

Mer/29 product liability suits offer dramatic lessons to buyers

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business insurance

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August 12, 1968

Actuary doubts validity of U.S. step-rate plan

NEW YORK—A major consulting actuary's firm has written to the Commissioner of Internal Revenue disagreeing with proposed regulations for integrating qualified step-rate pension plans with Social Security.

The Treasury proposes to set a rate of 30% as the integration level, instead of the 37.5% as at present. It also proposes integrating at a level which differs by age of an employe until the year 2006. Such a plan would provide benefits on average pay in excess of 39 different levels, instead of \$4,800 as at present.

In its letter, Arthur Stedry Hansen Consulting Actuaries Inc., said that the validity of the suggested approach "seems to be doubtful on both social and mathematical grounds."

A review of the mathematical premises, the letter says, "persuades us of the unsoundness of both the assumption as to the relative value of the employes' taxes and the assumption as to the relative value of supplemental benefits. The former is premature, and the latter is shown by computations to be substantially higher than assumed."

For a great many of its clients, the letter continues, the actuarial firm would have to make adjustments to comply with the suggested rules and yet retain one formula for both past and present; future service would entail "two undesirable alternatives."

"It would unduly increase the benefits of those earning less than the Social Security wage base in order to maintain existing levels for those earning more, or it would decrease the benefits of those earning more than the social security base."

The cost of the first alternative would be substantial, the letter points out, and for companies with negotiated plans, incurring the cost would in effect be mandatory, because it would not be feasible to withdraw from previous commitments.

It is questionable that this approach is a fair and workable implementation of Congressional intent, the letter states. It then suggests alternative concepts "which merit consideration" for inclusion in pension integration rules.

These proposals are to allow employers to supplement Social Security.



Delegates to the Republican national convention in Miami Beach last week were protected with a three-layer aggregate liability limit totaling \$10,300,000 written by Travelers Insurance Co. and American Home Assurance Co. Wide World photo

GOP asks automatic cost-of-living boosts

MIAMI BEACH—The Republican platform, hammered out at the party's national convention here, pledges to strengthen the Social Security system and the Railroad Retirement Act by providing automatic cost-of-living adjustments.

In addition, the GOP would permit the elderly to increase their earnings without loss of Social Security benefits and would provide for post-age 65 contributions to Social Security with deferred benefits.

The Republican plank on the elderly also would restore the former 100% income tax deduction for medical and drug expenses for people over age 65 and would gradually reduce the age

for universal Social Security coverage from 72 to 65.

The Republicans would "take steps to help improve and extend private pension plans," but no further details were given.

In the plank on health, the GOP pledged "to encourage the broadening of private health insurance plans, many of which cover hospital care only, and to review the operation of government hospital care programs in order to encourage more patients to utilize nonhospital facilities."

In a section on the poor, the Republicans said they "support action by the state, with Federal reinsurance, to help provide coverage for homes and small businesses against damage and fire caused by riots."

President Johnson, however, may have lessened need for this proposal by signing a bill to set up federal reinsurance pools.

Republicans covered by three-layer policy but bias risk excluded

MIAMI BEACH—While thousands of frenzied conventioners, accompanied by brass bands and marching elephants, huddled with political bigwigs, the insurance industry, with far less enthusiasm, quietly counted its capital and made coverage available for the 1968 Republican national convention held here last week.

As far back as last November, long before the political hordes converged here to nominate a flagbearer, underwriters and GOP planners were bargaining for coverage for the quadrennial spectacle.

Travelers Insurance Co., Hartford, and American Home Assurance Co., New York, with an aggregate liability limit totaling \$10,300,000—far in excess of the \$3,000,000 required by the City of Miami—placed the coverage for the GOP, effective in June.

According to Phil C. Gallagher, exec vp of D. R. Mead & Co., a local agency which worked out the coverage with the GOP and the insurers, a primary layer of \$300,000 bodily injury and \$50,000 property damage was provided by Travelers, with the first excess layer of \$5,000,000 written by American Home.

"THE INSURANCE was extremely difficult to place," said Mr. Gallagher, "because of the nature of the risk and a lack of interest by most U.S. insurance companies."

The liability insurance, which cost the GOP about \$17,500 for the period from June through Sept. 1, includes coverage for the basic bodily injury, property damage and personal injury perils such as libel, slander and invasion of privacy.

The three-month general liability policy specifically excludes coverage for discrimination suits to which the Republican party could be exposed.

A typical risk covered in the liability policy was the marching elephants which greeted the conventioners at the airport or on Collins Ave., a Miami Beach thoroughfare lined with some of the world's most plush hotels.

While liability insurance proved to be the biggest problem for the GOP, the Republican arrangement committee also worked out an agreement with the Miami Beach convention center releasing the committee from any subrogation claims filed in the event of fire loss to the building or its contents.

The hall does not have sprinklers.

"The GOP protected itself from the fire perils," said Mr. Gallagher, "by leasing the convention hall and signing an endorsement releasing it from any subrogation claims."

"The insurance companies agreed not to sue the GOP in the event of a fire, extended cover-

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Amphitheatre asks Dems for hold harmless

CHICAGO—Coverage for the Democratic national convention, which opens here Aug. 26, is still up in the air.

The management of the International Amphitheatre, site of the convention, has separate fire and liability umbrella coverages with policy limits to \$20,000,000.

The Union Stock Yard & Transit Co., owner of the giant hall, has coverage for the entire one-square-mile area surrounding the hall, including the stock pens and plants to the west.

The company requires a minimum \$1000,000/\$300,000 liability and \$25,000 property damage cover from Amphitheatre tenants. For example, sponsors of Print '68 carried \$4,000,000 in liability coverage for their show in the Amphitheatre earlier this year. The tenants are required to name the Amphitheatre management as an additional insured and to hold it harmless.

It is understood that the Democrats may have purchased liability coverages in excess of the minimum requirement for the period they will occupy the building, beginning July 25 and running until three days after convention ends.

The Amphitheatre management requires certificates of insurance and hold harmless agreements from news media that have installed a great deal of equipment in the hall.

SOME INSURANCE experts feel that perhaps the Democrats have been unable to obtain high limit insurance protection similar to the Republicans (see story on GOP coverages above). A spokesman for the Democratic National Committee, in town to arrange the convention, said the insurance policy would be sent from Washington.

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Coming Aug. 26

B.I. International Issue

Settlement for duPont workers' kin raises questions concerning liability

NEW BRUNSWICK, Me.—A settlement of \$365,000 for an accident which took the lives of two workers at an E. I. duPont Corp. plant here left doubt over how much liability, if any, should be assumed by a principal after he has handed over a project to a subcontractor.

The workers' widows will be paid by duPont, B. F. Shaw & Co., a plumbing contractor, and Fred C. Weller & Sons, an equipment leasing firm.

The loss was shared by the three firms, although duPont, which is self insured for liability up to \$2,500,000, will pay only \$75,000.

A spokesman for the chemical company said that \$75,000 is be-

ing paid only because legal costs to defend the case would probably exceed that amount.

"DuPont will not admit negligence to any degree and is involved in the settlement only because the accident occurred on duPont property," he said. "It has not been proven, or suggested, that actions by any duPont employe, or that conditions at the plant, showed the company to be negligent."

BEFORE THE settlement in Middlesex County court, Mrs. Joseph Charmello and Mrs. Kenneth Bailey, who will receive \$200,000 and \$165,000 respectively, were paid workmen's compensation insurance by Aetna

Life & Casualty Co., insurers for Wallace J. Wilck & Co., which employed the two workers and was the general contractor working for duPont.

ACCORDING TO Harold A. Sherman, a Perth Amboy attorney who represented Mrs. Charmello, the workmen's compensation payment will be returned by both widows.

Wilck, which was not directly involved in the settlement, was said by Mr. Sherman to have made a payment to duPont for its share of the loss.

Originally, according to the attorney, duPont initiated a third-party claim against Wilck which was withdrawn. It was not

known how much was paid by Wilck to duPont.

The accident occurred when a backhoe, a clawlike device used to dig trenches, ran out of control and knocked over a 48-inch concrete pipe which fell on the men.

Fred C. Weller & Sons, which leased the backhoe and an operator to duPont, was held liable together with duPont, although there was some haggling over whether the operator of the backhoe was, in effect, an employe of duPont after he was subcontracted.

According to Mr. Sherman, it was not clearly defined in court whether duPont or Weller was liable for the actions of the operator of the backhoe.

B. F. Shaw Co., the plumbing contractor, was transporting pipe on the backhoe. The pipe eventually struck other pipe, which hit the two men.

Shaw was negligent, according to the court, because the company did not take steps to clear the area before transporting the pipe.

J&H acquires Lipscomb-Ellis

NEW YORK—Johnson & Higgins, in its second merger move in the last month, acquired the 70-year-old insurance brokerage firm of Lipscomb-Ellis, Atlanta. The broker will be a part of Johnson & Higgins of Georgia.

Last month J&H merged with Baker-Cockrell in Richmond, Va., to form Johnson & Higgins of Virginia.

The major national account of Lipscomb-Ellis, it was learned, is Coca-Cola Co. In May J&H snared another big Atlanta insured when it got hull and liability coverage of Delta Air lines.

Rutherford L. Ellis, chairman and chief executive of Lipscomb-Ellis, continues to serve J&H in an advisory capacity. Beverly M. DuBose, president and director of J&H of Georgia, becomes chairman and chief executive.

Sims Bray, president of Lipscomb-Ellis, has been named president of J&H of Georgia. Mr. Bray and Joseph L. Collins, vp of J&H of Georgia, have both been elected to the board of J&H of Georgia.

Frank L. Shoppe, vp of Lipscomb-Ellis, has been named vp of J&H of Georgia, and Lamar H. Ellis Jr., secretary of Lipscomb-Ellis, was elected assistant vp.

In the deal with Baker-Cockrell in Richmond, Thomas L. Cockrell, formerly president of the firm, moves up to chairman of the new J&H of Virginia. Robert V. Hatcher Jr. is president of the firm and James G. Baldwin is vp and secretary. E. Massie Valentine is assistant secretary.

Baker-Cockrell was started in 1932 by Howell M. Baker. The merger gives J&H its 17th U.S. office; it has 37 worldwide.

Up to now J&H serviced its Virginia clients (among which is the Ethyl Corp. in Richmond) out of its Philadelphia office. In addition to Atlanta, the other southern office of J&H is in New Orleans.

The merger with Baker-Cockrell puts J&H head-to-head with Marsh & McLennan in Richmond. Several years ago Marsh & Mac acquired the Davenport Agency there.

Air passenger death rate up

CHICAGO—The air passenger death rate, computed by the Society of Actuaries on the basis of hours flown by passengers aboard domestic flights, increased in 1967 to 10 deaths per 10,000,000 passenger hours. This compares with 3 deaths in 1966.

A single disaster, however, caused more than one-third of the 1967 deaths when 77 passengers and 5 crew members were killed in a crash near Hendersonville, N.C.

The airlines had an unusually good safety record in 1966, according to the society, and the 1967 record actually equals the long term average of 10 deaths since 1955. The 1967 fatality rate is slightly lower than the average of 11 deaths per 10,000,000 passenger hours during the last nonjet years of 1955 to 1958.

The actuaries' study indicates that pilot fatality rates are much higher in other types of civilian flying than those for scheduled airline pilots.



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Cardiacs, business interruption, liability discussed at ABA meeting

PHILADELPHIA—A plan to take some of the burden off employers who hire cardiac patients gained support at an American Bar Assn. meeting here last week.

In advocating such a plan, Newton Gresham, a Houston attorney, said employers are often reluctant to hire heart patients because of possible workmen's compensation claims that could arise from an attack suffered while the worker is on the job or even away from work.

The plan backed by Mr. Gresham would protect the employer from excessive liability for second and third attacks while still giving the cardiac adequate benefits. Under his proposal—a form of the so-called "second injury law" which covers loss of a second limb in many states—the employer would be liable for compensation for no more than 100 weeks.

ANY ADDITIONAL benefits would be paid out of a special state second injury fund. New York already has a form of this

system of recovery in operation.

Roy J. Bell, administrative director of the division of industrial accidents of the California department of industrial relations, supported the second injury plan. Mr. Bell said that with the aid of second injury funds, which are supported by general state revenues, heart patients now getting benefits from such state-supported funds as welfare and aid to the handicapped would be given much wider employment opportunities.

In discussing business interruption claims, Attorney James I. Teague said that determining loss of profits should always be based on "a practical approach, and you should remember that included in a computation of anticipated loss of net profits there is invariably involved an anticipated loss of gross profit, and gross profit brings into play fixed charges and continuing expense."

AS AN EXAMPLE, he said, there are times when depreciation will be a necessary element

in the computation of net profits. Sometimes inventory write-downs should be considered, he explained.

"I know of no hard and fast rule of law or rule of thumb, nor do any of my friends in the adjustment business know of any hard and fast rule of thumb, that can be applied to every business," Mr. Teague said.

Regarding the expense of reducing loss and resumption of business, almost all business interruption policies provide that the insurer would be liable, in addition to lost profits, for fixed charges, continuing expense and expense necessarily incurred to reduce the loss, Mr. Teague said. "The only issue that could possibly arise is whether or not an expense was necessary under the wording of the particular policy provision," he added.

IN GENERAL, Mr. Teague stated, coinsurance is computed on the same basis as is the ordinary coinsurance clause, "once a total gross loss under the busi-

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Employe benefits liability cover of 'increasing concern' to firms

PHILADELPHIA—Employers are showing an "increasing concern" over their potential liability involving employe benefits, according to a Wausau, Wis., attorney.

As employe benefit plans continue to grow in size and scope, more and more personnel will be required to administer the plans, "with the inevitable result that more mistakes will be made and more disputes will arise concerning the rights of those covered by the various plans," R. J. Wendorff told an American Bar Assn. meeting here.

"It can readily be seen that these employe benefit plans and employe counseling programs can lead to involved claims with

potentially substantial recoveries against the employer," Mr. Wendorff said. The landmark *Gediman vs. Anheuser-Busch Inc.* and other court decisions "indicate that when a court is confronted with one of these situations, it will react in favor of the employe or his beneficiary."

MR. WENDORFF SAID many employers are surprised to learn that their ordinary comprehensive liability policies don't cover employe benefit claims. He said, however, that such coverage is afforded through employe benefits liability insurance, which is being written by "an increasingly larger number" of insurance companies.

"Standard" forms for this type of coverage have not yet been developed, Mr. Wendorff noted. Insurance for employe benefits liability exposure is provided either by an endorsement attached to a standard liability policy or by a separate policy.

Mr. Wendorff said that a typical agreement for this type of coverage will provide that the insurer will "pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages because loss sustained by any employe of the named insured caused by and arising out of any act, error or omission of the insured in rendering or failing to

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Riot law called most important insurance legislation of century

PHILADELPHIA—One of the architects of insurance legislation designed to relieve the crisis in the cities, signed into law by President Johnson last week, was Prof. Herbert S. Denenberg of the University of Pennsylvania. Mr. Denenberg has just been appointed to the new Harry J. Loman chair of property and liability insurance at the Wharton School of Finance and Commerce.

In an interview with *Business Insurance*, he discussed such topics as an automobile compensation plan recently adopted by Puerto Rico, the need for more burglary and theft insurance in the ghettos and group automobile insurance as a union benefit.

Mr. Denenberg said that he considered the insurance provisions of the new housing law the "most important insurance legislation of this century."



Herbert S. Denenberg

The importance of this law, he explained, "is that the burden of placing insurance will now fall on the industry rather than the property owner."

In addition, Mr. Denenberg

continued, state insurance commissioners and regulators will now realize that their major responsibility is finding adequate markets for their citizens—and not rate structures or the solvency of insurance companies.

Not everyone considers the new legislation to be so beneficial. Drew Pearson, for one, recently described it as a bill the insurance lobby helped push through the Senate to better itself "in the guise of helping the poor." He named Mr. Denenberg as one of the lobbyists.

"AT THE SAME TIME I was being blasted by Drew Pearson, I was, for opposite reasons, being bawled out by the industry for my role as a draftsman in the recent Puerto Rican legislation on automobile accident compensation," Mr. Denenberg said.

This law, called a social protection plan, provides benefits to all victims of automobile accidents, whether drivers, passen-

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La Crosse, Wis., fire department officials inspect the pulley system of a scaffold that fell, killing a boy, 16, and injuring another at the Trane Co. A window washing firm had contracted for the job, and as part of the purchase agreement, the window washing company provided certificate of insurance and a hold harmless agreement, a Trane spokesman said.

Wide World photo

Blues get USW major medical, up life \$1,000

PITTSBURGH—Substantial increases in pensions, group life insurance and medical coverages were among the benefits gained by the United Steelworkers in a recent settlement with 11 major companies. Extra vacation pay and another annual holiday were also part of the package.

