 million
- Hartford Group—(under) $2.5 million for U.S. operations and $500,000 to $600,000 for foreign operations
- INA Corp.—$1 million
- Maryland Casualty—$600,000
- Reliance Group—$500,000 to $1 million
- SAFECO—$180,000 to $200,000
- St. Paul Cos.—$1 million
- Transamerica—$800,000
- Travelers Corp.—$2.5 million
- U.S. Fidelity & Guaranty—$1 million ■

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the benefit beat

Dow Chemical picks CG for prepaid dental plan

DOW CHEMICAL CO. will begin June 1 a prepaid dental plan for more than 34,000 employes and their dependents. The plan is insured by Connecticut General and will cost $6 million a year. Diagnostic and preventive care will be provided without a copayment. The plan will also cover oral examinations, cleaning, fluoride treatments, X-rays and orthodontic work. Although exact copayments have not been decided, Dow said, participants will be limited to $750 annually and $5,000 lifetime. Orthodontic services will be partially reimbursed to a total of $750. Benefit payments will be predetermined to allow patients and dentists to know in advance the extent of the coverage. The monthly cost per employe, all paid by the company, is estimated at $15 to $16.

JOS. SCHLITZ BREWING Co. in Milwaukee tapped Prudential as administrator of its self-funded medical benefit plan covering about 8,000 employes, and as insurer of Schlitz's LTD and group life plans. The health benefit plan includes medical, dental and vision benefits, and costs Schlitz over $10 million a year in claims and administrative fees, said Charles J. Mazza, manager of benefits. Blue Cross had been administrator of the health plan since the early 1960s. INA had underwritten the LTD plan and Metropolitan Life had underwritten the group life plan. Mr. Mazza hadn't been happy with poor service and "what we thought were high administrative charges" by the Blues. Metropolitan, Hancock and Blue Cross all had a chance at the business, but Pru's price was "substantially lower" than the fee quoted by Blue Cross, even after Blue Cross had cut its price by quite a bit. Schlitz went to Pru for its LTD plan because "INA seemed to be intransigent about recognizing that our good experience should result in lower rates." Mr. Mazza had, however, been very pleased with Met on the group life account, although the group life had to be packaged with the group health business in order to make the account attractive to Prudential.

McLEAN TRUCKING Co. in Winston-Salem, N.C., has a new split-funded group medical benefit plan with Aetna Life & Casualty which "saved us substantial money," according to Edwin R. Brenegar, vp of personnel. The company has been insured with Aetna for 20 years, said Mr. Brenegar, and wanted to stay with Aetna if possible when the change was made from a traditional form of insured plan to a more economical arrangement. Hewitt Associates, a benefit consulting firm based in Deerfield, Ill., was brought in to study the alternatives for McLean's program covering over 2,000 of its non-union employes and costing in the neighborhood of $1 million a year in paid claims. Aetna also kept the McLean disability account, incorporated into the split-funded plan. This type of plan is Aetna's name for a minimum premium arrangement.

UAW AUTO WORKERS and their dependents in the Detroit area will soon have the option of obtaining a second surgical opinion before entering into elective surgery. The program for consultation on elective surgery (PROCES), an experiment developed by GM, Ford, Chrysler and Blue Cross/Blue Shield of Michigan, is to commence July 1. The 1.5 million elegible PROCES subscribers will also be free to obtain nonsurgical opinions if medical complications may influence elective surgery decisions. All second opinions, according to Blue Cross, will be provided by designated surgeons and medical specialists. Citing widespread allegations that Americans undergo needless surgery, Michigan Blues president John C. McCabe says PROCES will determine the accuracy of such charges. "We just know that health care costs have been escalating wildly," says a Ford spokesman, "and we can't be sure the money is well spent." Blue Cross and auto company officials claim they cannot yet project the cost of the pilot project, but say eligible workers will pay nothing extra to participate. A GM spokesman said the cost will be split among the automakers retrospectively, according to utilization. The results of PROCES will be evaluated by an as yet unnamed outside consultant, says Blue Cross, and the health status of participants will be monitored for at least three years after its termination.

ACCORDING TO A survey by the Health Insurance Institute, benefit levels are rising in basic group health insurance plans. Daily hospital room and board benefits commonly are $50 or more and many plans pay the full cost of semi-private accommodations. Periods of 120 days to 365 days of insured hospital care have become the rule, the survey found, replacing limits which may have been as short as 31 days. In addition, maximum benefit levels for surgery have increased from the $300 limit of a decade ago to $1,000 or higher.

ROBBINS & MYERS INC., a producer of cranes and hoists based in Springfield, Ohio, changed its health benefit plan from fully insured to a minimum premium plan, continuing to use Connecticut General Insurance Co. as carrier. The medical plan covers a group of 2,000 employes and generated about $2 million a year in premiums. The company anticipates saving between $50,000 and $75,000.

CRAIN COMMUNICATIONS Inc. broadened its insured group medical plan to cover normal maternity care to the same extent coverage is provided for any other illness or accident. Reimbursement for hospital expenses will be limited to four days of hospital confinement. This change was made to bring the Chicago-based company into compliance with a recently-passed law in New York state which mandates this coverage and treatment of maternity-related illness. The cost of the broader benefits, an additional $2 per employe per month charge by Connecticut General, will be

Continued on page 4

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Steel pact improves health, retirement benefits

By DAVID KONIGSBERG

NEW YORK—Improved health and retirement benefits round out a new three-year pact signed by the United Steel Workers (USW) and the nation's "Big 10" steel producers.

Although many details of the agreement were unavailable, a spokesman for Inland Steel Co. of Chicago listed some of the benefit changes which will affect 338,000 workers beginning Aug. 1:

- Sickness and accident compensation payments will be increased each year of the pact for all six workers' classifications. Employes in the top bracket, now entitled to $159 a week in sick pay, will be eligible for $185 this year, $198 next Aug. 1, and $211 in 1979. Workers in the lowest bracket, now eligible for $114 a week, will be able to collect $131 this year, $142 next year, and $153 in 1979.
- Emergency treatment, now covered to 48 hours after admittance to a hospital, will be covered to 72 hours.
- Coverage for outpatient treatment will increase to $300 from $200.
- Major medical limits will be lifted to $30,000 from $15,000 a year, and to $50,000 from $25,000 for life.

In addition, said the Inland official, a vision care program will be initiated Aug. 1, 1979, covering $20 examinations every 24 months and providing reimbursements of $10-$20 for eyeglass lenses.

Group life insurance coverage, according to a Bethlehem Steel spokesman, will increase by $2,000 per USW employe.

Income security for active and retired workers was a major issue in the final, intensive week of negotiations, and although provisions in the new pact fall short of a much sought after "life security plan," wage security, especially for senior employes, has been enhanced.

Beginning Jan. 1, 1977, workers with 20 years or more of service will be eligible for an extra year of supplemental unemployment benefits—double the current 52 weeks—if a plant shuts down. Such workers must, however, be willing to accept transfers to other facilities.

In accepting a transfer, a 20-year worker would be guaranteed 90% of his former rate of pay.

The pact also allows for early retirement for laid off or disabled 20-year workers making them eligible for "rule of 65" pensions (age and years of service equaling 65). They will receive as well, $300 weekly supplements until they become eligible for Social Security benefits.

And as of Aug. 1, 1979, early retirees will no longer have to purchase supplements to retain hospitalization coverage until they become eligible for medicare.

Although the cost to the industry of the benefit improvements and an approximate 90 cent an hour pay raise (over three years) has not been gauged, industry officials predict a 30%-40% jump in employment expenses.

Chief industry negotiator J. Bruce Johnston of U.S. Steel would not predict price increases at the close of contract negotiations. He said, however, that "the costs of the agreement exceed our ability to recover them (through gains in) productivity," adding that "prices must cover costs."

The "Big 10" steel companies are United States Steel Corp., Bethlehem Steel, Republic Steel, National Steel, Jones & Laughlin, Armco, Youngstown Sheet and Tube, Inland Steel, Wheeling-Pittsburgh and Allegheny Ludlum.

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Benefit beat...

Continued from page 3

paid by the company. The coverage now extends to both single and family policyholders, as well as to the dependent children of employes. Crain's medical plan for its 300 employes previously provided for a flat maternity benefit of $250, followed by a $1,000 deductible, above which expenses would be covered at 80%.

DAYTON POWER & LIGHT Co. switched to an ACO contract with The Travelers Insurance Co. from a previously fully insured medical benefit plan for its 3,100 active and 650 retired employes. The utility has been with Travelers for a number of years and was happy with services received, and made the change for cost savings based on a recommendation by benefit consultants Hewitt Associates of Deerfield, Ill., according to Carl Mirre, supervisor of insurance administration. He figures Dayton Power & Light will save at least $50,000 a year with the ASO plan. Paid claims are about $2 million a year.

AGE DISCRIMINATION in employment is the target of a new bill introduced in Congress. If passed, HR 115 would outlaw mandatory retirement at age 65. One of the bill's co-sponsors, Rep. Robert A. Roe (D-N.J.), said a main goal of the legislation is to strengthen the Social Security and private pension systems by allowing older workers to continue to contribute to those funds instead of drawing benefits at age 65. If mandatory retirement at 65 is terminated, Rep. Roe predicted, the economy would be stimulated as older workers use their full purchasing power. He estimated $10 billion would be added to the gross national product. HR 115, which is a re-introduction of a similar bill which was introduced in the 94th Congress, has been referred to the House Committee on Education and Labor.

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Insured losses caused by a storm which swept a three-state area of the Midwest on April 2 are estimated at $2 million by the American Insurance Assn. Wind, hail and tornados struck parts of Wisconsin, Michigan and Ohio. The storm has been assigned catastrophe number 82.

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Wausau Wisconsin

Pregnancy bill . . .

Continued from page 1

ments to all plans, no matter how limited the particular plan happens to be."

Thus, if the legislation passes, an employer would be forced to include pregnancy in his disability plan, regardless of the size or provisions of the plan.

Before the employment opportunities subcommittee takes action on the measure, several committee members said they want to examine more information on the bill's potential cost to employers.

"We ought to take a close look at the costs before we pass a bill with such a tremendous impact," said subcommittee member Ronald Sarasin (R-Conn.).

"An IBM or Xerox could possibly afford to include pregnancy in their disability plans, but the same might not hold true for thousands of small businesses," said Rep. Sarasin.

Estimates of pregnancy disability costs at the April 6 hearing at times caused more confusion than understanding. Peter M. Thexton of the Health Insurance Assn. of America, for example, said the proposed legislation could cost employers an additional $1.7 billion in benefits. But this figure is partly based on an 11.3-week disability period which civil rights and women's rights groups criticized as being far too long.

Mr. Thexton said the 11.3-week estimate was based on the experience of several companies in Hawaii where employers are required to include pregnancy in their disability plans.

But Mr. Thexton failed to disclose how many businesses and employes were surveyed in reaching this estimate. In addition, he neglected to disclose the exact nature of the companies' disability plans and the safeguards employed to reduce abuse of the plan, casting a shadow of doubt on the validity of the estimate.

Business Insurance contacted experts at George Washington and Georgetown University medical schools and asked them to estimate the average disability period as a result of pregnancy.

While all admitted that there were enormous individual differences, they agreed that a disability period of between six and eight weeks would cover most women.

The doctors stressed that pregnancy is not fundamentally different from other disabilities requiring major surgery and does not present any unique obstacles in determining when a woman can return to work after giving birth.

Aside from dramatically pushing up employer costs, Mr. Heylin of the Chamber of Commerce noted that one effect of the bill would be "that leave and payments for pregnancy might amount to severence pay, rather than disability pay . . ."

Mr. Heylin said about half the women taking pregnancy leave do not return to work after their babies are born. By contrast, almost all other workers taking disability leave do return to work, he said.

In an interview, Susan D. Ross of the American Civil Liberties Union in New York City said this interpretation of the bill's impact was misleading.

"It is possible that 50% of women may not return to work after giving birth," she said. "But many of these women were forced to leave after their employers found out they were pregnant," she contended.

As the hearings drew to a close and Congress recessed for the long Easter break, it was impossible to ask subcommittee members to confirm or deny earlier predictions that the bill would reach the House floor by Memorial Day.

But one indication that early optimism over the bill's quick passage may have dimmed came at the end of the hearing.

Clarence Mitchell of the National Assn. for the Advancement of Colored People, whose oral testimony only lasted two minutes, said to Rep. Hawkins: "I hope this bill is passed as quickly as I gave my testimony."

"You've been here long enough to know better than that," Rep. Hawkins replied.

However, the Carter administration has come out solidly in favor of the measure, sending representatives from the Justice Department to testify on behalf of the bill at the hearing.

A number of subcommittee members clearly were moved when Sherrie O'Steen, a plaintiff in the General Electric case, described how she lived without light and heat when the company placed her on unpaid leave at the end of her seventh month of pregnancy.

"I don't want another woman to have to go through what I did," said Ms. O'Steen, noting that while she shivered in her home unable to pay the heating bill, GE paid disability benefits to men who took time off for hair transplants.

Senate hearings on the bill begin at the end of the month. ■

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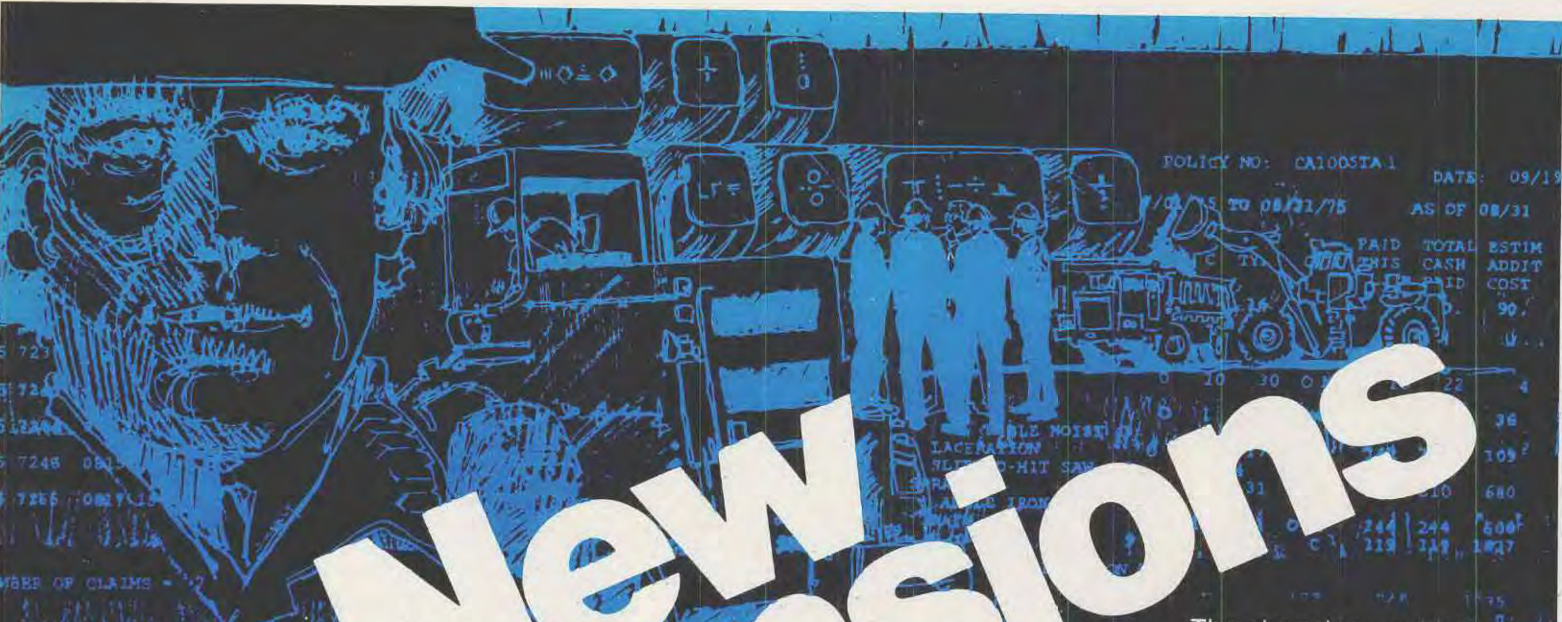

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Konigsberg joins staff in New York

CHICAGO—David B. Konigsberg has joined *Business Insurance* as an associate editor in the New York office, replacing Margaret LeRoux, who left the publication to move to the West Coast. Ms. LeRoux will continue to report for the publication as a freelance contributor on events in Northern California and in the Western states from her base outside San Francisco.

Mr. Konigsberg, 24, has a BA in English from Hofstra University in Hempstead, N.Y., and has worked as a reporter for the Bergen Bulletin in Bergen County, N.J., for Cliffs Magazine in Englewood Cliffs, and for 40 Magazine. ■

Utah okays first bill curbing strict liability

By GREG DAVID

SALT LAKE CITY—Utah has enacted the first product liability reform legislation since personal injury litigation emerged as a major problem for businesses three years ago.

The law establishes a statute of limitations, prohibits asking for a specific amount of damages (ad damnum clause), prohibits suits against a manufacturer where a product has been altered, defines "unreasonably dangerous" and allows a defense that a product was not defective if it met government standards.

State Sen. Fred Finlinson, sponsor of the bill, said it was passed by overwhelming margins. The governor signed the legislation March 22; it will go into effect May 22.

"There wasn't a great deal of fanfare," he said. "We handled it in a low-key way."

The work the Utah legislature did in 1976 in passing a medical malpractice bill helped pave the way for the product liability legislation by familiarizing legislators with the issues involved, he added.

A House subcommittee shied away from any specific product liability proposals during a hearing this month. Meanwhile, product liability suits in the Chicago area have surpassed malpractice cases. Stories on page 62.

Dennis Connolly, counsel for the American Insurance Assn., said, "While its not exactly our approach, it's better than nothing." Richard Goodman, assistant general counsel for the American Mutual Insurance Alliance, said the Utah bill included many changes the Alliance thought would help to alleviate product liability problems.

The law requires that product liability suits be brought within six years of the initial purchase of a product or 10 years of the date of manufacture. The limitation applies to actions based on breach of implied warranty, defects in design or manufacture, failure to warn or any other alleged defect.

Mr. Goodman said the provision appeared to be aimed at strict liability damages for injury and it is unclear if the limitations apply to negligence cases.

The statute of limitations does not apply to injuries or deaths which occur within two years of the effective date of the law.

The bill prohibits asking for specific damages, allowing plantiffs only to ask for "such damages as are reasonable."

The law says no manufacturer can be held liable for any injury where a "substantial contributing cause of the injury" was an alternation or modification of the product after the sale to the initial consumer.

"Unreasonably dangerous" is defined "an extent beyond which would be contemplated by the ordinary and prudent buyer . . . considering the product's characteristics, propensities, risks, dangers and uses together with any actual knowledge, training, or experience possessed by that particular buyer, user or consumer."

Finally, the bill allows a manufacturer a "rebuttable presumption" if a product was manufactured in accordance with government standards. Mr. Finlinson said the original proposal suggested a state of the art defense based on "industry standards" but that the bill was amended in the legislative process.

Mr. Finlinson said the manufacturers' associaton was the key group behind the law, although support also came from Chamber of Commerce groups and wholesalers in Utah. ■

Auto crashes

Motor vehicles crashes in 1975 cost the U. S. $37.5 billion, according to a study just completed by the National Highway Traffic Safety Administration. The cost of "pain and suffering" was not included as a measurable cost component of the study.

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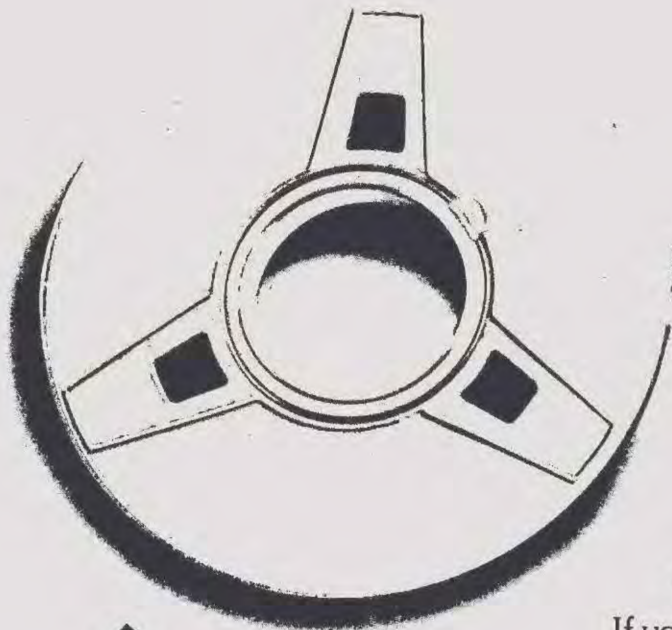

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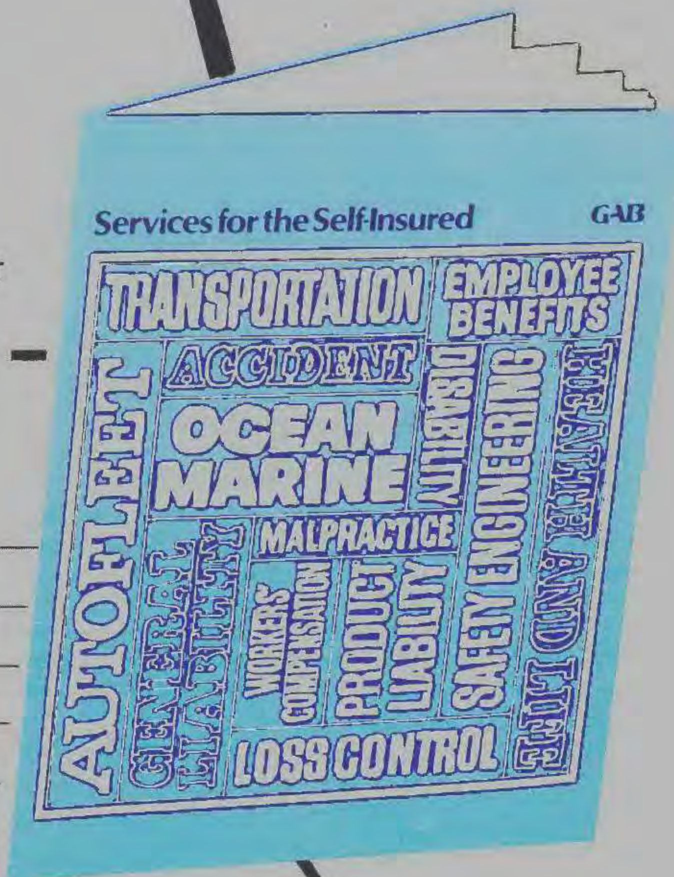

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RIMS PREVIEW

Women risk managers: We try harder

Emily M. Schmitz

Kathryn H. Carroll

Mabel Weiss

Judith M. Lindenmayer

Emily M. Schmitz began as a file clerk and finally decided she would rather buy insurance than sell it. She's now risk manager at Koracorp Industries Inc. in San Francisco. Kathryn H. Carroll began as a broker's girl, a once complimentary title now in disfavor. She's now insurance manager for Varian Associates in Palo Alto. Mabel Weiss, assistant vp and risk manager of Seattle First National Bank, also went into risk management after a successful career as an insurance agent. And Judith M. Lindenmayer, risk manager at Sealy Inc. in Chicago, began in the company's personnel department. The journeys of these four women illustrate some of the varied roads women have traveled in their management careers. Profiles of 18 women in risk management begin on Page 26.

By KATHRYN McINTYRE ROBERTS

CHICAGO—Risk management, like the rest of corporate middle management, is not a paragon of equal opportunity, but the growing number of women in the field are changing the old image.

With the crumbling of traditional barriers, women are now more freely moving into corporate insurance administration and risk management. Still, their pass key to the manager's suite is superior performance and their lease is knowing how to cope with lingering suggestions of sexism.

"There's a place for anyone who is capable, aggressive and looks for opportunity," newcomer Barbara Y. Akk believes. After just four years in the insurance field, Ms. Akk became risk manager in January for the County of San Diego.

"I opened the doors, developed the job experience and expertise. I also continued to go to school. It's the only way a woman can do it—by getting the credentials and the experience," she said.

Doris J. Ramsey, veteran risk manager at Rohr Industries Inc. in Chula Vista, Calif., said, "A woman will succeed if she is willing to assume a risk—to not be intimidated. It's there to be had if she'll try."

The growing ranks of women turning up at meetings of the Risk & Insurance Management Society (RIMS) support those theories. Emily M. Schmitz, risk manager at Koracorp Inc. in San Francisco noticed "frequently I see 15% women at RIMS meetings now. When I first started in 1965 I was the 1%. That's a big improvement."

Women have also assumed leadership roles. Mrs. Schmitz was elected the first woman president of the Northern California chapter of RIMS in 1969. This year Kathryn H. Carroll, corporate insurance manager at Varian Associates in Palo Alto, is president of the chapter. Women also currently preside over the Oregon, Washington and Carolinas chapters of RIMS.

No one, not even the New York headquarters of RIMS, knows how many women hold risk management positions.

One guidepost, though, is the number of women earning the Insurance Institute of America's associate in risk management diploma. Last year 15% of the graduates were women. Five years ago it was only 5%.

However, the biggest swell of women in risk management appears to be in "assistant" positions. Helen J. Johnson, insurance administrator at Ampex Corp. in Redwood City, Calif., observed, "Not too many women have taken over the top spot." Whether they will or not in the future, she said, "depends on the company's philosophy on promoting from within and its philosophy on women."

Mrs. Schmitz believes there is a limit in some companies to how far a woman can progress in the risk management department. "It depends on top management's attitudes. Does the corporation accept women in other executive positions? If not, she can get in but she will have more of a problem if she wants to be effective."

A woman considering a position in a company should look into this aspect before she leaps, Mrs. Schmitz suggested.

Dorothy M. Astarita, corporate insurance manager at AMF Inc. in White Plains, N.Y., admits "there are comparatively few women insurance managers." But, she said, "I don't think women aren't admitted. And I don't think men in the insurance field would hold a women back. It's that women aren't aware of the possibilities."

Business Insurance interviewed 18 women risk managers about the possibilities in risk management, how they got where they are and their experiences in the male-dominated field.

As with men, the insurance industry emerged as a common training ground for women in risk management. But unique to women is advancement from secretary to risk manager. In companies in which insurance is handled as just one responsibility of an officer, the secretary often assists in managing the portfolio of policies.

Ms. Ramsey at Rohr Industries got her start that way. She worked for the general counsel of Rohr who handled insurance among his duties. After eight years the program was turned over to her as insurance coordinator when the counsel became more involved in legal affairs.

Four years ago Ms. Ramsey was named insurance manager and a year ago she was named director of risk and benefits. The new title was bestowed to better reflect the scope of her responsibilities in the world of evaluating capacities, cash flow funding and self-insurance.

But moving up through the ranks from a secretarial spot can cause some problems. Ampex's Mrs. Johnson also advanced from a secretary to insurance administrator. Now, she finds, "Some of the executives still think of me as a secretary. If I'd come in cold I wouldn't have run into that, but they remember me sitting in front of my boss's office."

Going into corporate risk management from the insurance industry doesn't guarantee that one's abilities will be immediately recognized either, as Carol Caswell, risk manager of Maple Leaf Mills in Toronto learned.

She joined the risk management department there after 11 years as an insurance agent and broker. At first she was handling insurance supervisory work. When a manager came into the department with a question, he would invariably direct it to the man in the office. He in turn would have to ask her the question. "The person's first reaction was to automatically ask the man," she observed.

As risk manager, she no longer encounters that situation.

Some of the women interviewed maintained they've never run into any discriminatory situations. Yet, nearly all of the women agreed they have had to work harder than a man would have had to in order to get where they are in their careers today. Mrs. Ramsey said, "Yes, I've worked harder. It's the old cliche: You have to be better to get there and best to stay."

Mabel Weiss, assistant vp and risk manager at Seattle First National Bank, agrees. After 20 years at running her own insurance agency and six years in risk management, she believes, "A woman needs the background, the experience and the training. It's harder for her to bluff her way through."

A woman's expertise in insurance is questioned as often as a

Continued on page 30

But local chapters get high grades

How good is RIMS? Some have their doubts

By JOANNE GAMLIN

LOS ANGELES—The grades risk managers give their local RIMS chapters might spark envy from officers of local Chambers of Commerce, an organization not known for a rebellious spirit.

But many risk managers do not give the same high grades to the national organization or the annual conference.

"The chapter is good, progressive and innovative," enthused Victor W. Poveromo, insurance manager for the Hilton Hotel Corp. in Beverly Hills, about the Los Angeles chapter of RIMS.

"We have had a good chapter since 1958," said David Morris, director of corporate insurance for LTV Corp. in Dallas. He was speaking of the Dallas-Ft. Worth chapter of RIMS which was formed in 1956.

"The men in my chapter are no slouches, indeed, they are a very astute group," added Sheldon Weinberg, risk manager for Hennepin County, Minn., referring to the Minneapolis-St. Paul group.

But if the local chapters receive most of the praise, a nationwide survey of risk managers discovered criticism of the national Risk & Insurance Management Society and the national conference.

"You don't get your money's worth out of the national conference," said Andy Meuwissen, assistant treasurer at the Peavey Co. in Minneapolis.

Mr. Meuwissen, who was one of three persons to lead a session on product liability at the national RIMS conference last year in Los Angeles, says that the major fault is that conference seminar leaders seldom venture beyond "canned material."

"For example, I've gone to three or four sessions on cash flow and found that they all say the same thing," he explained. "I usually get more out of talking to one or two other risk managers after a session than I do out of the entire conference."

Mr. Meuwissen is not attending the national conference this year.

Risk managers with similar views often will not allow themselves to be identified with their comments. But they echo Mr. Meuwissen's view that the conference sessions offer much more for inexperienced risk managers than they do for senior experts.

"You can carry the technical school-boy stuff just so far and after that, it's a rut," griped a public risk manager from the East Coast.

"I really don't want to go and listen to some guy spouting about the problems facing the XYZ corporation," he continued.

RIMS has never done a thing for him, he said. "I belong only for the hell of it."

A central shortcoming with the national RIMS is that it does not use its muscle on serious insurance problems, according to this risk manager. An example of a large problem untouched by RIMS, he said, is the fact that most large corporations must seek much of their insurance coverage abroad.

Another public risk manager, who first decided not to attend the national conference and later changed his mind, argues it is a mistake to schedule the industry sessions on Monday and Tuesday, the same time as the employe benefit study groups. In addition, he threw cold water on the sessions planned for the last three days of the week, terming them a rehash of what was offered in 1976.

"There should be more emphasis given to the legislative area," he asserted.

This risk manager, who represents a Midwest municipality, says he is also concerned about the cost of RIMS membership. Requests for dues increases are heard continuously, he noted.

Carole Magnuson, risk manager for Gelco Corp. in Minneapolis, also believes that national RIMS should put more emphasis on legislative matters, perhaps with the kind of force of the American Medical Assn. Also, she would like to see the organization sponsor more educational seminars during the year.

Along the same lines, Edward J. Sweeney, vp of Magic Mountain in Valencia, Calif., said that although he attended and enjoyed the national conference in Dallas and Los Angeles, he will not attend this year's gathering because he suspects he will not be able to soak up a lot of new information.

Several risk managers complained that the national conference is busier than a six-ring circus. A West Coast risk manager, for instance, wistfully recalls the organization 10 years ago "when at the national meeting you could get together with your cohorts and talk about common problems.

Continued on page 12

Evaluating RIMS . . .

Continued from page 11

"Now I can go and not see a single insurance buyer," he observes, pointing out that the number of people attending the conference does not automatically add up to quality.

"RIMS is a great social organization," agrees Joseph DeMarinis, risk manager for the Port of New York and New Jersey.

Although few risk managers would disagree with that statement, many of those surveyed said the social climate of the national conference lends itself to the interchange of ideas, the standout benefit of RIMS in the opinion of these insurance managers.

"Being able to talk to your counterparts at competing corporations is an invaluable advantage," said a midwestern risk manager. A member of RIMS from the days when it was known as the National Insurance Buyers Assn. (NIBA), this risk manager has nothing but high praise for the present day organization.

"RIMS has had a significant impact on my professional life," he stated. Not the least among its advantages is the fact that it has been "a door-opener for me, allowing me to move to ever higher paying positions."

The national organization is performing at a higher level all the time, he maintained, noting the in-house newsletter and RIMS magazine, publications that received high marks from several risk managers.

Sheldon Weinberg of Hennepin County, Minn., also sings RIMS' praises. Arising early on Monday and Tuesday to attend the sessions for public risk managers is a joy, he insists.

Although the rest of the week varies "depending on how you luck out," Mr. Weinberg was unstinting in his enthusiasm for the conference, noting that he sometimes gains "spectacular ideas" from seminars.

Wayne G. Plazek, risk insurance manager at San Diego Federal Savings & Loan Assn., says he would not miss a national conference for the understandable reason that he got an idea at one seminar that saved his employer $12,000.

Risk managers who fault RIMS for not having enough material for experienced executives are not making the effort to ferret out the new insights that are offered, in the opinion of Stefan J. Valovic, assistant insurance manager at Stone & Webster Engineering Corp. in Boston. Comparing the national conference to fertile soil, he says that the kinds of seeds you plant determines the kind of harvest you get.

Mr. Valovic also commended RIMS for its "continuing efforts to upgrade the professional status of risk management."

And he points out that the organization was helpful last year when he changed jobs.

RIMS' work in educating corporations about the concept of risk management was lauded by Ed Lalley, president and chief executive officer of Ideal Mutual Insurance Co. in New York, another man who remembers the organization when it was in the process of being founded.

Yet even among those who are quick to cite flaws in RIMS, there are only a few risk managers who are willing to take the final step of withdrawing their membership.

One company that did this last year is Safeway Stores, Inc., Oakland, Calif. Bert Anderson, insurance manager, declined to comment on the reason for the action. Observers, however, say that the move stemmed from a mandate from the company's legal department, limiting the number of organizations to which the corporation can belong.

Dick Smith, director of insurance and risk management at Royal Industries in Pasadena, Calif., is probably more typical of the kind of risk managers who will attend the New York conference.

He cites the Los Angeles chapter for doing a "super" job, especially in the area of education. The chapter has just initiated a program to pay for classes, registration and exam fees for aspiring risk managers whose employers refuse to pick up the tab.

What's more, Mr. Smith is enthusiastic about the national organization and the national conference. Countering those who find the content of the seminars "canned," he vividly recalls a session on captives at the 1976 conference which was "just out-of-this-world." ■

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RIMS PREVIEW

Fifth Ave. You'll be on the west side of the Midtown area, which encompasses the belt of streets in the 40s and 50s.

The RIMS Inc. office is on 42nd St. and is accessible by the #104 bus from either of the conference hotels.

RIMS suggests upon arrival you visit the guest hospitality suite to pick up material for the conference, city maps, shopping guides and other needed information.

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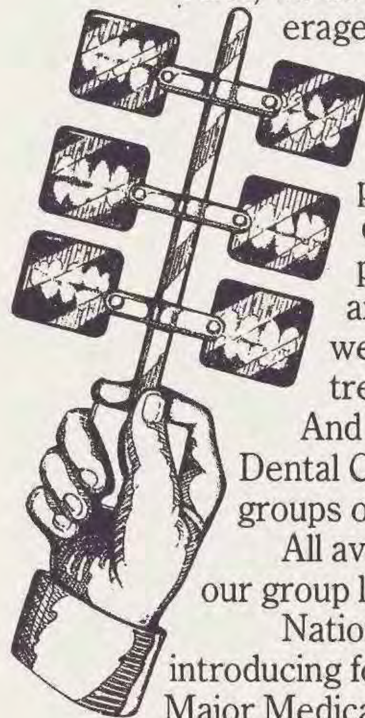

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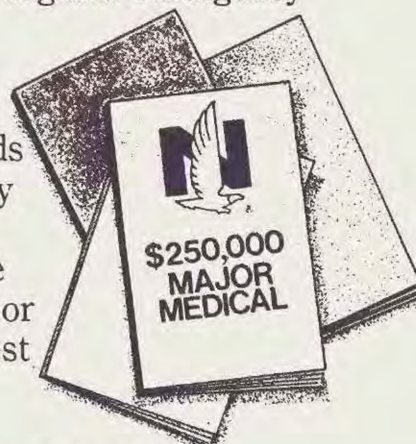

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Suppliers find costly hospitality suites a must

By MARIE KRAKOWIECKI

NEW YORK—About 40 hospitality suites hosted by brokers and insurance companies will be serving free liquor, free food and maybe just a touch of blarney to the thousands of registrants at this year's Risk & Insurance Management Society conference.

In addition, Marsh & McLennan will host a lavish reception, Johnson & Higgins will have its big dinner party and CNA Insurance will again throw its "Chicago Night" party complete with flapper dancing girls. According to conference rules, every RIMS member will be invited to each of these special functions.

While there is no question that the biggest draw of the conference is the professional and educational offerings during the week days, there is also no question that these nighttime "freebies" have become the social backbone of the conference an an ironclad part of its tradition.

Have you ever wondered what all this costs, why the suppliers do it and what they can expect to get in return? One executive at a major brokerage house estimated that the big brokers and suppliers will spend upwards of $100,000 apiece to wine and dine risk managers during the week at their hospitality suites and special functions.

Exactly what the entertainment budgets are this year is a closely kept secret. Some of the brokers who would talk about it said they thought the $100,000 estimate was on the high side. But they all agreed that the RIMS conference in New York will be the most expensive one ever for them.

Johnson & Higgins, for example, estimates that this year's conference will cost it 50% more than the one last year in Los Angeles. Possibly it will even cost 25% more than next year's, scheduled to be held in New Orleans.

"New York is brutal," said a J&H spokesman who works with entertainment during the RIMS conference. J&H wouldn't release figures on how much it will spend this year on its hospitality suite and annual dinner party, but six years ago it was spending $50,000 during the week of the conference.

The money comes out of its advertising budget, and the way J&H sees it, the amount of money it spends on entertainment functions at RIMS is equivalent to buying a few ads in the Wall Street Journal. In terms of impact on potential clients, according to the spokesman, the money spent at RIMS goes further.

It won't be cheap. *Business Insurance* obtained a copy of a standard price list for hospitality suite foods and drinks from one of the two main hotels where the RIMS conference will be staged this year, the Americana. (The Hilton Hotel would not give out a standard price list, but it is reasonable to assume its charges are comparable.)

A single bottle of Johnnie Walker Black Label scotch costs $28.50. A pound of cheese costs $12. One chafing dish of Swedish meatballs is $60. A roast round of beef costs $350.

The hotel is the only agent authorized to sell liquor on its premises. If you bring in your own booze, you not only have to get permission first, but you also have to pay what is called a "corkage charge" of $15 per bottle just for opening it there.

Every shrimp popped into someone's mouth costs almost a dollar, and every finger sandwich costs just over a dollar. A risk manager can walk into a broker's hospitality suite, wolf down an expensive snack and never even ruin his appetite for dinner.

Of course, none of the prices includes a charge for a bartender (it is mandatory in New York to hire one from the hotel), a waiter or a 17% gratuity charge or an 8% sales tax. Those fees are added separately.

But the brokers and suppliers still think it's worthwhile. After all, the RIMS conference is the biggest single gathering of risk management professionals and insurance buyers.

The registrants represent millions of dollars of buying power to suppliers like brokers and insurance companies, who are eager to stay in their good graces.

Some suppliers said they would have to be crazy NOT to try to impress their customers by making a good showing at the RIMS conference. They want to repeat their parties year after year to make a repetitive impression on their clients.

It seems to be working.

"We tried to drop the plastic hats and beads one year and you would have thought we were committing a mortal sin from all the complaints we got," said a CNA spokesman connected with the annual Chicago Night party that features those favors. Risk managers and wives of risk managers have simply come to expect —and demand—the social amenities of insurer and broker parties. From a promotional standpoint, the suppliers feel, it would be unwise to discontinue them or try to cut corners.

"There's no way we couldn't be there," said a Marsh & McLennan spokesman explaining why his firm intends to continue its practice of holding a big reception. This year's, at the Americana, will probably draw 3,000 guests.

Unlike J&H, which pays for entertaining from its advertising budget, M&M's costs during the RIMS conference come from general operating funds. It claims it does not regard the reception and hospitality suites that it and its employe benefit division William M. Mercer will hold as a specific investment for which it expects definable returns in new business.

Why do they do it? "It's the biggest risk management function of the year, that's why," the company said.

RIMS itself is very sensitive about hospitality suites. It asked *Business Insurance* not to write about them, presumably so that no one would get the wrong impression about conference activities.

However, after he made it clear he thought a story idea about hospitality suites was "the most ridiculous idea I ever heard of," executive director Ron Judd described the pains the society takes to make sure there are no improprieties which could take away from the real function of the conference, its educational and professional one.

Mr. Judd flatly denied a report that there was bad feeling between RIMS and broker Alexander & Alexander over the allocation of rooms for hospitality suites this year. A&A is setting up its suite in the Dorset Hotel instead of either the Americana or the Hilton, where most RIMS suites will be located.

"We go through this all the time," Mr. Judd said about complaints that RIMS plays favorites when it allocates suites to certain firms. He said according to the society's rules, there are written standards for suite allocations.

RIMS assigns suites based on the firm's past cooperation with

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the society, the number of years it has been attending the conference, the number of people it registers in the conference, its general contribution to the risk management community during the year, and least important, according to Mr. Judd, the size of the company.

Sometimes, after all that, a firm will complain about the size of the room it was assigned for a suite. RIMS says it can't do much about that. "We can't stretch the walls of the hotel," one society insider exclaimed in exasperation.

After a company gets a suite, it is then sent a list of nine guidelines to follow. They are explained as RIMS' effort to "preserve the dignity and educational reputation" of the conference. Ron Judd visits each of the suites unannounced to make sure it sticks to the rules. If it doesn't it can't come back in following years, he said.

All suites must be closed between 9 a.m. to 5 p.m. and there is a 1 a.m. curfew. No alcohol is permitted at any breakfast functions. No mass distributions by rooms or guest boxes are allowed. All advertising of suites must be handled through RIMS.

The hospitality suites, although they are a headache for people planning RIMS and an expensive item for the brokers, are here to stay. The people who throw them say there is no quantitative way they can measure how much new business the suites might bring them but they are convinced they are part of a good public relations program. Some talked in terms of cultivating good will over a period of as long as 10 years in hopes of winning eventual business.

As one broker, weary with preparations, put it, "If we couldn't have the hospitality suites right in the hotels as a part of the RIMS conference, we'd all be spending just as much money running around taking all the buyers out to restaurants. It's a lot easier on everybody this way." ■

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Certify risk managers? No way, say the pros

By JERRY GEISEL

WASHINGTON—Mention the word certification to a risk manager and chances are he or she will tell you it is an idea that really doesn't apply to risk management.

