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business insurance®

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Class suit contends 'featherbedding' by medical groups

BY TOM WALSH
Washington editor

WASHINGTON—A class action anti-trust suit seeking up to $80 million in damages has been filed against Blue Cross-Blue Shield by a number of associations representing 60,000 psychologists and a labor union representing 1.6 million federal employes.

Brought jointly by the Council for the Advancement of the Psychological Professions and Sciences Inc. (CAPPS) and the National Assn. of Government Employes, the suit charges a "medical referral and supervision" clause contained in the Blues' group health contract with the federal government "improperly and illegally interferes in the relationship between psychologists and their clientele" by requiring physicians to supervise psychological treatment.

The suit alleges the referral and supervision clause has added "immeasurably and unnecessarily" to mental health care costs to the United States and, consequently, the taxpayers, and it seeks an injunction against enforcement of the provisions of the clause.

The 60,000 psychologists represented in the class action are seeking treble damages amounting to $45 million. The 1.6 million federal employes represented are seeking treble damages as high as $25 million and punitive damages of $10 million.

Civil action is being prosecuted for the various plaintiffs by Joseph L. Nellis, the Washington attorney who recently won the landmark abortion case before the Supreme Court.

Besides the Blues, the suit filed in U.S. district court here names the U.S. Civil Service Commission, three of its members and Attorney General Elliot Richardson as defendants. They are named, the suit claims, for authorizing the contested contract.

SINCE 1960, the Blues have insured the 1.6 million federal employes and some 2.1 million dependents of those employes through a group health plan negotiated annually with the Civil Service Commission. Federal employes and the government each pay half the premium for the insurance.

The suit charges those premiums have been "illegally, exces-

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9,000 firefighters battle "the worst forest fires in 20 years" raging through 200,000 acres of mostly U.S. Forest Service timber in eight western states. Most of the $65 million damage is self-insured (see insurance story, page 3). —Wide World photo

SBA loans to aid OSHA compliance

WASHINGTON—The Occupational Safety and Health Administration (OSHA) and the Small Business Administration (SBA) have initiated new OSHA compliance loan procedures designed to prevent funds lent by the federal government from being used for projects unrelated to job safety.

Applications for compliance loans made by small businesses will now be passed along to the nearest OSHA regional office by the SBA for review. That office will review the application to determine whether the amount requested exceeds the anticipated cost of meeting OSHA rules.

OSHA spokesmen told *Business Insurance* the new procedures were established as an effort "to put a tighter rein on these SBA loans."

"Before this agreement, there was a considerable amount of laxity in the provisions for granting these loans," one source said. "Businesses were receiving money under the guise of compliance and using it for purposes other than job safety. This new procedure assures that the money goes for health and safety matters rather than plant expansion."

THE OSHA rules of 1970 amended the Small Business Act to allow long-term loans to businesses needing funds to make compliance with the job safety standards possible. Such loans, under the amendment, may be applied for before or after an OSHA inspection and must be approved through OSHA-SBA coordination. In the first two years of the job safety act, 57 loans have been granted, averaging $151,000 each.

AS OF August 13, applicants for loans who have had their workplaces inspected by OSHA must submit to the SBA a copy of any citations and abatement notices, if uncontested, or the final order of the OSHA Review Commission if the violations have been contested. Upon receipt of the loan application, the local SBA office will refer the description of the proposed use of funds to the OSHA regional office through the area office that performed the inspection.

The OSHA regional office will then review the materials and advise the SBA in writing whether the applicant's proposed use of the loan will, in its opinion, "adequately and appropriately" correct cited violations. The application for a loan does not, the agreement states, affect the abatement period established for the cited violation.

FOR BUSINESSES not inspected by OSHA, applicants for compliance loans must submit to SBA a reference to the OSHA standards which prompt corrective action. If an applicant is sure what standards apply, he should submit a description of working conditions. The SBA will then forward the information to the appropriate OSHA regional office, where it will be determined whether the applicant is required to correct the described conditions in order to comply with OSHA standards.

The OSHA regional office will also determine if, in its opinion, the use of funds is "necessary and appropriate to accomplish needed corrections."

Direct contact or meetings with the loan applicant can be initiated by the OSHA regional or area offices only after SBA clearance. Such face-to-face meetings cannot be held at the applicant's establishment. ■

Kidnap cover markets in U.S. emerge slowly

By DAVID GRIMM

CHICAGO—Coverage for ransom demands from the kidnapping or abduction of American business executives in Latin American countries is available from domestic sources.

Typically, the kidnap and ransom carrier has a secretive attitude toward kidnap and ransom coverage, as evidenced by the reaction of Don Collier, of American Foreign Insurance Assn.'s bonding and crime department in New York. Mr. Collier refused to comment on all questions.

Business Insurance learned, however, AFIA has recently begun quoting kidnap and ransom coverage as an endorsement to all its fidelity bond submissions. Premiums, AFIA said, range between $10-20,000 per year.

COVERAGE is extended to employes of U.S. corporations and their families to a limit of $1 million with the insured having a 10% to 20% deductible.

Coverage is global, the spokesman said, with one major exception. Reportedly, the coverage cannot be written for Argentina alone. Worldwide participation in the risk must be included as written in conjunction with the fidelity bond.

Mr. Collier would neither confirm nor deny any of the information, although an AFIA underwriter said several inquiries regarding the cover had been received by the company.

The spokesman felt the AFIA premium was "at least competitive" with the London markets, which have been writing the kidnap cover on a global basis since about 1967.

Although availability isn't widespread and, in the main, exclusions preclude the policy's use for most operations having Latin American branches or other close connections, some companies will write the coverage if it is requested by a client.

Zurich-American, for example, will market the cover "in some cases", according to R. T. Keller, company secretary. "Presently, we do have an underwriting posture which excludes Argentina," Mr. Keller told *Business Insurance*.

Apparently, ZA is taking a futuristic view of kidnap and ransom coverage. "We feel this type of policy will become part of a standard coverage package for any kind of company having operations in Latin America, or anywhere in the world for that matter," the ZA officer continued.

THE EXPOSURE factor is apparently what is keeping kidnap insurance on a custom-tailored basis. Several carriers known for accommodating customers requiring unique underwriting have said, without wanting to be identified, they were waiting until some sort of worldwide form could be used in order to spread risks across the globe, rather than its present status—limited to the politically volatile areas of Latin America.

One of these, American Home, is writing the protection of executives and other company employes through American Insurance Underwriters, according to spokesman Brian Jarman. The American Home policy provides worldwide coverage with no exceptions, he said.

INA, according to a company spokesman, is providing kidnap cover as part of a blanket bond on financial institutions. No further details were available.

Chicago broker Leo B. Menner and Co. indicated they have coverage with three forms for financial, commercial, and individual clients. The forms are only applicable to the United States, however.

Cotton Belt Insurance Co., Memphis, is waiting for a standard domestic form in order to begin writing the coverage, according to John Chidley, president. "We've been asked by several insureds and brokers about the possibility but so far there's nothing yet," he said.

Insurance Services Office is currently hard at work on providing such a form for approval

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Suit claims 'featherbedding' . . .

Continued from page 1

sively and improperly charged and collected" by the insurer through the referral and supervision clause.

The disputed clause states in part: "The records of the attending physician must show that either he saw the patient or had written or personal contact with the therapist, at least once every 90 days; in any case, the attending physician must see the patient for evaluation at least once every 12 months."

THE SUIT claims, since 1967, "fees ranging approximately from $25 to $50 paid to physicians per visit for referral and supervision prior to psychotherapy rendered by a qualified psychologist have substantially increased the premium costs to the subscribers and to the United States of America."

The suit contends the clause is "illegal, improper and a violation of the antitrust laws of the United States in that:

- The said requirement does not promote better mental health care for the public; on the contrary, it is restrictive and in restraint of trade.
- The 'referral' and 'supervision' rendered thereunder is in most cases perfunctory and arbitrary.
- The physician rendering the alleged service need not be especially trained in psychiatry or mental health care.
- The requirement is illegally imposed by (the Blues') Board of Trustees, composed entirely of physicians, as a 'featherbedding' requirement, and not for any reasonable purpose.
- Psychologists qualified to diagnose and treat nervous and mental disorders are licensed and/or certified in 46 states and the District of Columbia . . . and are supervised by the American Psychological Assn.'s professional standards and by various state certification boards applying accepted standards, at least as strictly applied as those of the several states' statutory medical practice standards.
- The requirement illegally disparages the profession and science of psychology by subordinating it to the alleged supervision of another co-equal health provider profession, for no economic, health or other necessary reasonable purpose."

THE PSYCHOLOGISTS represented in the suit charge further they "have suffered serious interference with their relationships with their clients . . . and have also suffered serious financial losses as a result of (the Blues') arbitrary and capricious failure to reimburse for services covered under the contract."

Aside from the injunction and cash penalties, the suit also asks that the Civil Service Commission be ordered to undertake a study supervised by the court to determine "the nature, extent and scope of overpayments by it to (the Blues), the difference between what should have been paid by the way of contribution to premiums and what has actually been paid for the period 1967 through 1973 ordered refunded to the Treasury of the United States."

THE GIANT, Illinois-based insurer has yet to formally respond to the charges.

Congressman Jerome R. Waldie (D-Ga.), the chairman of the House civil service subcommittee on retirement and employe benefits, recently introduced legislation which would allow federal workers to bypass physician referral in obtaining care from licensed psychologists.

The President's special consumer affairs assistant, Mrs. Virginia H. Knauer, has also asked the Blues to eliminate the referral and supervision clause in the policies.

Aetna and other health insurers have eliminated the once-common group health care contract provision, sources pointed out. ■

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INA involved in cover for fire lawsuit award

DETROIT—The Insurance Co. of North America is involved in the coverage for Ford Motor Co. on a $2.75 million liability award granted to an injured fireman here earlier this month, *Business Insurance* has learned.

Ford, through a spokesman, said any judgment against it would be fully covered by insurance. Other sources close to the case pointed out insurance coverage was written, at least in large part, by INA.

THE AWARD, one of the largest liability awards in history, was granted to Capt. Peter Gherardini, Dearborn Fire Department, who lost the use of his arms and legs and suffered brain damage when he fell through the roof covering a rolling mill at Ford's River Rouge Plant during a fire in June, 1971. He received $2.25 million.

His wife received the other $500,000. This award, according to plaintiffs' attorney Leonard Jacques, is the largest loss of consortium award ever granted.

Mr. Jacques said Ford was liable because the Dearborn fireman was not warned by Ford officials of the weakened roof.

"A HUGE gas fire from a gas main had been burning in the building for quite awhile, weakening the roof structure," he explained. "The Ford fire department turned off the gas main before the Dearborn department arrived though there were still fires smoldering on the roof.

"Capt. Gherardini talked to the Ford fire chief before he went on the roof," he continued. "He was not told that a fire had been burning inside the building."

Henry Nolte Jr., Ford's associate general counsel, said the company was "sympathetic with the injured party" but indicated it would appeal if the verdict stood. ■

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Kidnap coverage . . .

Continued from page 1

in all states, according to R. L. Jewel, manager of the Chicago office of ISO. "We've had inquiries from various companies and have assigned the highest priority to coming up with a form for this type of coverage," Mr. Jewel said.

A different tack on the coverage was taken by Firemen's Fund, according to Garrett Redmond, vice president of special risks. "We don't market protection from the act of kidnapping or payoffs on the ransom demands," he said, "but we do offer coverage on rewards for the capture of the criminals."

RESPONSE to the reward coverage hasn't been especially gratifying to Firemen's Fund, Mr. Redmond indicated. He also indicated the company would be in more of a position to decide definitely on whether the coverage, should a standard form, such as the ISO form, be developed.

Buyers of kidnap cover have been difficult to identify individually, *Business Insurance* has found, but Zurich-American sources said one of their most recent customers was "a large electronics corporation with substantial foreign holdings."

Hartford-based Travelers is also providing a market for kidnapping and ransom demand insurance, according Edward Budd, vp-commercial lines, although they're not exactly shouting it from the rooftops.

"If a good customer has a special need, we'll sit down and talk about it," Mr. Budd explained. "This doesn't mean a company must be doing millions of dollars in premiums with us every year, but, we're not going to take on a policy just because some branch manager has his wife's jewelry insured with us."

"If a small company," he continued, "is doing a lot of its insurance business with us, we'll be willing to negotiate. It's like any other form of unique underwriting—it will be considered on a case-by-case basis." ■

Fund theft claimed

Bunker Hill Co. has been accused by the United Steelworkers of America and its Kellogg (Idaho) local of taking $200,000 from its medical insurance fund. In a civil suit filed in U.S. district court here, the union claimed the surplus accumulated in the medical insurance program should remain in an interest-bearing trust instead of being removed by the company. The administrator of the medical insurance plan was also named as a co-defendant.

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Port Authority's sprawl of risks rises from tunnels to Trade Center

By MARIE KRAKOWIECKI

NEW YORK—As manager of the insurance division of the Port Authority of New York and New Jersey, Joseph P. DeMarinis stays on top of the risk management of $3 billion in assets.

Well, almost on top. Actually, Mr. DeMarinis' office is only on the 67th floor of the 110-story twin tower World Trade Center, which he counts among his charges.

Other properties whose insurance exposures he fields for the Port Authority include the newly-completed $500 million Newark International Airport; the more well-known Kennedy International and LaGuardia Airports; and the George Washington Bridge.

In addition, the Port Authority runs five other interstate tunnels and bridges, two heliports, an airport in Teterboro, N.J., seven marine terminals, a bus terminal, two union motor truck terminals and a truck terminal for freight. The Port Authority Trans-Hudson Corp. (PATH), a subsidiary of the Port Authority, also has the responsiblity for the operation and rehabilitation of the former Hudson tubes, a rapid transit system linking lower and mid-Manhattan with Newark, Jersey City and Hoboken, all located in New Jersey.

All in all, the Port Authority facilities, whose insurance is purchased through Mr. DeMarinis' 12-member department, represent investments of some $3 billion. A staggering insurance exposure perhaps, but in the four years since Mr. DeMarinis has been insurance manager, there have been some major changes in the insurance-buying approaches of the bi-state agency, and some major premium savings as well.

Mr. DeMarinis explained how the fire clauses of the property coverage used to be based upon a

corporate profile

rating system in which limits were set according to the values of the separate facilities.

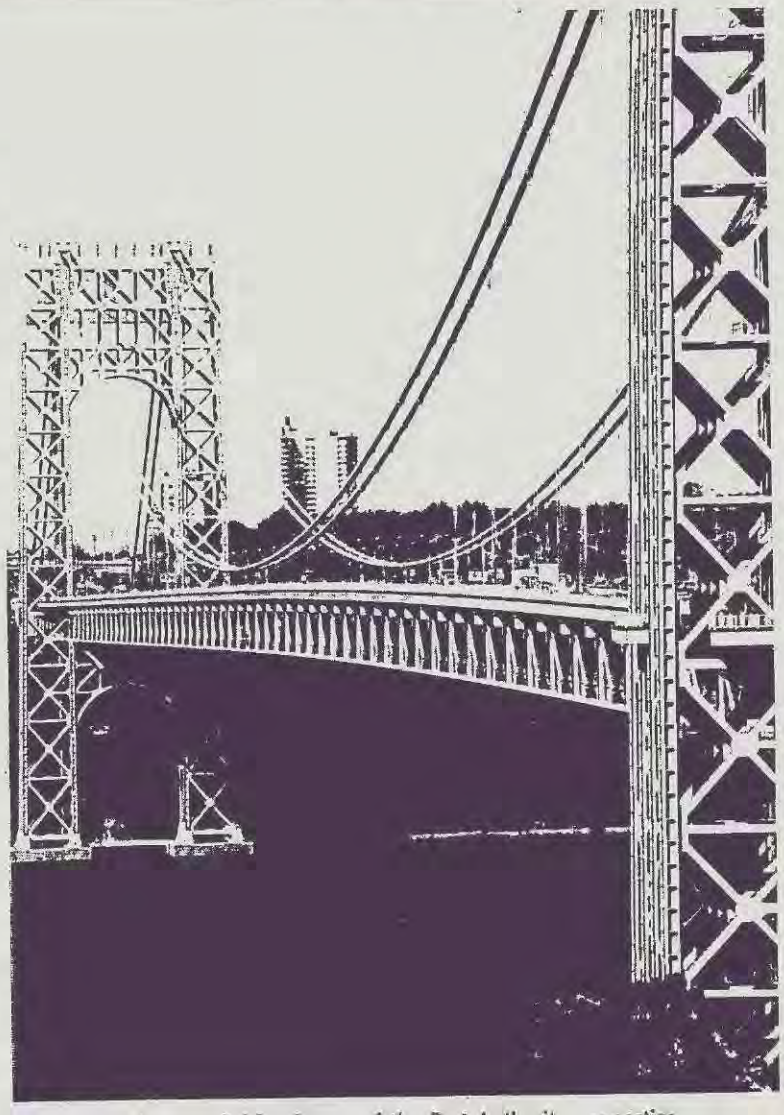
"WE ABANDONED this approach in favor of setting limits based on maximum probable loss," the insurance manager began. "You see, unless there's an 'act of God' or some horrendous natural disaster that sweeps the entire eastern seaboard, it's highly unlikely that all our facilities—a bridge here, an airport there, the World Trade Center or what have you—would all get hit by fire at the same time.

"So we had our engineers estimate just how much damage—maximum probable loss—would occur at each separate facility if a fire hit. We base our insurance limits on this damage amount rather than the dollar value of the entire facility. And over the last three years, this maximum probable loss approach has saved the Port Authority about $1.5 million," he delcared.

PROPERTY insurance policies for the Port Authority buildings, which include the fire coverage mentioned above as well as physical damage and business interruption losses, are revised about every three years. The Kemper Insurance Group is the current carrier, with a single catastrophe limit per occurrence on a maximum probable loss policy with a difference in conditions form.

Defending the maximum probable loss approach which has worked so successfully for the Port Authority, Mr. DeMarinis commented: "In this day and age, it may be against all insurance precepts to say so, but it's a fact that on larger risks it's antiquated to use old methods of rating. With inflationary trends and

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George Washington Bridge is one of the Port Authority properties.

Smokey helps but forest cover's too hot to handle

By ROBERT SNYDER

WASHINGTON, D.C.—Smokey the Bear and 30 years of ads have saved an estimated $17 billion in natural resources, but insurance on standing timber is apparently still too hot for most underwriters to handle.

"Very little insurance is written on standing timber," commented Richard Johnson, executive vp of the product division of Cole, Clark & Cunningham, a large industrial agency in the Pacific Northwest.

"Insuring standing timber like you would insure a house is almost impossible. I don't think anyone in Oregon handles it. Any domestic company which underwrites this insurance is probably a fronting company, taking 5% to 20% and re-insuring the rest with a company like Lloyd's," he said.

"Of course, you can insure a tract of land here or there," said J.L. Christenson, insurance manager for Weyerhaeuser Co., the nation's largest private owner of timberlands, "but there's no market of a magnitude useful to us. What we're talking about here is probably a $10 million deductible."

"FIRE IS A traumatic hazard," he added, "but we've lost 20 times as much through insects and windstorms."

Weyerhaeuser Co. owns 5.7 million acres, about 1% of U.S. commercial forestry acreage, at an estimated value of between $3 billion and $10 billion.

Few private lumber companies can afford the cost of fire-hazard timber insurance because high risks have spurred premiums to incredible heights. The most prevalent insurance in this area is purchased by companies which bid for government logging contracts.

The United States Forest Service requires private parties engaged in logging on government land to sign a contract obligating the company to fire supression and responsibility for fire property damage. The purchaser of logging privileges agrees to a performance bond by either maintaining a surety bond of a stipulated amount or by despositing cash or negotiable securities in a Federal depository.

PRIOR TO initiating operations, the purchaser must file a fire-control and prevention plan, including a detailed list of men and equipment at the purchaser's disposal.

For an "operations fire," a non-negligent consequence of logging operations, the purchaser of the government contract must reimburse the Forest Service. Despite great care, an operations fire can result from the friction of logs rolling against one another on the forest floor, or from metal striking rock.

"Operations fire payment is limited usually to around $1,500-$2,000, depending upon the amount stipulated in the contract," pointed out Richard Johnson.

Damages and the supression costs of negligently-caused fires, "including but not limited to one caused by smoking or by persons engaged in purchaser's operations during the course of their employement, or during rest or lunch periods," must be paid by the logging company. Depending upon the size and range of the conflagration, fire supression cost can be either minimal or stupendous. For instance, if a private logging operation had negligently caused the "Bear" fire in Los Padres National Forest, one of 1972's largest fires, suppression costs would have included the services of seven airtankers, five large helicopters, 47 organized firefighting crews, an infrared mapping unit, six communication systems and other specialized equipment.

For all fires of natural origin, the Forest Service requires the purchasing company release equipment and manpower for control and suppression of the fire. The Forest Service, by contract, will reimburse the company with previously agreed-upon rates or rates common in the area.

There is no obligation for the Forest Service to supply, or for the company to accept and pay for other timber in lieu of timber destroyed. However, the government holds the timber title until before scaling, and the liability still rests with the purchaser who must bear any losses.

A private company may feel the need to carry insurance for these liabilities delineated in the contract, but this is unstipulated.

"Premiums on liability policies aren't awfully high. It depends on whether the contractor is doing the logging himself or has sub-contracted," said the Cole, Clark & Cunningham executive. "Usually the logging payroll is used for the base, but if it is subcontracted the price is based on the contract price."

HE ADDED, "no really high limits are required but generally high limits are taken out, from $1 million to $20 million."

Mr. Johnson noted, "Most state contracts have warranties allowing the government to shut down operations. If weather conditions become conducive to forest fires, the government can ask that operations cease. If operations continue beyond that, then the liability carrier doesn't cover.

"There are so many of these fires and government officials like to say millions of dollars in damages. It turns out normally there is not that much damage. Almost all the timber is barked and the fire will burn out the underbrush and even make it easier to log. In many instances people pay as much for the timber as if it had been green."

A SURVEY by the National Forest Service, which protects 20 million acres, revealed forest fires burned 0.6 acres for each 1,000 protected in 1972. Of 14,154 fires in 1972, 96% were controlled at 10 acres or less. However, three fires alone accounted for 42% of all the acres burned.

Through the 30 years of Smokey's encouragement, forest fires have dropped from 200,000 a year to 105,000 in 1971.

However, the National Forest Service survey indicates an upsurge in the number of man-caused fires in 1972. About 5,740 man-caused fires demonstrated a 15% increase over previous years. Lightning ignited the largest total of fires, 59%, equipment use accounted for 2%, smoking, 6%, campfires, 11%, debris burning, 4%, incendiary, 8%, children, 3%, railroad, 3%, and miscellaneous, 4%. ■



"All it takes is a match or a badly tended camp fire," Smokey the Bear has been telling people for three decades in order to convince them of the need for preserving the nation's beauty. John Murray photo

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Spill costs Chevron, Standard $156,000

SAN FRANCISCO—Standard Oil Co. of California and its subsidiary Chevron Shipping Co. have agreed to pay the state $156,000 as a result of the Jan. 18, 1971, oil spill in San Francisco Bay.

Whether Standard's insurance carriers will pay the $156,000 or whether the settlement will come out of the company's self-insurance funds has not yet been established, according to Standard spokesmen.