Effective August 1, 1969, pension credits will be increased from \$5 a month per year of service to \$6.50, with a minimum monthly pension of \$195 for a worker with 30 years' service, regardless of age.

In the case of an enforced plant shutdown, workers age 55 or more will need only 15 years' service to qualify for a full pension.

Group life insurance for all members will be increased by \$1,000, effective August 1, 1970. A union spokesman said that "although we use all the major life insurance companies at various locations, Metropolitan at U.S. Steel and Equitable at Bethlehem Steel are probably about the biggest."

A NEW MAJOR medical benefit paying 30% of covered expenses will be superimposed on a basic hospital policy, effective August 1, 1970. This coverage will be written by Blue Cross-Blue Shield, which has the basic contract

Commenting that this move was "unusual," a union spokesman at UAW headquarters explained that "the Blues are much more realistic and competitive than they used to be and want to hold their own with the major insurance carriers."

The daily room and board rate will also be increased from \$12 a day, on the base hospital plan, up to the going rate for a semiprivate room.

LIMITED PSYCHIATRIC care will also be included in the major medical, "although the details haven't been worked out yet."

However, the union spokesman said that details would have to be agreed upon before the end of this year "because we've set a deadline for issuing descriptive booklets of spring 1968."

A prescription drug plan, gained by the United Auto Workers last fall, was not included.

The unions won an eight-day paid holiday per year, with the exact date still to be determined. A \$30 vacation bonus will also be paid for each week of regular vacation. The unions will, however, permit the steel companies to schedule vacations on a year-round basis rather than during the summer.



washington watch

Federal flood back-up may pave way in other capacity problems

WASHINGTON—Early this month the Federal government made a landmark move into the insurance field with the establishment of a reinsurance program for riot and flood losses.

The program does not include a provision to provide tax deferral measures allowing insurance companies to accumulate catastrophic loss pools, as the President's panel on riot insurance had proposed.

Nevertheless, it should still be

studied carefully by risk managers since it might just lay the groundwork for such a plan or for some other means of solving the increasingly serious capacity problems being faced by the American insurance industry.

As expected, enactment of the riot-flood reinsurance proposal brought on the usual cries of "creeping federalism" and lamentations about the insidious crumbling of the present state-oriented insurance system.

The real tragedy, however, escaped most onlookers. That is, that such moves in Washington are taking place almost entirely without the counsel or views of the largest insurance consumers in the country, the corporate insurance buyers.

A look at the record will show that the riot-flood plans were developed with little or no testimony from large insurance buyers—people who, in the final analysis, have a very large stake

in the question of the Federal government's role in insurance.

A major question which should be considered is whether the Federal government could help alleviate the increasingly serious capacity problems being encountered by American industry. And, if so, what type of program would be best suited for the needs of the corporation.

A good place to start would be to study the recently enacted riot and flood reinsurance programs. To be sure, these plans are not aimed at capacity problems in the usual sense, but they are excellent examples of programs possible within the present federal-state-industry relationship pattern and indicate the areas where the various factions are willing to give ground.

The key to the establishment of the Federal reinsurance program for riot-prone properties was the fair plans idea because it provided an acceptable means of running a Federal reinsurance

program within the framework of the state-oriented system.

Under the new law each state must establish a fair plan—Fair Access to Insurance Requirements—in order to qualify for the Federal reinsurance. Plans may vary in detail from state to state but all must meet certain Federal requirements designed primarily to assure access coverage to all inner-city properties that can meet insurability standards, or can reach these standards after an inspection has determined repairable shortcomings.

THE FAIR PLAN idea was recommended by the special Presidential riot insurance panel and was never seriously questioned as the basis for the final reinsurance program. However, the question of how much power the Federal government would have over these plans was a hotly debated issue.

The House version of the bill had called for complete administration of the FAIR plans by the Federal government under the secretary of Housing and Urban Development (HUD). It had also given the secretary the power to cancel reinsurance rights without consulting the state insurance authorities if he found that programs other than the FAIR plans were needed and had not been implemented.

The final bill provides that the FAIR plans be administered under the supervision of the state insurance authorities, and requires that the secretary consult with the state insurance authority in determining the need for additional programs. It also requires that the secretary request the views of the state insurance authority before denying reinsurance to an insurer on the grounds that he is not fully participating in the FAIR plan pool or other program.

The FAIR plans must include insurance industry placement facilities which operate along the lines of automobile insurance assigned risk programs. The plans will be backed up by statewide insurance pools, state funds and a Federal reinsurance facility which will provide coverage in the event of catastrophic losses caused by civil disorders.

ADMINISTRATION OF the Federal end of the program is in the hands of a Federal insurance administrator within HUD with a rank equivalent to that of assistant secretary. It will be financed by allowing HUD to borrow up to \$250,000,000 from the Treasury in the event that the riot reinsurance fund is not able to pay claims out of premium income.

The flood plan is more simple. Under the direction of the new HUD Federal insurance administrator, the Federal government will provide reinsurance to a syndicate of property insurers that has been set up and ready to go since both houses of Congress first passed flood reinsurance bills late last year. These bills were stalemated because of financing provisions.

Besides providing the reinsurance, the government will subsidize the difference between the actuarial rate and what is determined to be a "reasonable" or "chargeable" rate.

Initially, coverage is limited to one-to-four family dwellings and small business properties, but HUD has the discretionary authority to extend this to other residential and business properties.

HUD will be able to borrow \$250,000,000 from the Treasury to back the flood program until the reinsurance fund is sound.



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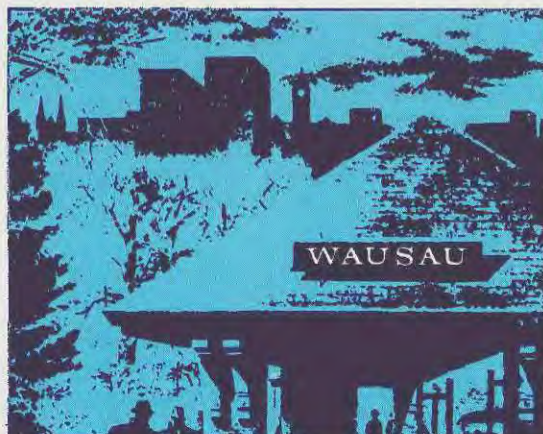
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Riot laws . . .

Continued from page 3

gers or pedestrians, regardless of fault. Benefits include medical and hospital care, death, dismemberment and disability.

The plan will be financed through payment of \$35 for any vehicle registered in Puerto Rico, Mr. Denenberg explained, "and as you can imagine, it had some industry opposition.

"I sometimes think that part

of the insurance industry's problem is the lack of a critical and aggressive trade press," he continued. "Generally, it relies too much on printing ready-made news releases and ignores its responsibility of asking tough questions and reporting unpleasant as well as pleasant answers."

"ALTHOUGH front page news in Puerto Rico for over a year, in both languages, the U.S. insurance press, to my knowledge, didn't devote a single article to a

discussion of its implications."

However, on occasions the insurance industry can move very quickly, he conceded, and the housing law is an outstanding example. "The report by the President's National Advisory Board on the insurance crisis in our cities only came out in January, and here we have national legislation already in existence."

THE CONTRAST WITH other industries is "amazing," Mr. Denenberg continued, because other people are still in the talking stage about what needs to be done.

When serving on the President's advisory panel Mr. Denenberg said, "I noticed that most industry representatives were more interested in fire and extended coverage than they were in burglary and theft insurance—yet this protection is equally important for a ghetto merchant."

Rates for this coverage are very high, he continued, but so are commissions. "Maybe these could be reduced to bring premiums into line." Another method of rate reduction for this class of business, "might be the formation of group associations of merchants," Mr. Denenberg suggested.

THE INSURANCE industry always prides itself as being in the forefront of the free enterprise and private property system, Mr. Denenberg continued, "so it ought to be in the lead of activities demonstrating that city problems will respond to treatment by private industry and enterprise."

However, he said, "I'm afraid that many people in the lower income groups have become very negative towards the industry because of its long-standing opposition to Medicare, and other programs deemed essential by broad segments of the population."

In addition, Mr. Denenberg observed, government officials are increasingly convinced that innovation and new ideas "simply will not and cannot come from the industry," and that perhaps government insurers are the best hope for providing expertise and innovation.



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• "Introductory Guide to Exporting" is a 42-page booklet designed to explain aids offered by the U.S. Department of Commerce to those going into the export business. One entire chapter is devoted to discussion of how to finance and insure sales and another lists useful reading material on the subject of exporting. The booklet is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 for 40¢.

• "A Picture Story of Emergency Service for You" uses 29 close-up photos to capture the urgency of fire and of actual fire causes. Another booklet, "Are You Ready for a Fire?", lists seven fire emergencies with step-by-step actions. These, plus a list of necessary emergency tools, are available free on a sample basis from Dray Publications Inc., Fire & Accident Div., Deerfield, Mass. 01342.

• Cardox Division of Chemetron Corp. offers two special reports free of charge. The first is on "Fire Protection for Electrical Cable Trays and Associated Facilities." It discusses what can be done from a fire protection and engineering standpoint to help keep vital systems in operation. The second report, "Fire Fighting Foam," explains foam pump systems, foam quality, application techniques and foam stabilizers. Both are illustrated and may be obtained by writing Cardox Division of Chemetron Corp., Fire Equipment Dept., 840 N. Michigan Ave., Chicago.

• "Fire Attack 2—Planning, Assigning, Operating" is written by Warren Y. Kimball, chief fire service specialist for the National Fire Prevention Assn. The 240-page book is especially for company officers, training officers, chiefs and their deputies and discusses the best possible decisions in organizing and operating their forces. The illustrated book is hard bound and is a sequel to "Fire Attack 1—Command Decisions and Company Operations." Chapters are devoted to fire flow under various conditions, initial attack operations, effective organization and design and arrangement of equipment. Copies are available from the association at 60 Batterymarch St., Boston 02110 for \$6.50.

• A quick, easy way for the health insurance purchaser to evaluate his present plan plus some eye-opening facts are provided in "The Ten Point Test for Employee Health Plans." The check list is part of the New York Blue Cross/Blue Shield program and complimentary copies are available from Mr. George L. Goodlett, vp communication, Blue Cross/Blue Shield, 80 Lexington Ave., New York 10016.

• The Insurance Information Institute offers a pamphlet entitled "How to Save on Fire Insurance Costs when You Build or Remodel." A check list of construction mistakes and an explanation of the function of the fire insurance rating bureau are included. The pamphlet is free by writing the institute at 110 William St., New York 10038.

• An illustrated, 27-page booklet, "Safe Schools," is available from the American Insurance Association for 20¢. It explains specific fire hazards in new and existing buildings and lists recommendations for their elimination. Details of necessary fire protection equipment are given and it is recommended that fire drills be conducted monthly. A program for accident prevention and rules for precautions in various types of classes are provided. Write the association at 85 John St., New York 10038.

• "Social Security Amendments of 1967" has been published by Huggins & Company Inc. Its 18 pages analyze the Social Security Act as amended to date with a detailed summary of benefits, eligibility requirements and calculation rules, with accompanying tables and examples. A special section refers to Medicare. Copies are free by writing the company at 1401 Walnut St., Philadelphia 19102.

• "A Modern Concept in Employee Relations for the Forward-looking Employer" is information compiled by Northwestern National Life Insurance Co. It explains why some fringe benefits are appreciated and why some are not and is designed to educate employees both to their benefits and to their employer's costs. The solutions presented are now being used by nearly 50 employers coast to coast. For your free copy write Mr. George Kirscht, Northwestern National Life Insurance Co., Box 20, Minneapolis, Minn. 55440.

• A pamphlet outlining steps that can be taken by businessmen to protect their employees and property in times of civil disorder has been published by the American Insurance Association. "Riots" contains suggested loss prevention procedures for both large and small properties, including protection of store fronts and merchandise, provision for fire-fighting equipment, maintenance of vital bookkeeping information and communications procedures. Single copies may be obtained free by writing the association at 85 John St., New York 10038.

• "You and Emergency Fire Control" is an illustrated employee educational folder released by the National Fire Protection Association. It urges employees to be prepared for any kind of emergency which might hit their business and advises giving priority to learning how to operate portable extinguishers and other fire fighting equipment and to knowing fire exit routes. Another booklet, "Here's Your Inspection 'Tool' Kit," provides a check list for ridding work areas of common but dangerous fire hazards. Sample copies of both are free by writing Mr. Deuel Richardson, Public Relations Mgr., National Fire Protection Assn., 60 Batterymarch St., Boston, Mass. 02110.



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Correspondents Throughout the World

• "The A B C's of Product Liability Loss Control" explains the need for accurate advertising and warranty, better quality control and coordination of customer complaint handling. The pamphlet is free by writing Miss Mary Biwer, Adv. Dept., Employers Insurance of Wausau, 2000 Westwood Dr., Wausau, Wis. 54401.

• The Defense Research Institute has gone into its second printing of "Excessive Medical Treatment in Personal Injury Cases." Based on the writings of physicians in the fields of surgery, neuropsychiatry, neurosurgery and orthopedic surgery, the monograph examines the relationship of overtreatment of patients and their subsequent seeking of compensation for accidental personal injuries through lawsuits in the courts. Copies are available for \$1 each, prepaid, upon request to the DRI at 1212 W. Wisconsin Ave., Milwaukee, Wis. 53233.

• "Engineer Your Employee Benefit Dollar for Maximum Efficiency" is a 12-page brochure covering several cost areas of providing employee benefit programs. It emphasizes self-insurance for corporations with 200 or more employees and includes a typical case history. For a free copy write Executive & Employee Benefit Plans, Inc., 225 E. Broad St., Columbus, Ohio 43215.

• Hewitt Information Service, Inc. has revised their edition of an employe handout entitled "How the Stock Market Affects Your Profit Sharing Account." The 12-page booklet answers questions on investment securities and their changeable prices through charts, graphs and analogies. Sample copies are free by writing Hewitt Information Service, Inc., Libertyville, Ill. 60048.

• The newly revised "Worldwide Directory" has been released by the American International Underwriters Agency, Inc. This booklet, valuable when handling overseas coverage, is free by writing the agency at 175 W. Jackson Blvd, Chicago 60604.

• "Accident Analysis and Remedial Action" is a worksheet designed to provide a method of classifying the various types of information about individual accident cases. The 30-page book stresses the importance of a well prepared accident investigation report. The book is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 for 25¢.

• Based on a series of studies prepared by the Bureau of Labor Statistics, "Private Pension Plan Benefits" deals primarily with the types and levels of benefits available for normal, disability, and early retirement. It also covers vesting provisions, supplementary pension plans and death benefits. The 104-page book is available for 55¢ from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

• The California State Psychological Association is currently conducting a comprehensive survey to evaluate the range of industry mental health provisions and to determine for its membership which of the 1,800 companies underwriting health benefits will reimburse qualified clinical psychologists for services. A copy of the results of the industry-wide survey is available for \$2.00 from John E. Armer & Associates, 4401 Wilshire Blvd., Los Angeles 90005.

Trial lawyers hear call for law on transplants

WASHINGTON—Members of the legal, medical, business and learning communities called on attorneys to increase their voice on the national scene regarding auto safety, the law of the sea and air, crime control, consumer protection and product safety.

During the annual meeting of the American Trial Lawyers Assn. here, members heard a Boston trial attorney urge the establishment of a national standard by physicians and lawyers to determine when death occurs. He outlined a five-point program to keep pace with the scientific world in the field of body transplants.

Edward M. Swartz, who handles product liability cases, recommended establishing standards for determining death and protecting the rights of the

donor, creating standards for the selection of the heart recipient, establishing central organ registries to properly match a suitable donor with a potential recipient, developing standards to protect the physician and creating an education program through the news media to inform the public.

MR. SWARTZ CALLED on the legal profession to "deal with the problems of setting up standards or establishing the machinery for determining death.

"Science's increasing capability to cope with the problems of immunology and rejection of foreign tissues must be matched by the law's capacity to accommodate and regulate, where necessary, this progress," he urged.

A Puerto Rican lawyer called for passage of federal statute authorizing direct action suits against insurance carriers in admiralty cases. He pointed out that in Puerto Rico and three other U.S. jurisdictions there are direct action statutes.

Harvey E. Nachman, San Juan, prefaced his remarks by calling for equal treatment before the law. He illustrated his remarks by pointing to Puerto Rico where "on one hand we're treated better and the other hand worse."

He reminded that in almost every admiralty case the insurance carrier is brought in and under a direct action suit the insurance carrier is sued directly.

He pointed out that certain personal defenses available to

the assured are not available to the insurer except for statute of limitation.

Henry E. Howell, Jr., Norfolk, acknowledged that it is now possible for counsel to assert claims of injured shipyard workers against the owners of vessels upon which they are working—or in whose behalf they are working—where the negligence of the shipowner's duty to furnish jury, "without having to prove conceptualistic distinctions embodied in the common law."

