Insurers' profits to slow premium hikes

Companies eye gradual changes

By REBECCA A. FANNIN

NEW YORK—The nation's leading property and casualty insurance companies foresee increased competition and a leveling of premiums for commercial insurance in 1978.

But insurance company executives predict that this improvement will bring only gradual relief to the strained capacity in the insurance markets. Surplus rebuilding is still necessary to recover from the losses of the mid '70s, they argued.

"There's rather substantial improvement along a broad front," said Joseph E. Luecke, senior vp in charge of underwriting at Kemper Insurance Cos. "Insurance companies are taking a more aggressive outlook and the industry is acting like a private enterprise."

In fact, the only line not producing an underwriting profit is workers compensation. The overall profits are justified, the companies said, in order to recoup losses and build surplus.

"Our business is currently on a profitable track and 1978 should—barring some unforeseen catastrophe, natural or otherwise—also display black underwriting ink in the aggregate," said Daniel J. McNamara, president of the Insurance Services Office.

At the same time, improvement in underwriting results worries Mr. McNamara. He said premiums that were increased for rate adequacy have been accompanied by an increasing number of complaints about affordability, particularly in auto, professional and product liability lines.

Mr. McNamara called for certain modifications in the companies' pricing systems,

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'Insurance companies are taking a more aggressive outlook.'
—Joseph Luecke, Kemper

Insurance companies' biggest problem 'is that they just don't realize their profits.'
—Robert Clements, M&M

Buyers, brokers see competition

NEW YORK—The insurance industry's underwriting profits this year will bring only a slow growth in capacity, many brokers and risk managers agree, although there may be increased competition and some price-cutting.

The record profits reported by insurance companies in the third quarter of 1977 have also sparked scattered complaints that the industry is earning more-than-adequate profits to cover potential losses.

"The public will only allow so much profit now that the companies are in the black," said Berry Griffin, risk and benefits manager at Baker International Corp. "Their earnings are very good."

Most brokers, including Alexander &

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Week of December 26, 1977

business insurance

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

75¢ a copy; $15 a year

After $10 million award

New liability woes to strike truckers

By MARGARET LeROUX

SAN FRANCISCO—The liability crisis hit the trucking industry hard with announcement of a $10 million dollar punitive damage decision against Consolidated Freightways Inc. late last month by a Texas jury.

The award was the result of a product liability lawsuit filed against the San Francisco trucking firm and its Portland truck manufacturing subsidiary, Freight Liner Inc., on behalf of the daughters of a couple killed in a tractor-trailer accident in 1974.

The driver of the truck and his wife were killed when it slid while making a turn, tipped over and exploded. The jury found the truck was "defective and unreasonably dangerous" because its fuel tanks were mounted on the outside of the cab, a common trucking industry practice.

Freight Liners' product liability insurance policy with The Home Insurance Co. will cover the loss, said John Miller, vp for insurance and claims.

However, the award will be appealed.

The $10 million award "will have an adverse effect on anyone who operates vehicles on a third-party basis," said the risk manager for a Midwest-based trucking firm. "I'm sure there are calculators operating to revise the cost of higher layers of coverage because of this incident."

Some trucking industry risk managers objected to allegations made in the case against Freight Liner that "they didn't spend one nickel on injury prevention."

"I know Freight Liner is as safe as we are," one insurance manager said.

"The regulated common carriers spend a considerable amount on safety and accident prevention," said A. E. Hocklander, vp of insurance and claims at Yellow Freight Systems Inc. in Shawnee, Kan.

Statistics kept by the American Trucking Assn. portray truckers as much safer drivers than automobile drivers. Based on mileage totals supplied by the Bureau of Motor Carrier Safety and accident figures by the National Safety Council for 14 states, truckers were involved in an average 4.7 accidents per million miles. This compares to 7.36

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Inside:

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Washington ski areas hope liability law to aid insurance

By HARRIET KING

SEATTLE—Ski area operators and their brokers are optimistic that a new Washington state law will hold down spiraling liability premiums and court awards.

Washington in September became the first state to pass a law dictating the legal obligations of both ski area operators and skiers.

The law has generated interest nationally from ski area associations and insurers who feel the law could become a model for other states.

Ski area operators hope the law will result in reduced insurance premiums or at least that premiums won't go up. "Now insurance companies know what their parameters are, they know the framework within which they are operating," says Sen. Alan Bluechel, sponsor of the bill.

"Before, the field was wide open. But by next spring, we'll have the first year of operation under our belts for insurance companies to base rates on," he adds.

At least one ski area expects rates to be more favorable. Sen. Bluechel worked closely with Ed Link, president of Crystal Mountain ski area, in drafting the new liability law.

"Crystal is, at this time, nego-

Continued on page 24

Sen Alan Bluechel: "Now insurance companies know what their parameters are."

Ford, IRS near a settlement

DETROIT—Ford Motor Co. and the Internal Revenue Service have reached an agreement in principle to settle the case pending in tax court here over transactions in 1970 involving Ford's Bermuda captive.

Details of the tentative agreement were not available, but the settlement is expected to be finalized by early January.

It appears this is a particular case the government has decided to settle and it won't commit it to settle any others or affect the IRS position disallowing business expense deductions for premiums paid to a foreign subsidiary insurance company.

The Ford case is atypical because it involves only foreign operations: payments by foreign affiliates to the Ford Bermuda captive. Observers have commented that the Ford case stretched to its limits the IRS reasoning on captive transactions.

The IRS had maintained that $5.7 million paid by the foreign affiliates to Ford's captive—Trans-Global Insurance Ltd., now Transcon Insurance Ltd.—constituted a self-insurance program. The IRS deemed the payments to be constructive dividends paid to the parent Ford, though all the money remained offshore.

Ford argued in its petition to the court that the IRS erred in including the $5.7 million in Ford's taxable income. Trans-Global was established to provide otherwise unavailable insurance protection for foreign subsidiaries and premiums "were based on arms length amounts which would have been charged by unrelated insurers for comparable risks," Ford maintained in filings with the court.

Ford "did not receive any benefit as a result of the payment of insurance premiums to Trans-Global," the petition said.

Pennsylvania probes firms not paying excess policy tax

By JERRY GEISEL

HARRISBURG — A continuing investigation by the Pennsylvania insurance department has uncovered evidence that some of the state's largest corporations may not be paying premium taxes on excess and surplus insurance purchased outside the state.

The investigation, which began in 1976, was triggered by reports from the insurance department field officers that the state's largest utility company, Pennsylvania Power & Light Co., was not paying taxes on excess liability coverage purchased from Lloyd's of London.

The probe was later broadened to cover the state's 89 gas and electric companies. Thirteen of those companies between 1976 and 1977 paid back taxes on excess coverage purchased from non-admitted carriers over the last 10 years. The remaining companies either were found not to owe taxes or still are under investigation.

The tax wrangle goes back to a 1966 law passed by the Pennsylvania legislature which requires corporations to pay a 3% tax on policies purchased from unlicensed suppliers outside the state.

The Pennsylvania Power & Light Co., however, did not pay its tax bill the first year the tax went into effect, nor did it pay for the next nine years on a general liability policy it obtained in the London market from Montreal wholesaler Lucas, Stewart, Price & Forbes.

According to a senior PP&L executive, the big utility company on the advice of legal counsel did not believe it had a legal obligation to pay the tax.

"We were not unaware of the tax," the PP&L executive said. "But we felt it was unconstitutional in that markets more or less were being dictated to us . . . If we are not obligated to pay a tax, we won't pay it because these costs get passed on to the consumer. And we are trying to help the consumer by reducing costs."

But in the fall of 1976, PP&L did an about-face and handed over to the state $116,480 to cover the 3% tax on its excess liability policies purchased from Lloyd's.

PP&L officials denied that the expanding insurance department probe was responsible for the company's policy reversal. "We already had decided to pay the tax when this thing (investigation) broke because court decisions elsewhere made it apparent that the tax was legal," said a PP&L fiscal officer.

In the next 11 months, 12 other gas and utility companies settled their tax obligations with the state by paying $112,384, according to the state insurance department.

State insurance department officials believe the back taxes recovered from utility companies represent only "the tip of the iceberg" of excess policy premium taxes owed by other corporations in the state.

Because of tight market conditions, Pennsylvania corporations as well as their colleagues around the nation have turned increasingly to the non-admitted market for excess and surplus liability coverage.

When coverage is placed through an unlicensed company, the tax obligation rests with the insured. The state insurance department is supposed to receive copies of all premium statements filed with the state.

But the state has no way to dermine if the corporations have a tax obligation since it is up to the individual company to inform the insurance department if they purchased coverage from a non-admitted company outside Pennsylvania.

"We did an informal survey of some surplus lines agents and they indicated that more and more business was being placed in the non-admitted market," said a spokeswoman for the state insurance department. "Yet, at the same time we were not seeing an increase in taxes paid directly by the corporations

This disparity between more and more coverage being placed in the non-admitted market without more taxes rolling in makes state insurance department officials feel that many Pennsylvania companies are not paying that 3% tax on their excess coverage. ■

errors & omissions

• Stories that appeared in the Sept. 19 and Oct. 17 issues about the startup of the Open Panel Research Project incorrectly indicated that Open Panel had listed four insurance company sponsors that in reality it didn't have. The mistake was ours. Open Panel Research Project's initial announcement said Metropolitan Life, Aetna, Union Labor Life and Blue Crest Plans had "expressed interest" in the research effort, which was expected to lead to the establishment of prepaid legal services rates and a prepaid legal plan.

At the time of the first announcement, the organization's publicity firm noted that the Open Panel Research Project was already receiving financial grants from insurance companies and other organizations, although the Project did not at that time have any insurance company sponsors providing grants. Nor does it have any now. The only sponsor at the time and at present is Law Research Service Inc., a third-party administrator which has provided nearly $250,000 for the Project.

for your information...

SEC records show Mattel, M&M settled lawsuit for $6.4 million

LOS ANGELES—The complex directors and officers liability insurance lawsuits involving Mattel Inc., Marsh & McLennan and two excess insurers were settled for $6.4 million.

Mattel reported the figure in a 10-Q report filed with the Securities & Exchange Commission. Mattel had sued its former broker charging M&M failed to inform the two insurers of a pending shareholder suit against Mattel when they agreed to provide Mattel with D&O coverage in 1973 (*BI*, Nov. 14).

The two insurers, Unigard Mutual Insurance Co. of Seattle and International Surplus Lines Insurance Co. of Chicago, originally refused to pay on the policy when Mattel settled several shareholder suits in 1975. The insurers eventually agreed to pay $7.1 million if Mattel agreed to sue M&M. The insurers would have been excused from payment if the Mattel lawsuit had been successful.

Mattel had originally requested $8.3 million in compensatory damages plus interest and $10 million in punitive damages from M&M. It is believed M&M and the two insurers contributed to the settlement, but it is not known how the $6.4 million was apportioned.

Mattel has reclassified $600,000 as an incurred liability. That represents the difference between the $6.4 million it received and a $7 million subordinate note taken out at the time of the 1975 agreement with the two insurers.

Aetna advertisement under attack

WASHINGTON—The Federal Trade Commission has been asked to investigate a recent advertisement by Aetna Life & Casualty Co. on the grounds that the ad is "patently deceptive" and involves a "possible illegal conspiracy to subvert proper jury thoughts."

The ad described an award in a Florida community in which a jury awarded $4.7 million to a man who crashed his car into a decorative boulder in the median of a road. The man had been drinking heavily and had not slept for 18 hours.

West Palm Beach trial lawyer Edward M. Ricca told the FTC the town violated every major highway construction code and had been warned several times of the danger of its "decorative boulder"—facts not mentioned in the ad.

Ingersoll-Rand gets all-star performance

LIBERTY CORNER, N.J.—Baseball's Johnny Bench turned in an all-star performance selling safety and performance for Ingersoll-Rand.

Concerned that a new tool with an integrated safety device would not sell because users often equate safety with lost productivity, the company launched a safety campaign featuring the Cincinnati Reds catcher along with the new tool (*Business Insurance*, May 30).

Bench was used to correlate safety and performance as practiced by a successful professional athelete to the practices of professional tool operators. A free safety kit featuring Johnny Bench drew 700 requests.

The company appealed to safety and insurance managers' concerns about injuries and workers compensation costs in marketing the tool that can't function without the safety device.

And the new tool sold to forecasts. "If we hadn't had a way to reach the additional influences—the insurance and safety managers who excercised an indirect and important influence—we probably wouldn't have had the sales we had," said Ray Sponsler, industrial tools marketing manager.

Another product liability bill introduced

WASHINGTON—Rep. John LaFalce (D-N.Y.) has added his name to the roster of congressmen who have introduced legislation that would allow businesses to receive tax breaks for reserves established to pay for product liability losses.

Under the measure (H.R. 10272), a business could deduct from its federal income tax cash amounts contributed to a trust set up exclusively to pay for product liability claims and losses. The amount of the permitted deduction would be determined by the Treasury Department.

Postal work comp costs soar

WASHINGTON—A full penny of the cost of a 13-cent stamp next year will go to pay the soaring workers compensation expenses of the U.S. Postal Service.

The workers compensation program cost the postal service $629 million during the current fiscal year. Next year the Postal Service says its work comp costs could reach $1.2 billion.

Insurance legislators

John R. Dunne, a New York Republican state senator, has been elected chairman of the executive committee of the Conference of Insurance Legislators. COIL represents state legislators concerned with insurance in 30 states.

New facility

Surplus lines brokers Cambridge General Agency have announced a new product liability program involving a claims made form. The program includes a 12-month discovery period and can provide coverage back three years.

GUIDE TO FEATURES

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Bermuda riots shouldn't affect captive industry

By JERRY GEISEL

HAMILTON, Bermuda—The riots that shook Bermuda earlier this month are not expected to have an adverse effect on this British colony's political stability nor its status as captive capital of the world.

Paradoxically, the three days of rioting may have strengthened the power of the ruling United Bermuda Party because of its cool, quick and competent handling of what initially was a tense situation.

