Week of April 28, 1980

business insurance

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RIMS report

A competitive property insurance market will sell innovative policies. Staying within the letter of labor relations law can keep a company from being strong-armed by HMOs, says a benefit executive. A special report from the final days of the annual RIMS conference: **Pages 14-37.**

Coping with OSHA

The Small Business Administration and OSHA are embarking on a new plan to ease the burden of compliance with OSHA rules: **Page 43.**

Small airlines fight higher liability rule

Photo: Mary Caina

By JOHN MAES

WASHINGTON—Small airlines' complaints that higher liability requirements would drive up the cost of insurance and push their profit margins into a nose dive may convince the Civil Aeronautics Board to lower proposed liability insurance requirements.

The CAB wants to direct all passenger and cargo air carriers operating in the U.S. to increase their liability insurance limits to $300,000 per occurrence for death and bodily injury per passenger from the current mandated $75,000.

The proposed requirements would be uniformly applied to all airlines ranging from small, one-aircraft services to the large overseas trunk airlines. Minimum liability requirements of $2 million for small aircraft and $20 million for large aircraft would also be established for personal or property damage on the ground.

Small air-taxi service owners are complaining the most in statements to CAB that the increased premiums charged for more insurance would hurt their profit margins, already pinched by a recessionary economy. Large airlines merely object to more regulation and a disclosure requirement.

Liability lament

Small airlines say increased premiums would hurt already tight profit margins.

Pirate One Inc., a charter-cargo service in Red Bank, N.J., says its insurance costs would double under the new rules. "The country has enough financial burden," wrote owner Theodore Pichel to CAB. "Why do you see fit to load us up with more?" Higher insurance requirements will mean less profit to the air carrier, he said.

Aviation Office of America, Pirate One's insurer, informed Mr. Pichel his costs for passenger liability coverage alone would double to $3,000 under the rules, Mr. Pichel told *Business Insurance*. He blamed the courts for awarding excessive judgments in air crash cases.

"If the courts didn't give away ridiculous settlements, we wouldn't have this problem," he said.

Mr. Pichel's letter to the CAB was one of some 70 filed by airlines, insurers and brokers who mostly criticized the proposed increase in liability insurance requirements.

The onslaught of objections could convince the CAB staff to submit lower liability insurance requirements to the board for approval late this summer, said Joseph Brooks, a CAB attorney. But Mr. Brooks stressed he wasn't predicting the proposed requirements would be lowered.

CAB will accept comments on the proposed requirements until May 6.

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Tex. probe stirs fear of new ban on retro policies

By RHONDA L. RUNDLE

AUSTIN, Tex.—An investigation by the state board of insurance here into the use of paid-loss retrospectively-rated plans is stirring private concern among insurers that Texas may follow California's crackdown on these cash-flow contracts.

Two companies known to write such plans, Insurance Co. of North America and Fireman's Fund, have been asked to provide the insurance board with a list of all Texas risks currently written on a paid-loss basis.

"The investigation may be extended to include other insurers if it develops that these policies are widespread," said Billy Young, retrospective rating supervisor at the Texas board of insurance.

John Cox, president of INA, views the Texas investigation as "another attack upon the various risk funding mechanisms available to large companies," since it comes on the heels of the California assault.

If Texas also moves to prohibit paid-loss retros, some industry sources fear the attack could snowball around the country.

Texas contacted INA and Fireman's Fund first because the insurers have acknowledged they write paid-loss retros in other states, explained Mr. Young.

Both companies agreed last November to stop quoting and issuing paid-loss retros for workers compensation risks in California pending an inquiry into their legality by the state insurance department (*BI*, Nov. 26, 1979).

A final decision in California is expected this week, but industry

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NEWSPAPER

Risk pool act stalls
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Steel pact: Retired workers reap big pension boosts

Photo: Allegheny Ludlum

Under the new pact, workers will receive increased supplemental pension benefits in case of anticipated plant closings this year.

By JOHN MAES

PITTSBURGH—Retired steelworkers will receive pension improvements ranging from 10% to 70% in the United Steelworkers' new three-year contract with the nation's largest steel producers.

The pact also increases supplemental pension benefits to protect workers from a series of steel plant closings expected this year. This signals a victory for unions that have vowed to fight for extended benefits in the face of plant closings (*BI*, March 3).

The increases—granting all 150,000 retired steel workers a minimum pension of $12 per month for every year of service—also provide pension recipients with some inflation protection, said Thomas F. Duzak, director of insurance, pension and unemployment benefits for the steelworkers' union.

The steel makers' most notable win is an increase in deductibles on the health insurance plans.

The pact covers some 455,000 workers at the nation's nine largest steel firms. Contracts at smaller steel companies will follow the pattern of the pact, Mr. Duzak said.

The nine major steel firms include: United States Steel Corp., Republic Steel Corp., Armco Corp., National Steel Corp., Jones-Laughlin Steel Corp., Inland Steel Co., Wheeling-Pittsburgh Steel Corp. and Allegheny Ludlum Industries.

The contract is expected to set the pace for negotiations with the aluminum and non-ferrous metal industries and will likely influence bargaining with the 600,000-member Communications Workers of America.

Before negotiations began late last year, the union targeted step increases for retired workers (*BI*, Dec. 24, 1979).

To gain pension improvements, the union

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for your information

Group health underwriter must return 20% of premiums

NEWARK, N.J.—Intercontinental Life Insurance Co., underwriter of 30 union, trade association and senior citizen group health and accident plans, must return 20% of premiums collected from the groups, according to a state superior court agreement here.

Though the agreement to refund does not demand admission of guilt, the return of about $50,000 to policyholders ends a two-year investigation of questionable sales practices and a civil suit initiated by attorney general John J. Degnan.

Intercontinental was founded in 1964 by New Jersey Gov. Brendan Byrne, two law partners and a deputy insurance commissioner. Gov. Byrne, board chairman for five years, owns a large share of Intercontinental stock now in a blind trust.

The agreement also demands that Intercontinental guarantee payment of a $50,000 state fine and the $50,000 cost of the investigation of its subsidiaries, National Health Protective Agency and First National Health Agency.

Fund covers warehouse fire

ELIZABETH, N.J.—A state fund, established under the 1977 Spill Compensation and Control Act, will pay damages caused by the warehouse fire and explosion here that rocked sections of New Jersey and New York.

Thirty persons, including 27 firefighters, were overcome by fumes from the blaze, which took more than 10 hours to bring under control. No serious injuries were reported and evacuation, though hastily planned, was not ordered.

State officials, however, still are not certain whether or not the fund or the bankrupt Chemical Control Corp., owner of the warehouse, will be liable for personal injury claims. The site was undergoing a state-controlled clean-up when the 24,000 barrels of toxic chemicals exploded.

The fund, created by taxing New Jersey oil and chemical industries, was specifically designed to meet claims from accidents like last week's explosion, said state risk manager Robert Hunt. It will also defray the costs of clean-up and chemical removal.

Mr. Hunt, who administers the fund, set its assets at $12 million with a legal maximum of $50 million.

Ford may face more charges

MADISON, Wis.—Ford Motor Co. may face another set of criminal charges here if a Washington, D.C., safety group convinces the attorney general to press charges under a "homicide by reckless negligence" statute.

The Center for Auto Safety, which activist Ralph Nader helped found, is urging Wisconsin attorney general Bronson C. LaFollette to prosecute Ford in the death last week of 18-month-old Michael Cannon of Hartland, Wis.

The child died when a 1977 Ford Thunderbird jumped from park to reverse in a transmission failure.

Ford has denied there is any safety defect in its transmissions.

Roger E. Maugh, director of auto safety for Ford, said the transmissions have been tested by the U.S. and Canadian governments and independent consultants. "Ford is appalled by the Center for Auto Safety's irresponsible attack," he said.

"We think this is a much cleaner case than the one Ford faced in Winamac, Ind.," explained Russell Shew, a vehicle safety investigator for the Center for Auto Safety.

An aide to the attorney general here told *Business Insurance* that the state is reviewing the case and "on the face of it, there seems to be something we need to look at." Under Wisconsin law, however, the attorney general has limited power to initiate criminal charges without a mandate from the govenment, he cautioned.

N.Y. bill would allow captives

ALBANY, N.Y.—State Sen. John Dunne has introduced legislation (S. 9145) to encourage the formation of captive insurance companies in New York.

Modeled on the Colorado captive insurance company law, the bill sets capital and surplus requirements of $1.3 million for pure captives and $750,000 for association-owned captives. The capital and surplus requirements could be met with letters of credit.

Bill to delay PBGC mandate

WASHINGTON—Rep. Frank Thompson (D-N.J.) and Rep. John Erlenborn (R-Ill.) have introduced legislation (H.R. 7140) delaying from May 1 until June 1 the date the Pension Benefit Guaranty Corp. begins mandatory coverage of multiemployer pension plans.

The delay is necessary because Congress has not approved legislation (H.R. 3904) giving the PBGC more assets and reducing its liability to multiemployer pension plan participants. Without the law reducing the PBGC's liability, it is feared mandatory coverage of the plans could bankrupt the PBGC as the plans terminate.

House approval of the multiemployer bill is expected this week. The Senate Finance Committee has not acted on the measure.

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Risk pool act stalls in Senate hearing

By JERRY GEISEL

WASHINGTON—The drive for congressional enactment of the Risk Retention Act is stalled in a skeptical Senate Commerce Committee.

At the first Senate committee hearing on the proposal to allow companies to cooperatively self-insure their product liability risks, committee member Adlai Stevenson (D-Ill.) criticized the measure.

Sen. Stevenson, who had been thought by some government sources as leaning in favor of the controversial legislation (S.-1789), charged the bill "beats around the bush" and is not the best solution to solving product liability problems.

"We aren't addressing the law," Sen. Stevenson said last week. "Why wouldn't it make more sense to change the law" instead of allowing the formation of insurance groups, he asked.

Sen. Stevenson later told *Business Insurance* he is undecided about the Risk Retention Act, now before the Commerce Committtee following last month's overwhelming House approval (*BI*, March 17).

Most significantly, not one member of the Commerce Committee appeared willing to take a leadership role in getting the bill through committee.

"There has to be a champion in the Senate," said Commerce Committee staffer Eric Lee. "No one is pulling for it now."

The leadership of Rep. Richardson Preyer (D-N.C.), a member of the Interstate and Foreign Commerce Consumer subcommittee, was a major factor in the bill's 332-17 success in the House on March 10. "Unfortunately, there is no Preyer in the Senate," one supporter of the measure lamented.

Two ranking members of the Senate Commerce Committee, chairman Howard Cannon (D-Nev.) and Sen. Robert Packwood (R-Ore.), presided over the hearing which is evidence that the committee is interested in the measure, a staffer said. "But the supporters of the bill have a long way to go to convince the committee that this is a priority issue," he said.

A powerful offensive by the insurance industry at the April 22 hearing tried to convince the committee the bill is unnecessary.

Donald L. Jordan, assistant vp of the Alliance of American Insurers, rebutted Commerce Department testimony that state regulation bars the formation of insurance groups.

The Department of Commerce says state insurance "regulations create insurmountable barriers to the formation of self-insured groups," Mr. Jordan said, countering that in Colorado alone about 30 captives have been formed, of which eight are group captives. In other states, businesses have set up different group insurance programs such as mutuals and reciprocals, he added.

"To suggest that state regulation has been an effective barrier to the formation of insurance groups simply disregards the large number of groups already formed and functioning for their members," Mr. Jordan argued.

Although the Carter Administration views the Risk Retention Act

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Critic of bill

The Risk Retention Act "beats around the bush" and is not the best solution, says undecided Sen. Adlai Stevenson (D-Ill.).

Judge to determine computer lease payout

By ELLIS SIMON

BALTIMORE—A federal judge here will rule in two to three weeks on how Lloyd's of London must pay $35 million to $40 million in outstanding claims filed by Federal Leasing Inc. for computer leasing losses

A court order issued April 17 ordered Lloyd's to honor a March 1978 agreement with Federal Leasing about setting up claims processing and payment schedules.

Lloyd's insured Federal for computer leases lost due to new technology, forcing its products into obsolescence (*BI*, July 23, 1979).

Both parties are to submit plans for paying the outstanding claims to the court, which will determine the schedule to be followed and the amount to be paid.

Lloyd's had paid $5 million out of approximately $27 million in claims in accordance with the 1978 agreement before Federal sued the insurer last June, said Federal's attorney, Benjamin Rosenberg of Benable, Baetjen & Howard, a Baltimore law firm.

An additional $15 million in claims have been made since then and further claims are anticipated as leases expire, he said. But future losses should not be as great as those in 1979, however, he added.

The court order was a "fairly strong opinion," Mr. Benjamin said. The court rejected Lloyd's main defense that the coverage was issued under "fraud and misrepresentation." The court concluded there was no material misrepresentation by Federal Leasing.

The court's opinion added that Federal Leasing has a "very high probability of ultimate success in this case," Mr. Benjamin continued. The court order will probably result in dismissal of a countersuit filed by Lloyd's charging Federal with fraud and misrepresentation, Mr. Benjamin predicted.

While the court order pointed out weaknesses in Lloyd's defense, there were "certain strengths," a spokeswoman for the London market said.

"Lloyd's is not in a great state of dismay," she said. Members of Lloyd's working party on computer leasing view the court document as an "opinion" rather than an order.

Since the court must consider payment plans submitted by both the insurer and Federal, the Lloyd's spokeswoman would not discuss what Lloyd's probable exposure would be. She noted that several differences between the two parties must be settled by the court, including whether Lloyd's must pay interest on delayed payments under the March 1978 agreement. ■

errors & omissions

• Fluor Corp. employes are not charged tax on the 22% of their van pool fare that is subsidized by the company, but they are taxed on the balance, which is deducted directly from their paychecks. An article in the April 14 issue incorrectly reported that the employe's contribution is not counted as taxable income by IRS.

• Sarah W. Gingrich is health and welfare plans manager at Levi Strauss & Co. in San Francisco, not administrator as incorrectly reported in the April 14 issue.

Upcoming E/S directory

Excess/Surplus lines brokers:

Have you completed your questionnaire to be included in the annual excess/surplus lines broker directory to be published June 23?

Business Insurance has mailed questionnaires to excess/surplus brokers. If you didn't receive one, write *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611, or call 312-649-5398.

Deadline for returning questionnaires is May 15.

M&M to unveil public entity policy package

By ELLIS SIMON

NEW YORK—Marsh & McLennan Inc. Wednesday will unveil a wide-ranging program of insurance coverages and risk management services that it contends will provide public entities with the market stability, favorable pricing and broad policy forms they have long sought.

Central to the program will be a data base of public entity loss experience and exposures that M&M says will be the first of its kind. Accounts also will be able to pick and choose from the services offered.

Ideal Mutual, backed by foreign and domestic insurers, will underwrite the insurance.

PRISM, an acronym for Public Risk Insurance Services Management, was developed with advice from a committee of municipal risk managers whose chairman was University of Arizona professor Dr. Nester Roos.

No one is buying yet, but some have submitted applications to M&M offices, says Alan Cantor, M&M assistant vp and PRISM project coordinator.

At least one member of the risk management advisory committee, C.J. Spivey of Charlotte-Mecklenberg County, N.C., said he "definitely intends to consider" using the PRISM program for some of his exposures.

Public entities present a more complex and more diversified risk than most private concerns, Mr. Spivey said. Exposures can include hospitals, public transit systems, utilities, parks and arenas.

Buying insurance coverage for governmental units is difficult because the "small ones don't have the clout with the market and everyone is afraid of the big ones," Mr. Spivey said.

All-risk property, primary and excess liability and workers compensation coverages will be available to public entities through the PRISM program. Buyers may elect to purchase these coverages separately or jointly, Mr. Cantor notes.

The program will offer coverages that have been difficult to buy, such as police professional liability and public officials liability. In addition, coverage for unusual exposures, such as municipally owned airports or nuclear power plants, can be arranged.

Coverage is written on a combined property/liability form containing far fewer exclusions than standard public entity policies, Mr. Cantor says.

Mr. Cantor was reluctant to say how much public entities could save through PRISM. Policies will be priced competitively, he said, but price comparisons with other programs cannot be done because of the differences in coverage.

The combined form offers limits of up to $1 million over a $100,000 self-insured retention or primary policy. Limits in excess of $1 million are available as needed. Self-insured retentions can be greater than $100,000, but must be at least $1,000 per occurrence.

Cash-flow programs can be arranged through PRISM and the facility is capable of handling pooled risks. Although stop-loss excess insurance is not included in the basic program, it can be purchased on a facultative basis if the client wishes, Mr. Cantor adds.

M&M is marketing the insurance with Ideal Mutual Insurance Co. of New York as a primary insurer backed up by a multitude of domestic and foreign reinsurers. Although Ideal Mutual's participation will be less than 10%, it will be greater than that of any other participant, M&M senior vp Joseph

Continued on page 43

Adopting parents get boost at some firms

By MARY ANN MATLOCK

NEW YORK—A childless couple may receive more than a bundle of joy when adopting a child, if one of them has the right employer.

A handful of corporations, including Hallmark Cards, IBM, Xerox, Pitney Bowes, Foote Cone & Belding Communications and S.C. Johnson & Sons, pay benefits ranging from $800 to $2,200 to adopting couples.

Adoption benefits, virtually unheard of before 1970, were initiated to provide help for couples who won't use maternity coverage.

"We felt it was an equity consideration, a trade-off to maternity care," said Jerry Kenefake, director of compensation and benefits at Hallmark. The firm is the latest company to adopt the benefit.

Mr. Kenefake said the firm's 14,000 full-time employes are eligible for a maximum of $1,000 to offset adoption costs, which can include legal, medical, court and agency fees. Travel expenses are excluded, however.

Two company employes have received the subsidy since the program began in February. Based on other corporations' experience, $50,000 has been allotted for the program's first year, Mr. Kenefake said.

IBM and Xerox also pay up to a maximum of $1,000 per adoption, a process that can cost from $2,000 to $6,000.

IBM's program has been used to subsidize from 1,800 to 2,000 adoptions since it began in December 1972, said manager of employe benefit planning Russell Schuck. Xerox's program has helped subsidize 18 adoptions since its beginnings in October 1979.

Both firms agree the taxable benefit, for which all full-time employes qualify, adds a parallel to maternity care in their benefit package.

However, another firm with the same philosophy provides more in matching maternity benefits and adoption subsidies. Foote, Cone & Belding in Chicago will pay an adoption fee equal to the cost of a normal delivery in an area hospital. In the Chicago area, that benefit is $2,200.

"It affords us the opportunity to offer a benefit to an employe who can't make use of maternity benefits in the medical plan," said employe benefit director Bruce Mueller.

Mr. Mueller emphasized the program, added before 1974, is worth more than its budgeted dollars. "The employes that receive it are incredibly excited. This benefit is incredible. The people that use it just can't say enough."

Twelve adoptions have been subsidized since the program started, although the firm's 2,000 workers all qualify.

Photo: Kemper

Adoption benefits were initiated to help couples who won't use maternity coverage.

One other firm to offer adoption benefits—Pitney Bowes—began the program in 1974. They did so not so much to equalize benefits, but to add distinction to the benefit package.

"We try to get ahead of the field in benefits. It's worthwhile and employes appreciate it," said Helen Conners, manager of the employe insurance department.

Ms. Conners said the program allowed a $600 subsidy per adoption in 1974 that was increased to $800 in 1978. Sixty-eight adoption subsidies have been paid so far, she said.

Generally, insurance companies provide medical coverage for healthy adopted children from the day the new parents bring the child home, even though an adoption can take from six to 12 months to become legal, said Fran Cashman, director of adoption and maternal services at Catholic Charities in Chicago. Ms. Cashman said problems with medical coverage for the healthy child are rare.

However, when handicapped children are adopted their medical care is usually subsidized by the state, she said.

Audit forces out Charter Oil execs

By KATHRYN J. McINTYRE

JACKSONVILLE, Fla.—The three top people running Charter Oil Co.'s risk management and Cayman Island captive management operations are out in the wake of an internal audit of the captive operations, *Business Insurance* learned.

Dave DeMarco, the former Charter Oil risk manager who took the company into the captive business, resigned late last month as president of Cayman Underwriters Services Ltd., the Charter Oil captive management subsidiary in Grand Cayman, Cayman Islands.

John Ray, managing director of Cayman Underwriters for three years, and Thomas Fitzpatrick, risk manager for Charter Oil, were fired at the same time.

"The actions regarding Mr. DeMarco, Mr. Ray and Mr. Fitzpatrick are the result of an internal audit investigation of the captive operations," said a Charter Oil executive here who is close to the developments.

Mr. DeMarco and Mr. Ray, who intend to start a new Cayman management company contend they left the company, because they wouldn't comply with Charter Oil's demand to see the records of client companies unrelated to Charter. They argue that lawyers advised them the Caymans' confidentiality law prevented them from opening the books of client companies.

"That was part of the problem, but not all of the problem," said the Charter Oil executive, who asked not to be named.

Charter Oil was concerned that there were

conflicts of interest in the management of Cayman Underwriters, one of the largest captive managers on the Grand Cayman, confirmed Dick Boyle, the president of Cayman Underwriters.

The audit examined whether insurance and reinsurance business was directed to another company under management at Cayman Underwriters to the detriment of Charter Oil, said Mr. Boyle.