Using case histories, Mr. Howell traced the development of the shipowner's duty to furnish a reasonably safe work area to shipyard workers and others expected to board the vessel while in the shipyard. In the

Continued on page 16



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FIA denies Wisconsin ASIM bid to discuss business interruption

RACINE, Wis.—The Factory Insurance Assn. has refused to answer a request by the Wisconsin chapter of the American Society of Insurance Management to discuss the FIA's denial of business interruption claims following riots last summer in Milwaukee.

The Wisconsin chapter, in a letter written by E. L. Boyle, chapter president and insurance manager of J. I. Case Co., here, decided to write FIA requesting a statement of policy on the FIA's action on several business interruption claims.

The letter states: "Most of the discussion (by chapter members) has centered around the interruption by civil authority

clause as opposed to the riot, civil commotion and vandalism clause (in FIA policies). Many of our members have discussed the coverage at length at our meetings.

"IT DOES SEEM that a satisfactory explanation for the refusal to pay must be furnished to their managements, and so far this has not been received from representatives of the insurers, nor have our members been able to determine the logic resulting in the denials."

In a written reply, J. W. Cates, FIA western regional manager, said, "It is impossible to discuss generally the specific coverage or lack thereof that

might be provided under this endorsement for any individual assured because of the variances in circumstances applying to each assured.

"We would be more than happy to discuss with any of your individual members their coverage and situation during the riots of last year. We feel this is the only way in which this can be handled."

It is understood that at least three insureds in Milwaukee are debating whether to file suit for payment of business interruption claims.

PABST BREWING CO. has already collected \$245,000 for a business interruption claim resulting from a curfew imposed by the mayor of Milwaukee July 31, 1967, and several days following.

Pabst incurred no physical damage but claimed it lost seven work shifts because employees could not get to work. Pabst was insured under a manufacturer's output policy which provides somewhat broader coverage than standard contracts.

It is understood that several buyers in the Milwaukee area are disturbed at the lack of action by insurance companies on their business interruption claims, neither denying the claims formally nor paying them, rather leaving them "in a state of limbo," as one insurance manager told *Business Insurance*.

The insureds with business interruption claims inspired the Wisconsin chapter's letter to the FIA.

Most business interruption contracts have now been amended to exclude payment of claims for curfew when there was no physical damage to the insured or no damage within a certain specified area. Insurance company spokesman say this modification was necessary to clarify the original intent of the coverage.

They say that the business interruption form was never intended to cover claims stemming from riot damage or curfews imposed by local officials.

Army gets sheep claim

SALT LAKE CITY—An initial claim of \$376,685 for the deaths of more than 6,000 sheep in Utah's Skull Valley last March has been approved by the Army Claims Service and sent to the Secretary of the Army for confirmation.

The claim, filed in behalf of the Anschutz Land and Livestock Co. of Denver, covers the loss of 5,727 ranch ewes, 142 purebred Suffolk ewes, and 380 bucks. The sheep were not insured.

After the Army passes on the claim, it will be submitted to the Bureau of the Budget, reported U.S. Sen. Wallace F. Bennett (R., Utah).

Other possible losses include the diminution of the value of the ranch where the sheep deaths occurred and the reluctance of buyers to purchase other sheep raised in the area.

The sheep started dying March 14, a day after the Army tested a deadly nerve gas at its Dugway Proving Ground, some 27 miles west of the grazing lands. The test was a gas drop from a "high performance aircraft."



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we'll also sell it as an endorsement if you wish. We'd hate to let exclusivity stand in the way of a sale.)

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Employee benefits now amount to about 25% of most payrolls... a hefty piece of change to be responsible for in any company. Since the \$73,000 precedent-setting case, there have been even bigger claims. And, in this age of acquisitions and mergers, the chances for error are greatly magnified. Yet...

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MER/29 product liability suits offer dramatic lessons to buyers

WASHINGTON—In April 1960 the Wm. S. Merrell division of Richardson-Merrell Inc. received Food and Drug Administration approval for an anticholesterol drug thought to be the answer to atherosclerosis or hardening of the arteries. Two months later it began marketing the drug under the name MER/29.

Last month, more than eight years after the company was convicted on criminal charges and defendant in more than 1,500 civil law suits—Richardson-Merrell announced that costs arising from the litigation are "substantially behind the company." Thus, the closing chapter begins in one of the most fascinating and dramatic stories in the history of product liability law.

The MER/29 story deserves special consideration by corporate risk managers for several reasons. One of the most important is that it superbly highlights how an unsafe product can reach the market despite knowledge by one or more of the management group that it may be dangerous—a possibility all risk managers should be aware of.

Secondly, it tragically points up how much liability can be involved in a relatively short time with just one product in our mass-merchandised society. A conservative estimate places at more than 5,000 the number of persons injured by the drug in the two years it was on the market. Some twenty-five to fifty suffered injuries—usually operable cataracts in both eyes, loss or thinning of hair and severe skin reactions—to such a degree that they received out-of-court settlements of between \$100,000 and \$125,000.

And thirdly, it is a classic example of the effect of the increasingly-prevalent banding together of plaintiffs' attorneys in multicase product liability situations.

IN THE CASE of MER/29 some 288 lawyers and law firms

—the "MER/29 Group"—pooled their resources in an unprecedented close relationship. Among other things the group contributed some \$70,000 to finance a discovery program, pay for medical consultant advice, and print a newsletter which informed each member of the developments in trials, settlements, the proof being assembled by the group, new medical knowledge and current developments in the industrial and regulatory fields.

In a series of articles *Business Insurance* will trace the development, marketing and subsequent litigation connected with MER/29 and attempt to point out the importance to risk managers.

This first article will deal with MER/29's journey to the marketplace, an astonishing example of how a dangerous product was marketed despite the supposedly close scrutiny of both management and the Food and Drug Administration.

MER/29 was developed at the Merrell laboratories in 1956 after many years of research directed toward discovering a method of either lowering the level of, or eliminating altogether, a fat-like substance called cholesterol in the blood stream.

It has never been proven, but there was then and there is today, a large school of thought

holding that cholesterol in the bloodstream is a major cause of hardening of the arteries, which in turn leads to heart attacks.

If true, then a product which could check the amount of cholesterol in the blood stream would, of course, be a tremendous boon to medical science and also to the coffers of the firm which develops it. The market for such a drug is estimated to be at least \$25,000,000 annually. This would be much higher, it is reasoned, if the drug's use could be extended beyond those persons who have either had a heart attack, or are in apparent danger of having one, to all men and women past a certain age—say forty-five—as a preventive measure.

With this in mind, a number of large drug firms had devoted considerable time and money in the early 1950s to developing such a product, hoping to be the first on the market with it.

In 1956, the Merrell scientists patented a series of compounds which did appear to reduce cholesterol levels in lower animals by interfering with biosyntheses. And, after almost four years of testing in humans and animals, Merrell in June 1959 applied for FDA permission to market the product, MER/29 (triparanol).

The testing period for MER/29 was crucial, for it was during this time that evidence was found—and concealed—that the drug was not entirely safe. The public will probably never know how far up in Richardson-Merrell's management this knowledge went. But, it is clear that a mistake in judgment was made somewhere along the line for which no check had been provided in the management chain, an omission to which risk managers should pay heed.

Prior to the 1962 New Drug
Continued on page 20

What business do we have teaching radar to tugboat captains?



It started in 1965, when some of our southwestern clients were plagued by accidents in the Port of Houston.

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We decided to begin a series of training schools for these clients' operating and shoreside personnel. The subject was offshore-inland radar navigation. The faculty was MOA men.

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Ward uses Mr. Benny Fits, small group lectures to tell benefit story

By LOUIS HAUGH

CHICAGO — Montgomery Ward & Co. adopted what it calls "a total communication effort" to announce a series of sweeping changes in its protection and security plan for employees in 1963 and has maintained this approach for all new employees since then.

That the introduction was successful is evident in the enrollment for the voluntary and contributory plans. According to Reuben Berry, Ward corporate personnel manager and employee benefit manager at the time of the revision, 93% of Ward's employees signed up for the retirement plan, 88% for the profit-sharing and savings plan and

80% for the group coverages.

"There is no question about the success of the entire benefit plan, and the way employees are told about the benefits," Mr. Berry said.

Bruce E. Matthews, Ward corporate employee benefits and compensation manager, confirmed that enrollment levels for the benefits have been about the same since the introduction. Ward had 90,000 employees in 1963, and the number has since grown to more than 103,000 in 495 stores, 875 catalog stores, four regional offices and three merchandise offices.

MR. BERRY voices the company's employe benefit philos-

ophy, saying it centers around an interest in providing a level of benefits that is competitive and will provide adequately for em-

Last of three parts

ployees. He said, "The company has found that employees have greater interest in the company's growth when they are asked to contribute toward part of the cost of the benefits."

Mr. Berry said that present retirement levels are aimed at 40% of final income for higher salaried employees up to 60% for lower paid ones. The benefit levels are integrated with Social Security.

Mr. Matthews said that the

company feels that the general trend is to less contribution by employees and higher benefit levels. "And I see nothing in the future that might change this," he said.

It is understood that Ward is currently reviewing its entire benefit package with a view to possibly updating it. It is not known whether the merger with Container Corp. of America will have any immediate effect on the review, but the two companies are to maintain their separate identities.

The 1963 changes included introducing profit-sharing and upgrading retirement and group benefit levels.

The retirement plan is for regular, full-time employees with five or more years of continuous service, either full or part-time, with a maximum contribution of 1.5% of the first \$4,800 of earnings and 3% of earnings over that amount.

Normal retirement age is 65, but there are early retirement provisions for employees between 55 and 65. Vesting is complete when the employe has 15 years continuous service.

FOR EXAMPLE, if a Ward employe joined the plan at age 35 and averages \$6,000 annually for 30 years, his retirement benefit would be \$135 per month.

In the Ward savings plan, employees may deposit 3% of their salary, and the company adds at least 25¢ for each dollar contributed by the employe. The company contribution is based on current or accumulated profits. For example, if Ward's earnings are \$34,000,000 or more, the contribution is hiked to 50¢ for each employe invested dollar.

Employees may elect a fund of corporate and government bonds or various common stocks excluding Ward stock. The company portion is invested in Ward common.

Benefits are paid in a lump sum or in monthly installments. The investment trust funds are administered by a group of company trustees and the Ward board of directors.

IN INTRODUCING the 1963 changes, Ward used materials provided by the Equitable Life Assurance Society plus two consultants, Marsh & McLennan and Towers, Perrin, Forster & Crosby. Towers, Perrin was the retirement consultant.

In updating the plan, Ward approached the carrier and consultants for a series of recommendations. "From these, an overall plan was devised," Mr. Berry said, "based on the needs of the employees and what Ward could afford."

The company used a teaser campaign to lead up to the introduction of the changes. Giant streamers and posters with the words "three giant steps" were used to catch attention, Mr. Berry said.

In addition, Ward sponsored a "find me a name" campaign for a schmoo-like character used as a symbol of the benefit program in the company's newspaper and various film strips and static displays.

A Ward employe won ten shares of Ward common stock for his suggestion, "Mr. Benny Fits."

THE BENEFIT program was explained to groups of 30 to 40 employees on company time, using slide presentations and prepared scripts.

Twenty-five employees from the four regions were brought into Ward headquarters here to be trained to explain the program to others. These 25 trained an additional 350 employees. In addition, the program is explained in detail in five color-coded booklets passed out to employees. A similar indoctrination campaign is carried on for all new employees.

The benefit program's value to employees is dramatized with an annual "benefit statement day" in which employees are given a computerized statement "Your Other Earnings." Each employe is given a personalized tabulation of benefits accrued in his savings, retirement and group insurance plan for the past year.

Geisler, 69, dies

E. Walter Geisler, retired chairman of Fred S. James & Co., died in Boca Raton, Fla. July 17. He was 69. Mr. Geisler joined the brokerage firm in 1922 as an inspector in Chicago. In 1931, he opened a Pittsburgh office, and he was chairman and director from 1960 to 1964.



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ance business last year than any other underwriter.

And *that's* the business we have teaching radar to tugboat captains.

To get more of the MOA story, write Walter T. Wells, V.P., Marine Office of America, 123 William Street, New York, N.Y. 10038. Aviation Insurance through Associated Aviation Underwriters.

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opinions

Financial services as fringe benefits

Marketing patterns in the insurance business are sure to undergo severe changes in coming years as insurers act on the idea that what they're really selling is *financial service*.

And, we submit, the concept of employe benefits will undergo an equally radical change as corporate executives realize that lots more than just insurance can be offered to employes on a payroll deduction basis.

It's already old hat, of course, for carriers to market auto and homeowners insurance to employes on a group basis. In fact, we'll wager a bet that in the next few years an ever-increasing percentage of insurance firms' total business in such lines will be written as a fringe benefit for employes—with both the employer and the employe picking up a portion of the tab.

Insurance companies are also moving into the area of mutual funds, and as Elliot Beier discussed in our last issue, several firms are readying plans to sell the funds to employes on a payroll deduction basis. This move certainly makes sense, and will help insurers more firmly establish themselves as financial experts.

But why stop there? Merger discussions between American Express and Fireman's Fund conjure up intriguing possibilities. Might not the firms offer vacation plans on a payroll deduction basis, with employes paying a few dollars a week for nine days in Miami Beach or a two-week ski vacation in Switzerland?

Actually, First National City Bank offers such a service to corporation employes, and other firms, such as Douglas Aircraft and Continental Insurance Co., run their own tour plans and internal travel bureau.

Continental National American Group's proposed purchase of General Finance Corp. also presents a new area for expansion. It wouldn't surprise us if executives of the two firms are considering the possibility of offering loans on a payroll deduction basis to money-short employes. Because there would be no possibility of nonpayment (unless the employe quit), perhaps the loans could be taken out at less than the standard interest charges.

We'd like to put forth at least one other area for expanded fringe benefits, and the insurance carriers, with their vast holdings of real estate, should be just the ones to offer the service.

Since today's business executive is a highly mobile creature, we'd like to see corporations offer a transferred employe a real estate service which would dispose of his old house and get him set up in a new house hundreds or thousands of miles away.

The insurers could meet with the transferred employe, find out what type of area he likes, how much he wants to pay, how far from the office he wants to be and then set him up with local real estate agents (who just happen also to be insurance agents).

The important thing to note, from our point of view, is that an increasing amount of insurance and other financial services is being funneled through the employer in the form of fringe benefits.

This development means, in effect, that more and more insurance is becoming *business insurance*, and why we feel our publication is aptly named to respond to the challenges of the coming years.

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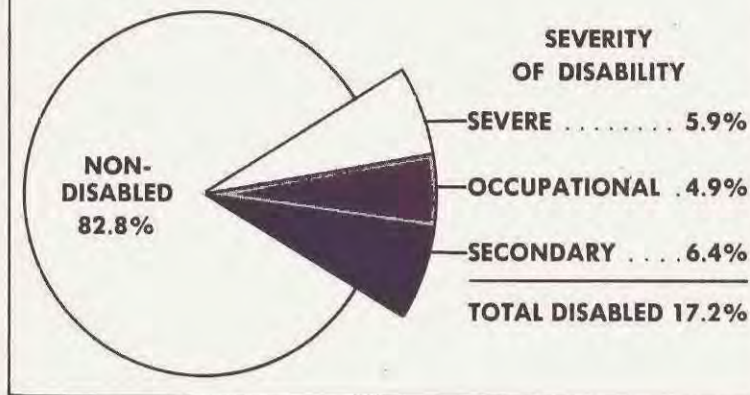
Published by Advertising Publications, Inc., Chicago, publisher of Advertising Age, Industrial Marketing, Advertising & Sales Promotion, Marketing Insights.
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Published at 740 Rush St., Chicago 60611 (337-5200). Offices at 630 Third Ave., New York 10017 (YU 6-5050); National Press Bldg., Washington, D.C. 20004 (RE 7-7659); 1018 Fisher Bldg., Detroit 48202 (TR 2-7211); 6404 Wilshire Blvd., Los Angeles 90048 (OLive 1-3710); San Francisco (GR 4-8532); Fort Lauderdale (564-1850).
35 cents a copy, \$8 a year in U.S., Canada and Pan America. Elsewhere \$4 a year extra.
WILLIAM STRONG, circulation director. Four weeks' notice required for change of address. Address all subscription correspondence to ELOISA D'OVIDIO, circulation services manager.
Business Publications Audit of Circulation membership applied for.

DISABILITY IN WORK FORCE

U.S. WORK FORCE: 103,850,000



Source: Social Security Bulletin

More than one-sixth of the U.S. population of working age, or 18,200,000 of those between the ages of 18 and 64, were limited in their ability to work because of a chronic health condition or impairment in 1966. More than 6,000,000 working age persons (5.9% of the total work force) were severely disabled—unable to work altogether; about 5,000,000 working age persons (4.9%) were occupationally disabled—able to work regularly but not the same work as before the onset of the disability, or unable to work full time; and 6,600,000 adults (6.4%) had secondary work limitations—able to work full time, regularly and at the same job but with limitations in the kind or amount of work performed.

