

Highest claims ever expected in Canary crash

By MARIE KRAKOWIECKI

NEW YORK—The highest aviation claims in history are expected from the March 27 ground collision between two Boeing 747 jumbo jets in the Canary Islands. All 248 persons on the KLM Royal Dutch Airways jet were killed, as were the majority of the 394 persons on the Pan American World Airways flight, which originated in Los Angeles. Nearly 600 people in all died in the worst disaster in aviation history.

Pan Am and KLM had hull insurance totaling \$63 million on the planes themselves, which is thought to be the largest amount insurers have ever had to pay for aircraft losses from a single accident.

But the real record breaker

promises to be the liability claims for death and injuries, particularly against KLM. First reports from safety officials at the airport in Tenerife, site of the tragedy, indicated that the KLM pilot began his takeoff without permission from the control tower, just as the Pan Am jet was taxiing in front of him on the runway.

Industry watchers said liability claims could exceed \$400 million. They also predicted that the disaster would cause a severe strain on future aviation insurance markets, including a significant increase on renewals. Rates had begun to level off over the last three years.

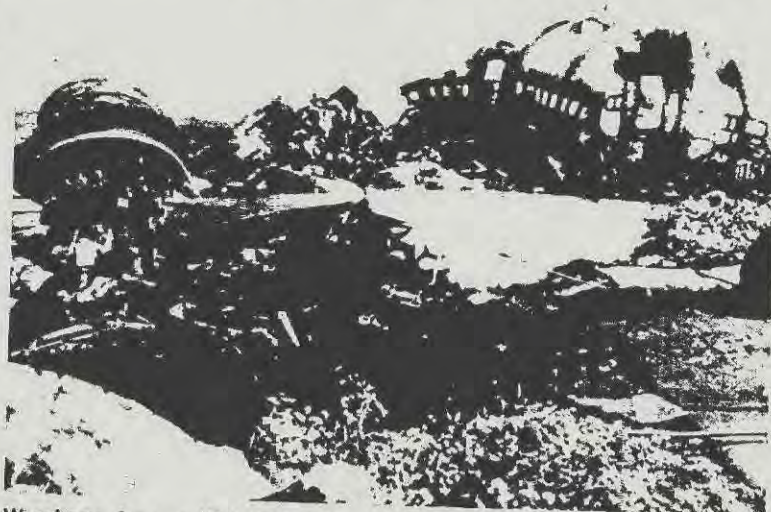
Both Pan Am and KLM have limited liability under separate international agreements. In Pan Am's case, the so-called Montreal

agreement permitted under the Warsaw convention limits payments for crash victims to \$75,000 per person on any flight outside the U. S.

KLM is thought to be covered by an agreement known as the Hague Convention, which limits its liability to \$20,000 per person. According to one aviation insurance expert, however, most European airlines have additional "voluntary" agreements which increase the limits of liability to nearly those of the Montreal agreement.

However, both the Montreal and the Hague agreements have the force of contractual obligation only between an airline and its own passengers. There is nothing to prevent passengers or survivors

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Wreckage from a KLM 747 litters Los Rodes Airport in Canary Islands.

Week of April 4, 1977

Self-funded trust collapses; deficit could be \$4 million

By GREG DAVID

CHICAGO—Hospital Welfare Assn. Trust, a self-funded employe benefit trust based in Arcadia, Calif., has collapsed with a deficit that could reach \$4 million.

Hospital Welfare Assn. at its height covered more than 10,000 employers representing as many as 30,000 individuals. Monthly premiums in early 1977 totaled at least \$1 million.

The trust's benefit committee

voted to terminate the trust as of April 1 to avoid incurring additional liabilities. *Business Insurance* has also learned that the U.S. Department of Labor is investigating the causes of the trust's failure.

The Hospital Welfare Assn. collapse supports the fears of state insurance officials that the bankruptcy in January of another self-funded trust in California—the National Multiple Employers Foundation—was only the beginning of a series of trust disasters. State officials worry that these bankruptcies will leave thousands of unpaid health claims across the country.

In addition, the problems of Hospital Welfare Assn. illustrate the pitfalls faced by the many self-funded trusts that have been established in the last two years. These trusts register as employe benefit plans with the federal government under the Employe Retirement Income Security Act, escaping state regulation. But the Labor Department has yet to issue rules for these trusts, allowing them to operate virtually without regulation.

Hospital Welfare Assn. has retained as special counsel James D. Hutchinson, former pension and welfare administrator at the Labor Department during the Ford Administration. Mr. Hutchinson, now in private practice in Washington, has not yet contacted his former department on behalf of the trust, according to Labor officials.

Mr. Hutchinson said he had been hired as an "ERISA expert" and had no intention of contacting Labor on behalf of the trust. He said he had checked to be certain there had been no action on Hospital Welfare Assn. while he was administrator before accepting the case.

Business Insurance has reconstructed the events leading up to the collapse of Hospital Welfare

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business insurance

the national newsmagazine for buyers of employe, property and liability protection and financial services

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Quick OK is predicted for pregnancy benefits

By JERRY GEISEL

WASHINGTON—Congressional aides and lobbyists predict quick approval of a bill requiring that pregnancy be included in employe health insurance and sick leave benefit programs.

"In view of the massive support behind the measure, Senate passage could come as early as Memorial Day," said an aide to Sen. Harrison Williams (D-N.J.).

Under the proposal, which Sen. Williams describes as "simple and to the point," Title VII of the Civil Rights Act of 1964 would be amended to require any pregnancy-related disability be treated the same as any other temporary disability in a sick leave or fringe benefits program.

"A disabled pregnant worker should be treated like any other

disabled worker" in terms of eligibility for disability benefits, Sen. Williams said.

Legislative action is necessary because of the Supreme Court decision last December involving General Electric's disability plan, Sen. Williams said.

In that case, the Court ruled that excluding pregnancy from disability insurance benefit plans was not discriminatory.

The bill would not affect businesses that do not have disability benefit plans.

In a related bill introduced by Rep. Robert F. Drinan (D-Mass.), tax deductions would be denied if an employer discriminated against pregnancy-related disabilities while providing benefits for other types of temporary absences from work.

A powerful coalition of interest groups, including the United Auto Workers, the AFL-CIO and the Communications Workers of America (CWA) immediately announced approval of the proposal and indicated they will lobby vigorously to guarantee a speedy approval.

"We'll give it our best shot," said Lee White, a legislative spokesman for the influential, 600,000-employe strong CWA. "The bill is in our top five of legislative priorities.

"We'll be first in line to testify when hearings begin," he said.

In the Senate, the bill was referred to the Human Resources subcommittee on labor. Hearings are slated for the third week in April.

In the House, the Education and

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Safety dept. belongs in risk umbrella, panel argues

By SUSAN ALT

CHICAGO—Eighty percent of the risk managers responding to the latest *Business Insurance* Editorial Advisory panel believe safety and security should be included under the risk management umbrella.

And 59% of the panel members said employe benefit management and the purchase of group insurance should also be part of the risk management function.

Yet, less than half (37) of the 75 risk managers responding actually have responsibility for safety and security. Only 36% (27) have benefits and group insurance within their department.

In future years, however, the gap may narrow between what risk managers believe they should control and what they actually do control. Already 61% of the panel participants (46) have broader risk management responsibilities than 12 months ago. Twenty-eight said their duties are un-

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The inside story

Bermuda's role

The move of colorful and controversial Leslie R. Dew to Bermuda is another indication that the island is about to become a significant force in the insurance world. Editorial commentary, Page 6.

Product liability

The Texas Supreme Court has extended comparative negligence to product liability cases. Meanwhile, feed manufacturers begin a study of their industry's loss record. Stories, Pages 12, 13.

Elsewhere:

- SEVEN more settlements are reached in the Paris DC-10 case. Page 2.
- TRUCKING firms face a hike in pension contributions. Page 3.
- A HOUSE panel is about to approve a major oil spill bill. Page 4.
- 48 IOWA hospitals receive \$400,000 in refunds from St. Paul. Page 11.
- JOINT pooling of risks is recommended for 24 small cities. Page 18.
- WHAT ARE insurers doing that we don't know about? RiskWatch, Page 23.

The people column
page 34

Amount not revealed 7 more settlements reached in Paris crash

By JOANNE GAMLIN

LOS ANGELES—A settlement has been reached in the wrongful-death lawsuits filed by the families of seven crewmen who perished in the 1974 crash of a Turkish Airlines DC-10 near Paris.

The amount was sealed by U.S.

District Judge Peirson M. Hall, but it was said to include a sweetener to prevent the plaintiffs from seeking punitive damages.

The settlement came as a jury pondered the amount due families of two of the crewmen.

It is believed that the settlements far exceed the \$200,000 per family which McDonnell Douglas and General Dynamics Corp., the contractor and subcontractor of the DC-10, are known to have offered.

In the two cases tried before U.S. District Judge Manuel L. Real, who is assisting Judge Hall, awards in the amount of \$1.25 million were requested by the plaintiffs. One family sought \$421,000 and the other \$750,000 at the time the lawsuits were filed.

With the settlement of these seven suits, all but 44 cases filed by families of young Japanese killed in the crash have been settled out of court. Some of these settlements are known to have approached \$1 million.

Cases involving the Japanese victims began March 28 before Judge Real.

As of that date, the 9th Circuit Court had made no decision on whether to accept an immediate appeal by the defense on the ruling by Judge Real that punitive damages should be permitted in wrongful death cases.

The crash was also the subject of a lawsuit filed by a disgruntled

McDonnell Douglas Corp. stockholder in early March in federal court in St. Louis. This suit named McDonnell-Douglas and 17 of its executives, contending that these officials knew of the defects in the design and manufacture of the DC-10 yet did nothing to correct them.

A spokesman for McDonnell Douglas said the company considers the lawsuit to be "totally without merit."

William R. Weinberger of New York, the plaintiff, states in the suit that the DC-10's design and manufacture were "improper and unsafe." His suit says that the controls to the aft center engine and tail passed through the cabin floor where they would be rendered inoperable if the cabin floor were damaged. It alleges that the latching system for the cargo door was inadequate to halt the door's blowing out in flight and thus setting off the explosive decompression.

Airlines' complaints about the DC-10's latching system, combined with equipment failure during testing and a warning from General Dynamics Corp., should have tipped off the company's directors and executives about the faults in the DC-10, the lawsuit argues. It says that the National Transportation Safety Board, the Federal Aviation Administration and the Dutch counterpart of the FAA expressed doubts about the strength of the cabin floor and the plane's vulnerability to sudden decompression.

A jury trial and payment by the individual defendants to the company of all damages sustained by McDonnell Douglas "by reason of their misconduct" is requested by the lawsuit.

The Paris crash which killed 346 persons has long been described as the worst disaster in aviation history. But it lost that title March 27 when two Boeing 747 jumbo jets, flown by Pan American World Airways and KLM Royal Dutch Airlines, collided and burned on a runway in the Canary Islands. About 570 persons died in the collision and fire.

Consultants close West Coast office

DARIEN, CONN.—Risk Planning Group Inc., Darien, Conn. has decided to close its West Coast consulting office in San Francisco, now headed by Thomas G. Briggan. Effective April 1, Mr. Briggan will become an associate consultant, no longer acting as an employe of RPG, but participating in risk management studies and special projects on the West Coast.

Risk Planning Group does not plan to continue its California operation by replacing Mr. Briggan, who said he has no firm plans at present.

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ISO plans to improve its image with buyers

NEW YORK—The Insurance Services Office (ISO) held the first press conference in its history last month and said it will make a strong effort to improve its image with commercial insurance buyers.

Responding to criticism that the rating organization has been aloof from insurance consumers although it sets the standards for the premiums they pay, chairman Jack Moseley said the 25 insurance companies that belong to ISO plan to join an industry effort to communicate better with the public.

ISO has been largely responsible for hiking insurance premium rates to offset underwriting losses suffered in 1974 and it appears to be concerned over consumer criticism of increased insurance rates.

"There is no such thing as a 'sophisticated' insurance buyer when the rates go up," Mr. Moseley remarked to *Business Insurance* as he explained why ISO is trying to reach professional insurance buyers.

Back in 1973, there was some hard feeling on the part of risk managers over ISO's rejection of an offer by the Risk & Insurance Management Society to contribute to the process when ISO was revising the rating manual for comprehensive general liability coverages.

At the press conference, both Mr. Moseley and ISO president Daniel J. McNamara, said the organization would not now "welcome" input from risk managers as it studies CGL coverages.

Risk managers still won't get a responsive answer from ISO if they call to complain about an individual premium charge, however, Mr. McNamara said. He said questions of that nature are more properly directed through insurance brokers. But the organization

will be open to any substantive comment on rating procedures. In addition to CGL coverages, ISO also will be looking at punitive damages and defense costs.

One of the ISO's admitted weak points is that it has to use past insurance data to make forecasts. The organization is planning to increase its "anticipatory research" during 1977 to give more light to areas that have been judgmental in the past.

A preliminary study of 7,800 closed product liability claims is expected to be completed by September 30, 1977, and ISO is continuing an effort to improve trending procedures in insurance companies' reports of product liability statistics, the group said.

Causes of adverse underwriting results which prompted ISO members to fight for higher insurance premium rate filings included monetary and social inflation, inaccurate and stale data, cutbacks, delays and disapprovals, costs of the residual market and unsound application of individual risk rating plans, Mr. McNamara said.

At fault for the last factor were personnel of major insurers who improperly applied rating plans, particularly in 1972 and 1973, he explained, stating the ISO "reaffirmed the propriety of flexible risk rating plans" by making sure they were sound from an actuarial point of view.

O'Connor tapped

J. Jim O'Connor, president of Heritage Agencies of Omaha, Neb., was elected president of the Society of Underwriting Brokers Center. SUB Centers is a network of independently owned brokerage centers designed to aid the life insurance industry in placing surplus and substandard business.

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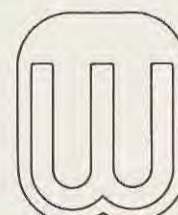


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the benefit beat Truckers face 20% hike to cover fund's needs

TRUCKING INDUSTRY EMPLOYERS face a 20% increase in contributions to make the Teamsters Central States Pension Fund financially sound, the fund's executive director, Daniel Shannon told a House subcommittee last month. Maximum employer contributions would be increased \$6 a week to \$37 in 1979 to meet the massive \$1.4 billion fund's obligations. Without the increase and other changes in the fund's plan, benefits would have to be reduced \$80 a month, Mr. Shannon said. In other changes, a driver now will be required to work 30 years instead of the current 20 years in order to obtain the maximum retirement benefits at age 60 of \$550 a month. In addition, the plan now provides for year-by-year accrual of benefits. Previously, before ERISA, no benefits were paid unless an employe had worked 900 weeks. In a related development, Teamster President Frank Fitzsimmons and three other top teamster officials agreed to resign as trustees of the fund and turn over control of the assets to independent managers. The government expects the resignations April 30.

ASKING FOR BIDS on its disability program saved Monmouth County, N. J., more than \$16,000. The county paid \$88,490 for 1,482 employes in 1975 under a plan insured with Connecticut General Life Insurance Co. The 1976 program won by Crown Life Insurance Co. cost \$81,559 for 1,645 employes. The average annual cost of the Crown program was \$49.58 per employe compared to \$59.71 for the CG policy. The policy provides 66% of weekly earnings up to \$150 a week beginning on the 15th day of disability and lasting for a maximum of 52 weeks. There are no limitations on disability pay for pregnancy. All Risks Ltd. president Hubert M. Farrow Jr., the county's consultant, said service from Crown Life was also superior to service from CG.

PREPAID LEGAL INSURANCE is under consideration as a new employe benefit at San Diego Fed-

Single ERISA agency eyed

WASHINGTON—A bill introduced by Rep. John H. Dent (D-Pa.) calls for the establishment of a single executive agency to administer the Employment Retirement Security Act (ERISA).

The proposed agency, the Employment Benefit Administration (EBA), would handle all ERISA administrative and enforcement functions.

Currently, the regulation of ERISA has been the responsibility of the Department of Labor, the Internal Revenue Service and the Pension Benefit Guaranty Corporation resulting in what Rep. Dent describes as "duplication, waste and inefficiency."

Under the measure, the EBA would be headed by the Labor and Treasury secretaries, plus a third person appointed by the President. This three-member board of directors would appoint an executive director of the operational activities of the agency.

The President would be responsible for determining where the EBA would be located within the Executive Branch.

The board of the Pension Benefit Guaranty Corporation would be changed with the President's appointee to the EBA replacing the Secretary of Commerce. ■

eral Savings and Loan Assn., according to risk manager Wayne G. Plazak. The \$1.23 billion savings and loan is considering legal insurance because a large number of employes die without leaving wills. "Corporations spend tons of dollars on employe benefits only to have their employes die without leaving wills and therefore without the means of transferring these benefits to their heirs," Mr. Plazak said. A decision on a pre-paid legal insurance program is expected within six months.

SYNTEX CORP. in Palo Alto, Calif., has reduced penalties for early retirement. The drug company eliminated the penalty for workers retiring between ages 62 and 65. Workers age 60 or 61 face

a 3% penalty while workers 50 to 59 face a 5% penalty. The retirement reduction for workers retiring at 50 was reduced to 56% from 90%. Syntex also added a survivor spouse benefit for employes with 10 years of service who die between ages 50 and 65. The method of determining average monthly compensation is now the average of the five highest salary years in the last 10 years of employment. "We made the reductions in the penalty because we thought the previous reduction factor was too harsh," a spokesman said.

UNITED RUBBER Workers at Firestone Tire & Rubber Co. would rather have cash in hand than an improved dental plan in their pockets. By a "pretty over-

whelming vote," according to a URW spokesman, the workers declined to pay about 14.5 cents an hour out of their cost-of-living allowance for an improved dental plan. The plan would have added preventative, diagnostic, restorative and some prosthodontic and orthodontic care to the present dental insurance covering the 17,000 URW workers at Firestone. The dental insurance paid for by the company under agreement with the union covers endodontics, periodontics and surgery.

INTERCRAFT INDUSTRIES Corp. in Chicago has agreed to major increases in its contribution to a union health and welfare fund for 1,100 workers represented by the International Upholsterers Un-

ion. Under a new three-year contract the contribution will increase \$11.60 a month to \$27; the lifetime limit will be increased to \$100,000 from \$25,000 per individual. Workers will now receive three weeks of vacation after nine years and five weeks after 25 years. Starting salary will increase to \$3.50 an hour from \$2.70 over the life of the contract.