There was no damage to any offices connected with Bermuda's 500 captives nor any known injuries to captive management personnel, said Richard Thompson, president of Horizon Insurance Co. Ltd.

Total property damage was put at $5 million including two supermarkets, two liquor warehouses and a bakery that were gutted by fires touched off by Molotov cocktails.

The riots had a minimal impact on captive management firms. At Blades Management Co., employes were sent home two hours early during the first full day of disturbances to comply with a 5:30 p.m. curfew, said vp B. A. Yeargan.

"All in all, we worked as usual. Attendance at the office was normal," said Mr. Yeargan. "If it hadn't been for the curfew, (which was lifted a week after the disorders began), you could have gone about your business and never known about it (the disorder)."

The trouble began hours after the hanging executions of two young black men. One of the men, a member of an underground group called the Black Berets, had been convicted of the 1973 assassination of Bermuda governor Sir Richard Sharples, his aide and the island's police commissioner. The other man had been convicted of murdering two supermarket owners.

On the night of the executions, the first in Bermuda in 30 years, about 500 young blacks took to the streets hurling bricks, bottles and setting several stores on fire. The trouble was quelled by riot police equipped with nightsticks and tear gas.

The police generally succeeded in keeping the rioters away from most of the tourist hotels. But the disorders came close enough to the Front Street

Photo: Wide World

British troops consult a map while considering where to deploy their forces if needed to stem violence in Bermuda.

Business district that many stores boarded their windows for ptoection.

When the disorders continued for a third straight night, about 260 British troops were airlifted in to relieve tired Bermuda police and protect the island's power plant.

Island residents credited the police with doing a "fantastic job." "The police handled it (the riot) with kid gloves," said Mr. Thompson of Horizon Insurance Co. Ltd. He added that nobody was manhandled and there were few, if any, injuries among the demonstrators or law enforcement officers.

The Bermuda government has commissioned a study to look at the underlying causes of the disorders. Some observers note that some members of Bermuda's 60% black population have resented the fact that foreigners are snaring management jobs that should be going to natives.

While executives at several management houses on the island emphasized that the disorders would have no effect on the decision of firms to set up captives here,' they said the troubles did have a depressing effect on Bermuda's tourist industry.

Despite the disorders, most captive management executives believe Bermuda has lost none of its ability for attracting captives because the island "still has more to offer than any jurisdiction of its kind," said David Vaughan, managing director of Marsh & McLennan's Bermuda subsidiary ■

Bank audits target blanket bond woes

By ELLIS SIMON

WASHINGTON—An American Bankers Assn. (ABA) program in which participating banks agree to comply with recommendations of an approved bank examiner's audit could alleviate availability problems affecting banker's blanket bond.

The bonds are insurance protecting banks against losses due to robbery and embezzlement and other forms of employe dishonesty.

Called the Controlled Group Bonding Plan, the program was developed by an ABA task force working with the insurance industry and public auditing firms as a response to rising premium costs and the limited market.

Bond premiums rose 49% between 1971 and 1976. John Wolff, assistant director of the ABA's insurance and protection division, said only six insurers currently participate in the market.

An increase in the number of senior bank officers involved in embezzlements resulted in huge losses which led to the premium increases, he explained.

Banks choosing to participate in the ABA program must sign a "memorandum of understanding" stating their responsibilities and then select an examiner from an ABA-approved list, Mr. Wolff said. Once an examiner is selected, an audit is made of the bank and the financial institution must comply with any recommendations.

For instance, if the examiner finds that present internal controls are inadequate, the bank must comply with any specific recommendations made by the examiner if the bank wishes to take advantage of the plan, Mr. Wolff explained.

Six months later, a follow-up audit is made to see whether the recommendations have been implemented. When the auditor is satisfied, his report and the bank's memorandum of understanding are sent to the bank's insurance agent or broker, who then negotiates for coverage with any of the participating insurers.

Thirteen insurance companies have agreed to participate in the ABA program to date, Mr. Wolff said. While it is not anticipated that lower rates will result from the program immediately, premiums could eventually drop if carrier participation increases.

Participating carriers are U.S. Fidelity and Guarantee Co. of Baltimore; Federal Insurance Co. of Short Hills, N.J.; Aetna Life & Casualty; Insurance Co. of North America; Hartford Insurance Co.; Crum & Forster Insurance Co.; Transamerica Insurance Group; St. Paul Fire and Marine; Scarborough & Co. of Chicago; Fidelity and Deposit of Baltimore; Reliance Insurance Co.; Kansas Bankers Surety of Topeka, Kan., and Commercial Union Assurance Co.

While not participating at present, the London market has expressed interest in the ABA program and might join at a later date, Mr. Wolff said.

The ABA plans to put the program into effect on a state-by-state basis, with Arkansas having become the first to offer it late in November. Current plans call for start-up in Oregon in January and at the rate of one state per month for the first half of 1978. The implementation rate will double later on, Mr. Wolff said. ■

the benefit beat

PBGC wins premium hike, coverage delay

PBGC'S REQUEST to delay termination insurance for multiemployer pension plans for 18 months and to increase the annual premium for single employer plans to $2.60 per participant has been approved by the House. The measure, which has already cleared the Senate, had been delayed by a jurisdictional dispute.

Without the delay in mandatory coverage to July 1, 1979, from Jan. 1, 1978, PBGC would have been liable cover 2,000 multiemployer pensions. At least 2% of those plans have a "high potential" for termination, which could have left PBGC with a staggering $350 million in unfunded liabilities. The 18-month delay in mandatory coverage will give PBGC the time it needs to find a solution to cover terminating plan losses without jacking up premiums to burdensome levels for surviving plans.

SOCIAL SECURITY tax hikes that have finally cleared Congress are expected to cost employers an additional $113 billion in Social Security taxes by 1987. Congress rejected Carter Administration requests to tax employers more heavily than their workers and to use general tax revenues to pay benefits. But it also rejected pleas from employe benefit specialists that Congress delay for further study long term changes in Social Security design and financing. Under the legislation, the maximum Social Security tax will increase to 7.15% of the first $42,600 of income by 1987. That's an annual bill for the employe who earns the maximum and his employer of $3,046. The new law, however, leaves untouched next year's planned increase in the wage maximum subject to Social Security of $17,700 and a maximum tax of $1,071. The current limits are $16,500 and $965. The bill also eliminates double indexing that increased benefits faster than inflation. Also increased was the amount of outside income a recipient can earn without penalty. That limit will reach $5,000 a year by 1980

UNITED MINE WORKERS 1950 and 1974 Benefit Trusts have stopped paying medical and health bills for 811,000 beneficiaries. The loss of income because of the coal strike made the action necessary, according to the funds' trustees. Even before the strike began in early December, the funds were in precarious financial condition due to wildcat strikes and work interruptions caused by last year's unusually severe winter. The funds are financed by employer contributions per ton of coal mined. The funds, however, will continue to pay for health services performed before Dec. 6, the date when the strike began. Death benefits for survivors of miners who died before Dec. 6 will continue as long as the benefit trusts have funds to pay them. In addition, the 81,819 retired miners covered by the 1950 Pension Trust probably will receive reduced pension checks in January. The 1974 Pension Trust will continue to pay full benefits.

HMO ENROLLMENT climbed 5.2% between 1976 and 1977 for a total HMO enrollment of 6.3 million Americans, according to a census just released by a coalition of HMO-related organizations. The median family cost nationally for HMO membership is $89 a month, the census found. HMO members visited their physicians an average of 3.8 times a year and were in the hospital 488 days per year per thousand members.

Ninety percent of all HMO members are enrolled in a prepaid group practice, as opposed to other prepaid delivery systems. On a national average, HMO members are served by the equivalent of 1.14 full-time physicians per thousand members.

Large and established HMOs account for the bulk of HMO membership. Those with 100,000 or more members serve 71% of Americans enrolled in HMOs and show a hospital utilization rate of 80 days less per year per thousand members than the HMO average. HMOs under 10 years old serve only 29.4% of the total HMO enrollment. The census was sponsored by the Group Health Assn. of America, the Blue Cross Assn., the National Assn. of Blue Shield Plans, the Health Insurance Assn. of America and the American Assn. of Foundations for Medical Care.

TAX PROPOSALS to slash the amount of group term insurance companies may provide their employes tax free are "counterproductive, unsound and untimely," the ERISA Industry Committee told President Carter in a letter. Companies may now provide their employes with $50,000 of tax free group life insurance. The Treasury proposal would reduce that maximum to $25,000 and employes would have to pay income tax on employer contributions for insurance over that limit. ERIC said the proposal might result in a reduction or termination of coverage by employes who could not afford to pay the taxes leaving them inadequately protected.

NATIONAL HEALTH insurance proposals by the Carter Administration appear to have been delayed again. Health, Education and Welfare Secretary Joseph A. Califano warned this month that a plan may not be sent to Congress until 1979. President Carter had said earlier in the year that legislative proposals would be submitted in early 1978.

HMO LEGISLATION will be introduced early next year by Sen. Richard Schweiker (R-Pa.) to expand the prepaid health concept from its demonstration status to a permanent program. To expand the number of HMOs around the country, Sen. Schweiker's bill will call for increased federal funding available for loans and grants. Other elements of the Schweiker legislation will allow continued federal funding of HMOs even after they achieve federal qualification; remove impediments to use of HMOs by Medicare and Medicaid programs; extend to individual enrollees the protection currently provided to group enrollers in the event of HMO bankruptcy, and authorize more unified administration of the HMO program.

Risk manager award

Ten outstanding risk managers and insurance industry executives will begin working early in 1978 to select the first Risk Manager of the Year, following the Jan. 15 final deadline for submitting candidates' names.

Nominees must be corporate managers responsible for buying insurance and managing property or casualty risks. They'll be judged on the basis of 10 general guidelines established by *Business Insurance* with the help of risk management experts, with the winner chosen in recognition of job achievements and innovation.

Recognizing the many factors making up an outstanding risk manager, the criteria include technical knowledge, problem-solving ability, innovation, skill in implementing an optimum program, adaptation of risk management principles to a particular organization's needs, good communications, application of managerial skills and leadership in the field of risk management.

The panel of judges includes four present or former risk managers, an independent risk management consultant, a member of academia, two insurance company executives and two commercial insurance brokers.

For more information on how to nominate your favorite risk manager for this award call Susan Alt, editor, at 312-649-5278.

Despite abuses, insurers won't demand hospitals oust salesmen

By ELLIS SIMON

NEW YORK—Despite charges that medical equipment salesmen may be illegally assisting in operations in an "intolerable pattern of abuse," insurers say it is the hospitals' job to police their operating rooms.

Assemblyman Alan G. Hevesi said the unauthorized practice of medicine by salesmen may be nationwide. His New York assembly medical practices committee conducted a seven-month investigation of the practice of salesmen in operating rooms to give doctors technical advice on equipment.

One incident involved a Garden City, N.Y., salesman of surgical products, William MacKay, who claimed to have completed the implantation of an artificial hip device at a Long Island hospital after a team of surgeons blundered.

The two surgeons, a nurse, the anesthesiologist and Smithtown General Hospital face criminal charges as a result of that incident, which was alleged to have occurred in July 1975.

The patient, Benjamin Mirando, has filed a multimillion dollar malpractice suit against the doctors and the hospital, claiming that he was left crippled as a result of the operation. Ironically, Mr. MacKay was credited with having saved the patient's life.

Several other salesmen admitted at the public hearings that they had hands-on involvement with surgery patients. These include:

- George Schott of East Moriches, N. Y., who said that in 1972 at the request of a surgeon he took control of a power saw lodged in a patient's skull, completed a circular cut and removed part of the skull plate.
- Larry Kluge of East Setauket, N.Y., who testified that on one occasion he held an artificial knee joint in place inside a patient while the doctor scraped away excess cement and that on other occasions he held tissue retractors at the request of surgeons.
- James Koverman, president of a Manhattan firm that custom-designs contact lenses, who reported that on the average of once a week he was in hospital operating rooms to take molds of surgery patients' eyes, even though he was not a licensed practitioner.

New York and most other states make the touching of a patient undergoing surgery by a person not licensed to practice medicine an unauthorized practice of medicine.

However, it is a common practice for surgical products salesmen to be present to provide technical assistance to surgeons in the use of their products in various surgical procedures, particularly when the surgeon has had little or no prior experience with the equipment.

Leon Hirsch, president of U.S. Surgical Corp. of Stamford, Conn., said scrubbing for surgery to provide technical assistance was part of his company's marketing strategy.

While Mr. Hirsch said he instructed salesmen not to touch patients, he admitted that he found 900 instances of his company's eight salesmen having done so, either by holding a retractor, which is legal, or by adjusting a stapling device while inside a patient, which is not.

In addition to being in violation of the law, unauthorized practice of medicine by non-professionals increases a hospital's exposure to liability.

Involvement of non-professionals in patient care increases the likelihood of a bad decision, said Mark Nussenfeld, an underwriter for Medical Malpractice Insurance Associates, one of two principal hospital malpractice pools in New York.

But he has no objections to salesmen being present in the operating room if their advice is of value. However, salesmen touching patients is "another question," he said.

Yet, Mr. Nussenfeld said that because insurance coverage is experience-rated, rates will not go up unless a lawsuit results. He added that it would be impossible to keep tabs on all insured hospitals, saying that it would be up to the hospitals to police themselves.

"You have to put a certain amount of trust in hospital administrators to determine who ought to be there (in the operating room)," said John Roder, professional liability risk management officer with St. Paul Fire & Marine Insurance Co.

Robert Nugent, vp-underwriting at Hospital Underwriters Mutual Liability of Tarrytown, N.Y., said it would be unfair for insurers to tell hospitals not to permit doctors to invite salesmen into the operating rooms. ■

The better the plan, the better the work. Here, Homer J. Olsen, right, and project manager, Stan Summers, confer on the site of a recent Bay area job.

Construction begins in the mind. And insurance is part of the planning.