Auto insurance and buyers

In the July 29 issue, *Business Insurance* reported on the plans of three major property-liability insurance trade associations to revamp the present system of compensating auto accident victims.

One association, the American Mutual Insurance Alliance, is currently testing a "guaranteed benefits" plan in several counties of New York and Illinois. Under this plan, victims of auto accidents would receive assured benefits up to \$12,500 while retaining their rights to sue for larger sums under the present tort liability system.

We reported that another association, the National Assn. of Independent Insurers, is tentatively considering testing an "inverse liability" plan under which victims would be compensated by their own insurers for medical expenses and wage loss while retaining the right to sue with the understanding that court recoveries would be offset by payments from other sources.

The most radical departure from present practices is tentatively offered by the American Insurance Assn. whose proposal of no-fault compulsory first-party insurance closely follows the Keeton-O'Connell plan offered by two law professors.

AIA's pilot plan proposes that every motorist be compelled to purchase first-party coverage that would cover medical payments and loss of wages for the driver and his passengers and any liability the driver might incur involving pedestrians.

For risk managers, the meaning of these plans goes deeper than the effect they may have on fleet auto insurance premium levels. Without conclusive tests, apparently the burden of auto insurance premiums under alternate auto victim compensation plans would reduce premiums of heavy road users from 15% to 20%.

What risk managers must also consider is the effect of such auto victim compensation programs on the whole society. Will they assure more equitable payments? Will payments come more promptly? Will the proposed plans aggregately reduce auto insurance premium payments?

It is important that every thoughtful risk manager follow closely the results of tests of these alternatives. And it is also important that the insurance trade associations that conduct the tests be frank with risk managers and the public about the actuarial and social effects of their experiments.

How not to sell life insurance

One way not to sell a life insurance policy is to pawn yourself off as a public relations expert for a life insurance company.

This was the approach used by one life salesman who finagled a *Business Insurance* reporter into believing he had story material which would be of great interest to our readers.

Breezing into our offices later, unannounced and uninvited, the masquerading salesman repeated the same "public relations" story.

During the pitch he went so far as to offer a story on his son who was badly injured in a car accident. "My company is going to pay more than \$4,000 for the hospital expenses," he said. "This is unprecedented in the insurance industry."

Unfortunately, he had little else to offer in the way of "hot and unheralded" news, and it didn't take long for the life pitch to ease its way into the conversation with an offer of a "computerized" survey of our reporter's present insurance setup.

From there it was just a matter of discovery.

Letters

'I don't agree'

To the Editor: I have read again, with interest, the comments of Carl J. Vogt concerning self-insurance. I do not fully agree with the statement, "It is less expensive for a business to spend its own dollar than to employ some outside enterprise to spend it for them." I feel that this statement is contrary to the basic economic philosophy of this country in which specialization has played an extremely important part in developing improved efficiency.

With respect to the handling of workmen's compensation, specialized legal personnel are necessary to represent an employer before the board having jurisdiction over workmen's compensation cases. Specialized industrial safety engineering personnel are required to make sure that all physical hazards have been either reduced or minimized, and employes have been properly educated with respect to safety.

Specialized investigation is needed to make sure that employes are not malingering. It is possible that there are individuals capable of handling these duties in addition to their other corporate duties; however, I do not feel that they will be as efficient in the performance of their duties as people who perform these duties individually for either an insurance company or a service organization.

It is very possible that tremendous good will can be created as a result of the prompt and just payment of true workmen's compensation claims. However, I feel that it is more difficult for an employer to handle the injured employe who takes advantage of the structure of the workmen's compensation laws by malingering after an accident.

James H. Doyle

Weymouth, Mass.

'Most valuable'

To the Editor: We consider *Business Insurance* to be the most valuable of the periodicals we receive. Please keep it coming.

Frank H. Barbarin

Insurance department, The Nestle Company, White Plains, N. Y.

'Don't choke up'

To the Editor: I am quite pleased that you have chosen to speak out on this necessary gun control legislation, which certainly is required if we are to reduce the homicidal madness that appears to be sweeping our beloved country.

Don't choke up because of the misguided or hate-filled resistance to a call for individual responsibility.

Chandler G. Ketchum

President, Babb & Co., actuaries and insurance brokers, Pittsburgh

Reprint

To the Editor: I would appreciate it very much if you would send me a copy of article entitled "EDP growth forces buyers to look at new risks."

Robert French

Wm. H. McGee & Co., Inc. Dallas regional office

Editor's Note: The article appeared in *Business Insurance*, May 6, 1968, page 4. *Business Insurance* will honor requests for reprints as long as the supply lasts.

Slum insurance report labeled 'absurd and false' by insurers

BOSTON—A report released here claiming that half of the city's disadvantaged and predominantly-Negro area homes and businesses are uninsured has been labeled as "absurd and false" by the Massachusetts insurance industry.

The survey, part of the nationwide report from the President's commission on insurance within riot areas, also charged that 61% of ghetto-area businessmen and homeowners have great difficulty obtaining adequate coverage.

The report, released here by the Harriet Tubman House, a neighborhood center affiliated with the United Fund, showed that 15% of the businesses insured are either underinsured or paying more than the standard rates.

THE STATE insurance industry, led by Arthur C. Conley, counsel for the American Insurance Assn. and Joseph P. Hegarty Jr., counsel for the American Mutual Alliance, took strong exception to the survey.

"The statement that half of Roxbury's homes and businesses are uninsured is false and plainly absurd in the face of the superior underwriting record of properties covered at standard rates in recent years under the voluntary all-industry inspection program in cooperation with residents of the area and the Massachusetts division of insurance," they said.

"Not only the validity but the good faith of these preposterous figures must be challenged in the light of the actual underwriting record," they added.

In blasting the report, Conley and Hegarty asserted that since the inception of the voluntary inspection plan nearly eight years ago, 26,851 properties have been inspected and 32,711 policies have been issued for a total of \$220 million in standard rated fire insurance in Roxbury and the city's South End.

"MOREOVER, 96% of all properties inspected were written at manual or standard rates," they said.

Herbert Fajors, president of the Tubman House's Citizens Advisory Council, said, "Insurance is the key to the rehabilitation of the ghetto. Without adequate insurance coverage businesses are not going to build, homeowners are not going to repair."

Fajors, in outlining the results of the survey, said 47% of Roxbury homeowners report they have no insurance at all due to prohibitive costs; 33% consider themselves underinsured, and 37% reported serious problems of getting fire insurance.

A similar survey of Boston's South End showed that 61% of business establishments and 36.9% of dwelling units are either uninsured, underinsured or paying more than normal rates; 48.2% of business establishments reported they are uninsured because of excessive costs or unavailability of coverage.

IN ADDITION, the Tubman House is conducting a series of mass meetings for people from all core city areas on the problems of obtaining insurance. The organization is attempting to mobilize support for House Bill 695 which would create an urban area insurance placement facility to provide basic property insurance to all in urban areas.

The group also favors several amendments to the proposed legislation which would extend coverage to include provision of a state-regulated uniform code of standards for insurability; the provision of homeowners policies in addition to fire insurance, and a provision which would set insurance rates.

Observed Fajors, "You can't get a mortgage without insurance." He said state insurance companies have ruled certain

districts uninsurable and out-of-state companies have moved into the vacuum and are able to charge exorbitant rates for inadequate coverage.

HOUSE BILL 695, filed by Rep. Michael Dukakis, reported out of the insurance committee favorably, is currently being redrafted. Under the proposed bill, all insurance companies providing basic property insurance in the state would be obliged to

provide basic property coverage to all "eligible" applicants.

The insurance placement facility, composed of these insurance companies, would apportion this basic property insurance in accordance with the amount of insurance written by that company in the state.

The bill would also provide the right of appeal by those denied insurance to the state insurance commissioner or his delegate and finally to the superior court.

The insurance spokesmen maintained that the very bill that Fajors' group is supporting is the product of the cooperative effort by the insurance industry here, the legislative committee on insurance and the Massachu-

setts division of insurance.

Taking issue with the report's criticism of uninsurable properties in Roxbury and the South End, they said the division of insurance and the fire insurance industry inaugurated the all-industry program in 1960 to make coverage more available in these areas.

"It came to be known as the 'Boston Plan,' and over the years has been used as a model for similar programs in urban areas throughout the country." The New England Insurance Rating Association here serves as a clearinghouse in carrying out the plan and virtually all fire insurance companies doing business in the state take part. ■


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Condec consolidates life, health coverage at Connecticut General

By WILLIAM GUEST

OLD GREENWICH, Conn.—Condec Corp. has consolidated group life and health coverages at all seven of its locations with Connecticut General Life Insurance Co., resulting in a net savings of approximately 10%.

"This saving could have been substantially higher," explained Robert H. Keane, director of employee relations, "only we decided to share a major portion of any saving with our employees in the form of increased benefits."

When the insurance executive joined Condec, 18 months ago, coverage for some 3,500 employees of the various divisions was spread among three insurance carriers and various Blue Cross and Blue Shield plans.

"THE NET RESULT was confusion in claims handling, billing and coverage," Mr. Keane said. For example, he pointed out that some Ohio employees were covered by a Blue Cross and Travelers plan in Connecticut. "I realized at once that this was an expensive way to do business," Mr. Keane commented.

Corroon & Black Co., the broker on the entire casualty account, was asked by Mr. Keane to make a survey of employee benefits and their costs at all seven locations. As a result, it was recommended that all coverages be consolidated under one carrier.

The next stage, explained John F. Miller of Corroon & Black's group and retirement plans department, was to put specifications out to eight insurance carriers—including Continental Assurance, Travelers and Aetna—the existing carriers. Also invited to bid were the Connecticut General, John Hancock, Liberty Mutual, Massachusetts Mutual and Pacific Mutual insurance companies.

"WE PLACED GREAT emphasis on claims procedures," continued Mr. Keane, "and one of the questions asked all the companies was the locations of their regional and local claims offices, relative to Condec's various divisions."

Another question Mr. Keane considered important was whether the companies were prepared and equipped to have claims representatives personally call on each Condec division at intervals of two weeks, on a continuing basis, and to submit monthly reports to Condec's central office on these matters.

The objective in setting up an overall plan was to establish a standard benefit structure, Mr. Keane said, "but at the same time we wanted our divisions to maintain their autonomy."

"THEREFORE," he continued, "each division indicated, and was permitted to eliminate, any coverages felt to be unnecessary."

Local autonomy is a strong point at Condec, a diversified manufacturer of aircraft and missile ground support equipment, power and supply units, research and development systems, and military vehicles, which increased sales by 64% in 1967 to \$75,000,000.

Because of this corporate insistence on each general manager making his own decisions, Mr. Keane personally traveled to each location, selling the advantages of one plan.

By now, the choice of carriers had been narrowed to four, and representatives of the insurers met with Mr. Keane at Corroon & Black's New York office. "The Connecticut General and Travelers survived," Mr. Keane said.

THE PROGRAM WAS refined further, and Mr. Keane took to the road again, visiting all plants and inviting final comments. As a result, the Connecticut General emerged as the final winner. "The whole process took between six and eight months," Mr. Keane said.

Condec chose the Connecticut General because of its claims control methods, Mr. Keane explained, "since my philosophy is that an employee should get the

maximum he's entitled to—but not one cent more." Another favorable point, he added, was that the projected net employer's cost of funding the group plan worked out to be lower over a three-year period.

Medical coverage for salaried employees is written as a base plan with a superimposed major medical. The daily room and board rate varies with each location, geared to local costs and practices, "but runs as high as \$50 in El Segundo, Cal.," Mr. Keane said.

THE MAJOR MEDICAL, in general, runs up to \$25,000 maximum per illness, subject to a deductible consisting of the base plan plus a further \$100 per ill-

ness. The co-insurance factor is 80%/20%, and the daily service charge maximum is the full cost of a semi private room.

Maternity benefits are \$250 for a normal birth, \$400 for a caesarian and \$150 for a miscarriage. The daily allowance for a doctor in hospital visit is \$5, subject to a maximum per disability of \$600.

Surgical expenses also vary and are written on a relative value scheduled basis, which Mr. Miller described as the "modern concept of determining charges."

BY THIS METHOD, he explained, surgical charges are determined by the medical profession itself, based on its own estimate of the time and skills required by a doctor to perform an operation. These estimates can vary by localities.

Group life insurance coverage was also consolidated at the same time, and in general, coverage is one times annual salary,

subject to a limit of \$50,000.

Mr. Keane has also installed a new long term disability plan for salaried or nonunion hourly paid employees. Benefits start after six months' total disability, and continue to age 65 for both accident and sickness.

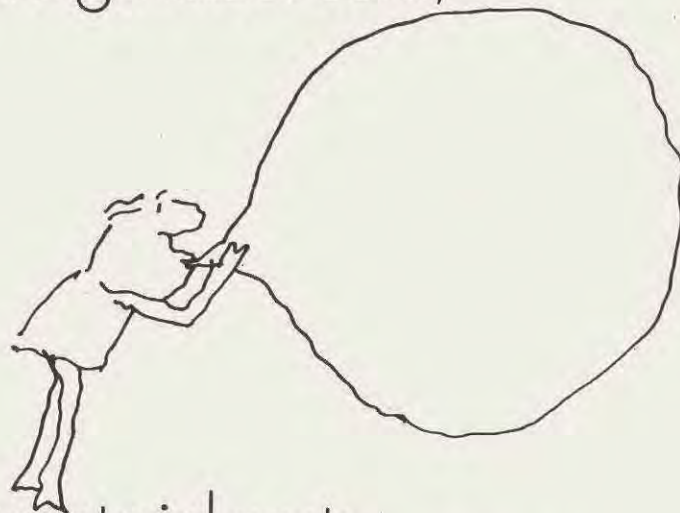
THE COMPENSATION is 60% of an employee's basic earnings, subject to a maximum monthly indemnity of \$1,500. The definition of total disability is broad enough to include the inability to engage in every gainful occupation for which the employee is fitted "by reason of education, training or experience."

Condec has also established pension and profit sharing plans, Mr. Keane said. The pension plan, which covers all salaried employees, is trusteed and contributory.

If an employee leaves Condec and doesn't elect to withdraw his accumulated contributions, he

Continued on page 15

You manage labor costs,



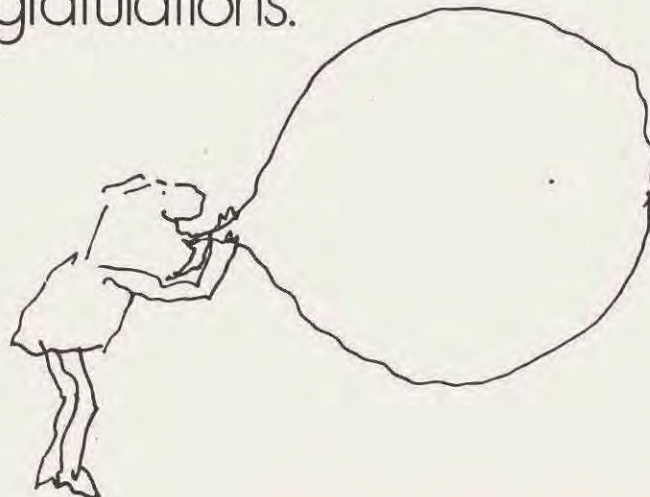
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Most corporate buyers resist picking up tab for group auto: prof

ATLANTA—Although most corporation insurance buyers are apparently opposed to group automobile coverage for employees in which the employer picks up all or part of the tab, Bernard L. Webb, professor of insurance at Georgia State University, believes such a development is inevitable.

Of 290 firms which answered questionnaires sent out by Mr. Webb as part of a study on collective insurance merchandising, only six indicated they would consider paying all or part of the premium for group automobile coverage, he told *Business Insurance*.

According to Mr. Webb, whose survey included insurance buy-

ers and employee benefits managers, group automobile coverage is opposed for the following reasons:

- Fear that unions will force corporations to pay the full premium;
- It would start a trend toward further extending benefits into homeowners and mortgage insurance;
- It would add to the insurance department's overhead costs by increasing administrative expenses such as claims handling.

"MOST CORPORATIONS indicated they are bogged down with group medical and life insurance, which is another reason

why they are not eager to branch out into other coverages," said Mr. Webb.

According to the Georgia educator, who testified on group auto last month before the Senate subcommittee on antitrust and monopoly, neither state statutes nor government regulations have had a serious effect on reducing the solicitations for collective auto coverage.

"At least 36% of the corporations surveyed had been solicited," he said.

Mr. Webb contended that the development of group merchandising is dependent on the willingness of the employer to pay all or a substantial part of the premium for the employee.

