WEEK OF DECEMBER 21, 1981

# business insurance®

the national newsweekly of loss prevention, risk financing & benefit management/$1 a copy; $30 a year



## update:

### Revised CGL policy includes liability limit

NEW YORK—An absolute limit on insurer liability for long-latent injuries is a key feature of a new comprehensive general liability policy in the works at the Insurance Services Office.

The occurrence language in current policy forms has prompted "substantial disagreement over its application to delayed

*Continued on next page*

# No-shows?

## Santa's age boosts non-appearance rates

**By STACY SHAPIRO**

LONDON—No one seriously believes that Santa might not make his rounds on Christmas Eve, but if Lloyd's of London were asked to write a non-appearance policy on him, rates would be extraordinarily high.

As a matter of fact, the jolly old man would be in a class with some other all-time favorites—like Bob Hope—who are getting on in years. The premium on Santa's insurance could be equal to as much as 15% of the insured cost of losses compared with the normal non-appearance policy rate of 5% or less.

Here is an elderly gentleman—going on 800 years old or so if you trace his life from the days of St. Nicholas—who is deliberately doing an outdoor engagement in the ice and snow and who travels at great heights, points out Geoffrey Fox, a director of Lloyd's broker Adam Bros. Contingency Ltd., which writes many non-appearance policies for celebrities.

"The rate would be at least 12.5% to 15% of the sum insured for this

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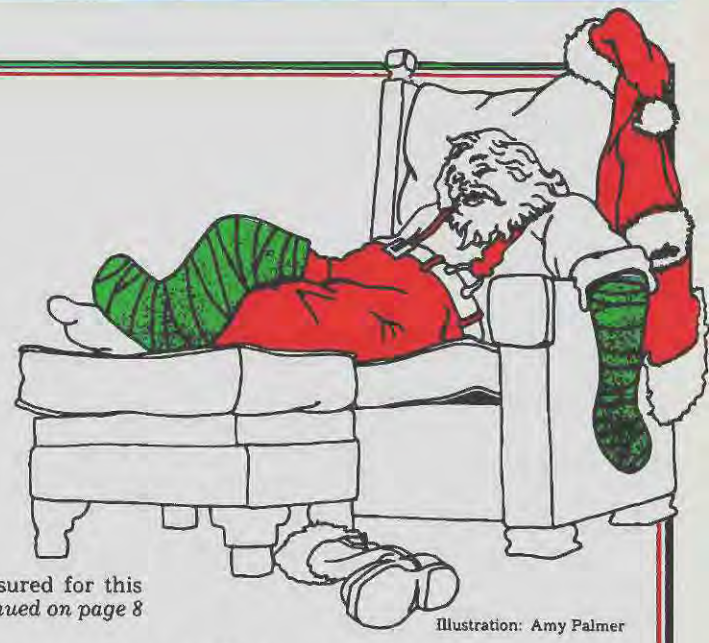

Illustration: Amy Palmer

## British groups seek coverage for papal visit

LONDON—Santa's helpers around the world ensure his mythical appearance every year, but no one can guarantee Pope John Paul II's historic tour to Britain May 28 to June 2.

That's why Papal Visit Ltd., the organizers of the tour, and souvenir manufacturers will need non-appearance insurance for the pope's visit, says Geoffrey Fox, a director of Adam Bros. Contingency Ltd.

Furthermore, the attempt on the pope's life in May has increased the risks involved, increasing the rate for the coverage.

"We are putting together a non-appearance insurance facility for the pope's visit here next year. This will be for people who are in the cities he is visiting, such as the open mass organizers, for loss of expenses already incurred if the pope cancels," he said.

Papal Visit Ltd., consisting of the Roman Catholic bishops in Britain, is already shopping for the non-appearance coverage, said Mr. Fox, and will probably be Adam Bros.' largest client for papal coverage.

"We need insurance because money is already being spent on the preparations for the pope's tour," said R.W. Last, assistant to the coordinator of Papal Visit Ltd. "If the pope is saying an open-air mass in, for instance, an airport, you have to pay for putting up the stage and corrals."

Non-appearance insurance will pay for the architects'

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## Libya prompts coverage queries

**By STEPHEN TARNOFF**

Companies with overseas investments are asking a lot more questions about political risk insurance following President Reagan's request for all American personnel to leave Libya, according to some brokers and insurers.

The most sophisticated insurance buyers involved in international business, however, are prepared for such developments and are not clamoring for more or initial coverage, say other insurers, such as American International Group.

Anyone with business risks in Libya itself, all agree, had better be insured now. Previously high political risk insurance rates for assets in Libya have skyrocketed to the point that it is almost impossible now to buy insurance to cover risks there. No underwriter would even quote today's rate and some said they wouldn't touch it.

And the Federal Credit Insurance Assn., which provides credit insurance, stopped writing insur-

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# Testing work comp

## California high court opens door to more employee suits

**By RHONDA L. RUNDLE**

SAN FRANCISCO, California—business groups are stunned by a landmark state Supreme Court decision that further erodes an already weakened workers compensation law by encouraging injured workers to sue their employers in civil courts.

The high court ruled that the workers compensation law does not shield an employer from common law liability when the cause of an employee's injuries is a defective product manufactured by the employer.

It would be unfair to bar an employee from bringing a product liability suit against a manufacturer that happens to be his employer if the other users of the faulty product are allowed to do so, the state's highest court ruled Nov. 30 in Bell vs. Industrial Vangas Inc.

This is the first California Supreme Court test of recent appellate level decisions that widen the so-called dual capacity exception to workers compensation benefits as the sole and exclusive remedy for workers injured on the job (*BI*, May 11.)

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## Appellate court in Michigan upholds exclusive remedy

**By JOHN W. MILLIGAN**

LANSING, Mich.—The Michigan workers compensation system is the exclusive remedy for former employees of the Velsicol Chemical Corp. who claim they were exposed to the chemical PBB, a state appeals court has ruled.

The employees, 250 to 300 members of Local 7224 of the Oil, Chemical & Atomic Workers Union, sued the company for $500 million in damages for their alleged exposure to PBB.

The chemical is a toxic fire retardant that was manufactured at the now-closed Michigan Chemical Co. plant, owned by Velsicol.

The Michigan Court of Appeals affirmed a lower court ruling that dismissed their claim, finding that workers compensation is the sole and exclusive remedy for industrial injury cases in Michigan. This rule exists under the state's Worker's Disability Compensation Act.

This differs with recent decisions in California, where state courts have chipped away at the doctrine there with rulings that allow employees to sue their employer outside the workers com-

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NEWSPAPER

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# update:

## New CGL policy planned

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emergence-type injuries resulting from long-term exposures to harmful conditions," remarked ISO President Daniel McNamara, alluding to substantial litigation and conflicting court opinions that have arisen.

To avoid a buildup of limits from multiple policy years, as seen with asbestos disease claims, ISO will offer a manifestation or first-discovery trigger mechanism, replacing present occurrence provisions. An alternative form, using a claims-made trigger mechanism, also will be available.

"It's up to individual companies to decide if they want these forms," Mr. McNamara stressed, noting that they are still in a provisional stage pending industry approval.

## Black lung tax doubled

WASHINGTON—Just hours before adjourning, Congress approved legislation that will double the excise tax coal mine operators pay on mined coal and will make it tougher for miners to collect black lung benefits.

The measure, H.R. 5159, which won United Mine Workers support after it was agreed that changes would not apply to current beneficiaries, removes a restriction that bars the Labor Department from getting a second opinion on X-rays submitted by miners.

The tax that mine operators pay to the financially ailing black lung disability trust fund will rise to 50 cents for each ton of surface-mined coal, up from 25 cents. The tax on underground coal will rise to $1 per ton from 50 cents.

## Silkwood award overturned

DENVER, Colo.—A federal appeals court has overturned the $10.5 million judgment against Kerr-McGee Corp. in the Karen Silkwood nuclear contamination case.

The judgment, $500,000 in compensatory damages and $10 million in punitive damages awarded to Ms. Silkwood's estate in May 1979, held that the nuclear industry was liable for off-site contamination.

In its Dec. 7 ruling, the 10th Circuit Court of Appeals said that Miss Silkwood's injuries were work-related and workers compensation laws, not common-law remedies, should apply.

The court also held that federal nuclear energy regulations preempt state laws allowing punitive damages. Since federal regulations are silent on punitive damages, none could be awarded, it said. In addition, the court reduced the compensatory damages to $5,000.

Miss Silkwood, an employee of Kerr-McGee's Crescent, Okla., plutonium fuel rod fabricating plant, was contaminated by plutonium in November 1974 and died in an automobile accident a short time later.

Her family's attorneys assert she was carrying information on Kerr-McGee's quality control records to a reporter.

Gerald Spence of Jackson Hole, Wyo., attorney for the Silkwood estate, says the ruling was made by three of nine appeals court judges, who split 2-1.

"We will first ask that the full nine judges hear the case. After that, if necessary, we will toddle up to the Supreme Court with our hats in our hands."

## Moran, underwriter acquitted

LONDON—A London court has acquitted Christopher John Moran, managing director of Christopher Moran & Co., and Lloyd's of London underwriter Derek James Walker on charges they attempted to defraud Lloyd's members (*BI*, Nov. 16).

They were accused of using phony reinsurance transactions between Mr. Walker's two syndicates and offshore reinsurance companies controlled by Mr. Moran to defraud the names.

Mr. Moran still faces disciplinary proceedings at Lloyd's.

Meanwhile, Lloyd's Chairman Peter Green told the parliamentary committee studying the Lloyd's self-regulation bill that mandatory divestment of Lloyd's brokers and underwriting agencies may prevent future misconduct in the market.

## GPU revises TMI suit

NEW YORK—General Public Utilities Corp. is now seeking $4 billion in damages from Babcock & Wilcox Co., supplier of the nuclear steam system at Unit No. 2 of its Three Mile Island nuclear generating plant in Pennsylvania.

GPU, a utility holding company that owns the plant through three subsidiaries, first sued Babcock & Wilcox for $500 million in March 1980 in U.S. District Court in New York.

The revised suit against Babcock & Wilcox and its parent, McDermott Inc., follows a similar suit that GPU filed against the Nuclear Regulatory Commission in U.S. District Court in Pennsylvania, again for $4 billion (*BI*, June 15).

## index



Vol. 15, No. 51—*Business Insurance* (ISSN 0007-6864) is published weekly at 740 Rush St., Chicago, Ill. 60611. Second-class postage is paid at Chicago, Ill., and at additional mailing offices. Postmaster: Send address changes to *Business Insurance*, circulation department, 740 Rush St., Chicago, Ill., 60611; 312-649-5221. 

# Suit in crane accident cites safety violations

**By LEN STRAZEWSKI**

CHICAGO—Construction and engineering firms building the new State of Illinois Center violated a series of safety requirements and set the scene for five accidental deaths, two lawsuits charge.

Five workers died and one was seriously injured Dec. 11 when a construction cage fell from a crane, plunging the six workers more than 100 feet into the deep excavation in Chicago's Loop.

The cage, apparently constructed by employees, broke away from the crane when metal support rods snapped.

The first lawsuit, filed by the widow of one of the victims, charges that the construction managers and contractors should have provided additional inspections, life lines and safety nets in accordance with the Illinois Structural Work Act.

Diane Houseknect, widow of victim Charles F. Houseknect, is seeking $10 million from seven engineering, construction and architectural firms, including Gust K. Newberg Construction Co., Paschen Contractors Inc., Morse/Deisel Inc., UBM Inc. and Robert Martin Inc.

The suit says Morse/Deisel, the project's construction manager, Newberg-Paschen (a joint venture of two defendants), the general contractor, and the other defendants who are consultants and subcontractors "willfully violated" the Structural Work Act by:

- Permitting the construction

*Continued on page 22*

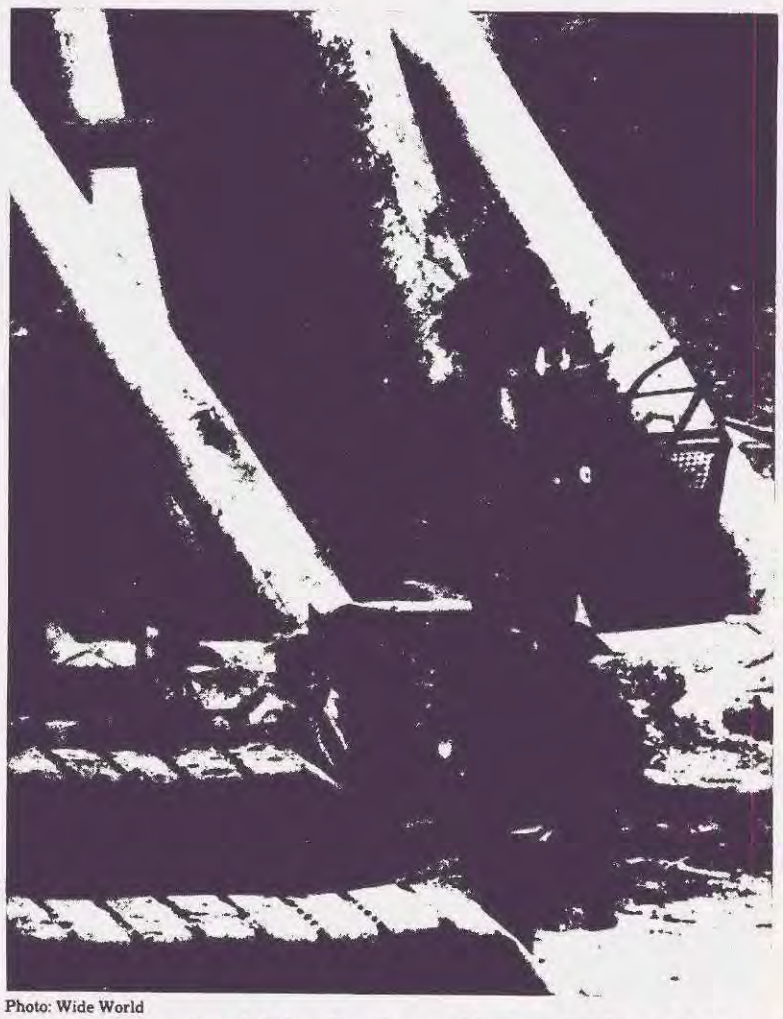

Photo: Wide World

**Onlookers examine debris after the accident at the State of Illinois Center construction site in Chicago's Loop.**

## Claims administrators can be listed in *BI* directory

The annual *Business Insurance* claims administrators directory is being compiled and will appear in the Jan. 25 issue.

If your company offers claims adjusting, administration or auditing services, write Claudette Dampier, *Business Insurance*, 740 N. Rush St., Chicago, Ill. 60611, or call 312-649-5398 for a questionnaire.

Don't get caught in the holiday mail. The deadline to return the completed claims administrators form is Jan. 4.

# NAIC panel OKs model bill to prevent HMO insolvencies

**By EILEEN NORRIS**

NEW ORLEANS—With a uniform law to follow, more health maintenance organizations may have to guarantee their financial soundness before opening up shop.

Model legislation that would protect employers and employees against a failing health maintenance organization and give regulators new clout to prevent HMO insolvencies in the first place was approved last week at the National Assn. of Insurance Commissioners' annual meeting.

The NAIC's HMO Solvency Task Force unanimously supported the model law. The NAIC executive committee was expected to accept the model Dec. 18. If approved, each state would then have the option of adopting the law.

Under the model bill, an HMO would have to maintain a fidelity bond on employees and officers of not less than $100,000 or some other amount approved by the state's commissioner of insurance.

In addition, an HMO just starting up also would be required to reserve 5% of its estimated expenditures for health care service for its first year of operation or twice its estimated average monthly uncovered expenditure for its first year or at least $100,000.

Uncovered expenditures are costs not covered under the HMO contract. For example, if an enrollee must see a specialist who does contract with the HMO, the HMO would pick up that uncovered expense. However, if the HMO folded, the enrollee would be responsible for that bill.

An HMO in operation when a state adopts the model bill would have to reserve 1% of its preceding 12 months of uncovered expenditures or $100,000 within six months of the effective date of the new law.

In the second fiscal year after the passage of the law, the required reserve would be 2% of the estimated annual uncovered expenditures

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## errors & omissions

• The federal study of health care costs, "National Health Expenditures: Short Term Outlook and Long Term Projections" (*BI*, Dec. 14), was published in March 1981 in Volume II, Number 3 of Health Care Financing Review, not in November 1981 as reported.

## Missouri HMO closed by state

**By JAMES LAWSON**

ST. LOUIS—The collapse of the 3-year-old Metropolitan St. Louis Prepaid Health Plan has state legislators scurrying to design regulations governing the operation of health maintenance organizations.

The legislators and officials of the state Division of Insurance, which strongly supports such legislation, hope to have it in place by early next year.

If adopted, the proposed legislation, designed to establish authorization and operational standards along with capital and reserve requirements for HMOs, would end more than two years of political negotiations over financial and language requirements of such a bill.

Last year, legislators were thwarted by the Division of Insurance, which thought proposed capital and reserve requirements for HMOs were not high enough.

*Continued on page 25*

# Benefits top $6,000 per worker

By JERRY GEISEL

WASHINGTON—Led by sharply rising health insurance and pension expenses, employee benefit costs continued to spiral in 1980 with the average benefit cost per employee topping the $6,000-mark for the first time.

The average annual cost of employee benefits among companies surveyed in the latest U.S. Chamber of Commerce benefit survey climbed to $6,084 per employee, up from $5,560 in 1979, a 10.3% increase. The corresponding increase in 1979 was 8.2%.

Benefit costs as a percentage of payroll also rose to 37.1%, up from 36.6% in 1979 and 36.9% in 1978. Benefit costs as a percent of payroll were 35.4% in 1975 and 32.7% in 1973.

The data for the 1980 chamber study were supplied by 983 companies in 21 different industrial classifications, with employee groups ranging in size from fewer than 100 to more than 5,000. The chamber has been surveying employee benefit costs since 1951.

The survey also identified by industry the percentage of total costs for benefits the company is mandated by the government to provide; for pensions, insurance and other agreed-upon payments; paid rest periods and lunch; payment for time not worked; and profit-sharing, bonuses, etc. (see chart).

Overall, the profit-strong petroleum industry retained its No. 1 position in spending more on employee benefits than any other industry. Benefit costs, as a percent of payroll, rose to 48% from 44.5%.

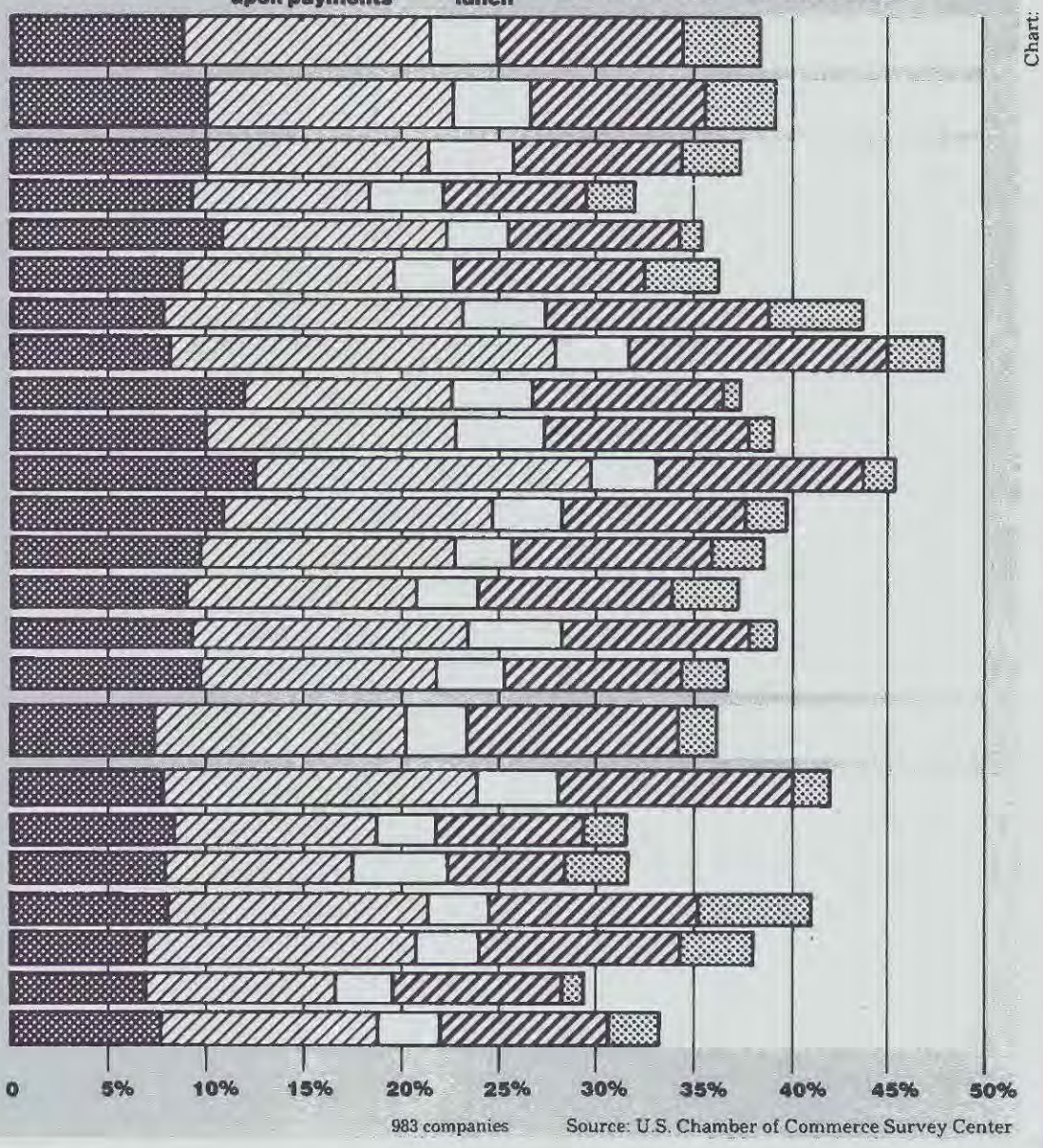
Other big employee benefit spenders included the primary metals industry where benefits costs climbed to 45.1% from 43% and the chemicals and allied products industry where the cost rose to 43.3% from 43.1%.