Attorney General Evelle J. Younger began negotiations with the two companies after two of their tankers collided and vast amounts of oil escaped from the vessels into the waters of the bay.

The spill destroyed marine life, some 7,000 birds, and required a clean-up operation involving a variety of state agencies and thousands of volunteers. It also led to formation of insurance carrier protection against liability for such oil spills.

The two companies will reimburse the state agencies the $41,500 cost of cleaning up the spill and of evaluating its causes and effects.

The remaining $114,500, according to Mr. Younger, will go to California's Fish and Game Preservation to purchase lands for preservation of fish and wildlife and "enhancement of the environmental quality of the state." ■

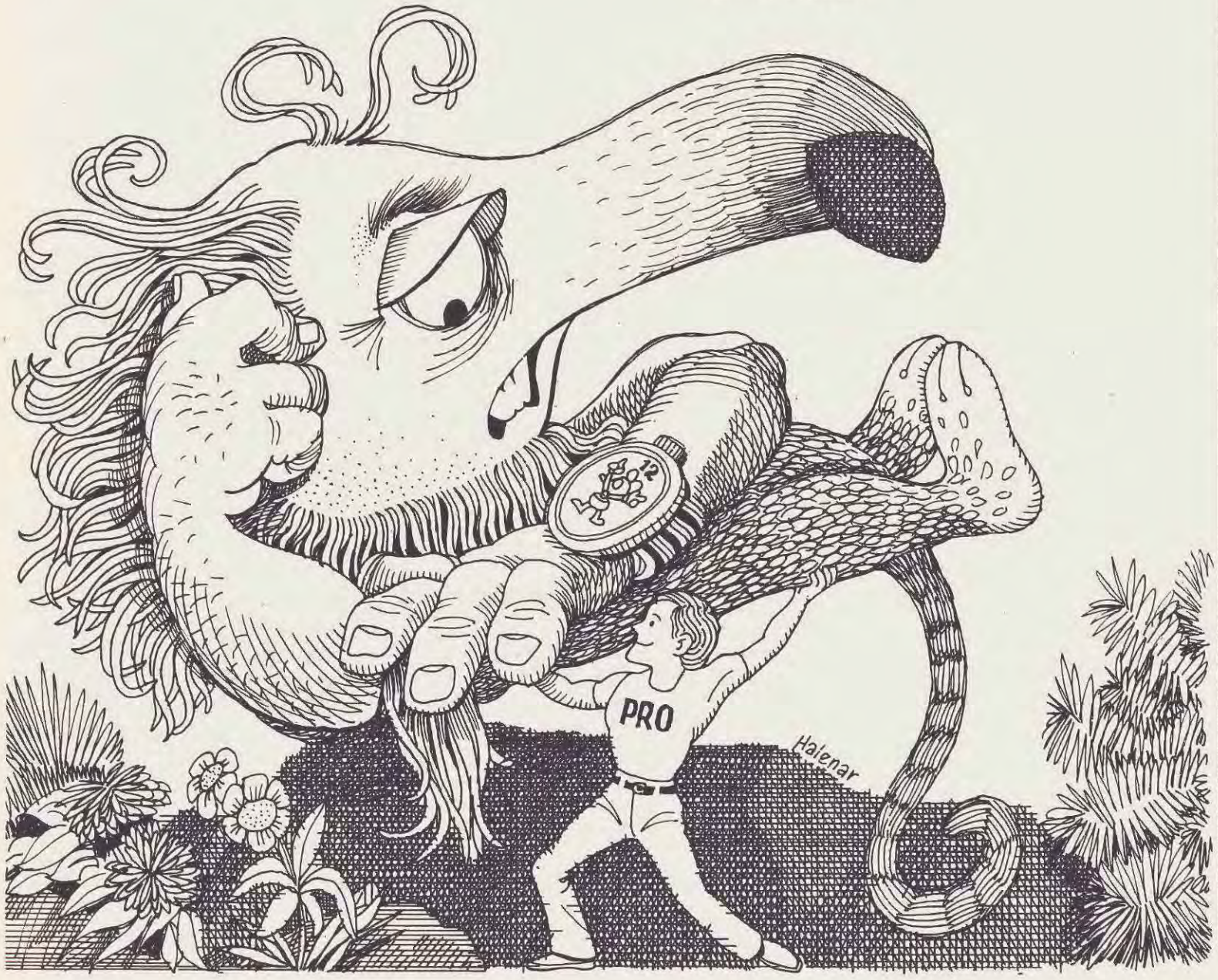
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Risk seminar set in fall at GE site

NEW YORK—The College of Insurance will conduct its second corporate risk management seminar in late October and early November this year.

The seminar, destined in the words of a college spokesman to become an "annual affair," was designed to give corporate risk men, brokers and underwriters a forum for intensive discussion of topics ranging from the Occupational Safety and Health Act to mass marketing.

General Electric Co.'s Management Development Institute facilities in Crotonville, N.Y., will be the site of the seminar, scheduled Oct. 28 through Nov. 2. The $720-per-person cost will include full tuition, materials, room, board, social hours and recreational facilities. The college spokesman said the seminar would be limited to "about 30" registrants due to the size of the Crotonville facilities.

LECTURE topics at this year's seminar will include: the theory of communication; identifying and evaluating risk; controlling risk; claim control and administration; trends in benefit plans; product liability developments; OSHA; and mass marketing.

This year's faculty is made up of speakers from the corporate risk management side of the business, as well as insurance industry executives.

Risk men on the faculty include James J. Andersen of Squibb Corp., William L. Hollingsworth, Olin Corp., John Nees of American Broadcasting Cos. Inc. and Richard Van Wagoner Jr. of Phelps Dodge Corp.

James E. Bailey legislative counsel for the American Society of Insurance Management, will lecture, as will Matthew Lenz Jr., chairman of the College of Insurance's property-liability insurance division, H. Felix Kloman, president of Risk Planning Group Inc. and Bernard J. Daenzer, president of Wohlreich & Anderson Ltd. ■

Job illness pay hiked

Administrative changes effective last month have boosted occupational disease compensation in Pennsylvania by as much as 6%. Under the revisions, payments of benefits were transferred from the primarily state-funded occupational disease fund to the employer-financed workmen's compensation system.

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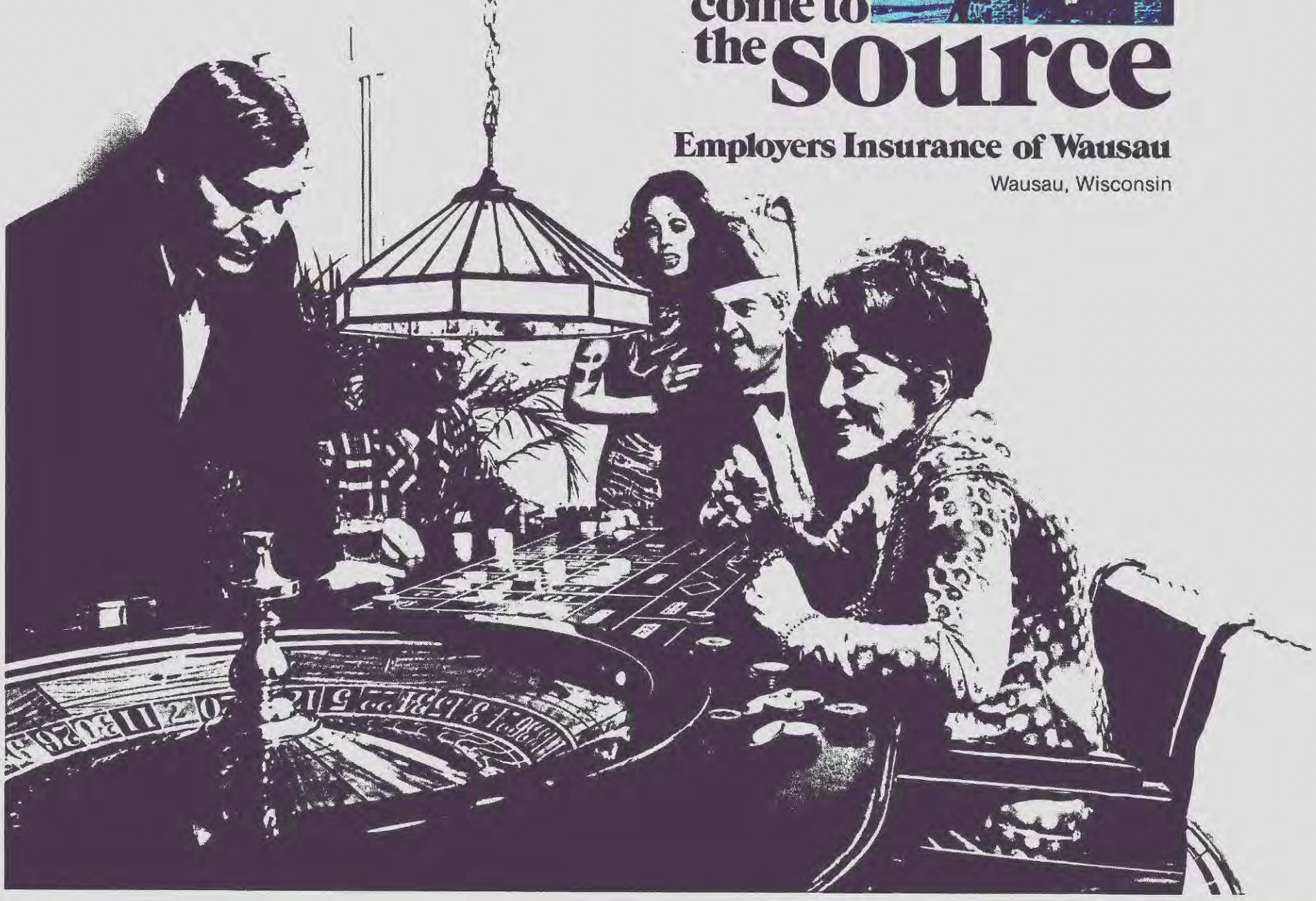
It's our way to help you reduce a risk that all businesses face. All things considered, the insurance company with the best "book" on that risk is your best bet, isn't it?



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Organ transplant donors covered with group plan

NEW YORK—If one of your New York employes gives someone the shirt off his back, you probably won't be able to insure the loss under a group health plan. But if he decides to give away one of his lungs or a kidney, you're in luck.

A group major medical plan provision which extends medical benefits to donors and recipients of human organs has received the approval of the state insurance department. Granted to Unionmutual Stock Life Insurance Co. here, the approved provision is included as a standard benefit under that company's "quarter million" group plans which give participants $250,000 in major medical benefits.

Employes who are not sick or disabled themselves but who wish to act as volunteer donors will be covered under the transplant provision, as well as donors who are not insured by the company, but who give an organ to an employe enrolled in the Unionmutual plan. Benefits are to be paid, according to the plan, for any such unpaid but covered medical expenses the living donor may incur to the limit of the benefits remaining available to the insured recipient.

"WE ARE now seeking to provide benefits which include all the extraordinarily high expenses commonly associated with the transplant operation—to donor and recipient," said Robert L. Roberts, senior vp of group operations.

"This provision should help us avoid a situation in which one of our insureds is prevented from receiving an organ because there is no insurance available to cover the medical expenses of the donor. Moreover, it seems unfair to us that an individual who has volunteered to donate one of his organs to an insured should be expected to pay his own medical expenses incurred in connection with the procedure," Mr. Roberts commented, adding:

"As far as we know, approval by the New York department, and, subsequently, other state insurance departments, represents the first time such a coverage has been included as a fixed provision in a major medical plan."

Another spokesman told *Business Insurance* the parent company, Union Mutual Life Insurance Co., Portland, Me., eventually plans to make the transplant coverage available in all the other states, with the approval of the state insurance departments, through its other subsidiary, Unionmutual/America.

THE CURRENT individual limits of $250,000 under the quarter million group plans would be "more than adequate" to absorb the expenses of the transplant provision, the spokesman asserted. He said the company had studied instances of organ transplants and found their costs to fall within the range of benefits now provided under the group plans.

While details of payment (contributory or noncontributory) and deductibles will vary from employer to employer depending on how they wish to have their plans tailored, the transplant provisions will automatically be written into all contracts for the quarter million group major medical plans, the spokesman explained.

PRESENT contract language limits the coverage to live donors. However, since many transplant operations utilize organs willed to medical centers, the spokesman indicated the policy might eventually include coverage for expenses from these sources as well.

The transplant provision offered by Unionmutual is also available as a supplement to the benefit programs of any insurer and to Blue Cross-Blue Shield coverages. ■

OSHA sets carcinogens hearing date

WASHINGTON—The Occupational Safety and Health Administration (OSHA) will conduct public hearings beginning Sept. 11 on new Labor department proposals for monitoring the use of carcinogens, medical examinations, record-keeping and for licensing of employers who use the cancer-causing substances.

Under the proposed standards, employers would be required to obtain a permit from the Labor department to use the substances after Dec. 31, 1975, and to increase health and safety regulations now in force through emergency temporary standards.

THE NEW standards would require employers to provide at least one medical examination annually for employes who come into contact with carcinogens and to submit the results of the examinations to employes. Employers would also be required to make exam results available to OSHA and the National Institute for Occupational Safety & Health.

All industrial accidents resulting in direct exposure to the 14 substances covered under the proposals would have to be reported to OSHA within 24 hours. In addition, the proposals require workers be notified of the exposure and of corrective actions being taken to prevent any future exposures.

THE PROPOSED standards contain provisions requiring detailed record-keeping of employe exposures and stipulates those records must be made available to employes. The standards also set forth new personal protective equipment and container labeling rules and call for the establishment of industrial hygiene operations and medical surveillance operations.

In making application for carcinogen use, employers are required, under the proposals, to disclose the type of substances used and the efforts that will be used to insure worker protection. Failure to supply any required information would constitute grounds for refusal of a permit, the proposals state. Permits can also be suspended or revoked if employers fail to comply with required job-safety provisions. ■

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• The National Assoc. of Insurance Commissioners has prepared an **Economic Stabilization Bulletin** to be used as a guide by state insurance departments in carrying out certification procedures under Phase IV of the economic stabilization program. The bulletin has been distributed to state insurance departments and persons interested in obtaining a copy can write the NAIC, Executive Secretary's Office, 633 W. Wisconsin Ave., Suite 1015, Milwaukee, Wi. 53203.

• Liberty Mutual Insurance Co. has made available **Medical and Rehabilitation Services.** The booklet describes the rehabilitative services available to injured workers who are covered under the company's workmen's compensation insurance. Copies can be obtained by writing the company, Public Relations Dept., 175 Berkeley St., Boston, Ma. 02117.

• **Money Moves—But Sometimes It's Better Staying Put** is a booklet available from All Risk Management Services Inc. The booklet describes ARMS's services available to risk managers. For a free copy write Joseph Tapfar, ARMS Inc., 160 Water St., New York, N.Y. 10038.

• A. S. Hansen Inc. has made available a reprint of a review of "You and Your Pension" by Ralph Nader and Kate Blackwell. The review, entitled **Know Thy Enemy. . . You'll Probably Disagree With Nader, But You'd Better Read Him,** can be obtained by writing the company, 200 Park Ave., New York, N.Y. 10017.

• **Nutshell—A Monthly Digest of Employe Benefit Publications,** is published by Deferred Compensation Administrators Inc. This monthly service contains digests of articles, from more than 75 publications, dealing with employe benefits. For a free sample copy write Nutshell, 1645 Cargill Bldg., Minneapolis, Mn. 55402.

• Illinois R. B. Jones Inc. has issued **Seedmen's Errors and Omissions,** an explanatory brochure as to the need for this coverage, citing examples of losses that would be covered as well as an explanation of the insuring agreements in layman's terms. To order, contact T. Cath, Illinois R. B. Jones Inc., 175 W. Jackson Blvd., Chicago, Il. 60604.

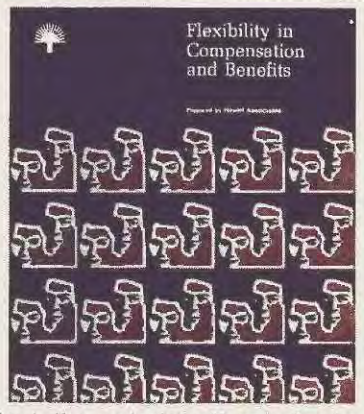
• A brochure that details the benefits and working principle of the Aquamatic sprinkler is available from the Grinnell Fire Protection Systems Co. Inc. The brochure summarizes how the sprinkler helps eliminate valve shutoff and can be integrated into most existing standard systems. For a copy write the company, 10 Dorrance St., Providence, R.I. 02903.

• An **OSHA Self-Inspection Guide** has been published by the Aviation Maintenance Foundation. The 36-page reference book can be used in all industries and contains easy-to-understand safety and health standards with each regulation documented as to its source. Also in the booklet are; "OSHA standards most frequently cited for alleged violations" and "What OSHA doesn't overlook when they inspect your business." The booklet is available for $1.50 per copy. For a copy write AMF, Box 580, Berthoud, Co. 80513.

• Commercial Union has put out a **Profile Kit.** It's a compendium of brochures describing the products and facilities of the company including a profile book that discusses company history, resources and philosophy. For a copy write A. R. Eovine, Commercial Union Co., 110 Milk St., Boston, Ma. 02107.

• **Self-Insurance, What's it all About?** a booklet prepared by Stoner-Eastwood Inc., contains questions and answers about self-insurance and a summary of the self-insurance concept. Copies can be obtained by writing David G. McDonough, Stoner-Eastwood, 98 Cutter Mill Road, Great Neck, N.Y. 10021.

• **Flexibility in Compensation and Benefits** is the text of an address delivered before the American Pension Conference by Thomas H. Paine, Partner, Hewitt Associates. In addition to the



text, the material offered also includes recorded excerpts from the question and answer period. A copy may be obtained by writing Al Schlachtmeyer, Hewitt Associates, 102 Wilmot Rd., Deerfield, Il. 60015.

• **General Information on Insurance and Bonds** is a booklet available through the Hartford Insurance Group. It provides a general description of all policies written by the insurance group and is free. To obtain a copy contact William A. Sanderson, The Hartford Insurance Group, Hartford Plaza, Hartford, Ct. 06115.

• National Health Care Corp. has issued material on the establishment and administration of its group health care self-funding service. For free samples of this material write the company, 55 Commercial Wharf, Boston, Ma. 02110.

• **Money,** a corporate brochure produced by the Oakland Financial Group Inc., describes the company's synergistic approach to executive financial planning and counseling as a corporate benefit. For your copy write the company at 17368 W. Twelve Mile Rd., Southfield, Mi. 48076.

• The Statesman Group has announced the availability of a special issue of their company publication which was devoted entirely to the subject of flood insurance. The publication provides all the information necessary for a community to become eligible for flood insurance. Complimentary copies of the manual may be obtained from Flood Insurance Task Force, The Statesman Group, Des Moines Building, Des Moines, Ia. 50309.

• Sargent & Greenleaf has released a catalogue, **Builders Security Hardware,** which includes security access control, the SM8480 electro-mechanical lock, manipulation proof and standard combination locks for hollow doors, the SM181 sliding lead bolt, chex-it II exit alarm and impregnable padlock. The catalogue is free. Write Barnett G. Benard, Advertising, Sargent & Greenleaf, Inc., 24 Seneca Ave., Rochester, N.Y. 14621.

• Towers, Perrin, Forster & Crosby has made available **Executive Bonus Awards and Stock Options in the Top 100 U.S. Industrial Companies.** The brochure contains information on the compensation procedures of publicly-held U.S. companies through analysis of proxy statements and other publicly available sources. For your free copy write Joseph A. Banik, Towers, Perrin, Forster & Crosby, Three Penn Center, Philadelphia, Pa. 19102.

• The Hartford Insurance Group has published a **Glossary of Insurance Terms.** It explains the specialized meanings many words and phrases have taken on in the insurance and bonding fields. For a copy of the glossary contact William A. Sanderson, The Hartford Insurance Group, Hartford Plaza, Hartford, Ct. 06115.

• **Buying? Selling? Relocating?** is a booklet published by Showcase of Homes Inc. which outlines services it provides for transferred employes. For a free copy, write Frank Bailey, Showcase of Homes Inc., 1748 Ridge Rd., Homewood, Il., 60430.

• Du Pont Co. has released **Library of Programmed Instruction Courses,** a listing of vocational training and safety training self-instruction courses offered by the company. There is a total of 156 courses. To obtain a free copy write A. C. Santora, Education & Applied Tech. Div., Du Pont Co., Wilmington, De. 19898.

• A booklet published by the Royal-Globe Insurance Cos. entitled **What Does OSHA Mean to The Business Owner Or Employer** describes the standards, enforcement procedures, citations and penalties under OSHA. For a free copy, write Joseph Venturelli, Royal-Globe Insurance Co., 150 William Street, New York, N.Y. 10038.

• Samples of **CIRCA** (Commercial and Industrial Replacement Cost Analysis) are available to *Business Insurance* readers from Automated Appraisal Systems. Copies of the "insurance to value" program may be obtained without charge by writing John Fulton, Automated Appraisal Systems, P. O. Box 3015, Peoria, Il. 61614.

• Want to check your noise level? B & K Instruments has printed a brochure describing its **Model 2209 Impulse Precision Sound Level Meter.** A free copy can be had by writing Bill Rhodes, B&K Instruments, 5111 W. 164th, Cleveland, Oh. 44142.

• A folder entitled **Measuring and Monitoring Noise to Comply With the Walsh-Healey Act** has been released by General Scientific Equipment Co. The folder includes decibel charts and other information regarding industrial noise standards in workmen's compensation statues in 36 states. For a free copy write General Scientific Equipment Co., Limekiln Pike and Williams Ave., Philadelphia, Pa. 19150.

• **Environmental Control Through Glass** is a booklet available from Globe-Amerada Glass Co. It describes a variety of insulated glass panes and their protective uses in blocking out noise, insulating room temperature, controlling glare and withstanding bullets. It is available free by writing Mark L. Green, Globe-Amerada Glass Co., 2001 Greenleaf Ave., Elk Grove Village, Il. 60007.