State restrictions, he continued, discourage group and mass merchandising, although a few like Utah and Vermont state that mass merchandising is legal.

Initially the movement toward group automobile is expected to be pushed by labor organizations. "The efforts of labor organizations are by far the most important," said Mr. Webb.

"If the current tort liability system is retained, if employers do not pay a part of the premium, and if unions do not take an active interest," he said, "about 10% of private passenger insurance will be sold through group and mass merchandising methods by 1975."

On the other hand, he predicted a no-fault system coupled with union interest and the addition of auto insurance to corporate fringe benefits could see more than 20% of the market covered by group merchandising by 1975.

Pick Crowley, Middelboe for posts at Ford

DETROIT—Paul W. Crowley Jr. will join Ford Motor Co. as supervisor of the domestic insurance section later this month, *Business Insurance* has learned.

Mr. Crowley was insurance manager at Crucible Steel Co., Pittsburgh. Earlier this year, when Ford announced it was setting up an off-shore captive in



Paul W. Crowley Jr.

Hamilton, Bermuda, Ford sent R. A. Cover, foreign insurance supervisor, to Bermuda as president and managing director.

To replace Mr. Cover here, Ford imported Ulrik Middelboe, the insurance manager of Ford of England, as manager of foreign coverages. Mr. Middelboe managed the insurance risk of Ford's giant plant in Dagenham, reputed to be the world's largest exposure to a single loss.

Mr. Crowley had been with Crucible for five years; prior to that he had been with several insurance companies. Mr. Crowley is a graduate of Clark University, Worcester, Mass.

Mr. Crowley's replacement has not yet been named at Crucible.

Mr. Crowley replaces Thomas A. Duffield at Ford. Mr. Duffield is now director of insurance at Northrup Corp., Los Angeles. ■

Condec . . .

Continued from page 14

becomes entitled to a deferred vesting retirement benefit, commencing on his normal retirement date. He must, however, be at least 55 years old and have completed 15 years of credited service.

ALL SALARIED employees become eligible for the profit sharing plan on the July 31 (Condec's fiscal year) after they have completed one year of service. Funds paid into the plan are based on the profits of each individual division, "which gives local employees a sense of participation."

It took Mr. Keane, accompanied by Lawrence J. Higgins, senior account executive at Connecticut General's New York office, three weeks to install the new group plan. Both men visited each plant and reviewed the net costs with the general manager, personnel director and controller.

"We also had employee meetings to introduce the new benefits," Mr. Keane said, "but at all times the local management introduced the plan."

Having one common plan is beneficial to the whole corporate image, Mr. Keane feels, "because employees can now be transferred between divisions without having to worry about their fringe benefits." ■

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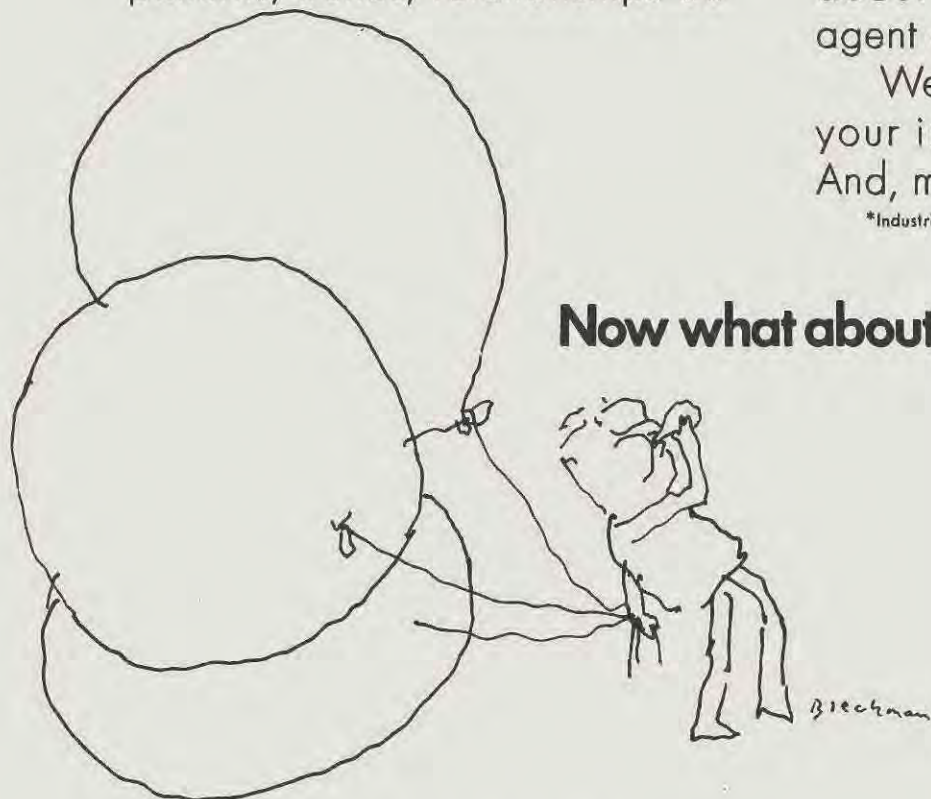
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Signal revamps insurance department; other changes

LOS ANGELES—Signal Companies Inc. has organized a new corporate insurance department to be headed by Charles H. Porch. Mr. Porch, who has been with Signal since 1932, will be director of corporate insurance.

The new department is conducting a policy review over the next 30 days.

Manager of the new corporate department is Waldo W. Powers, insurance specialist with Signal Oil and Gas Co. since 1936 and insurance department manager since 1958.

M. Rex Pearson, former risk manager at TRW Systems, has been named assistant manager of insurance. Mr. Pearson was replaced at TRW by John Smith.

At Consolidated Leasing Corp. John F. Daly was named insurance manager to replace Don McCarthy. Mr. McCarthy went to Petersen Publishing Co.

At Douglas Aircraft Co., a division of McDonald Douglas, Santa Monica, the insurance manager's post has been filled by John L. Dewey, formerly a broker. Mr. Dewey replaced Bob Butler, who is now with Lockheed Aircraft Corp., Burbank. ■

Name surety head

James F. Darby has been appointed account executive and head of the surety department of Miller & Ames-Forsgren, Portland, Ore.

Lawyers . . .

Continued from page 7
case of *Union Carbide Corp. v. Goett*, a shore-based worker was denied recovery.

The fourth circuit court of appeals held that the barge was "out of navigation" and, therefore, the shipowner owed no warranty of seaworthiness to the decedent, based on the U.S. Supreme Court "dead ship" cases.

Eight years later in a case involving another shipyard worker, the fourth circuit rejected the shipowner's argument that because control had passed to the shipyard, it could not be held responsible for injuries and the central inquiry was whether the shipowner had control "at the crucial time—the creation of the dangerous condition."

THE ABOVE CASE, Mr. Howell said, re-established a cause of action available to shipyard workers against negligent shipowners when they are injured by reason of conditions existing on the vessel at the time the vessel is turned over to the shipyard for repairs.

During a workmen's compensation session, John V. Thornton, Whitman, Ransom & Coulson, New York, and associate dean of the New York Law School, described some limitations imposed by the various states and the findings of a committee which studied the effect of strain and trauma on the heart and great vessels. He also reviewed several heart case decisions.

Limitations imposed by certain states include whether the heart attack was an "accidental injury" or an "injury by accident" arising out of and in the course of employment, while other states subscribe to either the unusual strain rule or the usual strain rule.

The findings of the strain and trauma committee, he said, concluded that there was no known "method, either clinical or pathological, of determining the causative relationship between any given event and typical coronary thrombosis with infarct (scars)." This was the majority opinion.

The minority opinion, one dissenting doctor, according to Mr. Thornton, said "the evidence at hand favors the verdict that unusual physical exertion or emotional stress—may be the precipitating factor, not only of acute coronary insufficiency (as is admitted in the majority report), but of acute coronary occlusion as well."

Mr. Thornton reviewed a number of heart cases in which the decisions both disagreed and agreed with the majority and minority opinions.

A possible solution proposed by another professor follows along the lines of the New York approach in heart cases. Prof. Arthur Larson suggested that if there is some personal causal contribution in the form of a previously weakened or diseased heart, a heart attack would be compensable only if the employment contribution takes the form of an exertion greater than that of non-employment life.

However, Mr. Larson further suggested, that if there is no personal causal contribution, that is if there is no prior weakness or disease, any exertion connected with the employment and causally connected with collapse as a matter of medical fact would be adequate to satisfy the legal test of causation.

Prof. Samuel B. Horovitz, Boston, said he thinks that in workmen's compensation "we are way behind many countries."

FOR INSTANCE IN Israel, workmen's compensation covers a person from "portal to portal."

He urged his listeners to see that in their states there is permanent total disability and medical coverage available.

One speaker advised post mortem examinations in all workmen's compensation cases and another speaker warned attorneys not to be sloppy in the preparation of expert witnesses because "they are very important to you."

He advised lawyers to spend plenty of time with experts and during the medical testimony, attorneys should give the experts a hypothetical question.

Noah C. A. Walter, deputy commissioner, bureau of employes' compensation, U.S. Department of Labor, described the workings of workmen's compensation in the District of Columbia. Medical treatment for injury, he pointed out, must be provided by the employer: however an employe is not given a free choice of physician. Each

employer is required to maintain in his place of business a list of physicians from which the injured workman selects a treating physician.

There is no limit on amount of compensation payable for permanent total disability and fatal cases in the district; compensation for temporary total disability and permanent partial disability is limited to \$24,000. Temporary partial disability is limited to five years.

Further, he described, a program of rehabilitation with provisions for supplementary allowances not to exceed \$25 per week during the period of training and/or treatment is provided.

As administrator of the district's workmen's compensation, he said his concern is how to ameliorate the plight of the injured, their dependents and/or survivors by assuring them at least partial compensation for wage loss suffered and competent medical services in accord with the law and foster their return to gainful employment within their physical and educational capabilities.

Donald Madole, Washington, D.C., told his audience that there is a tremendous amount of information available for discovery in airline accident cases. He referred to the Trans World Airlines crash near the Cincinnati airport and made reference to the specific government information sources that he reviewed and what he found.

One of the first questions he was concerned with in this accident was whether the length of the runway was sufficient for Boeing 707 takeoffs and whether there had been previous accidents involving this particular aircraft and runways.

He pointed out that Federal Aviation Agency flight manual is available in the technical library. He found that in civil aviation there is on file specific test data.

Milton G. Sincoff, New York, listed a number of manuals which are basic in the operation of aircraft. He said that in a commercial accident the federal agency can compile an accident package organizing such things as charts, transcripts of radio conversations, etc.

In referring to the recent delays in the New York area, Mr. Sincoff said that when regulations are followed, the airports can't accommodate the aircraft in the sky but "we should welcome this strict compliance because we can't afford to lose lives."

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September, 1968

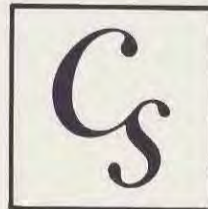


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business insurance/perspective

Now that some bad risks have been canceled, will lines on business with good experience be increased?

by Charles F. Levinson
insurance manager
Port of New York Authority



Charles F. Levinson

membership. Conservative as an adjective is defined by Webster as "tending or disposed to maintain existing views or conditions." Certainly this is the way the insurance business has been run in the past.

Granted certain leaders have emerged from time to time, such as the Insurance Co. of North America, which almost single-handedly launched the multiple peril policy with its homeowners filings. The Factory Mutual Group and the Factory Insurance Assn. also deserve credit for their continuing excellent service geared to prevent any losses rather than pay claims.

The American Insurance Assn., through its engineering and safety department, has literally thousands of experts in commerce, industry and government working without fanfare and publicity on making exposures to life and property less hazardous through the establishment of standards. Some excellent experimentation is being done by a few carriers' interesting variations of the Keeton-O'Connell type of auto coverage.

HOWEVER, BY AND LARGE, control of policy for the individual carriers is in the hands of my generation, who were raised in the depression, said a fervent "thank you" when they got their first job and are ready to run for cover every time a storm cloud of new conditions appears. Recently, a leading insurance executive told me of the possible impending pur-

chase of a large insurance group by a corporation not in the insurance business. My friend's big concern was that the possible purchaser had a 28-year-old president. In deference to my friend, who is one of the elder statesman of the business, I did not express my personal opinion that perhaps the objective examination of the insurance group involved by outsiders might strengthen its operation.

Perhaps all insurers might organize a "junior management planning council" so that the "conservative" attitude of those in policy control of American carriers might be balanced and tested. The American insurance industry has so many problems for which no real solutions have been put forth by carriers and which the government will attempt to solve in its own way, possibly to everyone's detriment.

This is why it is refreshing for me as an insurance buyer to see some carrier take individual action of some type.

PERHAPS THE ROYAL, while it is getting rid of the poor risk where losses are uncontrollable, might at the same time take steps to increase its lines on business that has had good experience. This would help to solve some of the capacity problems of the larger risks.

Best's for 1967 lists the Royal-Globe as 17th largest in the U.S. with total premiums of \$373,000,000. Also listed are assets in the U.S. of more than \$780,000,000. Capital and surplus, on which the maximum

permissible single commitment subject to loss would be based, reflect a legal ability to write more than \$20,000,000 on any one risk.

This potentially gives this one group about half the capacity that is available through the entire Lloyd's of London market. Yet, their participation in the average large line subject to one loss probably does not equal 10% of this potential on any one risk. I'm not singling out the Royal-Globe Group, since they are only one of many of the followers of conservative practices in underwriting typical of what has limited the capacity on large lines. If the Royal has taken the lead individually to run its business with the profit motive foremost (as I believe it should), then let us hope they will lead the rest of the carriers in raising their participation on the large profitable lines to a point where the increasing capacity problems of buyers with large exposures are covered.

Charles F. Levinson, insurance manager, the Port of New York Authority, holds a B.A. degree from Columbia University and a CPCU designation. He was formerly associated with a number of Midwest stock insurance companies as insurance underwriter and field man. Mr. Levinson served as insurance manager of Magnavox Co. from 1954-57, subsequently becoming insurance consultant to Insurance Audit & Inspection Co.

Giles on the law

When is an accident an accident?

by John W. Giles
attorney-at-law
Washington, D.C.

When you are insured against injury or destruction to property you caused by an accident, what does the policy mean? What is an accident within this type of coverage? There are many cases on this subject, but the latest expression of the Maryland court of appeals concerns the liability of the insured for extensive smoke and soot damage caused to property by a fire ignited by the insured.

The insured was engaged in the business of clearing and excavating land. Cleared trees were placed in piles and burned. The piles were located at a distance of 300 or 400 ft. from the nearest building. Fuel oil was poured on the piles and they were set fire. Due to a high wind, the fire produced a heavy black smoke which damaged nearby homes and their contents.

The insurance company took the position that this was "no accident" under the policy. Its position was sustained by the Maryland court of appeals. The court said

that the insured took no precautionary measures to prevent the damage. A contractor who piles trees and underbrush in 10 and 12 foot piles, adds fuel oil and rubber tires and permits the fire to burn for 36 hours before it is extinguished, should be charged with the responsibility of foreseeing that a pall of smoke and soot will result, which may damage adjacent properties.

We agree with this result and observe that in these policies against accidental damage to property, you cannot go ahead blindly and injure property and then claim "accident." While you may be covered, in any situation where there is a possibility of damage to other property, the utmost precaution must be exercised by the insured. An accident in these policies means an event that takes place without one's foresight or expectation. You are not insured here against lack of reasonable foresight. It seems very difficult to get away in this world from the criterion of the "reasonable man" and get paid.

It is not a case of "let the buyer be-

ware" but "let the builder beware" in a recent decision by the supreme court of Texas. That court rejected the theory that the doctrine of **caveat emptor** applies to the sale of a new house by the builder who was the seller. The court held that the builder, when he sells a house, impliedly warrants that the house was constructed in a good workmanlike manner and was suitable for human habitation.

The purchaser claimed that defects in the fireplace and chimney had caused the house to partially burn. The fact that the fireplace had been constructed by an independent contractor did not preclude the purchaser from recovering from the builder-vendor.

This decision is another indication of the increasing trend on the part of the courts to extend the doctrine of products liability and hold the manufacturer liable. Builders may well consider the necessity for adequate insurance protection.

"Just follow the directions!" You have seen and heard these words many times, but if you expect to hold a manufacturer

in strict liability for injury to you by one of his products, you must, says Texas law, "follow the directions."

The U.S. court of appeals for the fifth circuit recently considered a case in which a driver sought recovery from a tire distributor when the tires failed and the car turned over, injuring him. The driver purchased the tires from a gasoline station. He wanted 900 x 14 tires, but was advised that 800 x 14 was the largest tire that should be used on his car.

