

Punitive exclusion spreads despite widespread protest

By KATHRYN J. MCINTYRE

CHICAGO—Controversy is boiling in insurance circles over the new specific exclusion of punitive damages in liability insurance policies that in the past were silent on the issue.

Buyers are demanding insurers delete the exclusion adopted by the Insurance Services Office, arguing it is an unwarranted restriction. Brokers are publicly chastising the insurance companies for adopting the exclusion and are raising serious questions regarding the exclusion's impact on the day-to-day handling of litigation.

Only 33 jurisdictions have approved the exclusion that ISO filed nationwide last fall on behalf of its member companies. Seven states have rejected the exclusion.

And even insurers appear divided in their commitment to the exclusion. The Hartford and

Liberty Mutual reportedly don't plan to incorporate the exclusion in their policies, though that's not a guarantee they will pay punitive awards. Royal Globe and Aetna Casualty & Surety have only postponed adopting the exclusion, but Employers Insurance of Wausau is undecided.

Among those who say they have adopted the exclusion, there is a willingness to be flexible in its application. Continental Insurance Cos., The Travelers and St. Paul Fire & Marine, for example, say they may delete the exclusion under certain circumstances.

The Insurance Co. of North America and SAFECO Cos. are even filing endorsements with insurance departments to provide insurance in cases of vicarious liability.

And there is some candid admission at Kemper Insurance Cos. and CNA Insurance, which are

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Photo: Wide World

Forty persons died this month when a Pacific Western Airlines 737 crashed in Cranbrook, B.C. Whether a snow blower was on the runway could determine the liability. **Story, page 4.**

International Insurance

Report on London

Lloyd's Robin Jackson and H. S. Weavers's Peter Wilson are two of the most important underwriters in London for Americans placing their risks in the world's insurance center. *Business Insurance* editor Susan Alt's interviews and profiles of these two pacesetters lead off our special International Insurance Report on London on page 15. Editor Alt also details Ian Findlay's views on new names at Lloyd's (24), explains how C. E. Heath is struggling to regain stability (28), reports that aviation insurers are worried over their inability to push through rate hikes (29) and that marine underwriter Peter Green shrugs off charges that he's poaching (31).

Problems in Quebec

Last year risk managers and brokers told *Business Insurance* that there had been no measurable impact from the victory of the separatist party. This year, associate editor Rebecca A. Fannin found that the story is quite different. **Page 35.**

Benefits abroad

Associate editor Kathryn J. McIntyre discovered that not insuring benefits is growing in worldwide popularity, **page 37.** She also reports that the Swiss may soon be the first nation to mandate private pensions (39) and that benefit experts are cheering a footnote to the recent Social Security legislation (40). Meanwhile, San Francisco correspondent Margaret LeRoux assembled four benefit managers to explain how they cope with international programs (49) and West Coast reporter Joanne Gamlin profiles the international benefit program at Dart Industries (57).

Other international stories

- GERMANY emerges as a new hot spot for terrorism. **Update, page 41.**
- OPIC's chief defends the role his embattled agency plays for U.S. firms. **Page 54.**
- MATTEL is relieved after consolidating its overseas insurance. **Page 55.**
- COMMON MARKET-WIDE product liability law is delayed by controversy. **Update, page 59.**

Elsewhere:

- MILLION DOLLAR verdicts continue to increase. **Page 6.**
- FEDERAL insurance regulation is proposed on a product liability bill. **Page 8.**
- VERMONT legislation averts a ski area liability crisis. **Page 11.**

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business insurance

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risk financing and employee benefit management

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Week of February 20, 1978

Jury slaps massive 'fine' on Ford in '72 Pinto crash

By JOANNE GAMLIN

SANTA ANA, Calif.—A California superior court jury here awarded a record \$128 million to an 18-year-old youth severely injured in an accident involving a 1972 Ford Pinto.

The award against the Ford Motor Co. included \$125 million in punitive damages.

The plaintiffs in the personal injury and wrongful death case charged that Ford placed the gas tank in the 1972 Pinto where the automobile manufacturer knew from its own studies that it would be apt to rupture upon light impact.

The \$128 million judgment is said to be the largest ever returned in such a case.

The next largest judgment against Ford, according to a company spokeswoman, occurred in 1975 in Florida in a \$3.3 million judgment which was later reduced by the trial judge to \$1.7 million.

Richard Grimshaw, the chief plaintiff, was 12 years old at the time of the accident on Interstate 15 near San Bernardino, Calif. He was being driven by Lily Gray, 52, of Orange, Calif.

When the carburetor of Mrs. Gray's car malfunctioned, another automobile struck the vehicle from the rear, according to the lawsuit. Gasoline then leaked from Mrs. Gray's car, causing a fire which seriously injured the two victims.

Mrs. Gray died two days after the crash. Mr. Grimshaw was

burned over 80% of his body. Testimony at the six-month trial indicated that he had undergone more than 50 operations over a five-year period at a cost of more than \$125,000.

The pair would have walked away from the accident unhurt if there had been no fire, attorneys for the plaintiffs charged.

Ford attorneys, however, contended that the 1972 Pinto fulfilled all existing federal safety stand-

ards. The leaking gasoline alone was not an overwhelmingly deadly factor, they argued.

Mr. Grimshaw was awarded \$2,841,680 in compensatory damages and \$125 million in punitive damages for the personal injury portion of the lawsuit. The husband and two daughters of Mrs. Gray in the wrongful death portion were awarded \$659,680 in compensatory damages as well as

Continued on page 75

Insurers act to reduce refunds in retro plans

By REBECCA A. FANNIN

NEW YORK—A recent Insurance Services Office filing approved almost nationwide increases the premium retained by an insurance company during the early years of a retrospective rating plan.

The insured loses a key cash flow advantage of retrospectively rated plans, although the funds retained by the insurer eventually filter back to the client.

Traditionally, insurers have returned a large percentage of premiums to the insured after the first and second year of a retro plan only to ask for these funds back again after more claims are reported. Meanwhile, the insured could invest those funds that were returned early.

But under the recent filing,

called a retro development factor, the insured keeps the money until more claims are reported, thus eliminating some of the financial adjustments.

Insurance company representatives said the development factor "just helps the whole system reach equilibrium sooner."

But J. Al Friday, vp-insurance administration at Colonial Stores, said, "It's just another way for them to get a little more money and hold it a little longer."

The retro development factor only applies for those claims reported late, such as workers compensation, general and auto liability.

"It's another way the market is tightening in the liability field," said Felix Kloman, a consultant and president of Risk

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Work comp blamed for tire plant closing

CITY OF COMMERCE, Calif.—Uniroyal says skyrocketing workers compensation costs are in large part to blame for the company's decision to close a bias tire plant here.

The plant, which employs more than 1,000 persons, pays out \$75,000 a month in workers compensation claims and administrative expenses, said plant manager Walter Gramberg.

The four-to-six-year-old plant has been self-insured for workers compensation since 1955.

Mr. Gramberg said the cost of the program, including rising expenses under California's new cumulative trauma law, made the City of Commerce plant not competitive with five other Uniroyal plants.

The five other plants are located in Massachusetts, Michigan,

Wisconsin, Oklahoma and Alabama. None is burdened with workers compensation costs that are as high as those of the California plant, he said.

"Lawyers and doctors, majoring in workers compensation, are approaching our retirees," he argued.

Another Uniroyal source, however, said that cumulative trauma awards were not confined to retirees but were spread across all employees.

The closing of the plant, which manufactured bias tires, signifies that the tire industry is pulling out of the Los Angeles area. In 1975, B. F. Goodrich Co. closed its doors and a year later Goodyear Tire & Rubber Co. shut down passenger tire production.

A swing to radial tires which last longer than bias tires, the continuing upsurge in sales of imported cars with imported tires and the trend toward lighter cars with lower speed limits which reduces tire wear are all cited as factors in the demise of the bias tire industry in the Los Angeles area.

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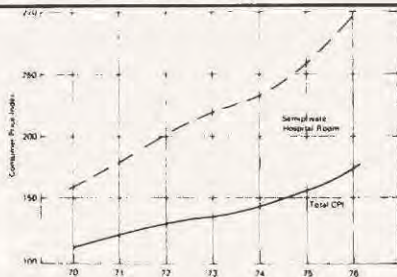
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Vol. 12 No. 4—Business Insurance is published every other Monday at 740 Rush St., Chicago, Ill. 60611. Controlled circulation postage paid at Brookfield, Wis., Chicago, Ill. and New York, N.Y. Copyright 1978 by Crain Communications Inc.

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M&M proposes legislation to provide tax deductions for self-insurance

WASHINGTON—The nation's largest insurance broker, Marsh & McLennan, is proposing model legislation which would modify the Tax Code to permit tax deductions for businesses and professionals that self-insure for product liability, malpractice, general casualty and libel risks.

The amount of the deduction would be determined by the Treasury Department. The deduction, though, could not exceed the amount the business would have paid for insurance if it had not self-insured.

Many businesses now insure casualty risks principally to obtain tax deductions for premiums paid. If tax deductions were available, more businesses would self-insure their most predictable risks, freeing tight insurance industry capital now tied up in those risks. As a result, more capital would be available to the least predictable risks such as product liability and medical malpractice, Marsh & McLennan believes.

Several bills now are pending in Congressional committees that embody tax breaks for companies that self-insure for product liability. No hearings, however, have been scheduled on these proposals.

... But Treasury official opposes change

WASHINGTON—A key Treasury Department official for the first time has publicly opposed permitting tax deductions for reserves set aside to pay for product liability claims, an idea contained in several pending bills in Congress.

Donald C. Lubick, acting assistant secretary of the Treasury for tax policy, said recently that Treasury fears the bills lack proper controls to make sure the tax exempt money would not be misused.

Mr. Lubick also was reported as saying that Treasury has historically objected to deductions for self-insurance due to the difficulty in estimating how much should be allowed for them. The current bills do not resolve this problem, he said.

Treasury is unsure just how much tax revenue would be lost if businesses were allowed to deduct product liability reserves from their tax liabilities. It is, however, preparing a report on the impact of the pending bills for the Office of Management and Budget.

California senate OKs tort reforms

SACRAMENTO—The California senate last month passed by a whopping 30-3 vote legislation that would give manufacturers a defense against liability if a product were altered or modified from its original condition.

The measure (S.B. 956) now goes to the state assembly where a tough fight is expected. The senate earlier passed a bill requiring product liability suits to be filed within 10 years after the product was first sold. That measure now is being considered by an assembly committee.

Senate ups arson to 'major crime'

WASHINGTON—The Senate last month approved legislation that makes arson a major crime under the FBI's uniform statistical crime index.

Arson is currently listed as a minor crime and as a result the 11,000 jurisdictions included in the FBI crime index are not required to report arson incidents to the FBI.

By classifying arson as a major crime, amendment author Sen. John Glenn (D-Ohio) believes public awareness of the problem will increase and law enforcement officials will be prodded into stronger action.

Sen. Glenn estimates that arson has increased 400% over the last decade. Insurance losses may have exceeded \$3 billion in the last year alone. The House still must act on Sen. Glenn's proposal.

Exec fears cumulative trauma impact

LOS ANGELES—Cumulative injury awards in California may be entering the areas of systemic disorders, aging and the "myriad other non-occupational conditions that can affect the human organism sometime during life," says John M. Hayes, board chairman of Transport Indemnity Co. in Los Angeles.

Mr. Hayes is also president of the California Workers Compensation Institute (CWCI).

He said that the cumulative trauma claims have the potential of "dictating a massive upheaval of human and economic resources."

As the scope of cumulative injury broadens, problems arise in allocating the cause, he noted.

"No one quarrels with the fact accumulated stress and strain can produce disability, but how much of it is related to employment and how much to the aging process?" he asked.

Panel backs Calif. insurance regulators

SACRAMENTO, Calif.—The Committee on Finance, Insurance and Commerce has released an 898-page report that criticizes an audit of the state insurance department conducted by the California auditor general last year.

Assemblyman Alister McAlister (D-San Jose), the committee head, urged the auditor general to retract the report that was highly critical of the insurance department.

The audit report made five principal findings: that the insurance department gave preferential consideration to selected licensees in the negotiation and disposition of disciplinary cases; that it was guilty of insufficient investigation of illegal title insurance kickbacks; that there was a failure to revoke the licenses of convicted criminals; that the department managed insurance agent investigations inadequately, and that its internal organization was "sloppy."

Assemblyman McAlister said the auditor's report was unprofessional as well as "ineptly prepared and replete with deficiencies" in its charges against the insurance department.

Mine workers reject pact guaranteeing benefits

MINE WORKER leaders rejected a proposed contract that would have guaranteed medical benefits, with much of the opposition focusing on new medical deductibles and a provision to penalize wildcat strikers. Union benefits, which are financed by employer contributions based on the amount of coal mined, were reduced last year as wildcat strikes depleted benefit funds. Employers would have guaranteed medical benefits under the rejected contract. However, workers on wildcat strikes would have been docked \$20 a day with the money used to reimburse the benefit funds. In addition, workers on unauthorized strikes for more than 10 days could have had their benefits cut off. Under the contract, miners would have been responsible for as much as 15% of hospital charges up to an annual maximum of \$500 and miners would have paid \$7.50 per doctor visit up to a maximum of \$150. There were no deductibles prior to the cutbacks last July.

The contract would have boosted pension benefits to \$275 a month from \$250 a month for non-black lung retirees during the last year of the contract. Black lung retirees, who now receive \$225 per month, would have had their benefits raised to \$275 per month over a three-year period. Minimum disability benefits were slated to rise to \$137.50 per month from \$125 a month. Weekly benefits for sickness would have risen in three stages to \$150 a week from \$100. An eye care program was slated for the seventh month of the contract. President Carter has told Labor Secretary Ray Marshall to join the talks as coal supplies dwindle around the nation.

UAW WORKERS at 21 companies in Southern California will now be covered under a partially self-insured group health program. The 5,000 UAW members in region 6 previously received benefits from Blue Cross of Southern California. Bob Burks, president of American Pacific Administrators based in Tustin, Calif., said Blue Cross was terminated because of "very poor service and unreal costs." Under the new program, the trust assumes a \$1,000 per occurrence deductible. The trust then reinsures 80% of all claims up to \$5,000 and pays 100% of claims above \$5,000. Washington National provides reinsurance on specific claims while Republic National provides aggregate reinsurance. Galbraith & Green will pay claims on the self-insured portion of the plan. Benefits, which include dental insurance, remain the same as under the Blue Cross program.

BLUE CROSS and Blue Shield of Greater New York are phasing out routine payments for 41 surgical and diagnostic procedures considered outmoded or of questionable usefulness. The procedures involve certain types of bronchoscopy, hysterectomy, sympathectomy, vein ligation and kidney surgery. The Blues will provide a period for physicians to familiarize themselves with the rules. The first payment submitted by a doctor or hospital will be paid, but the doctor will be reminded the procedure is outmoded. After that benefits will be paid only if written evidence of necessity is provided.

MANDATORY HOSPITAL cost controls appear to be dead.

Rep. Dan. Rostenkowski (D-Ill.), health subcommittee chairman for the House Ways and Means Committee, said this month that he will set aside the administration's proposal to put a cap of 9% on annual cost increases. Rep. Rostenkowski's support had been considered crucial in getting the cost control legislation through Congress. Instead of mandatory controls, Rep. Rostenkowski favors a voluntary approach by doctors and hospital administrators to limit cost increases to about 13% this year and 11% in 1979. Annual hospital cost increases now are running at a 15% clip.

HMOs that accept Medicare patients will be reimbursed for the purchase of reinsurance pro-

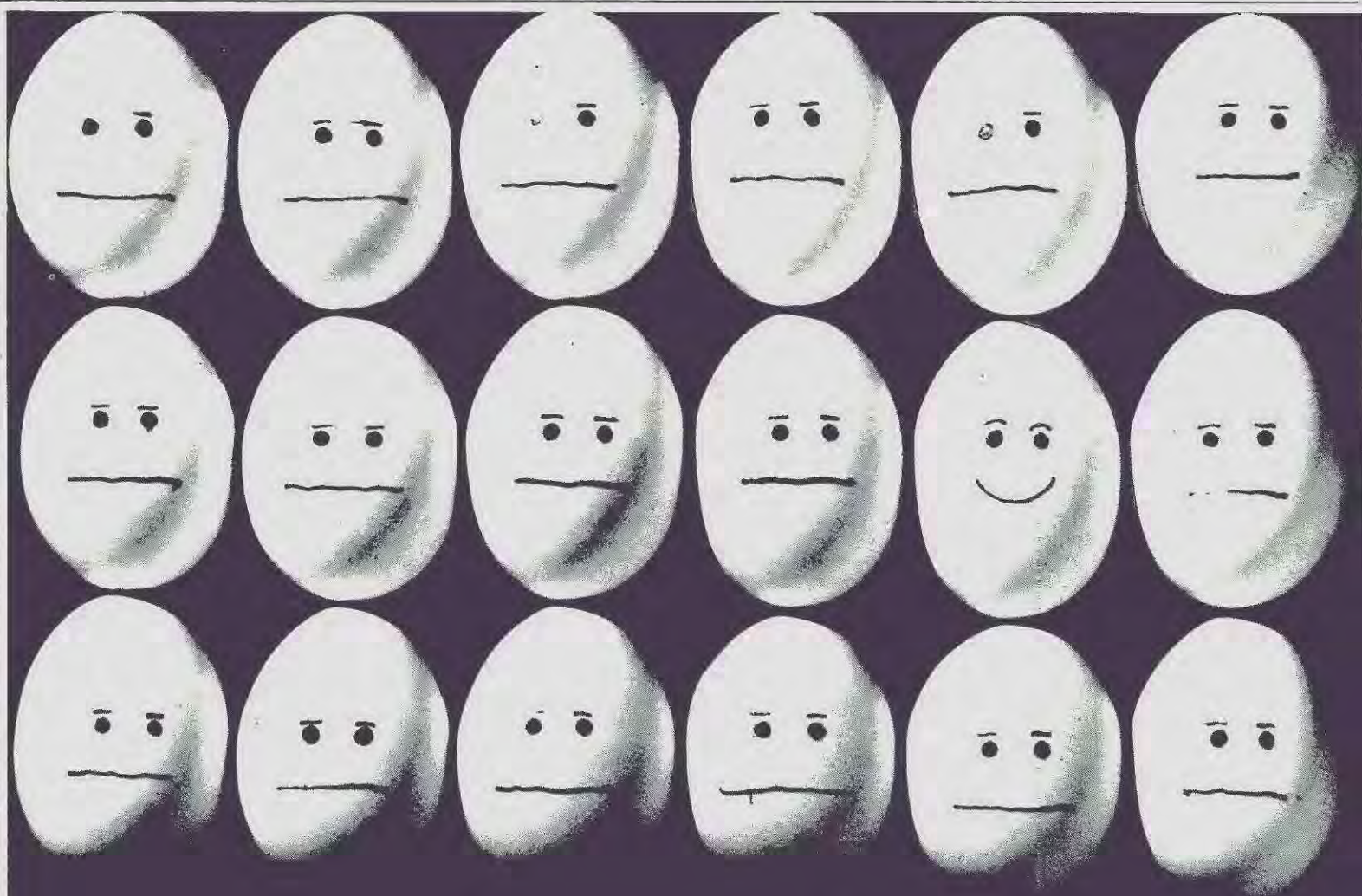
tection against the cost of catastrophic illnesses suffered by plan members under regulations proposed this month by HEW. Reinsurance protection is especially important to new HMOs that often lack membership strength to absorb the risk of catastrophic illnesses. In a related matter, HEW has extended by two years the period in which loans HMOs receive from the government must be paid back. Loans now may be paid back over a 22-year period, though HEW still may require a shorter repayment period. Under earlier regulations, HMOs were allowed to defer up to 36 months the first repayment of the principle of the loan. Now the time of the first installment will be negotiated between the

HMO and HEW.

CANADIAN BENEFIT consultant says problems in that nation's social security and employee benefit laws are economic threats to Canadian unity. Paul H. O'Donoghue, president of both William M. Mercer and Marsh & McLennan Ltd., proposed a federal-provincial conference to establish reasonable uniformity of social security and benefit legislation. Mr. O'Donoghue suggested a cap of 3% to 5% to be placed on the annual indexing of pensions for federal government employees. Full funding of the Canadian pension plan would require an increase of \$5 billion a year in taxes, he warned. And he urged improved private pen-

sions to provide greater portability. "In a country where employment opportunities are widely spaced, lack of portable pensions is an obvious threat to national unity," the consultant said.

ANNUAL REPORTS for employee benefit plans for the 1975 plan year should have been filed by Dec. 15, 1977. If you are a plan administrator and forgot to file the annual report, which is known as Form 5500, you'll be receiving a letter from the Labor Department soon encouraging you to file the report as soon as possible. Form 5500 provides information about a plan's financial structure and its ability to meet obligations to participants and beneficiaries.



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ASSUREX INTERNATIONAL

40 die in 737 in British Columbia

Snow blower key to liability in air crash

By ELLIS SIMON

CRANBROOK, B.C.—Whether a snow blower was on the runway blocking the path of an approaching Pacific Western Airlines Boeing 737 jet could determine liability in the crash this month which killed 40 people.

The Canadian disaster was the second commercial airliner crash in the Pacific Northwest in as many days. Seventeen persons were killed the previous day when a Columbia Pacific Airlines Beech-99 turboprop commuter aircraft, bound for Seattle, crashed on takeoff from Richland, Wash.

Light snow was reported to have been falling when the twin-engine Pacific Western airliner

was preparing to land after a flight from Calgary. Snow clearing was taking place on the runway at the time and visibility was said to have been three-fourths of a mile, according to Alan Jay, Transport Canada public affairs officer.

Early wire reports indicated that the aircraft overshot the runway while approaching from the north and crashed into a snow-bank. However, an airlines spokesman later claimed that a piece of snow removal equipment was on the middle of the runway and the pilot was trying to take the plane up to avoid hitting it.

According to Mr. Jay, the Pacific Western pilot was notified

about the snow removal activities eight minutes prior to the scheduled touch down.

The Cranbrook airport did not have a control tower. Rather, airport operations relied on the use of a federally licensed radio operator who reported ground conditions to approaching pilots and the pilot's experience and judgment in deciding whether to land, he said.

Once the pilot chose to land, the radio operator's job was to notify airport maintenance and other vehicles to stay clear of the runway, Mr. Jay continued. "There is no reason to suppose that the operator did anything that he didn't do before," he added.

Mr. Jay noted that even though

notification could have been transmitted to ground personnel, it is conceivable that a vehicle could have ventured into the path of the approaching aircraft. Had this happened, the city of Cranbrook could be held liable for the crash since the vehicle would have been driven by a city employee, he said.

However, no determination has been made yet by Transport Canada, the government regulatory agency and investigating body, and Mr. Jay said it is just as plausible that there was no snow removal equipment in the path of the aircraft.

Findings of Transport Canada investigations are normally reported 90 days after an accident

occurs, Mr. Jay said. However, he said public interest could force a speeding up of the process.

The crash, which was survived by seven persons, was the worst Canadian air disaster since 1970.

Business Insurance learned that Pacific Western's hull and liability coverage was placed with Canadian Aircraft Insurance Group, the O'Ryan group in London and Associated Aviation Underwriters on a vertical split. Associated senior vp Richard Miller said his group had only a small piece of the coverage.

R. A. Pincott of Reed Shaw Stenhouse Ltd.'s Calgary office, the broker who placed the coverage, could not be reached for comment.

Business Insurance was unable to learn where liability coverage for the Cranbrook airport was placed.

No determinations have been made as to the cause of the Columbia Pacific crash at Richland, Wash., which claimed 17 lives.

The airline's hull and liability coverage was placed in the London market with the Malatier Group as the lead underwriter. Johnson & Higgins brokered the policy through its U.S. Commuter Airlines Group.

Sources at the firm's New York office reported the hull value at \$310,000 and the airline's liability limit as \$20 million.

1 million in U.K. work in noise

LONDON—Over 1 million workers in U.K. industry are believed to be exposed to excessive noise and growing numbers of claims for hearing loss are being lodged against their employers, according to a risk management report prepared by the Commercial Union group.

"Working conditions can usually be improved by experienced engineers points out Kenneth J. Duffy, who heads its risk management division. "And the historical fact that some industrial processes remain inherently noisy should never be used to justify the continued acceptance of this hazard."

Industrial deafness became a listed industrial disease in Britain less than three years ago.

Products liability insurance.

When it comes to judgements and subsequent premiums, the cost of products liability insurance continues to skyrocket. And until manufacturer exposure and liability can be reinterpreted and brought back within more reasonable limits, the only sensible defense is a strong offense.

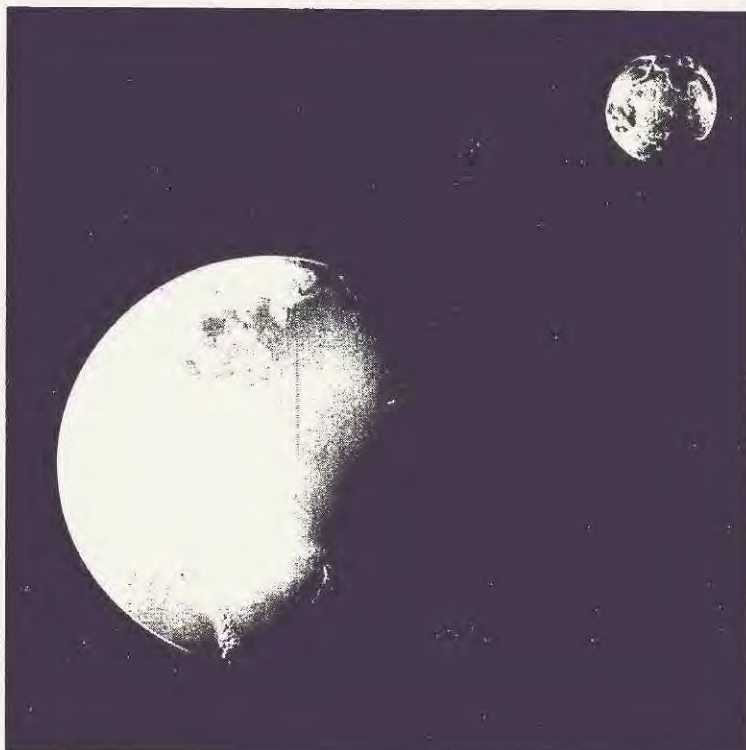
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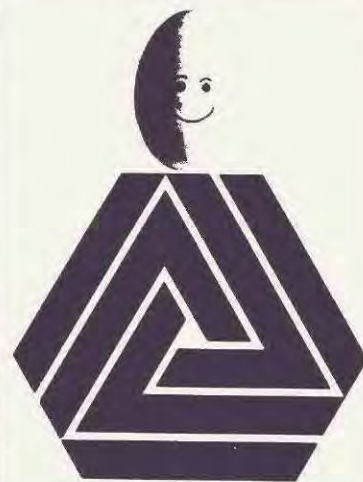
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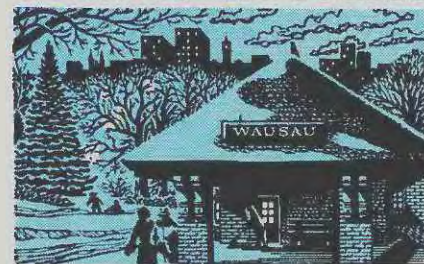
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Employers Insurance of Wausau

Wausau, Wisconsin

\$1 million judgments continue to increase

By JERRY GEISEL

CLEVELAND—Jury awards topping \$1 million continued their upward climb in the last two years with the number of awards increasing from 26 in 1975 to 49 in 1976.

Preliminary figures for 1977 show 29 verdicts over \$1 million, but that figure is expected to rise substantially as more information becomes available, according to Jury Verdict Research Inc., a legal research firm here which compiled the figures.

Between 1962 and 1977 at least 205 million dollar awards were made, according to the Cleveland firm. The tally on a year-by-year basis is:

1962: 1	1970: 7
1963: 2	1971: 11
1964: 1	1972: 22
1965: 3	1973: 18
1966: 1	1974: 23
1967: 4	1975: 26
1967: 5	1976: 49
1969: 3	1977: 29

Information sources for Jury Verdict Research include court clerks, newspaper clippings and attorneys who supply details on cases.

In addition, the million dollar awards figure refers only to jury verdicts. It is possible that the amount of the award was reduced during the appeals process, said Margaret T. Gorman, director of research.

Ms. Gorman took issue with a

recent ad by Aetna Life & Casualty Co. which described a \$1.1 million award for a woman who suffered various psychological problems after being falsely arrested for shoplifting.

"The one verdict Aetna mentioned for false arrest is not typical of the million dollar verdict," Ms. Gorman said. The majority of awards involve quadriplegics, paraplegics and severe brain damage cases, she said.

In a study of 188 million dollar verdicts, Jury Research found that 48 of the cases involved plaintiffs who either were paraplegics or quadriplegics as a result of injuries.

Another 55 cases involved accident victims with severe brain damage, while 32 cases involved the wrongful death of the individual.

In 14 cases, million dollar awards were made as a result of leg and/or arm amputations incurred by the individual.

Identical to Senate plan

House panel OKs pregnancy benefit bill

WASHINGTON—A House panel this month unanimously approved a bill requiring that most employers offer disability and other benefits to pregnant employees. As amended by the panel, the House measure is now identical to legislation passed by the Senate.

The first amendment—offered by employment opportunities subcommittee member Ronald A. Sarasin (R-Conn.)—allows employers to reduce their employee benefit plans one year after the bill's enactment or at the end of a union contract.

The Sarasin amendment re-

places the section of the House bill (H.R. 6075) that would have permanently forbidden employers from ever reducing their employee benefit plans in order to provide pregnancy coverage.

Under another amendment introduced by Rep. Sarasin, employers with sick leave plans will have to provide disability benefits to pregnant employees no later than six months after the bill is enacted.

The bill now will be considered by the Education and Labor Committee. If approved there, it goes to the House floor.

If passed and signed by President Carter, the measure will overturn a December 1976 decision by the Supreme Court that employers are not required to offer disability pay to pregnant employees under the civil rights law.

Under the proposed legislation, employers offering disability plans would be required to include pregnancy in their plans on the same basis as any other sickness. An employer that does not provide a sick leave program, however, would not have to pay just pregnancy disability benefits.

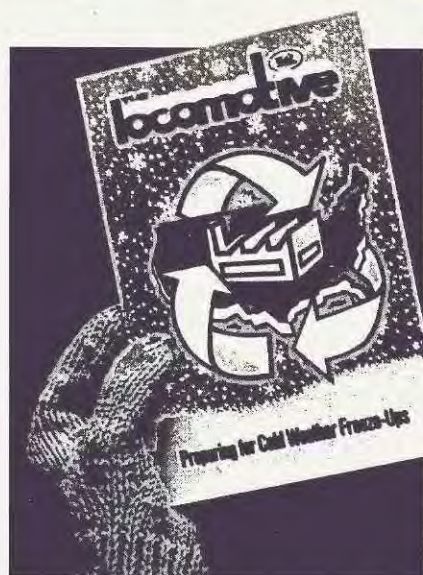
The bill also would prohibit paid sick leave programs that limit benefits for pregnancy to a shorter period than other disabilities. An employer could not, for example, limit disability benefits to six weeks in the case of pregnancy while providing up to 26 weeks for other illnesses.

Furthermore, medical and hospital plans would have to be revamped if they covered pregnancy on a different basis than other sicknesses. An employer, for example, could not limit hospitalization coverage to \$500 for pregnancy-related expenses while paying up to 80% of expenses for other illnesses.

But again, companies without disability or medical plans would not be required to institute those plans under the pregnancy bill.

The National Assn. of Manufacturers, while pleased that the Sarasin amendments were adopted, still will press for an amendment limiting disability benefits to six weeks, said NAM's Annette Fribourg.

This free booklet can help prevent you from having frozen assets this winter.



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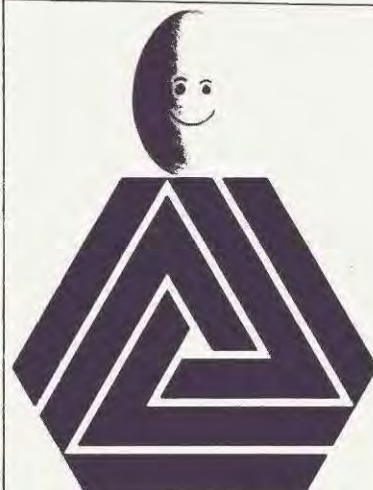
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Bill plans U.S. agency on insurance

WASHINGTON — Establishing a federal insurance commission to provide tougher regulation of the insurance industry is the latest idea to reduce product liability problems.

Rep. John LaFalce (D-N.Y.) is expected to introduce legislation this month calling for the creation of such a commission. As Rep. LaFalce sees it, the commission would be structured along the lines of the Federal Trade Commission and would be given "broad powers." Included would be the authority to request underwriting reports and issue subpoenas.

The commission, for example, could force insurance companies to state product liability information separately on annual reports, something most state insurance commissions have failed to require.

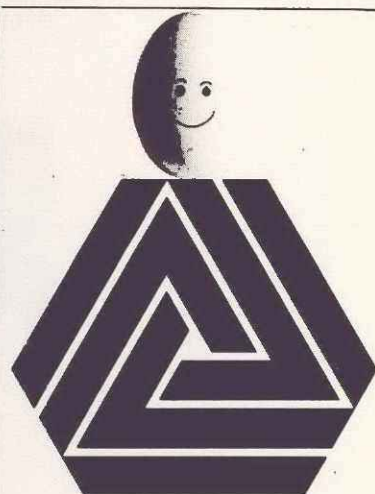
Rep. LaFalce, who is chairman of the House Small Business Committee, also wants to do away with the current hodgepodge of legal theories on which a product liability suit can be based and replace those theories with a single product liability cause of action.

Under the new uniform product liability law, only three causes of action would be allowed: was the duty to warn breached, was the product defectively designed or was the product defective when manufactured.

Rep. LaFalce's proposal would authorize the apportionment of damages among the defendants at fault and allow damages to be reduced to the extent that a plaintiff's negligence contributed to the accident. Insurance companies have complained recently that courts no longer take a plaintiff's negligence into account when awarding damages.

In addition, Rep. LaFalce is proposing a three-year statute of limitations on a suit dating from the time of the injury. The burden of proving fault would rest exclusively with the plaintiff 10 years after a product was first introduced.

States would be given time to pass laws to comply with these federal standards. The federal standards would become mandatory for states that failed to adopt the standards.



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Vermont legislation averts ski liability crisis

MONTPELIER, Vt.—A liability insurance crisis in the ski industry here was averted this month when the state legislature passed a bill that reestablishes the assumption of risk doctrine.

The long standing defense had been nullified in Vermont by a superior court judge last summer in a lawsuit that ended with a \$1.5 million judgment against the Stratton Mountain ski resort (BI, Aug. 22, 1977). One of two ski resort liability insurers in Vermont, American Home Assurance Co., considered canceling all of its policies more than once since the decision because of the new untold exposure. The only other insurer, Lloyd's also expressed concern about the broadened exposure in Vermont.

American Home set a Feb. 1 deadline for legislation to be passed that would reaffirm the assumption of risk doctrine that had stood in Vermont since a 1951 federal court decision.

Though admitting "we would have liked something more specific," American Home vp Dennis Busti said, "the legislation could work. It will take some time to see. We're going to hang in there and see what happens."

That's good news to the Vermont Ski Areas Assn. which fought long and hard for the legislation, battling a plaintiff's attorney who was also chairman of the Senate judiciary committee.

"We were at it weeks and weeks," said David L. Cleary, the legislative lobbyist for the ski industry in Vermont.

The doctrine of assumption of risk holds that anyone who knowingly participates in a hazardous activity, such as skiing, accepts the risks that normally go with the activity.

But Judge Wynne Underwood, in Sunday versus Stratton Mountain, held that the assumption of risk doctrine was no longer a valid defense in Vermont since Vermont adopted comparative negligence in 1970. He reasoned that because assumption of risk is held to be a complete prohibition to recovery for the plaintiff, it could no longer be invoked in a state that recognized the negligence of both the defendant and the plaintiff when making an award, attorney Mr. Cleary said.