Homer J. Olsen, Inc., is an ingenious San Francisco construction firm that takes on the tough jobs. The kind that require a lot of pre-bid planning and pre-job surveys. Employers of Wausau provides five lines of business insurance to this policyholder. Our work with them begins with the preliminary stages of every project, so their insurance needs can be as precisely engineered as manpower and materials.

A while back, Olsen won a bid to modify the San Francisco International Airport parking structure. Upgraded earthquake standards were among the reasons to alter the basic design of the partly completed facility.

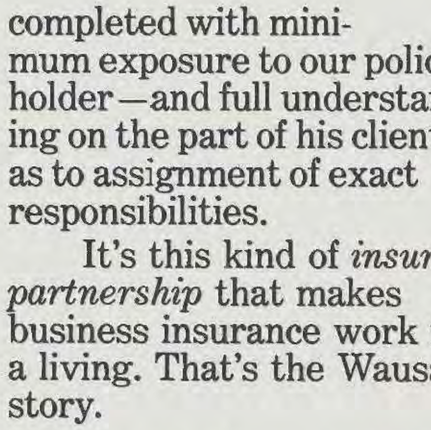
Numerous cracks had already developed in the original structure. These were documented and made known to the project management. Employers Insurance was involved in this alert, to protect our policyholder from claims that may have stemmed from pre-existing conditions.

Armed with seismic measurements and other scientific data, the Olsen firm proposed an unorthodox, but effective solution. Instead of beginning at ground level, they took their equipment to the top floor and made openings through the lower elevations to allow pile driving from the top of the building. And during all of this work the facility was able to accommodate the parking of up to 3,000 cars per day.

As a result of the close working relationship between our people and Olsen's people, work was successfully completed with minimum exposure to our policyholder—and full understanding on the part of his client as to assignment of exact responsibilities.

It's this kind of *insurance partnership* that makes business insurance work for a living. That's the Wausau story.

Come to the source



Employers Insurance of Wausau

Wausau, Wisconsin

editorial opinions

Slash work injuries

THE BUREAU of Labor Statistics has belatedly reported that one out of every 11 workers suffered a job-related injury or illness during 1976, about the same proportion as for 1975.

But work-related fatalities dropped 13% in 1976, even though more persons were employed in 1976 than in 1975.

Despite these seemingly hopeful statistics, it appears employers lost out on productivity since injuries involving lost worktime rose about 8% to 1.92 million. At the same time, the rate of lost workdays per 100 full-time workers rose to 57.8 in 1976 from 54.6 the year before.

Agriculture, forestry, fishing, transportation and public utilities industries had a worse safety record for 1976 than they'd had before.

Most of the industry divisions held fatalities to a minimum, with no change or a decline in the number of deaths from workplace injuries. But the services industry didn't do so well, reporting an increase of 200 fatalities.

Middle-sized companies have the most work to do to improve their safety records. Firms employing over 50 people but less than 1,000 had more injured employes in 1976 than 1975, with the highest incidence rate occurring in companies employing between 100 and 249 persons.

The billions of dollars in productivity and profits lost to corporations, to say nothing of the suffering for workers, makes it imperative that the 5.16 million workplace injuries and illnesses be slashed.

International issue

THE INTERNATIONAL insurance markets and the worldwide underwriting environment will be the focal points of *Business Insurance's* annual International Issue scheduled for Feb. 20.

The issue will contain, among other things, an in-depth update on what's happening in London with the stock companies and with Lloyd's. Editor Susan Alt will spend two weeks in London in January meeting with brokers, risk managers, underwriters and observers of the London insurance scene. In the three years since *BI's* last visit to London, the British markets have become even more important in the insurance scheme of things.

Though the crisis atmosphere in the insurance markets for international commercial risks—particularly in the liability area—appears to have subsided, the problems posed by worldwide legislation and litigation and the super-risk nature of exposures created by huge concentrations of values continue to be very important.

The editors of *Business Insurance* will look at these and other factors affecting the way risk managers handle their exposures to financial losses, their employe benefits and insurance programs for non-domestic operations.

To be included again this year in the International Issue is the **Directory of International Services**, for which we'll need information about any specialty products and services offered for international risks or to international clients by brokers, consultants. actuaries, underwriters, adjusters, investigators. engineers, safety specialists and others.

Any company or individual engaged in international insurance, employe benefits, or related fields is invited to submit a brief statement containing pertinent details and the name of the person to contact for further information, along with your firm's name, address and phone number.

Last year, we listed 61 suppliers of international insurance and services, providing a convenient reference guide for corporate executives to use when seeking assistance on international programs.

If you have questions about a listing or the information we'll need, contact Greg David, *Business Insurance* at (312) 649-5279. **DEADLINE** for submitting material to appear in the International Directory is Jan. 30.

Also appearing in the International Issue will be an expanded **Info for Buyers** column, containing items of interest to buyers of insurance, risk managers and employe benefits officials who actively seek informational materials on subjects related to their responsibilities.

Among the materials eligible to appear in the Info column are brochures, flyers, presentations and surveys illuminating problems, methods and techniques for handling risks, benefits, safety, loss control, claims, communications, self-insurance, insurance and record keeping. **DEADLINE** for material is Jan. 30.

Needless surgery?

CORONARY BYPASS surgery has become an extremely popular way for doctors around the nation to relieve heart patients' agina pains and coronary disease.

But at an estimated average cost of $12,500 per patient, the projected 70,000 operations of this type that will be performed this year may not provide adequate benefits. The value of the surgery over the short and long term is being questioned.

And justifiably so. When the annual cost of just one type of surgery, around since only 1967 and obviously lining the pockets of many a practitioner, nears a massive $1 billion a year, we think questions are in order.

This is an area where employers should put their collective foot down, requiring a second opinion—or even two outside opinions, covered by an employe's insurance—to verify the real and immediate need for a bypass operation.

We're not opposed to open-heart surgery. Nor are we opposed to what's being described as a whole new "industry" being built up around these types of operations as hospitals expand their heart surgery units and new types of diagnostic and treatment services are added to accommodate the needs of heart surgery patients.

Moreover, technological advances are worthwhile, if their value is shown to outstrip the costs and the risks.

But the point is, all of this costs a great deal of money and insurance covers much of the cost. Thus, employers should involve themselves in the studies being done to document the value of heart surgery and heart disease drug treatment.

letters

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

Ralph Nader

To the editor: Mr. Nader's plea to trial lawyers to resist tort reform (Nov. 28) on the basis that they represent the "most important people, the victims" fails to identify or recognize all the victims.

An effort of tort reform from all sides tends to bring our system of jurisprudence into balance. Both Mr. Nader and I are victims, victims of inflated costs which the manufacturer passes along to us to protect against the deeper pocket syndrome. Mr. Nader should urge trial lawyers to actively pursue a reasonable balance in tort reform in all areas which demand controls to assist the injured victim, the consumer victim and the corporate victim.

Ben C. Francis
Assistant Administration and Finance Manager, Santa Clara Valley Water District, San Jose, Calif.

Horror stories

To the editor: To learn that "those stories" ("Horror story ads untrue?" Oct. 31) could be fabricated or baseless was startling to accept, but I'm thankful to find out.

Unfortunately, too many people use "stories" without considering the source of information or how the facts have been supported. Let's all reconsider before we pass along information.

Thanks for setting the story straight.

Frank Robitaille
CPCU, vp, Quinlan Insurance Inc., Newport Beach, Calif.

. . . Ammunition

To the editor: I devoured the piece on the front page of *BI's* Oct. 31 issue, "Horror story ads untrue?" and I made two or three copies of it and sent them to a couple of the insurers that have been demanding their pound of flesh on our liability renewal.

More power to you in trying to track down something more about claims. And in this article you now have us down to something in the range of 60,000 to 70,000 instead of the one million that people have been bandying around.

Continued on page 17

business insurance

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For years now we've been tailoring policies to fit the needs of a particular business in a particular place at a particular time. We've always managed to stay flexible enough to give good rates to good risks. American Home/National Union not only have what you need, we have the resources and the knowledge to back it all up. We have an A+: Class XIII rating from Best's Insurance Reports. We're member companies of the American International Group. With the experience you want. The engineering services you need. And the capacity to take on just about any sized risk.

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But legislation looms

Supreme Court OKs early forced retirement

WASHINGTON—The Supreme Court ruled this month that employers, at least for the moment, can force workers to retire before age 65 under a retirement plan that was in operation before Congress banned age discrimination.

The justices held, in a 7-2 decision, that a United Airlines plan requiring retirement at 60 could not be considered a "subterfuge" to evade the Age Discrimination in Employment Act of 1967 because it had existed 26 years before Congress acted.

Justice Thurgood Marshall, however, said in his dissent that the Court's approval of mandatory age 60 retirement plans would have little future effect, a reference to bills passed by Congress that would prohibit mandatory retirement before 70.

The court's decision is expected to encourage a conference committee to act quickly in ironing out differences between the bills passed by the House and Senate so a law can be signed early next year by President Carter.

The court ruling, however, is a victory of sorts for employers since it protects them from lawsuits and back pay awards to workers who have been required to retire before age 65 under pension plan provisions during the past 10 years.

The court case involved a United Airlines retirement plan established in 1941. That plan required an employe who volunteered to join it to retire at age 60.

Harris S. McMann, a former United pilot, joined the plan in 1964 when he held a management position. United retired him when he reached age 60 in 1973, just as the airline forced everyone in the plan to retire at that age.

Mr. McMann, however, sued United. His attorneys argued that the 1967 law, which forbids discrimination against workers age 40 to 65, barred his mandatory retirement even though it was enacted 26 years after United started its plan.

At issue was a key paragraph in the 1967 law that allows an employer "to observe the terms of a bona fide employe benefit plan such as a retirement, pension or insurance plan which is not a subterfuge to evade the purposes" of the act.

The court agreed that this protected early retirement provisions of plans established in good faith before the passage of the 1967 law.

Chief Justice Warren Burger wrote: "A plan established in 1941, if bona fide as is conceded here, cannot be a subterfuge to evade an act passed 26 years later. To spell out an intent in 1941 to evade a statutory requirement not enacted until 1967 attributes, at the very least, a remarkable prescience to the employer." ■

RBH acquires Boston firm

CHICAGO—Rollins Burdick Hunter, the nation's seventh largest brokerage firm, and 123-year-old James T. Phelps & Co. Inc. of Boston have agreed to a merger.

James T. Phelps reported $1.2 million in gross revenues for 1976 for the annual *Business Insurance* directory of agents and brokers.

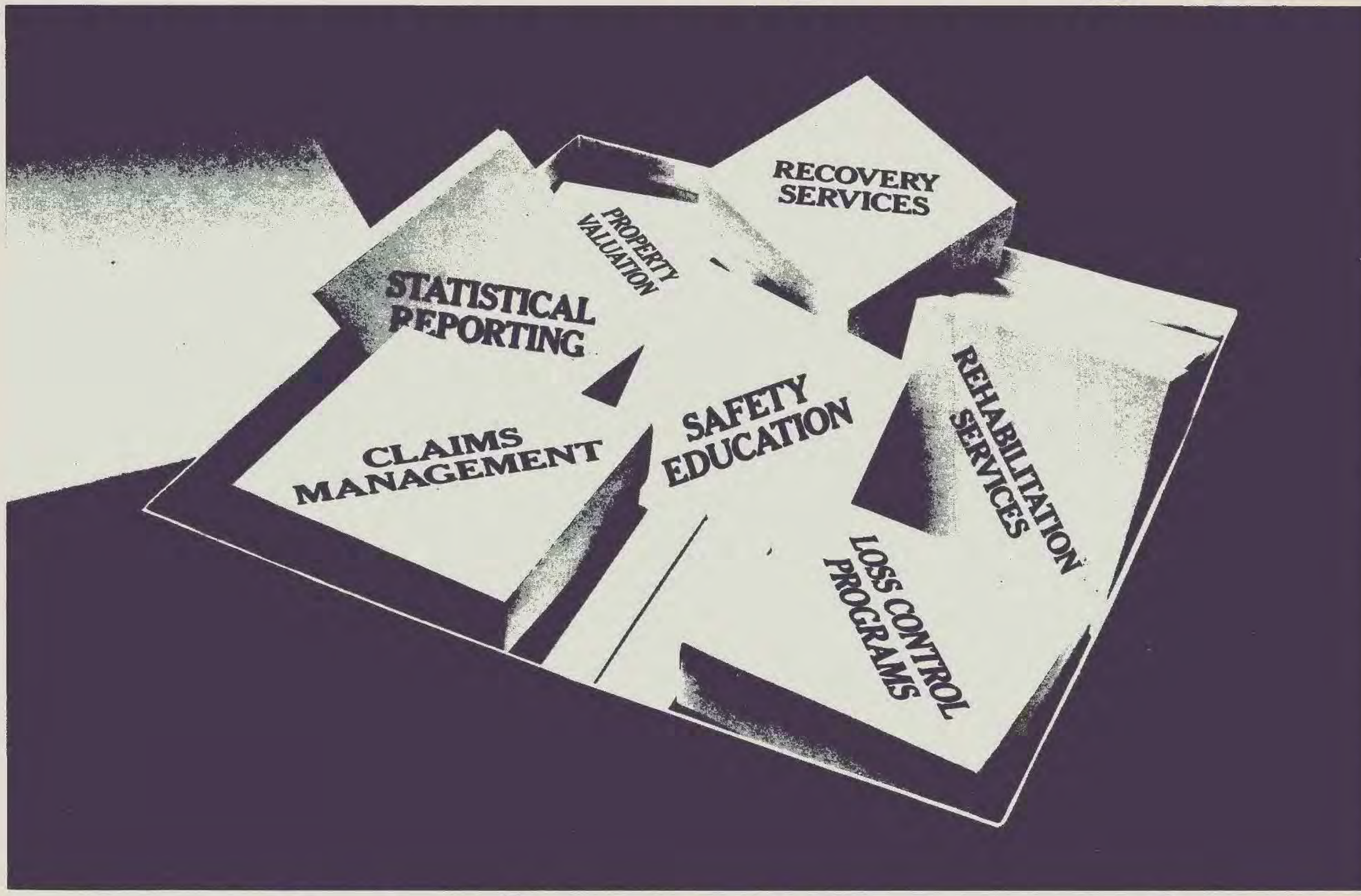
The company will become Rollins Burdick Hunter of Massachusetts. Present management will be retained including H. Phelps Edwards Jr., a descendent of the firm's founder.