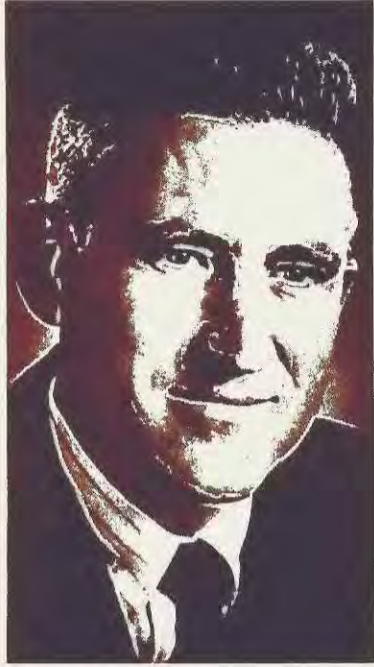
Finally, he compromised by buying 850 x 14 tires, against the advice of the seller. The tire manuals recommended 24 to 26 pounds of pressure for these tires. This driver knew it all, and carried 35 pounds. He even, for variety, drove the car with 15 pounds of pressure and he pushed the car over unpaved roads on camping trips.

While he was driving 60 m.p.h., one of the rear tires blew out. He slowed down to 35 mph and at this point one of the front tires came off the rim and caused the car to roll over.

On appeal, after the distributor won in the lower court, the court of appeals held that the driver had consciously purchased an improper size tire; in addition, he drove the car with air pressure either above or below that recommended in the published manual and he drove the car at excessive speeds over rough ground. The decision for the distributor on appeal, was grounded on *Procter-Gamble Manufacturing Co. v. Langley*, 422 S.W. 2d. 773.

Self-insurance and deductibles during a profit squeeze

by Clyde Beaumont, CPCU
manager, sales department
E. H. Crump & Co.
Memphis



Clyde Beaumont

(This is a transcript of a speech Mr. Beaumont made at the Houston Society of Insurance Management annual spring insurance conference.)

It is reasonable to assume that as an insurance manager you have received in the past year a memorandum from the executive department of your company emphatically stating that it is now absolutely necessary that all managers make a detailed study of their departmental expenses. The profits are not increasing in direct proportion to the expenses, and your written recommendation to control your departmental expenses for the coming year is requested. Or to put it another way, the profit squeeze has been felt by us all.

There are many factors to be considered, but there are two initial points to be made. First, if we evaluate and analyze our risks, we cannot and should not be concerned with insurance as such. The place for the insurance program will be discussed later. Secondly, I am assuming that all risks that can be eliminated have already been removed.

There are several ways to begin our evaluation. I would like to recommend that we consider our exposures in four major categories: property, income, liability, and employe benefit programs.

FIRST, PROPERTY. To evaluate this exposure, it is necessary that we know how much we have. To determine this, it is suggested that we make a complete list of all of the buildings that our corporate entity owns. Then in column form we list the replacement value of these buildings with a secondary list reflecting depreciation or actual cash values. The second step is to list any buildings that you do not own but because of leases and other arrangements are responsible for the insurance. These should be listed with values indicated as above.

The second step in determining our property expenses is to list all of the stock, furniture, fixtures and miscellaneous types of machinery owned by the corporation. Obviously, this type of property will be located in all of the buildings listed above, and it is quite probable they will also be located in other places, for example, public warehouses and in transit. The values of this property should be listed in another column opposite the specific locations. Public warehouses regularly used should be separately shown with maximum values stored and miscellaneous storage locations should be grouped with maximum values at any

one shown. Transit values should be listed with maximum exposures. Finally, there may be property belonging to others in the care and custody of your corporation that should be specifically listed by location.

In addition, there are several other specific types of property that should be studied and actual values determined. This specialized property should be listed in column form opposite the locations. Automobiles, trucks, motorized equipment, watercraft and aircraft owned by the corporation are examples. In addition, all boilers should be separately considered, because this machinery represents a substantial investment. The money and securities exposure for all locations should be specifically considered particularly where there are any retail outlets. Data processing equipment owned by the corporation or for which the corporation is responsible should be considered. Any valuable papers should be specifically analyzed. In other words any specialized equipment that is highly valuable should be specifically listed and included in the overall property list. The income statement provides excellent reference for determining various types of property owned by the corporation.

THE SECOND MAJOR exposure category to be considered is income. Actually, all risks of a corporation involve loss of income since income will have to be used to replace property or satisfy liability judgments, but for simplification, we will discuss income as that exposure resulting from the inability of the company to normally operate due to the destruction or loss of property. All property groups having a replacement value and potential loss can be specifically measured.

We are chiefly concerned in analyzing loss of income which results from destruction of buildings. Any peril that can totally destroy a building has to be considered including the fire, windstorm, as well as boiler explosion, earthquake and collapse. We also consider the loss of income that resulted from destruction of customers' property particularly if these firms are a major source of supply or sales.

Loss of income resulting from accounts receivable is considered in this category as well as income resulting from dishonest acts of employes. Employe dishonesty is the first exposure we have discussed in which the potential loss is unmeasurable. I cannot over emphasize the importance of studying this exposure. We are all aware that this is the fastest growing crime in the country today.

Finally, there is an element of income exposure that has to be considered if one of the key officials of the firm is removed by accident or death and there is no assistant that could readily move into his position. The loss of income resulting from hiring a new top manager can be substantial.

THE THIRD major exposure group to be considered is liability or the effects of adverse judgments of law. In developing an analysis of this exposure for your corporation, an approach is to list every subsidiary and chart their functions and operations in detail. This will give a good overall description of corporation operations. All operating functions have to be considered such as products manufactured or handled, operation of equipment, automobiles, aircraft, boats, as well as employer liability. Since all liability exposure is unmeasurable, it is necessary that catastrophe protection be afforded on the total all risk concept of losses.

The final major exposure group is employe benefits. In today's economic arena, workmen's compensation and group coverages are dictated by labor and the

state, and the corporation is required to provide a program of protection in accordance with these requirements.

After we have analyzed in detail all of the exposures with which our corporation is faced, we are now ready to design an overall program of insurance. We have all of the properties that the corporation owns listed in front of us showing the buildings, contents and specialized property. We know the income exposures that have to be protected and have an understanding of the overall operations.

IF OUR BASIC and primary objective is to protect the corporation assets from large catastrophic losses, then this program will be designed around this format. The list of property will give us the maximum amount of all properties situated at any one location.

This then will give us an indication of the overall catastrophe limit that is needed at one location. We also need to study the earnings and surplus of our firm to establish the amount that the corporation could pay as a deductible.

Some firms consider as rough guideline 1% of the net profit of the last five years' capital surplus. Regardless of the method used, a figure will have to be determined which will be large enough that the corporation can easily afford any loss in this amount. In our program we simply will strive to provide total all risk protection on property in excess of this established limit.

This would mean that all physical loss to property would be self-insured up to our limit and all losses in excess of this limit would be protected.

The income exposure has been determined and, similar to property, catastrophic exposures are the main concern. The income statement is studied for the determination of the amount the company can pay as a deductible, similar to our property limit. All possible sources of income losses have to be considered when the loss could be in excess of our retained limit. Such exposures as extra expense, loss of income by fire, windstorm, flood, or earthquake, employe dishonesty, forgery, and accounts receivable are considered. In addition, one should consider the possible loss of income resulting from curfew, especially if your building or the adjacent building could not be damaged by a riot. Loss of income from a strike should also be considered. I repeat that a program should be studied without any consideration of what can and cannot be placed in the insurance market. These will be considered later.

THE LIABILITY exposure can be determined primarily by total evaluation of the parent, each subsidiary, and their particular operations and products. By a complete study, we develop an underlying program with total all risk excess program. Since all liability is catastrophic and unmeasurable, all possible liability exposures have to be protected.

The employe benefit program is almost mandatory. Workmen's compensation and group coverages are required in most cases by either state or labor, and the program is usually written to coincide with this requirement.

In summary, our sample program then could be divided into two categories. First, property and income exposures could be combined where you could carry, for example, \$25,000 deductible with total all risk protection above that level. Secondly, we would combine liability and compensation with a \$25,000 deductible with all risk protection in excess of that figure.

At this point, we are ready to bring in a local agent or broker. As an agent, I would hope that we would be considered throughout your evaluation. Without a

doubt, it is imperative that an agent or broker be consulted.

Is the program sound? Can it be done in the present insurance market? There are many exceptions to the overall program that should be considered, particularly if the exposures are extremely high and the cost to insure low. Data processing and accounts receivable are examples. After this, the next factor to consider is whether or not the corporation can in fact provide this program. The dollars savings amount with a \$20,000 or \$25,000 deductible should be considered.

THERE ARE many administrative costs that will increase. It is absolutely necessary that statistics be maintained to administer the deductible and self-insurance program that are required. This will obviously necessitate employing additional clerical personnel to maintain these records.

A larger technical staff for engineering and loss control programs will also have to be established. Engineering and loss control is unquestionably the key to successful self-insurance or deductible concepts. In fact, an effective engineering and loss control program is the key to any successful insurance program. Engineering can be provided by employing your own staff or it may be purchased specifically from an outside source.

Claims will have to be administered by the corporation. This can be done by employing a staff adjuster, some agents or brokers can provide this service, or an outside claim service firm can be engaged. It is absolutely important that all compensation claims, for example, be paid in accordance with the specific state law required. Therefore, a qualified compensation adjuster will have to supervise these claims.

The corporation attorney will need to be consulted to determine whether or not a fund should be established out of which self-insured claims will be paid. This fund creates a tax problem as moneys deposited in the fund cannot be deducted as insurance expense, however can become a substantial factor in the overall operation of your insurance department.

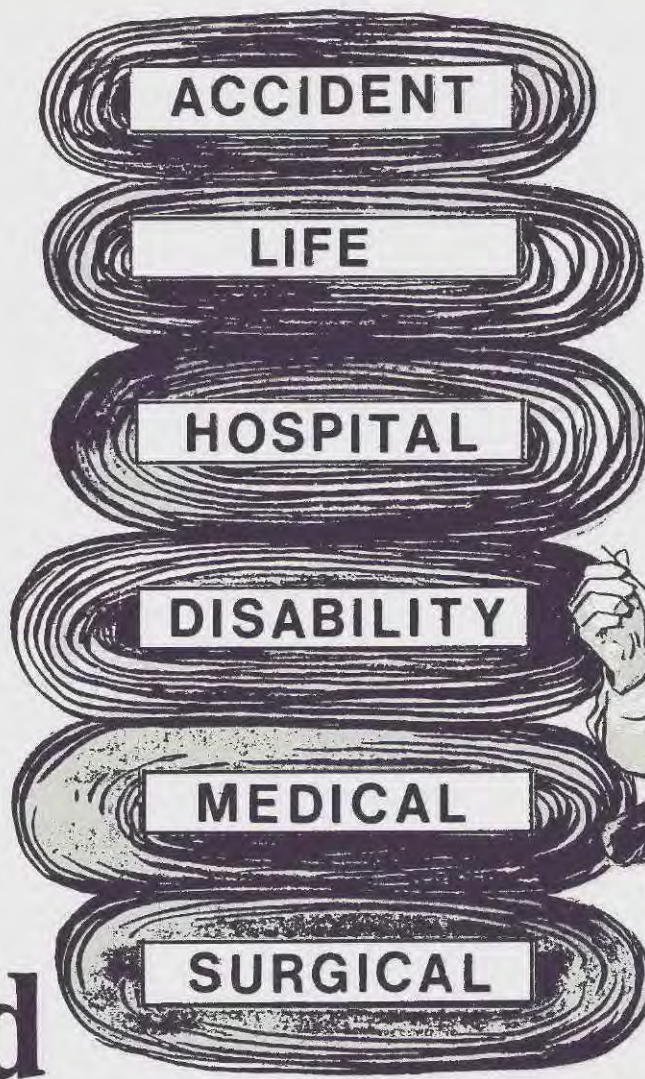
SINCE YOUR employes are closer to the overall operations and exposures than an insurance company, and provided the corporation can provide all of the administrative services usually administered by the insurance company, it can be stated that the cost of these services will generally be somewhat lower if you handle them. This, however, is not always true and will have to be studied if the corporate account is currently under the retrospective plan.

These administrative costs can be easily determined if using the basic factor of the insurance company as a guide and adding to this the claim handling charge (loss conversion).

The market place will have to be analyzed to determine whether your overall program can be sold to the insurance company. Catastrophe insurance has to be purchased and the cost of these programs with anticipated losses will have to be studied, with the many alternatives that might accomplish basically the same program.

In summation, the profit squeeze makes it essential that large corporate buyers consider cutting expenses. Setting up this type program could be a good business decision, and through the scientific use of self insurance and a fund, large profits might result from this insurance operation without jeopardizing the present insurance program or the corporation's assets.

Clyde H. Beaumont joined the Travelers Insurance Co. as a field supervisor in 1956. In 1960, he was transferred to the home office in Hartford as an instructor for field men and agents. In 1962, he came to Memphis as the manager of the local Travelers office and three years later joined E. H. Crump & Co. Mr. Beaumont acquired his CPCU designation in 1965 and is the immediate past president of the Memphis chapter of CPCU. Mr. Beaumont is married and has three children.



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Police air patrol grounded; ask \$25,000,000 coverage

SAN FRANCISCO—Problems in obtaining \$25,000,000 in liability insurance have grounded this city's new police helicopter patrol.

The city specified it wanted liability coverage for two helicopters it borrowed from the Army. The highest bids it could get were for \$3,000,000.

Mrs. Ora Scheel, of Mund, McLaurin, the city's insurance consultants to San Francisco, explained that the helicopters are 13 years old.

"There have been some problems of balance with them in the past," Mrs. Scheel said, "and since they were built there have been considerable changes in helicopter design and construction."

Five policemen previously had

been named by Police Chief Thomas Cahill to fly the helicopters. All were pilots, but only one had experience with helicopters. They are to receive 40 hours of helicopter training.

City purchaser T. F. Conway had advertised for bids for insurance for the police helicopters and now will seek advice of the police department and city controller.

The original deadline for submitting the insurance bids had been mid-June. The deadline was extended when only one bid came in. Five additional bids were then presented by local brokers.

Mrs. Scheel said the quotations received "either did not comply with the specifications or contained errors." ■

Embarcadero Center cover contract set

SAN FRANCISCO—A \$5,000,000 contract to provide workmen's compensation and general liability insurance during construction here of the \$150,000,000 Embarcadero Center, has been awarded to Fireman's Fund American Insurance Cos.

In addition, Fireman's Fund will be the lead company in providing property insurance coverages on the first phase of the project, a 45-floor \$24,000,000 office building scheduled for completion by mid-1970.

The insurance was written through the company's San Francisco branch office. The Fred S. James Co. placed the coverages for the project developers, David Rockefeller, New York; Trammel Crow, Dallas; and John Portman, Atlanta.

The Embarcadero Center also will include a 25-floor office building, a 60-floor office tower, an 800-room hotel, three theaters, shops, stores and enclosed parking for 2,000 cars. It will cover 8.5 acres. ■

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Mer/29...

Continued from page 10
Amendments, it was only necessary to prove, by animal and human testing, a drug's safety—not its effectiveness—to get FDA approval.

As was the usual pattern, however, Richardson-Merrell conducted its tests with an eye both to what the FDA required and what would be useful in later promotion of the drug.

THE RESEARCH department studied the degree to which the drug lowered cholesterol, how it worked and the toxic effects it had on tissues and organs when administered in different dosages to rats, dogs and monkeys. Later, the drug was tested in humans by doctors hired by the company to act as clinical investigators.

Richardson-Merrell did not report to the FDA the development of cataracts in both dogs and rats being tested with MER/29. It also did not report, according to the suits against the firm, that one of the monkeys being tested with the drug lost 25% of its body weight. Instead, according to the suits, the firm redrew a chart showing monkey weights to indicate that that particular monkey actually gained weight.

And, while the drug was on the market, Richardson-Merrell, the suits allege, failed to inform the FDA of reports from another drug company, Merck & Co., that cataracts had developed in animals tested by Merck scientists with synthesized MER/29.

In testing involving humans, when doctors asked whether MER/29 might be causing such side effects as cataracts and loss of hair, the firm allegedly reported no knowledge or prior reports of such effects in humans or animals.

And, despite mounting evidence of the drug's potential harm, the company allegedly promoted the drug as "entirely safe" and free of side effects right up to the time it was taken off the market.

In its next issue, *Business Insurance* will discuss the FDA's role in the tragedy, MER/29's removal from the market and a subsequent criminal indictment against Merrell-Richardson and three of its scientists.

Birth rates decline in industrial countries

NEW YORK—Birth rates in most industrialized countries have been on the decline, according to Metropolitan Life Insurance, but rates in most of Asia, Africa and Latin America have remained high.