"The real problem was we had a concern and we were precluded from an involvement in the records of Cayman Underwriters. Mr. DeMarco said we would be violating the Cayman protection law. But we said that we can within the law see that Cayman Underwriters is being run within the best interests of the company and its clients.

"They attempted to hide behind the Cayman law to hide any potential conflict of interest," said Mr. Boyle

The Cayman protection law is designed to prevent information about businesses in the Caymans from leaving the islands. It is typical of tax haven protection laws.

Mr. Ray was fired, Mr. Boyle said, at his insistence because "in my opinion he did not have the ability to function as vp of operations."

Cayman Underwriters has 50 captives on its management roster, although only about 30 are active companies, *Business Insurance* learned. Mr. Boyle said all the clients seem satisfied with the new management team in the Caymans and one new client has been landed since the management change.

None of the clients of Cayman Underwriters prompted the audit, Mr. Boyle said. "No one has lost money and all funds are accounted for."

A routine audit of Cayman Underwriters was pushed ahead by Charter management because "we were led to believe through our own control procedures that there were transactions that should be looked into by our internal audit department," said the Charter Oil executive in Jacksonville.

Mr. Ray contends Charter Oil auditors examined the records of the management company and Charter Oil-owned captives in January and February on a routine audit and gave them a clean audit.

"Then they wanted to see the client companies' books," Mr. Ray said, "and I told them they needed the clients' permission under Caymanian confidentiality laws." Charter Oil fired him for refusing to allow an audit of clients' records without the clients' permission, Mr. Ray contends.

Mr. DeMarco, who in eight years had risen to vp-insurance at Charter Oil in addition to president of Cayman Underwriters, resigned a few days after Mr. Ray was fired.

"Charter felt it needed an audit of the accounts and I felt I couldn't allow it under the Cayman law," Mr. DeMarco said. "The more I said, 'No, you can't see,' the more they wanted to see. They wanted me to stay on to help with the transfer of power but I found it untenable to be advising them on what I thought was not in the interest of the clients."

One Cayman attorney told *Business Insurance* that it isn't easy to answer whether the Cayman secrecy law allows a parent company of a captive management firm to audit the clients' books.

Mr. Boyle confirmed reports that Charter Oil is also reviewing Mr. Ray's expense accounts.

Mr. Ray admits that Charter Oil is objecting to items on his expense accounts. He and Charter Oil are going over them now and Mr. Ray contends he can justify every item he reported.

Regarding the conflict of interest allegation, Mr. Ray contends it involves his duties as a director of a captive company managed by Cayman Underwriters. The directorship was approved by previous Charter manage-

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Charter Oil fires execs

Continued from page 3

ment, he says.

Most captive managers, however, routinely serve as directors of the companies they manage, both in the Caymans and Bermuda.

Mr. DeMarco and Mr. Ray both maintain there is no issue of impropriety involved in their departure from Cayman Underwriters.

Mr. Fitzgerald, the former risk manager, would not comment when reached by *Business Insurance*.

Thomas Terbrueggen, the acting director of risk management at Charter Oil in Jacksonville, was out of town and unavailable for comment.

Another company is known to have requested an audit of client companies' books at a captive management subsidiary once before.

Michael Bott, as president of Risk Treatment Services' captive management company in Hamilton, Bermuda, also refused to open his client books to auditors from parent company Sperry & Hutchinson citing Bermuda's confidentiality laws. Mr. Bott said he was fired last year as a result and is now suing Risk Treatment Services (Bermuda) Ltd. over his dismissal.

Sperry & Hutchinson, parent companyof Risk Treatment Services and broker Bayly, Martin & Fay, confirmed the suit exists. A spokesman added, "Risk Treatment Services and Bayly, Martin & Fay have always considered all client records to be strictly confidential and will continue to treat them as such. Beyond that, we do not comment on matters which are in litigation."

Describing the secrecy law in the Caymans as the most strict of the offshore domiciles, Mr. Ray said, "It's nearly impossible for a U.S. company to run a management company in the Caymans. I don't want it to sound like I'm mad at Charter; I'm not."

Mr. DeMarco added, "I understand Charter's problem; they have a responsibility to shareholders."

John E. Darwood, the newly appointed superintendent of insurance in the Caymans, said he has not been involved in the Cayman Underwriters management upheaval.

Workers harvest higher pensions in strike accord

benefit beat

ABOUT 35,000 United Auto Workers members at International Harvester have won improved pension, health and life benefits in a new three-year pact, ending a 172-day strike. The contract provisions are similar to those negotiated earlier with John Deere & Co. (*BI*, Nov. 12, 1979) and Caterpillar Tractor Co. (*BI*, Jan. 7).

Monthly pension benefits for "30 and out" retirees who retire after Oct.1, 1979, are raised to $800 from $700 and will reach $950 by the end of the contract, which expires Oct.1,1982. Persons retiring under the normal plan after Oct. 1, 1979, will receive a minimum of $16.25 a month per year of service and a minimum of $18.25 by the end of the pact.

UAW members will benefit from new and expanded health coverage. A new hearing aid program picks up the cost of audiometric exams and hearing aids every 36 months. Retirees and dependents will now be covered under the vision program, which pays $24 for an optometric exam, up from $20. The maximum yearly dental benefit was increased to $1,000 from $750 per individual; the lifetime orthodontic benefit was increased to $800 from $750.

Aetna is the insurer for the UAW health care plans.

Also increased were life insurance payments, now $30,000 maximum; accidental death and dismemberment, $15,000 maximum; total disability, $600 a month maximum, and sickness and accident, $315 a week maximum.

Incentive plan

In an attempt to improve profitability, First Chicago Corp. is restructuring its incentive and profit sharing programs for its 10,000 employes to link rewards to corporate performance.

The "pyramid-shaped program" consists of a revised profit sharing plan, a new stock purchase and savings plan and cash and stock incentives for higher-level executives, says Rick Schulz, manager of compensation and benefits for the bank corporation.

Under the amended profit sharing formula, First Chicago will vary its contribution each year from zero to 15% of pay; in the past, the company's formula virtually guaranteed 13% of pay regardless of performance. Contributions in 1980 and 1981 will be based on the higher of the old or new formulas, with the new formula taking complete effect in 1982.

Profit sharing cost the company nearly $10 million last year, a figure projected to increase to $11.2 million this year, including all the new incentive plans. In 1982, the cost will relate to profitability.

Under the stock purchase and savings plan targeted for July, all full-time and part-time employes with at least one year of service, excluding top executives, may purchase company stock through payroll deductions of up to 20% of annual base salary over two years. The purchase price per share will be 75 cents less than market value on a date prior to the two-year period.

If employes choose not to purchase stock at the end of two years, they will receive interest on their savings. If the stock price increases, they may purchase shares at below the market price on day of purchase.

Other incentives include:

- Departmental bonuses for 60 to 80 officers and gift shares of stock for 250 middle managers.
- Performance shares for annual incentive awards and for about 20 top executives.

•

Made any benefit changes? Write Valerie Berg, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611 or call 312-649-5430.

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We help more risk managers manage risks better.

OSHA threatens to close Indiana unit

By JILL KAPLAN

INDIANAPOLIS—Private employers in Indiana may no longer be subject to safety and health enforcement by the Indiana occupational safety and health administration.

Federal OSHA, charging the Indiana unit with poor performance, has initiated action to withdraw approval of the Indiana state plan. The move could cost Indiana as much as $1.7 million in federal matching funds and cause safety enforcement to be taken over by federal OSHA.

Indiana will have four weeks to respond to a letter from Eula Bingham, assistant secretary of labor, that specifies deficiencies OSHA has found. Among the agency's findings, the letter said, were:

- Lack of sufficient industrial hygienists to assure Indiana workers of adequate health protection.
- Failure of Indiana safety inspectors to identify between 28% to 57% of the serious hazards present in the workplace.
- Improper calculation of penalties. An automatic 40% reduction in fines was found in almost all cases.

About 2 million workers are covered by OSHA in Indiana, one of the nation's 10 largest industrial states.

"I have been especially concerned about the lack of health protection for Indiana workers," said Ms. Bingham in the letter. "Three industrial hygienists for a state of Indiana's size and industrial complexity are clearly inadequate."

Other industrial states, such as Illinois and Ohio, each have between 30 to 35 industrial hygienists, a federal OSHA spokesman estimated.

"We believe the state of Indiana has failed to meet its responsibility to protect its working people from occupational safety and health hazards," added Ms. Bingham. "We are beginning the process which would return that responsibility to federal OSHA."

Indiana OSHA plans to fight federal OSHA's action to revoke the plan.

"OSHA's figures are skewed, they're not really correct," responded Indiana Gov. Otis R. Bowen. "All charges are based on subjective material. Our penalties are in line with or better than the national average."

Administration of the program is not the issue, Gov. Bowen contends.

"The issue is one of political expediency for labor," he said. "The determination was made some time ago by big labor—primarily the steel workers—to get the states out of the enforcement business.

"If they can knock out 23 states, they will only have to negotiate with one spot: Washington. That will make it easier for them," the governor added.

Fighting back

"This issue is one of political expediency for labor," Indiana Gov. Otis R. Bowen says of the OSHA closing.

The Indiana state AFL-CIO petitioned OSHA to withdraw approval of the state plan back in 1977. As a result of information gathered in response to that petition, OSHA decided to take the current action to withdraw approval of the plan.

By contesting OSHA's action, Indiana will set into motion a lengthy review process that could end up before the federal secretary of labor.

If Indiana loses the case or does not respond to Ms. Bingham's letter before the four-week deadline, federal OSHA will assume enforcement duties for the private sector. OSHA could submit a separate plan to continue enforcement and consultation for employers in the public sector, however.

Only one state, Connecticut, controls only employers in the public sector while the federal bureau regulates the private sector.

OSHA joins forces with the Small Business Administration to relieve the regulatory burden: Growing pains, page 43.

There are 23 states with plans approved for enforcement in both the public and private sectors.

OSHA plans to increase staff in Indiana in order to offer workers what it feels is adequate protection. The federal staff will expand to 81 from 31 and will include 27 hygienists. The federal agency will soon open offices in Gary, Ft. Wayne and Evansville, Ind.

Indiana may continue operation of its safety and health program pending resolution of the withdrawal action. Thus, employes in the state will be under two sets of scrutiny. No funds may be withheld from the state unit until that time.

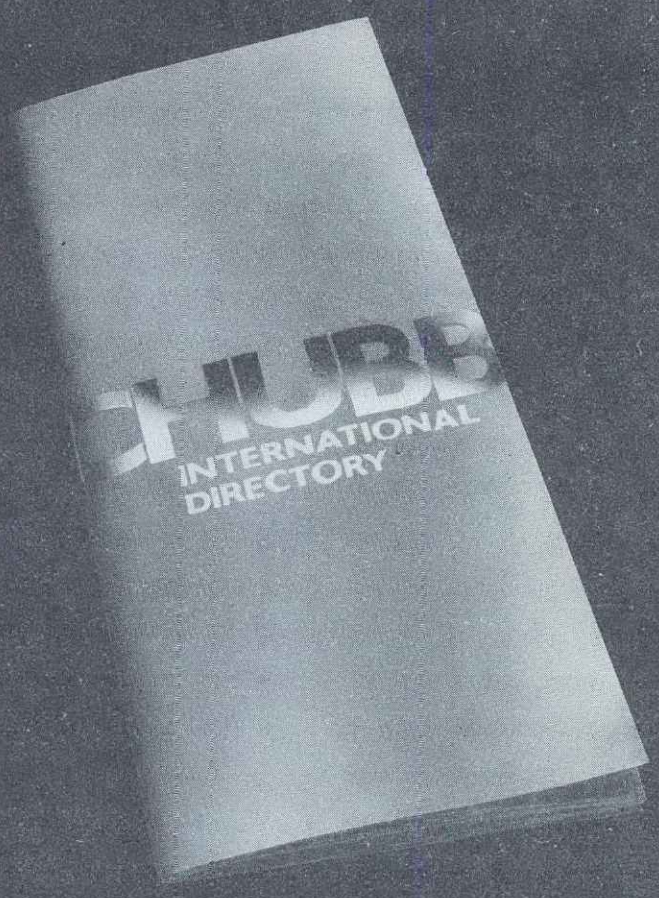
The only other state to be interrogated by the federal safety agency is Wyoming. There has never been a case withdrawing approval of a state plan that has gone completely through the court review procedure. ■

Storms take $14 million toll

NEW YORK—Severe weather continued to plague the Southern states April 11-14, causing an estimated $14 million in insured property damage, according to the American Insurance Assn.

Wind, hail, tornadoes and flooding caused $5 million damage each in Louisiana and Mississippi, $1.3 million in Texas, $2.2 million in Alabama and approximately $500,000 in other areas.

The Insurance Services Office has assigned the storms Catastrophe No. 54. ■



How to avoid foreign entanglements.

There are real advantages in having international insurance placed with the same company that writes the related domestic insurance.

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editorial opinions

Dabbling in insurance

RISK MANAGERS HAVE spoken, loudly and clearly: They don't like the idea of insurance brokers dabbling (as many are now beginning to) in the underwriting business.

According to our most recent Risk Management Board survey (*BI*, April 14), corporate customers think there's an inherent conflict of interest in the diversification underway in the brokerage industry.

The lines of demarcation between brokers and insurers have been growing increasingly fuzzy over the last 10 years. But more recently, in the last two years or so, firms like Marsh & McLennan and other leading national brokerage houses—as well as some small, specialty brokers—have established their own subsidiary insurance companies to take portions of the commercial risks they are charged with placing in the insurance markets.

Moving into new businesses to preserve revenues is only natural for insurance brokers whose commissions have been becoming skimpier for the last half-dozen years or more. Brokers undoubtedly view this kind of diversification as very lucrative over the long run. Take, for example, the ceding commissions on reinsurance business that would be less vulnerable to negotiation if a broker's own subsidiary insurer is the company establishing the ceding commission.

In many cases, brokers have publicly contended their reason for this vertical integration was because it offered a way to reassure underwriters that risks they're taking are being honestly presented and won't turn into rotten business.

■ For many years, brokers and insurers in London have often been one and the same.

But until fairly recently, U.S. customers weren't accustomed to having their suppliers involved in relationships that some see as incestuous.

"I always felt brokers should be on my side fighting for me," said one risk manager who feels betrayed by broker moves into the insurance arena.

It's difficult to say whether broker/underwriter integration will be good or bad for the buyer. But one thing is certain: A broker may have to run a lot faster and work a lot harder to convince clients there are no underhanded dealings with insurers when the insurer happens to be a division of the brokerage firm.

Claimants cause pain, too

LET'S HEAR A cheer for pain and suffering! It is with tongue firmly stuck in cheek that we tell the tale of 34 injured souls who've filed claims against the National Aeronautics and Space Administration for "mental anguish" suffered when Skylab tumbled to earth.

When the elephantine space station decided to descend, of course, nobody was hurt (visibly, in any case). The debris landed in the Indian Ocean and a few nuts and bolts were scattered over the deserts of western Australia.

NASA has been the picture of patience, calmly informing people that their claims received careful and prompt consideration. But no bucks, NASA gently told the anxious and anguished victims of Skylab's precarious journey.

Let it never be said that the government always gives away our money without a fight. Risk managers can take a page from NASA's "tough, but gentle" policy.

(P.S. The U.S. population doesn't have a corner on the how-to-profit-from-adversity game. Most of the 34 claims came from India, England, Pakistan, the Philippines and Canada.)

business insurance

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

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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, 740 N. Rush St., Chicago, Ill. 60611.

Gremlin at work

To the editor: Many thanks for giving our release on Fellows, Henderson and Norman such nice space in your April 14 issue. I sincerely appreciate it.

I must tease you, though, about the headline that ran with the story "Fellows takes over at Swett & Crawford." As I am sure you know, Bill Fellows has been in charge of Swett & Crawford since he assumed the presidency in 1974. I guess the headline gremlins slipped that one in at the end of a long day. In any event, I just wanted to clarify the position.

Nancy Oblinger
Assistant vp
Corporate communications
Swett & Crawford Group
Los Angeles, Calif.

For the record

To the editor: AAU appreciates being mentioned in Jay Lavenson's Perspective article "Corporate aircraft" (April 7).

To set the record straight, we are jointly owned by Chubb Group and Marine Office of America Corp. We therefore not only issue aviation policies on behalf of Chubb Group, but also The Continental Insurance Cos. and other major property and casualty insurers in the United States. Our insureds enjoy the financial backing of our 34 participating and affiliated companies whose admitted assets are in excess of $10 billion.

Daniel M. Izard

Associated Aviation Underwriters
New York, N.Y.

Easier reading

To the editor: In the April 7 issue of *Business Insurance* I noted a small blurb which indicated there was a change in paper used in printing that particular issue. My own personal opinion is that the paper used for this issue is much easier to read than the gloss-coated paper. I don't know how many other comments you might get concerning this, but I certainly will not cancel my subscription if you continue to use the matte-finish paper stock.

David L. Burger
H.C. Gabler Inc.
Chambersburg, Pa.

Don't switch

To the editor: Please don't switch back to gloss-coated paper. It's too hard on the eyes.

Richard L. Pryor
Risk manager
S.J. Groves & Sons Co.
Minneapolis, Minn.

Another vote

To the editor: Regarding a switch back to gloss-coated paper when it is available again:

Don't—this issue is much easier to read!

Patricia J. Spindel
Manager-employe benefits and services
Ampex Corp.
Redwood City, Calif.

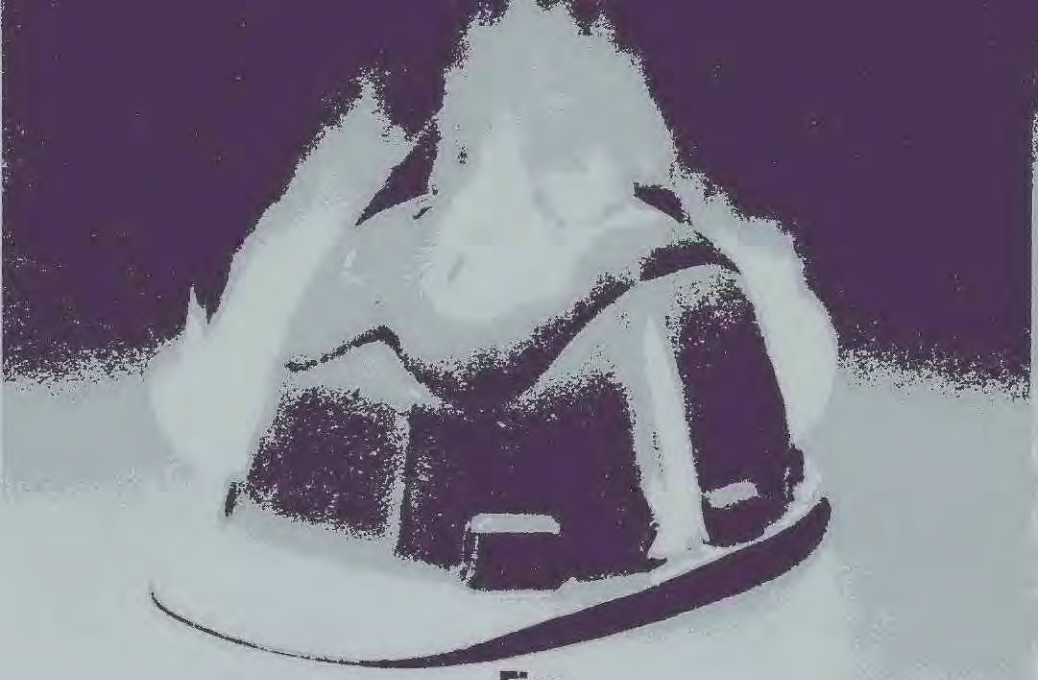
No more glare

To the editor: In the April 7 issue you printed an apology for temporarily using matte-finish paper. This condition is apparently caused by a shortage of the gloss-coated paper. As a regular reader of your publication, I much prefer this temporary situation and would cast my vote for the matte-finish paper.

Although I have not taken time to complain before, the gloss-coat paper is difficult to read. The pages must be moved constantly to shift the glare so the printing may be seen.

The matte-finish eliminates the obnoxious glare and provides a clear concise visual effect. To me, it is the superior paper stock and its use should be continued.

Gary Bird
Insurance analyst
Salt River Project
Phoenix, Ariz.