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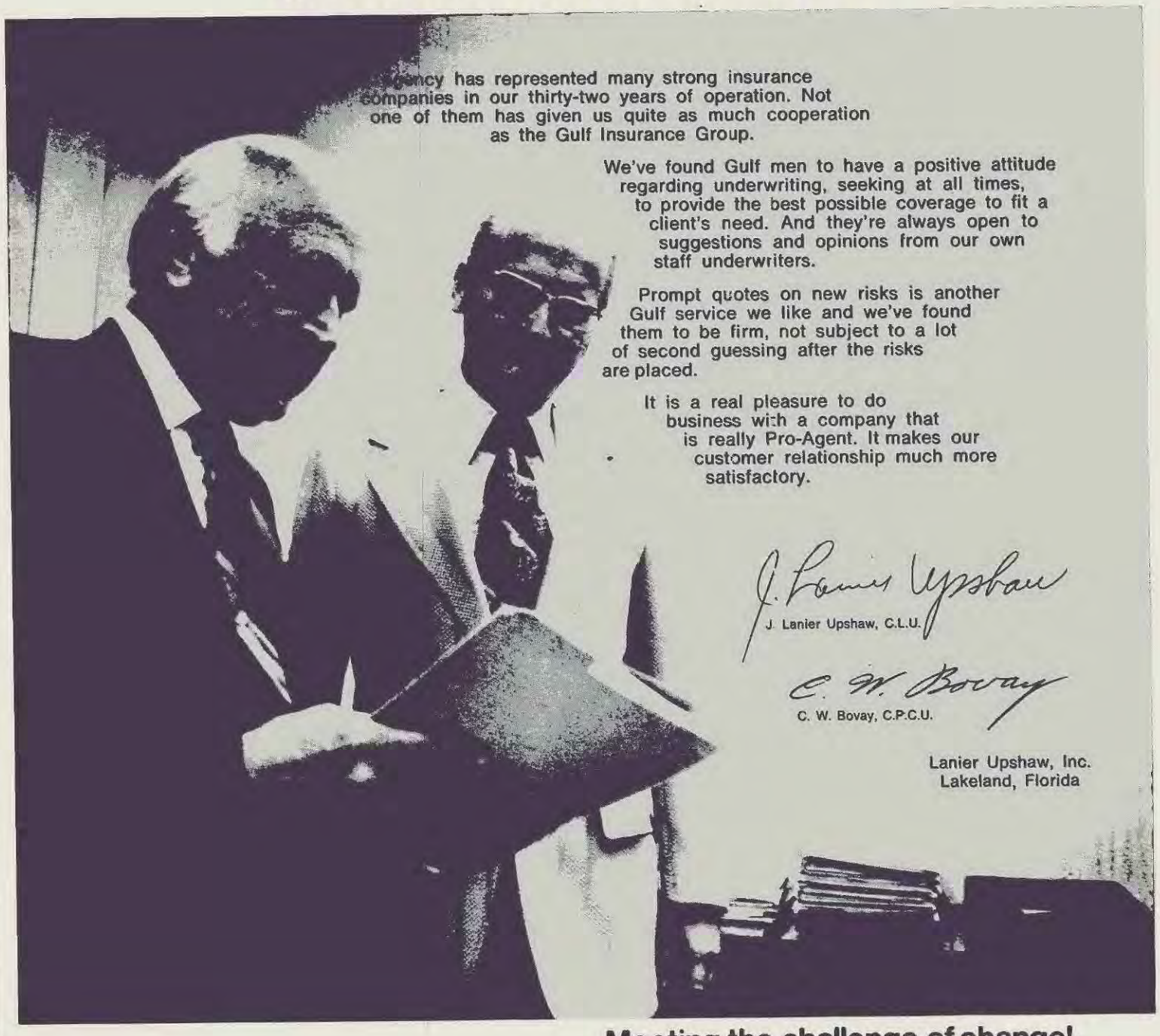
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Houston Port Authority hikes cover on $20 million in agency property

HOUSTON.—Insurance for the Port of Houston Authority occupied commissioners as they approved bids for additional coverage at a meeting this month.

The request for bids for all-risk inland marine insurance drew five bidders.

Eight bidders vied for fire and extended coverage, vandalism and malicious insurance covering the port's World Trade Building property, contents and rentals.

Alexander & Alexander of Texas, Inc. was the winning agent in both matters.

The winning bid for the all-risk inland marine insurance on the port authority's bulk materials handling plant, gantry cranes (Nos. 1 and 2) and container crane 2 was $26,101 and will be carried through American Home Assurance Co. The port authority staff estimated the cost of the coverage at $45,000 and the top of the five bids was $35,285. This is a $6 million all-risk package, a port authority spokesman said.

WINNING BID for the fire and extended coverage, vandalism and malicious damage cover on the World Trade Building was $6,256 for three years through A. I. Lloyds Co. The high bid was $10,-358 and the estimate was $9,400.

Commissioners granted a request for authorization to accept bids for fire and extended coverage insurance on Port Authority office buildings, wharf and warehouse properties not otherwise insured for $5 million per occurrence excess over large deductible, for an estimated three-year premium of $100,000.

EXECUTIVE Director George W. Altvater told commissioners the present fire, lightning and explosion insurance expires Sept. 30 and fire and extended coverage insurance on the executive office building, two terminal office buildings and the Port Terminal Railroad Authority office also expires then. In addition, fire, lightning and explosion insurance on Southside Wharves 41-48 buildings expires April 1, 1974, which "may conveniently be canceled as of the same date in order to join this facility in renewal insurance to be sought."

Mr. Altvater said insurance of this kind previously was placed by allocation to agents without bids, since it was subject to standard rates set by the Texas Board of Insurance.

But a new approach to the needed coverage is proposed whereby through self-insurance of the first $100,000 of any loss, under state rules, the rate is not controlled.

This makes feasible a bid procedure which is expected to result in a substantially lower premium.

As part of the bid specifications, quotations on alternate deductible levels at $25,000 and $50,000 may be called for.

THE ITEM received commission approval. Stated overall replacement cost of the insurable properties is estimated at $20 million. In view of the various properties' physical separation, a common disaster causing a total loss appears remote.

Thus, instead of a blanket coverage totaling the amount of individual values, a per occurrence limit of $5 million excess over deductible would afford the needed protection, commissioners were told.

"It would also be timely to obtain insurance against windstorm and other extended coverage perils, previously not carried on wharf and warehouse properties," stated the document. ■

Toyota loses $125,000 product suit

HELENA—The Montana supreme court has ruled that anyone who sells a defective product can be held liable to pay damages for physical harm caused by the use of the product.

In a 4-1 decision last month, the majority opinion, written by Justice John C. Harrison, said the ruling represents a major change in Montana's personal-injury laws.

The ruling was in an opinion affirming a Bozeman jury's award of $125,000 to the estate of a man killed in an August, 1970 highway accident.

Defendants in the lawsuit included Toyota Motor Sales, U.S.A. Inc., and Toyota Motor Co. Ltd., it was reported.

Clarence R. Brandenburger was a passenger in a Toyota Land Cruiser that left a highway near Bozeman and overturned. He was thrown from the vehicle and crushed beneath it when the top of the car fell off, the court record stated.

It was charged that the manufacturer of the vehicle was negligent in producing a defective roof for the car.

THE APPEAL was brought to the high court by Toyota.

The majority adopted a rule stating anyone who sells a defective product which is unreasonably dangerous to the user or to his property is subject to liability for physical harm caused to the ultimate user or to his property.

However, for the rule to apply, the following conditions must be met:

- The person making the sale is engaged in the business of selling such a product;
- The product is expected to and actually does reach the consumer without substantial change in the condition in which it is sold.

The majority said the rule holds even if the seller has exercised all possible care in the preparation and sale of his product and even if the user has not directly purchased the product or entered into a contractual agreement with the manufacturer. ■

Clarification

NEW YORK—In the July 30 Agent/Broker Profiles issue of *Business Insurance* a firm named L. J. Goldstein & Co. Inc., 1212 Avenue of the Americas, New York, N.Y., listed several other companies as subsidiaries.

These firms—Katsh Brokerage Inc., Eastern Coverage Corp., Harry Hankin Co., Morris Kulok Co. Inc. and Overseas Brokerage Corp.—are not subsidiaries of Goldstein, nor have any financial connection with that firm, Goldstein's president, L. J. Goldstein, has explained. In the past, however, they have shared office space and certain services. ■

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ABA speakers lift veils from all faces of liability

WASHINGTON—The problems of liability, from product to professional, was a rather hot topic at the American Bar Assn. annual meeting here early this month.

In the product liability area, a law school dean told the association's insurance, negligence and compensation law section that product cases, notably those surrounding automobile defects, were becoming more difficult to try because defining the word "defect" and establishing the kinds of product misuse which could bar recovery from the manufacturer had become stumbling blocks. (See Perspective page 35.)

"There is too much uncertainty for a healthy judicial system," noted Page Keeton, dean of the University of Texas Law School. "Hardly any claims based on inherent risks in the way products are designed can be settled at present with any confidence as to what the outcome of litigation would have been, and the trial judges are faced in most jurisdictions with an impossible task of describing to the jury in any sort of intelligible manner the scope of the seller's responsibility."

Acknowledging that defining the concept of defect had contributed to unnecessary litigation, Mr. Keeton described what he called an "appropriate" test for the manufacturer's responsibility—"A product is defective if it is unreasonably dangerous as marketed."

THIS, HE contended, could be ascertained "if a reasonable person would conclude the magnitude of the scientifically perceivable danger as it is proved to be at the time of trial outweighed the benefits of the way the product was so designed and marketed."

A far-reaching step in this area, Mr. Keeton added, would be to do away with the requirement of defect and hold the manufacturer liable only if "proper care was exercised in the use of the product and no one else can be found who could be regarded as culpably responsible for the damaging event."

The user's misconduct which bars recovery against a manufacturer, in Mr. Keeton's opinion, "must be either misconduct of an unforeseeable nature, such as abnormal use, or voluntary and unreasonable use with appreciation of the danger inherent in a particular defect."

A Miami attorney told the gathering the insurance agent, as he becomes more professional, is opening the gates for potential legal liability problems.

NOTING THAT the agent had faced liability problems regarding the insured for quite some time, Francis A.C. Sevier said these problems had been expanded in the last little while by both the courts and the insurance business as the agent's duties had increased.

He cited a case in which a court ruled an agent had the duty to examine a complicated lease agreement for potential exposure to the lessor and said, "This case would certainly indicate the courts are pushing agents and brokers toward the level of a learned professional. Concomitantly, if the agents and brokers are elevated to that level, then the legal responsibilities will be higher than previously."

Mr. Sevier listed a number of situations in which courts have found agents and brokers liable to the insured, including failure to give proper notice of refusal or inability to obtain coverage, falsely informing the client he is insured when he is not, improperly canceling insurance, failure to notify the insurer of the insured's address change, placing a risk in an insolvent company or negligently obtaining a policy containing a condition which voids it.

"From this collection of cases it becomes readily apparent that the insurance agent, at least regarding his relationship with the insured, is held to a standard of care far superior to that of the reasonable man of ordinary prudence," Mr. Sevier stated.

"THE AREAS of liability speak very eloquently to the point that the insurance agent is treated by the law as a highly skilled professional who is 'expert' in law, business, administration, accounting, finance and insurance," he said.

And yet, he pointed out, while courts have held the agent to a more professional standard, "the decisions involving the standard of care of agents and brokers have not squarely faced the question whether or not expert testimony is needed or required to show some breach of duty."

Looking at liability from another viewpoint, a law professor proposed statutory strict liability for insurers' failure to settle as a partial cure for conflicts of interest in excess liability cases.

Drawing a product liability analogy, Victor E. Schwartz of the University of Cincinnati Law School said liability had been imposed "because reputable manufacturers should stand behind their products while replacing or repairing those which prove to be defective. Shouldn't a liability insurance company stand behind its judgment of refusing to settle when it proves to be wrong?

"MOREOVER," he continued, "strict liability has been imposed on manufacturers of products because the law believes that the seller represents to the public that the product is fit and that he intends and expects that it will be purchased and consumed in reliance on that representation. This aspect of consumer reliance" Mr. Schwartz said, "is perhaps the strongest argument for providing strict liability against insurance companies where their judgment on failure to settle results in a tort suit against their insured."

He felt this approach would do away with a highly difficult conflict of interest problem in the legal profession. "No longer will the counsel provided by the insurance company for the insured be torn in his obligation between his 'clients.' If the insurance company declines an offer of settlement, he can explain this to the insured and also inform him that he will be protected in case of any excess liability in the resulting law suit," Mr. Schwartz said.

Noting that the approach was not a cure-all, he urged the use of an administrative procedure to "determine whether or not the insured could now or in the immediate future pay the excess. The insurance company would then be liable for the highest possible amount its insured could

Continued on page 15



Prepaid group legal enchants lawyers' meeting

WASHINGTON—Both the concept and the imminent practice of group prepaid legal services programs were discussed at the American Bar Assn. annual meeting here early this month by speakers with more than a casual interest in the growth of the plans.

Speaking to the bar group's section of insurance, negligence and compensation law, INA Corp. vp Dr. Lee R. Morris termed the insurance approach to group prepaid legal service as "an innovative combining of institutional processes to meet a pressing social need."

He pointed out research on the design of any group legal plan indicates plans must accomplish three things—make the user aware of his legal needs, make attorneys readily accessible and predetermine and make reasonable the cost of the legal service.

He also said basic mechanisms to meet group legal service requirements had been developed in response to public outcry and a great deal of research.

"THE FIRST is known as the closed panel," Dr. Morris explained, "a panel of lawyers employed to service the legal needs of a group. Each group member is assessed a fee and he has access to the panel of lawyers for specified legal services.

"The second basic mechanism," he continued, "is the open panel, in which an individual has access to any lawyer of his choice. What is required for such an open panel is a system or method to bring lawyer and client together, collect fees from the user and pay claims. One system best meeting these requirments is group insurance. This insurance mechanism makes arrangements for periodic payments of group members; processes the necessary paperwork and pays claims."

He described the third mechanism as a combination of the open and closed panels in which a closed panel takes care of the smaller legal problems and an open panel handles the more complex ones.

"Along with the development of any such programs of legal services," he commented, "comes the fact that with the collection of large sums of money from groups of people on the promise to provide services at some later date there is a natural movement on the part of the government to make certain that the funds are adequately accounted for, that the services are provided as planned and that the entire program is solvent.

"IN A WORD, regulation."

Twenty states, he noted, had taken the regulatory position that the providing of legal services is considered casualty insurance. Other states "may" require specific legislation to make it insurance while still other states had remained quiet.

"The general trend seems to be toward insurance regulation for the whole package of services," he said.

Another speaker before the insurance law section said that while it is still too early to get a definite reading on the future of California's open panel prepaid legal services experiment, the program has been of value.

In giving the program's background, Los Angeles attorney Sharp Whitmore explained the bill was signed into law in mid-1972 after a special committee had determined legal services were needed in California, the delivery mechanism was proper, and recommended a non-profit corporation be established in the state to run the program.

When a poll of attorneys voted in favor of the plan, and it was made law, the state bar appointed a board of directors and a full-time executive director. The federal government and other sources gave the program grants and the experiment began.

Mr. Whitmore said the California Lawyers' Service included these elements—the user may select the attorney of his choice, participating lawyers must agree

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Continued from page 14

pay. This procedure should reduce the possibility that the insured will ever suffer 'emotional harm' and try to place this damage in the insurance company."

In yet another liability area, New York attorney Jacob D. Fuchsberg told the lawyers that medical malpractice cases in New York City had been disposed of in a "more expeditious" manner due to an experimental mediation program.

MEDIATION panels, which began hearing cases in the fall of 1971, have resolved 30% of those cases, Mr. Fuchsberg said, adding that an equally large percentage of the panels' cases ultimately ended in settlements.

"With increased expertise, the presentation to the panels of fresher, as distinguished from accumulated, cases, and greater efficiency based on experience as the program proceeds, it is reasonable to anticipate that the rate of dispositions by the panels will rise," he commented.

The panels consist of a judge, a physician expert in the field of medicine involved in the case and an attorney, all of whom serve without pay.

He noted cases involving municipal hospitals or physicians employed by the city had been more difficult to mediate because of the lack of clearly defined lines of authority and bureaucratic difficulties but municipal authorities had been asked to take a more elastic approach.

DURING THE program's initial period, Mr. Fuchsberg said, 16 major specialties and numerous subspecialties had been involved, which proved to be representative. Surgery, orthopedics, internal medicine and obstetrics/gynecology comprised the largest number of cases.

He admitted that it was not possible to say whether all the cases which have gone through a mediation session and been remanded for trial are either disposed of more expeditiously at pretrial conferences or are tried in a more efficient manner.

"In any event, one thing is clear," he said. "This program has proved that much can be done, within the basic legal system, and without inflation of its safeguards, to make the disposition of medical malpractice cases more expeditious. The principles involved can no doubt be applied to other cases involving highly specialized conduct of sister professions." ■

Workmen's comp upgrading urged at bar association annual meeting

WASHINGTON—Attorney Harry Dahl urged the American Bar Assn. to beome more involved in efforts to upgrade the state workmen's compensation systems at the bar group's annual meeting here.

Mr. Dahl, executive director of the International Assn. of Industrial Accident Boards & Commissions, pointedly asked the association to give its support to the recommendations made by the National Commission on State Workmen's Compensation Laws. He felt the lawyers should also support the right of the states to continue to administer their own laws in this area.

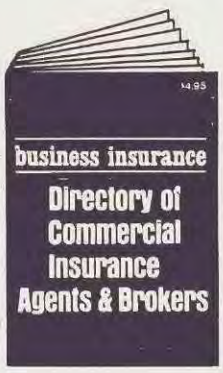
Noting "it would be futile to tell the federal government to keep hands off workmen's compensation without at the same time proposing improvements where they are needed," he pointed out five state governors had appointed workmen's comp study groups as recommended by the National Commission.

THERE WERE problems in some other states, he said, because labor and management were involved in "the traditional haggling, bargaining on workmen's compensation, unemployment compensation, right to work laws and other programs, regardless of the needs of members of the public not represented by their organizations and heedless of the clear warning of the National Commission report."

Three members of that commission—Prof. John Burton of the University of Chicago, James R. O'Brien, assistant director of the AFL-CIO department of social security and William Moshofsky, vp, Georgia-Pacific Corp.—Mr. Dahl said had formed a committee to find ways to motivate special interest groups which might be holding back improvements. The committee will also plan for the coordination of information on the various states' progress.

He cited Clarence Johnson's National Program to Improve State Workmen's Compensation Laws as "honestly working for fair improvements."

"Many groups of labor, management and insurance have called for improvements in state laws and it behooves the American Bar Assn. to encourage state legislative activity for the benefit of those for whom workmen's compensation was created—injured workmen, widows and children," he stated. ■



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Prepaid group legal ...

Continued from page 15

to abide by certain rules (especially regarding binding arbitration and acceptance of eligible clients to name two), any lawyer in the state is eligible to participate in the plan and the program would be sold only to groups in the beginning.

This year, Mr. Whitmore noted, the Service has taken a number of actions. A basic benefit plan "with a variety of add-on options" was adopted, an actuarial consultant was hired to estimate costs and design a detailed plan, coverage and exclusions were determined and the rules for participating lawyers were set up. Additionally, the idea of a fixed fee schedule was negated in favor of a relative value fee schedule, though this matter is still open until the anti-trust division of the Justice department determines whether relative value involves price fixing.

MANY OTHER steps, such as marketing and research arrangements, are now under way, he said. Attorneys are being actively solicited to join the Service and many prospective client groups, notably labor unions, have expressed interest in the plan.

Among the plan's problems, aside from the fee schedule hassle, are the facts that the government must decide if the corporation board should be broadened to include public and client groups along with its present all-lawyer make-up and whether the service itself falls "within the state action exemption to the anti-trust laws."

The program, while still in need of money, is currently being funded by a grant from the Office of Economic Opportunity, an American Bar endowment grant and membership fees from participating lawyers.

Mr. Whitmore looked forward to President Nixon's signing a bill adding prepaid legal services to Section 302 of the Taft-Hartley Act (which would enable an employer to establish a jointly administered trust fund). He felt this would bring more client groups to the Service.

"Getting started is perhaps the toughest problem," he stated, adding that the Service was eagerly anticipating getting its first customer group. ■

Senate OKs pension hike for veterans

WASHINGTON—The Senate has unaminously approved a bill which would increase pensions to some 2 million veterans by 10% and raise the maximum income limitations for pension recipients by $400.

Under present law, certain veterans and their widows without dependents are eligible for the pensions if their annual incomes do not exceed $2,600. Veterans and widows with dependents must now earn less than $3,800 to qualify.

The bill also asks for an increase to $50 from $30 in benefits paid to hospitalized veterans without dependents.

Authored by Sen. Vance Hartke (D-In.), chairman of the committee on veterans' affairs, the bill was introduced to offset what he termed "substantial" increases in the cost-of-living and decreases in monthly pension payments following the 20% hike in Social Security benefits.

A SIMILAR bill has already passed the House, and the Senator expects little difficulty in ironing out differences in conference. He did note, however, the bill faces tough opposition from the Nixon administration.

"The administration budget makes no provision for a pension increase and even calls for a reduction of $223 million in pension outlays," he said.

The pensions are paid to veterans who served during wartime, are totally or permanently disabled from non-service-connected causes and have limited income.

Widows and children of wartime veterans are also eligible if their incomes fall short of the limitations. Dependency and Indemnity Compensation is paid to widows, children and parents of servicemen killed due to service-connected causes. ■

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editorial opinions

Magnuson-Hart: A welcome possibility

AFTER YEARS of legislative wrangling, it now looks like a national auto insurance reform measure might actually emerge from the Senate later this year. We'd feel better about it, of course, if we hadn't heard that line before.

Nonetheless, the Magnuson-Hart national no-fault bill (S. 354), which sets minimum standards and deadlines for auto reform at the state level, was reported out of the Senate commerce committee on a 15-3 vote earlier this month. It now must get by the judiciary committee before moving to the Senate floor for a vote.

To professional insurance consumers, long aware of the ills of a system which has returned in benefits to claimants only 42 cents of every premium dollar spent, this bit of news should be welcome.

While the Magnuson-Hart bill does give the states considerable leeway in how they treat commercial vehicles under their separate laws, it does require the states to allow coordination of health and auto coverages. In effect, employers providing group health coverages could pass along to employes any cost reductions resulting from no-fault insurance either in the form of direct payments or substitute benefits.

The Magnuson-Hart bill is a good one, we feel. True, it does not go as far as we would like to have seen it go. It doesn't, for example include property damage under the no-fault concept. It does, however, allow for coordination of benefits and does not discriminate against the commercial motor vehicle fleet. It would also go a long way toward providing a uniform, nationwide system which would make for fewer headaches on the part of those who must insure vehicles garaged in several states. In a word or two, corporate risk managers insuring fleets could do much worse than the Magnuson-Hart measure.

Beyond this, though—and we consider this to be of even greater importance than the convenience of corporate fleet insureds—the Magnuson-Hart bill gets to the nuts and bolts matter of correcting inequities in most present auto insurance systems. Consider three of the ways the system would be corrected:

• Statistics show under the present system 45% of persons seriously injured receive no payment from automobile liability insurers. Under S. 354, all of those insured would receive 100% of medical expenses and 100% of wage loss subject to a limit up to $50,000 or $1,000.

• Under the present system in most states of those who suffer $10,000 or more in economic loss, 60% get nothing. Of those who recovered losses, only 4.4% received an amount equal or more than the loss and 85% got less than one-half of the loss. Under S. 354, all those injured would receive 100% of medical expenses and 100% of wage losses subject to the limits noted above.

• Under the present system, those with under $100 of economic loss, with counsel, have received over seven times their loss. S. 354 would make things less lucrative for the lightly injured, but would still pay 100% of their medical expenses as well as 100% of wages losses.

The Senate, we hope, will take a long searching look at those figures when it considers S. 354.

Harvesting profits

FEED GRAINS and health insurance are about as diverse as you can get in this nation's economy but there seem to be aspects in both which are affecting consumers.

It has been estimated by critics of President Nixon's economic control policies the American consumer is paying more than $300 million in higher food prices this year due to the U.S. Department of Agriculture's masterful orchestrating of farm policy in which both wheat and soybeans were sold to Russia and Europe at bargain prices when this nation didn't have enough for its own needs.