Terms of the transaction were not disclosed. ■

Southern flooding

Hail, rains and flooding in early December caused an estimated $5 million in insured damages in Alabama and Tennessee. Almost all the damage—$4.5 million—was caused by hail, the American Insurance Assn. reports.

Inside most self insurance packages...



are a lot of outside services.

Most companies providing self insurance services really act just as general contractors. They have to go outside for things like claims handling, or loss control programs, or rehabilitation services.

There is nothing inherently wrong with that, except the people doing the work are often a long way down the line and there can be layers and layers of management between you and them.

ESIS is the only company providing a complete range of self insurance services without the use of outside vendors. The only one.

In 160 offices in this country and more throughout the world, the people handling the administrative, loss control, claims and adjusting for our clients are ESIS people. And they're the best in the business.

We're the largest administrator of self insurance in the United States and for twenty years we've helped turn what had been a major expense item into profit for companies both large and small.

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ERISA preemption issue

Review benefit laws, Supreme Court urged

By GREG DAVID

WASHINGTON—The U.S. Supreme Court is being asked to decide whether states may require employe benefit plans to provide specific benefits.

James Dawson, administrator of a carpenters' union welfare plan based in New Hampshire, is asking the Supreme Court to review a federal appeals court ruling that states may mandate benefits through their power to control insurance contracts.

Mr. Dawson contends the Employe Retirement Income Security Act (ERISA) prohibits any state regulation of employe benefit plans

At issue is the reach of ERISA's preemption of state insurance regulation of employe benefits. At stake is who will regulate employe benefit programs and how costly and confusing that regulation will be.

Meanwhile, a federal district court judge in San Francisco ruled last month that ERISA preempts a Hawaii law requiring employers to provide comprehensive health insurance. Standard Oil of California, which did not provide all the required benefits, sued Hawaii charging the law was preempted by ERISA

"By enacting ERISA, Congress created a moratorium of indefinite length on the passage of health insurance laws," said Judge Charles B. Renfrew in some of the most sweeping language yet on the issue.

Earlier Judge Renfrew had ruled that ERISA preempted California's Knox-Keene law regulating all non-insurance programs providing medical coverage. That case is now pending before a federal appeals court in San Francisco.

Section 514 of ERISA preempts all state regulation of employe benefit plans. But the same section goes on to say that states may continue to regulate the business of insurance, although they may not construe employe benefit programs as insurance companies.

These three court cases are among many on the preemption question now winding through the federal courts

Employers argue that ERISA was intended to provide one national system for regulating employe benefits and that the cost of meeting varying state laws is excessive.

But state insurance regulators and other employe benefit specialists note that ERISA does not have the same minimum standards and tough requirements for health coverage and other benefits that it orders for pensions. Broad preemption could result in a regulatory vacuum, they contend, endangering the quality of benefits for millions of Americans.

In the Dawson case, the First Circuit Court of Appeals in Boston drew a distinction between direct regulation of employe benefit plans and indirect regulation. New Hampshire, by mandating that all group insurance contracts in the state provide coverage for mental and nervous treatment, was merely regulating the business of insurance and was not preempted, the court said.

However, the court added that direct regulation of employe benefit plans was preempted. Thus, it appears that companies or union plans that self-insure their benefits can avoid providing state mandated benefits under the appeals court decision.

Both Sens. Harrison Williams (D-N.J.) and Jacob Javits (R-N.Y.) have said they will introduce legislation in Congress next year to clarify the preemption issue but they have not decided whether to promote state or federal regulation of employe benefit plans. The two men are the major authors of the pension reform law.

around the states

Florida orders probe of work comp rates

TALLAHASSEE—State insurance commissioner William Gunter of Florida has ordered a study of recent large increases in workers compensation insurance premiums.

He directed the inquiry in rejecting a request for a 36.7% increase.

He said the National Council of Compensation Insurance, a New York City rating group that requested the $172 million hike, failed to provide information to show why Florida companies deserve the rate increase.

The study, Mr. Gunter said, will examine workers compensation claims paid in November and December to determine whether industrial claims judges' awards are too high.

Mr. Gunter said workers compensation insurance rates paid by more than 100,000 employers in the state have jumped by 94.7% since January 1975. If he had granted the increase, Florida would have had the second highest workers compensation insurance rates in the nation. Oregon has the highest.

Deputy insurance commissioner William G. McCue said that fraudulent claims are one reason for the increased rates and payments.

Forced Retirement

TOPEKA—Kansas Gov. Robert F. Bennett has issued an executive order raising the mandatory retirement age to 70 for state employes. Currently, state agencies can require employes to retire at 65. In addition, employes now will be able to work past 70 if they can prove to the state's Civil Service Commission that they have the mental and physical capabilities to meet job requirements.

Lung Cancer

DENVER—A Colorado uranium miner had worked only eight days at a Union Carbide Corp. mine before he was fired when it was discovered a pre-employment physical showed he had lung cancer. He later died.

The Colorado appeals court has ruled that death benefits must be paid by Union Carbide to the miner's family.

The Colorado Industrial Commission had awarded the $7,500 maximum death benefit required by law to the family of Roy Benally. Mr. Benally was hired to work as a miner on April 28, 1976, and was fired eight days later when it was discovered that he had failed to pass his physical test.

The court of appeals affirmed the industrial commission ruling on death benefits but reversed a second holding that the company also must pay interest.

The 2-1 court opinion, written by Judge Ralph Coyte, said the commission had ruled the company was the last employer with whom Benally was exposed to harmful levels of radiation.

WC bias

TRENTON—The New Jersey Supreme Court has invalidated a provision of the state workers compensation act which made it more difficult for widowers than it was for widows to obtain survivors' benefits.

The court said the state law represents unconstitutional sex discrimination because it presumes widows are totally dependent on their husbands while making widowers prove they were financially dependent on their wives.

State officials said the effect of the decision will be to expand the number of persons eligible for survivors' benefits and to increase, although not substantially, the cost of workers compensation insurance for the business community.

Va. self-insuring?

RICHMOND—A study committee reviewing the cost of insuring state motor vehicles has found that Virginia could save more than $500,000 annually if it instituted a self-insurance program rather than contracting coverage to private companies.

The committee has concluded that "it is feasible to self-insure the state's motor vehicle fleet" that totals about 11,540 vehicles and that consideration be given to a motor vehicle self-insurance program as part of an overall one.

Hospital study

COLUMBUS—The Ohio Hospital Assn. has launched a 12-month investigation to determine whether hospitals can provide better and more extensive coverage on their own at reduced costs.

One alternative is the formation of a new insurance company.

Ohio Hospital Assn. president Donald R. Newkirk estimates it now costs a patient between $4 and $5 a day to be covered by a hospital's malpractice insurance plan. In 1972, the cost to provide hospital malpractice insurance per patient per day was estimated at from 50 cents to 75 cents, Mr. Newkirk said.

Benefits hiked

MADISON—Acting Gov. Martin Schreiber has signed into law a bill increasing workers compensation benefits in Wisconsin.

The measure was proposed by a joint labor-management advisory council. It will increase the minimum weekly benefit for a work-related injury from the present $70 to $90, according to Sen. Timothy Cullen of Janesville, chairman of the Senate committee that reviews labor legislation.

He said that maximum weekly benefit for temporary total disability will increase from the present $189 to an estimated $205. The maximum benefit to survivors of a worker killed on a job covered by workers compensation will increase from $56,706 to an estimated $61,400. The burial expense payment will increase from $750 to $1,000. ■

Doctor's liability extended

FRANKFORT, Ky.—The Kentucky Supreme Court has held that a doctor's responsibility to a patient continues even when medical aides handle some of the administrative duties.

It restored a damage suit filed by Doris Anny Boyd against Dr. Walter E. Badenhausen Jr.

Justice John Palmore wrote that the case should not have been dismissed.

She contended that the doctor should have performed surgery on her before he finally did. She sued for pain and suffering during the interim although the operation "was entirely successful," the court said.

Part of Mrs. Boyd's complaint was that she could not locate a report she needed on her tests and that the doctor's office—Dr. Badenhausen was part of a corporation—did not respond to repeated inquiries.

The high court said it turned out that Dr. Badenhausen's office did have another physician's report that confirmed a third doctor's diagnosis but had misplaced it in the files.

"The question is whether the veil of a professional service corporation protects its members from personal responsibility for the negligence of its corporate employes," the judge wrote. "The answer is 'no.' "

"If Dr. Badenhausen had been an old fashioned country doctor without any office help and had mislaid his notes on this lady's care and then put her off and forgotten her, there can be little doubt that he could have been held responsible had she died as a consequence of that neglect." ■

riskWatch

By REBECCA A. FANNIN

Church risk manager encounters different atmosphere, same woes

Dorothy Romaine is risk manager for the United Presbyterian Church in the U.S. and hasn't placed any insurance for a church.

But she insures 716 other buildings the church owns worldwide. These include three black colleges in the South, mission properties overseas and study centers. And she also insures such odds and ends as a mission vessel in Alaska and aircraft in Brazil, vehicles the church uses to spread the gospel.

The task of insuring church properties is just another of Dorothy Romaine's challenges. She's a perfectionist and she achieves. In fact, she's been named the first New Jersey Insurance Woman of the Year to recognize her leadership in the National Assn. of Insurance Women. She's also active in the Insurance Women of Northern New Jersey, where she served as past president. Now, she's president of the Zonta Club, a professional business women's organization in her New Jersey location. Her already hectic schedule is filled in by attending how-to-study courses to prepare her to take risk management classes.


Fannin

"Friday night is reserved for divorce from husband," she said jokingly, referring to one week that was filled every week night with meetings.

Despite her flurried activity in insurance organizations and insurance background, the 50-year-old risk manager still finds her job an "everyday struggle." She's well-versed in the insurance business world from years she spent as office manager of a New Jersey agency.

But when it comes to working for a religious organization, that's a different story. Mrs. Romaine finds that the "bottom line" doesn't worry the church. "They're more worried about helping their fellow man," she said. "The biggest transition I had from moving from an agency to the church is that I had to adjust to working for a nonprofit organization." Mrs. Romaine admits that the church's philosophy has rubbed off. "I like myself better now," she said.

Another adjustment she made was moving from the small numbers she handled in personal lines at the agency to the large policy limits at the church. Mrs. Romaine says her job's enjoyable because of the "excitement of large numbers such as the $15 million limit on the property policy."

Oddly, though, she didn't worry long that church structure would be different from corporate structure. The church's chain of command is just as lengthy as the typical business operation. Mrs. Romaine reports to the manager of the treasury department, who in turn reports to the manager of financial services, who then gets approval from the support agency boards. "This all takes time and I'm in a hurry," she said.

Just as Mrs. Romaine hasn't been freed from the chains of command inherent in business, the holy institution hasn't escaped the "evils" many corporate risk managers complain about when dealing with the insurance marketplace.

The church's general liability insurer, Employers Insurance of Wausau, refused to renew the coverage even though there had been assurances the renewal would not be a problem. Mrs. Romaine recalls receiving a letter several days after the Oct. 1 policy expiration, notifying the church of Employers' intention not to renew, which she thinks was "dirty pool."

Turning to Affiliated FM Insurance Co. for coverage, Mrs. Romaine took a deductible for the first time in the church's history, retaining $25,000 per loss and paying $50,000 for the policy with limits of $500,000. The church also has an excess policy.

For the church's property policy, premiums of $100,000 a year are paid to Northbrook Insurance Co. The policy provides $15 million per occurrence and $75 million blanket coverage. Overall premiums for the church amount to $450,000 annually.

Mrs. Romaine hasn't sidestepped the techniques profit corporations have used in the tight markets.

The church has set up a self-insurance fund to insure overseas properties and is planning to set up a program to insure local churches. The program will be available to the Presbyterian's 8,600 churches throughout the nation.

Because the program will insure a large volume of business in its mass merchandising approach, local churches will will be able to insure at a cost-savings.

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london line

Leading UK broker buys aviation insurer

By JOHN H. MILLER

LONDON—Leading U.K. brokers Alexander Howden plan to buy Southeastern Aviation Underwriters of Atlanta for $12 million effective Jan. 1.

It may mean extra Lloyd's capacity long term for the U.S. group, which has premium income of $50 million on its aviation account and $30 million non-marine business. Southeastern Aviation Underwriters will be merged with the Howden organization subject to regulatory authorities' approval.

Currently Southeastern, which was started 12 years ago, has one of the biggest U.S. aviation accounts and also specializes in long haul trucking coverage among its other activities.

Ronald C. Comery, deputy chairman of Alexander Howden, said, "There will be opportunities for growth in its business through our connections with Lloyd's, but naturally it will retain its U.S. market interests as well."

He indicated hopes that Southeastern will be able to double or triple its premium income in the next five years.

The U.K. Alexander Howden group, which has a stock market value of more than $200 million, has already got U.S. interests through Howden and Swann which include brokers Wohlreich and Anderson and Drake Insurance Co.

Mr. Comery explained, "We have worked closely with Southeastern Aviation Underwriters since its inception and its business complements the activities of our other U.S. subsidiaries. On top of its $80 million premium income there is a further $50 million from its connections with Reinsurance Services of America, in which we are also concerned."

Southeastern has offices in Atlanta and other U.S. cities including Los Angeles and Chicago.

Commercial Union

Commercial Union, which two years ago reduced its U.S. business after heavy underwriting losses, is raising $130 million on the British stock market to plan for future growth.

No details of its intentions have yet been released, but for the first nine months of this year its U.S. underwriting experience has been improving, with the statutory operating ratio 101.2% compared with 106.9% for the same period last year.