Benefit Beat keeps risk managers and employe benefit managers up-to-date on benefit plan changes and union contracts. We'd like to hear if you've made any changes or know of any significant developments. Write Greg David, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611 or call (312) 649-5279.



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Minimum liability, ceiling at issue in oil spill

By JERRY GEISEL

WASHINGTON—Under pressure from an impatient President Jimmy Carter, a House subcommittee began taking the final steps toward passing a comprehensive oil spill cleanup and liability bill.

Several key differences between the administration and the Coast Guard and navigation subcommittee involving liability limits, however, must be resolved before the bill can be approved.

The Carter administration wants a \$500,000 minimum liability for oil tankers. But the House bill calls for a \$250,000 minimum. Subcommittee members worry about the economic repercussions of doubling the limit.

"If the limit was raised to \$500,000, might that not drive out small businessmen from operating

boats?" asked Rep. Mario Biaggi (D-N.Y.) during the final days of hearings last month.

Also at issue is the administration's request to remove the \$30 million ceiling on liability for supertankers, and relying exclusively on a \$300 per gross ton liability for carriers.

The \$300-per-ton liability (up from the current \$100 limit) itself came under criticism from some ship operators who said it was unnecessary and discriminates against small companies. But subcommittee members seemed unmoved by their arguments and the increase in liability limits seemed certain.

But the subcommittee did appear more sympathetic to arguments from the insurance industry that operators of small shore-side facilities such as oil storage

tanks be exempted from showing evidence of financial responsibility to meet the maximum amount of liability.

Due to a situation, according to the American Insurance Assn., where "insurance capacity simply does not exist that could meet the demand for coverage," port facilities handling less than \$100,000 gallons of oil would be exempt from the financial responsibility requirement.

These small facilities, however, along with their bigger counterparts still would be liable for up to \$50 million in damages.

A key amendment likely to be added, in response to criticism from insurance spokesmen, would reduce the liability of an oil spiller by the amount expended for clean-up work.

But the heart of the bill—estab-

lishing federal pre-emption of liability for oil spill damage and cleanup costs—found widespread support among insurers and carriers.

"Underwriters have found it impossible to provide insurance coverage to meet all of the varying standards and limits of liability provided in the laws of the several states," said Donald Miller of the American Institute of Marine Underwriters.

The current fragmented and overlapping systems of federal and state oil spill liability would be replaced by one strict national standard governing oil spills.

In addition, the bill would establish a \$200 million federal fund to cover cleanup costs and to assure full compensation to victims of oil pollution damage, ending the current need for legal actions to

obtain compensation.

Victims of oil spills thus could obtain quick compensation for damages from the federal fund without being forced to launch a plethora of costly and very time-consuming lawsuits.

Instead, the government would file suits in federal district courts against those responsible to recover the damages paid to victims out of the \$200 million fund.

Litigation could be avoided, though, if the victim and the party responsible for the oil spill reached settlement within 60 days of the incident.

DOT plans guard rule

WASHINGTON—The Department of Transportation plans to issue new rules requiring trucks to be equipped with an underride guard to prevent all automobiles from sliding under a truck-trailer during a collision.

The proposal will require the guards on trucks manufactured after Dec. 31, 1978. Commercial vehicles made before then would not have to add the device.

The Insurance Institute for Highway Safety estimates the cost of the guard to be \$20.

The need for the underride guard has increased in recent years as new cars have shrunk in length and height making it more likely that a car could slide under the rear of the truck-trailer tearing open the passenger compartment.

errors & omissions

• Minnesota Mutual Life Insurance Co. has won the state of Wisconsin's group life insurance program. The insurer was incorrectly given as Minnesota Protective Life Insurance Co. in a March 7 item in Benefit Beat.

• The Chicago Transit Authority's insurance program underwent substantial change in late 1976 at renewal time, making certain facts incorrect as they appeared in the Feb. 21 issue. The first and second layers of insurance in the new program are combined so that for losses of \$2.5 million over a \$2.5 million retention, and for losses of \$5 million over \$5 million, British companies have 47.941% of the loss and Lloyd's has 23.559% of the loss; in that first layer of \$2.5 million over \$2.5 million, Lloyd's has an additional 20% of the loss, and Admiral Insurance Co. has 8.5% of the loss.

On the second layer, of \$5 million losses over \$5 million, Seguros la Republica has a 10% share of the loss, Columbia Casualty has a 10% share, Northbrook Insurance Co. has a 5% share, and Bellefonte Insurance Co. has a 3.5% share.

On the third layer of risk, of \$12.5 million in excess of \$10 million, Lloyd's carries 14%, British companies carry 28%, Midland Insurance Co. carries 9%, International Surplus Lines Insurance Co. underwrites 4.4%. State of Pennsylvania Insurance Co. underwrites 20%, and Seguros la Republica underwrites 4% of the risk. That amounts to a total of 79.4% of the third layer which is insured, leaving 20.6% of the third layer of risk uninsured.

The CTA originally supplied out-of-date information.

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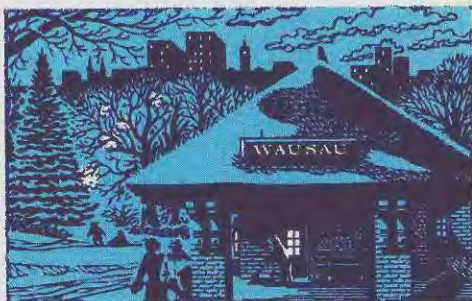
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editorial opinions

Bermuda. Mr. Dew. And Gulf Oil.

WE'VE BEEN WATCHING Bermuda with a great deal of interest because of its clear implications for insurance buyers worldwide.

The latest indication Bermuda is about to become a significant market force is the move by Leslie R. Dew to join the Gulf Oil organization in Bermuda. Mr. Dew, as one of Lloyd's most colorful and controversial figures, almost instantly confers a status on Bermuda's insurance center not achieved by gradual growth.

The status accorded Bermuda by Mr. Dew's move is attributable at the very least to the attention it draws to the island as a financial center. At best, Mr. Dew's power within Gulf's agency will attract more business to captives as bona fide insurers and to Bermuda generally. At worst, his outspoken and controversial underwriting reputation at Lloyd's of London will cast a shadow over the island's insurance community. Mr. Dew, because of his vocal and often-disputed remarks about D&O insurance and fiduciary liability risks—coupled with his London syndicate's high premium charges for liability policies—is not universally well-liked by insurance buyers and brokers.

His new Bermudian role also raises some questions about the future of the underwriting business in that resort colony.

For example, is there a chance that a mini-Lloyd's will emerge in Bermuda—a central auction-type trading center for replacement of risks in markets?

Does this say anything about the development of a "super-captive," which has been proposed in some quarters? Is there a chance Gulf wants to be the provider of a super-captive facility through its Britamco underwriting agency?

Is it, in fact, possible that Gulf's INSCO captive will evolve into one of the leading commercial insurers over the next five to 10 years? What impact will this have on traditional markets?

It seems to us that these possibilities are not at all far-fetched, particularly the speculation about a mini-Lloyd's facility—or a "second Lloyd's," if you will—considering the aborted attempts to get such an undertaking established in the U. S. some years ago.

Such a central insurance marketplace may not be feasible or even advisable in the U.S., if for no other reason than the intransigence of well-established underwriting firms here. But it may be what's needed in Bermuda at this point to assure some cohesion in an emerging market characterized by fragmentation. There might be plenty of small "captive" insurers in Bermuda wanting to write outside business, each one having some available capital and surplus to take on new risks. But it's been difficult to determine what aggregate capacity is really available.

Thus, a central market using Gulf's Britamco, pulling together this fragmented capacity and giving Mr. Dew discretionary authority to underwrite risks using his knowledge and experience to commit capital, sounds very logical.

As far as the idea of a mini-Lloyd's goes, there are those operating in Bermuda now who don't want to see anything like another Lloyd's established. For selfish reasons, those acting as insurance and reinsurance intermediaries right

now would only stand to lose status as market experts if a kind of Lloyd's auction floor was established to make it easier to handle risk placements.

That the Gulf action in drawing Mr. Dew to its underwriting operation signifies a new importance for captive insurance subsidiaries goes without question. Captives have moved into the second generation of their existence, becoming major risk-bearers and in the process helping to turn Bermuda into a "regular market," as some in the industry have described it.

Furthermore, as we understand it, there are several other captive insurance underwriters in Bermuda whose parent companies are ready to also commit money and people in order to turn their subsidiaries into major profit centers. Reportedly at least three and possibly more groups in Bermuda similarly are "looking around" for a big name underwriter—such as Leslie Dew—to help them accomplish exactly what Gulf is doing with its operations.

Just the other day, in fact, an ad appeared in a major newspaper searching for a claims administrator/captive insurance company manager who wants to work for "one of the most prestigious financial services organizations in the U.S."

That leads to still further speculation about the Gulf Oil and Leslie Dew pairing. How much does a company like Gulf have to pay a well-known personna like this to take over the subsidiary underwriting operation, to develop a major new business? Why would a man like Leslie Dew want to leave Lloyd's of London after a lifetime in that body's foremost syndicates, and having risen to the pinnacle as senior deputy chairman of Lloyd's? Why, in fact, would Mr. Dew want to leave the U.K. for American industry?

If anyone knows the answers to all those questions, he's not spreading the details around very fast. But there's plenty of speculation.

Gulf is reportedly paying Dr. Dew a six figure salary to develop this new profit center.

Mr. Dew supposedly might have had several reasons for leaving Lloyd's and the U.K. at this point, not the least of which is the burden of taxation in Britain and the threats of more nationalized industry there. Mr. Dew, clearly savoring the limelight and setting himself up as a leader of men, may have wanted to be chairman of Lloyd's. He was deputy chairman and senior deputy chairman, reelected repeatedly, until recently serving his third term in that post. He could possibly have felt somewhat bitter about his failure to become chairman of Lloyd's, especially considering his many well-publicized visits to the U.S. and around the world over the years on goodwill tours building Lloyd's business and prestige.

Most importantly, it seems to us the opportunity to build an entirely new operation for a company with the resources and commitment of Gulf Oil would have to be an attractive prospect for any manager.

We'll be fascinated watching the outcome.

Juan Alt

letters

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

Editorial masterpiece

To the Editor: The editorial page of the Feb. 21 issue is a masterpiece. The first editorial refers to a Minneapolis ordinance requiring smoke detectors in all houses, apartments, hotels and motels as "a step in the right direction." The second editorial praises the loss prevention capabilities of air bags and urges insurance industry onward in its support for making them compulsory.

The thrust of both of these editorials is that the average citizen is incapable of making important loss prevention decisions for himself and, therefore, such decisions should be made by law.

The third editorial is a complete switch from collective responsibility to individual responsibility. It asks, "Can American citizens—the individuals as well as institutions and businesses—take no personal responsibility for what happens to them?" Your editorial page score is as follows: collective responsibility 2; personal responsibility 1.

James L. Athearn

The W. Frank Hipp Professor of Insurance, University of South Carolina, Columbia, S.C.

CTA "L" crash

To the Editor: I wonder whose interest will be served by your coverage of the "L" crash and the subsequent reporting of the Chicago Transit Authority's \$2.5 million retention. (Business Insurance, February 21, 1977).

The "fact" that the retention has not been penetrated in prior years in combination with a budget of \$11 million to pay losses and the adjectives "antiquated," "tragic," and "deadliest" seem only to serve as a challenge to the Cook County plaintiff's bar. Your masthead leaves me with the impression that Business Insurance is there to serve the "buyers of . . . property and liability protection." Whose interests?

John J. Dwyer

Hartford, Connecticut.

Our philosophy has always been that honest coverage of the news, with all pertinent facts contained in a story, does serve the best interests of our readers, who need to anticipate and prepare for contingencies such as those we report. There are many valid and invalid (i.e., greedy) reasons persons associated with such an

Continued on page 8

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letters

Continued from page 6
event would sue, but we don't think the details about an organization's good planning and financial management contribute to this urge.

A safer safe

To the Editor: I read your Jan. 24 article on the burglary at Henry Kay Jewelers with interest since I specialize in writing jewelers block insurance on behalf of Jewelers Mutual Insurance Co.

I take exception to police statements that guards should be utilized as back-ups to the burglary system. Realistically, it would be unwise to have an on-premises guard in addition to the sophisticated burglar alarms that are available. I have found that most security guard services employ

elderly men. If a professional burglary gang is proficient in bypassing the most sophisticated alarm, I am sure that they will take the necessary measures to do away with any on-premises guard. In fact, with having an on-premises guard you could not utilize the complex ultrasonic interior system because the guard, in movement within the store, would be setting off the alarm.

I would suggest as a practical alternative the utilization of superior quality burglar resistive safes. I am aware of at least one, manufactured in England, that is anti-torch and anti-tool resistant.

Michael J. Wexler

Wexler Insurance Agency, Miami, Fla.

Product liability

To the Editor: In regard to your Jan. 10 article on the product liability insurance, I think it is probably true that if price is no

object, one can buy almost anything in the insurance field.

All of us in business have a very major objective of cost control, to produce, to use a rather trite expression "the best of the most for the least." I think it is a product liability "crisis" when one finds insurances drastically increased in price—and I consider doubling a premium or tripling it as a drastic increase. We are seeing a lot of figures being tossed around as to how small some of these increases are when they are related to sales; when you start tossing around even fractional percentages and applying them to companies which have \$1 billion in sales or more in the course of a year, you get to very significant premium and cost that has to be built into the price of the product. I strongly support the ideas of tort reforms which are underway but which will grind away slowly over many years before anything is really accomplished.

The sob stories that some of the legal people use for their headline material are, I suspect, a very minute fraction of all of the claims that are presented in any period of time. I would like to see someone do some very specific research on what must be a very, very small problem—not the major and alarming deficiency in the overall system which these people would like to make it out to be.

I have been unsuccessful in obtaining any kind of loss statistics which would suggest that the huge increases in excess liability insurance premiums are justified. I have talked to many others in this risk management area and I don't know anybody who has any information on claims of the magnitude which would create the problems underwriters allege exist.

This statistically proven information should be delivered now.

Don Stuart

Insurance Manager, Canada Packers Ltd., Toronto

Going by the book

To the Editor: Mr. E. Raymond Gardner's constructive criticism of "The Umbrella Book" is very much to the point. I have in the past had several clients ask why I have not written a book relative to my forty years' experience in the insurance profession, with suggestions on avoiding the pitfalls along the way.

I have not, simply because it would be outdated by changes and court decisions, plus many other important factors, before the ink was dry. I have read a few other basic books through the years, but all, when too specific, are simply not useable in a short period of time.

I have seen a few who "played it by the book" but they have not been overly successful. Anytime I meet up with someone who can read the book, find out how it was done in the past, then more or less "roll with the punches," adjusting to the game today, I know I am in the company of a real pro. Ours is certainly a changing profession, calling for the brave, and sometimes a few foolhardy pioneers who will do the job, not waiting for a myriad of experience figures before assuming a new risk.

Justin S. Lencke

Insurance Consultant, Marianna, Fla.

Timely information

To the Editor: We were most interested in the contents of Marie Krakowiecki's column *risk-Watch* in the Feb. 21 issue which reported and commented on the efforts of Victor M. Zink, director of employe benefits and services for General Motors Corp., to establish cost control mechanisms in respect to employe medical expense plans.

We applaud the kind of reporting reflected in the column and hope you will find it possible to continue to provide such timely information.

Richard N. Blomquist

R. N. Blomquist & Co., Oak Brook, Ill.

dates for buyers

April 12-15: Inspector Training/Hazard Control Seminar in Houston, Tex., sponsored by the International Safety Academy. The course teaches the fundamentals of hazard detection—how to inspect, what to look at and what to look for—and focuses on legal requirements, particularly OSHA standards. Tuition is \$350. Contact: ISA, P.O. Box 19600, Houston, Tex. 77024.

April 20-22: Assn. of Private Pension and Welfare Plans' (APPWP) annual meeting, in Washington, D.C. Highlighting the APPWP's 10th anniversary meeting will be the association's first exhibit and display of the industry's services. Contact: John E. Ryan, executive vp, APPWP, 1028 Connecticut Ave., N.W., Suite 909, Washington, D.C. 20036.

April 21-22: National Assn. of Employers on Health Maintenance Organizations (NAEHMO) national conference and annual meeting in Chicago. Conference topics include how to develop a corporate policy on HMOs, how to develop and negotiate a contract with an HMO and how NAEHMO evaluates HMOs. Cost to members is \$145 for the first person and \$125 for each additional person. Non-members will be charged \$195 for the first person and \$175 for each additional person. Contact: NAEHMO, Suite 1320, Cargill Building, Minneapolis, Minn. 55402.

May 2-3: The Health Care Industry: The Economic Impact of the Carter Administration, an international health care executive forum sponsored by Arthur D. Little Inc., in Washington D.C. The results of a special Little study which develops four health care scenarios most likely to emerge under the Carter Administration will be presented. Cost to government officials and non-profit organizations is \$295, and for others \$595. Contact: Mary Greene, Arthur D. Little Inc., Acorn Park, Cambridge, Mass. 02140; phone (617) 864-5770.

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GROUP DEPARTMENT



CHATTANOOGA

Iowa hospitals receive refunds from St. Paul

By TOM WALSH

DES MOINES—St. Paul Fire & Marine Insurance Co. will refund to 48 Iowa hospitals \$400,000 in malpractice premiums and interest.

The company overcharged the hospitals for malpractice coverage above the normal \$100,000/\$300,000 limits between November 1975 and June 1976.

The Iowa Insurance Department and the state's largest malpractice insurer agreed that St. Paul improperly applied "Guide A" rating. Under this rating system, modifications in the filed suggested rates can be modified on an individual case basis without further regulatory action.

St. Paul erred, the department said, in using this technique on a class rather than on an individual case basis. St. Paul claims that it felt there was no need to file these rate modifications with the state's insurance commissioner, and company officials said St. Paul originally denied allegations of improper rates based on its belief that its use of Guide A rating was proper.

An investigation into the malpractice rates charged Iowa hospitals by St. Paul began late last year. Officials of a struggling malpractice insurance captive being formed by the Iowa Hospital Assn. accused St. Paul of using rate-cutting to sabotage organization of the co-op.