But the new law, as part of the comparative negligence statute, says, "Notwithstanding the provisions of Title 12, Section 1036, a person who takes part in any sport accepts as a matter of law the dangers that inhere therein in so far as they are obvious and necessary."

More important, Mr. Cleary said, the law also explicitly includes the intent of the legislature to be a reaffirmation of the principles set forth in Wright

versus Mt. Mansfield in 1951 and Leopold versus Okemo in 1976, federal court cases in favor of ski area defendants on the doctrine of assumption of risk.

Assumption of risk is a valid defense in Vermont, Mr. Cleary said, when the participant knows the risks, appreciates the dangers and freely accepts them.

He lamented, however, that the senate judiciary committee decided to strike a second sentence in a proposed statute that would have specifically listed instances in which a skier has assumed the risk, such as when he is injured due to variations in terrain, surface and subsurface snow and ice, rocks, trees, forest growth and debris, roots, towers, utility poles and plainly marked or visible snow making hydrants.

These situations are specifically referred to in the two federal court decisions reaffirmed by the legislature, Mr. Cleary said.

Because the new legislation states the assumption of risk doctrine is applicable "as a matter of law," it requires the judge to decide if the case should go to the jury. "A jury decides questions of fact, a judge decides questions of law," Mr. Cleary explained. "The judge has the duty to refuse to let the case go to the jury."

Meanwhile, even without the new law, the first ski area liability case to be tried in Vermont since Sunday versus Stratton

Mountain was just won by the defense. The jury sitting in the same city as in the Sunday case, decided that the plaintiff, though only 10 years old when he ran into a snow cat causing severe leg injuries, was recklessly skiing and that Glen Ellen ski area could not be found liable for his

injuries.

The \$1.5 million judgment in the Sunday case is on appeal to the Vermont Supreme Court. The state's highest court has never ruled on the assumption of risk doctrine but it will not be affected by the new law in its deliberations.

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Sasse files lawsuit against its reinsurer

LONDON—F. H. Sasse Syndicate at Lloyd's, recently suspended from writing insurance because of financial difficulties, filed suit here against Instituto De Reaseguros do Brazil (IRB), a reinsurer it says is causing the problem.

Sasse is claiming that the IRB owes it more than \$3 million for losses that were reinsured by the IRB. Frederick Hugh Sasse filed the suit on behalf of the syndicate and the 80 to 100 persons who are investors in Sasse. (BI, Feb. 6.)

Sasse's suit confirms that the syndicate underwrote 1,300 insurance policies on U.S. properties through Florida underwriting agent Den-Har Underwriters Inc. as of March 1, 1976. Den-Har acted on the authority of an agreement between Sasse Syndicate and Brentnall Beard International, the Lloyd's brokers involved as agents for Den-Har. Den-Har's general binding authority was evidenced by a document amended Nov. 1, 1975.

Den-Har underwrote policies providing property coverage up to \$500,000.

When each policy was issued, says the suit, another contract was entered into by Den-Har on behalf of the syndicate with Intra-Global Reinsurance Facilities Inc., also based in the U.S. Intra-Global was acting on behalf of the IRB, as agreed between IRB and reinsurance brokers Austen & Balcon Agencies Ltd. The IRB and Austen & Balcon had signed an agreement to this effect on May 5, 1976, retroactive to March 1, 1976.

IRB allegedly agreed through Intra-Global to reinsure Sasse Syndicate for the first \$100,000 of each claim arising from policies underwritten in Sasse's name by Den-Har.

Sasse also says in its lawsuit that another more recent agree-

ment between Austen & Balcon, acting as agents for the IRB, and Brentnall Beard, acting as agents for Sasse Syndicate, provided that the IRB would reinsure the syndicate for the first \$100,000 of any loss under the policies written by Den-Har in Sasse's name. This later agreement was dated Jan. 20, 1977.

Sasse Syndicate says it has met all valid claims under the policies and wants the IRB to pay its share. The IRB, says Sasse, has only paid \$500,000 worth of losses so far and has refused to make any further payments.

Lawyers for the IRB declined to comment until a report is completed for the IRB by Bob Bishop of the international loss adjusting firm of Graham Miller & Co. ■



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editorial opinions

'Selling' underwriters: A new challenge

THE ONE COMMENT we heard in London more often than any other was that insurers who are willing—indeed eager—to underwrite practically any kind of excess liability insurance are adamant about not wanting to write coverage for U.S. companies over a self-insured retention.

Whether this makes sense or not is besides the point. It is a reality. The reason: Excess insurers maintain it's absolutely necessary to have a primary insurer involved in claims.

They don't deny that the U.S. primary insurers are often accused of being so lackadaisical about administering and settling claims that their losses have frequently been allowed to inflate to unconscionable levels through mere neglect.

They also don't deny that at times a self-insured (or even an insured) corporation can do a competent job of handling its own claims, investigating and settling them quicker than a primary insurer bound up in red tape and bureaucratic inefficiencies would.

■ Why, then, doesn't anybody in London want to pick up losses over a deductible or a self-insured program?

"Call it convenience, if you will," responded a leading company underwriter over lunch near Lloyd's. "It's just easier to have that insurer who's in the U.S. involved. We sleep easier."

If that is the reality of the attitude here toward formalized self-insurance programs that are usually combined with streamlined claims handling procedures, then it's apparent that a buyer who can't find a primary insurer and doesn't have a captive insurance company has a darn big

selling job to do.

In most instances, underwriters in London were willing to concede they'd not close the door completely on the idea of writing excess insurance over a self-insured program, if a risk manager or corporate officer could do a good enough job convincing the underwriter that the company was practicing good claims management and had established clear procedures for responding to claims and losses.

Thus, once again, buyers are being told not to shove the job of communicating details about corporate risks and risk management programs off onto the shoulders of their brokers. Brokers can't be expected to carry with them all the details needed to convince an insurer that a company needing insurance is a good risk, desirable business for the underwriter.

The job of "selling" the risk to underwriters is as much a part of a risk manager's job as keeping track of losses. At the very least, underwriters told *Business Insurance* an insurance buyer should put together a detailed report for underwriters (and brokers) about the company needing insurance, its history, risks, loss history, claims handling procedures and so on. They complained that very few brokers are ever given enough information at the outset with which to approach insurers.

■ We've heard a lot in the last five years about how risk and insurance managers have to communicate better, particularly to their superiors about subordinates within the company. Now a new challenge is clear: Buyers also need to do a much better job of communicating with the underwriters.

Lloyd's Ian Findlay cares about buyers

WHAT DOES IT MEAN to have an insurance broker as the new chairman of Lloyd's?

Ian Findlay, until recently chairman of Sedgwick Forbes, clearly understands the markets having worked in them as a broker since 1936. More important, however, is that he has spent most of his life working with commercial insurance buyers. He understands the needs of risk and insurance managers.

Mr. Findlay is the first broker to head Lloyd's in three decades. His future impact on the institution is difficult to ascertain at this point, since he only assumed office last month and hasn't had much to say about what he'll do differently from his predecessors.

But he's ever vigilant of the buyer's interest, having been steeped in the art of serving the consumer.

He recognizes that open trade is essential for the insurance business and will spend time trying to educate the countries of Europe and the world on the need for legislation allowing businesses to buy their insurance from any insurer they

choose. This effort to combat increasing nationalism abroad may well aid insurance managers in the U.S. and foreign countries.

Mr. Findlay also sees self-regulation by the Committee of Lloyd's as one of the most important duties of that body. Because Lloyd's is growing so fast, "there are dangers in the conduct of our affairs where we must be very watchful," Mr. Findlay has said. There have been a few cases in recent years of brokers being censured by the Committee, for their failure to live up to the Lloyd's standards. Though Mr. Findlay said he didn't want to discuss any specific problems relative to activities of some Lloyd's brokers or financial difficulties for several leading syndicates, he voiced his concern for the ways "risks are brought into the market and handled. Lloyd's is very concerned if anything happens in the conduct of business that endangers policyholders or the reputation of Lloyd's."

We hope the companies operating in London but outside of Lloyd's are equally concerned about protecting the buyer.

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.

Information

To the editor: Your editorial (Jan. 23) on the need for information about insurance did not mention an available service on pensions and life insurance. May I quickly suggest that such a facility exists through the American Council of Life Insurance.

Since 1940 the Institute of Life Insurance served as a central source of information for the public on life insurance. In the last year the Institute was merged into the American Council of Life Insurance now serves as a central public information source under this new name.

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Our activities are supported by 472 life insurance companies who have more than 90% of life insurance in force in the United States. Their assets represent 96% of the assets of all United States life insurance companies.

James R. Williams

Vp, American Council of Life Insurance, Washington, D. C.

Adding TM

To the editor: I read with interest your article on how some companies are assisting employees in dealing with stress. I would appreciate any assistance that you can offer to aid me in contacting organizations that provide assistance in establishing a TM or biofeedback program for employees.

Don Corlett

President, Don Corlett Motors Inc., Louisville, Ky.

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Published by Crain Communications Inc., Chicago, publisher of Advertising Age, Pensions & Investments, Industrial Marketing, KEITH E. CRAIN, secretary-treasurer; M. A. HARTENFELD, executive vice president; D. J. CLEARY JR., senior vice president; ALFRED MALECKI, J. J. GRAHAM, J. V. O'GARA, S. E. COHEN, LOUIS F. DEMARCO, WILLIAM STRONG, ROBERT W. KRAFT, STEPHEN D. GILKENS, vice presidents; JAMES M. FRANKLIN, vp-finance and administration; MERRILEE P. CRAIN, assistant secretary.

Published biweekly at 740 Rush St., Chicago, Ill. 60611 (312-649-5200). Offices at 708 Third Ave., New York, N.Y. 10017 (212-986-5050); Suite 1253 National Press Building, Washington, D.C. 20004 (202-638-5300); 6404 Wilshire Blvd., Los Angeles, Ca. 90048 (213-651-3710). 75 cents a copy, \$15 a year in U.S. Elsewhere \$5 a year additional. WILLIAM STRONG, circulation director. ROGER DIGREGORIO, subscription manager. Four weeks' notice required for change of address. Address all subscription correspondence to subscription manager, Business Insurance, 740 Rush St., Chicago, Ill. 60611. Telex number: 25-4248; Cable address: CRAINCOM. Microfilm copies are available from University Microfilms, 300 Zeeb Rd., Ann Arbor, Mich. 48103. Microfiche copies are available from Bell & Howell, Micro Photo Division, Old Mansfield Rd., Wooster, Ohio 44691.



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London: Two men who make a difference

At Lloyd's,
it's not the
time to relax

By SUSAN ALT

LONDON—Now that major premium rate boosts have flooded the market, liability insurance underwriters can settle back and adjust rates upward by smaller amounts—generally referred to as “inflationary factors.”

But this inflationary factor doesn't mean the premium hikes will be limited to the annual increase in the cost of living. Instead, underwriters are referring to the upward trend in litigation liability awards and losses that they'll have to cover—a more subjective calculation.

To say that liability insurance policies are now being “adequately priced” at last is not to say insurers will let down their guard.

Consider the views of Robin A. G. Jackson, Merrett Dixey Syndicate's chief non-marine underwriter and a major power in the Lloyd's marketplace. “I am far from convinced that we can afford to relax,” he says, on the heels of delivering his summary of successful rate restructuring efforts during 1977.

He looks hopeful and speaks forcefully when he states that underwriters, having forced rates up and toughed underwriting terms, now have to “hold to them.” His assertion sounds more like a rallying call, an enjoiner that he hopes will encourage insurers in the U. S. and London not to get carried away with competition now that things are back on a profitable footing in the casualty insurance business.

“I believe now that we have got many risks up to the point where we can afford to increase rates only by an inflation factor. But I don't believe that we can afford to give 10, 15 or 20% rate cuts,” Mr. Jackson said, indicating that already he's seeing some of this competition returning to the marketplace.

He does, however, admit that

Continued on page 23



Robin Jackson is an affable, accessible and controversial fellow whose name has become a household word to U.S. buyers

Jackson signals many changes

LONDON—If you've a liability risk to insure with Lloyd's, the man whose decision will make or break your effort is Robin Jackson.

Innocent-enough sounding name. In fact, Mr. Jackson is a young, cheerful and gregarious gentleman with a touch of devilishness in his eyes.

He doesn't fit your everyday stereotype of a stuffy British businessman. Nor does he fit your everyday image of the gray-haired, wizened specialist ensconced in an archaic box on the floor of Lloyd's famous Room.

Robin Jackson personifies the new Lloyd's, a changing Establishment, if there is such a thing. In his 40s, Mr. Jackson is an affable, accessible and controversial fellow whose name has become a household word to U.S. brokers, insurers and risk managers who buy large umbrella liability policies in London.

There are other things, too, that set Robin Jackson apart from the run-of-the-mill Lloyd's underwriter. For one, he's an influential director of one of the largest and most powerful syndicates at Lloyd's, the Merrett Dixey Syndicates Ltd. But unlike many people who've achieved such positions of prominence, Robin Jackson hasn't spent 20 years with the same firm working his way up through the ranks. Nor is he the son or nephew of a founder, moving easily in a spot set aside for him by custom.

He joined Merrett Dixey very recently—in

Continued on page 23



Peter Wilson does much of his work at a small headquarters away from the never ending crowd at his underwriting office near Lloyd's.

There's a long wait for Wilson

LONDON—There's a long wait to get in to see Peter Wilson of the Weavers Group. If you can get in at all.

It's not uncommon for Mr. Wilson's secretary to tell a caller that Mr. Wilson won't be available at all and that there's no chance of getting an appointment.

For those who haven't built a long-standing relationship with Peter Wilson, chances aren't good for an audience. It's like trying to get in to see the Pope.

Peter Wilson is, indeed, a busy person. Because he and his underwriting team personally handle an enormous amount of commercial casualty business, picking up a huge number of risks that can't find markets in the U.S., there's always a roomful of brokers waiting for the chance to snare a few minutes with one of the most powerful people in town.

Mornings find Peter Wilson at his out-of-the-way headquarters office doing administrative work in a quiet environment. This office is as unlike his office near Lloyd's as night is to day. Situated in the headquarters building of H. S. Weavers's parent company, London United Investments Ltd., Mr. Wilson is lodged in a conservatively decorated office containing only a few seats for those waiting to see him.

The building itself is in a most unlikely location, halfway up one of London's archaic

Continued on following page

Elsewhere,
any policy
at a price

By SUSAN ALT

LONDON—It's no wonder Peter S. Wilson's name is among the best-known in U.S. brokerage and risk management circles.

The organization he underwrites for—H. S. Weavers (Underwriting) Agencies Ltd.—has picked up millions of dollars of commercial property and casualty business since 1974 when U.S. insurers found they were in trouble and started pulling back on their underwriting.

Peter Wilson's name has become synonymous with the image of the London markets—a place where you can always buy the coverage you need, although you might have to pay an arm and a leg for it.

The lion's share of Peter Wilson's business comes from the U.S., which accounts for his constant trans-Atlantic trips. A 1976 annual report for Weavers's parent company, London United Investments Ltd., noted that nearly 90% of the firm's insurance income attributable to Weavers and a wholly owned insurance company for which Weavers acts as agent, originated overseas, “mostly in U.S. dollars.”

Though Peter Wilson is technically outside Lloyd's, representing a group of eight insurance companies, his name is usually mentioned in the same breath as that of Robin Jackson, an underwriter at Lloyd's with the Merrett Dixey Syndicate. Together, Mr. Wilson and Mr. Jackson are potent forces determining how the commercial property and casualty business is done in this city.

Weavers generates premium income of better than \$100 million a year, says Mr. Wilson, 80% in casualty and 20% in property. While some people at Lloyd's describe Weavers as a “fringe” market, connoting some second-rate organization on the fringes of Lloyd's soaking up business that

Continued on following page

U.S. holds the cards in punitive damage issue

LONDON—The issue of liability coverage for punitive damages is one in which the U.S. insurers have the upper hand.

For all the discussion about whether Lloyd's will cover punitive damages in the insurance policies it sells, the answer seems to be simply that London insurers, including Lloyd's syndicates, will follow whatever policy form is used to insure primary liability risks.

The reason: Lloyd's and the London companies seldom provide primary liability coverage at the lowest level, either from the first dollar of loss or above a small deductible. London usually underwrites liability risks in excess of the primary coverage and the primary insurance is generally purchased in the U.S. from one of the well-known insurance

companies.

Under the concept of “following form” coverage, if the primary policy doesn't specifically exclude punitive damages, then the Lloyd's/London excess policy won't either. But if the primary policy excludes punitive damage losses, Lloyd's and the London companies will follow.

Robin A. G. Jackson, director of Merrett Dixey Syndicates Ltd. and one of the two most important “lead” liability underwriters in this market, talks as if Lloyd's really doesn't have much leverage in this matter, either with insurance buyers or with U.S. insurers.

“This is one instance where what we do literally depends on what the U.S. markets do,” he told *Business Insurance* Phila-

sophically speaking, if the primary policy is silent on the issue of punitive damages—which many policies are—Mr. Jackson says he'll write the exclusion into the Lloyd's excess policy or follow the primary policy by remaining silent on the subject. Mr. Jackson's comments make it clear that he prefers the former situation—putting the exclusion into the Lloyd's excess policy even if the primary insurance policy is silent.

Moreover, he uses his most forceful tone of voice when he says that if Lloyd's is asked to remain silent on the subject of punitive damages—meaning that the policy will cover these losses—then there'll definitely be an extra premium charge for the concession.

What has happened in reality, however, clearly indicates that

this is all negotiable and that his goal is still a moving target. Even Mr. Jackson hasn't fully toted up the score yet on how successful he's been at adding the exclusion or charging additional premiums. He expects to have better statistics by the end of February.

Merrett Dixey has renewed some excess liability policies recently at little or no additional premium and no new exclusion for punitive damage losses, Mr. Jackson admitted. Other renewal policyholders have been charged 5% to 10% additional, a couple have had to pay an added 15% and “the most we've charged anybody is 20% to 25%,” he said.

“If the policy we write is excess of \$1 million, there's a higher charge for the coverage, but if the policy is excess of say \$25

million, the charge will be almost nothing,” said Mr. Jackson.

And Mr. Jackson won't demand the exclusion except on problem risks. He could think of only one example of a firm that was denied the coverage. “We'll provide coverage unless the policy is for a really target risk. For instance, we're holding fast with railroads; we won't let them buy the punitive damages coverage,” he reported.

Yet, the one industry that's always on the tip of everyone's tongue as posing the all-time great problem risk is the pharmaceutical industry. Would a pharmaceutical manufacturer be able to buy coverage for punitive damages?

Underwriter Mr. Jackson says yes, “but only at a substantial premium charge.”

Peter Wilson . . .

Continued from preceding page
nobody at Lloyd's would want, Weavers is anything but puny and doesn't have to take risks cast aside by other underwriters. However, most brokers interviewed here think of Peter Wilson first and would just as soon give Weavers first crack at the underwriting.

The reason, they say, is that Weavers will often take a "large line" (a big percentage of a risk) on a slip.

Mr. Wilson, for his own part, rankles at the suggestion that Weavers is a fringe market viewed somewhat condescendingly by people at Lloyd's. Weavers has been operating as an underwriting agency since January 1963, he points out. "We have greater umbrella (liability) capacity than all the rest of the London markets combined."

International

With that statement he dispels any notion that Weavers doesn't deserve top ranking because of its size.

Consider the kind of capacity that Weavers can—and often does—provide, says Mr. Wilson. Weavers can participate on an umbrella liability policy covering the first \$5 million of loss over a primary policy to a whopping 80%, taking \$4 million of the risk, he said. In addition, Weavers will typically take a \$7 million share in the second layer of the umbrella with limits of \$20 million. And after that, they can take an additional percentage of the layers in excess of \$25 million, providing varying

capacity depending on the risks.

Mr. Wilson won't reveal exactly what capacity Weavers will provide on an ideal risk, creating the impression that Weavers's participation is a matter for negotiation between buyer and supplier and that higher capacity might be provided for a buyer willing to pay the price. On a casualty risk, he admits, Weavers can easily subscribe over \$12 million of a \$30 million placement.

It also appears that Weavers's real capacity is a moving target, judging from the statement in the 1976 annual report of London United Investments Ltd. The statement said the company intended to keep increasing the capital of Walbrook—its insurance company—by amounts "necessary to enable Walbrook to take advantage of further profitable underwriting opportunities as they present themselves in the international insurance market."

Weavers and Walbrook are see-

ing plenty of opportunities. Between late 1974 and now, Weavers's business, like Walbrook's, leaped ahead. Weavers's total accounted premium was up more than 250% in 1977, Mr. Wilson disclosed, mostly because of growth in casualty underwriting.

The agency underwrote 3,600 casualty risks and 3,400 property risks between November 1976 and the same month in 1977, an indication of Weavers's importance. In the casualty area, about 92% of Weavers's premium volume is generated by U.S. risks; about 80% of property business is U.S.

The number of risks Weavers underwrote rose only about 10% during 1977 over 1976, Mr. Wilson said. He doesn't look for the increase in new risks taken to exceed that amount this year. There's even a good chance it'll decline, brokers and underwriters here told *Business Insurance*, attributing the prospect of a dropoff

in new business flowing to London to the recovery of the U.S. insurers.

Weavers's increasing importance in underwriting U.S. commercial risks over the last few years has enabled London United Investments to pile up profits on the operation. In the 1976 annual report, the latest available from the company, Weavers was reported to have shown "exceptional growth," with a 166% jump in pre-tax profits in 1976 to the U.S. equivalent of about \$2.5 million from about \$940,000 the year before.

LUI chairman Sir George Bolton characterized Weavers as "a market leader in a technical and sophisticated area of insurance."

Weavers is one of the few organizations in this market willing to consider writing liability insurance for commercial enterprises down in the working layer of losses, with an attachment point often as low as \$250,000/\$500,000 (bodily injury) and \$250,000 (property damage).

Most other underwriters here want to write only excess coverage over the first \$1 million—or, more commonly, the first \$5 million—of loss.

Most policies underwritten by Weavers, said Mr. Wilson, are excess of \$1 million in loss, but he talks in terms of "flexibility" on this matter and says Weavers has no minimum attachment point established as a matter of policy. ■

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Profile . . .

Continued from preceding page
alleys known as Red Lion Court, running off Fleet Street in the heart of the well-known newspaper publishing center of London. "We like the low rents," Mr. Wilson says of the location away from the City and the insurance center.

By contrast, Peter Wilson's office in Lime Street only a few steps away from the Room at Lloyd's is milling with people all the time. It is lined with chairs, always occupied by a queue of London brokers who usually look as if they've been waiting a good long time to see an underwriter. Their eyelids droop and they lounge in their chairs.

Four visits by *Business Insurance* to the Lime Street underwriting office of Weavers always revealed the same scene: An endless stream of brokers hoping to get the Weavers name on a slip.

Peter Wilson is, needless to say, choosy about those he sees. He might see as few as three brokers in a day or as many as 10. In the case of a day in which he sees only a few brokers, each one might require enough time to discuss numerous risks he's peddling. Other underwriters at Weavers generally see 10 or more brokers in a typical day.

Mr. Wilson handles jumbo risks personally. His other underwriters concentrate on smaller commercial risks, also servicing of the risks they underwrite.

Peter Wilson has been with Weavers for the entire 15 years it has been in business.

And who is Henry Weavers, that his agency should be such a formidable force here? For 15 years, he was Leslie Dew's deputy in the non-marine department of Merrett Dixey Syndicate at Lloyd's.

—Susan Alt

III reelects Simpson

William C. Simpson has been reelected chairman of the Insurance Information Institute. Mr. Simpson is executive vp of the Royal-Globe Insurance Cos.

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Example: Or assume a U.S. manufacturer wanted his domestic general liability policy endorsed worldwide. And assume his salesman was demonstrating the product in a remote factory in the Far East and inadvertently injured an employee. Without having local facilities, it would take several days before a bond could be posted and the salesman be permitted to leave.

Example: Or suppose a U.S. manufacturer was covered by the workmen's compensation laws of his state and sent one of his able

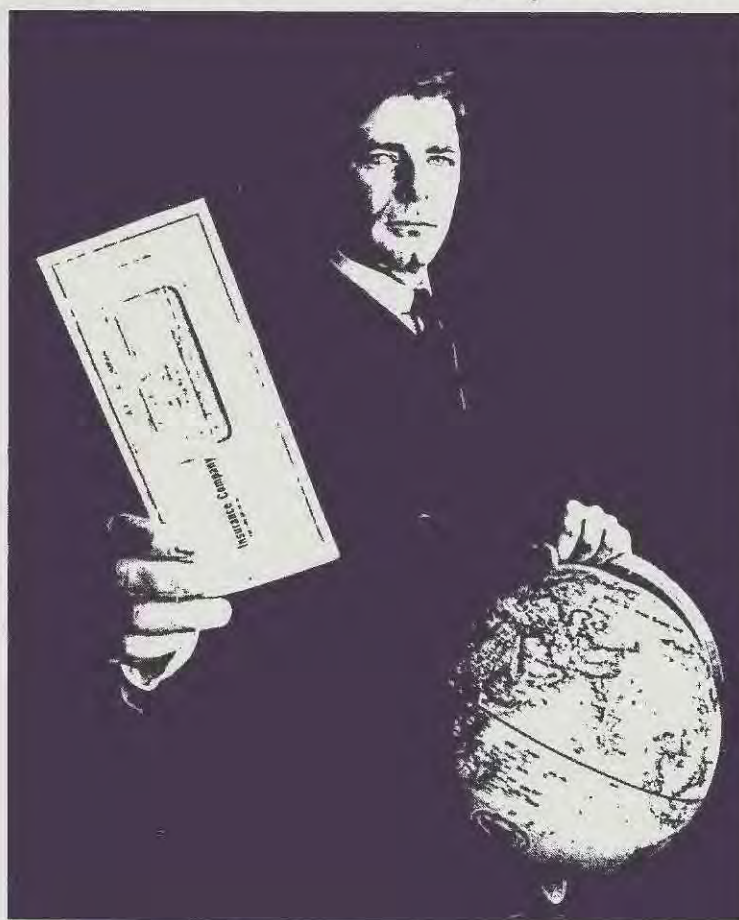
executives to the Middle East. While there a plant accident hospitalized the executive. Who would he turn to for help who knew the language, the doctors, or could provide needed services immediately?

Example: One last example. In South America, a consumer brings a complaint against a U.S. company which has its domestic liability policy endorsed. Obviously it would take some time for the insurer to locate facilities, to investigate the claim, obtain legal counsel and protect the insured. In the meantime, the consumer's attorney, noting the company was foreign and could walk away from the case, could obtain a court order to impound the company's merchandise until the claim was settled.

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Some different approaches to surplus lines.

But not captives

Weavers underwrites for affiliate, 7 others

International

LONDON—In the casualty insurance area, H. S. Weavers Agency underwrites for a group of eight insurance companies, including one—Walbrook Insurance Co. Ltd.—that is wholly owned by the same company that owns the Weavers Agency.

Weavers's underwriting stamps, and the portions of each risk subscribed that are taken by each of the companies represented, look this way:

Casualty:

Walbrook Ins. Co. Ltd.	26.63%
"Winterthur" Swiss Insurance Co.	10.79%

El Paso Ins. Co. Ltd.	7.19%
Mutual Reins. Co. Ltd.	14.39%
Dart Insurance Co. Ltd.	7.19%
Bermuda Fire & Marine Insurance Co. Ltd.	12.23%
Yasuda Fire & Marine Ins. Co. (U.K.) Ltd.	7.19%
St. Katherine Insurance Co. Ltd.	14.39%

Property

Walbrook Ins. Co. Ltd.	29.27%
"Winterthur" Swiss	9.34%
El Paso Ins. Co. Ltd.	7.78%
Bermuda Fire & Marine	13.23%
Dart Insurance Co. Ltd.	7.78%
Mutual Reins. Co. Ltd.	15.57%
St. Katherine Insurance Co. Ltd.	17.03%

Peter S. Wilson, head of Weavers Agency and a director of its parent company, steadfastly maintains that Weavers doesn't represent any captive insurance companies. But El Paso Insurance, Mutual Reinsurance and Dart Insurance were all formed by parent corporations to specifically participate in the London markets.

El Paso Insurance Co. Ltd. is owned by a British company that is a subsidiary of U.S.-based El Paso Co., the holding company for El Paso Natural Gas Co. It was started Jan. 1, 1978.

Mutual Re is owned by Mutual Insurance Co., the group captive begun a number of years ago by the American Newspaper Publishers Assn. to insure the risks of ANPA members. It's been operating since mid-1973.

Dart Insurance Co. Ltd. was started Jan. 1, 1977, by Los Angeles-based Dart Industries.

St. Katherine Insurance Co. Ltd. is owned by a number of corporations, though a major equity interest is held by J. H. Minet & Co.

El Paso and Dart were formed simply because their parent companies wanted to invest in the insurance business, said Mr. Wilson. El Paso Insurance, as a subsidiary of the holding company, isn't related in any way to El Paso Natural Gas Co.'s captive insurer. Dart Industries also has a captive.

Weavers Agency underwrites the umbrella liability policies, acting as lead insurer, for both El Paso Co. and Dart Industries.

In 1976, H. S. Weavers had agency commissions of approximately \$3.1 million on premiums originating overseas (outside the U.K.). Though it's not known what the agency fees are for each insurer represented, Walbrook's annual report for 1976 revealed that it paid agency commissions to Weavers of about \$560,000 that year on written premiums of about \$9.5 million, a fee equal to about 6% of written premiums.

Life insurers cover 2 of 3

WASHINGTON—Two out of 3 Americans were insured in 1977 by legal reserve life insurance companies in the U.S., the American Council of Life Insurance reports.

The average insured family owned an estimated \$37,900 of protection, the Council said, up \$2,500 from a year earlier.

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Prudential
Group Insurance

Robin Jackson . . .

Continued from page 15

premiums will level off somewhat, since "I am getting to believe the product is adequately rated."

Another encouraging development for London insurers is that underwriters "have got most liability contracts on a 12-month basis" now, a change from the old three-year policies, says Mr. Jackson. "This helps us to consistently increase rates each year," so that buyers can continually be exposed to the need for higher premiums and not get socked on renewal with a huge increase only at the end of three years.

He believes this annual rate adjustment also helps the buyer to understand the underwriting process and be more tolerant of regular increases.

"Nothing makes (an insured) company angrier than having its insurance cost \$100,000 one year and go up to \$1 million on renewal" of a multiyear policy, he affirms. "We just are not consistent in our pricing. We underpriced too much for too long."

London markets—Lloyd's syndicates and the stock companies operating here—have been on the winning end of market turbulence in the U. S. Not only has Merrett Dixey Syndicate, for example, reaped the benefit of higher rates adding premium volume, but a lot of new business flowed to London as insurers in the U. S. turned down risks.

"In the last 12 months, 50% of our increased volume is due to new business instead of rate increases," Mr. Jackson reported. "And we obviously could have written a hell of a lot more business if we'd been willing to lower our standards just a little."

He declined to say, however, how much the syndicate's non-marine volume rose last year, though it was "somewhat less"

than the 70% increase in capacity for Merrett Dixey in 1977.

When he talks of lower standards, Mr. Jackson doesn't mean lower rates. Merrett Dixey, he says, could have picked up a lot more business if it had merely lowered its "attachment point" for excess coverage (the primary limit over which Merrett Dixey will write insurance) to \$50,000 or \$100,000 per loss.

The syndicate's normal attachment point is \$1 million, although "quite a few clients—banks, professional indemnity clients and a couple of treaty accounts" are able to get coverage that extends to a lower level.

Another leading liability insurer here—H. S. Weavers Agency, representing a group of insurance companies—will write coverage starting at \$250,000/\$500,000 or \$500,000/\$1 million over a self-insured retention or a primary underlying policy. But Merrett Dixey likes only the higher attachment point and doesn't like to write coverage over self-insurance without an underlying primary policy, says Mr. Jackson. He shies away from picking up the losses over self-insurance for the same reason as insurers—he wants a primary insurer to be in control of claims and defense.

The outlook for casualty insurance underwriting from the buyer's standpoint is better than it's been in several years. But underwriters such as Mr. Jackson don't like the look of things to come. Mr. Jackson is convinced buyers will soon see "soft spots" in the casualty markets as competition returns to a line tight for several years.

"I see softness in the facultative (reinsurance) casualty markets right now, but not in the primary markets yet," said Mr. Jackson, noting that two or three companies writing facultative reinsur-

ance in liability lines are "definitely being very competitive."

Pressed to give an example of this competition, he cited the case of a major reinsurer for a U. S. Fortune 200 corporation writing a large reinsurance line of \$5 million. The reinsurer came in with a premium quote "about 50% below mine and also quite a few percentage points below what several other reinsurers were quoting." The coverage was for general liability including products, with the exposures including both industrial and consumer products. The Fortune 200 company was seeking excess liability coverage of about \$50 million.

Mr. Jackson thinks the river of new insurance business flowing to London for the last two years will taper off in 1978. He's not sure how much new business he'll write for Merrett Dixey this year, but says only that "we are available to write new business, if we think the rates are right. I suspect we'll write less new business this year than last."

On the other hand, increased capacity at Lloyd's and in Merrett Dixey will help fill the demand for higher limits which risk managers haven't always been able to achieve.

"A lot of risk managers would like to have bought another \$25 million worth and broader coverage, so that business will be coming in," says Mr. Jackson.

The underwriter has seen liability limits of \$125 million put together in recent weeks for corporate buyers without much trouble in the London markets. "If people can't get what they want, it's probably because they and their brokers are holding out for too cheap prices," he maintains.

Of course, he adds, there are "certain classes" of business that are always going to have problems getting the limits they want. "Take drug manufacturers," he said. "They can get \$50 million to \$60 million, but not the \$200 million they want. And railroads can get \$40 million or \$50 million over a \$5 million SIR (self-insured retention), but they all say they want more."

Merrett Dixey's non-marine

business is about 65% liability and 35% property insurance. Mr. Jackson isn't pleased with the intensifying competition in the property insurance business.

"We believe property is inadequately rated right now," he contended. "We have huge exposures in the U&O (use and occupancy) and business interruption areas, so we are in a low profile position on this line." Merrett Dixey's property insurance premium volume increased 37% last year, most of which was generated by infla-

tionary increases in property values.

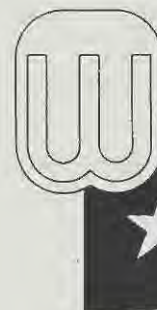
Compounding property insurance competition, which has been spurred by good profits, is the need of every underwriter in the U. S. and London for property and liability portfolios balanced.

Several London underwriters noted that a number of U. S. insurers are aggressively bidding for property business, particularly Northbrook Insurance Co., a division of Allstate Insurance Co. ■

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Taking the Risk out of Business

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Lloyd's underwriter . . .

Continued from page 15

1976—as a director in charge of non-marine (property and liability) underwriting after being with a number of other firms in the insurance business, both in the U.S. and abroad. He has a background in underwriting and administration with Union-America Insurance Co. in London and General Reinsurance in New York that gives him a broad-based understanding of the insurance marketplace and the buyer's needs.

The name Robin Jackson's made for himself at Merrett Dixey is evidence that he is no lover of low profiles. If he chooses to be straight forward and outspoken, then Merrett Dixey is probably the place to be. The syndicate is no stranger to publicity, having been the home for so long of Leslie R. Dew, who criticized and championed various causes in these very pages in his position as a senior official of the syndicate and deputy chairman of Lloyd's.