"It is not an issue in the field and you'll make yourself ridiculous by even talking about it," said Ron Judd, Risk & Insurance Management Society (RIMS) executive director.

But support for certification can be found in academic circles. "The only way a risk manager will become more than an insurance clerk is through a system of certification," said Marshall Reavis, president of the Insurance School of Chicago.

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Countrywide Services Corp.

"A lot of these guys (risk managers) are more concerned with cocktail hours than with improving standards," Mr. Reavis said.

Certification in other professions, accounting being the most obvious example, is a long established tradition. But Mr. Judd says it isn't fair or appropriate to compare risk management with other fields where certification is required.

"You want to compare accounting and risk management?" asked Mr. Judd. "Well, you can't. It is like comparing oranges and apples."

Accounting, Mr. Judd noted, has a fixed body of knowledge with firmly established principles and procedures. An examination, as a result, is possible to measure mastery of those principles.

But risk management is an entirely different ball game, said

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one manager. "Do you honestly mean to suggest that risk management is fixed and static?

"It is an emerging field that probably has expanded 80% in the last decade. I'd like to tell you certification is a good idea, but in a profession subject to constant change, certification is a meaningless concept," he said.

But a number of risk managers said they failed to see a correlation between a program of certification and improved professional standards.

"A person could take a test, pass the right courses and still be a lousy risk manager," said Peter Law, vp of insurance for U.S. Industries in New York.

Some risk managers agreed, saying that success in risk management comes through dedication, intense work, intelligence and not by fulfilling the criteria of a certification program.

"Having a plaque hanging on the wall saying you have completed certain courses and now are certified in risk management is no guarantee of ability to do the job," said William Dodge, insurance administrator for Lockheed-Georgia Co. in Marietta, Ga.

Academicians concede that someone passing a certification program will not necessarily be a better risk manager than another person who hasn't gone through certification training.

But as Dan Anderson, a professor of risk management at the University of Wisconsin, said: "Our whole educational philosophy is predicated on the idea that education improves ability and preparation for a job."

Aside from improving the training of future risk managers, a system of formal training, which is implicit in the certification idea, would call attention to the government, corporations and the public "that there really is such a thing as risk management," professor Anderson said.

While the sample of risk managers surveyed opposed certification in general, some admitted the idea was not without merit.

"Completing a certification program would provide evidence that a person was willing to put the time and effort toward acquiring an initial understanding of some of the things involved in risk management," said Mr. Dodge of Lockheed.

But what appears to bother risk managers the most about certification was the premise that criteria could be established on which to base certification.

"Someone who makes it through certification might be perfect for one company," said an insurance administrator for a midwestern food processor. "But the needs of the other company might be so unique that a certification program could not possibly by itself make him qualified for the job of risk manager."

In a related point, risk managers and insurance administrators stressed that risk management, unlike certified public accountants, fulfill a company-created role.

"If you have certified risk managers, then by the same line of reasoning you should also have certified corporate presidents, and treasurers," said a safety director.

"That would not make sense since all those positions mean entirely different things from one company to the next," he said. "Similarily, risk management varies enormously and thus certification would not have any practical meaning." ■

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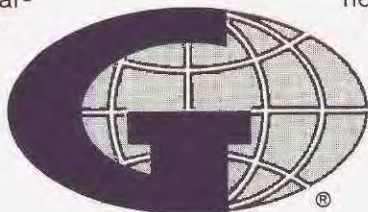

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The typewriter affair: RIMS insurance

By KATHRYN McINTYRE ROBERTS

NEW YORK—RIMS, the clearinghouse for information on risk management, has its own first-hand lesson to tell in loss prevention.

The Risk & Insurance Management Society Inc. has had to battle burglars for possession of its electric typewriters. The society's New York City headquarters, on the 15th floor of an office building at 205 E. 42nd St., have been struck by a typewriter thief three times in the last 18 months.

After the first batch of electric typewriters was swiped, the society's treasurer, who doubles as risk manager, ordered all the typewriters bolted to the desks.

When the thief returned a second time, he found one rented typewriter that hadn't been bolted down. On his way out with it he was discovered and fled, dropping the goods. The security measure was apparently working.

But in the third and most recent entry—just a couple months ago—the thief very methodically unbolted the typewriters and carried them away.

Enough, decided RIMS risk manager Robert James, ordering an alarm installed on the offices. "An alarm costs less than an electric typewriter," he observed. To date, the typewriters are secure.

Saving the society's typewriters is just one chore in managing the risks of the 2,400-corporate-member society. Mr. James, vp of New York's Chemical Bank, for the last two years has monitored the society's exposures, reviewed insurance policies and kept coverage up-to-date.

Recently all of RIMS' property was inventoried. As a result, coverage under the society's office contents all-risk policy was increased to $60,000 from $40,000.

And the society's comprehensive crime coverage was just increased to $250,000 from $100,000. "That was needed because the budget has increased tremendously," Mr. James said.

RIMS also has secured an extension on its New York state disability benefits policy to cover pregnancy. The New York Court of Appeals ruled late last year that employers must pay disability benefits for pregnancy on the same basis as other non-occupational disabilities but few underwriters are offering to insure it. "We were fortunate to have an underwriter that would do it," Mr. James commented.

Although amenable to discussing the society's risk management program, Mr. James declined to name underwriters. "Because of the nature of the organization it could be construed as an endorsement of an underwriter," he said. However, RIMS places its insurance by the book—"for the best coverage and the best price structure."

Mr. James characterized the RIMS insurance portfolio as "basically the normal type of corporate protection." And that protection, where applicable, extends to the 52 chapters of RIMS. "The program is very broad to make sure there is no slippage," he said.

For example, the society's comprehensive crime coverage would cover a loss that originated at the chapter level as well as one that occurred at the national level.

The insurance program also includes:

- A conference policy with a maximum limit of $1 million to protect the society in the event its annual conference is interrupted. There are expenses that have to be met even if, for instance, an airlines strike shut RIMS members out of the conference city. The policy formerly was for $500,000, but increased income from the conference necessitated doubling the limits. The premium is paid on the actual income from the conference.
- A combined auto and general liability policy that includes employe benefit liability. The limits are $100,000/$300,000 bodily injury and $50,000/$100,000 property damage. There is a separate but identical policy covering the Canadian chapters.
- A $1 million publisher's liability policy covering the society's "Risk Management" journal and other releases. This policy does not cover publications on the chapter level.
- A $1 million umbrella policy.

Setting aside its typewriter losses, RIMS has a clean loss record, Mr. James said.

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The only deductible RIMS carries is for $250 on its office contents all-risk policy. Mr. James observed, "We can handle that," but explained that as a non-profit organization RIMS doesn't have the capital to support substantial deductibles.

"There wouldn't be a huge premiums savings anyway," he suggested, "because most of our premiums are relatively low."

The society hasn't been hit with what Mr. James would characterize as "major increases" in any of its insurance premiums. He noted, however, that the insurance portfolio has felt the effect of the liability crunch. The accounting department at the RIMS headquarters refused to disclose how much the society pays for its insurance.

In addition to its members interests, the society has to protect its one part-time and 16 full time employes. RIMS buys the normal workers compensation and disability insurance as mandated by New York state. It also provides health insurance for its employes through Blue Cross/Blue Shield coupled with a major medical policy carrying a maximum limit of $1 million.

Life insurance and a pension plan for the staff are arranged through the American Society of Assn. Executives (ASAE). RIMS buys life insurance from $5,000 to $20,000 for its employes. Under the pension plan, an annual contribution equal to 12% of the employe's salary is paid to ASAE as the plan administrator. RIMS picks up two-thirds of the contribution and the employe pays the balance. The plan provides whatever the contribution will purchase in the form of an annuity at retirement, defined as age 65.

Employes may buy long term disability insurance and 24-hour accidental death and dismemberment coverage. RIMS now provides its staff with a travel accident policy covering them when they are on business trips.

Mr. James will turn over the risk management program to the new treasurer elected at the annual conference. He promises, "It's in good order." ■

MEMO FROM
MARSH & McLENNAN

Product Liability at the crossroads. It's time for cool heads, not heated arguments.

As everyone who reads the newspapers knows, the insurance market for product liability coverage is in bad shape. In many cases, a business cannot obtain enough coverage; for some classes of risks, coverage is almost totally unavailable. And in a classic example of supply-and-demand economics, premiums are soaring. Sadly, this is as much a reflection of the capacity shortage as of any technically sound assessment of loss potential.

The problem is widespread, affecting industry, the legal profession, insurers, legislators—and ultimately, the public. All have different, often conflicting, viewpoints which have been stated repeatedly, frequently with great passion and dire predictions.

However, we feel that the time has come for more than talk.

Too much heat, not enough light.

Our feeling is that a central forum is needed where opinions

Sometimes, an 'informal' relationship to RIMS

Special interests served by splinter groups

By GREG DAVID

CHICAGO—The Hospital Assn. of Risk Managers (HARMS) represents 150 risk managers at state and city hospital associations.

The University Risk & Insurance Management Assn. includes 140 risk managers at colleges and universities throughout the nation.

The Public Agency Risk Managers Assn. in California involves 110 insurance officials for cities and other municipal bodies in California.

These three formal organizations have been formed to meet the needs of risk managers with problems quite different from the overwhelming majority of private industry risk managers represented in the Risk & Insurance Management Society Inc. While the pressure for formal organization seems greatest among government officials, several private company risk managers meet informally to supplement the national and chapter work of RIMS.

HARMS was formed five years ago by the American Hospital Assn. and the state associations in Pennsylvania, New York and Massachusetts, according to James Groves, one of its founders and the risk manager for the American Hospital Assn.

The original idea was to provide a way to discuss common problems of state and municipal hospital association risk managers. The group now has an informal system to disseminate information from the American Hospital Assn. offices in Chicago. The members meet whenever they feel there is a need; in the last year, Mr. Groves said, that has meant meetings every three months.

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HARMS has an informal relationship to the RIMS headquarters in New York, using the national group to provide expertise. "Sometimes when I meet with RIMS," Mr. Groves quipped, "I'm not sure which hat I'm wearing, HARMS or the American Hospital Assn."

In the past, most HARMS members were not also members of RIMS. Many members live in places without nearby local chapters and many members did not have the expertise necessary to participate. "They would have felt like idiots at RIMS meetings," Mr. Groves said.

But the increase in sophistication among hospital association risk managers is changing that. HARMS now recommends its members join RIMS. And Mr. Groves believes the association's legislative work will be useful to RIMS as that organization expands its legislative activities.

HARMS has no dues, although they were considered to reduce attendance by brokers and other insurance sellers at meetings. Mr. Groves said the risk managers were outnumbered at many meetings and brokers and others were using information obtained at the sessions to develop new business. To stop that, HARMS will no longer allow insurance officials to attend its meetings.

HARMS is now forming a separate group for risk managers at individual hospitals, a category expected to grow rapidly in the next few years. HARMS first considered expanding to include those risk managers, but it feared the level of sophistication (HARMS has a captive) and the focus of the organization might be diluted. So, Mr. Groves said, a second organization will be formed with the American Hospital Assn. providing the coordination.

The University Risk & Insurance Management Assn. meets once a year in the fall at one of the member schools, according to James McElveen, current president. Mr. McElveen, insurance and safety director for the nine campuses in the Louisiana State University system, said dues are $40 a year, considerably less than the $125 national dues in RIMS.

The university puts out a newsletter six times a year. The board of directors also holds a second meeting during the year.

William Ryan, risk manager for the University of Michigan in Ann Arbor, called the association an "information exchange." Mr. McElveen explained that insurance policies for large state universities are almost identical. Therefore, the most important information a university risk manager needs is what insurance companies are underwriting coverage and how much it costs.

The university association serves as a clearinghouse for that information, both men said.

Most (perhaps 80%) of the university risk managers do not belong to RIMS, Mr. McElveen said. The high cost of attending the annual conference and the distances to local chapter meetings are major considerations, especially in view of the financial problems confronting most schools.

In addition, the concerns of the

can be heard, ideas collected and opposing viewpoints reconciled.

Because we judge the need so urgent, we have formed the Marsh & McLennan Product Liability Council. This group is composed of senior Marsh & McLennan professionals selected on the basis of broad insurance experience, extensive client contact and a reputation for open-mindedness.

There will be no easy solutions. Product liability is largely a social issue. Its roots are in our tort system of justice—which in this case is intolerably slow, capricious and cost-inefficient. Tort reform is essential but it is a long way off, dependent as it is on legislative action and public acceptance.

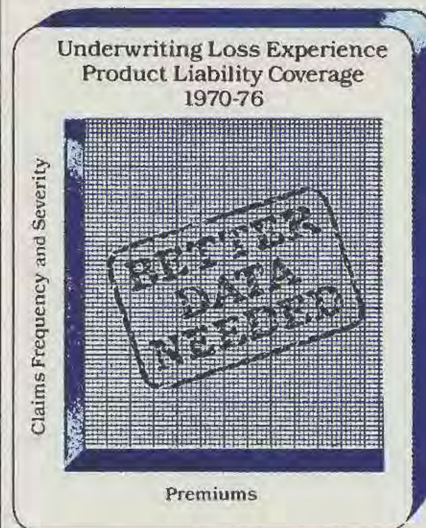
Meanwhile, what can be done?

A great deal.

• Means can be sought to attract new capital into the insurance underwriting markets which would do much to ease the upward pressure on premium rates. (One unexpected source might be the extra capacity made available by more careful scrutiny of tax laws and regulatory provisions that seemingly encourage purchase of insurance solely for accounting and administrative considerations.)

• Greater stress should be placed on loss prevention, leading to fewer claims, with good effect on future rates. Specifically: tighter controls over all aspects of product design, manufacturing, marketing and distribution to insure compliance with warranties, given or implied.

• Much remains to be done in the effort to improve the es-



sential structure of liability insurance programs. Policy language, methods of rating and exposure data information—each of these areas often fail to respond satisfactorily to the needs of both insurer and insured.

All the while, of course, the Council will bear in mind that long-term legislative and public education goals are absolutely essential if the current crisis is to be resolved and repetition avoided.

What's an insurance broker doing in all this?

Marsh & McLennan didn't get to be the world's leading insurance broker by sitting quietly on the sidelines.

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Members of the Product Liability Council, San Francisco, February, 1977.

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SEE OUR AD ON PAGE 7

Formal risk groups . . .

Continued from page 19

private company risk managers that make up the overwhelming majority in RIMS are very different from the problems of university risk managers, Mr. McElveen said.

Robert Tieman, risk manager for Dane County (Madison), Wis., was in the forefront of another effort to establish an association of government risk managers. To be appropriately called GRIM (Government Risk & Insurance Managers), that group would have included city and county insurance officials across the country.

Mr. Tieman said the different tax situations and the strict procurement rules faced by government risk managers make their purchase of insurance much different from the methods of private company officials.

"I enjoy RIMS," he said, "but I can't derive the benefits of someone from Standard Oil or United Airlines."

Dennis Tweedale, risk manager for Madison, Wis. said a new effort to form an association of city and municipal risk managers will be made at the RIMS conference in New York. Mr. Tweedale is considering the formation of two groups, one for the East Coast and one for the Midwest.

The groups will be mainly to exchange information, he said, and it isn't clear whether meetings or a newsletter will be possible.

However, risk managers in California have been able to overcome this problem. The Public Agency Risk Managers Assn. now includes 110 officials responsible for insurance for cities and other municipal governments in the state. Donald Blackhurst, insurance and risk manager for Santa Clara County and the founder of the group, said growth has been excellent since it began with 12 members in February 1975.

The acute state of the public liability problem in California accounts for much of the interest, Mr. Blackhurst said. Risk managers in Arizona and Oregon asked if they could join the California group, but "we decided not to take on the world," Mr. Blackhurst said.

Dues are $20 a year and the group meets once a month in the northern part of the state. Sixty percent of the members are from Northern California, although the group hopes to move meetings to a more central location as membership in the southern part of the state grows.

Most of the members of the association are not members of RIMS, Mr. Blackhurst said. Since many of the officials spend less than 25% of their time on insurance, he continued, it is not realistic to expect them to belong to RIMS. The 20 full time risk managers do belong to the national organization.

RIMS has provided help to the association, Mr. Blackhurst said, and private risk managers have also made themselves available for help.

Leonard Friedman, a New York risk manager who works for several companies, hopes to eventually form a multi-company risk managers group. For now, he's trying to organize monthly lunches of apparel risk managers in the New York City area since many of his employers are in the apparel industry.

But so far Mr. Friedman has only been able to get three or four people to attend the lunches. He hopes to spark additional interest at the RIMS meeting in New York.

Risk managers for southern textile manufacturers, however, have formed a strong informal group. Several years ago, according to G. A. Atkins, insurance manager for Fieldcrest Mills Inc., an ad hoc committee was formed to study problems in rack storage and loss control.

That committee, formed under the auspices of the American Textile Manufacturers Assn., got the risk managers in the habit of meetings. Now meetings are held whenever there is a major problem to be discussed; more frequently phone surveys are used. ■

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Europeans cover bank note loss

LONDON—Insurance companies in Western Europe hold much of the insurance on $1.4 million of bank notes stolen at Heathrow International Airport. Thieves armed with shotguns held up a security vehicle as it was being unloaded at a terminal.

The vehicle belonged to Brinks-Mat, a U.S.-owned security company which handles much of the valuables that pass through the airport, and was at the KLM cargo center when the heist took place.

The banknotes, all in new English sterling notes, were on their way to three Swiss banks as part of normal international currency transactions.

Insurance was led in Belgium, with the rest placed in various European countries, though a small part is covered in London. Insurance investigator Bob Bishop, managing director of the loss adjusting firm of Graham Miller and Co., decided to offer a $140,000 reward to any persons with information leading to the recovery of the stolen notes.

This is the usual practice in connection with big crimes in Britain, where banks and insurers work closely in association with police in the hope of capturing armed thieves who engage in crimes of this nature.

An essential ingredient is that there is no "undercover" deal with the thieves themselves that would enable them to make any profit from the reward money.

There have been several big thefts at Heathrow Airport in the past 12 months. ■

Insurance eyed for aquaculture

NEW YORK—A government-insurance industry partnership may be necessary to provide coverage for the fledgling marine farming industry if Congress approves a bill to encourage aquaculture.

Melvin L. Stark, senior vp for government affairs for the American Insurance Assn., said the major problem raised by the bill pending in the House is coverage for the fish being farmed.

"It is doubtful that the kind of 'cradle to grave' health insurance protection the bill apparently contemplated for cultivated species can be furnished on any kind of sound insurance basis," Mr. Stark said.

If Congress decides all-risk coverage is needed to encourage the industry, private insurers could become involved only if the government provided reinsurance for catastrophic losses for these normally uninsurable perils, Mr. Stark continued. ■

Despite New York's many woes, it's risk work as usual in Manhattan

By MARIE KRAKOWIECKI

NEW YORK—It's business as usual here on Manhattan Island, at least for risk and insurance managers whose companies are headquartered in New York City.

Despite the continuing saga of the Big Apple's fiscal woes, threatened cutbacks in city services, high taxes, pollution, commuting, congestion and crime, Manhatten continues to be favored over the suburbs by the professional who manages corporate risk.

Some firms, including members of the Fortune 500, have already thrown up their hands with the problems here and vowed to pack off to Connecticut, where many of their executives already live.

While risk management decisions appear not to be major factors in a company's decision to relocate, there are tax-related employe benefit considerations that make such a move attractive. Salaries can be lowered, for instance, because employes have lower tax bills in Connecticut than in New York. It is said that an executive with taxable income of $100,000 a year gives himself an immediate raise of more than $18,000 just by moving himself and his company to Connecticut.

And some employe benefit managers with firms in New York complain that a December state court order that disability benefits for pregnancy must be paid on the same basis as other non-occupational disabilities could cost New York based firms more than $90 million a year.

They point out that the cumulative effect of the pregnancy disability ruling, coupled with existing laws such as the one which holds that a company must pay unemployment compensation after 13 weeks even to workers who are striking against the company, creates hardships for companies remaining in New York.

New York Superintendent of Insurance Thomas Harnett lashed out at proponents of pregnancy disability benefits during the annual meeting of the Insurance Services Office. The chief of insurance regulation for the state appears to be opposed to measures that create extra financial burdens for employers by mixing insurance concepts with social welfare.

One of the first indications that New York City businesses would start a massive pullout was a study done in late 1975 by the Fantus Co., a Dun & Bradstreet division that does relocation consulting. The Fantus study predicted that over a 10-year period, conditions for operating businesses in New York would continue to deteriorate, forcing more corporate headquarters and jobs out of the city.

That same year, Connecticut's commerce department reported a 40% increase in inquiries from corporations that wanted to relocate there to take advantage of the lower taxes and suburban environment.

As Fortune 500 firms began announcing proposed moves to the suburbs, New York's position was weakened even more because some "satellite" industries servicing the big companies also began moving to the suburbs. Since easy availability of legal, consulting, advertising and accounting services is one of New York's strong suits, moves by accounting firms like Touche, Ross & Co. and Price, Waterhouse & Co. were especially feared by city officials.

A relocation report by the New York Times in late 1975 mentioned that among firms moving out of the city were giants General Signal, Continental Can and Union Carbide.

Shortly thereafter, a temporary commission on city finances proposed large cuts in city taxes, particularly to manufacturers, in order to stem the erosion of jobs. Mayor Abraham Beame pledged to put a five-year cap on real estate taxes for residents and businesses in the city and a business-development program was started.

Now that some of the initial excitement and pessimism about companies leaving New York has cooled, *Business Insurance* contacted each of the three companies.

It appears that insurance and risk management considerations had very little impact on the moves. In general, they seem to be prompted by tax and employe benefit reasons.

At General Signal, there were only about 70 employes in the New York office anyway, the company said, before the move took place. Many of them were executives who already lived in Connecticut, and the move just made life easier for them. The company said there were no major differences in other employe benefit considerations between New York and Connecticut.

Continental Can and Union Carbide both are still located in New York, although moves to the suburbs are expected in a few years.

Continental Can is expected to move some of its top executives to Connecticut, but the insurance department of the corporation is expected to remain in its New York location, primarily to maintain its close contact with the insurance markets here.

At Union Carbide, where the move is thought to be at least three to four years away, it seems probable that the corporate insurance department will move to Connecticut along with everyone else.

As one spokesman explained, the major property/casualty risks of the company will still be plants in the field, so it doesn't really matter where the headquarters are for the risk manager or insurance buyer.

The agency with the primary responsibility for stopping long term job erosion from New York City is the Economic Development Administration. A spokesman there said some large New York-based insurance companies were among the first to realize the advantages of not making a move to the suburbs.

The apparent commitment by insurance firms to stay in New York bolsters what risk managers say is their main reason for wanting to keep corporate insurance functions in the city: Ease of access to the insurance community.

"The advantage of being here," said one insurance manager for a major New York firm, "is that you've got most of the large brokers and insurance companies right here in the city.

"If you have a problem, it's much easier to be in touch with someone who can solve it. You can work with people who have the autonomy to make a decision when you need one made." ■

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Support growing for Canadian RIMS group

By GREG DAVID

TORONTO—Widespread support is developing for a proposal by the Ontario chapter of RIMS to establish a separate Canadian risk management association.

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The Ontario, Calgary and British Columbia chapters have approved the proposal. However, the plan has been rejected in Quebec, and Manitoba has not taken a position.

"Basically, we feel we are in a different business climate," said George Wilkinson, risk manager at Consumers Gas Co. in Toronto and one of the prime movers behind the idea. "Risk management in Canada is sufficiently different to require a separate organization."

But Dan Sullivan, a former RIMS president and risk manager at Northern Telecom Ltd. in Montreal, disagrees. "I wouldn't want to become a second-class citizen of RIMS," he said.

Under the plan, Canadian companies would join the Canadian risk management association in the same way companies now join the Risk & Insurance Management Society Inc. in New York. The organization would have a Canadian headquarters and staff

RIMS PREVIEW

and would coordinate the work of the five provincial chapters. A new affiliation would be worked out with the RIMS headquarters in New York.

The five Canadian chapters now operate independently, with formal links only to the national organization in New York. There is a 10-year-old Canadian association or risk managers, joined by individuals, but both sides of the current controversy agree that organization is a failure.

The annual RIMS conference and journal are so heavily oriented toward U.S. risk managers that many Canadians ask, "What do I get out of RIMS? said Donald Stuart, risk manager at Canada Packers Ltd.

Two major U.S. problems—medical malpractice and workers' compensation—are not issues in Canada, said Mr. Wilkinson. In addition, the tax situation is completely different and superintendents of insurance tend to be more flexible than their U.S. counterparts.

Proponents of a separate Canadian organization hope a national group will be able to intensify and coordinate legislative activity. Dave Hunter, president of the British Columbia chapter and risk manager at West Coast Transmission Co. Ltd., said it would be better to approach a superintendent or provincial legislature with national backing rather than merely a provincial position.

A Canadian organization would be able to deal more effectively with Canadian insurance companies, Mr. Wilkinson suggested.

Mr. Wilkinson also believes a Canadian group could develop a Canadian risk management course. The present educational efforts of the New York headquarters are not as useful as a Canadian course could be, he said.

The amount of money sent to New York for dues ($100) also is a major issue, said John Ledsham, risk manager at Canadian Wire & Cable in Toronto. Many feel the money is supporting projects with little relevance to Canada.

However, Dan Sullivan at Northern Telecom disputes these points. "We feel there are many more benefits that would be lost than would be gained by a separate organization," he said.

The major benefits of RIMS that might be lost are:

- The educational program fostered, supported and encouraged by RIMS. Mr. Sullivan disagrees with Mr. Wilkinson's contention that the program is not universal in its application.
- The work of RIMS to upgrade the status of risk management within the corporate structure. Would a smaller Canadian organization be as effective as the efforts of the RIMS headquarters? Mr. Sullivan asks.
- The educational program fostered by RIMS. No Canadian chapter is large enough to support an effective industry group, he argues.
- The aid in dealing with an insurance market that is now international in scope.

The fact that two Canadians have headed the RIMS organization within the last five years is evidence Canadians can play a full role in the organization, Mr. Sullivan contended.

The Quebec chapter has countered the Ontario plan with a proposal to remain full members of RIMS. Canadian risk managers would then meet with the organization to work out expanded Canadian educational and legislative efforts.

There is some concern in western Canada that the large Ontario chapter might dominate any Canadian organization, said Ross Collet, risk manager at Home Oil Co. Ltd. in Calgary and president of that province's RIMS chapter.

The Calgary chapter has approved the Ontario proposal in principle, but has some reservations and is awaiting a second proposal.

Mr. Wilkinson said the Canadian organization would have an executive board composed of two members from each provincial organization. This would dilute the impact of the large Ontario and Quebec chapters and make certain that the West was represented.

The next step, Mr. Wilkinson said, is for representatives of the provincial chapters to meet with officials of the New York headquarters to explore what sort of new affiliation could be worked out.

"One of the major points is that, after all, we're a big country. We have some of the largest chapters in RIMS," summed up John Ledsham. "I guess this is a reflection of a bit of nationalistic feeling." ■

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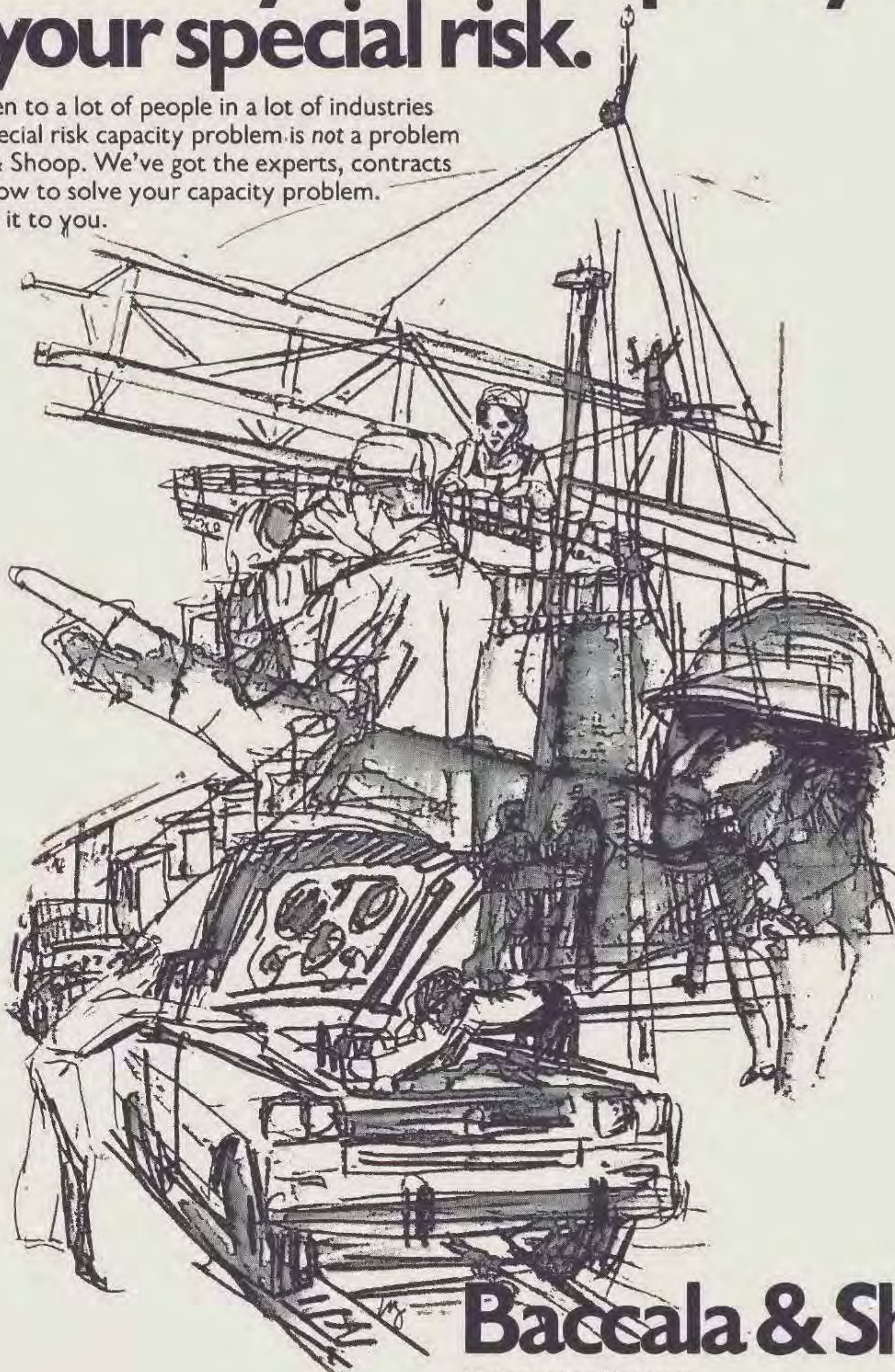

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Women risk managers travel different roads

Women risk managers have worked their way to their present positions from different rungs on the corporate ladder. They credit their success to supervisors who were willing to give them a chance, to being in the right place at the right time—either by design or happenstance—and to hard work.

The following profiles of the women interviewed by Business Insurance are an attempt to portray the upward movement of women in management and their current status.

Edith F. Lichota

Betty W. Zeni

Vera M. Graham

Susan L. Morley

Barbara Y. Akk, risk manager for the County of San Diego since January, carved her career out of a varied background and a discriminatory experience. A B.S. in education, office experience and three years as junior scientist in a sugar experiment station got her the job as customer service technical sales representative in a pharmaceutical firm in suburban Chicago. But when she requested a transfer out of the office into the field she was told that was impossible for a woman. Determined to get a sales job, she ended up in an insurance and financial agency where she was trained as an agent, selling mutual funds and group benefits. She moved to The Marmon Group, also in Chicago, as a switchboard receptionist and quickly requested an insurance-related position. She was assistant risk manager there when she left for San Diego, drawn by the climate and a chance to work in government. She is responsible for the entire risk management program for the county and all its operations including airports, hospitals and a volunteer fire department. She reports to the county auditor and comptroller. Ms. Akk is pursuing the IIA risk management diploma.

Dorothy M. Astarita, corporate insurance manager at AMF Inc. in White Plains, N.Y., is a pioneer. When she started at AMF 20 years ago, the insurance portfolio was handled by her boss, the assistant comptroller. Risk management and women risk managers were unknown. She learned corporate insurance management on the job and in the classroom at the College of Insurance. With experience, Mrs. Astarita moved up and now administers the company's domestic and international insurance, reporting to the director of insurance. She was a high school English teacher before entering business and holds a B.A., M.A., and a law degree. She has served on the board of directors of the Westchester chapter of RIMS.

Kathryn H. Carroll, corporate insurance manager for Varian Associates in Palo Alto, Calif., was a broker's girl, a once-complimentary title which has fallen into disfavor. Whatever the merits of the title, Ms. Carroll learned the business and in 1973 moved to Varian Associates as insurance administrator. A year later she was promoted to her present position in which she manages the firm's property and casualty risks and reports to the assistant treasurer. Currently president of the Northern California chapter of RIMS, Ms. Carroll is also studying for the CPCU designation.

Carol Caswell, risk manager of Maple Leaf Mills Ltd. in Toronto, sold insurance before she switched careers. She worked in a small town real estate and insurance agency for six years and then in a Detroit brokerage firm for another five. In 1969 she moved to Toronto and accepted a position in the insurance department at Maple Leaf Mills while she continued to look for an agent/broker spot. But when the risk manager left she was offered the job. Now she is responsible for the company's property and casualty risks and reports to the senior vp of finance. She holds the IIA risk management diploma.

Rita Garcia, risk manager of Castle & Cooke Inc. in San Fran-

Continued on page 28

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Consolidated Financial Statement/Statutory Basis/*December 31, 1976*

ASSETS	
Marketable securities:	
Bonds	$ 1,064,971,128
Preferred stocks	39,050,011
Common stocks	233,078,069
Investments—unconsolidated overseas subsidiaries	15,470,684
Real estate	23,069,452
Cash in banks and office	5,705,889
Premiums and accounts receivable	115,655,395
Accrued interest and dividends	20,317,721
Other admitted assets	44,508,852
Total	$ 1,561,827,201
LIABILITIES, CAPITAL AND SURPLUS	
Claims and benefits reserves	$ 808,906,886
Life and unearned premium reserves	355,281,245
Reserve for commissions, taxes and other liabilities	72,947,769
Funds held under reinsurance treaties	25,067,674
Mortgage payable	20,000,000
Total Liabilities	1,282,203,574
Capital (shares authorized and outstanding 5,445,000; par value $2.00 each)	10,890,000
Paid-in capital	5,179,304
Unassigned surplus	263,554,323
Policyholders' Surplus	279,623,627
Total	$ 1,561,827,201

Bonds are stated at amortized value in accordance with the requirements of regulatory authorities and would be approximately $1,075,000,524 at December 31, 1976 if valued at market. Stocks are stated at market value except stocks in unconsolidated overseas subsidiaries which are carried at estimated net worth.

The above financial statement is fully consolidated with respect to the parent company and domestic subsidiaries.

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18 risk managers . . .

Continued from page 26

cisco, held a variety of secretarial and administrative positions—including a five-year stint with the U.S. State Department working in Cambodia, Salzburg and Washington D.C.—before joining Castle & Cooke in 1970 as a secretary. Even without the background for it, she was offered the spot of senior insurance clerk in 1973. She worked "very hard," learning 90% of the skills on the job and supplementing them with courses and seminars. In 1976 she was chosen to succeed the retiring risk manager and elected president of the company's Bermuda-based captive. Her nine-person department handles all corporate insurance excluding employe benefits. She reports to the treasurer.

Vera M. Graham was named risk manager at Insilco Corp. in Meridan, Conn., two years ago. She had been a secretary in the company for four years when the risk manager retired. Because she knew the company and its 16 subsidiaries, Mrs. Graham was offered the job. To learn the risk management angle she toured all the company's facilities with risk management consultant Delbert A. Betterley and took insurance courses. She manages the company's property and casualty risks and reports to the assistant secretary. She holds a B.A. in business administration and has nearly 20 years of experience as a secretary.

Helen J. Johnson, insurance administrator at Ampex Corp. in Redwood City, Calif., began there in 1956 as a clerk-typist. After 9 years she left the firm but agreed to go back temporarily to fill in for the person who handled insurance. She found it "the most challenging job I ever had," and accepted the position when it was offered to her. She negotiates the company's property, casualty and marine insurance and reports to the director of risk management and employe benefits. She hopes to begin the IIA courses in risk management next fall.

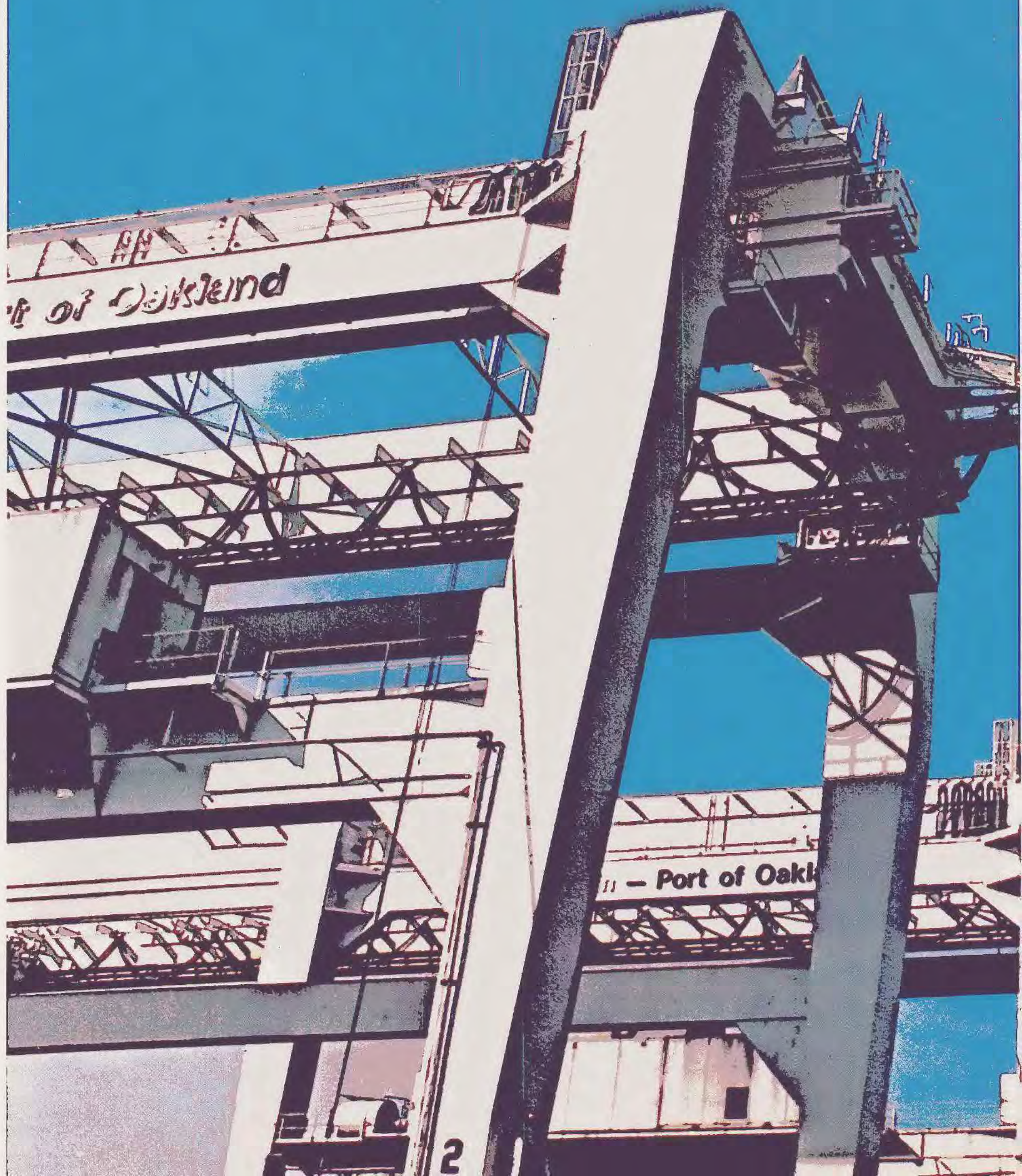
Edith F. Lichota, assistant treasurer of The Carborundum Co. in Niagara Falls, N.Y., obtained a law degree with the intention of applying it in business—but not risk management. She was assistant secretary of a company 12 years ago when it lost its product liability insurance. The insurance was placed with Lloyd's with a large deductible, and as a result, claims work was added to her financial duties. As assistant secretary at another corporation her duties included the insurance and employe benefits programs. In 1973 she joined Carborundum. Her 10-person department handles all corporate risk management, including employe benefits, and she reports to the treasurer.

Judith M. Lindenmayer, risk manager at Sealy Inc. in Chicago, was personnel manager of the company seven years ago when it reorganized. She was offered the job of insurance and administrative manager and this year was named risk manager, a new position covering risk management, employe benefits and pensions. She holds the IIA risk management diploma and is now working for the CPCU designation. Ms. Lindenmayer was recently elected a director of the Chicago chapter of RIMS.

Gloria T. Moody, corporate insurance administrator of Bigelow-Sanford Inc. in Greenville, S.C., started with the company 10 years ago handling employe benefits. Now she handles all the company's insurance. The company is a subsidiary of Sperry & Hutchinson and Ms. Moody handles the self-insured workers' compensation program for several S&H subsidiaries. She reports to the corporate insurance manager of S&H. Ms. Moody is president of the Carolinas chapter of RIMS.

Susan L. Morley, insurance administrator at Baxter Travenol Laboratories in suburban Chicago, is the only woman of those interviewed who majored in risk management in college. After graduation in 1972 from the University of Georgia she was hired by Aetna Casualty & Surety in Atlanta as its first woman field representative. She was an administrative assistant in self-insurance at Arthur J. Gallagher & Co. in Chicago when she was offered the job at Baxter. She reports to the risk manager and her duties include negotiating and marketing insurance, reviewing contracts and handling self-insurance in the property/casualty area.

Nancy Mowlds, insurance manager at Tektronix Inc. in Beaverton, Ore., moved into risk management with a business background. She was a high school business teacher before leaving the work-a-day world for 10 years. When she re-entered the job market in 1964 she was hired as a secretary by Tektronix. She was credit manager before taking the insurance manager spot in 1972. Mrs. Mowlds handles the company's domestic property and casualty risks and coordinates its overseas insurance. She reports to the assistant treasurer. She is now serving as the first woman president of the Oregon chapter of RIMS and holds the IIA diploma in risk management.