Industries where benefit costs as a percent of payroll decreased in 1980 compared with 1979 included: food, beverages and tobacco, 36.4%

*Continued on page 24*

## Employee benefits as percent of payroll, by industry groups, 1980

| Industry group | Percent of payroll |
|---|---|
| **Total, all industries** | **37.1** |
| **Total, all manufacturing** | **38.2** |
| Manufacture of: | |
| Food, beverages and tobacco | 36.4 |
| Textile products and apparel | 31.9 |
| Pulp, paper, lumber and furniture | 35.0 |
| Printing and publishing | 35.7 |
| Chemicals and allied products | 43.3 |
| Petroleum industry | 48.0 |
| Rubber, leather and plastic products | 36.7 |
| Stone, clay and glass products | 37.8 |
| Primary metals industries | 45.1 |
| Fabricated metal products | 39.4 |
| Machinery (excluding electrical) | 38.0 |
| Electrical machinery, equipment and supplies | 36.9 |
| Transportation equipment | 38.8 |
| Instruments and miscellaneous manufacturing industries | 36.4 |
| **Total, all nonmanufacturing** | **35.9** |
| Public utilities (electric, gas, water, telephone etc.) | 41.3 |
| Department stores | 31.3 |
| Trade (wholesale and other retail) | 31.3 |
| Banks, finance companies and trust companies | 40.3 |
| Insurance companies | 37.6 |
| Hospitals | 29.6 |
| Miscellaneous nonmanufacturing industries* | 32.7 |




*Includes research, engineering, education, government agencies, construction, etc.

983 companies

Source: U.S. Chamber of Commerce Survey Center

Chart: Toby Roberts

# Punitive damages concerning Hyatt

KANSAS CITY, Mo.—Hyatt Corp. is the only party in the complex litigation over insurance for claims arising out of the skywalk disaster at the Kansas City Hyatt Regency Hotel now pushing for a court ruling on whether there is insurance for any punitive damages that may be awarded.

The insurers involved and Hallmark Cards Inc., which owns the hotel through its Crown Center Redevelopment Corp. subsidiary, counter that currently the most important questions are which of the 25 insurers must defend Hyatt, Hallmark and Crown Center against suits demanding in excess of $3.6 billion and in what order.

Hallmark especially wants the court to rule that it is covered under Hyatt's $200 million line of liability insurance. Hallmark has $100 million of its own liability insurance.

In the meantime, Northbrook Excess & Surplus Lines Insurance Co. is now handling the defense and settlement of suits against Hyatt, Hallmark and Crown Center as Hyatt's first excess layer insurer since the $1 million primary policy was exhausted by settlements.

Hyatt's attorney, Thomas E. Deacy Jr. of Kansas City, argued during a Dec. 15 hearing on a series of issues in Kansas City before Jackson County Circuit Court Judge Timothy O'Leary that the court should rule on insurance coverage for punitive damages at the same time it rules on the so-called primary vs. excess questions. The insurers, however, say most if not all of the coverage questions can and should be deferred until the court determines the primary vs. excess issue.

In addition, Mr. Deacy asked the court to order Hyatt's insurers to pay for separate legal counsel hired by Hyatt to defend against suits claiming punitive damages because Northbrook has issued the customary letter reserving its rights not to pay any punitive damages.

It is unclear under what circumstances insurers may cover punitive damages in Missouri (*BI*, Aug. 10).

Further, Mr. Deacy contended that Hyatt and Northbrook are in conflict on how to defend against claims for punitive damages, which forces Hyatt to hire its own attorneys, he said.

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# Other nations hope to copy Bermuda's captive success

By KATHRYN J. McINTYRE

HOLLYWOOD, Fla.—Envious of the thriving business Bermuda enjoys as the home of more than 1,000 insurance companies, other countries that are better known as vacation havens are eagerly laying out the welcome mat to captive insurance companies.

Besides Cayman, the second-largest home for captive insurers, and the Bahamas, which began its captive campaign almost a year ago, Turks and Caicos, Netherlands Antilles and now Panama are among those trying hardest to drum up captive insurance company business.

Also, Puerto Rico is talking with Treasury Department officials about the possibility of special treatment for U.S. companies that choose to establish a captive insurer there, hoping U.S. support for the economic development of the commonwealth will smooth the way.

Each location wants to attract corporations looking for a place to locate a subsidiary insurance company not only for the licensing fees but also for the new businesses developed to serve captives. And many harbor dreams of watching these captives grow in their countries into the bustling insurance business that has developed in Bermuda.

They hope to lure new companies from Bermuda where incorporation takes longer and operating costs are generally higher, both results of its development as an insurance center.

Representatives of these developing and would-be captive domiciles flocked to beat their own drums at the Conference on Alternative Captive Domiciles held here earlier this month by Risk Planning Group, a Darien, Conn.,-based risk management consulting firm.

Ironically, the drums were played mostly for the competition. There were just a few potential clients in the audience that was dominated by the Bahamas contingency of mostly bankers who turned out to hear their prime minister deliver a luncheon address.

**Prime Minister Lynden Pindling and Justin Tierney were two of the Bahamas' representatives.**

Nor were all the alternative offshore domiciles discussed. Missing from the lineup of speakers were representatives of other jurisidictions looking for captive business, including The Isle of Man, Guernsey and Gibraltar.

All these jurisdictions are apparently fighting for a limited amount of new captive business. Risk Planning Group, which tracks captive formation, documents about an 8% to 9% increase in the number of captives formed in 1981 compared with the 946 known to them in 1980. The consultants admit, however, they don't know of all the captives since they estimate there are more than 1,800 captives around the world.

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# Health plan sweet music to orchestra members

The Louisville Orchestra has added a health insurance plan and upgraded life insurance coverage under a three-year contract that makes its 68 musicians full-time employees.

For the first time, the orchestra is offering a group health insurance plan that pays 80% of the first $2,000 of an employee's claims during a calendar year. The employee pays the remaining 20%. The plan, underwritten by Prudential Insurance Co. of America, pays everything exceeding $2,000.

## benefit beat

The Louisville Orchestra pays 99% of the premium. The remaining 1% is paid by the employees through payroll deduction.

Under the new agreement, the orchestra's musicians also will be covered by $25,000 in group life insurance coverage underwritten by Prudential. Previously, the musicians, who had been considered part-time employees, had been covered by a $3,000 life policy.

The orchestra is also providing $25,000 in accidental death and dismemberment coverage, also underwritten by Prudential.

### District self-funds

Escalating health care costs have driven the Pequea School District in Intercourse, Pa., to self-insure to save money.

Faced with a proposed 35% increase in hospitalization and major medical insurance premiums, the school district has self-funded its hospitalization plan for its 174 employees and is saving $20,000, according to a district official.

Under the old plan, underwritten by Educators Mutual Life Insurance Co. of Lancaster, Pa., the school district's new premium would have been $120,000, an increase of more than $30,000 over the previous premium.

The new plan is projected to cost the school district $100,000 for the year through Dec. 1, 1982.

The premium increase, according to district Superintendent David Zerbe, would have pushed insurance costs $2,000 over what the school district had budgeted.

The proposed increase came as a surprise because "claims had been less than premiums," he explains.

The school district got its first taste of self-funding when it self-insured its workers compensation program through a pool formed by 19 other neighboring school districts in July.

The district made no coverage changes. "All we did was take the old plan and self-fund it," he says.

Under the plan, teachers, administrators, custodians and cafeteria workers are provided a maximum $250,000 major medical coverage, a maxmium $1,000 surgical benefit, $800 maxmium miscellaneous hospital charges and a $150 maximum payment for X-rays and lab work.

It also provides for a maximum of 70 days of hospital care and has an inpatient physician's fee schedule of $20 for the first visit, $15 for the second visit and $10 for each additional visit.

The school district has purchased stop-loss insurance from Harbor Life Insurance Co. The plan is administered by Susquehanna Administrators Inc. of Lancaster, Pa.

The plan, Mr. Zerbe says, costs the school district $50 per employee per month, about the same as it paid for similar coverage under the old plan. Employees pay a $100 deductible.

### Vision care plan

The Southwestern Central School District in suburban Jamestown, N.Y., will offer vision care as a new employee benefit to its 140 teachers and administrators.

The new benefit, won by the Southwestern Teachers Assn. through contract negotiations, will be administered by Vision Service Plan, an independent, non-profit prepaid vision health care firm.

The plan provides for a comprehensive vision examination, including a case history, disease testing, muscle balance testing and glaucoma testing.

It also provides for corrective lenses and frames. It will pay for contact lenses:

- When a panel doctor recommends lenses following cataract surgery.
- To correct extreme visual problems that cannot be corrected with spectacle lenses.
- To treat anisometropia—unequal corrections between the two eyes.
- To treat keratoconus—a distortion of the cornea of the eye.

When patients choose contact lenses for other reasons, the plan makes a $60 allowance—less a $15 per-claim deductible.

The new benefit is expected to cost the school district about $50 per family per year. There are no financial coverage limits.

Patients can choose any professional vision care specialist they want. Vision Service Plan makes direct full payments to those specialists on its list of providers and reasonable and customary payments—based upon a fee schedule—to specialists not on its list.

Under the plan, an employee and a spouse are allowed one comprehensive examination every 24 months. Dependents under age 18 are allowed one checkup every 12 months.

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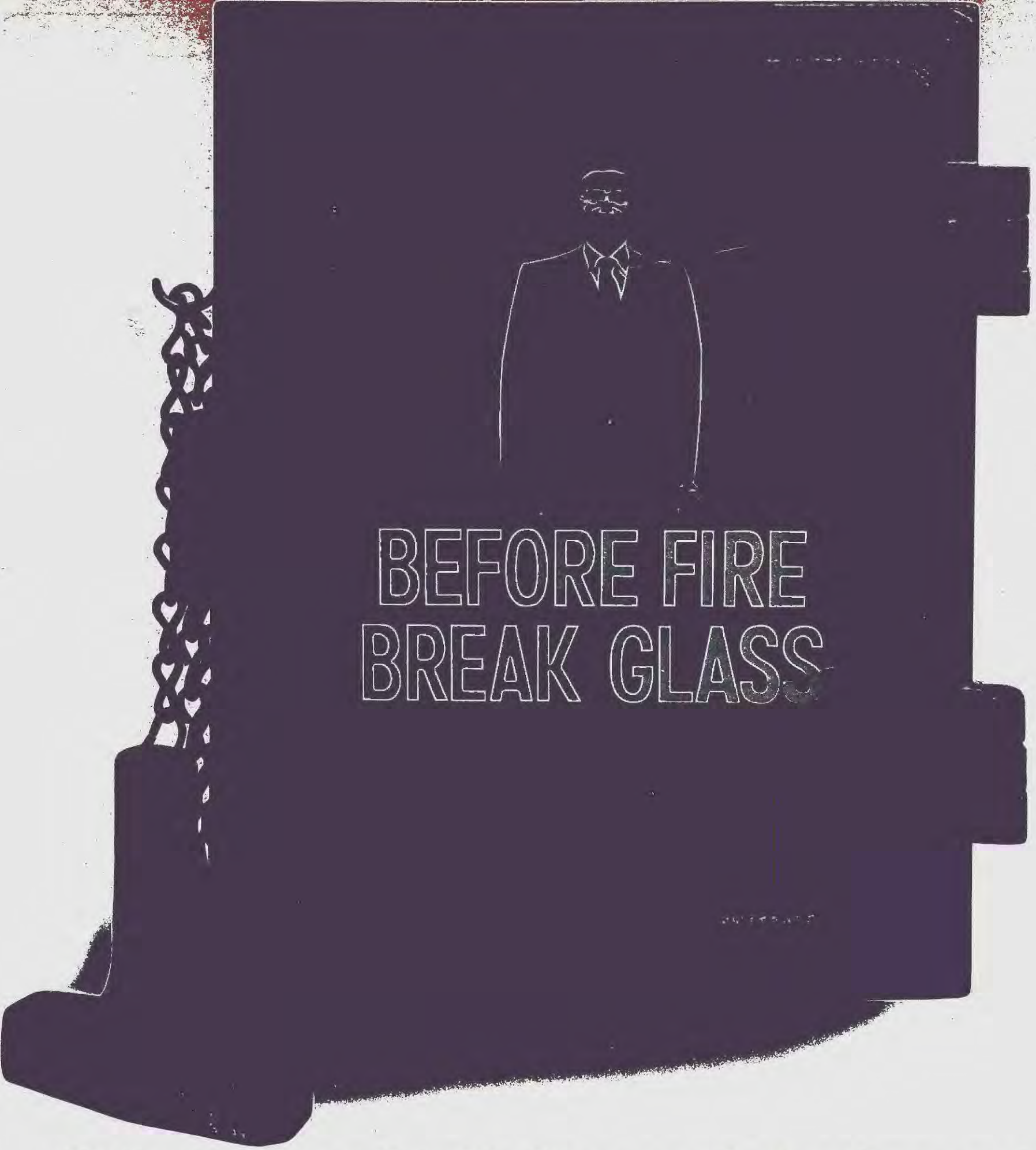
*Made any benefit changes? Write James Lawson, Associate Editor, Business Insurance, 220 E. 42nd St., New York, N.Y. 10017; 212-210-0143.*

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# editorial opinions

## An unwelcome gift

CALIFORNIA EMPLOYERS are saddled with a new risk that they must try to eliminate and, in the meantime, insure.

The recent California Supreme Court decision allowing an injured worker to file both a workers compensation claim and a product liability suit against his employer because an on-the-job injury involved his employer's product is a dangerous precedent creating a new risk for employers (see story, page 1).

If the decision is interpreted as broadly as some lawyers fear, any employee injured on the job would have a cause of action against the employer if he would be able to sue a third party under the same circumstances. It would destroy the exclusive remedy rule that is the foundation of the workers compensation system.

Even if the decision is interpreted more narrowly, it certainly will allow more suits to be filed by injured employees against employers than the workers compensation system is designed to permit. The decision serves to at least punch a big hole in the exclusive remedy rule.

Employers in California should demand legislative relief from this decision. A bill that would reinforce the exclusive remedy provisions of workers compensation is stuck in a legislative subcommittee. Employers should use all the leverage they have to free it from committee and get it passed.

However, before beginning the lobbying campaign, employers should be sure that any liability judgments against them for injuries to employees will be covered by insurance. Workers compensation and general liability insurers are tossing the risk back and forth; no one wants it.

All employers should negotiate with their workers compensation and general liability insurers to settle which insurer would cover a liability award to an injured worker.

## New approach needed?

THANKFULLY, THE Michigan Court of Appeals recently upheld workers compensation as the exclusive remedy to injured workers in the state.

These conflicting decisions coming out of California and Michigan, coupled with the conflicting decisions based on differing state laws regarding insurance coverage for long-latent injuries, make us wonder if the insurance industry's staunch support for state regulation of insurance isn't misplaced.

Could there be a time when federal regulation of insurance in the interest of consistency would be preferred?

## Miracles of the season

FILLED WITH THE SPIRIT of the season and wonder of its miracles, we've been reflecting upon some developments that we were told only a miracle could produce:

- The underwriter who absolutely refused to lower his price, add an endorsement, delete an endorsement or accept your preferred payment schedule changed his mind when it was announced the account would be moved.
- The price of property and casualty insurance got cheaper in 1981.
- The intolerably high accident rate at a plant fell dramatically when losses were charged against the plant's operating income that determines the plant manager's annual bonus.
- The United Auto Workers agreed at least to consider accepting cuts in wages and employee benefits to save the U.S. auto industry from bankruptcy.
- Insurers underwrote back-dated liability insurance.

Happy holidays and may the miracles you hope for in 1982 come to pass.

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Published weekly at 740 Rush St., Chicago, Ill. 60611 (312-649-5200). Offices: 220 East 42nd St., New York, N.Y. 10017 (212-210-0100); Suite 515, National Press Building, Washington, D.C. 20045 (202-638-5300); 6404 Wilshire Blvd., Los Angeles, Calif. 90048 (213-651-3710); 5327 N. Central Expwy; Suite 200, Dallas, Tex. 75205 (214-528-3561). $1 a copy. $30 a year in U.S. Canada and all other foreign add $14 for surface mail. Europe and Middle East only add $32 for air delivery. First-class mail to Canada only, add $36. WILLIAM STRONG, *vp-circulation.* BARBARA RANDICK, *circulation manager* ROGER DiGREGORIO, *fulfillment director.* Circulation dept.—*Chicago* (312-649-5221). Four weeks' notice required for change of address. Send subscription correspondence to Circulation dept., Business Insurance, 740 Rush St., Chicago, Ill. 60611 or phone 312-649-5221. Telex 25-4248; Cable CRAINCOM. Microfilm copies are available from University Microfilms, 300 Zeeb Rd., Ann Arbor, Mich. 48013. Microfiche copies available: Bell & Howell, Micro Photo Division, Old Mansfield Rd., Wooster, Ohio 44691.

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# letters

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

## D&O problems follow a merger

To the editor: Eugene Johnson's Perspective article on corporate takeovers and D&O insurance problems (*BI*, Nov. 9) states, "Continuation of separate covers, following completion of an acquisition or merger, is redundant."

This statement could mislead some readers. A merger I examined recently as a consultant revealed the following major problems because of differences in D&O coverage of the two companies:

- The new corporate entity of the acquired company was not insured by the predecessor (acquired) company's D&O insurance. The acquired entity would have been uninsured if coverage had been dropped.
- The two D&O policies contained different retroactive dates, which could have resulted in a 15-month uninsured gap in coverage for the acquired company's directors and officers.
- The period in which claims could be discovered and/or filed against the directors and officers could vary from three to 10 years, depending on circumstances and the state.
- The limits were different ($5 million vs. $40 million).
- The retentions under the acquiring company's policy were considerably higher ($800,000 vs. $50,000) and exposed individuals to five times their previous liability.

A run-off period of coverage (to let the statute of limitations expire for acts prior to a certain date) should not be confused with the "extended discovery" clause of D&O policies. The run-off coverage purchased might be compared to discontinue products coverage.

Unless the lead D&O underwriter for the acquiring company is very cooperative, run-off coverage for the acquired company's directors and officers may be essential and may have to be purchased from the acquired company's D&O insurer, under most circumstances.

**James A. Robertson**
Principal consultant
and editor
"The Umbrella Book"
Warren, McVeigh & Griffin Inc.
Newport Beach, Calif.

## The risks of comp pool membership

To the editor: "Pooling your risks" in your Perspective section (*BI*, Dec. 7) by Peter C. Grieves points out that significant savings in workers compensation costs may be realized by smaller employers through group funds now allowed in many states. Mr. Grieves does an excellent job in reviewing the various administrative matters that must be attended to in organizing such a pool.

In addition to pool administration, it is important to realize the significant financial risks that come with pool membership. The adequacy of the total provision for loss reserves to cover all incidents incurred by prior years of pool operation is of critical importance. The most significant risk to an insurance company's solvency is the adequacy of the total provision for loss reserves.

Likewise, by far the largest liability is for losses incurred but not yet settled or even reported. Total claim costs incurred will always be more than simply the sum of the adjusters' case estimates. Work comp is a long-tail line and the establishment of proper total reserves requires specific training and experience in many financial, mathematical and insurance skills.

Many states may have little or no explicit requirements for surplus in the pool. When reserve deficiencies must finally be corrected, the funds will have to come from the pool's membership at the time.

Again like an insurance company, a pool can exist for a long time on its cash flow by unknowingly undervaluing its claim-reserve liabilities before the underreserving problem is detected. Any claim-reserve liability on a pool's financial statements must make provision not only for known cases reported to the claim service but also for cases incurred but not yet reported, for upward development on cases currently carrying a reserve and for those cases that are closed but will reopen.

The administrator and the trustees have a responsibility to the pool members to assure that the loss-reserve liability is continually monitored and evaluated.

**Ronald F. Wiser**
Milliman & Robertson Inc.
Chicago

## Joint venture brokered airport cover

To the editor: I would like to call your attention to an article in the Nov. 30 edition referring to the tornado that touched down at the Atlanta airport.