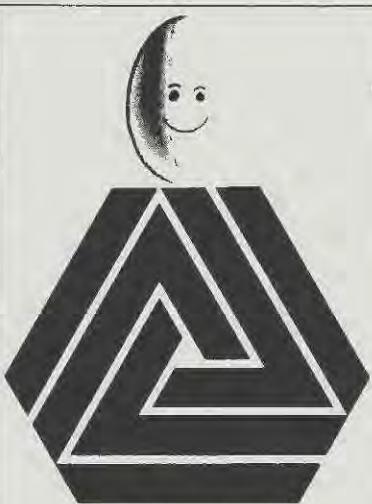
Moreover, Merrett Dixey's officials have routinely visited the U.S. in recent years, attending meetings such as the annual RIMS conference and becoming familiar faces.

If the fragmented London markets, made up of hundreds of in-

dependent individualists, have any pacesetters or policymakers, Robin Jackson is one. And Peter Wilson of H. S. Weavers (Underwriting Agencies) Ltd. is another.

Together, this duo seems to have life or death power over liability insurance. They decide what to write and what not to write, what rates to set and what limits to provide.

—Susan Alt



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Findlay sees problems with influx at Lloyd's

LONDON—Lloyd's of London is benefiting from tight insurance markets in the U.S. and higher rates on casualty insurance.

The flow of new business to Lloyd's over the past two years has been substantial. And higher rates have meant the prospect of healthy profits.

All of which has served to entice new investors to seek membership in Lloyd's; there are waiting lists of names wanting to join syndicates at the venerable institution.

It's even possible the long-touted "capacity crunch" won't take place in the world's insurance industry, using the Lloyd's growth as an indicator of the amount of new money coming to



IAN FINDLAY: "I can't help but think that a lot of new people are coming into the insurance business not fully realizing that this is a very difficult business in which to make money."

the insurance field. Insurance, once considered an unattractive investment, is now viewed as a lucrative proposition, despite the risk that if you're a member of Lloyd's you could lose everything.

Ian Findlay, the new chairman of Lloyd's, is pleased about the 3,800 new "names" approved for membership in Lloyd's.

There are also plenty of new syndicates that have started at Lloyd's effective Jan. 1, even in some difficult lines of insurance. Nineteen new syndicates were formed to write non-marine business at Lloyd's (property and liability insurance). There are 10 new syndicates in marine insurance and five in aviation. Only three new syndicates were formed in motor insurance.

Mr. Findlay sees some potential problems with this influx of new investment in Lloyd's. He fears that perhaps some people don't have their eyes wide open to the chances of loss as well as the prospects for gain.

"I can't help but think that a lot of new people are coming into the insurance business not fully recognizing that this is a very difficult business in which to make money," he said.

Eight or 10 years ago in the same kind of market cycle, the Committee of Lloyd's intervened to restrict the number of new names flooding Lloyd's. The possibility that would need to be done now because too many people are applying for Lloyd's membership "has been discussed recently," acknowledged Mr. Findlay. "But the feeling is that we wouldn't want to have to intervene in this area" to establish any kind of rationing system for new memberships in Lloyd's.

"The Committee's attitude is that the best way to regulate this is through the underwriting agents, since every new name has to find an agent and a syndicate (to join) before being admitted to Lloyd's," he explained.

Insurance yearbook

Details of more than 600 insurance companies throughout the world are given in the 1978 World Insurance Yearbook which is published in London by the Financial Times group. It gives a five-year analysis of the leading companies' performances, together with material on corporate structure, assets and management, as well as inter-company connections and overseas subsidiaries. The book also lists economic, social and risks statistics on 70 countries.

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Once leading primary liability syndicate

Heath struggles to regain stability

LONDON—Until two years ago, C. E. Heath & Co. (Underwriting) Ltd. was one of the major forces in the Lloyd's liability market.

But Heath found itself overextended, taking heavy losses and forcing it to retreat from its once-prominent position as a leader on many of the biggest liability programs placed in London.

Heath is a very large Lloyd's syndicate with about 800 names. Like many U.S. insurers, C. E. Heath got caught in the medical malpractice squeeze, triggering financial problems for the syndicate and resulting in a major housecleaning. Beyond malpractice, Heath had continuing problems overall with its professional indemnity business.

David J. Barham, managing director and chief underwriter for the Heath syndicate, said Heath is far from being completely out of the entire casualty field. "You can't just drop a business that you've been in for nearly 60 years," he commented. But he did say that Heath reduced its entire casualty portfolio very substantially.

This accounts for the difficulty that now exists in finding an underwriter at Lloyd's to write primary liability policies, since this was the field Heath once dominated.

He attributed Heath's problems to "more types of casualty business going wrong at one time than we wanted to see. Our premium income was growing while our capacity wasn't growing." At the same time, losses were escalating to the point where Heath had to draw the line, so that it would be able to meet its Lloyd's audit with an adequate ratio of capital to premiums.

"Medical malpractice was the line that decided for us that enough was enough," he said. "We stopped writing all new U.S. medical malpractice business." Back in 1974 and 1975, malpractice business represented several million dollars a year in premiums for Heath.

Now, "we're completely out of the (malpractice) market," said Mr. Barham. He didn't say whether Heath would someday get back into malpractice insurance as the business improves.

Heath has also pulled back on

its other professional indemnity underwriting, which represented "a considerable percentage of our overall casualty portfolio," according to Mr. Barham. "But results were deteriorating and clients were getting so worried about their potential liabilities that they kept asking for higher and higher limits. We found our premium volume increasing faster than we felt comfortable with."

Accountants indemnity was the "particular bug-bear" for Heath, Mr. Barham said. This line appeared to Heath to present the biggest single problem in the entire liability field. In the 1975-76 housecleaning, Heath unloaded "the majority" of this business.

"We are still in it to a very,

International

very small extent," but only to provide continuity on the runoff business, he added.

Although Heath no longer takes a lead position on general liability business, "we would consider writing a conservative line, participating in each risk individually" depending on the rates, said Mr. Barham.

Heath actually had overwritten its account, exceeding the premium limits determined by the amount of capital invested. Mr. Barham said this violation of the rules occurred on North Ameri-

can commercial liability business.

More than a year of conservatism has put Heath back on track. Mr. Barham says the syndicate is "in sight of having the account back in balance."

In the process of retrenching, Heath cut its liability premium volume in half. "We are now reaching the stage where we can show our principals that we've done a good enough job in restructuring our syndicate, that we're once again a good syndicate to join, and can justify our present names continuing with us," he argued.

Mr. Barham admits that it cost the Heath investors—the "names"—a lot of money last year in losses, but he wouldn't say how

much.

He also acknowledged that Heath had made a practice of reinsuring far too much of its account in order to enable the syndicate to underwrite more premium volume. Though he wouldn't say what percentage of its risks Heath had been reinsuring outside Lloyd's, he said "it was proving to be an embarrassment."

But, he added, Heath has mended its ways.

Heath wants to remain active in underwriting North American casualty business and also wants to retain its Lloyd's influence in handling U.S. risks. But Mr. Barham is wary of certain kinds of liability risks. The oil industry scares him and "the big-name companies scare us. As far as the big names are concerned, the deep pocket theory is at work."

What risks look good? Certainly the medium size corporations are "more attractive" now than they've ever been, he observed. ■

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The squeeze on the insurance market is already too tight. Let's not make it even worse.

Today's insurance industry is hard-pressed to keep pace with growing demands in many insurance lines. Often it cannot.

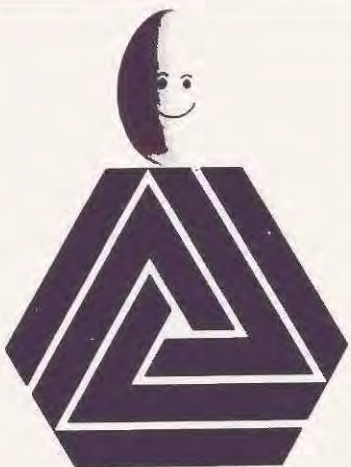
The industry simply does not have enough capital to insure the myriad risks presented to it.

Needless to say, first preference often goes to predictable risks (e.g., fire, theft) and lowest priority to those classes of risks whose premiums are least calculable.

But that is precisely the area where the insurance buyer needs most protection, those hazards of greatest uncertainty.

Consider product liability and directors' and officers' liability.

These two categories of risk dramatize the insurance capacity shortage of traditional



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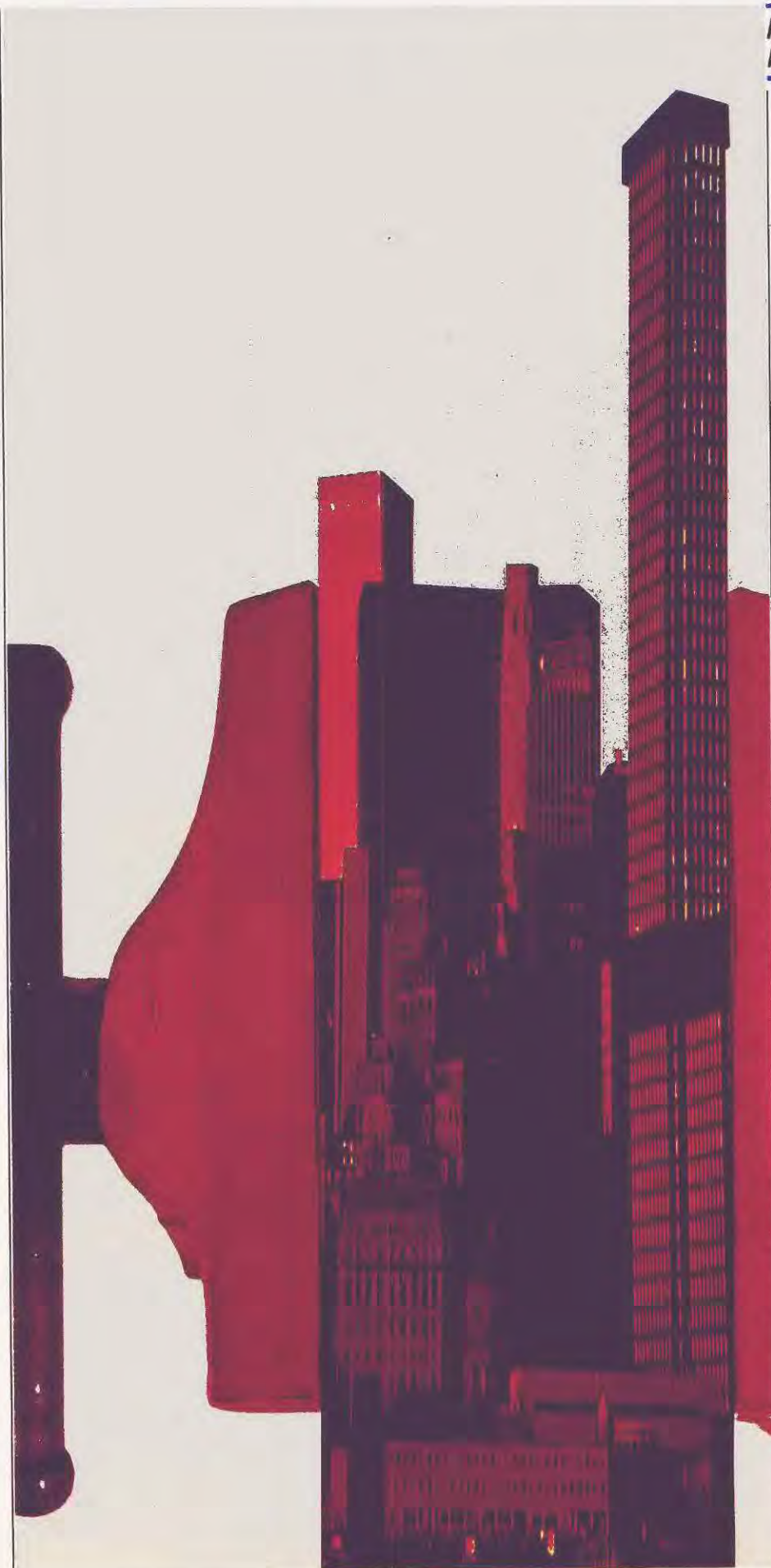
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SEE OUR AD ON PAGE 3



Aviation rates lag and the underwriters worry

By SUSAN ALT

LONDON—Not even the nearly \$100 million lost on the twin jet disaster at Tenerife during 1977 is buoying premium rates in the hotly competitive aviation hull and liability insurance markets.

Like the marine insurance field worldwide, there are more aviation underwriters with more capital than anyone needs. The underwriters are furiously battling for aviation insurance business, forcing a continuation of what some insurers call dangerously low premium charges for huge airplanes constituting enormous individual risks.

Interviews with several leading aviation underwriters here made it clear that buyers won't have any trouble throughout 1978 and

into 1979 finding all the aviation coverage they need at competitive prices, unless some disaster befalls the insurance or aviation business.

London's aviation insurers have watched hopefully for a signal that they would be able to reverse two years of declining aviation insurance rates, but so far they haven't seen any turning point. "Even Tenerife didn't do it," laments John M. T. Hewitt, underwriter for the Ariel Syndicate and until recently head of the Lloyd's association of aviation underwriters.

The year just ended was anything but good from a loss standpoint, underwriters agreed. "Our gross underwriting for airlines and aviation products account will probably produce a loss" for

International

1977 when the books are closed, Mr. Hewitt added.

What will happen if some really large losses occur this year or in 1979 is anybody's guess.

"The money just isn't there in the form of premiums to cover the losses" if they occur, Mr. Hewitt contends. In that event, "the market could shrink significantly. This is because many of those I think of as 'non-professionals' are in the markets right now," underwriting presumably for cash flow because aviation business has been profitable in recent years.

Mr. Hewitt believes these relative newcomers to the aviation insurance business would be quick

to pull out if they're hit with any substantial losses.

John C. F. Peters, group aviation manager and underwriter for Phoenix Assurance Group's aviation department here, sees the same kind of competitive situation existing but isn't as convinced as Mr. Hewitt that it will continue and that competition may intensify.

Even though the number of annual jet losses (about 20 per year) did not change significantly in 1977, the average loss is rising along with the number of partial losses, he pointed out. Moreover, more widebodied jets were lost last year.

Taken together, these factors "had the effect of bringing about some modest increase in premium rates for hull and liability cover-

age late last year and early in 1978," he contended. In some cases, these losses forced rates to stabilize, while on other accounts Mr. Peters said rates are up as much as 20%.

But overall, the business "is still very, very competitive," he admits.

He noted that the average hull loss for an aircraft has risen to about \$8 million, based on 19 total losses for 1977 totaling \$150 million (hull values only).

This is up significantly from 1976 when the average loss was about \$5.5 million for a similar number of aircraft lost, he said.

Contributing to the continuing competition among aviation insurers for the big airlines' business are the scrappy Continental European markets and a number of new syndicates at Lloyd's which have recently started doing business.

underwriting markets. In both cases, because of the potential for big claims and the unpredictability of the frequency of occurrence, underwriters have been obliged to assign very high rates for the coverage offered and for the limits of liability they are willing to accept.

Risk managers have found that one answer to this problem can be the adoption of self-insurance

efficient worldwide reinsurance markets for added protection for the risks they choose to underwrite.

- traditional underwriters now have capital freed to cover more risks for more companies, particularly the smaller companies for whom captives are not a realistic solution.

The dilemma of Revenue Ruling 77-316.

Now, however, the Internal Revenue Service has ruled that certain captive companies are, by definition, not insurance subsidiaries of the parent company but, rather, merely repositories for self-insurance funds, and should hereafter be treated accordingly for tax purposes.

This decision appears to compound the inequitable situation, i.e., the non-deductibility of self-insurance funding, that prevailed before the advent of captives. As the ruling stands, a captive may lose the equitable treatment that helps make it a viable risk management vehicle, thus forcing a firm back into the already compressed insurance market.

In other words, precisely when the market needs expansion, it may be squeezed even more. By seeking to solve one problem, the IRS may have unwittingly helped to create a larger one.

We have no axe to grind.

Marsh & McLennan works in the conventional insurance market. We also organize and manage captives. Our interest is based solely on the principle that has guided all our actions for 107 years: selecting the best risk management alternative from the widest possible choices for the benefit of our clients.

With this in mind, we view Revenue Ruling 77-316 as a step

backward. The fact that the IRS has authority to interpret existing Federal law itself highlights the need for a legislative reform.

Beyond that, we have helped to draft a bill which, potentially, could allow the IRS to discharge its responsibilities, without bias to businesses whose risk management needs are better served by their owning or operating a captive insurer.

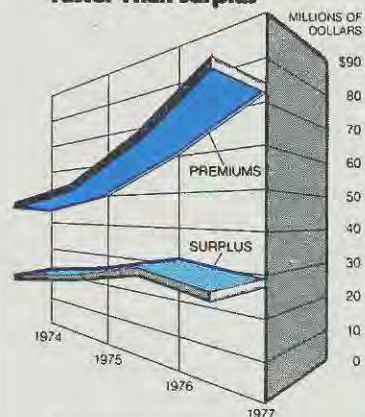
Meanwhile, it is imperative for the entire business community to be made aware of the possible consequences if this ruling should prevail.

If you would like additional information on this subject and a copy of "our bill," write to Dept. 500 B1, Marsh & McLennan, Incorporated, 1221 Avenue of the Americas, New York, N.Y. 10020.

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The Problem: Premiums Increasing Faster Than Surplus



Source: Best's Aggregates & Averages, 1974-77

plans. However, tax provisions have generally prevented a company from taking a tax deduction for monies set aside to pay for future losses—even though premiums paid to insurance companies to cover identical losses are deductible.

To remedy this inequity, many firms have gone a step further and established insurance subsidiaries or so-called "captive" insurance companies which can help to satisfy many diverse needs:

- the insured company receives coverages from the captive insurer that might otherwise be unavailable.
- captive insurance companies can gain direct access to the

Marsh & McLennan

"There are a number of new syndicates at Lloyd's starting in 1978 and an indication of a considerable increase in capitalization of the syndicates and companies already in the business—a marked increase in surplus," acknowledged Mr. Hewitt, noting that this may pave the way for "much more aviation insurance competition."

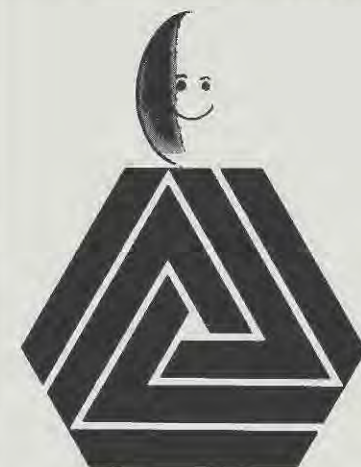
He said five new syndicates at Lloyd's in the aviation business have started up in 1978, plus two or three other established aviation syndicates at Lloyd's "that have doubled their capital in 1978" with new names and bigger investments.

On the Continent, the Mallatiet Group based in Paris is shaking things up by forcing aviation rates to fall precipitously. Mallatiet is participating in worldwide business by taking a portion of U.S. trunk carrier risks and a share of foreign airline risks.

Coupled with the competitive U.S. aviation insurance market, London/Lloyd's has one big headache.

"On one major American trunk airline that's just been renewed, we retained part of their business, but at rates about 10% lower than we wanted to participate with," cited Mr. Hewitt. This rate cutting caused six major underwriters in Lloyd's and the London markets to "pull out entirely," saying they would not meet the lower rates. Still other underwriters participating on the account "reduced their participation greatly," according to Mr. Hewitt. On this

Continued on following page



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SEE OUR AD ON PAGE 3

Aviation rates . . .

Continued from preceding page
account, the European groups took 20% of the risk.

Last year was characterized by John Peters of Phoenix Assurance as "one of the worst years for passenger losses that we've ever had," with just over 1,000 people killed in jets compared with 627 in 1976 and only 400 in 1975. The previous worst period, he noted, was 1974 when 1,229 were killed in jets (180 in a single crash and 337 in the Paris crash of a Turkish Airlines DC10).

Partial hull losses, while not as

New A&A office

Alexander & Alexander has opened a new consulting actuarial office in St. Louis. The office will be headed by Peter A. Bleyler and David Que Wells Jr.

International

dramatic as crashes, present a growing loss problem for insurers. "In the case of one or two airlines, these partial losses will use up a whole year's premiums," said Mr. Peters. A typical partial loss could result from engine damage due to ingestion of birds.

Aviation product liability insurance rates haven't gone the way of product liability rates for other goods. "Rates and premiums have kept pretty steady for some years now," said Mr. Hewitt of Ariel. "We expect that manufacturers of aircraft and equipment will be automatically named" in legal actions arising out of jet crashes, but losses haven't been that substantial yet.

Tenerife settlements surprising

The collision of two jumbo jets at Tenerife last year produced between \$62 million and \$63 million in hull losses for Pan Am's and KLM's insurers, but the disaster is also producing some surprising settlements of liability cases.

The final amount that will have to be paid to settle all liability claims from the Tenerife disaster in which 578 persons were killed remains "anybody's guess," says John M.T. Hewitt, a leading Lloyd's aviation insurance underwriter for the Ariel Syndicate. But both he and John C.F. Peters, aviation underwriter for Phoenix Assurance Group, think early estimates of \$200 million in losses were too high.

What's surprising about the Tenerife case is that nearly half of all the passenger liability claims have already been settled, a record num-

ber of settlements in such a short time. (The crash occurred March 27, 1977).

"To settle that many claims in this period of time is jolly good indeed," smiles Mr. Peters hopefully.

The settled claims are about equally split between KLM and Pan Am. London aviation experts wouldn't reveal the aggregate amount paid to date to settle these claims, or the average amount paid per claim.

Somewhat worrisome, however, about the Tenerife case is the "handful of legal actions" that Mr. Hewitt said have been filed against Boeing, the manufacturer of both 747s involved in the crash.

These suits focus on the crash worthiness of the planes and their ability to protect passengers from being killed.

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Liability area has turned, says Nelson

LONDON—One person who believes the turning point has already come for liability insurance availability and price is Ted E. Nelson, underwriter at Lloyd's for K. F. Alder (Underwriting Agency) Ltd., a syndicate known for its participation in U.S. casualty insurance programs and casualty reinsurance.

Mr. Nelson stressed that this view reflects his personal convictions and that he wasn't speaking for the syndicate. But either way, Mr. Nelson thinks the worst is over. He noted that Lloyd's underwriters are once again getting into medical malpractice insurance, a reversal of the tendency over the last two years to shy away from this line.

Mr. Nelson sees growing problems, however, in workers compensation and auto insurance where loss trends are unpredictable.

"We think the American (casualty) market is at a turning point," Mr. Nelson said, referring to the business Lloyd's writes in the U.S. either direct or by reinsuring U.S. insurers. "The casualty markets will soon become more competitive. At the moment we have more business than we can write, but that position is going to change."

The commercial property business is already substantially more competitive than it was 12 months ago, Mr. Nelson asserted. "The catastrophe reinsurance business is also substantially more competitive because of the relative absence of catastrophic losses in the category over the last eight years."

What's worse, he added, is that "competition is preventing us from increasing the values of deductibles as time goes by."

Liability rates, he said, "will continue to rise, but not by the amount they have been increasing."

Problems are sure to continue in the auto insurance markets, primarily for personal lines coverage but also for commercial auto insurance, said Mr. Nelson.

He characterized the product liability insurance situation as a crisis and said there is "a danger that the insurance industry will not be able to recover its losses" in this line.

But, he said, "we predict that legislation reducing manufacturers' exposure to loss will gain more support this year."

agent/broker topics

Profit sharing study lifts insurers' fog

By BARBARA JEAN GRAY

MANHATTAN, Kan.—Two insurance agents here will soon be going to press with the fourth edition in less than a year of an unassuming 24-page book that is rapidly rising on their colleagues' best seller list.

Agents Charles Hostetler and Dan Messelt spell out the basic components of agency contingency contracts with insurance companies and discuss what makes some provisions more advantageous for agents than others. But what's really selling "Major Criteria in Profit Sharing Agreements" is a ranking of 57 insurance company profit sharing contracts according to the net underwriting profit that would be returned in a hypothetical situation.

Some companies—especially highly ranked insurance companies and other agents—applaud the agents for heightening awareness of individual contract differences. But others—including lower ranked insurers and other agents—pooh-pooh the effort as comparing apples to oranges, a charge the agents dismiss.

Mr. Hostetler's fervor for the project is fueled by what he believes is "subterfuge" practiced by insurance companies when explaining the contracts. He exhorts agents to scrutinize not only the contracts but all the statistical information that supports the calculations.

The agents solicited their peers rather than the companies for the contracts. They believe that step was rewarded when they found insurance companies issuing more than one agreement.

In their booklet, the Celina Mutual Insurance Co. ranks first with 27.3% of net underwriting profit returned to the agency. According to the book's example, which assumes a \$23,000 underwriting profit for three years, that figure is \$6,282.

The other top nine companies are Maryland Casualty Insurance Co. (American General), Cincinnati Insurance Co., Westchester Fire and International Insurance Cos. (Crum & Forster), Cimarron



Hostetler's top 10 agreements

1. Economy Fire & Casualty Co.
2. The Celina Mutual Insurance Co.
3. Maryland Casualty Insurance Co. (American General)
4. Cincinnati Insurance Co.
5. Westchester Insurance Co.
6. Cimarron Insurance Co.
7. Hanover Insurance Co.
8. The Central Cos.
9. CNA
10. Great American Insurance Co.

Insurance Co., Hanover Insurance Co., The Central Cos., CNA, Great American Insurance Co. and Continental Insurance Co. of New York.

At the bottom end of the scale, The Home Insurance Co. ranks last with 7.2% net underwriting profit or \$1,645.

Since the October publication, the agents have also ranked the Economy Fire & Casualty Co. which now tops their list with

a 27.4% or \$6,290 profit. Also to be included in the next publication is Allstate Insurance Co. (25.2% or \$5,308) which the authors omitted in earlier editions because they felt Allstate's materially lower commission rates made comparisons inaccurate.

The average profits returned by the 57 insurers is 14.4% or \$3,318. This is equal to an extra 3% commission. The median is 13% or

\$2,993.

The agents arrived at these figures by assuming that the agency had \$100,000 of earned premiums. Subtracted were incurred losses of 40% or \$40,000, commissions of 17% or \$17,000 and expenses of 20% or \$20,000. This \$77,000 resulted in a net underwriting profit of \$23,000. The agents assumed the same profitability for three consecutive years plus an annual growth of 11% in written pre-

miums.

Fifty-fifth rated Hawkeye Security Insurance Co. estimates it would rank about average if other aspects of its agreement, such as its use of written premium rather than earned premium and its exclusion of claim expenses, were taken into account. Fourth-ranking Crum & Forster says it would not rate as high if a new revision in its contract were taken into account. Another highly ranked insurer contended it could reverse the rankings by merely substituting another set of hypothetical numbers.

The agents eagerly assert that they will gladly correct any factual inaccuracies, if the companies will just provide the correct information. Such a correction was in fact the reason for the revision of the first issue of the booklet last May. The Travelers objected that the ranking of 45 companies (in which they placed 41st) omitted an important addendum to their contract. The authors took note of the change and a revised Travelers contract as presented in the June edition of the booklet moving The Travelers to 30th place. The Travelers rank 40th in the October version.

Not all companies feel the way the Travelers did. The Home Insurance Co., for example, claims that the booklet's presentation of

Continued on page 30G

Good agreements count more than poor ones

CHICAGO—A poor profit sharing agreement is not enough reason to cancel an agency contract, said the vast majority of agents in a recent *Business Insurance* mail survey. But an attractive contingency is appealing enough to make an agency contract desirable, more than half the agents believe.

One respondent claimed that while a profit sharing agreement was not important enough to cause his firm to drop an existing insurance company contract or desire one of a different company, "it does affect our thinking in the placement of large accounts."

A regional mail survey of 34 agents and brokers with an average gross revenue of \$1,053,731 revealed an average contingency profit of \$52,054 or 4.9% of the agency's total income.

Nearly two-thirds of the respondents said that the amount of profits their agencies earned in the recent year had changed, and for 85% of them the change was upward.

Three-fourths of the respondents said they had compared the profit sharing agreements among different companies and 85% had questioned companies about the contracts.

One Arizona agent wrote that he would prefer a commission based on loss ratio to profit sharing. As an example, he suggested if the loss ratio were under 50% and the commission were 20%, the commission could be reduced as loss ratios worsen.

Comments volunteered by agents and brokers on the questionnaire expressed general skepticism about the financial benefits of profit sharing agreements in general.

One, in response to a question whether he had ever compared profit sharing agreements from different companies, answered "I tried but it is a Chinese puzzle. They make it damn near impossible

Continued on page 30H

Technical skills, national account experience

Key producers ride growing demand

CHICAGO—Account executives with technical skills and exposure to national accounts are at a premium, a survey of placement counselors across the country reveals.

And the most diligent shoppers are the national "alphabet" brokerage houses.

Although brokers always need pure salesmen, headhunters concur, the employee now being sought is more of an inside man and an individual who can speak the language of the Fortune 500 companies.

Overall brokerage growth, the increasingly complex services brokers are being requested to perform and the tight insurance markets which require more technical expertise at the brokerage level are behind the demand.

Harold Belson, president of Belson Hemingway & Associates Inc. here, estimates the demand is up 50% for this type of job candidate compared to two years ago.

A rough composite of what a major broker might term the most eligible candidate would be an individual between 28 and 35, who is a college graduate with three-and-a-half or four-and-a-half years experience with a large insurance company and three or four years with a brokerage firm, Mr. Belson gauges.

"If there's any consensus at all, it's that most account executives in this area ask in the mid \$20s and most employers will pay that and more to get national accounts people," he says.

Generally, the larger the bro-

kerage house, the greater the amount of time the new employee will spend in-house. Mr. Belson estimates that the account executive most in demand now will service existing accounts 50% of the time on the new job, develop new accounts on the road 25% of the time and spend the remaining time servicing those new accounts. If placed at one of the large alphabet houses, the new employee may spend as much as 70% to 80% of his time inside.

Though brokers usually prefer candidates with other brokerage experience, "the large brokers will look at a commercial underwriter from an insurance company," notes Frank Marsh, president of the Frank Marsh Agency in Southfield, Mich. "The larger the agency, the more technical back-

ground they want. The new people will handle the Fords, the GMs, the Chryslers. The brokers want the people who can talk to them."

Echoes Insurance Recruiters Inc. president Howard A. Hafner, "There's a lot of activity now from brokers and large agencies and the demand seems to be for people with national accounts exposure—anything in the Fortune 500 range or slightly smaller."

Typical is a recent placement, says the Dallas personnel executive. A man placed with a major broker in Ohio "had 15 years experience with The Travelers but had an extensive background with national accounts. He was hired to service an existing book of busi-

Continued on page 30B

Inside:

Profits

Major commercial insurance brokers plan to plow 1977's bumper profits into expanded services for clients, more money for employees and acquisitions for future growth.

Page 30D

Follow-up

What did the insurance buyer think of your producer on his most recent call? There's a firm that will help you find out. Page 30 E.

Computers

More and more insurance agencies can profit from computer systems, explains a Booz, Allen consultant.

Page 30F.

How some account executives moved

Indicative of some of the hefty salary increases brokers are willing to pay for experienced personnel are the following recent placements cited by industry employment counselors:

- A 33-year-old employee with 11 years experience first at a national stock insurance company, then a local New Orleans company and a local New Orleans commercial insurance agency generating about \$3.5 million in premiums and earning \$18,000 went to an alphabet house in New Orleans for \$24,000, a 33% salary increase.
- An employee with eight years experience at an insurance company in the large accounts servicing department earning \$22,000 went to a national brokerage firm in a different state for

\$26,000 an 18% salary increase.

- An employee with six years experience at an insurance company in Chicago in the national accounts servicing department earning \$18,500 went to a brokerage firm in Chicago for \$22,500, a 22% salary increase.
- An employee who had passed six actuarial exams and had two-and-a-half years experience in actuarial work at an insurance company in Minnesota earning \$15,600 and desiring to move to New York City for better career opportunities went to a national brokerage firm in New York City for \$19,500, a 25% salary increase.
- An employee with 16 years experience, first as an insurance company underwriter then as an insurance company branch manager earning \$26,500 went to a national brokerage firm for \$30,000, a 13% salary increase.

Job mobility . . .

Continued from preceding page
ness. Brokers are interested in finding a strong technician as a producer. They are just as short in technicians as in producers."

Although most of the placement executives interviewed say the large national houses are most aggressively shopping for personnel, at least one, Jeff Roberts of the Dallas-based Insurance Manpower International, theorizes that this might be due to the fact that the larger brokers are financially better equipped to use a placement service.

Apparently, even among those who always have been able to pay the fees (which can range between 15% and 25% of the first year's gross salary of the successful candidate), the hunt is intensifying. Mr. Marsh notes that three international brokers are

among his top 10 customers this year. Last year, there were none on his list since "insurance companies will outstrip the brokers in personnel requirements."

For some placement counselors, they still do. Insurance Manpower's Mr. Roberts labels insurance company underwriters as the "bread and butter" of his firm's business, but bemoans their scarcity. "We can't get enough people with three to five years' experience in staff or line underwriting," he says. "We now have 10 company openings for every person seeking a position."

The lure of the brokerage houses over insurance companies is understandable, say the headhunters. "A brokerage has a lot of advantages over a company," enumerates Mr. Roberts: "Pay, diversity of job and immediate fringe benefits."

In terms of dollars only, the differences are obvious. "A person can go from a company to a brokerage firm and find a salary increase between 30% and 50%," Mr. Roberts points out. "If an individual with the same experience goes from an insurance company to another insurance company, he may get a 15% to 25% increase in salary."

The importance of the Chartered Property and Casualty Underwriters (CPCU) designation on a job resume varies, according to placement counselors. It enters into the matchmaking process, believes Mr. Belson, "but it's nebulous. An employer would rather see someone with another year at a brokerage than the CPCU designation."

On-the-job experience is foremost, claims Richard Gay, president of Atlanta-based Insurance Personnel Resources. "Most national houses want eight to 10 years experience, either with a direct writer or with another broker, and experience working with major corporations. Experience is most important, CPCU is a plus."

The strongest endorsement for the educational designation came from Mr. Marsh. "CPCU is very much a factor, just as a college education is a real factor," he says. "We have companies who specify CPCU designation for their candidates and brokers feel somewhat the same. It depends on the individual. If the person with the opening has a CPCU, he will want a candidate with one too. If he doesn't have a CPCU, he may not want someone with that education."

Although the number of job candidates throwing their hats into the placement ring does not come close to the number of brokers hunting, there are always some. But they aren't always motivated solely by better pay.

The owner of Insurance Careers Inc., Diane Bonanno in Ft. Lauderdale, Fla., said she recently placed an account executive at a national brokerage firm with 13 years experience with a large local broker in the same city. He received the same salary plus the opportunity to acquire an interest in the agency.

One changing factor in the relocation aspect of placement is the increasingly vocal opinions of spouses, offers Mr. Marsh. Some employers still don't realize the importance of the spouse's opinion on this, but that's changing.

Dave Paden at Jacobson Associates in Chicago suggests that job candidates today might even be more hesitant to relocate because of a spouse's job. "To give that up, the candidate would have to have another 15% to 20% increase," he says.

—bjg ■



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letters

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Lloyd's ties

To the editor: Re: Nov. 14 issue article entitled "Goals Vary, But Brokers Cement Lloyd's Ties."

Your article concerning the relationship between U.S. and London brokers downplayed Reed Shaw Stenhouse's position in the U.S. and London. We are indeed unique among the national brokers in that there are several London brokers which are wholly owned members of the Reed Shaw Osler group of companies. These include Wright Deen Co., Sir William Garthwaite Ltd. and StenRe Ltd., each one operating in different spheres within the London market. In addition, of course, the Stenhouse part of the group operates some 40 retail brokerage offices throughout the U.K. and Ireland.

Furthermore, our growth in the U.S. over the last two years certainly places us well within the top 10 publicly held U.S. brokers without regard to our non-U.S. business. Don't you think the time has come for you to recognize Reed Shaw's presence in the U.S.?

Peter S. Godfrey

Senior vp, Reed Shaw Stenhouse of Mass. Inc., Boston

Thank you for adding StenRe Ltd. to our story information, which had only included the other two firms. We hadn't previously known that Reed Shaw's U.S. business alone would qualify it for a place on our chart of the biggest U.S.-based brokers.