Pamela J. Rainey, insurance manager at California Liquid Gas Corp. in Sacramento, entered risk management from selling insurance. She started as an assistant account clerk in one brokerage firm and moved around working her way up to account executive. Ms. Rainey made the career change in 1976 because "I saw risk management as a challenge and a good place for women." She manages all the company's insurance programs, including employe benefits, and reports to the vp of finance. Ms. Rainey is pursuing the CPCU designation.

Doris J. Ramsey, director of risk and benefits at Rohr Industries Inc. in Chula Vista, Calif., started with the company 32 years ago as a shipping clerk. She learned insurance as a secretary assisting the general counsel of the company. After eight years, insurance was turned over to her with the title of insurance coordinator. Four years ago she was named insurance manager and a year ago she assumed her present title which more accurately reflects the job. Her 12-person department manages all the company's risks and employe benefits and she reports to the vp treasurer. Ms. Ramsey holds the IIA risk management diploma and has assisted the business school at San Diego State University in establishing courses for continuing education in risk management.

Emily M. Schmitz, risk manager at Koracorp Industries Inc. in San Francisco, decided she'd rather buy insurance than sell it. She started as a file clerk in an insurance company, later handled insurance on the accounts of a finance company and moved between risk management and brokerage positions—including a job with a Lloyd's broker. She settled into risk management at the Salvation Army and six years ago moved to Koracorp. There she manages the company's insurance program, including employe benefits, and reports to the vp of financial services. Mrs. Schmitz is a CPCU and holds the IIA risk management diploma. In 1969 she was elected the first woman president of the Northern California chapter of RIMS.

Alice M. Smiley, insurance manager at Boothe Computer Corp. in San Francisco, has been in the insurance industry for nearly 20 years. She started as a typist in an insurance company, went into rating and then underwriting. For five years she was secretary to an account executive in a brokerage firm. She went to work at Boothe in 1969 as an assistant insurance manager and in 1972 she was was named insurance manager. She handles all the company's insurance, including employe benefits, and reports to the vp treasurer. She holds a B.A. in psychology and is currently studying for the CPCU designation.

Mabel Weiss, assistant vp and risk manager of Seattle First National Bank, went into risk management after a successful career as an insurance agent. In the 1940s she started as a secretary at Unigard Insurance Co. and worked her way up to office manager. Then for 20 years she had her own agency in Tacoma, Wash. After moving to Seattle in 1970 she opted for an accounting job at the bank rather than working for another agent. When she learned there was an opening in insurance she asked to be considered and was made insurance officer. This year she was promoted to vp and risk manager. Mrs. Weiss handles the bank's property and casualty insurance and reports to the comptroller. She is a CPCU and holds the IIA risk management diploma. She was the first woman member of the Washington chapter of RIMS and served as its president during the 1974-75 term.

Betty W. Zeni, insurance manager for Marshall Field & Co. in Chicago, joined the company in 1950 working in the fashion office. She moved through the treasurer's office into the real estate division where she worked on the suburban expansion program of the department store. When the insurance manager retired in 1972 she was offered the job because she knew the company's property. Handling the property and casualty insurance for the company as well as the property taxes and some banking, Mrs. Zeni reports to the financial vp. She has a B.A. in political science. ■

Utility files suit against crane firm

CARLSBAD, CALIF.—San Diego Gas & Electric Co. has filed suit against Liebherr Crane Corp., the West German manufacturer of a hugh tower crane that collapsed last October at the power company's Encina power plant, killing six workmen.

The lawsuit, which is the second to be filed against Liebherr since the accident on Oct. 2, 1976, charges the West German company with negligence and carelessness in the design, construction, manufacturer and assembly of the crane.

The wife of one of the workmen killed in the accident has also filed a wrongful death suit against Liebherr Crane Corp.

The SDGE suit, which states no total dollar figure, asks general, special and punitive damages, including payments made as workers' compensation to the families of the six dead men. ■

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Women risk managers . . .

Continued from page 11

man's is assumed, women risk managers say. Betty W. Zeni moved into the insurance manager's position at Chicago's Marshall Field & Co. after 25 years in the real estate division. She's found "there's the inherent questioning—does the woman understand the financial and engineering aspects of the field?"

Judith M. Lindenmayer, risk manager at Sealy Inc. in Chicago, finds doubting-Thomases among her male colleagues. "In my peer groups there is a tendency for people to search to see how much I know. But that's brief."

All of the women interviewed agreed that women are now more readily accepted in the business world than they've previously been. More than one woman recalled the times when women were told to sign letters with their initials to conceal their sex.

Men weren't the only skeptics about women in business. Alice M. Smiley, insurance manager at Boothe Computer Corp. in San Francisco, confessed, "I myself found it difficult to work with a woman. If I talked to a woman at a company, I thought I was being shunted off. It took me awhile to get used to thinking a woman knew what she was talking about even though I was in that position myself."

But low expectations of her ability can be turned to a woman's advantage. Pamela J. Rainey, insurance manager at California Liquid Gas Corp. in Sacramento, chuckled, "I'm not afraid to ask questions. Men don't expect me to know anything anyway."

When it's obvious the woman knows her stuff, can she proceed to get the job done as a man would? Not necessarily, said one woman. "I find as a human being I am not aggressive. But when I'm gung-ho on a problem, instead of management understanding my concern, they think I'm being too aggressive."

Although women are popping up all over in risk management positions, men still suffer an initial shock when they first work with a woman. Said Ms. Akk of the County of San Diego, "Some of the technical people are sometimes surprised to have a woman to work with. And some of them are uncomfortable. They don't know how to interact with a woman on a professional basis. They watch their language."

Ms. Rainey has encountered the same reaction. She said, "When I first came here a lot of the men weren't as relaxed with me as they would be with other men in management. They were more careful, like watching their language. But that's changing."

Either men have mastered their tongues, or the problem isn't what it's made out to be, because none of the women interviewed complained about foul language. In both the professional office setting and in a social setting such as a RIMS meeting, women say men have always made them feel comfortable and welcome. Edith F. Lichota, assistant treasurer at The Carborundum Co. in Niagara Falls, said during her 12 years in the business "men in the field have always treated me courteously and professionally."

Men's concern for chivalry can pay off for a woman risk manager. Mrs. Astarita at AMF observed, "Occasionally I find a man will very courteously listen when he might be curt with a man. By long association he is gallant."

Women risk managers have, however, run into men who would rather women weren't succeeding in the field. Said one woman, "Men sometimes think of women as threatening. When a woman is in a risk management position it means there is one less opportunity for the man."

It's difficult to pin down whether or not women are paid equally with men for equal work. Most of the women interviewed said they didn't know enough about other risk managers' salaries to know if they were equally paid.

Twice as many women thought they were underpaid than those who thought their salaries were on par with men's salaries. Said one, "I know women don't get the same pay. Women have made no progress in that area. Maybe it's our own fault. Maybe we are willing to work for less."

Women's presence in risk management is on a continuing upswing, those interviewed said. Insurance companies and brokerage firms are promoting women to executive positions now, long the training ground for men entering risk management.

And although increased numbers of women in risk management will ease the negative pressures of being the odd-ball out for women, they predicted it will also remove one of the advantages: Good women risk managers stick in people's minds and when a job opening occurs they are often thought of first. ■

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ARE YOUR FOREIGN EARNINGS YOUR ACHILLES HEEL?

The multinational company today may be on sounder footing than Achilles but when it fails to protect its foreign earnings, it exposes its vulnerability.

A recent study by a leading investment company documented the degree of importance of foreign earnings to per share earnings among major companies and concluded that a sharp downturn abroad would have serious effects at home. Dips in per share earnings, stockholder disenchantment, and loss of confidence could easily result.

While companies are diligent in protecting themselves against material damage from earthquakes, fires and windstorms, the loss of earnings on operations abroad is one arrow often neglected. And that leaves even strong corporations vulnerable. Just like Achilles' heel.

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editorial opinions

Pain and suffering

FLORIDA's INSURANCE commissioner believes that tort laws allowing injured parties to seek damages for pain and suffering are contributing to "jackpots" for some people and are motivating people to abuse the legal system.

Commissioner Bill Gunter sees the problems in connection with personal injury auto liability insurance. He is proposing to do away with "jackpot coverage which can result in million-dollar settlements for accidents and injuries which cause relatively minor financial loss."

We compliment Mr. Gunter for wanting to ban legal actions (regretably, only in the auto accident field) seeking pain and suffering payments. He thinks only the direct costs of an auto accident should be compensated.

Suits seeking pain and suffering damages eat up 60% of all insurance dollars paid out in auto accident cases, said Mr. Gunter. What's worse, much of that goes into legal fees, he realized.

We're glad to see someone recognizing that pain and suffering awards can grossly inflate liability damage awards. We've taken the position several times that these damages often have little or no relation to the seriousness of an injury, or to real economic loss suffered, and should be severely curtailed.

We support Commissioner Gunter's proposal in the auto field. And we'd like to see other commissioners—as well as legislators and other national policymakers—adopt this view. That would be the first step in recognizing that we have a growing liability problem in this country which must be corrected by restricting plaintiffs' and lawyers' ability to profit from lawsuits asking outrageous sums of money.

Let's recognize, too, that this isn't just a problem in the auto liability field. It's as bad a problem, if not a worse one, in medical malpractice, product liability, and several other liability fields.

Praise for the IRS

THE INTERNAL Revenue Service can be a "good guy" sometimes. In fact, the IRS just might be learning to recognize the economic impact on businesses of some of its actions.

A recent case in point: Although the IRS doesn't often reverse itself without being taken to court after it has already passed a rule, the agency on March 21 did just that, and on a proposed rule that would have hit businesses pretty hard.

The proposed rule would have been a blow to employe benefits generally, in the same way the pension reform law's ill-considered scope was a blow to benefits for workers in this country.

Apparently because of overwhelming objections from industry and recognizing the need to provide incentives for employer-provided benefits rather than restrict such benefits, the IRS withdrew its proposal to impose much heavier taxes on group life insurance over $50,000. The IRS had wanted to tax employes anywhere from 24% to 130% more per $1,000 of employer-provided group life coverage over an initial tax-free $50,000.

At the same time, the IRS was about to do away with the combination group term insurance-whole life insurance programs which have become increasingly common as benefits for executives. They were attractive because companies could provide big-dollar life coverage tax-deductible for the employer and tax-free to executives, while providing the executive with cash-value policies that in some cases were used to pay the premiums on these programs, in others used by the executives for their loan value.

Right when everyone thought the IRS was about to make this proposal a rule, the agency quite unexpectedly turned around and withdrew the proposal.

Score one for the freedom to provide the most economical and best benefit package at the lowest dollar cost.

State offers a warning

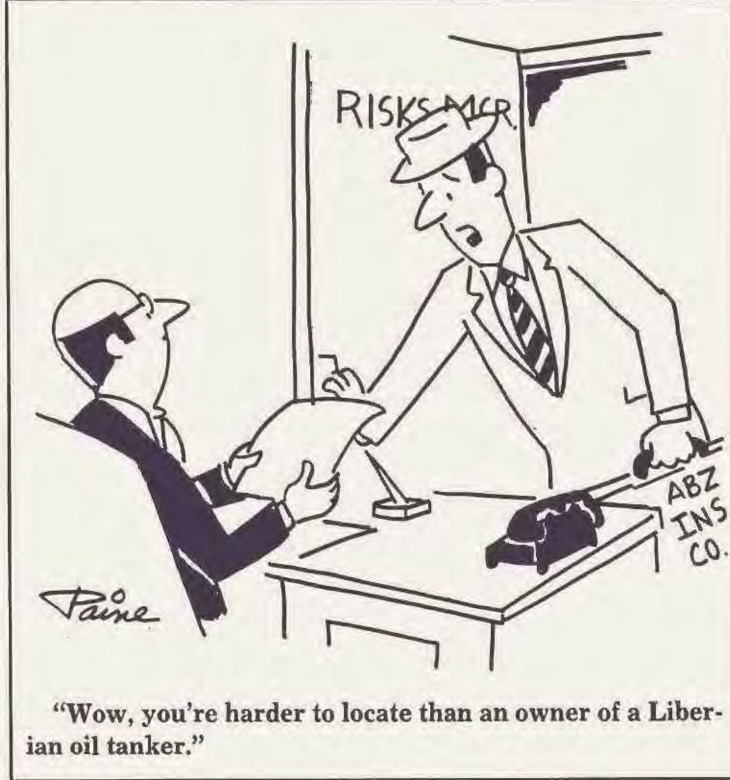
AN INDICATION OF what would happen under national health insurance—even if it was only supplemental to private coverage already in force for the vast majority of the population—is available in the statistics of the Rhode Island Catastrophic Health Insurance Plan (CHIP) begun in 1975.

The program is intended to pay medical bills after a claimant exhausted his private health coverage. The cost of averting such financial disaster for ill residents of Rhode Island was $858,565 in payments to 150 families in 1976, up a whopping 69% from 1975.

A total of 189 persons in the 150 families received benefits during 1976, up 66% from the year before.

Worthy of a compliment to the state was the fact that administrative costs were held down last year, though. Average expenditure per claimant rose only 2% to $4,544 from the year earlier.

Emotional disorders were the leading cause of disabilities for which benefits were claimed, affording a hint about where the cost controls, coinsurance and, yes, benefits are most needed.



"Wow, you're harder to locate than an owner of a Liberian oil tanker."

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.

A correction

To the Editor: Allow me to correct an obvious misprint in the Johnson & Higgins listing in the international directory.

In addition to the many J&H employes stationed in the 34 offices outside of the U.S. and Canada, we have established exclusive correspondent relationships with firms having 71 offices in **23** countries (not in **3** countries as reported in your March 7 issue).

We believe that the most significant factor regarding Johnson & Higgins International is the quality of J&H subsidiary operations abroad—the large number of salaried J&H employes employed overseas and the many years of their local experience.

Seth S. Faison
Vice President, Johnson & Higgins, New York, N.Y.

ERISA trusts

To the Editor: I read in the March 7 issue of *Business Insurance* that the Labor Department is presently reviewing the emerging crisis in regard to multiple employer trusts.

Our firm specializes in association programs, representing various large employer associations in the Northeast. These associations are 501(c) (6) organizations formed for purposes other than merely providing group insurance to its members. Their membership, however, is extremely interested in the attributes that can be enjoyed from large, association group contracts. These attributes normally include lower premiums, special benefit provisions, and better service. The smaller employer member cannot secure these items as readily on its own. The associations, therefore, have become very active in the insurance area on behalf of their members.

I am concerned that the Department of Labor may not clearly differentiate this type of arrangement from the typical multiple employer trust formed solely to secure insurance. This distinction is essential in issuing any regulations geared toward establishing strict controls.

Our clients have formed both fully insured and self-insured programs. They truly provide the assurances that the programs are properly funded, with elected executive heads of association members acting as trustees.

Continued on page 34

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letters

Continued from page 32

We certainly do not want the honest and sincere efforts of our association clients being swept into the adverse publicity of alleged frauds. Multiple employer trusts whose sole purpose is to band together nonaligned employers for insurance purposes appear to be your primary area of concern.

Michael E. Coslit
Vice President, Donald F. Smith & Associates, Washington, D.C.

Insurers and brokers

To the Editor: Your generalized statement in "Insurers & Brokers" editorial, March 21, took me by surprise.

It appears you've taken a casual comment from the broker as a factual statement, as well as an overall situation on the ethics of brokers.

Our biggest job as brokers, and therefore frontline informants to the public, in this industry is to educate the public to the true problems of the industry. We have to get them off of the idea that insurance is just a big "rip-off."

Today's tight markets, soaring premiums and general unrest have a good deal to do with the horrendous investment losses the carriers took during our economic crunch.

For too long the companies were willing to forego profitable insurance writing with the idea in mind that it would all be made up on investments. That proved to be a fallible theory and with all the subsequent educating done on this particular subject, it's disappointing to hear there are still those willing to latch onto and publish the unworkable theories. In addition, a comment from your fine publication on the general ethics of brokers because of one man's comment is a bit more narrow-minded then your position grants you a right to be.

Cindy Flaherty
Vice president, Diversified Risk Insurance Brokers, Emeryville, Calif.

Defensive weapons

To the Editor: In defense of Dr. Lenz, although I'm sure he needs no help, I would like to point out to Dr. Snider (whose rebuttal to Dr. Lenz's letter to the editor appeared in March 21 "Letters") that the best offense is a good defense. Strategically, if your rear line defense breaks down, you will certainly lose your ground. For this reason, the most powerful and best trained are utilized as defensive weapons.

This theory, therefore, can be applied to risk management thinking in that loss prevention and retention are offensive weapons and the insurance buying weapon purely the last line defense, but the greatest force in the arsenal.

F. X. McCahill III
Manager, Insurance and Safety, Norton Simon Inc., New York, N.Y.

A real possibility

To the Editor: I think that both BI and the broker who was indirectly quoted in your editorial "Insurers and Brokers" of March 21st need to check some current accounting practices.

The Minnesota workers' compensation law is horrendous and the aggregate of benefits potentially payable to a widow with a 39 year life expectancy could be reasonably estimated at $1.8 million. There are a lot of ifs to that but it is a realistic possibility.

However, under current accounting practices either a self-insured or an insurance carrier would reserve this claim on a discounted present value of money basis. Since the $1.8 million assumes an inflationary rate of 6.5% an assumed interest earnings rate of 6.5% would also be appropriate. This would result in a present reserve of about $650,000 being adequate to pay the full $1.8 million in estimated future benefits.

The insurance carrier will, therefore, receive no future income benefit from these reserve funds since the assumed interest income has already been credited in determining the required amount of reserve.

The accounting practice of using the discounted present value basis for determining reserves for claims with long payouts is not only well established, it is, in fact, required by law under the insurance reserving practices in most states.

Howard T. Weber
Director—Insurance, 3M Co., St. Paul, Minn.

Air bags or seat belts?

To the Editor: In response to your editorial, "Ahead on Air Bags" (Feb. 21) I would like to make a few comments. I am aware of the tests that have been made by various concerns and agencies, and the studies made by Allstate, Nationwide, and Volkswagen Insurance Co. But I feel that too little input has been given to the mass media to give the average motorist and automobile buyer definitive facts and test results regarding the safety, dependability, lack of erroneous deployment.

We are all only too well aware of the general failure to get the motoring public to use their seat belts, which are required by law in all cars.

Now we see that there is a possibility that the use of air bags will be made compulsory by federal action, and subsequently increasing the cost of a new car by several hundred dollars. It is strange that we will mandate something like this. Public and other pressure brought to bear required the rescinding of the requirement that seat belts must be interlocked with the ignition key and a buzzer.

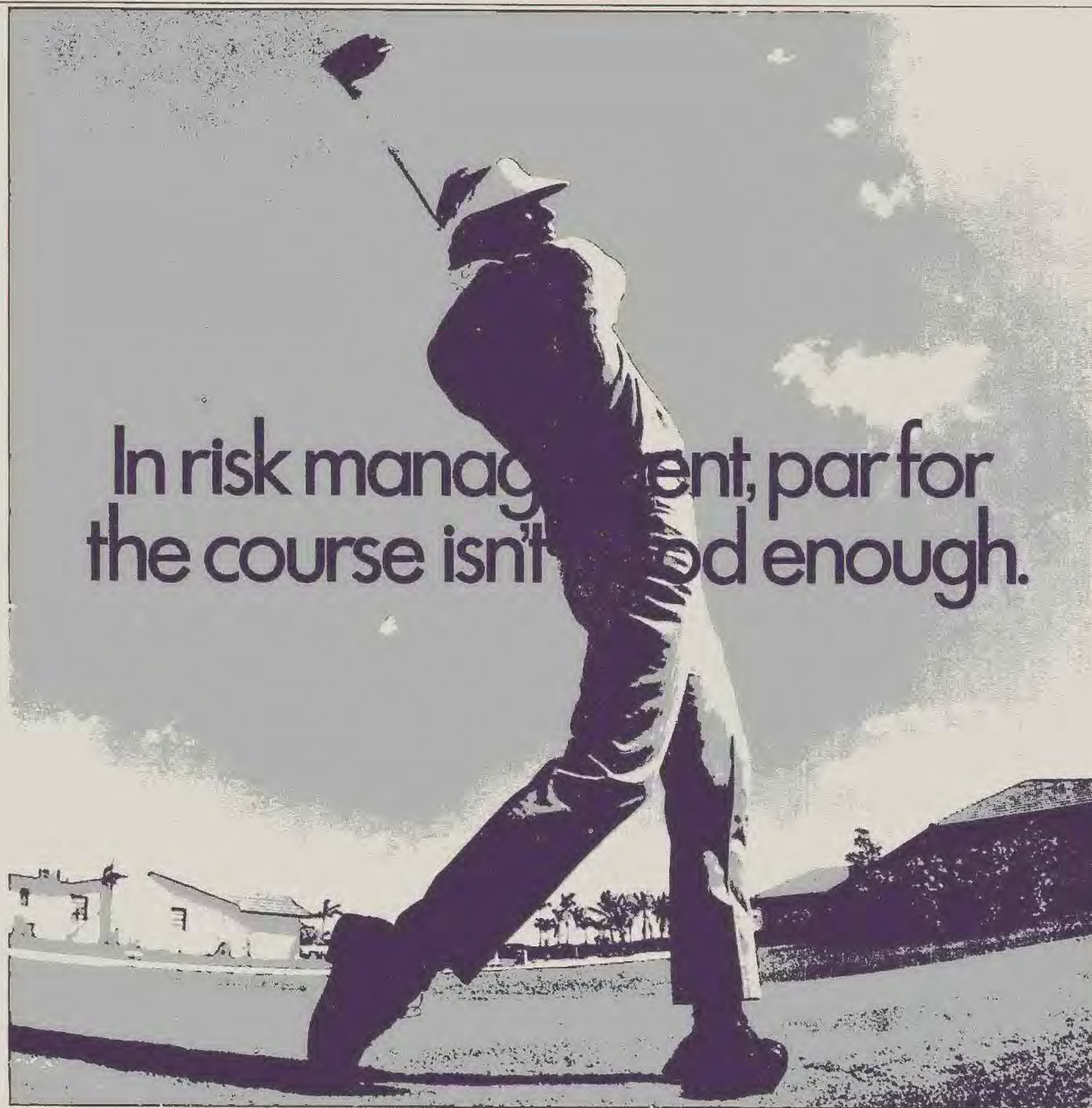
This letter is not to imply that the writer is either pro or con on air bags, but yet remains to be convinced of their value over that of the simple shoulder-lap belt combination, if used. Again, it gets back to a matter of public education.

Because of the cost of these belts, and the steadily rising costs of everything that the consumer and business person must use, it seems that this should be carefully researched and tested before it becomes mandated, and only after information is given to the public on an objective basis.

As to the funding of the tests, it appears to me that those most interested in it could certainly bear the cost, i.e., the Department of Transportation, the insurance carriers writing automobile and motor vehicle insurance, and the motor companies themselves.

Among the items of the testing should be problems in regard to minor accidents and accidental deployment. But also the problem should be researched as regards rear-end collisions involving whiplash, for which the air bags will give absolutely no protection, and the side accidents or ejection of persons from doors where seat belts are not being used. Again, the seat belt comes into view here as a most important safety device, along with the properly adjusted headrest for the front seat passengers and for the driver.

Gordon L. Bowen
President, Associated Safety & Claims Services, Inc.



These days, the course of business is lined with financial traps. Staying out of them consistently is the only way for a company to break par and stay ahead of today's tough competitive field. That's where Ebasco comes in. Strong.

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Ebasco is prepared to perform a comprehensive Insurance Audit to give you an objective view (we do not sell insurance) of your present risk management program. Then, we'll show you how to shave a lot of strokes (and dollars) from your company's financial scorecard. To win in the marketplace today, you can't afford to settle for just par.

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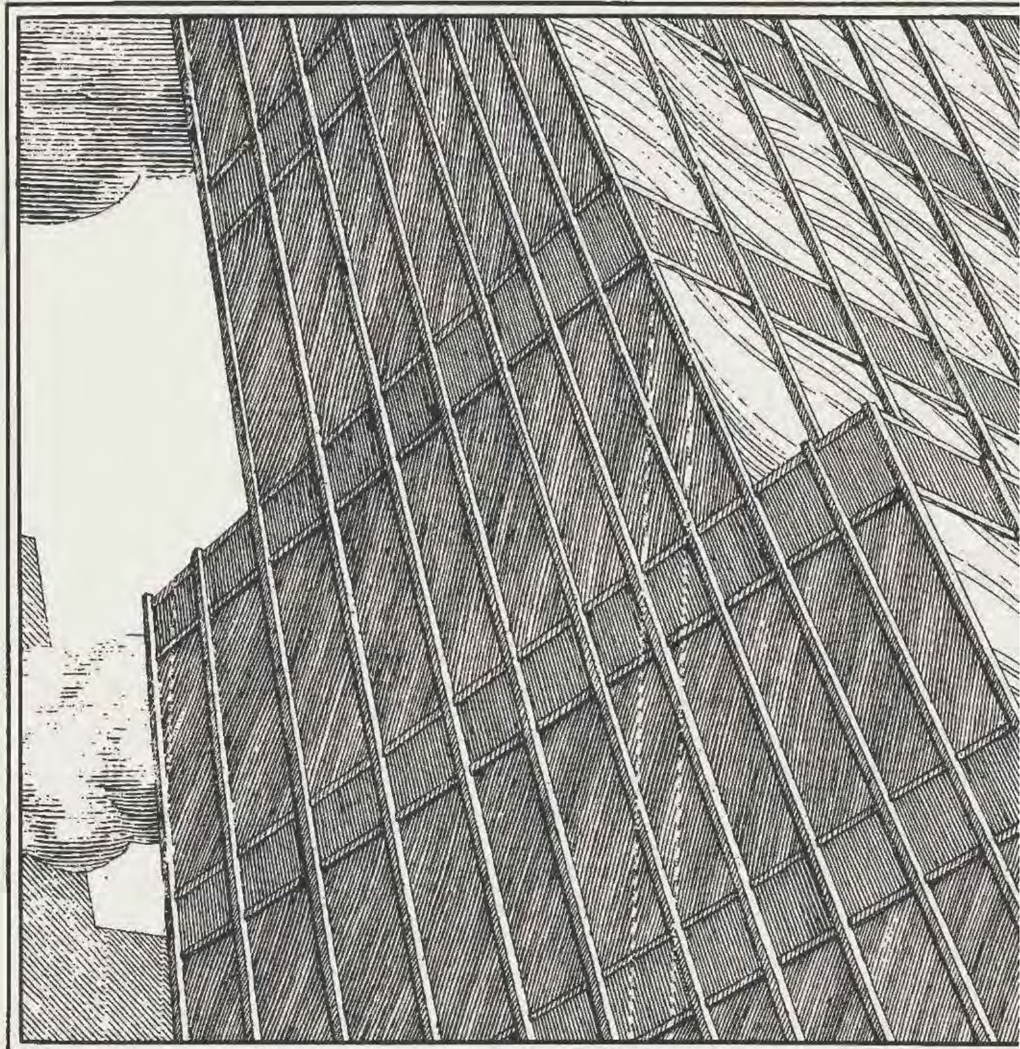
Employee

Billions of dollars are lost by American business each year through employee dishonesty, but only a small fraction of these losses are covered by insurance. Yet exposures to big, potentially catastrophic losses are increasing.

A brief review by INA of an insurance topic of interest to business executives.



A bookkeeper falsifies the deposit records of a credit association and embezzles $787. The manager of a company cafeteria misappropriates $8,900 of company funds through collusion with suppliers. An accountant makes use of a computer to generate $417,000 worth of payments to himself through dummy vendors.

These examples of employee dishonesty have three things in common. First, the losses eventually were revealed. Second, the guilt of the employees was established. Third, the losses were fully covered by employee honesty insurance, otherwise known as fidelity bonding.

Unfortunately these factors are more often the exception than the rule. Even when losses are revealed and guilt established, insurance coverage is likely to be inadequate or non-existent, except for mandatory coverage of financial institutions. Only about 15% of small business firms bond their employees, often in amounts which fall short of potential losses.

Meanwhile the exposures of business, particularly to big, potentially catastrophic losses, have increased with the advent of sophisticated embezzlement techniques such as computer-aided fraud.

Negligence isn't dishonesty

What is honesty insurance? A fidelity bond is simply a guarantee that the insured firm will be compensated, up to an agreed-upon amount and subject to agreed-upon terms and conditions, for the loss of money or other property resulting from the dishonest acts of its employees. Such bonds are not intended to cover losses caused by negligence, bad judgment or incompetence.

There are many types of fidelity bonds, but all fall into two categories—those for financial institutions and those for all other kinds of organizations. Formerly most fidelity bonds were written to cover specific employees, either by name or by position. Most business firms today prefer to bond all employees on a blanket basis, both because it is usually more effi-

Dishonesty

cient and because of the broader coverage a blanket bond affords.

Simply buying insurance doesn't solve the problem of the dishonest employee, however. A large number—probably the majority—of dishonest employee acts remain hidden, ranging from petty pilferage to successful schemes for siphoning off corporate funds. Equally important is an effective internal loss control program.

Splitting employee responsibilities

Such a program involves setting up control procedures and seeing that they are enforced, after reviewing exposures to crime both within the company and outside it. In addition to rigorous outside and internal audits (including frequent "surprise" audits), the principle of division of responsibilities should be followed wherever possible, so that no one person has sole responsibility for vital areas of business operations.

For example, a person who orders goods and supplies should not receive them and should not issue checks to pay for them. Collusion between dishonest purchasers and suppliers is a frequent cause of large losses. By the same token, all checks should be countersigned and bank statements reconciled by responsible individuals not involved in the preparation of checks or deposits.

Again, with respect to electronic data processing, the programming and input and output functions should be separated. No one person should ever have complete control of the recording of a business transaction, even in this day of "on line" operations.

Most business employees are trusted—and rightfully so. But most dishonest employees are trusted, too—right until the time of revelation. Dishonesty loss control can protect the interests of the vast majority against the small minority.

For a fuller discussion of employee dishonesty from an objective standpoint, INA has prepared a booklet entitled, "Honesty Insurance: Some Professional Considerations." Copies may be requested by writing INA Corporation, 1600 Arch Street, Philadelphia, Pa. 19101.

* * *

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Judging from BI benefit contest entries

Use of audio-visual materials on rise

By MARGARET LeROUX

NEW YORK—Judging by this year's entries to *Business Insurance's* fifth annual Employe Benefits Communication Awards competition, benefits communicators are using more audio-visual materials than ever and are using them more innovatively.

Ronnie Drachman, promotion manager for *BI* and awards coordinator for the competition, said methods other than slides and 16 millimeter films are now becoming popular.

"We had more entries in the audio-visual category this year than we've ever had before," Ms. Drachman said. "We used to be inundated with print material; this year there was a fairly even mix between print and audio-visuals."

With 120 entries submitted by 99 different companies and participation by 28 employe benefits consulting firms, the competition this year was the largest in the five-year history of the contest.

There are four categories for entries: booklets; personalized correspondence which includes computerized benefit statements, computerized benefit booklets and employe publications; audio-visual presentations; and total communications programs including all print or audio-visual material or a combination of the two.

Judges for this year's competition included representatives from both the employe benefits field and communication and advertising. They were:

Nathan Smith, assistant vp and director of employe benefits for American Home Products, New York; Maryanne Sherman, manager of corporate communications, American International Group, New York; Herbert Hadley, director of pension & group insurance department, American Standard Inc., New York; Therese Pick, administrator of employe benefits; AT&T Co., New York.

Also: James Ellers, Ted Barash & Co. Inc. New York; Walt Klint, director, employe benefits program, Continental Can Co.; Joan Myers, assistant manager, employe benefits, Diamond International Corp., New York; Richard Doyle, vp of public relations & advertising, Home Insurance Co., New York.

Also: John Lamantia, employe benefits administrator, Lever Brothers Co., New York; Charles J. LaPaglia, manager, policy & planning Mobil Oil Corp. New York; John Napier, director of compensation, Otis Elevator Co., New York, and Joseph W. Duva, director, employe benefits & compensation, SCM Corp., New York.

Judging was done in *BI's* New York office in mid-March. On four separate days teams of two judges each saw one-fourth of the entries in all categories. They selected two finalists in each category. On the fifth day, a panel of four different judges saw all eight finalists in each category and chose first, second and third place for each group.

Ms. Drachman pre-screened all entries "solely to make sure that the program submitted is an employe benefit communications program, that it's entered in the proper category and that it's relevant to the competition," she said.

All entries must pertain to a specific corporate employe benefits program. No blank, standard forms prepared by consultants for prospective clients are allowed.

"At no time did the judges know who the consultants were," Ms. Drachman said. "They only knew who the companies were."

Since several companies entered all categories, the entries for each day's judging were divided so that the judges saw only one entry per day from each company.

An excerpt from the standards and suggestions given to each judge for the competition states: "It is the sole purpose of the competition to give recognition to how well the employe benefits are being communicated . . ."

"It's the communication of the benefits, not the benefits themselves being judged," Ms. Drachman said.

The judges' handbook also notes "It is entirely possible that a company with a less complete or less costly benefits program does a better job of communicating its employe benefits than one with an elaborate, complete and expensive package of benefits."

The following elements of employe benefit communication programs were considered:

- Is it believable? Or is it too glib?
- Clarity of language. Can the average worker/employe understand it?
- Are graphics meaningful or are they just window dressing?
- Is text easy to understand or is it too technical for the average worker/employe?
- Are the stated objectives of the program achieved?
- Is the presentation human? Does it really care for the worker/employe as a human being? Does it show concern without becoming paternalistic?
- Is the worker/employe motivated to take better advantage of the offered benefits?
- If you were an employe of the company whose presentation you are viewing, would the particular approach taken hold your interest?
- Is the presentation well integrated with other elements? (This applies to total communications program entries only.)

This year, for the first time, companies entering the competition were requested to provide a supplemental statement describing how the entry was applicable to the benefits communication program.

Those entering the competition were also asked to include any other information to better explain the company benefit program. "This was to give the judges a better feel for the program and company if the company was not widely known," Ms. Drachman said.

There was a $30 entry fee for both of the printed material categories, a $40 fee for audio-visual presentations and $50 for the total communications programs.

The fees cover expenses involved in renting projection equipment to show audio-visual presentations, the cost of the award plaques and return mailing costs.

The judges volunteer their time; they get no fee, "just lunch and lots of coffee," Ms. Drachman said.

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Alexander & Alexander

The BI promotion manager and Hollis Pivor, assistant to the publisher, show the audio-visual programs. "We ask that entries include instructions regarding type of equipment needed and when possible, a script," Ms. Drachman noted.

Though the *BI* promotion staff is available to assist judges, they are not involved in the judging process. "The judges are alone with the printed material."

By the end of March all winners are notified, though awards are presented at the annual Risk & Insurance Management Society (RIMS) conference in April. A display of all entries in the print material categories as well as print material from the Total Communications Program category are part of the exhibits at the RIMS conference.

Companies and consultants entered in this year's benefit communications awards competition include:

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The American College
American Hospital Supply Corp.
Andover Co.
Bendix Corp.
Berlin Industries
Borden Inc.
Bristol-Myers Co.
Burlington Industries
Citibank, N. A.
Crocker National Corp.
Cyprus Mines Corp.
Dayton Hudson Corp.
General Telephone & Electronics Corp.
Hennepin County Personnel Department
Hitchner Manufacturing Company Inc.
Hunt-Wesson Foods Inc.
The Kendall Co.
Kidder, Peabody & Company Inc.
Kingsbury Machine Tool Corp.
Los Angeles City Unified School District
M. & T. Bank
Midas International Corp.
NBF Corp.
New Process Co.
New York Times Co.
J. C. Penney Company Inc.
Pfizer Inc.
The Pillsbury Co.
Polaroid Corp.
Rainier National Bank
Ryder System Inc.
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Skandia America Reinsurance Corp.
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Kearney & Trecker Co.
Medtronic Inc.
Merrill Lynch Pierce Fenner & Smith Inc.
New York Stock Exchange
Olin Corp.
J. C. Penney Co.
Pepsico Inc.
Pfizer Inc.
Pullman Inc.
Ragland Brothers Co.
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Texas Instruments
Western Co. of North America
Wyandotte General Hospital

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Caltex Petroleum Corp.
Container Corp. of America
Crocker National Corp.
CUNA Mutual Insurance Co.
First & Merchants Corp.
Foremost-McKesson Inc.
Heublein Inc.
Hunt-Wesson Foods Inc.
Inland Container Corp.
National Bank of Detroit
National Board of YMCAs
Pfizer Inc.
Phillips Petroleum Co.
The Resource Sciences Corp.
Revlon Inc.
Richardson-Merrell Inc.
Searle & Co.
Unifax Inc.
United Airlines
United States Shoe Corp.
West Virginia Public Employes Insurance Board.

TOTAL COMMUNICATIONS

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Castle & Cooke Inc.
Clow Corp.
Control Data Corp.
Crocker National Corp.
Gould Inc.
Greendale Federal Savings & Loan Assn.
Hibernia National Bank
International Multifoods Corp.
Johnson & Johnson
A. T. Massey Coal Co.
Mead Corp.
Metropolitan Life Insurance Co.
Olan Corp.
Pfizer Inc.
Pioneer Bank & Trust Co.
RCA Corp.
The Resource Sciences Corp.
Richardson-Merrell Inc.
J. P. Stevens & Co. Inc.

Four of the twelve judges for the fifth annual Employe Benefits Communication Awards were (left to right): Richard Doyle, Home Insurance Co., New York; Joseph Duva, SCM Corp., New York; Herbert Hadley, American Standard Inc., New York, and Therese Pick, AT&T Co., New York.

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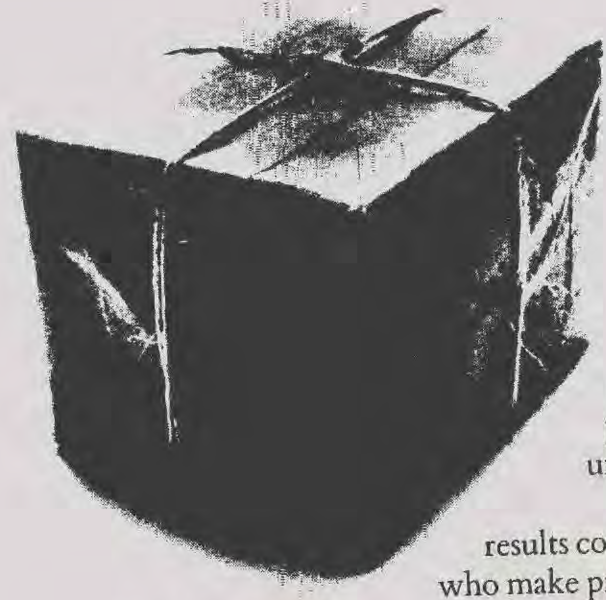
Henry White

Underwriting loss

The nation's property and casualty insurance companies lost more than $2.2 billion on their underwriting operations during 1976, the Insurance Information Institute says. The Institute said the underwriting losses reduced the industry's investment income of $4.8 billion by 46%. Net income for 1976, after taxes, totaled $2.6 billion. During 1975, underwriting losses were put at $3.6 billion by the Insurance Information Institute.

Product liability is like a box that's ticking. We don't know what's inside, a clock or a time bomb.



Not that long ago, product liability was just another form of insurance coverage. Something a manufacturer turned to on those rare occasions when somebody got hurt using his product.

Then, almost imperceptibly at first, some curious things began to happen.

Product liability cases, which in the early 1960's were running at a fairly predictable rate, began to increase at an unstable pace.

If these trends continue unchecked, the results could prove disastrous. Not just for people who make products, but for people who buy them.

That's us. All of us.

Already, the prices of many goods and services have begun to escalate because of the need for additional product liability protection. Some manufacturers are even reluctant to introduce new, improved products. Indeed, there have already been cases where the "new, improved" label was cited as evidence of the older product's deficiency.

Why are we telling you this? Because we all stand a better chance of solving these problems if we understand what it is we're dealing with. We'd like to know what you're thinking and we'd be happy to share our ideas with you. Just drop a letter to our Office of Consumer Information, One Tower Square, Hartford, Conn. 06115.

Although product liability is still a potential, rather than an actual, problem, it's something that should concern all of us. Because the symptoms are there. And if the day arrives when we find that product liability is, in fact, a crisis, it may be too late for a solution.

Tick, tick, tick.

THE TRAVELERS

The Travelers Indemnity Company, and Affiliated Companies, Hartford, Conn. 06115.

Nuclear plant liability limit struck down

By MARIE KRAKOWIECKI

CHARLOTTE, N.C.—The Price Anderson Act, which governs the joint private and federal insurance program for the nuclear industry, was declared unconstitutional by a North Carolina federal district judge.

Price Anderson limits the liability of nuclear utilities responsible for nuclear accidents to $560 million per incident. According to some predictions, a serious nuclear accident could cause damages totaling $4 billion or more.

However, there is currently no insurance coverage available above these limits. Neither utilities nor homeowners living near utilities can buy extra insurance protection in the event of a nuclear accident.

It was this limited liability and accompanying lack of available insurance which led an environmental group affiliated with Ralph Nader to sue Duke Power Co. and the Nuclear Regulatory Commission in 1973 over construction of the Duke Power Co. McGuire Power Station. The plant is located 40 miles from Charlotte, a city of 300,000.

According to the Carolina Environmental Study Group, which represented some 40 homeowners near the nuclear plant, the limits of liability under Price Anderson were a source of potential damage to the homeowners since they could not buy additional insurance to protect themselves.

The suit was experimental, because no actual damages have ever occurred. The plaintiffs had to establish their right to even bring such an action.

They appeared before Judge James B. McMillan last September to give testimony to support their case. Also testifying were proponents of Price Anderson. (*BI*, Oct. 18, 1976).

Late last month, Judge McMillan, who has a reputation in North Carolina for being willing to establish precedents, issued a 43-page ruling which said the $560 million limit of liability under Price Anderson is unconstitutional and therefore illegal. If his ruling is upheld by higher courts, it could have a major impact on the nuclear industry.

Action is not expected for about a year, according to one industry source. However, the net effect is expected to be a slowdown in the construction of nuclear power plants. Utility companies are likely to be unwilling to gamble on someday assuming potential liabilities above $560 million for which they can't buy insurance.

Congress extended the Price Anderson Act late in 1975 until August 1987. Among other things, Price Anderson provides for $560 million of property and liability coverage for utilities in part by private insurers and in part by the federal government, with the government slowly being phased out as an indemnitor.

The principal pool of insurers that provide such coverage is the Nuclear Energy Liability-Property Insurance Assn. (NEL-PIA). Joseph Marrone, general counsel for NEL-PIA, said the McMillan ruling is not expected to have any effect on the coverage offered by NEL-PIA.

Early this year, NEL-PIA expanded the amount of property and liability insurance its members will offer a utility to $390 million from $300 million.

This did not mean that the general public would receive any additional protection. The $560 limit set by Price Anderson still applied, only NEL-PIA provided a larger amount and the government a proportionally smaller one.