In Europe, for example, seven countries have reported record-low rates. The Soviet Union's birth rate has decreased from 25.4 per 1,000 in 1957 to 18.2 in 1966. The 1966 birth rate in Rumania was 14.2 per 1,000—the lowest in the world.

In Northern Ireland, Ireland and Spain, however, birth rates exceed 20 per 1,000 population and are still close to their post-war peaks, Metropolitan said.

JAPAN HAS MARKEDLY reduced its fertility during the 15 years following World War II. Its birth rate dropped from 30.2 per 1,000 in 1945-49 to 23.7 in 1950-54 and continued downward to 18.2 in 1955-59.

The birth level has since remained about the same, except for 1966, when the birth rate dropped to 13.7 per 1,000. That was the Year of the Fire Horse, considered by Orientals to be a bad time to bear girls.

Group plan pays bill for quadruplets

TORRANCE, Cal.—Harvey Aluminum Co. picked up most of an approximately \$8,500 hospital tab for quadruplets born to the wife of an employe.

Part of the hospital bill will be picked up by the company's maternity benefits underwritten by the Prudential Insurance Co. of America. The welfare benefits provided by Prudential include medical, surgical, hospital, disability income, accidental death and dismemberment and x-ray laboratory.

Medical, hospital, surgical, x-ray and major medical are offered to both the employe and his dependents. Approximately 4,000 employes are covered by the contributory plan.

During the year ending Oct. 30, 1967, the company paid out \$954,316 in premiums and had claims of \$888,764. The remaining \$63,260 was used for taxes (\$20,688), commissions (\$9,543) and expenses (\$32,899).

Marsh & McLennan Inc. of California, Los Angeles, received \$7,949.59 in commissions and Dave X. Marks, Los Angeles, received \$1,593.57.

At the end of the year \$2,292 was paid back to Harvey in dividends or retroactive rate refunds.

Premium costs to the company were \$732,640 and to the employes, \$219,384.

The California firm carries a fidelity bond on the plan in the amount of \$500,000 underwritten by Pacific Indemnity Co. However, it reported that last year there were no losses to the plan caused by fraud or dishonesty of any administrator, officer, employe of the plan or other person Co.

Grubbs Merges

Miller, Mason & Dickinson Inc. has expanded its consulting staff through a merger with Grubbs & Co.

Birth rates in other parts of Asia—notably Formosa, Hong Kong and Singapore—have also begun to decline. In Formosa the rate is now down to 28.5 from a level long above 40. Hong Kong and Singapore are now both about 25 per 1,000.

Most other countries of Asia, Africa and Latin America—which include about two-thirds of the world's population—continue with high birth rates. In such countries as Mexico, Peru, the United Arab Republic, Iran and the Philippines, current rates exceed 40 per 1,000.

In India, where good statistics are lacking, it's estimated that the birth rate is about 39 per 1,000—or about 20,000,000 births

Kenney named benefits manager

RUTHERFORD, N.J.—Thomas E. Kenney has joined Becton, Dickinson & Co. as manager of employe benefits.

Mr. Kenney was formerly corporate employe benefits supervisor at Warner-Lambert Pharmaceutical Co. Prior to that, he was group pension supervisor for the Prudential Insurance Co.

per year. The annual number of births in China, Metropolitan estimates, may be as high as 25,000,000.

The U.S., in contrast, has a birth rate of 17.9, down 28% from the 25 per 1,000 population in 1957. Canada's rate has decreased 36%, from 28.1 to 18 in the same period. Last year's rate was the lowest on record for both countries.

Blue Shield to use national ID

CHICAGO—The National Assn. of Blue Shield Plans will offer "certain national accounts" an identification card for employe members of a number of local Blue Shield plans.

The associations said the new card will speed up the processing of claims by facilitating determination of benefit eligibility. The host Blue Shield plan determines the proper allowance for physicians' services within its area, the association said, from a regular claim form.

The card may be used with a central certification and administrative system to provide a uniform set of benefits, the association said. In addition, the card will be valid when employes move from one Blue Shield area to another.



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Role of public adjustor discussed at Dallas-Ft. Worth ASIM meet

DALLAS—"After the Fire," a film produced by the National Assn. of Public Insurance Adjustors, was viewed by members of the Dallas-Ft. Worth chapter, American Society of Insurance Management, at their meeting last month. Making the presentation was Robert G. Beneke, head of R. G. Beneke Co., Dallas-based public adjustor.

The film, which dramatized a typical situation in which a company, having suffered fire dam-

age, was faced with the difficulties of preparing proof of loss and negotiating a settlement with the insurance company. The company transferred the burdensome and often complex matter to a public adjustor, who assembled the item-by-item inventories and estimates, saw that the roof and windows were boarded to prevent rain damage, and negotiated a settlement, subject to the insured's approval.

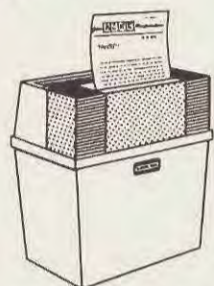
"I have the greatest respect for insurance companies and their adjustors," Mr. Beneke said as a preface to his comments on the development of public adjustors. Loosely organized from its start in the U.S. in 1849, the national association was formed in 1951.

He noted that there are now 33 states that examine and license all adjustors. Texas is not one of them. He urged that legislation be passed, requiring the examination and licensing of adjustors. "We need controls to weed out the few—and I emphasize there are very few—adjustors who bring discredit to the industry," he declared.

Established two-and-a-half years ago, R. G. Beneke Co. is the first and only NAPIA affiliate in Texas.

Answering questions from the floor, Mr. Beneke explained that his firm operates on a graduated fee basis of from 5% to 10% commission of recovery, with his company assuming all expenses necessary to the evaluation and adjustment of loss, such as engineers, architects, etc. Representation is contracted for on a per case, not a long term, basis.

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Inflation policy is for homeowners; not commercial property

HARTFORD—A new concept in property coverage which is geared to compensate for inflation applies to homeowners but not to commercial property.

Devised by the Hartford Insurance Group, the optional feature automatically increases property coverage on homes by 1% every three months, or 12% in a three-year policy term. The policy, first of its kind, is available in 32 states.

Cost for the added 12% coverage is about 6% over the standard premium for a \$25,000 house, Hartford said.

With the new feature, coverage increases to a point where the insured is nearer to full replacement value for his home, it was explained.

California high court rules health plan is 'insurance'

SAN FRANCISCO—The California supreme court has modified a prior court decision to declare that under some circumstances a health plan is insurance and thus is subject to provisions of the state's insurance code.

In this ruling, the supreme court declared that "in those instances in which the providing of indemnity plays an important role in the health plan operations" it is insurance and subject to state insurance regulations.

The action reverses a lower court ruling which had denied an injunction to state insurance commissioner Richard S. L. Roddis. The lower court had ruled a health plan was not insurance.

INVOLVED WAS the Southern California Health Plan, established in 1962 essentially to serve labor union members.

The supreme court referred to

Removed on city's policy

ROCHESTER, N.Y.—Frank R. Camelio, the city's insurance broker since 1962, has been removed as the agent of record on a policy renewed earlier this year.

An official of Travelers Insurance Cos., which underwrites most of the city's insurance, said a letter from Comptroller Joseph E. Silverstein directed the company to issue the renewal without specifying an agent.

Mr. Camelio, 15th Ward Democratic leader, was appointed the city's insurance broker by Henry R. Dutcher Jr., the first city manager in the Democratic administration that took office in 1962.

City Manager Seymour Scher said the handling of the city's insurance is left to Mr. Silverstein's office and that he is "not aware of" any change.

"I have no reason to believe the city is changing the handling of its insurance," Mr. Scher said.

Richard A. Williams, manager of the casualty property underwriting department at Travelers, said he received a letter from Mr. Silverstein in early February instructing Travelers to issue the city's renewal policies without specifying an agent.

The workmen's compensation policy was so issued in March.

City provides cover for 'bike-lending' library

OAKLAND—This city's package insurance program, carried in large part by Lloyd's of London, has made possible the continuation and expansion of a mail truck driver's hobby . . . providing bicycles for neighborhood kids who don't have the money to buy their own.

Henry Perry, 52, who rides a bicycle after work for exercise, felt sorry for the kids without wheels. "So, I bought a couple of pieces of junk, repaired them, and started lending them to the kids," Mr. Perry explains.

Now Mr. Perry's free bicycle "lending library," housed in an abandoned city-owned building, includes nearly 200 bikes.

Mr. Perry calls it Bikes Unlimited No. 1 and hopes eventually to have a dozen such centers

throughout Oakland.

He provides the newly-repaired, newly-repainted bikes, one-by-one. Over the months his project has grown, and the city's insurance program covers liability or loss.

"Without the city's insurance," Mr. Perry said, "the project would have stopped because liability insurance would have cost me \$11 per bike per year."

Only one of his bikes has ever been missing, and a group of youthful borrowers formed a posse to get it back quickly.

Insurance to protect home prices asked

NEW YORK—A city council member has proposed an insurance program to protect homeowners against any "real or fancied" drop in property value when Negroes move into a neighborhood.

Edward I. Koch's proposal has been incorporated into a resolution before the city council calling on Mayor Lindsay to establish a task force on Negro housing opportunities.

Mr. Koch said he believed the fear of many white persons that their property values would fall if a Negro family moved in was "absolutely groundless."

"But whether or not the fear is fancied," the councilman said, "a state and federal program of insurance which would protect present homeowners against a drop in property value after the integration of a neighborhood, would allay the fear and make anti-discrimination laws easier to implement."

In addition to the property-value insurance, the task force would study and recommend a massive neighborhood rehabilitation program for federal, state, city and private action.

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Cardiacs . . .

Continued from page 3
ness interruption policy has been reached.

"In this connection I would warn you of one thing. A number of companies and states sometimes use coinsurance clauses and sometimes use an average clause, which is frequently called by the nickname of 'contribution clause.'

"The coinsurance clause basically requires each policy to be considered in relation to all other policies, but the average or contribution clause lets each policy stand on its own, and in case of a non-concurrence the guiding principles must be referred to where the coinsurance clause is involved," Mr. Teague explained.

THE ATTORNEY WARNED his audience to "be on your guard against formulas in book-keeping." He said it is "astounding to me how many times a careless bookkeeper, particularly in a small business, will have set up a formula, usually for depreciation and new acquisition, and will have carried that formula through, especially on inventories, for years without ever having adjusted to an annual physical inventory."

The result, he said, is that his formula figure on an inventory for insurance purposes bears "absolutely no relation to his actual physical inventory taken

annually."

Several attorneys who addressed ABA's section of insurance, negligence and compensation law dealt with the problems arising from product liability actions.

THE CONCEPT OF strict liability, according to Peter J. McBreen, a Chicago attorney, "places an additional burden upon industry to care for and subsidize the negligent and incompetent" and is an attempt by the courts to legislate rather than interpret the law.

He said an overall limit must soon be put on the doctrine of strict liability. It is in the field of implied warranties that the principle has evolved, Mr. McBreen explained, and many courts have eliminated the defense of contributory negligence by "stretching the rule of liability still further" to culminate in the strict liability principle.

The doctrine, which has been adopted in 21 states, was at first limited to the field of food and drugs, where it seemed reasonable, Mr. McBreen said. But in the case of *Greenman vs. Yuba Power Products* in 1963, California became the first state to adopt the strict liability rule on the part of a manufacturer to a plaintiff who was not the purchaser—and therefore not a direct party to the contract.

"IT IS TO BE particularly noted," Mr. McBreen said, "that the defendant manufacturer who sells an assembled product, such as an automobile manufacturer, a boat manufacturer, a machine manufacturer or an aircraft manufacturer, is liable for any defect of any part which may have been purchased from a supplier or an independent manufacturer and which has been incorporated into the finished product."

In the 1961 case of *Boeing Co. vs. Brown*, for instance, the circuit court of appeals in Washington held that a manufacturer who buys component parts and installs them in his product "stands in the shoes" of the maker of the parts and assumes full liability for the products.

Only in Colorado, Louisiana, Minnesota, New York and Utah does the defense of contributory negligence apply, Mr. McBreen noted.

James W. Benjamin, a Kansas City trial lawyer, said the best way for arriving at "the ultimate truth" in product liability cases is to safeguard the actual product involved in the accident—the "offending instrumentality."

The attorney suggested that any claim which will eventually involve the manufacturer should be defended by the manufacturer or his insurer.

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Employe . . .

Continued from page 3

render services and advice in the administration of the named insured's employe benefits program."

COVERAGE, Mr. Wendorff explained, is not limited solely to the named insured, but extends to protect executive officers, directors, stockholders and employes of the named insured, and even includes outside consultants. As far as the definition of 'employe' is concerned, coverage extends to retired personnel, heirs, personal representatives or beneficiaries, Mr. Wendorff added.

Where coverage is afforded under policies, certain exclusions apply. For instance, there is a specific exclusion with respect to malpractice, error or omission of any physician or surgeon because separate malpractice insurance can be had.

"Therefore," Mr. Wendorff explained, the policy will not cover the employer or the company doctor for injury arising out of the malpractice of the doctor in performance of professional services."

ALSO, EMPLOYE benefits liability insurance won't cover employes if the insurance company involved in any of the programs goes broke, Mr. Wendorff said. "If it were otherwise," he said, the employe benefits insurance "would, in effect, guarantee the solvency and integrity of all the various insurance programs included in the employe benefits program."

Because it's hard to determine exactly when the error or omission occurred, some of the companies writing this policy have "triggered" the coverage on when the claim is brought against the insured and not when the alleged act or omission took place, Mr. Wendorff said.

He stated that most such policies are being written on a \$1,000 deductible basis.

Seaboard covered in Florida train wreck

WINTER HAVEN, Fla.—The crash of two high speed Seaboard Coast Line trains carrying hundreds of tourists to and from Florida's vacation resorts is expected to result in an avalanche of personal injury claims and property damage in excess of \$1,000,000.

Spokesmen for Seaboard declined to comment on the accident, which occurred when a northbound express plowed head-on into a southbound train waiting on the main track for the other train to switch to a siding. A source, however, pointed out that insurance on the Seaboard risk was placed with domestic and foreign carriers.

THE LARGEST personal injury liability claims are expected from three Seaboard trainmen who were trapped and badly injured in the cab of the demolished diesel engine.

According to the source, the workmen, who could file claims of more than \$300,000 each, are covered under the Federal Em-

ployes Liability act, which gives them the right to sue their employer.

There was no estimate on how high passenger liability injury claims could go. At least 21 persons were admitted to a local hospital and 81 others were treated and released.

Some railroads carry liability limits as high as \$10,000,000, with deductibles of at least \$100,000 and usually higher. Although Seaboard remained silent on the question of insurance coverage, sources maintained that the railroad probably carried a deductible of at least \$100,000.

Seaboard is also said to carry property insurance to cover the 15 cars, including nine passenger coaches, which were tossed off the rails. Deductibles on property coverage are usually lower than on liability, *Business Insurance* was told.

One railroad source valued the replacement cost of a diesel locomotive at \$250,000 and passenger cars at a minimum of \$100,000 each.

N.Y. bill would require gun owners to buy liability cover

NEW YORK—A New York City councilman has proposed that gun owners be required to carry the same sort of liability insurance as do car owners.

City Councilman Edward Koch filed a bill requiring that each gun owner be required to buy \$10,000 of personal liability coverage.

Under the proposed measure, every person who applied to license or register a firearm would be required to show proof that he was insured against negligent use of his gun, loss and ultimate use of the weapon by another person, and use by the owner when he was mentally incompetent or under the influence of alcohol or narcotics.

New York City's new gun law, which requires the licensing of

firearms and the registration of shotguns and rifles, goes into effect Aug. 12.

A & A acquires Riall Jackson Co. of Baltimore

BALTIMORE—Alexander & Alexander has acquired Riall Jackson Co., 64-year-old insurance broker here. The 25-man Jackson firm will move into A&A's Baltimore headquarters.

Carle A. Jackson, managing partner of Riall Jackson, has been elected a vp of A&A. Mr. Jackson's father, the late Howard S. Jackson, was a partner in the brokerage firm and then served four terms as Baltimore's mayor.

ASIM conference review available

NEW YORK—The American Society of Insurance Management has compiled a review of concurrent sessions at the group's annual conference in Chicago last February.

Copies of the 200-page review are available, prepaid, from ASIM, Rm. 501, 8 W. 40th St., New York 10018, at \$10 a copy for members and \$12 for non-members.

Metropolitan's group life off 62% in 1st half

NEW YORK—Metropolitan Life's group insurance sales for the first six months of 1968—\$793,837,000—decreased 62% from the same period in 1967.

In that year the company's group sales increased 105% for the first six months and rose 135% by year end.

A share of the credit was given to the updating of the Federal employees' benefits in 1967. Metropolitan is the direct writer for this account, and reinsures it among 107 companies.

"The group business fluctuates wildly," said a source at Metropolitan. "If a big company increases the principal sum by \$1,000 for each employe, it can make a big difference."