... in the U.S.

To the editor: I have read with considerable interest your article entitled "Goals Vary, But Brokers Cement Lloyd's Ties" (Nov. 14). While it is both absorbing and enlightening, I feel obliged to point out that you seem to have overlooked one

section of this topic, that being the number of Lloyd's brokers who have set up their own offices in the United States, such as ourselves.

With this, which must be regarded as the ultimate in "links with London," we specialize in offering direct and rapid access to the London markets, often even surpassing the service of the domestic excess line companies.

I am sure your own research can give you many similar companies and, while the larger houses take care of their own kind, we provide a life line for the many smaller brokers who still wish to place business in London.

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Excess/surplus broker listing

A special excess/surplus lines broker directory is being planned for the Sept. 4 Agent/Broker section of *Business Insurance*. We're interested in listing the names and specialties of as many excess/surplus lines brokers as we can. The format will be similar to that of our annual Agent/Broker Profiles directory.

We already have the names of many excess/surplus lines brokers, but we want to make sure we have as many as possible. Will you please send us the names and addresses of the excess/surplus lines brokers you use so we can send them a questionnaire? Mail them to Barbara Jean Gray, *Business Insurance*, 740 Rush St., Chicago, Ill. 60611, or phone 312-649-5274.

Acquisitions, expanded services also planned

Brokers put profits to payroll, dividends

CHICAGO—Major commercial insurance brokers plan to plow 1977's bumper profits into expanded services for clients, more money for their employees and acquisitions for future growth.

More money for employees is planned by Ter Bush & Powell in Schenectady, N. Y., and Morse, Payson & Noyes in Maine. Acquisitions are prime targets at Stone & Michaud in New Hampshire, Penn General and Ter Bush & Powell. Higher dividends for stockholders were mentioned by E. H. Crump Cos., R. B. Jones Corp. and Fred S. James.

"We would be very anxious to plow money into client services like Anistics, where a very large amount of research and develop-

ment is required," said A&A president John Bogardus, "or the extension of those services like Alexis for self-insurance."

Alexander & Alexander is also hiring "outstanding professionals," Mr. Bogardus said. Richard M. Page, former president of Emmet & Chandler Inc. in Los Angeles, has just joined A&A as a vp. His first assignment is reinsurance.

Alexander & Alexander increased net income 59.9% and earnings per share 57.6%, an impressive performance with revenues increasing only 29.1%.

Like A&A, Ter Bush & Powell Inc. identified personnel as a prime beneficiary of a profitable 1977. President Richard O'Rourke noted that profits equalling 16%

of the firm's ownership had been contributed to the firm's employee stock ownership plan, bringing total employee ownership to 66%. Of the firm's 187 employees, 160 participate in the ESOP or every one who has more than one year's tenure with the firm.

The Schenectady, N. Y., brokerage firm is also negotiating to acquire three other brokers, Mr. O'Rourke said.

Morse, Payson & Noyes put a major part of last year's profits into its profit sharing plan which covers 90% of its nearly 60 employees, according to vp James J. Kilbride.

While Mr. Kilbride described 1977 as "good" in terms of profits

but "difficult" in terms of marketing, another broker added that the tight market situation had worked to his firm's advantage.

David M. Stone, vp of Stone & Michaud Inc. in Manchester, N.H., noted that his acquisition-minded agency had noticed a definite increase in the availability of agencies for acquisition.

Not only has the number of available agencies increased, Mr. Stone said, but the type of seller has changed. "Before, it was only when people died or retired," he said. "Today's it's younger men who don't have the availability of markets."

Stone & Michaud acquired three firms in 1977 when profits were up 20% and will probably be in-

terested in three more in 1978, the vp said.

Other acquisition-minded brokers in 1978 include Penn General Agencies which will be seeking to make selective acquisitions for the first time in three years, according to treasurer Gerry Ginsberg. For the nine months ended last September, the Pennsylvania Life parent company reported a 30% increase in net income. After having suffered a loss in 1975, the brokerage firm is now eyeing expansion.

"Selective acquisitions" was also the term used by Fred S. James Inc.'s senior vp of finance and administration John C. Crane, to describe its 1978 acquisition philosophy. James, which acquired four brokers in 1977, scored a 50% increase in net income for the past year and a 47% increase in earnings per share. The publicly held Chicago broker also increased its dividend twice during the year.

E. H. Crump Cos. also paid a 10% higher dividend for 1977 and to a 10% larger number of shareholders than in the previous year, reported financial vp James Power. "Had insurance operations been on their own, we would have had a 70 cents per share for the year," he said.

The Memphis broker, however, is still paying off debts incurred in its real estate operations in 1975 and 1976.

Other dividend hikers include R. B. Jones Corp. which increased its dividend 67% in 1977, the first increase in more than two years. Net income for the fiscal year ending Oct. 31 was up 70% and earnings per share 60%.

"I think 1978 will be a more moderate growth year, excluding external growth, for reasons of competitiveness, inflation and softening of the markets. I don't think 1978 will be as barn-burning as the last two years," president John Tucker said.

That sentiment was echoed by other major brokers, although at least one small brokerage predicted the opposite. The Chicago-based O'Brien Insurance Agency foresees 1978 as their best of the last four.

"Last year was a good year for the large houses but not for the smaller brokers," observed vp Tom Walsh. "Tight markets favor the large brokers. They have the ability to stick it to the insurance companies."

"In bad times business gets forced up the ladder. Nobody can shop so the big houses don't lose accounts to one another. Large brokers run counter to the cycle," he continued.

"When the market loosens up, we (the smaller agents) are still sharp shooting and keeping our records. The big guys can't possibly keep all the business. The easy-to-place stuff, we steal back. Our fortunes tend to lag behind insurance companies six months to one year."

New facilities made possible by healthy profits of last year were described by other brokers.

A new fourth office was set up a few months ago by Palmer & Cay Inc. of Savannah, Ga.

"We have hired two new men, are looking for additional clerical help, are increasing salaries and have generally higher overhead. And we still don't have a man for our new Statesboro office so it won't contribute to profits for four years," added vp Dick Haycock.

A new excess/surplus lines operation will be started up in Los Angeles no later than July by Emmet & Chandler of Los Angeles, according to president Larry Lawrence. The brokerage firm is also considering opening up an Orange County branch office. —bjg ■

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Follow-up service can support your agent's calls

CHICAGO—What did the insurance buyer think of your producer when he made his most recent call?

If you'd really like to know, there's a firm that'll check it out for you.

But not every company wants candid feedback—either positive or negative, observes Harold M. Levie of the Client Follow-Up Co.

Some employers have dropped his direct mail research service simply because they didn't want to hear any criticism, says Mr. Levie, who considers criticism as the best constructive feedback a firm can hope to generate.

One realtor, for example, recently phoned the company to say she and her salespeople didn't appreciate the contrary remarks offered by some customers and she was dropping the service. She said if her salespeople continued to hear negative comments, they would all leave her company within a year.

What employers like these don't realize, Mr. Levie points out, is that the firm won't be around next year to worry about employee morale if customers continue to be dissatisfied.

Client Follow-Up is a direct mail research company conducting client-designed research projects, sales follow-up mail campaigns and client feedback surveys for a number of businesses, including insurance agents and brokers.

Last summer, the company established a division called Customer Relations Systems Inc. to conduct market research. Customer Relations Systems will design a research questionnaire on any topic designated by a client, secure a mailing list of potential or present customers, mail the surveys and organize the responses.

The survey is sent out under the name of the National Statistical Research Co., a subsidiary of Client Follow-Up, so the name of the client company initiating the survey is not known to the firms being questioned.

A sample commercial insurance survey mailed out recently queried a cross-section of businesses on how often they evaluated their insurance programs, which business insurance areas of the firm needed improvement, whether the firm used more than one insurance agent, whether the firm was satisfied with its insurance supplier and whether the supplier kept the firm abreast of current insurance trends.

Businesses purchasing this direct mail research service so far have included widely differing firms, including one major commercial insurance broker, James S. Kemper & Co. A spokesman there said the service was too new to evaluate.

Costs for such a survey are \$1 per name, based on a 2,000 name mailing. Rates drop to 85 cents per name for each name over 5,000.

"We can provide our client with a means of following up on lead possibilities with a sales letter of their own. We can start putting lead prospects into the hands of our client in the first month. Then the client will receive continued survey feedback on a weekly basis," says Mr. Levie.

He contrasts the low cost of his follow up service with the \$85 it costs the average firm to send a salesman out on a cold call.

Customer Relations Systems is an outgrowth of the firm's original direct mail program, the Client Follow-Up program. The Client Follow-Up program is a four-part direct mail campaign tailored to each of the industries

that use it. The program for insurance agents and brokers is a one-year program and has been used primarily by life agents.

"The follow-up program does not apply as well to commercial brokers as to life agencies because the commercial broker wants to be in contact once a month or more," says Client Follow-Up's national sales manager Gary M. Kukla. Commercial insurance demands more servicing because of the larger premiums involved and the nature of the broker's servicing on day-to-day developments such as loss prevention.

The four mailings sent out on behalf of an insurance agent who purchases the client Follow-Up program include a thank-you card within a month following the sale, a fact-finding survey (not identified with the agency) one month

later, a greeting four months later and a greeting six months later.

The fact-finding survey queries the customer about whether he's satisfied with service he received on the sale and the reasons for his opinion. The questionnaire is coded so that the customer responding isn't able to identify the survey with the agency doing the research. But the agency receiving the information can identify the customer with the salesperson who made the sale.

Overall, Mr. Levie estimates that the response to this kind of survey is about 55%. Most respondents check "poor" or "excellent" when answering the question about how the customer was treated. The third choice—"good"—is rarely checked.

Soliciting customer reaction and

digesting the material aimed at guiding company direction is "something all businesses are supposed to do on their own, but they just don't."

Cost of the Client Follow-Up program includes a \$75 start-up charge for the computer programming and a \$3.40 cost per customer name submitted per year.

For an insurance agency to get the full value of the service, the salespeople must be sure to submit the names of all new customers.

Client Follow-Up was founded 10 years ago by Mr. Levie's brother, Sherman, who is now chairman of the board. It began by offering the Client Follow-Up service to real estate companies which still constitute the bulk (80%) of the firm's \$1 million-plus sales.

—bjg ■

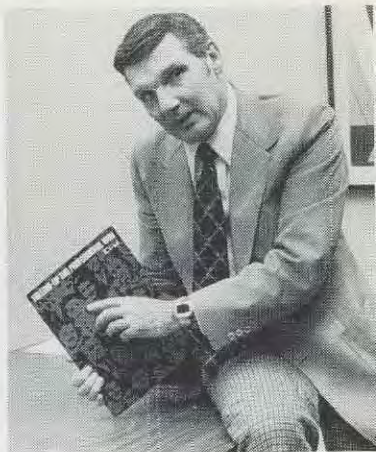


Photo: Barbara Jean Gray

HAROLD LEVIE: Soliciting reaction is "something all businesses are supposed to do on their own, but they just don't."

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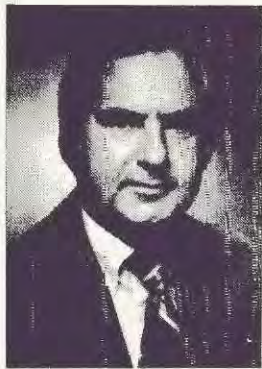
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How your agency can benefit from computers

This is the first of a series of contributed articles that will appear in Agent/Broker Topics on issues affecting commercial agents and brokers.

By Robert G. Spengler
Booz, Allen & Hamilton Inc.
New York

OPPORTUNITIES TO SUPPORT independent agency operations with cost-effective automated systems are increasing rapidly. Brokerage firms are expanding at a significant pace through internal growth, mergers and consolidations. Mergers have introduced different or unique processing requirements such as account current or item payable, premium finance and credit card operations. As agencies become larger and more dispersed, they can better afford the improved systems that are essential to meeting increasingly complex financial and management reporting requirements. In all probability,



Robert G. Spengler is Managing Associate with the international management consulting firm, Booz, Allen & Hamilton Inc. Based in New York, Mr. Spengler specializes in the development of business and data processing strategies for clients in the insurance industry.

the costs of these systems will continue to decline as technology produces cheaper and more flexible computer hardware.

Yet growth in the number of independent agencies with integrated automated systems has been slow. Furthermore, tales of false starts, huge cost overruns

and unrealized objectives are quite common. According to current estimates, however, over 60% of all independent agencies (approximately 50,000) make some use of a computer system. Typically, agencies use the batch method of processing provided by a local or national service bureau. Under this mode of operation, the agency periodically sends invoice, receivable and payment data to the service bureau, where accounting and sales files are updated and reports are generated at month's end. This method has met the demand for control, accuracy and reliability of the accounting function. In most cases, the service bureau approach has also been cost effective since processing charges are usually related directly to transaction volumes—you pay only for the portion of the system you use.

Batch processing has two major drawbacks—untimeliness and inflexibility. Timeliness is impeded by the monthly processing cycle, as well as by the necessity of physically transporting documents to a remote processing site and then waiting to receive your reports back. Flexibility in meeting unique agency requirements is usually lacking because a service bureau supporting a number of agencies must use a single, generalized system to minimize costs and operating complexities.

The answer for many larger agencies in their quest for better, more integrated systems would appear to be an on-line approach met by either an in-house or time-sharing installation. Recent surveys indicate that independent agencies with premium volume between \$750,000 and \$1 million can justify such an installation. This cut-off point includes over 10%, or roughly 5,500 of all independent agencies.

A number of vendors currently are marketing on-line agency systems in three forms: in-house minicomputers, time-sharing on a central minicomputer and time-sharing on a large, central computer.

A major advantage of the in-house minicomputer approach over the time-sharing approach is greater local control. In addition, with a minicomputer, an independent agency will not need communications lines and will therefore avoid exposure to down-time through communications lines outages. In a multi-agency operation, though, communications lines would be required to transmit accounting and production data to a central site for consolidation.

Typically, on-line systems have at least the following capabilities: expiration processing, invoicing, accounts receivable, accounts payable, commission processing, general accounting and reporting and management and production reporting.

Other capabilities which could be added quite easily by either the vendor or the agency include: cash management, claims processing, direct bill monitoring, direct mail marketing, forecasting and modeling, letter writing and rating underwriting.

These on-line systems operate with video display (CRT) terminals as data entry devices, disk storage units to house data files and printers to produce hard copy output. The input operator is "prompted" through each input by control programs and input data is edited and validated immediately. As a result, minimal operator training is required and input errors, a common problem in batch processing, are

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almost non-existent.

Because data files are updated immediately, current data is always available through video screen displays and/or hardcopy output. No longer do you have to wait until month-end processing is completed.

As an added advantage, most packaged agency systems include a "report generator" program which allows users to design and produce customized reports without a computer programming background.

Among the substantial benefits to be gained from adopting an on-line approach to agency systems are:

- **Lower costs**—The cost of a complete minicomputer system (hardware and software) now starts in the \$30,000 to \$50,000 range. An agency with \$1 million in premium volume should be able to acquire a complete system for \$50,000 or less. After investment tax credit, the agency's average EDP costs would be slightly more than \$530 per month based on a seven-year amortization period. In most cases, potential personnel reductions will more than offset the EDP cost.

- **Improved personnel productivity**—Elimination of current manual processes, immediate availability of current and historical customer information and "prompted" input operator procedures will improve productivity.

- **Improved service levels**—Immediate access to accurate customer records should enhance responsiveness.

- **Improved management control**—Daily processing and on-line access to key financial and production data will provide management with timely control tools.

- **Improved cash flow**—Daily, on-line operations can trigger collection procedures as soon as an account is past due.

- **Expanded capacity**—Most available systems are modular and increments of additional capacity (terminals and storage units) can be added at relatively low cost.

The guidelines for your implementation of the on-line approach are:

- Form an in-house steering committee which consists of all major user representatives.

- Identify processing requirements by function, timing and location.

- Prepare a request for proposal (RFP) for no more than three to five bidders.

- Evaluate proposals on the basis of the vendors' ability to meet functional specifications, demonstration of significant industry experience, depth of response to all sections of the RFP and proposed costs.

- Develop a practical implementation plan which involves users each step of the way.

- Identify all requirements which require modifications of the vendor's package system before you start installation. This is particularly important for multiple office operations. Even though you have different processing requirements among your offices, the differences should be built into a single system; otherwise, maintenance of several unique systems will get out of hand.

Profit sharing . . .

Continued from page 30A

its contract is in error but doesn't "see any point" in supplying additional information to correct it, according to senior vp Robert B. Clune.

Not too surprisingly, several of the high-rankers were thrilled with the effort. Hanover Insurance Co.'s Kansas City branch office bought 200 copies of the June version (in which they ranked fourth, dropping to sixth in the October version) and sent 150 of them to their home office for national distribution. CNA bought 50 copies of the June version (in which it ranked fifth, although it dropped to eighth in the October edition) for distribution to its branch and production managers in the Midwest and its regional Pacer panel members.

Celina went one step farther

and gave the authors credit for being instrumental in improving their already top-ranked contract.

The Hartford doesn't quarrel with its 16th place ranking but claims it's only accurate assuming the agent has had three consecutive good years. Using a good year/bad year/good year experience, the Hartford calculates it would rank first.

Although the booklet is co-authored by the Charlson-Wilson Agency vp Charles Hostetler and agency partner Dan Messelt, it's Mr. Hostetler who's been the more visible of the two. Mr. Hostetler's been addressing agents' groups in the last year and telling them he thinks he can help them make \$1,000 more in contingency commissions with a few hours of analytical work.

He speaks from experience.

The lawyer, insurance professor and insurance agent in this town of 32,000 became interested in the subject three years ago, he says, when he noted discrepancies among some of his companies' profit sharing agreements.

Aetna Life & Casualty, for example, that year bracketed its percentage payout, Mr. Hostetler noted. If an agency qualified for a net underwriting profit between 15% and 17.4%, it received a 15% profit. The Charlson-Wilson Agency's Aetna business in 1975 earned a 17.2% profit and felt it should receive at least a 17% net underwriting profit. Mr. Hostetler put the question to the Aetna and won a rounding off to the nearest percent, a victory that meant thousands of dollars.

Agent Hostetler approached Aetna in April 1975, he recalls, and by October the company had changed its agreements nationally. Aetna however denies that Mr.

Hostetler was responsible for the changes. "Our changes were done prior to Charlie's pamphlet," says agency development director Bill Steeves.

Aetna ranks 32nd in the most recent booklet.

That year, fiscal 1975, the agent was able to collect \$2,500 to \$3,000 more than if he hadn't spoken up. In the profit year 1976, because of more bartering, Mr. Hostetler's acumen meant an additional \$8,500 to \$9,000 in income.

Totally, the agency generates \$320,000 in gross revenues, 65% in commercial lines.

The forerunner of "Major Criteria in Profit Sharing Agreements" was a typewritten ranking of 18 insurance companies' agreements handed out to the Independent Insurance Agents of Texas one year ago.

Then Mr. Hostetler spoke on profit sharing at a series of the Independent Insurance Agents of

Continued on following page

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Green . . .

Continued from preceding page

Janson Green's non-marine casualty business is actually "quite small" in relation to the syndicate's total business, generating possibly 3% to 4% of total premiums, said Mr. Green. The number of risks for which he underwrites non-marine casualty insurance hasn't changed much in recent years "although the premiums have grown," he acknowledged.

He doesn't look for his non-marine business to mushroom this year, either. "Because of increased U.S. competition, we'll probably not get more of this business," he said.

The bickering over who should write what business may be mitigated by a new competitive environment surfacing right now.

"We are losing (casualty) business right now to some large U.S.

insurance companies. We are being underquoted by as much as 10 percentage points or so," Mr. Green admitted, mentioning Allstate's Northbrook Insurance Co. as one of the bidders for commercial casualty business. "We can no longer quote any price we like, because competition is that much greater."

There are probably about eight or 10 marine syndicates now writing significant books of non-marine casualty business. The Janson Green and Cameron Webb Syndicates are thought to be the largest.

Peter Green's response to attacks by non-marine people who'd like him out of the way is direct: "We have in the last two years picked up quite a bit of new non-marine business, because the stuff was just going begging. And if we see business at the right price going begging, we'll take it."

'Fierce to suicidal' competition for oil business alarms Green

LONDON—Competition for oil drilling and oil rig insurance business "ranges from fierce to suicidal," says Peter J. F. Green of the Janson Green Syndicate at Lloyd's.

His characterization of the underwriting environment in petroleum-related insurance markets is also indicative of competition in the entire marine insurance field.

But a discussion of the oil drilling business causes a deep furrow to cross the brow of the methodical and seemingly unflappable Mr. Green. He worries that his syndicate has recently lost several major accounts and is getting only reduced orders on other accounts because of heavy competition from U.S. companies and pools on this

marine insurance business.

He also worries about the implication of this competition while the risks, already huge, are still growing. What happens, he asks, when the capacity is needed to cover a \$1 billion drilling platform in the North Atlantic off the U.S. East Coast? Will underwriters be able, and willing, to meet the demand for insurance then?

His example isn't farfetched. There's a rig to be completed next summer, Mr. Green points out, that is worth almost \$1 billion and is due to drill off the East Coast.

Marine shipping losses in the first nine months of 1977 looked hopeful, as the figures on total losses—both number of vessels

lost and tonnage—ran low, he said. But in the last three months of the year, losses were "running true to form." Mr. Green believes marine losses for the full year "won't prove too different from the previous two years when losses were very high."

One loss that didn't help was the collision in a South African harbor of two Bethlehem Steel tankers topping off the year with a whopping estimated loss of about \$28 million.

Despite the competition in the oil rig insurance field, premiums are probably still rising because of the increasing values of the rigs, particularly the inflationary costs in value of the fixed platforms, says Mr. Green.

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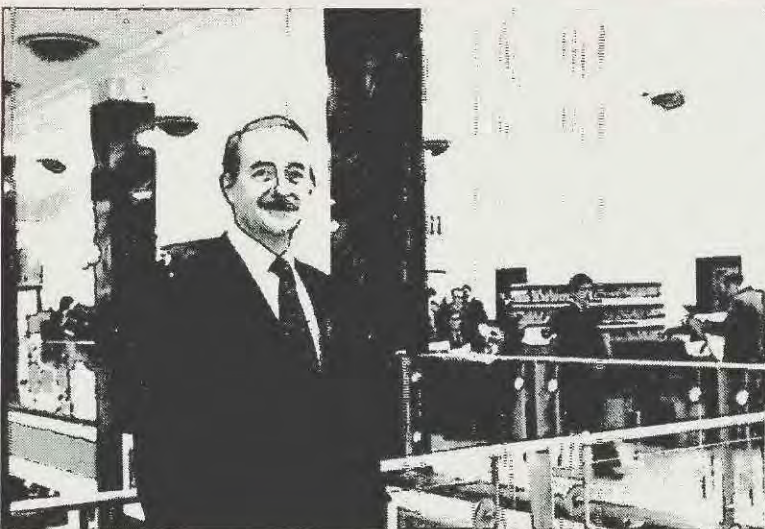


Photo: Susan Alt

The improved economic situation has been the main boost to bank bond underwriters, says John W. Twitchett, one of the most influential underwriters of blanket bonds at Lloyd's. The director of Merrett Underwriting Management Ltd. is posed on the gallery at the famous underwriting room at Lloyd's.

Blanket bond restrictions lower claims, but rates remain firm

LONDON — Restrictions — or clarifications as Lloyd's underwriters prefer to call them—in bankers blanket bond coverage during 1976 apparently have lowered the incidence for losses for bond insurers.

Losses under blanket bonds are "encouraging," said John W. Twitchett, a director of Merrett Underwriting Management Ltd. and a key bond underwriter at Lloyd's. The number of losses reported for 1977 was lower than in previous years.

"There are not as many claims being reported over the last two years as there were three years ago," he told *Business Insurance* during an interview at Lloyd's. He attributes this to economic

improvement and the policy changes. "But the improved economic environment is helping us the most," he maintained.

The number of claims being reported under bank bonds started leveling off at the end of 1976, while the claims "actually went down somewhat" during 1977, he explained.

Bond premium rates "certainly won't go down" with this improved experience, but they might stop rising as fast as they have been over recent years, he added.

When asked whether there would be any further restrictions or "clarifications" added to bank bond forms, Mr. Twitchett said he "wouldn't like to say." But in the same breath he expressed concern

over increased opportunities for fraud and theft, particularly in relation to computer operations.

Merrett has succeeded in changing most of its smaller U.S. and Canadian bank clients to annual policies, but is still working on the larger banks, which are reluctant to relinquish the three-year policy form and can exert more leverage.

"The big banks don't like this. They go through the ceiling when we mention" that Merrett wants everybody on an annual renewal basis, said Mr. Twitchett.

Some underwriters who pulled out of bank bond business a couple of years ago are coming back in, because "things are looking pretty good" now, he said.

Despite an improving climate for bank insurance buyers, seven out of the 10 largest U.S. money center banks now have their bond covers in London. Four of those came to London as new business in the last 18 months.

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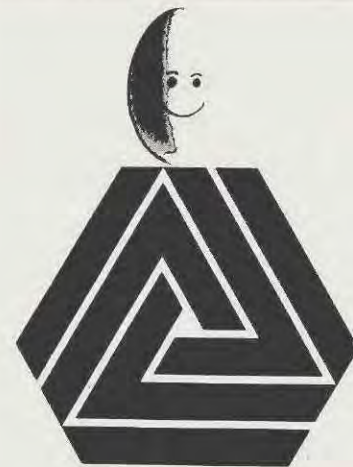
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Minet sees competition

Simon R. Arnold, managing director of J. H. Minet & Co. Ltd.'s international non-marine division, sees much of competition returning to the bankers blanket bond markets.

New markets are opening up, enabling U.S. banks to buy their blanket bonds from insurers who previously wanted only Canadian bank business, he said. The reason for improved availability, he noted, is that insurers are in a position to charge practically anything they want to charge for bonds. Bond underwriters are even looking to sell insurance to distressed banks, he added.

"We've quoted on quite a lot of these accounts in the last year," he went on, "but without a great deal of success." Rate competition from U.S. insurers proved too tough for the London markets, said the broker.



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2 risk managers leave, Quebec laws worrisome

By REBECCA A. FANNIN

MONTREAL—John Grunde was working for Steinberg Industries here when he received a job offer from another Montreal firm. But instead of accepting that offer, Mr. Grunde took a job as risk manager with Edmonton Luscar Ltd. in Alberta at a lower salary.

Mr. Grunde has no regrets. Neither does Ladis Vegh, corporate risk manager for Canadian Utilities Ltd., also in Edmonton. He left a job here as assistant treasurer for Canada Celanese Ltd. Both risk managers moved west to escape the changing political and business environment in Quebec brought about by the election victory of the separatist and socialist Parti Quebecois.

In last year's International Issue, Canadian risk managers said the victory of the separatist party hadn't had any impact on their jobs although many said the situation was very tense.

Insurance companies and brokers are also affected by the new Quebec government. Decisions by the government to make the French language mandatory in business led Sun Life Assurance Co. to propose moving its head office from Quebec to Toronto.

"The language laws make it difficult to attract and hold on to quality people who speak both French and English," said a Sun Life spokesman. "We can't just be locked into recruiting only French people because it stymies careers and is unfair."

Another possible ramification of the French language mandate is that insurance contracts would have to be written in French rather than the typical insurance language, English.

"This could have a very serious effect because I'm not sure whether excess and reinsurance could take to the legalese of French," said Dan Sullivan, risk manager at Northern Telecom Ltd. in Montreal.

Reed Shaw Stenhouse, Canada's largest broker, is also gearing up to cope with law and language changes, said president Sedrick Gyles.

"It's a highly delicate situation in Quebec. There are so many unknowns but we are watching it closely," Mr. Gyles said.

"But we aren't afraid," he added. "We cope very well in our operations in other countries and we don't think this situation is

any different."

Reed Shaw has already begun to teach its English speaking people French and may eventually begin teaching English to those only fluent in French.

But perhaps a larger adjustment for the big broker is a 10% to 15% loss of its premium volume, caused by the government's takeover of auto insurance. By March 1, the Quebec government will run auto insurance on a no-fault, compulsory basis.

"This is going to reduce the number of people needed to handle it, but we're certainly not going to lay off anyone, certainly not at this point and not in the foreseeable future," said Mr. Gyles. Staff reductions will come from attrition.

The no-fault, compulsory auto

International Update

insurance may well create problems for commercial policies of large fleets, said risk manager Mr. Sullivan.

Commercial fleets will be covered twice for bodily injury, both under workers compensation and auto insurance policies, he said.

Although these problems may sort themselves out, one of the difficulties that will remain is recruiting well-rounded managers to the province.

"They're just hesitant to move here because of the French language requirement," said Mr. Sullivan.

But for risk managers Mr. Vegh and Mr. Grunde, language wasn't the motivating factor in their de-

cision to move west.

"It was a personal decision for me to move," said Mr. Grunde. "There was a tremendous amount of distrust and increasing hostility toward me personally. I was one of the other guys and there was a hardening of the battle lines; you're on one side and they're on the other."

Mr. Grunde said this resentment occurred even though he was considered bilingual by the company.

Mr. Grunde also noted that risk management salaries in Quebec are depressed because a ready replacement of agents, who have had to close up shop, await the openings.

Among other annoyances to Mr. Grunde were the "endless, time-consuming arguments about language issues."



DAN SULLIVAN: Risk managers are "just hesitant to move here because of the French language requirement."

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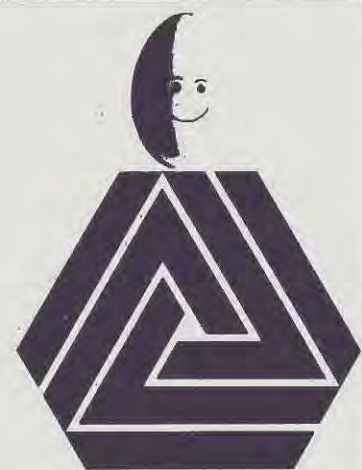
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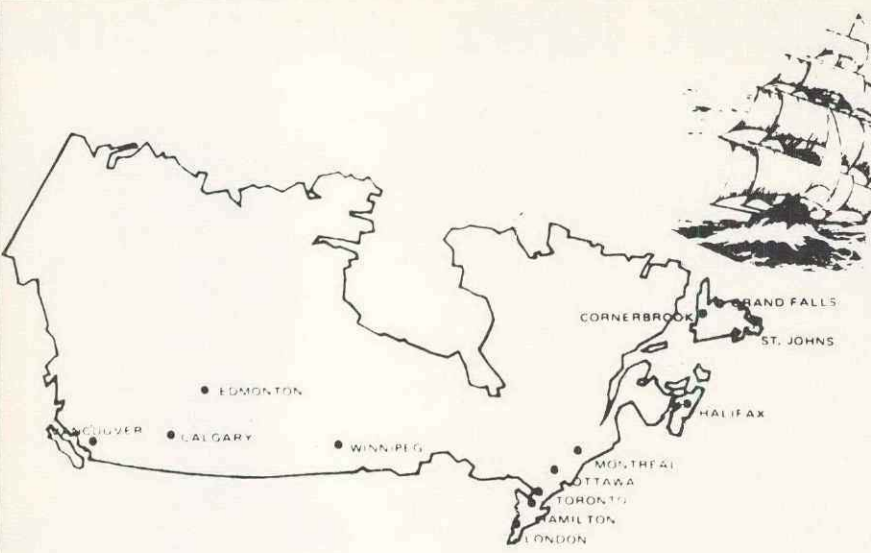
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Many eye captives for overseas benefits

International

CHICAGO—U.S. multinationals are looking into insuring their overseas employee benefit plans in their offshore captives.

"It's a question we are all talking about," said Alexander & Alexander vp Gilbert A. Orhac.

But there are obstacles. "In general, to get a tax deduction, countries require that the funding be done locally," Mr. Orhac said. "That's understandable. Why should the money go someplace else?" he conceded.

"Some employees aren't very happy about seeing their pension funds invested in another country, subject to devaluation or blocked currencies," said A&A's senior man in the U.S. on inter-

national benefits.

Explaining the differences between insuring property/casualty risks in a captive and employee benefit plans, Mr. Orhac said, "We're talking about people, not assets. Assets belong to the company shareholders but the benefits belong to the employees."

Still, the advantages of insuring overseas benefits with a captive are appealing to the U.S. multinational. "Instead of investing the money locally, it can be used as working capital in the captive," Mr. Orhac said.

Travel and accident insurance would be easier to put in a captive than life, he noted.

A&A is still working on the idea, he said, but anticipates there will be "a lot of difficulties with local governments and local management."

Others are not as enthused about insuring benefits in captives. One consultant observed that he knows of three multinationals trying to reinsure their group life policies in their captives. "This is okay, but most captives are being managed by firms that keep a 15% retention on premiums." The retention by a multinational pool would be less, he noted. These arrangements are also restricted to countries that don't preclude reinsurance out of the country, he added.

A few international benefit experts observed there is some insurance of benefits for third country nationals going into captive insurance companies.

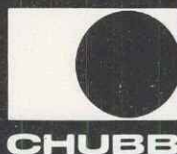
"As a general rule, captives should not play a role in benefits," said Wolfgang Glage, vp of Towers, Perrin, Forster & Crosby. "Most countries require that premiums go to licensed insurance companies to get a tax deduction. And there are currency exchange problems. It's very complicated."

William M. Mercer Inc. director William D. Welsford said, "I don't see any trend toward the use of captives. You don't need one for a pension plan. You can have a trust instead. A captive doesn't offer anything to an employee benefit plan."

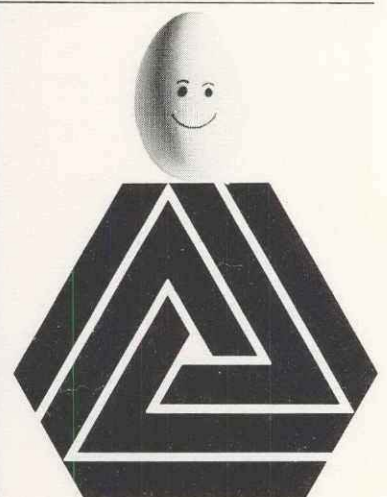
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Not insuring benefits gains global popularity

By KATHRYN J. McINTYRE

CHICAGO—Overseas, employee benefits translate into pension plans that generally are not insured, international benefit experts say.

But for every generalization, there is an exception. In some countries, such as Switzerland, local market conditions and regulations make insurance the preferred alternative. Where other alternatives are preferred, financing varies all over the globe from trust vehicles in Commonwealth countries to book reserving in Germany and Japan. Trusteed plans are numerous.

Pension plans overseas, however, provide more than just retirement benefits, the experts stress. The plans are likely to include such immediate risks as liberal survivors benefits and disability benefits. While the actual retirement benefit isn't insured, the immediate risks often are, the experts note.

Hewitt Associates consultant Burt Murdock said he has observed a trend toward insuring long term disability which had been part of the pension plan. "Insured LTD is becoming available at a competitive price," he said.

American companies tend to insure death benefits overseas because they do so in the U.S. for tax reasons, observed Kwasha Lipton partner Jim Bolland. But with differing tax laws, they don't need to insure death benefits overseas, he said.

Other insurance plans that are typical for U.S. employee benefit programs, such as health and life insurance, are not as predominant overseas. When they are provided they are usually insured.

Health insurance isn't in such demand overseas because medical care is often provided by the government. Medical insurance does exist as a supplement to government plans and American expatriates are generally privately insured because they travel extensively and prefer private treatment.

In less developed countries where both the government sponsored medical care and private insurance policies leave something to be desired, Hewitt's Mr. Murdock said companies are self-insuring their medical plans.

Because liberal survivors benefits—based on projected earnings and not accrued benefits—are

tied to pension plans, group life insurance isn't as important overseas as in the U.S., the experts add.

And employee stock option plans, popular in the U.S., "are not found in most countries because of the tax laws," said Kwasha Lipton's Mr. Bolland.