St. Paul was subsequently cleared of those charges by an Iowa Insurance Department audit but irregularities in rates charged for excess coverages prompted the state to investigate the rating techniques.

A settlement reached by the state and St. Paul says the company had "numerous discussions with the commissioner, its counsel and its national statistical agent (Insurance Services Office) which had filed the Guide A rating plan, but which had neglected to include in its manual the specific rating rule in question which governed the usage of the plan.

"Based on these discussions and other research," the document reads, "St. Paul has concluded that it modified the Guide A rating technique on a class basis, that the commissioner's interpretation of Guide A rating is correct and that St. Paul erred in its interpretation and use."

St. Paul promised to recalculate the premiums charged between November 1975 and June 1976, based on its filings in effect at the time and make refunds for the difference.

"We regret this situation," said D. Dietel, St. Paul's general manager in Iowa. "St. Paul has been a consistent and responsive malpractice market for Iowa hospitals since the 1940s, and we intend to continue that position."

St. Paul writes malpractice coverage for 96 Iowa hospitals.

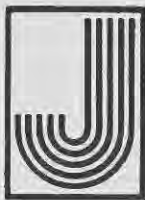
St. Paul officials are quick to point out that the company entered the Iowa market after other insurers bailed out.

While 48 hospitals will receive refunds for premiums charged by St. Paul for liability limits above \$100,000/\$300,000, three hospitals sued by St. Paul using Guide A

standards will not receive refunds. Those facilities, the Iowa Insurance Commissioner agrees, were individually rated because of their large size and specialized medical facilities. Because of the individual rating scrutiny they received was proper under Guide A regulations, no refunds will be required for these three risks.

Some hospitals interpreted the rate reductions as an effort to head off competition from the newly created Iowa Hospital Mutual Insurance Co. and promoters of that cooperative complained to the state's Insurance Commissioner, Herbert W. Anderson.

An audit of St. Paul's rating practices absolved the firm of the sabotage charges. ■



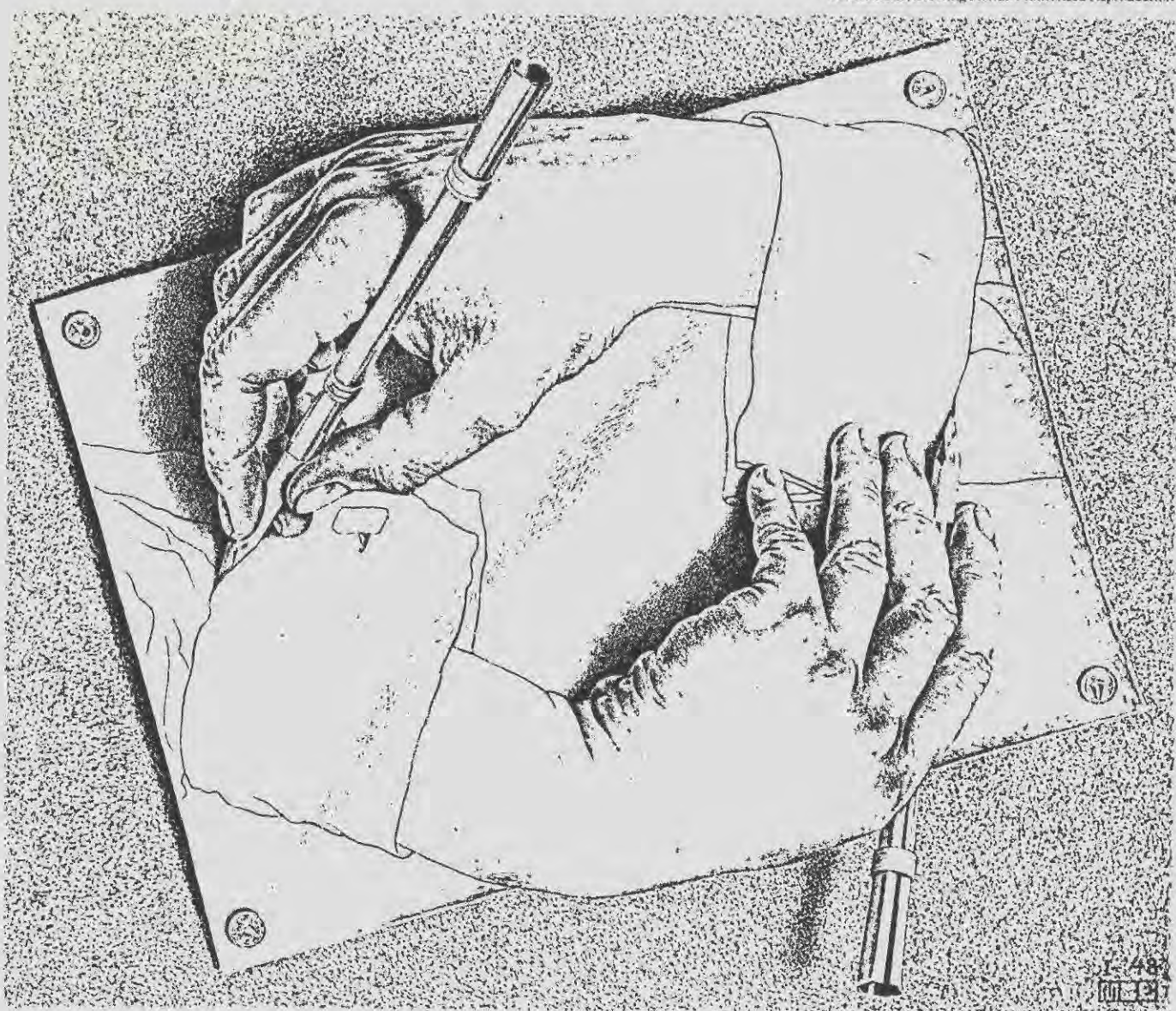
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New correspondent

Atlantic-Associates Insurance Services Inc. has established a correspondent relationship with the international brokerage firm of Jardine D'Ambrumenil International Ltd. in London, England.

Texas limits product liability awards

By KATHRYN McINTYRE ROBERTS

AUSTIN—The Texas Supreme Court has extended the comparative negligence rule to product liability.

A company's liability will be limited to the extent its defective product caused an accident when both a product defect and consumer misuse are found.

In a Feb. 28 decision upholding a \$1.8 million judgment against General Motors Corp., the court said, "We decide now that the supplier should not be required to pay for all damages suffered by a user who contributed to the cause of his harm by unforeseeable handling of the product." The court added, however, "The harm must be reasonably foreseeable to the user if he is to be penalized."

Although the extension of comparative negligence to product liability was the result of an appeal filed by GM, the company did not benefit from the decision. The judgment against GM was not reduced, nor was a new trial ordered, because GM had never raised the point of comparative negligence. But the Supreme Court has not yet acted on a motion by GM for a rehearing.

GM was sued in 1971 by Robert M. Hopkins Jr. who was left a quadriplegic at 19 after an accident in his 1970 Chevrolet pickup truck in which he was a passenger. He charged the accident was the result of a defective carburetor which caused the truck to roar out of control. The driver was thrown clear of any serious injury.

Records obtained from GM's

files showed that engineers were aware of the problem in the design of the carburetor in 1968.

Complicating the issue, however, was the question of misuse by Mr. Hopkins. He had removed and reinstalled the carburetor prior to the accident. A jury found in December 1974 that the carburetor was defectively designed and the defect was a producing cause of the accident.

(A producing cause was defined as one which "... caused in whole or in part the occurrence or injuries ... and but for said cause the occurrence or injuries would not have occurred.")

The jury also found that misuse by Mr. Hopkins was a producing cause of the accident, but the trial court disregarded the findings of misuse and rendered the judgment for Hopkins.

The Court of Appeals affirmed the judgment in March 1976, saying misuse which is only a concurring cause of the plaintiff's damages is no defense for the manufacturer of a defective product.

The Supreme Court, finding no error in the judgments, affirmed them.

In its review of the case, however, the Supreme Court examined the question of how much of his damages a plaintiff should recover when his own misuse as well as a product defect contribute to the damaging event. The court found no precedents in Texas or elsewhere.

It decided, "Product liability was never intended to take the place of insurance, and we see no justification for making the supplier reimburse the plaintiff for

that portion of his own damages as he caused by a use of the product which the supplier would not have foreseen—and which use the plaintiff should have foreseen would create or increase the attendant danger."

On that basis, the court said, "Reduction of the plaintiff's recovery should be ordered where the misuse is a concurring proximate cause of the damaging event.

(Proximate cause was defined as a cause which "... produces a result that would not have occurred but for such cause, and which said result ought reasonably to have been foreseen or anticipated in the light of the attending circumstances.")

In these circumstances—a defective product that is the producing cause of the event and misuse of the product by the user as a proximate cause of the event—the jury must determine to what extent each cause brought about the event. The percentages of each cause must add up to a total of 100.

The court pointed out that this scheme allows recovery by the injured consumer even if his misuse contributed more to the damaging event than the product defect did. This differs, the court said, from "the statutory scheme of modified comparative negligence which bars all recovery to the plaintiff if his negligence is greater than the negligence of the parties against whom the recovery is sought."

The court apparently anticipated a charge that it had changed the rules of product liability at half-time leaving the GM case unaffected by this decision. The court said, "Even if we were to say that from the defendant's standpoint the case was tried on the wrong theory (or that GM might have pursued a different theory or contention with the present writing in hand), we cannot order a reversal and remand for a new trial unless we also find error in the trial court's judgment." And it found none.

A GM spokesman said the company had to decline comment on the case since it has a motion pending before the Supreme Court.

Mr. Hopkins' attorney said the court's decision to extend the comparative negligence rule to product liability is a "monumental decision."

Wilburn W. Watkins of the Houston firm Kronzer, Abraham & Watkins said, "There will be a sharing of responsibility between manufacturer and consumer. Up until now if a manufacturer was found to have put out a bad product, it had to pay all the damages even if the user was found at fault. Now if the user is found at fault the damages will be accordingly reduced."

Unless a new trial is ordered by the Supreme Court, it will remain unresolved whether or not Mr. Hopkins' misuse of the carburetor was a "proximate cause" of the accident. ■

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Doctors receive 11.6% dividend

SANTA MONICA, CALIF.—A doctor-owned insurance exchange has paid policyholders an 11.6% dividend in its second year of operation.

The Doctor's Co. has a current membership of 2,600 individuals and premiums and surplus of \$18 million. Policyholders are spread throughout California and represent most medical specialties.

The company attributed its success to strict underwriting standards and encouragement of quality medical care.

Feed firms eye product loss record

CHICAGO—Complaining that the insurance industry panicked in abandoning their industry, the American Feed Manufacturers Assn. has begun a study of its members' product liability loss record.

Many insurance companies left the market following the PBB disaster in Michigan, said Yewell G. Lawrence, chairman of the group's product liability committee. As a result, many firms have faced major increases in premiums and others have been unable to purchase coverage at any price.

The study, expected to be completed by June 1, will determine if the industry's loss record justifies the withdrawal of the insurance companies.

Mr. Lawrence's own company, Monarch Feed Mills of Dexter, Mo., was rejected by 39 insurers before placing its product liability coverage with the company that had provided its fire and extended coverage insurance for 25 years. The new policy resulted in a 300% increase in premiums, despite only \$30,000 in losses in the last five years.

The association is also planning a seminar next fall on how feed companies can improve their safety procedures. Many companies need to tighten their quality control procedures and their monitoring of ingredients, Mr. Lawrence said.

Companies also need to be more aggressive in investigating claims since many claims do not result from problems with feed. Insurance company adjusters often do not have the technical knowledge necessary for this work, he warned.

The association is composed of 260 companies representing 75% of all feed manufactured in the U.S. ■

Survey finds 9% are bare

WASHINGTON—A recent study involving more than 1,000 small manufacturers found that 9% of the firms surveyed are unable to afford product liability insurance.

The study, which was conducted by the National Federation of Independent Business, an organization of 31,000 small and independent manufacturers, reported that another 17% cannot afford desired limits for coverage.

Other highlights of the study, which was presented last month at the Senate Select Committee on Small Business hearings include:

- One out of eight surveyed small manufacturers failed to develop a new product because of either an inability to obtain product liability coverage at a reasonable cost or fear of product liability suits.

- Five percent of the firms dropped a product because of escalating premiums or threat of product liability litigation.

- The number of product liability claims filed against firms surveyed increased 60% from 1972 to October 1976.

- The amount of the average resolved claim increased to \$14,768 in 1976 from \$9,323 in 1972.

- Recent increases in product liability insurance premiums caused 25% of surveyed firms to raise the price of their goods. ■



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Proving youth and enterprise can pay

Inco's U.K. risk manager fights for his beliefs

By JOHN H. MILLER

LONDON—Covering multimillion dollar risks in the vital European section of the world's nickel industry is an obvious challenge. But Ronald A. Muckleston, group risk management adviser for Inco Europe Ltd. is confident he has found the philosophy with which to meet the company's risk management needs after three years of intensive research.

The group, which is part of the organization of the Canadian-based Inco Ltd., has a fine safety record in its own field that it means to maintain.

Inco Europe appointed Ron Muckleston as risk management adviser three years ago when its

insurance program came up for renewal.

Mr. Muckleston was a youthful 28 when he moved into the job. Naturally there are those who still feel he has a long way to go to convince them of the merits of risk management. But he got backing when it came to implementing his ideas, for the group recognized that good risk management could pay them rich rewards.

Now the company's board of directors in London has repeated its belief that youth and enterprise can pay their way, and that the principles of risk management which are growing steadily in the U.K. can be effectively applied to such an important group as their

own in the field of European industry.

It was the firm belief that he could prove his value that led Mr. Muckleston to join Inco Europe in 1973.

Since 1900, Canada has been the major source of world nickel supply, with Inco Ltd. of Toronto operating mines and refineries in Ontario and Manitoba. They also have a refinery at Clydach, in the South Wales industrial area 200 miles from London and related plants elsewhere in the U.K. to make alloys and other products that go to a vast range of essential industries.

Inco's business is becoming more international as countries in

many parts of the world demand nickel materials for their own processing, so Inco Europe's horizons are widened from its base close to the historic River Thames in the center of London.

Mr. Muckleston joined Inco after working as assistant insurance manager for a U.K. rubber firm and learning his trade on the staff of the Glaxo pharmaceutical group's risk management division.

In 1973, after learning that Inco Europe was re-examining its own insurance program, Mr. Muckleston went ahead to present his own forceful ideas to the firm on the value of risk management.

"I presented a brief to the European executive board covering the concept of total risk manage-

ment, and not just the need to handle insurable risks as a separate item, because I believed that is what industry wants," he said in an interview.

"The board decided to put faith in my views, although naturally the value of traditional insurance practice was not discounted, and since then I've made a detailed study of most aspects of the group which I felt I ought to know about.

"Now the board has agreed with the various merits of my objectives and has reaffirmed my task. Implementation, coordination and monitoring of the program is carried out in conjunction with plant and safety executives to enable available resources to be used with full efficiency."

The philosophy which Mr. Muckleston adopted for his group is the same that could be advocated for any risk manager in the field of heavy industry.

"I've got one basic question which I follow through when I'm looking for risk hazards," he explained. "First of all, I say to myself: 'What is normally likely to happen in this process?' And then I ask myself 'But what will happen if something goes wrong . . . ?' By this, I mean, for example, that if a pump valve suddenly failed to close in an otherwise straightforward process, will the process meet with total failure, partial failure, or no failure at all?"

"Then I can assess the amount of risk involved, and this in turn helps to decide the extent of safety or insurance programs we need."

During his study of nickel production, Mr. Muckleston has drawn up his own "risk inventory" principles which he has applied in many on-the-spot probes into plant processes.

He puts it this way: "I think broadly of three categories of risk. They are:

- Risks inherent in the basic industrial processes or the material used in them.
- Risks which are liable to occur through outside circumstances such as fire, flood or storms.
- Risks arising from the actions of employees, systems of work, or other events.

"Then I break down the risks into a broad field of subdivisions which obviously reflect the losses that can happen." These are:

- Property damage which can be caused by fire, accidental damage, or theft.
- Liability risks, such as employee liability and environmental problems.
- Financial effects, such as loss of profits or other consequential losses.

Unlike some U.K. risk managers who confine their attentions to specific issues, Mr. Muckleston says he firmly believes that the right approach is "to concentrate on all manageable risks that a corporation may face, ranging from risks which are fairly easy to detect, to speculative risks which need a lot of investigation."

However, he excludes what he describes as "entrepreneurial risks, that is to say company board decisions on future policy which are the duty of the directors."

Mr. Muckleston believes in "looking for myself. During my three years with Inco Europe I have gone around each of its plants with the local managers and outside advisers. In particu-

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lar, I spent altogether six months at each of its two major plants, in between spells at the head office, to find out for myself just what went on in our important production lines.

"I walked around every building in those plants, and looked into every room, with a trained eye and inquisitive mind so as to assess the risk problems that might arise."

The plants Mr. Muckleston visited are probably worth between \$120 million to \$150 million each in current values, with inventories worth nearly \$400 million. But it is plant safety with which he is intensively concerned, in the interests of both employees, management and consumers, as the nickel stocks themselves by their very nature are in every sense pretty indestructible. Theft of inventories comes under security.

He also made sure, for example, that stocks of nickel or nickel products in transit to consumers, or held by them on a temporary financial accounting basis, were fully insured until they were no longer Inco Europe's property.

The range of Mr. Muckleston's work is shown in the extent of Inco Europe's activities. He is responsible for risk management advice on liabilities that can go as high as \$1 billion.

High court backs OSHA

WASHINGTON—The Supreme Court has upheld the right of the government to assess civil penalties without jury trials against companies violating Occupational Safety and Health Administration (OSHA) regulations.

One Labor Department official called the unanimous decision a "major victory" for the government in its effort to enforce safety orders with civil penalties.

The case involved two companies, the Atlas Roofing Co. Inc. of Atlanta and Frank Irey Jr. Inc., a construction contractor firm in Monongehela, Pa. Both had been fined by OSHA for job safety violations after accidents in which workers died.

Lawyers for the penalized companies argued that the fines were unconstitutional, violating the Seventh Amendment right to a jury trial in suits at common law involving more than \$20.

But the court ruled that this amendment was "never intended to establish the jury as the exclusive mechanism for fact finding in civil cases."