Duke Power said it would appeal Judge McMillan's ruling against the Price Anderson Act to the Supreme Court. According to court watchers in North Carolina, Judge McMillan has had a number of his rulings overturned by appeals courts, but then upheld by the Supreme Court.

One of the main purposes of Price Anderson has been to provide limited liability to utilities while at the same time phasing out the government as an indemnitor in nuclear accidents. If the courts strikes down the law, it is unclear what the government's role as an indemnitor would become. ■

Consultants eye public agencies

RED BANK, N.J.—A consulting firm has been established here to specialize in government bodies such as county boards of education and state-authorized agencies.

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Swine flu hot seat may burn for years

By KATHRYN McINTYRE ROBERTS

WASHINGTON—Manufactures of the swine flu vaccine and those who administered it will be sitting on a liability hot seat for at least five years.

That's the shortest time it will take the federal government to process and litigate the claims pouring in from people who charge they suffered side-effects from the vaccine, estimated Neil Peterson, a Justice Department attorney coordinating the claims handling procedures.

And when a claim is paid which the government believes stemmed from negligence, the negligent party can expect a suit from the federal government.

Negligence is the only basis on which the manufacturers or those who administered the vaccine can be held liable under the 1976 law which established the federal government's primary liability for any claims arising out of the nationwide innoculation program.

The law, the National Swine Flu Immunization Program of 1976, was demanded by the vaccine manufacturers who said they couldn't buy insurance to cover the program.

Negligence on the part of the manufacturer would be, for example, a bad lot of vaccine, Mr. Peterson said. To date, he doesn't know of any such instance.

Mr. Peterson has, however, seen claims involving nerve or vein damage that indicate negligence on the part of the person administering the vaccine.

Although Mr. Peterson said he intends to "do what the law tells me to do" regarding recovery for claims paid, he said on a practical level he won't go after recovery for a $50 settlement or sue a nurse who doesn't have a nickel to pay. "You can't get a squirt out of a dry grapefruit," he philosophized.

At the end of March, 253 claims ranging from $9.50 to $3 million and totaling $60 million had been filed. More revealing of things to come is that 3,000 inquiries regarding claims procedures have been received.

But Mr. Peterson says he is not surprised by the number of claims or the recovery sought. "It's about what I would expect at this point," he said. Although he couldn't predict what the claims will total at the end of two years, the statute of limitation on claims, he suggested "the amount sought will probably be astronomical."

At this point Mr. Peterson has only two and a half positions authorized to assist him in handling the claims. Congress has been asked to appropriate $1.1 million in fiscal 1978 to fund the program and establish 28 new positions—lawyers and support staff.

It will be a long haul from when a claim is filed to its resolution. The swine flu statute applies to procedures of the Federal Tort Claims Act to the process. That means a person seeking recovery must first file an administrative claim with the proper agency, in this case the Department of Health, Education and Welfare. The agency then has six months in which to pay the claim. If the claim is denied or not acted upon within six months, the person may sue the government.

With two years in which to file claims, and six months for the agency to act, the process is already two and half years into the future and the parties aren't even in court yet, Mr. Peterson observed.

The Justice Department is processing the claims for HEW. Once the claim is received, the claimant must sign a medical release form so his medical records can be examined. The Armed Services Institute of Pathology or the Center for Disease Control will judge the medical validity of the claim and Mr. Peterson's staff will decide whether or not to pay it.

So far people are filing claims for injuries ranging from inflamed arms (possibly due to improper innoculation) to paralysis (the Guillain-Barre syndrome). There's a disgruntled woman seeking $9.50 because her blouse was ruined when she was innoculated. And a 65-year-old man is claiming the vaccine made him impotent.

There are also 14 suits totaling $45 million against the drug companies pending in federal court. But the swine flu statute substitutes the federal government for the drug companies in suits.

Mr. Peterson, however, said he considers the suits invalid because the claims first have to go through the administrative procedure as required by the Federal Tort Claims Act. "At present we're not bothering to look at the merits of these. As they file the suits we're filing motions to have them thrown out." ■

States trying to prevent liability from derailing Conrail commuters

By DAVID KONIGSBERG

NEW YORK—Transportation officials from four eastern states are continuing efforts to keep Consolidated Rail Corp. (Conrail) from eliminating major commuter service due to an impasse over the financing of liability losses.

Conrail Chairman Edward G. Jordan announced this month that cuts affecting some 50,000 daily commuters will be made June 5 unless New Jersey, Maryland, Rhode Island and Southeastern Pennsylvania Transportation Authority negotiators find a method of covering the costs of all conceivable catastrophic losses.

Should the cuts become effective, 455 trains each weekday would be eliminated in the New York and Philadelphia area alone.

Under a provision of the federal law which created Conrail from the ruins of six financially troubled Northeast railroads last year, participating states are required to fully compensate the carrier for all operating expenses. The current dispute arose from a recent Interstate Commerce Commission ruling which defined unlimited liability coverage as part of the railroad's operating costs.

Although the commuter service is partially subsidized by the U.S. Rail Assn., all federal financing will be withdrawn by September 1978.

Conrail's commuter lines are currently insured for $50 million of liability losses with a $2 million deductible. Under the contract with Conrail, each state pays a portion of the premium according to its usage of services. According to Conrail, the coverage is the most extensive it can obtain.

The railroad's officials are reportedly worried that even a single passenger train accident could seriously upset its fiscally delicate existence. A Maryland transportation official speculated that recent air disasters may have prompted Conrail's insistence on unlimited guarantees.

Officials of the four states have contended they can't agree to the open-ended guarantees, however. New Jersey, for example, has statutes which prohibit the state from entering contracts in which costs are unknown.

But the states—especially New Jersey, where Conrail serves more than 35,000 commuters daily—are working double time to resolve the conflict with Conrail. Even Rhode Island, where Conrail ridership rarely exceeds 350 a day, recognizes the political importance of keeping the commuter line open.

"One just doesn't eliminate a mass transit system in an energy crises," a state official said.

Conrail feels that even one passenger train accident could endanger its delicate existence.

In an attempt to defer action, New Jersey obtained a federal court injunction April 4 against Conrail's posting of service discontinuation notices in the state's railroad stations.

New Jersey deputy attorney general Kenneth Levy, who has been instrumental in negotiations with the railroad, said he believes some form of federal guarantee is the most likely solution to the demand for unlimited liability reimbursement. And he told *Business Insurance* that members of congress have met with state officials to discuss possible legislative action to this end.

Mr. Levy has also suggested a reserve fund to cover the deductible. According to his plan, states would pay a scheduled amount into a pool. In the event of an accident, specialists would estimate the resulting loss. As actual claims approached 80% of the estimate, funds would be added by member states to assure the fund's viability. ■

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Crime payouts total $10 million

SACRAMENTO—The state of California has paid nearly $10 million to 5,330 victims of violent crimes since late 1967, with an average payment of $1,900 to compensate for medical or hospital expenses, loss of wages and rehabilitation services.

In addition, the state has paid workers' compensation insurance to crime victims in instances where injuries occurred while the victim was at work, as well as additional millions of disability insurance payments.

The state program also provides crime victim benefits to dependents and survivors to a maximum of $10,000.

The program does not compensate for pain and suffering or for property losses.

E. F. Veglia, executive secretary of the board, estimates there now are 180,000 victims of violent crimes each year in California.

"Very few of these," Veglia points out, "either file a claim with the state or actually are eligible for the crime victim assistance."

Applicants are required to fill out lengthy forms, appear at hearings and provide proof of their losses and that they are unable to recoup from the violent crime without suffering financial hardship. ■

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GEICO chief predicts better times ahead

By JERRY GEISEL

WASHINGTON—An insurance company best known for its recent whopping losses appears to have turned the corner and may roll up record profits in 1977.

Speaking before stockholders at the annual meeting, Government Employes Insurance Co. (GEICO) chairman John J. Byrne indicated that the company's net income in 1977 could exceed $30 million.

The black ink on the company's bottom line stands in sharp contrast to the 1975 record loss of $126 million and the 1976 loss of $26 million.

"Wouldn't that be something to have the company make its highest profit in history immediately following the cliffhanger?" Mr. Byrne asked.

Mr. Byrne, however, dismissed as speculation published reports that GEICO could earn more than $100 million this year.

"I want to tell you loud and clear that I don't see that in the cards," he said.

But he did note that "if you take the net income on the fourth quarter and multiply it by four you get about $32 million . . . I think the 1977 income could well be better than that."

GEICO, a Washington-based auto insurer, appeared to be heading toward insolvency last year when a combination of bad publicity and rate increases drove away thousands of preferred-risk customers.

In recent months, though, GEICO has restructured its rates in many states to provide lower rates for drivers with good safety records. Company officials say they hope to add 150,000 new policies this year.

In 1976, GEICO lost 750,000 policies, which Mr. Byrne referred to as "a moderately unfavorable variance from our plan."

The company was kept alive through the sale of $75 million of preferred stock, a reduction in staff and through a reinsurance agreement under which competitors assumed the loss risk for 25% of GEICO's policies, Mr. Byrne said. ■

Houston, LA brokers plan merger

LOS ANGELES—Bayly, Martin & Fay Inc. and Harlan Inc. of Houston have announced an agreement in principle whereby BMF will acquire Harlan.

Terms of the agreement were not disclosed. The acquisition is expected to be completed with four months.

Harlan will continue to operate autonomously in its geographical market areas under its own name and present management, according to the agreement.

"Harlan's operations complement those of Bayly, Martin & Fay," said C. R. (Jack) Warde, BMF president, "and its acquisition will fulfill a major goal of ours. We will become a factor in the growing markets centered in Texas and the Gulf Coast area while strengthening our operatins in key locations throughout the U.S."

In the same joint release, Harlan president Joseph N. Tate said, "The addition of Bayly, Martin & Fay international service facilities will be of substantial benefit to us and our clients. We are particularly looking forward to supplying direct service to our clients in Alaska and on the European continent through the office of Bayly, Martin, & Fay in Anchorage, London, Paris and Oslo."

Harlan's six offices will bring the BMF total worldwide locations to 29.

Bayly, Martin & Fay, one of the insurance service companies of The Sperry & Hutchinson Co., had gross revenues of $25.6 million in 1976, according to BMF senior vp Samuel Alcorn. Harlan gross revenues were over $12 million. ■

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On the other hand, it is impossible for manufacturers and sellers to anticipate every misuse.

Should manufacturers and sellers be held liable even when products are misused? Or, should greater responsibility be placed on consumers to use products properly, with reasonable care?

Furthermore, manufacturers are being sued as long as 40 years after products leave their plants. Even when products are altered by others and made unsafe.

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These are not easy questions.

But we at The St. Paul feel the public must answer them.

How can you participate in making these decisions?

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HMOs' time has come, but prepaid legal lags

By SUSAN ALT

CHICAGO—If the time is ripe for health maintenance organizations (HMOs) to be incorporated in employe benefit programs, just the opposite is true for prepaid legal services.

Eighty-five members of the *Business Insurance* Employe Benefit Board are singularly unimpressed—and unmoved—by the much-publicized "trend" over the past few years to provide workers with legal benefits. None of the 85 corporations responding to our latest mail survey has a prepaid legal benefit plan; only four of the 85 benefit managers said they've even seriously considered such plans.

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Countrywide Services Corp.

HMOs, on the other hand, are widely used, judging from the response to the same survey. Fifty-four percent (37) of our panel participants presently offer an HMO option to at least part of their workforces. Furthermore, of the 37 companies not presently working with an HMO, nearly two out of every three benefit managers said they've been approached recently by HMOs in their areas, while almost that many said they've seriously considered using an HMO for health benefits.

It's possible that prepaid legal services will catch on in the next few years, as has been predicted by some benefit experts. That, in fact, appears to be indicated in the replies of 30% of our Benefit Board participants who predict that prepaid legal plans will be widely provided by employers as benefits within the next two to five years.

Three benefit managers who've seriously considered prepaid legal services plans said they favor the closed-panel plan, in which a designated group of lawyers provides designated services to employes. In total, 16 benefit manager panelists said they favor this type of plan, although twice that many believe an open panel plan is more effective from an administrative and cost/benefit point of view. Under the open panel arrangement, a benefit consisting of a maximum annual cost is available to employes for legal services provided by any lawyer of their choice.

Only one panelist was able to cite a cost figure for legal benefits. The large food processor's employes obtain prepaid legal services through their credit union at a cost per employe of $8.25 a month.

Companies not using HMOs seem concerned about potential problems that haven't been encountered by companies already offering their employes HMOs. Benefit managers for firms without HMOs, for example, worry about higher cost for employers (premiums plus administration) and employes.

Those fears appear to be unfounded in practice. Benefit managers using an HMO compared the cost on a monthly premium basis to the cost of their companies insured or self-insured health benefit plans. The survey found:

- 12 of 37 said the cost of the HMOs is higher.
- 14 said the HMO cost is lower.
- 11 said the cost is the same as the previous company plan.

Although HMO users didn't say what their administrative costs are, making it impossible to tell whether costs to the employer rose or fell, several benefit managers noted their claims processing decreased.

Of the firms using or considering HMOs, monthly costs ranged from $20 per month single/$65 a month family to $35 a month for an individual and $95 a month for a family.

When HMOs cost more than conventional health plans, the monthly charge is generally 5% to 25% more, or, in dollar terms, $6 to $20 higher.

In those instances where the HMO actually costs less than the conventional plan (for generally better coverage and broader benefits, said the respective managers) the range was 3% to 15% lower cost or in dollar terms, anywhere from $2 to $15 lower monthly charge per employe.

For the HMO users as well as the non-users, the prospect of potentially lower major medical costs over the long term is the most attractive advantage of HMOs. Also ranked very high by both groups as expected advantages, are the positive effects of the emphasis on preventive medicine/health care practice and the broader coverage afforded under HMO plans (availability of dental care, clinical services for routine physical exams, outpatient care for minor emergencies).

HMOs are attractive to employes, and reap benefits for employers, because they allow employes to "tailor" their benefits to fit individual needs, said eight of the firms using HMOs.

Among the other advantages cited by HMO users were:

- Convenience (one-stop health care).
- Employe groups desirable for HMO plans can be easily identified.
- Employes are more aware of their benefits.
- Better maternity coverage.
- Better control of duplicated services such as X-rays.
- Consolidation of medical rec-

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agent/broker topics

Capacity hampers mass marketing growth

By BARBARA JEAN GRAY

CHICAGO—Commercial mass marketing has been hailed as the wave of the future. It still may be.

But the number of insurance companies willing to underwrite this business declined, creating a capacity crunch. A few commercial mass marketers are moving to non-traditional markets, such as captives, but many have been unable to take on new business.

The agents and brokers claim insurance companies dislike mass marketed programs because of the large surpluses they require. And the pullback is colliding with the growing need of small businesses and professionals for the savings and coverages these group plans can offer.

Agency and marketing networks for commercial mass marketing, exclusive of the long-established industry mutuals and direct writers, began proliferating in the late 1960s.

Last year, commercial business written on a group basis accounted for about 3.5% of the total property/casualty premiums written, according to best available estimates. That means slightly over $2 billion of the property/casualty total which the Insurance Information Institute estimates at $59.5 billion in 1976.

Several individuals in the field, including Max Dickerson, vp of Fireman's Fund's commercial group operations, forecasts that mass marketing will account for 25% of the total property/casualty dollar 10 years from now. The company's marketing subsidiary corporation, Famex, with 230 agents under contract throughout the country enjoyed a 25% premium increase in 1976 over 1975 and this year is anticipating a 50% increase including "a substantial increase in units."

Late last year, Famex organized a group benefit trust to insure multiple employer trusts and in the future the division "has plans to expand Famex to pensions and annuities."

Famex markets to small and medium-sized business generating premiums up to $100,000 each and covering several industries. In the last year groups such as the Coca-Cola Bottlers Assn. and Allied Van Lines were added.

Similarly bullish for the future of commercial mass marketing is Kenneth Ford, who heads the Insurance Company of North America's MarketDyne open marketing division which has a 200 independent agency network nationally.

"Over the course of the past seven years, our increase has been on the average of 25% to 30% in annual premium volume."

MarketDyne is test marketing commercial mass marketing programs in France and Japan.

Industries and associations that lend themselves to the concept are limitless, Mr. Ford said. "There are 4.8 million businesses in the country, and of those 4.2 million have less than eight employes. That's our selling market."

Both Famex and MarketDyne place most of their coverage with their parent insurance companies.

For the independent agency marketing association to weather the capacity crunch "we're going to have to be creative, original and unorthodox," said Kenneth Williams, president of Marketing Management Inc. He terms the route "manufactured markets" or non-traditional markets for mass marketers.

At the organization's seventh annual convention recently, Mr. Williams said that MMI was in the process of entering into a joint venture with a captive insurance agency owned by a motorcycle manufacturer. It is the first such agreement for MMI and others are in the works, Mr. Williams told *Business Insurance*.

The 350-member independent marketing network has also entered into an agreement in principle to be the sales force for a program for Fred S. James which will be finalized June 1, Mr. Williams said.

The organization also has an agreement in principle with Preferred Security Life Ins. Co. of Oklahoma City to become its reinsurer. Policies will be issued through a fronting company which will be named at a later date, Mr. Williams said. This plan will supplant the self-funded program MMI had before for its life and health program.

MMI premiums last year totaled $18.5 million plus life and health, Mr. Williams said. This year the marketing organization anticipates a total of $30 million commercial and personal lines premiums written by its agents.

Continued on page 46H

Bob Jordan

Identifying the need is a key requirement

TAMPA—"Commercial mass marketing has really failed, I think, in most areas because most companies got out," claims V.C. "Bob" Jordan.

"At a time when there seemed to be pretty healthy profits to be made, companies were led to make concessions to attract large homogeneous groups, whether they be farmers or machinery dealers. When the crunch came on the surpluses of insurance companies, they looked for ways to get rid of a book of $10 million to $20 million that would displease one agent instead of several."

That opinion, however, did not keep Mr. Jordan from setting up his own agency

Continued on page 46F

Bob Jordan: "For mass marketing to be effective, you must have a network of agents who will make the calls and get results. That eliminates most people in the property/casualty field."

Albert Wohlers: "The most important part of the operation is how long it takes to handle the mail. Anyone can sell. It's what happens after the mail arrives that determines profitability."

Albert Wohlers

Taking a new approach after 30 years in area

PARK RIDGE, ILL.—Albert H. Wohlers & Co., which has been specializing in administering and brokering voluntary group association business in personal lines for nearly 30 years, is now making a conscious effort to get further into the commercial lines mass marketing.

The better part of the commercial business of the future will be mass marketed, believes president Albert H. Wohlers.

The advantages are in premium volume, not in terms of the number of insureds. The average premium on one commercial product is $1,000 whereas a six-month life premium is $5.85. "We can hardly send something out for that."

Continued on page 46H

Allstate independent agent program draws praise from the ins and outs

By JANET MROCZEK CORRADO

NORTHBROOK, ILL.—Allstate Insurance Co.'s three-year-old program of appointing independent agents in rural areas draws high praise from both agents that represent Allstate and those who don't.

Spokesmen for both the Independent Insurance Agents of America and the Professional Insurance Agents (formerly the National Assn. of Mutual Insurance Agents) gave the company high marks for its handling of the program.

"They've been very much above board on this," said Robert T. Clayton, IIAA president.

The Allstate effort appears to be picking up steam after a year of relative inactivity. The company had signed up 300 independent agents in 29 states by the end of last month.

Allstate confirmed that 250 independent agents produced $11 million in premiums in 26 states in 1976. (Total property and liability premiums for Allstate last year totaled $3.55 billion.) Wyoming, Utah and Idaho are the three newest states Allstate has in the program.

The business is almost equally split between auto and homeowners. Commercial lines made up a small part of the volume, it said.

Mr. Clayton said that Allstate meets with the state agents' association before entering a new state to present the contract to be used, explain the program and list the names of the producers it intends to contact.

"I can't blame Allstate," Mr. Clayton added. "It sees a very significant market in non-metropolitan areas where there are no Sears stores, and non-metropolitan areas are typically good and profitable markets."

The program "is a good deal for Allstate," said George T. Frazier, IIAA president-elect. The company has contracted with good agencies with solid reputations, he explained, and doesn't have to provide fringe benefits or training, a sizeable investment it makes in its exclusive Allstate agents.

IIAA officials don't blame agents who have contracted with Allstate, even though the official association view is that an agent's acceptance of Allstate is "detrimental to the agency system as such since it enhances a competitor," Mr. Clayton said. But the association upholds the right of an independent agent to make his own choice.

For many agents, signing on with Allstate is a "defensive measure," he added. "Some agents feel that if they don't take it, the guy across the street might."

There can also be significant pricing differences between Allstate and agency companies, "and it comes at a time when agents are having a devilish time with markets," Mr. Clayton explained.

Mr. Frazier, who competes with an independent agent representing Allstate, admits he would have a struggle deciding whether to go with Allstate if he was offered the opportunity today.

Agent criticism of the apparent success of the Allstate program is directed squarely at those agency companies allegedly not providing "competitive markets" for their producers.

"I feel that our agency companies are going to have to do something to combat the Allstate experiment and others and get us back into personal lines on a competitive basis," said Mr. Frazier.

William S. Watson, one of the principals of the Frank-Watson Agency in Dumas, Ark., signed on with Allstate in October 1976. He made the move because of the restriction of the homeowners in-

Continued on page 46D

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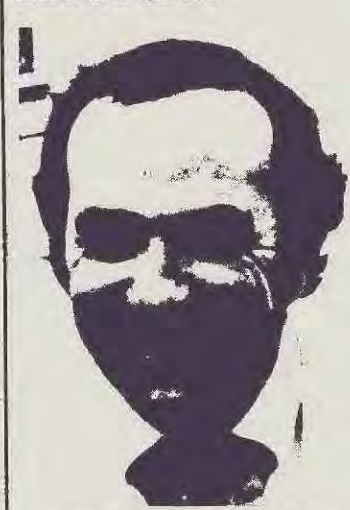


Bill Baird, marketing director of the top selling CNA agency, says his agency "found a way that works well for us and we go with it." And the results are impressive. Mr. Baird and his agency are profiled on Page 46B.

Top CNA agents find a new road to riches

By HARRIET KING

SEATTLE—"I don't know anyone who works the way we do. We've found a way that works well for us and we go with it," says Bill Baird, marketing manager for H. E. Schwartz & Associates Inc., CNA's top selling agency in 1976.

"The way" is to develop primary lead sources for accident, health and life policies by working through associations, unions and retirement clubs in Washington and parts of Oregon. Developing the sources is a matter of using the local library to scout out all local chapters of national groups.

The technique that works best is to send out letters and return cards on the association or club stationary, an endorsement that lends credibility.

Typically, "If we send out 1,000 letters, we get a 15% return from an association mailing. Of these, we close 60% to 70%." says Mr. Baird. Even where the return is not that successful, the agency still averages a 3% to 7% return. "It's not a true group insurance, but an association franchise," says Mr. Baird. His typical customer is a blue-collar worker, aged 40 to 45, with a family to support.

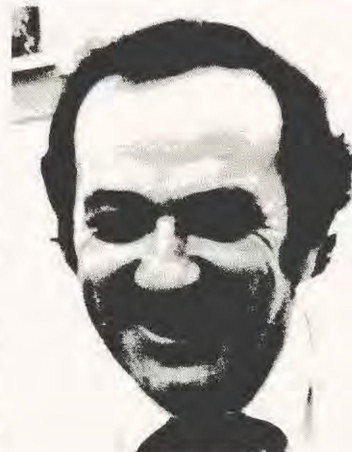
The agency sells primarily to the self-employed through the association franchise and mails letters once a year to each association it deals with, including the Retired Railway Employes, Mason County Credit Union and Retired Federal Employes Assn.

But Mr. Baird estimates that "there are hundreds and hundreds of groups in this area. I doubt that we've even tapped 20% of the market." Mr. Baird, who's been with Schwartz since 1969, says he has a two-drawer file cabinet in his office "with past clients we haven't even had time to contact in the last five years."

The bulk of the agency's sales —$800,000 or about 75% of its business last year—were from skilled nursing care and Medicare premiums for people aged 60 years and older.

"There's no one else even close in the running for association business," says Mr. Baird. "We get the business not only because we get endorsements, but because we have a better product, the best competitive product that we know of. We pay $20 a day from the first day a person is hospitalized on skilled nursing." The firm sells primarily CNA life, medical, overhead expense and disability income policies, but also represents Colony Charter Insurance Co. for supplemental medical coverage.

"We also get there first, a big advantage since it's always easier to get an initial endorsement. Recently, a fellow has followed me around on these retirement programs but he hasn't gotten any. If you don't get there first, it takes a lot of wining and dining." This philosophy of being first pays off in terms of premiums per person contacted. The average client account, he guesses, generates $200 to $250 a year in premiums, with many accounts generating $400 to $500 a year on a substandard medical risk.



Bill Baird

As marketing manager, Mr. Baird primarily contacts associations and develops lead sources. He goes to conventions and board meetings of associations, gives talks, and notes that president Herb Schwartz "has the ability to absolutely mesmerize women's groups." He also contacts unions and is continually on the lookout for large retirement clubs. "I clear the way and see if we can get some goodies," he says.

About half of Schwartz's 21 salesmen have been with the company between seven and 20 years. Even for newcomers, "we seem to get men who've been in the business for awhile," says Mr. Baird.

When new people join Schwartz, they first get on-the-job training. They go out with a successful salesman to see how he sells. Later, they "follow a few basic guidelines and develop their own sales pitch," says Mr. Baird, who says the agency could use more salesmen now in Washington and another five or six in Oregon "where the association market is virtually untapped. We've been holding back because we want experienced people and don't like to go through training procedures."

Mr. Baird says their approach to sales "is simple. When we get in a house, we'll sell them anything we can. This is sometimes a little difficult for old accident and health salesmen who, when they make an initial sale, just want to take the money and leave. Selling everything is not engrained in them.

"But our whole concept is that if we are in a house for an hour, we spend the first five to 10 minutes on the product, which is pretty simple to explain. If it's a retired couple we're talking to, we tell them we pay $20 a day for 365 days, that's it. The rest of the hour, we develop a need for the insurance, a sales story and closing. That 50 minutes is spent strictly on show and tell."

The agency likes to close deals that first time around. "We don't like to call back," says Mr. Baird. "That is a nice thing about our association ties, it breaks the ice for us."

The company does not query much on renewals. "If they lapse, we can rewrite for a new commission. A lot of people also forget what they initially bought, so we have a story that we tell on lapses," says Mr. Baird.

Mr. Baird says the CNA Seattle office "has some real go-getters. In January alone, one man wrote $18,000 collective premiums, mostly on skilled nursing—he was CNA's top salesman in January. He wrote $185,000 collective last year. Also in January, another guy wrote $18,000 in premiums, four wrote over $8,000 and three wrote $7,000. These are all good premiums.

"I just don't know of anyone around who out competes us," says Mr. Baird. ■

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Allstate program . . .

Continued from page 46A
surance market by a majority of the companies he represented and because of Allstate's competitive price advantage.

Allstate offers homeowners coverage at about half the manual rates for new homes in Dumas and the surrounding area, and at about a 40% savings across the board, Mr. Watson said, "That's a tremendous price advantage.

"Other companies who want to enter the market and compete will do so," he said. "If not, it is their choice and not the agent's choice."

Mr. Watson, who is current president of the Arkansas Assn. of Insurance Agents, said he sought a contract with Allstate because he was "looking for a market for my own business." The association itself took no stand on the Allstate program.

Since last October, the agency has had a 10% personal lines volume growth, Mr. Watson said.

"Allstate spends a great deal of time, money and talent on research and development on the insurance product for the consumer," he believes.

"It is dedicated to making a profit and maintaining a stable personal lines market." Allstate is "very responsive on their claims, as good as anybody I ever saw. Underwriting is very liberal, and it is computerized to a science with no foul-ups. It really has been good.

"Allstate has an excellent American Agency System contract and profit-sharing agreement," Mr. Watson said.

The non-exclusive, open-ended contract protects the agency's book of business in the event of termination, according to Allstate.

Kenneth Paddie, president of Greening-Ellis Co. in Hope, Ark., said his contract with Allstate restricts him from writing in towns where full-time Allstate agents are on duty, such as Texarkana and Little Rock. As any other company, Allstate sets a volume figure as a quota before contingency commissions can be earned, he said.

The first year's volume with Allstate was $25,000, the second year $50,000, and this year it is $75,000, said Mr. Paddie, who has been a producer for Allstate for over two-and-a-half years.

"I spent a lot of the agency's money researching this deal," Mr. Watson said, visiting Allstate's regional and home offices three times before signing the contract. And "Allstate looked at our agency operation as close as I looked at them."

One overriding doubt plagues IIAA officials about an independent agent representing Allstate.

With the competitive price advantage that Allstate has, at least in some areas, "I can't understand how an independent agent can make a decision to place some business at one rate and other business at another rate," said Mr. Clayton.

"How can I charge Mr. A $200 and Mr. B $400 for a policy on essentially the same home, when they might be neighbors?" he asked.

The problem is not only one of public relations for the agency, but also volume and loss ratio with agency companies.

"Allstate's rates are so constructed that it can pick and choose risks and offer good rates to the business it wants and price high the business it doesn't want," Mr. Frazier said.

"I'm afraid that if the Allstate experiment works, the bureau companies will end up with the residual business which will compound the loss ratio."

Allstate contractors Mr. Paddie and Mr. Watson report, however, that the volume placed with all the companies their agencies represent has increased since going with Allstate.

"It's not a fear of mine" that the other 12 companies that Mr. Watson's agency represents will suffer, he said. "Allstate is a viable market for new customers and those on fixed incomes, with medium-sized houses," he said. "Those are the Allstate customers, and I think that's so nationwide."

Mr. Watson said he is using Allstate to pick up business from State Farm and others, not to switch policies away from agency companies.

Allstate has rules to follow, he added. For example, "I have no control over claims, which may be a disadvantage. I explain this to a customer and the customer and I then make a decision."

Mr. Watson said he gets some referrals from the company but that no client has asked specifically for an Allstate policy.

Mr. Paddie reported the opposite. Some people who are new to the area have been with Allstate for years, he said, and want to continue. He also gets referrals from the company.

Can Allstate continue its dual marketing system successfully?

"I don't see how Allstate or any other captive agency company can be both fish and fowl," Mr. Frazier said. He thinks agents in the program will either not give Allstate enough business and the company will pull out of the agency, or that the agents will have tremendous growth and "somewhere down the line they will have to decide whether they are Allstate agents or independent producers." ■

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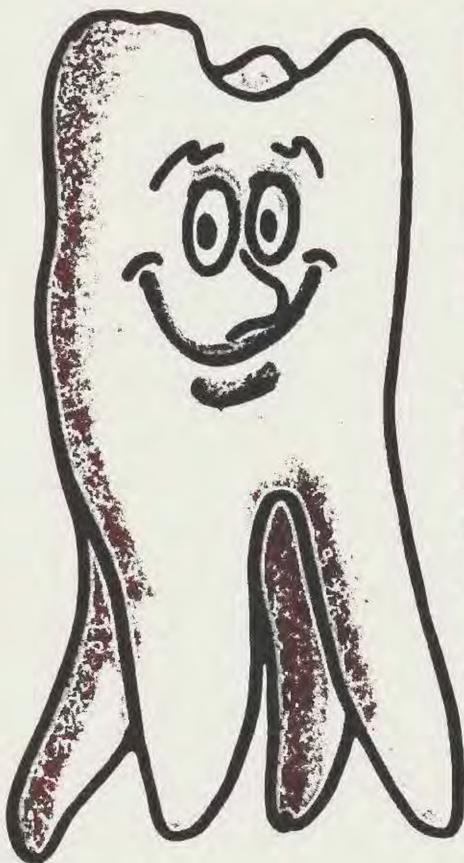

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Study eyes performance

GLENMONT, N.Y.—A study entitled The Impact of Consumer Services on Independent Insurance Agency Performance has been published by the Independent Mutual Agents Education and Research Foundation.

The 360-page book is the result of a two-year research project undertaken by J. David Cummins, assistant professor at the Wharton School, and Steven N. Weisbart, associate professor at Georgia State University.

More than 3,000 IMA agents in New York, New Jersey and Connecticut, as well as non-member agents and direct writers, were surveyed.

The average contributing agency has a premium volume of $494,000, gross revenues of $100,000, and a net income of $30,390.

This agency wrote 59.3% of its premiums in personal lines, with an average account of $320. The remaining premiums were in commercial lines; the average account was $1,400.

It employed two producers and 2.6 clerical workers.

Roger S. Reid, foundation director, said the project was undertaken to learn if agents were providing the services consumers wanted, as they had expressed in two surveys taken by the Sentry Insurance Co. in 1974 and 1975.

The study is available for $8.95 from IMA Education and Research Foundation, P.O. Box 196, Glenmont, N.Y. 12077.

Finances permitting, IMA stated it would like to conduct a counterpart study on commercial lines agents. ■

Allstate agency grows, but competitor declines

By JANET MROCZEK CORRADO

HOPE, ARK.—Light industry, poultry farms and Main Street stores make up the commercial activity in this town of 8,000 in the southwest corner of the state.

But personal lines is the bulk of the insurance business served by two independent agents, MFA, State Farm and farm bureau operations in town.

Allstate Insurance Co. entered Arkansas three years ago when it began appointing independent agents outside metropolitan areas.

Greening-Ellis Co. in Hope signed on then. Today, Kenneth Paddie, president, said "it has been more than a pleasant situation."

The agency doubled its personal lines volume in 1976. It wrote approximately $80,000 in personal lines business with Allstate last year, Mr. Paddie said, "and half of that was new business that we didn't have before."

Since Greening-Ellis took on Allstate, its friendly competitor, Anderson-Frazier Agency, has been suffering.

From the 3,000 individual personal lines accounts the Anderson-Frazier agency once had, it is now down to 2,400, said George T. Frazier, principal. At one time the agency had 70% of its volume in personal lines. Today it is close to 60%, he added.

The reason for the competitive shift is clear to both producers. Agency companies are just not competitive with Allstate and State Farm in personal lines insurance.

There is a growing disparity between manual rates and those of exclusive agency companies in auto and homeowners, said Mr. Frazier. "There is a 30%, 40%, even 50% difference in some cases, primarily in homeowners insurance."

Hope is a class-six town, Mr. Frazier said, which means that for a masonry dwelling in an unprotected area (fire department services) agency companies get $800 premium and Allstate comes in at $350 to $450.

For new dwellings the problem is worse, he continued, since Allstate has a 10% deviation in Arkansas if the structure is five years old or less.

Mr. Paddie concurred. For a $40,000 or $50,000 new home within the city limits, there could be up to a 50% premium difference between Allstate and manual rates, he said.

"Agency companies just don't want any personal lines business," Mr. Paddie said. Greening-Ellis increased its personal lines volume with one agency company it represents from $15,000 to $65,000, he said, but as of March 1 this company put its underwriting on a renewal basis only.

Greening-Ellis signed on with Allstate over two-and-a-half years ago because "we felt it offered something that other companies didn't," Mr. Paddie said.

"The personal lines market was shrinking, and that is Allstate's long suit. We thought we'd be open-minded and maybe take a gamble."

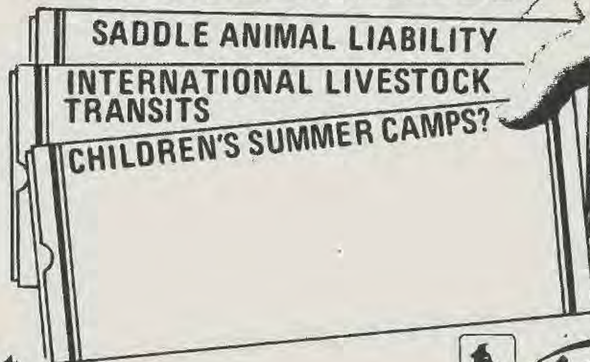
Some of the other companies his agency represented didn't like it, he said, though he hasn't heard any grumbling for over a year now.

The state independent agents' association frowned on it, Mr. Paddie added, "and some of our contemporaries thought we were crazy. Now some of them wish they had gone with Allstate." He's even been trying to help a few of them contract with the company, he said.

In the beginning, Greening-Ellis was concerned about Allstate's claims handling. But "I could not find a company any more prompt in handling claims," Mr. Paddie now maintains.

The agency, split about evenly between personal and commercial business, has had approximately 20% premium volume growth every year for the last three years, Mr. Paddie said, adding that Greening-Ellis has increased the premium volume done with all of the 14 companies it represents. ■

What do you call an agency that handles



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Commercial risks up 40% a year at ACI

CHICAGO — Association Consulants Inc., formed six years ago to administer third-party sponsorships in life/accident and health lines, added a subsidiary three years ago for commercial risks.

That segment of the firm, the National Assn. of Consultants Inc., is labeled as the fastest growing area of mass marketing, according to ACI president George Bon Salle.

"The growth we're sustaining in NACI," he said, "is limited only by capacity. We're growing at a rate of 40% to 50% each year."

Organizations which lend themselves to commercial mass marketing are those that have difficulty obtaining coverage because of exposures inherent to their operation, Mr. Bon Salle said.

"Groups came together before for a myriad of reasons. One of the prime reasons now is an insurance need, so we can look forward to a large growth depending on the capacity crunch."

"In the commercial area, groups are having a lot of problems now with insurance. Motorcycle insurance is not easy. On bike theft we have the only market in the country.

"We're one of the few managers of national risks in the country. Product availability is the answer to a new business as is national distribution outlets. We have good rapport with underwriters and can distribute nationally through the mails."

George Bon Salle

Mr. Bon Salle declined to identify the gross revenues of ACI. He said it was one of the largest third-party administrators and had 60 clients.

One prime example of a group that joined together for a common purpose, including an insurance need, is the Professional Independent Mass-Marketing Administrators. This two-year-old trade association, of which Mr. Bon Salle is president, has 100 members who are administrators of third-party sponsorships and 20 who are insurers.

PIMA banded together "because there was not an effective national lobbying voice for mass marketing," the president explained. "We were fighting tooth and nail on the state level for legislation."

PIMA was its own first customer. "We found it difficult to buy errors & omissions coverage," and through joint effort developed a program.

The organization represents 85% of all third-party sponsorships, he estimated, and handles about $1.5 billion in premiums, most of which are in life/accident/health. —BJG ▪

Jordan . . .

Continued from page 46A

here after serving as executive vp with Poe & Associates.

V.C. Jordan & Associates does about 50% of its volume in personal and 50% commercial lines in mass marketing with such organizations as the Federation of Mobile Home Owners of America and professional societies with its office protection plan (TOP).

Mr. Jordan describes his personal lines business more as a direct mail, direct response campaign. One of every three persons contacted actually buys.

For commercial lines "we work through American Insurance Marketing Corp. and other friends throughout the country."

"Commercial mass marketing is relatively new and it has had its up and downs.

"Unless there is an insurance problem that needs solving, and one that best be solved through a group, there is no reason for mass marketing. Simply coming in with a product you think will be less expensive doesn't work because you cannot be the cheapest guy on the block for too long.

"If I developed a really neat property/casualty mass marketing package with a premium of $25,000 and over, and I present it to a group, they will take it to their agent/broker to look over and he will fight for it, because it's worth fighting for." It is the $5,000 to $10,000 premium business that lends itself best to commercial mass marketing, he continued.

The answer to commercial mass marketing is "to have a good prospect, an organization with 'glue', fit clients' needs, price it fairly, and then be six months ahead of everybody else."

"Then, the only thing missing is a network of agents.

"That's the other big problem in the property/casualty field. Mass marketing takes strong salesmanship.

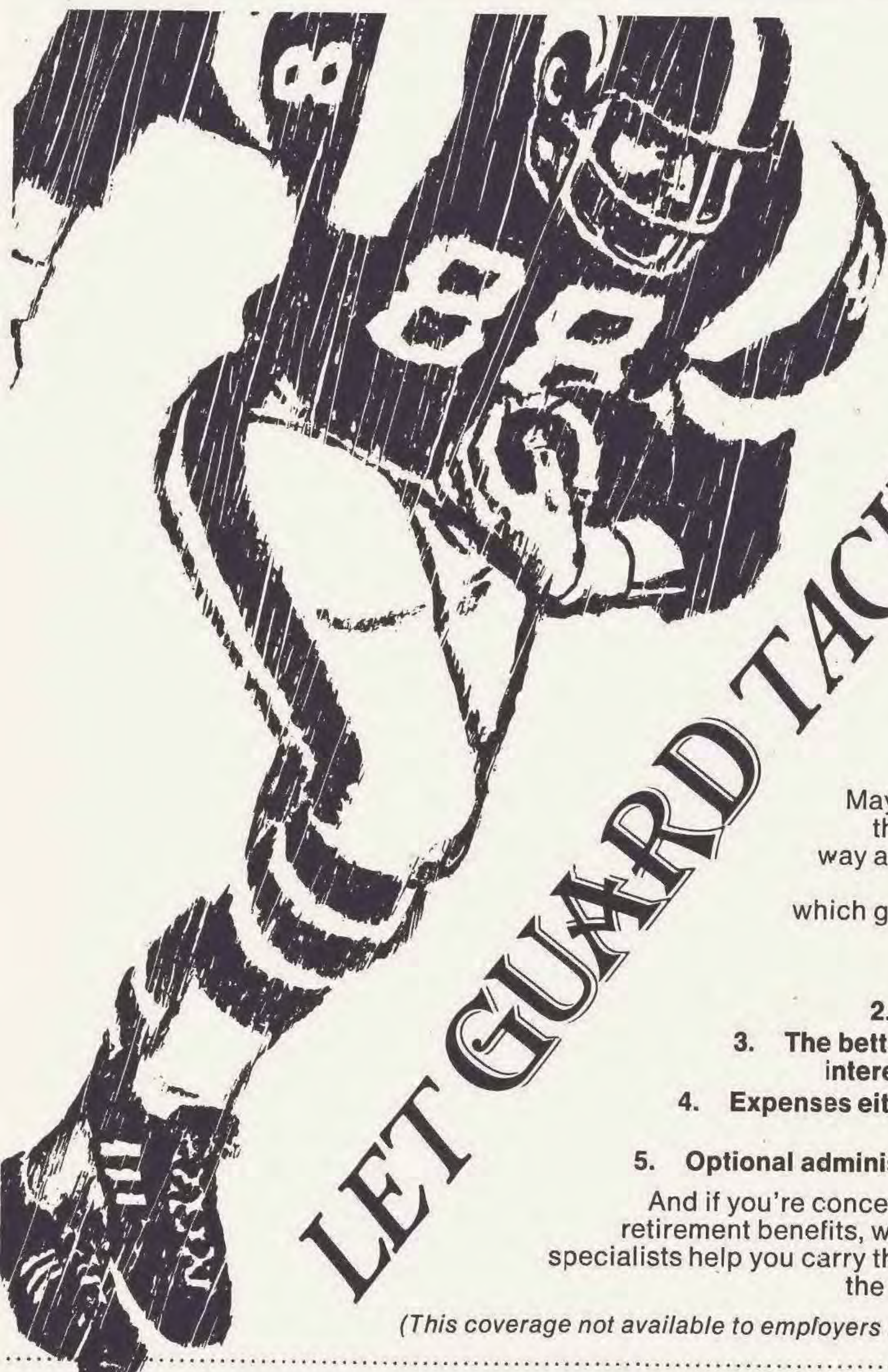
"Property/casualty insurance buyers often tend to order insurance. They are not sold on it. The typical p/c agent is not accustomed to going out and selling the product. He plays 'Ain't it awful?' The game where he sits at his desk all day and says 'Ain't it awful that. . .' on any number of things.