Control of its operations in the last 12 months has led to a drop of $45 million, or 2%, in its worldwide premium income. But there are now signs that it will expand again, though it is not clear yet in which international field.

Announcing the new money-raising scheme, its executive board stated: "The present level of funds is adequate for existing business, but we believe these funds should be strengthened to provide a suitable margin to support prudent growth. In particular, we must be able to accommodate growth in our business arising from increases in premium rates and from the effects of inflation on sums insured, without being inhibited by the effect on funds of changes in investment values.

"The company met heavy underwriting losses overseas in 1975 and in addition to taking action to improve underwriting results, it was decided to restrict premium income growth and consolidate resources." CU reports improved underwriting results in the U.S. and Australia.

Profits have leapt for the first nine months this year to $120 million compared with $50 million for the same period 1976. Royal insurance group also reports better U.S. results in most major lines, with lower losses in casualty and workers compensation.

Lloyd's chairman

U.S. visitors to Lloyd's of London will find a new chairman, Ian H. Findlay, in office effective Jan. 1. He succeeds Sir Havelock Hudson who just completed his three-year term of office.

Mr. Findlay is the first insurance broker to become chairman of Lloyd's for 30 years and has close connections with the U.S. through his firm, Sedgwick Forbes, which handles many aspects of international brokerage business.

"Liability coverage looks like one of those aspects which will remain over the next few years. It may well become increasingly important in Europe as it is in the U.S.," he told *Business Insurance*.

"Certainly the U.S. domestic market seems to have made progress in the last twelve months toward getting its underwriting house in balance and is taking more interest in writing new business after passing through a period of retrenchment.

"A lot of business has been coming to London as a result of this retrenchment, but over the next year or two I think we will see the U.S. market coming more into the picture as its stability develops." ■

legal brief

Insurer held liable for punitive award

MAY AN INSURER be held liable for punitive damages or damages of any nature beyond the policy limits for alleged bad faith or oppressive business conduct? In a case of first impression in Connecticut, a state court ruled that an insurer could be liable for such damages because there is an implied duty of good faith and fair dealing in every insurance contract between an insurer and the insured.

In this case a manufacturing company sued its insurer and insurance agent seeking recovery beyond the claimed amount of the fire insurance policies in question. The manufacturer asserted that both had acted in bad faith and used oppressive business conduct. The insurer and agent sought to have the case dismissed, arguing that the grounds were not allowable in Connecticut.

The court acknowledged that there was no Connecticut authority either supporting or opposing an implied duty of good faith and fair dealing. However, the court believed that there was "sound public policy" for adopting such a rule.

The court pointed out the unequal bargaining power of the parties, the special nature of the insurance business and the disastrous effects of bad faith may cause an insured as reasons for its adoption of the rule. Thus, the court did allow the insured to proceed with its lawsuit. *Grand Sheet Metal, Etc.* v. *Protection Mut. Ins.*, Superior Court of Connecticut, Feb. 24, 1977 (BI/01/D.-$3).

Jewelers' block

The $25,000 question in this case, as characterized by a federal district court, was whether the risk of loss from burglary of property from the premises of a jewelry store located Southhampton, Pa., was covered by a scheduled personal property floater bought for another store. The court ruled that there was no coverage.

The main contention of the jeweler was that the loss in Southhampton constituted a loss of "property elsewhere" and thus was covered to the extent of the $25,000 limitation. However, the court pointed out, "It is a sound and well established rule that the location at which the subject matter of an insurance policy is exposed to the peril insured against, is necessary for the writing of a policy covering burglary losses. . . ."

The court concluded, therefore, that the risk of loss by burglary from the Southhampton premises was a risk not included. *Treasure Craft Jewelers, Inc.* v. *Jefferson Ins. Co.*, U.S. District Court for the Eastern District of Pennsylvania, May 16, 1977 (BI/02/D.-$3).

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(Copies of the entire decision may be obtained by sending a check for $3 made out to Cases Unlimited to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please list the number for each opinion.)

Are you proud of how you explain benefits? Enter BI's competition

NEW YORK—Are you proud of the effort you are making to tell your company's employes about their benefits?

If so, why not enter your communication program in the sixth annual *Business Insurance* Employe Benefit Communication Contest.

Last year, the judges evaluated 122 separate entries from 99 corporations. Twenty-eight different consultants were involved in the programs judged by a panel of benefit managers and other communication experts.

The competition honors companies that make their communication programs accessible and relevant to their employes and lead the way in improving the field of benefit communication.

The deadline for entries is Feb. 20. Winners will be announced at the annual Risk & Insurance Management Society conference in New Orleans in April and profiled in *Business Insurance*.

There are four categories: total communication effort, booklets, personalized correspondence and audio-visual.

A $60 entry fee is required for the total communication category, $45 is needed for an audio-visual presentation and the fee is $35 for booklets and personalized correspondence.

Two copies of booklets and personalized correspondence efforts must be submitted with the entry application. Audio-visual presentations are returned to the companies.

Mead Corp. of Dayton, Ohio, walked off with top honors last year for the total communication effort for a program that involved the use of booklets and an audio-visual presentation. Runners up in this category were Borden Inc. of Columbus, Ohio, and Crocker National Bank of San Francisco.

The top audio-visual award went to Bristol-Myers Co. followed by Unijack of Jacksonville, Fla., and Foremost-McKesson of San Francisco.

The judges said Bendix Corp. of Detroit had the best booklet while Medtronic Inc. of Minneapolis prepared the best personalized correspondence.

Entry forms may be obtained by clipping the coupon on this page. Questions and more information on contest rules should be directed to Ronnie Drachman, Awards Coordinator, *Business Insurance*, 708 Third Ave., New York, N.Y. 10017; 212-986-5050. ■

Employe Benefit Communication Awards Competition

Mail to: Benefit Communications Awards
Business Insurance
708 Third Avenue
New York, N.Y. 10017

Yes, I am interested in entering your communications program(s). Please send me ________ entry blanks(s) and the competition rules.

Name, title ____________________

Company ____________________

Address ____________________

City ____________ **State** ________ **Zip** ______

Telephone ____________________

letters

Continued from page 6

I have been told that the claims are crawling out of the woodwork but I am unaware of any other than a few sensational types that you manage to report in *Business Insurance*.

Doubtless there are some around but I think a great scare tactic has been thrown into the rumors that have been flying back and forth for some substantial period of time and which certainly hit us real hard—with $8 million excess of $2 million primary costing us 10 times what it did a year ago. I think it is fair to say that we do expect increases but certainly not of the magnitude indicated.

D.M. Stuart
Insurance Manager, Canada Packers Ltd., Toronto, Canada

Claims handling

To the editor: Your Nov. 28 editorial "In-house claims handling can work" was very much appreciated and to which we here at the City of San Diego would like to add "Amen."

As your past articles about us have reported, we took over self-administration and self-funding of our workers compensation risk (7,000 employes) in 1966. In 1969 we tackled the municipal public liability risk (790,000 population), again approaching it on an "in-house" basis. Experience in both areas has proven so favorable (and predictable) that we have gained the confidence to remove ourselves from the insurance market entirely.

A basic ingredient to establishing our self-reliance was having brought aboard a trained professional claims staff, hired from the best the insurance industry had to offer—budget analysts do not make claims adjusters and investigators.

As an indicator of our apparent success, we recently compared our self-administered total fiscal year program costs (claims paid plus administrative costs) with the other cities in our area (who are primarily insured or contract out for claims administration):

	San Diego	Other Cities
Public liability Cost-per-capita	$ 1.36	$ 6.00
Workers comp cost/employe	$308.00	$800.00

As you stated, in-house claims handling can work.

Robert G. Walters
Risk Manager, City of San Diego

Risk managers

To the editor: In your Nov. 14 issue, Robert G. Walters, risk manager of the City of San Diego takes exception to several statements I made concerning the use of an assistant hospital administrator type as the ideal person to serve as a hospital risk manager.

Hopefully, for Mr. Walters's sake, the health care industry's problems and available solutions are quite different than those of a municipality. In the past, the health care industry had relied heavily upon insurance companies for programs of loss prevention, risk management, patient safety, or whatever the appropriate term should be. These were the people that historically agreed with Mr Walters and said they were the experts in the field.

Several years ago, before most of these same insurance companies deserted the hospital industry, we saw that they were not effective. As a result, the hospital industry developed quality assurance and patient safety programs, designed for the purpose of improving the quality of care given in the institutions. This is the very basic foundation of hospital risk management.

We are faced with a unique problem by having one of the major participants in the patient incident issue (the non-employed medical staff) being relatively uncontrolled by the hospital. Risk management techniques which require employe-employer control are unusable in this situation. Only hospital industry people can approach this delicate issue, one that was either ignored or avoided by the insurance industry.

One of our major problems was the advice we received and are still receiving by people unfamiliar with the health care industry. This is evidenced by Mr Walters's comment that a committee to deal with risk management is often ineffective.

This committee is required by the standards of the Joint Commission on Accreditation of Hospitals and by many hospitals' medical staff bylaws.

Having spent 25 years within the insurance industry, including claims, I cannot understand any claimsman being versed in production, underwriting, or loss engineering. The claimsman's principal concern is to arrive at the proximate cause of the injury, not to consider the possible action necessary to avoid a similar occurrence in the future.

I agree that modern risk management techniques require the use of new fiscal alternatives to insurance buying. The health care industry would have used these alternatives years ago had not the Department of Health Education and Welfare regulated against the use of self-insurance by hospitals.

We were able to revise this regulation effective April 1, 1977, after two years of effort. At present 1,022 hospitals are insured by captive insuring mechanisms and over 1,500 have self-insurance programs either on an individual or group purchasing basis. I think this would evidence that the health care industry is well aware of the alternatives available to it and is not reluctant to take appropriate action.

If the hospital is going to split the risk management function and have one person in charge of quality of care and a second in charge of claims management, then that second person certainly should come from the insurance, claims or legal industries. However, we still feel that if a hospital is to have a total risk management program, the risk manager should be from the health care system and not from the insurance industry.

James L. Groves
Risk Manager, American Hospital Assn., Chicago, Ill.

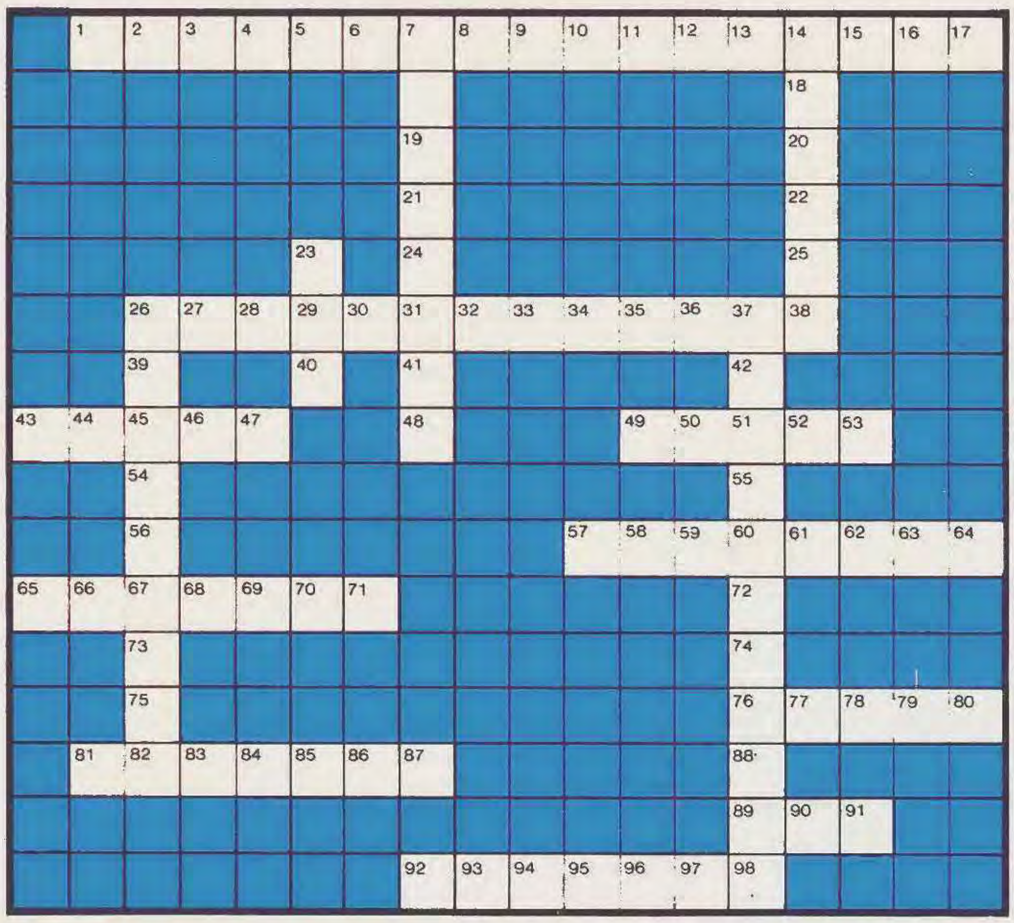
dates for buyers

Jan. 9-10. The Muncipal Finance Officers Assn. presents a two-day seminar Risk Management in Local Government in Los Angeles. Approaches to loss control, safety engineering and funding techniques essential to a coordinated risk management program will be discussed. The seminar will be directed toward finance and risk managers and local administrators. Cost: $150, members; $200, non-members. Contact: MFOA Career Development Center, Suite 800, 180 N. Mchigan Ave., Chicago, Ill. 60601.

Jan. 15-18. Health Care in the American Economy: Issues and Forecasts, Second Annual Conference co-sponsored by the Blue Cross Assn. and the Blue Shield Assn. to be held in Miami. Cost: $350. Contact John F. Newman, Blue Cross Assn., 840 N. Lake Shore Drive, Chicago, Ill. 60611; phone 312-440-6000.