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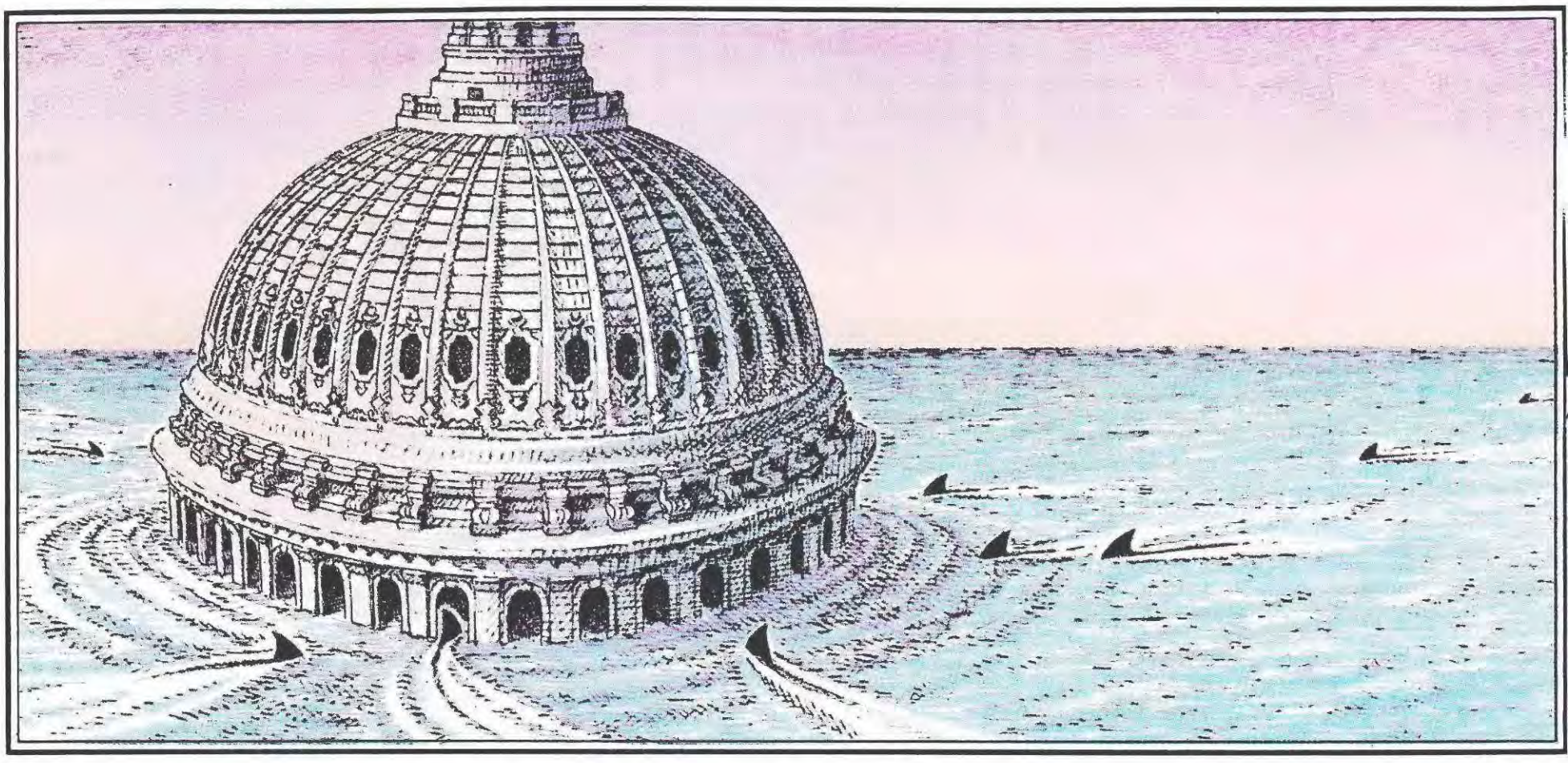
Coping with Rising



No longer possessed of sovereign immunity to liability lawsuits and often lacking adequate revenues, many of the 80,000 government units in the U.S. are vulnerable to unprecedented damage claims – triggering a search for new approaches to insurance and risk management.

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

School districts, state governments, townships, cities and counties all face a number of challenges today which only ten years ago were considered relatively minor.

Foremost among them is the fading of the time-honored doctrine that "the king can do no wrong" – that a government possesses legal immunity to liability claims and lawsuits. In 42 states today, government bodies are vulnerable in various degrees to actions charging negligence on the part of their personnel and are experiencing rapidly rising liability losses. Given this atmosphere of uncertainty, there has been a contraction of insurance capacity for governmental liability.

The exposure of governmental units is further complicated by widespread financial constraints, including cutbacks in federal revenue-sharing programs. Tax revolts such as California's Proposition 13, eroding tax bases in older cities, and legal limits imposed on spending increases have also led to budget reductions – which in turn have meant skimping on maintenance procedures and accelerated deterioration of property. And governments are no more exempt than is business from the burdens of inflation, snowballing pension demands and the financial requirements of OSHA-mandated safety programs.

Against this background, several positive steps have been taken both by governments and their insurers that have already brought about some relief.

Hanging together

Foremost among them is a much greater degree of risk retention. This usually takes the form of higher deductibles or, in the case of larger government units, full self-insurance of selected risks.

For numerous government bodies, however, sizeable risk retention is not feasible – partly because their exposure base can be too small to allow sufficient predictive credibility as to future losses. In this situation, an increasingly attractive alternative is the

Government Liabilities

self-funded intergovernmental insurance pool. With interest in such pools growing as their advantages become more apparent, at least 24 states have removed legal impediments to their formation or are in the process of doing so.

In a pooling arrangement, the total exposure base should be large enough to make loss projections more predictable and reliable than they would be for any risk separately. This reliability in turn should permit lower costs for providing risk protection. Most pools have been formed to fund workers' compensation insurance, but there is a pronounced trend toward broad coverage of property and liability exposures as well.

An insurance pool can be started by virtually any organization of government units. After establishing the feasibility of pooling – which includes detailed analysis of each member's position – and planning for administrative services, the members draw up an agreement covering all aspects of the pool's operation. The pool itself ordinarily provides only the middle layer of coverage for its members. Below it there is usually a layer of individual self-insurance, represented by deductibles. Above it, an umbrella of commercial excess insurance protects against catastrophic losses.

Government pooling in the U.S. is too new to show any long-range results. However, early experience indicates that premium savings range between 10% and 40% compared with conventional insurance. Fixed costs, including claims handling, administration and excess insurance, are running at roughly 25% to 55% of premium revenues. As a result, dividends are being paid to members of pools with favorable operating results.

Improving the role of insurance

Meanwhile, the insurance industry is actively seeking ways to mitigate government insurance difficulties. Several projects are under way to establish precise classification and rating bases for government risks, similar to those in use for business risks. A major drive is also being mounted to define legal liabilities more clearly and equitably under the tort liability system. And the forthcoming introduction of a new comprehensive general liability policy is expected to simplify the municipal liability underwriting process.

INA is a leading provider of insurance products and services to the government market and is expanding its activities to meet today's – and tomorrow's – needs. As the use of self-insurance and governmental insurance pools increases, INA and its subsidiaries are becoming even more deeply involved through underwriting and the supplying of various loss control, claims and administrative services.

Comprehensive services

Recognizing and meeting complex needs, such as those of government bodies, typifies INA's comprehensive approach to increasingly sophisticated insurance and risk management problems.

The Insurance Company of North America was founded in 1792 in Independence Hall, Philadelphia. Today it is the largest component of INA Corporation's international network of insurance, financial, and health care interests. In property and casualty insurance and risk management services, life and group insurance, health care management and financial services, INA and its affiliated companies offer a unique combination of products and services to business and industry worldwide.

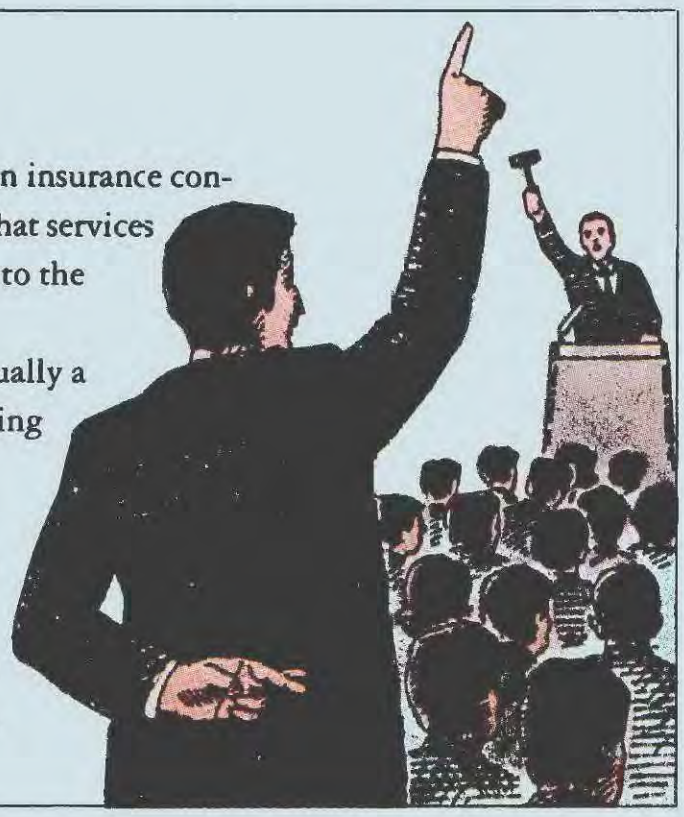
For an informative booklet on meeting the insurance needs of governments, write INA, 1600 Arch Street, Dept. R, Philadelphia, PA 19101.

INA
The Professionals

Bidding for trouble?

When governments ask for bids on insurance contracts, they frequently fail to specify what services the bidder should furnish in addition to the insurance protection itself.

As a result, the winning bid is usually a rock-bottom quote, thus short-changing such essential needs as loss control. More detailed bid specifications can eliminate this drawback and through provisions for loss control or administrative services can have a beneficial effect on government insurance costs.



Florida fines three insurers $25,000

TALLAHASSEE—Three member companies of the Aetna Insurance group have been fined $25,000 by Florida insurance commissioner Bill Gunter for not paying workers compensation benefits as often as required and for failing to refund premiums to employers promptly.

Mr. Gunter said the companies—Aetna Insurance Co., Century Indemnity Co. and Aetna Fire Underwriters Insurance Co.—also committed other violations of the state insurance code, including:

- Paying compensation benefits monthly instead of every two weeks.
- Failing to complete audits and return excess premiums to employers within 90 days.
- Failing to maintain adequate employer payroll records.

around the states

- Failing to maintain a proper evaluation of losses every 90 days so rates could be adjusted to fit an employer's accident history.
- Excessive errors on the companies' policy certificates including improperly computing premiums and benefits as well as failing to outline claims payments.

Rate dispute

RALEIGH—North Carolina insurance commissioner John Ingram has again asked the state rate bureau to stop requiring insurance companies licensed in the state to charge higher rates than they would prefer.

Merchants Mutual Insurance Co. and Cumis Insurance Society Inc. do not want to charge the higher rates for workers compensation insurance.

Mr. Ingram said the rate bureau was "trying to reduce competition and keep the free enterprise system, as we know it, from working in North Carolina."

Last year the North Carolina rate bureau attempted to force First of Georgia to charge higher rates.

Sharing award

ANNAPOLIS—A man who was awarded $50,000 in a malpractice suit must share the award with the insurer that had paid him workers compensation benefits for his injury, the Maryland court of special appeals has held.

Joaquim F. Nazario injured his eye in 1972 while working for his brother's concrete construction company in Prince George's County. He was treated for the injury at Washington Adventist Hospital. A few days later he lost the eye.

Mr. Nazario filed a workers compensation claim and received nearly $29,000 to cover his disability and medical expenses. The payments were made by the American Casualty Co., his employer's insurer.

He also brought a malpractice suit against the attending doctor, A. J. Martin, and the hospital. The case was settled, with Mr. Nazario receiving $25,000 individually and another $25,000 to share with his wife. But a lower court judge held that the company could share in the money awarded individually to Mr. Nazario.

The appeals court noted that the question of whether an insurer can share in a malpractice award "has not been decided in Maryland." But the court added that "it is universally held that a workers compensation award includes any aggravation of an injury which may have occurred through a physician's or hospital's negligence. We see no reason Maryland should not follow the universal rule."

Modified product

ALBANY—A manufacturer is not liable for a product that is altered by a purchase in a way that makes it unsafe, even though the manufacturer knew the machine could not be used by the purchaser unless it were modified, the New York court of appeals has ruled.

The suit was filed by a worker at Plastic Jewel Parts Co. Inc., who was severly injured when his hand was caught in a plastic-molding machine that had been manufactured by defendant Reed-Prentice. The machine as originally manufactured had a safety gate attachment that was designed to prevent such an accident.

Plastic Jewel, however, cut a hole in the Plexiglas portion of the safety gate to enable the machine to stamp out plastic beads, the court said. Reed-Prentice knew Plastic Jewel was planning to do so when it sold the machinery to the factory.

But the manufacturer could not be held liable for resulting damages because "subsequent modifications of a product from its original condition by a third party which render a safe product defective are not the responsibility of the manufacturer."

Railroad accident

BISMARCK—The North Dakota supreme court has upheld a 1978 jury award ordering Amtrak to pay more than $1 million to a Great Falls man and his wife for damages resulting from a railroad accident.

A Grand Forks county district jury had awarded Billy Lee South $948,000 after he was injured in a 1976 collision with an Amtrak train at a crossing. His wife was awarded $126,000 for mental anguish and physical suffering.

Witnesses testified that it was impossible for Mr. South to see the train in time to stop his pickup truck from crossing the tracks. Mr. South contended the train whistle did not blow a warning and that the railroad improperly maintained the crossing sign.

Ky. purchasing

FRANKFORT—Gov. John Y. Brown has set up a special panel to find ways to eliminate politics and put competitive bidding into Kentucky's property/casualty and group benefit insurance purchasing program.

No date has been set for completion of the study, but insurance commissioner Danny Briscoe said "every effort will be made" to have a recommendation on the state's group life policy by June 30, when the current policy with Kentucky Central Life Insurance Co. expires.

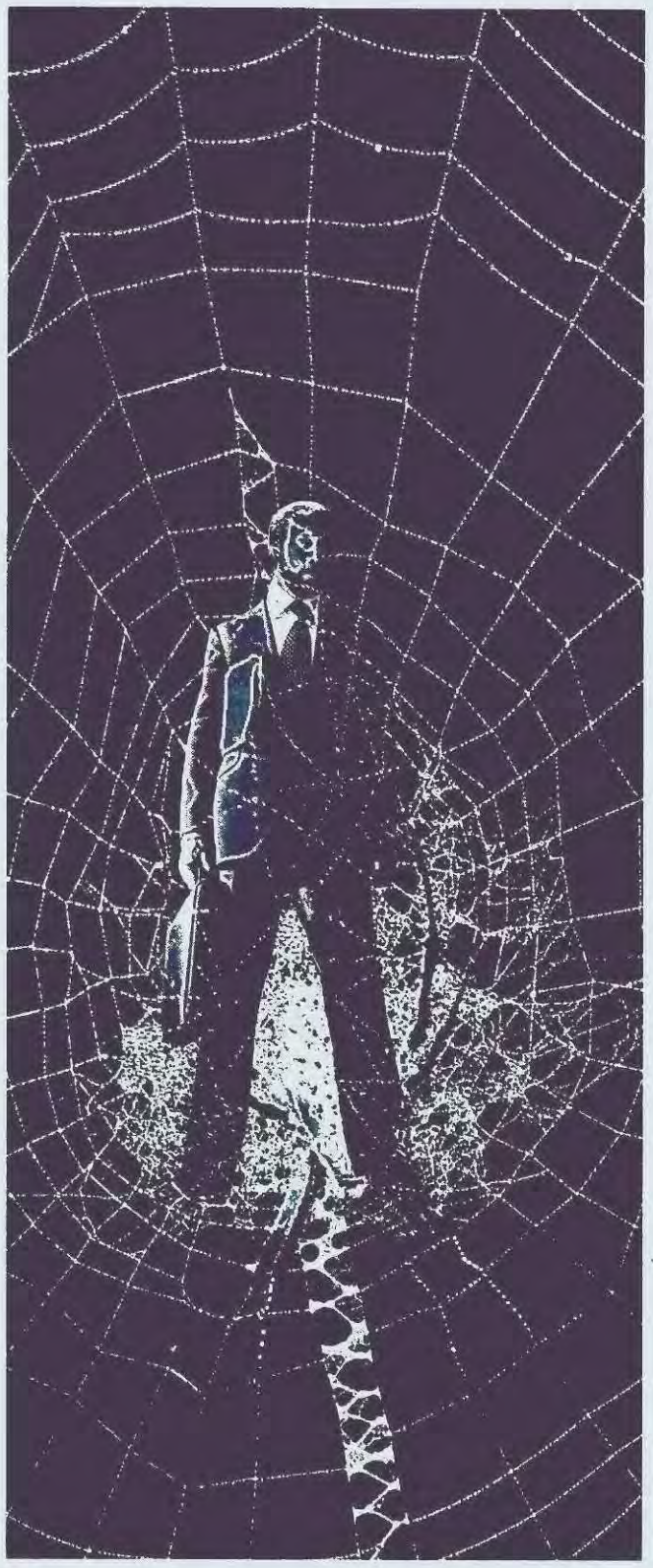
In the past, bids have been taken on the group life policy for state and local school employes, but most other policies have been awarded without bidding. ■

How not to be captive to your captive.

A captive program is not for everyone. But for those seriously thinking about one, an important consideration is how to operate it in a way that doesn't place you in a bind but allows you to achieve your objectives.

Captives can often tie up management time, money, and talent without providing the benefits expected. However, there is a way to avoid being captive to your captive.

AFIA has been involved with captives since they first began to attract the attention of the marketplace. And probably are working with more overseas captives than anyone else. Our role is to eliminate the stumbling blocks that tie-up time, money and management. And because we have been



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RIMS Report

Borden's stance challenges HMO law

By STUART EMMRICH

ATLANTA—Borden Inc. is willing to fight the federal government over regulations requiring employers to offer an HMO to workers.

"There is going to be litigation at some point and we are not afraid to be a test case on this," says Dennis Kairis, Borden director of employe benefits.

At a spirited, sometimes acrimonious RIMS conference debate on HMOs among three company benefit managers and a benefit consultant, Mr. Kairis scoffed at the claims of HMO cost savings, disputed the laws requiring employers to offer HMOs as options and practically challenged the Department of Health, Education and Welfare to haul Borden into court.

Under the HMO Act of 1973, employers with more than 25 employes in the service area of a federally qualified HMO are required to offer HMO enrollment to employes if the HMO petitions the employer to do so.

But Mr. Kairis contends collective bargaining rules allow companies to exclude an HMO option in a contract unless the union bargains for the benefit.

The different mandates of these two laws will force a court fight over this issue pitting HEW, which administers the HMO Act, against the National Labor Relations Board. He predicted the Supreme Court would eventually have to solve the dispute.

Fighting words

"There is going to be litigation at some point and we are not afraid to be a test case on this," says Dennis Kairis.

"We know all about the HMO Act," Mr. Kairis said. "But this is a collective bargaining situation, just as it would be if our unions asked for dental care, a twelfth holiday or five weeks vacation."

Borden's tough stance on HMOs has had results: Only six employes are members of such organizations, out of a possible pool of 1,000.

But Mr. Kairis contended that economics—as much as the company's philosophical position—has played the key role in this low turnout of participants in the HMO.

"We have not found an HMO that has activated us that is cheaper than our present plan," Mr. Kairis said of HMO costs compared with outlays for Borden's largely self-insured benefits. "If we find an HMO that is less expensive than our indemnity plan, then we will pursue it. We haven't found that yet."

For that reason, plus what Mr. Kairis calls Borden's rich benefit package, the company's unions have so far shown "disinterest" in HMOs and have not taken the company to court, he said.

If anyone were to challenge Borden on this, Mr. Kairis said, it would probably be HEW. Even that department, however, might think twice before going to court with the NLRB, he thinks.

"They can't dictate what goes on in the collective bargaining process—and I don't think they want to get involved in that whole ballgame. It will end us all up in the Supreme Court," he said.

Mr. Kairis has some advice for employers whose unions are pushing for an HMO: Play hardball.

"If you are interested in an HMO, your unit can have it—but only if every member participates," he advised the company to tell the union. "We don't offer such things as 10 vacation days for some represented employes and 12 days for

Continued on page 36

RIMS chooses Ozan president, honors members

ATLANTA—Paul H. Ozan is the newly elected president of the Risk & Insurance Management Society for 1980-81. Elected at the annual conference here, he succeeds Berry Griffin, corporate risk and benefit manager for Baker International Corp.

Mr. Ozan is assistant secretary and assistant general counsel for American Greetings Corp. in Cleveland.

RIMS also honored three past and present members:

- Founder Harry Goodell was awarded the President's Award for significant contributions to the development of the organization.
- Past-president Daniel E. Sullivan was presented with the Goodell Award, recognizing him as an active member.
- Edward R. Lloyd, director of insurance for Dan River Inc., received the Richard W. Bland Award for legislative contributions and regulatory activities.

Mr. Goodell, now retired and living in Colorado Springs, helped found the Risk Research Institute in New York when he was with Western Electric Corp. with responsibility for insurance management. He drafted the constitution and bylaws for the National Insurance Buyers Assn., the successor organization to RRI and predecessor of RIMS.

Mr. Goodell is the last recipient of the President's Award; he has established the Harry and Dorothy Goodell Award which will take its place in future years.

Mr. Sullivan, director of risk management and property tax department with Northern Telecom Ltd. in Toronto, was president of RIMS in 1975-76. He is also a past president and national director of the Quebec Risk & Insurance Management Assn. He is currently a director of the Risk Studies Foundation.

Mr. Lloyd has been a member of the RIMS governmental affairs committee since 1974 and is chairman of its workers compensation subcommittee.