Republicans...

Continued from page 1

age or vandalism loss," he said.

The convention hall, valued at \$7,000,000, confronted U.S. insurers with a capacity problem, according to Don Kaplan, president of the Flagler Insurance Agency here, which arranged the fire coverage on a new three-year contract, effective Sept. 23.

The coverage, which will be written exclusively with Continental Casualty Co., Chicago, is currently shared with Commerce & Industry Insurance Co., N.Y.

Mr. Gallagher explained that the convention center building for \$3,500,000 and contents for \$300,000. Continental, which will take over the full risk on an 80% coinsurance basis after the Commerce & Industry policy expires, now insures the building for \$2,000,000 and contents for \$180,000.

When the new Continental policy becomes effective, Mr. Gallagher said it will have a \$10,000 deductible on all fire and vandalism perils and an \$85,000 deductible on extended coverage.

During the convention, he continued, the hall had a deductible of \$60,000 on fire and on extended coverage perils.

Annual premiums on the convention hall were reported at \$20,960. A source close to the municipal government said most insurance companies invited to bid on the new three-year insurance contract declined because the risk was considered "unattractive."

Hurricanes, the lack of a sprinkler system and memories of McCormick Place were all factors which were said to have made insurers wary.

Seymour, 72, dies

William H. Seymour, retired senior vp of the Liberty Mutual Insurance Co., Boston, died July 10.

Trade associations claim they are still studying auto programs

NEW YORK—The American Insurance Assn. has at least four subcommittees working on an auto liability reparations scheme—including one on commercial vehicles—T. Lawrence Jones, president of AIA, told *Business Insurance*.

Mr. Jones said that a news story in the July 29 issue of this publication gave the impression that the group had approved a no fault compulsory insurance plan, but he said that AIA was "still studying that proposal and others."

Mr. Jones said that "a number of member companies were concerned" about the *Business Insurance* story because "they felt that they hadn't yet made a decision, which is exactly the case."

However, he admitted that the no-fault plan has "support, obviously." Mr. Jones said it was drawn up by a subcommittee of underwriters and lawyers and that other subcommittees involving actuaries and claims men had yet to turn in their suggestions.

Once all proposals are in, another committee will meet to hammer out one overall AIA position. Mr. Jones said he was "hesitant to make a forecast" as to when the AIA proposal would be ready, but he hoped it would be available in two or three months.

ROGER DOVE, vp of the National Assoc. of Independent Insurers, responded to the *Business Insurance* article with this statement: "The NAI has for many months been vigorously studying all of the proposed plans for indemnifying the victims of traffic accidents and providing protections for motorists legally liable for those accidents. No definite conclusions have been reached by the NAI, and no program has been finalized. The association is continuing to give the highest priority to this research and study."

Neither Mr. Jones nor Mr. Dove specifically referred to the *Business Insurance* report that representatives of the two associations appeared before the American Bar Assn. committee on reparations in the O'Hare Inn in Chicago and presented detailed descriptions of proposed auto victim compensation programs. The AIA representative outlined a no-fault compulsory

first-party insurance program while the NAI spokesman presented an "inverse liability" plan under which victims would retain their right to sue after collecting scheduled benefits, *Business Insurance* reported.

Democrats...

Continued from page 1

The theory that the Democrats have been unable to get high limit cover is given even greater credence in the face of the repeated threats of demonstrations by various peace and ethnic groups. Mayor Richard J. Daley and other top city officials have played down these threats, but in the light of strict security precautions, Democratic officials are obviously not taking any chances.

The Amphitheatre management spent \$60,000 to install a sprinkler system in South Hall, a giant open area adjacent to where the convention delegates will be seated. There will also be a fire truck manned on an around-the-clock basis and stationed in the building.

The Union Stock Yard Co. has a small regular security force, and it is expected that it will be increased to 100 men.

ALL CONSTRUCTION for the Democratic convention must adhere to city codes, an Amphitheatre spokesman said, for example, fire resistive draperies are required by the city building code and all temporary construction must be fire resistive and approved by the city fire department.

A. J. Horan Insurance Agency placed some of the coverage for electrical work done prior to the convention.

During the 1956 convention in the Amphitheatre, the Republican party arranged for \$10,000,000 in liability coverage, and the Democrats used a \$2,000,000 public liability policy carried regularly by the Los Angeles Memorial Sports Arena.

During the Democratic convention, that year, a piece of flying cardboard caused severe injury to former Postmaster General James Farley's right eye. He underwent two operations and regained 83% of his vision.

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Traffic in stolen boats reaching 'critical stage' in New England

By ALLEN WIDEM

BOSTON—Like it or not, the coastlines of the five New England states abutting the Atlantic Ocean (Maine, New Hampshire, Massachusetts, Rhode Island and Connecticut) are witnessing a markedly increased activity in stolen pleasure boat traffic and insurers are at a loss to explain how to cut the thefts.

Ensign Henry R. Qualman of the Boston law enforcement division of the U.S. Coast Guard admitted that "business" in the black marketing of stolen craft has become big time in recent months.

Pleasure boat theft and looting, progressively worse in coastal areas of the New England states, is fast approaching the critical stage, stated Ensign Qualman.

SOME OF THE 1968-style "pirates" are able to offer handsome sea craft at cut-rate prices, complete with choice of make, style and color.

Richard Blake, marine insurance supervisor for the Firemen's Fund of American Insurance Co., Boston (one of New England's largest underwriters of marine insurance), remarked that his company has experienced a rash of non-accidental losses. Moreover, there are an alarming number of suspicious cases on the company's books.

Robert Cates, claims investigator for the same Boston-based company, attributes the mushrooming increase in claims to both theft and vandalism.

To date in 1968, Boston insurance companies have recorded some 500 cases of boat theft. Claims have averaged \$200.

That figure, understandably, does not explicitly indicate the full amount of thefts, since many incidents are not reported (because of deductible clauses—\$250 for cabin cruisers and larger boats, \$100 for smaller craft—and other elements).

Significantly, boat owners are too easy a target for vandals and thefts. He maintains that not enough people give sufficient care and attention to their property.

Improved law enforcement methods—i.e., more frequent patrolling of harbors and other vital areas are being urged by the insurance companies.

Too few boat owners, moreover, are able to provide comprehensive details of stolen craft and equipment.

Prevailing state measures permit an all-too-easy changing of boat registration number. This hurts law enforcement people when trying to move quickly in quest of criminals

ENSIGN QUALMAN commented that thieves in Rhode Island, for example, could be stopped abruptly if the state insisted on a permanently engraved registration number on boat hulls.

Rhode Island at the moment permits a painted number. This can be changed in minutes.

And when it comes to actual prosecution, it is admitted there is some degree of overlapping between law enforcement agencies. Major elements are state police, local police and the Coast Guard. There are also private patrols maintained by larger, more responsible yacht clubs.

Local-level authorities, who are concerned with boat thefts, find themselves involved with other matters during the summer, it is noted by Arthur Buchwald of the Massachusetts state division of motorboats.

THE STATE POLICE and state fire marshal's office will move in for an explosion or suspected arson.

The Coast Guard has primary jurisdiction in the event of loss of life at sea or outbreak of fire beyond two marine leagues from shore (in layman's terms, slightly over two miles).

Lt. Thomas F. McGrath III of the Coast Guard marine inspec-

tion division, Boston, said that his safety inspection officers have often found safety equipment is missing on many boats. Upon inquiry, they learn this equipment has been stolen.

Still other boat owners have locked up lifesaving equipment instead of making it freely accessible, as required by law. They contend that if left exposed such things as life jackets will be pilfered.

Some New England shore communities have cut down on theft and vandalism through the admittedly expensive action of employing more people for harbormaster and police boat patrols.

Getting down to the specifics of crime prevention, the Hingham, Mass., police department has assigned patrols on a 24-hour basis to help protect some \$2,000,000 worth of craft normally moored in the harbor.

AT COHASSET HARBOR, Mass., the Cohasset Yacht Club is providing a boat for the police department's three-nights-a-week patrol in the aftermath of stepped-up theft and vandalism.

Beverly, Mass., has a new patrol boat on 24-hour duty, but Harbormaster Joseph Celentano admitted malicious damage has been reported in the anchorage areas. Radios have been looted. In another case, thieves took a lobster boat, complete with traps.

Beverly has had vandalism damage this summer to date of some \$12,000, involving nine boats.

High-priced craft—in the \$75,000 to \$100,000 category—are moored in Marblehead, Mass., harbor. As a crime deterrent, the police department has added three new 30-foot patrol boats. Two operate day and night, the third is an all weather craft.

Law enforcement agencies not only want to cut down drastically on vandalism and theft. They would like to reduce night-time hit-and-run collisions.

North American names McNally assistant vp

Christopher A. McNally has been elected assistant vp of the North American Reinsurance Corporation. Mr. McNally joined the New York-based corporation in 1963 and is now manager of the facultative department.

THIS NEWS PHOTOGRAPH DOES NOT NECESSARILY DEPICT AN ACTUAL CLAIM BUT ONLY THE TYPE OF MISHAP COVERED BY UTICA MUTUAL.



(REDACTED) N.Y., ---BUSINESS UPSET---This was the scene yesterday in the office of a local realtor after a boiler exploded in the room below. Floor and roof collapsed, destroying office equipment. There were no occupants in the building at the time of the accident. (REDACTED) (b1w638594/8571kp) 1967

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INSURANCE THAT STARTS WITH YOU

Florida funeral home has special problems

ST. PETERSBURG, Fla.—Funeral homes here face special insurance problems because thousands of senior citizens have made this part of Florida a retirement refuge.

Norman Doherty, director of the C. James Mathews Funeral Home, points out that more than 7,000 "remains" are sent back to other parts of the country each year through Tampa International Airport, which also serves St. Petersburg.

"Courts have held that there is no value on grief," Mr. Doherty said, "but we recognize the problems which could result if an airplane were to crash while carrying casket and remains. As a result, each time we send them back to a hometown in another part of the country, we take out special insurance.

"IT ISN'T AS SIMPLE as most people might think. Cost of sending casket and remains runs about 175% higher than normal rates, and of course the airlines have their own insurance covering everything aboard. But we still feel it is wise to take out the individual policies each time."

Types and amounts of the insurance may vary from one case to another, Mr. Doherty indicated. He did point out that, while many families still prefer to have the remains sent back to home town for burial, there is a growing trend to have final disposition made here.

He said that several years ago the percentages would have been much higher, but today about one third of the cases brought to the Mathews Funeral Home are ones in which the remains are sent to other cities.

THE INDIVIDUAL CASE insurance covering the period of shipment is only a part of the insurance package carried by the Mathews Funeral Home.

Chief coverage comes under a "multiperil" policy for general liability underwritten by Aetna Insurance Co. of Hartford. With a limit of \$300,000 this policy

covers building contents, furniture, fixtures, and a variety of potential claims which might arise through the implied consent when the funeral home starts its chain of services for a family.

"The multiperil insurance policy probably is unique in that it is designed especially for the problems faced by funeral directors," Mr. Doherty said. "We have been fortunate in that we have never had any claims against this policy, but the possibilities always are there."

AMONG THE POTENTIAL claims listed by Mr. Doherty, ones which he says have occurred elsewhere, are those of improper use of cosmetics and surgery in the preparation of remains for final rites.

"Of course we all have state laws to follow. Funeral homes which follow standard practices will probably never run into claims which would be similar to malpractice claims made against some physicians from time to time," he explained. "But we still have to have the coverage."

Other insurance carried by Mathews includes workmen's compensation and comprehensive liability, all underwritten by Aetna.

Detex introduces new telephone dial system to aid watchmen

A new automatic telephone-dialer system is being marketed by Detex Corp., New York. The system, which its maker says is designed to supplement, protect and supervise security guards while they're on solitary patrol, acts as a surveillance system at predetermined check points.

If a guard does not reset the instruments along his route with a turn of a key within the scheduled time, an alarm is automatically sent out. The alarm system dials preselected telephone numbers and transmits a recorded message to law enforcement authorities.

Grasshopper invasion not insured risk

CHEYENNE, Wyo.—State officials have declared war against hordes of grasshoppers which are devastating rangelands in Fremont county.

Gov. Stan Hathaway has authorized the state department of agriculture to spend \$8,000 to "bomb" from the air about 30,000 acres infested by the insects with a chemical malathion.

However, the Fremont county infestation may only be part of a grasshopper invasion in Wyoming this year. Last month Walter H. Patch, state entomologist, predicted that the hoppers will invade more than 1,400,000 acres of rangeland in 15 Wyoming counties this summer.

The infestation, if serious enough, strikes at the pocket-book of Wyoming stockmen. If enough forage is destroyed, then feed for cattle grazing on the rangelands is reduced and consequently the cattle don't fatten as they should.

Apparently there is no insurance available to stockmen to cover damages suffered by insect infestations.

"I think it is safe to say that such insurance is not available," commented state insurance commissioner William G. Walton. "I know of no source from which this type of insurance can be procured, nor are we able to find any filings of this type in our records."

New owners of Cunard ship plan U.S. cover

PHILADELPHIA—The new owners of the Queen Elizabeth have tentatively agreed to place insurance for the ship in the domestic market.

The luxury liner was sold to a group of Philadelphia businessmen for \$7,750,000 by Cunard Lines and will probably be located in Ft. Lauderdale, Fla. However, according to a source involved in the purchase, the exact location hasn't been decided and this will have a bearing on the final insurance coverage.

He said that temporary coverage for the ship has been arranged in London and that final coverage will be worked out by the beginning of November.

The ship will terminate her final voyage at Southampton around November 15.

Queen Elizabeth's sister ship, the Queen Mary, was sold to the city of Long Beach, Calif.

Seven courses offered buyers

NEW YORK—The College of Insurance, evening division, will offer seven courses of particular interest to buyers of employe, property and liability protection this fall.

The courses are casualty rating plans, analysis of insurance functions, survey of international insurance, commercial multiple lines, time element coverages, pension planning, and principles of risk management. Basic courses will also be offered.

Courses are taught by practicing insurance professionals. Registration is Sept. 4 to 6 and Sept. 9 to 12 at the college at 150 William St.

Rule employe paid work comp can't sue employer's carrier

HARTFORD—The Connecticut superior court has ruled that an employe who gets workmen's compensation for a job-connected injury cannot turn around and sue his employer's insurance carrier for pain and suffering resulting from the same injury.

Judge Anthony E. Grillo denied a \$1,000,000 personal injury suit filed by Sinai Barrette, Danielson, injured while working two years ago at the Two Rivers Dyeing Corp.

Mr. Barrette sued Travelers Insurance Cos. and the Greater New York Mutual Insurance Cos. which underwrite liability and workmen's compensation policies for the Two Rivers firm.

Mr. Barrette contended that he had a right to bring a negligence action against the insurance carriers because, although the workmen's compensation law insulates employers from common law liability, it fails to shield the insurance carrier.

MR. BARRETTE, who sustained a fractured skull and other injuries when a metal roller fell on his head Nov. 8, 1966, collected workmen's compensation benefits but felt he should be permitted to sue for additional damages on the grounds that his employer was negligent in failing to inspect the allegedly dangerous machine from which the metal roller fell.

A former Connecticut workmen's compensation commissioner, Judge Grillo cited the questions of the suit.

In construing the law, he said, "emphasis must be accorded the social and economic factors giving rise to the legislation and the effect that a possible interpretation will have upon society."

To allow Mr. Barrette's action to prevail, he added, would result in destruction of the informality of workmen's compensation hearings since parties—if the insurance carriers were open to negligence suits—"would be reluctant and wary" of making statements that might jeopardize their positions as plaintiffs or de-

fendants in a court action.

JUDGE GRILLO said that the breakdown of the purpose of these informal hearings—to expedite claims—would also result, "and the machinery employed by the commissioner that has so well served the workman for more than a half century would be clogged."

He commented that to construe the law, as Mr. Barrette interpreted it, would work an injustice to the workman since it would result in delay in obtaining compensation "and thrust him in a mire of litigation—a result hardly envisioned or desired by (the state) legislature and in conflict with the spirit of the workmen's compensation act. It would open a Pandora's box of ills detrimental to the welfare of the worker and his dependents."

Farm workers want work comp inclusion

OLYMPIA, Wash.—Petitions seeking inclusion of farm workers under the state's industrial insurance law have been presented to Harold Petrie, state labor and industries director, according to the State Labor Council, which is supporting the move.

The council said Tomas Villanueva, head of the United Farm Workers Co-operative of Toppenish, presented the petitions.

The workers, most of them from the central Washington area, sought a hearing on the question of whether agricultural work should be declared extra hazardous labor.

That would bring farm work under provisions of the industrial insurance law and permit injured farm workers to collect workmen's compensation.

Joe Davis, president of the council, in a letter to Mr. Petrie, said the council supported inclusion of farm labor.

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