Still, employee benefits as a percentage of payroll cost more overseas than in the U.S., said Wolfgang Glage, vp of consultants Towers, Perrin, Forster & Crosby Inc. When considering statutory as well as voluntary contributions, employee benefits overseas can cost a company 50% of payroll, he said.

The savings by not insuring are greater overseas than in the U.S., says Hewitt's Mr. Murdock, "because the insurance industry, except for instance in England

International and Australia, isn't as competitive."

Comparing those who insure their pension plans with those who don't, Alexander & Alexander vp Gilbert A. Orhac said, "Maybe 70% of the companies insure their pension plans, but 80% of the employees are under non-insured plans."

A&A recommends that the small operation with 50 to 100 employees insure its plans, including life, accidental death and dismemberment, long term disability, medical and pension.

When there are more employees and they are highly paid, thus generating more money, A&A recommends book reserving in

Germany or placing the money in a managed trust in England.

"When there is a large number of employees and quite a lot of money involved, we recommend self-funding—going to an investment firm or perhaps the merchant banks in the U.K.," said Mr. Orhac.

Non-insured but funded pension plans are quite common in England, noted Hay Associates consultant I. Michael Hanrahan. "There's a very attractive equity market there, though it's volatile," he said. For example, one company saw less than a 3% return in 1976 but landed almost a 90% return in 1975.

Companies at the top of the pole, "with assets that can be larger than the largest insurance companies," can consider funding

their employee benefit plans out of the till, said A&A's Mr. Orhac. That includes paying as they go on the risk benefits.

The experts agree that self-funding becomes more advantageous as operations grow and companies become more sophisticated. And they agree that American operations overseas are growing.

AIG Risk Management Inc.'s interest in administering self-funding employee benefit programs overseas is evidence of a developing trend.

"We see a market there," said Allan Hall, AIGRM benefit consultant, including American-based multinationals, European-based multinationals and European nationals. AIGRM has opened an office in Brussels.

Continued on following page

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Benefit managers flex their muscles

CHICAGO—U.S. employe benefit managers for multinational corporations are flexing their international muscles.

"There's been more interest in management of international benefits in the last few months than there has been for a long time," said consultant Burt Murdock of Hewitt Associates.

"Benefit managers were so wrapped up in ERISA they didn't have time to consider foreign benefits," he continued. "Now we're talking to companies everyday that want to know what they have and how they should fund it and about accounting procedures."

Though ERISA compliance was time consuming, some useful lessons in focusing objectives, funding mechanisms and accounting procedures were learned, Mr. Murdock added.

Consultant Wolfgang Glage exclaimed, "You bet your life there's more interest in overseas benefits now." The Towers, Perrin, Forster &

Crosby Inc. vp said, "more and more multinationals are adopting the philosophy of worldwide organization, planning and coordination."

Much of the interest is financially motivated. "These are heavy investments that need to be managed," Mr. Glage maintained. "You can't have 12 benefit managers spending money independently."

Hewitt's Mr. Murdock noted that multinationals are particularly concerned with pinning down the true costs of their overseas benefit plans rather than just looking at contributions.

Hay Associates consultant I. Michael Hanrahan said that except for the big multinationals, U.S. companies didn't go overseas until the 1960s "and benefit planning was at the bottom of the list." As operations mature and companies look forward to continued growth, benefit planning becomes more important, he said.

Overseas funding . . .

Continued from preceding page which will be equipped to handle employe benefit programs.

How to self-fund depends on conditions in the country, notes William M. Mercer Inc. director William D. Welsford. Establishing non-insured but funded plans depends on whether the country offers a good stock market and its insurance laws, he said. "But to the extent inflation keeps up at a high rate, there's not much incentive to fund a plan," he suggested.

Some benefits experts dismissed pension trusts from the category of self-insuring, arguing that self-insuring means not funding. But TPF's Mr. Glage conceded, "When assets are segregated in a pension trust, you could argue its a self-insured risk. If it's a defined benefit plan and

there's terrible mortality and investment experience, the company will have to make it up."

The American trust vehicle, though available in England and Australia, is not used in most countries, Mr. Glage noted. Hewitt's Mr. Murdock explained that the trust is an Anglo-Saxon concept. On the continent and in South America, one must create non-profit corporations or foundations. They can be more difficult to work with because they are subject to government regulations, usually the insurance laws, he said.

Funded trusts in Germany are subject to insurance laws, but the Germans allow book reserving.

In Switzerland, companies that don't insure their pensions must establish a private fund, called a foundation, said Kwasha Lipton's Mr. Bolland. Most companies, except for the largest, end up insuring their benefits there because the foundation decides how to invest the contributions, observed TPF's Mr. Glage. Hewitt's Mr. Murdock added that the foundations are subject to the same investment regulations so there isn't much gained by self-insuring.

But in Belgium, where the self-insurance vehicle is a non-profit organization, Mr. Murdock said self-insurance is very attractive. "For the moment there are no regulations on investments or contributions with a non-profit organization while the insurance companies are highly regulated," he said.

In South Africa, as in Australia, the insurance companies offer modern funding facilities, do a good job and have a large portion of the pension market, Mr. Glage said.

There are many countries where government programs provide so much there is no room for an extra pension plan, observed A&A's Mr. Orihac. The French and Italian systems leave companies only with the immediate risks to carry. South American countries are also notorious for rich mandated benefits.

Multinational networks have slowed the development of self-insuring overseas benefits, said Hewitt's Mr. Murdock. "With their international experience rating policies providing more flexible underwriting and cost based on experience," he said, many multinationals have opted for the networks. ■



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Swiss may make firms offer pension

GENEVA, Switzerland—Employer-sponsored private pension plans could be compulsory here as early as January 1979, says a Hay Associates international benefits consultant.

It would be the first time truly private pension plans were required by law, said I. Michael Hanrahan of Hay Associates's Chicago office.

A bill that mandates private pension plans, which already cover about 80% of the Swiss population, has passed in the lower chamber of the legislature and is expected to be approved by the upper house in time for the system to be introduced next Jan. 1.

The law intends to insure that retiring employees and survivors receive a combined social security and company pension plan benefit equal to 60% of the final average gross salary after a normal working career. That means the company would have to provide a pension of at least 40% of the employee's average covered earnings in the three years preceding retirement, Mr. Hanrahan said.

This is the goal for a single person; there has not been an amount specified for a married person, Mr. Hanrahan noted. Generally, a new or revised Swiss pension plan today provides 60% to two-thirds of final average pay, Mr. Hanrahan said.

Under the compulsory system, employers will be required to establish plans covering all employees 25 or older who are earning \$6,000 (S. Fr. 12,000). The law applies to earnings up to \$18,000 (S. Fr. 36,000)—the average Swiss wage earners.

Because of this ceiling on covered earnings, Mr. Hanrahan said the estimated cost to industry of a pension plan satisfying the law would be 10% of payroll. "There are some plans now that run as high as 20% of payroll," he said, with the typical U.S. subsidiary paying 12% to 15% of payroll for its pension plan.

Under the compulsory system, death and disability benefits would have to be provided from as early as age 18 for employees who meet the earnings requirements.

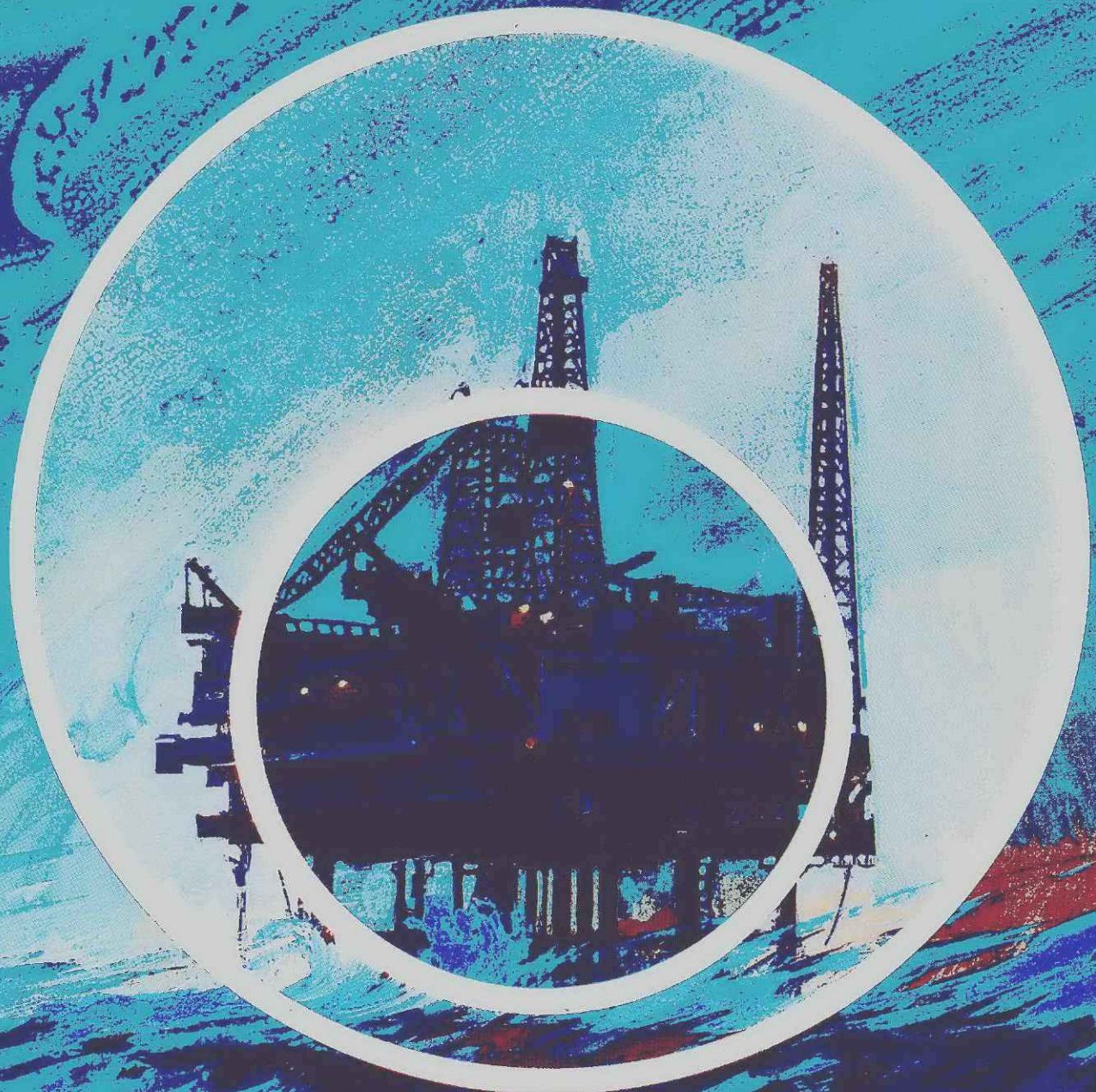
In contrast to the pay-as-you-go funding approach used for Swiss social security, under the "second pillar" system of pension plans, benefits must be capitalized or prefunded.

And full and immediate vesting of reserves—not accrued benefits—would be required in an amount equal to the minimum contribution needed to fund the compulsory benefit levels, Mr. Hanrahan said.

Equal employee participation in the administration of the plan is provided for in the law. The employee may also be required to contribute up to half the cost of the plan. Though most Swiss plans are contributory, Mr. Hanrahan said "it's unlikely the employee would be asked to pick up half the tab. That's not a very competitive thing to do."

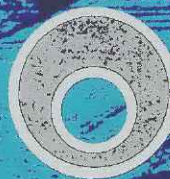
A compulsory private pension plan system was demanded by the Swiss in a 1972 vote to amend the constitution.

Meanwhile, in The Netherlands, where the concept of compulsory pension plans was first formulated in the late 1960s, final legislation has yet to be presented to parliament, Mr. Hanrahan said. ■



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Experts cheer Social Security footnote

CHICAGO—Regardless of how you feel about changes made in the U.S. Social Security system by the 1977 amendments, there's something to cheer on the international scene.

International benefits experts are hailing the widely overlooked provision of the legislation that allows the President to enter into agreements with foreign countries to eliminate the long standing problem of duplication of social security coverage for U.S. citizens working overseas.

Hewitt Associates consultant Burt Murdock estimates that such agreements could save U.S. companies 10% to 20% of the payroll cost of keeping an American overseas where social security costs are high. Johnson & Higgins vp Harold R. Connors estimates there are 130,000 U.S. expatriates.

The new law allows international agreements under which a person with at least six quarters of coverage under the U.S. Social Security system and a period of coverage under a foreign country's system will have both periods of coverage combined for determining eligibility and benefits. Payments by each country will be pro rated for the period covered by each system. This is called a totalization arrangement.

The Department of Health, Education and Welfare, which will handle the negotiations, has prepared a pro forma agreement. According to Johnson & Higgins, the agreement generally provides that:

- A U.S. citizen working overseas for an American company and participating in the U.S. Social Security system will not be required to participate in the host country's system.

- An employer will continue to have the option under certain conditions of signing an agreement with the Treasury Department that will allow all its U.S. expatriates employed by overseas subsidiaries to participate in the U.S. system. These employees would not be required to participate in the host country's system.

- If such an agreement with Treasury is not signed, all the U.S. expatriates of the company's overseas subsidiary will automatically be covered by the social security system in the host country and standard totalization rules will apply.

Hewitt's Mr. Murdock said that totalization arrangements have been in force among Common Market countries for a number of years. For example, if an employee retires with 40 years of service, 15 years in England and 25 years in Belgium, he receives 15/40ths of his English benefit and 25/40ths of his Belgium benefit. He paid into only one system at a time.

But U.S. citizens working overseas have systematically either been cheated out of Social Security benefits or have been very expensive employees.

If the U.S. company has not signed an agreement with Treasury to continue U.S. Social Security for its American expatriates—or hasn't found some other way to continue their participation in the U.S. system—the employees lose credits under the U.S. Social Security system.

And though they contribute to the social security system of the country they are working in, it's likely they won't be there long enough to qualify for the benefits.

But when U.S. companies maintain their employees' partici-

ipation in the U.S. system while they are abroad, their employees also have to participate in the host country's system. The U.S. companies often reimburse their employees for the employee share of the foreign social security tax, said Hewitt's Mr. Murdock. Then the company finds it has to up the employee's salary again

International

to compensate for the additional tax on the reimbursement. "It makes the American expatriate very expensive," said Mr. Murdock.

While the 1977 Social Secur-

ity amendments can in theory correct these costly problems, Kwasha Lipton partner Theresa H. Stuchiner cautions "some countries' systems may not be compatible with ours" for totalization agreements.

The law provides that Congress may reject the international agreements entered into by

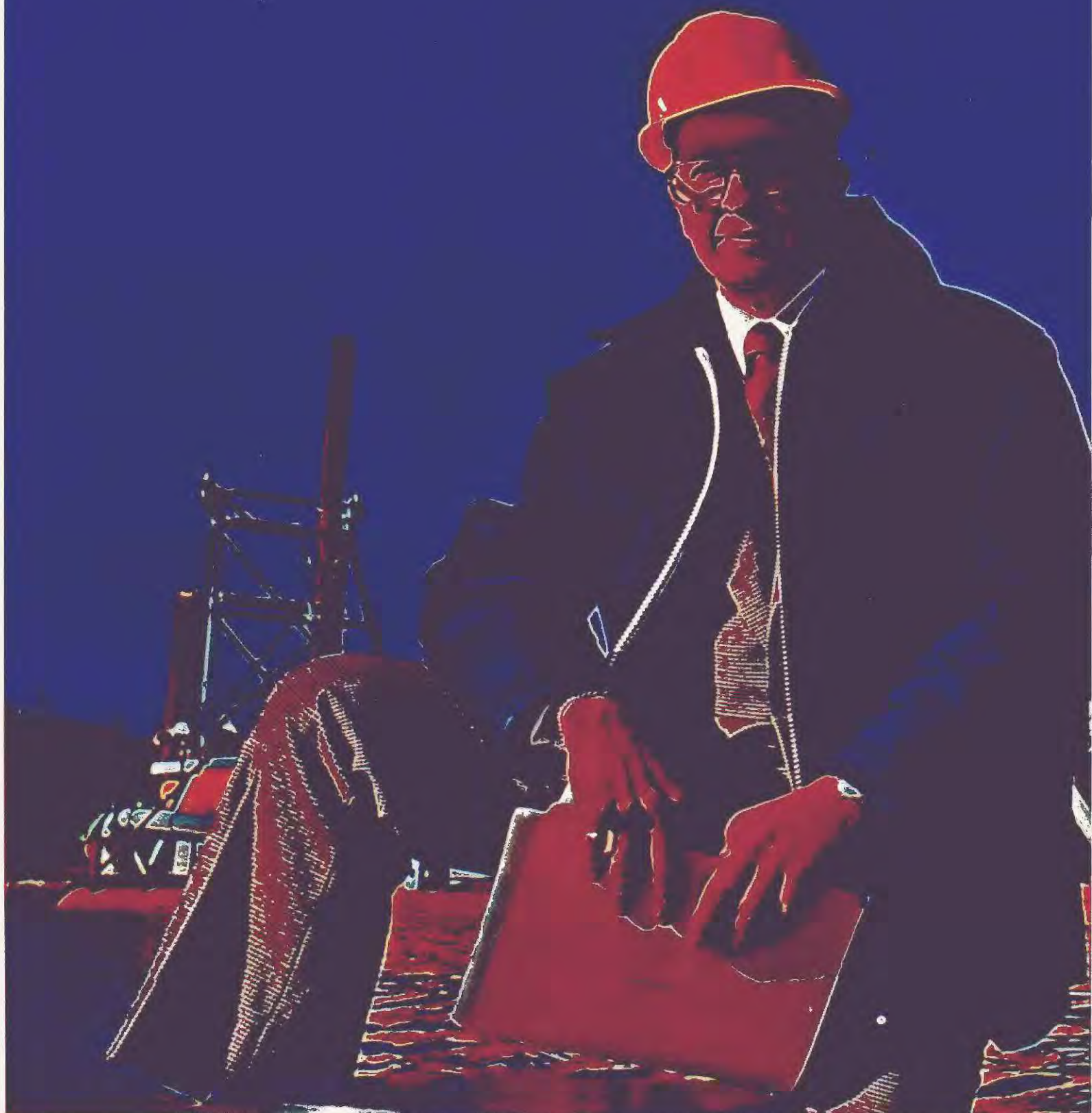
the President if it acts within 90 days of their submission.

An agreement with Italy will probably be the first to be signed by the President sometime this year.

But an agreement with West Germany that has been under negotiation may be more complicated to work out, noted Johnson & Higgins's Mr. Connors, because of the large number of German refugees in this country and the possible fiscal impact. ■

"A marine company should pull with you even if others pull out."

—John Rolfe, President, Leslie Wright & Rolfe Limited, Vancouver, B.C.



Germany new hot spot as terrorism continues

WASHINGTON—Spectacular kidnap and terrorist incidents in Northern Ireland, once considered the number one danger spot by many security experts, eased markedly last year.

Many feared that the February 1977 murder of a Du Pont executive in Londonderry would be followed by a rash of attacks on ex-

ecutives of American-owned companies. But those fears appear to have been unfounded.

While violence declined in Northern Ireland, West Germany emerged as a hot spot with the abduction and murder of industrialist Hanns Martin Schleyer.

In a story in last year's International Issue, *Business Insur-*

International Update

ance found that corporations with branches abroad were tightening their security to protect overseas executives and plants from attack. That trend continues today with security firms report-

ing increased demand for their protection services by clients with overseas interests.

Meanwhile, terrorism seems to be declining in the U. S. The FBI recorded 987 bombing incidents in the U. S. during the first nine months of 1977. That's down from 1,207 bombing incidents for the same period in 1976.

But if terrorism is measured over a longer period of time, a different picture emerges. According to a CIA report released in July 1976, there were 239 separate terrorist attacks, including 61 involving American citizens or property. In 1968, the CIA recorded only 37 such incidents, five involving U. S. citizens.

With a dramatic increase like that, it's no surprise that Fred Rayne, president of Rayne International, a Miami-based security firm with branches in Switzerland, Italy, Germany and South America, reports that his company's business has doubled in the last year.

A big chunk of that increase has come from Central and South America where wealthy and upper middle class Latin Americans have become increasingly vulnerable to terrorist attacks. Mr. Rayne ranks Guatemala, Venezuela and Argentina as among the most dangerous countries in the Western Hemisphere.

With the rise in spectacular terrorist incidents, interest in kidnap insurance has picked up after being in somewhat of a tailspin for the last two years.

Depending on who you talk to, brokers and insurance company executives report anywhere from a slight increase in business to a "rather dramatic increase." The biggest providers of this sensitive coverage continue to be Lloyd's and the American International Group.

Prices generally are holding steady after a period of extraordinary volatility during the early 1970s when \$200,000 or \$300,000 premiums for \$1 million of coverage were not uncommon.

"Renewal premiums often are the same as a premium on an expiring policy if all the risk factors remain the same," said Nicholas Taube of the E. L. Harris brokerage firm in Washington, D. C.

One of the biggest surprises of 1977 was the revelation that several countries, including the U. S., have set up crack military units to combat terrorism.

The CIA warns that the lure of ransom demands and the symbolic value of U. S. firms as representatives of the capitalistic system means "there is a real danger that terrorist attacks on the U. S. business community abroad will become even more frequent."

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INA International, whose network of worldwide facilities is the largest of any single U.S. based insurance company, has developed a number of operating standards that should prove of interest and benefit to agents and brokers.

This is the first in a series.

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Little insurer reaction to property captives

By ELLIS SIMON

International

NEW YORK—While use of captive insurance subsidiaries to insure overseas property risks has grown over the past 10 years, the international and local commercial insurance markets for the most part have not taken steps to undercut the movement.

While there have been exceptions, the insurance industry's response to captives has not been to cut rates or expand forms of coverage despite the loss of millions of dollars in premiums to captives.

What the industry has done is choose to work with the captives, providing them with services such as fronting and reinsurance. "The

industry has pragmatically said, 'If you can't beat them, join them,'" explained H. Donald Lindell, senior vp at The Continental Insurance Co.

Mr. Lindell said that "on a worldwide basis, the impact of captives isn't that great." While the native markets may have lost the premium on plants owned by multinational firms, these insurers are more concerned with nationally owned industries.

The inflexible position of these local insurance companies, particularly regarding the granting of deductibles, led many multinational firms to establish captives in the first place, noted Marsh & McLennan vp Anthony Demas.

Although some of the more sophisticated foreign markets have responded to the captive movement by offering deductibles, this movement has not been universal, said Bill Mather, administrator of risk management for Gillette Co. Gillette started a captive 2½ years ago because of the overseas deductible situation.

Foreign insurance companies also have not been quick to respond to implementation of loss prevention measures, noted the risk manager for a U. S. food products company using a captive for overseas risks.

Loss prevention will not result in a reduction in rates, but if a general rate increase is coming up, foreign insurers usually exempt preferred risks, he said.

However, Charles Ruoff, vp at Fred S. James, noted a greater willingness on the part of foreign markets to write difference-in-conditions (DIC) coverage and accept deductibles as a result of the captive movement.

As far as coverages are concerned, less space is consumed with policy exclusions, he noted. "Where you'd expect a restriction of coverage, you often don't find it," he said.

The international property insurers have been quicker to respond to captives than the locally held companies, noted Harold R. Talbot Jr., manager of multinational insurance service at Marsh & McLennan.

The native insurance companies have less expertise than their international competitors and often where they have wanted to offer broader coverage, their countries' reinsurance markets have not been able to back them up, he explained.

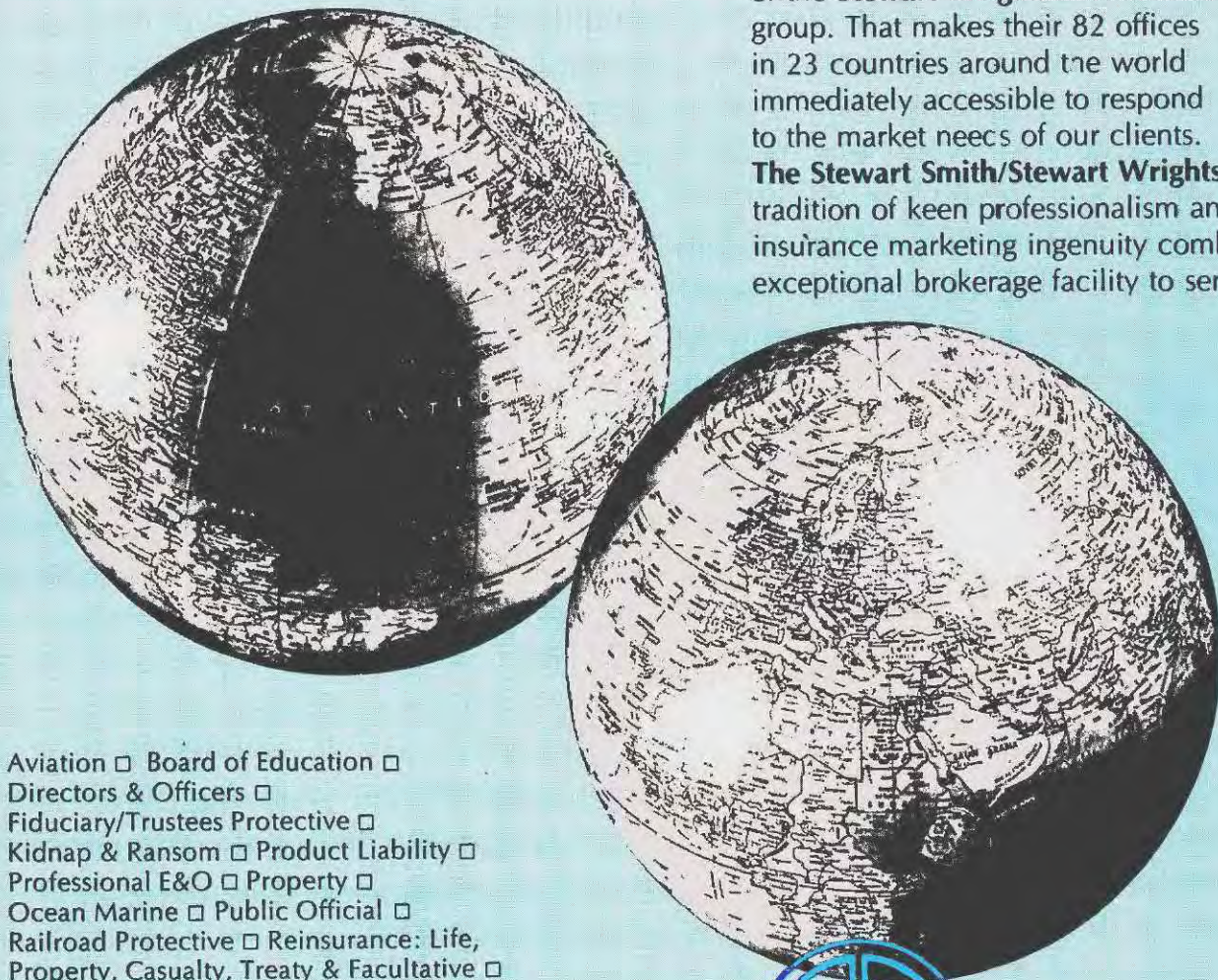
In addition, strict tariff ratings in many countries prevent insurers from reducing rates to respond to captives, even if the companies wanted, he said. However, in some nations local markets are so competitive that a captive could not afford to reinsure locally fronted risks, Mr. Talbot added.

The captive phenomenon has worked to the advantage of international insurance companies that have chosen to work with them. U.S.-based international insurance firms have been particularly aggressive at pursuing this business, said Mr. Demas.

The international insurers have a viable economic interest in captives, since they provide a goodly portion of the reinsurance on captives and have an opportunity to retain the entire business in countries where a captive and reinsurance mechanism will not work, he explained.

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Centralizing can solve woes abroad

NEW YORK—Your risks are spread all over the world.

Too often that can mean a disjointed insurance program. Local offices arrange their own programs, with whims and local regulations defeating home office control. Nationalism in some countries means you can only use local insurers. Often crucial gaps are left in your international coverage.

Centralized risk management can be the solution, but the process of consolidating your insurance is often tiring. Just ask Peter Butler, director of insurance and risk management at Gulf & Western Industries Inc. Mr. Butler visited each G&W foreign subsidiary in changing the conglomerate's program last year.

His goal was to present overseas directors for G&W's approximately 100 companies in 29 countries with a proposal to consolidate insurance coverage and to convince them the change was necessary.

"The management's attitude overseas was excellent," Mr. Butler said. "You can't possibly implement a program without visiting the operations. You just don't try to force changes down management's throat."

The consolidation involved folding the overseas insurance risks into one insurer, AFIA. Previous long term agreements with other insurers overseas prevented complete consolidation, but as these contracts expire, the coverages will be written by AFIA. To fill gaps in insurance left with overseas insurers, G&W bought difference in condition coverage.

"The biggest problem in setting up a centralized plan is trying to convince local management in foreign countries the value of a coordinated program," said William F. Crowley, vp of the North American region of AFIA. "They want to deal with people that they know."

Crucial ingredients to successful completion of an international program are the joining of forces by the broker, insurer and risk manager.

Brokering the G&W account was Edgar S. Clark, vp of Alexander & Alexander Inc., who traveled extensively with Mr. Butler in making the changes. AFIA was also cooperative, Mr. Butler said, because they were receptive to large deductibles.

"It takes all three working to-

gether to bring it all together," said Mr. Crowley of AFIA. "You have to have a good international broker who is equipped to handle international risks."

Dennis D'Oca, director of insurance for CBS, also completed a smooth transition to a centralized program. He said convincing the foreign subsidiary of the need to centralize was also his most difficult step.

International

"After you're over this initial hurdle in getting the philosophy started from the home office, then the rest is easy," Mr. D'Oca said.

But CBS did have problems in obtaining data to do a feasibility study for setting up the cen-

tralized insurance program.

CBS has only centralized its property coverage. "There's just not much premium savings in converting casualty," Mr. D'Oca said. "Anyhow, local management overseas should be in touch with liability claims, since these happen more frequently than property claims."

Also confronting the risk man-
Continued on following page

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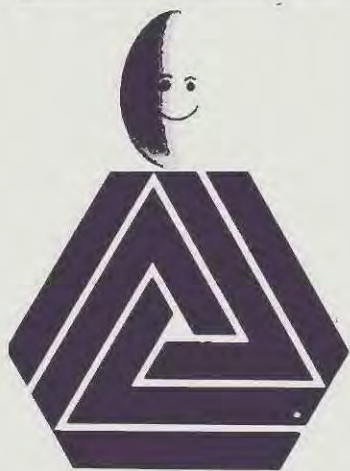
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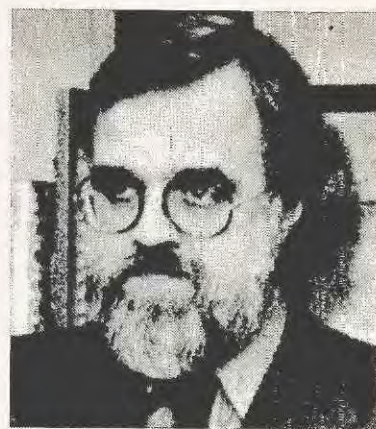
Centralized plans . . .

Continued from preceding page
ager in a large multinational company are contracts which sometimes aren't translated correctly from the foreign language.

"You just can't imagine the confusion and people getting upset at one another because of an incorrect translation," said Clint Springer, international sales manager for Allendale Mutual Insurance Co.

Different contract language may also confuse the risk manager about coverage provided, according to David M. Evans, senior vp at Marsh & McLennan Inc.

Noting that the basic form of property insurance worldwide is the Fire Offices Committee (FOC), Mr. Evans explained that this form isn't used in the U.S. While the FOC form covers only



EDGAR CLARK: "You can do anything overseas that you can do in the U.S."

fire perils named in the contract, the U.S. form covers fire following practically all exigencies, Mr. Evans said.

Another inconsistency from country to country, according to Mr. Evans, is that in some countries the discount allowed within the fire tariff for installation of a sprinkler system is not sufficient to permit an insured to amortize the cost of such an installation over a relatively short period.

Taxation problems can also affect a risk manager's decision, Mr. Evans said. In some countries, where non-admitted insurance is prohibited, premiums can't be applied as a tax deduction.

The nonadmitted insurance contract also causes problems when a major loss occurs, he said, adding that proceeds of indemnification of that loss will be considered as a capital remittance and in many cases will be taxed as imported capital.

Nationalism can be seen very clearly as foreign countries increasingly require risks within national boundaries be placed with only licensed insurers.

Belgium, Switzerland and Japan prohibit non-admitted insurance. Venezuela and France also require that all property insurance be placed with licensed companies and the premiums paid locally, according to Mr. Evans.

These problems are all "surmountable for large risks," said A&A's Mr. Clark. "You can do anything overseas that you can in the U.S."

Bruce Shinabarger, senior vp of Schiff Terhune, noted, "everybody's simply careful."



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Benefits abroad: Experts say information, travel can unlock your problems

COMMUNICATIONS AND COST CONTROL are two major problems international benefit managers grapple with on a daily basis. *Business Insurance* discovered in a roundtable discussion with four Bay Area representatives of multinational corporations. Gathered recently at the Embarcadero Center in San Francisco to discuss international benefits were Josephine Wright, benefits manager for Raychem Corp., Menlo Park, which is involved in the electronics, energy and telecommunications industries with operations in 33 countries, and James E. Howell, manager, employee benefits at Del Monte Corp., the food processing giant with facilities in Europe, South America, Africa, Mexico, the Far East, Guatemala and Costa Rica.

Other members of the discussion group were Chris Kinard, manager, international personnel administration at Levi Strauss & Co., which has apparel manufacturing operations in 25 countries, and William A. Weiler, international benefits manager for Bechtel Corp., the engineering and construction firm with major offices in 13 foreign countries and major cities of the U.S. *BI* reporter Margaret LeRoux was the moderator. The following are highlights of that discussion.

MS. LeROUX: How do you cope with the communication problem?

MR. KINARD: From the standpoint of dealing with the U.S. management, it's a careful nurturing process and depends a lot on your ability to sell the concepts. On the other side of the coin, you have to develop a close working relationship with local personnel people. If you establish the dialogue and maintain it, you can work to build up the trust factor.

MR. WEILER: Among the sources we rely on are insurance companies, to the extent that we like to keep up to date on their country profiles—what prevailing practices are in a particular country. Preferably we get information from at least

two different sources, so we are not dependent on one company's approach to a problem. That is the reason we rely on brokers and consultants in addition—to get an overview of a given country or problem.

MR. HOWELL: We rely on local managers to report on what they see as a growing trend or what has been mandated, so we'll know if there has to be an adjustment in a program. Ideally, if we allow local management to have their own consultants, brokers and insurance companies, I would still like to have a consulting firm or broker in my corner so we could get some verification or authentication.

MS. LeROUX: How important a role does travel play in your responsibilities?

MR. KINARD: I think it's extremely important. You can't rely on correspondence. I find that for areas I haven't visited, I have a greater difficulty understanding what the problems are. I don't know that much more about the Philippines, for example, from a week's visit every year or two. It's just that you get a better feel for the country, the local operations, the management and its problems.

MR. HOWELL: It increases the credibility.

MRS. WRIGHT: As an example, we recently had to ask the European offices for benefit information going back to 1975 for insurance purposes. The brokers had been trying for the last two years to get the information and they couldn't, so they finally came to me. All I did was send a Telex and the next day I had the answer. I don't think they would have done that if I hadn't met them, became friendly with them and gained their trust.

MR. KINARD: You have a language problem in some cases. For example I was caught up in an emergency situation of having to explain a change in benefits at the last minute for our people in a Latin American country, so I used slides



Photo: Margaret LeRoux

Four international benefit experts discuss the problem they face for Business Insurance. Seated are James E. Howell, manager of employee benefits at Del Monte Corp., and Josephine Wright, benefits manager for Raychem Corp. Standing are William A. Weiler, international benefits manager for Bechtel Corp. (left), and Chris Kinard, manager, international personnel administration at Levi Strauss & Co.

and brochures in Spanish prepared for our employees in the Southwest U.S. But it's not the same Spanish that's spoken in Latin America and when I gave the slide show, they laughed because the translation was not the same. That just emphasizes my feeling that you shouldn't rely on translations.