Other officers of RIMS elected at the conference were J. Robert James, vp of Chemical Bank, first vp; William P. Stouffer, operating vp and director of insurance at Federated Department Stores, vp-member affairs; C. Jim Spivey, executive director of the risk management committee of Charlotte Mecklenburg in North Carolina, vp-business and industry relations; Marc Darby of La Societe d'energie, Montreal, vp-communications; Edith F. Lichota, manager of insurance and risk management for Kennecott Copper Corp., vp-governmental affairs; Donald T. Browne, vp and manager-insurance division of First Atlantic Corp., vp-treasurer; Steven B. Steinberg, risk manager of J. Weingarten, vp-research; Kathryn H. Carroll, corporate insurance manager of Varian Associates, vp-education. F. Richard Hackenburg of Allegheny Ludlum was elected vp-conference for next year.

Elected at the RIMS conference were Jim Spivey (left), vp-business and industry relations, and Paul Ozan, president.

Insurer competition yields innovative property plans

By SUSAN ALT

ATLANTA—Competition is forcing London and domestic insurers to write boiler and machinery business on a net line basis as part of overall property insurance programs, slashing costs for buyers.

During the last 12 months, HPR underwriters also have reluctantly agreed to participate in all-risk layers of primary insurance in multi-layered property programs for large customers.

These two major innovations in property programs were analyzed here at the RIMS conference.

The innovations are largely attributable to insurers' willingness to accommodate the demands of large buyers, said Norm Barham, vp of Johnson & Higgins in New York.

By combining boiler and machinery risks with highly protected property risk programs, risk managers usually obtain a difference-in-conditions policy using a single underwriter and incorporating a single deductible for all risks. This eliminates the need for a separate boiler and machinery policy, Mr. Barham said.

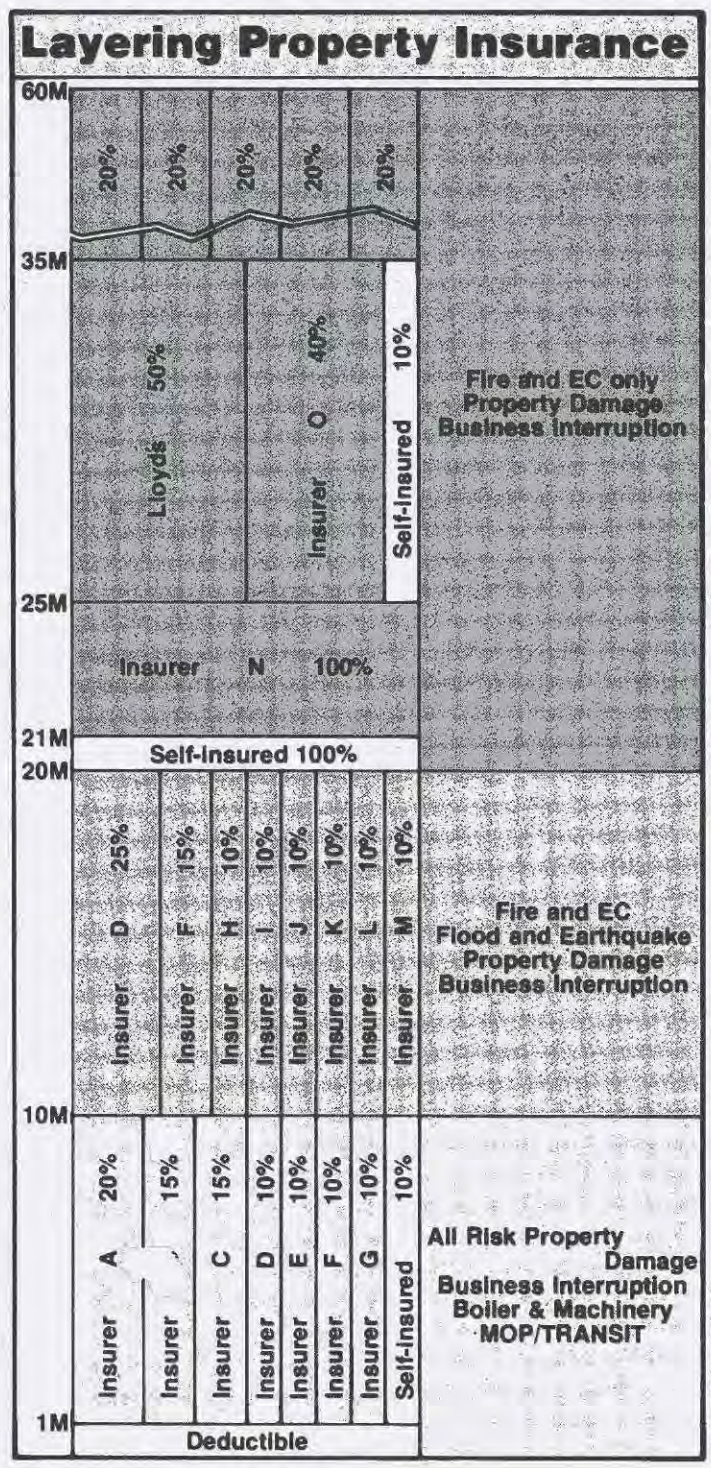
Only a handful of risk managers are presently using combined boiler and HPR insurance, he noted. He cited two instances in which London insurers agreed to provide combined coverage, but declined to identify the companies involved.

Spencer Traver of B. F. Goodrich Co. in Akron just over a year ago completed a similar combination program, thought to be the first of its kind (*BI*, April 30, 1979).

Standard Brands risk manager Joe Mania revealed he was also able to negotiate a combined property and boiler and machinery program using domestic insurers, completing the program in mid-1979. Standard Brands uses a separate boiler and machinery policy, however, underwritten by Hartford Steam Boiler and reinsured 100% by Industrial Risk Insurers.

In a combined boiler/DIC program, it is necessary to eliminate

Continued on page 36



Self-funding cuts work comp costs for many firms

By JERRY GEISEL

RIMS Report

ATLANTA—If your annual workers compensation premium is less than $150,000, setting up a self-insured workers compensation program probably isn't worth the administrative hassle.

But if you're paying more than that, consider self-insuring workers compensation exposures, says Alan Pearce, director of risk and insurance at San Francisco-based Foremost-McKesson Inc.

Self-insurance offers enormous financial savings. Fuqua Industries cut its workers compensation cost 40% by self-insuring, says insurance director William Dodge. The savings are partly attributable to eliminating insurance company overhead charges and state premium taxes.

Paying losses as they occur instead of paying an insurance premium creates significant

Paying losses as they occur aids cash flow, says Alan Pearce.

cash-flow advantages, Mr. Pearce says.

Self-insuring often makes employes more conscious of the need to control accidents. "It may not make sense, but it's true. Self-insurance has a direct effect of increasing the awareness of the need to control losses," Mr. Pearce said.

Self-insuring firms can choose claims administration and loss-control services it needs rather than having to accept a standard insurance company package, he says.

Mr. Pearce advises a company switching to a self-insured workers compensation program to hire a claims administration company. Later the firm may want to consider administering claims itself, as an increasing number of companies are doing.

When hiring an adjuster it's important to know its philosophy on handling claims. Some adjusters like to settle claims quickly, while others prefer to investigate claims thoroughly before making a settlement.

Investigation can also save a company from paying out a big workers compensation claim, says Mr. Pearce.

When Foremost-McKesson recently suspected that an employe complaining of a back injury was malingering, an investigator was hired.

The enterprising investigator took pictures of the "injured" employe lying on his back while adjusting the underbody of his car with a wrench. The investigator also shot pictures of the man chopping wood with an ax. When the pictures were shown before the workers compensation claims court, the surprised Foremost-McKesson employe said he was "dusting" his car.

"With a wrench?" the incredulous judge responded in dismissing the claim.

Getting state approval to set up a self-insured workers compensation program can take as little as three or four weeks, Mr. Pearce noted. But in some states, approval may take as long as eight or nine months because of the detail demanded. The delays in Connecticut are especially long. ■

Calculating savings

Risk managers and their staffs know how important loss control is to a company's finances, but how do they get the message across to top management?

John Morse, director of corporate insurance at Textron Inc., suggests risk managers keep track of accident rates over a three-year period and present those results.

Here are three formulas for showing how the company's loss control program is working:

$$\text{Lost workday incident rate} = \frac{\text{non-fatal cases with lost workdays} \times 200{,}000}{\text{employes' hours of exposure}}$$

$$\text{Recordable injury incident rate} = \frac{\text{total recorded cases} \times 200{,}000}{\text{employes' hours of exposure}}$$

$$\text{Average lost workdays per 100 employes} = \frac{\text{total workdays} \times 200{,}000}{\text{employes' hours of exposure.}}$$

Each formula will show the company's rate per 100 employes. Ideally, cost savings can be shown by comparing how the rates have dropped in succeeding years.

Seize loss control duties for risk department: Execs

By STUART EMMRICH

ATLANTA—Risk managers who abdicate loss contol and safety management responsibilities aren't fully doing their jobs, risk managers say.

"Risk management is more than just providing post-loss funding," said John Morse, director of corporate insurance for Textron Inc. "It is also stopping losses before they happen."

But when Mr. Morse asked an audience of about 100 risk managers at the RIMS conference here how many now had loss control under their direction, only about half said they did.

"I know it's a real headache, but it is something you should really be doing. Real dollars can be saved for the company," he said.

Getting the job is not that easy, however, Mr. Morse and other speakers conceded. A combination of office politicking and a sophisticated selling job to top management may be needed, they said.

Risk managers should not be shy about going to the chief operating officer, if necessary. But they must be armed with accurate information about how much a company loses each year in accidents and have persuasive arguments for how effective risk management can cut those losses.

RIMS Report

At companies where no formal loss control department now exists, the top management should be shown—with loss statistics—how much money is lost on injured workers or how much it costs to replace damage done by faulty equipment.

When loss control isn't in the risk management department, it should be shown how loss control and risk management are inextricably tied together.

Probably the biggest obstacle in taking over loss control duties is getting management to listen to the reasons why it should be done, the speakers said.

"Risk control decisions are not something that are easily communicated to top management. It is something that will take some effort," said Richard Johnson, director of risk management for Owens-Illinois Inc.

Stating the case

Risk managers must have good arguments for how effective risk management can cut losses.

Mr. Morse said he was able to get his superiors to listen by giving them figures that were hard to dispute.

Injuries cost the company $10 million in direct losses for one year for such things as lost work time. But for indirect costs, such as lost productivity, late delivery and administrative time involved in handling the paperwork, multiply loss costs by four, Mr. Morse said.

If a risk manager is successful in getting loss control added to his department, his next challenge is making sure it works.

Richard Hackenberg, assistant treasurer at Allegheny Ludlum Industries, suggests taking a hard line with employes.

If the department doesn't meet its loss control goals at the end of the year, the department head should not be eligible for incentive bonuses, Mr. Hackenberg said.

To get that policy across and to improve the effectiveness of the safety program, risk managers should design an effective communications program, the speakers said.

A booklet with visible endorsement of top management should tell employes what is expected of them. Seminars, awards programs and advertising campaigns should also be geared toward increasing awareness of the company's loss control programs, they said.

A crucial step in loss control management that may be ignored is making sure superiors realize what results have been won.

Using loss figures compiled by his department, Mr. Morse proved to Textron that the firm's accident rate was cut almost in half in the six years the loss control program was in effect.

Rising costs pushed the loss from the average incident to $1,474 from $526 in that six-year period, Mr. Morse said. But the number of incidents per year was reduced to 5,082 from 6,182. ■

EEC product liability bill hurts: Insurer

By JERRY GEISEL

ATLANTA—A key but controversial provision in the European Economic Community's proposed product liability directive could devastate makers of innovative products, an international insurance expert warns.

Under the EEC directive, a manufacturer could be held liable for defects that were unforeseeable and unavoidable in light of scientific knowledge available at the time the product was first put into circulation.

"You can imagine the repercussions this would cause in an industry that relies on innovation," says Douglas P. Chalout, senior vp at INA International Corp. The pharmaceutical, cosmetic and aviation industries, which depend heavily on innovative technology, would be most affected by the developmental liability risk provision, he says.

The directive was proposed in 1976 to create uniform strict product liability law for EEC countries. The current hodgepodge of product liability laws in Common Market countries distorts competition within the EEC.

Strict liability exists in France, Luxembourg and Belgium, but in Denmark, Holland and Italy the injured plaintiff has to prove the manufacturer was negligent to recover damages.

The EEC directive, now pending before the nine-member Council of Ministers, may not ever be adopted, Mr. Chalout indicated.

Some sources say the proposal never will be enacted; other European observers predict enactment within two years. Mr. Chalout says it will be at least four years before the directive is ready for passage.

In the meantime, European countries are individually moving toward strict liability. Germany, for example, has imposed strict liability for drug manufacturers and has set up an insurance pool to compensate persons injured by pharmaceutical products, Mr. Chalout noted.

Liability coverages tend to be much narrower in other countries compared with the broad policy forms found in the U.S., he noted.

RIMS Report

In Great Britain, for example, automobile liability policies exclude coverage for claims arising from drunken driving, driving without a license and driving with faulty equipment such as worn tires.

"Coverage may be broadened but only if requested," Mr. Chalout warned.

Insurance policies may also be in effect only in the country of purchase or in neighboring countries. The usual public liability policies purchased in Australia, for example, only apply to occurrences in Australia, New Zealand and other Southeast Asian countries, he said.

Occasionally, though, certain policy forms may be broader overseas than in the U.S. In Germany, for example, product recall coverage is included in the standard liability form.

The most significant difference in legal systems abroad is that in Europe and much of the rest of the world, judges, not juries, decide liability cases.

As a result, damages awarded overseas are much smaller than in the U.S. because of the decrease in the "sympathy factor," Mr. Chalout said.

However, unlike the rest of Europe, in Ireland juries award damages. Not too surprisingly, "Awards in that country are following the same trend as in the U.S.," Mr. Chalout said. ■

No cheap product coverage

ATLANTA—Competition is driving down liability insurance prices, but never again will product liability insurance be virtually "given away," a leading safety expert warns.

"Product liability insurance is never going to be cheap or be a giveaway," say Roman F. Diekemper, vp at M&M Protection Consultants in Chicago.

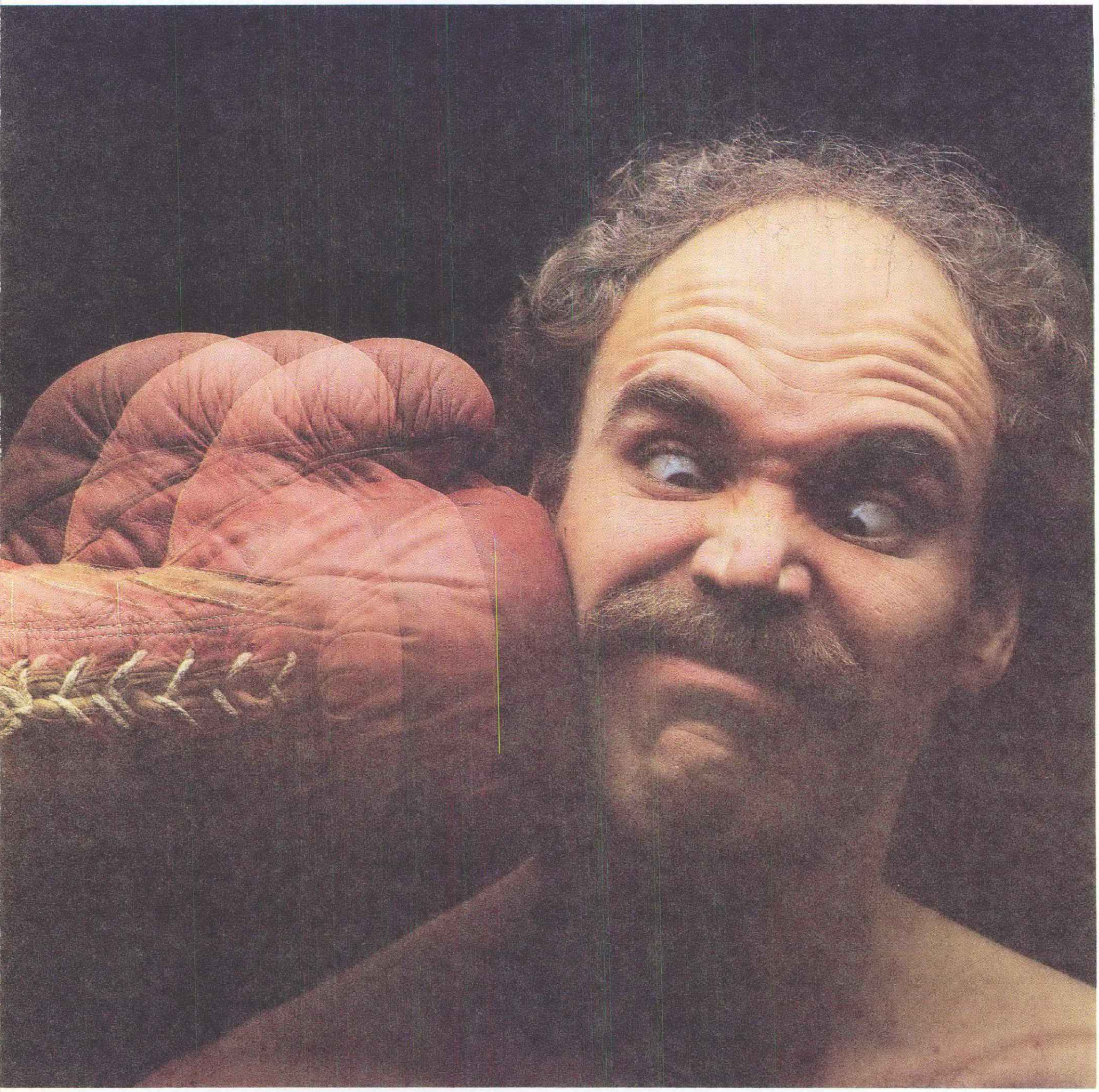
The imposition of strict liability by the courts in the last two decades, claims consciousness among the public and lawyers' contingency fee arrangements will keep the product liability problem from ever going away, Mr. Diekemper predicts.

Manufacturers should reduce the number of accidents through improved product design, he says. But accident prevention efforts at even some of the largest corporations are lagging.

For example, preventable accidents occur if a company's service department doesn't report product failures to the risk management department in time for corrective action.

Mr. Diekemper noted that some 21 states have passed tort reform laws in an effort to give the legal system more balance.

But because these new laws have been such a hodgepodge, with varying statutes of repose, pressure has been building for one uniform comprehensive product liability law to be enacted at the federal level, Mr. Diekemper said. ■



Kidnap coverage market, demand grow

By STUART EMMRICH

ATLANTA—The kidnap and ransom insurance market is now competitive, with bargains available to risk managers willing to shop around, says Robert Foys, vp of Scarborough & Co. of Chicago.

Limits of $20 million are generally available and have even gone higher in some instances, Mr. Foys told a gathering at the RIMS conference here.

"About a half dozen" insurance companies are aggressively marketing their contingent liability programs, Mr. Foys said, with the Chubb Group, INA, AIG, Republic and Lloyd's of London generally recognized as the primary markets in this area.

As the market's capacity to underwrite kidnap and ransom insurance grows, so does the demand for it, speakers said.

No longer are multinational corporations having operations in unstable countries the only ones who think they have to buy protection for their employes.

"Every firm should be covered against the criminal threat of kidnapping," said Richard Rescorla, on special assignment for safety for Continental Illinois National Bank & Trust Co.

"Nobody is ever really safe from kidnap and extortion," agreed Thomas Roemer, senior consultant of the Chicago-based William J. Sako & Associates.

Overseas kidnapping with multimillion-dollar ransom demands get most of the publicity, but an increasing number of small-town firms are being hit by local criminals wanting to pick up a few thousand dollars, speakers said. The criminals see that the bank president's wife is home alone, for instance, so they kidnap her and demand that her husband's employer pay the ransom.

RIMS Report

Problem hits home

Overseas kidnappings with million-dollar ransom demands get the publicity, but an increasing number of small-town firms are being hit by local criminals.

These firms should be looking to buy kidnap and ransom insurance, the speakers said. Limits of up to $1 million would normally be more than enough, they agreed. Losses rarely go higher than $20,000 in these cases, Mr. Rescorla said.

Just as important as insurance, however, is a safety and crisis management team established to reduce the chance of employes being kidnapped and to deal with kidnappings when they occur.

The crisis management team should include representatives from personnel, risk management and corporate communications departments, as well as someone from senior management ranks, Mr. Rescorla said.

The risk manager should be involved in helping employes realize when they might be targets.

One important step is to identify employes who might be outside directors of other large, well-known firms. These employes may not be victimized because of work they do for their own firm, but because they are associated with some other controversial firm.

The company must also be aware of options beyond paying ransom. Sometimes terrorists want food bought for ghetto residents or political prisoners released.

The risk manager should make sure in advance that the company would have a liaison with some government officials in case it has to deal with ransom demands.

The company should also be aware of laws in foreign countries where company officials may be in danger of being kidnapped.