In writing the court opinion, Justice Byron White said that when the government sues "to enforce public rights created by statutes within the power of Congress to enact," the Seventh Amendment does not prevent Congress "from committing new types of litigation to administrative agencies with special competence in the field."

Under OSHA procedures, field representatives inspect company work sites for safety and health violations. If a violation is found, OSHA can impose civil penalties.

If a firm challenges a penalty, as Atlas and Irey did, a hearing is held before an administrative law judge from OSHA's review commission, and not before a jury.

But the court noted administrative decisions in OSHA cases are subject to review in federal appeals court.

Atlas had been fined \$600 for failing to install roof opening covers "to prevent accidental displacement." An employe had earlier fallen through a ventilation bay in a warehouse roof. ■

In addition to important plants in Britain, the group also has warehousing interests in western Europe and Scandinavia, as well as marketing offices in many European centers. It has 8,000 employees spread across the field of operations under Inco Europe.

Currently Mr. Muckleston is evaluating the general attitude of U.K. risk managers to industrial developments in the Middle East, where there has been considerable expansion of operations.

There is already a substantial self-insurance program on property. But product liability figures largely in the mind of any company these days with the growing moves in many countries toward consumer protection.

So Mr. Muckleston keeps a close eye on indemnity limits in line with insurance market trends, keeping in mind such details as the use of nickel alloys in aviation, nuclear and general industrial products. ■



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Bahamas may try to recover captive business

NASSAU—The Bahamas government is considering proposals for reviving the islands as a site for offshore insurance captives.

"We are looking at all the pros and cons and expect to reach a decision well before mid-year," says Ehurid Cunningham, deputy finance secretary.

In announcing the government's plans, Prime Minister Lynden Pindling said he had been advised that over \$1 billion in captive business could be routed through the Bahamas, giving the industry a potential as large as offshore banking.

Although the islands offer numerous tax advantages, there are doubts that American and British companies would seriously consider a Bahamian location for their insurance subsidiaries without the country making some statutory

and regulatory changes.

A flourishing center for captives in the 1950s and '60s, the Bahamas saw nearly all of them take flight following enactment of its 1969 Insurance Act.

The measure was designed to eliminate the large number of corrupt insurance operators. It failed, however, to differentiate between captives and companies insuring for the domestic market.

Fearful of the restrictions placed on their business activities and worried about the possibility of outright taxation, most companies chose to relocate in Bermuda. There are presently no more than a dozen captives doing business from the Bahamas.

A second deterrent has been the 1% tax on gross premiums introduced in January 1976 and levied

on all insurance companies doing business in the country.

"It was felt that in the absence of any form of profits tax as is in force in most other countries, the insurance companies in the Bahamas could and should make a reasonable contribution to the revenue," Finance Minister Arthur Hanna said.

A ruling since then has excluded non-Bahamian risks from the premium tax, but industry sources want the ruling enacted into law.

"The margin in this business is such that if we had to pay the tax it would be too expensive to operate," the president of one offshore company noted.

It has been suggested to the Ministry of Finance and the Central Bank that the existing legislation be amended so that none of its provisions, other than regis-

tration and the annual filing of a financial statement, are applicable to a company classified as non-resident for exchange control purposes.

The view is that the act should only apply to those insurance companies handling Bahamian risks.

As matters stand now, Bahamian legislative and regulatory restrictions make it difficult for captives and other non-resident insurance firms to borrow or reinsure freely.

Another source of concern, and one which applies to the business community as a whole, is the question of work permits for foreign staff. The government raised the annual cost of immigration permits from a maximum of \$500 to between \$3,000 and \$5,000 for insurance personnel.

The higher fees are intended

to pressure foreign companies into training Bahamians. Offshore firms complain, however, that local employees cannot be trained overnight for the highly specialized reinsurance field.

They are also worried by the lengthy delays—anywhere from three months to a year—in obtaining immigration permission for needed expatriates.

"If the Bahamas is in fact serious about attracting captives then it must be prepared to adopt a more reasonable immigration approach," an industry spokesman said. "Until this is done and captives are given the required tax assurances, Bermuda will remain more attractive from a regulatory, statutory and immigration point of view." ■

CU reports U.S. losses are lower

LONDON—Commercial Union insurance group has recovered from its U.S. underwriting losses which cost it nearly \$150 million two years ago. It has turned in a much improved operating ratio last year of 106.4% compared with 113.9% in 1975.

Its losses in the U.S. last year were \$45 million.

There is every hope for even more improved business in 1977, CU forecasts, unless there is a major catastrophe to affect the claims situation. Altogether the group has cut its losses from \$190 million to \$100 million between 1975 and 1976, and allowing for investment income has turned in a worldwide profit of \$80 million compared with a \$20 million loss in 1975.

The General Accident group lost \$24 million on its U.S. business last year, with the underwriting ratio of 104.2% compared with 106.2% in 1975. The Royal Insurance group faced a \$30 million loss, on an underwriting ratio brought down to 103.4% from 107.1% in 1975.

Most British insurance companies faced heavy claims from last year, likely to reach \$100 million, on domestic insurance business covering subsidence liability. A prolonged drought affected thousands of homes throughout the country and caused them to tilt as the subsoil shrank. Premiums for this class of business will rise as a result. ■

Hughes eyes a captive

LOS ANGELES—Hughes Aircraft Co. is in the early stages of studying the idea of establishing a captive to handle its worldwide workers' compensation coverage.

The company is understood to have set the date of January 1978 for the activation of the captive if it is decided, later this year, to set one up.

"There is no real, active, authorized discourse in terms of a captive at this time," said Don R. Reid, manager of corporate insurance.

He said Hughes, like other corporations without captives, has mulled over the idea of setting one up.

"But it is really too early to comment," he maintained.

Most of Hughes Aircraft's workers' compensation exposure is domestic. ■



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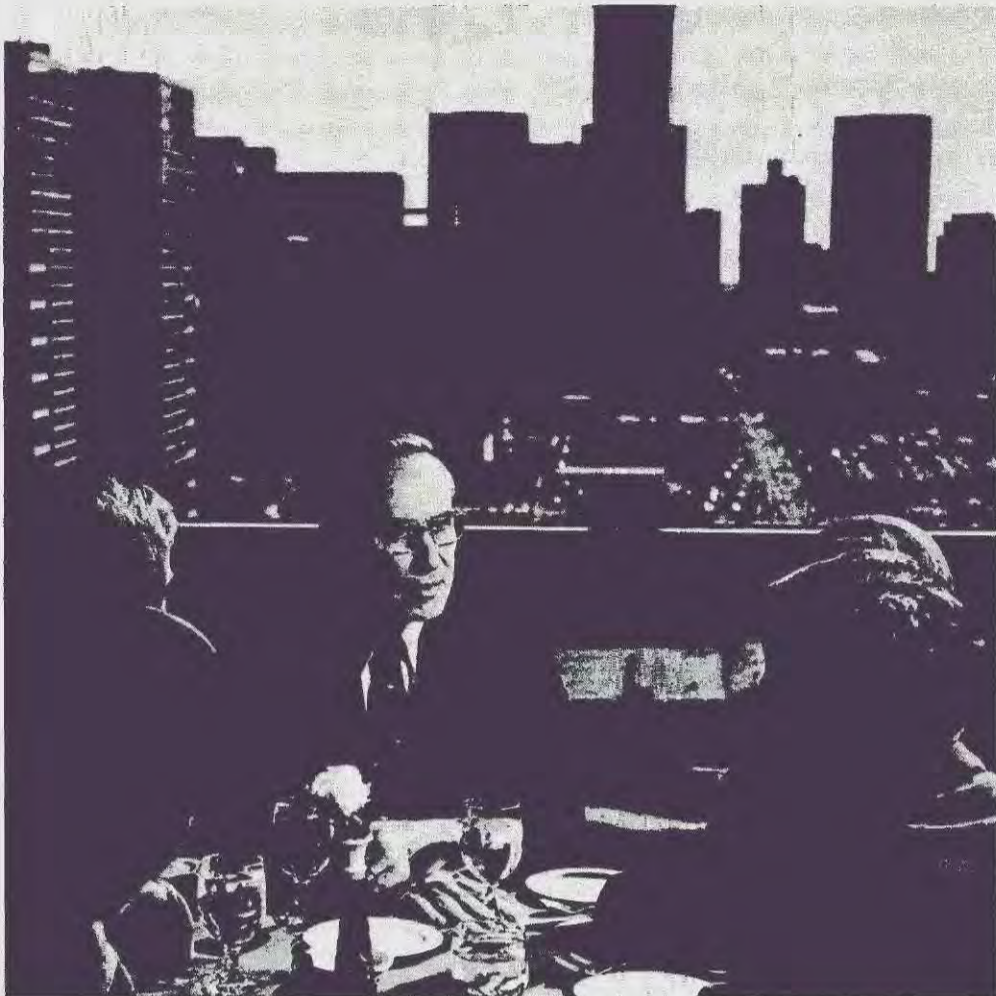
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Joint pooling urged for California cities

By JOANNE GAMLIN

NEWPORT BEACH, Calif.—A new study suggests the 24 small cities of the California Contract Cities Assn. consider a joint power authority (JPA) to pool liability losses.

The study by consultants Warren, McVeigh, Griffin & Huntington says pooling self-insured losses and joint purchase of excess insurance and administrative services are considered economically feasible.

The consultants say the pool will require first year premiums totalling \$1 million. That figure assumes that excess insurance of \$900,000 above a pooled self-insured retention of \$100,000 per occurrence will be available for \$375,000 or less.

Savings of 8% to 13% are estimated if aggregate excess insurance is purchased to hold first-year retained losses to a fixed fig-

ure. Savings of 18% to 23% are forecast if excess insurance is not purchased.

However, working on the assumption that it will be impossible to obtain excess coverage with less than a \$500,000 per occurrence retention, the study recommends first year participation in the pool generate at least \$2 million in premiums. Savings are estimated to range from 20% to 35% under this approach, using fairly conservative loss projections.

Any savings produced by the JPA should not be returned to the participating cities until an adequate catastrophe reserve fund is developed, the study continues. After the fund is in place, premiums can be reduced and dividends declared.

The annual cost to member cities should be allocated retro-

spectively to reflect the loss experience of each individual city. The study says the allocation formula should directly reflect each loss less than \$10,000. Common costs of the program, such as pooled losses above the \$10,000 per-occurrence level and contributions to a catastrophe fund, should be based indirectly on each city's loss experience.

The study says the \$10,000 retention figure was selected because 99% of all past losses of the participating cities have been less than \$10,000 each occurrence.

High hazard risks such as bus and dial-a-ride operations and aviation exposures should be handled outside of the JPA, the study recommends. Police departments, which also have troublesome exposures, can be included if:

- The maximum participation requirements of the JPA are increased by an additional increment of about \$1 million in the first year premium contributions generated by police department exposures.

- A separate loss and expense fund should be created within the JPA for police exposures. Losses arising out of police departments should be segregated from other losses and a separate accounting system for police department cost allocations should be set up.

The study says that the JPA itself should detail how the authority will be managed, including the purchase of excess insurance and the allocation of pooled losses and expenses to participating cities.

The board of directors, composed of an official of each par-

ticipating city, will hold the ultimate responsibility for the JPA, although day-to-day activities should be managed by the executive director of the California Contract Cities Assn. under the direction of an executive committee.

During its development phases, the study advises that the JPA enter into contractual relationships with independent contractors to perform claims adjusting, data processing and insurance brokerage service for the purchase of excess coverage.

Once the initial stages of operations are over, a specific loss control program can be promulgated. Independent contractors would then be requested to submit proposals outlining their qualifications and approach to the loss control objectives.

The 24 cities, all in Southern California, include Hawaiian Gardens, Rancho Palos Verdes and Rolling Hills Estates. ■

Case extends liability for Calif. cities

SAN FRANCISCO—Marin County may have to dip into its self-insurance fund to pay Richard Morris \$200,000 under a California Supreme Court ruling establishing a precedent of concern to risk managers of public entities facing an almost non-existent market for liability insurance coverage.

Mr. Morris fell from a ladder while working for a contractor on a county-sponsored building project at Muir Beach. His injuries caused him to become a paraplegic. Mr. Morris was awarded \$200,000 by the Workers' Compensation Appeals Board. The contractor for whom he had worked, however, had no workers' compensation insurance coverage.

Mr. Morris sought redress from the state's Uninsured Employers' Fund, only to learn that it was bankrupt. Then his attorneys sued Marin County for having issued a building permit to the contractor without having determined if he had workers' compensation insurance coverage as required by California law.

The trial court dismissed Mr. Morris' claim and an appeal went to the state Supreme Court. The high court rules that the potential liability existed on the grounds that the building permit requirement was mandatory and not discretionary.

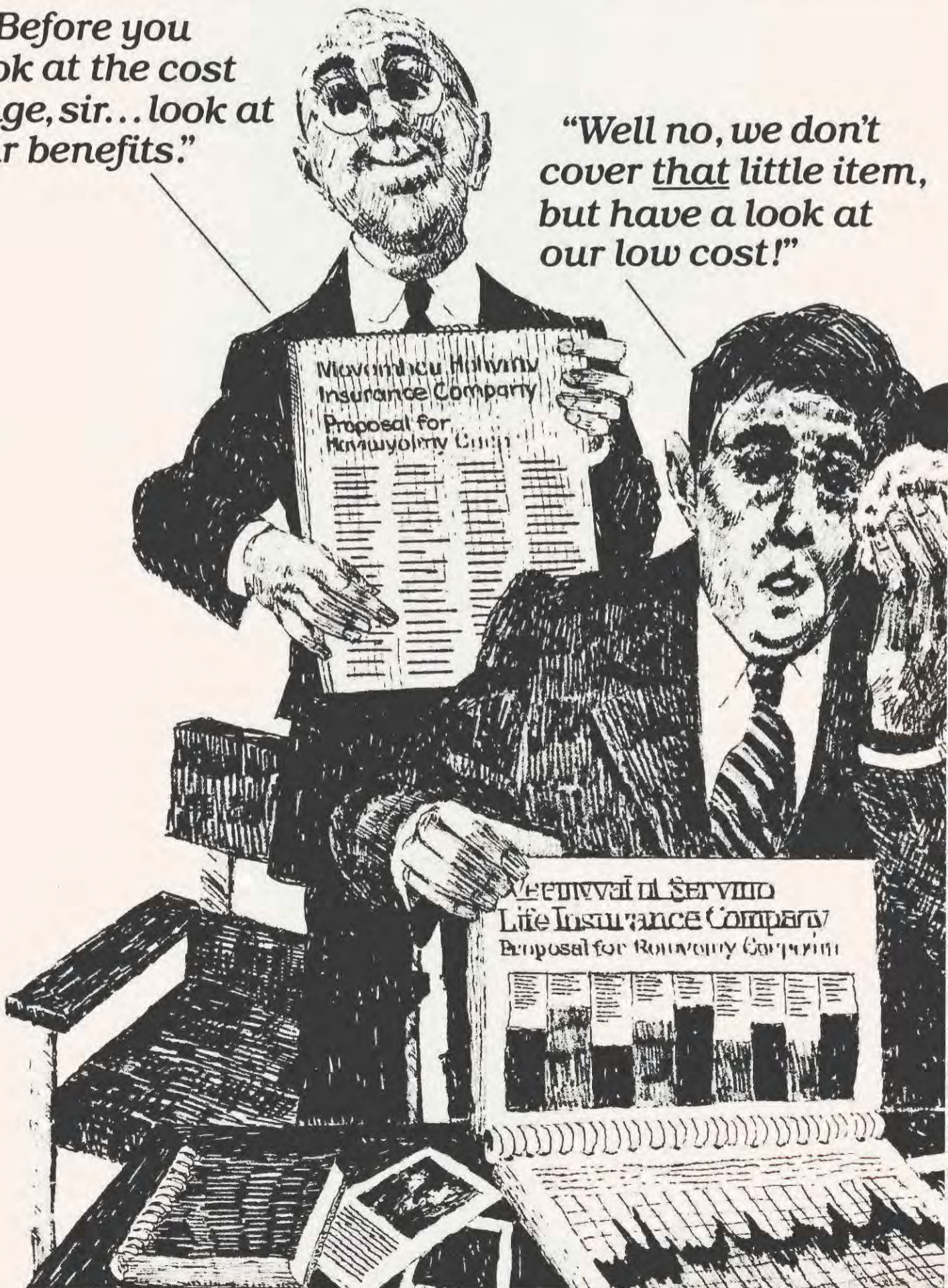
"Marin County," the State Supreme Court ruled, "allegedly neglected to comply with its statutory duty. As a result, Mr. Morris, now a paraplegic, has been unable to obtain any compensation for his injuries.

"State law," the ruling asserts, "imposes a mandatory duty on the county which is intended to avert just such uncompensated loss. As a result, Marin County is subject to liability for damages and because the county enjoyed no discretion to ignore the mandate, it can claim no immunity.

"Future workers who rely upon the statute in expectation that it will be enforced," the court concluded, "must inevitably find themselves unprotected and uninsured from injuries and losses incurred in devastating incidents. Surely we cannot erase the statute itself from the books and expose workers to such serious harm in the face of the legislature's protective concern." ■

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HAS sells drug program, plans to end operations after big losses

LOS ANGELES—Health Application Systems Inc. (HAS) of Burlingame, Calif., a wholly owned subsidiary of Bergen Brunswick Corp., is going out of business. The data processing and claims administration business for third party health care programs has been losing money and draining its parent company's profits.

The parent company has already sold a portion of HAS operations to PAID Prescriptions of Burlingame, a non-profit corporation. The sale involved the administration of Medicaid prescription drug programs in Florida, Arkansas and Pennsylvania and drug prescription services for 545 commercial clients. HAS had handled the ad-

ministration of the programs under contract with PAID Prescriptions.

Remaining HAS operations—a dental claims processing system called DELTANET and a computerized record service for prescription drugs called PROFILE—are also on the selling block.

DELTANET services five Delta Dental Plans—Michigan, California, Washington, Minnesota and Ohio. Delta considered buying DELTANET, but finally decided against it, a Delta spokesman said.

Whatever isn't sold will be liquidated, according to Bergen Brunswick vp-treasurer George E. Reinhardt. The company hopes to wind up HAS business within six

months, he said. Nevertheless, HAS will meet its obligations and will liquidate business only after contracts have expired or been mutually terminated, according to HAS financial vp William MacIntosh. "Nobody will be put out in the street," he said.