MR. HOWELL: I just had a similar experience in Puerto Rico—it was a verb translated by a Berlitz person who was Cuban but he had been reared in Puerto Rico and he simply used the wrong verb. It could have been crucial, but we were able to correct it. I think that trying to develop communications from a central location is fraught with all kinds of problems.

MR. WEILER: I think it's probably as simple as keeping in touch with your constituents, whether it's domestic or inter-

national benefits people, brokers or consultants. It's important to keep in touch; learn first hand what the problems are.

MR. HOWELL: To quote a line from "The Music Man," "You gotta know the territory."

MS. LeROUX: How do you fund international benefits?

MR. WEILER: Wherever possible, we fund international benefits through an insured plan. It's more important in our industry (construction) to insure benefits than it might be in an industry that enters a country and makes a large capital investment. Our jobs are at the beck and call of our clients and an insured plan is a more equitable way of spreading the cost of benefits than it would be if we were to book reserves. We have found that you can substantially reduce the

Continued on following page

Speaking Out

Lloyd's characters shaped a unique institution

By Peter Downes

Manager of Insurance
American Trading & Production Corp.
Baltimore

WHEN I READ that there was to be a special issue of *Business Insurance* concerning international markets, it reminded me that it was more than 25 years ago that I first went to work for a firm of Lloyd's brokers. The Room where I worked was the predecessor of the present marble palace and it was there that I got my training on the job. On my first day at work, my trainer led me to a box, chatted briefly with an underwriter and got a couple of lines renewed. After that he handed me a slip case crammed with paper and said "There you are, that's how it's done. Now get on with it."

My training completed, I spent the next five years educating myself in what Lloyd's was all about. Indeed the one thing I enjoyed most in working for a small firm of brokers was that the man in the Room did everything—marine, casualty, aviation, property and anything else which might come to hand. He placed business, settled claims, did various administrative chores and performed a multitude of tasks back at the office as well.



Lloyd's of London today. Many of the characters Peter Downes knew are probably gone, but the former Lloyd's worker thinks some of his contemporaries may now be characters.

Doubtless things are no longer the same, but at that time the Room contained a host of characters. On my first day, for example, I made my way to a marine underwriter, seeking coverage on a shipment of goods to West Africa.

"No sir," he said, "I know nothing about this—perhaps you should go elsewhere." He had been writing insurance for similar shipments for years, I had been told, and I could not understand his refusal. An hour or so later I learned the reason—we

had not been properly introduced.

That afternoon, too, somebody pointed out Mr. Meacock making his way to his box where he conducted business for a couple of hours. He was 94 years old at the time.

On another occasion a very elderly underwriter wrote some trivial risk of mine and filled in a premium of 10 shillings, saying as he did so, "Somebody must pay for that typhoon off Japan."

Many underwriters operated without records of any kind. Their accountants

handled their finances and told them how they stood from time to time. Records maintained by others were more elaborate. I recall one underwriter who had an index with every significant remark made by various brokers during the preceding 25 years or so. He reminded me once that my firm had promised him an additional line at least 10 years previously. I no longer had the heart to refuse him, whereupon he carefully erased the note.

Even the staff, known as waiters and livermen—titles retained from coffee house days—contributed to the atmosphere. I recall the doorman once refused entry to a shirt-sleeved messenger until he returned wearing a jacket and tie. They, too, had standards to maintain.

Indeed, there was a host of such characters to be found in the Room, but all their quirks and quiddities never did amount to a hill of beans in terms of business, although they did help give the institution its atmosphere, if not its style.

Style is difficult to define—it is one of those things you know when you see it. In the Lloyd's underwriter of my time, there were perhaps three main ingredients. The first of these was that he knew when and

Continued on page

PERSPECTIVE

Advancing domestic insurers in developing nations

By H.B. Leslie

Senior vp
Allendale Insurance

HOW CAN WE SOLVE the problems presented by the task of insuring large risks in developing countries? Some suggestions are contained in a report adopted by the eighth session of the United Nations Conference on Trade and Development in Geneva in December.

I was among the experts from both developed countries who contributed ideas for UNCTAD.

While it was agreed that domestic insurance companies should undertake risks wherever possible, this is usually only feasible when the risks are below a certain level. However, as large companies move into developing countries, the risks become larger, particularly in the fire class of insurance covering large industrial units such as the textile, paper and metal industries, petrochemicals, oil refineries, iron and steel plants, car assembly plants, foodstuff and chemical industries. There are also extraordinary risks where there is a high concentration of values such as marine hull, aviation, large engineering risks, nuclear power plants.

The domestic insurance markets of most developing countries face various problems when asked to provide coverage for risks of extraordinary size and technical complexity. Underwriting a large risk calls for high technical expertise rarely available in a small insurance company. The advice of experts from outside the company may be required to cope with some aspects of underwriting, such as inspecting the risk, measuring its maximum exposure, rating, determining the conditions of cover, etc.

In the past, large multinational organizations have used their normal insurance markets when they moved into developing countries. Of late, this has been discouraged by developing countries who wish to develop a domestic industry of their own. In some countries, it is illegal for a foreign insurer to move in directly. What then can a domestic insurer do when faced with a large risk?

The conference produced several answers or suggestions. One was that domestic companies consolidate their financial strength by increasing their share capital enabling larger free reserves. Companies in developing countries should strive to attract additional profitable premium income from a variety of simple risks in order to offset possible fluctuations arising from loss, so education is needed to develop the large risks in their portfolios. Another answer is for domestic companies to consolidate and pool their financial resources.



A cement plant in La Calera, Colombia. Insurance problems grow as larger risks are built in less developed countries.

Coinurance and pooling are common arrangements for certain categories of business. In most countries where pooling systems exist, the pools have evolved into influential bodies able to create capacity for large or difficult risks. In some areas, regional pools are created by adjoining countries.

Another alternative, perhaps the most common, is reinsurance in which outside experts are called upon. These reinsurance companies can be local or foreign. Some general guidelines for adequate reinsurance planning are fixing of reasonable and progressive retentions, optimum use of automatic reinsurance facilities and resorting to facultative reinsurance whenever necessary.

The most important feature in the establishment of retentions is reliance upon the measurement of risk exposure. The sophisticated underwriter does not necessarily consider that the entire risk is subject to a single loss. If it is properly constructed and has good fire protection, the underwriter will develop an EML (estimated maximum loss), anywhere from 25% to 100%. In most developing countries every risk is considered subject to 100% loss, so education is needed to develop the measurement of exposure as it is done in Western Europe and the U.S.

In pluralistic markets, where several insurers operate, it might be preferable that fixing rates for large risks not be the sole responsibility of individual insurance com-

panies. Such risks have a direct impact on the behavior and performance of the local insurance market, as well as on the national economy. It might be advisable to entrust local rating committees representing the entire domestic insurance market with such tasks. These committees would be in a better position to examine the risks, evaluate the hazards involved and fix suitable rates.

It is essential to scrutinize every large risk separately in order to determine its rating, cover conditions, calculation of the estimated maximum loss (EML) and other factors. An inspection of the risk should be carried out by a qualified surveyor assisted by specialists such as engineers, chemists and geologists, according to the nature of the risk.

The surveyor and his assistants should prepare a comprehensive report for the insurer, which should contain a detailed description of the risk and all its salient features. The report should emphasize the nature of the risk and all its good and bad physical features, including the standard of technical management, housekeeping and process hazards, with particular reference to loss prevention measures and their effectiveness. As the survey report will be used by the insurer for rating and placement and by the co-insurers and reinsurers for eventual participation in the cover, the surveyor must have high technical experience in order to inspire the confidence of all parties participating directly or in-

directly in the coverage. If there are no qualified surveyors available locally, they can be recruited abroad or the leading reinsurer may be requested to assign.

Many large risks in property insurance, particularly in the fire and engineering classes, can be subdivided into smaller units provided that no risk of conflagration exists. The breakdown of values and the assessment of estimated maximum loss (EML) for each of them serve to fix retention and reinsurance on these EML values. Since in most cases the EML is lower than the sums insured, the insurer can increase his overall retention of the risk and curtail his outward reinsurance requirements. However, for EML estimates to be appliance for retention and reinsurance purposes, they have to be acceptable to all other parties involved.

In view of the difference of opinion as to what constitutes a single risk and the criteria on which the EML is based, it would be particularly helpful if the underwriters in developing countries adhered to definitions established by international associations such as the Reinsurance Offices' Assn. (ROA) in London. It is essential that the ceding company and its reinsurer reach an agreement whether retentions and reinsurance in property classes are to be calculated on the basis of sums insured or EML.

Furthermore there is the whole educational process of risk improvement and loss prevention. There can be no doubt that from the point of view of the national economy, loss prevention plays a very positive role by helping to avoid depletion of national wealth and by encouraging and expanding investments. From the practical point of view, regular loss prevention inspections are highly desirable, since large risks continually change with technological and market developments.

Finally, international markets should continue to extend their knowledge and experience to their ceding companies in developing countries not only by giving ad hoc advice on the underwriting and handling of large risks, but also by assisting them in training their specialized personnel dealing with large risks locally. Training should include joint risk inspections, joint estimation of EML's, joint rating, etc. International reinsurers should supply local rating associations and local experts with comprehensive material on worldwide experience of large risks and up-to-date methods of risk prevention and controlling accumulations.

By doing these things, the established industry can aid in the process advocated by UNCTAD of initiating a means of providing a growing capability and capacity for domestic large risk insurance needs within the developing countries.

International benefits . . .

Continued from preceding page

insurance company's retention in many countries through negotiations or through multi-company agreements.

Note: The benefit managers mentioned four such groups established by insurance companies: John Hancock's International Group Program (IGP), Swiss Life Group, Insuper and Aetna Generali.

MR. KINARD: We're pretty much following the same path except with regard to our new international expatriot or third country national pension arrangement which we're planning to have as a book reserve. We have not insured termination indemnities in places like Japan or Mexico. With the exception of Canada where there's been a long relationship with Aetna or Excelsior, which is our insurer in the U.S., we try and steer all our new programs into the multinational pool.

MRS. WRIGHT: We insure our retirement plans for some of the countries such as Belgium or France. For Germany, we

book reserve, as permitted by the government. Likewise for Austria, we book reserve and for Japan, we have a severance retirement package with a company of the John Hancock group.

MR. HOWELL: Generally we follow the same concept, but like the rest of us, if you look far enough, you'll find some variation of every simple technique from going bare to book reserving. Some of it has to do with tax advantages, which are decisions beyond the employee benefit area, and there is some concern about expropriation.

MS. LeROUX: Has there been any legislation in the past 12 to 18 months that has created problems?

MR. WRIGHT: In Germany, what has come up recently is the "first matrimonial law". If an employee is entitled to a certain pension and if he or she gets a divorce, the other partner is entitled to half of it. That's the simple way of putting it. The complications come in when they have to split the social security pension as well.

The employee has to give part of his or her social security to the former spouse and when you have an integrated plan, that's where the headache comes in. If you offset social security and don't amend your plan, the company would be subsidizing the portion the ex-spouse took away.

MR. KINARD: Another interesting thing that's going on all over the world is anti-discrimination laws which means you'll have to recast your plans. In some cases you might make distinctions between male and female and if you do, you better watch out. You've got to be alert to the laws of every country and just about all of them are making anti-discrimination laws.

MS. LeROUX: Can we identify any trends in international benefits?

MR. HOWELL: In some of our locations, our annuity plans seem to be going in the direction of a lump sum.

MR. WEILER: Japan, for example, has an early retirement age and people are given an incentive by some employers to retire at 45 to 50. A lot of these people want to start a business of their own and this lump settlement provides them with the means to do it.

MS. LeROUX: Is it possible to develop

a long range plan for international benefits?

MR. KINARD: Using the U.K. as an example, the first white paper on pension legislation came out in the late 60s and every year after that it changed. . . . If I were advising management what to do three years in advance of any point after 1970, I'd have been dead wrong because the final version was so different from what it started out as.

MRS. WRIGHT: Right now as far as benefits are concerned in France, it's at a standstill because they're waiting to see what the results of the election are going to be.

MR. KINARD: I do think though, there can be value in an exercise in trying to come up with some sort of systematic approach just as long as management understands you can't cross every "i" and dot every "i."

MR. WEILER: As far as projecting costs and trends in international benefits, we have to be satisfied with some rather broad goals and objectives. Perhaps it is a truism, but I believe the more specific you try to become, the more likely it is you'll be wrong.

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PERSPECTIVE

Avoid more regulation on product liability

By Robert Clements

Executive vp
Marsh & McLennan Inc.
New York

THE INTERAGENCY TASK FORCE REPORT on product liability is a significant piece of research, a synthesis of an enormous amount of information from a wide variety of sources concerned with product liability. It attempts to describe current practices in product liability insurance, underwriting and rate-making and brings a welcomed emphasis on the potential of industry and insurers to reduce product liability losses through preventive techniques.

Nevertheless there is cause for concern with those policies which are implicit in the report's conclusions pertaining to insurance mechanisms.

Unquestionably there is a "credibility" problem connected with product liability insurance. Insurers are not generally believed to have had sufficient reason for the sharp increases in rates imposed over the last two years. In pursuit of that belief the report concludes that better data should be collected and product rates should be closely related to correctly assessed product risks. The report suggests that this might be best accomplished through government regulation and that the thrust of regulation in the product liability field should be directed in these areas.

Such a conclusion assumes the necessity that a given line of insurance (and within the line itself each individual rate classification) can and should be statistically credible for rate-making purposes and that the packaging of product liability with any of the many other third-party lines of insurance is inappropriate.

Rate regulation

However, there is room for another point of view. Lack of data on a single peril does not necessarily justify establishing large-scale reporting mechanisms with their attendant costs, nor is it a basis for imposing rate regulation in an effort to accomplish what may be actuarially impossible. For example, the peril of earthquake is an actuarial puzzle and is offered as a separately insured and rated risk only at prohibitively high premiums. When packaged as part of "all-risk" property insurance policies, however, the coverage is generally available at reasonable cost.

Recognizing that the report's conclusions in this area are not specific recommendations for legislation, it is nonetheless clear that the report calls for increased regulation in an area which does not require rate regulation. Current underwriting results are an indication that the product liability rates may fall in the absence of government regulation. The conclusions of the report, however, suggest a reporting system which would primarily be of use to regulators and which could



Robert Clements was a member of the advisory committee for the Interagency Task Force on Product Liability. This is an edited version of Mr. Clements's critique of the report.

lock in permanent place a problem beginning to be solved by the forces of the marketplace.

Continuing its emphasis on regulatory solutions, the report discusses surplus lines and reinsurance. It is correctly observed that these are both important sources of product liability insurance capacity. However, a fundamental misunderstanding of the actual surplus lines function and its significance in the overall insurance mechanism is apparent when the implication is left that surplus lines ought to be more closely monitored in order to control costs and minimize the risk of insolvency.

Surplus lines

The concept of surplus lines and the term itself are as unique to the United States as our form of rate regulation. It could be said that the development of the surplus lines market and its continued existence is a direct reflection of the failure of regulation to accomplish its intended purpose where business insurance is concerned. It is a form of escape hatch or relief valve which allows the system to continue to function despite regulation and is tolerated by regulators as such. Rate regulation of surplus lines is a contradiction in terms.

With respect to the risk of insolvency it is well to bear in mind two points: first, the insolvency record of regulated companies is far worse than the record of the surplus lines market; second, in the absence of any demand for compulsory coverage the prospect of insolvency should be considered primarily from the standpoint of the policyholder rather than the accident victim. To my knowledge no claimant in a product liability case has failed to collect his loss due to the insolvency of the defendant's insurer and no one has suggested compulsory product liability insurance for the benefit of accident victims.

Several details of the report are especially worthy of comment:

- The discussion of "claims-made" liability insurance coverage is very misleading. The "claims-made" form is useful in certain types of insurance, principally professional indemnity coverage, but it is potentially dangerous to the buyer of product liability, especially if he does not understand fully its limitations. The real problem with "claims-made" in product liability is that it will occasionally put the buyer in a position of in effect having

to insure his house when it is already burning. There are other better ways to shorten the underwriting tail and reduce the speculation in product rate-making. For example, the definition of "occurrence" can be tied to the date when injury is first manifest.

- The report says "to be statistically sound, rates for each product class should be based on the claims experience per unit of exposure that has occurred in the past. That is, assessments of the probability of claims in the future for a given class should be based on knowledge of claims in the past."

This is a decidedly arguable point which ought not to be made as a statement of fact. For example, a growing number of rating experts are exploring the possibility that environmental or exposure rating techniques are more valid in product liability rate-making than the mere extrapolation of loss experience. It would have been preferable to see the report speak to the point that for product rating to be statistically sound, it is necessary to achieve technological improvements in underwriting techniques.

Federal reinsurance

- In the discussion of federal reinsurance in chapter VII there is the suggestion that retrospective rating and full credit for investment income generated by reserves might limit the amount of the subsidy inherent in the federal reinsurance proposal. The long tail in product liability and the essential need for conservatism in rating (from solvency considerations alone) are factors which make retrospective rating and credit for investment income highly desirable facets of any rate-making scheme, not only federal insurance.

These concepts are increasingly adopted by product liability underwriters today. It should also be noted that the idea of group captive insurance companies and structured self-insurance plans are both essentially adaptations of the idea that equitable pricing of long tail risks requires giving insureds a stake in investment income generated by the premium and in any adjustment of the overall cost dictated by the claims experience.

- The Task Force is to be commended for its generally favorable position with respect to the encouragement of captive insurance companies, including association captives. However, the conclusions with

respect to individual-owner captives reflect a possible misunderstanding of their function. The report says that such captives could lead to increased insurance costs because they lack the pooling of risk common to other insurance ventures.

The main point of a single-owner captive is to provide a means of funding and administering that portion of the owner's risk that he is able to absorb and does not need to transfer to a conventional insurer. To the extent that the use of captives is inhibited by regulatory and federal income tax considerations, risks are transferred to the conventional insurance market unnecessarily.

This results in a wasteful increase of demand on an insurance market which already suffers from limited capacity. Furthermore, it is demonstrable that captives lead to a reduction of the overall costs of insurance, not an increase.

Single-owner captives

The report also suggests that an inadequately capitalized single-owner captive may not be able to compensate claimants. In addition to noting again that there is no demand for compulsory product liability coverage, one might point out that the risk of insolvency is not of paramount concern to the policyholder when he is the sole owner of the insurer in which he has placed risks he has chosen not to transfer to the conventional market.

- The report recognizes the potential value of structured self-insurance programs, but expresses concern over their potential impact on federal tax revenue and about the prospect of giving special treatment in the tax code to product liability. However, there is reason to believe that the deductibility of payments to structured self-insurance programs can lead to an increase in tax revenue rather than a reduction. Experience has proven that much insurance is purchased purely for tax reasons.

Since the deductibility of such contributions would lead to a significant increase in the practice of self-insurance and a corresponding decrease in the purchase of conventional insurance, it is argued that the result would be an increase in corporate profits and corporate taxes. This would obviously be offset, but only partially, by a reduction in corporate tax revenue where credit is given for risks already self-insured.

A number of factors are now at work which can improve the availability and the cost of insurance. Among these are the insurance companies, the generally impressive current profitability of traditional insurance companies and the accelerating influx of foreign investment through the entry of foreign carriers in the domestic market. Each of these developments represents an encouraging new form of additional insurance capacity and the effect thereof will inevitably be favorable in terms of availability as well as affordability. ■

Lloyd's remembered . . .

Continued from page 49

how to be generous. Probably there never was a broker who has worked at Lloyd's who could not retell some story demonstrating the generosity of underwriters. It often seemed that if contractual obligations got in the way of a reasonable solution to a problem, then so much the worse for the contract.

The second ingredient was the utmost good faith. When you showed a risk to an underwriter you told him everything and he accepted your word for it. If you failed to do so—a process known as "picking up"—and you were subsequently discovered, you never did business with him again and probably nobody else as well.

As for the underwriters themselves, if

they failed and there was any suggestion of dishonesty, Lloyd's was ruthless. An underwriter is personally liable to the extent of all his assets including the shirt on his back.

In my day this was demonstrated in the Alex Wilcox failure. This underwriter had incurred massive liabilities which he attempted to conceal by manipulating his accounts, kiting checks and the like. Lloyd's pursued charges and ultimately a long prison sentence was imposed. On the day the incident became known, however, Mrs. Wilcox was out shopping and when she returned, Lloyd's representatives are reported to have taken her car and refused her permission to enter the house—they

were no longer her husband's property.

All this implies a very strong measure of self-responsibility which made the third ingredient possible. The typical Lloyd's underwriter would never look at a piece of business and simply say that he would not write it. He might prefer not to insure a risk because of past experience or because it was hopelessly substandard or for some other reason. But, generally speaking, if there were an insurance risk then somewhere there was a price for insuring it without benefit of manuals or rate tables or social pressures. Decisions of the kind underwriters made, required sound underwriting judgment and many respected names were capable of exercising it. Above all, the underwriter would never refuse a piece of business merely because nobody had ever underwritten such a risk before. Rather, he would look for ways of coping with the problem and as a result,

while Lloyd's underwriters would not write everything that was placed before them, they were more likely to do so than the underwriters at any other institution.

Much can happen in 20 years and certainly Lloyd's is not what it was. No doubt many of the people I knew have retired or died or have left the business entirely. Possibly some of my contemporaries who remain are now characters in their own right. In the meantime, my own feelings about the institution are that so long as the underwriters retain their integrity and exercise their imaginations untrammelled by bureaucrats and politicians telling them how to conduct their business, they will remain a force to be reckoned with for as long as insurance is of any significance.

How do they measure up against American underwriters? Well, as Dogberry said, comparisons are odorous! ■

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- ☐ Does your policy by definition exclude employee benefits liability losses?
- ☐ Does your policy include outside persons as insured fiduciaries?
- ☐ Does your policy contain a limited retroactive acts exclusion?
- ☐ Has your policy been purchased without the advice of competent legal counsel who has rendered an opinion in writing as to which contract he felt offered the broadest coverage?

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Chief defends endangered OPIC

By JERRY GEISEL

WASHINGTON—When the Filon Exploration Corp. of Denver, Colo., sought drilling partners in the search for oil in Jordan, it found no takers. Companies told Filon that the political risks were too great to risk a major investment.

But thanks to the assistance of a poorly understood outfit known as the Overseas Private Investment Corp., Filon was able to obtain \$20 million in political insurance that protects the company from such risks as war, insurrection and currency inconvertibility. Filon's search for oil can go on.

Other companies seeking insurance protection for their investments abroad may not be so fortunate. A strong move is underway in Congress to kill OPIC.

This isn't the first time brickbats have been tossed at OPIC, the government agency that insures companies against expropriation, inconvertibility and war risks to encourage U. S. firms to invest in less developed countries.

But this year the attacks seem especially sharp and OPIC officials fear they may induce Congress not to renew OPIC's underwriting authority and to disband the agency.

While the Senate voted 69-12 last fall to continue OPIC until Sept. 30, 1981, the House still has not acted on companion legislation extending OPIC. A vote on the House bill is scheduled for later this month and the outcome is in doubt.

In the meantime, OPIC's underwriting authority expired Dec. 31, 1977. That means OPIC no

International

longer can issue new policies until Congress decides its future. Current policies remain in effect.

As in past years, OPIC's biggest foe is the AFL-CIO. During its December convention in Los Angeles, AFL-CIO president George Meany personally called for OPIC's termination.

The AFL-CIO maintains that at a time of high domestic unemployment, there is no need for a U. S. agency that encourages investment abroad and results in a loss of jobs for American workers.

But, acting OPIC president Rutherford M. Poats takes issue with the oft-repeated charge that

OPIC decreases employment opportunities for U. S. workers.

In the first place, OPIC rigorously screens applications to determine what effect each investment project will have on the U. S. economy. Applications that have an overall negative impact on U. S. jobs are rejected, Mr. Poats said.

Imports do cost American jobs, he admitted, but those imports come from major industrialized nations such as Japan and Germany, not from the less developed nations with per capita income under \$1,000, where OPIC encourages investments.

The availability of OPIC insurance against expropriation, revolution and insurrection has enabled U. S. companies to intensify their costly search for oil and raw materials. Many companies,

like Filon, would not risk exploration without insurance protection, he argued.

Other critics charge that OPIC only aids "fat cat" Fortune 1,000 companies and isn't doing its part to help smaller companies.

Mr. Poats said OPIC is doing a "manful effort" to increase small business participation. The agency, for example, on an experimental basis pays brokerage fees to U. S. brokers who bring small business investors to OPIC resulting in a contract.

These fees typically range from 10% to 15% of the first year premium. OPIC will pay 10% of the first year premium, or a minimum of \$250, provided that does not exceed half of the first year premium. OPIC will also pay 2% of premium for renewals.

Still, Mr. Poats acknowledges that smaller company participation never will rival that of the large companies since smaller firms often lack the capital and the technical expertise to go abroad. Others simply are not interested.

One change OPIC can live with is Congress's move to reverse a 1974 decision that required OPIC to turn all underwriting arrangements over the private insurance companies, which had shared underwriting arrangements with OPIC, by 1980.

Now Congress has told OPIC to end its joint underwriting arrangements with private insurers.

Under the new underwriting arrangement, OPIC will supply direct underwriting coverage. The role of the private insurers will be limited to reinsurance.

To that end, a consortium of 14 U. S. and foreign insurers, known as the Overseas Investment Reinsurance Group, has been formed. It will replace the old Overseas Investment Insurance Group formed in 1975 in which OPIC shared direct underwriting risks with the private insurers.

The Reinsurance Group has pool liability limits of \$40 million per country and \$80 million annual aggregate subject to per project stop losses of \$2 million for inconvertibility and \$10 million for expropriation. The 14 members of the Reinsurance Group have subscribed to \$5.3 million per country and \$10.6 million annual aggregate of the pool.

But the Reinsurance Group may only be a pipe dream.

If Congress does kill OPIC, it will mean the death of an agency that has provided insurance and investment assistance for U. S. companies investing in 90 foreign countries.

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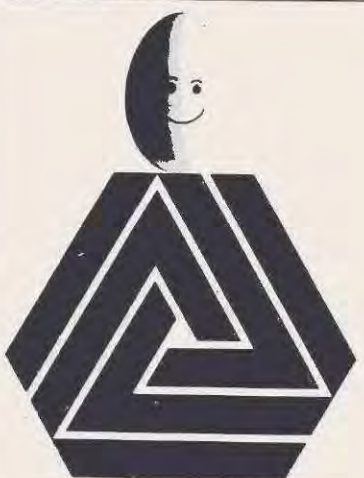
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SEE OUR AD ON PAGE 3

Consolidated program is finally completed; Mattel looks ahead

By JOANNE GAMLIN

International

HAWTHORNE, Calif.—With the incorporation of its Australian coverage this month, Mattel Inc. heaved a sigh of relief. Its international insurance program, begun in 1974, was complete at last.

For the next three to five years, the nearly \$400 million multinational company, known best for its toys, can turn its attention to new approaches for the program which provides comprehensive property and liability coverage for subsidiaries in eight nations and two hemispheres.

One obvious possibility is a captive.

"Our foreign subsidiaries will have to grow some in order to make the captive concept worthwhile," observed assistant treasurer John G. Pinner.

Eventually, Mr. Pinner believes, Mattel would like to take advantage of the cost savings offered by a captive for foreign subsidiaries. These savings are more significant, he said during an interview, than they would be for domestic companies because of the tax implications.

"There are a number of companies that utilize captives only for offshore properties," he said.

Mattel, which derives about 25% of its toy sales outside of the United States, began the transformation into a multinational concern in the late 1960s when it acquired companies in Germany and Italy and formed a firm in France to market toys. In the other half of the globe, Mattel has a sales organization for toys in Australia and Japan as well as production facilities in Hong Kong, Taiwan and the Philippines.

A large manufacturing and sales facility also exists in Canada, although insurance coverage for that northern neighbor has long been included in Mattel's domestic insurance program. Canadian property insurance, therefore, is handled by Allendale Insurance, the parent's insurer. Liability coverage is also underwritten by Mattel's domestic carriers.

Mattel became conscious of a need for an international insurance program with its expansion into Europe and Australia.

"In the early 1970s, Johnson & Higgins cautioned us that the kind of international exposure Mattel had should be handled at the corporate level," he recalled.

Mr. Pinner said that Mattel senior management later agreed and gave the nod to J&H to formulate an international program.

At the time J&H made their initial presentation, Mattel did have one worldwide coverage in place arranged by the Los Angeles office of Marsh & McLennan. It was a worldwide business interruption policy, protecting all direct and contingent business interruptions throughout the world.

The program was later combined into the J&H international coverage and in 1975 Mattel named Johnson & Higgins of California to be its major broker for domestic coverage replacing M&M.

The J&H-designed international program was begun by placing, one by one, the eight countries under the worldwide property policy underwritten by American International Underwriters (AIU), he said. The blanket policy will automatically compensate if any specific exposures should be found

to be uncovered.

Elva Wilson, who works for Mr. Pinner as Mattel's insurance manager, pointed out that the local coverages under the worldwide policy are designed to be as extensive as possible in order that the subsidiaries being covered can pay the premiums locally.

"Income tax difficulties could arise if the local companies could not pay the premiums locally,"

Continued on following page



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Mattel program . . .

Continued from preceding page

she elaborated. "Moreover, premiums are required to be paid locally in some countries."

Mr. Pinner observed that the property insurance requirements vary markedly among the seven nations (excluding Canada) where Mattel has facilities. In order to standardize the varying local property coverages the international program is similar to a domestic difference-in-conditions (DIC) policy.

The one important common thread that pervades the international property coverages are low deductibles. "Outside of the United States and Canada, you don't get much credit for deductibles," observed Mr. Pinner.

Mattel has four other international coverages: liability, direct and contingent business interrup-



tion, marine open cargo and a blanket crime bond.

Liability coverage is not the searing concern that it is in the United States, he said. Many of these countries lack a contingency fee system for attorneys, meaning that much of the population is

without the means to sue.

Granite State Insurance Co., a part of AIU, underwrites the international liability policy. It has no deductibles except for \$1,000 for each loss under the fire legal liability.

The international direct and contingent business interruption coverage consists of six insurers in addition to AIU. This blanket policy replaces Mattel's old worldwide BI policy drawn up by Marsh & McLennan. It carries a self-insured participation on any adjusted loss or occurrence on the first \$4 million of coverage.

Marine open cargo coverage is underwritten by a Japanese firm, Taisho Marine & Fire. It has separate limits for any one vessel and for any one aircraft. Underwriting the blanket crime bond is The Hartford Accident & Indemnity Co.

The foreign toy subsidiaries take their loss reporting clues from

"Outside the United States and Canada, you don't get much credit for deductibles."

—John G. Pinner
Mattel Inc.

a 20-page booklet entitled, naturally enough, the "International Insurance Guide." It outlines basic information on the five coverages and details precise loss reporting data. For example, foreign insurance personnel are advised that property losses are to be reported to Mr. Pinner "as soon as possible by telex—followed by letter." In addition, they are given the name, address and phone numbers of the local J&H office in their respective countries and instructed to report all loss information there as well.

As for loss control efforts, Italian and German subsidiaries have

up-to-date sprinkler systems, Mr. Pinner pointed out, noting that loss control overseas is under the auspices of Johnson & Higgins Loss Prevention in conjunction with AIU.

"They do almost too good a job," he commented. "They try to apply U. S. standards to the foreign operations and we attempt to comply with them most of the time."

Nevertheless, he said that the loss control standards act as excellent guidelines.

On a par in importance with the nicely styled international insurance booklet is the conscious public relations effort Mr. Pinner and Ms. Wilson make on behalf of the program.

What the two insurance officials want to avoid is having "a bunch of hostile people sitting over there." Consequently, the assistant treasurer, who spends only about 35% of his time on insurance issues, said that the effort strives to enlighten foreign personnel on what he and Ms. Wilson are doing in the international area.

Employees of the foreign operations are first introduced to the J&H representatives in their country. In addition, these employees meet with Mr. Pinner and Ms. Wilson during their semi-annual visits to Mattel headquarters in California.

"At these times, we tell them what we intend to do and get their input," explained Mr. Pinner. "We want them to view what we are doing in an enthusiastic light."

The local foreign brokers also visit Mattel in California on the average of once a year, he said.

Next year, however, the tables will be turned when Mr. Pinner undertakes his maiden overseas business trip for the international insurance program.

"I've been to Canada quite a bit," he said, "but I have not journeyed abroad before because most of the big dollar values are in the United States."

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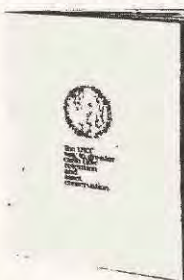
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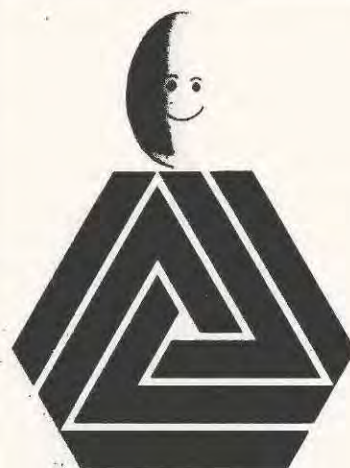
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Firms aren't aware of termination risks, benefit chief contends

By JOANNE GAMLIN

International

LOS ANGELES—Multinational corporations employing a sizable workforce abroad may be investing an appropriate amount of time and money figuring out the cost of their domestic retirement programs. But are they aiming for an equally realistic perspective on the cost of the pension and mandatory termination indemnities of their overseas employees?

The answer is a blunt "no," believes Dart Industries's Roger A. Petersen.

Mr. Petersen, manager of international benefits and employee services for the \$1.5 billion corporation headquartered here, doubts that U.S. corporations have more than a dim notion of their financial obligation in the pension and termination indemnity/seniority bonus areas, particularly in Western Europe, Central America and South America, where liabilities are rising especially rapidly.

"Possibly the biggest and most serious area of neglect for multinational companies lies with their coming to grips with the cost of the value of mandatory termination indemnities and company operated pension plans in foreign nations," he said during an interview.

"The actuarial basis used in plans internationally may not be the same, and in most cases is not the same, as the actuarial base used in the United States."

Best known for two lines of consumer household products, West Bend cookware and Tupperware products, Dart does business in over 30 nations. Mr. Petersen is employed in the employee services department which he described as an "inhouse broker or consulting firm" to field locations.

While the company uses outside brokers in various roles, none is responsible for the placement of business with insurance carriers.

When Dart sets up an operation in a foreign nation where it believes company-sponsored employee benefits are needed, it is the task of Mr. Petersen's department to analyze the statutory benefits and to evaluate the competitive environment in which the new unit operates.

In concert with the local unit, that information is translated into an employee benefit program. If the program includes a pension plan, it will be approved by the retirement plans committee, a subcommittee of the board of directors. This group approves all pension plans before they are adopted by Dart.

Virtually all the international retirement programs approved by this body are integrated with the local social security laws.

Mr. Petersen says pensions and termination indemnities/seniority bonuses deserve more attention than health and life programs because they represent a long term liability while medical and life programs do not.

"Group medical is really not an insurance program," he asserted. "It is a transfer concept with rates tied to experience. What you are doing with group health is having somebody disburse money for medical benefits."

"A pension plan, by contrast,

creates a liability that must be reflected in financial reports."

For the most part, overseas medical plans formed by Dart are designed for the middle and upper level executives as dictated by the competitive situation. While hourly workers, in general, are accustomed to government provided benefits, salaried employees are often "paying out of pocket" for benefits that exceed

Continued on following page

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Dart benefits . . .

Continued from preceding page the legal requirements, he said.

When establishing an offshore employee benefit plan, U.S. firms face the choice of whether to "contract in" or "contract out" of the local social security programs. He observed "contract in" is the current buzz word among his colleagues at other multinationals.