In like manner, the six leading group health plan insurers have posted profits of about $140 million, up some 350% from the previous year according to figures released by the Committee for National Health Insurance.

If the rest of the industry can be said to have taken in as much as the largest six in the business, then the whole profit picture comes to $280 million, or approximately the same as the extra food costs—give or take a few million.

And just as climate, literally speaking, made harvesting feed grains impossible across much of the nation last fall, so too, the economic climate made people postpone medical care and hospital treatment they didn't absolute need.

And as we enter Phase IV, a whole new circle of price increases is expected and group health care premiums will be included. The economic picture hasn't changed so there is little to indicate group health care profits will depreciate significantly, despite their allegations that "everything else is going up."

And, if, the overall economy in the U.S. decides to level off, it is a sure bet the costs of benefits such as group health care aren't going to go down.

Walter J. McNerney, president of the Blue Cross National Assn., said "it seems safe to predict there will be rises in both premiums and hospital costs," then added "the picture for costs of commercially insured health plans will most likely follow the same pattern, too."

Benefits men negotiating new group health contracts would be well advised to remind their carriers of the profits of the past year.

letters

This column is a reader's forum. Letters are welcome. Address Letters to the Editor, Business Insurance, *708 Third Ave., New York, N.Y. 10017.*

Broker issue plaudits

To the Editor: After reading the July 30 Agent/Broker Profile issue of *Business Insurance,* two distinct thoughts came to my mind. Firstly, let me congratulate *Business Insurance* for an excellent issue. The depth of coverage was most enlightening and the topics you picked to write about, I am sure, proved informative for all those who read them.

Secondly, the editorial, "Degrees of candor," must be noted for its insight and wisdom. It is most refreshing to read this type of editorial and, whether the reader agrees or disagrees with your comments, your initiative and courage in criticizing some of the "untouchables" in the insurance business deserve all the plaudits available.

Howard Miller
Vp and national sales director, Brokerage Resources Inc., New York, N.Y.

More on kidnap

To the Editor: We have recently been asked to consider kidnap insurance as a new product and have read your editorial in the July 30th issue with interest.

While we have not reached a conclusion of this cover itself or any individual risk, we feel as strongly as you do about the cover—but at the opposite end of the spectrum.

Our examination of the proposed coverage indicates that it meets all of the elements of risk and one which can be properly transferred to a carrier. If we should decide to entertain the cover within our portfolio of products, we hardly feel that we should be classed by any major trade publication as irresponsible.

We have reached one conclusion at this point about kidnap coverage, however, that has to do with the broker and buyer's attitude rather than the basic concept itself. Too many borkers and buyers are interested in covering only those people in sensitive areas without giving the insurance carrier the benefit of a required spread. We think it would be foolish and irresponsible to cover only U.S. executives in countries like Argentina, which approaches the underwriting of a loss in the making without having the benefit of the lesser risks on a worldwide, or at least U.S., basis.

Basically, we subscribe to Mr. Thayer's comments published in the "Letters" column of the same issue.

We feel that you should reconsider your editorial position and confine judgments of responsibility to the application of underwriting practices of philosophies to an otherwise legitimate cover.

William L. Doran
Vp and underwriting manager, Cotton Belt Insurance Co. Inc., Memphis, Tn.

And more . . .

To the Editor: The editorial entitled "Kidnap cover question" in the July 30 issue of *Business*

Continued on page 30

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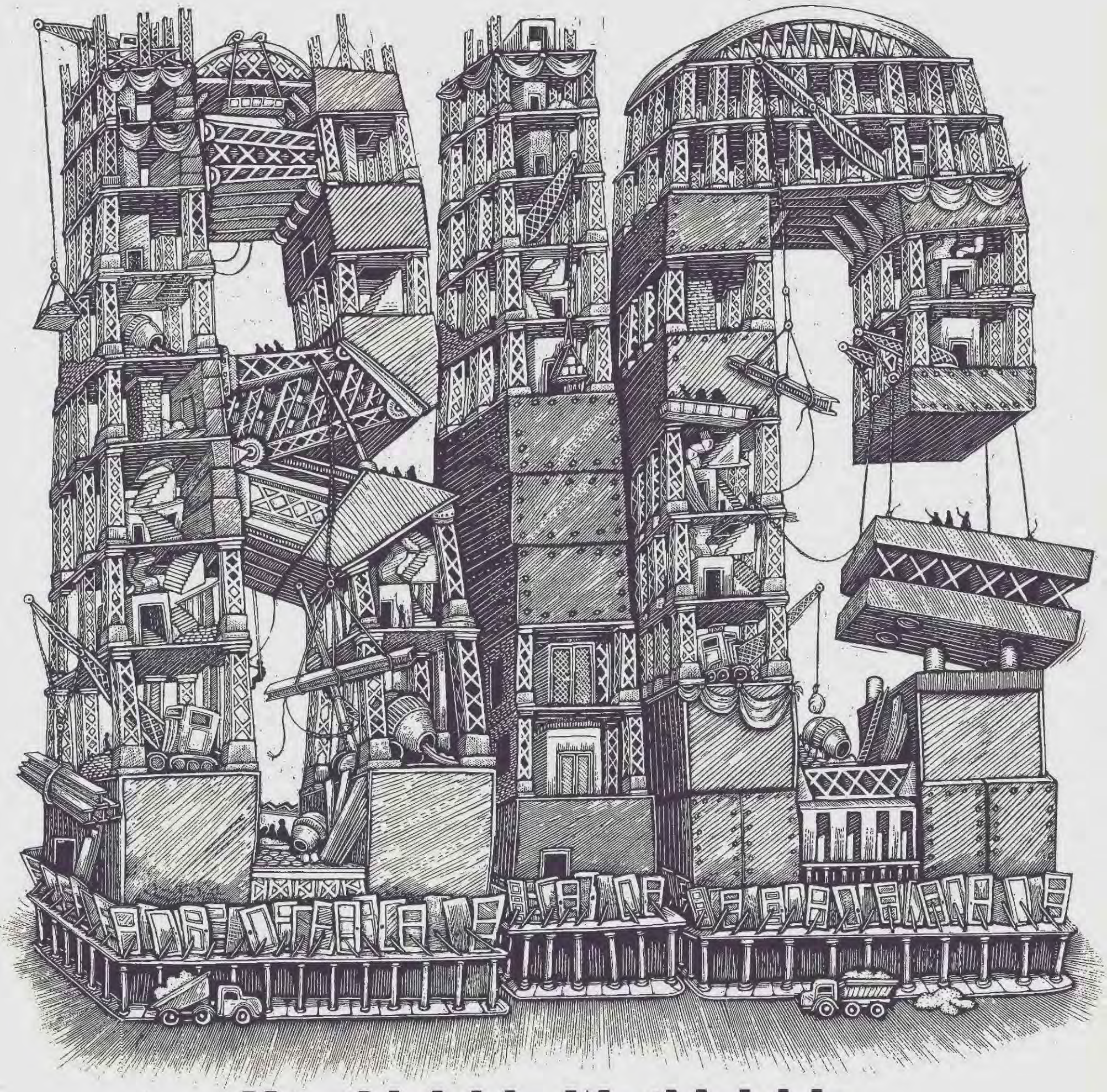
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labor beat

Clothing worker union filing suit against Farah savings programs

WASHINGTON—The Amalgamated Clothing Workers of America (AFL-CIO) and 12 workers on strike against the Farah Manufacturing Co. of San Antonio, Texas, have filed a class action suit charging the giant clothing maker with mishandling both an employe "savings plan" and "medical payments plan."

Filed Aug. 13 in U.S. district court, the complaint charges Farah, its president, and the El Paso National Bank with violations of the securities laws of both the U.S. and Texas and with violations of the Welfare and Pension Plans Disclosure Act. The suit seeks $1 million in compensatory damages and $2 million in punitive damages. The suit also asks Farah be fined $60,000 for every month the two plans continue in operation from the date the suit was filed.

THE WORKERS charge the company has "induced" them to participate in its payroll savings deduction and withdrawal plan and the medical deduction plan and then deposited the monies deducted in the company's general account. The suit charges the monies collected are not held in trust in the name of the plan participants, but comingled with Farah's general funds.

The suit also charges monies witheld for the savings program are paid back at the end of each year without interest.

The workers, the complaint claims, are not told by the company their payroll deductions for the savings plan will not earn interest. Employes are also reportedly not able to withdraw their contributions to the plan prior to the end of the calendar year, except "upon proof of exceptional circumstances," the complaint reads.

Payments to the medical plan are handled in a similar way, the workers claim, except that contributions are not refundable. The medical plan is not group health insurance, per se, but a program by which Farah pays medical expenses not covered by the firm's group health policy through payroll deductions. The suit charges not all monies deducted are immediately transmitted to pay outstanding medical bills.

BOTH PLANS have been in existence for at least the past 10 years, the suit says, estimating 60% of Farah's 10,000 employes have had amounts ranging from $5 to $50 deducted each week.

In charging violations of the Securities Act, the suit claims the company—by issuing a statement of deductions and earnings showing payroll contributions—is offering a security. Farah has failed to register the security, the suit claims, and has failed to disclose information required by the Securities Exchange Act of 1934, Security and Exchange Commission rules and Texas securities laws.

Count II of the suit claims the plans are "employe welfare benefit plans" under the terms of the Welfare and Pension Plans Disclosure Act and says Farah has failed to register the plans and file annual financial reports with the Labor department.

The third count of the complaint alleges Farah and its employes—who, the suit points out, have "no substantial experience, education or sophistication in finance or other forms of money management and investment"—"were and are in a fiduciary relationship" and claims the company and its president, William F. Farah, "are acting as constructive trustees" for the workers.

THE SUIT charges the company and its president with a "breach of trust" by "acting to the firm's financial benefit and to the detriment of the (workers) by putting into effect a plan whereby (Farah) financed its own operation by using the money of the (workers), interest free and without proper security."

The El Paso National Bank is also charged with participating in the alleged breach of trust by "knowingly assisting" Farah in depositing employe money in the firm's general fund.

"The defendant bank knowingly benefited from the defendant company's use of plaintiffs' money," the suit charges.

The lawsuit is the most recent chapter in the now 13-month-old strike by some 3,000 Farah workers against the company for its refusal to bargain with the Amalgamated Clothing Workers of America over worker representation. The National Labor Relations Board (NLRB) has already charged the company with unfair labor practices because of its refusal to recognize the results of a NLRB election won by the clothing workers union.

Appearing at a press conference to answer questions relating to the suit, Jacob Sheinkman, the union's secretary-treasurer, told *Business Insurance* the suit represents a first step in organized labor's efforts to secure legal protection for "savings plans" similar to the Farah plan.

"As you know," he said, "pension legislation is now under federal scrutiny. The AFL-CIO strongly feels there should be some form of pension security. Our feeling is that this area—savings plans—also needs scrutiny so that other employes may be protected from similar treatment.

"Once pension legislation is cleared up, the Congress should turn its attention to investigating savings plans and attempt to uncover similar plans and propose "remedial legislation." ■

Jobless pay increased

Unemployment compensation insurance payments for Washington state workers who lose their jobs have been increased from $78 a week to $81 a week for all claims filed after the effective date, July 1. The Washington employment security department also increased the base-year qualifying earnings requirement from $1,200 to $1,250. Claimants must continue to have worked for 16 weeks during the base year period.



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washington watch

OSHA hearings begin after recess to make safety law less of burden

By TOM WALSH
Washington editor

WASHINGTON—Hearings before the Senate labor and public welfare committee are expected to begin this fall on a bill designed to make employer compliance with the provisions of the Occupational Safety and Health Act of 1970 (OSHA) less burdensome.

Numerous businessmen—either on their own or through such lobbying groups as the National Small Business Assn., the U.S. Chamber of Commerce and the National Assn. of Manufacturers—have made it known here they're not happy with the present law, and suggestions ranging from repeal to minor procedural changes have been recommended.

Sen. Peter H. Dominick (R-Co.) and 15 other Senators (only three of them Democrats) introduced the "Occupational Safety and Health Act Amendments of 1973" early in the session. The bill has been pending before the labor and public welfare committee, and sources there say, although no firm date has been set, hearings on the proposed changes should begin soon after the current recess ends in early September.

IN INTRODUCING the bill, Sen. Dominick stressed none of the changes it contains are designed to decrease employe safety and health protection.

"(The bill) is addressed to the provisions of the act which I feel are more punitive than constructive, and it would place more emphasis on assisting employers toward compliance," he told the Senate. "It is not intended to make all of the changes which have been suggested by critics of the act—only those I feel are absolutely essential to make it work. I should note that this bill would not exempt any employers from coverage. While I believe that small employers frequently need more assistance in complying, I believe all workers are entitled to the same protections, whether they are employed by large or small businesses."

Under the Senate bill, OSHA officials would be required to provide "consultation and advice" to help employers with fewer than 100 employes comply with federal standards. Such consultations would consist of on-site visits by OSHA officials at the specific request of the employer, and only matters specified by the employer would be discussed. No citations could be issued during the on-site consultative inspections.

"AT THE PRESENT, OSHA cannot provide technical assistance through on-site consultations," Sen. Dominick said. "If an OSHA inspector observes a violation during a visit to the work site, he is obliged to issue citations and propose penalties. And I might add that for that reason many employers have declined to ask any advice from the OSHA people as to what they should or should not do about conditions in their own plants."

The amendments would also prohibit OSHA's current ability to assess penalties for "nonserious" violations uncovered during the first inspection of a workplace. Under present law, employers can be slapped with fines as high as $1,000 for such violations.

"THIS CHANGE would not affect the provisions of the act imposing penalties for willful or repeated violations, or failure to correct violations within the abatement period described by OSHA," Sen. Dominick explained. "Thus, an employer who received a citation for a nonserious violation could receive a penalty for failing to correct that violation within a reasonable time, and he could be fined up to $10,000 for a subsequent nonserious violation."

The bill also requires penalties for serious violations become permissible rather than mandatory, as they are under present OSHA regulations. The bill states OSHA must take into account the seriousness of the violation, the "good faith" of the employer and his history of previous violations.

"AGAIN, whether or not a penalty is assessed for the first serious violation, the employer would be subject to stringent penalties for failure to abate the violation, and for any subsequent violation," Sen. Dominick said. "While the amount of a fine for a violation classified by OSHA as 'serious' is discretionary under the act—up to $1,000—a fine in some amount is mandatory. I have generally been opposed to mandatory sentences for criminal offenders on the ground that trial judges should have the discretion to consider all of the circumstances surrounding the crime. I think employers ought to be entitled to at least equal treatment, particularly since this is not supposed to be a criminal statute."

The amendments would allow an employer the opportunity to apply for a variance from an OSHA standard violation on the ground that his own job safety and health procedures in effect at the time of the violation citation were equally as able to protect workers as OSHA-recommended procedures. Present law allows for application for such a ruling before inspection. The new law would allow him to apply after a citation, and it states no penalty may be assessed while the variance application is under review.

"OSHA would not be required to suspend enforcement proceedings where the application for a variance was determined to be frivolous or filed for the purpose of delay," the Senator said. "This provision would add needed flexibility without reducing the incentive for employers to comply,

Continued on page 30



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No-tax units can cover jobless benefit funds

ST. PAUL, MN.—Coverage to help nonprofit organizations meet the exposure of reimbursing state unemployment funds for any benefits paid to out-of-work employes has been introduced by the St. Paul Fire and Marine Insurance Co.

Institutions such as hospitals and universities have been subject to state unemployment compensation laws since 1970. At first, the law required them to finance compensation programs through a payroll tax. But when many argued this was too expensive, federal legislators agreed. Nonprofit institutions are now allowed an optional method of participation in which they can reimburse the state fund for benefits paid, instead of being subject to the payroll tax.

The new St. Paul policy provides for insuring the reimbursement exposure for any nonprofit organizations opting that method of payment. Called all-risk unemployment reimbursement coverage, the policy is basically a safeguard against major repayment expenses, since the institution is required to pay a deductible or "retained limit" based on the number of employes involved.

POLICY LIMITS are sca'ed to the number of employes times individual state compensation requirements. If, for instance, an institution has 1,950 employes and is located in a state which sets compensation levels at $1,000 per employe, the total policy limits would come to $1,950,000

Premium rates are also governed by the state compensation levels. Two rate schedules have been set up according to state requirments. Warren Johnson, a chief underwriting officer at St. Paul, said the unemployment reimbursement coverage would cost a non-profit insured less than an alternative payroll tax, regardless of which rate schedule was followed.

An institution wishing to take out the reimbursement coverage must also take out a business interruption policy in conjunction with it, Mr. Johnson noted. This would be to offset the possibility of large compensation claims which cropped up due to a business stoppage. Mr. Johnson cited how many hospitals in California had to shut down for months following the serious earthquakes there, noting the business interruption underwriting requirement would help as a backstop in similar instances.

While Lloyd's of London offers similar coverage for unemployment reimbursement, this type policy is not widely available domestically, according to Mr. Johnson. ■

Crop cover bill backed in Canada

FAIRVIEW, ALBERTA—A proposed national crop insurance bill now being stymied in Ottawa would be a boon to Western Canada farmers, says Eugene Whelan, federal Agriculture Minister.

Addressing a meeting of farmers here, Mr. Whelan criticized Progressive Conservative members of Parliament for efforts to stall the insurance measure. The bill allows the federal government to pay more than half the premiums for crop insurance.

LIBERAL MEMBERS of Parliament, Mr. Whelan charged, have persistently sought passage of the measure but Conservatives have installed road blocks.

Whelan took issue with agricultural interests in Western Canada who have criticized him for a lack of knowledge about the industry. He disagreed with the criticism that he was not well aware of grain growers' problems because he was from Ontario.

Said Mr. Whelan: "It doesn't matter where agriculture takes place. People involved in agriculture have the same problems. It is not the problems we have to have pointed out to us, it is the solutions." ■

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British look to pensions as wage dispute solution

LONDON—With a pay freeze affecting millions of British workers, there are growing moves in corporate industrial relations to substitute better pension rights, modeled after the U.S. as an inducement to resolve wage disputes under the anti-inflation laws of Edward Heath's Conservative government.

But there is still a confused jungle of regulations to be trodden through before it is clear how far fringe benefits like this can play a special part in wage claims.

Business Insurance has learned behind the scenes informal talks are likely to begin between trade union delegates in Britain and their counterparts in the AFL-CIO organizations to learn how American pensions are related to employe benefits.

But these will be on a very discreet level, and no one will admit to any official contacts between trade unionists on both sides of the Atlantic on this vital issue.

However, it is certain pension rights will soon begin to play an even more important role in Britain's industrial economy. So it is reasonable to assume any expertise which can be gained from studying fringe benefit participation in the U.S. will be put to valuable use in the future.

THE ATTITUDE of the British worker falls into two different categories, for so far there has been little call to include pension benefits in nationwide pay deals. Social Security benefits in Britain for retirement and sickness have been on a fairly substantial scale for many years and most employes would sooner have money in their pocket now than when they reach old-age.

But the pattern is changing, and there is every sign many trade unions in the years ahead will want to emulate their American colleagues, with lessons which will particularly affect corporate management in multinational companies.

First, there are moves by some employes to get better pension rights now, with wage hikes limited by the government to $2.50 plus four percent a week until the rigorous pay controls end.

These include auto workers, mineworkers, and gas plant employes. Ford's UK management has offered its employes pension benefits far ahead of present entitlements in an effort to settle wage claims which could hit snags under the government's restraint on higher pay deals.

SO HAS the country's publicly-owned British Gas Corporation, which met a pay claim by actually reducing employes' part-payments toward retirement benefits, while keeping the benefits unchanged thru the use of surplus funds. This means more money in their workers' pay packets at the end of each week.

Moves to give coal mine workers better pensions are also under way, and soon it will be known if the government will approve these pay packages, or will rule they still contravene the pay freeze.

Secondly, there are long-term plans by the Trades Union Congress, which covers the whole trade union movement in Britain, to get better pension rights for workers in many more industries.

It has set up a study group which will report back in the fall on the potential value of making pensions and other fringe benefits a more vigorous part of industrial bargaining in Britain.

This is partly a political move, as the present Conservative government will soon bring in a new two-tier social security structure in which basic state pensions will be supplemented by either occupational pensions in major corporates or by extra retirement benefits under public supervision.

THE LABOR PARTY, naturally backed by most trade unions, wants more emphasis on public supervision in this field, rather than leaving too much control in the hands of private management.

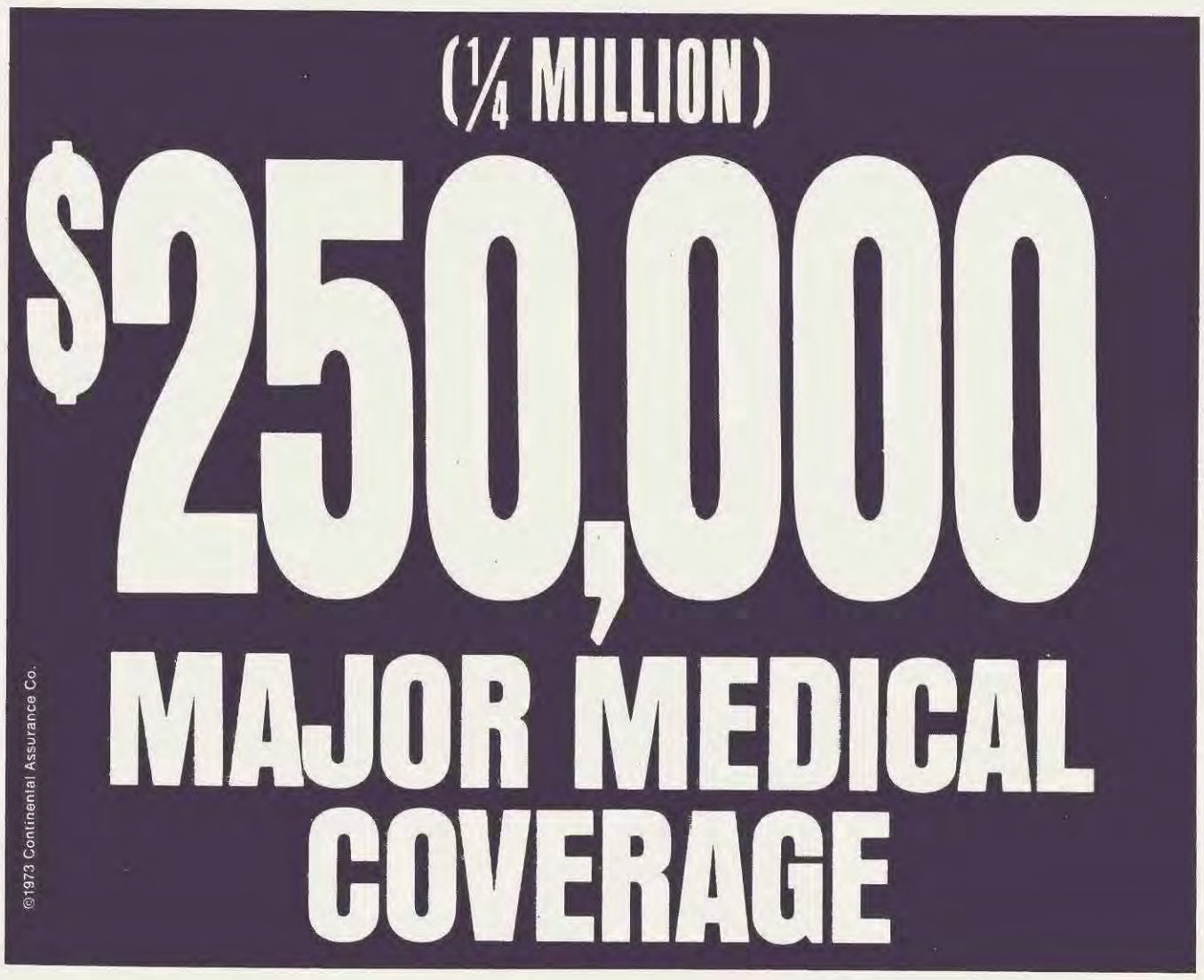
So the battle will start in the coming months to make occupational pensions a formal part of wage deals in industrial bargaining.