Jan. 17-18. Product Liability Control Strategies for the Medical Device Industry is the subject of a Frost & Sullivan Inc. conference to be held in Washington, D.C. The forum for manufacturers, distributors and vendors of medical equipment and devices is being conducted in conjunction with The Research Group International, the oldest and largest legal research firm in the nation. Cost: $450. Contact: Robert Sanzo, Director of Marketing, Frost & Sullivan Inc., 106 Fulton St., New York, N.Y. 10038; phone 212-233-1080.

If you're puzzled...



turn to Business Insurance on February 20, 1978

ACROSS:*

1. The national newsmagazine of loss prevention, risk financing and employe benefit management.
26. worldwide
43. publication: edition
49. VII
57. shortest month
65. highlight: part
76. area
81. set aside
89. without delay
92. last opportunity; final date

DOWN:*

14. yearly
19. after you're a teen
23. see 57 across, abbr.
26. protection; indemnity
37. sponsored message

*For Answers turn:

ACROSS:
1. Business Insurance
26. International
43. Issue
49. Seven
57. February
65. Feature
76. Space
81. Reserve
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14. Annual
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On February 20, Business Insurance will publish its annual "International Insurance" feature issue.

Our editor will be spending time in London to get first hand information, updating trends and attitudes in the London market. This issue will also have a special report on the underwriting environment for worldwide risks. And, for the benefit of readers associated with corporations operating around the world, Business Insurance will again provide a Directory of international insurance underwriting and consulting services.

If you want to reach the 100,000 risk, financial and employe benefits executives who may be puzzled about your products and services available to them, the February 20 "International Insurance" issue of Business Insurance is where you can provide them with the right answers.

Remember, reserve your advertising space now! Closing is February 7. For more details, call Don Walsh, advertising sales director, (212) 986-5050.

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PERSPECTIVE

How to deal with a computer emergency

By Haig G. Neville
Risk Management Consultant
Haig G. Neville Associates
Southfield, Mich.

WHAT HAPPENS when a fire, explosion or other casualty destroys or interrupts a company's computer operations? The cost of recovery and extra emergency expenses could bankrupt a firm or severely impair its operating efficiency. That's the vulnerability of organizations that depend on computers in order to stay in business.

Reverting to the one-time manual operation is impossible. Coded input data, if not destroyed, cannot be interpreted by office workers. Paperwork, once committed to the computer, cannot be processed because the personnel, skills, equipment and facilities previously used in a manual operation are no longer available. The task of system development, program design and record conversion which took years to complete, if lost, must be redone almost overnight.

Yet the customer billing, payroll, inventory control and production schedules must be met if the organization is to survive.

A major gas utility faced just such a problem in preparing computer system emergency plans. The utility's computers operated 24 hours a day—a DEC, a Univac and an optical scanner. The problem was to find available equipment with similar configurations. Even if compatible machines were available, finding sufficient open time to accommodate a normal work week was almost impossible.

After considerable research it was concluded that no less than four and possibly five substitute facilities, each offering eight hours of machine time a day, would meet the minimum processing requirements of the utility.

The local telephone company and the electric utility operated similar IBM equipment. Eight hours a day on the midnight shift could be arranged. An insurance company home office located in the same city operated a DEC and could spare eight hours. The local university could provide additional standby time and a major rubber company could spare backup time on its Univac.

These arrangements would require transportation of the work force and processing between five different locations on the midnight shift until replacement equipment could be delivered and the data center restored.

Unfortunately, this did not entirely resolve the problem.

The gas company uses an optical scan machine for daily customer billing and accounting operations. Daily bill stubs feed into the scanner, are read and posted to the customer account records and converted to magnetic tape. Scanners do the work of 20 keypunch operators faster, more accurately and in a single operation. The machine is the only one in local use and there was no back-up equipment available within 500 miles. This operation would have to be processed manually and a team of temporary keypunch help would have to be contracted.

To this point the operation of the computer center would be dispersed among six facilities at night: the phone company, the electric utility, the insurance company, the university, the rubber company and the service bureau for keypunch help. In addition, a control headquarters would be established for the coordination staff on a 24-hour basis.

Control functions would be maintained over the work flow—the customer accounting and billing, service work scheduling meter reads, materials and supplies, payroll and all the other vital daily functions. These daily records would be coordinated for processing to the appropriate facilities by the control unit working around the clock. This unit would be established in centrally located temporary quarters to schedule the work flow.

Since the overall operations would be dispersed over five locations, arrangements would be made for telephone communications. Additional cable and lines would be laid. Advertising, radio, television and newspaper announcements would be arranged.

Protection and security guards at parking lots and taxi service for half of the work force would be made available; others would form a car pool and expenses would be reimbursed.

In some cases, where a piece of equipment is unique, it would be necessary for employes and data to be transported several hundred miles by air in order to acquire the use of available equipment until replacements could be delivered locally. The company airplanes would operate for emergency trips in order to process backed optical scanner work that could be handled by the night keypunch crew.

Allowance would be made for air freight and express transportation services in order to facilitate the shipment of new computer systems from the manufacturer by air and trucking expenses to move any salvageable files from the computer center to temporary quarters. In addition, provisions were made for the costs of temporary quarters, office space and the rehabilitation of temporary quarters for the installation of partitions, shelving and storage.

In order to meet the regular work load, arrangements were made for the rental of temporary equipment and a 24-hour messenger shuttle service between the various facilities was required in order to maintain control and communications.

It was expected that all personnel would work a considerable number of extra hours. Bonuses, incentives and overtime payments would be an added expense.

Arrangements for hotel accommodations and meals for supervisory personnel would be provided since they will be expected to stay close to their work for much of the emergency. There is no question that meals would be provided for the night-time personnel. Refreshments, coffee and lunches would probably be provided on a contract basis by a catering service.

The cost of the reconstruction can be staggering, almost insurmountable. Yet, this is precisely what would happen if fire prevention, safe storage of records, programs and adequate insurance has been neglected. Considerable manpower would be required just to maintain substitute facilities to process the normal work load, reconstruct and restore the lost programs, master records and information without regard to the expense involved.

In most cases, duplication is the most satisfactory solution to record reconstruction. The duplicates should be stored safely in a vault remote from the plant or office. Even then, problems arise with respect to random access storage and current batched working data.

Current records in constant use, such as sales slips and accounts receivable, require special attention since the information is only as current as the last batch delivered to storage.

Management's efforts toward careful planning, constant updating of availability conditions, firm reciprocal agreements, interchange rehearsals and emergency preparations to the point of redundant systems where warranted, are significant elements of an effective emergency program for the corporate computer center.

In the absence of serious efforts to anticipate and prepare for the potential problems, it should be evident that a prolonged shutdown of computer systems, whatever the cause, can be staggering enough to threaten a firm's survival and existence. ■

In the event of a fire at its computer facility only the working data of the day for a gas utility serving 1.5 million accounts is likely to be destroyed. The previous day's receipts would have been processed, recorded and transferred to off-premises storage. Even so, up to 75,000 customer payment stubs representing over $5 million in receipts would be lost and not credited to customer accounts.

The utility's plan to cope with such a contingency is to recycle the lost billings and set up a special telephone answering unit to handle complaint calls from customers who claim they paid their bills. The operators would record the callers' names, assure them to ignore the statement and credit their accounts. Of course, some customers may not realize the double billing and pay twice on their account. The gas company admits that it has no way of preventing that from happening.

"We just had a little fire in our computer room . . . . Hire 17,000 office workers right away."

Even stiffer requirements loom for communication

By Lloyd S. Kaye
Vp
Wm. M. Mercer Inc.
New York

The following perspective will be a future report of the Mercer Bulletin.

From a legal incentive not to communicate benefits, corporations now face tough legal requirements to communicate benefits, says Mercer vp Lloyd Kaye.

THE IMPACT on employe benefit plans of the Employe Retirement Income Security Act of 1974 needs no emphasis. Often overlooked in the ocean of commentary on its significance is the area that in the long run may be one of the most important: the obligation to explain a plan's provision "in a manner calculated to be understood by the average plan participant . . . sufficiently accurate and comprehensive . . ." (ERISA Section 102).

This is a new requirement—one with serious legal implications. Before ERISA, plan sponsors had no obligation to explain anything about a benefit plan: Pension and profit-sharing plans qualified under the Internal Revenue Code were required to communicate the provisions of the plan, but there were no standards.

Some companies, based on legal advice, simply gave employes a copy of the plan document, perhaps placed in the back of the plan booklet and subsequently ignored. Similarly, communication about other types of benefit plans was not required at all. Group insurance booklets given employes upon hire were felt necessary but were not required.

From a legal standpoint, there was an incentive not to attempt an explanation. The leading court cases in this area, in effect, told plan sponsors: "If you don't say anything, there is no liability. But if you attempt to explain, you had better be right because if somebody makes a decision based on misinformation or incomplete information, and the result is adverse, you will be liable."

Now, the situation is quite different. ERISA states that a plan sponsor *must* explain, following the standards of Section 102. This introduces the specter of liability if a court finds that an employe was not sufficiently informed.

The recent decision by the 7th Circuit U.S. Court of Appeals in *Daniel v. International Brotherhood of Teamsters* approached the issue of communications from another direction. Its reasoning, in conjunction with ERISA, casts a new dimension: communication material about benefit plans viewed as a prospectus for the sale of a security.

John Daniel worked for a number of employers having collective bargaining agreements with a Teamster local from April 1950 until he retired in December 1973. This multiemployer pension plan, covering employment in the local's area, required 20 years of continuous service for pension eligibility. When Mr. Daniel submitted his application, it was discovered Mr. Daniel had been laid off during a four-month period ending early in 1961 because of poor business conditions. Under the terms of the plan then in effect, that four-month involuntary layoff constituted a break in service, with the result that total service of twenty-two and one-

Continued on following page

PERSPECTIVE

Insurance budgeting: A language problem

By Peter Downes
Manager of Insurance
American Trading & Production Corp.
Baltimore, Md.

Peter Downes, our 'Speaking Out' columnist, takes this article to explore the annual budgeting process at his company.

A CERTAIN WOMAN who is rather close to me has lived in North America for more than 20 years and flatly refuses to believe that there is such a thing as an American language. She persists in speaking English.

This can be disconcerting at times but often it is quite hilarious.

Some people are still shocked into immobility by some of her remarks, but most people who know her have gotten used to her. For instance, the local garage mechanic is no longer puzzled at being told to check under the bonnet, wash the windscreen and find the spare in the boot.

A recent letter to the editor of *Business Insurance* indicated that this kind of linguistic confusion is not confined to English people living in America. In this case the correspondent expressed astonishment that a British underwriter could have a 2.7% loss ratio. I have not seen the figures on which the original report was based, but in my day if claims and expenses were 102.7% of premiums, the loss ratio would indeed be 2.7% and the quicker somebody got to work to make a profit the better.

These reflections were brought about by my corporate planning department, who have induced me, after threats of bodily injury, to refrain from calling them speculative bean counters. I now call them crystal ball gazers whose job it is to cast horoscopes for the hierarchy. They are a mite miffed about this too.

These particular people bug me for several weeks after Labor Day when they are thinking of next year's budget. I am not quite sure what they do the rest of the year, but I suspect it has something to do with dreaming up excuses for last year's budget. In any event, one or the other of them ambles into my office, helps himself to one of my cigarettes without asking, puts his feet up and then starts a conversation which last time around went like this:

"Pete, I would like a straight answer to a simple question. What will our insurance cost next year?"

"Very well," I responded. "A straight answer—I don't know."

"How is it that everybody else can give us information until it pours out of our ears and you never can, or won't?"

"Because everybody else is an unmitigated liar, that's why."

"Pete, that's not good enough. I can go to any of our divisions and they don't give me a hard time like you do."

"They are just inventing figures that's all. There are far too many variables for them to predict the future with any degree of accuracy and they are merely giving you an educated guess."

"Don't you have estimates of what costs will be?"

"Of course I do, but that's not what you asked me for. You asked what the cost would be and I was perfectly truthful in saying that I did not know. In fact, if push comes to shove my educated guess may be no better than your ignorant one."

"Why's that?"

"Well take a specific example like P&I. Our insurance year in the Club starts on February 20th and we shall not know much before yearend what our advance call will be."

"That sounds an odd time to start insurance. Can't you change it to Jan. 1?"

"No, I can't—everybody in the Club pays their calls from this date. I can guess, based on our own experience, what I think our costs may be, but if all the other shipowners are giving the Club a bad time then my cost will rise along with theirs. Unless I borrow one of your crystal balls to help me, I can only guess at what will happen. As for supplementary calls, they will come along about four years after the advance calls and neither I nor anybody else can predict the amount until two or three years have passed."

"I don't know what all that call business is about anyway. Why don't you just get an insurance which you pay for in advance so we know where we are?"

"Why don't you go and jump off the Bay Bridge?"

"Now, now, don't be difficult. What is P&I anyway?"

"Oh brother! It is short for Protection & Indemnity and essentially it's insurance of marine liabilities."

"Yeah, and there's another thing. Why don't we have workmens compensation insurance for the seamen?"

"There is no workers compensation at sea. If a seaman gets sick or injured he gets maintenance and cure and if he feels like it he libels the corporation and if we are unable to work out a settlement compensating him for his injury, we wind up in Admiralty Court. Seamen are wards of the court which really takes care of its children and P&I hopefully will take care of us."

"There you go again, maintenance, cure, libels. What does all that mean?"

"Never mind" I sighed. "The only point I am making is that we have a lot of insurance coverages which for good and sufficient reasons come up for renewal at all sorts of odd dates during the year. When they renew I cannot guarantee that any one of them will stay at the same rate and in most cases the cost will rise to an extent that cannot be determined in advance. The upshot is that I never know exactly what my cost will be and my estimates could be off as much as 50%. However, anticipating you would be asking these damn fool questions I have tabulated my estimates and here they are. I suggest that you file them under "F" for fantasy."

"Oh, I expect I can get most of the information I need from them for budget purposes. But there is one think I wish you would do."

"What's that?"

"I wish you would learn to speak English." ■

Communication rules . . .

Continued from preceding page

half years was not counted. (The plan was changed in this respect in 1970, but was not applied retroactively.)