Our account executive, Merton DeMerchant, has clarified the article by explaining that the midfield terminal building sustained damages of $150,000, which were covered by $200 million of property damage insurance through Kemper Group and serviced by Oberdorfer Insurance Associates Inc. The city of Atlanta is a client of a joint venture known as Atlanta Insurance Managers, which includes Fred S. James, T.M. Alexander & Co. and Oberdorfer Insurance Associates.

**Saralyn Oberdorfer**
Public relations
Oberdorfer Insurance
Associates Inc.
Atlanta

## Unhappy with the result of interview

To the editor: I want to voice my displeasure with your interpretation of a telephone interview.

An article, "Third-quarter results show more declines" (*BI*, Nov. 16), incorrectly interprets comments I made concerning Connecticut General's third-quarter property/casualty results. Furthermore, the article is misleading and inaccurate.

At no time did I indicate our lack of insurance acumen. Insurance acumen, in my opinion, contributed to the operating gain that is the focus of the article.

**Augustine J. Demeo**
Director of investor relations
Connecticut General
Life Insurance Co.
Hartford, Conn.

■ *Our article does not suggest a "lack" of insurance acumen at Connecticut General. Rather, it reflects your analysis that the large gain in operating income was chiefly the result of investment income and not improved underwriting results.*

# To solve, first imagine.

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# Coverage for Santa would be costly

*Continued from page 1*
outside night engagement," he said.

That's the premium rate for older performers like Mr. Hope and the late Igor Stravinsky, whom Adam Bros. had insured in the past, he added.

The non-appearance insurance policy pays performers and/or producers for losses due to conditions beyond their control, said Mr. Fox. Adam Bros., for example, insured NBC for its losses when its coverage of the 1980 Olympic games in the Soviet Union was canceled.

Santa Claus' risk manager should be taking loss-control steps year-round to reduce the risk of Santa slipping in the workshop and breaking a leg, a careless elf setting the toy shop on fire while welding or the reindeer getting foot and mouth disease. After all, Santa only has one chance each year to bestow gifts to children—and believing adults—around the world. His failure could mean no Christmas.

"We're talking a total loss or nothing," said Mr. Fox. "Like the coverage for the Olympics, if Santa can't appear on that specific night with him going sick at the last moment, it's a total loss."

**He also suggests** Santa's risk manager remember the "due diligence contingency clause" written into the policy, which allows insurers to pay for the expense of hiring a substitute performer so the show can go on.

"Underwriters happily pay the expense of that instead of paying for a total loss on a cancellation," said Mr. Fox. But the idea of Santa having an understudy takes a bit of the wonder out of the North Pole legend.

What could really make Santa's risk manager cringe is that the risk of canceling Christmas may be basically uninsurable.

"What is Santa's insurable interest? His presents are given away. He doesn't pay for them," Mr. Fox said.

And the cost of magic isn't included in a Lloyd's policy yet.

Of course, Santa could lose face with the kids, and other toy manufacturers around the world could hold him liable for expenses incurred due to the cancellation of Christmas, "especially if you are doing business in the United States," said Mr. Fox.

However, it's impossible to estimate the cost of the loss of the spirit of Christmas.

But then that might not be such a big risk after all.

"There's a religious aspect to Christmas, as well," reminds Mr. Fox. "Christmas is more than just Santa, you know."



# Britons price coverages for papal visit

*Continued from page 1*
fees, the cost of contractors and other funds that will already have been paid if the pope cancels, said Mr. Last.

But the attempt on the pontiff's life and his subsequent operations have played havoc with the rates for the non-appearance policy Adam Bros. is trying to to place in Lloyd's and the London market.

When Adam Bros. first began to look for the $6 million to $8 million pounds in insurance capacity, Lloyd's underwriters quoted an insurance rate of about 2.5% of the sum insured, Mr. Fox said. That was before the pope was shot.

"Suddenly, the pope is shot and the market tightens—just as we were in the middle of putting it together," he said.

When the pope recovered, insurers began quoting again on the papal non-appearance insurance. But when the pope needed a second operation, the market began quoting a rate of 10% of the sum insured.

"Since his operation, though, the rate has come down again. It varies around 5% now," said Mr. Fox.

**The premium** will also fluctuate as the day of the pope's arrival draws near, said Mr. Fox. Costs for the preparation increase at a faster pace as the event nears so the risk of a heavy loss increases as the day approaches.

"The pottery maker, for instance, won't invest today in papal souvenirs. He is not stupid. He will produce the extra whiteware and then put pictures and dates on later, with the final firing," he said. "We try to work out what the actual exposures are, but it's impossible to talk about exact rates now."

As Christmas approaches, however, Adam Bros. is still trying to work out the prelimnary details of the papal non-appearance coverage.

"It is still slightly early to talk about this insurance. There's been so much to-ing and fro-ing and then we went through his disaster. Now his final itinerary has just been announced and there's only been a recent announcement that he is back."

Everyone is hoping, however, that John Paul II won't cancel his tour of England, Scotland and Wales. It will be the first time since Henry VIII renounced the Catholic Church in 1534 that a pope has visited Britain. But no hard feelings seem to exist more than 400 years later.

"The queen is hoping to receive the pope when he visits here, but as an official head of state," said a Buckingham Palace spokesman. "He is, after all, the head of the Vatican." ■

## Work comp rate cut proposed for Idaho

BOISE, Idaho—Workers compensation insurers are seeking a 4.3% reduction in the rate paid by the state's employers.

The National Council on Compensation Insurance filed the proposal with the state insurance director on behalf of workers compensation insurers operating in the state. The rate decrease would become effective Jan. 1 for all new and renewal policies.

A spokesman for the NCCI said the decrease was due to improvements in safety and loss-control efforts by businesses. The average proposed rate decreases by industry group are: manufacturing, 5%; contracting, 9.6%; and all others, 1.9%. ■

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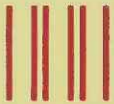

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# TPF&C to take over Olanie Hurst offices

Fred S. James & Co. Inc. and Towers, Perrin, Forster & Crosby have agreed to begin merging James' West Coast actuarial subsidiary, Olanie Hurst & Hemrich, into TPF&C's Los Angeles office.

The action eventually will lead to a complete TPF&C takeover of Olanie Hurst & Hemrich offices in the West and Northwest, according to James Executive Vp Daniel V. Malloy.

"We had some personnel problems with our actuaries and felt that it would best serve the long-term needs of our clients to offer the business to TPF&C," Mr. Malloy explained.

Olanie Hurst & Hemrich was acquired by James in 1978 and had revenues of about $4 million in 1980.

At the time of its purchase, the actuarial and employee benefit consultancy was touted as the nucleus of a major Fred S. James expansion into employee benefits sales on the West Coast.

After the full merger is complete, James' JEMSCO national employee benefits subsidiary will operate offices in Los Angeles, San Francisco, Portland and Seattle, where Olanie Hurst & Hemrich had already been integrated into James operations.

## markets

### Operations combined

The surplus lines operations of The Excess & Special Risk Market Inc., a subsidiary of Fireman's Fund Insurance Cos., are now combined with George F. Brown & Sons Inc. in Chicago, a recent Fireman's Fund acquisition, and operating under the George F. Brown name. The combination of the surplus lines operations follows the Fireman's Fund acquisition earlier this year of Interstate National Corp., which included George F. Brown.

### Name changed

The Conva Indemnity Co. of Columbus, Ohio, has changed its name to Columbus Insurance Co. A wholly owned subsidiary of the Columbus Insurance Holding Co., it specializes in medical malpractice insurance.

### Brokerage formed

Wayne J. Deib & Associates Ltd. is a new insurance brokerage firm with offices in Edmonton and Nisku, Alberta. It was formed by Wayne J. Deib, formerly a senior vp and manager of the Edmonton South Branch of Reed Stenhouse Ltd.

### Acquisitions

**Allegheny Insurance Brokers Ltd.** of Baltimore, a property/casualty agency specializing in aviation insurance, has been acquired by **Poe & Associates Inc.** Allegheny was previously affiliated with **Matterhorn Bank Programs Inc.**, which was acquired by Poe in July.

The boards of **USF&G Corp.** and **F.W. Williams State Agency Inc.** have reached an agreement in principle that USF&G will acquire the agency, possibly in January. F.W. Williams is a managing general agent in Mississippi for USF&G with two offices.

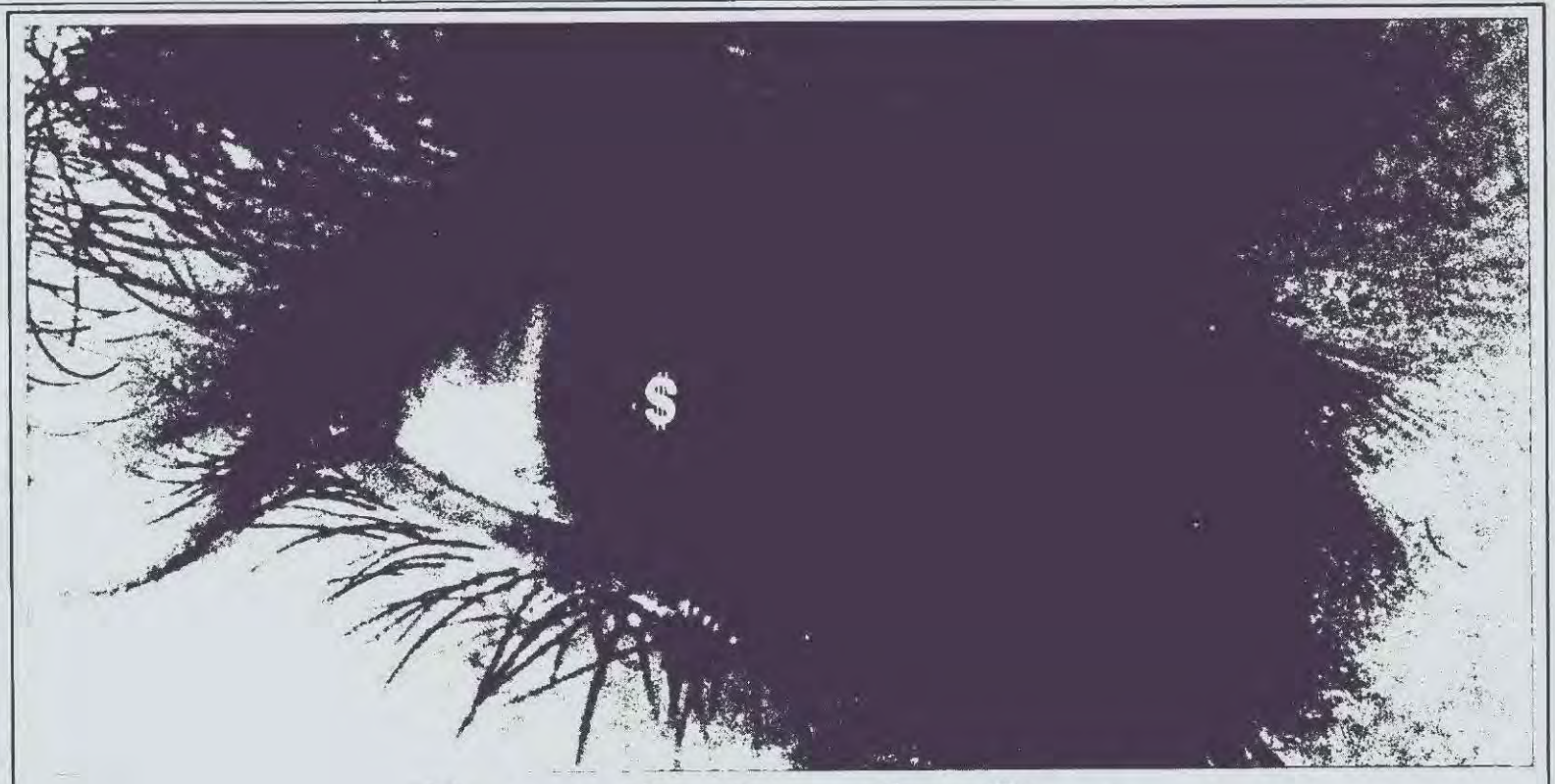
### New offices

**Herbert Clough Inc.** has relocated to 10 Stamford Forum, Box 10216, Stamford, Conn. 06904; 203-357-8883.

**MBC-Colby Associates Ltd.** has opened a new subsidiary office, **Colby-Jaffe Associates Inc.**, at 19 Bennington Drive, Box 1139, East Windsor, N.J. 08520; 201-624-7117.

**Bituminous Insurance Cos.** has opened a new office at One Towne Center, 6121 Indian School Road N.E., Albuquerque, N.M. ■





# Administration to take stance on tort reform bill

**By JERRY GEISEL**

**washington**

WASHINGTON—The Reagan administration is expected to decide in February whether it will endorse federal tort reform legislation, the federal government's top product liability expert says.

Stephen Halloway, the Commerce Department's associate general counsel for legislative and regulatory affairs, says the administration hopes to take a position on Sen. Bob Kasten's tort bill early next year when the Wisconsin Republican formally introduces the measure.

Under the current version of Sen. Kasten's bill, which has been unveiled for public comment, manufacturers would receive powerful new defenses if their products were altered. Manufacturers' exposure to personal injury suits involving old products also would be reduced (*BI*, Oct. 19).

While the administration doesn't have an official position yet on Sen. Kasten's proposal, the Commerce Department considers product liability problems facing employers to be a critical issue, according to Mr. Halloway, who wrote the first comprehensive federal product liability bill in 1977 when he was a Senate Commerce Committee staff member.

## Lead standard

Employers that must comply with the Occupational Safety and Health Administration's lead exposure standard must have their employees' blood samples tested by qualified laboratories, OSHA says.

OSHA's lead standard requires periodic blood lead monitoring for workers who are exposed to 30 micrograms of lead per cubic meter ofair for more than 30 days a year.

Employees must be transferred to another job, without of loss of benefits, if tests reveal that the lead level in their blood equals or exceeds 60 micrograms of lead per 100 grams of whole blood.

Workers can return to their jobs when the lead level in their blood drops to 40 micrograms.

A list of laboratories that are qualified to test the lead content in workers' blood is available from Dr. Robert E. Donadio, U.S. Department of Labor, OSHA Division of Occupational Health Programming, 200 Constitution Ave. N.W., Room N3608, Washington, D.C. 20210; 202-523-8031.

## Minimum benefit

A House-Senate conference committee agreed last week to restore the $122 monthly minimum Social Security benefit to 3 million current recipients, but employers and employees will have to pay for it through a new FICA tax on sick pay.

The conferees said Social Security recipients should be entitled to a monthly benefit of at least $122, regardless of how little they contributed to the federal retirement program.

However, under the agreement, no new retirees can qualify for the minimum benefit after Dec. 31, except nuns and other members of religious orders who have taken vows of poverty.

To offset most of the cost of restoring the benefit, the FICA payroll tax would be imposed on the first six months of disability benefits. Currently, sick-pay benefits are exempt from Social Security taxes.

The full House and Senate were expected to act on the conferees' proposal late last week before adjourning until January.

In a related matter, Rep. Matthew Rinaldo, R-N.J., says Congress should pass legislation to ensure that current and future Social Security beneficiaries receive the benefits they are counting on.

Proposals to reduce benefits or change the Social Security retirement age represent an "unconscionable breach of faith" that should not be approved by Congress, Mr. Rinaldo says.

The New Jersey Republican also warns that he and many other congressmen "will fight to death" any proposal that calls for taxing Social Security benefits, an idea that several pension research groups have advocated recently.

## Right of recovery

The Supreme Court has let stand a lower court ruling that an insurance company can sue to recover damages from a psychiatrist for an alleged negligent diagnosis of the insurer's policyholders.

A former Atlanta psychiatrist had petitioned the high court (*BI*, Nov. 2) to overturn a federal appellate court decision that a psychiatrist can be liable to a third party if the psychiatrist knows that the party will rely on his opinions to make a decision.

In that June ruling, the 5th Circuit Court of Appeals said: "When a tortfeasor provides an opinion with actual or reasonable knowledge that the injured party will rely on its accuracy, he is liable for the foreseeable results."

That psychiatrist involved in the case, Dr. Merton Berger, was the subject of a 1977 *Business Insurance* probe investigating the large number of federal air traffic controllers certified as disabled because of "job-related neuroses," (*BI*, March 7, 1977).

North American Co. for Life & Health Insurance of Chicago sued Dr. Berger to recover $562,025—the amount of money the insurer had paid under its disability income policies to air traffic controllers that Dr. Berger certified as unable to work. North American charged that Dr. Berger's diagnoses were fraudulent or negligent.

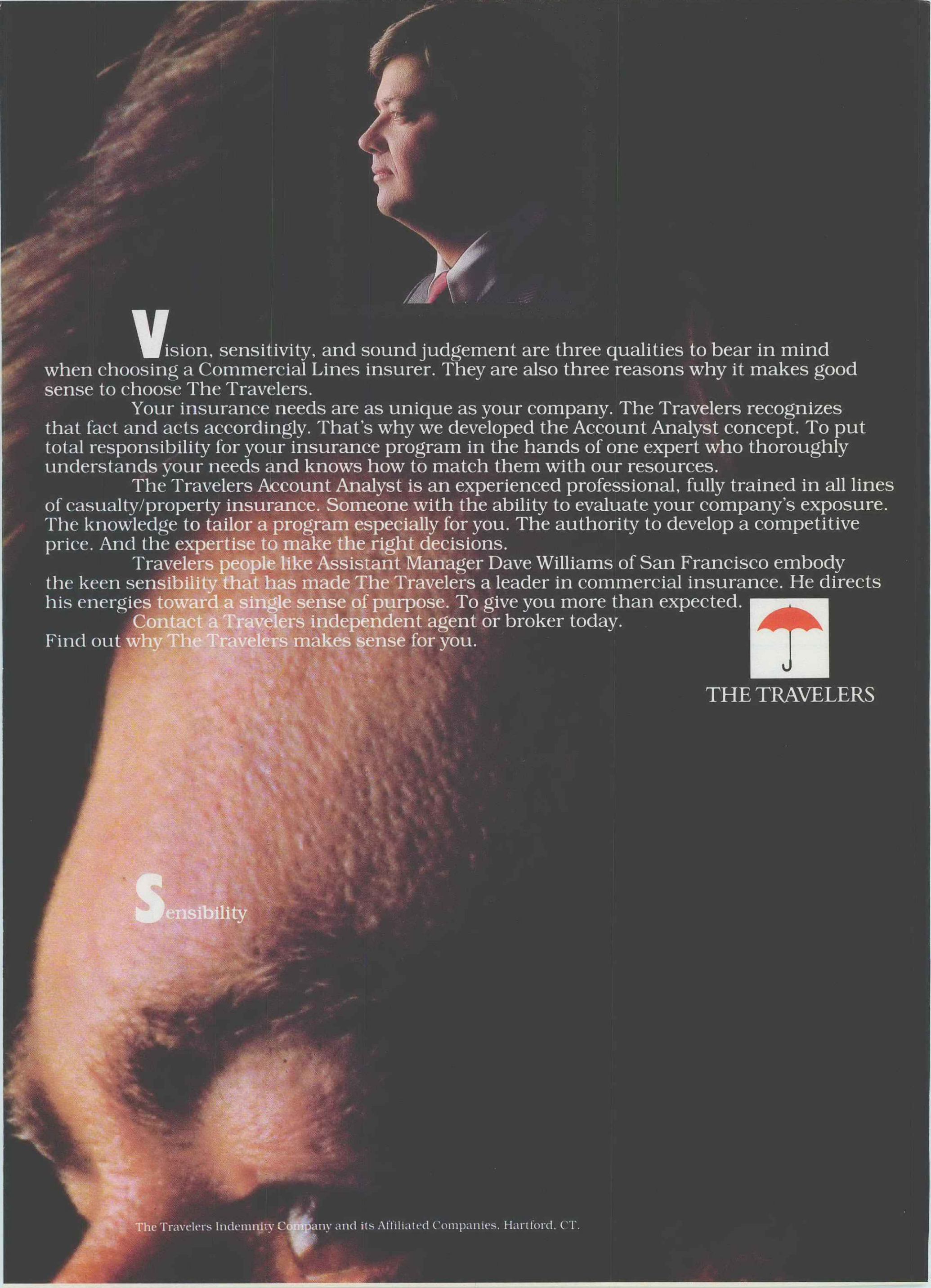
The Supreme Court action now allows North American's suit against Dr. Berger to go to trial. ■

## Job-related injuries decline in Maryland

BALTIMORE—One of every 13 private industry workers in Maryland suffered a job-related injury or illness in 1980, according to the state's Division of Labor and Industry.

The annual survey of private sector employers revealed a decline in the number of job-related injuries or illnesses to 87,000, down from 91,900 in 1979.

Of the major industrial categories, construction had the highest injury or illness rate with 14.7 per 100 workers. Manufacturing followed with 10.9 injuries or illnesses per 100 workers. ■



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# Employees OK settlement between Alloytek, PBGC

By JERRY GEISEL

GRANDVILLE, Mich.—Union employees at Alloytek Inc. have agreed to the elimination of the company's defined contribution pension plan.

More than 90% of the 430 members of Local 356 of the International Union of United Automobile, Aerospace & Agricultural Implement Workers approved a court settlement between the firm and the Pension Benefit Guaranty Corp., the federal agency that insures pension benefits (*BI, Sept. 21*).