If a country outlaws payment of ransom, as some do, a company should be thinking about how it would circumvent those laws if necessary, either by making the ransom payment in another country or on a boat three miles offshore. ■

Push for a place in negotiations, benefit execs say

By STUART EMMRICH

RIMS Report

ATLANTA—Benefit managers have only themselves to blame if they are left out when management and labor sit down at the bargaining table.

"Labor relations managers can either ignore or pay lip service to an employe benefits manager, depending on what the company's structure is like," said Arnold Glassman, manager of employe benefits at Atlantic Richfield Co. "Ideally, however, he will listen and respond to the employe benefit views. The benefit manager must work at this; no one is going to do it for him."

Apparently not all benefit managers are taking as active an approach in labor talks as Mr. Glassman's staff, if a sample of benefit people attending a RIMS conference seminar is representative.

Most benefit managers said they are either ignored by labor managers who keep tight control over negotiations or are called in only at the last minute to answer questions about how much proposed benefits may cost.

Those who are now left out of the bargaining process got a few words of advice from another benefit manager in the audience: Don't wait to be asked.

"Take the initiative," said Eric Cooper, manager of benefits for Burndy Corp. of Norwalk, Conn. "Most of the time they are going to be shocked that you are going to them. No one has ever done that before."

"Become more involved in the benefits negotiating process," Mr. Glassman agreed. "Let your voice be heard. Participation is the key."

But benefit managers pushing for a place at the bargaining table shouldn't try to go beyond their area of expertise and infringe on labor relations, Mr. Glassman warned. "Don't get involved in bargaining tactics and theory. Don't get stubborn. Try to understand the entire bargaining strategy. Benefits are just a small part of the overall picture."

"But stand your ground if the labor relations people propose something that severely violates a sound plan design," he added.

Benefit managers should also maintain a year-round relationship with the labor relations manager so they can coordinate strategy early.

"If you do your job right you rarely have to scurry around at the final moment, trying to get more data," Mr. Glassman said. Ideally, a benefit manger should be brought into the bargaining process at least two months before negotiations begin, he says.

"You try to set up a benefit strategy that takes into account what the union may want and what the company wants to do so that you can make a reasonable recommendation about where you think your company might want to settle," Mr. Glassman said. ■

Stay in touch

Benefit managers should maintain a year-round relationship with the labor relations manager so they can coordinate strategy early.

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perspective

Covered for life
Periodic payments serve a threefold purpose: the expeditious settlement of personal injury claims, the minimizing of costs and the guarantee of financial security to the injured party.

Structured settlements

By Kenneth K. Keene and Robert J. Ross

"AIR crash kills mother of six"—"Surgery leaves man paralyzed"—"Drug believed to cause birth defects"!

These headlines illustrate the hazards—and costs—of a technologically advanced civilization. Business has increasingly recognized its responsibility to safeguard against such injuries.

When preventive measures fail, however, the obligation of those who "caused" the injury to provide for the financial security of those who have paid the price of modern life has been widely recognized. The structured injury settlement has been advanced as a viable technique to fulfill this obligation by serving a threefold purpose: the expeditious settlement of personal injury claims, the minimizing of costs in the face of ever-increasing jury awards and the guarantee of financial security to the injured party.

The annuity is one basic vehicle in the typical structured settlement concept. The first really major annuity utilization occurred about 10 years ago. A pharmaceutical company marketed a drug that was prescribed for expectant mothers, the use of which during the first trimester of pregnancy allegedly resulted in birth defects. In an all-out endeavor to stem the loss of public confidence in its drugs and to avoid unfavorable publicity and potentially staggering jury awards, the manufacturer opted for voluntary settlements using annuities as a major element in negotiations. This minimized the company's administrative involvement and reduced its visibility in the settlement. It also resulted in a faster disposition of the cases.

Kenneth K. Keene, a frequent contributor to Business Insurance, is senior vp and director of Johnson & Higgins. Robert J. Ross is vp of Johnson & Higgins and has experience in planning structured settlements.

While various types of settlement payments are appropriate, depending on the circumstances of the situation, the annuity approach can protect against certain pitfalls in the traditional lump-sum cash award and the trust fund approaches.

The lump-sum cash method has been attacked as failing to achieve the public policy goals underlying such awards: the financial security of the injured claimant. Primarily, this failure has been attributed to the inability of recipients to manage the cash award adequately.

A recent study shows that 90% of all major windfalls—be they in the form of sweepstakes, lotteries or court settlements—has been squandered within five years! One reason for this, advanced by one commentator, is that a "lump-sum settlement attracts mercenary friends and relatives, unscrupulous advisers, or such funds disappear through poor investments and well-intentioned bad advice." And very often a fee is charged for such advice!

In recognition of the potential hazards surrounding cash awards as well as the increasing size of those awards, corporations have often resorted to the trust fund as a payment vehicle. However, there are certain drawbacks in trusts that should not be overlooked when fashioning a settlement. The trust must be seeded and monitored to ensure its adequacy. And it cannot be assumed that today's high investment yields will prevail over a 20-, 30- or 40-year-plus remaining lifespan. As a result, a goodly amount of claim management and administration is involved.

By using annuities, continuous payments can be ensured for life, although the purchasing power of future payments may be watered down unless there are escalations built into the annuity. This removes the uncertainties the claimant may have about safeguarding or investing a large sum of cash. Since annuities cannot be pledged, assigned or encumbered, the arrangement is relatively immune from outsiders' attempts to share.

Judges, jurors and parties associated with personal injury litigation appear receptive to the use of annuities, in recognition of the financial protection afforded to the injured claimant. In fact, some state legislatures have bills pending that require consideration of an investment fund if the award for pain and suffering exceeds $100,000 in personal injury litigation.

The decision on whether a structured settlement should be used must be made on a case-by-case basis, taking into consideration all relevant factors, i.e., the parties involved, the nature and extent of injury, the amount of damages claimed, etc. Attention should also be given to contingencies, such as the early death of the claimant. A minimum guarantee, such as 10 years of payments, might be included.

An acceptable settlement package may well hinge on inclusion of any or all of the following elements:

- Lump-sum cash—e.g., payment of wages lost and medical expenses incurred to the date of settlement.
- Rehabilitation account—funds for remodeling a residence, special rehabilitation equipment, automobile, etc.
- Attorney's fees—usually determined through separate negotiation. The amount is commonly set by "backing in" after all other items have been valued.
- Income annuity—based on an economic appraisal of the claimant's status before injury, payable on a periodic schedule for life or for a certain number of years.
- Medical annuity—sufficient to provide for ongoing treatment and future medical expense.
- Educational annuity—providing funds to pay for dependent children's education and technical training.
- Reserve annuity—a single sum to grow with interest for restructuring of income payments, extraordinary medical expenses or as a death benefit payable to surviving dependents.

If the annuity contains a residual payment arrangement, proceeds can be made payable to the claimant's beneficiary or the defendant company. Annuities can be for a normal life expectancy or, if appropriate, on a substandard impaired life basis.

A planned settlement approach was used recently in the case of a California woman who was left an invalid as a result of brain damage incurred while under hospital treatment. Between December 1972 and the date of the award,

Continued on page 37

perspective

Risk pool questions linger

By Roger Severns, Emmanuel Kalu, Paul Gronewoller, Barry B. Schweig, Dan Deines

Recently the U.S. House of Representatives approved H.R. 6152, the Risk Retention Act, by a 332-17 vote. This bill is now being considered by the Senate, and with the endorsement of the Carter Administration and powerful supporters like Rep. John LaFalce (D-N.Y.), it appears it will soon become law. However, a number of troublesome questions concerning H.R. 6152 ought to be resolved before enacting this particular piece of legislation.

• One stated purpose of this act is to: "Facilitate the formation and sound operation of risk retention groups organized for the primary purpose of assuming and spreading the product liability or completed operations liablity risk exposure of product sellers."

Yet in Colorado and Tennessee the means of creating and operating risk retention groups in the form of captives and association captives already exist. For example, small firms in Colorado that are members of an association that has been in existence for at least one year can now form risk retention groups. Moreover, in both Colorado and Tennessee capitalization requirements allow the use of letters of credit, a device similar to that proposed in H.R. 6152.

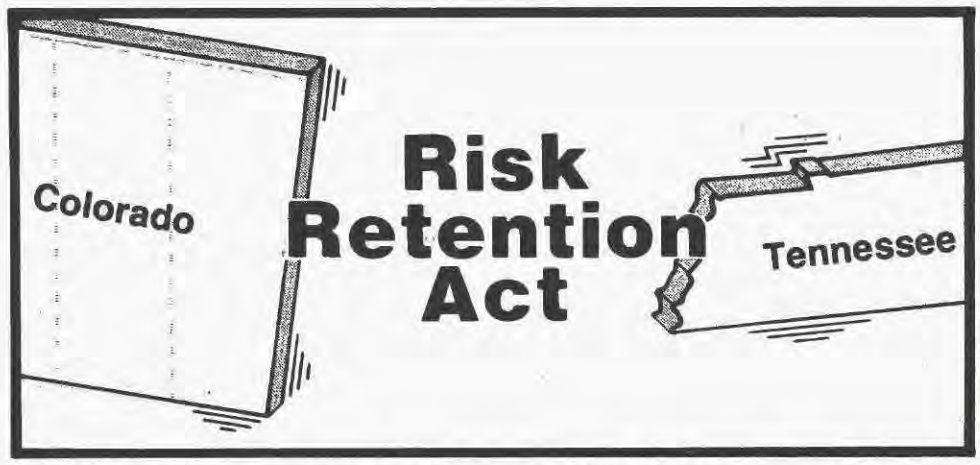
The experience to date in both Colorado and Tennessee is that very few, if any, firms have attempted to form product liability and completed operations risk retention groups. Would the formation of federal risk retention groups change things significantly?

• A second stated purpose is to: "Facilitate the purchase of product liability and completed operations liability insurance on a group basis."

If a risk retention group, consisting of 20 or more dissimilar businesses with dissimilar product liability and/or completed operation risks, attempted to obtain reinsurance on a group basis, the rate it would be compelled to pay would be a composite of the rates for each exposure in the group. It would be difficult to determine if such a group rate were actually lower than the combined individual rates each of the businesses would have paid.

Further, since H.R. 6152 requires assessments to be applied uniformly to all members of the group on a pro rata basis, with no adjustment for the loss experience of an individual group participant, some members of the group could be assessed a fee far greater than any premium required for their individual exposures.

Conversely, if a risk retention group composed of similar businesses with



Map: Toby Roberts

near-uniform product liability and/or completed operation exposures applied for group coverage, it would be easier to determine if the group rate were lower than the combined individual rates. But the problem of some group members being forced to subsidize the loss experience of other group members would remain. How do federal regulators propose to deal with these problems?

• The third and fourth stated purposes are to: ". . . promote competition among providers of product liability and completed operations liability coverage . . . " and ". . . reduce insurance costs for product sellers."

Such goals are no doubt related to the recent past history of sharply increasing product liability premiums. It may be, however, that "cutthroat" competition was a factor in the 1974-1976 product liability "capacity crunch" and, moreover, may be an important factor in the periodic cycles of underwriting losses that plague the industry. If this is the case, would the impact of small businesses forming pools actually bring more underwriting stability or lower premium rates to this volatile market?

• A fifth stated purpose is to: ". . . ensure the prompt payment of valid claims made by persons injured by products."

It is certainly desirable that all insurers pay valid claims promptly. Unfortunately, most product liability claims are not clear-cut, but rather fall into a "gray area" where varying lengths of time are required for equitable claim settlement. Risk retention groups would certainly not have any more incentive to pay gray area claims than would any other insurer, so

Roger Severns is a graduate teaching assistant at the University of Nebraska in Lincoln, Neb., and Paul Gronewoller, Dan Deines, Emmanuel Kalu and Barry B. Schweig are students in the department.

Divorced execs need risk management

By Henry Salfeld

RISK MANAGERS whose principal duty is the protection of their employers against business risks can, nevertheless, rarely avoid answering questions of executives and upper-echelon employes on some personal insurance matters. These days hot topics are insurance problems involved in separation and divorce, particularly with regard to homeowners and auto insurance policies.

Once a husband and wife split up, there's a question over whether some coverages dissolve.

The average homeowners policy covering a dwelling or apartment and personal property inside it as well as personal liability covers the person named in the policy and husband or wife, provided he or she is a member of the named insured's household. Once husband and wife are no longer members of the same household, there is a question as to whether the insurance for the spouse not named in the policy automatically terminates with the dissolution of the household or continues until the termination of the policy. Whenever it terminates, property and liability of the unnamed spouse will no longer be insured.

If, pending divorce, the parties agree that, for instance, only the wife should stay in the house owned by the husband, the homeowners policy would no longer cover personal property of the wife, her liability for occurrences on the premises or accidents on the golf course. She is an insured under the husband's policy only as long as they are members of the same household.

The situation becomes even more complicated if the separation and divorce involve hostility between the two parties and each one tries to financially hurt the other. A typical hostile separation case was decided last year by the New York supreme court, appellate division.

The husband was the sole named insured under a homeowners policy and jewelry floater. After the separation and without telling his wife, he cancelled both policies, replacing them with a fire insurance policy on the house only. She was left without insurance on her personal property when a serious loss occurred. (*Sharon Shapiro vs. The Aetna Casualty & Surety Co.*, 410 N.Y.S. 2d. 625).

Similarly, if the husband used to pay the insurance premium and stops paying after he leaves the wife, he can cause the insurance company to cancel the policy for non-payment of premium by sending notice to him as the named insured at the last known address. The wife loses her insurance without knowing it.

In another situation, the spouse named as an insured requests the insurance company to eliminate the name of the other spouse and his or her property from the policy. Rightly or wrongly, this request is frequently followed in a routine way without notification to the party whose interest is affected.

Under a family automobile policy, presently in effect in New York and until June 1 in New Jersey, and the personal auto policy, approved in many other states, coverage for liability and physical damage is provided for the named spouse and husband or wife "if resident of the same household." Once they stop living in the same household, the spouse who might use the car owned and registered in the other's name is no longer insured for the consequences of an auto accident. A typical example is the case in which several family cars are registered in the wife's name and the husband continues to use the same car after the separation.

Due to the different wording under the family and personal auto policies, there is a question whether coverage continues after dissolution of the

Henry Salfeld was an insurance broker with Frenkel & Co., in New York since 1935 and has been a consultant to that firm since 1974, when he retired as senior vp. He has written extensively on insurance.

how could federal regulators better insure prompt payment of product liability claims?

• A sixth stated purpose is to: "... reduce the outflow of capital and premiums to offshore jurisdictions which have been attracting captive insurance companies of United States parent corporations."

In the past several years, captives have been formed in many offshore jurisdictions, primarily for two reasons: (1) an advantageous regulatory environment, e.g., reduced reserve requirements, and (2) favorable tax rules, specifically, the U.S. Internal Revenue Service classifies offshore group captives with 10 or more members, each controlling less than 10% interest in the captive, as non-controlled foreign corporations.

This means potentially significant tax savings and is, therefore, a strong incentive for offshore captive formation. Since H.R. 6152 apparently does not create a situation more advantageous to potential pool participants, how then can it reduce the use of offshore captives?

• Finally, an implicit purpose is to: "... regulate, directly or indirectly, the formation or operation of approved risk retention groups with respect to ... product liability or completed operations liability risk exposure of their group participants."

This implies that the captive laws of Colorado and Tennessee would be preempted with regard to product liability and completed operations. If the federal government wants to pre-empt state regulation, either just for product liability and completed operations or for a broader range of exposures, is the piecemeal approach exemplified by H.R. 6152 really the best procedure? ■

To avoid losing coverage for separated spouses, it pays to issue policies in both names.

household if the owner of the car permits the other spouse to continue using the car still registered in his name.

These are some of the complications resulting from separation and divorce. To avoid them and others it is, therefore, advisable to issue policies in both names. When separation, legal or not, is impending, both spouses should discuss the continuation of their property and liability insurance with their brokers, agents or lawyers, arrange for the separation of their interests under existing policies and the issuance of new ones to take care of the change in exposures.

Financing losses via insurance places heavy burden on buyer

By Hector Weinstein

The hidden cost of insurance is becoming an onerous burden. It is ultimately placed upon the consumer, but at a price which, because of its inflationary nature, hurts everyone.

Premiums – Claims + Recovery = Performance

This formula, so familiar at times of negotiating new rates, does not reveal the "load factor" so carefully veiled in order to avoid "scaring the prey." Neither does it reveal the real culprit that unleashes the power of such factor, namely claims, or rather, poorly recovered claims, plus overinsuring in order to protect profits.

It is very difficult for those who are directly prejudiced as a result of loss or damages not to revert to underwriters in order to recover them. But what lies behind the curtains, carefully veiled, is the fact that utilizing the insurance companies to "finance" our losses, or rather our profits, can prove onerous.

The vicious circle starts with a good purchase. Let's use for this example coffee bought at $1.58 a pound in January for shipment in February. At the shipment's arrival the sound market value is $2.17 plus 10%, totaling $2.39. The resulting spread of 81 cents can become a nemesis for both insurer and policyholder.

Let's assume that 150 bags were not delivered. That would result in about 20,175 pounds at $2.39 or, $48,218.25, while the CIE value claimable from ocean carriers may turn out to be about $1.61, or $32,481.75, a difference of $15,736.50. That isn't peanuts.

One can easily see from this example that if many claims turn out during the yearly period, and several claims of this type are among them, a negative performance will result. This will obviously call for an increase in the rates in order to bring the performance back into the black.

Hector Weinstein is director of the insurance and claims department of Imperial Commodities Corp. in New York.

Profitable plan

Write your policy to share profits with your underwriters, says Hector Weinstein.

At this point, the underwriters must carefully present their case in order to avoid scaring the policyholder and provoking him to move to another underwriter, leaving the insurer with a net loss. A good underwriter will very intelligently present the statistics to the policyholder and call for understanding and assistance in order to eliminate the loss status in its performance.

Using again a hypothetical case, it will look like this:

Premiums – Losses + Recoveries = Performance

or

1,000,000 – 2,000,000 + 1,200,000 = 200,000

One will then say, "Ok, you had a profit of $200,000, we are ok, right?" Wrong. For the actual calculations will show a different picture, and the wise underwriter will present it thus:

1,000,000	Premiums
2,000,000	Losses
600,000	Overhead cost
(1,600,000	
1,200,000	Recoveries
(400,000)	Net loss

Do you now see the picture? The apparent profit becomes a net loss.

How can this be? Granting that the load factor may vary in direct relation to the amount of premiums and losses, the explanation is obvious. It does cost the underwriters to handle your claims, therefore the overhead expenses plus a reasonable percent for profit usually turn out to be about 30% in the $800,000 premium bracket. Therefore, it costs underwriters $1.30 for each dollar paid in claims.

The truth is, however, that it costs you 30 cents for each dollar you collect.

It is a question of cash flow and for your expert financiers to decide whether it is really profitable to pay that kind of interest to protect your profit, not your actual losses.

Then what is the purpose of insurance? The purpose of insurance is to protect you from a catastrophe and to promptly recover the necessary cash to keep operating after actual losses. To try to make a profit utilizing a loss in order to get back some of the money paid in premiums to underwriters is a mirage and it usually boomerangs in the way of higher premiums.

The ideal is to keep your losses to a minimum and to write your policy in such a way as to be able to share profits with your underwriters. In that way, you are protected in case of a major loss at a reasonable rate.

My suggestion is to delve into this magnificent subject and determine, with the cooperation of your insurance broker, which is the best plan. ■

Structured settlements fill needs

Continued from page 35

she had incurred medical expenses in excess of $500,000. She was awarded $5 million. The settlement provided approximately $2 million up-front money, with the balance in payments of $63,000 per annum for the cost of future medical care estimated to be in the millions. Data regarding the cost of the annuity is not available, but certainly the purchase price was much less than the $3 million balance from the gross award.

Similarly, a recent Illinois malpractice award was made to a brain-damaged child in the form of an annuity that could pay out more than $4 million over a normal life expectancy period. The child was awarded a lump sum of approximately $600,000 and a lifetime annuity that cost $600,000. Incidentally, the insurer's limit of liability was $2 million.

Certainly the benefit to the corporate defendant and/or its insurer cannot—and should not—be overlooked. The annuity settlement may substantially reduce the cost of achieving financial security and independence for the injured party, while at the same time making more than adequate provision therefor.

One benefit to the claimant—which should play a significant role in negotiation efforts—is the favorable federal tax treatment of the annuity. Under Section 104 (a) (2) of the Internal Revenue Code of 1954, a claimant may exclude from gross income the amount of any damages received as a result of bodily injury.

However, tax liability would be incurred on any income produced by the investment of the lump-sum award in an income-producing scheme. Very often, a lump-sum award for future damages is discounted to present value to take into account the income to be generated by its subsequent investment.

The amount of the lump-sum award plus the estimated future income to be generated by its investment represent the total amount of awarded damages. This means, in effect, that a portion of the claimant's damages is taxable!

By contrast, as held in Revenue Ruling 79-220, if the defendant or its insurance company simply promises to make a series of payments to the injured party and retains exclusive control over the annuity contract, the claimant never has constructive receipt or economic benefit of the lump-sum annuity consideration. Thus, the investment gain is not taxable income to the claimant or to his estate.