With long term presence in the United Kingdom, Dart opted to "contract in" to that nation's social security program. Mr. Petersen stressed the decision was based on financial and not competitive reasons. By contrast, he noted that most U.S. firms in Britain are contracting out from the social security system there.

"Because of the indexation of benefits to the cost of living in the United Kingdom and the con-

comitant potential for investment loss through private funding, we decided to not shoulder the private commitment," asserted Mr. Petersen.

So far, the United Kingdom is unique in mandating the indexing of pension benefits. Dart, however, is closely monitoring developments in this area in other Western European nations in the belief that this is an area where multinationals should remain on the alert.

He went on to explain that one reason why Dart has a policy of integrating its benefits with the local social security systems is that benefits can fluctuate according to the government that is in power.

A company could design a plan paying a high benefit that is not

integrated, he pointed out, and then be ordered a year later to support a government program that does virtually the same thing. The result would be twice as much benefit accruing to employees as they merit, he said.

In Spain, for instance, there has been a dramatic rise in the social security wage base from around 588,000 pesetas to 965,000 pesetas. "This is the basis for Spain's social security benefit. We have a pension plan in that country. So if we weren't integrated, we'd have problems."

Mandatory termination indemnities, as well as seniority bonuses, are part and parcel of the retirement scene abroad, according to the international employee benefits manager. He said the termination indemnities are as big a worry in terms of fast rocketing liabilities as are pension plans.

Termination indemnities mandate companies to pay employees,

when they leave their jobs, a certain amount of money for each month of service. Some countries such as Mexico, he noted, add a seniority benefit on top of the termination benefit.

Dart is ahead of many multinational companies in taking a realistic look at the costs of pension and termination benefits, contends Mr. Petersen. Termination indemnities/seniority bonuses and pension benefits, for example, usually are valued by local actuaries. What's more, Dart book reserves many termination benefits and in some cases can receive a tax advantage for doing so.

"In Italy, we book reserve the cost of termination indemnities and take a tax credit for the move," he elaborated. "In Mexico and Venezuela, we get a tax credit but only for funding the seniority bonus."

But while he may be the one to design the concept for employee

acceptance for what Dart is doing overseas, Mr. Petersen noted that it is generally company policy to delegate the actual employee contact to local management.

"It is their company, they are operating it and their employees should learn about the plans from them, the local management," he said.

The potential employee relations bombshell of losing money on retirement program investments has been taken care of, Mr. Petersen believes, by Dart's policy of relying on insurance contracts for investment vehicles. In Europe, Swiss Life Insurance & Pension Co. is used by Dart for pension reserves. In Australia and New Zealand, Dart uses another insurance company, Australia Mutual Provident Society (AMP), a John Hancock affiliate.

Noting the financial advantages of Swiss Life's master cover contract, Mr. Petersen said that Dart employs a variety of insurance contracts for different goals.

A deposit administration contract, similar to a managed fund, is used in Great Britain, for instance.

Along with protecting the investments against wrenching losses, the contract also functions as a means of helping to provide portability of pension benefits for employees transferring between subsidiaries participating in the master cover contract. The contract also provides a means of reducing medical and life insurance costs, he underscored.

"We have life and medical insurance with Swiss Life throughout Europe," he explained. "The master cover contract enables us to pool the life and medical experience with subsidiaries within each country and in other countries covered by the contract." The hefty payoff is second stage dividends for life and medical programs for subsidiaries all over Europe.

Generally speaking in the rest of the world, he noted, life and medical experience is pooled on the international group program (IGP) of the John Hancock Mutual Life Insurance Co. of Boston.

Multinationals that do not utilize the numerous international pooling networks that flourish abroad are not only being foolish, maintains Mr. Petersen. They are losing money.

Spending any more money than he absolutely has to on employee benefit programs is something that Mr. Petersen does not intend to do. ■

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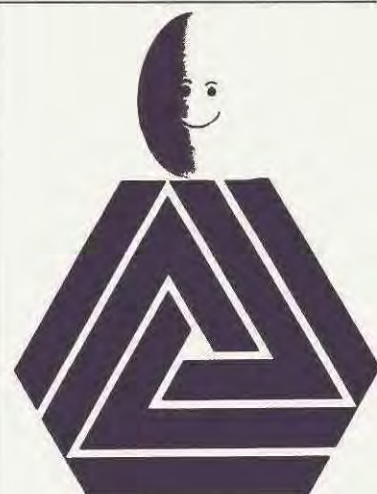
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Controversy delays Common Market draft on product liability

By JERRY GEISEL

BRUSSELS—The controversy that continues to surround a plan to give the nine members of the Common Market a uniform set of product liability laws makes it unlikely that any proposal will be implemented before the early 1980s.

European consumer groups object to a statute of limitations that would end a manufacturer's liability 10 years after a product is first put into use. Consumers want a much longer period of liability for manufacturers.

Business interests believe a 10-year statute of limitations is too long—contending five years would be more appropriate—and they are concerned about wording in the directive that makes it unclear if contributory negligence by a plaintiff is a defense against liability.

Despite the objections, observers of the European product liability scene believe the European Economic Community is on the road to adopting the theory of strict liability contained in the directive.

The drive is fueled by a desire to end the hodgepodge of varying product liability laws in the EEC which distort competition by placing a greater burden of liability on manufacturers in some countries than in others.

But before that can happen, several roadblocks must be cleared. The 144-member EEC Economic and Social Committee and the European Parliament both must issue reports on the proposal. That is unlikely to happen before 1979.

After the European Parliament and the Economic and Social Committee issue their opinions, the nine-member Council of Ministers will vote on the directive.

If the Council of Ministers approves, EEC countries would have up to 18 months to pass legislation closely corresponding to the directive's principles.

If the council does approve the directive, European corporations will be operating under a code that in some cases is tougher than the theory of liability that guides U. S. courts.

In the U. S., for example, an injured plaintiff must prove a product was defective at the time it left control of the manufacturer. Under the EEC directive, however, the manufacturer would have to prove the product was not defective when it left his hands.

"This a tremendous shift in the burden of proof (from the plaintiff to the manufacturer) which goes far beyond American law," said Frank A. Orban III, vp and executive director of The Research Group of Charlottesville, Va., a legal consulting firm that monitors worldwide product liability developments.

Furthermore, another section of the directive would make a manufacturer responsible for "development risks"—those resulting from a defect which was unforeseeable and unavoidable "in the light of the scientific and technological development" at the time the product was first put into use.

The directive, though, does offer a series of protective clauses for the manufacturer. The directive sets a limit of \$27 million on the damages that can be awarded against one company for personal

International Update

injuries. Liability for property damage is limited to \$18,000 while liability for movable property is \$60,000 on an individual rather than cumulative basis.

Damages for pain and suffering would not be allowed and retailers and wholesale-distributors would be excluded from liability since including them would increase the price of products without offering any added protection

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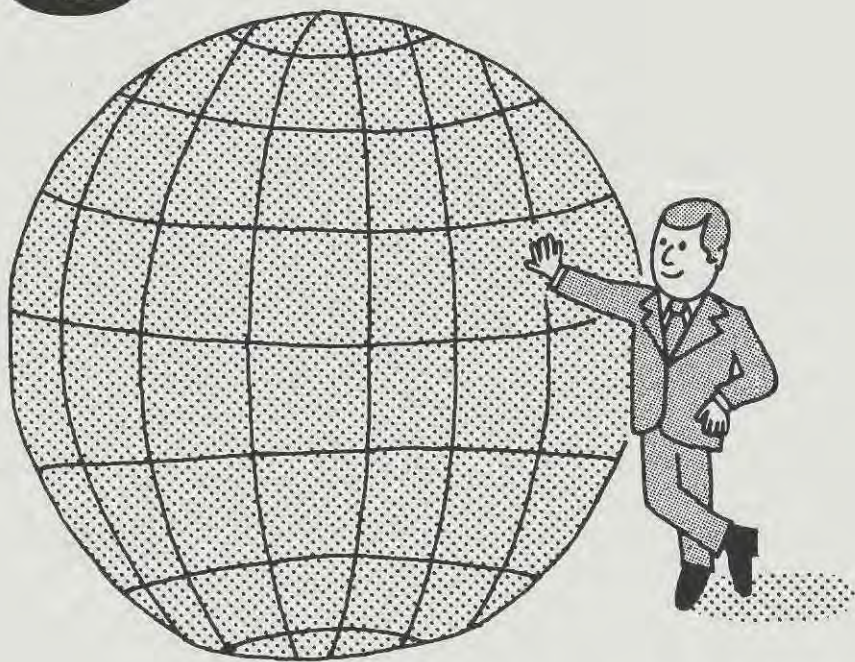
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Common Market . . .

Continued from preceding page for the consumer.

While the British favor the adoption of strict liability, they have taken the lead in opposing the directive. A blue-ribbon commission examining liability law in Great Britain opposed the directive's exclusion of damages for pain and suffering as well as the financial ceiling on liability.

But what has concerned the British most is that adoption of the directive might preempt the British Parliament from acting independently to refine its product liability law and introduce a system of compensation.

British opposition could stall the progress of the directive indefinitely since the Council of Ministers rarely will act on a proposal unless there is unanimous support from all nine members, said Mr.

Orban of The Research Group.

Other European groups also are getting into the product liability scene. The 17-nation Council of Europe—which includes the EEC nations and eight other countries—is studying a lengthy product liability proposal that is similar to the EEC directive. If adopted, though, the Council of Europe proposal would not be binding on member nations.

Even if the EEC directive is adopted by member nations, few observers believe product liability problems in Europe will begin to rival the problems that manufacturers face in the United States.

Europe lacks the specialized sophisticated plaintiffs bar that is found here, experts argue.

"In general, you don't have in the European bar, the detailed technical expertise, particularly in



FRANK ORBAN: European lawyers do not have the technical sophistication of the American bar.

design defect," Mr. Orban said. In the U. S., "we have lawyers who know about as much as how a car is put together as the best designer at Ford Motor Co."

Aside from lacking the technical sophistication of their U. S. counterparts, European trial lawyers generally do not operate on a contingency fee basis. ■

RIMS panel assists its colleagues abroad

NEW YORK—The RIMS International Cooperation Committee does not act as "missionaries" for risk management groups overseas, but it has helped risk managers in several countries to establish national risk management organizations.

The eight-member committee, chaired by Robert E. Abrahamson, manager of risk management and corporate insurance for Control Data Corp. of Minneapolis, acts primarily as a liaison between RIMS and risk managers and their organizations abroad. Each committee member is assigned responsibility for several countries.

"We're an international public relations arm of RIMS," Mr. Abrahamson said.

rahamson said.

The committee has helped risk managers establish organizations in Switzerland and Sweden and is working with risk managers in Brazil, Israel and Spain who have expressed interest in forming their own groups.

When interest in a risk management group exists in a country, a member of the committee will encourage that a dinner be given where that member can make a presentation, lead a discussion and let those in attendance decide whether to form an organization, Mr. Abrahamson explained.

"If they have the right people, they might get it going and come back to us for ideas," he added.

Local brokers, interested in doing business with more professional people, are often the impetus for establishing a risk management group, said Mr. Abrahamson.

That was the case in Switzerland, where a leading broker proposed the idea to the risk manager at a major pharmaceutical firm. The organization has since grown to 60 members.

However, setting up risk management groups all around the world is not the RIMS committee's goal, explained Mr. Abrahamson. "We're not looking to set up a risk management organization in Angola."

Countries which presently have risk management groups include Australia, Belgium, France, Ireland, Italy, Japan, The Netherlands, New Zealand, South Africa, Sweden, Switzerland and West Germany. A European risk management group, based in Belgium, includes members from several EEC countries.

An increasing number of foreign risk managers attend the annual RIMS conference to take advantage of worldwide insurance contacts. RIMS is also planning to have preliminary discussions with the European group for the purpose of establishing stronger ties.

However, RIMS does not want international organizations to become chapters of RIMS, even though foreign risk managers are welcome to join the group, Mr. Abrahamson said. He added that a worldwide risk management group isn't on the docket since it would be too cumbersome. ■

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International directory: 1978 listing of services

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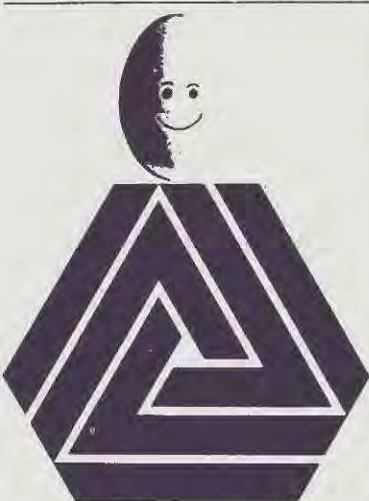
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AIU has a Bermuda captive management operation in Hamilton. It opened an office in Ireland in 1976. AIU also maintains a branch of National Union Fire Insurance Co. in Saudi Arabia, the only American insurer with a branch office there.

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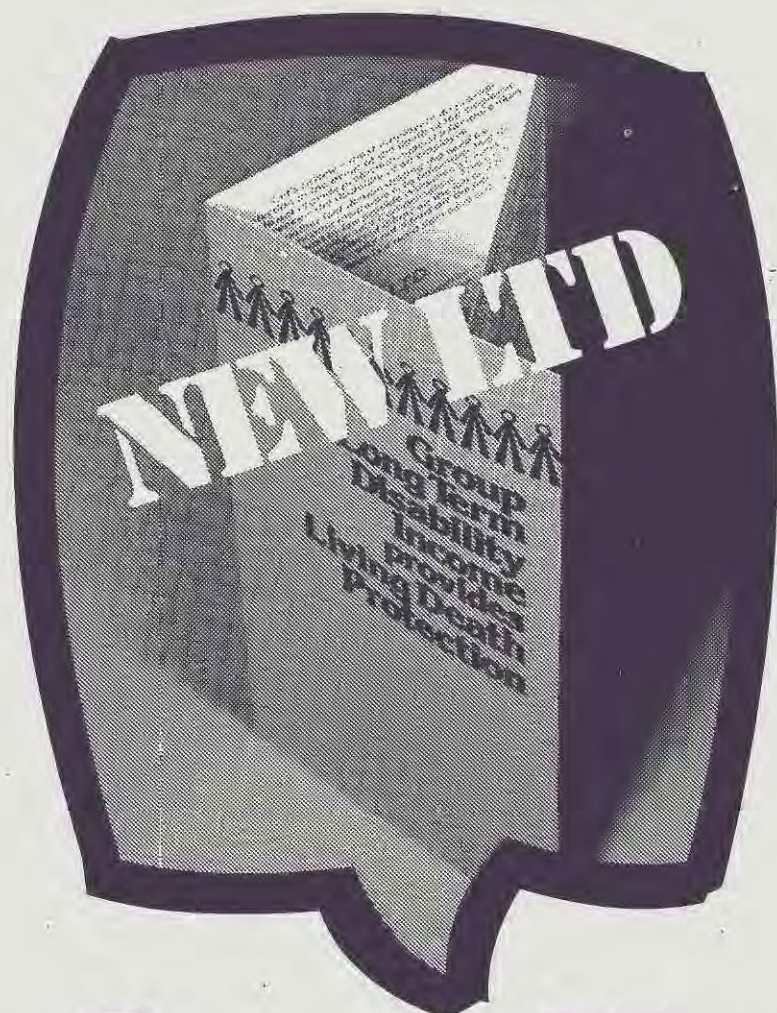
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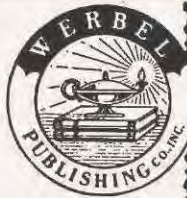
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NIARS Corp. offers the official NAIC model laws, regulations and guidelines service and the National Insurance Advertising Regulation service in all English speaking countries. Contact Del Sachwitz or James F. Billig, NIARS Corp., 318 West Franklin Ave., Minneapolis, Minn. 55404, phone (612) 874-1800.

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Philadelphia Manufacturers Mutual Insurance Co. offers coverage for multinational firms throughout the world through FM International Ltd. The policies offer the same comprehensive coverage offered in North America. Contact William F. Moore Jr., vp, Philadelphia Manufacturers, PO Box 824, Valley Forge, Pa. 19482, phone (215) 687-8150.

Pinkerton's Inc.

Pinkerton's offers a variety of services throughout the world through a network of correspondents including protection of executives, investigation services and security surveys. Contact E. C. Fay, vp, Pinkerton's Inc., 100 Church St., New York, N.Y. 10007, phone (212) 285-4840.

Pinkerton's of Canada Ltd. offers security services for corporate headquarters, plants and special events as well as a variety of investigative services. Contact L. Dagenais, Pinkerton's of Canada, 9083 Boulevard St. Michel, Montreal, Quebec, Canada, H1Z 3G6, phone (504) 325-0647.

Protection Mutual

Protection Mutual International, one of the companies comprising F. M. International in London, believes U.S. policyholders require the same underwriting and engineering approach for their overseas properties that is used in the U.S. This is done using Factory Mutual standard HPR fire and EC forms, adding DIC, boiler and machinery consistent with the practice of insurance and loss prevention engineering in each foreign country. To supplement the overall international insurance program, GAP contracts are negotiated as necessary.

Currently Protection Mutual International serves the needs of its clients in over 40 countries providing regular on-going HPR engineering facilities in each one.

Contact Mr. Christopher Morrish, Protection Mutual, 300 South Northwest Highway, Park Ridge, Ill. 60068, phone (312) 825-4474.

Prudential

The Prudential Insurance Co. of America's international benefits program is a service to its multinational policyholders to help meet their employee benefits needs throughout the world. Prudential has at least one associate insurer in almost every country in which private employee benefit programs are provided.

By working with consultants and a group of multinational insurers, Prudential is able to request information and offer advice to its policyholders in setting up a worldwide insurance program.

Contact Richard J. LaBrecque, International Benefits Manager, 3 Prudential Plaza, Newark, N.J. 07101, phone (201) 877-6030.

Reed Shaw

Canadian-based Reed Shaw Osler Ltd. offers insurance and reinsurance brokerage and risk management services through 145 offices in 28 countries worldwide. The company is the broker doing the world's largest international volume of direct business. Related services include loss prevention engineering.

Continued on page 68



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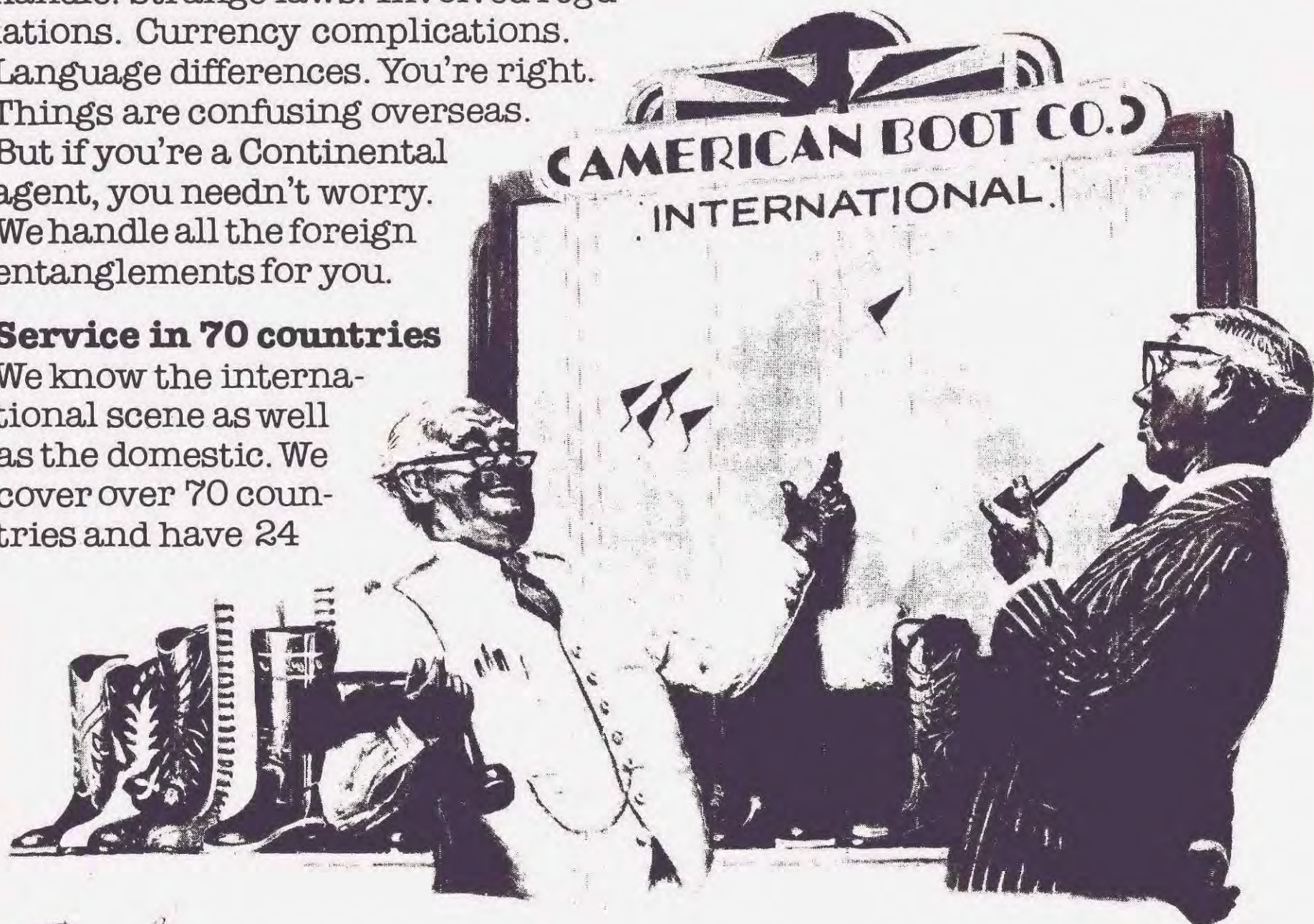
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Continued from page 64

ing, average adjusting, claims settlement, computerized risk analysis and employee benefits.

Reed Risk Management Inc., a subsidiary in the U.S., offers a worldwide financial risk analysis service. Sten-Re Ltd., headquartered in London, provides reinsurance facilities. The company is represented at Lloyd's by its subsidiaries Wright Deen & Co. Ltd. and Sir William Garthwaite (Insurance) Ltd.

Contact J. W. Whittall, president, PO Box 250, Toronto-Dominion Centre, To-

ronto, Ontario M5K 1J6, phone (416) 868-5780, telex 06-219-611. Canadian operations are conducted by Reed Shaw Stenhouse Ltd. Contact C. G. R. Gyles, president, same address and telex as above, phone (416) 868-5677. In the United States, Reed Shaw Stenhouse Inc. is headquartered in New York. Contact A. F. Salvatore, president, 1273 Avenue of the Americas, New York, N.Y. 10020, phone (212) 541-5073, telex 12-5074. Operations outside the Western Hemisphere are headed by H. Houghton, managing director and chief executive,

A. R. Stenhouse Reed Shaw & Partners Ltd., Two South Place, London EC2P 2DX, England, phone 01-628-6011, telex 883329.

RIMCO

RIMCO Inc. is an international risk management consulting firm, offering advisory services in the area of insurance and risk management. In addition to their home office in Dallas, Tex., RIMCO also has an office in Greenwich, Conn., and an affiliate, RIMCO Interamericana, which is active in Latin America.

Services offered include post casualty claims reviews, risk-funding, professional liability, product liability, mergers, acquisitions and spin-offs studies; employee benefit review, pre-loss property services, post-loss property services, corporate risk management departments and loss assumption studies.

Contact William S. McIntyre, president, RIMCO Inc., Suite 180, 10300 N. Central Expressway, Dallas, Tex. 75231, phone (214) 363-2451 or (800) 527-5690.

Risk Planning Group

Risk Planning Group Inc. is an international research and consulting firm which assists organizations in risk management, insurance and loss control problems. The main office is in Darien, Conn., with an affiliate office in France and associate consultant relationships in Belgium, England, South Africa, the Philippines and Australia.

Services offered to international clients include overall reviews of risk management, insurance and loss control programs, self-insurance studies and captive insurance feasibility studies. Also administrative studies of the risk management function, including job descriptions, training, risk/insurance management manuals and communications; loss quantification and loss and risk forecasting; risk and insurance management studies for companies which are merging or acquiring other companies; workshops and seminars on risk management topics and risk management and insurance counsel for associations and groups.

Contact H. Felix Kloman, president, Risk Planning Group Inc., 24 Old King's Highway South, Darien, Conn. 06820, phone (203) 655-9791, telex 996358; or Jean-Paul Lecottignies, director, Risk Factoring, S.a.r.l., 120 Avenue Charles DeGaulle, 92200 Neuilly-sur-Seine, France, phone 747-11-55.

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Inc. offers complete multinational broking, captive and risk management facilities to its North American clients through its international corporate headquarters in Chicago and international risk specialists located in its principal offices throughout the U.S. In partnership with C. E. Heath, branch offices are maintained in Tokyo, Yokohama, Seoul, Bogota, Rio de Janeiro and Sao Paulo. In a separate partnership arrangement with C. E. Heath and Co. Ltd. and Hudig-Langeveldt, branch offices of HLR Holdings Ltd. are located in Kuala Lumpur, Singapore, Bangkok and Hong Kong. HLR Holdings Ltd. also has several reinsurance and underwriting agencies in Southeast Asia and in equity interest in a Philippine broking company.

RBH has correspondent relationships with C. E. Heath and Hudig-Langeveldt subsidiaries in all major countries of the world.

From its central Midwest location, RBH is able to put together international plans of action to include brokerage, risk management, research and planning, marketing, claims, fire protection and safety engineering, statistical services, feasibility studies and account management.

Contact Henry G. Jackson, president, Rollins Burdick Hunter International Inc., 10 South Riverside Plaza, Chicago, Ill. 60606, phone (312) 454-1400.

Royal Globe

Royal-Globe Insurance Cos. are part of an international insurance group headquartered in London which offers worldwide coverage in more than 85 countries, writes policies in 16 major languages and collects premiums and pays losses in 116 currencies.

This group, known internationally as Royal Insurance, has premium income of over \$2 billion and offers local service on a worldwide basis through 750 offices.

Contact John D. Ormerod, assistant secretary or Camillo C. Molano, manager, international department, 150 William St., New York, N.Y. 10038, phone (212) 732-8400, telex TWX 710-5813885 (Royalglobe NYK), cable ROYAL NEW YORK.

Sapperstein

Sapperstein, Hochberg & Haberman Inc. and Adjusters Associates Inc. are public insurance adjusters in business since 1895. With offices throughout the United States and England, they service any occurrence worldwide. Contact

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Schiff Terhune

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Terhune Management Services Ltd. in Hamilton, Bermuda, function as consultants and operating managers of insurance and reinsurance companies, particularly captive insurers.

Contact Bruce W. Shinabarger, vp, 100 William St., New York, N.Y. 10038, phone (212) 425-3010.

Servicemaster

Servicemaster Industries Inc. provides disaster restoration services, including post-fire and water damage cleanup, smoke removal and large-loss cleanup on a worldwide basis. It also offers loss control consultation in property/casualty areas. Contact Robert A. Brewer, Servicemaster, 2300 Warrenville Road, Downers Grove, Ill. 60515, phone (312) 964-1300. Also Brain A. Smith, Servicemaster Ltd., Granby Building, 41 Granby St. Leicester, LE1 6EE, England, phone 44-533-52442, telex SERMAS G 341987. Bruno Schneble, Servicemaster Operations AG, Ackerstrasse 119, Postfach CH 8037, Zurich, Switzerland, phone 01-565677. Y. Kawai, Servicemaster, Business Division, Duskin Co. Ltd., Sekaicho Bldg., 1-2 Hondori, Nakatsu, Oyodo-Ku, Osaka 531 Japan, phone 06-385-7476/7, telex DUSKINCO 5234121.

The Travelers

The Travelers Insurance Co.'s international department offers a full range of insurance programs to multinational corporations. Coordinated coverages for both property/casualty and employee benefits are provided. Property/casualty insurance is arranged to satisfy local legal requirements and can be consolidated into one worldwide master policy that acts as an excess and DIC cover.

For employee benefits, programs are designed to provide coverage based on local conditions and experience rating is available through the Travelers MIA Network, which operates in most of the free world countries.

Pension Plans for third country nationals are arranged by The Travelers Corp. of Bermuda Ltd. Funding is on deposit administration basis. Guaranteed monthly benefits are available through terminal funding contracts. The Travelers operates a liaison office in Brussels to assist clients abroad.

Contact Richard M. Murray, vp, The Travelers International Dept., One Tower Square, Hartford, Conn. 06115, phone (203) 277-3287, telex 99-4467, cable TRAVINCO. Also Michael G. Sandmann, regional vp, The Travelers Corporation, Rue De la Loi 83-85, Brussels, Belgium, phone 512-98-51, telex 84625349.

Winterthur Insurance

Winterthur Swiss Insurance Co. in Winterthur, Switzerland, offers international insurance protection for property-casualty and employee benefits through its own network in all Western European countries. Outside of Europe coverages can be arranged through associated companies. Contact Marketing and Service Unit, c/o CNA Insurance, CNA Plaza, NAMD, Chicago, Ill. 60685, phone (312) 822-4512.

For European services—Int'l Division, Winterthur Insurance, General Guisanstr. 40, 8401 Winterthur, Switzerland, phone (052) 85-11-11, telex 76785.



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Info for buyers

• **Insuring Abroad** is a 16-page brochure in which INA explains how to obtain sufficient local coverage, legal requirements, allocating responsibility, difference in conditions and reviewing and updating. For a free copy circle 266 on the reader service card.

• **International Insurance**, a booklet from Arkwright-Boston Insurance, was prepared for risk managers of multinational corporations. The booklet describes international services such as loss prevention engineering and loss control seminars, as well as available coverages including blanket, contingent and GAP. For a free copy circle 267 on the reader service card.

• **Fire and Water Abroad** discusses the water facilities in developed and less developed nations abroad and provides a checklist and some words of warning. The booklet reviews some basic forms and endorsements, coinsurance, fire protection credits, replacement value insurance and points out how the foreign insurer can be of assistance. For a free copy circle 268 on the reader service card.

• **AFIA uncompliments boiler and machinery insurance overseas** in a booklet that lists basic considerations, a comparison of types of policies, the coverages available, inspection requirements and special factors relating to coverage abroad. For a free copy circle 269 on the reader service card.

• **Plain Talk on Products Liability Overseas** is a new booklet from AFIA describing how coverage for this class is written domestically for overseas exposures and how coverage should be written to provide necessary protection. For a free copy circle 270 on the reader service card.

• **The World's Insurance Languages** is AFIA's booklet of insurance terms in English, Spanish, French, Italian, German and Japanese for those who want to know the correct words. For a free copy circle 271 on the reader service card.

• **Ill Winds Abroad** examines winds and windstorms, describing how they occur, measurements used, how to detect their coming and what can be done to limit

losses. For a free copy circle 272 on the reader service card.

• **Frank Talk on Foreign Royalties Overseas** describes why interest in foreign royalties is on the rise, why royalties need to be insured, what to look for in coverage abroad and how to obtain it in the U. S. For a free copy circle 273 on the reader service card.

• **Corporate Insurance in Brazil** is an English language brochure prepared by Argos-Cia. de Seguros. The brochure contains a general discussion of the insurance market in Brazil and specific coverages available through the company. General lines insurance and employee benefits are covered. For a free copy circle 274 on the reader service card.

• **When You're Not Sure if Your Construction Site Will Be in a Friendly Territory**, Johnson & Higgins says it can help. The pamphlet outlines the complexities facing U. S. contractors with overseas commitments and describes the company's "all risk" and political risk insurance. For a free copy circle 275 on the reader service card.

• A newsletter **A Close Look at National Retirement Programs: U.S. vs. Canada** is available from Kwasha Lipton, consulting actuaries and employee benefit services. For a free copy circle 276 on the reader service card.

• **DIC Insurance**, from Arkwright-Boston Insurance, describes a **Difference in Conditions** policy and the less common sources of loss it is designed to cover, plus recommendations to help prevent or minimize these losses. For a free copy circle 277 on the reader

service card.

• **Mutational Benefits Assessment** is a booklet that covers such topics as the need for an international benefit system, corporate benefit planning, local management and employee relations and cost control of benefits abroad. For a free copy circle 278 on the reader service card.

• Two promotional booklets that explain **Allendale Insurance's international operations** are now available. Affiliated FM Insurance Co. is licensed in Europe; another subsidiary, Appalachian Insurance Co., is licensed in Australia. For free copies circle 279 on the reader service card.

Continued on following page

How to order Info

This is the second of several expanded Info for Buyers sections Business Insurance will publish this year. To aid our readers in receiving the information they would like, the free items may be ordered by circling the appropriate number on the reader service card inserted in this issue. Items that carry a charge must be ordered directly from the supplier. Many of the items in this issue's Info for Buyers column concern international insurance, although there are items of general interest as well.

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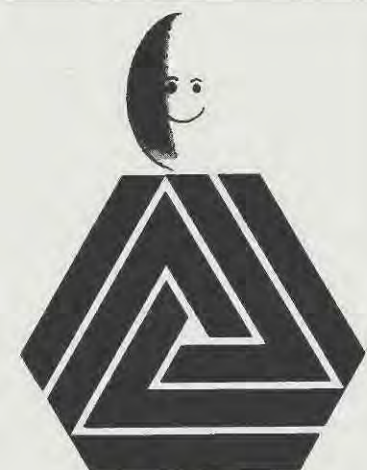
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info for buyers

Continued from preceding page

• **Risk Management, Some Professional Considerations** is a 12-page brochure review of the topic by INA. Among the areas of concern considered are identifying the risks, risk measurement, risk handling techniques, selection of specific techniques, retention versus transfer and periodic evaluation. For a free copy circle 280 on the reader service card.

• How to protect computers and data processing equipment from property loss and damage is found in **Industrial Risk Insurers' Recommended good practice for the protection of electronic data processing and computer-controlled industrial processes**. Losses from natural disasters and man-made ones are described, including dates and amounts of damages. Also included is a glossary of computer terms. For a free copy circle 281 on the reader service card.

• **Industrial Risk Insurers** describes the organization which provides specialized underwrit-

ing and engineering services for HPR industrial, oil, petrochemical and service risks. For a free copy circle 282 on the reader service card.

• An outline of the loss control services offered policyholders of Industrial Risk Insurers is titled **Engineering Facilities for Loss Prevention and Control**. For a free copy circle 283 on the reader service card.

• Industrial managers, architects and contractors are offered **Recommended Good Practice for Protection of Buildings Under Construction** by the Industrial Risk Insurers. For a free copy circle 284 on the reader service card.

• A new **International Insurance Directory**, published by Royal-Globe Insurance Cos., contains current insurance information for more than 100 countries. Topics include legislation, property, casualty and marine insurance and general information about each country. The directory is arranged in a three-ring, loose-leaf binder. An optional reprint service will periodically supply updated information as regulations change. Cost \$5; one-time charge for reprint service, \$2.50. Write John D. Ormerod, Assistant Secretary, International Dept., Royal-Globe Insurance Cos., 150 William St., New York, N. Y. 10038.

• **Handling risks abroad** requires up-to-date information on ever changing rules, policy forms and regulations, new insurance tax laws and a multitude of other complexities affecting proper risk management. To be up-to-date with such changes, multinational insurances services offers a free compendium of international insurance rules and practices. Write Dept. V, Marsh & McLennan Inc., 1221 Avenue of the Americas, New York, N. Y. 10021. Ask for **Country Data** and name the countries for which information is required.

Calif. cities activate \$5 million liability pool

By MARGARET LeROUX

PLEASANT HILL, Calif.—A \$5 million municipal liability pool was activated this month by 13 cities of the northern California county of Contra Costa.

The pool, the Contra Costa Municipal Risk Management Authority, "is the first public liability pool we know of in the entire U.S.," said Dave Warren, partner in the risk management consulting firm, Warren McVeigh & Griffin. Mr. Warren's firm did a feasibility study that led to the existence of the pool.