Groups of workers, like those in the engineering industry or in city halls throughout the country, are already probing the possibilities of getting higher pension rights.

It should be emphasized, of course, in many British industries there are already individual company contracts which provide good pensions.

But efforts to bring the British worker into line with his American counterparts in the field of fringe benefits are now gaining much more momentum than at any time in history. ■

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Monsanto's self-insured plan is sued

ST. LOUIS—Fulfilling a prophecy made late in January by Monasanto Corp.'s legal department chief Richard W. Duesenberg, the state of Missouri has sued Monsanto for allegedly engaging in insurance transactions without a state certificate.

The action has been predicted by Mr. Duesenberg (*Business Insurance*, Jan. 29, 1973) as a logical outgrowth of Monsanto's appeal of a Missouri circuit court ruling affirming the state's right to bring the company's self-insured sickness and medical benefit plan for employes to a halt.

The state had contended in its stop-action procedure the company's self-insured group health plan was illegal since Monsanto wasn't a licensed insurer and that self-insurance adversely affects the state's income since there is no premium tax to be collected.

ST. LOUIS county circuit Judge Henry Stussie ruled in favor of the state Jan. 4 and Monsanto appealed the ruling. At the time, Monsanto legal counsel Duesenberg said, "I'd say it will be six months before the case is heard again."

Missouri is charging Monsanto with engaging in over 700,000 insurance transactions between 1967 and 1972, apparently all in relation to the firm's self-insured group health plan. A total of $184,000,000 ($250 plus attorney's fees each occurrence) is being sought.

Monsanto says its benefits "are typical of companies throughout the nation—none of which have ever been declared illegal." ■

for the record

Pension plan bolster okayed for policemen

PORTLAND, OR.—The city council early this month approved a supplemental pension plan for the city's upper-ranking police and firemen, which became effective immediately.

The supplement allows a pension of 55% of annual salary for captains and higher-ranking police and for battalion chiefs and higher-ranking firemen.

The plan is designed to meet state laws requiring that the pensions be equal or better to comparable coverage under the Public Employes' Retirement System.

The supplement applies only to persons at least 55 years old who have served at least 30 years. Personnel ranked below captain or battalion chief still retire at 60% of a patrolman's or firefighter's annual salary.

The supplement plan is to be paid for out of the city's general fund with an $80,000 initial payment and voluntary payroll deductions for those qualified persons who want to join.

The supplement funds will make up the difference between the standard patrolman's pension and the 55% figure of the highest salary in the last five years of a person's service.

The supplemental fund will stop at death and will not be a part of survivors' benefits, according to the plan. Those covered must contribute 7% of their total salaries, instead of 7% of a bottom-ranking employe's pay.

The plan does not benefit police and fire officials who have already retired and those reaching eligible ranks before August 2 have the option of joining the pension plan or staying out.

was increased by the 1973 legislature, fringe benefits for state employes should stay as they are.

That means no extra pay for unusual working hours or hazardous duty, and no increases in state contributions toward health insurance or life insurance, it was reported.

According to a personnel board survey taken last year, the state's contribution to employes' health insurance is about half what it is in private business.

Continued on page 30

Expert warns lower retirement age costly

TORONTO—Popular political legislation seeking to establish a universal retirement at age 60 will accelerate pension costs, a pension expert warned Canadians here.

Dudley Funnell, president of the Toronto-based Canadian Pension Conference, pointed out while politicians are pushing for a lower retirement age, it would be smarter instead to move aging workers into less demanding jobs. He argued a lower retirement age "increases costs very much. It effectively means in times of full employment fewer people would be working and more people would be living from the work of those people. It can easily double pension costs if everyone retires at 60."

Mr. Funnell, also president of Tomenson-Alexander Ltd., a Montreal actuarial and employe benefits consulting firm, said higher taxes and larger contribution levels for government pension plans can be expected if the retirement age is lowered. Inevitably, he commented, the costs of private pensions would rise as they embraced the lower retirement age.

Benefits not equal for state, private workers

DENVER—The Colorado state personnel board has ruled that except for retirement pay, which

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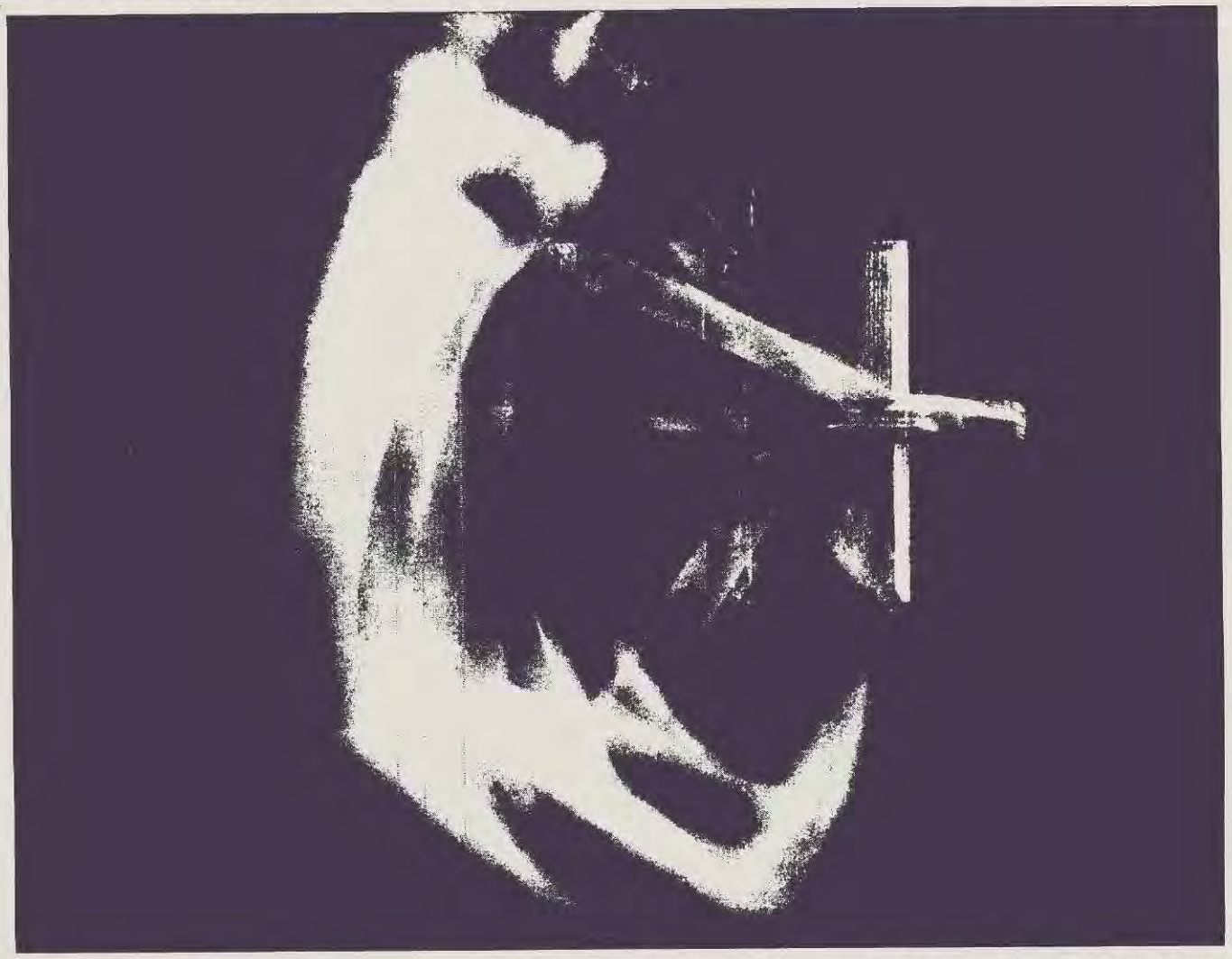
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For the Record . . .

Continued from page 29

The five-page decision came after a series of hearings on the issue and noted, "Although the state may remain somewhat more generous than the community in policies of holidays, annual leave and sick leave, the board believes, on an over-all basis, the fringe benefits available to employes of the state still are not greater than those available in other employment in Colorado."

Legislation would have to be passed to increase the state's share of life or health insurance plans.

Dough for doughboys aim of pension fund

HARTFORD—Connecticut state comptroller Nathan G. Agostinelli, contending that World War I veterans have been "badly shortchanged" in government benefits, has recommended a pension plan, the money to emanate from Connecticut's soldiers, sailors and marines' fund, now estimated at roughly $40 million.

"The state provided bonuses for its citizens who served in World War II and in the Korean and Vietnam conflicts," he noted, "but no such aid was given the World War I veterans, although the soldiers, sailors and marines' fund was originally established with a bonus in mind."

Eventually, that fund became a trust fund, with only the interest from the investment of monies allowed for use in "hardship" cases.

Rather than a bonus now, he says, the 18,000 remaining Connecticut veterans of the 1914-1918 conflict would be better off with a monthly pension, the soldiers, sailors and marines' fund to be converted in whole or in part to a pension plan.

Mr. Agostinelli, who has state and municipal retirement systems under his jurisdiction, said, "A pension system, at this point in time, will provide necessary redress for the lack of consideration against this worthy segment of our citizenry."

Work comp award triggers double killing

SACRAMENTO—An argument over payment of a $3,000 workmen's compensation award to Samuel Smith, a bank robber who served three years in prison, led him to kill two Employers Life Insurance Co. of Wausau adjusters and critically wound Virginia Sullivan, a secretary.

Police here said Smith shot Merle Brown, 48, and Lawrence Anderson, 29, after the adjusters had refused his request for immediate payment of the full $3,000 awarded him for an injury Mr. Smith had suffered while working as a laborer.

The insurance company had been under a court order to pay the $3,000 over a specified period of time rather than in a lump sum.

After the shooting, Mr. Smith fired a 38 caliber bullet into his own head and was dead when police arrived. He had been arrested Oct. 21, 1959, after robbing a bank of $595.

School board cited for discrimination

MILWAUKEE—A state hearing agent has found that the Eau Claire, Wi., school board discriminated against a teacher by refusing to let her use accumulated sick leave for maternity purposes in May, 1972.

The Wisconsin department of industry, labor, and human relations claims that federal guidelines call for maternity leave to be granted on the same terms as leave for other temporary disabilities and must be followed in Wisconsin. The issue is the subject of two test cases before the U. S. Supreme Court and one in the Dane County, Wi., circuit court.

Hearing agent Thomas W. Dale said the teacher must be paid for a 10-day leave she took to have a baby. He recommended that the board be ordered to offer all other women teachers maternity leave on the same basis that all teachers get disability leave.

Marvin Lansing, superintendent of schools in Eau Claire, said the board probably will appeal the decision to the state industry, labor, and human relations commission and to the courts, if necessary. ■

Washington Watch . . .

Continued from page 26

and without reducing protection to workers."

Another proposed change would allow employers to remove posted violation citations after the problem has been corrected.

"The act as presently written requires that citations be posted near the site of the violation," Senator Dominick explained. "OSHA regulations frequently require posting long after the violation has been corrected. This clearly serves no useful purpose other than to further punish employers and to damage the morale of his employes."

The final amendment—and probably the one with the greatest impact in terms of administrative red tape—would require the OSHA administrators to consider the economic impact of any proposed new standards on affected employers and to publish their findings—including an estimate of the total costs which will be prompted by the new laws within each industry affected—in the Federal Register.

"I THINK this provision would result in a healthy awareness on the part of OSHA regarding the costs of proposed new standards and would better enable all interested members of the public to measure the benefits against expected costs, which are, of course, ultimately passed on to consumers," Sen. Dominick said.

Organized labor is likely to oppose the bill. It's contention is generally that present OSHA standards are too weak and are not hurting industry as much as industrial lobbyists would lead the public to believe because there are not enough compliance officers to assure their enforcement throughout the vast number of business concerns in this country. Labor is now busy attacking the federal government's attempt to turn OSHA enforcement over to the states, charging that such a move will weaken the already less-than-powerful enforcement of the job safety and health laws.

Persons interested in making their opinions of the amendments known to the Senate Labor and Public Welfare Committee can contact the committee directly through its chairman, Sen. Harrison A. Williams (D-N.J.) at Suite 4230, New Senate Office Building, Washington, D.C., 20510. ■

OPIC pool being eyed in Congress

WASHINGTON—Overseas Private Investment Corp. may eventually have some private insurance help in covering the expropriation risk of U.S. business abroad.

Discussion of a possible "pool" of U.S. insurance companies supplementing OPIC's program highlighted hearings on OPIC operations before the Senate foreign relations subcommittee on multinational corporations. Sen. Frank Church (D—Id.) welcomed the idea and expressed hope agreement could be reached between private insurers and OPIC so private companies could cover perhaps as much as half the expropriation insurance of U.S. companies investing abroad. Reportedly, Firemen's Fund Insurance Co. is a leading candidate for the pool.

IF SUCH an arrangement comes about, it might take some of the pressure off OPIC as it attempts to build reserves to the point where it would not have to consider asking Congress for extra funds to cover claims like those stemming from the Chilean mining takeover, which OPIC has been nearly unable to cover.

However, such an agreement with private insurers would probably require a commitment by OPIC to reinsure the private companies, said David Sherwood, president of Prudential Property & Casualty Co. a subcommittee witness. OPIC, according to other sources, might in turn be reinsured by private carriers such as Lloyd's of London, which already shares some of OPIC's lead. ■

Letters . . .

Continued from page 20

Insurance and the neighboring letter entitled "Kidnap cover" from Reginald H. Thayer Jr., vp, Marsh & McLennan, New York, attracted my attention as I picked up someone else's copy of BI. Certainly I agree with Mr. Thayer's concluding comment that he is a "believer in freedom of the press." And, I believe my comprehension of the subject of kidnap-extortion coverage is sufficient to recognize the points both your editorial writer and Mr. Thayer were making. It is a difficult and complex subject, and I'm glad your fine publication is provoking some dialog on it.

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london line

Commercial Union, other London firms will cover British resort blaze

LONDON—Acrylic plastic was used on a large scale in a $5 million holiday complex gutted by fire at the summer island resort of Douglas, off Britain's northwest coast.

Fifty people died in the blaze.

Now fire experts are checking on the conditions under which the acrylic was used in the development of the building, known as the Summerland Entertainments Center. It came from a U.S. firm's plant in Britain.

Insurers are likely to face heavy claims, both for loss of property and the personal fatalities, as a result of the massive blaze which swept so fiercely the whole building was in flames in less than 10 minutes. The holiday complex, together with its public liability, was insured with Commercial Union Assurance, which in turn had shared the risk with other major companies in the U.K. market.

A top-level government inquiry will be held into the cause of the catastrophe, for the fire-resistant properties of plastic sheeting must now be probed by the construction industry in the interest of safety and insurance risks.

The acrylic material used in the burned-out building was trade-named Oroglas, and supplied by the U.K. plant of the Rohm and Haas Co., Philadelphia, Pa.

Nearly 800 sheets of it were used to cover the 28,000 square foot roof of the holiday building, so as to give it a light and entertaining appearance.

Reports in Britain indicated that, according to Rohm and Haas, Oroglas has been marketed without trouble in the U.S. for nearly forty years. The product is described as having a combustibility of red oak wood and is acceptable when used in compliance with certain building conditions, including automatic sprinklers, if necessary.

Insurers in Britain are now asking whether these conditions were met in the holiday complex destroyed only two years after it opened in 1971, or whether there were internal faults in its fire protection system, quite unconnected with the plastic sheeting used on such a large scale.

* * *

FIRES IN small department stores, hotels, and schools are causing concern to insurers in Britain, where the cost of fire damage throughout the country totaled more than $200 million in the first six months of 1973.

According to the British Insurance Assn., this means an increase of 58% over the same period last year. "No one seems to be able to offer an explanation for this disastrous trend," a spokesman said.

* * *

HOPES THAT U.S. underwriting results will be fully profitable this year are reported by Commercial Union Assurance Group in its mid-year financial statement.

Covering the first six months of 1973, the statement says, "In the U.S. our volume of business is substantially unchanged compared with the corresponding period of 1972. This is because we have steadfastly refused to cut premium rates in many of the industrial and commercial lines which some of our competitors are doing. The consequent trend in results is more favorable than we expected three months ago."

COMMENT on the growth of insurance legislation is made in the latest members' report of Lloyd's of London, which notes U.S. insurance commissioners have been expressing their views on the social responsibilities of insurers "with uninhibited bluntness".

In Britain, too, there is substantial legislation before Parliament which can affect the activities of underwriters, and entry into the European Common Market may also raise special problems of law.

But, declares Lloyd's in an official reminder on the subject, insurance is a high risk business in which Lloyd's is engaged. The report goes on: "It provides an essential service for industry, trade, commerce and transport and for private individuals as well.

"Society in general is entitled to ask for security when it seeks to insure itself and its goods and chattels. But those who venture their capital in this high risk business to provide this service are entitled to ask for a reasonable return on that capital."

Its American Trust Fund now stands at $1.2 billion, an increase of 10% during the last year, and its Canadian Fund at $126 million, an increase of 16%.

***

DEPARTMENT and retail stores suffered the worst fire damage on record in Britain last year, according to a report by the Fire Protection Assn.

Fire losses in the retailing industry are a disturbing feature of the current insurance scene, for they have been rising rapidly in the past decade.

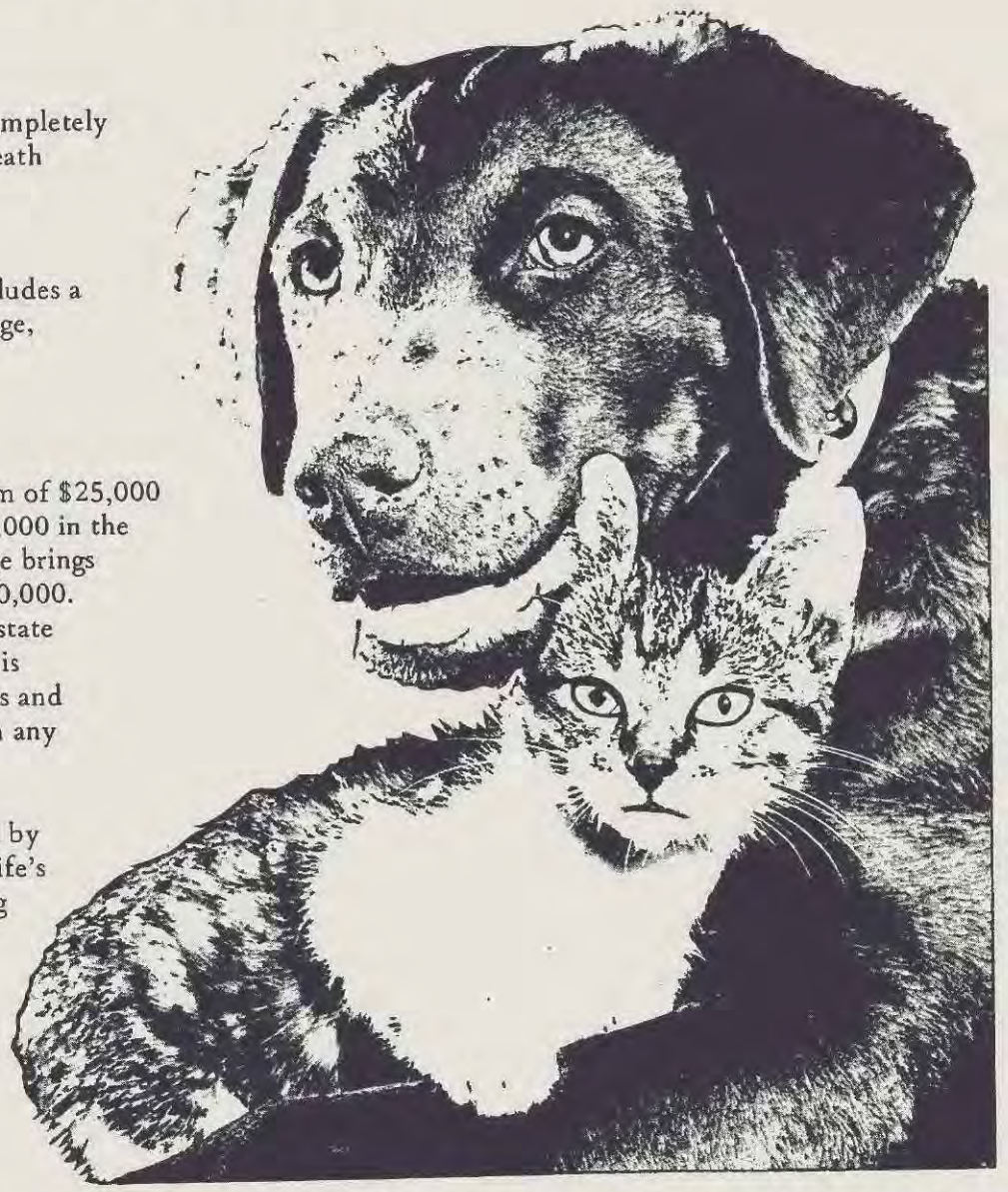
Causes for the situation, the report asserts, include the trend to large, open-plan premises and the large amount of packing materials now in use. Electrical equipment is the main source of fires, and there are still far too few automatic sprinklers installed in British stores, the report claims. ■

Actuary post begun

Clarence R. Atwood had been named by California Insurance Commissioner Gleeson L. Payne as casualty actuary for the Los Angeles office of the insurance department. Mr. Atwood will develop casualty/property rate analysis programs and casualty reserved evaluation programs. California has the largest casualty/property premium volume of any state and hadn't previously had a Casualty Actuary.

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business insurance
PERSPECTIVE

Look beyond loss prevention to ease product liability woes

"It would be difficult to statistically tie down the indirect costs involved in a product liability claim . . . however . . . visualize the horrendous indirect expense once management becomes aware of a product claim . . ."

BY HERBERT COX
President, Aldrich & Cox Inc.,
Buffalo, N.Y.

NUMEROUS PROBLEMS rapidly developing in connection with product liability appear to fall into three main categories: The cost of insurance is increasing, costs of uninsured losses are increasing and the indirect costs which follow are increasing.

Let's first try to understand some of the problems, and then go on to examine some insurance coverage-oriented solutions.

Many firms have already experienced an increase in their product liability coverage premiums and this situation will undoubtedly continue. One authority predicts product liability premiums will double, triple or even quadruple during the next two years. No matter how your insurance program is arranged, you can expect increases in premiums as the loss experience of the insurance carrier worsens and as your own experience worsens. Few firms will be immune.