In many instances, the defendant has a moral, if not legal, obligation to make an injured party as "whole" as possible—something dollars alone may never achieve. By demonstrating an interest in the person via a structured annuity settlement—by attempting to provide for rehabilitation, financial independence and self-respect—the defendant can fulfill that obligation. ■

Exchange needs direct risks: Execs

By STUART EMMRICH

ATLANTA—Without risk managers' direct business, the New York Insurance Exchange won't succeed, a panel at the RIMS conference here agreed.

Reinsurance and foreign risks alone won't be enough to justify the hopes pinned on the exchange by its supporters, they said. Exchange rules requiring that domestic risks first be rejected by Free Trade Zone insurers now bar direct access to the fledgling markets.

"If we as risk managers want to market a piece of business in the free enterprise manner, we ought to be able to go directly to the exchange as we now can to London," argued William L. Hyland, director of insurance for General Telephone & Electronics Corp.

The barrier will prove counterproductive to the exchange, Mr. Hyland said, particularly during the current competitive market that "doesn't justify the exchange, at least not today.

"I walked past the exchange the other day and looked in the window. If I went in, I would have been the only one there besides the underwriters," he said.

If the exchange ever accepts direct business, risk managers can benefit, Mr. Hyland added. "The exchange does offer the insurance buyer another market to London," he said. "And it is bound to be helped by the current vogue that has the buyer increasingly wanting to meet the underwriter. It is a lot easier to get to New York than to get to London."

RIMS Report

Other risk managers apparently wonder if they have anything to gain from the creation of the exchange.

"Will it address itself at all to the daily needs of us out in the hinterlands, such as providing another market for kidnap and ransom or D&O insurance? Or is it going to confine itself to increasing capacity and reinsurance?" asked one risk manager who attended the seminar.

"It will eventually have to open itself to such lines as D&O," said Andy Barile, a member of the underwriting syndicate formed by Aneco Group. "It will have to if it wants to be competitive."

Kenneth Hecken, senior vp at Johnson & Higgins, said the exchange at first offers a reinsurance outlet for a risk manager's insurer that might not be interested in taking a large piece of kidnap and ransom coverage, for instance. But later the exchange might take direct risks, he said.

"I think you can say the exchange will become a significant third market," Mr. Hecken said.

Faith in the stability of the exchange will have to be established before risk managers will send business its way, Mr. Barile said. "They have to be confident that the security offered by the exchange is the same that is offered by Lloyd's."

Unlike Lloyd's unlimited liability requirement for members, the liability of a New York Insurance Exchange syndicate is limited to its capitalization.

To cover insolvencies, each of the 17 syndicates deposited $500,000 in a special fund and agreed to put up another $500,000 if the governors request. Also available is the surplus generated by 2% of the exchange's premium volume. ■

Getting competitive

"It will eventually have to open itself to such lines as D&O," Andy Barile says of the New York Insurance Exchange.

University offers home study

MADISON, Wis.—The University of Wisconsin is offering a three-credit, independent study course, 560-Risk Management, focusing on the risk manager's function in business, risk identification and measurement fundamentals, the tools of risk management, types of insurance contracts and implementing insurance decisions.

Students, who may enroll at any time and have one year to complete the course, mail their assignments to the university for comment and correction by specialists in the field of risk management. The course fee is $68.

For more information, write Independent Study Coordinator, Department of Business and Management, University of Wisconsin-Extension, Room 758, 1 S. Park St., Madison, Wis., 53706. ■

Small brokers may work best, risk execs say

By JERRY GEISEL

RIMS Report

ATLANTA—Small local brokers sometimes can provide the best service to huge multinational corporations, says Fred Molineux, manager of corporate insurance for Johnson & Johnson.

"We need surety bonds only occasionally and then we need them fast. We find the local agent has the clout to get the job done fast," Molineux said.

A local agent has a powerful incentive to move quickly since placing a risk for a company the size of Johnson & Johnson is a significant chunk of business, noted John W. Gussenhoven, assistant vp.

In a wide-ranging panel discussion of how companies can get the most out of their insurance brokers, Mr. Molineux warned of the danger of using more than one broker to tap the reinsurance market.

Underwriters who keep seeing

Brokers expect business based on trust, says Charles Tagman.

the same risk presented to them will end up turning it down, Mr. Molineux said. "The buyer ends up as the big loser."

The risk manager should have brokers submit proposals on how they would go to the market if they were retained to place a risk, Mr. Molineux suggested. The risk manager should select one broker to obtain the coverage.

The account executive who deals with the risk manager does not have to be a technical expert. More important is the account executive's ability to tap technical expertise in his firm, he said.

"The account executive is like the quarterback for all the resources the broker is mustering on behalf of a client," he said. The account executive has to understand the client's product and corporate philosophy and must translate the risks' needs to the brokerage.

Aside from brokering insurance and providing loss control services, a broker can aid the risk manager in setting up a risk management manual and in translating risk management terms for top management, said Walter Tomenson Jr., vp and senior account manager for Marsh & McLennan's financial institutions department.

Risk executives can expect brokers to help with safety and loss control seminars at a risk manager's company, he added.

Brokers, in turn, expect a relationship based on trust, honesty and consonance with the risk manager, said Charles Tagman Jr., executive vp and principal consultant with Betterley Consulting Group.

One member of the audience asked what to do if a broker is hired because of political connections to senior management rather than for the quality of service.

The panel members said there is no easy answer. Mr. Tagman suggested that as risk management becomes more sophisticated, a bigger share of business will be placed on a what-you-know basis instead of a who-you-know basis. The good-old-boy network of brokering insurance is going by the wayside, Mr. Tagman said. ■

More execs opt for tailor-made policy

By SUSAN ALT

RIMS Report

ATLANTA—Tailor-made insurance policies negotiated and written jointly by buyer and insurer with the help of a broker may become standard fare in coming years for sizable risks, judging from the acknowledged popularity of so-called manuscript forms now.

At least one risk manager thinks manuscript policies are "the only way to go." But brokers and insurers seem far less ready to admit the advantages of working out tailor-made insurance contracts.

"If there's a major risk, there's a need to define that risk carefully and underwrite it accordingly. I don't think standard types of contracts can be adapted to meet the needs of large risks," George Sterling, risk manager for Burroughs Corp. in Detroit, told *Business Insurance*.

Manuscript policies may make the lives of insurers and brokers more difficult, but negotiating individualized coverage is critical in order to have broad, unquestioned coverage when losses occur, Mr. Sterling said. "This is what we have to do as risk managers to protect the interests of our shareholders," regardless of how much underwriters may balk at the idea, he said.

'Manuscripting is essential" in many situations, he said.

Mr. Sterling assumed the role of devil's advocate, urging wider use of manuscripted policy forms by corporate insurance managers at a controversial discussion among six panelists at the annual RIMS conference here.

Caution advised

"A simple term to describe something isn't as clear as you think," says William Hahn.

Negotiable coverage

"I do expect a contract which addresses my legitimate needs," says George Sterling.

Photos: Susan Alt

Manuscripted policies are undeniably becoming more popular among corporate risk managers, said John Derby, vp of special accounts for Royal Insurance Co. in New York. More than three-fourths of all his accounts generating more than $100,000 a year in premiums are manuscript, while virtually none of the policies smaller than that is tailor-made.

But sometimes manuscript policies are nothing more than an ego trip for a risk manager using purchasing power and leverage to gain concessions and broad tailor-made coverage from an insurer, Royal's Mr. Derby contended.

Nonetheless, "if a policy has a clutter of endorsements, a manuscript form might be in order," he conceded.

Robert Wigger, senior vp of Alexander & Alexander's Detroit office, sees fewer manuscripted liability policies now than he saw 10 to 15 years ago, although manuscripted property policies for larger accounts have become routine.

The trend toward simplification of policy wording accounts for the growth in popularity of tailor-made, individually negotiated policies among more sophisticated risk managers, said William Hahn, consultant with the George Betterley Consulting Group in Boston.

Although Royal Insurance commonly negotiates tailor-made coverage with its customers, there are still "some very large insurance companies that resist very strongly any suggestion of a manuscript policy," noted A&A's Mr. Wigger.

"There's no point in manuscripting a policy simply to manuscript a policy," advised Mr. Hahn of Betterley Group. "If you can buy a policy off the shelf that does the job, do it."

The worst possible reason to work out a one-of-a-kind policy form, he says, is to "get something covered that the buyer doesn't want to disclose to the underwriter." His implication was that risk managers have been known to swing deals with insurers without revealing all of the exposures.

Mr. Sterling of Burroughs jumped to the defense of risk managers who demand manuscripted policies for property and liability risks, denying they do it for an ego trip or to deceive insurers into unwittingly providing coverage.

"I'm troubled by some of these comments," he fretted. "I hope you're not suggesting" that most companies' risks can simply be stuffed as square pegs into the round holes of standard forms. Indeed, Mr. Sterling made it clear he thinks the opposite is true, that most companies have unusual enough and complex enough risks that manuscript forms are not only warranted but essential.

"I often wonder, I confess, which comes first: The risk that needs to be insured or the printed words of the standard policy," said Mr. Sterling, indicating his disdain for the insurance industry's reluctance to readily accommodate legitimate needs of commercial customers.

Mr. Sterling said he was "squirming" as he listened to all of the words of caution from the other four speakers sharing the panel with him. Over the years, he said, he has seen many situations

where tailor-made policies were necessary, hardly demanding the kind of cautious approach being urged by others.

"I don't expect special treatment from an insurer, but I do expect a contract which addresses my legitimate needs. The words tailor-made are frequently used and they don't escape my management," Mr. Sterling noted. Burroughs executives have a right to expect him to negotiate the best possible tailor-made coverage for the firm in his capacity as risk manager, he believes.

There are words used in standard policy forms that are particularly troublesome, including "territory," "fire" and "occurrence," to name a few, Mr. Sterling said. Using manuscript forms can often solve some of these problems.

If property coverage only extends to worldwide losses, he illustrated, it wouldn't cover losses involving satellites or space operations. "It would appear worldwide coverage is not enough; universe comes closer to the mark. The future use of satellite computers forces me to think this definition of territory covered should be broadened to include more than our own earth."

Moreover, he urged, "fire should be broadened to include friendly fires."

"Nobody reallys knows what 'occurrence' means in a policy," he contended. "I have extreme difficulty with this."

The only way to make policy coverage understandable is to negotiate a manuscript form, he added.

Early on in the panel discussion, however, A&A's Mr. Wigger had said he prefers to work with standard insurance policy forms than with manuscript forms because standard coverage serves the needs of nearly all clients, contrary to Mr. Sterling's view that standard forms don't usually do the proper job.

Standard policies have passed the test of time and policy concurrence and compatibility is ensured, Mr. Wigger said. This offers significant advantages to the buyer, he argued.

A potential problem with a tailor-made policy is that insurers underwriting excess layers, who are expected to adopt the language in the tailor-made primary policy, will sometimes refuse to participate in the higher levels of coverage, Mr. Wigger said. They may decline to follow, particularly if there are risks covered in the manuscript policy that excess insurers haven't included in their reinsurance treaties, Mr. Wigger added.

Mr. Derby of Royal warned, too, that if an excess insurance policy dips down to loss levels that are too low, insurers could begin arguing over who will pay for losses when a manuscript primary policy is present. "It's a good practice to try and get the primary limits up as high as possible" when a manuscript form is involved, he advised insurance buyers.

Some corporate risk managers negotiate broader manuscript insurance policies than they need, pushing the premium price up higher than necessary, warned Betterley's Mr. Hahn. "Don't throw in the kitchen sink, just to throw it in," he urged. "If you do, you might be paying too much money for coverage you really don't need."

Although manuscript policies normally contain a good many words excerpted from standard policies, the nonstandard "plain English" used to describe the coverage often causes problems when losses arise and claims are submitted, speakers agreed.

"One problem is that a simple term used to describe something isn't as clear as you think," Mr. Hahn said. "Sometimes the standard policy wording has been tested and upheld in the courts and is safer to use than simplified wording that is untested," he explained.

If there's an argument over coverage provided under a tested standard policy form, any vagueness of terms or disagreement will often be interpreted in favor of the buyer, forcing the insurer to pay the claim, speakers agreed. But if a manuscript policy using unusual language spurs a legal battle, the court will more commonly say that the buyer was negotiating equally and has no right to the benefit of the doubt, they warned.

Aside from coverage advantages, the enforced discipline of having to thoroughly read and review the manuscripted policy form on a regular basis is a good reason by itself to negotiate nonstandard coverage, contended Mr. Hahn. ■

Know reinsurer on high limits: Panel

By KATHRYN J. McINTYRE

ATLANTA—If you're buying more than $10 million of coverage from an insurer with less than $400 million in surplus, investigate the reinsurance behind your policy, advises a reinsurer.

"Gauge the reinsurance to gauge the viability of the program in the future," suggested Tom N. Kellogg, senior vp of General Reinsurance Corp.

Reinsurance is more important to the risk manager today, Mr. Kellogg told a seminar on reinsurance at the RIMS conference here. "Reinsurers are carrying a larger load with increased values and limits."

An insurance company is liable for claims even if its reinsurer doesn't cover the loss, Mr. Kellogg noted. But if a company writes too large a limit for its surplus position and its reinsurers don't pay for a loss, the risk manager may be left holding the bag, Mr. Kellogg suggested. Checking the reinsurers behind smaller insurers issuing large limits is good risk management.

If Lloyd's of London is the reinsurer, rest assured the loss will be paid, said Robin A.G. Jackson, nonmarine underwriter for Merrett Dixey Syndicates at Lloyd's.

RIMS Report

In a strong defense of Lloyd's against detractors who point to current loss problems with the Sasse Syndicate, Mr. Jackson told the seminar: "There are 18,500 members of Lloyd's; there are only 108 members of Sasse. When American Reserve and Allstar went out of business in the U.S., no one suggested The Travelers would," he snapped.

Risk managers should be concerned about who is reinsuring their account, Mr. Jackson agreed. Illustrating that reinsurers do try to bow out on claims payment, Mr. Jackson recalled that a one-time small reinsurer for Merrett Dixey is now refusing to pay a loss.

"They say they are no longer in the reinsurance business," Mr. Jackson said incredulously. He intends to sue the German insurance company for payment on principle even though the money at issue is a small amount.

Every underwriter today is courting financial problems by underwriting risks at inadequate rates, Mr. Jackson continued. Investment income projections are pushing premiums way too low for good underwriting, he fears.

Behind the scenes
Reinsurers are carrying a larger load with increased values and limits, says Tom N. Kellogg, senior vp of General Reinsurance.

"Let's get back to basics in underwriting," Mr. Jackson pleaded.

The lead underwriter for almost all directors and officers liability insurance and most bankers blanket bonds at Lloyd's revealed some of what he considers basic to underwriting.

Before agreeing to underwrite a risk, Mr. Jackson asks how long the company was with its previous insurer, how long it has been with its broker and how long the risk manager has been in his job. Mr. Jackson says he is looking for long-term relationships and answers to these three questions indicate how long he can expect to insure a risk.

Risk managers considering a foray into the reinsurance business were also cautioned by the panelists against big expansion in the current low-priced, highly competitive market.

"There is always room in the reinsurance market for a strong, respectable company, provided management is committed for the long pull," observed Robert Hodson, chairman and chief executive officer of the reinsurance intermediary G.L. Hodson & Son Inc. "But right now there are more pitfalls to trap a novice in this soft market."

Mr. Jackson offered: "There's no doubt that if you enter the international reinsurance market today, be prepared to enter very slowly and be prepared to lose a lot of money."

Noting that 45% of Merrett Dixey's business is reinsurance, Mr. Jackson conceded his warning probably sounded as though he were trying to protect his own turf. But he stressed that anyone getting into the reinsurance business had better be committed to staying in the business.

"If you do it for taxes or because everyone else is, you'll get your head handed to you," he said. ▪

CALIFORNIA MARKET REPORT

A special section in the June 9 issue of Business Insurance

In many ways California is the most active and progressive insurance state in the union.

Many regulatory innovations have created a climate conducive to healthy competition as well as readily available coverages and services, making it easier for risk managers, their brokers and agents to transfer risks and protect their companies' workers and assets.

Highlighting and analyzing the California insurance and services market, the editors of *Business Insurance* will present the readers of the weekly newsmagazine with an up-to-date package of information that will include reports and interviews such as:

- The active California excess and surplus market;
- Special characteristics of the California brokerage community;
- The huge commercial insurance market in the state and how it is regulated by a tough and well informed regulatory department;
- An analysis of the fastest growing commercial insurance buying areas of the state along with a score card of the leading brokers and underwriters in these areas;
- The state of competition among agents and brokers in California and how this compares with other states around the nation;
- Views of risk managers and other company insurance buyers regarding the quality of services available to them from in-state and out-of-state headquartered suppliers.

If California is your market, or part of your market, the special section in the June 9 issue represents an outstanding advertising opportunity to register your presence in that state with a dominant message which will reach the largest and most influential audience of risk management/employe benefits executives along with the thousands of agents, brokers and service organizations who cater to their needs.

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Fund dividends

The Associated Industries of Florida Self-Insurers Fund will pay out more than $500,000 in dividends to members with loss ratios of less than 70%. The fund was started in April 1978 with 16 companies and has grown to 560 firms paying annual premiums of $11.8 million.

National health insurance

Speak up on law, benefit execs told

By KATHRYN J. McINTYRE

ATLANTA—Confronted with the inevitable adoption of national health insurance and more laws governing employe benefit plans, benefit managers must speak up and shape the laws, advised two speakers at the RIMS conference here.

"We're going to have something passed called national health insurance in the relatively near future," said H. Michael Schiffer, director of group insurance/government relations for Connecticut General Life Insurance Co.

Corporations can sit back and do nothing about NHI and risk being saddled with a bad program or they can help shape NHI into a workable form at the risk of contributing to the momentum to create NHI, Mr. Schiffer said.

"To do nothing is the bigger risk," he contended.

National health insurance is sure to require corporations provide coverage for more people for more things, Mr. Schiffer noted. The law will probably require shorter waiting periods for coverage and longer extensions for coverage after employment ends.

Mr. Schiffer detects a willingness among congressmen to allow the insurance industry to maintain responsibility for health insurance rather than putting the program in the hands of only the government. That insurers are winning this fight shows "we can all do something in this area," he said.

Theresa B. Stuchiner, partner at consultant Kwasha Lipton, urged benefit managers to individually speak out on issues affecting benefit plans and not rely solely on umbrella organizations to present their views.

"Take the time, describe your concerns. They'll listen," Ms. Stuchiner said in advising benefit managers to get to know congressional staffers.

Predicting that tax law will be changed to allow employes tax deductions for contributions to pension plans, Ms. Stuchiner challenged the audience: "Your role is to get them to do it simply." Without guidance from the benefit community, the deduction provision could be unnecessarily complicated, she suggested.

Other changes in benefit regulation predicted by Ms. Stuchiner are:

- Use of tax incentives to accomplish social objectives such as granting employers a tax credit for subsidizing the cost of employes' mass transit expenses.
- Phased-in increase in the Social Security benefit age to age 68 and changes making benefits more equitable for working women.
- Increased efforts by state regulators to control benefit programs such as benefit continuance in plant closings. ■

Be heard

"Take the time, describe your concerns. They'll listen," says Theresa Stuchiner.

RIMS Report

Parents sue Syntex Labs

GLENVIEW, Ill.—Syntex Laboratories of Palo Alto, Calif., is being sued for $32 million by a couple here who claim their infant son suffered substandard development by using a milk substitute manufactured by the firm.

The plaintiffs, L. J. and Kathleen Petrillo, claim their son Michael suffered chemical imbalance and weight loss while taking the formula called Neo-Mull-Soy, designed for milk-allergic children. The child has suffered nutritional deficiencies and retarded muscular and nerve control as a result of drinking the formula, they charge.

The Food and Drug Administration induced a recall for the drug last August.

Syntex says it is self-insured for its primary product liability risk and has excess coverage, but won't release details. ■

Acquisition, liquidation force new D&O plans

By KATHRYN J. McINTYRE

RIMS Report

ATLANTA—When your company begins thinking about an acquisition or merger, a spin-off or liquidating a company, move quickly to realign the directors and officers liability insurance program, advises a D&O expert.

When two companies start talking about a merger, neither company has high enough limits on its D&O policy, says Jake Page, senior vp of J.H. Blades & Co. Inc.

If the risk manager doesn't seek higher liability limits before the definitive agreement is issued, he or she won't be able to buy any additional D&O insurance, he warns.

But if the risk manager seeks higher limits before the definitive agreement is issued, "Your chances are greater of getting the limits because no one is sure it will go through," Mr. Page told a RIMS seminar here.

The problems of D&O insurance in merger, acquisition and bankruptcy proceedings will be dumped in most risk managers' laps in the coming decade, predicts Edward G. Weiss, vp-risk management and compliance at City National Bank of Detroit.

"You will all be involved in some form of sale or acquisition," Mr. Weiss said. Tight money markets are forcing companies to think about selling off operations to secure needed cash, he said.

Risk managers whose companies are beginning a corporate restructuring now are in perfect position to negotiate the needed D&O insurance, Mr. Page contends. Competitive insurance markets offer the risk manager the solution to any D&O exposure, he says, provided the risk manager doesn't wait until the eleventh hour to buy the insurance.

Three types of corporate restructuring present the most D&O exposures, Mr. Page said. In addition to acquisitions, liquidating a company and acquiring one's own stock present big D&O risks, he said. Stockholders unhappy with the proceedings may sue.