"For mass marketing to be effective, you must have a network of agents who will make the calls and get results. That eliminates most people in the property/casualty field.

"One of the problems of commercial mass marketing is that you're asking the customer to leave his present agent. What most customers are looking for is a tremendous savings — which are not there. If you're going to get into a price war, the person who comes out on top is the person who has had the last look."

The profitability of mass marketing versus that of traditional brokering contains many 'ifs.' "Anytime that you can increase successful sales ratio by eliminating prospecting, and go to that prospect under favorable conditions, you have eliminated one of the most expensive parts of the business. If, in addition, you don't have to put up with the harassment from underwriters because the class has been pre-approved, you have cut down on paper work and then it becomes more profitable than traditional business.

"Many companies have spent thousands trying to develop life business out of fire and casualty. Turning it around is a different ball game." —BJG ▪



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Sex symbol Ed Mack has something to say

CHICAGO—"Not only is Ed Mack Jr. the greatest sex symbol of the insurance industry, he is also one of the brightest—so listen to what he says." So wrote Ann Landers in January, according to a scrap of paper framed and hanging on the wall of Ed Ely Mack Jr.

ED MACK JR.: "I think there are only a few successful plans where the broker makes the calls."

Mr. Mack is chairman of the board of Mack & Parker, a 40-year-old brokerage firm, and of Mass Insurance Consultants Administrators, a separate corporation set up 25 years ago to handle employee benefit plans, Taft Hartly funds, voluntary group plans, and risk management services.

MICA's first customer, the National Home Furnishing Assn. for whom it mass marketed credit life, was probably the first trade association group plans written.

Today, MICA employs 150 people to administer, consult, handle claims, process electronic data and do accounting.

MICA does no marketing ("the toughest part of that business") but gets clients through insurance companies or through other brokers. Ten percent of the fees earned are through references made by Mack & Parker, Mr. Mack estimated.

Commercial groups represent less than 10% of MICA's fees. "It's growing, but one employe benefits program premium may add as much as $1 million. With property/casualty, it's slower.

"We think there's a big future for mass marketing, but one of the problems is that there are only two advantages for its existence—consumer cost or coverage.

"Where are the savings? The real savings have to be in acquisition—acquiring the business. But we have a real paradox here, because we cannot sacrifice acquisition costs at the expense of the purchaser's understanding of what he is buying."

A recent inquiry about mass marketed warranty insurance provides an example, Mr. Mack said. "Warranty coverage might be a good product and *maybe* we can explain it in the mail."

"Under many mass marketed methods, the marketer does not have a local agent or contact. I think there are only a few successful plans where the broker makes the calls. The problem is, with any network of agents, you're competing for their time. If you're making face to face calls with reduced commissions you must have a superior product so your percentage of close is higher than normal. Our percentage of close is higher than normal because we qualify our prospects. If the agent making the calls is getting 5% to 10%, with the master broker taking an additional 1% or 2%, he may not be too far below an average brokering commission of 15%."

"The risk is high. That's why the customers want it." —BJG ■

Agents launch education effort

ATLANTA—A campaign for greater consumer education of insurance has been launched by the Professional Insurance Agents here.

"Rip," a slide show depicting a character who is responsible for insurance company losses, will be nationally distributed to the organization's 27,000 members. ■

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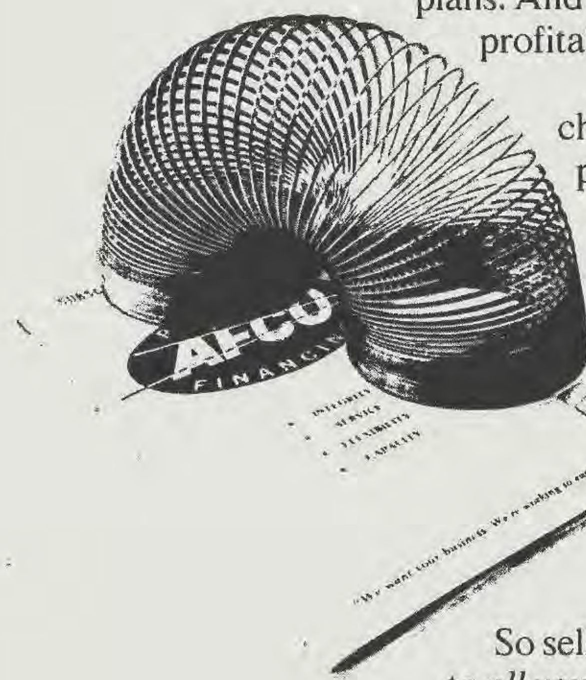

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Mass marketing . . .

Continued from page 46A

Another marketing association which has taken the captive route is the American Insurance Marketing Corp., a corporation of 50 individual stockholder members for the mass marketing of property/casualty business. AIM formed a Colorado captive for the National Welding Supply Assn. last December with the Northwestern National Insurance Co. of Milwaukee as the fronting company.

Curtis Urbanski, vp of AIM, sees the move into captives as phase two of commercial mass marketing evolution.

AIM, (formed in 1968) is presently 100% commercial lines, where the average premium is $5,000, Mr. Urbanski estimated. Because of the higher premium than personal business, face to face contact is economically feasible and imperative. "Penetration is less by mail. A rule of thumb would be 5% by mail. But we're looking for a 20% penetration with face to face contact."

An agency that has taken an aggressive stance in markets is Poe & Associates of Tampa. Early this year, it entered into an agreement in principle to acquire Howden Reinsurance Corp. from the Howden Swann Group.

Joseph E. Brown, Poe president, said, "It will be wholly owned and used for many aspects of our business, mostly association marketing. The whole philosophy behind it is that we're finding if we have reinsurance we can talk to more reinsurance companies. We're willing to put our money where our mouth is."

Poe generates about 25% of its revenues in commercial mass marketing and 5% in personal lines.

"We feel commercial mass marketing definitely will expand greatly in the near future and in the long run, although there will probably be more emphasis on state programs because insurers do not want to take on the massive surplus requirements for national programs. Regarding the growth of commercial mass marketing for Poe in the last year, Mr. Brown said, "It's been a struggle to hold together what we have. The rates for professional societies is quadrupling. The basic limits for an attorney's liability in Florida today is $1,500 compared to $680 a year ago.

The difficulties of establishing national uniformity do not exist for commercial mass marketing associations like Associated Risk Managers International, is organized on the state level. ARM, became a loosely knit national network about four or five years ago, according to its treasurer, Joseph Bow. ARM affiliates are established in 32 states plus Puerto Rico and the Virgin Islands and within the next 18 months it hopes to have organizations in all 48 continental states.

The 400 ARM independent agents affiliated for the mass marketing of property/casualty insurance last year wrote $750 million in overall premiums including commercial mass marketing.

"What has hampered us is nothing but the marketplace," commented Mr. Bow.

On the insurance companies' side, not all is bleak, however.

Providence Washington's, special programs division is 90% commercial mass marketing, according to general manager Harry L. Baker. Providence Washington did $6 million premium volume last year in commercial mass marketing and is looking for a volume between $10 million and $12 million this year.

An organization of individuals called the Market Masters Club, consisting of 26 individuals from 20 insurance companies, was incorporated this February. "We formed an organization because so many mistakes have been made we decided we must become more professional about commercial mass marketing," Mr. Baker said.

Others represent Aetna Insurance Co., Kemper Cos., Reliance Insurance Co., MarketDyne, The Travelers Corp., Nationwide Insurance Co., Gulf Insurance Co., Royal-Globe Insurance Co., Great American Insurance Co., Bituminous Casualty Corp., The Hanover Insurance Co., Covenant Mutual, Northwestern National, The Atlantic Cos., Commercial Union, Maryland Casualty Co., and Commerce & Industry Insurance Co. ■

Wohlers . . .

Continued from page 46A

The major thrust has been in the firm's association professional liability insurance coverage, a product they created one year ago and on which they received 1,000 applications. APLI is an officers and directors liability program for non-profit associations.

Marketing property/casulty to date has been through the mail with a follow-up phone call or personal visit. Although the 75-employe company has no sales force, it is considering membership in several marketing networks.

"A lot of the trade associations are looking into captives because of the product liability problem," Mr. Wohlers said. "As brokers and admisistrators of mass marketing we could, but wouldn't, administer captives unless things change in the marketplace and I don't see how they will. We have companies saying 'We will provide re-insurance if you can get companies to provide basic or primary.' It used to be the other way around."

The number of underwriters for mass marketing has fluctuated over the past five to 10 years. "Some companies have been in and out," commented Mr. Cella.

Mass marketing accounts for 95% of Wohlers' firm's income. Of that, 15% is commercial.

"You operate on a lesser margin for mass marketing but profitability related to internal management. The most important part of the operation is how long it takes to handle the mail and to process the claims. Anyone can sell. It's what happens after the mail arrives that determines profitability.

Depending on the postal service is a constant problem. "They have no competition and we have no recourse," said Mr. Wohlers."

"Postage is the one cost we cannot control," Mr. Cella elaborated. "We can control the product by bidding it out. We can control personnel by better training. We can control internal operations by better equipment.

"But on our whole distribution system—the postal service—we cannot negotiate price and we cannot affect its efficiency."

Most mailings go third class which is a major problem because "we have to assume it will take three weeks to be delivered."

"Our whole thing is enrollment time. If you're going to announce the end of an enrollment period, you would like that mail to arrive." Last year alone, the firm mailed 3.5 million pieces of promotional mail. Of the expense dollar, 13% went for postage.

—BJG ■

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ords in one place where they can be utilized by providers.

- Team approach to health care in HMO provides better treatment.

Additional possible advantages of HMO use, cited by the non-users included:

- More health care competition.
- Higher overall quality of care.
- Flexibility in benefit plans because employes are offered a choice.
- Reduced "time off" for medical appointments.

Users and non-users of HMOs also told of problems that they've considered. Eighteen of the HMO users said they didn't anticipate any problems and haven't had any. Problems listed by users of HMOs, however, included:

- Geographic location of HMO/limited access to facilities.
- "Clinic" approach to health care.
- Employe misunderstanding about benefits.
- Employe expectations too high.
- Added administration.
- Hardship on employes if HMO fails.
- Employer responsibility under ERISA.
- Fragmentation of HMOs; competition among HMOs.
- Transferring coverages between plans; varying premium rates.
- Lack of doctor choice; hesitancy to change doctors.
- Employe complaints to company about poor HMO service/-view employer as "sponsor" of HMO.

Unlike the firms already using HMOs, fewer non-users (5) said they didn't foresee any problems. In fact, they listed a total of 25 problems they were concerned about with HMOs, far longer than the list provided by benefit managers already working with HMOs. Among the non-users' concerns were:

- A decrease in coverage and benefits.
- Adverse reactions of employes if HMO doesn't meet expectations.
- Less choice of doctor.
- Employe looks to employer to solve all problems with HMO.
- Too much employe switching back and forth from insured plan to HMO, etc.
- Complicates budgeting problems.
- Communicating differences between HMO and insured plans.
- Loss of contact with employes to third party.
- Possible HMO failures, too much competition among local HMOs.
- Large geographic spread of company locations.
- Lack of employer claims control.
- Transfers of employes to areas not serviced by HMOs.
- Union problems re: irregular or varying benefits in different locations.
- Differing benefits with different HMOs. ■

40 booths set for conference

NEW YORK—More than 40 booths will display the latest in loss control and risk management aides at the 15th annual Risk & Insurance Management Society conference.

An early warning fire and smoke detection system, a computerized security system, a risk management information system and improved ways to help the handicapped are among the scheduled demonstrations.

More than 25 companies are expected to establish exhibits. ■

Here are 76 employe benefit panel members

Of the 150 employe benefit managers serving on the *Business Insurance* Employe Benefit Board and regularly receiving our mail surveys, 76 have approved disclosure of names of their companies to illustrate the cross-section of companies on our panel.

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Celanese Corp.
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Chesebrough-Pond's Inc.
Container Corp. of America
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Crain Communications Inc.
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Crown Zellerbach Corp.
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Polaroid Corp.
Puritan Fashions Corp.
Quaker Oats Co.
Ralston-Purina Co.
Republic Steel Corp.
R. J. Reynolds Industries
H. H. Robertson Co.
Ryder System Inc.
Sherwin-Williams Co.
SmithKline Corp.
Squibb Corp.
St. Regis Paper Co.
Sun Co.
Sybron Corp.
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Lawyer Philip Corboy combines research and dramatics

The million-dollar attorney for the maimed

By JACK STAR

Many believe the difficult insurance problems faced by businesses are partly a result of the success of the new breed of skilled personal injury lawyers. This story, by Chicago writer Jack Star, profiles one of the most successful personal injury lawyers in Chicago, Philip H. Corboy.

CHICAGO—On March 28, 1972, a husky 21-year-old bricklayer named Robert Kooyenga was thrown 12 feet to the ground when a scaffold tipped while he was helping build a house near suburban Oak Brook. Mr. Kooyenga, paralyzed from the waist down, sued for $2.5 million. On Jan. 3, 1977, a Circuit Court jury in Cook County granted Mr. Kooyenga a stunning $1,578,000 in damages.

A generation or so back the insurance companies involved probably would have had to pay only $200,000. But no longer. A new generation of tough, highly trained personal injury lawyers is managing to extract ever-higher damages from increasingly sympathetic juries.

In this case the lawyer, silver-haired Philip H. Corboy, 52, had no trouble after a three-week trial in convincing the jury that his client was condemned to a life of indignities. The 102 exhibits he introduced included a catheter, leg bag, and rubber gloves, all used by Mr. Kooyenga to manage his paralyzed bladder and bowels. Looming over the jury box was another exhibit, an exact duplicate of the scaffold that tipped over, constantly reminding the jurors of a moment of pain and horror.

In another trial, a month later, Mr. Corboy interrupted the proceedings after six days in court to accept an $800,000 settlement in behalf of his client, Daniel Sweeney, 36, a former iron-worker, who suffered severe back injuries when he had been knocked to the ground by a crane that buckled on a building site in Kankakee. A life-size model of the ironworker's badly broken back, alongside a model of a normal back, helped the jury come to its decision.

Verdicts and settlements of this magnitude are nothing new for Mr. Corboy. He is one of only six Chicago lawyers (three of whom he trained) to have attained membership in the Inner Circle of Advocates, attorneys who have received $1 million or more in damages for a client after a trial.

Seven lawyers who work for Mr. Corboy and a dozen other office employes help him prepare for trial or settlement more than 200 new cases a year. Because Mr. Corboy and his crew rarely lose, and because his fee is 25% to 33⅓% of a settlement or award, the practice of law has made Mr. Corboy quite a rich man with extensive holdings of farmland and apartment houses.

Nowadays, Mr. Corboy drives to work in a new royal blue Cadillac Seville and owns two dozen custom-made $400 suits and 30 pairs of elegant shoes. Mr. Corboy would never be caught wearing a brown watchband with a blue jacket—he owns 10 watches that match appropriate costumes.

Mr. Corboy went to the University of Notre Dame for a year at government expense, long enough to satisfy the pre-law requirements, and then enrolled in Loyola University Law School, where he was a top student, graduating cum laude—and No. 1 in his class—in only two years. An uncle, a Catholic priest, used clout to get him a job as an assistant corporation counsel.

"After two years I took a job for the same money, $4,250 a year, with the dean of personal injury lawyers, James A. Dooley, now an Illinois Supreme Court justice," says Mr. Corboy. "By working seven days a week I managed to learn the business after 16 months and struck out on my own in 1952."

The trouble with becoming a personal injury lawyer is that it takes a long while for the money to start coming in. Customarily, P.I. lawyers, as they are called, gamble on collecting a fee. Only if they win or settle a case favorably can they collect what is called a contingent fee—in some states up to 50% of the award. If they lose they get nothing. For the several years that the case is awaiting trial or settlement there

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is no money coming in.

Borrowing $2,500 from the owner of a court reporting firm, Mr. Corboy hung out his shingle in front of the office of a lawyer who gave him free rent in exchange for court work. It was the right time to become a P.I. lawyer.

For centuries the English common law on which our law is based has given injured parties the right to sue for a wrong, but before the age of insurance it was often impossible to collect. However, with the advent of insurance and the many injuries caused by the industrial revolution, suing and winning became more common.

Toward the end of the 19th Century, U.S. courts even began allowing relatives to sue for the wrongful death of a loved one, something that had been previously forbidden. By the middle of the 20th Century a plaintiff was getting a reasonably friendly reception when he went to court.

Mr. Corboy's reception was especially friendly. He had the rare knack of taking extremely complicated legal issues and reducing them to simple, understandable human issues. I remember several years ago sitting in a press seat in a Civic Center courtroom and watching Mr. Corboy win $752,500 for an auto mechanic who had lost his right eye when a fragment from an allegedly defective tool punch flew into it while he was working on a truck transmission. The mechanic, a balding man of 48 who spoke with an Italian accent, previously lost his left eye in a similar accident and now was blind.

Mr. Corboy had transformed the courtroom into a theater. In the room's center, leaking oil onto the elegant rug, was the truck transmission. On easels, where the jury could see them, were a dozen huge and somewhat mysterious microphotographs of the offending tool—a reminder as to how several metallurgists brought in by Mr. Corboy had damagingly testified. "Juries get bored with the incessant legal talk, and I like to give them something to look at while all the talk is going on," Mr. Corboy says.

"But we prepare every case thoroughly, just as though we were going to trial, and this helps us get good settlements."
—Philip Corboy

As usual, Mr. Corboy had not permitted his client to come to court except on the day he gave his testimony. It is the lawyer's belief that "a jury should not be allowed to become too familiar with a client—that sitting in the same room with him for several weeks conditions the jury to live with the plaintiff's infirmities and to accept them. I don't want my client to be a friend of the jury, but an abstraction."

The jury was obviously moved as the courtroom doors opened and a Seeing Eye dog led the blind defendant to the witness box. Mr. Corboy's gentle but probing questioning lasted a long time. The injured man told how he couldn't sleep at night because his eye hurt so much, that he was deprived of such simple pleasures as walking to the corner store or even smoking a cigarette for fear of starting a fire.

The mechanic wiped the tears from his sightless eyes as he said that most of all he missed seeing the face of his wife—that he had forgotten what she looked like. Leading the blind man to the jury box, Mr. Corboy had him raise his smoked glasses so the jury members could look into his sightless, milky eyes. One of the women on the jury shuddered. Another was in tears.

Perhaps 95% or more of all damage suits are settled before going to trial: Mr. Corboy's cases are bigger deals, so only 80% are settled. "But we prepare every case thoroughly, just as though we were going to trial, and this helps us get good settlements," Mr. Corboy says.

The thorough preparation, extending to the building of complicated and expensive models, tends to intimidate the opposition. Recently, Mr. Corboy sued in behalf of a woman who sustained brain damage when the car she was driving was hit by a train at an unguarded crossing.

Mr. Corboy hired a De Kalb modelmaker to construct a 40-foot-long model of the crossing. Special lights showed the moon and the light it cast on hundreds of points around the crossing. A black light source over the entire length of the model produced the reflection emanating from the shadowed snow.

The modelmaker even used a computer at Northern Illinois University to calculate the proper speed of the tiny model train approaching the crossing. The calculations took into consideration the weight of each box car, the type of engine, braking capacity, and deceleration.

When the model was completed Mr. Corboy invited the railroad lawyer and three railroad claim agents to De Kalb to inspect the model. They were stunned. It was evident that the model would show how significantly a motorist's vision was obstructed at the crossing and would influence the jury in this highly technical case.

The railroad promptly settled for $560,000. The model had cost Mr. Corboy's client $23,000, but it was well worth it. (Mr. Corboy pays all expenses if he loses, but the client pays them all if Mr. Corboy wins. In typical preparation of a case, expenses—including such costs as fees for expert witnesses, travel, investigation, and photocopying—total $10,000, but they have occasionally run as high as $100,000.)

Because hundreds of thousands of dollars are so often at stake, the young associates assigned to prepare cases for Mr. Corboy go to infinite pains. Each of the seven lawyers is responsible for anywhere from 80 to 150 cases at a time for the years before a case is settled or goes to trial. The young lawyers personally try two-thirds of the minority of cases that go to trial, but Mr. Corboy monitors the progress of every case at daily staff meetings, sounding like a tough law professor as he orders his assistants to read precedent-making court decisions and offering streetwise hunches as to strategies.

As a trial date draws near, Mr. Corboy starts reading the contents of file drawers, a section at a time, memorizing most of the material ("I forget it promptly, just as soon as the verdict is reached," he says). When a trial begins, he rises at 4 a.m., a bit earlier than his usual waking time, in his 12-room, white-brick colonial house in a north Chicago suburb. Careful not to awaken his wife, Doris, (his four children are all away in college, two of them in law school) Corboy absently chews on some cold cereal and heads for his elegantly furnished office kitty-corner from the court.

Continued on page 50

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Lawyer Corboy . . .

Continued from page 49

In the early-morning quiet Mr. Corboy mulls over the tactics ("Please don't call them tricks") he will employ that day. The witnesses scheduled to testify today have been thoroughly questioned in his office the night before. Mr. Corboy never uses a script ("A jury will suspect the testimony is phony"), but says it is imperative that both he and the witness clearly know what the testimony will be. The witness will even have been walked across the street to see what the empty courtroom looks like to cut down his or her nervousness.

Mr. Corboy himself is coiled like a taut spring now, and when the young lawyer handling the case arrives at 7 a.m., Mr. Corboy is likely to be impatient if the associate shows any hesitation in answering any questions. But his tension vanishes as he leaves for court.

In the courtroom Mr. Corboy has his associate sit with the spectators, ready to help if needed, but not at the counsel's table, to avoid giving the jury the impression that the plaintiff has a battery of expensive lawyers. He also waves away the glasses of ice water that the bailiff pours for all the other lawyers. ("The jury doesn't have water to drink, so why should I?" Mr. Corboy asks.)

Picking a jury is an art form. Mr. Corboy always arrives early, before the prospective jurors are seated. "I want to see how they walk, if any of them limp, if a man is wearing sandals in midwinter, if a woman is prematurely aged," the lawyer says. All this has meaning to him and to his client's chances.

"Blacks and Jewish people are said to make good jurors from the plaintiff's point of view, and they are because they know what it is to be underdogs," says Mr. Corboy. "But do you think I would take a Jewish man who earned his living by listening to complaints all day long in a department store? Never! He would be too inured to trouble. For the same reason I would never take a black nurse who had become accustomed to the pain her patients suffer. She might take my client's pain for granted.

"Contrary to the popular view that plaintiffs' lawyers don't want smart people on the juries, I want smart people. The economic issues in these cases are complicated, and it takes a smart jury to understand them."

With the case under way, Mr. Corboy makes it a practice to put on at least one medical witness a day. "I like to keep the jurors reminded of the hurt my client has suffered, but I don't want to overwhelm them with a half-dozen doctors one after another," he says.

> "Blacks and Jewish people are said to make good jurors from the plaintiff's point of view . . . because they know what it is to be underdogs."
>
> –Philip Corboy

In the court Mr. Corboy rarely loses his temper except for effect. One of the times he came close to it was in the case of a 16 mm. movie the defense presented showing his client changing a tire. The defense's contention was that the injuries claimed by the plaintiff were obviously of little consequence.

Mr. Corboy was baffled. His client, an iron-worker, had been hit on the head by a five-foot wooden plank that had fallen 18 stories from a building under construction. The plank had smashed the man's hard hat with terrible force, dislocating several vertebrae and causing possible brain damage. Calling for a recess, Mr. Corboy had his trial assistant rush out to buy a stopwatch. Then Mr. Corboy had the film played over for him as he timed with the watch.

"I saw the light!" says Mr. Corboy. "The film ran only 4 minutes 3 seconds—record time for changing a tire. I put the private eye on the stand and got him to admit that it actually took my client 15 minutes to do the job, slowly and painfully, and that the camera was constantly stopped to shoot selected action. I also got the private eye to admit that he had caused the flat tire by deliberately letting the air out of the tire and that he had followed my client to an employment agency, where the poor man was then refused a job."

Corboy's turning of the temporarily damaging testimony to his own advantage brought him a verdict of $502,400 from the federal court jury.

Once in awhile, though rarely, Mr. Corboy makes a mistake. It is axiomatic in trial work that a lawyer never asks a question of a witness when he himself doesn't know the answer that will be forthcoming. Mr Corboy broke this rule to challenge the seeing ability of an old man with thick glasses that looked like the bottoms of two Coke bottles. The old man claimed to have seen an accident.

"Tell me, sir," Mr. Corboy asked him on impulse, pointing to a clock 50 feet away, "what time does that say?" The man immediately answered: "The minute hand says 27 after 11 and the second hand says 33 after so I make the time out to be 11:27:33." "No further questions," said Mr. Corboy, biting his tongue.

Sometimes Mr. Corboy is not averse to being audacious and using the defense's own expert witness to bolster his case. Mr. Corboy had filed suit for the widow of a young laboratory technician who was fatally burned when there was an explosion while he mixed 28 pounds of a presumably safe, "inert" powder that was to be used in making Army explosives. Mr. Corboy took the munitions company's hired expert, an Illinois Institute of Technology professor, and had him testify that whenever he handled this "safe" powder he never mixed more than a few grams at a time and always wore an asbestos suit for protection. The jury awarded $519,000.

Sometimes Mr. Corboy lets the various defendants fight it out—to his own advantage. Mr. Corboy had sued in behalf of Mrs. Joan Devine of Morton Grove, whose husband, Jack, was killed with another man when their car was struck from behind by a trailer truck operated by the Beatrice Foods Co. Mr. Corboy sued Beatrice Foods along with Ford Motor Co., makers of the truck, Bill Boyer Ford Inc., sellers of the vehicle, and National Car Rental System Inc., owner of the truck.

"The truck driver had said that his brakes failed," says Mr. Cor-

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boy. "I put a Ford Motor Co. expert on the stand to swear that there was *no* brake failure. I let the jury decide." After a two-week trial the jury held only Beatrice Foods accountable, for the sum of $1.14 million, the largest amount ever awarded by an Illinois jury in an automobile death case.

One reason Mr. Corboy invariably wins is because of careful case selection. Certain important elements are involved in a good case. The victim's pain, mental suffering, financial loss, and medical expenses are part of the case, augmented by permanent disability and/or disfigurement. "The pecuniary loss to the next-of-kin is very important," says Mr. Corboy. "The money loss of an 18-year-old student is not too great —he's usually not supporting anyone at the time of his death. On the other hand the death of a 39-year-old president of a company, with six children, is a big case."

Of some 750 cases that were offered to Mr. Corboy last year, he turned down all but the strongest 220 of them. As a lawyer's lawyer, Mr. Corboy receives 60% of his cases in referrals from other lawyers. Depending on how much time he may have contributed to a case, the referring lawyer gets anywhere from no money to a fifth or a third of Mr. Corboy's final fee. Some clients ask for money advances from personal injury lawyers while these cases are awaiting trial. The Illinois Supreme Court has ruled this to be an acceptable practice, but Mr. Corboy will only co-sign bank loans that he gets for his needy clients.

The failure of inflation to abate makes it possible for Mr. Corboy to exact ever-larger damage verdicts. Invariably, he brings in university professors of economics to testify about inflation. In the case of Robert Kooyenga, the young bricklayer who was paralyzed when the tipping scaffold threw him to the ground, Mr. Corboy brought in Prof. Charles M. Linke of the University of Illinois to testify.

In 14,000 words of testimony Mr. Linke calculated that if Mr. Kooyenga's salary had risen at the rate of 5.6% a year (as a bricklayer's salary had been doing for many years) at his retirement in the year 2012 he would have accumulated lifetime earnings of $1,849,303. (The average bricklayer in 1949, for example, earned only $3,925 compared to $20,000 last year.)

The jurors were impressed by the argument.

The jurors seemed even more impressed when Mr. Corboy in his final argument countered the defense lawyer's contention that an overly generous verdict would make Mr. Kooyenga a millionaire.

"I guess if you are made a millionaire you are happy if you can't go to the john reguarly, if you can't enjoy somebody of the opposite sex, if you can't walk, if you can't get a job when you have been trying for three years. You have to sleep on your side so you don't get bed sores. You are wrong. Mr. Hatch. We don't want a million dollars from your client. We think we are entitled to $2.5 million dollars. Thank you, ladies and gentlemen."

The jury knocked nearly a million dollars off Mr. Corboy's demand, but his client had, indeed, become a millionaire.

And Mr. Corboy, that day alone, had become half a millionaire. ■

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House committee refuses to lift $30 million oil spill liability ceiling

By JERRY GEISEL

WASHINGTON—With a sense of drama rarely seen at drafting sessions, a House subcommittee rejected a Carter administration proposal to remove the liability ceiling on oil spills for supertankers.

As part of its action in approving a comprehensive oil pollution liability and compensation bill, the Coast Guard and navigation subcommittee had to vote three times before approving a $30 million limit on tanker liability for oil spills.

The deadlock was broken after subcommittee chairman Mario Biaggi (D-N.Y.) warned that an open-ended liability could result in the bill's defeat on the House floor.

"By removing the ceiling, we can anticipate severe opposition on the floor that we need not face by retaining a ceiling," said Rep. Biaggi.

The subcommittee also turned thumbs down on the administration's request to raise the minimum liability for oil tankers to $500,000. It opted for a $250,000 or $300 per gross ton limit (whichever is greater).

In response to suggestions from the insurance industry, the subcommittee exempted operators of transport and storage facilities handling less than 1,000 barrels of oil from having to show evidence of financial responsibility to satisfy the maximum amount ($50 million) of liability facility operators are exposed to.

Under another approved amendment, damaged party claims would be decreased by the amount the party's own negligence contributed to the accident (contributory negligence).

But the teeth of the bill—establishing strict liability for operators of oil tankers and facilities—remains intact.

Strict liability means that if damage is caused by oil pollution, the owner or operator is liable, regardless of fault.

To recover under strict liability, it is only necessary to identify the polluter. A claimant does not have to prove that the oil spiller was negligent or failed to take reasonable care.

The only liability defenses are if an incident is caused primarily by an act of war, a natural phenomenum of an exceptional nature or an act or ommission of a third party.

In the recent Argo Merchant disaster, the operators would not have achieved immunity from liability by arguing that exceptional weather tore apart the ship because improperly maintained navigational equipment was a major cause of the accident.

The bill establishes liability for claims in these key areas:

- The costs of cleaning up oil spills.
- Injury, destruction or loss of property.
- Destruction of natural resources (which can be claimed only by the fedaral or state government).
- Loss of the use of natural resources.
- Loss of earning capacity because of destruction of property. For example, oyster fisherman could file for damages if an oil spill destroyed oyster beds.

As reported earlier, the bill establishes a $200 million fund to serve as a backup mechanism to pay injured parties if the responsible party can't be identified or is insolvent.

A damaged party first would have to ask the alleged oil spiller for compensation. If the alleged spiller denied responsibility, the claimant could seek compensation from the fund or file suit in federal court.

Once a suit is filed, however, a claimant could not seek compensation from the fund.

The bill now goes before the full Merchant Marine and Fisheries Committee. Hearings are expected to begin in early May. ■

$47.5 million awarded to Anaconda

WASHINGTON—A major victim of the Chilean government's 1971 nationalization of foreign mining properties will receive $47.5 million from the Overseas Private Investment Corporation (OPIC) for insurance claims relating to the expropriation.

Under the terms of the settlement, which were announced last month, Anaconda Co., a wholly owned subsidiary of Atlantic Richfield Co., will receive a $47.5 million cash payment from OPIC.

In addition, OPIC, the U.S. government agency that provides political risk insurance to American investors in developing countries, will receive $27.5 million of promissory notes acquired by an Anaconda subsidiary from Chile under a 1974 compensation agreement.

OPIC also will guarantee payment of a $47.6 million portion of Chilean notes acquired by another Anaconda subsidiary under an earlier settlement with Chile.

Anaconda's agreement with OPIC represents the final settlement of claims relating to the expropriation of its three copper mines in Chile.

Prior to the Anaconda settlement, OPIC and its predecessor organization, the Agency for International Development, had paid or guaranteed more than $246 million to investors in settlement of 60 insurance claims. ■

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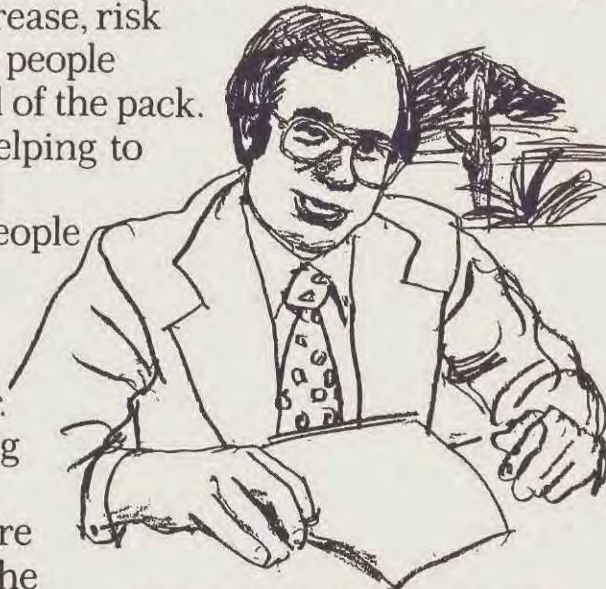

Gary Rimler of J&H Phoenix, Class of '71, is finishing his master's studies in finance at Arizona State.

Rufus Williams of J&H Houston, Class of '72, received his law degree in December.

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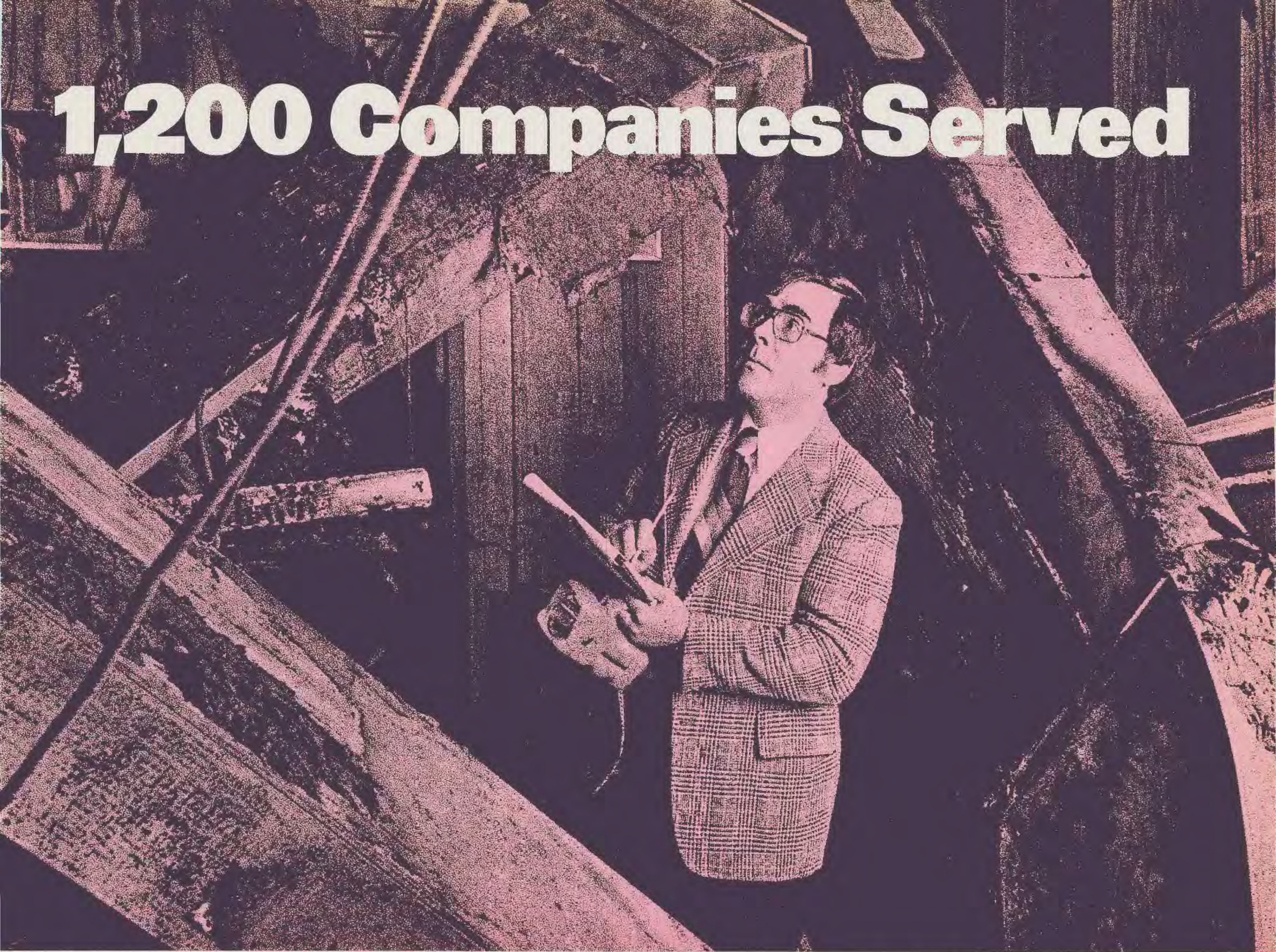

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Claims from heart drug hit U.K. firm

By JOHN H. MILLER

LONDON—Product liability problems are hitting the big U.K. conglomerate Imperial Chemical Industries because of the side-effects of its heart drug Eraldin.

Sufferers may get between $4 million and $5 million dollars in compensation for blindness, deafness or skin disease which have affected 800 people between 1970-1975.

Though the drug has now been withdrawn from use except for emergency heart treatment in hospitals, it has left a trail of liability problems which only began to come to light two years ago.

Seven years of pre-launch testing failed to suggest any harmful consequences from its use. The drug was then marketed in the U.K. and many other countries with the approval of the British Drugs Safety Committee.

Only the U.S. and Canada refused authority for its use, partly because it had not passed the carcinogen requirements. It is estimated that more than 500,000 people have used it harmlessly, including elderly patients suffering from heart trouble or asthma which it alleviates.

But 10 people have died. The drug can have an adverse reaction in a limited number of cases for reasons that are still unclear.

Claims ranging from $2,000 to $40,000 are being met voluntarily out of I.C.I.'s corporate funds, as the group wants to avoid protracted litigation, although it does not admit negligence.

Substantial cover is held in the U.K. insurance market for any product liability problems of the I.C.I. group, but underwriters have not yet been called on for payouts. It is expected, however, that this could happen if any costly lawsuits are won against the company.

The situation recalls the thalidomide tragedy which ended in an agreed payout by Lloyd's of about $6 million towards the costs of the Distillers Company in its $40 million settlements to 433 affected children in Britain.

* * *

LONDON—Surveys of major fires costing $250 million in losses in the U.K. in 1975 reveal that the engineering industry was the worst-hit in these outbreaks.

Textile firms were also heavily involved, according to figures released by the British Fire Protection Assn. for insurers.

Forty percent of the blazes were apparently started deliberately. More than 60% of the fires in the whole country occurred after normal work hours and storage areas were the most vulnerable parts of affected premises.

Other industries where expensive outbreaks occurred were leather goods, furs, clothing, footwear and electrical engineering.

* * *

LONDON—Premiums levied by the U.K.'s government-run Export Credits Guarantee Department for business firms wishing to insure against non-payment of foreign orders are to raised.

They will be hiked to 32 cents per $100 for short term business, covering goods sold on up to six months credit, which reflects an increase of eight cents on existing rates.

For longer term business, covering up to five years credit, they will rise from 73 cents to 83 cents per $100.

Financial secretary Robert Sheldon told Parliament: "The increases are due to adverse world trading conditions over the last few years. We need to keep an adequate reserve level in relation to the continuing rise in claims, but there will be no further increase for the next two years."

The department, which in 1975-76 insured U.K. foreign trade to the extent of $16 billion, protects exporters against non-payment of bills by overseas buyers. But it has to operate on a commercial basis, with no cost to public funds, so keeps its ratings in line with existing monetary requirements.

Premium income totaled nearly $120 million, and claims reached $80 million, leaving reserves of last year's operations at $500 million.

* * *

LONDON—Both U.K. and foreign employers of labor on offshore oilfields under British control in the North Sea are now being reminded that they must take out liability insurance for at least $2 million pounds sterling to cover any claims arising out of any occurrence to their employes.

The insurance is intended to cover any claims for bodily injury or disease contracted through such employment, in keeping with regulations which have applied for more than seven years to land-based industrial and commercial premises throughout U.K.

Penalties up to $350 a day can be imposed in the courts for any breach of these regulations. ■

New safety exam start is delayed

CHAMPAIGN, ILL.—A two-level examination for the safety professional certificate will be inaugurated in the fall of 1978.

The board of certified safety professionals announced that it is delaying the implementation of the new test six months. The present, single examination will be available two more times—in October 1977 and May 1978—for persons who prefer to take that examination.

Applications to take the present exam must be received by June 1, 1977, and Jan. 1, 1978.

The new two-level exam requires the applicant to pass a basic core test as well as a second examination in engineering, management or comprehensive management. ■

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The Hartford hijacking in a cup

Effective use of London markets defeats product liability woes

WASHINGTON—The National Tire Dealers & Retreaders Assn. beat the growing product liability insurance problem for its members last summer by effective use of the London markets.

Ironically enough, the association was practically desperate right up until the time Lloyd's came through with a policy priced inexpensively compared to the rates the group had been hearing. And, to add a further irony, the group's subsidiary association, the Tire Retreading Institute, had moved to establish a captive insurer in the Cayman Islands to underwrite coverage which wasn't forthcoming from any other markets.

All the feasibility studies had been done on the captive by Ebasco and by Fred S. James & Co. at a cost of about $15,000. The association insurer was established and set to go. Spurring this hectic activity was a notice of non-renewal by the Institute's previous underwriter of product liability coverage for the tire retreaders, and unsuccessful attempts by the association's insurance agency, NAIM in Jacksonville, Fla., to draw quotes from any of nearly-200 carriers approached.