The court agreement came after Alloytek, a manufacturer of jet engine components, used a loophole in the federal pension law to shift pension liabilities to the PGBC.

AlloyTek will terminate the newly established defined contribution plan and distribute to employees an amount equal to 107% of the contributions that would have been made to the plan through Sept. 6, 1983.

Most of the employees are expected to use the money to set up Individual Retirement Accounts. Under the 1981 tax act, an employee can contribute up to $2,000 annually to an IRA and receive a full tax deduction.

The PBGC, in return, agreed to take over AlloyTek's defined benefit pension plan, which provides benefits to 250 retirees. The plan's unfunded vested benefits are about $4.5 million. Those benefits now will be paid by the PBGC, which estimates that it will pay an average of $125 a month to retirees.

The AlloyTek case made waves in pension circles this summer when the company filed suit in federal court to force the PBGC to take over its underfunded defined benefit plan. At the time of the suit, AlloyTek had already set up a defined contribution plan.

Ridding itself of the original pension plan and its enormous unfunded benefits was an economic necessity, said Hillary Miller, AlloyTek's chairman, at the time the suit was filed in June. But the PBGC wouldn't accept the termination. It contended that the purpose of its insurance program was to protect benefits of retirees and not provide a "bailout" for firms in financial trouble.

PBGC Executive Director Robert Nagle also said the Employee Retirement Income Security Act gives the agency power to bar a company from terminating its pension plan.

But other experts disagreed. They questioned if the PBGC could unilaterally decide which pension plan terminations it would accept. They saw the AlloyTek suit as an example of a potentially fatal flaw in the PBGC's insurance program.

Under ERISA, the PBGC has the right to collect 30% of a company's net worth to guarantee the vested benefits of retirees if it terminates its pension plan with insufficient assets to pay promised benefits.

When ERISA passed in 1974, experts thought the 30% liability charge would be sufficient to deter companies from terminating badly underfunded plans and sticking the PBGC with the liabilities.

But some are realizing that the 30% penalty won't hurt very much. AlloyTek, for example, had a negative net worth when it told the PBGC it wanted to terminate its plan, according to Mr. Miller.

Taking over AlloyTek's pension plan and its $4.5 million in vested benefits does not threaten the financial viability of the PBGC, which now pays $2 million a month to 25,000 retirees whose plans terminated with insufficient assets.

But experts warned that if AlloyTek were able to dump its defined benefit plan on the PBGC and then start a new retirement program, other companies, whose pension liabilities exceed 30% of net worth, might try to do the same thing.

Some pension experts warn that the PBGC would have to raise its annual pension insurance premiums to as much as $100 a participant to pay for the liabilities of companies that would find it cheaper to dump their plans on the PBGC and start new ones instead of funding their current retirement programs. The current premium is now $2.60 per participant.

To prevent such a premium increase, Sen. Don Nickles, R-Okla., and Rep. John Erlenborn, R-Ill., have introduced legislation to close the 30% ERISA loophole.

Under their bill, employers who terminate their plans would have to pay for unfunded vested benefits over a 15-year period (*BI*, Aug. 10). PBGC guarantees of vested benefits would be limited to cases where companies went broke. ■

## datebook

**JAN. 25-27. Fundamentals of Property and Casualty Insurance** seminar in Dallas, sponsored by the American Management Assns. AMA members, $625; nonmembers, $720. Also **Feb. 1-2** in New York. American Management Assns., 135 W. 50th St., New York, N.Y. 10020; 212-246-0800.

**JAN. 25-28. Industrial Safety Awareness** course in Los Angeles, sponsored by the University of Southern California; $525. University of Southern California, Institute of Safety and Systems Management, Office of Extension and In-Service Programs, Los Angeles, Calif. 90007; 213-743-6523.

**JAN. 25-28. National Insurance and Protection Conference of Financial Institutions** in New Orleans, sponsored by the American Bankers Assn.; financial institution employees, $375; nonfinancial institution employees, $475. Shelly Davis, Program Coordinator, American Bankers Assn., 1120 Connecticut Ave. N.W., Washington, D.C. 20036; 202-467-4048.

**FEB. 1-2. Captives, Texas and the 1980s** seminar in Austin, Texas, sponsored by Risk Alternatives Inc.; $350. Risk Alternatives Inc., Box 1765, Austin, Texas 78767; 512-442-0954.

**FEB. 1-2. Construction Insurance Costs** conference in Dallas, sponsored by the International Risk Management Institute, $395; for the half-day primer, $95; for half-day session on cash flow, $95. International Risk Management Institute, Suite 208, Building III, 10300 N. Central Expressway, Dallas, Texas 75231; 214-363-9656.

**FEB. 1-2. Financial Costing of Risk Management** seminar in Irving, Texas, sponsored by the Risk Management Institute, University of Dallas; $395. Professor Bruce D. Evans or Julie Allan, University of Dallas, Risk Management Institute, University of Dallas Station, Irving, Texas 75061; 214-579-5360/5330/5299.

**FEB. 3-4. Linking Up the Risk Manager** seminar in Irving, Texas, sponsored by the Risk Management Institute, University of Dallas; $295. Professor Bruce D. Evans or Julie Allan, University of Dallas, Risk Management Institute, University of Dallas Station, Irving, Texas 75061; 214-579-5360/5330/5299.

**FEB. 8-9. Third Annual Petroleum Insurance** conference in Houston, sponsored by the Professional Development Institute of North Texas State University; $395. Joanne Paulman, Conference Center, Professional Development Institute, North Texas State University, Box 13238, Denton, Texas 76203; 817-788-2483.

**FEB. 8-9. Practical Law and the Security Manager** program in Arlington, Va., sponsored by the American Society for Industrial Security; ASIS members, $240; non-members, $325. ASIS, Education and Seminar Programs Department, 2000 K St. N.W., Washington, D.C. 20006; 202-331-7887.

**FEB. 8-12. Recognition of Occupational Health Hazards** seminar in Los Angeles, sponsored by the University of Southern California; $415. Office of Extension and In-Service Programs, Institute of Safety and Systems Management, University of Southern California, Los Angeles, Calif. 90007; 213-743-6523.

**FEB. 9-12. Hazardous Materials** seminar in Nashville, Tenn., sponsored by the Hazardous Risk Advisory Committee in cooperation with agencies of the Nashville metropolitan government; $100; after Jan. 8, $125. Hazardous Risk Advisory Committee, Seminar Registration Desk, Metro Civil Defense, Floor 7N, Metro Courthouse, Nashville, Tenn. 37201; 615-259-6145.

**FEB. 11-12. Hazardous Waste Litigation** seminar in New York, sponsored by the Practising Law Institute; $300. Also **March 25-26** in New Orleans. Practising Law Institute, Department VKC, 810 Seventh Ave., New York, N.Y. 10019; 212-765-5700.

**FEB. 16-17. Occupational Noise** seminar in San Francisco, sponsored by the University of Southern California; $195. Office of Extension and In-Service Programs, Institute of Safety and Systems Management, University of Southern California, Los Angeles, Calif. 90007; 213-743-6523.

**FEB. 17-19. Product Safety Management** course in Washington, sponsored by Technology Management Inc.; $590. Richard White, George Washington University, Continuing Engineering Education, Washington, D.C. 20052; 202-676-6106/800-424-9773.

**FEB. 22-24. Designing Secure Application Systems** course in New York, sponsored by the Computer Security Institute; $670, prepaid. Computer Security Institute, Educational Resource Center, Box 528, Matawan, N.J. 07747; 201-566-6622.

**FEB. 23-25. The Role of Warnings: Product Safety and Liability Prevention** workshop in Madison, Wis., sponsored by the University of Wisconsin; $375. Professor Richard A. Moll, Engineering Department, University of Wisconsin-Extension, 432 N. Lake St., Madison, Wis. 53706; 608-263-4712.

**FEB. 25-26. Communication Security** course in New York, sponsored by the Computer Security Institute; $470, prepaid. Computer Security Institute, Educational Resource Center, Box 528, Matawan, N.J. 07747; 201-566-6622. ■

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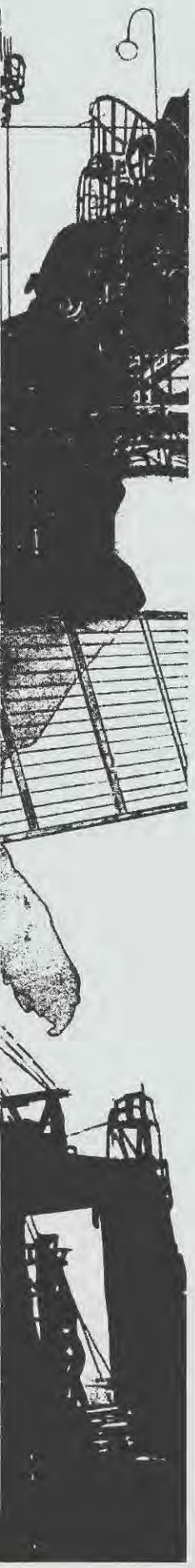
THE HARTFORD STEAM BOILER INSPECTION & INSURANCE COMPANY

# Can the insurance industry meet the needs of America's drive for energy independence?



The transition from imported oil to new domestic energy sources is creating enormous challenges—social, political, technological, and commercial. Not the least of these is the challenge to insurance brokers with clients in the business of providing energy. It will cost at least $100 billion in current dollars to equip the domestic synfuels industry, according to a leading energy company executive. But unless the risks can be managed, the investments will not be made. "We are not going to expose assets that are uninsured," the same executive said.

This $100 billion investment will be an *additional* burden. Existing capital expenditure programs are already running at *$75 billion a year* to meet the demand for new oil exploration, enhanced recovery systems, and new refinery capacity for heavy crudes.

Energy companies and their risk managers look primarily to the insurance broker to help with this enormous and unprecedented increase in the value of assets at risk. The broker must provide energy companies with all of the risk-management alternatives, including the transfer of risks to insurance markets. The broker's most important functions will be threefold: developing and providing access to new insurance capacity, developing new coverages to attract that capacity, and providing loss-control and environmental-protection services which will be essential to minimize risks and make those coverages available.

## The insurance capacity crunch

Where are the new sources of capital to provide the huge catastrophic coverages that will be needed? Captive insurance companies and association insurers will play a role. New American insurance exchanges will also make a contribution later in this decade if regulatory impediments are removed. But the most important source of all will be the international insurance markets. American capital will not be sufficient to build a vast new industry and to insure it, too. Energy executives are well aware of this. "We view the broker primarily as a source of entrance into the world insurance marketplace," one of them recently commented.

Brokers must therefore have strong relationships with the worldwide underwriting community in order to reach the sources of capital and introduce the new coverages that will be required. New organization and new concepts will have to be developed, but the brokerage industry has met such challenges before. The needs of the nuclear-power industry led to the creation of special insurance syndicates, reciprocal self-insurance pools, and industry-owned mutual insurance companies, all through the efforts of brokers, underwriters, and industry. Today, the nuclear industry needs insurance capacity in still greater amounts and in forms responsive to its particular technological characteristics.

Merely finding new capital sources is only the beginning. Completely new coverages will have to be designed to attract this capital into the markets at acceptable premiums. This will require informed risk analysis of all types of new energy installations. Obviously, processes as diverse as coal gasification, coal liquefaction, and direct combustion cannot be lumped together. The exposures they create vary enormously. Tar sands and oil shale also present different problems, as do solar installations, solid waste conversion, biomass processing, and tidal and wind-powered systems. To serve their clients in these areas, brokers will have a greater need for loss-control and risk-management talent than ever before.

### Risk management in the eighties: an exploratory review by Marsh & McLennan

This message is the first in a series dealing with major issues likely to affect the risk-management process in the 1980s. Vast and rapid changes are taking place in our economic, political, social, and technological environment. We plan to focus on the implications of these changes for risk-management clients and on the specific role of the insurance broker. Our purpose is to provoke constructive debate. We have solicited and received opinions from a number of corporations and underwriters on these subjects which we intend to share with you in this series. If you would like to send us your views, we will be pleased to add them to the comments we already have.

Write to: Mr. Philip J. Brown, Jr., Executive Vice President, Marsh & McLennan, Incorporated, P.O. Box 839, Radio City Station, New York, N.Y. 10101.

## The growing need for specialized talent

Insurance capacity alone will not be enough. Unless it is available to energy companies at premiums compatible with profitability, the huge investments needed for energy independence will not be made. Loss-control engineering is therefore a *sine qua non*. Risk-management specialists will have to be involved at the earliest possible stages when new installations are being planned and designed.

Implementing the risk-management approach in any field calls for the broker to have strong teams of specialists in many engineering disciplines. To meet the future needs of clients in the energy industry, these teams will have to be enlarged and strengthened, so that risk-analysis and loss-control specialists can evaluate any new installation, operation, or process as a whole, rather than as a series of disconnected technical problems.

Brokers will therefore have to make important investments in the training of specialists to provide the risk-management and technical services which their clients will require. It will be more necessary than ever that we "speak our clients' language," and this effort will have to be made at a time when shortage of technical talent will be aggravated by the increased planning and operational demands of the entire energy industry.

## Environmental concerns

Asset-protection, though vital, is only one of the insurance problems posed by the drive for energy independence. The inevitable environmental impact will also place heavy demands on insurance capacity, new coverage development, and loss-control resources.

Certain forms of environmental liability insurance are dependent on engineering surveys conducted before coverage is provided. But energy companies and their publics must be assured that the environmental risks can be managed, or the installations will not be built. So input from brokers with extensive environmental engineering experience will be essential through all the stages of designing and planning any new energy installation.

The increased need for risk-analysis, loss-control, and insurance-brokerage skills will have an impact on every field of energy industry activity, from ocean floor to outer space. New marine coverages will have to be developed for tidal and ocean-thermal systems. Oil-rig "life insurance" is also a probability. Energy-collection by satellite will pose totally different problems.

## Summary: the challenge for the insurance broker

To solve the risk-management problems of this energy transition era, a broker must have, and must continue to develop, certain major strengths in serving its clients:

- Broad access to international insurance markets to obtain the needed capacity.
- Technical capabilities: both to develop new insurance coverages and to provide loss-control services.
- Environmental knowledge and experience.
- Depth of professional talent to meet the challenges that lie ahead.

Recognizing these needs is a first step. Meeting them will take imagination, careful planning, and sustained effort. At Marsh & McLennan, we are confident that both the talent and the resources will be found.

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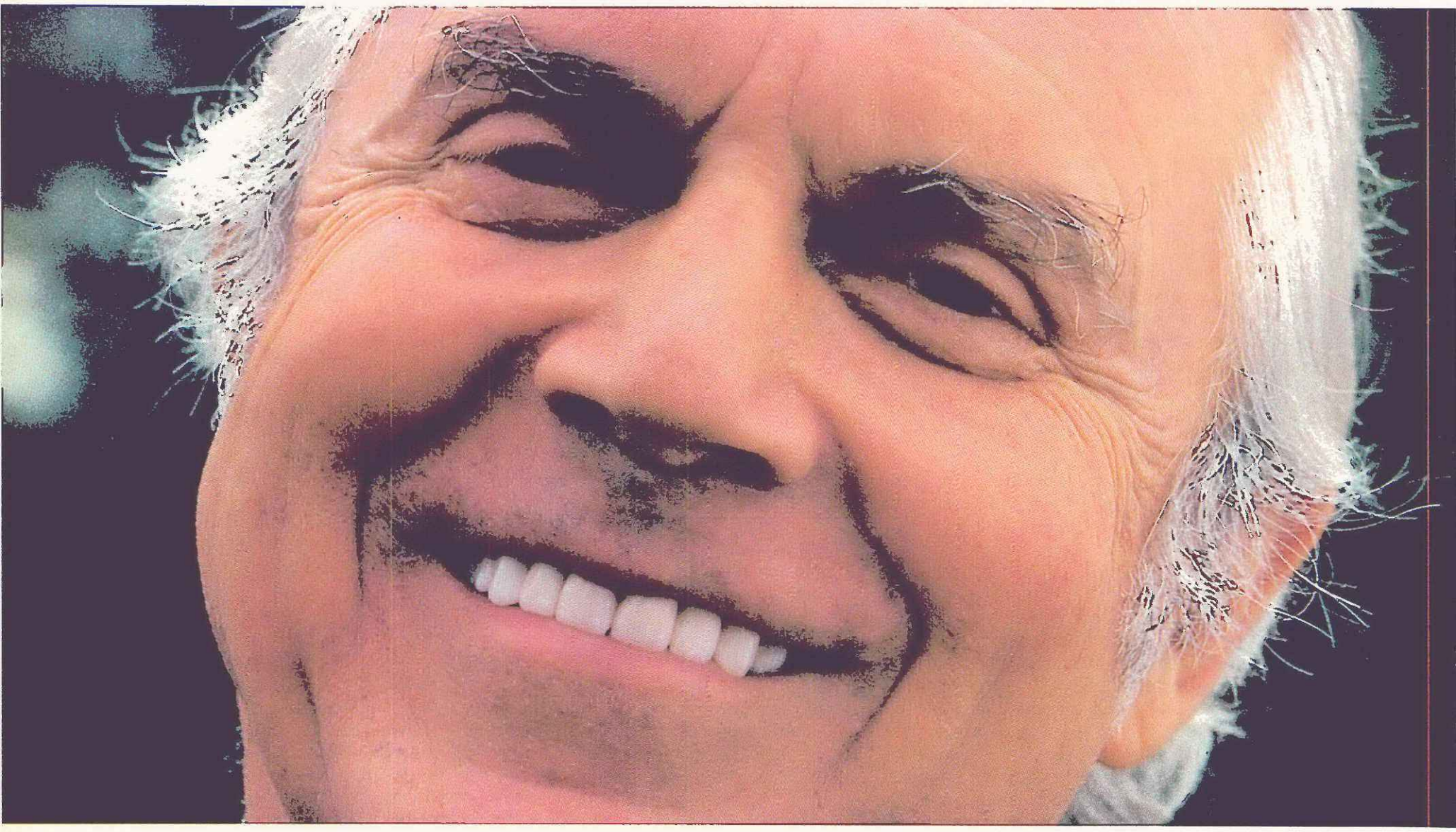

# ANOTHER REASON WHY THE TRAVELERS IS A LEADER IN INSURING SMILES.

perspective

# Claims-made controversy

## Policy form often can be misleading

By Kenneth S. Wollner

IT IS A SECRET worth knowing that there is no standard claims-made insurance policy form. For this reason, generalizations regarding the advantages and disadvantages of claims-made insurance can be—and frequently are—misleading.

In "A vote for claims-made" (*BI*, Sept. 21), Sol Kroll states: "In a claims-made policy, it is the making of the claim that is the event and peril being insured." Yet a typical claims-made policy will not respond if the insured knew or could reasonably have foreseen at the policy's effective date that the claim might be made. On the other hand, most policies of this type contain provisions that give the insured rights to coverage for a loss where the claim is made after the expiration date.

Claims-made insurance is perhaps best understood as a policy format that separates a third-party liability loss into one or more of the following chronological events:

- The wrongful conduct.
- The injury or damage.
- The discovery of facts regarding a potential loss by the insured.
- The making of a claim.
- The report of information to the insurer.

In order to bring coverage into play, the policy conditions relating to each of these events must be satisfied within the time periods specified.

A claims-made program can be structured to satisfy the legitimate interests of both parties in the contract. St. Paul Fire & Marine offers its medical malpractice policyholders the option of purchasing unlimited claims reporting coverage at the time the policyholder needs it.

The insured can convert to what is tantamount to occurrence coverage, thereby taking care of all remaining exposure to losses arising from professional services rendered while the claims-made policies were in force.

The insurer also benefits under this arrangement by having more timely pricing data with respect to those policyholders that continue on a claims-made basis.

But while the claims-made concept can be used responsibly, there are many instances where this powerful underwriting tool has been abused.

The chart summarizes the claims-made provisions of nine lawyers professional liability policy forms sold in California. It is interesting to note that with just these policy provisions considered (and the analysis is not exhaustive), there are more than 1,000 configurations possible. Anyone familiar with the history of the California claims-made notice statute would be hard-pressed to argue that the Legislature intended to sanction this state of affairs.

Another example of the complex tasks facing a claims-made policyholder involves a board of education liability policy issued to a small school district. Under the coverage portion, if a party expresses an intention to hold the insured responsible for a wrongful act that occurred during the policy period and the insured gives written notice to the insurer within one year, then any claim made within two years of policy termination is covered.

It is not clear whether the insured is also required to give written notice of the expression of intention under this policy condition, even though claim is made during the three-year policy period. One endorsement expands the period of time within which the claim must be made by the third party to three years. A second endorsement allows the insured to report an "occurrence," but only if the insured gives immediate written notice to the insurer during the policy period and the claim is made within 12 months.

This veritable flood of darkness consumed more than 500 words.

In Gereboff vs. Home Indemnity Co., one of the professional liability policies at issue afforded protection only if a loss is incurred, discovered, claimed and reported to the insurer during the policy period (*BI*, July 6, 1981). It has been my experience that such severely limited coverage is not at all uncommon.