Mr. Daniel brought suit in federal district court in 1974 on the theory that the information about the plan which was communicated to him was incomplete, misleading and constituted a violation of the antifraud provisions of the Securities Acts of 1933 and 1934.

The district court found that the securities acts were applicable and the court of appeals agreed. The ultimate resolution of the case cannot be predicted because regardless of whether on appeal the Supreme Court affirms, reverses or refuses to take the case at all, there may be a reaction from Congress.

However, it is plausible that some of the court's reasoning may well find its way into the law of the land, regardless of which governmental agency or agencies is granted responsibility for administration.

Daniel's essential argument is that he was misled by incomplete and erroneous information. If it was made clear to him in 1961 that he incurred a break in service, thereby losing his prior period of service of more than 10 years, he might have had the opportunity to find other employment and obtain eligibility for a pension. He asserted that the communications he received did not change his understanding of continued eligibility for a pension.

The Teamsters plan was collectively bargained and noncontributory. The court reasoned its way through the securities acts to the conclusion that a pension plan, whether or not contributory, constitutes a sale of a "security." The collective bargaining aspect of the case helped Mr. Daniel (on the theory that money negotiated as a pension contribution was in lieu of cash compensation), but the reasoning indicates that the court would have little difficulty in concluding that a noncontributory, nonnegotiated plan would be in the same position.

Although the Teamsters argued that the Securities & Exchange Commission had never asserted jurisdiction over pension plans, the court took the position that this was an erroneous line of argument, a "quintessential error." The court pointed out that the registration provisions of the 1933 act should not be confused with the antifraud provisions of the 1933 and 1934 acts.

The registration provisions are designed to assure that investors will have all material information in order to make an informed investment decision. The anti-fraud provisions do not create a disclosure system, but, rather, are essentially a self-executing prohibition against fraudulent activity.

The court noted that although the SEC has historically adopted a hands-off attitude toward pension plans, this does not automatically mean that the antifraud provisions cannot be used by an aggrieved employe.

The most interesting argument concerned the issue of whether ERISA was designed to preempt all other possible remedies.

Even if the Congress says the securities laws are not to be applicable, plan communications may be expected to have to meet stiff standards described in the court's reasoning. This expands and emphasizes the importance of complete and clear communication to employes under every variety of benefit plan. The future of plan communications requires the development of joint responsibility involving the writing, consulting and legal disciplines.

As the court of appeals noted, communications to employes about benefit plans are often designed to make the plan attractive to employes in order to increase employe morale. As understandable and worthwhile as this might be, the legal overtones of communications must also receive attention.

It is common for legal counsel to devote considerable effort to a plan document and pay no attention to communications—the lawyers depart and the artists take over. The implications of ERISA, now supplemented the Daniel case, make it clear that this is a dangerous procedure. Communication material must now be viewed as legal documents, with potentially far greater implications than the underlying plan document.

To meet the challenge, lawyers must think like writers and writers must think like lawyers.

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Mr. Kaye, a vp and senior legal counsel for employe benefits at William M. Mercer Inc., the nation's largest employe benefit consulting firm, is a graduate of New York University (B.A.) and Harvard Law School (J.D.). He has been a frequent speaker at employe benefit seminars and his articles have appeared in numerous financial and professional publications.

Risk Management Notes

Let's rewrite rebate laws

By Warren, McVeigh & Griffin
Risk Management Consultants
San Francisco

THE INSURANCE codes of most states include anti-rebate sections which prevent insurance agents from reducing commissions. How these protect the public has never been explained to our satisfaction. None, to our knowledge, specifically allows for substitution of fees paid by the insured in lieu of commissions paid by the insurer.

The use of fees by large commercial insureds is becoming increasingly common but may often be illegal. It seems time now for insurance codes to be brought into line not only with practice but with justice.

Only those with a vested interest (real or perceived) in commission income would argue against fees as being the more professional approach because they more accurately reflect service rendered. In many cases, licensed insurance brokers may charge a fee in lieu of commissions, but agent-only licensees may not. Some states, such as Hawaii, Michigan, Ohio, Oregon and Texas, do not license brokers, so may technically outlaw fees. Nevertheless, the fee system is often used in these states.

The Michigan Insurance Bureau considers the use of fees by agents (not acting as "licensed insurance counselors") as a violation of its anti-rebate provisions.

This point should be clarified in all state insurance codes. If they are to protect the public interest, fees should be allowed for all producers (at least on commercial lines) and the amount or percentage of commission (if any) should be indicated on the policy and allowed as an offset to the fee. Conversely, a fee higher than the commission should not be prohibited. ■

New ski liability law . . .

Continued from page 1

tiating its insurance for the coming year," said Mr. Link. "But our broker says that because of the new law and because of my personal involvement in its passage, the insurance companies are reviewing our rates more favorably than in the past.

"I don't really expect the premiums to go down—that is possible but not probable. But because of the law, I see fewer liability awards in the future. With responsibilities spelled out more clearly in the law, judgments, settlements and litigation in general should be less costly," said Mr. Link.

Insurance premiums for ski resorts have risen rapidly in the last five years because of increased court liability awards similar to awards in product liability cases. "More than 70% of lift ticket price rises recently reflect insurance and legal costs at ski resorts nationally. We don't want that to happen here," says Sen. Bluechel.

A landmark court case in 1962 established that the skier assumes the risk of skiing, not the resort which provides the slopes. But in recent years the principle has gradually been eroded, culminating this summer with a $1.5 million award against Stratton Mountain, Vt. (*BI*, Aug. 22).

In the Vermont case, a 21-year-old novice skier claimed that he had tripped over some brush at the edge of a ski slope, fell over the slope edge and hit his head on a rock, resulting in paralysis. He charged the ski resort was negligent in its slope-grooming procedures.

"If we can keep the lid on insurance premiums and court awards, then lift ticket prices will also be kept down, because they directly reflect a ski area operator's cost," continues Sen. Bluechel. "In the East, skiers pay up to $18 for lift tickets, but the price has been kept to $8 or less in the Northwest."

The new state law is divided into four major sections. One sets minimum liability insurance standards by requiring tramway and ski lift operators to maintain liability insurance of not less than $100,000 per person per accident and of not less than $200,000 per accident. Operators of rope tows, J-bars, T-bars, etc., must maintain liability insurance of not less than $25,000 per person per accident and not less than $50,000 per accident.

Another section makes it mandatory that resort operators maintain a "clear and simple" system of signs to instruct skiers how to use and disembark from ski lifts and rope tows. Crystal Mountain's Mr. Link notes that this is especially important because most skiing lawsuits occur as a result of lift-loading situations.

Photo: Terry King

Ski area operators in Washington must maintain clear and simple signs to instruct skiers under a new law.

Operators also must place a notice at the top of trails or slopes that are closed and on lifts and tows that are closed. The law states that "no person shall ski on a slope or trail which has been designated closed . . . and that a person embarking on such a lift or tow shall be considered a trespasser."

A third section of the new law says that the skier must be "the sole judge" of his ability to handle any trail and that "no action shall be maintained against any operator by reason of the condition of the track, trail or slope unless the condition results from the negligence of the operators." Skiers who ski on unimproved slopes or trails are responsible for any injuries or losses.

The law also demands that skiers must only get on and off lifts at designated areas (making it illegal to jump off at other points) and that skiers cannot throw anything from lifts and cannot interfere with the safe operation of the line while they are riding it.

Skiers are also required to stay clear of all snow-grooming equipment which now must be equipped with a flashing yellow light while it is on or near a ski run.

The final section of the law says that it is a misdemeanor for any person involved in a skiing accident to depart from the scene without identifying himself.

Mr. Link says the primary purpose of the new law is to reduce the number of incidents in which people and property are damaged while skiing. "We're trying to improve the safety of skiing to make people ski with more control. But it places a lot of responsibility on the operator. It is not a one-way law."

Sen. Bluechel says the legislators initially drafted a "very comprehensive bill, one which indicated that suits had to be filed within two years and that a plaintiff couldn't sue unless his accident had been reported to the ski patrol."

But what passed was more of a compromise with trial lawyers and other lobbyists "who objected to this and other points. But our bill is better than not having anything and we can always add on to this one," says Sen. Bluechel.

It should not be expensive for ski areas to comply with the new law. Ed Link says that although most areas will have to erect a few new signs, "most of these sign standards have long been part of the American National Standard Institute code."

Mel Borgersen, executive director of the Pacific Northwest Ski Areas Assn., says that "it is too soon yet to get any actual reading on the new law, but I feel that it will be beneficial to everyone involved. It should caution people to be more careful, reduce accidents, and will relieve some ski areas of unwarranted lawsuits and jury awards." ■

Companies view . . .

Continued from page 1

adding that "we cannot continue forever to defend ourselves by saying that our system is actuarially sound and that our numbers and traditions support our present procedures."

Nine month underwriting results published by A. M. Best & Co. show that the industry had a combined loss and expense ratio of 97%, with the third quarter checking in at 95.2%, the best three-month results since the under-95% ratio of 1972's third quarter.

Investment income also improved, rising 25% in the nine months while consolidated surplus has grown 10.1% since Dec. 31, 1976.

Other signs of improvements are becoming apparent. For example, Employers Insurance of Wausau plans to increase premium volume by 14.5% in 1978, said John Schoneman, Employers president, after a year of deliberately controlled underwriting.

Premium volume overall in the industry should grow about 15% in 1978 for property and casualty, said Nicholas F. Miller, assistant vp at Aetna Life & Casualty. Historically, it has grown about 10% per year, but during the last several years it grew 20% a year.

The Hartford Insurance Co. plans to increase capacity in property lines by 14%, said Robert Dressel, vp in charge of commercial property underwriting.

Also planning to add capacity are Aetna Life & Casualty, the Insurance Co. of North America and Western Employers Insurance Co. of the Continental group.

William O. Bailey, president of Aetna Life & Casualty, said his company sold $250 million worth of debentures in a move to increase capacity "because of opportunities down the road." INA recently borrowed some $100 million to increase its capacity.

Meanwhile, New York's Continental group recently obtained approval from the California Department of Insurance to purchase a $5 million certificate of contribution to increase policyholder surplus of Western Employers by that much.

American International Group is expanding capacity of Transatlantic Reinsurance Co. to $100 million by transferring a 52.8% interest of its previously wholly-owned subsidiary to seven other insurance companies.

Although the market is softening, companies said they wouldn't engage in price-cutting. Instead, they plan to initiate better controls to help smooth out the peaks and valleys of the insurance cycle and to "eliminate surprises."

Some isolated incidents of price-cutting on individual commercial risks have been reported, however, according to both The Hartford and The Travelers Insurance Co.

"There's been some price-cutting, but not what it was in 1972 and 1973," said C. J. Clarke, vp of product management at Travelers Insurance Co. "But we learned our lesson so the price-cutting won't be severe."

"We will compete but we will get the necessary rates," said Kent Shamblin, vp at St. Paul.

But, The Kemper Insurance Cos. believe the current trends will just become part of the "inevitable cycles."

"Signs are stronger now that the competitive forces will awaken," said Kemper's Mr. Luecke. Competition will peak in mid-1978, he continued. "Then underwriting profit will diminish. But we hope the downward trough is not as low as before," he said.

New optimism in the insurance industry may bring some premium rate relief, however, to insurance buyers. The Hartford, INA and Kemper predicted that premium increases overall for 1978 will be 10% to 12%.

"Premium increases have been in the double digits, up to 20%, but for next year it should be closer to 10%," Mr. Luecke said.

St. Paul also noted that premium increases will "not escalate as rapidly as in 1976. A catch-up job was necessary in 1976 because of sizeable inflation," said Mr. Shamblin.

Mr. Shamblin noted that St. Paul has seen a "leveling off of rates for its small business packages."

Mr. Schoneman's view from Employers was that "the cost of commercial insurance should only increase gradually since the major premium increases have been absorbed over the last 18 months."

Aetna's Mr. Bailey said insurance companies should move to shorter-term policies so that small, frequent adjustments can be made in premiums.

Liberty Mutual Insurance Co. disagreed that premium rates would level off. "There is little indication that premiums will stabilize. Premiums only stabilize when losses stabilize," a spokesman said.

A wide difference exists between property and casualty lines, the insurance companies reported.

Commercial property insurance remains the most profitable and competitive line, while commercial casualty is still haunted by further premium increases, subdued competition and difficulties with workers compensation losses in particular.

Insurance companies have decided to increase the balance of their writings toward property, an indication of the profitability of property lines. In 1976, property premiums represented 32% of their underwriting, while casualty amounted to 68%, according to A. M. Best.

Good experience in property lines has brought property rates down, said Jim Wyatt, senior vp at The Hartford. "It's relatively free of losses. There hasn't been a major catastrophe recently, such as Hurricane Betsy in 1965," he added.

Casualty markets, however, still are tight. "But it is becoming apparent that there will be competition for individual accounts," according to Mr. Miller at Aetna.

Insurance companies singled out workers compensation as the most difficult market, basically because rate increases have lagged behind the increased benefits.

Because of the workers compensation problems in many states, the market will be more selective on a state-by-state basis rather than by lines, Mr. Schoneman said. He added that companies have adopted a wait-and-see attitude in Wisconsin, for instance.

The Hartford also noted difficulties with workers compensation. "It's beginning to be a pension supplement. Workers who are about to retire suddenly start to complain about backaches," Mr. Wyatt said.

Product liability, which has been considered the most difficult line, however, is beginning to ease up.

Mr. Wyatt said the market assistance programs, voluntary efforts by insurance companies, insurance departments and agents to place business previously unavailable to the insured have helped 95% of the product liability cases.

He also said insureds are getting used to paying more for product liability. "It was underpriced in the past and was buried in general liability," Mr. Wyatt said. "It's going through what medical malpractice did."

"There is competition in product liability," claimed Arnvid N. Bjorke, senior vp at INA. "The problem is just with certain products, such as machine parts." ■

Trucks . . .

Continued from page 1

accidents for passenger vehicles and 9.89 accidents per million miles for all vehicles.