The hundreds of members of the Institute were also concerned about the premium rates to be charged for product liability insurance even if a carrier could be found. The product liability insurance program begun 12 years ago by the Institute for about 100 of its members initially cost one cent per retreaded tire, but rates rose rapidly. Three years ago the rate reached 7.5 cents per tire for $1 million in coverage. The group had replaced its insurer several times over the years, but claims were "always relatively low," according to Philip Taft, director of the Tire Retreading Institute and coordinator of the several insurance programs.

When the insurer warned early in 1976 that it didn't want to renew the policy at any price, the underwriter said that if it did stay on the account the rate would have to jump to 20 cents per tire.

Rathmell & Co., based in Houston, saved the day. Rathmell got Lloyd's to underwrite the product liability insurance for 600 tire retreaders at a rate of 10 cents per tire, provided the Institute members participate in the safety inspection program run by the Institute.

The rate of 10 cents per tire is considered low. More retreaders are joining the program all the time, said Mr. Taft, pointing to participation by 600 out of the Institute's 875 members. The program generates annual premiums between $600,000 and $700,000. (The parent association, NTDRA, has 4,000 tire dealer members.)

"Part of what sold this program," Mr. Taft is convinced, "was the inspection program we have. We have our own field force to inspect at least once a year every member's operation, to check the retreading process being used and overall operation of the shops."

Lloyd's has designated its own New York-based law firm to handle investigation and defense of all claims, said Mr. Taft. He didn't have data on claims experience in the first year of this new program because only 10 months have passed, but he feels overall experience has been good. ■

New policy is aimed at small firms

HARTFORD—Small employers can now buy a new hospital medical plan from The Travelers Insurance Cos. which includes home health care coverage in all states.

Called Med Pac, the plan covers second surgical opinions, home health care, post-operative outpatient care, full maternity benefits, premium waiver in the event of the death of an insured and an automatic inflation factor. There is a $50 deductible on the home health care portion of the coverage. Travelers will pay 80% of actual expenses for as many as 80 visits a year by a recognized home care agency.

Benefits other than home health care increase automatically by 5% every other year for 10 years.

The firm also introduced a disability income plan offering a $500 per month benefit for persons earning under $10,000 a year. Called Pay Pac, it is designed for people whose LTD needs would largely be met by Social Security, but who need short term coverage until they can establish Social Security eligibility. The coverage has a $10,000 accidental death benefit and will pay $50 for a routine medical check-up every two years after the policy has been in force for one year. ■

Work comp extension abandoned

SACRAMENTO—California has abandoned the concept of extending workers' compensation insurance to occasional baby sitters, yard workers and other casual household employes.

Gov. Jerry Brown has signed a measure designed to correct major problems in a 1975 law which required workers' compensation insurance to cover on the job injuries for all domestic employes.

The most serious problem in the 1975 law was that only owners of buildings were required to obtain coverage. Tenants employing domestic workers were not required to find insurance.

Insurance company executives pointed out that under the new law thousands of domestic employes could be left unprotected against injuries suffered working for employers who had no coverage. They also warned the state itself might be required to assume liability for them under its uninsured employers' fund.

The California Workers' Compensation Institute will re-activate its committee on household workers' compensation to help the insurance industry adjust itself to the terms of the new law.

The new law requires coverage only for household employes who work at least 52 hours and earn at least $100 from a single employer during any single quarter.

The new law also removes the prior law's distinction in treatment of employes of owners of buildings and employes of tenants of buildings. ■

found a cure for of coffee.

The trucker was right on schedule when he made his usual roadside stop for coffee. Which is exactly what the gang of hijackers waiting there was counting on.

Then the gang struck the same fleet's trucks again, costing the fleet's owner hundreds of thousands of dollars in lost cargo.

But after being alerted to the crimes, The Hartford's loss prevention service suggested some measures that put an end to those hijackings. We recommended drivers alternate their rest stops so hijackers wouldn't know where to strike. And we also suggested drivers make their first rest stop at least 100 miles from their terminal. Because it's harder to hijack a truck on the open road than inside a city's limits.

Our loss prevention counseling recommended other ways the fleet could improve security, such as using its billing computer to keep track of a driver's estimated time of arrival.

The result of this loss prevention counseling? Besides stopping the hijackings, it also helped lower the fleet's insurance rate. Proving that when losses go down, rates don't have to go up.

Every business can use loss prevention.

Fleet owners, manufacturers, wholesalers, retailers, contractors—or whatever business you're in—can benefit from loss prevention. Because a loss prevention program finds better ways to help you prevent thefts, injuries, accidents, and lawsuits. It can also help you avoid costly business interruptions due to fires or accidents. And can help improve employee morale—and productivity.

At The Hartford, there are no set solutions in designing loss prevention programs. Each one is tailored to the specific needs of a business. In the case of a fleet operator, our recommendations may improve security on the road and at terminals. We may suggest conducting our unique 3-D Driving Program to help improve driver skills. Or perhaps our survey will show a need for changing equipment maintenance procedures. And in all cases, our conclusions can serve as an objective appraisal of your present program. Something that one of your employees can't easily do.

Our experience shows.

The Hartford has over 60 years of experience in designing loss prevention programs for virtually every type of business. We also have over 500 loss prevention experts on our staff, located throughout the country. Chemists, engineers, plus experts in product liability, transportation, construction, health care and fire safety. We also conduct industrial hygiene studies and even operate our own Environmental Sciences Lab which analyzes industrial pollutants.

It adds up to the kind of preventive help businesses of all sizes need but can't always afford on their own. Which is why more of them are asking for The Hartford's help—and getting results.

The insurance policy that doesn't cost extra.

The Hartford's loss prevention counseling comes with every commercial policy we sell. So besides getting protection, you get help when necessary. Help in establishing controls that prevent accidents, serious injuries, lawsuits, and lost profits. And your business can get this help regardless of size.

See how loss prevention can make a difference in your business. Just contact your independent Hartford agent, who's listed in the Yellow Pages.

Do it today. After all, wouldn't you rather get help than get hurt?

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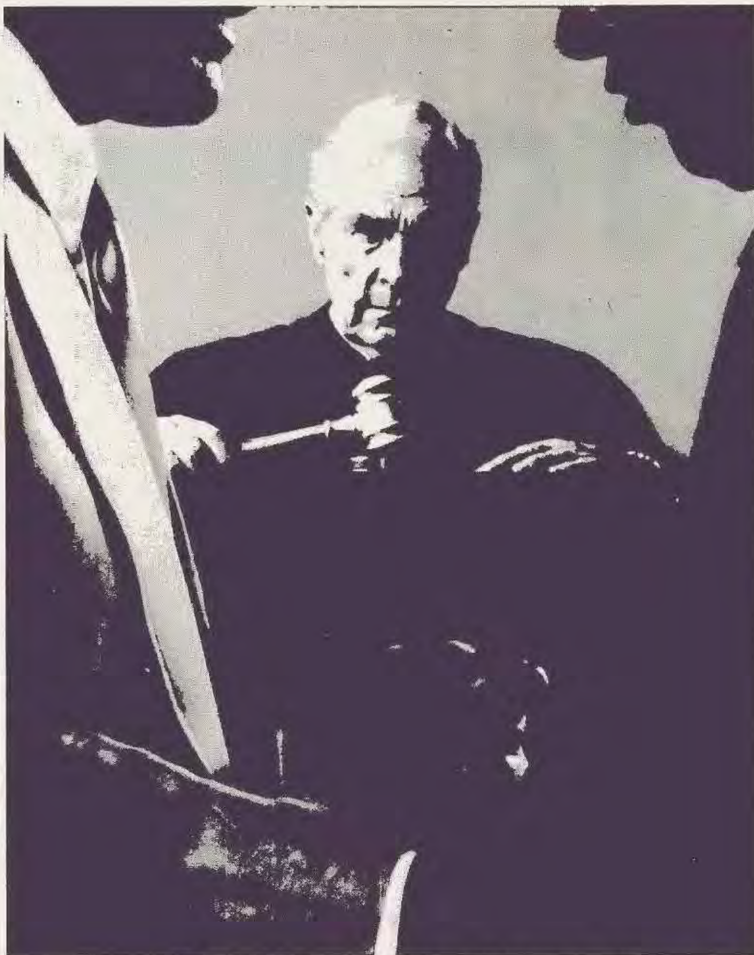
The Hartford Insurance Group, Hartford, Connecticut 06115

For more facts circle 24 on reply card

Ever wonder who pays for all those lawsuits you've been reading about?

The right to sue is basic to the American legal system. But lately there's been an enormous increase in the number of liability claims. For example, medical malpractice claims have been soaring, and a similar trend is now appearing in products liability.



And not only has the number of claims been escalating, but the amount of money involved has been increasing dramatically, too.

These are some of the reasons why you and every-one who buys liability insurance must pay higher premiums.

Insurance, after all, is simply a means of spreading risk. Insurance companies collect premiums from many people and compensate those who have losses.

The price of insurance must reflect the rising cost of paying for those losses and the expense of handling them. That's why your insurance premiums have been going up.

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Ever wonder when someone was going to tackle the issues of the day that affect your business? Crum & Forster is running messages like this in a continuing campaign in national consumer publications. All of the advertisements explain how the insurance system works and why premium costs are going up.

PERSPECTIVE

A quiet revolution is changing central station alarm operations

By James A. Synk
Senior vp
ADT Security Systems
New York, N.Y.

TROUBLED BY THE thought of being victimized by burglars, an Englishman named Tildesley devised and later marketed commercially, a rudimentary alarm system consisting of a set of bells joined to a lock. If someone were to attempt to use a skeleton key to compromise the lock, the bells would ring.

Since these beginnings in the early 1700s, burglar alarm systems have become increasingly sophisticated, adapting man's best available technology to help solve an old problem: The need to protect life and property. Today, the need for effective protection is greater than ever.

Out of every 10 crimes committed in recent years, nine have been directed at property. The list of offenses is a familiar one, including burglary, robbery, pilferage and incendiarism. Together, they add up to ever-increasing losses for American business, especially the insurance industry, and a formidable task for law enforcement agencies and the alarm industry.

One of the most effective forms of premises protection has long been the central station alarm system, since it first evolved into its present form just before the turn of the century.

Basically, a central station is a manned reception point at which incoming alarm signals are received, after being actuated by sensing equipment at the protection site and transmitted to the station over alarm grade communications lines.

At the central station, trained security operators receive, record and act upon incoming emergency signals that warn of burglary attempts, holdups, incipient fires, and a wide range of other problems that could result in losses.

For anyone involved in property insurance, the foregoing information is basic, as is a knowledge of the various grades of alarm service as determined by Underwriters Laboratories.

What many insurers, corporate security directors and others involved in the broad area of risk management and premises protection may be unaware of, however, is that central station operations are beginning to undergo a radical change.

During the past few years, the most significant advance in central station history has been quietly taking place. That change involves the application of electronic data processing to central station operations. With its lightning-fast information retrieval, massive processing capabilities and "hands off" automatic control capabilities, the computer is providing benefits to alarm system users, to companies such as ADT supplying alarm services and, ultimately, to property/casualty insurers who have a very obvious stake in premises security and life safety.

The benefits of central station automation via the computer are many, and generally fall into the following groupings:

- Increased efficiency
- Greater integrity
- Affordability

Central stations are receiving points for a heavy volume of incoming information. In some large city locations, signals will be received from as many as 4,500 separate locations, generally reaching peak volume in the morning hours when protected business locations are opened and later in the early evening when they are closed for the day.

This information, well over 90% of it routine, requires fast and accurate response by central station personnel, although only a small fraction of the incoming data indicates actual alarm conditions. For the most part, these signals tell central station operators that a subscriber's alarm system has been turned on at the close of business or turned off the next morning.

The new station

An incoming emergency signal receives immediate attention from a central station employe utilizing a CRT. In addition to the alarm, the computer can provide the guard with all the information he needs to contact police and fire units. The system is driven by disks such as the one above.

In the conventional central station, these signals must be manually acknowledged and logged-in by the operator. At the same time, he matches it with his record of the location's predetermined schedule of opening and closing times for any irregularity.

At an automated central station, these procedures are handled automatically by the computer, which matches the incoming signal to data stored in its memory. The "ring back" to the subscriber, indicating that the signal had been received, is swift —often within 15 seconds—and the transaction is automatically logged by the computer and recorded by a high-speed printer.

All alarm system information on a given location—covering a week, month, or even a longer period—can be retrieved swiftly, with the computer delivering on command a printed record detailing system activity —routine and emergency—during the specific period.

By thus being freed from the minute-by-minute chore of handling routine, scheduled signals, the operator is able to devote the greater part of his attention to non-routine signals—the ones that warn of potentially loss-producing emergencies such as intrusions, holdups, beginning fires, stoppage or malfunctions of automated procedures and other hazards.

As actual emergency signals are received at the automated central station, they are flashed on a CRT—cathode ray tube—by priority so that the most urgent ones may be acted upon first. Naturally, fire alarms, holdup alarms and related life safety signals take priority, followed by intrusion signals and others. Each signal continues to be displayed on the screen until the operator follows up on it, virtually eliminating chances that a signal will become "lost."

To act on an alarm, the operator simply types out an access code on a keyboard and, within a fraction of a second, the CRT screen begins filling with the most important information he will need: The address of the endangered location, the telephone numbers or retransmission codes of nearby police or fire facilities, the home numbers of the subscriber and others to be contacted, the approximate "time out" it will take to reach the location and pertinent facts about the premises.

Because the computer provides this critical information instantly and accurately, operator response is swifter and more ef-

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Joint pooling plans

Product liability cover-up underway

By Robert E. Fischer
Assistant vp.,
Zurich-American Insurance Cos.
Chicago, Ill.

THERE'S A COVER-UP in the making in the product liability field—a cover-up that would hide the true costs of product deficiencies behind a screen of joint underwriting associations, reinsurance pools and assigned risk plans.

The insurance industry has an important role in the current product liability crisis to keep visible the costs of compensating victims, under the present tort liability system. This compensation is funded largely by product liability insurance.

It is the high costs associated with providing this compensation that have focused national attention on the problem of product liability insurance. To diffuse these costs is not to defuse the basic problem.

In recent years, improvement in design and quality control in manufacturing have assumed a higher priority than at any time in our history. Consumer activists such as Ralph Nader must be given some credit for this impetus, but their effectiveness has depended on the courts, which have created strong financial incentives to make producers have an interest in safety.

Robert E. Fischer is the commercial underwriting manager of Zurich-American Cos. Since joining the company in 1962, his responsibilities included zone underwriting audits and large lines risk underwriting.

The courts, buttressed by regulation, have, in effect, created an expanding demand for absolute product safety. One result is sharply increased product costs, reflected both in more money spent on making products safer and higher product liability insurance premiums. For a market system to function efficiently, these costs must be apportioned back to the consumer.

The responsibility of the insurance industry in this is its traditional one, the assumption of risk. The insurance industry should be willing to assume the manufacturer's risk in selling the product that is not absolutely safe, but is as safe as can reasonably be expected.

And for this, premiums should be charged that are adequate—adequate to provide for loss costs and related expenses as well as adequate for reasonable profits for the service and the capital at risk. It is essential that the insurance industry respond to the product liability problem in this manner, for any other course will distort the problem itself.

If the current product liability compensation system needs changing, hiding its costs will only delay its ultimate correction while weakening the insurance industry in the process. The consumer must understand that the costs of a product include the costs connected with the right to sue the manufacturer.

The sooner the consumer realizes the full cost involved, the sooner he will make the fully informed decision as to whether or not he is willing to pay the costs of the current product liability system and the costs of absolute safety.

Various avenues have been mapped out for the insurance industry to follow to alleviate the product liability problem, including joint underwriting associations (JUAs), assigned risk plans and reinsurance facilities. All of these merely hide the real problem, shifting it into the lap of the insurance industry.

All a JUA does is provide a market by spreading risks more evenly over the en-

Continued on following page

SPEAKING OUT

No easy answers exist in tanker safety issues

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

AMPUTATION IS NOT a recommended cure for a headache. As Alexander Pope so correctly said, "A little learning is a dangerous thing." At one time or another we all learn that when trouble spots exist the best cure is to eradicate them at the source. Thereupon we are apt to yell like the Red Queen, quite reflexively, "Off with their heads!" The trouble with this is that it may create more problems than it cures.

We get this kind of reaction whenever there is a tanker casualty. Among some of the reactions are those that demand an immediate conversion to double-hulled tankers and the barring of all foreign flag tankers from U.S. waters, or alternatively restricting the entry of such tankers to strictly delineated classes.

A recent *Business Insurance* editorial suggested more inspections and more rigorous action by underwriters. It is perhaps worth commenting on some of these reactions.

First, it will be necessary to import oil and oil products into the U.S. throughout the foreseeable future. Large segments of the population depend on such imports for their jobs, to heat their homes, to run aircraft, trains, cars, trucks and buses. As we learned during the 1973 embargo, even to reduce these imports damages the economy severely. And when we talk of damaging the economy we talk of damaging peoples' lives, people who are laid off from their jobs or who have to close their businesses.

Consider the suggestion that all tankers be double-hulled. The fact is that most tankers do not require double-hulls. Some do, such as LNG carriers, where the space between the hulls is filled with refrigerant.

The proponents of such an action would probably put a time limit on changeover. One wonders if any thought has been given to the economics of such an undertaking. Will ships with a useful remaining life have to be scrapped and will the owners be able to afford to do so? In other words, will they be able to pay of their mortgages? Also, where will one be able to find shipyard space to build new ships in any quantity? If the new construction is to be subsidized, the U.S. government will insist that ships be built in American yards, and there is just not that many yards in existence.

Presumably, it will be insisted that all foreign flag carriers be similarly double-hulled; if not, they will be forbidden to enter American waters. Thereupon, the foreign flag carriers may just tell us to stick it in our ear. Indeed, there are some legislators who want to recommend that all foreign flag carriers be barred anyway regardless of the quality of their ships.

These are hardly practicable suggestions, but these and others like them are being made in all seriousness. Apart from any other consideration, however, the U.S. flag fleet would be quite inadequate to do the job that would be demanded of it—there are just not enough ships. Already this winter the law forbidding intercoastal trade by foreign carriers has had to be waived in certain instances since there were no U.S. ships available to carry fuel oil. If recommendations such as the foregoing are enacted then with what will you run those factories and home heating furnaces that depend on imported oil—tomato soup?

And there is one further economic impact to be considered. During this winter a sizeable segment of the population could not afford to pay utility and fuel bills. Changes that are being pressed will tend to raise fuel costs even more, as well as threaten disruption to American economic life. Consequently, an even larger segment of the population will be unable to make ends meet.

Consider, too, the nature of maritime losses. In the early 1950s the General San Martin left Bahia Bianca for Buenos Aires and disappeared. This was akin to a trip from Boston for New York. San Martin was no dinghy but a brand new 15,000 GRT cargo ship, which was wholly seaworthy.

In the fall of 1975, a bulk carrier left Wisconsin for Cleveland and sank with all hands while enroute. She displaced 26,000 tons, was deemed seaworthy in every respect and had a competent crew. However, since she was carrying iron ore pellets instead of crude oil her loss "didn't get the normal adverse publicity." Indeed, most people who have heard of her would never have done so if Gordon Lightfoot's ballad had not made it on the hit parade—"The Wreck of the Edmund Fitzgerald."

And then just over two years ago a tanker dropped a propeller in the Indian ocean. Fortunately, the ship was towed safely into Durban, but can you imagine what would have heppened if a full gale had been blowing? The ship would have turned turtle and sank without another sound. And it is important to bear in mind that the ship was wholly seaworthy so far as could be detected until the casualty occurred. Nevertheless, if this ship had sunk would there not have been outcries that safety matters had not been attended to and that there was negligence in some respect otherwise the ship would not have sunk? "They that go down to the sea in ships and occupy their business in great waters" still pursue a very hazardous undertaking.

Now see here, you may say, we are not really thinking of ships like the ones you have mentioned. We have in mind those super tankers that blow up for no good reason and ships flying funny flags that are poorly maintained and badly manned.

In the first place there are not that many super tankers. Other types and sizes far outweigh them. But it is agreed that super tankers' huge cargoes alone have a devastating ecological impact in the event of disaster, and new construction of this type did give rise to problems that were not foreseen. I am quite unable to guess whether they should have been foreseen, but I am wholly aware that hindsight is wonderfully accurate. I know, too, that problems encountered in this kind of construction have been the subject of lengthy studies and a resultant revision of standards by the classification societies.

Moreover, the type of heavy weather loss mentioned above is comparatively rare. Most marine casualties are caused by human error. Every collision, for example, involves a failure on the part of somebody and accidents of this kind can happen to the best run companies. Most landsmen fail to realize that a ship has no brakes. Once a ship is committed to a certain course, it just keeps going and if there is anything in the way it gets hit. Corrective action may be attempted but it must be done in time or it will be futile.

Nevertheless, it is said that if there were more inspections this would ensure that such ships are at least seaworthy. Inspections by whom? Is it being suggested that current standards are inadequate, and if so, what criteria have been adopted to determine adequacy? Or is it being suggested that classification societies are negligent?

However, it is still insisted that there are far too many casualties and underwriters should do something about it. Perhaps there are too many casualties but I have not measured the volume of casualties against the total number of marine casualties so I do not know how far out of line they may be. As to underwriters increasing their rates, thank heavens that marine underwriters still underwrite. We all share in general hull rate increases, of course, and not long ago deductibles were mandatorily increased. Nevertheless, an owner's experience still governs the final rates.

Has anybody gone to their friendly neighborhood broker lately with a lousy experience and managed to keep the same rates? And has anybody looked at the cost of excess liability insurance compared with just a year ago? And has anybody compared the cost per ton in the clubs compared with five years ago? In either case underwriters are out to make a profit and the clubs must cover their costs. In some clubs supplementary calls have been upwards of 100%.

The point of all this is to insist that pointing a finger at classification societies and the underwriters is too simplistic an approach. This situation and its ramifications are far more complex than this and will not be solved by dry-docking ships a few more times and by doubling insurance rates. Perhaps underwriters and surveyors can do something. Perhaps they can insist that each ship carries certain equipment and be adequately crewed. But having done this they cannot prevent owners and crew from being negligent or stupid, and yelling "off with their heads" accomplishes nothing. ■

Product liability cover-up . . .

Continued from preceding page

tire insurance industry. If those risks are a drain on the assets of the individual insurers, the JUA only guarantees the drain will be equitably spread to all participating companies, weakening the whole industry and hiding the true cost of product deficiencies.

Assigned risk plans were designed to be the industry's response to its social obligations to assist a few risks that need insurance coverage, but could not find it on the open market. They are not intended to operate in competition with the voluntary market.

When viewing the product liability problem, we must distinguish between complaints about availability and price. Numerous surveys have indicated that relatively few businesses have been denied product liability coverage, but many are finding the cost of coverage has increased substantially. Of course, assigned risk plans are not intended to solve the problems of price.

Reinsurance facilities, another suggested "solution," would only serve to disguise the problem by spreading the burden throughout the insurance system. The inevitable transfer of the financial burden to insurance buyers through such mechanisms would serve only to pile the costs of running a reinsurance facility on top of the costs of the product safety compensation system. It would hide the true cost of the product from the consumer and society in general.

The key role for the insurance industry in response to the product liability crisis is to provide a market for all deserving risks, charging a premium adequate to support a free enterprise insurance system. Only in this way will the true and total cost of the product be determined.

Is this too passive a role for the insurance industry? What about reform in the tort system? Restrictions on the contingent fee system? State of the art defenses against claims of defective products? A statute of limitations for product liability?

These are a few of the possibilities for alleviating the current problems in this area. And I am not suggesting that insurance companies and insurance industry groups should not continue to examine these ideas for reform and work with responsible elements in the legal professions, regulators, legislators, consumer groups and manufacturers to bring about desirable changes.

But if we allow the true costs of the current system to be swept under the rug, the pressure to bring about meaningful change will disappear, and the insurance industry and its customers, particularly the major industrial customer, will be left to pay the price of the cover-up. ■

Alarms . . .

Continued from preceding page

ficient, reducing the chances of mistakes or misinterpretations. What's more, with the computer taking over the job of record-keeping—including logging-in the operator's response—an accurate chronicle of activity is created.

One requirement at ADT's 140 Underwriters Laboratories-approved central stations is for periodic testing of alarm system transmission lines, both direct wire and McCulloh circuits, the latter being roughly the equivalent of a party line.

Yet another routine, but very critical, function that the computer assumes in the automated central station is checking the integrity of transmission lines to help guard against compromise attempts, malfunctions and other problems that could impede signal transmission. In a conventional central station, this operation is conducted manually. In the automated station, it becomes another function of the computer. The result is that this process is conducted with a high degree of assurance and, importantly, on a much more frequent basis.

By way of contrast, in a conventional central station, direct wire systems are tested on the average of once every three hours, and McCulloh circuits once every four hours. At an automated central station, this time is cut dramatically to once every hour and two hours, respectively.

Where the very highest possible level of line security is needed, additional safeguards can be applied. One advanced approach now available is the use of electronic devices to generate pseudorandom codes transmitted in synchronization between the central station and the protected location. Practically impossible to duplicate because they don't repeat themselves in a normal lifetime, these electronic codes help assure the highest available security for alarm systems at high risk locations that include bank vaults, jewelry stores and government installations.

The final, but by no means least important, reason behind automation of central stations is the cost of service. Alarm signal transmission lines, as supplied by the nation's telephone system, are becoming scarcer and more costly. With the computer as its nerve center, the automated central station is able to make use of telco transmission means other than alarm-grade lines to hold the line on rising costs and decreasing availability of this transmission medium.

Additionally, by effectively permitting the use of other modes of transmission, the automated central station is able to provide alarm service to a broader geographic area. This is an important consideration as cities continue to spread beyond their older downtown cores into more distant suburban areas.

Currently, automated central stations are in operation in the New York City area, Houston, Baltimore and Montreal. Before the middle of the year, another automated central station will go on-line in Washington. In coming months, still more automated central stations—including those of ADT and other companies in the alarm industry—will commence operation in other cities, marking a transition to a new era of electronic protection service, the results of which will benefit not only the alarm industry, but also alarm system users and those who insure them. ■

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Panel avoids specific product liability plan

By JERRY GEISEL

WASHINGTON—A House subcommittee shied away from any concrete set of proposals to deal with the product liability crisis during hearings this month.

The subcommittee on capital, investment and business opportunities did make what it called "observations" on the problem. At the same time, the subcommittee poked holes in frequently-proposed remedies.

Subcommittee members suggested that specific legislation was still in the future. However, one interesting proposal would provide tax breaks for self-insurers.

A mechanism to provide reinsurance through the Small Business Administration, a proposal that has won a measure of support in the Senate, came under fire for "diminishing the impetus to find a real and long-lasting solution" to the problem.

Rep. Ronald A. Sarasin (R-Conn.) warned of the steep costs of "making certain that those who were insured utilized proper product liability prevention techniques."

Instead of a federal reinsurance pool, Rep. Sarasin and other subcommittee members appeared to be leaning toward an approach allowing manufacturers to sue employers who failed to keep factory equipment in good operating condition.

"We are going to have to shift the burden more from the manufacturer to the employer," said Rep. Willis Gradison (R-Ohio).

Legislation that would allow machinery makers to pull negligent employers into product liability suits would serve two purposes, Rep. Gradison said.

"It would encourage employers to be safety conscious, thereby improving job safety" and it would "remedy an existing inequity whereby a manufacturer bears the burden of an injured worker's claim" regardless of how an employer maintained equipment.

But Rep. Sarasin admitted that any legislation allowing manufacturers to sue employers was far from "problem-free."

While providing immediate relief to manufacturers, it would push workers compensation costs up and increase both suits and litigation, Rep. Sarasin said.

There was little disagreement, though, about enacting a statute of limitations. Although committee members declined to give a specific figure, a consensus did emerge to define "more precisely the length of the period of liability exposure."

Other suggestions tossed out during the hearings were not new. Several subcommittee members favored legislation removing liability from equipment modified from the time of original sale.

But one approach rarely mentioned previously would allow firms that self-insure for product liability a tax deduction for annual additions to their reserves.

In addition, the subcommittee urged the government to change its purchasing policies in which contracts are denied to those firms that "lack name-insurance" to cover product liability suits.

At the end of the hearings, the subcommittee staffer warned that specific legislation wouldn't be discussed for at least two months. ■

Product suits widen lead in Chicago

CHICAGO—Product liability suits filed in the six-county Chicago metropolitan area in the first three months of 1977 surpassed by 31% the number of malpractice suits filed in the same period.

The Illinois Insurance Information Service reports that 152 product liability suits were filed from Jan. 1 to March 1 compared to 116 malpractice suits.

In 1976, product liability suits filed in the Chicago metropolitan court complex outnumbered liability suits by only 12; there were 868 produt liability suits filed and 856 malpractice suits filed. That was a 13% increase in product liability suits compared to 1975 and a 25% decrease in malpractice suits compared to 1975.

Commenting on the increased number of product liability suits in Chicago and adjacent suburbs, Thomas F. Reynolds, general manager of the Illinois Insurance Information Service, said, "It would appear that product liability coverage now is to beome the new 'deep pocket' to be targeted by the personal injury specialists."

He suggested the slowdown in malpractice action in the Cook County courts could be attributed to two primary factors: "Doctors and surgeons are developing a remarkable record in winning defense verdicts in Cook circuits courts . . . and counter suits filed by targeted doctors against plaintiffs and their lawyers in malpractice actions may be causing some second thoughts in the personal injury bar."

Malpractice suits filed against lawyers in the Chicago six-county area more than doubled in 1976 compared to 1975. In 1976, 93 suits were filed against lawyers compared to 43 filed the previous year. The lawyer-defendants lost in the three attorney malpractice suits that were decided, the service said, quoting the "Cook County Verdict Reporter."

Although malpractice suits in general are declining in the Chicago area, the Illinois Insurance Information Service believes they are growing in Downstate Illinois.

In product liability cases downstate, the service notes "the defense is successfully resisting unmeritorious actions, with four major not guilty verdicts." ■

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At fast growing Pay 'N Save

Benefit manager revitalizes program

By HARRIET KING

SEATTLE—"Pay 'N Save" is a dynamic, fast growing company and we've been able to make more changes in employe benefits in one year than some companies have made in 10."

That's the assessment of Roger L. Sims, lured from a job as an employe benefits consultant with Johnson & Higgins in February 1976 to set up an employe benefits department at Pay 'N Save. The company, with $417 million in sales last year, is one of the largest drug, apparel, hardware and sporting goods store chains in the West.

Last year, the company opened or acquired on the average a new store every two weeks with the result that the company ran a hodgepodge of benefit plans.

So, in the year since Mr. Sims was hired, he has:

- Created an employe benefits department employing five persons to handle the company's 7,000 employes.
- Established a self-insured vision plan covering 4,000 employes with no assistance from insurance companies or consultants.
- Merged three pension plans and one profit sharing plan into one defined benefit plan.
- Started analyzing an administrative services only (ASO) contract for medical/dental benefits.

The self-insured vision plan began May 1, 1976. Since that time, the company has paid out $85,000 in claims. "During the first year, it is hard to have money because the newly insured people all rush out to get their needs taken care of," says Mr. Sims. "I now have a girl working on it for a half day every day.

"But we save on cash flow. We don't transfer funds until they are needed. We also don't pay monthly checks in premuims, nor state premium taxes, and we don't need to hold excessive reserves. At this point, although it is difficult to pinpoint exactly, I'd say we're saving 50%."

Mr. Sims says the vision plan is easy to administer. "You don't need a lot of claims expertise to handle it, as it pays so much for glasses, frames, so much per lens, for examinations and that's it. The turnaround time is fantastic," he said.

As a rule, the plan pays $25 for an exam, $30 for frames, and $16 per lens. The average claim is for $80. The plan does not pay for contact lenses unless it is medically necessary. "We want to provide eye care, not cosmetics," he added.

The plan covers all non-union stores, management and some union stores that requested the coverage. And, he feels that overall his plan "is as good or probably better," than union plans. For claims generated by employes in Pay 'N Save's Canadian stores, the payouts are in Canadian currency.

Roger L. Sims

"I didn't need outside consultants when setting up the vision plan," he continued. "I got some claim forms to use as guides and that's about it."

He also changed health and welfare brokers. "We asked several to prepare bid specs. We wanted a regional house to cover our needs as we are a regional company," he said.

Pay 'N Save operates 169 Pay 'N Save and Bi-Mart Drug Stores, Lamonts Apparel stores, Sportsland and Sportswest sporting goods stores and Yard Birds general merchandising stores in Washington, Oregon, California, Idaho, Utah, Alaska, Hawaii, Canada, Nevada and Wyoming.

"A committee of three persons from Pay 'N Save selected Fred S. James & Co. as our broker, based on written proposals and oral presentations," Mr. Simms said. "We were all in agreement on who did the best job.

"In our proposal, we asked who the broker would assign to our account and how much other business that person handles. We didn t want to end up with the person who handles the Boeing Co. or Weyerhaeuser Co., where we'd be a poor sister. We wanted to be an important account.

"I knew that initially I needed a broker to help straighten us out and told them that the first year we would lose money for them because of the amount of work they'd have to do. But I felt there was long term potential." The review of different brokers took about two months.

"Then we had pension plan problems," says Mr. Sims. "We had two plans, hourly and salary, and a recent acquisition, Bi-Mart Stores, had another.

"We then rewrote all three to conform to ERISA and got all assets in just one bank. Then, the Yard Bird stores in southern Washington that we acquired had profit sharing, so we merged that plan and got the profit sharing money into our bank."

The most difficult part was merging the profit sharing into pension benefits "because we didn't want them to lose the benefits. We ended up with a 'greater of' philosophy. If a person quits who was in profit sharing, he can elect that balance as a pension. It took a tremendous amount of work with attorneys to get it straightened around," Mr. Sims said.

Before Mr. Sims' arrival, claims and accounting were in two different departments "which was ridiculous," he said. "Now our employe benefits department handles accounting and payment of claims. Before I came, the company basically just had an insurance clerk."

The way Pay 'N Save handles claims is different from most, he

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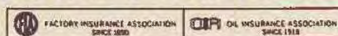

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said. "Many companies have their insurance company process the claims—but not here. All health and welfare claims come here and we certify eligibility here. My assistants can spot areas like coordination of benefits.

"We send the claims to the insurance company and they mail the check back here. We then mail the check with a cover letter to the store, where the employe works. The store manager then hands the check over to the employe.

"Our company philosophy is to let them know that *we*, not an insurance company, are doing this for them. It takes a lot of time to do this, but it strengthens the bond between the company and its people.

He is looking at an administrative services only contract for medical/dental benefits and "we are quite close to making a decision on this. We see the advantages of a substantial savings in reserves and in premium taxes. An ASO plan also helps cash flow.

"We need to have our legal counsel look into it, but we could save quite a bit of money if we can keep an exact zero balance. Then, if say we need $8,000, we transfer the funds that day," Mr. Sims said.

"Our experience is favorable in medical/dental, although most companies are losing their shirts. But it may be because we employ a lot of young people who tend to have a high turnover."

Mr. Sims also recently put into effect an upgraded long term disability plan. "It includes more management types, especially those we get in new acquisitions. It also includes a higher maximum. It was a maximum of $1,000 a month or 60% of salary, but now it has a $3,000 maximum," he said. "It's also integrated better with Social Security benefits." Altogether, his department offers 13 or 14 different plans.

Of his full time staff, one person handles all accounting and payroll deductions; another handles vision care and pensions; a third health and welfare claims.

In a recent reorganization, the person Mr. Sims reports to also was changed. Pay 'N Save hired a man to handle the entire human resources staff of the company, including human relations, personnel, labor relations and employe benefits.

"A lot of companies handle employe benefits as a part of personnel. But I resist this; I say it conflicts with a prime function of personnel which is to make people happy. I buy benefits and try to control costs, so one of my major goals is to save money."

Because the company's benefits are so substantial, Mr. Sims says, they can be used as a public relations tool. "A panel of people from our personnel department can then go talk to new employes, such as the people at the stores we acquired in Nevada, and tell them we have medical, dental and vision. The employes seem receptive to this."

He must also deal with health maintenance organizations getting underway. "It's inevitable that HMOs will come in. We have there or four that have called or written us. The way it looks now, if I had to go to one, I'm inclined toward Group Health (Group Health Cooperative of Puget Sound)—it's better than any other in this area and I know the people there." ■

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Can biorhythm cut losses? Expert answers yes

By TOM WALSH

COLORADO SPRINGS—Can risk managers predict with accuracy the days when their workers are most likely to fall victim to an industrial accident?

Yes, says Russell K. Anderson, a retired safety engineering consultant. Mr. Anderson, once president of the now-defunct firm of R. K. Anderson Associates of Rutherford, N.J., has been charting industrial losses for nearly 20 years.

The tool he uses is biorhythm. And although some see biorhythm in the same light as astrology and numerology, corporations have been experimenting with it to reduce exposures to expensive industrial losses.

Based on the theory that recurring physical, emotional and intellectual cycles govern each individual, biorhythm simply shows where a person stands in relation to that cycle on any given day. Certain days in each cycle are considered "critical" periods when individuals are vulnerable to physical, emotional or intellectual letdowns.

Even more dangerous, according to the theory, are days when two or more of the cycles are "critical" at the same time.

"Biorhythm can't predict a damn thing," the 68-year-old Mr. Anderson explained. "What it can do is give you a warning that you might not be capable of doing a certain task on a certain day. If you were running an airline, you might have charts done on your pilots and not allow pilots to fly on days when they are at critical periods.

"If you go back and analyze information about the pilots involved in many recent air tragedies," he said, "you'll find that not only, in most cases, were the pilots' biorhythms showing a critical period, but also the copilots'. And if you don't think the airlines know about biorhythms, just try to get a pilot's birth date from them following a crash. It's very difficult."

Mr. Anderson believes skepticism, coupled with a tendency to see biorhythm not as a deterrent to accidents but as a prediction device, have limited commercial application.

"What happens is that you prepare charts for employes of a high-risk industry and then time passes and no accidents occur," he said. "Then management feels there's no value to it and dismisses biorhythm as a loss prevention tool. Well, if you were predicting accidents on every critical day, there would be an awful lot of accidents—that's not what biorhythm is for. A person could probably go through a whole year without having anything adverse happen to him on a critical day.

"So," Mr. Anderson said, "what I do is ask these people to put the charts away for awhile—not look at them. Then, when there is an accident, to pull them out and see where the biorhythms are for the persons involved. In nine cases out of 10, those involved will be critical on that day. That's how people become believers—by going back and matching their critical periods with accidents, injuries or faulty judgments."

There apparently are some corporate believers, although few wish to discuss biorhythm publicly. A recent study of corporations using biorhythm as a loss-prevention tool conducted by the National Safety Council encountered resistance from companies.

That study did disclose:

- United Airlines used biorhythms for ground crews at a San Francisco maintenance facility. That experiment has been discontinued, and United claims that biorhythm was never used to schedule work assignments. "We do not have any hard data that will indicate that the biorhythm program had any effect on our ground safety performance," United officials said.
- Allegheny Airlines has dabbled with biorhythm, but won't discuss its program.
- Proctor & Gamble once instituted a biorhythm program at its Charmin bathroom tissue plant in Green Bay, Wis. Employes are forbidden by the company to talk about the program.
- Exxon apparently believed in biorhythm enough to issue safety reminders on critical days for 900 employes of a Daytown, Tex., plant.
- Pfizer Inc. conducted an experimental biorhythm program for 12 years and findings were used to rotate production workers. Safety manager Aldo Osti told the National Safety Council that accidents dropped 60%, but admitted that the reduction could be the result of job rotation alone. "Thirty percent of the accidents were on critical days," Mr. Osti said. "So, I guess you could say I'm 30% believer, 70% skeptic and 100% inquisitive."
- The largest analysis of biorhythmic data shows no correlation between critical days and accidents. The Workmen's Compensation Board of British Columbia analyzed 13,285 lost-time accidents occuring during the first quarter of 1971. "The evidence overwhelmingly supports the contention that accidents do not have an increased likelihood of occurring on biorhythm critical days. We found no correlation between critical days and occurrences of accidents," the board said.

The reluctance of corporations to discuss application of biorhythm to their industrial safety programs comes as no surprise to Mr. Anderson.

"I am not able to divulge the names of the firms I used to work up charts for," he said, "even though some of them haven't been running biorhythm programs for years. There's a real problem here both with the question of liability and with the unions. If a plant is operating with a man who is working on a critical period and he becomes involved in an accident, he might be able to prove negligence on the part of the plant if the safety people knew he was critical that day and they still let him work.

"And then the unions come in and say, 'Well, if today is particularly hazardous for this worker, then he should have the day off with pay.' In cases where the unions have pressed this point, the companies have often backed out of their biorhythm programs. For these reasons, I think, you'll find many companies soft-pedaling their involvement with biorhythm.

Mr. Anderson feels that biorhythms should be used only in highly hazardous industries, such as chemical and metal works.

"I'd only recommend it in areas

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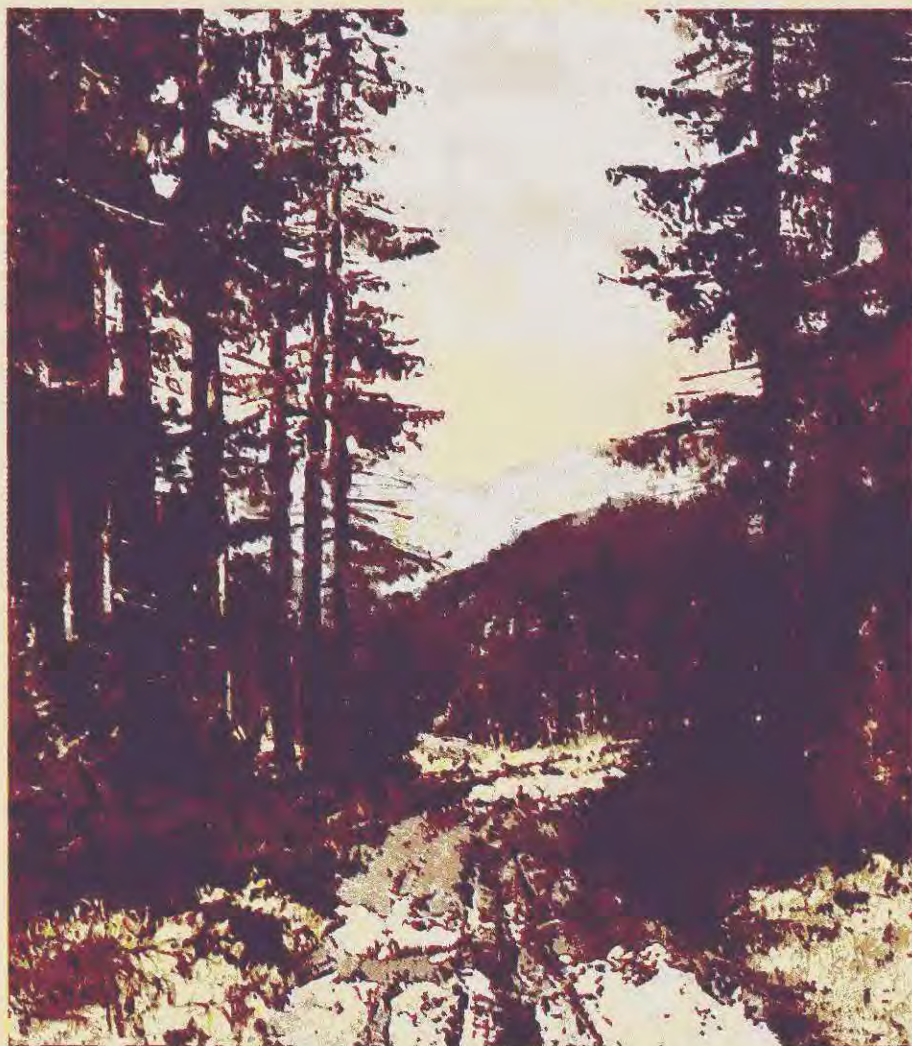

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where you knew that a serious accident would be far-reaching in the plant and would go beyond the person directly involved in cassing the accident or allowing it to happen," he said.