One might ask, why doesn't competition do the work of controlling misuse of the claims-made format? That there is plenty of competition today in most areas of professional liability insurance cannot be denied. But pro bona competition presupposes that the purchaser is able and willing to discriminate between the articles offered by competitors and that is just what many policyholders, particularly small ones to whom most claims-made policies are sold, cannot or will not do.

Under these conditions, the difficulty faced by an underwriter seeking to trade an earnest measure of protection for an earnest premium dollar is obvious. Claims-made insurance often presents a classic illustration of the "minimum quality syndrome" evident in many sectors of our society: cheap pricing but poor value.

The controversy surrounding the sale of claims-made insurance has not subsided. It has simply shifted from the legislative to other arenas.

The medical and legal communities are becoming fed up with the vicissitudes of the commercial insurance market, including denial of recovery due to cunningly worded policies. They have increasingly turned to self-insurance and other techniques to handle their exposures individually and collectively.

Members of less-cohesive professions have had to resort to the courts for protection. Written decisions on the subject of claims-made insurance have ample representation in the legal service reports, a good indication of the amount of litigation and the importance these cases are thought to have.

Fundamental differences exist between the objective of the insurance transaction for the underwriter and the policyholder. The insurance company's goal is to collect more premium and investment income than is paid out to its policyholders in losses and expenses.

To all but the very large insureds, the bargain consists of trading a known loss (premium) for an intangible—the promise that the insurance company will provide funds for those moments, regardless of how they arise, when assets or earnings are otherwise impaired by some unforeseen or unpredictable event.

Far too many underwriters lose sight of the fact that where the risk of a lapse in coverage is great, insurance ceases to serve its intended purpose.

The value of claims-made insurance in coping with the underwriting problems associated with professional liability insurance has been established. The bone of contention now is not the "why," but the "how." The insurance community must realize that people will not accept complacently the sacrifice of policyholders and others who rely on insurance protection to the consuming altars of competition. We must reconcile the needs of underwriters and insureds.

The first step in this direction is to recognize that a serious industry problem exists. ■

COMPARATIVE ANALYSIS OF THE CLAIMS-MADE PROVISIONS
OF NINE LAWYERS PROFESSIONAL LIABILITY INSURANCE
POLICY FORMS SOLD IN CALIFORNIA AS OF JUNE, 1980

| Description | Policy Provision 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|---|
| A. Covers claims first made against Insured during policy period (CM) or claims first made against Insured and reported to insurer during during policy (CR) | CR | CM | CM | CR | CR + 30 days | CM | CM | CM | CR + 15 days |
| B. Claims made after policy period covered if only specific act, error or omission which might be reasonably expected to result in a claim report in writing to insurer (No = additional restrictions in discovery clause) | YES | NO | YES | YES | NO | NO | NO | NO | NO |
| C. Coverage applies to prior acts except only if Insured knew or could reasonably have foreseen incident might result in claim (No = additional restrictions in prior act coverage) | YES | NO | YES | YES | NO | NO | NO | NO | NO |
| D. Extended Reporting Option exercisable upon policy period termination (No = additional restrictions apply to extended reporting option) | YES | NO | YES | NO | NO | YES | YES | YES | NO |
| E. Extended reporting option applies to all incidents which occur prior to policy termination. | YES | YES | NO | YES | NO | YES | YES | YES | NO |
| F. Premium for extended reporting coverage as a percentage of last annual premium (TBA = to be advised or within discretion of carrier at the time exercised) | 225% | TBA | 225% | 30% | TBA | 100% | TBA | TBA | TBA |
| G. Number of months during which claims can be reported (UNL = unlimited) if extended reporting coverage purchased. | UNL | 24 | UNL | 12 | UNL | 12 | 36 | 36 | 24 |

*Kenneth S. Wollner is a risk management consultant with The Wyatt Co. in Chicago.*

**perspective**

# Not the right cure

## Bill would shift liability for asbestos diseases

**By Lawrence P. Postol**

ON SEPT. 9, Sen. Gary Hart, D-Colo., introduced legislation, S. 1643, which has as its stated purpose to provide minimum standards for state workers compensation laws in dealing with asbestos-related diseases.

Sen. Hart's bill, however, provides that its compensation scheme would be the exclusive remedy for victims of asbestos-related disease. Moreover, the bill, in essence, shifts the burden of liability from asbestos manufacturers to asbestos users.

Sen. Hart's bill provides a workers compensation-type remedy to asbestos disease victims. The employee need not show any negligence on the part of the responsible party, and compensation is based on a fixed percentage of the victim's wages.

The bill provides that an affected person who is totally disabled by asbestos-related disease shall receive two-thirds of this gross pay as compensation, plus a 10% "bonus," without regard to any state or federal statutory maximum on such weekly payments.

Any affected person who is earning less than 40% of pre-injury earnings is conclusively presumed to be totally disabled. The bill also provides that a partially disabled person shall receive two-thirds of the difference between pre-injury earnings and post-injury wage-earning capacity, plus a 10% "bonus."

The central features of S. 1643 with respect to liability are contained in Sections 7 and 10. Section 10 provides that the remedies contained in the bill are the exclusive remedies for people injured due to asbestos exposure at work or as a member of a worker's household. They are defined as "affected persons."

Section 7 provides that the liability assessed under the bill shall be apportioned among asbestos manufacturers and users, but that the employer (user) must always pay at least the same amount it would have paid under the applicable state or federal workers compensation act. The bill would also eliminate third-party negligence suits as well as the employer's lien on any such recovery.

Thus, the bill benefits asbestos manufacturers not only by eliminating any cause of action against manufacturers but also by shifting the primary liability to users of asbestos.

*Lawrence P. Postol is an attorney with Seyfarth, Shaw, Fairweather & Geraldson in Washington, D.C.*

A simple example will bring this problem to light. A shipyard worker who is disabled due to asbestosis with an average weekly wage of $300 would receive compensation of $200 per week under the Longshore Act. Assuming a 10-year life expectancy, the shipyard employer would be liable for $104,000 in compensation.

The employee would normally bring a third-party negligence suit against the asbestos manufacturers and could easily recover a $500,000 judgment. The shipyard would be reimbursed for its $104,000 compensaion payment out of this fund, and the employee, after attorneys' fees, could expect to recover approximately $250,000. The net result is that the employee receives $354,000 in total, the asbestos manufacturer is out $500,000 and the shipyard breaks even.

The Hart bill would drastically change this distribution scheme. Under the bill, the employee would receive 110% of the compensation rate, or $114,400. The shipyard would pay $104,000 and asbestos manufacturers would apportion the "supplemental" compensation of $10,400.

Assuming an even apportionment, the net result would be that the employee obtains $114,400, the shipyard would be out $109,200 and the asbestos manufacturer would be liable for $5,200.

While this allocation of liability could be attacked as inequitable, the bill's statutory program for the administration of asbestos-related claims is unrealistic and impractical. The coverage of S. 1643 is limited to asbestosis, mesothelioma, bronchogenic cancer, cor pulmonale and other diseases that the secretary of labor determines are related to asbestos exposure.

The bill provides that the secretary, through regulations, shall define minimum standards for determining under what circumstances these diseases are to be found to be related to an employee's disability or death (Section 2(2) and 4(17)). One cannot imagine a more impossible and inappropriate task.

As the unfavorable experience with the federal Black Lung Act reveals, each individual's problems must be considered separately. If one attempts to provide general standards for evaluating a worker's medical problems, one invariably ends up with criteria that are too broad. Thus, the Black Lung Act and its regulations benefit smoking coal miners whose illness was caused by their cigarette smoking and not their employment. Indeed, this is why almost all other state workers compensation boards do not attempt to set criteria for evaluating illnesses, but rather leave this area to physicians.

Moreover, the diseases caused by asbestos exposure are particularly inappropriate for the use of standard criteria such as the ones this bill directs the secretary to promulgate. Asbestosis is diagnosed based on a number of factors, none of which is absolutely required nor absolutely diagnostic. These factors are history of exposure, chest X-ray findings, pulmonary function test results, blood gas studies, diffusion capacity and the results of physical examination.

Because many lung diseases can produce many of the same test results, there is no one diagnostic test for asbestosis. Rather, it is the combination of the results of the tests which lead the pulmonary physician to make a judgment as to the diagnosis of the illness and any resulting disability.

Similarly, when a worker has more than one disease process, determining whether any one process contributes to his disability is a medical judgment that must be made by weighing all the evidence. In short, one cannot promulgate a regulation setting up a formula for evaluating asbestosis because there is no such formula and there never will be one.

**Sen. Hart's bill does not appear to be a practical solution to the alleged problem, and it certainly is neither fair nor equitable.**

Bronchogenic cancer (lung cancer) has many causes, the most common of which is cigarette smoking. There is no formula for determining when a lung cancer was caused by cigarette smoking and when it was caused, in whole or in part, by asbestos exposure. Such a determination requires a medical judgment that depends on medical evidence. This evidence obviously will vary from case to case.

For example, if there is lung biopsy, and if it contains the tumor and other parts of the lung, a pathologist can perform one type of analysis. However, in many cases, this information is unavailable and another approach must be attempted.

Interestingly, S. 1643 does not consider the question of responsibility for a lung cancer that is caused by a combination of asbestos exposure and cigarette smoking. This is a critical omission.

Cor pulmonale is a heart disease that is caused by lung disease. This illness is non-specific for asbestos exposure since any type of lung disease may cause it. Again, medical experts must consider all the relevant evidence in determining the etiology of this uncommon disease, which is not particularly associated with asbestos exposure. Yet, section 4(17) requires the secretary of labor to provide regulations dealing with this disease process.

Section 4(17) not only requires impossible regulations, but part of this section mandates that the secretary "*shall* accept the interpretation (of the medical evidence) by a physician who is board certified or board eligible in the fields of preventive medicine/occupational health, pulmonary medicine or radiology." There is no precedent in workers compensation law for such a binding acceptance of one witness' opinion. Indeed, this provision may well be unconstitutional.

Moreover, as any physician knows, medicine is an art and not a science. If 10 pulmonary physicians of national fame testify that a worker does not have asbestosis, then why should the secretary be bound by a diagnosis of asbestosis by a preventive medicine expert who has no expertise in diagnosing asbestosis? Clearly, some doctors are more credible and competent than others.

Moreover, under this bill, the secretary would not be permitted to follow the opinion of throacic surgeons or pathologists.

S. 1643 attempts to create some type of link between itself and present workers compensation statutes. Again, this is an impossible task which cannot reasonably be accomplished. The bill allegedly sets up minimum standards for workers compensation. If the applicable state or federal acts do not meet these standards, "supplemental compensation" must be paid by the responsible parties (Section 1(b)(1) and 5(a)).

The bill does not attempt to define how this supplemental compensation will be calculated.

Given that the applicable workers compensation statute and this bill may differ in numerous respects, such as in the calculation of an employee's average weekly wage, there will be some situations in which the applicable act will benefit the employee and others in which this bill will benefit the employer. Under these circumstances, calculating the "supplemental compensation" will be at best a long and difficult task.

Moreover, this bill assumes the state or federal workers compensation agencies will perform certain duties that they do not now perform. For example, liability of a manufacturer is keyed to proof that its asbestos product was used by a worker. While one might question the appropriateness of this burden, the major problem is that the bill states that the compensation agency is to make this factual determination.

However, because workers compensation is no-fault, these agencies do not now make such findings. Moreover, since the appropriate parties, the manufacturers, are not represented at these hearings, the agency would not be an appropriate body to make this finding.

S. 1643 is similarly defective in its scope. The bill encompasses occupational exposure and members of the households of occupationally exposed workers. The bill makes no attempt to deal with the issue of environmental exposure—people who merely live near an asbestos plant. The bill also does not deal with the problem of de minimus exposure to asbestos. For example, if an employee was exposed to asbestos, but within the OSHA limits, is his employer a responsible party?

It may well be that legislation is needed to provide a realistic and fair solution to the problem of compensating asbestos victims. S. 1643, however, does not appear to be a practical solution to the alleged problem, and it certainly is neither fair nor equitable. ■

# Cayman reviewing its rules to promote captive growth

*Continued from page 3*

The captive scene in Cayman, the Bahamas, Turks and Caicos, Netherlands Antilles and Panama, as described by the speakers, follows.

### Cayman

With 172 licensed insurance companies underwriting foreign risks and 25 licensed underwriting managers (captive managers), Cayman is the second-largest offshore captive domicile after Bermuda and the one with a head start to become another offshore insurance center.

Realizing this, representatives of the government and insurance businesses in Cayman promote themselves as looking for reputable business and reviewing their regulations to ensure they get it.

Insurance Superintendent John Darwood warned in his speech, "If you are going to try and run your operation on a shoestring—minimal capital, no real commitment—Cayman is not the place for you."

Already bestowed with broad discretionary authority to regulate insurers in Cayman (*BI*, April 6), Mr. Darwood is seeking amendments to the Cayman insurance law to strengthen his hand.

Now he can request any financial information he deems necessary from a Cayman insurer, but he wants stronger reporting requirements, new regulations governing life insurance funds, provisions for running off insurance business and liquidation procedures and the licensing of reinsurance intermediaries, he said.

The definition of "underwriting manager" in the law, intended to be captive managers, needs revision, he also admitted in response to comments by fellow panelist Ian Kilpatrick, managing director of Cayman-based Insurance Management Consultants Ltd.

Mr. Kilpatrick, a captive manager, had suggested all people who manage captives in Cayman should be licensed under the Cayman law. Currently lawyers, banks and company management firms that say they administer, not manage, insurance affairs do not have to apply for a license, he said.

Mr. Darwood did not respond, however, to Mr. Kilpatrick's suggestion that Cayman require all its insurers to be managed locally, instead of allowing management from other captive domiciles. About half of the Cayman-incorporated companies are managed from offices in other jurisidictions not subject to Cayman's insurance law, which requires captive managers to report irregularities, Mr. Kilpatrick complained.

Although 25 underwriting managers are licensed in Cayman, only about a half-dozen staff offices in Cayman to manage captives. Mr. Darwood told *Business Insurance* last spring that this was one reason Cayman should allow captive management from other jurisdictions.

Mr. Darwood did agree with Mr. Kilpatrick that the Cayman secrecy law, which prohibits Cayman businesses from disclosing information about their clients, can be a deterrent to the development of Cayman as an insurance center.

"I share the view that openness is something to be sought with regard to the development of an insurance market," Mr. Darwood said.

But instead of seeking a change in the secrecy law, Mr. Darwood said he is asking new insurers seeking licenses to underwrite third-party risks if they will allow him to disclose certain details about their business in response to inquiries.

He would like to secure an agreement from these insurers holding "unrestricted B" licenses that he could disclose the name of the parent company, the underwriting manager, a broad description of the type of business the company transacts, its total assets and its net worth.

"We've only asked half a dozen people so far and the response was fairly mixed," he noted later. "We can't exert any pressure, we can only ask. But we are seeking to open things up."

Mr. Kilpatrick, who apparently offended some Cayman businessmen in the audience with his criticism of the insurance and secrecy laws, was very enthusiastic about Cayman's development as an insurance center. He praised specifically Cayman's political stability as a dedicated British colony; the efficiency of the government; accessibility by air from Miami and Houston; its tax-free environment; its lack of exchange controls; communications (long-distance direct dialing from the United States is now available); its professional community; and its environment of warm weather and friendly people.

His criticisms, he noted, were intended to "convince all of you that the island is aware that minor problems exist and is aware of the need to constantly look at itself, review and hopefully improve its legislation. . .with a view to better serve its clients and the insurance industry."

Mr. Darwood predicted that "within the next two years Cayman will be providing a base for 500 or so insurers, handling at least $1.5 bllion in premiums and with invested assets of maybe three times that figure" and "one day Cayman will become a market in its own right."

**Mr. Darwood**

In 1982, for example, he expects four "open-market" reinsurers with capital of $5 million to $10 million to be doing business in Cayman. Two will be new companies. The other two are currently licensed and are boosting their capital. But none of them "plans to rush into the market," he added.

Today, the total premium volume flowing to Cayman's 172 licensed insurers (excluding domestic insurers) exceeds $500 million, using Mr. Darwood's estimate of an average premium volume of $2 million per company, plus the $200 million in premiums generated by United Insurance Co., the huge insurer owned by 28 major corporations organized by the Fred Reiss group. Of these 172 insurance companies, 107 were existing when the Cayman insurance act took effect in June 1980 and have since been licensed. The other 65 were incorporated and licensed after the new insurance law was enacted.

Mr. Darwood noted that he is "still doing battle with" 40 to 50 companies that had been in Cayman when the law took effect and still aren't licensed. "We will shut them down. We can't wait forever for them to get their house in order," he said.

Already, 15 would-be insurers have either withdrawn license applications or been refused licenses.

Among them were three companies that wanted to form pure captives, or those underwriting insurance only for affiliated companies, and 12 companies that wanted licenses as unrestricted insurers free to underwrite insurance for any non-Cayman risks.

A company refused a license does not have the option of appealing Mr. Darwood's decision.

Among the 172 offshore companies licensed in Cayman, the largest percentage (25%) are captives formed to underwrite insurance for both affiliated companies and unrelated companies. Of these 43 insurers, 18 were formed since June 1980.

Only nine of the 172 insurers are categorized as pure captives.

Thirty-two insurers or 19% are association captives, defined as insurance companies owned by a trade association or group of companies, underwriting insurance for their owners, excluding medical

*Continued on next page*

# Bahamas making all-out push for captives

*Continued from previous page*
malpractice insurance. Another 22 insurers or 13% are medical malpractice insurers.

Twenty-four insurers, or 14%, are categorized as general or open-market reinsurers, formed to underwrite insurance for unrelated companies or people.

Another 34 companies, or 20%, are classified as "private" insurers or reinsurers, defined by Mr. Darwood as those owned by individuals who have arranged for access to a private line of business, such as arranging to be shown business by one insurer or another. They are not in the open market and are "low-key."

There are also seven life insurers and one mutual licensed in Cayman.

According to Captive Insurance Company Reports, a publication of Risk Planning Group, it takes five to 10 days to form a captive in Cayman, at least $120,000 in capital for a non-life company (although the superintendent has broad discretion to require more or take less from pure captives), $4,300 in initial start-up fees to the government, $4,100 in annual government fees and $10,000 to $15,000 in annual management and legal costs.

Rating services and environment, the consultants say the management services and markets are fair, the accounting and banking services are good, the airline connections, telephone/telex service, the life style, recreation, climate and entertainment are all fair and the political climate is good.

### The Bahamas

The Bahamas' campaign to attract captive insurance companies is moving full speed ahead with a new law being drafted to incorporate all captive regulation in one act and the distribution of a new government-prepared brochure extolling the benefits of choosing the Bahamas as a captive domicile.

Prime Minister Lynden O. Pindling vowed in a luncheon address, "My government has taken a conscious decision to encourage the establishment of the captive insurance business, and to this end we are prepared to offer all the necessary assistance and encouragement to bring this about."

The prime minister has taken an active role in promoting the Bahamas on the advice of local insurance executives who detected a reluctance among U.S. companies to consider the islands as a domicile (*BI*, April 6).

As proof of the government's interest in captive insurers, Mr. Pindling cited the development of a proposal to bring all legislation affecting captives into one law.

The new law, the prime minister said, "will make our insurance legislation as competitive as any in the world."

Mr. Pindling also responded to concerns that the Bahamas generally prohibits foreign ownership of houses and strictly enforces immigration laws, two protectionist measures that could hinder development of captive managers to service business.

While the Bahamas will not allow every expatriate worker to acquire a house, the government will provide companies with the opportunity to acquire housing for their expatriate staff, he noted. "This ensures, in large measure, that the need for housing does not expand simply because of turnover of staff."

The Bahamas also will not permit a company to hire an expatriate for a job that can be filled by a qualified Bahamian, he noted. But, "our work permit policy recognizes the necessity for bringing in expatriate staff to the Bahamas," he noted.

Work permit applications generally will be processed within 30 days, and in emergencies, a temporary permit can be issued within a few days, he added.

The Bahamas offers captives "excellent and abundant" banking facilities, "a well-developed communication system," "comprehensive management facilities" with room for growth and "exceptional accommodation and recreational facilities" developed for tourists, he said.

Without being as specific as the Cayman representatives, the Bahamian prime minister also noted that there is room for improvement in the Bahamas' provisions for captive insurance company business.

"We are sure that there are aspects of our arrangements that will require improvement," Mr. Pindling explained.

"While we do not profess to have all answers at this time, we do feel that we have the capacity, the stability, the infrastructure and the commitment to make us an important center for captives in the future."

During a panel discussion on the Bahamas, representatives said 26 captives are registered in the Bahamas, several of which have registered since the new campaign to attract business was begun.

Justin N. Tierney, president of British-American Management Ltd., one of three captive managers in the Bahamas, called its law governing captives "as reasonable as any," noting his company also maintains operations in Bermuda and Cayman.

Captive Insurance Company Reports says it takes five to 10 days to form a captive in the Bahamas, minimum capitalization of $140,000 for a non-life company, initial government fees of $1,465 and an annual government fee of $1,000. Annual management and legal costs are estimated at $7,000 to $10,000.

Services and environment are rated by the consultants as good for accounting and communications, good to excellent for banking, fair for insurance management services, markets and airline connections and poor to fair for the political climate.