Most product liability premiums are developed from rates not published in are developed from rates not published in customary manuals, although "guide rates" are available to underwriters. There have been no significant changes in these guide rates in the past 10 years, and, likewise, the tables from which underwriters determine charges for limits higher than the basic limits have remained stagnant.

In many cases, carriers have used rates even below the guides for competitive reasons.

Use by underwriters of out-dated guide rates and inadequate increased limits tables, as well as competitive pricing, have produced insufficient income to offset devastating product liability losses.

Carriers are aware, of course, of the inadequacy of rates used in the past and are attempting to turn product liability cover into a reasonably profitable business, as well they might. For if an insurance company loses money, you may be faced with severe policy restrictions, tougher claims handling, reduced service and possibly loss of your insurance market.

IN THE AREA of uninsured losses, some firms are large enough to self-assume at least the primary product liability exposure. Most firms are self-assuming other areas of product losses, some without realizing the extent to which they are taking on product liability risks.

The number of claims is on the rise, court awards are higher and this situation will undoubtedly worsen before it improves. Obviously, if the frequency and severity of claims increase, the cost of uninsured losses will likewise increase.

Policy provisions are often restrictive, and carriers reject a good number of claims. For example, two employes of one firm were affected by a respiratory ailment they claimed had been traced to toxicity in a company product. There were a number of counts involved in their suit, but one of them alleged fraud and deceit on the part of the employer. The carrier refused to defend on that count on the basis that this would not be accidental as called for in the policy definition of "occurrence."

A number of changes were made in the general liability policy as of Jan. 1, 1973. Some carriers deferred the changes until Apr. 1, while others are still using the 1966 policy form. Some 1973 changes relate to product liability and, strangely enough at a time when carriers are losing money on product liability, product cover has been slightly broadened.

NONETHELESS, many exclusions remain, some definitions rule out certain exposures and the basic policy itself (being one of indemnity only where the insured is legally liable) leaves many areas uncovered where catastrophic loss can occur.

Let's consider the following exposures definitely not contemplated by product liability insurance:

• Excluded is assumption of liability under any contract or agreement. Some so-called "incidental contracts" are excepted and this exclusion does not apply to a warranty of fitness or quality. If you as a manufacturer agree to hold a distributor harmless in connection with the products he sells for you, such assumption of liability is excluded. In most instances, however, coverage for contractual agreements can be purchased under a general liability policy.

• Excluded is liability under liquor laws as a result of being engaged in the business of manufacturing, distributing, selling or serving alcoholic beverages. Those engaged in such activities can purchase liquor law or Dram Shop Act liability coverage.

• Also excluded is loss of use of tangible property which has not been physically injured or destroyed resulting from failure of the product to meet the level of performance, quality, fitness or durability warranted or represented. Under the new policy form this exclusion would not apply to loss of use of other tangible property if resulting from the sudden and accidental physical injury to or destruction of the insured's product. Failure to perform as expected is a so-called "business risk" and is generally considered uninsurable.

• Also excluded is property damage to the named insured's products arising out of such products or any part of such products. This refers, of course, to claims made by the public for damage to the product itself. This is also considered a business risk.

• Another exclusion referred to as the "Sistership Exclusion" avoids coverage for damages in connection with withdrawal, inspection, repair, replacement or loss of use of the named insured's products or any property of which such products or a part, if withdrawn from the market because of any known or suspected defect or deficiency therein.

It is not hard to visualize the cost and loss of profit to distributors who have just completed an advertising campaign only to have the product removed from the market, but what about the other manufacturers or a power plant whose operations come to a halt through withdrawal of an important piece of equipment? The market for provision of such coverage is extremely limited.

• Not covered by product liability insurance is the cost to the manufacturer for recalling the product. This is not an exclusion as such but is not covered because the policy covers where the insured is legally obligated to pay to someone else —not losses sustained by the insured himself.

"Product Recapture and Recall" or "Product Withdrawal" insurance is available which pays for some of the costs such as communicating and advertising, hiring additional people and additional facilities, transportation of persons and the cost of destruction of the product. Some policies do not pay for the cost of returning the product to its source. The market for this protection is rather limited, and keep in mind that the cost of the product itself or repairs would still not be covered.



"Review losses, reserving and claims handling. Insurance carrier loss runs, expanded with details of product liability cases, can be very helpful, for they provide an overview of problem areas and show costs and potentials costs." Herbert Cox

Don't forget the indirect costs of a product settlement. Many years ago, H. Heinrich developed a theory in connection with industrial accidents. His research and analysis of accidents led him to the conclusion that a firm's indirect costs are approximately four times the moneys paid to the injured employe, his doctors, the hospital, and so forth.

Stuart D. Menist, president of Fireman's Fund American Insurance Co., recently told a businessmen's group, "It is estimated that for every dollar paid to an insured in claims, the employer loses $40." Mr. Menist was discussing product liability.

Admittedly, it would be difficult to statistically tie down the indirect costs involved in a product liability claim. It does not take too much imagination, however, to visualize the horrendous indirect expense once management becomes aware of a product claim:

FIRST, someone has to take time to make a decision whether or not to report the claim to the insurance carrier. Incidentally, the policy contract requires reporting "as soon as practicable." Make sure your carrier agrees if it is your practice not to report small nuisance claims.

Second, if the claim is serious time is involved in following it through. Furthermore, time must be expended in determining the cause and providing information for defending a serious case, engineers must take time to consider the need for redesigning the product and others, including attorneys, may devote time to considering the adequacy of qualifying statements and warranties in advertising programs.

The product may have to be recalled —requiring time and actual expenditures of large sums of money. Bon Vivant went into bankruptcy 26 days after a death claim caused by one can of soup.

A less tangible but very real loss may result when the reputation of the manufacturer and the distributor is sufficiently harmed by an accident to cause loss of business.

Vast expenditures of time and money obviously can result from a serious product liability claim. Whether the ratio is 40 to 1, or 4 to 1 or even less, it is obvious the indirect costs of product claims are a problem. Even though obsure and hard to prove, they are nonetheless something to be reckoned with, for as claims increase in number and court awards get larger, so do the indirect costs increase.

HOPEFULLY, you are actively aware of the need for extensive loss prevention measures as one means of reducing the product liability risk. Careful design and engineering, painstaking quality control, frequent product and production inspections, meticulous record keeping, care in warnings, labels and advertising are all vital to reducing your product exposure

Yet, beyond exhaustive loss prevention, more insurance coverage-oriented solutions may be of help.

I suggest, as one possibility, that you use your insurance carrier's services. Many carriers have experts in product safety on their staffs. This service is made available to their policyholders, and some carriers also make this service available to self-insureds on a fee basis.

Review losses, reserving and claims handling. Insurance carrier loss runs, expanded with details of product liability cases, can be very helpful, for they provide an overview of problem areas and show costs and potential costs of accidents. This can be used to stimulate interest in producing safe products.

Likewise, a review of the insurance carrier's reserving of the claims—particu-

Continued on following page

business insurance

PERSPECTIVE

Product...

Continued from preceding page

larly just before the loss experience is used in rating the risk—is a worthwhile exercise with great potential for saving money. There usually are honest differences of opinion as to the ultimate cost of an open claim. In most instances, however, the carrier's claims people have more expertise than the insurance buyer in evaluating the ultimate cost of a claim. However, machines and people make mistakes and every once in a while a claim finds its way into the wrong experience data.

Furthermore, on some occasions the insured may know something about a claim not known to the carrier, thus making it possible to persuade the claims department to reduce the reserve.

Elimination of claims belonging to others and reduction in reserves—where justified—can save dollars regardless of the arrangement of the insurance program.

Don't be afraid to be demanding about claims handling. Some firms have in-house attorneys to follow the carrier's handling of claims; others refer product cases to the firm's outside attorneys. One firm, in the food business, guards its reputation zealously. A food products claim blown out of proportion or unfounded in the first place could put that company out of business. Its attorney is an expert in this field and, working with the insurance company claims people and attorneys, he has undoubtedly saved hundreds of thousands of dollars. Not all carriers are willing to have someone look over their shoulder in claims handling, but this can be arranged at the time of placement.

Similarly, don't be intimidated by a high deductible. In the past, credits for accepting deductibles have been rather substantial in the product area. In most cases, the insurance carrier still handles the claims and bills the policyholder for the accumulated deductible amounts at mutually convenient intervals.

Be forewarned—deductibles may not be on a voluntary basis in the future! The carriers may require this approach—without credit—to improve loss experience. It may even behoove the buyer in some instances to suggest the application of a reasonable deductible, either per occurrence or separately for bodily injury and property damages. This avoids "trading dollars" with the insurance company on small claims, improves experience to keep rates within reason and may avoid possible cancellation or non-renewal.

IN THE future, if your loss ratio is worsening, the insurance company may ask you to participate in losses in addition to a basic deductible. For example, in addition to a deductible per occurrence of say $5,000, they may only pay 80% of any loss over the deductible—up to policy limits. This may not be the end of the world! It is one possible solution to product liability problems, for participation in claims may help to encourage reduction of the risk. It may also ultimately be the only way you can get insurance.

Retrospective rating may be another solution. If you are fairly sure your experience for the forthcoming year will be better than the average, or better than your past experience (considering losses as they compare with premiums), or if your carrier wants more premium because of the poor loss experience of others, you may want to request a retrospective rating plan for possible premium savings. Such a plan could apply solely to products, if there is sufficient premium to warrant it. Of course, it would more likely be applied to the entire general liability policy and possibly automobile liability and workmen's compensation insurance as well.

Literally thousands of plans are available (when acceptance of retro is completely the insured's choice) and determining the best one becomes a rather perplexing problem. However, with the use of the empirical method of reasoning, and perhaps a good crystal ball, a plan can be selected which will give the insurance carrier enough premium in the event of bad experience, and provide enough potential saving for the insured if good experience develops, to keep both happy.

The new liability form has a single limit for bodily injuries instead of one per person and another for more than one person, but still has a separate limit for property damage. In Canada, underwriters have been using for some time a single limit for bodily injuries and property damage. This Canadian approach is also available from some carriers in the United States.

Limits selected for primary general liability insurance including products (or for products separately) should be sufficient to contemplate run-of-the-mill cases—relying on the higher limits of an umbrella or excess liability policy only for the catastrophic occurrence.

With the advent of increases in the cost of product liability insurance, some thought will surely be given to self-insurance. Unfortunately the Internal Revenue Service does not permit considering as an expense reserves for future claims costs, even if they relate to a specific case with valid and conservative reserving. As a result, the costs under a self-insurance program for products could vary drastically from year to year.

There is a seldom used approach as an alternative. It is referred to as "chronological stabilization." Very briefly, an insurance carrier agrees to provide coverage for a long period of time, with an actuarially determined premium deposit. Through a retrospective rating plan, the insured ultimately pays all losses plus a nominal charge to underwriters.

One advantage of chronological stabilization is a spreading out of the costs of claims, thus eliminating the effect of cyclical disturbances. The insurance premiums under this plan are, of course, a legitimate business expense—chargable each year. This approach eliminates the need for establishing reserves without tax benefit, or, if reserves would not be established, it eliminates the problem of cyclical shock losses.

Establishing a captive insurance carrier accomplishes much the same goal as chronological stabilization. However, it carries with it the possibility of establishing a profit center, since in time it can be expanded to provide insurance for others as well as the parent. Another advantage of a captive is the ability to arrange reinsurance contracts at attractive rates as opposed to purchasing excess or catastrophe insurance over a self-insurance program.

"The new liability form has a single limit for bodily injuries instead of one per person and another for more than one person, but still has a separate limit for property damage."

For the single bodily injury limit approach of the new policy form, certainly $500,000 per occurrence is not excessive and somewhere between $100,000 and $500,000 should be considered for property damage, depending upon the nature and expected use of the product. With a single limit for bodily injuries and property damage combined, $750,000 to $1 million, depending upon the exposure, should be considered.

How much coverage to provide under an umbrella or an excess liability policy obviously depends upon the loss potential. If products involved find their way into the air, the limits for the primary coverage plus the catastrophe insurance should be at least $25 million, and probably higher. Drug firms also are susceptible to claims with astronomic totals, and even $50 million of coverage may be inadequate.

In selecting limits of liability, past experience of the firm involved, claims involving other firms in the same industry and the amount of all category current awards, all must be considered. To that must be added consideration of the possible size of claims depending upon the nature of the product and trending on account of the lag between accident and adjudication.

SELECTING sufficiently high limits can help solve the problem of the consequences of unexpected uninsured catastrophe losses.

If a firm is acquisition minded, the loss experience of the entity to be purchased should be thoroughly reviewed, as well as the liability coverage involved. Poor loss experience in the products area may reveal a design problem which may not be readily corrected and poor products already in the field may represent an insurmountable recall problem.

Improper insurance coverage, or inadequate limits of liability on policies covering the past claims, may represent a serious and possibly unexpected liability.

If you sell off a company and are unable to transfer to the new owners the responsibility for claims for products manufactured prior to the sale, you may need residual product liability insurance. This is a little known coverage, but except for aircraft-related products, it is readily available. Purchase of this protection will solve one of the problems of costs related to uninsured exposures.

DISTRIBUTORS and retailers should consider requesting their suppliers to provide vendors' coverage on their products liability policy. There are two different endorsements available, one a little broader than the other and involving a higher premium charge. A word of caution, however: This does not replace the need for a retailer's own product liability insurance program. The broadest vendors' form contains numerous exclusions, one of them reading:

"Such insurance shall not apply to . . . repacking, unless unpacked solely for the purpose of inspection, demonstration, testing or the substitution of parts under instruction from the manufacturer and then repacked in the original container."

Obviously, the advantage to the vendor is a switch of responsibility for at least some claims handling to the original supplier, thus keeping the vendor's loss experience free of claims or at least free of reserving for claims which rightfully belong in the lap of his supplier.

Furthermore, distributors and retailers should obtain certificates of insurance from their suppliers evidencing product liability coverage with substantial limits.

If you have obtained a hold harmless agreement from the manufacturer, as previously suggested, make sure the certificate evidences coverage for this assumption of liability by reference to the specific contract or under broad form blanket contractual liability coverage. If the supplier has agreed to provide vendors' coverage, make sure the certificate of insurance evidences such coverage for your firm either individually or for all vendors on a blanket basis.

Watch out for "weasel words" in the fine print of the certificates. Frequently, they say the insurance carrier is relieved of any responsibility if it fails to notify the certificate holder of cancellation. ■

Mr. Cox, an insurance and risk management consultant, is a co-founder of the consulting firm of Aldrich & Cox Inc., headquartered in Buffalo, N. Y. He has been its president since 1964. Prior to establishing Aldrich & Cox, he was associated with large insurance brokerage firms in New York City. He holds a B.S. degree in business administration from New York University, the CPCU designation and an Insurance Institute of America risk management diploma.

RISK MANAGEMENT NOTES

Eyeing the adjusters

BY WARREN, McVEIGH & ASSOCIATES
risk management consultants
San Francisco—Los Angeles

A LARGE CORPORATION recently experienced a fire loss approaching $500,000 at a location on the other side the country from the home office. Though the company had an insurance department of several men, no one was immediately sent to the scene to supervise loss adjustment.

In our judgment, this was a serious omission, evidencing a lack of understanding of what skilled direction of a major property loss settlement can achieve.

It is easy to leave all adjusting to the insurance company or independent adjuster, just as it would be easy for a corporation to omit an insurance department and simply tell a broker to buy it all the insurance it needs. In either case, no one would be aware that anything could have been done better, except for those close to the subject.

If anyone is in doubt about it, the need for knowledgeable direction of property losses has been demonstrated by the success of a number of public adjusters who work with insureds for a fee of 10% of the paid claim. The only reason there are not more of these firms is ignorance of the complexities of property loss adjusting.

AFTER ANY large loss, activities are generally in a state of upheaval. Local management has its hands more than full trying to keep the business together, and it has neither the time nor the ability to put together an insurance claim. There are a million things to do and decisions to make—identifying what is damaged, expediting repairs, finding the right people to do jobs properly, separating undamaged from damaged property, salvaging materials, taking needed photographs before evidence is removed, pressuring suppliers and repairmen to move faster than normal, supervising work to see that it is first-rate rather than shoddy, and so forth.

THE REAL need is for immediate decisive action taken from a background of knowledge of what is insured and what isn't coupled with a knowledge of and identification with the business. You cannot depend on the insurance adjuster to do a proper job of representing you. His job is to minimize the claim—yours is to maximize it. The difference can be enormous.

So far we have not even mentioned one of the most important aspects of loss adjustment: The possibility of subrogation. A faulty appliance which may have started a fire could be identified and traced to the manufacturer. Explosions can be the result of faulty valves or other equipment. Without a knowledgeable person immediately on the scene, you may never know; or if you know, you may have lost the evidence.

Identification of in-house costs cannot be left to local accountants. All activity relating to the claim must be classified and all local and other overhead charges properly assigned. Specialized knowledge is indispensable here. ■

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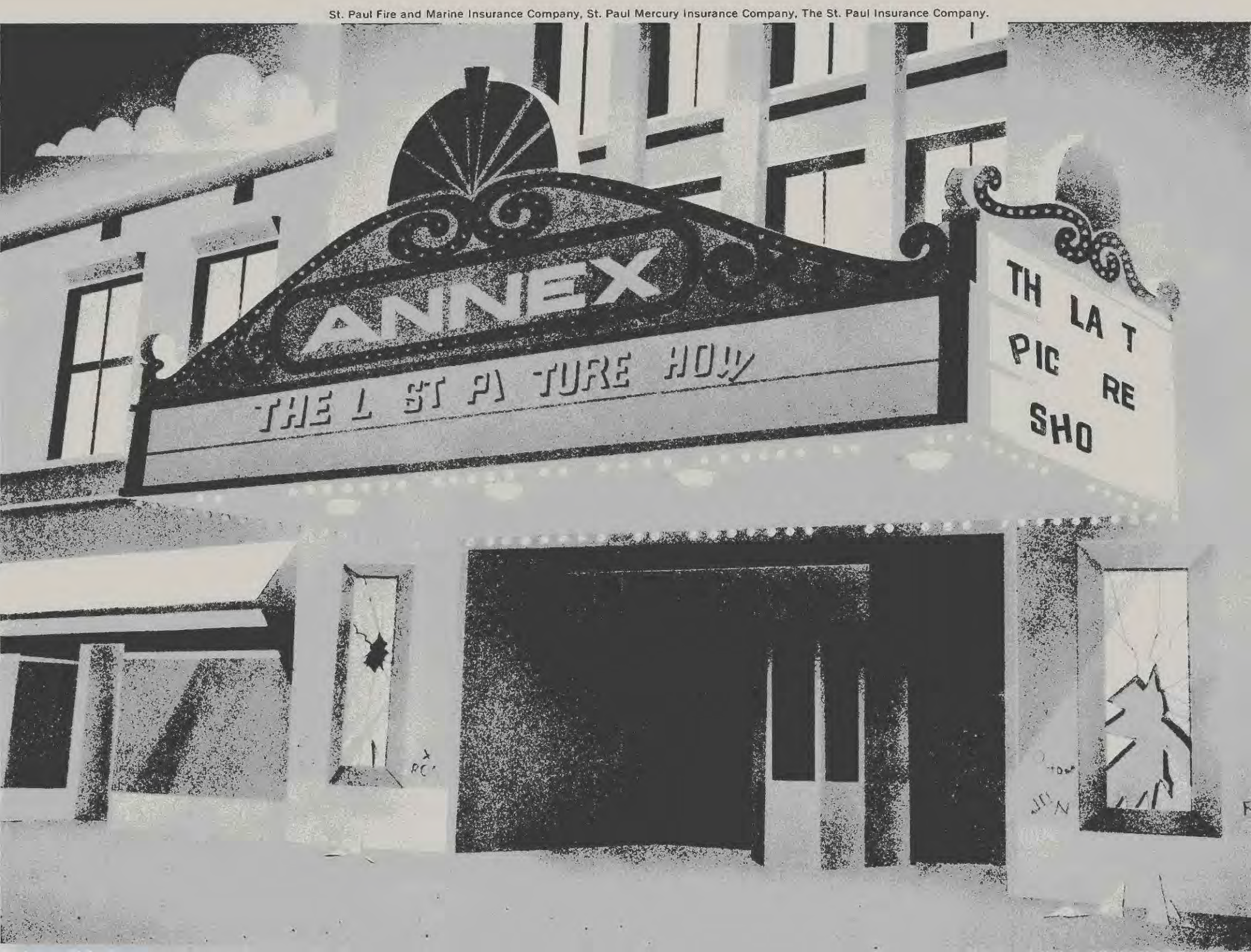
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Arizona employes get altered medical plan

PHOENIX—The Arizona Personnel Board approved a new full coverage medical insurance option for 26,000 state employes.

At the same time, the board eliminated one option used by only 574 of the 19,750 employes now taking the insurance and declined to improve the maternity benefits as urged by an advisory board, it was reported last month.

The five-member board boosted the major medical ceiling from $50,000 to $250,000 on three plans and will seek the same change in the foundation plan carried by Pacific Mutual Co.

The board also said the legislature, not the board, should decide how to dispose of refunds expected from the company next March because of a favorable claims record. The lower-than-expected claims already have brought premium reductions for the new enrollment period, beginning Oct. 1 and effective Nov. 1.

The new plan will be called Option H, and will include all hospital room and board and extra expenses for 120 days per disability, plus all doctor expenses and out-patient surgery and care for accidents.

The premium cost will not be known until insurance companies bid on the plan, but Chairman Oscar Gonzales said Blue Cross estimates costs at $61 per family per month, compared with $48 for a similar plan in the department of public safety and $71 for University of Arizona.

The state pays $15 per month toward the insurance and the employes pay the remainder.

The board unanimously eliminated old Option C, which provided a $50 per day hospital benefit and $1,000 limit on incidental expenses.

Insurance consultant Herb Bool told the board employes will get better cover in Option B at a new rate of $41.76 per family than they got under Option C at the old rate of $49.82.

THE MATERNITY coverage change drew no support after Mr. Bool said it might be too costly, at an extra $1.20 per month.

Employes now pay the first $600 for normal deliveries and get an average of $125 from the insurance.

The proposed change would have the insurance pay the first $250 of the costs. . . . $150 to the hospital and $100 to the doctor.

In other action, the board delayed decision on dental coverage, retirees, split dependent rates and area rating and began a study of whether to include group life insurance. ■

Work comp for pilots is increased fivefold

PORTLAND, OR.—A 500% increase in premiums for its workmen's compensation insurance, by the Northwest Compensation Rating Bureau, has caused Pacific Northern Airlines here to suspend its Douglas DC-3 service between Eugene, Portland, Seattle and Olympia.

The company which began the air service July 2 has indefinitely furloughed 30 of its 48 employes during an appeal of the 500% premium boost, according to president and general manager W. Paul Payne.

The commuter airline was categorized as a scheduled airline, paying $1.53 per $100 for the workmen's compensation insurance on 19 pilots. The rating bureau changed the status to "air-taxi" category, increasing the rate to $7.79 per $100.