A risk manager will need to rearrange D&O insurance programs to:

- Increase limits of liability without excluding the proposed activity from the coverage.
- Maintain continuity of coverage for new and previous directors.
- Use the discovery clause effectively.
- Continue prior acts coverage for directors and officers of the liquidated corporation.
- Secure prior acts coverage for the surviving entity.
- Secure liability insurance for the trustees of a surviving trust.
- Buy new insurance for a spin-off company.
- Develop a proper termination notice.

Facing a merger, the risk managers of the merging companies should confer on which D&O insurer would provide the best coverage after the merger, Mr. Page advised.

If the risk manager for one company detects that the risk manager for the other company won't cooperate on creating full coverage, the risk manager should go to senior management, Mr. Weiss advises. Satisfactory cooperation on insurance matters can be demanded in the merger negotiations, he said.

When canceling one of the D&O insurance policies, the risk manager must be sure he or she has notified the insurer of any circumstance that might produce a claim, Mr. Page stressed. A careful study of all outstanding lawsuits, even those that don't name a director or officer, is necessary to determine what the insurer should be told about in a termination notice, Mr. Page said. Claims that weren't discussed but turn up after the termination notice could be uninsured.

Capitalizing on the competitive insurance market, a risk manager might even be able to buy a discovery contract when canceling a D&O policy, Mr. Page noted.

A discovery clause provides that if an insurer cancels or doesn't renew a D&O policy, the buyer has the right to continue the insurance for a period of time for additional premium to look for additional claims. This clause doesn't apply when the policyholder is canceling the contracts. ■

Photo: Kathryn J. McIntyre

Big risks

Corporate restructuring causes D&O liability problems, say Jake Page (left) and Edward Weiss.

Borden promises to fight HMO law

Continued from page 14
others," and this all-or-nothing offer is based on the same principle, he said.

The union would also be bound to the HMO agreement for the length of the contract, which at Borden would usually be three years, he tells the union.

Borden also spells out for the union that if the HMO folds, the union must have secured alternative health care, hopefully another HMO. If the union members want to come back to the company's indemnified plan, it is going to cost additional money, he said, summarizing the points laid out for the bargaining team.

Playing tough

"Usually the idea of an HMO is dropped at this point," Mr. Kairis told the audience.

Although Borden is tough if an HMO wants to activate union employes, it is equally tough about HMOs for nonrepresented employes, Mr. Kairis said.

Borden demands the HMO allows employes full access to all medical records. Moreover, the employer must be allowed to inspect those records if there is a dispute over a disability claim filed by an employe.

The HMO must also sign a hold-harmless agreement freeing Borden from responsibility in case an employe finds out a benefit he expected to be offered by the HMO is not available.

Borden also requires HMOs to specifically define service areas by zip codes, to draw up a contract that conforms to federal—rather than state—laws and limits the open enrollment period to a specific number of days.

"Borden complies with the letter of the law and goes no further," Mr. Kairis said.

But other speakers on the panel said Borden may not be going far enough, suggesting that Mr. Kairis take a closer look at the federal HMO regulations.

"I am aware of the regulations," Mr. Kairis responded, "but they are in direct conflict with the NLRB."

Borden has a specific reason for its unenthusiastic response to HMOs, Mr. Kairis said: the need for cost control.

"Under our indemnified plan, we pay all claims aggressively. We pay them quickly when they are valid, usually within three days," he said. "But we also deny them aggressively."

RIMS Report

"We now can test disability claims when submitted. We have a big, fat file on the employe that would show us if he is going to a doctor or not," he said. But that element of control would most likely be lost under an arrangement with an HMO, he worries.

Other speakers on the panel, generally more amenable to having employes join an HMO, said they also had doubts about the cost-effectiveness of using these organizations. They are especially wary of HMOs using these advocates' arguments that so-called preventive medicine will save substantial health care dollars.

Sole supporter

Even HMOs will admit that preventive medicine is not all that effective. "Where they save their money is in reduced bed-days," said Irwin Brand, director of compensation and benefits for United Airlines.

Ken Morrissey, employe benefit manager of Chicago-based FMC Corp., alone argued in favor of HMOs. Hospital bed-day savings are exactly why HMOs should be encouraged, he contended.

Lone advocate

"You can't dispute the figures on bed-day savings," Ken Morrissey argues in favor of HMOs.

"You can't dispute the figures on bed-day savings. One-half less bed-days is a real cost savings," Mr. Morrissey said.

FMC Corp. expects to save about $600,000 on its health benefits this year because of employe involvement in HMOs, he said. Of the 26 HMOs that have come to the company, 22 offer lower premiums than the firm's fee-for-service plans.

About 22% of FMC employes at locations where HMOs are available have opted to join them, Mr. Morrissey said.

United Airlines' Mr. Brand conceded his company offered HMOs only because of the federal government's position and because unions have pushed for them. He has seen only one HMO that has proved cheaper than the company's own benefit plan—the Kaiser HMO, San Francisco.

Going to HMOs has cost even more than the higher price.

"Be prepared to add additional staff," Mr. Brand told benefit managers who may soon be offering HMOs. "We had to add one staff person just to handle our HMO business. We have also spent about $200,000 in the past three years modifying our data base to accommodate HMOs."

FMC's Mr. Morrissey warned benefit managers not to take too gloomy an assessment of HMOs away with them, however.

"We don't go out and say HMOs are a panacea to the problems we have, but there are some good things about them," he argued. ■

Competition spurs innovative policies

Continued from page 14
from the all-risk property policy exclusions of losses related to electrical injury, mechanical breakdown and boiler explosions, Mr. Barham advised.

Property markets are likely to remain highly competitive into 1981, Mr. Barham predicted. "The market right now is excellent, very soft. I don't see any hardening" in coming months because of unused available capacity, he added.

"The property markets will probably tighten up sometime, but in the meantime, we try to get as broad a form as possible," he noted. By negotiating broad coverage now, the coverage will remain very broad when rates began rising, he reasoned.

Layered approach

More commonly used as a technique to cut property insurance costs, Mr. Barham said, is the layered approach to property insurance. HPR insurers will agree to participate in the primary all-risk layer of insurance, something they previously had refused to do.

With this development, policyholders are able to obtain necessary engineering services for HPR risks from HPR insurers—mainly Industrial Risk Insurers, Factory Mutual System and Kemper—formerly purchased from brokers and other outside service suppliers, Mr. Barham noted.

Use of layered property programs is far from universal among larger commercial insurance buyers, but they are becoming widely used because of significant cost savings, he said. These programs usually consist of an all-risk primary layer of property insurance with limits of $1 million to $5 million over a deductible, topped by a difference-in-conditions and manufacturers output layer of insurance, accompanied by an HPR named-peril policy layer extending to very high levels. Top limits for the DIC part of the program typically are anywhere from $5 million to $15 million.

"There are sizable decreases in costs" that can be achieved by using these programs, Mr. Barham said. Among the advantages he enumerated are the opportunity to obtain better credits for deductibles and eliminating engineering costs on the bottom layer by contracting for these services on a purchased basis.

Companies are able to reduce their property rates to about 4 cents per $100 in insured values, for example, from 6 cents per $100 value with a layered program, Mr. Barham said.

"It is not unreasonable," he added, to expect to be able to purchase DIC limits in a layered property program of $50 million to $100 million "at a very low cost in today's market. There's a lot of capacity out there."

Blanket limits

A buyer normally needs to be able to offer $200,000 or more in annual premiums to make a layered program work. Risk managers whose companies pay as little as $100,000 a year are beginning to negotiate these programs with insurers.

It's best to buy blanket limits in a layered property program, Mr. Barham said. "In the HPR world, normally it doesn't cost you any more to buy blanket limits than it does to buy per-location limits." Blanket limits apply to a total property and/or business interruption loss regardless of local values or scheduled output.

A significant advantage of a layered program is the ability to use uniform blanket deductibles for every loss, instead of separate deductibles necessary under traditional property programs for losses on protected properties versus unprotected properties, Mr. Barham pointed out. "But you can have problems with the layered approach if you don't have separate fire and DIC limits." ■

Privacy law violations

Transborder data flow holds new liability risk

By KATHRYN J. McINTYRE

ATLANTA—A new risk is lurking on the international horizon for multinational corporations that process information: transborder data flow liability.

Moving information across national borders abroad is potentially so risky that at least one insurer contends there should be a separate transborder data flow or TDF liability insurance policy.

Moving information about the citizens of one country to another country may violate privacy laws, warns John R. Cox, president of Insurance Co. of North America.

Violating privacy laws not only puts the multinational corporation in danger of run-ins with foreign governments but also leaves the company open to liability lawsuits charging violation of privacy, he warns.

"There is latent danger that a liability suit may emerge which is the result of TDF and which could be the foundation of an entirely new exposure," Mr. Cox told attendees of a seminar at the RIMS conference held here April 14-18.

New headache
"We began bumping into a whole series of new privacy laws," says John R. Cox.

INA is so concerned about the potential for invasion of privacy lawsuits that it argues TDF ought to be excluded from general liability insurance policies and covered under a separate policy.

Currently, losses suffered in an invasion of privacy lawsuit would be covered under the general liability insurance policy, John Morrison, president of INA Special Risks, told *Business Insurance*.

"But we ought to charge for the coverage," Mr. Morrison contends. One or two cases of liability for TDF operations and "it will be excluded," he predicts.

INA discovered the risk inherent in TDF when it decided for efficiency to collect and process in the U.K. all information about its European operations.

"We began bumping into a whole series of new privacy laws which limit and/or prevent the transfer of much of this data beyond the country of the citizens to whom it pertains," Mr. Cox said.

The privacy laws, which vary from country to country, are in theory designed to protect citizens' privacy. But in many cases they are "actually designed for retention of jobs and fostering indigenous industry information processing," Mr. Cox said.

TDF is important not only to information processing firms but also to all firms that process information, Mr. Cox contends. "The multinational firm is a fiduciary of information and each must decide how to best handle the risks associated with this role," Mr. Cox advised. ■

RIMS Report

Awards program

The Chicago chapter of the Society of Chartered Property & Casualty Underwriters has presented $5,000 to the Insurance School of Chicago to support a new awards program for outstanding students.

Small airlines protest CAB liability rules

Continued from page 1

The agency says higher limits are necessary to protect the public and ensure citizens will be adequately compensated for injury and loss of life in an air accident.

Air service operators counter that they can't afford to buy more insurance.

Paul G. Newby, president of Flight Line Inc. in Belgrade, Mont., says his insurer, INA, projects his annual premiums will increase $11,200 if the rules take effect. If the CAB holds insurers liable for policy violations, premiums will soar, Mr. Newby said.

"The propensity of government is for doing the absolutely worst thing at the worst time," he told *Business Insurance*. "Under the current inflationary pressures, this is absolutely the wrong move. When things are bad, why should the government make things two times as bad?"

Detrimental effect

Another firm, Tri-State Services Inc., of Dubuque, Iowa, says its insurance costs will rise 40% to 75% over the $25,000 in premiums it is paying. "We believe that such a large cost increase would have a very definite detrimental economic effect," Terry L. Hudik, Tri-State president, wrote CAB.

Mr. Hudik suggested that the CAB adopt a single liability requirement of $1 million for aircraft holding nine or fewer passengers instead of the $2 million requirement for all small aircraft. This would make it easier for operators of one- or two-passenger aircraft to bear the increased insurance costs.

Some of the air services also took issue with the proposal to spread the insurance requirements to large and small airlines alike.

One critic stated that small, on-demand air carriers that frequently carry no more than one passenger should not be compared with larger commercial airlines because the insurance requirements are different. "Many users of on-demand air-taxi services ask for and are provided with certificates of insurance that meet those specific requirements sought by the consumer," said Jack K. Daniels, president of Servair Accessories Inc. of Williston, N.D.

Sore spot

"The public currently accepts the difference between on-demand and scheduled carriers flying any size aircraft. They are capable and understand the need to seek insurance in those amounts required to provide coverage to the extent desired," he said.

CAB's contention that the higher limits are necessary to adequately compensate the public for losses is also a sore spot with commuter air operators. They argue the higher liability limits will actually increase the size of claims and lawsuits.

"If you increase the insurance requirements to equal settlements you are giving your stamp of approval to those settlements and invite still larger demands," wrote Richard W. Laird of Sandpoint Aviation in Sandpoint, Idaho.

State aviation officials from Montana and North Dakota said higher insurance requirements may force some small air-taxi operators to curtail or cease operations altogether in their states, where small airlines are a vital transportation link.

Not all the comments of small aviation firms were negative. Joe D. Harland, vp of Air Charter Systems of Trumann, Ark., wrote that the proposed minimum of $300,000 per passenger should even be higher because many air charter operators carry liability limits at or near that level.

Several of the large commercial airlines generally endorsed the increased insurance requirements, pointing out that their present liability coverage exceeds the proposed minimums.

But they voiced other concerns, such as whether the CAB action runs counter to the deregulation of the airline industry ordered by Congress.

Trans World Airlines said it agrees with increasing insurance limits for consumer protection but said the action represents more government controls, "at a time when all are apparently in agreement that the government should exercise less, not more controls in this area."

Policy conflict

Echoing similar sentiment, U.S. Air said the new requirement "conflicts with the congressionally mandated policy of deregulation" of the industry.

United Airlines expressed concern over disclosure requirements to CAB about air carriers' insurance coverage because the technical language of policy provisions would be of no value or interest to average airline passengers.

Broker Marsh & McLennan also disagreed with the idea of mandatory public disclosure of an airline's liability coverage.

Home rule

The main objection of Swissair, a foreign carrier, was that the "home government" of the air carrier should have the responsibility of mandating insurance requirements.

From London, the Lloyd's Insurance Brokers Committee applauded the proposed minimum. But the committee opposed any requirement that coverage be provided only by insurers authorized to do business in the U.S. because it may run contrary to the national law of certain countries and may lead to "reciprocal requirements" by other nations. ■

Clipped wings

Higher insurance requirements may force some small air-taxi operators to cease or curtail operations altogether, according to state aviation officials in Montana and North Dakota.

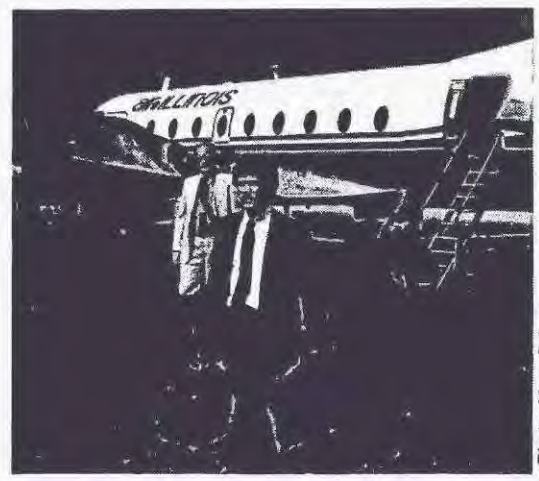

Photo: Mary Cairns

First-quarter results

A&A Services revenues increase 12%

REVENUES INCREASED 12% during the first quarter of 1980 for Alexander & Alexander Services Inc., to $105.3 million from 1979's $93.9 million. Net income went up 14%, to $16.5 million from $14.4 million. Earnings per share for the year's first quarter totaled 91 cents, compared with the 1979 figure of 80 cents.

Fred S. James

New record-setting totals for first-quarter revenues and earnings were set by Fred S. James & Co. Inc. during the first three months of 1979. Net income rose 8% to $5.5 million from the company's previous first-quarter record of $5.1 million set last year. Revenues for the quarter jumped 17% to $46.7 million from $40.1 million. Earnings per share were 69 cents for the first quarter, compared with 1979's 59 cents.

New business contributed heavily to James's increased earnings, said president William Burch. Commissions and fees jumped 14% over the same period last year. The impact of inflation on insurable values and the continued growth of investment income also played a large part in the higher results, Mr. Burch said.

Metropolitan Life

Income for Metropolitan Life Increased 5% to $9.17 billion in 1979, a year in which the New York-based insurer became the first firm to achieve $200 billion in group life insurance in-force. Income for 1978 totaled $8.7 million.

New life insurance sales reached $41.4 billion in 1979, another company record. The most dramatic gains were made in the group sales area. Group life insurance policies increased 127% to $25 billion from 1978's $11 billion, and group life coverage increased 65% to $399 million from $241 million.

Metropolitan also became the industry leader in sales of vision care coverage in 1979 and continued its lead in disability income, medical care and dental markets, company officials said.

Liberty Mutual

Liberty Mutual Insurance Cos. experienced a net underwriting gain of $102.5 million in 1979, a 30% drop from the $145.7 million earned in 1978. Net premiums for the Boston-based firm increased 7% to $2.7 billion in 1979.

Company president Melvin Bradshaw expressed some disappointment in the company's results. But he noted that a "healthy investment performance" overcame the drop in underwriting totals, allowing the company to "make needed additions to surplus, loss adjustment reserves and special loss reserves." The company's premium/surplus ratio reached 2.77 to 1 in 1979, a figure Mr. Bradshaw said was a significant improvement over the 1978 ratio of 3.1 to 1.

American Hardware

American Hardware Mutual Insurance Co. is forming a new subsidiary to offer life insurance coverage, American Merchants Life Insurance Co. The wholly owned subsidiary will offer life insurance in Minnesota beginning later this year and is expected to move into seven more states by the end of 1981. Paid-in capital will be $2 million and surplus is set at $3 million.

Initially, American Hardware plans to offer life insurance to existing customers—mostly retail merchants around the country—and trade associations that currently endorse its property and casualty business.

Hartford Steam

Hartford Steam Boiler Inspection & Insurance Co. officials have agreed to a letter of intent to purchase A.E. International Inc. for an undisclosed amount of cash. A.E. International is a Richland, Wash.-based consulting, research and development organization providing acoustic emissions inspection systems and services. ■

BI ticker

Boat maker covered for fire

BELLINGHAM, Wash.—A nighttime fire here at the manufacturing headquarters of Uniflite Inc., a major producer of commercial and recreational fiberglass boats and small craft for the U.S. Navy, has resulted in an estimated $6.5 million fully insured loss.

Uniflite is breathing a sigh of relief that its Cravens, Dargan & Co. insurance policy, a blanket contract written on a maximum possible loss of $11 million at any one company location, will cover both property damage and business interruption losses.

"The fire caused about a 55% impairment to the plant," estimated William D. Brown, president of Ireland & Bellingar, who brokered the risk. There were no injuries reported and the cause of the blaze is still under investigation, he added.

Besides destroying the main factory, the fire disrupted water and electric power throughout the eight-building facility, shutting down all operations for three days following the April 8 catastrophe. Once power was restored, a partial workforce returned to resume production on Navy contract jobs.

"Less than 5% of the tooling for navy work was lost," said Uniflite president James J. Doud Jr. "We do not anticipate any delay in delivery schedules." There was only nominal damage to the company's finished products and raw materials inventory. All tooling for two popular recreational sailboats was undamaged, Mr. Doud added.

The company hopes to resume 60% of normal production activity at the Bellingham plant within two months. Uniflite is tentatively transferring much of its manufacturing to its Swansboro, N.C., plant. Tooling for most Uniflite boat models is duplicated at that location. ■

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B1801

Liebre leads Revlon's risk operations

comings & goings: buyers

Ernest A. Liebre, 34, has joined Revlon Inc. in New York in charge of corporate risk management operations, a newly created position. In his new position, Mr. Liebre reports to the treasurer and is responsible for international property and liability programs, with a department of six people. He was formerly assistant treasurer and director of risk management with FMC Corp. in Chicago, where he spent 3½ years.

At FMC, **David Glantz** was promoted to director of the risk management department, reporting to the treasurer of the company, replacing Mr. Liebre. Mr. Glantz was formerly manager of property and casualty programs. Taking over the employe benefit programs following Mr. Liebre's departure is **Dan Schuardt,** assistant treasurer of FMC.

Liebre

* * *

Joseph J. Walsh, 33, was promoted to director of risk management at Trans Union Corp., Lincolnshire, Ill., effective April 18, replacing **Edward D. Hansen,** who left the company. Mr. Walsh was formerly manager of benefits planning and control. As risk manager, he reports to the company's senior vp of administration.

* * *

Robert Stawarz, 35, has been named manager of risk management at DeSoto Inc., Des Plaines, Ill., replacing **Richard L. Schmidt,** who is leaving May 1 to join Corporate Policyholders Counsel Inc. in Chicago as a risk management consultant. Mr. Schmidt had been with DeSoto for over 10 years. Mr. Stawarz was formerly a division accounting supervisor. As risk manager, he reports to the corporate treasurer.

* * *

Duncan Randall, CLU, CPCU, was elected a vp of Combined Insurance Co. of America, where he is director of risk management. Mr. Randall, 38, is responsible for property and casualty programs and insured benefits for the Chicago-based company where he has worked 15 years, seven in risk management and insurance.