HAS financial losses have reduced Bergen Brunswick net earnings to 17 cents a share, three cents less than they would have been for the first fiscal quarter ended Nov. 30, 1976. HAS's problems are attributed to the loss of two contracts last year, one with the state of North Carolina and the other with the U.S. Defense Department.

In North Carolina, HAS re-

quested a premium adjustment of \$20 to \$25 million and the contract was mutually terminated. The Defense Department did not renew its contract for another 21 months as hoped after four months of a six-month agreement. The Defense Department charged HAS was too slow processing claims.

Meanwhile, HAS and North Carolina are suing each other over losses arising out of the contract. HAS has filed a \$6.9 million suit against the state to recover costs of services rendered under the contract. The state's attorney general, however, asserts HAS owes the state far more than the state could owe HAS, and has demanded HAS pay the state \$6.9 million.

After HAS filed its complaint, North Carolina filed suit against HAS and Bergen Brunswick for the \$6.9 million, plus \$11 million for wrongful conduct and \$9.8 million in punitive damages. ■

INA erodes SF ferry's wave policy

SAN FRANCISCO—The Golden Gate Ferry system lost its "wave insurance" after homeowners complained that the wake of a new high-speed ferry was eroding their waterfront property.

INA renegotiated the ferry system's three-year protection and indemnity policy to exclude liability for wave-action damage, according to Carney Campion, district secretary for the Golden Gate Bridge District, which operates the ferry.

The insurance company informed the ferry system on Dec. 17 that it was cancelling the third year of the system's policy. INA subsequently agreed to continue the policy, but to decrease deductibles and exclude wave-action liability, Mr. Campion said.

Marett Boissevain, the district's insurance broker at Marsh & McLennan, was unwilling to discuss the situation.

Homeowners in the Marin County towns of Larkspur and Corte Madera have threatened to file \$1 million in claims against the ferry system. They say that the wake behind the new gas turbine ferry, the GT Marin, creates two-foot waves on San Francisco Bay that damage houses, break up docks, and erode the shoreline near the new Larkspur ferry terminal.

One Corte Madera shore dweller said that the erosion was greater during the first two months of the new ferry's operation than it had been in all of the previous 15 years.

"There's no denying that we're causing incredible damage," said Gary Ciacomini, a bridge director and Marin County supervisor. "The meter is running," he added, referring to damage that the bridge district will eventually have to pay for.

The bridge directors have ordered that the \$4.3 million ferry, which is capable of speeds up to 26 knots, to slow to a crawl of 12 knots when approaching the \$13.7 million Larkspur ferry terminal. The slow-down adds 10 minutes to the trip.

A second high-speed ferry, the Sonoma, joined the GT Marin in March on the San Francisco-Larkspur run. A third, the San Francisco, is scheduled to go into service in the late spring. ■

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	December 31, 1976	December 31, 1975
ASSETS		
Bonds (amortized value)	\$252,747,353	\$182,127,350
Stocks (market value)	2,155,618	44,850
Cash	815,417	545,048
Accounts receivable—premiums	12,180,011	7,415,761
Funds held by ceding reinsurers	39,211,187	21,661,538
Other Assets	5,872,895	3,716,384
TOTAL ASSETS	<u>\$312,982,481</u>	<u>\$215,510,931</u>
LIABILITIES, CAPITAL AND SURPLUS		
Loss and Loss Expense Reserve	\$127,640,397	\$ 84,440,908
Unearned Premium Reserve	90,203,428	48,619,515
Reserve for Commissions, Taxes and other liabilities	10,406,690	5,135,315
TOTAL LIABILITIES	<u>\$228,250,515</u>	<u>\$138,195,738</u>
Capital paid up	2,500,000	2,500,000
Contributed Surplus	75,001,598	72,500,000
Unassigned Surplus	7,230,368	2,315,193
POLICYHOLDERS' SURPLUS	<u>84,731,966</u>	<u>77,315,193</u>
TOTAL LIABILITIES AND POLICYHOLDERS' SURPLUS	<u>\$312,982,481</u>	<u>\$215,510,931</u>

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

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PERSPECTIVE

Hospital cost analysis leads to loss control plan

By Harold V. Hodnick

Safety consultant
Reed Shaw Stenhouse Inc. of California
San Francisco, Calif.

"WE NEED A COMPLETE and comprehensive study of our hospital's workers' compensation and safety/employee protection program. The viewpoint was do we have a problem, and if we do, what is the magnitude, predominant types of injuries, cost of these injuries, and what can we do about it?"

The speaker was the financial vp of an 18-hospital, 10,500 employe complex. He wanted Reed Shaw Stenhouse to undertake a study of these hospitals from the viewpoint that his workers' compensation costs for the two groups were escalating and he was concerned with the overall problem.

"During the past five years our workers' compensation costs have increased significantly," the financial vp continued. "Our insurance underwriter makes periodic inspections of all our hospitals from a physical danger viewpoint. We then review and normally comply with their suggestions, but we have seen no reductions in our overall bottom line."

"I have asked our insurance carrier on several occasions for a comprehensive analysis and study of the hospital cost and employe protection program, but then I generally received a more detailed and longer report relating to physical dangers."

"For example, the need of non-skid material on steps and floors, replacing slippery linoleum floors with carpeting, anchoring storage racks, placing signs in proper places, having an appropriate box available for disposing of syringe needles, more safety meetings, etc."

"I would like you to devise another method of evaluating our costs instead of the loss ratios used by our underwriter. I understand loss ratios, but when I have a meeting with the hospital administrators and related personnel I receive the impression that they do not completely understand loss ratios, and I spend time explaining the insurance method to them. What I would like to see is a common denominator/index/rate that does not require a computer, is a meaningful performance measure, understood and accepted by practically everyone and can be adopted by our hospital system."

"This common denominator index, as I envision it, could be used to compare all of our loss control functions, i.e., workers' compensation costs, labor contract settlements and property damage. In addition, how does our loss performance correlate to our sales/service volume, how do we compare with our competition, are their workers' compensation costs higher or lower than ours?"

We at Reed Shaw, using the analysis of five years of computerized loss experience data for the hospital complex, compiled the following information for our client. The hospitals were divided into two groups, the East and West.

Significant highlights for both groups of hospitals—five-year period

\$40,660,840 worth of sales/service was required to pay for workers' compensation costs of \$4,066,084. Relative to these costs, bear in mind they represent direct cost only; indirect cost for hospitals, generally speaking, can be one or two times higher.

Of the total claims, 30% was for back injuries; 45% of claims was for back injuries and strains/sprains; 42% of workers' compensation costs was used for payment/reserve of back injuries and strains/sprains. Workers' compensation costs for all claims were 0.041 cents per hour—direct cost.

East group highlights—five-year period

\$13,886,160 worth of sales/service was required to pay for workers' compensation

costs of \$1,388,616 (direct cost only).

Of the total claims, 30% was for back injuries; 48% of claims was for back injuries and strains/sprains; 47% of workers' compensation costs was used for payment/reserve of back injuries; 70% of workers' compensation costs was used for payment/reserve of back injuries and strains/sprains. Workers' compensation costs for all claims were 0.027 cents per hour—direct cost.

West group highlights—five-year period

\$26,774,468 worth of sales/service was required to pay for the workers' compensation cost of \$2,677,468 (direct cost only).

Of the total claims, 30% was for back injuries; 44% of claims was for back injuries and strains/sprains; 39% of workers' compensation costs was used for payment/reserve of back injuries; 44% of workers' compensation costs was used for payment/reserve of back injuries and strains/sprains. Workers' compensation cost for all claims were 0.057 cents per hour—direct cost.

The \$40,666,840 sales/service volume is obtained by multiplying the workers' compensation cost/reserve of \$4,066,084 by a factor of 10. Ten is an average industrial factor to use in determining approximate sales/service dollars needed to defray workers' compensation costs, i.e., before taxes. Sales/service can be defined as the number of patients, beds, X-rays, prescriptions sold, etc.

Cents per hour direct cost is determined by dividing the workers' compensation cost by hours worked. For example, for both hospital groups the workers' compensation cost was \$4,066,084. This cost divided by 98,804,088 hours worked equates to 0.041 cents per hour—direct cost. (In reviewing Workers' Compensation costs from this viewpoint, bear in mind they represent direct cost only and indirect costs for hospitals, generally speaking, can be one or two times as high. Examples of indirect costs—production time lost by an employe when treated for injury, replacement cost for an injured employe, i.e., another worker hired or work done on premium time, supervisor's time investigating the accident/injury, possible damaged equipment, etc. Or, for the five-year period, the sales/



There is a need for non-skid material on steps and floors, replacing slippery linoleum floors with carpeting, placing signs in proper places, having an appropriate box available for syringe needle disposal.

service dollars for direct and indirect costs of injuries ranged from \$81,321,680 to \$121,982,520.) The East group averaged 5,100 employes per year for the five-year period, and the West group averaged 4,570 employes or a total of 98,804,088 hours.

Our common denominator concept of direct cost (cents per hour) is also applicable to labor negotiations/settlements where costs for wages, extra holidays, additional vacation time, etc., are computed as cents per hour and has practical application to property damage losses. For the property damage concept it involves working with the property damage repair center (maintenance shop) and the formal work order system.

In work orders time and material are normally charged to all repair work resulting from property damage, e.g., sprinkler piping damaged by a fork lift truck, a door frame hit by moving equipment, win-

dow/glass door damage when hit by ladders or tools, etc., i.e., property damage due to accident or accidental cause.

Each repair job has to have a tabulated cost for time and material. On a periodic basis, e.g., semi-annually, the work orders with a tabulated cost are audited and totaled. This cost divided by hours worked for the operation will equate to cents per hour for property damage due to an accident or of an accidental nature.

Trying to obtain comparative costs from other hospitals within the state, outside the state and a prominent hospital association was indeed a problem. I contacted hospital administrators, safety directors, personnel directors and asked if they would be willing to share their workers' compensation costs with me. I explained the study that was being conducted for a client, that their name and/or hospital

Continued on following page

Replacement cost accounting

SEC rule is applicable to insurance

By Russell Drake, director
and Louis F. Siegel, asst. dir.

Corporate Risk Management
Borden, Inc.

IN AUGUST 1975, the Securities and Exchange Commission released for comment proposed regulations which would require in company annual reports a footnote disclosure of financial data regarding current replacement cost of assets. The amendment, with some modifications, was adopted and promulgated in 1976.

We have worked closely with our corporate controller's office in the development of a program to provide this information for our company annual report. We have provided detail listings of all locations as to their insurable values, which are on a replacement cost basis.

During all this time, from the initial proposal in 1975 to the present, we have heard little from the insurance industry that would assist companies as well as their risk managers in complying with the SEC regulations. Admittedly, the SEC replacement cost value differs somewhat from the insurance replacement cost value. But the insurance industry which has

championed the cause of replacement cost value for insurance purposes certainly should have come forward before now with assistance in preparing or developing the information required for the SEC regulations.

Under the SEC regulations, replacement cost value appears to be reproductive replacement value. That is, an obsolete plant is to be valued not at the cost of repairing an obsolete plant, but in building a modern efficient up-to-date plant in the event of a loss. For years we have argued with our insurance carriers and other insurance companies in the industry with regard to this simple disparity under their insurance programs. We have several plants that are obsolete and in the event of a total loss would be replaced with less expensive but more efficient structures and equipment. Yet we are still required to report replacement cost values and pay premiums on the basis of those values as though we were going to rebuild an obsolete plant.

In support of the insurance companies, we will admit a major problem arises where we have a partial loss. Theoretically, where a plant with \$1 million insurance company replacement cost value is

totally destroyed and can be replaced by a modern efficient plant for \$500,000, the insurance company should have no objections to allowing us to purchase insurance for \$500,000. However, since most losses are less than total losses, a partial loss on this example could well cause \$750,000 worth of repair costs for a partially destroyed building.

We feel that risk managers should adopt the SEC definition of replacement cost value and report these figures to the insurance companies. The policies should be endorsed to reflect that this is the basis of reporting values. The risk manager can then note those plants that have a significant obsolescence factor and force the insurance companies to make a comparison study so that the insurance company may adjust their rates to reflect the partial loss exposure.

While the SEC may revamp their regulations, or otherwise distort their replacement cost value concept for an accounting or a financial reason without regard to the insurance mechanism, which is designed to protect those assets, we feel the reproductive cost value of assets is a more realistic and modern approach to insurable values than the insurance companies' replacement cost value.

PERSPECTIVE

Hospital cost analysis . . .

Continued from preceding page

would be identified and I would be willing to share comparative costs.

I was amazed at the negative answers I received, for example: "Never heard of cents per hour method, we use cost per bed"; "Can't give out our workers' compensation costs"; "Too much of a problem to give you number of employees, and besides, it changes significantly from month to month"; "No interest in your study"; "I would have to clear it with the directors first"; "I don't know what you propose to accomplish with your study"; etc., and from the hospital association director:

"None of our members use a cents per hour concept, most of our members use cost per patient bed, and I don't have the number of employees and workers' compensation costs for our members . . . but I would be interested in obtaining a copy of your report. Your study should be quite informative."

A few hospitals were cooperative and interested. They did not use the cents per hour concept, but they provided me with their workers' compensation cost and number of employees. Comparative costs for these few cooperating hospitals are shown below:

Direct cost-cents per hour

Location	1972	1973	1974	1975
Southern California Hospital				
820 employees	0.099	0.081	0.097	0.042
San Francisco:				
a. 500 employees				0.003
b. 1,100 employees				0.033
c. 1,050 employees				0.018
Cleveland, Ohio				
4,200 employees		0.014	0.019	

Relative to the above comparative compensation costs a brief explanation is warranted. The Southern California Hospital had unusually high workers' compensation costs for the years 1972, 1973 and 1974. The latter part of 1974 the assistant hospital administrator was promoted to hospital administrator, with a strong recommenda-

warranted operation.

- Each new employe would follow the SOP and physically participate in all the job requirements.

- Other employes would also be required to complete the "body mechanics" training course.

- Training course would be put on film/slides/video tape and with SOP be used as a periodic refresher course for all employes.

- Employes who violate the SOP for the "body mechanic" training course should be disciplined.

- Medical history and examination should be part of the employes hiring procedure. There should be at least monthly safety meetings for all employes.

- A doctor should be assigned as the hospital employe physician to see all injured employes and particularly those employes who complain of back injuries, strains and sprains and carefully document this information.

- Supervisor and/or a member of the Hospital Safety Committee would promptly investigate all the injuries involving back strains and sprains—from the viewpoint of cost and what can be done to prevent recurrence.

It appears that workers' compensation costs are escalating faster than our rate of inflation. Many employers are doing a good job in their accident prevention programs, i.e., reducing the frequency of injuries, but only to find their workers' compensation costs have increased. This can be attributed to sharply increased medical costs and a liberalization of our state workers' compensation laws, i.e., the interpretation of the law by referees and courts.

Due to the liberality of the state compensation laws poor claim handling is becoming increasingly punishing, and some of the most expensive claims are resulting from inferior handling rather than from the severity of the injury.

It is less expensive to prevent injuries/claims than to fight them, i.e., an aggressive accident prevention program is the foundation of a successful control. But if injury occurs consider this nine-point pro-

"Due to the liberality of the state compensation laws, poor claim handling can become punishing and some expensive claims are resulting from inferior handling rather than from the severity of the injury."

gram to reduce the workers' compensation costs. He made significant improvement by reducing the cost from 0.097 cents to 0.042 cents per hour direct cost. For the Ohio hospital costs, no attempt was made to apply any factor, i.e., difference in Ohio compensation costs versus compensation costs in California.

The following are our suggestions to the financial vice president for reducing/eliminating the frequency of back/strain/sprain injuries, and the control of workers' compensation costs:

Develop and use an active, progressive, comprehensive training program, complete with Standard Operating Procedures (SOP) relative to lifting, turning and moving of patients, lifting of furniture, hospital equipment and apparatus, struggling with a disturbed patient, pushing wheelchairs or gurneys, etc.

All employes whose work consists of the above-mentioned tasks would be required to participate/complete an appropriate length training course before starting work. The program would cover:

- The explanation/demonstration in the correct and proper methods to lift, turn and move a patient in bed, transferring a patient from bed to gurney, or gurney to bed, placing a patient in a tub or on a toilet, use of hospital equipment and apparatus, movement of a wheelchair and gurney, two-employe-technique in handling a patient, etc. A standard operating procedure (SOP) should be developed for

gram for controlling costs:

1. Select a workers' compensation coordinator on an east or west group or on an entire state basis. This person would make the decision whether the alleged injury of a worker should be accepted or rejected—and he would promptly notify hospital management of his decision.

2. In an injury with high potential for severity (for example, backs) have the employe seen/treated by a reputable orthopedic surgeon for correct diagnosis, treatment and written report.

3. No employe should be permitted to lose time from an alleged work injury without seeing an authorized physician. Considered here was the fact that family doctors tend to be conservative and a large percentage of employes do not have a personal physician.

4. Immediately following initial diagnosis of the physician, management members should call the doctor to discuss the nature, prognosis and return to work, i.e., regular and/or restricted and limited basis of the injured employe.

5. Written reports should be prepared on the day of the accident/injury. In case of serious injury, stories tend to change after the people involved have a chance to "sleep on it." And particularly significant is a documentation of what the injured employe told the supervisor/nurse/doctor who first treated him.

6. For the employe with a legitimate injury "kill him with kindness and infor-



All employes involved in lifting, turning and moving patients, lifting furniture, hospital equipment and apparatus, and pushing wheelchairs would be required to participate/complete an appropriate training course before starting work.

7. If an employe's case is rejected (by workers' compensation coordinator) he should be told some of the reasons (don't give all of your facts/reasons). Explain what he should do, show him the form that he has to complete and sign, where to send it, that he will then be advised by the state where to appear, what he will then have to do/can do in the meantime, if he retains an attorney, what the attorney's contingency fee will be, consider having his injury/illness treated via his personal medical insurance policy, etc.

8. When a contested claim is scheduled for a workers' compensation hearing, a prominent hospital representative of employe supervisor should attend.

9. Have workers' compensation coordinator visit hospital administrators on a periodic basis to discuss claims, costs, reserves, etc.

Insurance underwriters issue monthly claim experience for the East and West hospital groups. Presently, in order to determine the number, cost of back/strains/sprains injuries, it is necessary to go through the reports on a selective basis—and this is time consuming. In view of this and the importance of determining whether your back/strain/sprain injuries, claims and costs are improving, consider the following suggestion:

Have insurance underwriter program their hospital loss experience runs to tabulate monthly the number of back injuries and costs and strains/sprains injuries and costs.