Mr. Payne protested the rate increase saying, "this would increase our yearly insurance cost from $12,000 annually to $73,000 and probably would make it economically impossible for us to provide first class air commuter service, even though we have a perfect safety record and have never filed a claim for any kind of compensation."

Pacific Northern was established early this year when the firm purchased four DC-3 aircraft. The carrier operated from a former United Air Lines maintenance area at the Portland International Airport. ■

County cover needs update study reveals

MILWAUKEE—Milwaukee County is taking a hard look at its insurance program as a result of a recent insurance consultant's study which indicated a minimum of $10 million in umbrella cover for catastrophe is needed.

According to William H. Mohaupt, county purchasing administrator, the county board's five-member insurance committee will look upon the umbrella cover and other recommendations made in an 81-page study of the county insurance program completed in July by Ebasco Services Inc., New York.

According to Mr. Mohaupt, who handles that portion of the county's property and liability cover which isn't self-insured, the $11,500 study was ordered by the county insurance committee after investigation indicated consolidation of the program was necessary.

MUCH of the county cover, according to the purchasing official is for Milwaukee's County's two airport's and its art center.

In recommending the $10 million umbrella policy for catastrophe, the study noted, "It is surprising that, in view of the number of wholly uninsured areas noted during the preparation of this report, no uninsured catastrophe has been incurred by the county to date.

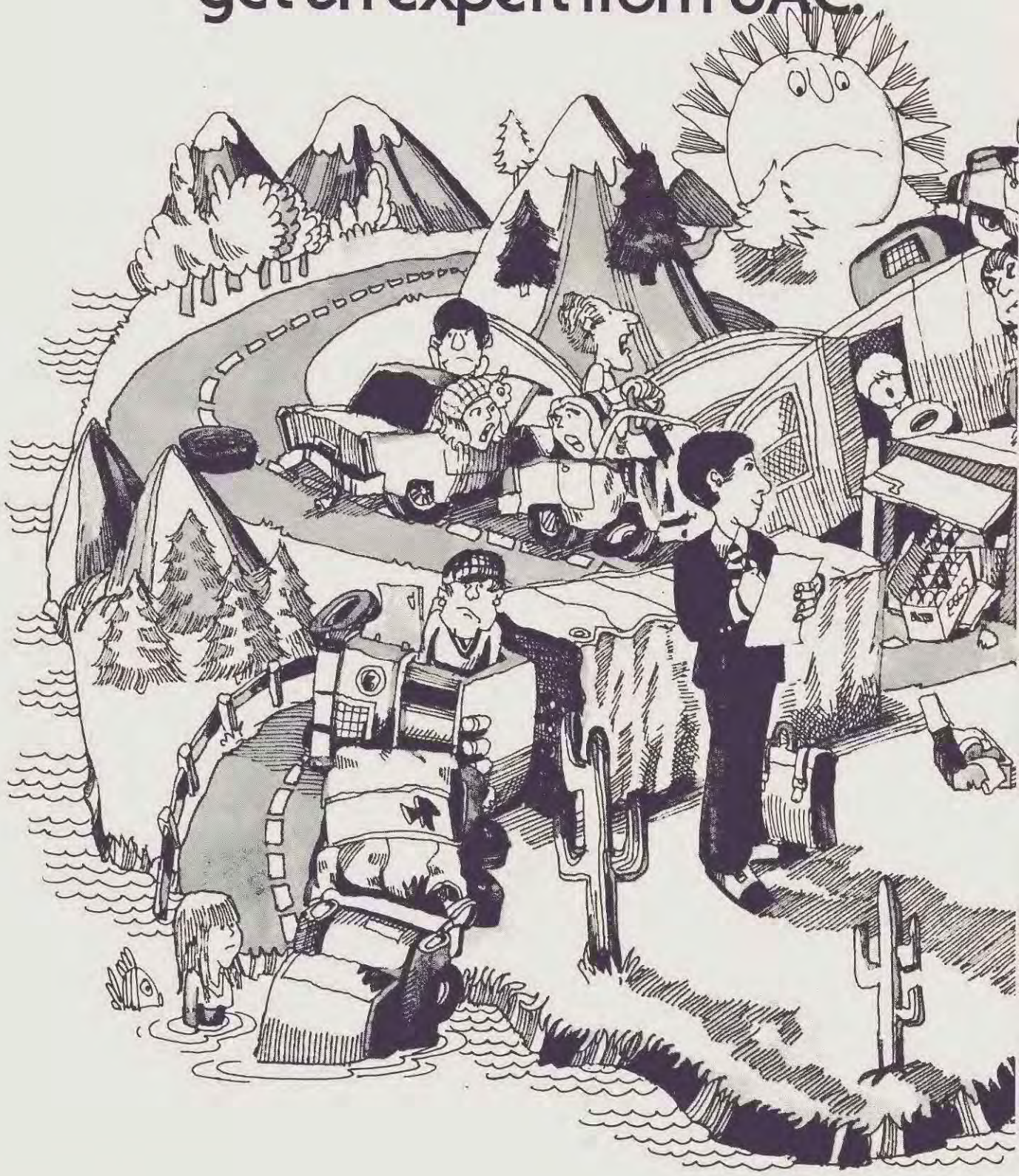
"It is apparent," the report continued, "that the practice within the county has been to permit the favorable loss record in both property and casualty exposures to determine the general scope of protection which has been purchased."

The property and casualty cover has been established as a top priority by the insurance committe, Mr. Mohaupt revealed, although no meeting has been set to review the recommendations.

Mr. Mohaupt said he agrees with the umbrella concept although a self-insurance fund has been suggested with claims to be paid from the general fund.

A liability policy with "a very high deductible" is also a possibility, he stated. Currently, the County pays about $75,000 annually in premiums for its cover which isn't self-insured. ■

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Nader calls nuclear plants unsafe in any era

PHILADELPHIA—Charging the nation with committing "technological suicide for present and future generations," consumer advocate Ralph Nader at hearings here urged the development of nuclear power be halted.

Mr. Nader, speaking at hearings on the safety and insurability of nuclear power plants held by Pennsylvania Insurance Commissioner Herbert S. Denenberg, accused the Atomic Energy Commission of covering up nuclear reactor safety problems claiming a power plant accident could kill close to 45,000 persons and cause $7 billion in property damage.

This led the noted consumerist to an attack on the Price-Anderson Act, which limits the liability of utilities, the insurance industry and government to $560 million. The insurance industry, through the Nuclear Energy Liability Insurance Assn., provides $95 million in capacity while the remainder is picked up by the government.

"The Price-Anderson Act is definitely unwise and, perhaps, unconstitutional," Mr. Nader said. "Because of it, the public must subsidize the nuclear industry both through the Atomic Energy Commission and the Price-Anderson Act."

TURNING HIS attention to the safety, or lack of safety, at nuclear power plants, Mr. Nader said, "If nuclear power plants were safe, they would be insurable. The utilities and the insurance companies won't take the financial risk of nuclear power plant accidents but the public is exposed, for the most part without their knowledge or consent, to the enormous safety hazards of nuclear power plants. The lack of full insurance coverage against nuclear power plant accidents is the clearest warning the public can have about the unresolved nuclear power plant safety problems.

"The insurance industry didn't want anything to do with this new technology," he continued. "Insurance companies are always a little skittish when it comes to something new—but 20 years?"

One of Mr. Nader's strongest selling points in attempting to point out safety hazards was the status of the emergency core cooling system, the last line of defense in case of a loss of coolant accident at a reactor. Mr. Nader contended the emergency core cooling system had never been tested and that the AEC was relying on computer calculations that the system would, indeed, work if called upon to do so.

AT THE same hearings an AEC official admitted the emergency system had never been fully tested. Pointing out full-scale tests would be conducted next year, AEC deputy director of licensing Edson Case said, "We do not know for sure that it is going to work. That does not mean we don't have reasonable assurance that it will work."

Acknowledging there was "some small risk" involved in the operation of a nuclear power plant, Mr. Case continued, "Our objective at the Atomic Energy Commission continues to be to reduce these risks to the lowest possible level. But, as has been stated over the years by the Atomic Energy Commission, there remains a residual, but small, level of public risk incident to the operation of nuclear power plants.

"It is the purpose of our indemnity program under the Price-Anderson Act to provide financial protection to the public from this small residual risk," he said.

Mr. Case pointed to the nuclear industry's safety record thus far, noting no member of the public had been killed by any type of nuclear accident and insurance pools continually returned premiums because of good experience.

"Annually, since 1967, the nuclear pools have been returning portions of the premiums paid in by policyholders under the pools' industry credit rating plan.

"THE EXCELLENT safety record of the nuclear industry has permitted the pools to refund premiums totaling about $1.4 million in 1973 with a cumulative total of refunds of over $5 million since 1967," he said. "The premiums returned each year have averaged 65% to 70% of the total premiums paid."

In his testimony earlier, Mr. Nader predicted industry spokesmen would take that approach to their safety record and he attempted to rebut it.

"They say there has never been a fatal accident at a nuclear power plant," he said, "but the experience is not adequate. Power plants today are bigger than the old ones and don't compare. And how are they so sure no one has ever died? Radiation poisoning is silent and no epidemiological studies have been done."

Though Mr. Nader predicted construction on nuclear power plants would stop by 1980, he urged legislation which would bring about an end even sooner and discontinue the use of the plants already built.

He also recommended all state insurance departments get together and discuss the issue and urged state legal departments to tell insurance departments what authority the states have in the nuclear power plant matter. Mayors around the country, Mr. Nader added, should be alerted to the dangers of atomic plants. ■

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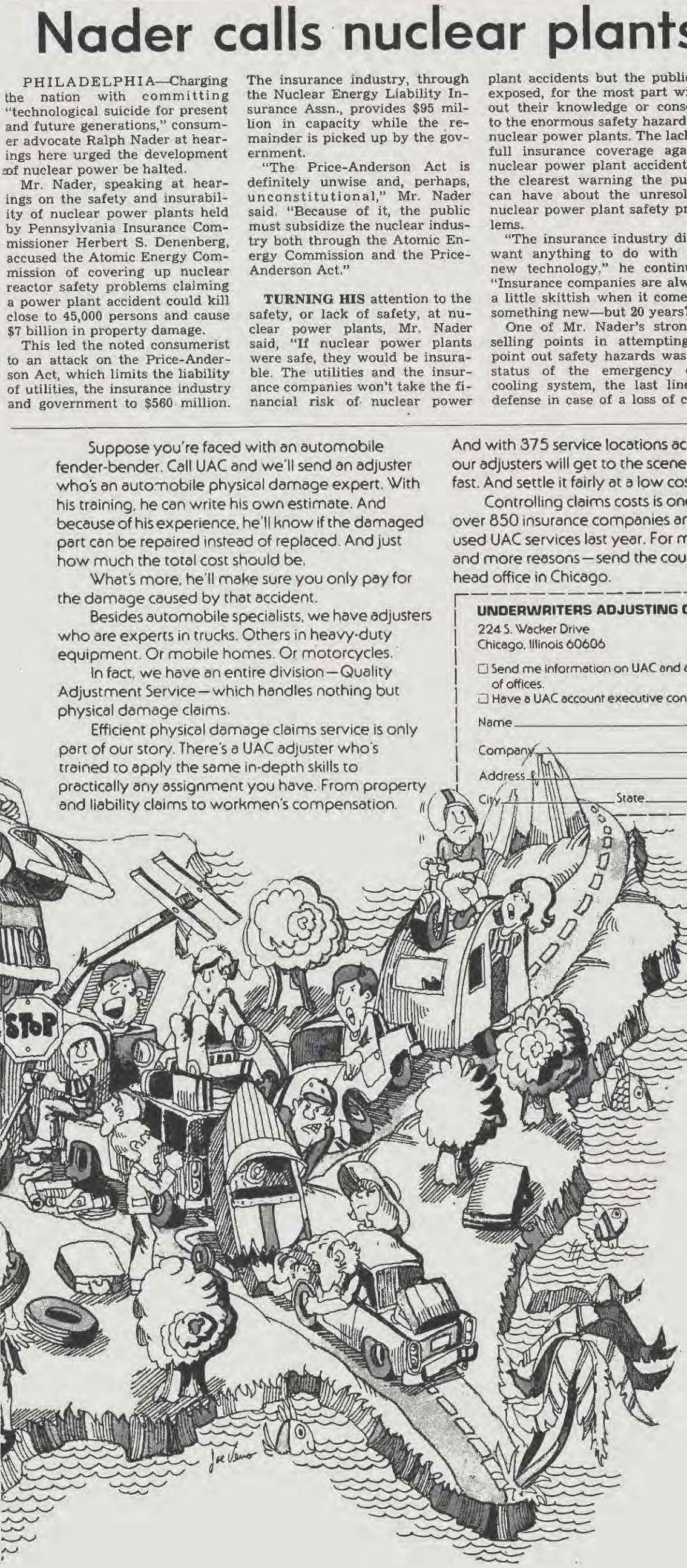
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Insurer told to give back premium hike

WASHINGTON—Connecticut General Insurance Co. was ordered by the Cost of Living Council's (CLC) special freeze group to refund a July 1 increase of $4,200 in major medical insurance premiums to 2,043 Yale University employes.

Prompted by a complaint from a university employe, the special freeze group investigated and found the increase "contrary to freeze regulations." The insurer voluntarily complied with the price rollback and the refunds, the group said.

The nation's second largest group health insurer had hiked its major medical premium on July 1 from 75 cents to $3.82 per family on the average. ■



Tramway en route to top of old Mount Harrison, all covered with tourists.

Swiss insurer carries $2 million cover for world's longest tramway

GATLINBURG, TN.—Insurance coverage on the longest aerial tramway in the world supports the premise that you can take underwriting out of Switzerland, but you can't always take Switzerland out of the underwriting.

Zurich Insurance Co. of Zurich-American Insurance Cos., whose parent concern is the Swiss Zurich Insurance Group, has written a $2 million direct damage and business interruption policy for the newly-completed 2.2 mile tramway connecting this downtown Tennessee city to the top of Mount Harrison in the Smoky Mountains.

The coverage, which has deductibles of $2,000 for physical damage and $10,000 for business interruption, is written through the Barnes & Whaley Insurance Agency, Gatlinburg. Both Zurich American and broker Barnes & Whaley are specialists in tramway insurance, since they have worked extensively with the Swiss installers and manufacturers.

Doug Felder, boiler and machinery production-underwriter in the Atlanta office of Zurich Insurance Co., explained that the company was frequently sought out to insure such conveyances because of its Swiss affiliation. Most of the tramways are Swiss-made, and people seeking insurance for them often look to Zurich-American because of its home-base location.

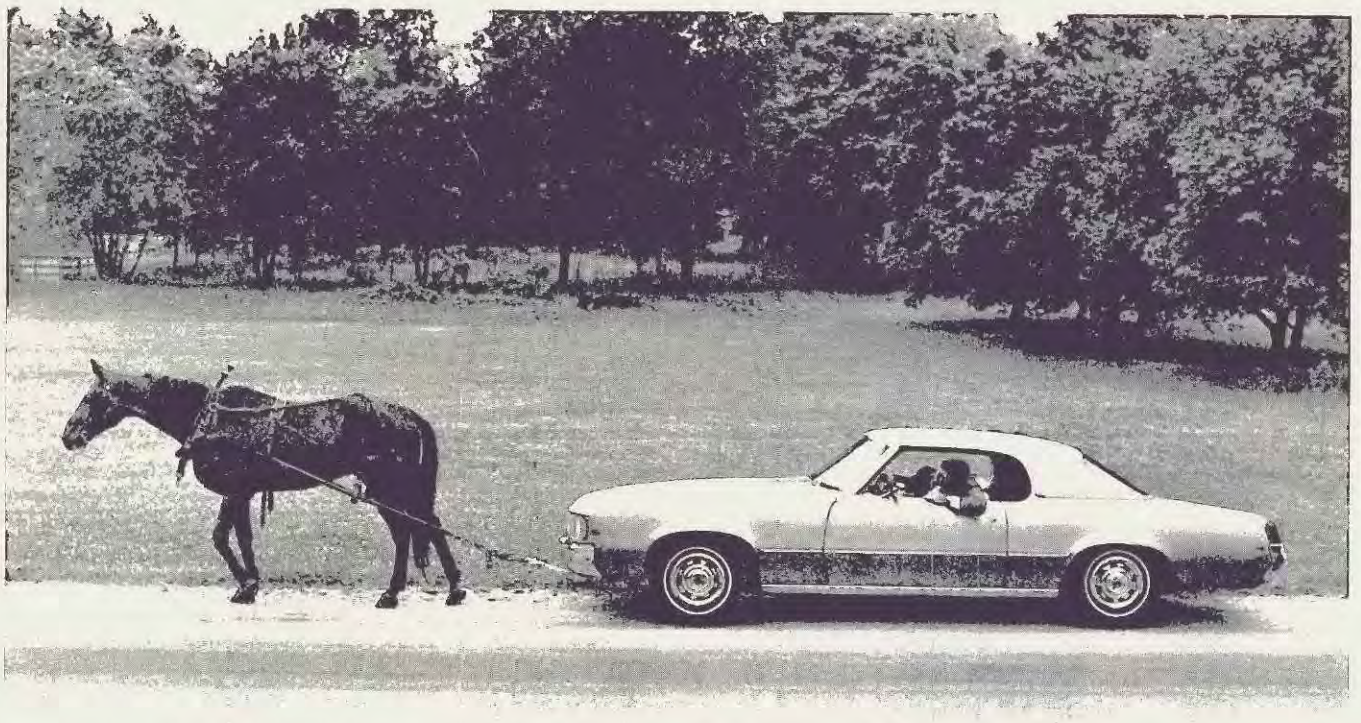
THE TRAMWAY in Gatlinburg, now officially ready for passengers, is powered by an 800 horsepower AC-DC motor-generator unit. It has two cars, each able to bear 120 passengers up the mountain resort.

Mr. Felder noted the boiler and machinery coverage on the tramway, while it has limits of $2 million, actually covers some $3.5 million worth of equipment, including insulated drive wheels, motors, generators, pinions, shafting, gears, power transformers and electrical apparatus.

The rationale for having a policy limit lower than the value of the machinery has to do with the operation of the equipment between two buildings—one in Gatlinburg and one at the mountaintop. Probable exposure in the event of a loss would be less than the full $3.5 million machinery value because of the distance between these key operational points, the Zurich spokesman indicated.

The installers, V.S.L. Corp. and the manufacturers, Von Roll Co., both of Switzerland, have similar tramways in Tampa, Fl., and in Atlanta, also protected by boiler and machinery insurance from Zurich Insurance Co. The new, longer system terminates at a mountaintop ski chairlift, owned by a separate interest and also insured by Zurich Insurance Co., according to Mr. Felder. ■

Protecting energy sources isn't just conserving them.



We don't believe the nation that invented the light bulb is about to go back to the Dark Ages. And we certainly don't think the nation that invented the automobile is about to go back to the horse and buggy.

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Take nuclear energy, for example. We set up our Nuclear Insurance Department 16 years ago when the first two nuclear power plants were still being readied for use by the public utility industry. We were the first, and today Marsh & McLennan is involved in assisting with loss prevention and insurance programming for virtually all the nuclear risks in the United States.

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When the marine industry moved up to the super tankers, to ferry more energy from overseas, again we got the call. Today, literally, if it's over 300,000 tons it's under our flag.

In short, we know the energy companies well. And because we do, we're confident—whatever the problems in the years ahead—they'll keep America's lights burning bright.

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Liquor cover trio indicted in California

SACRAMENTO—Criminal charges have been returned by the Los Angeles County grand jury, at the request of California insurance commissioner Gleeson L. Payne, against three members of the Michael Bender & Assoc. Insurance Agency alleging improper overcharges on policies of insurance issued to hundreds of California liquor store owners, in amounts ranging from $60 to $4,800.

The grand jury charge alleged unlawful excess premiums totalling more than $200,000 had been achieved by "substituting policy face sheets before delivery of the policies to the insured liquor store owners. These showed higher premiums than the premiums actually charged by the insurance carrier.

Those indicted include Michael A. Bender, Robert B. Chernove and Ara Hovanesian, an attorney. Mr. Payne said 29 counts were returned by the grand jury, charging conspiracy, forgery, grand theft, altering corporate records and obstruction of justice.

Michael Bender was president of Michael Bender & Assoc. Inc., Lorald Inc., Fishbein-Bender Insurance Corp., Consolidated Financial Insurance Services Inc., Michael Bender Inc. and Chenove Bender Inc., all at 5900 Wilshire Blvd. in Los Angeles.

A separate audit of the agency's premium trustee account, conducted by department of insurance investigators, resulted in issuance by Mr. Payne of an accusation against the licenses of Michael Bender & Assoc., alleging a substantial shortage in the trustee account. ■

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'Peter principle' is biggest gremlin to safety on job says Canada exec

EDMONTON, ALBERTA—In a panel discussion before the occupational safety section of the Canada Safety Council's fifth annual convention, George Schotch, attributed the failure of most safety programs to the ubiquitous "Peter Principle," the loosely-defined theory which holds every employe tends to rise to his level of incompetence.

Mr. Schotch, vp and general manager of Canada Cement Lafarge Ltd., Pacific Region, blamed the "horrendous incompetence" of management for the ineffectiveness of most company safety programs. "At our plants we devise lock-out procedures for equipment shut-downs and our employes fail to implement the system. We install safety lines or lanyards and they are not used. We supply safety hats, glasses, respirators, plus a number of other pieces of safety equipment—and they are not used."

First line supervisors give no corrective direction to employes and allow them to work in an unsafe manner or in an unsafe condition, Mr. Schotch claimed. What is needed, he urged, is a clear company safety policy followed by pressures minimizing the errors "starting in the front office and working down to foreman level." Such safety targets "must be in tune with the organization" and must face realistic objectives.

MANAGEMENT is not taking proper responsibility for the care of the individual or the environment, he pointed out, adding many company executives fail to consider "the staggering financial loss to corporations" caused by accidents. Even a workman's slightest injury must be cost-assessed in terms of lost working time, loss of time by an immediate supervisor, loss of time spent in an investigation and indirect loss of productivity.

The cement industry has been brought from its position as one of the most dangerous North American industries to one of the safest industries by its management's recognition of safety as a prime objective, noted Mr. Schotch. "Cement plants are generally second to none in guarding of hazardous areas and pinch points, 100% lock-out procedures are common, most plants in the industry have 100% safety hat and shoe programs and often approach 100% in fulltime eye protection. Safe job procedures are also encouraged through first aid training for all employes and incentives, such as contests and awards."

THE 400 delegates who attended the safety conference heard panelist Dr. R. E. Schneck of Edmonton, associate dean of the faculty of business administration and commerce at the University of Alberta, contend loss control and safety programs are not effective because of a combination of factors. He denied the validity of the "Peter Principle" as a causal factor in the ineffective occupational safety programs.

The combination of factors Dr. Schneck cited includes ignorance, a tendency to take risks, a belief accidents always happen to somebody else, the information overload facing management, and policy makers who have "no time for new ideas and assign low priority to creative thinking" and thus resist innovations in routine safety programs.