The lifestyle, recreation, climate and entertainment are rated excellent, the best of the offshore domiciles.

### Turks and Caicos

When Cayman enacted its insurance law, forcing all companies in the insurance business there to pass review of its insurance superintendent and be licensed, the Turks and Caicos were often mentioned as the next tax haven for companies that wanted to operate free of insurance regulation.


Mr. Donagan

If many companies moved to these Caribbean islands with that intention, they will be on the road again.

The Crown Colony of Turks and Caicos is expected this month to adopt a new companies law and an insurance law similar to Cayman's. It also will recruit an insurance expert from London to serve as insurance superintendent.

Terry Donagan, attorney general of Turks and Caicos, asserted: "The government of Turks and Caicos is dedicated to providing a structure for captives."

Mr. Donagan admitted he doesn't know how many insurers are operating under incorporation there. As in Cayman before the insurance law passed, a company could use the word insurance in its name without being in the insurance business.

A company can be incorporated in Turks and Caicos in as few as two days, at an cost in government fees of $1,750 and can be managed elsewhere. The local currency is the U.S. dollar.

For those looking for services in Turks and Caicos, with a workforce of 3,000 out of a population of 7,500, they will find "good" banking and investment services and accounting services, Mr. Donaghan said.

No specific captive management companies exist in Turks and Caicos, but managers who service varying types of companies formed there are available.

There are no investment restrictions on captive funds and no exchange controls. The islands are accessible by air from Miami, New York, the Bahamas and Haiti. Communications are via 24-hour telex and a telephone system that makes it easier to phone from that island than to phone into it.

The islands, being developed with vacation homes, offer diving, beaches and tennis but no night clubs, casinos or golf courses, he noted.

As in Bermuda, U.S. citizens do not need a passport to enter the islands. Passports are needed in Cayman and The Bahamas.

Captive Insurance Company Reports generally agreed with Mr. Donaghan's assessment of the services and environment. The consultants rated the airline connections and communications as poor, the insurance management, banking and the lifestyle, recreation, climate and entertainment as limited, but rated the political climate as good.

### Netherlands Antilles

There is no insurance law governing offshore companies created in Netherlands Antilles, but there are taxes not charged in the other alternative domiciles discussed.

"Within certain limits you can do what you want," said Jacob Knoot, managing director of Maduro & Curiel Insurance Services Inc. in Curacao, which manages captive insurance companies. The Justice Department, however, "scrutinizes" companies to keep out undesirables and is pretty successful at this process, he said.


Mr. Knoot

Under the "low tax rate" of the islands, 20% of total net premium is taxed at a 30% rate, yielding an effective tax rate of 6%. Investment income is taxed at 3%. However, there are no other government fees.

Although there are close to 40,000 offshore companies registered in Netherlands Antilles, of which 7,000 were formed in the last 12 months, Mr. Knoot estimates there are only about 20 captive insurers. There has not been a concentrated effort to attract business, Mr. Knoot said.

The offshore company activity is concentrated on Curacao, one of the three islands near Venezuela that with three other islands east of St. Thomas comprise Netherlands Antilles.

The islands offer long-distance direct dialing, telex services, a "standard Caribbean island of tourism and good climate" and a population that is 90% multilingual, speaking English, Spanish and Dutch.

Daily flights from New York, Miami and South America service the island.

### Panama

Fewer than a dozen captive insurance companies are domiciled in Panama, according to representatives of the Central American country who would like to see more captive activity.

Captives are subject to regulation under the Reinsurance Law of 1976 requiring at least $50,000 in paid capital and a $1,000 licensing fee. The offshore companies are not subject to local taxes, the representative said.

Currently, 70 reinsurance companies are active in Panama, generating $100 million in premium volume, said Carlos Abrahams, executive vp of Latin American Reinsurance Co. in Panama. ■

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# California decision erodes work comp law

*Continued from page 1*

The dual capacity doctrine, narrowly applied in California until recently, permits employee suits when the employer and employee step out of those roles and into another relationship. The case setting the precedent involved a chiropractor who negligently treated an injured employee.

"It appears the Supreme Court no longer believes that workers compensation should be the exclusive remedy," observes Paul Gladfelty, director of workers compensation for the California Manufacturers Assn.

The decision could mean that a manufacturer owes the same duty to its employee that it does to the public. "It's fuzzy as to where the line is drawn that creates a dual capacity situation," he explains.

"If the distinction between employees and the general public is dissolved it will create enormous legal costs for employers," Mr. Gladfelty says. Attorneys representing injured workers will file civil suits concurrently with workers compensation cases.

"If they don't, someone might even allege malpractice against the attorney," he suggests.

The Bell decision transmutes dual capacity into double jeopardy, the California Workers Compensation Institute declares in a bulletin to its insurance company members. Injured workers who seek civil damages against an employer may also qualify for statutory workers compensation benefits.

The insurance industry is still groping for an answer to the question of whether the compensation or the general liability insurer is liable for damages won by an employee against an employer (*BI*, Feb. 9).

**Workers compensation** insurers say that Section B of the workers compensation policy dealing with employer liability was never intended to cover civil damages on top of statutory benefits. Liability insurers say their policies specifically exclude coverage for suits brought against a policyholder by an employee.

Mission Insurance Co. in Los Angeles confirmed that it is the workers compensation insurer for Industrial Vangas, but declined to discuss the Bell case. Ranger Insurance Co. in Houston is believed to be the general liability insurer on the risk, but the insurer declined to confirm coverage.

The Supreme Court's decision points out the need for legislative reinforcement of workers compensation law, says Joe Markey, executive director of the California Self-Insurers Assn. A bill to buttress the exclusive remedy rule has been languishing in a legislative subcommittee but could have been revitalized at a hearing scheduled last week in Sacramento.

S.B. 995, sponsored by Sen. Daniel E. Boatwright, D-Concord, is not given much chance for approval in its present form, however. Legislative observers say the bill is being held hostage to other workers compensation changes, including higher statutory benefits and administrative reforms.

"The Bell decision is the worst of them all," sums up Michael G. Lowe, a San Francisco defense attorney who is familiar with the bulk of California dual capacity lawsuits.

There are two ways to view the decision, he says:

- It may be merely an affirmation of the Douglas vs. E & J Gallo Winery decision, which held that Gallo occupied the dual positions of employer and manufacturer of a defective product sold to the public.
- It may say that if any theory could be brought by a third party against a defendant, then it could be brought by an employee against an employer.

"If that's what they meant, then the significance of the employment relationship goes out the window," he notes.

**Although no one** knows how many dual capacity cases are pending in California courts, Mr. Lowe reports that within the last month he has personally been involved in 30 to 40 of them.

"That compares to the two cases in 10 years I handled from 1970 to 1980," he adds.

In a strongly worded dissent to the Bell ruling, Justice Frank K. Richardson writes that the majority decision "will drive a substantial wedge into the exclusive principle which has characterized the workers compensation laws from their very inception.

"If an employer is to be held civilly liable to injured workers in the employer's capacity as a 'manufacturer,' what compelling reason can exist for denying similar liability for injuries attributable to the employer's other relationships including his status as 'landowner,' 'motor vehicle operator' or 'cafeteria proprietor'?" asks Justice Richardson.

His opinion suggests that the employment relationship in this case was only a matter of circumstance. "With due respect, this suggestion of a lack of causal relationship between Bell's injury and his employment is, frankly, absurd."

William Bell, a route salesman employed by Industrial Vangas Inc., was severely injured in a fire that occurred when he delivered flammable gas to a customer. He sued his employer, alleging that he was injured because of defects in equipment used for the manufacturer and distribution of flammable gas.

The trial court granted a motion for summary judgment in favor of the employer. The appellate court reversed on the basis of dual capacity.

"Recovery of one remedy is not necessarily inconsistent with with recovery of the other. In such circumstances, the remedies should be considered cumulative rather than alternative," the appellate court said. ■



# Exclusive remedy upheld in Michigan

*Continued from page 1*

pensation system (see related story on Page 1).

Both Local 7224 and the St. Louis, Mich., plant are now defunct. Velsicol, a chemical manufacturing concern owned by Northwest Industries, closed the plant in late 1979. The local shut down shortly thereafter.

In their class action suit, the employees alleged that Velsicol intentionally misrepresented the danger of PBB, says Steve Pollok, the attorney at Sablich, Ryan, Bobay & Pollok in Lansing who handled their case. The employees asked for $250 million in damages for medical expenses, pain and suffering and an additional $250 million in punitive damages.

Under Michigan law, Mr. Pollok explains, workers compensation is an employee's exclusive remedy even when an employer is found to be grossly negligent. This prohibits an employee from suing for damages like pain and suffering and limits him to workers compensation benefits.

In Michigan, Mr. Pollok says, these benefits provide only for wage loss at two-thirds of an employee's weekly salary and medical and rehabilitation expenses.

The workers argued, however, that Velsicol's intentional misrepresentation went beyond mere gross negligence and, therefore, allowed them to sue outside the workers compensation system.

While the appeals court found that there was intentional misrepresentation by the company as to the effects of PBB, it still affirmed the lower court's ruling that workers compensation is the group's exclusive remedy.

Attorney Robert Finke, a partner at the Lansing law firm of Mayer Brown Platt and Velsicol's outside counsel on the case, says the company is pleased with the decision. The company is aware of efforts in other states to weaken the exclusive remedy rule, Mr. Finke says.

While there are no Michigan cases that deal specifically with the issues of exclusive remedy, Mr. Pollok says he relied on several California cases in preparing the suit.

The attorney adds that he will appeal the decision to the Michigan Supreme Court.

Velsicol had workers compensation coverage at its Michigan plant from two separate insurers during the time in which employees say they were exposed to PBB.

The Travelers Insurance Co., which had Velsicol's workers compensation exposure and "primary responsibility" on its employee liability coverage in 1976 and 1977, followed this case with a great deal of interest, says George Hatch, director of workers compensation for the insurer.

Had the suit been successful, notes Mr. Pollok, he expects that The Travelers would have resisted any attempt by Velsicol to cover an award outside the workers compensation system.

Mr. Hatch explained, however, that this depends on what issue the court ruled upon. Had the court found that Velsicol acted in the dual capacity of employer and insurer, the company would be covered under its workers compensation policy, he said.

This issue, which has surfaced in several California courts, was not raised in this case.

However, had the court found that Velsicol did intentionally misrepresent the danger of PBBs, then Mr. Hatch expects that his company would have resisted covering any awards.

Velsicol's present workers compensation insurer is The Home Insurance Co., which picked up the risk through a Michigan assigned risk pool for workers compensation. ■



# Accident suit cites safety violations

*Continued from page 2*

platform to be overloaded.

- Failing to inspect the platform and welded attachments at regular intervals.
- Failing to provide body belts and lanyard attachments to the boom and failing to provide safety nets for workers more than 25 feet off the ground.

The suit also sought and received a temporary injunction barring state officials from removing or performing "destructive testing" of any accident-related evidence.

A second suit, filed on behalf of survivor Philip Rios, makes similar negligence charges and asks $25 million in damages.

Although an Occupational Safety and Health Administration investigation is still in progress and has not comfirmed safety law violations, OSHA officials have noted that most construction cages use flexible cables rather than rigid support rods.

Other state and local law enforcement agencies are also investigating the accident and an apparent lack of government inspection.

City inspectors claim they were not allowed to visit the site because it was a state project.

State officials, however, say city inspectors were not denied entrance to the site and had actually approved plans and construction organization.

Officials of the lawsuit's lead defendants, Morse/Deisel and Gust K. Newberg, were not available for comment, but a spokesman for Paschen Construction said he expected that his company would be dismissed from the suit.

**"Newberg was more** directly involved in the joint venture," said Lyle Shear, Paschen safety and insurance manager. "We will probably be out of it."

Paschen has general liability insurance purchased from Bituminous Casualty Insurance Cos. of Rock Island, Ill., "adequate" to cover at least the first $10 million suit, though the firm's only interest in the suit is as part of the Paschen-Newberg unit.

Paschen-Newberg as a joint venture has a primary general liability policy underwitten by Commercial Union Insurance Cos., the insurer confirmed, but the limits of coverage are not known.

**Midwest Steel** Erection Co., a subcontractor and the victims' employer at the time of the accident is not named in the suit, according to the plaintiff's attorney, because Illinois law provides that workers compensation is the exclusive remedy for personal injury claims against an employer.

Work-related accidents victims or their survivors are eligible for up to $394.19 weekly to a maximum of 20 years or $250,000. Survivors of a worker killed on the job also receive $1,750 in burial expenses.

Midwest Steel self-insures its workers compensation risks, according to the Illinois Industrial Commission. ■

# NAIC task force OKs HMO solvency bill

*Continued from page 2*
and would increase another 1% in the third and fourth year.

The insurance commissioner in each state could waive any of the deposit requirements if he was satisfied that the HMO had sufficient net worth and an adequate history of generating income for the next year.

"The best protection for the enrollees of an HMO is a financially sound organization that generates net income," the task force agreed.

HMOs also would be required to file an annual financial statement, including its balance sheet, receipts and disbursements for the preceding year—all of which would have to be certified by an independent public accountant.

The HMOs also would have to reveal the number of people enrolled in the plan at the beginning and end of every year and the amount of uncovered and covered expenditures that are more than 90 days past due.

The NAIC model bill, which has been in the works for four years, would force HMOs to provide enrollees and participating employers with notice of any change that would affect them directly, including benefit changes.

**Enrollees and** the participating employers also would have the added protection of a grievance system that every HMO would have to establish in states that pass the NAIC model bill. The HMO would have to provide the commissioner of insurance with the total number of complaints handled by the plan yearly, with the guarantee that the commissioner would keep all grievance information confidential.

As many as 38 states have legislation regulating HMOs, but the range of the protection for users varies greatly, said Roger Hahn, chairman of the HMO task force and deputy director of the Illinois Insurance Department.

"The idea is to put in insolvency safeguards to give the subscribers protection should an HMO fail," said Mr. Hahn. "We want to make sure these persons are not left without health care coverage.

"As it stands now, there is absolutely no uniformity among any of the states," he said.

Since the beginning of this year, eight of the nation's some 250 HMOs closed, three were taken over by other HMOs and three merged into one, according to statistics compiled by InterStudy in Excelsior, Minn., an HMO consulting group.

**Commissioners** and insurance department officials from many states reported having at least one and as many as three or four HMOs insolvent or reaching the liquidation stage.

In Oregon, for example, HMOs come under the jurisdiction of the insurance commissioner because the state, unlike most others, does not have statutes specifically covering HMOs.

In the case of Portland's Metro Health Plan, which was recently liquidated, employers are waiting to hear the status of their workers' claims. Most company contracts, however, provided that neither the employer nor employees would be held liable for debts if the plan became insolvent.

The new NAIC model legislation was difficult to resurrect from a 1970 HMO model bill because the task force didn't want to prohibit HMOs from starting up, but it also needed to insure employers and their workers more protection through larger reserve requirements for the HMOs, said Mr. Hahn. ■

## Resignations cause confusion at meeting

**By EILEEN NORRIS**

NEW ORLEANS—The forced resignation of the staff director of the National Assn. of Insurance Commissioners, coupled with the voluntary resignations of two other staffers only days earlier, is creating internal confusion that hampered action at the NAIC annual winter meeting.

Some key committee work, which was expected to be debated during the first three days of the Dec. 14-18 meeting, was moved to the last two days of the conference when most of the 1,300 attendees were expected to be heading home.

Last week's New Orleans meeting follows a June meeting of the NAIC at which the entire association was restructured to streamline the NAIC committee system.

**Critics of the June meeting** called it a useless, lame-duck affair, and criticism of the winter meeting is running even harsher.

NAIC Staff Director Jon Hanson, who reportedly had no idea some state insurance regulators were unhappy with his work and were seeking his dismissal, was said to be offered six months severance pay in return for his letter of resignation.

David Brummond, NAIC government liaison and director of legal affairs, announced he is leaving the group to open a law firm. James Ryan, head of the NAIC Non-Admitted Insurers Information Services, said he was resigning to take on the position of controller at the new Illinois Insurance Exchange (*BI*, Dec. 14).

Both men say their resignations were planned long before Mr. Hanson's announcement and reflect their desire to make career changes.

None of the insurance commissioners are saying why Mr. Hanson's resignation was accepted, but insiders admit the departure of three staffers almost simultaneously has created a real problem for the commissioners.

Besides a lack of action on model legislation during the early days of the conference, the NAIC Workers Compensation Task Force and the Medicare Supplement Task Force meetings were canceled without explanation.

Insurance industry representatives, lawyers and consultants also had expected much debate over a NAIC subcommittee proposal to reduce the amount of investment information insurers must make public.

The subcommittee had recommended deleting from the commmonly used insurers annual statement, or blank, a column for insurers to enter the market value of securities they hold, including bonds. The current form contains such a column. The issue is whether insurance companies should disclose the market value of their bond portfolios as opposed to stating the value on an acquisition or amortized basis (*BI*, Nov. 9).

However, the chairman of the Blanks Task Force said the task force recommendation was already in the hands of the 14-member NAIC executive committee, which would discuss it Dec. 18 at a session open only to the commissioners and their staffs.

Speculators were betting last week that the insurance commissioners will put off action on the most controversial issues until March 21, when the group meets in Nashville. The commissioners are wary of operating at full steam without a permanent staff, sources say.

The 50 insurance commissioners also were said to be laying low to avoid any more negative publicity over the way the association handled the forced resignation of Mr. Hanson, who had many supporters from his 13 years with the NAIC.

## Regulators can help cut health costs: O'Connor

NEW ORLEANS—An estimated $7 billion a year could be trimmed from medical bills if insurance companies adopt full-blown cost-containment procedures, Illinois Insurance Director Philip R. O'Connor says.

"Commercial insurance companies and Blue Cross plans paid out a massive $73 billion in 1980 for medical care, almost a third of the nation's medical bills," he said at the National Assn. of Insurance Commissioners' annual meeting.

He called on the commissioners to follow the lead of Illinois, which found out early on that "pressure" by the regulator can be an effective tool in getting insurers to recognize their responsibility to develop programs to hold down costs. "The insurance company as a third-party payer has tremendous influence over the cost effectiveness of health care delivery—if it decides to use it," he said.

His report, entitled "The Insurance Regulator's Guide to Medical Cost Containment," says that employers and individual consumers "are crying out for some relief from the staggering and rapidly escalating burden of medical costs." It adds that medical care expenditures now account for nearly 10% of the gross national product.

According to the report, insurance companies can hold down costs for policyholders by:

- Controlling unnecessary use of hospital services by contracting with physician peer groups, like the Physician Standard Review Organization, to review the need for hospital admission and length of stay on a case-by-case basis.
- Paying only reasonable charges for care by analyzing collected fee data.
- Promoting use of outpatient surgery by providing coverage for it and encouraging development of outpatient facilities.
- Assisting groups interested in taking special measures in holding down costs by suggesting benefit design changes, supplying cost and utilization data and helping to develop cost-containment initiatives.
- Establishing rehabilitation plans and return-to-work schedules for workers injured on the job.
- Identifying resource needs for medical care and assisting government in addressing excess hospital capacity and duplicate facilities. ■

# Benefit costs top $6,000 per employee

*Continued from page 3*

from 36.9%; pulp, paper and lumber 35% from 36.1%; transportation equipment, 38.8% from 39%; department stores, 31.3% from 31.7%; insurance companies, 37.6% from 38.3%; and miscellaneous non-manufacturers, 32.7% from 34.4%.

For all manufacturing industries, the average cost of benefits as a percent of payroll was 38.2%, up from 37.2% in 1979.

For all non-manufacturing industries, which include public utilities, department stores, banks and finance companies, insurance companies and hospitals, the average cost of employee benefits as a percent of payroll was 35.9%, up from 35.7%.

The cost of providing group health and life insurance benefits jumped to $950 per employee in 1980, up from $861 in 1979, a 10.3% increase.

Group life and health insurance costs rose in 19 of the 21 industrial classifications surveyed; they dipped slightly among employers in the chemicals and food beverage industries.

The highest employee insurance costs were in the primary metals industry where the average employer spent $1,580 per employee last year, up from $1,214 in 1979, a 30.1% increase.

Other big spenders for employee health and life insurance benefits were the transportation equipment industry, which spent $1,462 per employee, up from $1,385 in 1979, a 5.5% climb, and the petroleum industry, which spent $1,427 per employee, up from $1,132, a 26% increase.

**Employers in** industries that traditionally have provided meager insurance benefits were hit with major cost increases as their employees demanded benefit improvements.

For example, department stores, whose employee benefit costs traditionally have been one of the lowest, spent $391 per employee on health and life insurance benefits, up from $285 in 1979, a 30.1% increase.

Pension costs climbed in 18 industries. In three industries—stone, clay and glass products, instruments and miscellaneous manufacturing and insurance—the cost decreased or remained virtually the same as in 1979.

The cost of offering pension plans increased the most in the rubber industry, where the cost hit $564 per employee, up from $433 in 1979, a 30.2% rise.

In the fabricated metals industries, the cost of offering pension plans rose to $769 per employee, up from $603, a 27.5% increase.

The thriving petroleum industry, as in previous years, spent the most on employee pension programs: $2,507 per employee. That's 33% more than the amount spent last year in the public utilities industry, the second-biggest pension spender.