In my opinion the benefits from a hard-hitting, progressive program concentrated at reducing the high percentage of back/strains/sprains claims can be rewarding from both a financial and humanitarian viewpoint.

Harold V. Hednick is a safety consultant with Reed Shaw Stenhouse Inc. of California, insurance brokers. In addition to consulting positions for foreign governments and U.S. industry, he has been director, loss control for Potlatch Corp., San Francisco and corporate safety engineer for FMC Corp., San Jose, Calif. He is also a safety lecturer for the University of California at Berkeley.



Calif. He is also a safety lecturer for the University of California at Berkeley.

Simplicity is the key to descriptions

THERE IS little doubt that the communication between many employers and employes has a long way to go. Now that the government has gotten into the act by telling employers what to communicate to employes, things have gotten worse. However, you might be interested in seeing one man's alternative to the dull, unintelligible summary plan description. It's readable and to the point.

Dear friends:

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We have a plan.

We call it a pension plan.

It will pay you money.

It is free.

You do not pay money.

When you are 65 you can collect.

The longer you work for us, the more you get.

It is easy to figure.

For each year before this year, you get one-half of 1%.

From this year on, you get 1%.

Add up all of your percents.

When you are 65, add up your highest five years' pay.

Use only your base pay.

Divide by 5 to get an average.

Multiply your average by your percents.

That's what you will get.

You will get it until you kick up daisies.

Uncle Sam will give you money, too.

He calls it Social Security.

Lucky you; you get two pays—one from the boss and one from Uncle Sam.

Stay with us for 10 years; you will get a little money when you are 65.

Each year you stay, you get more.

Stay until 65, you get most.

You can get up to 35%.

Just from the boss.

Only one catch.

Do not steal.

Do not booze it up.

Do not be bad.

If you do—no percents.

No free money from the boss.

OK?

You like to read?

You like to read fine print?

We have a whole form full of fine print.

It is dull.

It says the same as this.

You can have it.

But you have to ask.

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The boss.

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Maryland to control direct fees of some hospital-based doctors

ANNAPOLIS — Maryland's Health Services Cost Review Commission has ruled it has the power to regulate professional fees of hospital-based radiologists and pathologists who charge their patients directly. Under the controversial ruling, the commission will begin monitoring costs and setting rates for members of the two physician groups. The decision was the latest development in a running battle among the commission, hospitals and physicians over the agency's right to regulate the fees of professionals who do not receive hospital salaries.

BOSTON — The Massachusetts insurance commissioner, James M. Stone, has rejected a major premium increase in malpractice rates sought by the Joint Underwriting Association. The pool had sought boosts of 73% for physicians and 31% for hospitals. Stone allowed an increase of only 6.5% for physicians and 5% for hospitals. The association, formed in 1975, is now virtually the only source of malpractice coverage in Massachusetts.

SALEM—The state of Oregon will increase its contribution to the

Public Employees Retirement System on July 1, 1978. At that time the current rate of 7.6% of an employee's salary will be raised to 8.48%. Contributions by cities, counties and school districts also will increase, but the final amount of the increases haven't been determined. The higher contributions are designed to eliminate the system's unfunded liability within 30 years.

CHEYENNE—Gov. Ed Herschler has vetoed legislation that would have diluted Wyoming's sovereign immunity law and al-

lowed civil negligence suits against the state under certain circumstances. In his veto, the governor said the exceptions "not only open the door to an increase in the amount of claims filed, but substantially augment subsequent insurance premiums."

TALLAHASSEE — Legislation has been proposed in the Florida House that would create an independent commission to handle health insurance for state employees. Sponsors said the commission would be a better vehicle for evaluating health insurance bids than the present system, which has three state agencies participating in the decision. The House has been investigating a 1975 Cabinet decision to award a \$33.6 million state employees' contract to Blue Cross-Blue Shield.

TOPEKA—Kansas Insurance Commissioner Fletcher Bell has announced he is developing a vol-

untary pool for product liability insurance. Bell plans to meet with insurance industry representatives in the near future to discuss the pool. The announcement prompted the House Judiciary Committee to delay until the 1978 legislative session its plans to proposed solutions to the product liability problem.

SACRAMENTO—The California Supreme Court has ruled that the purchaser of a manufacturing business may be held liable for damages caused by a defective product manufactured by the previous owner. The case involved the sale of a company's plant equipment, inventory, trade name and goodwill. The court said the purchaser assumed responsibility for defective products when it bought the trade name and goodwill of the company known as a "top quality manufacturer."

BOSTON—A Massachusetts official has ordered Westinghouse Electric Corp. to pay 46 former employees \$1.5 million in back pension benefits they lost because they were too young. The order was issued by George Sheehy, a member of the State Commission Against Discrimination, who sat as a hearing officer in the case. It now must be acted on by the full commission. When Westinghouse closed its East Springfield, Mass., plant in 1970 it refused to pay the 46 plaintiffs pension benefits because of the fact that they had not reached age 55.

AUSTIN—Legislation has been offered in the Texas Senate that would allow members of 15 professional groups to form a mutual insurance association to provide malpractice insurance protection for members. The proposed "Texas Professional Liability Association" would offer malpractice protection for attorneys, architects, accountants, chiropractors, dentists, engineers, real estate brokers, optometrists, pharmacists, podiatrists, medical doctors, osteopaths, psychologists, nurses and veterinarians.

Crime plan renewal set

WASHINGTON—Congress is expected to approve a two-year-extension of the federal crime insurance program operated by the Department of Housing and Urban Development (HUD).

Under the program, HUD can write crime insurance policies in areas where there is a "critical" unavailability of coverage through private companies.

The insurance industry has stayed out of the debate over whether the program should be continued. The American Insurance Association (ATA) said it neither opposes or favors the program.

The AIA did note, however, that the program's sluggish growth opened up the question on whether there was a long term need for the federal program.

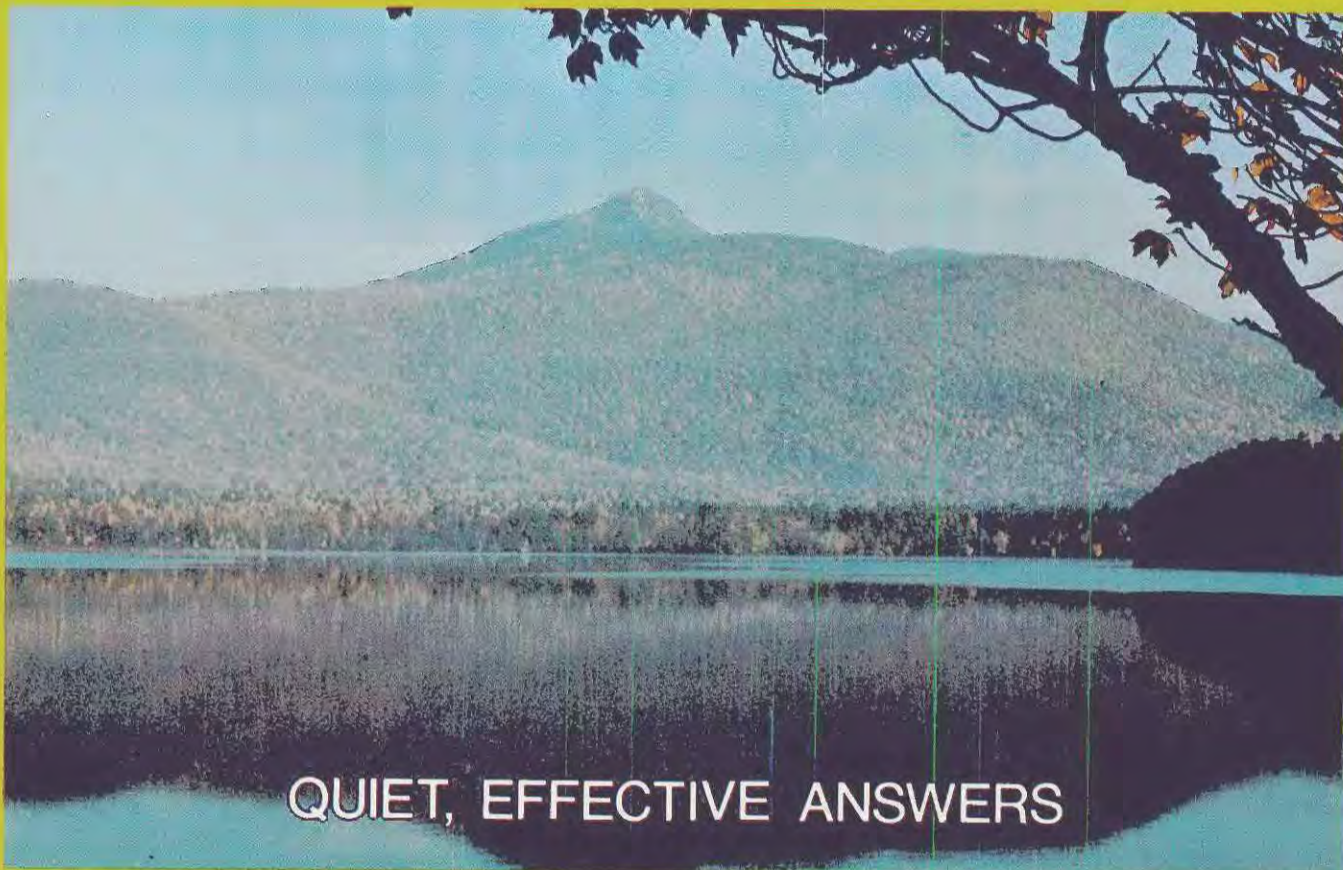
Currently, only 33,000 federal-crime insurance policies are in force, about half of them in New York City.

Under the program, crime insurance is sold through insurance brokers and agents who receive commissions on up to 16% of a policy's coverage.

To qualify for federal crime insurance, businesses are expected to beef up their security systems to meet government guidelines.

The policies now are available in 19 states and the District of Columbia.

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benefit tax slants

IRS suggests methods to speed OK on plans

By JOSEPH S. ROBINSON
Attorney-at-Law

The Internal Revenue Service says it expects to be bombarded with several hundred thousand determination applications for amendments of existing plans within the next several months. As a result, delays can be expected. However, the IRS suggests ways to speed up the process:

- Use the IRS "Alert Guidelines" when drafting plans and/or amendments. The guidelines consist of worksheets plus explanatory material now being used by the IRS.

- Employers and plan sponsors should incorporate wherever possible the specific plan language contained in the Treasury-approved master and prototype plans or the IRS Model Profit-Sharing Plan directly into the plan. The latter plan provides for "4-40 vesting." It also calls for benefit distributions only in the form of installments and thus allows the joint-and-survivor annuity provisions to be omitted. This Model Plan may not be adopted by an employer who currently has another qualified plan.

Since the Model Plan meets the IRS qualification requirements, an employer adopting the plan need not apply for a determination letter, but only has to notify the IRS of the plan adoption. If the plan is modified in any respect, however, the Treasury will consider it an individually designed plan subject to the rules regarding the determination of qualified status of such plans.

An employer adopting the Model Plan must also execute a valid written trust or custodial agreement that specifies that all assets of the plan will be held for the exclusive benefit of the employees and their beneficiaries. This trust document is not included with the Model Plan.

- Participants in many insured pension plans are provided with individual life insurance coverage under the plan. When they retire they frequently are able to purchase the policy from the plan. Under ERISA, the transaction would be a prohibited party-in-interest transaction. The Labor Department is proposing that if proper safeguards are observed, pension plan participants should be permitted to purchase this form of life insurance (USDL Release 77-71, 1/24/77).

Some participants who are covered by individual life insurance policies under a pension or profit-sharing plan want to cash in their policies when they retire. In this way, they can increase their retirement annuities or put the proceeds to other use. This cashing in would also be a prohibited party-in-interest transaction under ERISA. The Labor Department's proposed exemption (again, so long as "certain safeguards" protect participants and beneficiaries) would permit such transactions. This proposal applies only to defined-contribution plans

Fire losses down

Fire losses in the U.S. totaled \$334 million in January, down \$4 million for the same month in 1976. Losses, however, were slightly higher than the \$314 million figure for December 1976, the Insurance Services Office says.

planning. (Rev. Rul. 76-453).

The following are some Examples covered in the ruling:

Out-of-Town Day Trips. Jones, whose principal office is downtown, travels directly from his home to an out-of-town business meeting and returns directly to his home that evening. The IRS gives Jones a break by permitting a travel expense deduction to the extent of the lesser of the expenses for travel between his residence and the business meeting and the expenses for travel incurred between his office and the business meeting.

If the business meeting trip were not an all-day affair, however, so that Jones could have

been expected to stop at the office on the way out of town and on the way back to put in a full day's work, no part of the trip is deductible.

Temporary Job Sites. Brown works at various temporary locations for periods of not more than one month per location. For driving from home to job site, Brown is reimbursed \$7 per day under a union contract. The IRS will no longer allow a deduction for his "commuting" expenses. In addition, the \$7 per day travel allowance is taxable to Brown and subject to tax withholding.

Two Jobs. Smith has two jobs. Applying the principle that commuting is not deductible, the IRS

rules that travel expenses attributable to transportation from home to job A in the morning and from job B to home in the evening are not deductible. The cost for transportation between jobs A and B, however, is a deductible business expense.

Client Trips. Green has many clients to visit. It's frequently more convenient for Green to go directly from home to a client's office in the morning rather than stop off at his own company office first. The cost of travel from home to his first business stop (whether it's his office or a client's) and from his last business stop back home is a nondeductible commuting expense.

One Family's Airport.

George J. Priester is a railroad engineer who in 1928 also became a pilot. In 1953, he bought a Chicago-area field with sand and gravel runways which he has since developed into Pal-Waukee Airport, one of the nation's finest. 5 paved and lighted runways. 400 based aircraft. 70 T-hangars, 5 acres of roofed hangar space. Jet charter operation. Tower, ILS, restaurant—you name it, he's got it. A professional business operation resulting from a sophisticated management approach. □ Son Charlie joined George at age 14. Holder of both an ATP and a degree in Business Administration, he is currently Pal-Waukee's general manager. Sisters Sheila and Sharon are commercial pilots. Several of Charlie's children now work at the airport part-time. It must be in the blood. □ Looking back over the past twenty-odd years, George commented, "It's been a battle all the way. Law suits. Noise complaints. Tornados. And being privately-owned, the most we get from any level of government is crippling tax bills." □ "One bright spot," said Charlie, "is we're insured with USAIG. We would have been out of business if USAIG had not had the capacity to provide adequate limits, engineering and claim services." □ The Priester family and USAIG... sturdy aviation pioneers providing continuity of leadership in a rugged world of change.

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Cargo rates are dropping

LONDON—Cargo insurance against war risks is stabilizing in the U.K. insurance market, as tensions seem to be dropping in some potential trouble spots.

Premiums for shipments to the

Lebanon have been halved from \$1 per \$100 to 50 cents per \$100. In East Timor, cover has been reduced to the basic world rate of 3.75 cents per \$100.

But there is still anxiety over the eastern Mediterranean, where countries such as Israel, Jordan and Syria are still put at higher levels than the usual international ratings. Even Cyprus is still regarded with apprehension. ■

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Liverpool	Liverpool	Liverpool	Liverpool
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Manila	Marseille	Mbabane	Melbourne
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• **Why Mandatory Residual Market Mechanisms Won't Work for Product Liability Insurance** is a 16-page booklet prepared by the American Mutual Insurance Alliance (AMIA). It outlines why the Alliance opposes nonvoluntary residual market plans for product liability insurance as unworkable. Complimentary single copies will be available as long as the supply lasts. Small quantities are available for 25 cents each and bulk orders of 100 are \$23 plus shipping. Write the AMIA at 20 N. Wacker Dr., Chicago, Ill. 60606.

• **The Research Institute of America** has published a 34-page booklet, **The Executive as Target for Personal Lawsuit: Staff Recommendations**, to "help corporate officers tread their way through the mine field of personal liability." The RIA report provides illustrations, makes observations and offers recommendations on the fiduciary role and its implications, directors' and officers' liability to third parties, personal liability and the regulatory agencies and D&O indemnification and insurance. One recommendation is that a D&O policy should cover the defendant regardless of when the alleged misdeed took place, have no contributory clause, no blanket exclusions for acts such as illegal donations or bribes and should reimburse the director or officer for defense costs as the case progresses. Copies of the booklet are available to members for \$10 each and non-members for \$25. Send order with check attached to The Research Institute of America Inc., Dept. 111, Mt. Kisco, N.Y. 10549.

• A new cassette tape on **Risk Management** is available from the Independent Insurance Agents of America Inc. (IIAA). For agents and brokers, the cassette outlines the procedures for offering clients the benefits of risk management. Cost is \$9.95. Write the Agency Development, Dept. IIAA, 85 John St., New York, N.Y. 10038.

• **Disaster Restoration Estimator**, a four page booklet developed by the Easton Corp. for insurance adjusters, describes how to estimate restoration costs based on product effectiveness and manufacturers recommended coverage. For a free copy write Jean Mateson, president, Easton Corp., 4097 Farragut Road, Brooklyn, N.Y. 11203.

• **A General Insurance Guide** sold by Weber Publishing Co. Inc. is a comprehensive manual on all forms of property and casualty insurance including analysis and explanation of contracts, descriptions of rating systems and classifications, court case citations and policy writing and loss procedures. Initial purchase cost to readers of *Business Insurance* is \$24 and includes two free quarterly revisions. Quarterly revisions are \$8 each or \$28 annually if prepaid. Write: Weber Publishing Co. Inc., 595 Old Willets Path, Smithtown, N.Y. 11787.

• **An Arson Information Kit** to assist communities and others in the fight against arson is available

from the American Mutual Insurance Alliance (AMIA). Prepared jointly by the AMIA and the Property Loss Research Bureau, the kit includes 15 fact sheets which outline the problem (arson losses in 1975 totaled \$633.9 million) and suggest control measures. Suggestions for provisions of an arson law, models for awareness and award programs and guidelines for establishing an anti-arson task force are included. Single copies are \$3. Write: AMIA Communications Dept., 20 N. Wacker Dr., Chicago, Ill. 60606.