His firm once instituted a biorhythm-based safety program in an East Coast chemical plant after two reactors "went through the roof" and two boilers burned out.

"Every one of the workers involved, and also the guy in charge, was critical," he said. "After that, we made up charts for all employes who were involved with reactor operation. When their charts indicated critical periods, they were switched to nonhazardous jobs. So, in effect, the plant had two workforces. In the seven years I had that plant, there wasn't another accident as serious as those first ones."

Mr. Anderson is not surprised that some experiments with biorhythm as a loss-prevention tool have ended in apparent failure.

"When I first heard of biorhythm I though it should work for predicting industrial accidents, so I checked 50 accidents and found that half of them occurred on critical days," he said. "I was not impressed, so I went back and rechecked all my figures and charts and found out what a lousy mathematician I am. Redoing all the charts properly brought the average up to 80%. Then I ran a check on 300 accidents, and the average was about 90%. A later analysis of a cross-section of 1,200 chemical, metal and textile accidents saw the ratio climb to more than nine out of 10.

"It's very difficult—in fact I think it's impossible—to get an accurate biorhythm chart with a computer. Many of the companies experimenting with biorhythm have been depending on computer-generated charts. It's no wonder, at least to me, that their results don't shine very favorably on the use of biorhythm in their safety programs."

Since he retired more than five years ago to live quietly in the shadow of Pike's Peak, Mr. Anderson says he has received more inquiries than ever for information and materials needed to compute biorhythms.

"My recent bout with congestive heart failure and my analysis of my biorhythms and my pulse, blood pressure and temperature on critical days has convinced me that an awful lot of lives could be saved if doctors and nurses in intensive care units knew where the biorhythms of each patient stood," he said. ▪

Office visits may increase

NEW YORK—Agents may find it cheaper to stop off at the office before calling on a client as of next month.

Revenue ruling 76-453, a recent Internal Revenue Service issuance makes it likely they will consider a trip from home (provided it is not also the office) to a client no longer deductible, according to an item in the February Insurance Newsletter, a quarterly publication of Peat, Marwick, Mitchell & Co. If the employe is reimbursed for such travel, that is subject to withholding tax.

Auto travel is deductible now only when the destination is a "distant city", en route between clients, on overnight trips, and between office and client (when it is not also the home.) ▪

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london line

Lloyd's chairman eyes European cooperation

By JOHN H. MILLER

LONDON—The failure of other European nations to welcome the London international insurance market dismays Sir Havelock Hudson, chairman of Lloyd's of London.

"It is impossible to avoid the conclusion that forms of protectionism in European insurance markets are the reason for this," he said in an interview on the risks facing the industry in the coming months. "We must all devote ourselves in 1977 to ensuring that we have much to contribute. They are quite wrong if they think they have much to fear from us."

He also opposed a scheme to nationalize the seven major British insurance companies, even though Lloyd's would not be affected because of its unique position.

"The London insurance market is still the center of world insurance. It is of vital importance to the U.K. that it continues in this role. Therefore nobody at Lloyd's can remain indifferent to the threat to nationalize these major companies.

"One of the factors in the dominance of the London market is its great capacity to absorb a large part of the world's requirements for insurance and reinsurance. There must also be a capacity to accept large lines of business."

Sources note that although delegates called for insurance and bank nationalization at last fall's Labor Party conference, no concrete steps have been taken by Prime Minister James Callaghan.

Robert J. Kiln, one of Lloyd's leading non-marine specialists, says prospects are good for handling the large flow of U.S. business. Mr. Kiln has compiled an interesting analysis of monetary trends.

Previous figures show that, on a sterling basis, world-wide premium income for non-marine underwriters reached 541 million pounds at Lloyd's in 1973, and moved well over 630 million pounds for 1974. That compares with 570 million pounds in 1973 and substantially more than 640 million pounds in 1974 for marine and aviation (with trading accounts for the latter year still to be closed).

But though the two markets are historically separate, the gap between them has to be looked at from a new and significant standpoint in 1974 if there is a sudden spread of non-marine requirements, he suggests.

Mr. Kiln, who is on the Committee of Lloyd's, pointed out: "I don't think everybody understands the peculiar position of these two markets in relation to their separate business. The share of marine and aviation risks at Lloyd's represents a very significant part of world business.

"But the share which Lloyd's currently has of non-marine income is so small as to be less than 1% of relevant world business. So there's an almost infinite possible increase in this percentage if a situation occurs where the major markets in any other country have to reduce their capacity.

"Let me put this in terms of the present situation. After 1974 the U.S. domestic markets were forced to cut back on the amount of business they could accept. So Lloyd's share of U.S. income could have risen from 1% to 2% or even 3%. If that happened, its non-marine income could double in a year, but this is not possible to anything like the same extent for marine and aviation markets.

"I'm not saying that if non-marine underwriters had an infinite capacity that their premium income would necessarily rise to that extent, but the potential is there."

Mr. Kiln believes the non-marine market will continue to absorb its share of "desirable business" in 1977. Lloyd's has offered improved terms in liability classes in the U.S., with underwriters able to dictate their conditions in many sections, and good demand for both insurance and reinsurance from the U.S. continues.

The demand for property insurance has been equally noticeable, but there is still competition, as many companies have turned to this sector to replace "longer tail" business.

"It seems to me we won't see any dramatic change to intensive competition for U.S. business until, perhaps, 1979-80 but this will probably not be true of reinsurance and certain physical damage classes," Mr. Kiln forecast.

"On the reinsurance side no major catastrophe has happened in the U.S. for some time, at any rate up to the start of 1977, and so business in this line should be profitable. But competition for physical damage reinsurance is intensifying.

"Most companies in the U.S. have had their financial stability weakened after the disastrous experiences of 1974-75. They're going to need several years of profitable underwriting to put their surpluses in a healthy situation.

"It must be remembered that a stock market depression like that of 1974 would have a profound effect on their ability to write business."

Confirmation that growth in non-marine business from U.S. sources is likely to be maintained in 1977 comes also from Peter Miller, of Lloyd's Insurance Brokers' Assn., who said:

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"There has been an enormous increase in the flow of non-marine business from the U.S., and there is a view in the market that this flow will be kept up in the foreseable future. It is felt that the potential decline which traditionally follows such a big flow of business is unlikely to occur so drastically as in previous cycles or in the immediate future."

Rating levels for non-marine business are therefore moving in line with proper underwritint attitudes and there is no sign yet of capacity being satisfied.

But problems in both the aviation and marine markets are reflected in the over-capacity which is still coming from many parts of the world. On aviation, Mr. Miller said, "It appears that little during 1977, and it will not be until 1978 that there will be large-scale replacement of the first generation jet aircraft by the second generation wide-bodied airplanes. This will bring its own problems. For there will be a smaller number of units to be insured, but with significantly higher values."

Mr. Miller, chairman of Thos. R. Miller & Son (Insurance) broking group, feels the London market will have to compete nard to hold its share of the marine market.

Reduction in the amount of laid-up tanker tonnage as world freight rates improve may help to sustain the marine insurers operations.

"Premium volume for laid up vessels is clearly much reduced compared with the situation when tankers are fully employed and the amount of laid-up tonnage has been cut from 50 million deadweight tons to 30 million, although supply and demand for tankers seems unlikely to balance itself out again until 1980" he said.

"The gloomiest side of the hull insurance market is the enormous drop in the volume of tonnage of all kinds of vessels currently under construction, as it has fallen from 257 million tons in 1973 to 119 million last year, though the *number* of ships being built has roughly stayed constant.

"The biggest money spinner of all in the marine market is oil-drilling, but supply of rigs is now exceeding demand, and premium volume from that source may drop as well."

Contentions that Britains economy can adversely affect its position in dealing with international insurance were answered by Mr. Miller. "Well over 60%of foreign premiums are received and held in U.S. dollars, and the Bank of England is increasingly prepared to allow underwriters to match liabilities in foreign currencies by holding assets in foreign currencies."

Speculating on future developments of Lloyd's business in 1977, Mr. Miller said "A broker is, no less than an underwriter, ever an optimist. With the talent and financial strength that is present in the London market, one views the future with confidence. Anybody concerned with that market particularly welcomes signs of recovery in the strength of the pound sterling." ■

Federal court OKs trust agreement between Glacier General and CIE

MISSOULA, MONT.—A federal court here has ruled that a 1974 trust agreement between Glacier General Assurance and Casualty Indemnity Exchange (CIE) should not be rescinded.

At the same time, the court ruled that CIE must pay Glacier General $3.2 million for breach of warranty and fraud in regard to the trust.

Glacier General had brought the lawsuit late last year in order to have the 1974 trust agreement rescinded. The trust, which had assets of about $12 million in 1974, ceded CIE's outstanding medical malpractice claims to Glacier General. All claims were written for physicians, 80% of whom resided in California.

Glacier General will appeal the ruling to the 9th Circuit Court of Appeals in San Francisco, according to Doug Hayden, vp for the insurance company.

John Hayden, Glacier president, had previously said his company wanted the trust agreement to be repealed because "CIE supplied us with incorrect information." He said then that Glacier General would argue in court that "if we had known the correct facts we would have either asked for more money (than the $12 million) or we would not have entered into the contract at all."

CIE president Art Firley could not be reached for comment on the ruling. He had formerly said that his company had given Glacier General information that was "substantially correct."

According to Doug Hayden, Glacier General is paying claims out of the trust by means of a reserve.

He maintained that payment of the claims would not materially hurt Glacier General.

State insurance officials in three states, California, Montana and Missouri, have been involved in the case at various times.

The California insurance department, which earlier issued a "cease and desist" order blocking Glacier from writing any new or renewal malpractice business in California, rescinded that order on January 28. ■

Agent's license revoked in N.M.

ALBUQUERQUE — Richard Cottrill of the Richard Cottrill Insurance Agency has had his license revoked for two years by the insurance superintendent here for violation of the state's unfair insurance protection act.

The revocation was effective April 15.

At the hearing, insurance superintendent Kenneth Moore also ordered Mr. Cottrill not to be connected with an agency, business or corporation in insurance during that time.

Mr. Cottrill pleaded guilty to a four-count misdemeanor charge as part of a plea bargain agreement in which he testified at a grand jury investigation.

Sentencing for Mr. Cottrill's guilty plea has been set for June. The agent faces a maximum fine of $800 or 240 days in county jail, according to his attorney, Frank Coppler. ■

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dates for buyers

April 25: Returning the Injured Worker to the Job: New Directions, a seminar sponsored by the New York State Workmen's Compensation Board, in New York City. Topics include new trends in medical and vocational rehabilitation and the changing role of the insurance carrier in rehabilitation of the injured worker. Attendance is by invitation. Contact Norma Scott, NYS Workmen's Compensation Board, Room 3726, 2 World Trade Center, New York, N.Y. 10047.

May 2-4: Conference on Risk Management, conducted by the American Academy of Medical Administrators, in Atlanta, Ga. Topics will include the basic elements of a hospital risk control program, proposed job description for the hospital risk manager, and linking risk control to economics of malpractice financing. Cost is $130 to affiliates of the academy and $149 for non-affiliates. Contact American Academy of Medical Administrators, International Tower, 8550 W. Bryn Mawr Ave., Chicago, Ill. 60631; phone (312) 693-8330.

May 2-4: Annual meeting of the Western Pension Conference in Monterey, Calif., titled Retirement Benefits 1977—Speaking Practically. Complying with ERISA, investment of pension funds, fiduciary responsibilities and prohibited transactions and executive compensation are among the topics. Registration fee is $155 for members and $200 for non-members. Contact: Barbara F. Perez, public relations chairman, Western Pension Conference, 300 California St., San Francisco, Calif. 94104.

May 9-11: Investments Institute in New Orleans sponsored by the International Foundation of Employe Benefit Plans. The investment atmosphere, the state of the economy and the legal-legislative framework of the financial world as they relate to the employe benefits field will be examined. Registration fee is $195 for members and $255 for non-members. Contact: International Foundation of Employe Benefit Plans, P.O. Box 69, Brookfield, Wis. 53005.

May 16-17: Multi-Assn. Action Committee (MAAC) II Conference on Product Liability Solutions in Washington D.C. Coordinating MAAC activities with pending legislation, organizing for future legislation and review of the products liability insurance problem are on the agenda. The conference is open to business and professional firms, trade and association executives, attorneys, government regulators and legislators. Cost is $100. Contact: J. Gehbauer, MAAC II Conference, c/o Sporting Goods Manufacturers Assn., 200 Castlewood Road, N. Palm Beach, Fla., 33408; phone (305) 842-4100.

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around the states

Maryland approves fund for huge claims

ANNAPOLIS—The Maryland Senate has passed legislation creating a $10 million fund to cover catastrophic medical malpractice judgments. Proponents said the measure, which was sent to the House for further action, could reduce patients' medical bills by making it easier for doctors and hospitals to obtain certain malpractice insurance. The fund would pay claims exceeding $100,000, up to a maximum of $2 million for a single claim. Money for the fund would come from a 10% surcharge on basic malpractice premiums.

•

HARRISBURG—The Pennsylvania Senate has passed and sent the House legislation tightening a 1961 law regulating the payment of fringe benefits. It would require that fringe benefits be paid within 10 days of the legal deadlines, and within 60 days when there is no legal deadline. The bill is an amendment to the Wage Payment and Collection Law.

•

LANSING—Michigan officials report that daily work schedules for the 58,000 state employes are getting longer and three-day weekends are becoming more common. Most agencies offer 10-hour days, four-day work weeks. But there also is a trend toward working eight nine-hour days to fill in 80 hours in each two week period.

•

BOSTON—Massachusetts has a new requirement that Medicaid patients obtain a second opinion for elective surgery in many cases. State officials expect the requirement to save $1.3 million in deferred surgical costs during its first year.

•

JEFFERSON CITY—The Missouri Senate has approved a bill that would expand the workers' compensation program to cover the loss of an employe's eyeglasses, dentures, artificial limbs and other prosthetic devices. The legislation went to the House for further action.

•

JUNEAU—Legislation placing limitation on lifetime pensions provided as death benefits in workers' compensation cases has been approved by the Alaska state Senate. The bill, which now goes to the Assembly, would reduce such benefits to 50% at the end of five years and to 25% at the end of eight years. They would be eliminated entirely at the end of 10 years. The limitations would not be applicable if a spouse was totally dependent. ■

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legal brief

Last reported value means receipt date

IN A SUIT under a stock floater policy, a federal appeals court ruled that pursuant to Georgia law a loss limitation clause confining liability to the amount "last reported prior to the loss," the words "last reported" meant received by the insurer and not merely placed in the mail by the insured.

Moultrie International Inc. (Moultrie) brought this suit against Universal Underwriters Insurance Co. (Universal) to recover a loss from a fire on January 17, 1975. Moultrie had a stock floater policy issued by Universal which allowed Moultrie to report monthly changes in the value of parts and goods on hand. The value reporting clause allowed Moultrie to report the value of covered property for the month just ended 30 days after the last day of the month.

The December monthly report reflected a covered value of more than $143,000. The November report reflected approximately a $75,000 value. Moultrie claimed to have mailed its January report on Jan. 16, one day before the fire. Moultrie's claim for coverage pursuant to the higher value December report was sustained by the trial court.

On appeal, Universal argued that "last reported" in the loss limitation clause of the policy could only mean "received by the insurance company and on file in its office prior to the loss." Moultrie contended that a report placed in the mail prior to the loss was the "last reported." The appellate court concluded that the term "last reported" was ambiguous. The court could see no reason not to interpret "last reported," as used in the limitation clause, to mean "filed with the company."

The court emphasized that to interpret "report" to mean placed in the mail creates a "capability in the insured to change values after a loss. The simple act of turning the date back on a postage meter and the decreasing incidence of legible postmarks, combined with the increasing unpredictability of mail delivery, would make it virtually impossible for an insurance company to determine whether a report was placed in the mail before or after a loss." Thus, the court concluded that Moultrie's recovery for its fire loss was limited to the November 1974 values. *Moultrie Intern.* v. *Universal Underwriters Ins.*, United States Court of Appeals for the Fifth Circuit, Jan. 17, 1977, Gee, J. (BI/01/A.-$3)

The abstracts published in this column were prepared by Cases Unlimited Inc., Evanston, Ill.

Cargo Insurance

In an action on a cargo insurance policy, the Supreme Court of Wisconsin has ruled that a reasonable person in the position of the insured would have known that the term "loss," as used in the policy notice provision, meant destruction or damage to the insured's property. Thus, the court held that a duty to give prompt notice to the insurer arose when the insured learned that its cargo had been destroyed and not when the insured learned that payment of the loss would not be made by the carrier or its insurer.

RTE Corp. (RTE) shipped five transformers by a common carrier truck on Aug. 22, 1969. These were damaged when the truck upset on Aug. 24. At the time of the damage, RTE was insured by Maryland Casualty Company (Maryland) under a cargo insurance policy. The policy contained an "other insurance" clause limiting Maryland's liability to any excess over the amount due from such other insurance. The policy also required prompt notice to Maryland "if the loss occurs under this policy." Although RTE filed claim for damages with the carrier, it did not notify Maryland of the occurrence until June 3, 1970, when a letter was sent to Maryland's agent advising of the upset (but not supplying any details).

It was not until April 6, 1971 that RTE wrote Maryland's agent with information on the amount of loss and advising that the claim against the carrier's insurer had been rejected.

Maryland disclaimed coverage for failure to fulfill the policy conditions. RTE sued the carrier and recovered judgment. RTE then demanded that Maryland reimburse it $8,000 in expenses for that litigation. RTE's proof of claim for this amount was refused. RTE then brought this suit against Maryland for recovery of the unreimbursed expenses. The trial court dismissed RTE's suit.

On appeal RTE argued that its duty to give notice did not arise until it first obtained information indicating that its carrier's insurance would not cover the damaged transformer. This contention was rejected by the appellate court. "An insured," the court stated, "is not authorized . . . to speculate on his liability, where his duty is to report an accident or occurrence." The court believed that the policy made good sense if it was read as a whole with reference to the term "loss." Consequently, the court concluded that a reasonable person would have known that "loss" as used in this context meant destruction

Continued on page 74

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legal brief

Continued from page 73

or damage to insured property and that a duty of prompt notice arose when RTE learned of the accident. Maryland was not held liable for RTE's litigation expenses. *RTE Corp. v. Maryland Cas. Co.*, Supreme Court of Wisconsin, Nov. 30, 1976, Abrahamson, J., 247 N.W.2d 171 (BI/02/A.-$3)

Group Major Medical

This was an action on a group major medical policy to recover the cost of nursing care provided to the insured's wife by a licensed practical nurse. The policy provided coverage for "charges made for private nursing service by a registered professional nurse.

The Supreme Court of Missouri ruled that where the policy covered private nursing services only if performed by a registered professional nurse, the insured could not recover for services performed by a licensed practical nurse. The court rejected the insured's theory that recovery was justified because everything that was done for the patient by the practical nurses could have been done for her by registered nurses and that the services were performed at less cost to the insurer because per day charges by practical nurses were less than charges by registered nurses.

Nor did the court believe that the insured could recover for the services of licensed practical nurses when registered nurses were unavailable there had been substantial compliance with the policy provisions. *Moskowitz v. Equitable Life Assur. Soc. of U.S.*, Supreme Court of Missouri, December 13, 1976, Finch, J., 544 S.W.2d 13 (BI/04/A.-$3)

Broker's Liability

The beneficial owners of a building which was destroyed by a fire brought an action against their insurance brokers. The owners claimed that the brokers negligently failed to have proper vacancy endorsements placed on the fire insurance policies covering the property.

The Appellate Court of Illinois ruled that the "manifest weight of evidence" showed that the brokers were negligent in not inquiring whether the premises would be vacant while remodeling occurred. If an agent neglects to procure insurance or does not follow instructions when obligated to do so, the court observed, or if the policy obtained is void or materially defective through the fault of an agent, or if the principal suffers damage by reason of any mistake or act of omission or commission of an agent which constitutes a breach of duty to his principal, the agent is liable to his principal for any loss he may have sustained thereby. *National Blvd. Bank v. Brokerage Res. Inc.*, Appellate Court of Illinois, First District, October 7, 1976, McNamara, J., 356 N.E.2d 988 (BI/05/A.-$3)

General Liability

A New Jersey trial court has ruled that an insurer was not obligated to defend its insured in a negligence action arising out of an occurrence five months after the policy was cancelled. The court arrived at this decision even though the policy at issue here contained a "completed operations" clause.

John Deodato, a contractor, was insured under a liability policy—issued by Hartford Insurance Company (Hartford) commencing 1969 and renewed annually including Sept. 15, 1972. However, the policy was cancelled by Hartford on Jan. 22, 1973, for nonpayment of premium. In 1969, Mr. Deodato constructed a roof on a building which "ripped off" in June 1973 causing damages to a building tenant. The tenant sued Mr. Deodato. Hartford was notified and a demand was made for indemnification and legal defense. Hartford refused and the suit was settled, with Mr. Deodato contributing $1,500. Mr. Deodato also incurred legal costs of approximately $2,600. In this action, Mr. Deodata sought a judgment that Hartford was obligated to defend him.

At issue was the effect of the "completed operations hazards" provision of the policy. This provision covered property damage arising out of operations, but only if the damages occurred after such operations had been completed and only if away from premises owned by the named insured. Under the policy, "operations" were deemed completed at the earliest of the following times: 1) when all operations to be performed by, or on behalf of, the named insured under the contract had been completed; 2) when all operations to be performed by, or on behalf of, the named insured at the site of the operations had been completed; or 3) when the portion of the work out of which the damages arose had been put to its intended use by someone other than the contractor.

The court defined the "time of occurrence" as "not the time the wrongful act was committed but the time when the complaining party was actually damaged." Also the court noted that "occurrence" was defined as "an accident . . . during the policy period . . ." Here, according to the court, the accident was a singuar event occurring in June 1973 *after* the policy had been terminated. The court did not believe that the "completed operations" provision extended coverage beyond the termination date of the policy. *Deodato v. Hartford Insurance Company*, Superior Court of New Jersey, Law Division, June 28, 1976, Rosenberg, J. 363 A.2d 361 (BI/02/F.-$3).

(Copies of the entire decision of cases described may be obtained by sending a check for $3 made out to Cases Unlimited to Legal Briefs, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please list the number for each opinion requested, which is at the end of the brief.)

Arson data bank proposed by AIA

NEW YORK—The American Insurance Assn. is planning an all-industry claims data bank to help combat arson, a crime that costs insurance companies $1.5 billion annually.

The association is planning a series of meetings in April and May to drum up support for the concept among the industry. Participation of 75 percent of the insurance companies in the field will be needed to begin operation, the AIA said.

The data bank will hopefully provide companies with information to pinpoint claims which may be fraudulent. ■

Claim service set

Marsh & McLennan Inc. has established a new unit to offer claims services including review, investigation and disposal. The services will be offered to both self-insured companies as well as primary, excess and reinsurance carriers. The unit will be part of the Risk Management division.

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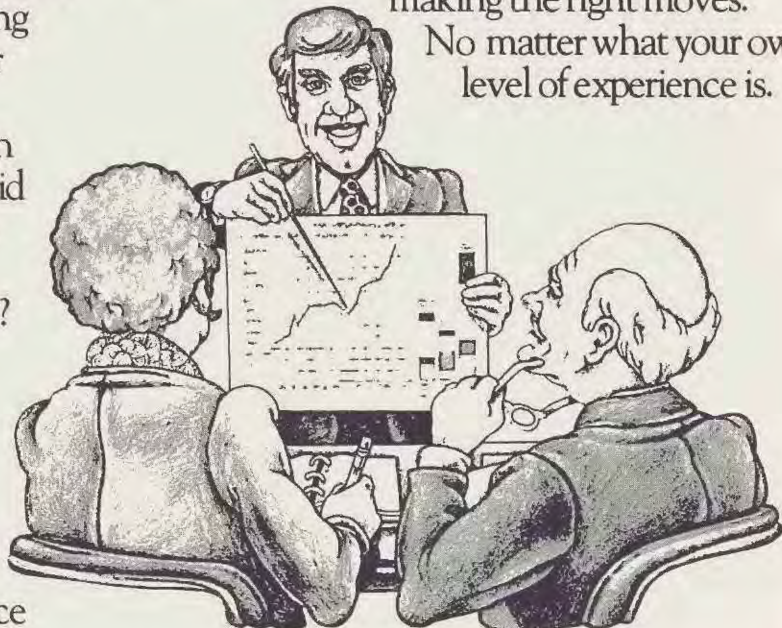

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52 hospitals establish a liability insurer

By HARRIET KING

SEATTLE—A group of Washington hospitals—52 to date—have joined together to set up their own liability insurance company, the Washington Hospital Liability Insurance Fund.

"This follows a trend nationally in which about 35 hospital-owned insurance companies have been set up since 1975," said fund administrator B. C. Day.

"The way was cleared to form the company in 1976 when the state legislature passed a bill that allowed a non-profit carrier exemption from state premium taxes since the company would be owned by the (non-profit) hospitals. It also waives some reserve requirements," Mr. Day said.

"The legislature felt this was part of a national priority to help keep health costs down."

A Johnson & Higgins alumnus, Mr. Day was a risk management consultant with clients in fishing, lumber and municipalities prior to his present position. The Washington State Hospital Assn. was one of his clients, "and I kept getting deeper and deeper into hospitals," he said.

As far back as 1970, "I did a study and suggested then that a captive might be an alternative to high liability insurance costs. In 1970, this was a radical move for hospitals. But by 1975, other states and hospitals had started moving toward captives so we decided to take another look at it," says Mr. Day.

The legislature made the move possible, and the program was given the go-ahead last September. The corporation became effective on Feb. 1. Mr. Day has since hired a loss prevention specialist and a claims administration specialist in medical malpractice premiums.

"Hospitals will pay for losses whether they're insured by a commercial carrier or by their own operations."

—B. C. Day

Under the Washington plan, any hospital in the state is eligible to participate. "The hospital administrators apply to our board for permission to become a member, then submit applications on their background, liability losses, etc.," Mr. Day said.

To date, 52 hospitals have been approved as members and another 14 have applied.

"The way hospital administrators look at it, hospitals will pay for losses whether they're insured by a commercial carrier or by their own operations. Commercial carriers must charge for profit levels and to cover administrative expenses, etc. We feel we can provide the same service at a lower cost. Our expenses are low, a fixed amount for office rent, salaries, etc., so expenses don't fluctuate as a percent of premiums. And since we're non-profit, we pay no premium tax and this ads to the cash flow," Mr. Day continued.

The members pay a monthly premium based on average bed occupancy, outpatients visits, emergency outpatients and the rate of surgery. A separate rate applies to each service.

The premium fluctuates. "The hospitals pay a month behind, based on what happened, so hospitals get more cash flow out of the premium. In summer and at Christmas, premiums are expected to dip since there are fewer hospital visits then—unless the hospital is located in a large recreation area," said Mr. Day.

"We can save money through this accounting method because commercial carriers must charge estimated premiums for the year and at the end of that time, give a rebate or request hospitals to pay more. This costs insurance companies money as they must send out an auditor to each hospital.

"We trust hospitals to make an accurate reporting of their monthly activities, although we do have ways to make an informal check. If it looks like a hospital is reporting high or low, we'll check to make sure they're doing it right." The investment income reverts as an addition to funds.

Mr. Day also notes that "our full time staff will provide better services and expertise because they work full time doing nothing but working for the company; they're not 'diluted' by working on a variety of accounts. And they're knowledgeable, too. The fellow I've hired in claims administration has five years of medical malpractice claims experience."

Continued on page 76

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Liability company . . .

Continued from page 75

Every hospital will have a safety committee and loss prevention program. "Our staff will inspect the hospitals and keep advised of other problems throughout the country."

Through a special computer program, nursing staffs and medical staffs "will have instant reporting on anything unusual happening in their hospital. That is, if in the middle of the night a nurse finds someone laying on the floor—say the person fell when he got up to go the bathroom, we'll note the incident on a computer program even if the person was not hurt, for instance. We'll include any actually or potentially injurious incidents—medication errors, etc.

"Then if we see an abnormal trend developing in falls, medication or whatever, compared to the pattern of their contemporaries, we'll look into it and see what we can do," Mr. Day continued.

Historically, the most common liability claims against Northwest hospitals are for slips and falls—"although these are not large claims," Mr. Day said. "Mostly it involves nominal amounts for medical expenses, etc. The largest fall claim we've paid was for $3,600. Elderly people are the majority of those who fall—something we will work on to help eliminate the problem—but it is a tough nut to crack."

The next largest category of claims is "hospitals involved in a physician related claim where treatment was given in a hospital, operating or emergency room. "In these, the physician is accused of making an alleged medical decision that is incorrect," he noted.

"Because it happens in a hospital, the hospital is often brought into the claim even though at worst it has minimal exposure to the claim."

One reason the Washington hospitals were able to form their mutual fund was that they've kept very accurate records since 1971 at Mr. Day's direction.

"When we began our risk management program in 1971, it was understood in advance that commercial carriers would give us complete financial disclosure, so we had duplicate records.

In the last six years, the largest loss a participating hospital experienced was $160,000. The next largest sum was $75,000 followed by a $25,000 award. "We're furtunate that we've had no large judgements here like they've had in the East," Mr. Day added.

"Including paid claims and reserves on those pending, the loss ratio ranged between 22% and 25% since 1971. So about 75% of commercial carriers' premiums has gone toward profit and their expenses.

"They must also allow for late claims, although 90%of claims are known in three years or less. The law allows patients to bring claims three years from the time an alleged accident occurred, or one year after the injury is discovered so it can stretch out to several years before a claim is filed .

"Our state legislature has set a limit of eight years on potential claims, except where minors or incompetent persons are involved. There have been cases where minors waited until they were of age to file a claim, but I've never heard of a claim being filed late by an incompetent person."

The new insurance company is limited strictly to liability which ranges from malpractice to someone being injured in the hospital parking lot.

Hospitals agree to participate for a minimum of three years. "But because of the lack of a commercial market in physician liability, this will probably become a permanent arrangement," Mr. Day said. The board of the insurance company is elected by members and each hospital, regardless of its size, has one vote.

Collective premiums for members will be around $3 million a year, compared to $3.5 million they were paying to commercial carriers. "And that $3.5 million figure would probably be going up 25% a year," Mr. Day added.

In setting up the trust, Mr. Day has available the expertise of other state associations who have formed similar insurance companies. "I've contacted many of the hospital associations since every one had a hot line to the national association. We used the hotline to check on paths others have already gone down. If we have a problem, someone else has had it too, so by confering with them, we save a tremendous amount of time and money. I was on the phone continuously asking, 'How did you solve this problem?' or 'what did you do on that?'" he said.

Mr. Day also worked with Marsh & McLennan on reinsurance and excess coverage. "Those hospitals who want to can buy excess in commercial carriers and about half will buy excess. This is being done through an arrangement by Marsh & McLennan made with a pool of commercial carriers in which each carrier takes a percentage of the excess," he said. ■

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Hospitals form quality association, set up a malpractice claims fund

GRASS VALLEY, CALIF.—Two hospitals with a total of 92 beds and 34 physicians have formed a medical quality association which in turn has established a fund to reimburse medical malpractice claims.

The Grass Valley Medical Reimbursement Fund Ltd., located in Georgetown on Grand Cayman Island, was established in January. Contributions to the fund are expected to total $300,000 to $350,000 according to Harold C. Nachtrieb, an attorney for the Grass Velley Medical Quality Assn.

The association is a committee of the Sierra Nevada Memorial-Miners Hospitals Inc., a non-profit corporation which operates the Sierra Nevada Memorial Hospital, Grass Valley, Calif. (71 beds) and the Miners Hospital in Nevada City, Calif. (21 beds).

Mr. Nachtrieb said the fund provides:

- Reimbursement for awards from the arbitration agreement which came into force on Jan. 1, 1977. The arbitration agreement is being used by the hospitals as a condition for receiving care.
- Limits of $100,000 per occurrence for physicians, $300,000 in the annual aggregate and $250,000 for the hospital or a combination of members.

"The realistic limit for both is the limit of the reimbursement fund," continued Mr. Nachtrieb, noting that the fund will increase over time.

Premium payments to the fund from the hospitals will come to $180,000 a year with a guaranteed contributions of at least $250,000 from the hospitals.

Surgeons must pay $4,200 a year and nonsurgeons $2,100 a year, although there is an additional one-time call of $4,000 from surgeons and $2,000 from nonsurgeons.

Ninety-five per cent of the premiums will be committeed to the fund and will accumulate year to year if not paid out on claims.

To reduce medical malpractice Mr. Nachtrieb said that the association has begun a peer review program and has established standards of practice.

"We believe the best protection against malpractice is the avoidance of malpractice," he said.

He went on to underscore that the Grass Valley Medical Reimbursement Fund does nothing outside of the Caymen Islands.

"It does not even initiate telephone calls into California," he elaborated, adding that all of its dealings are with the Caymen office of the nonprofit hospital corporation.

Moreover, he pointed out that the California insurance department has been informed of the creation of the fund.

The fund will be expected to reimburse doctors who make errors and who then wish to do something to aid the patient is getting well. "Say that one of the covered doctors should decide that a patient needed two more weeks in the hospital after he, the doctor, had goofed in some way," said Mr. Nachtrieb. "The reimbursement fund would pick up the cost of the extra treatment."

Among the factors that lead to the creation of the fund, he said, is the fact that the hospital corporation had had only one loss since 1958 for which it paid $8,700 in settlement. At the same time, it was paying $240,000 in premiums.

Boston office

Marsh & McLennan Inc. and William M. Mercer Inc. have moved its Boston and eastern region office to the John Hancock Tower at Copley Square. The two subsidiaries of March & McLennan Cos. previously operated from offices at 2500 Prudential Center.

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Britain considers broker registration

By JOHN H. MILLER

LONDON—Moves are underway in Britain to require compulsory registration of insurance brokers to protect the public from untrustworthy agents.

There is already legislation before Parliament to set up a scheme under which their activities will be regulated in the interests of the insurance industry.

If it becomes law this year it will affect more than 9,000 brokers, some of whom deal in international business for Lloyd's or the U.K. company market.

But the main aim is to make sure that the small broker who handles domestic auto, accident, fire or life business is qualified to provide the right service for his customers.

Explaining the scheme, a Government survey said: "In our society insurance is an essential commodity, and it is right that it is sold actively and should be readily available. But it is important that its sellers are both knowledgeable and trustworthy.

"Public disquiet about lack of regulation for intermediate operators in the insurance industry has been growing in recent years. The creation of an official government-run licensing scheme has been under consideration, but it would be costly to set up and would need careful administration.

"So the preference at the moment is for a scheme which the existing insurance broking industry will itself operate."

Plans are being drawn for a national registration panel to be supervised by the British Insurance Brokers' Council, which represents the leading 3,000 brokers in the cotuntry.

Lloyd's brokers will be accepted for registration as a matter of right since the disciplines imposed by the Committee of Lloyd's are already stringent enough to meet all requirements.

Insurance brokers who are responsible for placing the major share of insurance business in the U.K. are already members of the Council and have undertaken to accept the disciplines.

The only controversy is over the thousands of small agents and brokers who handle individual accounts with private citizens and often work direct from their offices in medium-size towns outside London and other business centers.

Fears that they will be "squeezed out" by the larger firms are being examined by members of Parliament who want to make sure the small agents will still be free to trade as long as they conform with the standards set out under the scheme.

"The prospective insurance buyer needs to be sure that the person selling him insurance is truly impartial or alternatively is answerable to an identifiable company," a government source said.

"It is still possible for anyone to set up in business as an insurance broker and at the same time hide the fact that he is unable to give the client a free choice as he is committed secretly to working for one insurance company.

"There is also doubt, in the case of a small number of life companies, how far agents who use high-pressure sales techniques are effectively controlled."

Foreign premium income obtained for the U.K. by Lloyd's and company brokers is estimated at $2.5 billion a year. Domestic income totaled $7 billion in 1974, with half handled by local brokers and half by the companies or their direct agents.

John Page, conservative member of Parliament for London, says, "This new scheme will reinforce London as the insurance capital of the world. Some minor insurance companies got into difficulties a few years ago, and the effects rubbed off unreasonably on to the rest of the industry, for it relies on trust and any disaster gets magnified out of hand unless one is careful." ■

Agents plan their own ad campaign

SAN FRANCISCO—California's independent insurance agents, facing loss of a substantial part of their "personal lines" market to direct writers such as Allstate and State Farm, are turning to advertising.

"Rather than depend any longer on the agency companies our members represent," explained Robert G. Sweetman, president of the Independent Insurance Agents Assn. of California, "we now will use advertising to get our share of the business."

Sweetman, a partner in DeVilbiss, Sweetman, Wentworth & Associates, said the organization has put up $30,000 as "seed money" and has selected Peter Higgins & Associates, a Sacramento advertising agency, to run the new statewide ad campaign for 2,800 agent members.

The five-year program will include newspapers, television spots, radio tapes, magazine ads and outdoor bulletins. The "package" will be available for use by individual agents, local groups of agents and chapters of the state association.

The Higgins agency will conduct marketing surveys in each area of the state and will advise local agents on the best ad plan for that geographic area.

In addition to material on personal lines of insurance, a media presentation will also be prepared by the agency on commercial lines marketing. ■

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• **Handling Radiation Emergencies** is a 184-page illustrated book available from the National Fire Protection Assn. (NFPA). Specifically intended for fire service operations—private brigades as well as municipal departments—charged with the protection of nuclear installations, the book is also appropriate for courses on hazardous materials and for anyone in emergency work involving radioactive materials and radiation-producing machines. Cost is $8.75 per copy with a schedule of discounts beginning at 25 copies. Write the NFPA Publications Sales Dept., 470 Atlantic Ave., Boston, Mass. 02210.

• **Professional liability insurance** for management consultants and executive search consultants, available from the National Union Fire Insurance Co. of Pittsburgh, is outlined in the brochure: Here's the Answer to a problem that must be faced. For a free copy write the American International Group, 102 Maiden Lane, New York, N.Y. 10005.

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• **Participate**, the 1977 information booklet from the International Foundation of Employe Benefit Plans, highlights the foundation. The 28-page booklet includes a brief history of the foundation, describes its activities, outlines its annual meetings, lists its services and offers a directory of the staff, officers, board of directors committee members and chairman. For a free copy write the foundation at PO Box 69, Brookfield, Wis. 53005.

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• **UAC Answers 21 Questions on Its Self-Insurer Services,** showing how computer printouts appear to its subscribers, and background on their claims administration services. For a free copy of the Underwriters' booklet write Underwriters Adjusting Company, Sylvia Jurkovich, director of communications, 224 S. Wacker Dr., Chicago Ill. 60606.

• A company's **Pension "Obligation"** is discussed in a Kwasha Lipton newsletter. When to pool resources, FASB requirements, defined contribution plans and mandated group insurance arrangements are covered. For a free copy write Dept. M, Kwasha Lipton Inc. 429 Sylvan Ave., Englewood Cliffs, N.J. 07632.

• A colorful report explains the workings of Adams & Porter Associates Inc., a Houston based specialist in commercial marine insurance. Titled **Your World Is Changing, So Is Ours,** the booklet explains the company's services in liability and bonding, employe benefits, corporate insurance, financial counseling and estate planning. For a free copy of the above booklet write George P. Gardere Jr., Account Executive, Adams & Porter Aassociates, 1819 St. James Pl., Houston, Tex. 77056.

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• **The 1976-77 Source Book of Health Insurance Data** is now available from the Health Insurance Institute. The 80-page booklet is a handy reference guide on private health insurance coverage, benefits and premiums. The introductory chapters describe continuing efforts to control rising healthcare costs and improve the delivery and quality of health care services. For a free copy write the Health Insurance Institute, 277 Park Ave., New York, N.Y. 10017.

• **Insurance in Brazil** is a 20-page pamphlet prepared by insurance brokers Citibank Corretora de Seguros. In its fourth edition, the pamphlet is intended to supply a brief sketch of Brazilian insurance and some of the practices which differ from those common overseas. For a free copy write Henry C. Whitney, Mgr., Citibank Corretora de Seguros, Caixa Postal, 770, Rio de Janeiro, Brazil.

• **Adjustment and Allocation of Pension Cost** under Government Contracts: CASB Proposed Cost Accounting Standard, is a newsletter available from Kwasha Lipton. For a free copy write Dept. M., Kwasha Lipton, 429 Sylvan Ave., Englewood Cliffs, N.J. 07632.

Shirt-Sleeve Forum

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By Dinner Levison

(Asked in the financial district)

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J&H studies insurance for bank trust liability

BOSTON—A group of the nation's largest banks believe they each need $25 million to $50 million of insurance to cover the potential liability of their trust departments under the federal pension law.

Because they can't obtain that much coverage in the normal commercial markets, the 45 banks have chosen Johnson & Higgins to study alternate ways to obtain insurance for losses from bank trust operations.

Johnson & Higgins was chosen to do the study over three other major national insurance brokers —Marsh & McLennan, Alexander & Alexander, and Fred S. James— and two other consulting firms— American International Group and Risk Planning Group.

J&H is scheduled to complete the study in June, when bank insurance officials will meet to discuss the proposals for adequately insuring the ERISA-related risks.

Banks have only been able to obtain about $5 million of insurance coverage for trust department fiduciary liabilities, although most large banks feel they need $50 million of coverage. The lack of availability of this coverage prompted the group last fall to begin considering other ways of obtaining the insurance. About eight companies are known to be underwriting fiduciary liability insurance for banks.