Pension costs for public utility companies averaged $1,872 per employee. In contrast, the textile industry spent $225 per employee, more than 10 times less than the amount the petroleum industry spent on pensions.

**However,** some employers who have been hurt by the current business slowdown curbed expenditures for benefits that are particularly dependent on corporate prosperity.

For example, employers in the non-electrical machinery, electrical machinery and instruments manufacturing industries, which have been hit by a reduction in demand for their products, cut back on contributions to profit-sharing plans in 1980.

Profit-sharing plan costs also plunged in the petroleum industry, but the reason doesn't appear to be economic. Instead, oil companies shifted more corporate dollars away from profit-sharing plans and into employee thrift or saving plans.

Petroleum industry contributions to thrift plans jumped to $446 per employee last year, up from $367 in 1979.

**This was** almost three times more than the printing and publishing industry, which made the second-highest average thrift plan contribution in 1980: $176 per employee.

Other highlights of the Chamber of Commerce survey include:

- Benefit costs, as a percent of payroll, were highest among the nation's largest employers and lowest among smaller employers. Companies with more than 5,000 employees paid 41.7% of payroll for benefits, while firms with fewer than 500 employees spent an average of 36%.
- Eighty percent of the surveyed employers provided sick leave benefits for workers, up from 78% in 1979.
- Twenty-two percent of employers surveyed contributed to profit-sharing plans in 1980 compared with 21% in 1979.
- Employers in the United States last year spent an estimated $435 billion on employee benefits, up from $390 billion in 1979, an increase of 11.5%.

•

*Copies of "Employee Benefits: 1980" are available from the U.S. Chamber of Commerce Survey Research Center, 1615 H St. N.W., Washington, D.C. 20062. The cost is $8 for single copies. Discounts are available for bulk orders. Specify publication No. 6503 when ordering the survey.*

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**Business Insurance**
**Circulation Breakdown***

**Commercial Consumers**

| | |
|---|---|
| **Administrative Management:** owners, presidents, vps, etc. | 6,635 |
| **Financial Management:** chief financial officers, vps of finance, secretaries, treasurers, etc. | 9,335 |
| **Insurance Management:** vps, directors, managers of insurance, risk, benefits, compensation, safety, security, etc. | 5,112 |
| **Government, Associations, Unions, Educational Institutions** | 952 |
| **Commercial Consumers Sub-total** | **22,034** |
| Insurance Agents & Brokers | 9,486 |
| Insurance Cos. | 4,486 |
| Financial Institutions | 292 |
| Actuaries, Attorneys, Adjusters, Appraisers & Consultants | 2,135 |
| Others allied to the field | 752 |
| **TOTAL** | **39,185** |

*Source: Business/Occupational breakdown of qualified circulation, May 4, 1981 issue, as submitted to BPA for June 1981, BPA Publisher's Statement.

**HOLIDAY NOTICE**
Due to the upcoming holidays, the December 28th Classified section will close noon Friday, December 18th. The January 4th Classified section will close noon Wednesday, December 23rd. Please call (312) 649-5340 for details.

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# Punitive damage question concerns Hyatt

*Continued from page 3*

Hyatt apparently believes that the issue of punitive damages can be most expeditiously resolved in one class action, sparing it exposure to multiple awards and the resulting publicity. Northbrook and the other insurers disagree, apparently fearful of a single massive award unrelated to any liability.

Northbrook says its insurance contract with Hyatt gives it an absolute right to control the defense of Hyatt on matters covered by the policy.

"There is no conflict of interest," argued one of Northbrook's attorneys, Paul W. Schroeder of Isham, Lincoln & Beale in Chicago. "All of this talk about conflicts is just talk... Mr. Deacy wants to get paid for the advice he gives (Hyatt) on conflicts out of the proceeds of our policy."

"I think this is a most delicate and discreet subject that should not be discussed with a lack of information," added Ronald A. Jacks, also of Isham, Lincoln & Beale.

Mr. Deacy's remarks were the latest legal salvo in what is becoming a bitterly contested fight over which insurers in what order are liable to Hyatt, Hallmark and Crown Center Redevelopment Corp. Both Hyatt's action in Kansas City and a suit filed by Northbrook in Chicago seek to resolve these complex coverage disputes among Hyatt, Hallmark, 25 insurers and Hyatt's broker, Marsh & McLennan (*BI*, Dec. 14).

Also during last Tuesday's hearing, attended by more than 20 attorneys for various insurers, Mr. Deacy argued for a permanent injunction against Northbrook's suit in Chicago.

"They're holding us hostage, your honor, and they say, 'You come on in and defend (yourself)'...and they want different courts because it will muddy up the waters."

Judge O'Leary is expected to rule soon on Hyatt's request for the permanent injunction and, according to attorneys, is committed to resolving soon which insurers must defend whom and in what order.

Judge O'Leary also invited attorneys to tell him whether they would support him in naming an insurance expert to testify on the meaning of contract language in dispute.

"If we could get some help from an expert that you could all agree on, it might be helpful to me," he said.

Several attorneys expressed doubt following the hearing that a neutral expert could be found.

Judge O'Leary also suggested that the two dozen lawyers designate about four attorneys representing various interests to attend a conference with the judge on specific legal questions.

Meanwhile, a federal judge, also in Kansas City, has set a Dec. 24 deadline for lawyers to file briefs on the question of whether hundreds of suits filed by victims of the collapse should be handled as a single class action. The accident claimed 113 lives.

U.S. District Judge Scott O. Wright acted on a suit brought by Molly Riley, a 33-year-old nurse slightly injured in the collapse. Judge Wright is handling the damage claims, for the most part, while the state court judge is deciding the coverage questions. ■

## Washington area Hospital costs rise

WASHINGTON—The average cost of a day in the hospital in the District of Columbia has topped the $400 mark.

Between June 30, 1980, and June 30 of this year, the average daily cost of hospitalization climbed to $402.74, up from $339.86, an 18.5% increase, according to Group Hospitalization Inc., the Blue Cross plan that serves the area. The average length of hospitalization per patient remained unchanged at 9.5 days during the 12-month period. ■

## Missouri HMO is liquidated

*Continued from page 2*

Under the bill, individual practice agencies—open-paneled HMOs—would be required to have reserves of $600,000 plus an equal to two months of expenses to meet benefit and administrative service payments.

Other types of HMOs would be required to have on hand $300,000 plus an amount equal to two months of expenses.

Mary Hull, deputy director of the state Division of Insurance, says the legislation is needed to help protect HMO subscribers and creditors and prevent other HMO failures.

Metropolitan St. Louis Prepaid Health Plan went into receivership Dec. 7, leaving hundreds of creditors wondering whether they will ever be paid for their services.

The state Division of Insurance, which was appointed as the receiver by the state attorney general's office, liquidated the troubled HMO after financial statements revealed it had an operating loss of $1.8 million for the nine-month period ending Sept. 30.

State insurance regulators are currently assessing the HMO's assets and liabilities and may begin making some payments to creditors sometime next year.

In August, the defunct HMO had 34,000 subscribers in 40 groups. By the end of November, only 22,000 subscribers remained.

Many of those subscribers have switched to conventional health care coverage or are considering subscribing to one of the two HMOs that St. Louis-based Blue Cross plan now offers in the area: Medical Care Group, a closed-panel HMO staffed by the Washington University Medical School, and the Individual Practice Program, a new open-panel HMO.

Metropolitan was the second HMO to fail in Missouri in three years. Missouri Health & Medical, in Sikeston, established in 1975, closed its doors eight months before the ill-fated St. Louis HMO opened for business.

Some employers had started to hear complaints from employees concerning harassment from physicians, hospitals and bill collectors about medical bills they thought had been paid by the HMO.

"We had employee calls about slow processing," explains a benefit specialist at Southwestern Bell Telephone Co. in St. Louis who asked not to be identified.

Southwestern Bell dropped out of the plan Nov. 1, one month before its contract was due to expire. The 2,700 employees who had been covered by the HMO have since been placed with Blue Cross, which underwrites the employer's traditional health insurance plan. ■

# Libya situation prompts coverage queries

*Continued from page 1*
ance on contracts with Libya Dec. 1, even before President Reagan ordered all Americans home from Libya on Dec. 10.

Currently, more than 30 American companies do business in Libya. Oil companies, including Exxon Corp., Mobil Oil Corp., Amerada Hess Corp., the Conoco division of Du Pont Co., Occidental Petroleum Corp. and Marathon Oil Co., have the most at stake.

The oil companies contacted would not comment on any political risk insurance they might have, but American International Group confirmed it has some exposure in Libya.

Calls were pouring into Chubb Group late last week from individuals, corporations and partnerships seeking political risk coverage for risks like expropriation or nationalization of assets, currency inconvertibility and interference with contracts in Libya and elsewhere, said Robert Frank, manager of political risks.

"We saw it happen after the assassination of Sadat, when the Ayatollah took over in Iran and when Allende nationalized industry in Chile," he said. "A lot of companies realize they have very real and serious exposures."

Chubb, which has written political risk coverage for about six months, has not written any policies for companies in Libya, Mr. Frank said.

INAMIC, a subsidiary of INA Corp., has received more inquiries recently for political risk coverage. "Anytime you get an increase in tension, you get more inquiries," said INAMIC President Hugh Sinclair.

Carol Godfrey, an account executive at Swett & Crawford, which brokers political risk insurance, said, "We've seen quite an increase in inquiries for political risk," even before President Reagan's order regarding Libya.

But Robert Svensk, sensitive risk executive of AIG, which has been writing political risk insurance for about eight years, says the Libyan situation has not prompted an increase interest in poltical risk coverage.

"We don't tend to get an immediate knee-jerk reaction," he said. "We have had no more inquiries on Libya today than we did two months ago. We tend to deal with reasonably sophisticated companies."

Mr. Svensk added, however, that there is increased awareness of political risk coverage among many companies.

"There has been enhanced awareness of the product and the benefits of this type of coverage," he said.

An underwriter for Merrett Syndicates at Lloyd's of London also said there has not been a marked upsurge in requests for coverage or concern among companies.

"It is far from clear right now what the real consequences of the U.S. action with regard to Libya will be," he said.

Even before President Reagan's order, the price of political risk insurance involving Libya was twice that for operations in less volatile areas.

The typical rate of 1% to 3% of insured value increased to 6% to 7% when it involved Libya, said William Carrick, vp at broker Alexander & Alexander in Chicago.

Now, "it would be highly unlikely to arrange coverage today, particularly for U.S. companies," he noted.

"The price is a lot cheaper when the building is not already smouldering," agreed Mr. Frank of Chubb Group. Tense political relationships with a country, like those with Libya, "make the price shoot up precipitously."

Besides political relationships with a country, however, underwriters also consider when underwriting political risk insurance the relationship between the operation and the foreign government, the national debt of the foreign country, the risk itself, whether there is a benefit to the foreign government or whether the operation merely exploits the country's resources.

FCIA officials said the decision to terminate writing policies for companies doing business with Libya was made during a periodic review by FCIA and was based mainly on the economic situation in Libya. But, the rumors of Libyan assassination squads in the United States did influence the decision some, they said.

FCIA had $5.9 million already outstanding as of Dec. 1, but expects its exposure to decrease as buyers pay for their transactions.

The Overseas Private Investment Corp., the federal agency that provides political risk insurance, never issued policies on Libyan risks because there is no bilateral agreement between the United States and Libya.

Overall, the amount of political risk insurance available has increased tremendously in the past several years. A package of $100 million or more can be put together, industry sources say. ■

## Risk managers' role could change

Risk managers aren't among the key decision makers when political risks and foreign operations cross paths, but that could change.

Because of its specialized nature, political risk analysis is left mainly to top-level corporate executives and sophisticated analysts.

"Risk managers are usually not equipped at this stage," says Eckart Russell, risk and insurance manager of Alcan Aluminium in Montreal. "I don't think they would be the main players."

"I don't get involved in that," agrees Martin R. Flink Jr., director of insurance for Standard Oil Co. of Indiana in Chicago.

Several different departments in the company analyze the risk of doing business in a foreign land, but the risk management department might help place the risk if insurance is required, he added.

But Alcan's Mr. Russell says in time the risk manager will play a larger role in analyzing the risks in foreign countries.

Norman Baglini, dean of curriculum at the American Institute for Property & Liability Underwriters in Malvern, Pa., agrees.

"Political risk decisions definitely have to be made by top management," Mr. Baglini says, "but corporate risk managers will be more involved. They can do a heck of a job influencing top management to think in terms of risk management."

He sees political risk as the "big risk to manage in the '80s," with larger exposures because of more frequent nationalizations.

Mr. Baglini, who is updating a survey on international risk management that will include information on political risks, says risk managers are now involved in political risk decisions to a limited degree.

Many help purchase various types of insurance, like kidnap and ransom coverage, but few are consulted on risks like production restrictions that a foreign government can impose, he adds.

But at Gould Inc. in Rolling Meadows, Ill., the risk management department already is assuming a larger role. It has has developed a political risk manual to guide executives and managers who operate in foreign countries, said James Mascarella, vp of insurance.

**Political risk** is "part and parcel of overall business strategy" and in many respects is no different than risk management and risk control in the United States, Mr. Mascarella says.

Experts cite a number of risk management techniques that can be used to protect foreign assets.

A major method is to transfer a portion of the risk and equity to a joint venture partner in the host country, says Gerald West, vp for development of the Overseas Private Investment Corp., a governmental agency formed under the Agency for International Development in 1971.

Such a move can deter nationalization or expropriation because the host country has a stake in the project. If nationalization does occur, the U.S. company will get a better deal than other foreign firms operating in the country.

Another method is to build local allies, he says. One way is for the U.S. business to be a source of goods for consumers and local businesses, fostering dependence.

Mr. West says a number of companies try to internationalize a project. By getting local partners, businessmen from other countries and a huge consortium of banks to make loans on the project, there is less of a chance the host government will take hostile measures.

"It raises the economic and political cost to the host country," Mr. West explains. However, he acknowledges that such methods are really possible only for larger companies.

Many firms attempt to create an atmosphere of goodwill through liberal benefits for employees and participation in civic activities. This not only increases productivity and morale of employees but usually will reduce any hostility felt by the local government, Mr. West adds.

Some companies enter into "business marriages" to create alliances with powerful groups in a foreign country, says Robert Z. Aliber, a professor at the University of Chicago Business School.

Charles Tagman, vp and prinicpal for Betterley Consulting Corp., a risk and insurance management consulting firm in Boston, says that companies sometimes try to borrow as much as possible from banks in the host country.

If companies expropriate or nationalize a company, the money isn't repaid. "Borrowing is definitely a way to hedge against that (expropriation or nationalization)," he explains.

Mr. Tagman also points out that some companies contractually agree to sell expertise only if the host country deposits a substantial amount of money in a U.S. bank with an irrevocable letter of credit. If the country reneges on promises, the company gets the money.

"There's a lot of contractual and banking ways to hedge your bet," Mr. Tagman adds. "Insurance should be the last resort because it is the most costly."

## Malpractice change proposed

TRENTON, N.J.—The state is considering a proposal by the Health Care Insurance Exchange, a medical malpractice insurer formed by the New Jersey Hospital Assn., to take over the New Jersey Medical Malpractice Reinsurance Assn., a non-profit entity mandated by the state but operated by the insurance industry.

If the plan is approved, the reinsurance association would be deactivated. The exchange, which already directly insures most state hospitals and a number of physicians, would take on the coverage of a number of other doctors.

The transfer of all assets and liablities would be accomplished through a reinsurance agreement that is subject to the approval of the state insurance commissioner.

Under the terms of the proposal, the exchange would reinsure all the business of the association, and in return for accepting all the incurred liabilities, would receive all the association's assets. ■



# CG, INA name 9 executive vps to run company after merger

NEW YORK—Connecticut General Corp. and INA Corp. have begun to reveal how the two insurance giants will mesh after their proposed merger by announcing operating group heads and corporate staff members for the new corporation.

Nine executives will be named executive vps of the new company and will report to the office of the chief executive, to be shared by **Robert D. Kilpatrick**, president and chief executive officer of Connecticut General, and **Ralph S. Saul,** INA's chairman and chief executive officer. Mr. Saul will be the new company's chairman and Mr. Kilpatrick will be president and chairman of the executive committee.

The operating group heads will be:

- Investments: **John K. Armstrong,** manager of INA's investment group.
- New businesses: **Richard M. Burdge,** manager of INA's life and health group.
- INA insurance operations: **John R. Cox,** INA chief operating officer.
- Connecticut General insurance operations: **Hartzel Z. Lebed,** manager of Connecticut General's investment operations.

Senior corporate staff officers will be:

- Corporate services: **Robert E. Patricelli,** manager of Connecicut General's corporate services division.
- Organizational development: **Andrew M. Rouse,** manager of INA's administrative group.
- Financial: **Wilson H. Taylor,** manager of Connecticut General's financial division.
- Human resources: **George R. Trumbull,** manager of Connecticut General's systems and human resources division.
- Legal: **James W. Walker Jr.,** INA's general counsel.

A name for the new company has not yet been chosen. North American General Corp. is being used for regulatory filings until a final name is chosen, but it is not under consideration.

The merger is subject to shareholder and regulatory approval. ■

## Ohio names rehabilitation director

COLUMBUS, Ohio—Dr. D. Kenneth Mitchell has been appointed director of the rehabilitation division of the state Industrial Commission.

He is currently director of the Division of Rehabilitation Counseling at the University of North Carolina School of Medicine in Chapel Hill.

Dr. Mitchell was formerly associated with the Ohio Bureau of Vocational Rehabilitation. He has also served as a consultant to rehabilitation facilities in various states and New Zealand.

Dr. Mitchell is a member of the National Rehabilitation Assn., the American Congress of Rehabilitation Medicine and the National Assn. of Mental Health Counselors. ■

# British insurers post wide range of results

By ALAN H. CLIFTON
and PHIL V. OLSEN

*Special to Business Insurance*

THIRD-QUARTER RESULTS from the U.S. property/casualty insurance companies show a distinctly mixed pattern (*BI*, Nov. 16), with some insurers producing improved performances and others reporting much higher underwriting losses.

This disparate showing is mirrored in the very different third-quarter results of the United Kingdom's leading insurance companies. However, the results also reflect the very wide variety of trading conditions in insurance markets around the world and the variability of currency exchange rates.

The largest insurer of British risks is General Accident, with an overall market share of about 10%. Helped by continued good results from its home territory, the company's net income for the first nine months of the year is up by more than 25% to 55.6 million pounds (approximately $103 million based on a conversion rate of $1.86.)

The sharpest contrast is provided by Commercial Union, which reported a 17% decline in earnings to 47 million pounds. CU writes about 50% more insurance business than General Accident worldwide, but its 1981 profits will be nearly 33% lower than GA's. And on the London Stock Exchange, CU's total market valuation now trails GA's for the first time.

Royal Insurance, the third-ranking British company, is a well-known name in the U.S. market. After a very satisfactory second quarter, the July-September period saw a reversal of fortunes that left Royal's year-to-date earnings disappointingly lower.

This setback was most evident in the U.S. market where Royal posted a 110% combined ratio in the third quarter after compiling a 100% combined ratio in the second. Royal's quarterly pattern so far this year—105%, 100%, 110%—is so wayward that it is probably safer to concentrate on the cumulative ratio of 105.1% for the nine months.

## BI ticker

Viewed in this light, Royal is in line with the rest of the U.S. market, a performance that falls neatly between General Accident's customary superior showing and the troubled results from Commercial Union. While the bottom line for both General Accident and Royal in the U.S. market is still in the black, Commercial Union has chalked up a net deficit of some $19 million so far this year.

But the American market is not the key problem area at the moment for British insurers: Combined ratios in Australia this year are easily topping 130%.

Competition in Australia remains fierce and premium rates continue to lag far behind claims costs. Underwriting losses that exceed investment returns have cropped up in every class of business, with few regional variations.

The underlying problems of the Australian insurance market, moreover, have been exacerbated by a recent court decision that greatly increased reserve requirements for workers compensation insurers.

A professional negligence case tried in February posed a fundamental question regarding the manner in which lump-sum payments to injured workers should be calculated. The courts ruled that because of the eroding effects of inflation, insurers had to consider interest rates when computing lump-sum payments to an injured party.

The "Barrell Decision," as the case has now become known, could cost Australian workers compensation insurers up to $100 million, as company actuaries revise their estimates of the technical reserves needed to meet the higher lump-sum awards now being granted.

British insurers, with a major participation in the Australian market, are suffering because of the decision, even before the appeal has been heard.

Some companies have given up on Australia and are pulling out for good. The latest to quit is Legal & General, which is now in the process of buying GEICO's life insurance arm. Only drastic action like this will bring about the much needed reduction in capacity and turn the Australian market.

Turning to the Lloyd's insurance brokerage stocks, we have noted in previous articles that the influence of currency factors would play a major role in the brokers' profit performance this year.

Several of the major Lloyd's brokers have profited from the pound's weakness in world monetary markets in the first half of the year, but these favorable results arose primarily when the results from the broker's overseas-based subsidiaries and associates were added.

The value of both the U.S. and Australian dollars at the end of June was more than 20% higher than a year earlier and, although some of the European currencies were worth slightly less against the pound, most of them showed increases in value, too.