• **Broadcast Equipment Floater**, a promotional brochure from American Home Assurance Co., describes the company's property, business interruption and mobile units insurance for the radio and television industry. For a free copy write Product Information, Corporate Communications, American International Group, 102 Maiden Lane, New York N.Y. 10005.

• **Business as Usual? Not Necessarily.** Profits as Usual? Yes, is a promotional booklet from the Commerce & Industry Insurance Co. describing its manufacturers' earnings, wholesalers' earnings and retailers' prospective earnings business interruption insurance. For a free copy write Product Information, American International Group, 102 Maiden Lane, New York, N.Y. 10005.

• A product information bulletin from 3M company titled **Light Water** describes a new extinguishing agent for alcohol and polar type solvents called light water brand alcohol type concentrate. Illustrations show how ATC works on alcohol and on ordinary hydrocarbons. Guidelines and recommendations for Class B. fires are included. For a free copy write Dave A. Glass, Bldg. 223-6SE, 3M Center, St. Paul, Minn. 55101.

Labor issues new rules on plan descriptions

WASHINGTON—The Labor Department last month issued its long-delayed regulation covering the format, content and disclosure of summary plan descriptions (SDP) of private pension and welfare plans.

At the same time, however, the deadline for distributing and filing the SDPs with the Labor Department was extended to July 15.

The regulation is only effective until the Labor Department acts on public comments which must be filed by April 15.

The entire regulation is expected to become final by May 3, a Labor Department spokesman said.

The regulation says SDP booklets must contain a detailed statement of participants' rights under the Employee Retirement Income Security Act (ERISA) and provide an easy-to-understand summary of plan provisions and benefits.

• Arbitration rules and guidelines to govern **employee benefit plan disputes** developed by the American Arbitration Assn. and the International Foundation of Employee Benefit Plans are contained in a 16-page booklet available from the Foundation. The booklet contains claims arbitration rules for situations in which a controversy or claim between a benefit plan and a beneficiary cannot be settled through other channels and impartial procedures for arbitration of impasses between trustees of jointly trusteed benefit funds. For a free copy write: International Foundation of Employee Benefit Plans Information Center, P.O. Box 69 Brookfield, Wis. 63005.

• **Business Legal Expense Insurance** is the subject of a packet from NAS Insurance Services Ltd. The brochure describes the policy which provides reimbursement for business legal expenses that are normally tax deductible. For a free copy write S. Aronson, NAS Insurance Services Inc., P.O. Box 54831, Los Angeles, Calif. 90054.

• Safety Talks Co. has written a series of weekly presentations for a foreman to give to workers he supervises. A sample of a 10-minute **Safety Talks** presentation is available without cost by writing Safety Talks Co., 12472 Glenbush Dr., Hazelwood, Mo. 63043.

• A quick **True or False** quiz on employee benefits is published in pamphlet form by Johnson & Higgins. Service, costs, pension plans, cash flow arrangements and other benefit topics are covered. For a free copy write Judith Cromwell, Assistant Manager, Production & Coordination Department, Johnson & Higgins, 95 Wall St., New York N.Y. 10005.

• A **Products Liability Position Paper** prepared by the Defense Research Institute is available for \$1 a copy. The 52-page booklet is available by writing The Defense Research Institute, 1100 West Wells Street, Milwaukee, Wis. 53233.

• Reducing insurance costs for **Municipal Risk Management** is detailed in a reprint offered by RIMCO insurance consultants. Procedures for identifying exposures, developing a risk program and steps for risk analysis are explained. For a free copy write Keith Kakacek, RIMCO Inc., 10300 North Central Expressway, Suite 180, Dallas, Tex. 75231.

The list of ERISA rights must disclose that all plan participants are entitled to:

• Examine and obtain at a reasonable cost all plan documents and forms filed with the government.

• Receive a summary annual financial report.

• Obtain a statement of accrued and vested pension benefits.

• File suit in federal court if requested materials are not received within 30 days. The court, in addition, can require the plan administrator to pay \$100 for each day's delay.

• File suit if improperly denied a benefit. The court also may award attorney's fees to the participant if the plan is successful.

The ERISA rights statement also must disclose that fiduciaries who violate ERISA can be removed and required to make restitution for losses they may have caused the plan. ■

Here are 62 editorial advisory panel members

Participating on the *Business Insurance* Editorial Advisory Panel are over 100 risk and insurance managers for large organizations.

The magazine began conducting its sur-

veys in early 1976, and this year the panelists were asked if they would approve the disclosure of a listing of company names. Many readers of *Business Insurance*, as well as panelists, have asked for some

idea of who's represented on the panel.

Here are the names of 62 corporations and organizations whose risk and insurance managers participate in the Editorial Advisory Panel surveys:

Alleghany Corp.
American Hospital Assn.
Ameron Inc.
American Trading & Production Corp.
Aminoil USA Inc.
AMP Inc.
Anchor Hocking Corp.
Associates Corp. of N. America
Austin Industries Inc.
Barber Dairies Inc.
Batelle Memorial Institute
Bell & Howell Co.
Board of Governors, State Colleges & Universities
Borden Inc.
Boise Cascade Corp.

Bucyrus-Erie Corp.
Canada Packers Ltd.
Clark Equipment Co.
Connecticut General Insurance Corp.
Consolidated Natural Gas Co.
Control Data Corp.
DeSoto Inc.
Federal Express Corp.
Fingerhut Corp.
First City Bancorp. of Texas Inc.
Fish Engineering & Construction Inc.
Florida Steel Corp.
Forest City Enterprises Inc.
Fuqua Industries
Gold Kist Inc.

Great Dane Trailers Inc.
Joy Mfg. Co.
Kolmar Laboratories Inc.
Lane Bryant Co.
Libby McNeill & Libby Inc.
Los Angeles County
Madison, Wis. (City of)
Menasha Corp.
Nabisco Inc.
N.Y.-N.J. Port Authority
Northrup King Co.
Penrod Drilling Co.
Pillsbury Co.
Pinellas County, Fla.
Republic National Bank of Dallas
Richardson-Merrell Inc.

Rogers Corp.
Ryder Truck Lines Inc. (Pacific Intermountain Express)
Samsonite Corp.
Saxon Industries Inc.
Seattle First National Bank
Sperry Hutchinson Co.
Standard Alliance Industries Inc.
Stanford University
Temple University
Times Mirror Co.
Trans Union Corp.
University of Michigan
U.S. Industries
Ward Foods Inc.
Westchester County, N.Y.
The Wickes Corp.

Advisory panel...

Continued from page 1
changed and one risk manager reported narrowed responsibility.

The risk managers said the expanded responsibilities were a result of the rising cost of insurance, increased use of captive underwriting subsidiaries, state and federal regulation of safety and benefits and the growing use of self-insurance keyed to loss prevention.

Fifteen of the 46 risk managers with broadened responsibilities noted they are now involved in safety planning and programming. Twelve said more demanding employe benefit tasks dictated their involvement in employe benefits. Six said they're managing captive insurers and 35 indicated added responsibilities in the general area of property and liability risk management. (A number

Continued on page 30

IRS backs off from boosting benefit taxes

WASHINGTON—The Internal Revenue Service has withdrawn a proposal that would have sharply increased the tax rate for determining the income from employer-paid group term life insurance.

As reported earlier, the increase was to have been accomplished by introducing a new set of rate tables.

Under the withdrawn proposal, an executive between 30-34, for example, was to have reported as income employer-paid group term life insurance at a rate of \$2.76 for each \$1,000 of insurance over \$50,000. The same executive now pays for the coverage at a rate of \$1.20 for each \$1,000.

The proposal, which came under heavy criticism from the insurance industry, also would have allowed employers and employees favorable tax treatment only if the coverage provided was pure term insurance.

The IRS, however, plans to issue a new proposal "in the near future." In the meantime, though, the present rate tables and rules for tax treatment of group life insurance remain in effect.

The IRS also withdrew regulations which would end special tax advantages that combine both term and permanent group life insurance. However, a previous IRS ruling that it would not issue private rulings on these Section 79 programs remains in effect.

ISO has a new rating manual

NEW YORK—The Insurance Services Office will introduce a new commercial lines rating manual in Florida on May 1. The 500-page manual is designed to bring a common approach and language to various commercial insurance lines.

If successful, the Florida manual will be extended nationwide in 1978. The commercial lines involved are fire and allied lines, general liability, automobile, inland marine, multiple line, boiler and machinery, burglary, glass and farm insurance.

An ISO spokesman said the manual was not designed to result in major rating changes.

Florida was chosen as the test state since the Florida Assn. of Insurance Agents has previously urged the development of a common manual.



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Continued from page 29

of panelists supplied multiple answers.)

Twenty-five of the 60 panelists who felt safety and security should be part of risk management believe loss prevention is a major part of risk management. Another 10 said safety/security is "part of risk reduction" and six related safety/security to the necessity of overall asset protection.

Twenty-one said safety/security belongs in risk management for administrative reasons, citing "efficient administration, coordination and control" (13) and "to consolidate accountability for costs and asset protection" (8).

Eleven responses pointed to the relationship between losses and insurance as reasons supporting the consolidation. Four risk managers said "safety is lost-cost related," another four said "safety/security affects cost and availability of insurance" and three said

"safety/security involves the management of the costs of self-insured risks."

Several other managers stating the belief that "risk management becomes aware of problems earlier than anyone else" (3), and that "services related to safety and security must be negotiated along with insurance" (1).

But for those 12 who don't believe safety and security belongs under risk management (three panelists took positions on both sides of the issue) the need for specialists handling either safety or security or both dictate autonomy. Seven panelists said safety and security should have a "dotted line" relationship with risk management on the organization chart.

Two risk managers said it's important to get safety/security out of industrial relations; two managers said both safety and security belong in industrial relations.

A couple of other managers believe safety/security should be part of the engineering department.

How involved are risk managers in loss prevention in corporate expansion, new product development/introduction and acquisitions? Twenty-eight panelists said there's a "lot of involvement" in all three areas. Eight managers said they become deeply involved, reviewing each proposal and making recommendations. Another 16 said they become "quite involved" in expansions and with fire protection. Most of those 16, however, aren't asked and don't participate in loss prevention in the area of product safety.

Seven responses noted that there's a good deal of involvement before-the-fact when acquisitions are made, although five panelists said they're consulted only after-the-fact when their employers are acquiring new operations.

For many risk managers, this

question seemed to touch a raw nerve. While some responses represent multiple answers given by the same panelist, it's revealing to note the large number of risk managers who said they're only minimally involved in loss prevention on expansions, new products or acquisitions.

For example, 11 panelists said they don't get involved at all. Another nine said there's only limited involvement, and then only after-the-fact. One said "it's a fight," indicating he's attempted to inject a risk management view or two into the planning of these activities. And another three said they're not "as involved as they should be."

We asked our Editorial Advisory Panel whether their present responsibilities include loss prevention. Fifty-three (71%) answered affirmatively. Nineteen (25%) of the panelists said loss prevention activities are outside

their assigned tasks. The remainder are involved in "some" loss prevention.

Of the 44 risk managers who think employe benefits should be part of their department, half said benefits (planning and funding) are presently part of another department within their organizations. Twenty-one panelists replied that they don't think employe benefits should be placed under risk management, while a sizeable group of 10 panelists were ambivalent and argued both sides.

The most frequent reasons why benefits should be under risk management include:

- The disciplines are related with the same cash flow, insurance and loss control techniques (19).

- Employe benefit management and the purchase of group insurance are financial functions property/casualty risk management (10).

- Greater leverage would be possible in the insurance market (10).

- The risk manager has the best background (10).

- A company could achieve better design, planning of insurance vs. self-insurance and better control of benefit plan costs (7).

- Employe benefits are part of the "asset protection" of risk management.

Other panelists felt risk managers would best know the insurance markets for group insurance, best understand the potential liability under ERISA and could best coordinate decisions in one area which directly affected the other. One panelist noted risk management and benefits should be combined "to avoid conflicting broker-of-record letters."

Specialization was the chief reason why 10 panelists voted against including benefits in risk management. Another seven noted that employe benefit planning, insurance and management belongs in the personnel department.

The only risk manager to say his responsibilities have actually been restricted within the past year gave the following reason: "Safety and loss prevention were moved from the risk management department to corporate services due to consolidation of OSHA, EPA, CPSC responsibilities. Industrial hygiene and safety are now in one area of management. Financial officers felt insurance functions of risk management were more financially oriented and persuaded top management to leave risk management in the financial department. My involvement with the loss prevention function is no longer on a direct basis. We communicate with each other but the direct contact and working relationship are no longer there."

The comments of those risk managers whose responsibilities have broadened included:

"Charged with responsibility for reviewing all contracts prior to proposal and execution."

"Making captive into active profit center by underwriting non-related risks."

"Greater responsibility in safety and loss prevention; greater involvement in corporate benefits, pension committees, investment of pension assets, reports to management, board of directors and government."

"Now responsible for OSHA compliance, product safety problems to a degree."

"Assumed responsibility for developing self-insurance program for group health benefits."

"Now include day-to-day administrative functions related to our retirement plan, as well as coordination and implementation of all internal/governmental requirements pertaining to ERISA."

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PanAm, KLM crash . . .

Continued from page 1

from one airline from suing any third party involved in an accident including other airlines or air traffic controllers.

Therefore, if safety investigators make a final determination that KLM's pilot was at fault in the accident, there could be almost limitless lawsuits against KLM by victims on the Pan Am flight and their families, not to mention the payments that KLM must make to families of its own passengers under the Hague convention.

KLM's New York office said it was awaiting word from its airline headquarters in the Netherlands before commenting on insurance. However, a reliable source said that KLM had \$40 million in hull insurance coverage on a single policy written for the KSS Group, which includes three airlines, KLM, Swissair and SAS.

National markets from the Netherlands, Switzerland and Sweden were said to have written the first 18% of the insurance for the KSS Group. The remainder was placed on the world market through Lloyd's broker C. T. Bowring.

A substantial portion of the KLM hull coverage, approximately \$15 million, was written in the London market, based on deductions from statements of a Lloyd's of London spokesman and Pan Am and its broker.

Both airlines were fully insured for the hulls of the aircraft.

The Lloyd's spokesman would not elaborate on how much liability insurance for KLM or Pan Am was in London, but he said it was "possible" that a good deal of the reinsurance for both airlines was there.

A spokeswoman for Pan Am said the U.S.-based carrier's jumbo jet was insured for \$23 million by four insurers. Lloyd's of London and insurance companies in the London market had 45% of the coverage.

The two largest aviation pools in the U. S., Associated Aviation Underwriters and U. S. Aircraft Insurance Group, each had a 20% share.

The remaining 15% was written by Paris-based Robert Malatier, which belongs to the French group La Concorde.

Broker for the Pan Am coverage was Parker Aviation, a subsidiary of Frank B. Hall & Co. Inc. James Goulard, a senior vp there, said Royal Cruise Lines, San Francisco, the charterer which arranged the flight, was also covered in the Pan Am insurance policy.

Royal Cruise Lines is a "certificate holder" on the policy. That is, it was included as a named insured on the airline's coverage automatically and at no extra cost.

It is not known whether Holland International, which arranged the KLM charter, has similar coverage on the KLM insurance. Holland International is one of the biggest tour operators in the Netherlands. According to one

aviation insurance source, big tour operators frequently buy their own "non-owner aircraft" insurance policies.

Neither the KLM nor the Pan Am jumbo jet was scheduled to stop at Tenerife. They were diverted there when a bomb planted by a radical group exploded in the airport of their intended destination, Las Palmas, another island in the Spanish-owned Canary archipelago.

The normal Sunday traffic volume of 200 planes landing and taking off at the Tenerife airport reportedly was doubled because of the bombing of Las Palmas airport. There was speculation about whether there may have been a misunderstanding in radio communications between the cockpits of the two planes involved in the crash and the overburdened air

control tower.

Both planes were preparing for departure to Las Palmas when the disaster occurred in heavy fog at Tenerife. The Pan Am 747 was taxiing into position when it was plowed broadside by the KLM jet, which was traveling down the runway at its full takeoff speed of 165 miles an hour.

Safety investigators immediately impounded recordings of all radio conversations between the air tower and the pilots of the two planes.

Some people had speculated that although English is the international language of air traffic control, the Dutch pilot might have had difficulties understanding the Spanish control tower officials at Tenerife.

However, first reports from safety investigators at Tenerife indicated that the control tower told the KLM pilot "in perfect English" that he should not be-

gin takeoff, but that he proceeded to do so against their instructions.

The Spanish government, which has jurisdiction for safety inspections in the Canary Islands, continued the investigation last week, aided by some officials of the National Transportation Safety Board from Washington, D.C., which investigates all fatal accidents involving U. S. planes.

While the investigation over the cause of the collision proceeded, aviation and insurance sources in New York said the crash could upset existing markets completely. One former risk manager for a large airline predicted the crash could lead to a rash of punitive damage lawsuits against airlines, something the airlines "are scared to death" will happen.

Another former risk manager, Waller Smith, who was with United Airlines and is now a consultant, said, "Two things are bound to happen. It will be the biggest shock that the aviation

market has ever withstood. This loss will surely test how well Lloyd's can respond to an accident of this size. I have every confidence, however, that Lloyd's will meet its obligation without flinching in any way. But this has got to firm up aviation rates."

In addition to the hull and liability insurance, it is expected that the large number of Americans killed on the Pan Am plane will result in substantial life insurance payouts.

Travel and accident policies may also add to the total.

The worst air crash prior to last week's collision in Tenerife was the 1974 crash of a Turkish DC-10 near Paris, which killed 346 persons, and has so far resulted in \$80 million in damage awards.

A court in California is continuing to hear cases resulting from the Paris accident. A federal judge there has ruled that the plaintiffs may seek punitive damages.

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M&M acquires brokerage firm

NEW YORK—Marsh & McLennan Cos. Inc. has acquired 30% ownership of Hudig-Langeveldt Group B. V., a leading insurance brokerage firm in the Netherlands.

Hudig-Langeveldt employs more than 1,600 persons and for many years has been Marsh & McLennan's only correspondent in the Netherlands. The move completes the process of establishing Marsh & McLennan International Inc. as a minority shareholder in leading national firms. ■

Hospital Welfare . . .

Continued from page 1

Assn. through documents filed with the insurance departments in several states and with the Labor Department. Interviews with persons close to the trust also assisted in the research.