The American Trucking Assn. objects to the allegation that external mounting of the gas tank is unsafe. "There just isn't anywhere else you could put it," a spokesman said.

Defense attorneys for Freight Liner called expert witnesses who testified that the common practice of mounting gas tanks outside the cab of trucks is not inherently unsafe. However, a professor of design engineering testified that the fuel system in the Freight Line truck could be modified to move the tank inside the frame of the cab, where it would be more protected.

Underwriters specializing in the trucking industry said the Freight Liner case would lead to further increases in the cost of liability coverage and would be a factor in the exclusion of punitive damages from liability policies.

"Though exclusion of punitive damages is generally an industry activity, the Texas case is just one more reason why it should be done," said Dennis Kelly, general counsel for Carrier Insurance Co. in Des Moines.

"What concerns me is the position our reinsurers are going to take," he continued, "if the primary underwriters exclude punitive damages but the courts continue to award them.

A plaintiff witness said external gas tanks could be mounted inside the cab.

"Then you've got this uninsured exposure. If the insurance industry won't deal with it, who will? The government? The bottom line is a mess," he said.

Robert Link, vp-underwriting at Transport Insurance Co. in Dallas said, "The punitive damages levied against Freight Liner indicates a backlash against truckers by the public.

"The public sees some of them totally disregarding the 55 miles per hour speed limit and whenever one of these tractor-trailers goes barreling past a passenger vehicle it leaves a bad taste in the driver's mouth."

Another result of the Freight Liner case will be higher liability insurance rates for the trucking industry, underwriters predicted.

"Our rates increased rather dramatically this year," Mr. Link said. "We'll probably need more increases next year."

"We're seeing trucking firms getting hit with big increases whether their experience is bad or not," said Gordon Sisk, vp of claims prevention for McLean Trucking in Winston-Salem, N.C. Although McLean's experience has been "pretty good," Mr. Sisk said the firm went to a $500,000 deductible on Oct. 1.

Describing the Freight Liner case as "frightening," Mr. Sisk observed, "In the long run the results of this will get back to all of us." ■

Brokers, buyers . . .

Continued from page 1

Alexander, Johnson & Higgins, Bayly Martin & Fay, Frank B. Hall & Co. and Corroon & Black, said the profits are a favorable development because it will increase capacity for their clients.

"We want to help (the insurers) make money. Otherwise there will be no capacity and that's unhealthy," said William L. Carter Jr., chairman of the board at Alexander & Alexander. "But there will be political pressures as profits increase."

Joe Johnson, senior vp at Frank B. Hall, agreed. "Companies can't provide extra capacity without underwriting profits," he said.

"Unless the companies make money, it drives the prices up and creates a shortage," said executive vp Dick Miller at Corroon & Black.

Marsh & McLennan, however, criticized the insurance industry for its "more than adequate profits to cover loss potential."

"The biggest problems the insurance companies have is that they don't realize their profits so they don't expand," said Robert Clements, M&M's executive vp and head of national services.

The improved underwriting results, however, have attracted competition and a willingness among underwriters to discuss risks they wouldn't look at before, according to most brokers.

Despite the trend toward increased capacity, brokers said insurers' surplus still needs rebuilding. And a cautious attitude among insurance companies is casting a shadow on the improvements, most brokers argued.

"Many carriers are being careful. But some are going to borrow money and increase surplus," said Samuel Alcorn, senior vp at Bayly Martin & Fay.

Gustav Werner, head of casualty at Johnson & Higgins, noted that companies have not improved their surplus positions since 1972. "Some companies won't take a risk with limits higher than $500,000. You have to spread the risk in order to get the limits."

Mr. Johnson at Frank B. Hall noted that "surplus is up a little bit this year—about 10%—but it should be double that. The insurance industry lost $10 billion over the last 10 years," he explained.

Risk managers also agreed that capacity will remain strained.

"Everyone says the underwriting profits will help capacity but it will be a slow process because surplus will be eaten up by higher premiums," said Robert E. Spencer, vp of risk management and insurance at Fuqua Industries Inc.

Another insurance manager, Paul Kipp at U.S. Gypsum Co., said one can "expect additional capacity because surplus is improved. But it won't be right away because it will take a couple of years for companies to feel comfortable that loss experience will be predictable."

One of the big fears among brokers is that insurance companies will start cutting prices severely to get a piece of business.

"The laws of supply and demand will start working and they can't stand prosperity. They're so competitive that the minute they're in the black, then whamo," said Tom Barton, department head of property at Johnson & Higgins.

"Hopefully, people learned a lesson about price-cutting and sanity will prevail," said Bayly Martin's Mr. Alcorn.

Alexander & Alexander also discounted the possibility that price-cutting could occur as the markets become more competitive. "We've talked to top management at insurance companies about this and they say it won't happen," said president John A. Bogardus Jr.

But premium leveling for both property and casualty is likely to occur, the brokers agreed.

"Rates will increase more, but not dramatically," said Mr. Johnson of Frank B. Hall. Other brokers characterized the increases in coming months as modest, moderate or leveling.

Risk manager Mr. Spencer complained about his individual rates. "Perhaps premiums are justifiable on a class basis, but based on our own experience they are completely unreasonable," he said.

Mr. Spencer also criticized the industry for "not knowing where their losses are. They excluded punitive damages but they didn't know where the losses were."

Workers compensation and product liability difficulties still trouble the casualty side. But in property, the lines are so profitable that companies are seeking to balance their books toward these lines.

"It's an extremely hard balance, though, between property and casualty because of the tremendous rate increases in casualty," Mr. Alcorn said.

Casualty lines are softening, partly because product liability difficulties have eased, some brokers said.

"The product side is easing because there has been overreaction," said Corroon's Mr. Miller.

Risk manager Mr. Kipp agreed. "The bulk of product liability claim settlements have been in the $20,000 range—just a few spectacular cases," he said.

Malpractice is also beginning to level off, according to Mr. Bogardus at Alexander & Alexander.

Workers compensation, however, remains tough. "This is the biggest problem," according to Mr. Spencer, "because of the high cost of medical care."

New trends in property lines are only slowly emerging except for a growth in competition and possible premium decreases.

Corroon & Black noted that property rates may decrease. "There's been a 10% rate reduction for fire premiums overall and property premiums usually follow the fire rates," Mr. Miller said. ■

people

Sweeney to direct Givaudan insurance, benefits

Richard Sweeney, 28, has been promoted to manager of benefits and insurance at Givaudan Corp. in Clifton, N.J. He's in charge of property, casualty and workers compensation for the producer of fragrances, chemicals and flavors. He handles the savings plan, pension, retirement, life insurance and health care. Mr. Sweeney reports to Robert G. Nusser, vp of finance. He joined Givaudan as inventory accountant nine years ago and was most recently assistant manager of insurance and benefits.

* * *

Mona S. Abed, 23, has joined Pfizer Inc. in New York City as a benefits analyst, a new position. She assists Richard A. Harvey, corporate manager of employe benefits in designing, implementing and communicating benefit plans at corporate level. Ms. Abed was formerly with the Metropolitan Life Insurance Co. as an account representative for three years.

* * *

Lee Baldwin, 37, has joined Zapata Corp. in Houston as risk manager with duties in administration of insurance, safety and claims. He reports to E. F. Shiels, executive vp, in the new position, created to centralize risk management. Previously, he was manager of the insurance department for 3½ years at ENSERCH Corp. where he has been replaced by **Michael Whelan**, 30, who was previously assistant director of the insurance department there.

* * *

John Haywood has been named risk manager for the state of Alaska, replacing **John George** who has been named deputy director of insurance. Mr. Haywood reports to the director of general services and supply, which is part of the department of administration. Mr. Haywood was formerly risk manager for Chelsea Industries in Boston, a position he began in May 1974. Prior to that, he was with Fred S. James in Boston. **Tom Slagle**, who was formerly with Crawford & Co. in Anchorage, has been named claims manager for the state of Alaska. It is a new position.

* * *

David L. Broadway has been named assistant risk manager for Carnation Co. in Los Angeles. Mr. Broadway was formerly secretary and insurance administrator for Menasco Manufacturing Co. in Burbank. At Carnation he will report to insurance manager Joe T. Parrett. Mr. Broadway explained that Menasco has recently been merged with Colt Industries in New York and that his job was absorbed in the move. He has been with Menasco for 18 years. He will be working with all lines of insurance at Carnation including employe benefits. **Arthur C. Brunke**, who was assistant insurance manager at Carnation, resigned to move his family to the Seattle area.

* * *

Kathy Heinemann has been named risk manager for Ponderosa Homes in Irvine, Calif., a new position. She was formerly a risk manager for The Christiana Cos. in Santa Monica, Calif. Ms. Heinemann reports to Jerry Demers, vp-controller. Her duties include property and casualty insurance lines. Ponderosa Homes is a division of Aetna Realty.

* * *

Bernard M. Hulcher has retired as insurance manager of Southern States Cooperative Inc. and as president of Southern States Underwriters. He has been replaced in both positions by **C. J. Grigsby**. Mr. Grigsby previously was an assistant manager of insurance at Southern States Cooperative and secretary of Southern States Underwriters. **Olen Stewart** has been named the new assistant insurance manager to replace Mr. Grigsby. Mr. Stewart was previously associated with Richfoods Inc. in Richmond. The new secretary of Southern States Underwriters is Carroll L. Arrington.

* * *

James M. Hill, 35, has been promoted to risk manager in the finance department of Anchor Hocking Corp. in Lancaster, Ohio. Mr. Hill will be responsible for all functions of the risk management department and will report to R. C. Heydinger, director of risk management and retirement. Mr. Hill joined Anchor Hocking in 1956 in group insurance and pension administration. In 1973, he expanded his areas to property and casualty, workers compensation and property protection when he was named supervisor. Anchor Hocking is a producer of consumer and industrial products including glass, plastic and ceramics.

* * *

Joy A. Guyton, 49, has joined Great American Management and Investment as the trust's risk manager with responsibility for monitoring Great American's national insurance program. She reports to John H. Olden Jr., managing trustee. Prior to joining Great American, Ms. Guyton was an account administrator for five years with the Oberdorfer Insurance Associates Agency in Atlanta. Great American is an Atlanta-based business trust. ■

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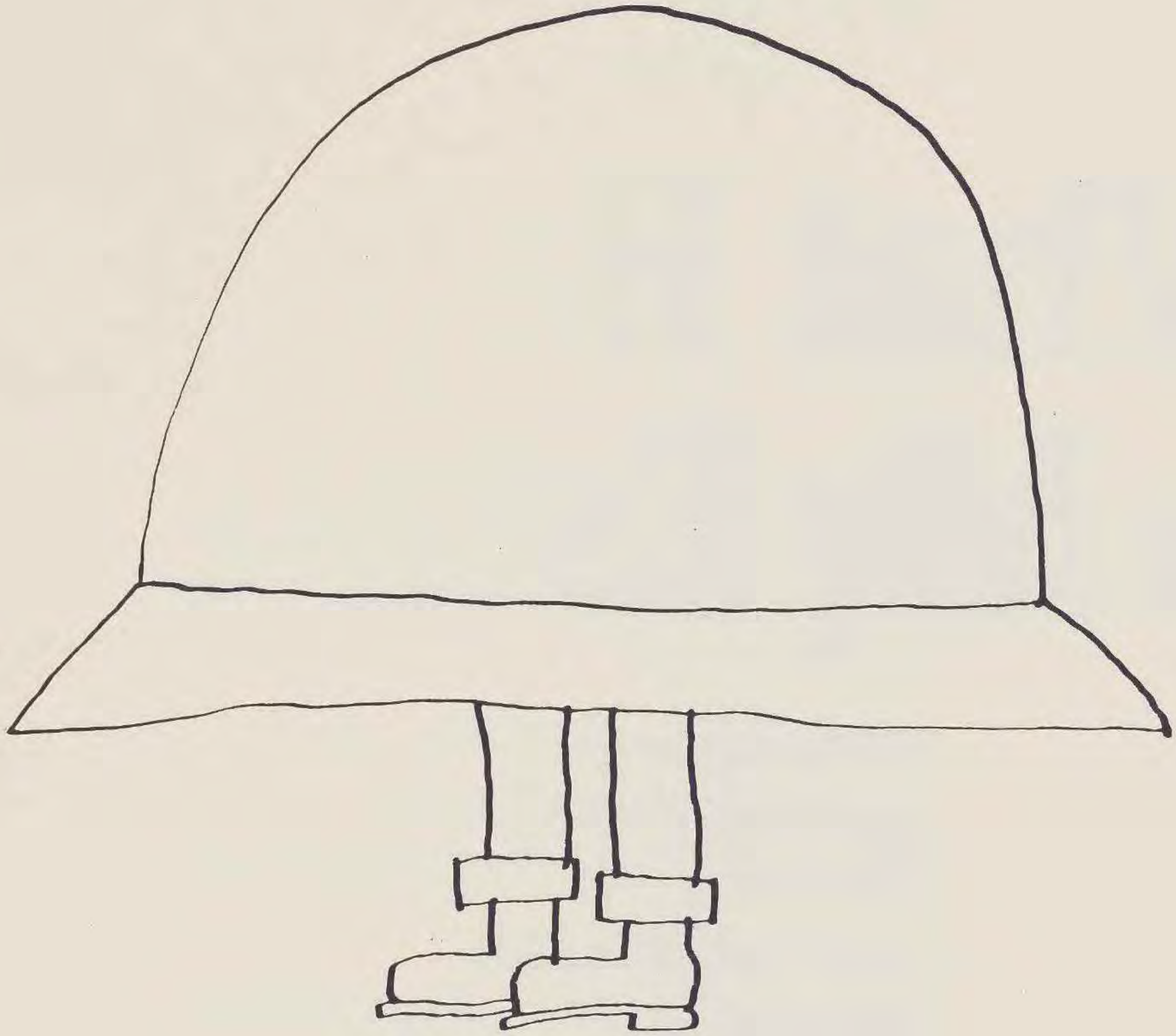

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