However, the brokers received less help from exchange rate revenues from their British-based operations. Overseas brokerage income accounts for about 50% of their total earnings, with U.S. and Canadian dollars representing more than two-thirds of that amount.

The average value of the U.S. dollar against the pound was only an average of 4% higher during the first half of the year than in the corresponding period of 1980. With Canadian dollars up only an average of 2% and deutsche marks and French francs 15% lower, the exchange rate gain was disappointingly modest.

Despite those setbacks, the companies have reported some very encouraging first-half profit performances. Sedgwick's pretax profits grew by 27% to 29.1 million pounds from 22.9 million pounds, with exchange rate changes accounting for just 800,000 pounds of the improvement. Willis Faber's increase was more modest: Earnings were up 17% to 14 million pounds from 11.9 million pounds, with currency changes providing only 500,000 pounds.

J.H. Minet's profits rose 46% to 5.8 million pounds from 4 million pounds but, reflecting the magnitude of this company's overseas profit centers, the benefit from exchange rates at Minet was about 1 million pounds.

Stewart Wrightson's performance was the most disappointing with just a 9% profit advance to 3.9 million pounds from 3.6 million pounds. Exchange rates probably added 500,000 pounds to Wrightson's earnings.

C.E. Heath's received a bigger boost from exchange rates because of its April-to-September reporting period. (The average value of the U.S. dollar, for example, was 19% higher during the April-to-September period than the corresponding months of 1980.) Thus profits at Heath increased by 45% to 7.4 million pounds from 5.1 million pounds. The weakness of the pound contributed some 1.5 million pounds to the overall advance.

Ignoring the currency influences, most of the Lloyd's brokers have reported good underlying profit advances in a difficult insurance market. Investment income has helped, but so have new business generation and strict control of expenses.

With the weakness of the pound likely to lead to much more significant exchange rate benefits in the second half of the year, the Lloyd's brokers will probably report notable profit advances in 1981.

However, as the pound begins to advance on currency markets, Lloyd's brokers may be keeping their fingers crossed that insurance rates pick themselves off the floor in 1982. ■

### British Issues

| 15 Dec. Companies | Price pence | P/E | Div. pence | Yield % | 1 Week High—Low pence | pence |
|---|---|---|---|---|---|---|
| Comml Union | 127 | 8.5 | 16.07 | 12.6 | 129—126 | |
| Eagle Star | 335 | 10.8 | 21.43 | 6.4 | 337—334 | |
| Genl Accident | 318 | 6.8 | 21.07 | 6.6 | 332—316 | |
| Gdn Royal Exch | 294 | 7.6 | 23.21 | 7.9 | 302—292 | |
| Phoenix | 236 | 8.1 | 22.43 | 9.5 | 248—236 | |
| Royal | 337 | 9.0 | 35.00 | 10.4 | 348—335 | |
| Sun Alliance | 834 | 8.3 | 53.57 | 6.4 | 850—830 | |
| **Brokers** | | | | | | |
| CE Heath | 273 | 9.1 | 15.71 | 5.7 | 274—270 | |
| Hogg Robinson | 107 | 8.6 | 8.57 | 8.0 | 109—106 | |
| Alex Howden | 140 | 10.8 | 10.71 | 7.6 | 141—139 | |
| JH Minet | 129 | 10.7 | 6.80 | 5.3 | 133—129 | |
| Sedg Grp | 143 | 10.4 | 7.50 | 5.2 | 144—142 | |
| Stenhouse Hldg | 92 | 8.4 | 6.64 | 7.2 | 93— 91 | |
| Stew Wrightson | 218 | 10.9 | 17.14 | 7.9 | 220—217 | |
| Willis Faber | 360 | 12.4 | 17.85 | 5.0 | 365—360 | |

Source: Philip Olsen/Alan Clifton, Insurance Industry Specialists Kitcat & Aitken Stockbrokers, London

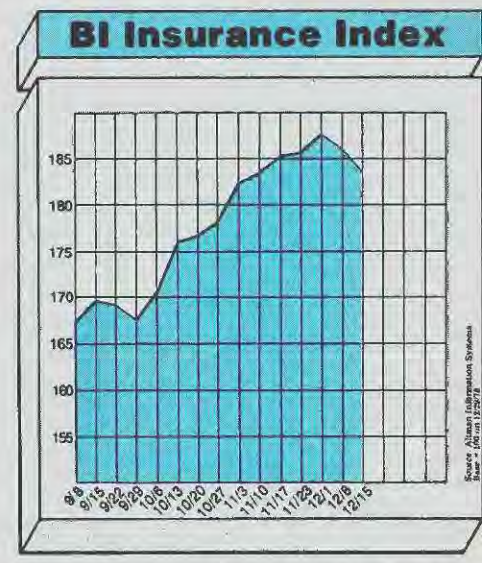
*Alan H. Clifton, left, and Phil V. Olsen are analysts with London-based Kitcat & Aitken. They report quarterly on the British insurance industry for Business Insurance, in addition to supplying weekly earnings reports on British companies for BI Ticker.*

# BI Industry Stock Report

| Insurance Cos. | | DEC. 15, 1981 Price | % Chg | P/E | $ Div. | % Yld. | 12/9/81 THRU 12/15/81 High | Low | Vol. (000) |
|---|---|---|---|---|---|---|---|---|---|
| Aetna Life & Cas Co | NYSE | 43.38 | -3.1 | 7.3 | 2.32 | 5.3 | 44.38 | 43.00 | 515.3 |
| American Bankers Ins Group | OTC | 7.25 | -3.3 | 7.7 | 0.48 | 6.6 | 7.50 | 7.25 | 65.9 |
| American Gen Ins Co | NYSE | 41.50 | -4.3 | 6.1 | 2.00 | 4.8 | 43.75 | 41.50 | 76.2 |
| American Indty Finl Corp | OTC | 14.13 | -4.2 | 6.0 | 1.12 | 7.9 | 14.50 | 14.13 | 9.9 |
| American Intl Group Inc | OTC | 68.00 | -1.1 | 11.8 | 0.40 | 0.6 | 69.25* | 68.00 | 226.2 |
| American Natl Ins Co | OTC | 14.00 | -2.6 | 6.0 | 0.76 | 5.4 | 14.38 | 14.00 | 130.0 |
| American Sts Life Ins Co | OTC | 17.00 | 0.0 | 5.4 | 0.72 | 4.2 | 17.00 | 16.50 | 3.4 |
| Aneco Reins Ltd | OTC | 2.38 | 5.6 | 0.0 | 0.00 | 0.0 | 2.38 | 2.25 | 21.1 |
| Appalachian Natl Corp | OTC | 2.44 | 0.0 | 0.1 | 0.00 | 0.0 | 2.44 | 2.44 | 0.4 |
| Avemco Corp | AMEX | 10.75 | -1.1 | 7.4 | 0.54 | 5.0 | 10.88 | 10.75 | 16.3 |
| Banks Iowa Inc | OTC | 41.00 | -11.8 | 6.0 | 1.44 | 3.5 | 47.00 | 41.00 | 32.7 |
| Bitco Corp | OTC | 38.75 | -3.1 | 4.6 | 2.16 | 5.6 | 38.75 | 38.50 | 2.4 |
| Carolina Cas Ins Co | OTC | 6.88 | 0.0 | 6.9 | 0.32 | 4.7 | 6.88 | 6.88 | 3.7 |
| Central Natl Finl Corp | OTC | 33.25 | 0.0 | 10.8 | 0.65 | 2.0 | 33.25 | 33.25 | 0.1 |
| Chubb Corp | OTC | 48.13 | -5.9 | 5.9 | 2.92 | 6.1 | 51.50 | 48.13 | 191.1 |
| Combined Intl Corp | NYSE | 23.00 | -2.6 | 6.0 | 1.80 | 7.8 | 23.13 | 22.75 | 43.2 |
| Connecticut Gen Ins Corp | NYSE | 51.75 | -2.4 | 6.6 | 1.76 | 3.4 | 53.00 | 51.38 | 407.1 |
| Continental Corp | NYSE | 28.50 | 1.3 | 9.0 | 2.40 | 8.4 | 28.50 | 28.00 | 197.6 |
| Crawford & Co | OTC | 16.25 | 0.0 | 12.6 | 0.52 | 3.2 | 16.25 | 16.25 | 8.5 |
| Crown Life Ins Co | OTC | 84.00 | 9.1 | 9.1 | 2.80 | 3.3 | 84.00 | 77.00 | 2.3 |
| Crum & Forster | NYSE | 32.25 | -3.4 | 5.3 | 1.64 | 5.1 | 33.00 | 32.25 | 348.3 |
| Employers Cas Co | OTC | 33.00 | 0.0 | 5.2 | 1.20 | 3.6 | 33.00 | 32.50 | 6.0 |
| Equifax Inc | NYSE | 23.00 | 2.2 | 5.2 | 2.40 | 10.4 | 23.00 | 22.38 | 18.2 |
| Excelsior Ins Co | OTC | 16.75 | 0.0 | 11.5 | 0.70 | 4.2 | 16.75 | 16.75 | 4.8 |
| Farmers Group Inc | OTC | 30.25 | -3.2 | 8.9 | 1.12 | 3.7 | 31.25 | 30.25 | 117.2 |
| First Colony Life Ins Co | OTC | 57.00 | -0.9 | 16.2 | 1.00 | 1.8 | 57.50 | 57.00 | 7.3 |
| Foremost Corp Amer | OTC | 30.00 | -3.2 | 8.5 | 0.80 | 2.7 | 30.50 | 30.00 | 9.3 |
| Great West Life Assurn Co | OTC | 235.00 | 0.0 | 8.7 | 10.00 | 4.3 | 235.00 | 235.00 | 0.0 |
| Hanover Ins Co | OTC | 33.75 | -4.3 | 4.1 | 0.72 | 2.1 | 34.75 | 33.75 | 15.3 |
| Hartford Steam Boiler Insptn | OTC | 44.25 | -0.6 | 7.8 | 2.60 | 5.9 | 44.50 | 44.25 | 2.6 |
| Jefferson Natl Life Ins Co | OTC | 33.00 | -2.2 | 19.0 | 0.64 | 1.9 | 33.50 | 33.00* | 0.9 |
| Kemper Corp | OTC | 34.00 | -1.8 | 5.3 | 1.60 | 4.7 | 35.13 | 34.00 | 34.9 |
| Lincoln Natl Corp Ind | NYSE | 40.63 | -4.4 | 6.3 | 3.00 | 7.4 | 41.75 | 40.63 | 50.4 |
| Mgic Invt Corp | NYSE | 48.63 | 14.4 | 12.1 | 1.28 | 2.6 | 48.63* | 43.63 | 1,827.2 |
| Mission Ins Group Inc | NYSE | 37.25 | -2.3 | 6.5 | 1.00 | 2.7 | 39.50 | 37.25 | 29.3 |
| Nationwide Corp Ohio | OTC | 30.00 | 17.6 | 9.9 | 0.70 | 2.3 | 30.00* | 26.13 | 5.8 |
| Northwestern Natl Life Ins | OTC | 25.63 | 2.5 | 5.5 | 1.36 | 5.3 | 25.75 | 25.63 | 35.2 |
| Ohio Cas Corp | OTC | 42.50 | -4.5 | 6.5 | 2.04 | 4.8 | 44.50 | 42.50 | 65.1 |
| Old Rep Intl Corp | OTC | 19.50 | -1.3 | 4.7 | 0.92 | 4.7 | 19.75 | 19.50 | 62.2 |
| Preferred Risk Life Ins Co | OTC | 21.25 | 0.0 | 5.7 | 0.80 | 3.8 | 21.25 | 21.25 | 0.9 |
| Provident Life & Acc Ins Co | OTC | 55.00 | -0.9 | 7.2 | 2.20 | 4.0 | 55.50 | 55.00 | 55.6 |
| Ryan Ins Group Inc | OTC | 16.00 | -3.0 | 6.9 | 0.12 | 0.8 | 16.00 | 16.00* | 2.7 |
| St Paul Cos Inc | OTC | 48.13 | -1.0 | 7.8 | 2.32 | 4.8 | 48.50 | 47.88 | 169.7 |
| Safeco Corp | OTC | 38.88 | -0.3 | 7.4 | 2.20 | 5.7 | 39.00 | 38.88 | 170.0 |
| Sri Corp | OTC | 22.75 | -2.2 | 4.5 | 1.00 | 4.4 | 23.25 | 22.75 | 24.3 |
| Seibels Bruce Group Inc | OTC | 27.63 | -4.3 | 15.5 | 0.80 | 2.9 | 28.75 | 27.63 | 23.8 |
| Statesman Group Inc | OTC | 6.38 | 2.0 | 5.5 | 0.15 | 2.4 | 6.38 | 6.25 | 13.0 |
| Tokio Marine & Fire Ins Co | OTC | 120.00 | -2.2 | 9.6 | 1.00 | 0.8 | 122.25 | 119.00 | 3.8 |
| Travelers Corp | NYSE | 45.25 | -3.2 | 5.4 | 2.88 | 6.4 | 46.50 | 45.00 | 325.3 |
| United Fire & Cas Co | OTC | 35.50 | 0.0 | 8.1 | 1.10 | 3.1 | 35.50 | 35.50 | 0.3 |
| United States Fid & Gty Co | NYSE | 43.00 | -5.5 | 7.0 | 3.20 | 7.4 | 45.38 | 43.00 | 131.8 |
| United Svcs Life Ins Co | OTC | 14.88 | 0.0 | 5.8 | 1.00 | 6.7 | 14.88 | 14.88 | 9.7 |
| Uslife Corp | NYSE | 22.00 | 0.6 | 5.2 | 0.80 | 3.6 | 22.25 | 21.63 | 281.3 |
| Washington Natl Corp | NYSE | 21.00 | -0.6 | 6.4 | 1.08 | 5.1 | 22.13 | 20.63 | 120.6 |
| Zenith Natl Ins Corp | OTC | 16.75 | 1.5 | 8.8 | 0.76 | 4.5 | 16.75 | 16.50 | 12.2 |
| INSURANCE COMPANIES | AVERAGE | | | 6.3 | | 4.1 | | | |
| **Agents/Brokers** | | | | | | | | | |
| Alexander & Alexander Svcs | OTC | 26.75 | -5.3 | 9.4 | 1.84 | 6.9 | 28.25 | 26.75* | 127.7 |
| Baldwin & Lyons Inc | OTC | 32.00 | 3.2 | 5.5 | 0.80 | 2.5 | 32.00 | 31.50 | 5.3 |
| Corroon & Black Corp | NYSE | 18.13 | -5.8 | 10.7 | 1.76 | 9.7 | 19.25 | 18.13 | 7.0 |
| Crump E H Cos Inc | OTC | 11.38 | 0.0 | 13.4 | 0.40 | 3.5 | 11.38 | 11.38 | 7.0 |
| Hall Frank B & Co Inc | NYSE | 28.75 | -1.7 | 10.8 | 1.66 | 5.8 | 29.88 | 28.38 | 103.2 |
| Integrated Res Inc | AMEX | 14.38 | -5.7 | 5.9 | 0.00 | 0.0 | 15.13 | 14.38 | 29.0 |
| James Fred S & Co Inc | NYSE | 23.50 | -5.1 | 11.0 | 1.60 | 6.8 | 24.38 | 23.00 | 40.6 |
| Marsh & Mclennan Cos Inc | NYSE | 35.00 | -1.4 | 11.3 | 2.00 | 5.7 | 35.75 | 35.00 | 82.1 |
| Penncorp Fincl Inc | NYSE | 5.75 | -6.1 | 8.3 | 0.16 | 2.8 | 6.00 | 5.75 | 63.1 |
| Pinehurst Corp | OTC | 8.50 | 0.0 | 0.0 | 0.00 | 0.0 | 8.50 | 8.50 | 17.7 |
| Poe & Assoc Inc | OTC | 9.75 | 0.0 | 11.0 | 0.80 | 8.2 | 10.00 | 9.75 | 0.9 |
| Reed Stenhouse Cos Ltd | OTC | 12.00 | 2.1 | 9.5 | 0.60 | 5.0 | 12.25 | 11.63 | 27.9 |
| Rollins Burdick Hunter Co | OTC | 21.50 | 1.2 | 12.3 | 1.32 | 6.1 | 21.63 | 21.25 | 10.1 |
| AGENTS/BROKERS | AVERAGE | | | 9.6 | | 5.2 | | | |
| **Conglomerates/Holding Cos.** | | | | | | | | | |
| American Express(Fireman's Fd) | NYSE | 44.00 | -3.8 | 7.8 | 2.20 | 5.0 | 45.50 | 43.50 | 701.4 |
| Anderson Clayton(Ranger/PanAm) | NYSE | 27.25 | 3.8 | 5.7 | 1.32 | 4.8 | 28.00* | 26.00 | 42.3 |
| Armco Inc | NYSE | 27.00 | -6.9 | 3.1 | 1.80 | 6.7 | 28.50 | 27.00 | 151.7 |
| City Investing Co. (Home Ins.) | NYSE | 23.50 | -2.6 | 6.7 | 1.60 | 6.8 | 24.25 | 23.50 | 240.3 |
| CNA Finl Corp (CNA) | NYSE | 13.38 | -7.8 | 5.6 | 0.00 | 0.0 | 14.00 | 13.38 | 26.1 |
| Control Data (Comml. Credit) | NYSE | 37.13 | 0.0 | 8.7 | 0.50 | 1.3 | 38.63 | 36.25 | 389.4 |
| General Re Corp | NYSE | 81.50 | -5.8 | 10.4 | 1.76 | 2.2 | 85.00 | 81.50 | 70.2 |
| Gulf Utd Corp | NYSE | 18.13 | -7.1 | 6.3 | 1.32 | 7.3 | 19.25 | 17.63 | 181.0 |
| INA Corp (Ins. Co. of NA) | NYSE | 45.38 | -1.9 | 6.3 | 2.40 | 5.3 | 46.00 | 45.38 | 480.9 |
| ITT (Hartford Group) | NYSE | 29.63 | -1.3 | 7.8 | 2.68 | 9.0 | 30.25 | 29.38 | 1,061.5 |
| Optimum Hldg Corp | OTC | 10.75 | -4.4 | 13.8 | 0.00 | 0.0 | 11.25 | 10.75 | 7.8 |
| Reliance Group Inc | NYSE | 95.50 | -3.0 | 10.3 | 3.00 | 3.1 | 97.25 | 95.50 | 50.2 |
| Sears Roebuck & Co. (Allstate) | NYSE | 16.00 | -1.5 | 8.0 | 1.36 | 8.5 | 16.25 | 16.00 | 1,108.3 |
| Baldwin Utd Corp | NYSE | 59.00 | 8.3 | 10.1 | 1.60 | 2.7 | 59.00* | 55.25 | 125.9 |
| Teledyne Inc (Argonaut) | NYSE | 134.38 | -1.7 | 6.9 | 0.00 | 0.0 | 137.13 | 133.00 | 273.8 |
| Transamerica Corp (Occidental) | NYSE | 23.63 | -2.6 | 6.8 | 1.40 | 5.9 | 24.00 | 23.63 | 130.7 |
| CONGLOMERATES/HOLDING COS. | AVERAGE | | | 7.5 | | 3.3 | | | |

*Record high/low since Jan. 1, 1981. System design: Altman Infomation Systems

## BI Insurance Index




**Insurance industry stocks slumped sharply as the Business Insurance stock index dropped 2.5 points to 183.5 from 186.0. Only 13 issues managed to post advances, 46 stocks declined and 14 issues were unchanged. Leading the advancing securities were Nationwide Corp. of Ohio, 17.6%; MGIC Investment Corp., 14.4%; Crown Life Insurance Co., 9.1%; Aneco Reinsurance Ltd., 5.6%; and Baldwin & Lyons Inc., 3.2%. Leading the declining issues were Banks Iowa Inc., 11.8%; CNA Financial Corp., 7.8%; Gulf United Corp., 7.1%; Armco Inc., 6.9%; Penncorp Financial Inc., 6.1%; Corroon & Black Corp., 5.8%; and Integrated Resources Inc., 5.7%. The *Business Insurance* index declined 1.3%, which was similar to the declines in most of the major stock market indicators but was steeper than the drop in the Dow Jones 30 Industrials average. The 2.5-point decline was the largest in the *BI* index since Sept. 8.**

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Only by working from the client's point of view can we be sure a company gets the most comprehensive, cost-efficient programs possible.

## Full pollution liability coverage

This insider's vantage point enables us to be in the vanguard, formulating contracts that go beyond hazardous waste coverage to full pollution liability protection.

Because we anticipated such coverage would burgeon in importance, our 88 U.S. offices have environmental insurance coordinators with ready access to our corporate expertise. We maintain strong contacts in Washington to stay up-to-the-minute in this rapidly evolving field. And help insurers develop pollution coverages to assure you of adequate capacity and competitive terms.

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We think a big reason A&A has become one of the largest and most trusted insurance brokers worldwide is that we work the same way with every client. From the client's point of view. And in our business, that's the acid test.


Experts from Advanced Environmental Technology Corp. of Morris Plains, New Jersey, cleaning up improperly handled hazardous wastes.

**Alexander & Alexander**

From the client's point of view.