Hospital Welfare Assn. was formed in 1957, according to a promotional booklet advertising the trust as "the oldest multiple employer trust in California." The trust provided major medical coverage with a lifetime maximum of \$50,000 term life insurance and optional dental and prescription drug coverage.

Lee Merryfield, with a background in life insurance sales, obtained control of HWA Inc. in the spring of 1974. HWA Inc. was the administrator and marketing arm of the trust, formally called Hospital Welfare Assn. Trust.

Like other administrators, Mr. Merryfield sometime in 1974 or 1975 insured his major medical coverage with Old Republic Life Insurance Co. in Chicago. Old Republic's trust business skyrocketed from \$4 million in 1974 to \$60 mil-

lion in 1975. In March 1976, with Old Republic nearing bankruptcy, the Illinois Department of Insurance ordered the company to get out of the trust business within 60 days.

That action left many trusts without an underwriter. A significant number joined the now-bankrupt National Multiple Employers Foundation. Hospital Welfare Assn. opted to continue as a self-funded trust filed with the federal government under ERISA.

After the move to self-funding, the trust instituted a small increase on the rates charged by Old Republic. Reinsurance coverage, probably for losses in excess of \$10,000, was obtained from Safety Mutual Casualty Corp. of St. Louis. Safety Mutual was one of the few companies interested in reinsuring trusts in the spring of 1976.

One source said Hospital Welfare Assn.'s major problem was that its rates were not based on experience. HWA Inc. apparently also became involved in difficult

clerical and computer claims problems. Mr. Merryfield tried to solve those problems in October 1976 by hiring Donald W. Luhrsen, formerly a second vp in the group benefits department at Union Mutual Insurance Co. in Portland.

The relationship between Hospital Welfare Assn. Trust and HWA Inc. was apparently difficult. Documents indicate there was no formal contract between the benefit committee and the administrator and that there was a dispute over the responsibilities of each party. The benefit committee also did not approve sales brochures.

Neither Mr. Merryfield or Mr. Luhrsen would return repeated phone calls from *Business Insurance*. Daniel O. Clark, chairman of the benefit committee, referred all calls to the trust's attorney, Mr. James H. Mitchell Jr. of Mitchell & Mitchell, Los Angeles. Mr. Mitchell also declined to comment.

Business Insurance has confirmed the other members of the benefit committee are Louis J.A.J. Scalise Jr., Eugene P. Weigand and Walter P. Wesley. (Mr. Wesley may have resigned his position on the committee).

By late 1976 it became clear to the benefit committee and administrator that the rates being charged by Hospital Welfare Assn. would not cover claims. In a meeting in early December, the benefit committee agreed to a 65% rate increase. In a Dec. 10 letter over the signature of Gregory F. Boyer, vp for marketing at HWA Inc., tied the rate increase to an increase in the lifetime maximum to \$1 million from \$50,000.

For a single employee age 39 or younger the new rate was \$39 a month up from \$23; for employees of the same age with dependents the new rate was \$96 up from \$55.

There was concern that the new rates would not be marketable. The trust hired Steven E. Schanes Ltd. as independent consultants. Steven Schanes, president of the company, is the former head of the Pension Benefit Guarantee Corp.

In early January, Mr. Schanes told the benefit committee he believed the rates were not marketable in a free market, although

he conceded that the trust business was not exactly a free market. Both the actuary and the administrators argued the new rates could be successful.

The committee decided to try the new rates. Billing notices went out about Jan. 17 and it did not become clear until March that the new rates were not marketable. The trust began to lose a large number of employers and new business was almost nonexistent.

In a Jan. 12 letter to the benefit committee, Mr. Schanes recommended the trust appoint an interim director to undertake a legal review and audit. In that letter he said, "The past record of the administration is unacceptable and substantial improvement in administration is mandatory."

Mr. Schanes also said in a later letter that the benefit committee would not be able to control the trust since HWA Inc. viewed "their 'ownership' of the trust in a proprietary" way.

Meanwhile, the trust was questioning its reinsurance contract with Safety Mutual. In November, Hospital Welfare Assn.'s actuary, Lawrence Mitchell, and members of the benefit committee became concerned that the reinsurance contract was weighted in favor of Safety Mutual.

As a result, Mitchell & Mitchell wrote Safety Mutual on Dec. 1 giving 45 days notice for termination of the reinsurance contract. However, the benefit committee did not actually complete the papers necessary for termination.

Later in December the trust's benefit committee and attorneys decided it was ill-advised to cancel the reinsurance contract. However, in January, Safety Mutual wrote the trust saying the coverage would end on Jan. 15.

Mitchell & Mitchell contended that the contract had not been terminated. Safety Mutual strongly resisted that position. Mitchell & Mitchell believed their own position was weak since they thought the reinsurance premium for January had not been paid.

However, an audit of the trust's records undertaken in conjunction with Steven E. Schanes Ltd., being named director of the trust found that Mr. Merryfield had paid both the December and Jan-

uary premiums out of his own account. He had only been reimbursed for December.

One source said this incident demonstrated the poor administration of the trust.

At some point, coverage with Safety Mutual was continued. Whether a new contract was negotiated or the old contracted revised could not be learned.

Meanwhile, on Feb. 4, Lawrence Mitchell reported to the benefit committee that the deficit would reach \$4 million. But the committee had apparently lost confidence in his work and a second actuary was hired. A later estimate by Harold J. Deutscher put the deficit at between \$2.3 million and \$3 million.

Mr. Schanes, in a second letter to the committee dated March 1, said Lawrence Mitchell did not believe the deficit would grow worse. Mr. Schanes disagreed, saying, "There is a clear danger of an increase in the unfunded liability."

In the same letter, Mr. Schanes recommended the benefit committee terminate the trust to avoid incurring additional liability.

The benefit committee agreed. An understanding was reached between HWA Inc. and the benefit committee to facilitate termination. The exact nature of that agreement could not be learned.

The employers were informed by a letter on March 18 that the trust would be ended. The letter sets a closing as April 1, although the trust may actually not be able to terminate until June due to a complex section of ERISA.

It appears that litigation will be needed to assign responsibility for the collapse. In addition to the Labor Department investigation, the California Department of Insurance may also move to revoke the insurance licenses of those involved.

Business Insurance confirmed that Aetna Casualty and Surety Co. provides fiduciary liability coverage for Hospital Welfare Assn. ■

Pregnancy . . .

Continued from page 1
Labor subcommittee on employment has scheduled hearings for April 6 on the pregnancy disability benefit bill.

The National Assn. of Manufacturers (NAM) already has signaled its opposition to the bill, which it estimates could cost businesses more than \$1.3 billion in added disability benefits.

"We intend to fight this bill to the hilt," said Richard Godown, counsel for the NAM. "We have nothing against pregnant mothers, but we think any legislation that requires mandatory pregnancy benefits is ill-advised."

Mr. Godown said the NAM is against the bill because of the cost involved, as well as what he describes as the measure's "inequality."

"There is only a finite amount of benefits available to employees and this bill will dilute benefits for all workers," he said.

American Telephone & Telegraph, the country's largest private employer, would make no comment until its legal staff had completed studying the bill.

The U.S. Chamber of Commerce was also considering its reaction to the bill. But one commerce staffer conceded that it was likely that the association would oppose the bill.

"I can understand the sympathies of those behind the bill, but I think it is a bad business for the government to get involved in an issue that should be left for the collective bargaining table," he said. ■

Subject:

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By MARIE KRAKOWIECKI

What are insurance companies doing that we don't know about?

"Great slogan, isn't it?" I remarked to the magazine editor who was slumped next to me as we listened not long ago to an insurance executive's speech. I had jumped ahead of the speaker and underlined a single sentence from his printed text: "WE DO A GREAT DEAL, BUT THE PUBLIC DOESN'T KNOW IT."

Actually, the speaker was talking about the industry's efforts to keep the public informed. But when I pulled the sentence out of context, it had the same ring to it that The New York Times' "All the News That's Fit to Print" has. My friend grinned and agreed that the phrase would be a wonderful motto for a new insurance newspaper.

This memory came back to me the other day when a reader phoned to complain that the insurance industry has bamboozled business writers with its well-oiled public relations machinery.

Insurers so completely control the flow of information about their business, he argued, that they have been able to create a shortage in product liability insurance while they simultaneously receive, or rather engineer, accolades from the press for their efforts at trying to solve the shortage through legislative and tort reform.

"It's all a smokescreen," he said, "and you people never write about it at all."

The reader, a broker, charged insurance companies with deliberately withholding product liability insurance from manufacturers even when they could well afford to write it. It's not available at any price, no matter what the government task force on product liability said, he claimed.

■ Why would insurers do that? I asked. He contends insurance companies desperately want to get tort and legislative reforms enacted but that they can't do it alone. So in order to get manufacturers to rally to their cause, they are making it impossible for manufacturers to purchase product liability insurance unless those reforms are enacted.

The manufacturers, pushed almost to desperation, will therefore clamor for the same legislative and tort reforms that the industry wants and which will eventually be of enormous financial gain to—guess who—the insurance companies.

In short, he accused the insurance companies of collusion. If nothing else, I thought his accusations were creative. In my best patient reporter voice, I told him that you can't go around making accusations like that in print unless you have some proof.

He replied that as an experiment, several of his clients approached major underwriters and offered to pay outrageous premiums for product liability coverage, but were still turned down cold, even though none of them had any record of a loss in that line.

What galled him even more was that one of the insurance companies involved threatened to actually cancel his agency contract because he dared to criticize its practices in public.

Then he got to the heart of his complaint: That insurance companies have been withdrawing their product liability lines from the market without having to show any statistics which prove that they were losing money from that line specifically.

■ Click. When he mentioned that, snippets overheard at conferences around the country fell into place. Everyone from Ralph Nader to an executive of the American Mutual Insurance Alliance has alluded to the fact that although the insurance industry is built on statistics, it has never been made to break out its product liability figures separately.

The Insurance Services Office is reportedly at work right now to improve product liability statistics on losses within the industry. The ISO effort seems to have come about only after intense pressure from private and government sources. But up until now, insurers have been calling most of the shots on product liability without letting the buyers see the score.

Maybe part of the blame belongs to business writers wooed and subdued by expensive press luncheons hosted by insurance companies.

When I think of firms like Havir Manufacturing Co. forced to shut down because they can't get product liability insurance, the most unsavory implications of "WE DO A GREAT DEAL, BUT THE PUBLIC DOESN'T KNOW IT" cross my mind. So does the terrific lunch and free booze I had the day I heard it. I hope I'm wrong on both counts.



Krakowiecki

Court takes United case on retirement

WASHINGTON—The Supreme Court agreed to decide whether companies can force employees to retire before age 65.

At issue is whether a United Airlines pension plan that requires retirement before age 65 violates the 1967 Age Discrimination in Employment Act.

The Fourth Circuit of Appeals ruled late last year that United's mandatory early retirement provision of its pension plan was illegal under the 1967 prohibition against arbitrary age discrimination.

If the Supreme Court upholds the lower court decision, millions of workers would be able to work until age 65.

The case involves a United employee, Harris S. McMann, who was forced to retire at age 60 under a provision of United's pension plan. Mr. McMann had worked for the company for 29 years until his forced retirement.

The Labor Department, which argued the case on behalf of Mr. McMann, said United's plan was in direct conflict with the 1967 act that prohibited an employer from releasing an employee between 45 and 65 because of age.

United argued that the 1967 law allowed mandatory retirement plans already in existence to continue so as long as they were not a subterfuge to avoid the law.

A decision on the case is expected before the court recesses in June.

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legal brief

Illegitimate child is now entitled to benefits

IN A SUIT on a group life insurance policy, the Minnesota Supreme Court has held that denying an illegitimate child the right to participate in the proceeds of a policy offends the equal protection clause of the 14th amendment. This was so, according to the court, because the denial of benefits was made solely because of the illegitimacy of the child.

Mark Evans, an employe of a state hospital, was issued a certificate of participation in a group life insurance policy in December 1970. The policy was underwritten by Minnesota Mutual Life Insurance Company and Northwestern National Life Insurance Company pursuant to a contract between the insurers and the state of Minnesota. The life insurance provided was \$25,000 with a double indemnity of \$50,000 for accidental death. The policy contained a substituted beneficiary clause that benefits would be paid according

to a certain order of priority if no specific beneficiary was named. First in order of priority was a surviving lawful spouse followed by surviving children and surviving parents.

The policy defined "children" as "first generation lawful bodily issue and legally adopted persons." At the time Mr. Evans received the policy he was married to Brenda Wilcox. However, they were divorced in February 1972

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but reconciled the following month without remarrying. Ms. Wilcox conceived a child by Mr. Evans, born six months after Mr. Evans' death in an auto accident. Mr. Evans' parents filed proof of death and a claim for the policy proceeds. The insurers paid them \$50,000. Ms. Wilcox also claimed the

proceeds for the unborn child (Matthew, born Dec. 31, 1972). The grandparents, who had already spent \$10,000, paid the balance to court. The trial court awarded the entire proceeds to Mr. Evans' parents.

The principal issue on appeal was whether Matthew was a "surviving child" of Mr. Evans within the meaning of the substitute beneficiary clause of the certificate of participation. The court concluded that because Matthew was illegitimate he was not the lawful bodily issue of Mr. Evans as required by the policy. But, the court also concluded that the denial of the insurance proceeds to Matthew solely because of his illegitimacy was a violation of his equal protection rights. Because the state entered into the insurance contracts, including the "substituted beneficiary" clause, the court believed this constituted "state action" for the purpose of invoking the equal protection clause of the 14th Amendment. The classification of children of an insured as to whether they are legitimate or illegitimate, the court concluded, was not reasonably related to a legitimate state interest. *Unborn Child v. Evans*, Supreme Court of Minnesota, Sept. 3, 1976, rehearing denied Oct. 12, 1976, Peterson, J., 245 N.W. 2d 600 (BI/01/F.-\$3).

Fire Insurance

Here the purchaser of a bankrupt corporation brought suit against insurance brokers and fire insurance companies to recover under fire insurance policies issued to the corporation. The Vermont Supreme Court ruled that the suit was barred as a matter of law by virtue of the corporation's failure to institute suit within the time specified by the policies.

The court noted that it is well established that a condition in an insurance policy providing that no recovery may be had thereon unless suit is initiated in a given time is valid unless the time can be said to be unreasonable. The court pointed out that the trustee of the bankrupt corporation and the purchaser of the corporation's property by virtue of a trustee's deed were fully aware of the existence of the fire insurance policies covering the corporation's property, but they never took steps within a reasonable period of time to determine the extent of any right they might have had thereunder.

The court concluded that the insurers were not barred from invoking the policies' time limitations within which suit could be brought by virtue of their failure to provide either the trustee or the purchaser with copies of the policies. *Herbert v. Jarvis & White Insurance, Inc.*, Supreme Court of Vermont, October 5, 1976, Daley, J. 365 A.2d 271 (BI/04/F.-\$3).

(Copies of the entire decision of cases described may be obtained by sending a check for \$3 made out to Cases Unlimited to Legal Briefs, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please list the number for each opinion requested, which is at the end of the brief.)

Riot program

The federal riot insurance program is obsolete and should be ended, a Kemper Insurance Co. executive says. Ending the program will save the government more than \$100 million, said Steven H. Lesnik, vp for public affairs. Kemper, which has subscribed to the program since its inception, has not had a "riot" loss that would be covered since 1970.

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McGuinness promoted to Gulf asst. treasurer

William D. McGuinness, 55, was promoted to assistant treasurer at Gulf Oil Co. Mr. McGuinness will continue to supervise the insurance department, a job he has held since September 1974, when he joined Gulf in Pittsburgh after 16 years with Exxon Corp. Mr. McGuinness was also nominated for election to the board of directors of INSCO, Gulf's insurance underwriting subsidiary. Mr. McGuinness succeeds Joseph Edwards, who retired in August. He now reports to Paul Weyrauch, company treasurer.

Victor C. Amato, 32, has assumed the responsibilities of staff representative, thrift plans, for SCM Corp. in New York. He was formerly manager of employee benefits for Interpace Corp. in Parsippany, N.J. Mr. Amato is responsible for administering, recordkeeping and financial aspects of SCM's retirement, savings and investment plans covering about 3,000 participants. He reports to Brendan McHugh, manager of pensions and thrift plans.

Malcolm T. Clough, 37, was appointed manager of employee benefits for Interpace Corp. in Parsippany, N.J., effective March 14. He replaces Victor Amato, who left the company. Mr. Clough previously was manager of employee benefits for Fibreboard Corp. in San Francisco. Prior to that he held managerial positions in employee benefits with Standard Oil of Indiana and Bristol-Myers. Mr. Clough is responsible for administering the corporation's employee benefits and for developing new, improved policies and plans. He also is responsible for pension funding and ERISA compliance. He reports to Charles Conrad, Interpace's manager of compensation and benefits. Interpace serves building and construction trades, providing construction and architectural products.

Mr. Clough's former duties at Fibreboard have been assumed by other members of the personnel

department there. He is not expected to be replaced.

Anthony J. Burlando, 30, has been promoted to insurance manager in the corporate risk management department of Joy Manufacturing Co., Pittsburgh, Pa. In the newly created position, Mr. Burlando will be responsible for the commercial insurance operations and the management of the varicous service functions provided by the corporate risk management department. He reports to Thomas V. Hallett, corporate risk manager. Before his promotion, Mr. Burlando was administrator, corporate risk management department. He has not been replaced in that capacity yet, but the firm expects to fill the administrator's slot from in-house.

Merryrose Wurtz has joined Allied Products Corp. in Chicago as corporate insurance analyst. She was formerly assistant director of insurance for Victor Comptometer Corp. in Chicago. In her new position, Mrs. Wurtz is responsible for loss ratio analysis, recommendation of coverage levels, and for assisting in the placement of all corporate insurance. She reports to E. G. Van Cata, corporate director of insurance. Allied Products makes agricultural equipment, fasteners, metal stampings and dies, textiles and chemicals.

Catherine J. Berg, 29, was hired as assistant to the director of insurance for Victor Comptometer Corp., Chicago. She replaces Merryrose Wurtz, who left to join Allied Products Corp. Ms. Berg previously was manager of the corporate insurance department of National Homes Corp. in Lafayette, Ind. In her new position, she will assist in all phases of the property/casualty insurance program for Victor Comptometer and her responsibilities will eventually expand to include employee benefits as well. Ms. Berg reports to Harold Brady, director of insurance.

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