Industry is too often willing to sacrifice safety to increase production, he warned. Dr. Schneck urged the executive and company objective must be "to find the optimal levels of tradeoff between the two." ■

Maine ups work comp benefits rate

AUGUSTA, ME.—Maximum workmen's compensation benefits for Maine workers will be 100% of the state's average wage beginning Nov. 30, 1974. The hike, signed recently by Governor Kenneth Curtis and enacted just prior to the legislature's adjournment early in July, adds a third to the current two-thirds maximum benefit.

John Keaney, Maine Industrial Accident Commission chairman, told *Business Insurance* the average weekly wage is $124.50 as readjusted July 1 and will be readjusted July 1, 1974, prior to the effective date of the new legislation.

Previously, Mr. Keaney said, the benefit ceiling was $81.14 with no time or dollar limits for both permanent and temporary disability. A retroactive adjustment to $83 weekly will be made based on the July 1, 1973, average weekly wage revision.

IN THE same legislative package, the waiting period for benefits has been lowered to three days.

In another sector of the package, beginning Oct. 3, 1973, woods operations, including one-man operations, would receive workmen's compensation coverage.

Previously, Mr. Keaney explained, an employer engaged in a woods operation employing three or less people was exempted from the state workmen's compensation coverage requirement. "This legislation removed this exemption, effectively removing all numerical exemptions from Maine workmen's compensation statutes," he said.

A proposal to cover seasonal or farm workers earning $1,200 or more annually was withdrawn.

A bill to create an exclusive state insurance fund for workmen's compensation was referred to a study committee.

A proposal to set up a 10% penalty for noncompliance was defeated, Mr. Keaney said. ■

HMO chief named

Byron L. Heusdens, formerly with the Medical Society of Milwaukee County, has been named administrator of the Milwaukee Health Protection Plan, an HMO developed by Employers Insurance of Wausau. Mr. Heusdens, who had been assistant executive director of the Foundation for Medical Care Evaluation of Southeastern Wisconsin, operated by the medical society, will supervise the Milwaukee installation of Employers Insurance of Wausau, administrator of the plan. The plan is similar to ones which have been established in Wausau and Green Bay, Wi. It pays practically all medical costs, including physical examinations, immunizations, diagnostic tests and outpatient care.

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On location at Starret City in Brooklyn, N.Y., a $300 million housing project, are (l. to r.) A. D. Thompson, V.P. of The Home; agent Eugene F. Hession, V.P. of Hamond & Company, Inc., and Sidney P. Gilbert, president of Underpinning & Foundation Co., Inc., the foundation contractor.



Canadian insurers reduce rates for vessels plying Arctic waters

TORONTO—The Canadian marine insurance industry, this year, has shown significant rate reductions on Canadian vessels which navigate the treacherous Arctic waters.

Peter B. Smith, president of Canadian Board of Marine Underwriters, says that flexibility has been the biggest factor in bringing down Arctic rates.

Mr. Smith says Canadians are out after a larger share of this marine insurance business. And, he adds, because they have good contacts on weather and ice conditions, they are able to be more flexible. "We are trying to get away from the rigid London scale," notes Mr. Smith.

It is estimated that the Canadian marine insurance business approximates $90 million to $100 million a year. While two-thirds of this is still arranged through foreign markets, Canadian companies have doubled their share during the past 10 years.

Mr. Smith summarized the situation in this manner:

"Earlier this year we introduced our advisory scale of additional premiums for the Arctic, based on the time a ship spends in the different areas of ice severity outlined in the government's Arctic Waters Pollution Act.

"The London (insurance) industry has been around for a long time and it developed over the years an inflexible scale of charges based on gross tonnage and the total loss rate, applied during the past 10 years.

"OUR SCALE IS based on zones—so much a gross ship ton for each day spent in a given ice zone. Our lowest charge is 16 cents a ton for an ice class 1 ship going to Hudson Bay, which requires passing through only two or three zones. The London industry responded by lowering its rates but it still is hampered by its old concept of a fixed season.

"Another thing we got away from was charging more according to the number of ports called at. Ships going into the James Bay area on the Quebec Hydro project may call at a number of places with heavy equipment. Our new practice eliminates the extra charges."

The Canadian marine insurance industry has seized the initiative on rate making despite the fact that 1972 results must be considered marginal. It is estimated that underwriters as a group sustained a loss last year. Two major losses were set at about $400,000 each and there were numerous smaller claims.

Making it more difficult for Candian underwriters in computing Arctic rates is an absence of suitable statistics.

THE CANADIAN department of transport does not record cost figures so the association last year inaugurated its own record keeping system on Arctic losses. It is attempting to effect a pooling of casualty statistics by all companies involved in Canada.

Such a procedure is difficult, admits Mr. Smith, because of the large volume of insurance arranged for abroad and also because Canadian firms are cautious about figures for competitive reasons.

It was pointed out that the marine insurance business in Canada generally, could benefit from more detailed loss figures. While fairly accurate records are provided for the regular season on the Great Lakes, the periods before and after the regular navigation season are inconclusive.

In previous years, Great Lakes vessel operators complained about the high rates charged to insure outside the regular navigation season—historically April 15 to Dec. 15. In recent years underwriters have extended normal coverage later in the season and most shippers now have regular coverage through December. There has also been a move to extend regular rates back to April 1, enabling shippers to get on the lakes earlier. ■

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Law enables mass plans for Maine

AUGUSTA, ME—A new law has been passed making it "clearly legal" for Maine companies to write mass merchandised plans, insurance commissioner Frank M. Hogerty Jr. said. While the law, LD-1913, applies primarily to auto and homeowners policies, it will enable buyers of corporate group plans to make such coverage available to interested employes through a payroll deduction system, the commissioner told *Business Insurance*.

Maine formerly had a law prohibiting mass merchandised plans. When Commissioner Hogerty approved two such plans, the Independent Insurance Agents Assn. (IIAA) attempted to overthrow his ruling. They failed in the attempt and then sponsored a version of LD-1913 which was far more restrictive than the one finally passed.

"The agents took it upon themselves to make a prohibitive law, but we edited it and put in mass merchandising premium reductions which they didn't account for," said the commissioner. "The agents wouldn't have gotten the bill through if it hadn't been edited. It sets up modest guidelines for companies to write general lines of insurance using mass merchandising techniques with reduced premiums.

"PRESUMABLY there will be reduced commissions for the agents and this is why we heard such a loud scream," the commissioner continued. He called the passage of the bill "a great victory," noting it was consumer oriented in making plans more accessible while at the same time offering protection to the public.

The whole issue of mass merchandising has been hotly contested in Maine, and the guidelines set up by LD-1913 contain provisos which reflect a guarded approach to the technique. The bill stipulates no maximum or minimum numbers may be used as criteria for what constitutes a "group." All members of a group must be accepted into a plan if they wish to participate.

In addition, insurers will be required to keep records of each mass merchandised plan. They must offer the same form of policy to each member of a group, even though individual limits may vary. Tie-in sales are prohibited as is compulsory participation on the part of the insured. ■

State disability pay up in Nevada but off-job injury benefits delayed

CARSON CITY—Injured Nevada workmen became eligible for benefits up to $462 a month and new rehabilitation services last month, but they will do without off-job injury benefits for at least two more years.

Several key measures involving workers covered under the Nevada Industrial Insurance Act were signed into law this year but the sweeping off-job disability plan sought by Gov. Mike O'Callaghan was sidetracked, according to legislative sources here.

What happens next to the proposal is uncertain but an interim study of its merits has been authorized and will probably lead to a new effort during the next legislative session.

Gov. O'Callaghan had singled out the off-job plan in his state of the state speech this year, saying a lack of such benefits leads to "economic disaster" for Nevadans unable to afford the loss of a paycheck.

BUT Sen. Stan Drakulick, says two versions of the plan died in his senate labor and commerce committee because "most management representatives saw it as another tax against them."

But Sen. Drakulick says he is certain the bill will surface again in 1975 although "I'm not sure what luck it will have."

"But I think there is going to be a greater need for this than there is now," he adds. "I feel it's going to be a very important issue."

"This is going to be highly arbitrated between now and the next session not only by legislators but also by representatives of labor and management," he says. "Both realize it's important."

Jim Banner who chaired the assembly labor and management committee, agress the bill is of key importance, noting similar legislation adopted by California and other states is "good—it fills a social void."

"IF A GUY has a car wreck off the job and he's laid up, he's usually a burden on somebody," says Rep. Banner. "This proposal may be the best way to handle it because it will allow adequate time to answer some of the still unanswered questions."

Another assemblyman and fellow committee member of Rep. Banner, Rep. Hal Reiser, says even without the off-job injury proposal measures passed this year have resulted in a complete package for aiding workmen injured on the job.

"The NIIC has been criticized in the past for a lot of things it didn't have authority to do," Rep. Reiser said. "Now we have the authority and employer and employe should both benefit."

Rep. Reiser says his main interest is in the newly-created rehabilitation program because it means "for the people who want to get back to work as soon as possible, we will be doing everything in providing medical and vocational services."

The NIIC was authorized to set up a rehabilitation program with the state department of health, welfare and rehabilitation to service employers with two or more employes.

Rep. Reiser said a rehabilitation clinic is already operating in Southern Nevada Memorial Hospital and should be in full operation by Aug. 1.

The new compensation benefit level of $462 a month calls for compensation of two-thirds of the average state monthly wage in total disability cases.

THE AMOUNT for temporary total disability also increased slightly and death benefits paid to widows jumped from 50% to two-thirds of the average monthly pay of a worker.

A controversial NIIC bill approved this year provides for review of claims under the state's Administrative Procedures Act, in effect depriving a claimant of his right to have his case heard in court.

Other NIIC-related measures:

- Allow the NIIC to issue a top work order against any employer who fails to provide industrial insurance for his employes;
- Strengthen the law against double recovery for the same injury by claimants;
- Change qualifications and terms of employment for investment counselors handling money drawn from the $25 million employers pay to cover some 230,000 employes each year. ■



You can't tell
a bad egg by its shell—

and it is not just with eggs that appearances are deceptive. As many companies have learned through disastrous losses, it is often the most innocent-looking employee that turns out to be the biggest thief. New and improved controls can lessen the risk, but the fact is that corporate stealing is increasing at an alarming rate. Only adequate insurance guarantees a company against critical financial loss. Our dishonesty bonds are exceptionally broad in coverage. The form, which provides money and forgery coverage, not just dishonesty coverage, is brief and clear. To provide this much needed protection we offer expert fidelity underwriters to analyze your needs, and a staff of commercial fidelity claimsmen whose sole area of responsibility is crime claims from commercial assureds. Before you are faced with a catastrophe, call a Chubb agent or broker and find out what you can do now to avoid it.

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Comp ruling could hurt handicapped

LITTLE ROCK, AR.—One of the three commissioners of the Arkansas Workmen's Compensation Commission says that a recent commission decision to award benefits to a handicapped worker for a hearing loss could have an adverse effect on hiring practices for handicapped people in Arkansas.

The commission ruled that Mr. William L. Ross suffered from a 69% hearing loss in the left ear as a result of working with a jackhammer and was entitled to full workmen's compensation benefits from his employer. The commission said that Mr. Ross should receive the benefits even though his hearing was 21% impaired in 1966 when he went to work for the firm, Action Construction Company.

THE THREE-MEMBER commission was split 2-1 in the decision, with James F. Cross desenting.

Mr. Cross said "simple fairmindedness" dictated that the commission assign liability to the company only for the amount of hearing loss caused by the work.

"Employers are constantly being bombarded with propaganda encouraging them to hire the handicapped, hire the man with the congential defect, hire the man with the withered hand, hire the man with a loss of hearing, and then the compassionate employer becomes liable for preexisting patent defects," Mr. Cross said, adding, "encouragement to hire the handicapped should be made of sterner stuff." ■

Safety measure dies

Oregon's senate has refused to accept a series of house amendments to a proposed new state Occupational Health Safety Act which opponents had said would cost Oregon employers "substantially more" money.

Port Authority puts together its own policies

Continued from page 3

construction dollars going out of sight, there is always a problem of capacity. The companies are at a disadvantage because they're only able to write a certain amount of coverage.

"Say we wanted to insure the full $3 billion worth of our properties—it would be difficult for us. But if we put the same properties on a maximum probable loss basis, we can get the insurance without much of a problem."

Not all of the Port Authority's exposures are insured just this way, however, Mr. DeMarinis said the bridges and tunnels are covered on an all-risk form with a $100 million limit, with the risks spread among a variety of carriers. "We use the whole world on this," the insurance manager commented, noting many of the carriers on the bridges and tunnels are in the foreign market as well as the domestic.

SELF-INSURANCE also plays a vital role in the Port Authority's overall insurance program. Under Mr. DeMarinis's guidance, the agency self-insures its liability and compensation for the first half million, with "the major companies" insuring for $100 million above this. The self-insured portion of the liability cover is totally administered by the Port Authority insurance division.

One reason Mr. DeMarinis' department has been able to keep the wheels of its insurance programs turning so smoothly is that it prepares its own policies in conjunction with the agency's legal staff. In a rather novel departure from the workings of many another corporate insurance departments, the Port Authority department actually writes its own policy clauses before it worries about getting a carrier who is willing to accept the conditions.

"We write our own policies to suit our needs," Mr. DeMarinis emphasized. "While we do not use competitive bidding, we accept quotations from all the larger carriers. Those that accept our conditions get to write our coverages. Of course it's a never-ending game of bargaining, with the Port Authority trying to get the most coverage for the least money, and the carriers trying to give the least coverage for the most money. That's what it's all about, really."

THE IN-HOUSE POLICY writing has thus far given the Port Authority quite a bit of leverage. For instance, because it has a clause inserted in its policies which holds carriers responsible for covering any new facilities which are added during the time they insure Port Authority properties, the new terminal buildings at Newark International Airport were automatically insured during their recent construction.

And while the terminals were being constructed, the Port Authority managed to get an unusual twist in their liability cover written by Security Mutual Insurance Co. of New York. Into the wrap-up construction policy, the agency had a clause inserted which made the policy non-cancellable.

SAFETY, especially during construction of such huge projects as the World Trade Center, is one of Mr. DeMarinis' biggest exposures. He insists that any carriers involved in construction wrap-up policies provide at least one full-time safety expert. In addition, first aid stations are set up for the workers routinely. So far, the insurance manager indicated his precautions have paid off. The Port Authority's safety experience has been excellent.

Using the example of the World Trade Center, which was begun in 1966 and will not be totally complete until 1975, Mr. DeMarinis said: "The New York State Labor Department had predicted the World Trade Center project would suffer about 60 workmen's deaths (for the construction completed so far) but we didn't get even one-sixth of that experience."

Besides handling the liability and property/casualty coverages for the $3 billion Port Authority complex, Mr. DeMarinis takes care of the employe benefits for approximately 9,000 personnel who comprise the agency's work force. Although benefits vary greatly because of the negotiations of some 43 unions whose members work for Port Authority, basic coverages include a Blue Cross master plan with the Associated Hospital Service. Full coverage of diagnostic in-patient care and out-patient post-surgical care is featured.

STAFF and management have surgical and major medical benefits placed with the Prudential Insurance Co. of America, with individual limits of $50,000. This is the basic amount for major medical limits for a large segment of the Port Authority work force, with union members included, although many unions have their own insurance carriers and different variations in their medical coverage plans.

William Peterman, senior insurance analyst in Mr. DeMarinis' department, noted the employe benefits package of the future will likely include some form of transplant coverage and renal dialysis, two features up for "immediate future consideration." In addition to these benefits, the department is also studying possible dental coverage, Mr. Peterman noted.

Other employe benefits include a 24-hour travel accident policy written by American Home Assurance. It covers employes on business travel outside a 25-mile radius of the Statue of Liberty. Perhaps more innovative is a mass merchandising plan for employes.

OFFERED to members of the Port Authority Federal Credit Union, an employes' association which between 4,000 and 6,000 have already joined, the plan allows workers to get reduced rates on personal lines insurance. Insurance Co. of North America writes the policies for group members who pay premiums on a payroll deduction basis, and Frank B. Hall serves as broker, carrying the full administrative burden.

"The mass merchandising plan is a good idea," Mr. DeMarinis asserted. "It not only offers our employes the convenience of a payroll deductible plan to get reduced rates on their personal insurance, but it's a minimum of bother to my staff. Frank B. Hall takes care of all the administration, so the Port Authority just has to provide a computer service. Everybody benefits in the long run."

PERHAPS the coverages, from in-house written policies to the mass merchandising option for employes, just reflect Joe DeMarinis' penchant for doing things a little differently. A Flemish portrait hangs in his office in the modern World Trade Center and gesturing expansively around this contemporary setting, he tells a visitor: "Everyone else has abstracts in their offices. I'm tired of them."

Glancing at what he has chosen instead, a painting of a funereal-looking woman and child flanked by a man in outrageous red, one could easily get the idea the Port Authority insurance manager would probably buy insurance the way he chooses his art—with an eye to specialized needs rather than to what everyone else is doing. ■

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Finance committee bill rapped by union

OAK BROOK, IL.—Hitting at what it termed "deficiencies" in the Senate finance committee's pension reform legislation, the AFL-CIO executive council blasted that proposal by comparing it to the Nixon Administration bill, which the labor group has said it will not support.

At its midsummer meeting here early last month, the council said it leaned toward the Williams-Javits bill though it had certain reservations about the measure.

The Senate finance committee's bill, among other things running counter to the labor federation's wishes, gives private pension plan administration responsibilities to the Treasury department rather than to the Labor department.

Among the other "deficiencies," in labor's view, the bill provides inadequate vesting standards for single employer plans and, at the same time, does not provide enough flexibility to multi-employer plans.

TWO "TAX LOOPHOLES" in the bill also drew the ire of the council. The first would allow wealthy persons to deduct $1,000 if they contributed that amount toward their own retirement. Secondly, the bill would allow physicians and other self-employed persons a tax-free deduction of $7,500 annually toward their personal retirement plan. This, the council said, would triple the Keogh Act's present $2,500 a year.

The council felt very strongly any private pension reform legislation should consider the differences between multi-employer and single employer plans. (Many AFL-CIO unions do have multi-employer plans).

Single employer plans should, in the council's view, provide complete vesting after 10 years' service. Single employer plans should have minimum funding standards of 30 years.

Regarding multi-employer plans, the council felt any reform legislation should establish minimum funding standards of 40 years and should give the Secretary of Labor the responsibility of determining vesting standards for each multi-employer plan because pension credits are carried from employer to employer.

The ideal legislation should provide insurance coverage in case a plan happened to be terminated and should set up separate insurance pools covering single employer plans and the multi-employer ones. The council said very few multi-employer were ever terminated and insurance premiums should reflect "the difference in the degree of risk between the two categories." ■

Cosmetic coverage is called 'non-frivolous'

STANFORD, CA.—A national health insurance plan which would eventually cover cosmetic surgery is predicted within the next three years by Dr. Michael T. B. Dennis, a faculty member of Stanford University's community and preventive medicine department and a chief resident physician at Stanford Medical Center here.

"The psychological impact is helping push body image surgery over into the reimbursible category," he said. "It's not seen as a frivolous thing anymore."

TODAY cosmetic surgery is rarely covered by insurance. Unless the person is a member of AFTRA (American Federation of Television and Radio Artists) or similar show business associations, insurance does not cover cosmetic surgery. It does only if an operation is also for health reasons. An example is rhinoplasty which is covered if it also helps a breathing problem.

In the future, however, there may be no such qualifications for insurance-covered cosmetic surgery. A spokesman for Blue Cross of Southern California predicts such coverage could be imminent: "Our feeling is that health care premiums should be restricted to health care but if a major employer wants to include the service in his health premium we would make it available. It's becoming more common for people to ask for it." ■

Blast claim settled

A Milwaukee area security guard who was injured in an explosion at a shopping center more than two years ago has settled his court case against Taubman Construction Co. and the Travelers Indemnity Co. for $650,000.

Contract cuts contributions

COEUR D'ALENE, ID.—Members of the International Brotherhood of Electrical Workers Local 89 ratified a new one-year agreement with General Telephone Co. of the Northwest Inc. The contract covers 650 employes in eastern Washington, northern Idaho and western Montana.

The new $518,000 contract includes a general wage increase of 5.7%, upgrading of 37% of the work force and reduction of up to 52% in the employe's contribution to medical plans. ■

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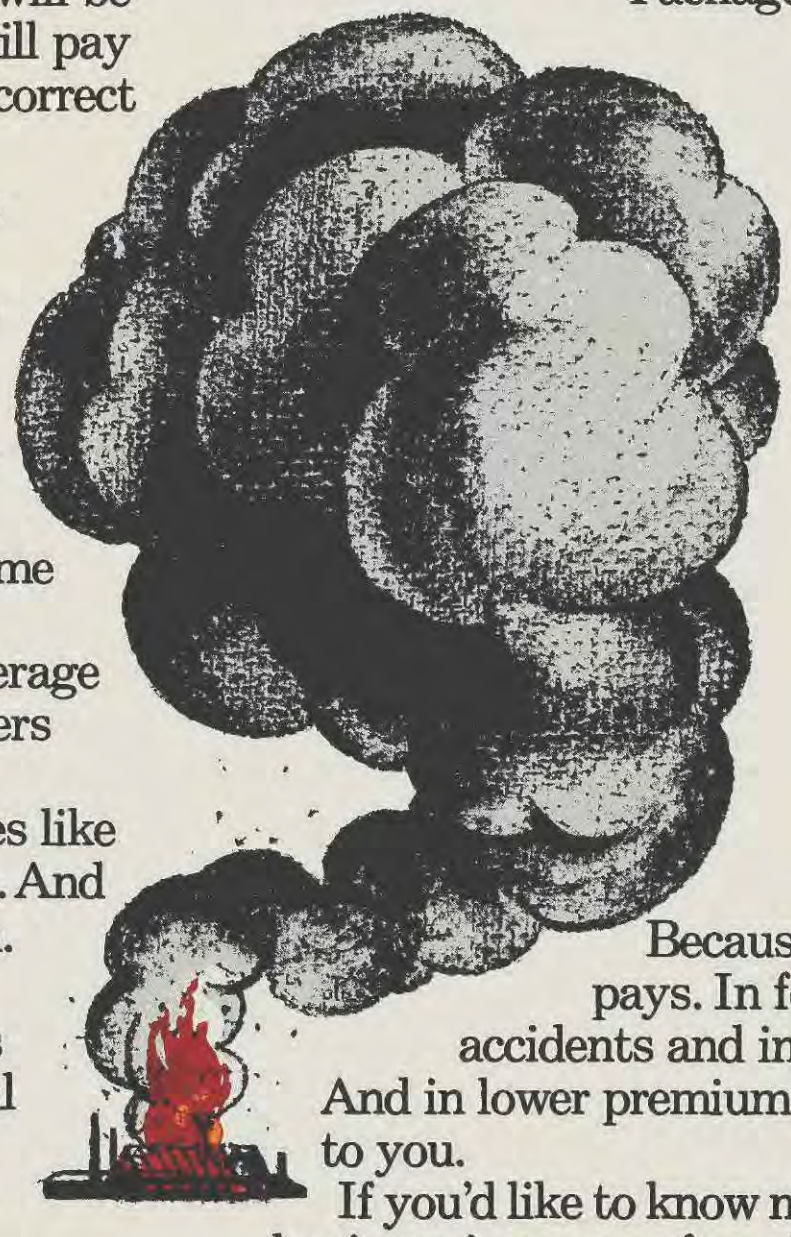
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