Among the ideas being studied by J&H are self-insurance of bank fiduciary liability losses, pooling of risks using some form of captive insurance company, and collective use of the reinsurance markets.

However, banks in the past have considered forming a captive for their joint insurance needs in such areas as fidelity bond exposures. But they have worried about being barred from such action by Federal Reserve Board rules.

An action by the Fed just last December seems to reaffirm the fact that commercial banks would have trouble obtaining approval for a group captive. In a ruling on Dec. 29, the Fed told a lawyer representing 20 banks that wanted to form a captive for credit life insurance that such a joint business could not be established and owned by the banks. The only exception would be if each individual bank applied to the Fed for permission.

Thus, it appears that the 45 banks needing more liability coverage could conceivably make the applications for permission, if J&H recommends that a captive is the very best way to go, but several bankers think there's only a slim chance this will happen.

At the other extreme, J&H might be able to get the reinsurance markets to provide the needed capacity for the banks, which have more leverage collectively than if each bank approaches the markets individually.

There are a handful of the largest participating banks, perhaps four to six, so seriously concerned about ERISA-related liability not fully insured that they've reportedly considered spinning off their trust departments from the regular bank operations. That way, trust departments wouldn't have the parent-banks' capital assets for a litigant to claim against. ■

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The aftermath
Wreckage of a Southern Airways DC-9 is scattered over the residential area of New Hope, Ga., north of Atlanta. When the plane's engines failed during heavy thunderstorms, the pilot tried to land the plane on a narrow road. His attempts proved unsuccessful and the crash killed 68 persons.

Southern Airways paid in 2 days . . .

Continued from page 1
den to act as London broker, with coverage in the London market because prices were slightly cheaper there.

South East Aviation stayed on the account, and in fact retained 5% of it, as a surplus lines broker. Fred S. James in Atlanta is the local broker.

"The entire account (for hull and liability) is placed with South East Aviation Underwriters and then with us in London," Mr. Glover said. He explained that his firm immediately reinsures the 5% South East Aviation Underwriters share.

Alexander Howden's claims manager was notified 45 minutes after the accident. After an immediate consultation with the leading Lloyd's underwriters on the account, the firm sent the money for the hull claim to Atlanta via its emergency bank and telephone procedures. Because of the time differences between London and the U.S. the airline received the $9 million the second day after the accident.

Liability will not be so clear cut. Mr. Glover said one of the first things Lloyd's and his firm discussed was what law firm should be selected to handle liability claims. In the U.S. there are no limits on liability suits for victims and survivors of domestic air flights.

Chicago law firm Lord, Bissel & Brook was selected by the London market to handle the liability claims for Southern Airways. Mr. Glover did not say how much liability insurance Southern Airways carries in London, but did say that Alexander Howden is in the process of setting up a $5 million account for Lord, Bissel & Brook to work with in preparing its defense.

The Southern Airways flight 242 was approaching the Atlanta airport in bad weather when the accident occurred. Both engines of the McDonnell Douglas DC-9 failed during heavy thunderstorms and hail. The pilot attempted an emergency landing on a road in the small village of New Hope, but didn't make it. The DC-9 hit trees and utility poles with electric cables on the way down, and finally hit a car and a grocery store. Eight of the 68 persons killed in the accident were on the ground near the store when the plane crashed.

Alexander Howden is not involved in the insurance arrangements for the McDonnell Douglas Corp., which made the DC-9, nor for the manufacturer of the engines, which is said to be the Pratt & Whitney division of United Technologies.

R. G. Hugel, insurance manager for United Technologies, said he could not comment on insurance arrangements, because he hadn't seen reports yet which proved that the engines were really manufactured by Pratt & Whitney.

John L. Dewey, director of insurance for McDonnell Douglas Corp., also would not comment on the coverage for the plane involved. (However, Mr. Dewey said all such DC-9s use Pratt and Whitney engines.) Although he could not release information on limits of liability insurance for the company nor on who the underwriter is, he remarked, "We do not think this is a products liability claim."

Mr. Dewey said the firm's position is that the accident was caused by weather.

Shortly after the crash, safety experts had said the accident was caused by violent weather conditions, particularly heavy hail.

The National Transportation Safety Board began an investigation to see whether anything else was involved in the shutdown of the two engines. ■

MPL takes over Arkwright business

WARWICK, R.I.—Metropolitan Property & Liability Insurance Co. has signed a reinsurance contract with Arkwright-Boston Insurance Co. to assume Arkwright's homeowners and dwelling fire business.

The business to be taken over by the subsidiary of the Metropolitan Life Insurance Co. is in Florida, Georgia and Minnesota.

Mr. Samuel F. Fortunato, MPL president, said the move will result in an addition of 37,000 policyholders for the company. MPL, now more than three years old, has more than 100,000 policyholders. ■

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$15 million suit filed in drowning

SAN FRANCISCO—A $15 million damage suit against Pacific Far East Lines has been filed in federal court charging the shipping company with responsibility for the loss overboard of Betty Williams, 58, during a cruise from Sydney, Australia to Hawaii on the liner Monterey.

Lyle C. Cavin Jr., the attorney for Mrs. Williams' three sons, asserted in the lawsuit that "the shipping firm failed to make any attempt to rescue her from her peril and her presumed death was caused solely, and directly, by the wrongful acts of PFEL, its officers, agents and employes without any contributing negligence on her part."

The three sons also charge that their wealthy mother was "willfully, wantonly and intentionally assaulted and battered, causing her to be lost overboard" during the 42-day cruise. Two sons reside in California and one in Idaho.

Mrs. Williams, according to FBI agents who investigated her mysterious disappearance at sea, was last seen at 10 p.m. on March 15, two days from Honolulu. When the ship docked here, the FBI questioned 265 crew members and 50 passengers who still remined on board.

The FBI here said it intends to still question 250 passengers who left the ship at Honolulu or Los Angeles.

John Alioto, son of San Francisco's former Mayor Joseph Alioto and president of the shipping line, responded to the lawsuit by saying that it represents "an unreasonable charge, given the facts we know. I think the attorney is trying to cover all possible bases." ▪

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riskWatch

By MARIE KRAKOWIECKI

Move over, national lobbyists; RIMS considers joining your ranks

When you hear the word "lobbyist," do you still think of Dita Beard, testifying from her hospital bed about ITT, antitrust memos and the Republicans? Or a young Ralph Nader fighting General Motors? Common Cause? The National Rifle Association?

Maybe it's time to consider a potential new lobbying force —the Risk & Insurance Management Society Inc. As yet, RIMS is not lobbying at the national level. But its new director of government and industry relations, Reginald Beane, has launched his own research over the last few months on the legal ramifications if the society gets involved in lobbying activities.

Krakowiecki

Legislation has been proposed in Congress to require more detailed registration and reporting of an organization's grassroots lobbying activities. And although RIMS doesn't lobby at the national level, many of its members have quietly begun lobbying in their own states through their local RIMS chapters.

If Frederick J. Krebs, an attorney with the U. S. Chamber of Commerce is right, some of the proposed laws might mean that RIMS on the national level would have to register as a lobbyist even if its members continue local lobbying.

▪ In a speech about lobby reform legislation, Mr. Krebs said, "Such reporting requirements could greatly increase the cost of complying with the law for those companies and trade associations which have active grassroot legislative programs. Furthermore, an organization which never engages in any direct lobbying could, under some proposals, be required to register solely because of its 'grassroots' activities."

I wondered if it wouldn't keep RIMS one step ahead of the game to hire a full-time paid lobbyist now to represent the entire U. S. risk management community. Reg Beane and some risk managers who currently double as lobbyists locally think it would not.

They point out that on a state-by-state basis, the people who know the most about regional problems and needs are the risk managers who work there rather than someone from the national office who could only visit a state once in a while.

A lobbyist has to cultivate close relationships with at least five or six key local lawmakers and concentrate on them. One person operating from New York wouldn't be able to do this nationally. Perhaps the most crucial time a local lobbyist faces is when a lawmaker introduces a bill that would be incompatible with risk management goals. Immediate effort may be required to defeat it.

▪ "Sometimes your biggest victory is when an unfavorable bill never gets out of committee," explained one risk manager lobbyist. He asked for anonymity because he is currently working in his state against a law that would exclude Lloyd's of London from providing excess and surplus lines insurance.

Berry L. Griffin of Baker International Corp. is one risk manager who said he plans to personally become increasingly involved in risk management lobbying.

He suggested that risk managers, in addition to lobbying just for their own companies, could work through their local RIMS chapters to get a consensus. In California, for instance, Mr. Griffin would like to see all four RIMS chapters come up with unified positions that a lobbyist could articulate for them all. Then he or she could approach legislators and say "I represent a hundred employers" or "I represent companies with thousands of employes." That would have more clout than the mention of a single corporate interest.

Mr. Griffin also thinks the national RIMS office could be put to its most effective use as a kind of communicating point for lobbyists all over the country. If it acted as a clearinghouse of information on legislative activities in all the states, it would keep risk managers informed about laws they might not be aware of which could affect their companies. After all, even though a risk manager might actively lobby only in a single state, his corporation might have interests in 25 or 30 states.

The suggestion strikes me as a sound one. Now perhaps more than any time in their previous history, risk managers are in a position to work with legislators who are shaping new laws that will affect insurance, employe benefits and business risks for years to come. This is the time to do something.

Hospital welfare trust . . .

Continued from page 1

asks the court to find that the administrators and attorneys violated ERISA and federal securities laws by dissipating the assets through waste and incompetency and order them to reimburse the trust for its losses.

James D. Hutchinson, former administrator of the pension and welfare section of the U.S. Department of Labor and now an attorney in private practice, represents the benefit committee.

The committee is composed of three Los Angeles employers who joined the trust in mid-1976, Daniel O. Clark, Louis Scalise and Eugene P. Weigand.

Named as defendants are Lee Merryfield, the owner of HWA Inc., administrator of the trust; Central Trust Bank of Jefferson City, Mo., trustee of the Hospital Welfare Assn. funds; and Harry O. Miller and Claude J. Dorias, partners in the Beverly Hills law firm of Miller, Dorias & Wheat.

Mr. Miller, former deputy commissioner of insurance in California, and Mr. Dorias have provided legal assistance for a large number of self-funded trusts established under ERISA. Mr. Dorias declined to give the exact number of trusts his firm has represented, although he said an estimate of 50 by the California insurance department was "too high."

Early this month, a federal court in Los Angeles issued a temporary injunction against the defendants and appointed a receiver to marshall the assets of the Hospital Welfare Assn. trust.

Mr. Hutchinson called the action an important step in the development of case law under ERISA. The law gives no direction on how a plan should be terminated, only specifying that it be done in accordance with regulations issued by the Department of Labor. No regulations have been issued and the court's ruling may provide a precedent for other plans, he said.

In addition, Mr. Hutchinson asserted that the court's recognition of the role of the benefit committee could provide a precedent for other employer groups concerned about the operation of their trusts.

Mr. Hutchinson has asked the court to rule that Hospital Welfare Assn. trust is an employe benefit plan within the meaning of ERISA. Several state insurance officials fear he will be able to establish a precedent without a full-scale hearing on the preemption issue. These officials argue that ERISA was not meant to preempt state regulation of these trusts, which they say are merely mass marketed insurance operations.

But Mr. Hutchinson said he felt the criticism was unfair. Federal court is the best avenue to protect the employers in the trust, he argued, and the preemption issue can still be raised at any time in the proceedings.

Defendant Merryfield denied the allegations that his actions violated ERISA. He said the trust remained viable after instituting a 65% rate increase in January. "We were going to aggressively market the trust to employers," he said. "We thought our structure was marketable. We felt the claims had peaked and we could come out of it."

Mr. Dorias also denied the allegations against him and Mr. Miller. "None of the allegations are true," he said. "We have done nothing incorrect. We feel there have been improprieties but that we have not committed them."

"The trust ran out of money," he explained. "When it did, the people in charge of setting rates —the benefit committee—attempted to drag as many people into it as possible."

Most of the participants in the case agreed it is very unusual to sue the attorneys in a case such as this one. Mr. Hutchinson said he knew of only one other case under ERISA where the plan's attorneys became a target of litigation.

The suit charges that Mr. Merryfield, with the assistance of the attorneys, recruited a number of participating employers to serve as the benefit committee of the trust. This committee allegedly was established to transfer the fiduciary responsibilities and duties from the administrator without giving the committee any control over the marketing or operation of the trust. The suit charges the committee was told its duties would be "entirely ceremonial."

Mr. Merryfield and Mr. Dorias deny the charge. Mr. Merryfield said a number of participating employers were invited to a meeting where their responsibilities were explained in detail by Mr. Dorias. One prospective member withdrew after being told of the liability, several sources said.

Mr. Merryfield also said the benefit committee was established, to comply with ERISA requirements that the administrator be a "disinterested" party.

An independent source confirmed the minutes show that Mr. Dorias did brief the prospective benefit committee members of their duties under ERISA.

The suit also alleges that Mr. Merryfield and the attorneys attempted to remove two members of the benefit committee, Daniel Clark and Louis Scalise, after they demanded an investigation of the trust's administration.

Mr. Merryfield charges that Mr. Clark and Mr. Scalise met with him in the summer of 1976 and suggested that Mr. Merryfield concentrate his activity on sales. They would then be given control of the trust's assets and he said the two men promised they could make a great deal of money.

Mr. Merryfield said he disagreed with the plan. He consulted attorney Miller, who also thought the idea inappropriate and asked the two men to resign from the benefit committee. They refused, Mr. Merryfield said, sparking an adversary relationship between the committee and the administrator.

HWA Inc., the administrator, marketed a series of optional coverages such as dental, prescrip-

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Trusts . . .

Continued from page 83

tion and additional life insurance along with the basic medical and death benefits. Mr. Hutchinson contends it was not made clear to the employers that these supplemental products were not actually part of the trust or that they were insured with outside underwriters.

Most of the benefit trusts examined by *Business Insurance* also market optional coverages. These provide additional commission income to the agents and marketing organizations. If the court agrees with Mr. Hutchinson, the profits agents and marketers earn from selling a trust operation could be curtailed.

The suit charges the administration of the trust was incompetent and that the defendants allowed the assets to be lost through "waste, incompetency, self-dealing and inflated and unnecessary fees."

"The benefit committee charges we were lax," Mr. Merryfield said. "We admit we had problems, especially with the computer work. But we have solved those problems."

The agents selling Hospital Welfare Assn. received 10% of first year commissions. An additional 5% went to the area agent and 10% was reserved for administration. Additional money was required for legal fees and other expenses, leaving approximately 70% of first year premiums to pay claims.

Those commissions are comparable to commissions paid by a number of insured trusts *Business Insurance* has examined. They are also within the guidelines several insurance company executives have suggested for a successful multiple employer trust.

Another issue in the case is the failure of HWA Inc. and Mr. Merryfield to separate HWA funds from those of the trust.

Mr. Merryfield paid the premiums for a reinsurance contract with Safety Mutual Casualty Corp. of St. Louis on three different occasions out of the funds of HWA Inc. The payments were in April for May, May for June and December for January.

Mr. Merryfield contends that the first two payments were known by everyone connected with the trust. But other sources have told *Business Insurance* that the payment made in May did not appear on the records. Thus the benefit committee and others believed the trust was one month behind in its payments.

This became an issue when the benefit committee moved to terminate the contract in December 1976. However, the action was rescinded when the benefit committee was convinced it would be ill-advised to cancel the contract considering the trust's precarious financial condition.

A dispute ensued between the trust's new attorneys, Mitchell & Mitchell, and Safety Mutual about whether the contract had been cancelled. The attorneys felt their position was weak since they believed they were behind in payments and agreed to a reinstatement with a larger deductible.

One source pointed to this problem as a major indication of the administrative problems with the trust. Mr. Merryfield said he was merely trying to protect the interests of the participating employers to remedy a mistake made by the benefit committee in cancelling the Safety Mutual contract.

Mr. Merryfield also denied reports that the marketing was so lax that some employers signed enrollment cards for the 1967 Hospital Welfare Assn. trust, the vehicle originally formed in 1957 that was insured with Old Republic, rather than cards for the self-funded trust established in May 1976. Mr. Merryfield added, however, that he could not be sure of what every agent selling the trust did.

In at least one case, the marketing organization (HWA Inc.) apparently engaged in deceptive sales practices. The 65% rate increase for January was announced to brokers and employers in a letter dated Dec. 10. HWA Inc. vp Gregory Boyer, in a letter dated Dec. 16, said life insurance benefits would be increased to $5,000 from $2,000 on Feb. 1 at no additional cost.

However, the money to pay for that increase in benefits had been included in the January rate increase. The cost per thousand dollars of life insurance remained at 60 cents. Thus, the benefits did cost more and were provided one month after participants began paying for them.

Mr. Merryfield conceded the Dec. 16 letter was "not the best letter in the world." He said the money for the added benefits would remain in trust to provide the added insurance.

But the major reason the benefit committee has moved to terminate the trust is the deficit that resulted from inadequate rates.

After the Illinois department of insurance forced Old Republic out of the multiple employer trust business in April 1976, Hospital Welfare Assn. retained actuary William Robinson. Following Mr. Robinson's recommendations, Mr Merryfield said, the trust increased the rates charged under Old Republic by 30%.

Mr. Robinson confirmed that he was retained by the trust. He said he did a "one-time study," made some recommendations and urged the trust to retain a permanent actuary. He then resigned from the trust to become the actuary for the National Multiple Employers Foundation, another self-funded trust that has since collapsed.

Mr. Robinson is now the actuary and founder of the National Health Benefit Plan, an administrator of self-funded plans operating from Chandler, Ariz.

By late 1976 it was clear that the rates were still inadequate even after the 30% hike early in the year. The trust's actuary, Lawrence Mitchell, recommended a large increase. The benefit committee and HWA Inc. agreed on a 65% increase to go into effect in January.

By that time the benefit committee was unhappy with the work of Mr. Merryfield. Miller, Dorias & Wheat had withdrawn as the trust's attorneys on Nov. 1. The new law firm, Mitchell & Mitchell, and the benefit committee brought in Steven E. Schanes Ltd. as an outside consultant. The Schanes firm was eventually named director and took over control from Mr. Merryfield.

Steven Schanes, the firm's president, is the former head of the Pension Benefit Guaranty Corp.

The billings for the new rates were mailed in mid-January. Within six weeks, according to several sources, it became clear to Mr. Schanes and the benefit committee that the trust was no longer marketable. That meant there would be no way to make up the deficit, estimated at between $2.2 million and $4 million. At that point the Schanes firm recommended the trust be terminated to avoid incurring additional liability.

Mr. Merryfield says the new rates were marketable and that the trust could have been saved. "We did lose some business," he said, "but we continued to enroll additional business." ■

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Labor asks states for list of trusts

WASHINGTON—The U.S. Department of Labor is asking state insurance officials to supply information on multiple employer trusts operating in their states.

The department is conducting a study of the trusts, especially ones that have opted for self-funding, to determine if they are covered by the Employe Retirement Income Security Act (ERISA). If ERISA is applicable, state regulation of the trusts may be preempted.

After receiving the state reports, the department will crosscheck the names against its own files, according to Dallas Salisbury, acting director of the office of policy planning and research in the DOL pension and welfare section.

The Labor Department is also requesting copies of any documents state officials have obtained relating to the trusts, opinion letters issued by the states on the preemption question and any general comments the regulators would like to add.

Mr. Salisbury said the information is being sought to give the department the broadest possible advice. The department is going to define a multiple employer trust before deciding whether or not ERISA applies to this type of plan. ■

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Frank B. Hall . . .

Continued from page 1

"Poor judgment was shown in accounting for these items but we still wanted to retain his services as a producer and didn't want to sever him as a whole," said Peter Ripp, vp and spokesman for the parent firm.

The 48-year-old Mr. Baxter is regarded by local risk managers and fellow insurance brokers as a "super" salesman, according to a *Business Insurance* investigation. So desirable is Mr. Baxter, in fact, that he reportedly has been approached by three other brokerage firms now that he's no longer with Frank B. Hall full-time.

Last year, Mr. Baxter earned $135,044. He also drove a Rolls Royce, a very visible symbol of his success.

He rose quickly in the Frank B. Hall ranks, from vp to president and chief executive officer and Pacific Southwest regional manager in 1974, and two years later, in January 1976 to executive vp and director of the parent firm. He became part of the Hall organization with the 1972 acquisition of the Allen T. Archer Agency, which he had been with since 1954.

Although Mr. Baxter's was the only resignation to result from the expense reimbursement/disagreement, the questionable bills belonged to several other LA branch officers as well, the company has said, although it declined to identify the individuals.

The LA office has 250 employes, 50 of whom are officers. It is FBH's second largest office after New York.

The resignation was requested only of Mr. Baxter because he was the person in authority there, Mr. Ripp said. Hall's proxy statement dated March 31 also noted that the company had reason to believe Mr. Baxter was aware, in many instances, of the payment by the subsidiary of certain "travel and entertainment" expenses not allowable under company policy.

In addition, Mr. Baxter was the only employe of the involved group who was also an officer and director of the parent firm, making it logical for him to be removed from his position of authority.

Most observers of the insurance scene in Los Angeles told *Business Insurance* they didn't think dishonesty was involved in the expense disagreement. Nor did they think lavish client entertainment could have been part of the big tabs run up by Mr. Baxter and his fellow officers in the LA subsidiary.

In fact, most insurance managers described Hall as a less-than-extravagant provider of lunches, dinners and such for clients and prospective clients. Hall's customers didn't seem to feel they'd been recipients of any unusual largesse, merely the usual lunch once or twice a year. Brokers and buyers with years of exposure to the way the insurance business is done, however, indicated it's not uncommon for producers of Mr. Baxter's caliber trying to generate new business to entertain chief financial officers and other corporate executives (above the risk management level) at sports events, cultural events or even lunch in some distant, exotic place "like Hawaii," laughed one buyer.

In the cases, though, when a special effort had to be made to woo a new client, even Frank B. Hall could go the necessary distance. One risk manager recalled seeing not long ago a newspaper picture showing several Frank B. Hall executives entertaining a prospective client at the Rose Bowl parade, with a picnic under an umbrella complete with catered food.

Notwithstanding this side of the brokerage business, most outside onlookers of the Frank B. Hall upheaval have surmised that the personal expenses not allowed probably took the form of special perquisities or non-salary compensation accorded the executives in question. Hall directors on the audit committee, the speculation goes, probably took action because most of those perquisites would not withstand Internal Revenue Service inspection. This theory was supported by a disclosure in the firm's proxy statement of this sequence of events: "The company has disclosed to the IRS the above matters and intends to give appropriate effect thereto in its tax returns."

Whether the expenses were for Rolls Royces, personal loans to Hall employes as one LA Hall-watcher implied, or for other compensation and "perks" for the Hall executives themselves, no one seems to know for sure. Mr. Ripp couldn't say specifically what kinds of expenditures were involved in the audit and resignation, and he added that he wasn't sure he'd divulge that information even if he did know.

Touche Ross & Co., Hall's CPA firm, reportedly triggered the audit activity by initially refusing to certify Hall's 1976 books. The rub could have come because these unacceptable expenses were "incorrectly recorded on the subsidiary's books," as Hall points out in its proxy. In such a case, Touche Ross would understandably be reluctant to say that Hall's annual report conformed to generally accepted accounting principles if questionable entries had been discovered for several years.

Because the IRS has over the last several years tightened up its rules on expense accounts, for example, Touche Ross logically would have scrutinized more closely the expense accounts of Hall's producers. The directors' audit committee eventually tallied up $400,000 of expenses over a four-year period (1973 to 1976) which it said hadn't conformed to Hall's standards for reimbursement. The company said it has recovered $319,000 of this amount from the executives, including $86,276 from Mr. Baxter personally. The company said it expects to recover the remaining $81,000 within a year.

In its latest official statement,

Continued on Page 86

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Hall . . .

Continued from page 85

appearing in the proxy, Hall noted that "subsequent to (Mr. Baxter's) repayment (of the $86,276), Mr. Baxter supplied documentation satisfactory to the company accounting for $27,445 of such expenses. Accordingly, the company has reimbursed Mr. Baxter in such amount."

The company didn't collect interest on any of the monies it has recovered, or those it plans yet to recover.

Mr. Ripp said Touche Ross discovered the discrepancies in the course of its 1976 audit. Nothing was discovered in earlier years' audits because the amounts of money in question were nominal, especially in 1973 and 1974, he said. The audit sampling procedure did not immediately pick up the differences in bookkeeping. Even in the aggregate, the $400,000 sum was relatively small compared to the $90 million total expense recorded for the parent brokerage firm overall, he added.

Following the discovery of the questionable expenses in the Los Angeles subsidiary, Hall's audit committee expanded its scrutiny to all other offices but found no other discrepancies.

The Hall annual report, issued the week of April 4, contained a close-to-normal statement from Touche Ross on the fairness of the reports and their compliance with accounting principles. The CPA firm's only qualification deals with operating figures being subject to an apparently unrelated lawsuit by Unigard Mutual Insurance Co. against Hall over a charge of negligence involving reinsurance obtained for Unigard.

Hall discloses in its proxy statement, however, under the heading of "certain transactions," an unusual business arrangement it has with Mr. Baxter and also an unusual transaction between Mr. Baxter and a client. The disclosure states:

"Mr. Baxter, a former director and officer of the company, has a one-third equity interest in a partnership which owned a 50% interest in a jet aircraft which at various times during 1976 was rented to the company or its subsidiaries. The total amount of such rent paid by the company was approximately $113,000. The company believes that (the) rental is fair and competitive with rates charged by similar aircraft-chartering services. Mr. Baxter's interest in the partnership resulted in a net loss to him as a prtner for the year 1976. In addition, Mr. Baxter guaranteed on behalf of a client of the company a bank letter of credit obtained by such client for the purpose of enabling such client to obtain a bond placed by the company. In connection with such guarantee, Mr. Baxter pledged his personal assets to the bank issuing the letter of credit and was compensated by the company for such guarantee and pledge in the amount of $10,250."

Mr. Ripp said there was no connection between these two transactions and the disagreement over expenses.

Some brokerage community officials seemed to feel that these developments for Hall—and Mr. Baxter—related more to the systems of compensation in the insurance brokerage field as a whole than they did to conscious misdeeds. Veteran brokers pointed out that conflicts about allowable expenses could conceivably arise anytime salaries are tied in with expense accounts and incentive programs. But Mr. Ripp said compensation was not a question in this matter.

Generally speaking, Mr. Ripp said, Hall employes are paid salaries and not commissions. Salaries, however, are "informally" tied into the overall remuneration package, as are expense accounts.

Mr. Baxter wore "a couple of hats" in the LA operation, said Mr. Ripp. "He was on salary and he also produced. As to whether he was on a commission percentage I don't think it was that formal, but it was connected."

Remuneration also includes yearend bonuses for employes, he pointed out.

The compensation of all parent company officers is also subject to the approval of the board of directors.

Mr. Baxter's resignation came only one week after that of Richard A. Archer, although Mr. Ripp said there was no connection between the two events.

On March 8, Mr. Archer resigned as chairman, chief executive officer and director of the corporation, titles he had held since January 1976.

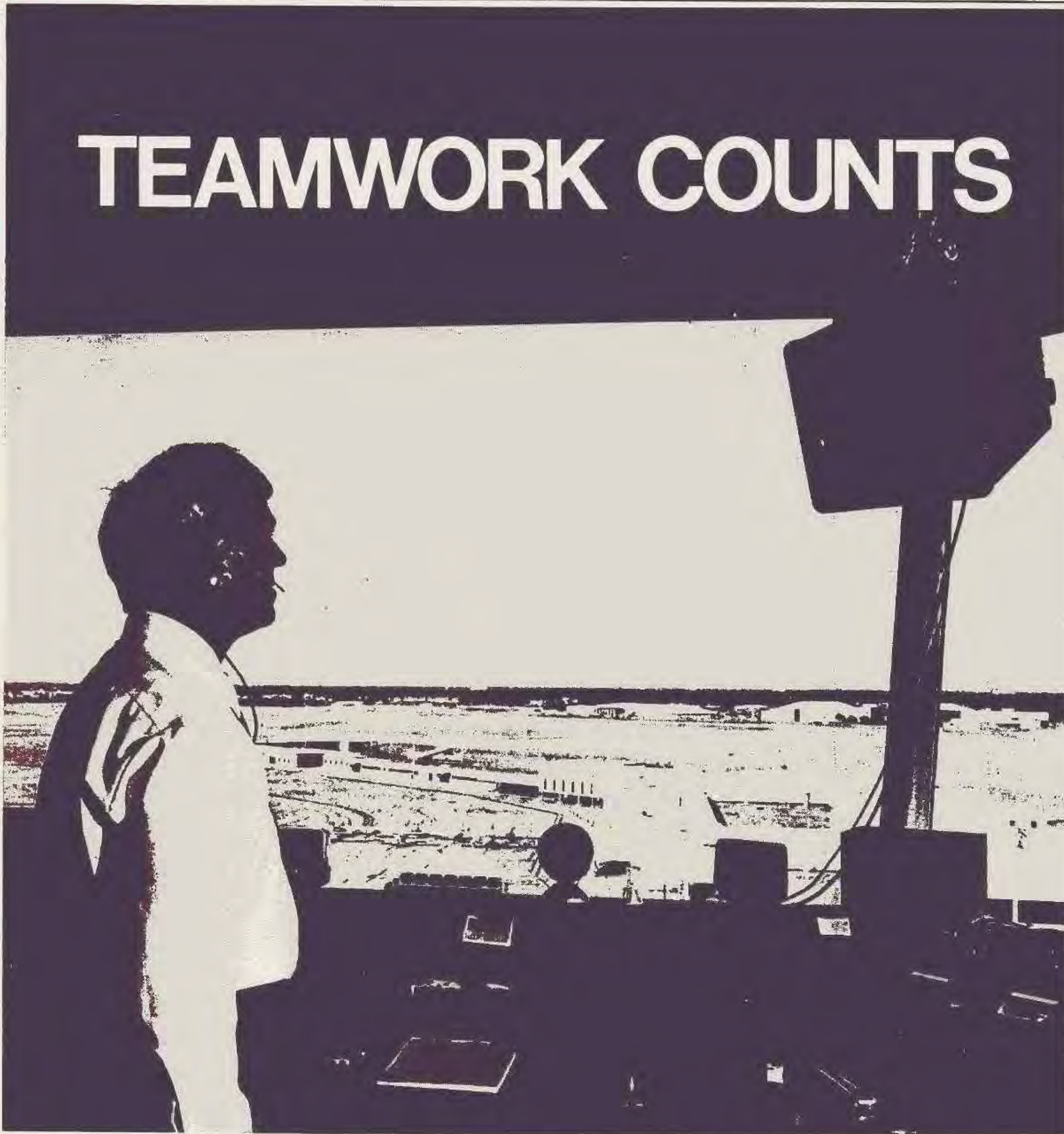
He cited health and other personal reasons for his decision.

Mr. Archer also has a three-year contract to continue with Hall at an annual salary of $100,000. He will return to his original base of operations in Los Angeles primarily as a management consultant. He will also serve in a new capacity, that of "emissary" or liaison between the Los Angeles office and the Briarcliff Manor headquarters of Hall, said Mr. Ripp.

Before moving to Briarcliff in 1974 as Hall's president and chief executive officer, Mr. Archer was based in Los Angeles for the firm.

Mr. Archer was president of the Allen T. Archer Agency when Hall acquired it in 1972.

Succeeding Mr. Archer as chairman and chief executive officer is Albert J. Tahmoush, 55, who has been president since 1976. ∎



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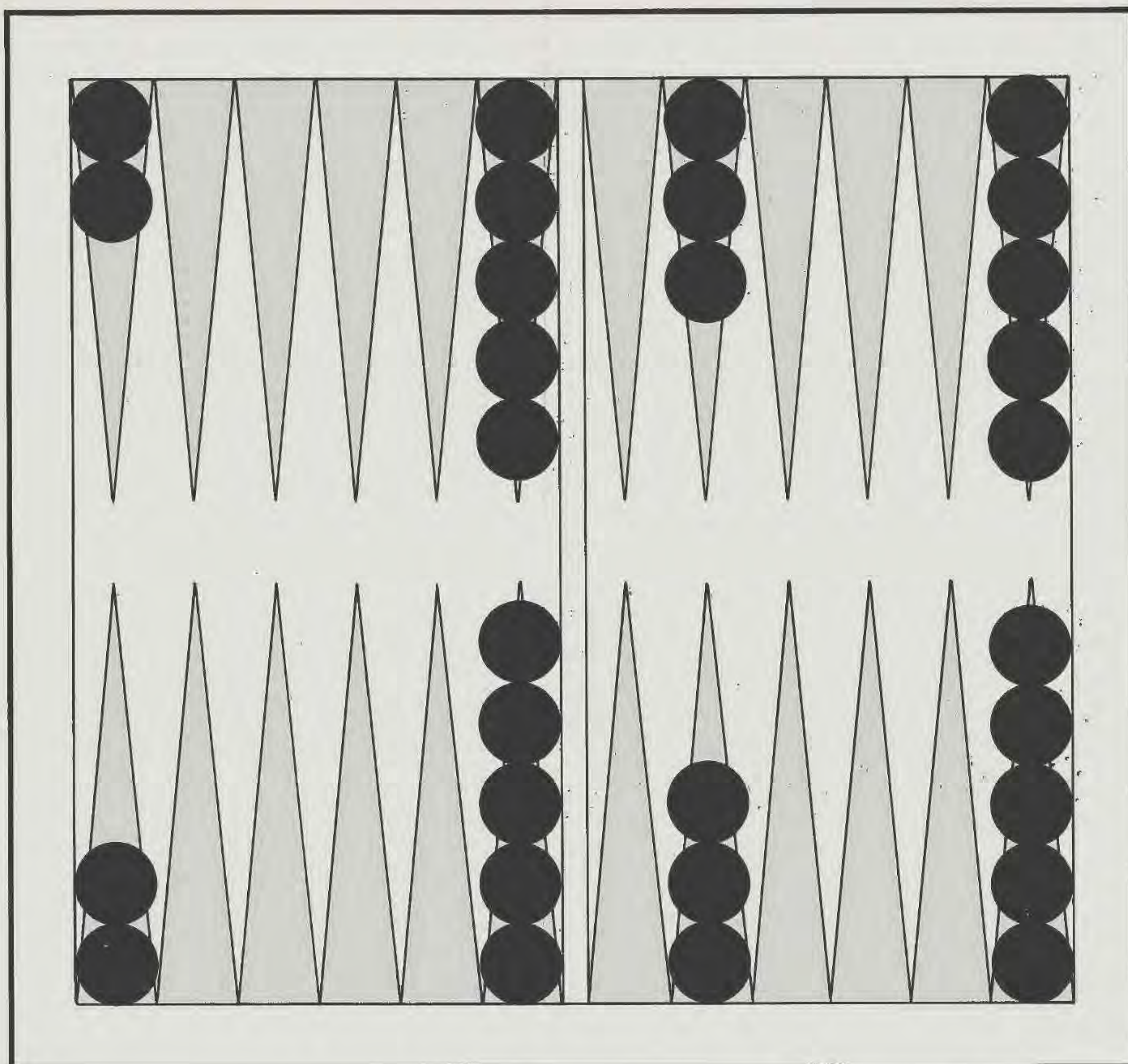

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people

IDS taps Peterson for benefits position

Bruce A. Peterson, 34, will be replacing D. E. Maxson as director of employe benefits at Investors Diversified Services Inc. of Minneapolis. Mr. Maxson will be retiring this month after 27 years with IDS. Mr. Peterson formerly assisted Mr. Maxson as manager of employe benefits, and has been with IDS since 1967. Upon assuming his new job, he will be reporting to Kenneth A. Latta, vp of personnel. A decision has not been made on whether to fill Mr. Peterson's former position.

* * *

Kathy Block, formerly an administrative assistant in the insurance department of Fluor Engineers & Constructors Inc. in Los Angeles has been named corporate insurance assistant for Beneficial Standard Corp. Los Angeles. She replaces **Patti Slater** who resigned in February to be named to the newly created position of insurance coordinator for National Medical Enterprises, Los Angeles. Ms. Block reports to John M. Degnon, director of corporate insurance at Beneficial Standard Corp. Her responsibilities include property/casualty insurance as well as employe benefits and the corporate pension plan. Ms. Block has nine years of corporate insurance experience.

* * *

James R. McLees, has been selected by the state of Washington as its first risk manager. In his new position, Mr. McLees is in charge of the state's property/casualty coverage. He was previously employed as insurance coordinator for C. F. Braun & Co. of Alhambra, California and risk manager for Carter Hawley Hale Stores and Orange County, both in the Los Angeles area.

* * *

Joseph M. Dancheck, 41, has been elected assistant vp of the Harris Bank of Chicago. In the newly created position, Mr. Dancheck manages the entire insurance program of the bank and its subsidiaries. Mr. Dancheck has been with Harris since 1967 and worked on its insurance program as a member of the planning and control group for four years. He will be reporting to Richard Egan, vp and director of accounting.

* * *

Ray Martinez, 34, was promoted to manager of banking and insurance at Capitol Industries—EMI Inc. of Hollywood, Calif. He succeeds Dave Palacio, who now runs the record company's financial planning department. Mr. Martinez reports to corporate treasurer Kenneth Northrup. Mr. Martinez had been an internal auditor with Capitol since 1974.

* * *

Richard Culberger, 31, took over the insurance department of Tishman Realty & Construction Co. in New York City. Mr. Culberger, who reports to Tishman treasurer Donald Svoboda, is the former insurance administrator of the city of Yonkers, N. Y. He holds a law degree and is a licensed real estate and insurance broker.

* * *

Joseph I. Cline Jr., has been named manager of Republic Steel's recently formed risk management section. A product of the restructuring of the corporation's insurance division, the section has broad responsibilities for identification and control of accident exposures and costs, as well as for development and administration of corporate insurance programs. Mr. Cline joined Republic two years ago as assistant manager of insurance. John R. Wheeler, former manager of the division, will continue to oversee Republic's insurance programs as manager of insurance administration. A native of Cleveland, Mr. Wheeler has been with Republic since 1946, and was named insurance division manager in 1963.

* * *

Herbert L. Cunningham, 49, recently became vp-administration of Transamerica Corp., San Francisco. His responsibilities include the management of employe benefits and corporate risk. Mr. Cunningham joined Transamerica over five years ago. He was director of risk management before assuming his newly created position, in which he reports directly to top management. A member of the San Francisco Chapter of CPCU, Mr. Cunningham is also an associate in risk management of the Insurance Institute of America.

* * *

Robert B. Seghi has become the employe benefits manager at the Los Angeles insurance brokerage house, Rollins Burdick Hunter of Southern California. A business and mass communications graduate of Wayne State University in Detroit, Mr. Seghi spent 13 years as individual life, health and qualified retirement plans manager at the Hartford Insurance Group's Los Angeles office. In his newly created position, Mr. Seghi will report to company president Charles F. S. Ryan.

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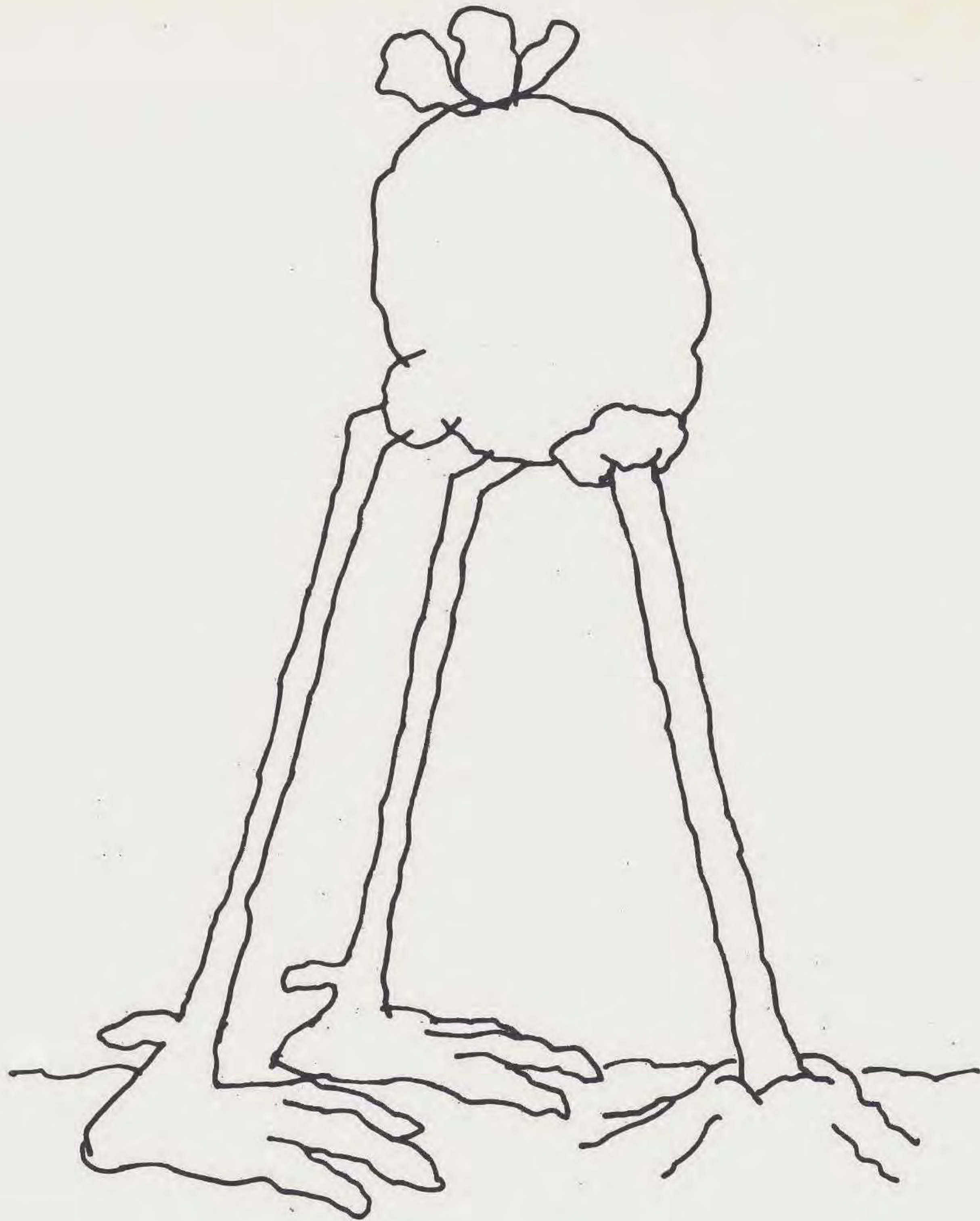

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