* * *

Tom Osborne has been named to the newly created position of manager of claims administration at Sea World, based in San Diego, Calif. Mr. Osborne, who reports to Harold T. Mantel, corporate director of risk management, will be responsible for administering all casualty insurance claims at Sea World parks in San Diego, Aurora, Ohio, and Orlando, Fla., the Sea World Shark Institute in the Florida Keys, Captain Kidd's Seafood Galley restaurants and Sea World Seafood. He has a B.A. degree in history from Seattle University, a law degree from Western State Law School in San Diego and belongs to San Diego Claims Manager Forum and the San Diego Insurance Adjusters Assn. Mr. Osborne previously was a claims representative in the city of San Diego's risk management program.

* * *

The Jos. Schlitz Brewing Co. in Milwaukee has named **Charles J. Mazza,** 37, director of compensation and benefits to replace **F.W. Decker,** who left the company. Mr. Mazza, who reports to vp-personnel Robert L. Creviston, was most recently corporate manager of benefits, a position now held by **Wesley A. Coleman.** Mr. Mazza joined the company in 1970 and has held the positions of office facilities manager, industrial relations manager and director of industrial relations for Murphy Products Co., a Schlitz subsidiary.

Mazza

He has a B.S. degree in civil engineering and a master's degree in business administration, both from Marquette University.

* * *

Sparkletts Drinking Water Corp. in Los Angeles has promoted **Ellen J. Trail** from assistant insurance manager to insurance manager, due to the retirement of **Dorothy Stewart.** Ms. Trail, who reports to Jim Hart, director of finance and administration, will be responsible for employe benefits, property and casualty insurance. She joined the company in 1968 as an accounts receivable clerk and moved on to hold the positions of insurance assistant and claims administrator. Ms. Trail has completed insurance and management courses at UCLA, has earned a worker's compensation certificate from the Insurance Education Institute and is an active RIMS member.

* * *

Bucyrus-Erie Co. In South Milwaukee has named **Jeffrey Gehrke,** 28, manager of safety and insurance administration and **Jerrold M. Thorne** benefit manager as part of an expansion of insurance and risk management responsibilities at the company. Mr. Gehrke was safety supervisor at the firm's Pocatello, Idaho, plant before being named to this newly created position. **Carl Albrecht,** who will graduate from Utah State University this June, will succeed Mr. Gehrke at Poctaello. Mr. Gehrke has a B.S. degree in occupational safety and health from the University of Wisconsin, his CSP and certified hazards control designations. He reports to J.S. Hodnik, manager of property/casualty insurance. Mr. Thorne started working for the firm in 1975 and most recently held the position of assistant benefit manager, which is now vacant. He has a business degree from the University of Wisconsin and reports to Chuck Revie, director of risk management and insurance.

•

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A national professional medical association headquartered in Washington, D.C., is accepting applications from experienced insurance and pension plan executives for the position of Director, Office of Member Benefits. The person selected will be responsible for planning, implementing and reviewing member benefit programs of the Association and coordinating those programs with appropriate policy components and departments of the organization. This executive will participate in major policy decisions of the Association related to member benefits.

Candidates must have at least five years' experience in management of group insurance programs, including at least three years' experience in the in-house administration of benefit plans encompassing promotion, enrollment and renewal, processing claims, premium collection, and liaison with underwriters. Should possess a relevant college degree or equivalent, with academic training in insurance and pension plans. Familiarity with professional liability insurance and pension plans, as well as underwriting practices of insurance companies, is required. Must be highly competent in verbal and written communication and have the ability to articulate, clarify, and organize concepts derived from the Association's components.

Salary negotiable. EOE/AAE. Reply to:
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740 Rush St., Chicago, Ill. 60611

Pact raises pensions

Continued from page 1
agreed to divert a cost-of-living wage adjustment of 30 to 32 cents an hour, due May 1, to help finance the retirement increase.

"It's their fathers and older brothers that are on retirement, so the membership decided to help them," said Edmond Ayoub, chief economist for the union.

The oldest retirees who left the job at lower pension levels will receive the 70% increase. More recent retirees will get the lower increases, he said.

The union also won an improved increase scale for those who retire before 1982, the limit of the pact. Pensions will increase in steps to $17.50 per month per year of service from the previous level of $13.50 for workers with 15 or fewer years of service.

The benefit will increase to $19 from $15 for employes with 15 to 30 years of service and to $20.50 from $16.50 for workers retiring after 30 years or more.

The agreement also increases supplemental pension benefits designed to take the place of Social Security for those who take early retirement when plants close as union officials fear. The supplemental benefits will add $400 per month, an increase of $100, to a full company pension.

Supplemental unemployment benefits have also been increased by 4 cents to 17.5 cents per hour per worker to protect non-retiring workers against plant closings, Mr. Duzak said.

Medical, dental and vision care benefits were also increased. Sickness and accident benefits will jump to $212 from $153 per week for workers in lower pay brackets and to $276 from $211 at higher pay scales.

Maximum annual coverage increased to $1,000 from $750 per person and to $650 from $500 annually for orthodontic treatment.

Workers will also be covered for the cost of new glasses and contact lenses every two years.

The major medical plan will now completely cover one year in a hospital or skilled nursing facility, increased from 80%. Semi-private room costs in hospitals not affiliated with Blue Cross/Blue Shield plans will now be covered at 90%, increased from 80%.

Workers will also receive full coverage for second surgical opinions.

In health benefits, the employers won ground in the constant fight to control health care costs by getting the union to agree to a higher deductible for major medical coverage, the first such increase in 10 years. The deductible will rise to $75 from $50 for an individual and to $150 from $100 for a family.

Despite these moderate benefit increases and the cost of living diversion, the union is happy with the pact, said Mr. Ayoub. "It's a reasonable settlement but more modest than it might otherwise have been," he said. USW had to consider sagging industry profits and plant closings in negotiating the contract, he noted. ■

Supportive insurer

One major insurance company has broken from the major insurance trade association opposing the Risk Retention Act.

The Continental Insurance Corp. president John Ricker says there are certain types of risks difficult to measure. "If someone wishes to put together a scheme for providing protection under certain circumstances, we would be an obstructionist to oppose the action," he said.

Mr. Ricker said Continental "is not opposed to this act and we would support it."

Risk pool act stalls in Senate committee

Continued from page 2
as a way to boost competition in the product liability insurance market by giving businesses another alternative, American Insurance Assn. counsel Dennis Connolly said the market already is competitive. Product liability insurance premiums have stabilized or declined, he said.

But business groups testifying before the committee argued their members still face major product liability problems and that a federal solution is necessary.

Members of the National Machine Tool Builders Assn. now pay an average of $111,000 for product liability insurance, a 55% increase in the last three years, said public affairs director Jim Mack. One out of eight members of the trade group can't even obtain coverage, he added.

Mr. Mack questioned insurers' claims that risk retention groups can be set up at the state level. Colorado's captive law, for example, only allows the formation of captives if insurance is not available or affordable. "Price competition is not sufficient justification," he noted.

The Colorado captive law also requires the captive be managed by an office in that state. "Such a restriction would impose a hardship on trade associations and companies that would like to form a captive but are headquartered outside of the state of Colorado," Mr. Mack said.

The Risk Retention Act should be passed to give small and medium-sized firms another option to high-priced product liability insurance, Louis Marchese, assocate general counsel of the National Assn. of Wholesaler-Distributors, told the committee.

Product liability insurance is high priced because insurers enjoy a monopoly, he charged. "The Risk Retention Act will open product liability insurance underwriting to competitive options," Mr. Marchese said.

Drafted by the Commerce Department and endorsed by the Carter Administration, the Risk Retention Act would permit federal chartering of groups set up by businesses to self-insure their product liability exposures as an alternative to insurance. ■

Tex. investigation spurs fear of retro policy ban

Continued from page 1
sources are already saying the department will rule these plans violate the state's minimum rate law.

Nobody really knows how many paid-loss retros have been written in Texas, but some estimates put the number into the hundreds. Many national companies write paid-loss retros and similar cash-flow plans in Texas and elsewhere on risks that pay premiums of $500,000 or more, brokers and consultants have told *Business Insurance*.

Paid-loss retrospectively rated plans, which defer about 85% of premium collection until the insurer actually pays losses to a claimant, have special appeal in Texas because the state prohibits self-insurance of workers compensation.

Broader probe

The Texas investigation is more broad than California's, however, because Texas is looking into all lines of insurance, not just workers compensation.

California commissioner Wesley S. Kinder has raised no formal objections so far to other loss-sensitive property/casualty plans.

"At this time, our interest is merely to gather data and information," said Mr. Young in Austin. "We are trying to determine how many lines of business these policies are used for and the number of Texas risks insured through paid-loss retrospectively rated plans."

Mr. Young declined to describe what further actions might be taken by the Texas department once it completes its investigation. The matter is still within the casualty underwriting division, he noted, and has not been taken up by the Texas insurance commissioner's office.

Nor has Mr. Young talked to anyone in the California department of insurance, he says. He did acknowledge that the existence of paid-loss retros came to his attention through news reports of the California investigation.

Indeed, insurers say they would regard Texas inquiries about paid-loss retros as routine if it weren't for the earlier California inquiry.

Different names

"If it weren't for California, I wouldn't have given this a second glance," reports Mr. Cox of INA.

Mr. Cox expressed concern that some companies doing business in both California and Texas might write cash-flow type plans under different names that more easily escape the notice of state insurance departments.

INA is compiling information requested by the Texas insurance department. Since INA is virtually totally computerized, said Mr. Cox, it shouldn't take very long to comply with the Texas department's request.

Fireman's Fund is also gathering policy information, reported a senior official at the company. "We honestly don't know how many paid-loss retro policies we have because there could be some Texas risks written in other states, as well as multistate policies that include Texas coverage," the executive pointed out.

Mr. Young said he hopes to have summaries from both the INA and Fireman's Fund within 30 days following the department's written request, dated March 31. ■

Small firms, OSHA enter detente

By LEN STRAZEWSKI

growing pains

WASHINGTON—Small firms that fear the might of the Occupational Safety and Health Administration may now find their traditional nemesis more sympathetic to safety rule compliance problems.

OSHA is joining the Small Business Administration to help firms comply with safety and health standards and mold new standards that may ease financial, technical and insurance burdens on small firms, according to a new agreement between the two agencies.

The agreement, announced April 11, responds to a presidential mandate to reduce the regulatory burden on small firms, according to OSHA and the SBA.

Small businesses chronically charge that OSHA standards are difficult or impossible to meet without extensive capital expenditures. Few insurers want to grant property and workers compensation coverage at reasonable rates to businesses that fail OSHA inspections, they charge.

"It's no secret and no surprise that smaller firms have much more difficulty than larger ones in complying with federal regulations," OSHA administrator Eula Bingham said in announcing the joint effort.

"During the past few years we at OSHA have tried to reduce the regulatory burden on small businesses by reducing paperwork, refocusing inspection priorities and establishing free safety and health consultation programs," she said.

The new program, however, will take the problems of small firms directly to the Washington regulators.

"What we have done is set up an instrument for identifying regulations that may be a burden to small firms," explained Kay Klatt, OSHA special assistant for small business. "Then possibly we may adjust some standards to maintain safety without a tremendous burden on the firm."

A company that has tried to meet OSHA standards and cannot for financial or technological reasons now might be able to get a reprieve from the agency that in the past ruled with an iron hand.

Some industry groups have charged that more firms cannot meet OSHA standards than do. Problem cases are not uncommon, says the SBA.

"We have a case in the works right now that we will be taking to OSHA under this new agreement," noted David P. Metzger, director of the SBA office of services management. "The owner has tried in all good faith to eliminate a noise violation.

"He has worked with both OSHA and outside consultants and no one can find the answer. We are afraid we are putting this manufacturer in the position of having to invent the technology to meet OSHA standards. I don't know what more we can expect from him," he said.

OSHA agrees, Ms. Klatt noted, "though I don't want to hold out unrealistic expectations. What we can do is look at the kind of new equipment that a firm may need to buy for compliance and see if he could retrofit or find a less expensive way to do it.

"Then we can relate these field problems to the proposed standards and see if the standards are realistic," she said.

The toughest compliance problems—cases in which a firm simply cannot meet noise, design or access standards without inventing new kinds of insulation, energy or tools—are few, Mr. Metzger admits.

"But there are many cases in which information from our 900 trade associations can prevent OSHA from setting up counterproductive standards," he said. "And within the limits of its flexibility, OSHA does seem to want to make it work. This agreement should build a bridge between OSHA and small business."

In a separate agreement, OSHA and the SBA will increase special efforts to help small firms comply with safety standards and pay for the cost. Both organizations presently offer OSHA compliance loans and the two groups plan to work together to provide informal consulting services (see chart).

The groups will also help small businesses prepare testimony for safety and regulatory hearings.

Realistic view

"We can see if the standards are realistic," says Kay Klatt.

Where to go for safety help

Problem	Service	Organization
Compliance costs	OSHA compliance loan	OSHA, SBA
Safety consulting	OSHA on-site consulting	OSHA
	Small business development center	SBA
General safety information/Resource development	New Directions education and grant program	OSHA
General government regulation	Office of Advocacy	SBA

For information contact: The Small Business Administration, Office of Advocacy, 1441 L Street N.W., Washington D.C. 20416

Occupational Safety and Health Administration Special Assistant for Small Business, N3635, 200 Constitution Avenue, Washington D.C. 20210

datebook

MAY 7. Construction Law and Bonding Workshop in Tampa, sponsored by the Florida Bar Assn. and the Florida Gold Coast chapter of the CPCU society. Also **May 8** in Fort Lauderdale; $45. The Beacon Group Inc., P.O. Box 2550, Boca Raton, Fla. 33432; 305-392-7111.

MAY 26-28. Managing Marine Risk Course in Manila, sponsored by Risk Research Group Ltd.; $400. Elaine R. Cumberland, Risk Research Group, Bridge House, 181 Queen Victoria St., London EC4V 4DD; 01-236-2175.

MAY 28-29. Risk Management Accounting Seminar in Atlanta, sponsored by Corporate Systems; $345. Connie Oak, Corporate Systems, P.O. Box 31780, Amarillo, Tex. 79120; 806-376-4223.

MAY 28-30. Canadian Federation of Insurance Claimsmen Conference in Montreal; $90. Claude Faure, Gestas Inc., 410 St. Nicholas St., Montreal, Quebec H2Y 2P5; 514-288-5611.

MAY 29-30. National Safety Congress's Eastern Regional Safety Congress and Exposition in Washington, D.C., $45 in advance, $55 at the door. NSC, 444 N. Michigan Ave., Chicago, Ill. 60611; 312-527-4800.

JUNE 1-4. Insurance Accounting and Statistical Assn. annual conference in San Diego; $70 for members, $100 for nonmembers. Contact Walter Mason, IASA, Mutual Plaza, Durham, N.C. 27701; 919-683-2356.

JUNE 1-4. Washington Legislative Update in Washington, D.C., sponsored by the International Foundation of Employe Benefit Plans; $300 for members, $375 for nonmembers. IFEBP, P.O. Box 69, Brookfield, Wis. 53005; 414-786-6700.

JUNE 2-3. Hazardous Chemical Safety Seminar in Dallas, sponsored by J.T. Baker Chemical Co.; $265 for one attendee, $245 each for three attendees and $205 each for four or more. Also in Winnipeg; also **June 5-6** in Washington, D.C.; **June 9-10** in Charlotte, N.C., and Vancouver; **June 12-13** in Calgary and Boston; **June 16-17** in Newark, N.J.; **June 19-20** in Detroit; **June 23-24** in Denver; **June 26-27** in Los Angeles. Ms. Carol Morris, J.T. Baker Chemical Co., Phillipsburg, N.J. 08865; 201-454-2500.

JUNE 3-5. Environmental Health Management Seminar in Houston, sponsored by the International Safety Academy; $380 or $350 each for three or more from same company. ISA, P.O. Box 19600, 10575 Katy Freeway, Houston, Tex. 77024; 713-932-9400.

JUNE 8-11. Health Care in the American Economy Conference in New York, sponsored by Blue Cross and Blue Shield Assns.; $350. John F. Newman, conference director, Blue Cross/Blue Shield Assns., 840 N. Lake Shore Dr., Chicago, Ill. 60611; 312-440-5755.

JUNE 9-11. Techniques of Employe Benefits Course in Boston, sponsored by the Risk & Insurance Management Society; $225 for members, $325 nonmembers. Lynn Fischoff, RIMS, 205 E. 42nd St., New York, N.Y. 10017.

JUNE 9-11. Fundamentals of Insurance Course in Louisville, sponsored by Risk & Insurance Management Society. $225 for members, $150 for each additional participant and $325 for nonmembers. Lynn Fischoff, RIMS, 205 E. 42nd St., New York, N.Y. 10017; 212-557-3294. ■

M&M unveils city policy

Continued from page 3

Fahys notes.

M&M's in-house excess/surplus lines broker, National Brokerage Agency, will act as managing general agent for the program.

The program's success will depend on its ability to develop a reliable data base, Mr. Cantor contends: Buyers will be asked to provide loss experience and exposure data as part of their application.

"Given this type of data base, we're convinced we'll be able to support and maintain underwriting information on a long-term stable basis," Mr. Cantor notes.

The application has a separate $50 processing fee. Public entities can pay this processing fee to obtain an analysis of their loss experience and exposures and how they compare with other governmental units, Mr. Cantor said.

Property conservation, loss control and claims management services will be offered to PRISM clients through M&M offices as part of the insurance coverages or on an unbundled basis. Use of M&M's risk management services is not required, but participation in PRISM requires ongoing programs that conform to M&M standards.

In developing PRISM, M&M went to the public risk management community for advice on its problems and possible solutions.

"Rather than going to a market and telling us what a market can give, they went to the risk managers and asked us to tell them what we wanted," said Charlotte-Mecklenberg's Mr. Spivey.

Serving on the advisory committee with Professor Roos and Mr. Spivey were: Betty Connor of Memphis, John Haywood of Alaska, Robert Bieber of Westchester County, N.Y., Steven Weber of Jefferson County, Ala., James Loeb of Scottsdale, Ariz., Richard Koerner of Greenwich, Conn., and Robert Esenberg of Virginia Beach, Va.

Also serving were Cheryl Peske, formerly with Milwaukee and now in private industry, and the late Sheldon Weinberg, who was risk manager for Hennepin County, Minn., at the time of his death this winter. ■

info

• **Workers Compensation and Employers' Liability Experience Rating,** by John R. Stafford, covers the National Council on Workers Compensation experience rating plans. Eligibility, jurisdictions and single-state, interstate and exception-state calculations are included. Prepaid cost is $6.95, otherwise $7.20. Write J&M Publications, Dept. B, P.O. Box 338, Palatine, Ill. 60067.

• The 1980 **Analysis of Workers Compensation Laws** is now available from the U.S. Chamber of Commerce. The analysis details nearly 200 laws and tracks improvements in the state laws since the 1972 report by the National Commission on State Workers Compensation Laws. Single copies, $6 postpaid, may be ordered from the U.S. Chamber of Commerce, 1615 H St. N.W., Washington, D.C. 20062.

• The Gypsum Assn. is offering the third edition of its **industrial safety** manual. The 28-page manual covers industry production operations, outlines several safety programs and presents safety guidelines mandated by government standards. Cost is $1.40. Write the Gypsum Assn., 1603 Orrington Ave., Evanston, Ill. 60201.

• Are you thinking about adding **prepaid legal** services to your employe benefit package? Personnel Research Associates offers a new comprehensive report on prepaid legal plans that describes types, trends and case studies. Cost is $12. Write Richard D. Quinn, Personnel Research Associates, 49 Oakridge Rd., Verona, N.J. 07044.

• An Insurance Buyers Checklist for Restaurants is available from RIMCO Inc. The checklist provides specific guidelines, questions to be asked and points to consider when shopping for a **restaurant's insurance program.** Cost is $10. Write RIMCO Inc., 10300 N. Central Expressway, Suite 350, Dallas, Tex. 75231. ■

How to place items

Have a new report, booklet or promotional brochure you'd like to send to buyers of insurance? *Business Insurance* will describe your material as an editorial service in the weekly Info for Buyers column. Simply send us a short description of the material to be offered, along with a cost (less than $15) and mailing address. Address all contributions to: Jill Kaplan, Info for Buyers, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611

How A&A sees container shipping

Longshoremen loading a container ship in Staten Island, New York.

For warehouse-to-warehouse protection, Alexander & Alexander starts paying attention long before the containers come aboard. We watch through the truck driver's rearview mirror. We track progress with the trainman's timetable. From inland depot to dock, from deck to destination.

It's not the way you're used to seeing ships. Unless, of course, you are one of the shippers on A&A's client manifest.

Risk management

But these insider vantage points give A&A the best view of the risks that beset containers, cargoes and vessels. They form a frame of reference that helps us design programs to minimize losses and to compensate for those that do occur. They enable our specialists to simplify the complexities of marine insurance—barges to bumbershoots, crews to claims, charters to captives, rigs to rivers, property to price.

Every business is unique. Each has different needs. For insurance, for risk management, for human resources management, for financial services. That's why A&A works from a client's point of view. Only by working as partners, by solving business problems together, can we be sure a company gets the most comprehensive, cost-efficient programs possible.

We think our dedication to forming a close alliance with our clients is a big reason A&A has become one of the biggest and most trusted insurance brokers worldwide. Each of our 120 offices here and overseas has the facilities, expertise and strength to meet the needs of any company, large or small, in any industry. Because we work the same way with every client. From the client's point of view.

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From the client's point of view.