The 13 cities, ranging in size from Clayton with a population of 3,000 to Concord with 97,000 people, are assuming the first \$500,000 of liability. The cities' individual deductibles range from \$1,000 to \$100,000.

David Bourn, a former claims administrator, is the pool's risk manager with an office in the Pleasant Hill municipal building. R. L. Hautz & Co. is the claims adjusting service and Johnson & Higgins is the broker for the pool's excess liability coverage.

H&W Insurance Services of Los Angeles is underwriting the first \$500,000 over the cities' primary coverage. Other excess underwriters for the municipal liability pool are Admiral Insurance Co. and First State of Boston; Charter American and Pinetop Insurance Co., a subsidiary of the Greyhound Corp.

The first year premium income for the pool is \$1.147 million and insurance costs for excess coverage total \$468,000. With \$100,000 budgeted for administrative expenses, the pool has approximately \$500,000 in reserves.

"We anticipate the first year's incurred losses to be in the \$250,-

000 to \$300,000 range," Mr. Warren said, "which means only \$70,000 to \$80,000 would actually be paid out in the first year."

The cities are covered "under the broadest form ever written," the consultant said, "the old Pacific Indemnity Insurance Co. liability form which has very few exclusions." Auto physical damage coverage was added for purposes of the pool.

Projected costs of the pool indicate about a 10% savings for the cities, Mr. Warren said, "and they're getting higher limits and more coverage" than what was available to them individually in the insurance market.

The cities in the pool, suburbs in the San Francisco Bay area, all are low hazard communities. Most have their own police departments but contract with the county for fire protection. None of them operate their own hospital or airport.

"They all faced horrible increases in liability premiums," Mr. Warren said.

The 13 cities plan to pool workers compensation coverage and property insurance this year.

U.S. birthrate is going up

WASHINGTON—It seems people are rediscovering the family.

According to the American Council of Life Insurance, the U. S. birthrate is moving upward. It fell to a record-breaking low of 14.7 births per thousand population in 1976, well under the 1930s Depression levels, the Council said. But in the first eight months of 1977 the birthrate rose to 15.3 births per thousand.

These preliminary statistics don't necessarily mean another baby boom is on the way, the Council said.

Ebasco taps Cox

Ebasco Risk Management Consultants has named Jay William Cox as director of benefits and pension services. Ebasco president Robert W. Self said Mr. Cox's appointment is part of an effort to restructure and revitalize Ebasco's benefit consulting division.

Shirt-Sleeve Forum

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(Asked in the financial district)

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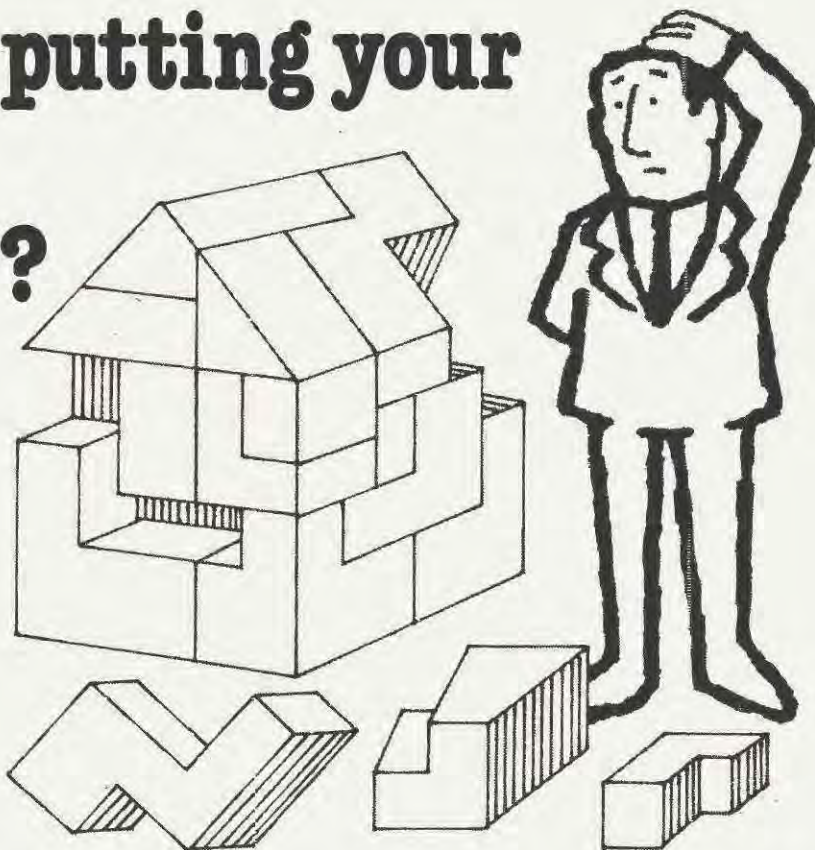
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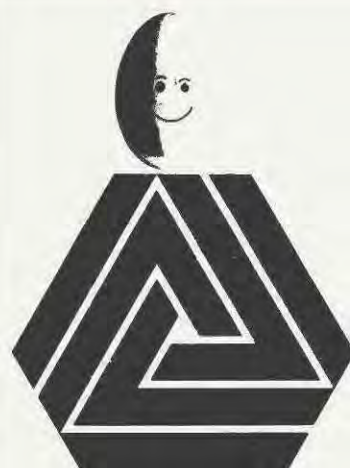


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U.S. marine pool plans \$25 million capacity

By REBECCA A. FANNIN

NEW YORK—Capacity for offshore oil risks would be expanded another \$25 million in two years under a proposal to form a pool among American marine insurers.

The proposal is an attempt to increase sluggish U.S. capacity. Total American capacity is approximately \$90 million written by AIG Oil Rig Inc. and All-American Marine Slip, currently the only U.S. syndicate in operation. This capacity compares to \$540 million worldwide, principally written by a London syndicate, London Master Drilling Rig Line Slip.

While the American companies plan to add capacity rather than compete with London for the current limits worldwide, the \$25 million in additional capacity falls short of the amount needed as offshore oil platforms continue to increase in cost. Within two years, offshore drilling rigs will be valued at \$1 billion.

The new pool, American Offshore Insurance Syndicate, expects to generate \$500 million in

premiums and to begin operation in mid-March.

Its formation is the first major attempt by U.S. marine insurers to actively underwrite marine risks again. Hurricane Betsy in 1965 was so destructive that much business afterward flowed to London.

The syndicate has hired Norman A. Tucker, who has extensive marine underwriting experience as a Lloyd's broker, as an underwriter.

Mr. Tucker stressed the importance of American involvement in marine risks, alluding to Oil Insurance Ltd., the oil industry's captive insurance company.

"If we're going to get involved, we've really got to become involved and not run away," the former Lloyd's broker said.

The syndicate is forming in response to desires long expressed by American insurers, Mr. Tucker said.

The president of American Marine Management Services Inc., Allen E. Schumacher, is inviting insurers with Best's A rating to join the syndicate. Mr. Schu-

macher said "half a dozen" companies have decided to join, but the syndicate is continuing discussions with other insurers. Thus far, only two have said no, he said.

Under the proposal, members' liability will be individual and will be allowed to insure or re-insure independently.

The syndicate will also remain flexible in that it won't seek exclusive jurisdiction over classes of business the pool will write.

Insurance contracts will spread the risk among the companies and the policies will record the names and share participation of each company.

Underwriting, claims and fiscal matters will be supervised by a board of managers elected from member companies.

The syndicate will insure:

- Drilling barges, vessels, rigs, submersibles, underwater and engineering systems associated with underwater exploration and development.

- Offshore drilling, development, recovery and production platforms and systems; processing

and storage facilities; power communications, and other support systems.

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Labor sues Teamsters trustees; largest suit ever under ERISA

WASHINGTON — The Labor Department filed suit this month against Teamsters President Frank Fitzsimmons and other former trustees of the union's Central States Pension Fund to recover millions of dollars in losses due to alleged mismanagement of the fund.

The suit is the largest ever filed under the Employee Retirement Income Security Act (ERISA). Under ERISA, fund trustees can be held personally liable for fund losses.

The government is uncertain of the exact amount of the losses, but Francis X. Burkhardt, assistant secretary for labor-management relations, said fund losses due to questionable loans may total at least \$125 million and many more losses may be uncovered as the investigation proceeds.

It is also unclear if the full amount of the alleged losses can be recovered, if the suit is successful. "We hope to get it all... obviously, if there are no assets, you can't expect to get blood out of a turnip," Labor Secretary Ray Marshall warned.

OSHA slashes benzene levels

WASHINGTON—The Occupational Safety and Health Administration has slashed the permissible exposure level to benzene, a clear, inflammable chemical linked to causing leukemia.

The new standard, which goes into effect March 13, 1978, limits exposure to benzene to 1 part per million parts of air over eight hours, with a ceiling of 5 parts per million for any 15-minute period.

OSHA estimates that more than 600,000 workers come in contact with benzene. About 11 billion pounds of benzene are produced annually. It is used primarily in the production of organic chemicals that serve as intermediates in the manufacture of plastics, varnishes, lacquers and many dyes.

Several Central Fund officers named in the suit are covered by a fiduciary liability policy underwritten by Aetna Casualty & Surety Co. of Hartford, Conn. That policy has a \$5 million annual aggregate. It is not known if Aetna also covered trustees named in the suit.

The suit lists a series of questionable loan transactions the Labor Department claims illustrate a "pattern of imprudent behavior by the trustees. Loans were made, for example, without any attempt to obtain appraisals of collateral or were accompanied by unusual agreements to forgo interest payments."

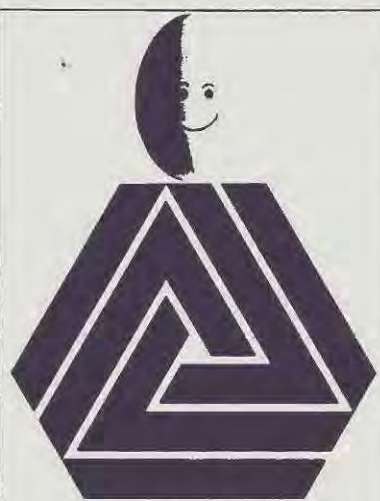
The suit also contends that trustees made no effort to collect on loans and did not take steps to ensure that loans made were used for the purposes specified by the borrowers.

The trustees for example lent \$25 million to two Las Vegas hotels, the Stardust and Fremont, for hotel improvements. The trust-

tees allegedly permitted the diversion of a "large sum" of the loan for other purposes.

Defendants named in the suit include Mr. Fitzsimmons; Daniel Shannon, executive director of the Central States Pension Fund; Alvin Baron, a former fund asset manager now under indictment for allegedly accepting a \$200,000 kickback on a loan from the fund, and 16 former trustees of the fund who earlier resigned or were removed during earlier Labor Department investigations of the \$1.4 billion fund, the third biggest in the country.

In a prepared statement, Teamster president Fitzsimmons said he is confident that his performance as a trustee, "has met the highest fiduciary standards."



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letters

Continued from page 12

Program for Business and Industry." The New York Center's address is 133 E. 58th St., New York, N.Y., 10022; 212-826-6620. In Chicago, the address is 145 E. Ohio, Chicago, Ill., 60611; 312-467-5570. The center in Los Angeles is located at 1015 Gayley Ave., Los Angeles, Calif., 90024; 213-479-4254. For addresses or phone numbers of other TM centers, write or call any of the centers listed.

An example

To the editor: An interesting experience occurred in the annual inspection of the 150 properties owned by the County of Monmouth in New Jersey.

Last year a wall collapsed in one of the highway storage buildings. Investigation revealed that sand and salt mixture had been stored within the walls of one of the buildings in an abandoned garage stall. The material was moved in and out of storage with a front end loader. The pressure exerted by the loader against the back wall ultimately pushed the wall out the back of the building causing a loss of approximately \$4,000. The loss was less than the deductible carried and no claim was made under the policy.

The annual inspection made before revising the "statement of values" for the county property indicated that this procedure was being followed in two more locations. These locations were advised of the consequences of the adaptation of the storage facility and a change was made.

This would seem to be practical risk management.

H. M. Farrow, Jr.

Insurance consultant and risk manager, Insurance & Risk Management Consultants, Red Bank, N. J.

Social Security

To the editor: Plaudits on the article on Social Security raises which appeared in your Jan. 23 issue. It shows plainly that the Social Security increase will increase prices, reduce employment and maybe reduce employee benefits of those already on a payroll—a great thing indeed for the working man, his employer and even those receiving Social Security who will have to pay more for goods and services caused by increased costs of doing business. Who's chasing whose tail?

J. T. Langdon

Wyoming insurance commissioner, Cheyenne

TM, etc.

To the editor: I greatly enjoyed the light touch of Rebecca Fanin's riskWatch column (Jan. 23). I was not aware of the broad effects of TM and other programs . . . and I found it refreshing to have it presented this way, as opposed to the usual bash over the head!

Peter Kilduff

Connecticut General Insurance Co., Hartford, Conn.

riskWatch

By GREG DAVID

A look back at the trust crisis: Some regulators did; some didn't

One year ago this month, *Business Insurance* published the first story in what was to become a year-long investigation of self-funded multiple employer trusts. These trusts operated in a regulatory vacuum in February 1977, claiming the pension reform law protected them from state insurance codes. Only a few regulators seemed to care that health coverage for millions of Americans was endangered.

The situation is different in February 1978. State insurance departments have won important court rulings that the trusts are subject to state laws. As a result many trusts have found insurers; others have terminated. Some trusts continue to operate in states that have failed to act.

So, now seems an appropriate time to examine how state officials tackled and the federal officials ducked the multiple employer trust crisis.

No one reacted in late 1976 and early 1977 when the trusts exploded in size and number. The U.S. Labor Department, the agency assigned to enforce ERISA, merely filed information on the trusts in a cabinet somewhere. States, unsure of their jurisdiction, kept their eyes open but their hands in their pockets.

Early in 1977 two trusts filed for bankruptcy, leaving thousands with unpaid medical bills in the millions of dollars.

One of those holding unpaid bills was Thomas Tribolet of Ft. Wayne, Ind. Mr. Tribolet worked for a three-person company that had purchased medical coverage through an insured multiple employer trust. The firm's insurance agent moved the coverage to the self-funded National Multiple Employers Foundation when faced with a large rate increase.

The Tribolets' 19-year-old son was injured in an accident in the summer of 1975, becoming a quadriplegic. The Foundation at first paid \$40,000 in medical bills, but then refused further payments because the youth had turned 20. Under Indiana insurance law a company would have been required to offer the youth an individual policy; the Foundation said ERISA exempted it from those requirements.

The Foundation filed for bankruptcy in February 1977, leaving no one to pay Tribolets' mounting medical bills. The family's attorney turned to the Labor Department, desperate for help. The department refused repeated requests for help.

At first insurance departments in Indiana and California weren't much help either. But eventually the National Assn. of Insurance Commissioners provided important legal expertise and the NAIC and Tribolets' attorneys won an important federal appeals court ruling this fall. The court ruled the ERISA claim was a sham, said the Foundation was an unauthorized insurer and held the agents liable for the medical bills since they placed business with an unauthorized insurer.

The medical bills, now over \$40,000, would be paid. But for over a year the Tribolets faced the prospect of financial ruin as well as their son's tragedy.

Things might have been different if the Tribolets lived in Arizona or Kansas. There two young and aggressive insurance department attorneys, Frederick Berry in Arizona and Michael Mullen in Kansas, spearheaded aggressive efforts which resulted in two crucial federal court decisions last year in favor of state regulation. Other states also took action.

But the Labor Department ducked the problem. In the summer of 1977 California officials warned the department something was wrong with the Foundation. An investigation was begun after the trust filed for bankruptcy in February. Labor officials asked Colorado officials how to audit a trust operating in that state, then disappeared so the state could not get the information they uncovered.

Alerted by a private citizen, the department investigated an Oklahoma-based trust paying a phenomenal 85% of contributions for commissions. But the department failed to act and states which moved several weeks later, had to get a court subpoena to obtain crucial information.

Despite more than a year of work, the Labor Department has not clarified for anyone who it believes is regulated by ERISA and who is not. Trusts that solicit individuals are subject to state insurance law, it has said, and cannot pay commissions. Although the courts seem to have held all trusts are subject to state law, protecting participants will be a slow process without a more definitive word from Labor.

It's easy for those who have worked on other ERISA problems to dismiss this as another example of how Labor has dealt with most problems. It's easy to dismiss, that is, unless your son is a 21-year-old quadriplegic.



David

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Ford judgment . . .

Continued from page 1
\$6,600 in medical costs.

There were no punitive damages in the Gray award because such damages are prohibited under California law in wrongful death cases.

The \$659,680 award in the Gray case was said by some observers also to be a record award for a wrongful death of a 52-year-old woman.

Henry R. Nolte Jr., vp and general counsel for Ford, said that the jury award was "so unreasonable and unwarranted that it will not be paid."

Ford will file post-trial motions, he said, that will seek to persuade the judge to enter a verdict for Ford, order a new trial or reduce the amount of the verdict.

"If we are not successful with the post-trial motions, we will appeal," said a Ford Co. spokeswoman.

The spokeswoman said that Ford's insurance department would make no comment on a case in litigation. However, sources close to the trial said they believe the giant auto manufacturer is self-insured for the award. California law prohibits the payment of punitive damages out of insurance coverage.

Mr. Nolte in his statement reiterated arguments made during the trial that the 1972 Pinto involved in the accident met all applicable federal safety standards and thus was not defective in construction or design.

He also contested the argument of plaintiffs' attorneys that the impact in the crash was light. He said both Ford engineers and outside experts concluded that Mrs. Gray's vehicle was struck at a speed in excess of 50 mph. "And at that speed, the fuel system design of any subcompact car, including the Pinto, could not have withstood an impact of such violence," he said.

Byron Rabin, chief attorney for the Gray family, told *Business Insurance*, however, that his side introduced the "Chiana" memo to show that Ford had studied the idea of moving the Pinto's gas tank because it was aware that the vehicle failed crash tests due to fuel integrity or fuel leakage. "Moreover, Ford must have known what foreign manufacturers were doing in regard to the positioning of gas tanks in 1972," he said, "by virtue of the fact

that it introduced the Pinto to compete with imported automobiles. And in 1972, there were 24 European vehicles that placed the gas tank in front or behind the rear axle, a position that causes no fuel leakage."

He pointed out that Ford's Fiesta subcompact, manufactured in Europe, comes with the gas tank placed forward of the rear axle.

The automobile manufacturer's refusal to relocate the gas tank in earlier Pintos was a pure cost/benefit calculation, charged the attorney.

As for the defendant's argument that the 1972 Pinto met all

federal safety standards of that era, Mr. Rabin said there were no federal standards for gas tank rear-end impacts in 1971 or 1972 because Ford lobbied against them.

Judge Leonard Goldstein, during the trial, prevented any mention of Ralph Nader's campaign of last summer against the Pinto gas tank design.

The consumer advocate called on Ford to voluntarily recall the Pinto and retrofit it with rubber fuel cells without cost to the consumer "as a matter of conscience." With Ford's failure to respond, he demanded that the National Highway Administration issue a recall order and that Congress hold hearings on "this corporate criminal negligence."

Clarence Ditlow, executive di-

rector of the Nader-founded Center for Auto Safety in Washington, D.C., said his organization applauds the \$128 million award as a fine imposed on Ford for "egregious conduct."

"If criminal penalties had been available, Ford would not have been fined," he asserted, noting that his group would have greatly preferred criminal penalties to a civil fine.

Ford lobbied in Congress against the imposition of criminal penalties in cases of faulty automobile design. Instead, he said it asked for and got a milder measure which involves a \$400,000 fine.

Mr. Ditlow noted that in 1974 his organization went to the Department of Transportation to lobby against the Pinto's gas tank design which he said Ford finally altered in time for the 1977 models.

Victim Richard Grimshaw who lives in Anaheim, Calif., said, "If I had a choice of whether to take this money and go through all these burns and stuff or just lead a normal life, I'd lead a normal life."

Retrospective plans . . .

Continued from page 1
Planning Group.

The adjustment is mandatory for workers compensation since it has been approved by the National Council of Compensation Insurance.

But use of the adjustment for auto and general liability may be a competitive factor among insurance companies since they have only been advised to use it.

Among these insurance companies who are using the factor are Travelers Insurance Co., Ideal Mutual and Kemper Insurance Cos.

Aetna Life & Casualty is only using the factor for workers compensation. According to Bob Smith, director of product management for workers compensation at Aetna, insurers who use it for auto and general liability would "be put at a competitive disadvantage."

The ISO filing for auto and general liability has been approved almost nationwide, excluding Louisiana, North Carolina, Texas, Hawaii, North Dakota, Vermont and Virginia. ISO filings aren't made in the "open-rating" states New York, California or Illinois.

The retro development adjustment for workers compensation ranges from a low of 2% to a high of 12.6% in Delaware, averaging about 3% to 4% in most states. This percentage is multiplied by the loss conversion factor to determine how much of the first year's premium is retained by the insurance company.

In most cases the adjustment would be a small amount. But on large accounts it could be a larger factor, said Frank Snook, specialties risk underwriting officer with Kemper.

Despite the importance of the factor's introduction, few risk managers contacted knew about the change.

"They don't want adverse publicity," Mr. Friday said. "They don't want to wave the change like a flag, but want to slip it in renewals."

Regardless, insurance companies said they have informed field offices about the adjustment. But part of the communication barrier may have resulted from ISO's delay in distributing circular letters to the member companies about the change, according to Don Gungan of the ISO.

Risk managers who are aware of the change are complaining.

"The insurance companies say they are under-reserved but they can't prove it to use," Mr. Friday said. "They're turning out to be over-reserved on 90% of our claims."

The change has also spurred talk about self-insuring.

"It's just another nail in the coffin toward captives, self-insuring and fronting in lieu of standard retro plans," said Mr. Friday. He added that he's not in favor of the retro change and would even change insurers to avoid it.

"I don't want a carrier to lose a lot of money on an account or make a lot of money but if this retro change affects me, then I'm going to go self-insured," said James Moore, system director of risk management at American Water Works.

Mr. Kloman, however, discounted the importance of the retro development factor.

"Those are ways of getting around it if you are a good risk manager and have a good broker," he said.

The finances of the retro plan must be mutually agreeable to the insured and insurance company so that the retro development factor wouldn't automatically apply to each policy.

Insurance companies have countered the complaints, arguing that the premium returns would be spread out more evenly with the adjustment. Some have even argued that risk managers with large accounts are more receptive to the new approach because it helps them to budget better.

The old approach "raised havoc internally" since the risk manager would have to ask upper management for more dollars during the later years of the retro period after they had returns in earlier years, said Richard Cochran, associate director of workers compensation at Travelers.



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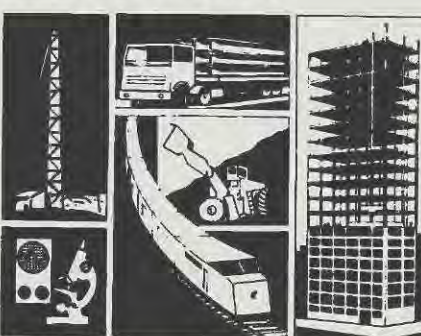
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Punitive damages . . .

Continued from page 1

both using the exclusion that the issue is so volatile that their decisions to incorporate the exclusion remain under study.

But while Kemper and CNA maintain they are now also excluding punitive damages in their excess policies, American International Group and Northbrook say they are flexible and will tend to follow the primary policy. Northbrook, however, will exclude punitive damages if there is no underlying policy. On standard ISO business, AIG is adopting the exclusion.

Interviews with buyers of commercial insurance, brokers and insurance company executives indicate that the large commercial buyer at least should be able to negotiate the exclusion out of his

policies or else find another insurer as Robert Spencer at Fuqua Industries did.

"I refused to renew my umbrella with The Home Insurance Co. of New York because they refused to delete the exclusion. I went all the way to the president and they still wouldn't delete it," RIMS president Mr. Spencer said. He placed his umbrella with Northbrook, which "for a little more," didn't write the exclusion.

And he hopes other risk managers are taking this strong a position. "I think we can change it. I don't think they can make it stick," Mr. Spencer said, arguing that corporations deserve the insurance as long as they haven't been "wantonly negligent."

It's also agreed that since the

insurance industry responds to demand with a product, policies specifically insuring against punitive damages will emerge from the specialty markets.

But buyers and brokers don't want the exclusion in any liability policies. They are questioning the motivation of the insurance industry, which on the one hand is arguing that punitive damages as a form of punishment are not a subject for insurance, but with the other hand will eliminate the exclusion, perhaps for an additional premium.

Fireman's Fund Insurance Co. vp Creighton White concedes "buy backs put the whole thing in a sour light. It says in effect that here's an exclusion but cross our palm and we'll drop our principles. But I'm not saying that's the insurers' thinking. They are just responding to pressure. Those buyers have a lot of clout."

His own company is writing the exclusion and hasn't made any exceptions yet. "But we haven't closed the door completely. If it's a super case, we might make an exception. But if the concept has any validity, exceptions should be a rarity," he said.

Buyers and brokers are also arguing for a reduction in premium if the exclusion is written. But ISO did not file for any premium reductions. Richard R. Savage, vp of ISO's commercial lines department, explained, "There were not enough losses to warrant a rate reduction, but looking ahead, if the policies weren't amended, we would have needed an upward adjustment."

Complicating the issue is the dispute over whether punitive damages were ever covered by the insurance contract. CNA maintains its adoption of the exclusion merely clarified what its position has been all along and contends it has never paid a punitive damage award. Aetna and Continental Insurance Cos. admit to liberal policies in the past of paying punitive awards since there was no specific exclusion.

Then there's the problem of varying state laws on the awarding of punitive damages and their insurability. Clarifying an earlier statement from ISO's legal department, ISO counsel William Navara said four states do not allow the awarding of punitive damages in tort action: Massachusetts, Louisiana, Nebraska and Washington.

Also, he continued, "our research indicates that the case law in the following states does not permit an insurer to pay

A state-by-state rundown

The following 33 jurisdictions have approved the Insurance Services Office filing for exclusion of punitive damages:

Alaska, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Massachusetts, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Oregon, Pennsylvania, Puerto Rico, South Dakota, Utah, Virginia, Washington, West Virginia and Wisconsin.

ISO has been notified of rejection of its filing in Alabama, Kentucky, Maryland, Michigan, New York and Rhode Island. Wyoming has rejected the filing; Texas disapproved it for inland marine and it hasn't been filed for other lines; the filing was withdrawn in Mississippi for technical reasons, and South Carolina refuses to accept policies with the exclusion.

punitive damages assessed against its insured for certain tort actions arising out of the insured's own acts: Colorado, Kansas, Missouri, New Jersey, New York, Pennsylvania, Florida, Virginia and Minnesota." Mr. Navara cautioned that the research was conducted last September.

Those quirks aside, buyers and brokers are asking what impact the exclusion will have on the way litigation is handled. Will insureds have to hire their own attorneys to defend the claims for punitive damages? Could that result in an adversary relationship between the insurer's and insured's attorneys?

Kemper liability claims manager Earl Gurneck said with the exclusion adopted by Kemper "all cases will have to be handled under a reservation of rights," a procedure used in the past in states that do not allow insurers to pay punitive damages. That means Kemper will defend the suit in its entirety, reserving the right not to pay any punitive award, and will also invite the insured to retain his own attorney at his own cost.

Mr. Gurneck conceded the exclusion does present some practical problems for the claims department in handling out-of-court settlements. "If the plaintiff's attorney during our negotiations doesn't make any separation in compensatory and punitive amounts, we have an independent decision to make: Is the case worth what the plaintiff wants on compensatory alone? If it is, we'll settle. If not, then we won't settle. We could relay a demand for punitive damages to the insured, telling him it's his own decision to make."

As for adversary relationships developing between the insurer's and insured's attorneys, CNA senior vp and general counsel Ronald A. Jacks said, "It's possible, but if the lawyers are professionals, they will work in tandem."

Brokers have other questions not addressed yet by the insurers. "If a risk has nationwide operations, but the state in which the policy is issued has not approved the exclusion, is the insurer entitled to attach the endorsement to have effect in those states that have granted approval?" asked Harry F. G. Wey III, president of the National Assn. of Insurance Brokers. "Or, if the endorsement is approved in the state of issuance, is it applicable in a state where the exclusion has not been approved or disallowed?"

And Robert F. Bauer, vp of Johnson & Higgins who prepared a paper for the NAIB discussing reasons for its objections to the exclusion, suggested the exclusion "can drive a wedge between the carrier and the insured. The plaintiff's attorney will now know about the exclusion and we will get more complaints seeking pun-

itive damages. The insured will get concerned and pressure the insurer to settle and the insurer will resist the pressure."

As insurance specialists debate the exclusion, they are challenging the very validity of awarding punitive damages to plaintiffs and are asking for reform to solidify and justify what they consider to be an amorphous and abused body of law.

The Risk & Insurance Management Society supports the elimination of punitive damage awards except for intentional acts and willful, wanton misconduct, said Reg Beane, RIMS director of government and industry relations. RIMS further believes, he said, that coverage should be available for vicarious liability, protecting the employer when he is assessed damages for the actions of his employees that he neither condoned nor controlled.

But most insurers argue they cannot write a policy that would only apply in cases of vicarious liability.

INA and SAFECO, which are adopting the ISO exclusion, however, believe they have successfully written endorsements to protect their insureds only in cases of vicarious liability.

INA vp Robert G. Warren said the endorsement will be "modestly priced," and will protect an insured, where permitted by law, when the activity of an insured's agent that is not known and condoned by the insured results in a punitive award. SAFECO's endorsement will cost 3% of the automobile or general liability premium.

Mr. Warren noted that INA is also leaving the door open in negotiations with its large insureds to just delete the exclusion.



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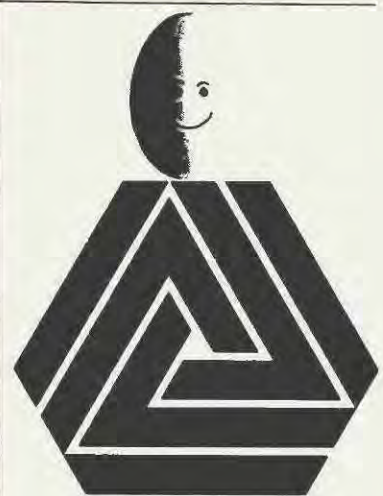
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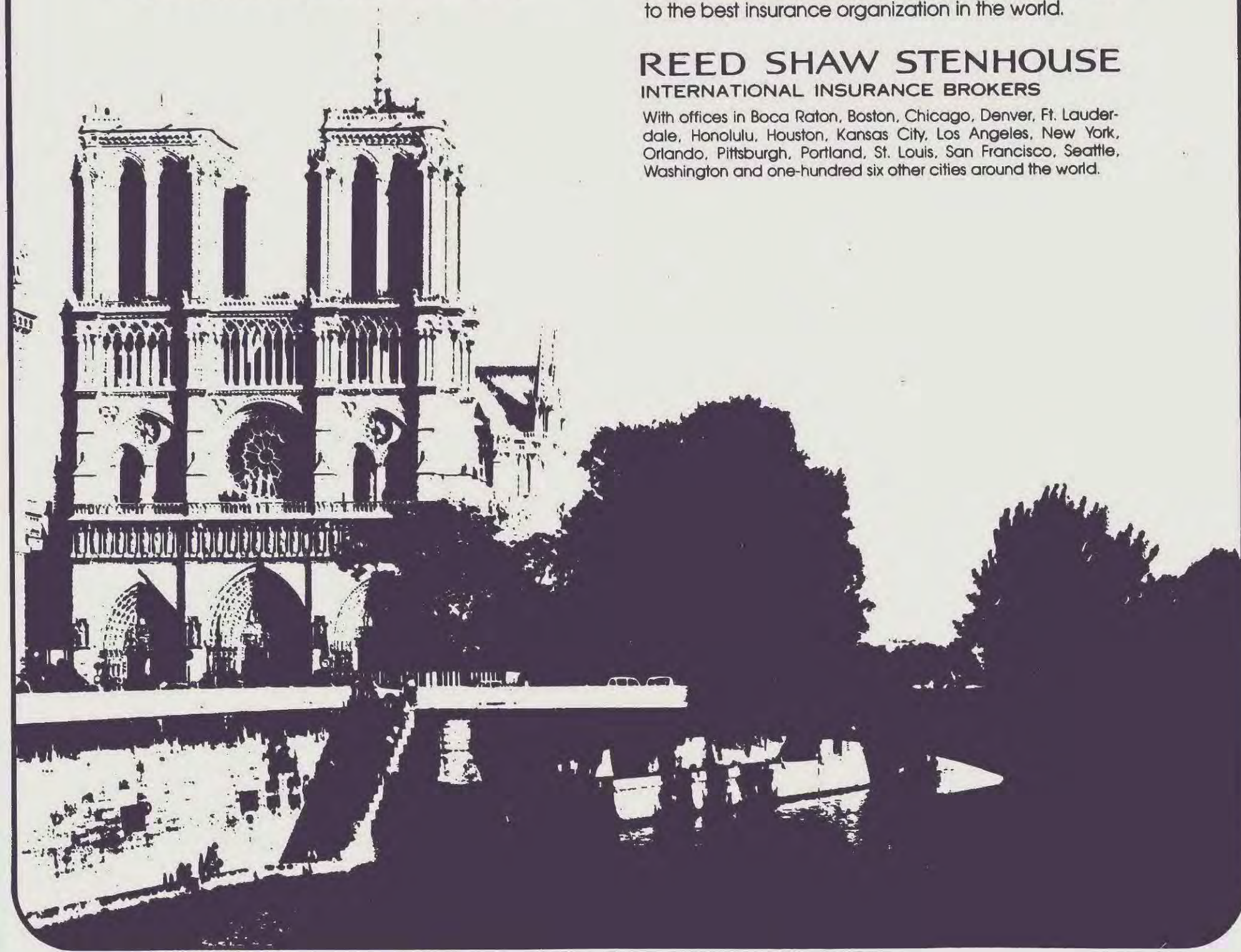
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York, 29, replaces Troop at Northrop

Gregory York, 29, has been named director of corporate insurance for Northrop Corp. in Los Angeles and its subsidiaries, replacing Alan Troop who resigned to join Alexander & Alexander, Los Angeles. Mr. York's position was effective in early February. At Northrop, he reports to James D. Wilson, senior vp-finance. Mr. York was formerly director of insurance for Personnel Pool of America, Ft. Lauderdale, Fla. Prior to that, he was assistant risk manager and contracts administrator for Brevard County Board of County Commissioners, Brevard County, Fla.

Lawrence Flax, 29, has been named employee benefit supervisor for GTE Lenkurt in San Carlos, Calif., a new position. He reports to Ray Patton, manager of industrial relations. His duties entail managing all employee benefits, including the retirement program. Mr. Flax was formerly a pension coordinator for the brokerage division of Connecticut General Insurance Co. in San Francisco.

George H. Tompkin Jr., 46, has joined Cook Industries Inc. in Memphis as risk and insurance

manager. He reports to William J. Adams, vp-treasurer. He replaces James M. Batchelder, who has returned to an insurance agency after working several years at Cook. Mr. Tompkin previously worked for a brokerage firm in San Diego, Burnham & Co., for 18 years.

Frank J. Petros, 33, has joined Leaseway Transportation Corp. in Cleveland as national claims manager, a new position. He reports to Phillip I. Schuster, Leaseway's director of insurance and risk management. Mr. Petros is responsible for all claims filed against Leaseway's 150-plus subsidiaries. Previously, Mr. Petros was manager of insurance at Coastal Industries Inc. in Akron for five years, where he has been replaced by Joseph Lewis, 30. Mr. Lewis is in charge of claims, workers compensation, property and casualty and some litigation matters. He reports to Don Wood, vp of administration. Mr. Lewis previously was a lawyer in a Cleveland law firm.

In a newly created position, Robert L. Sinclair, 48, has been named risk manager for the met-

ropolitan governments of Nashville and Davidson, Tenn. As head of the office of risk management, he is responsible for handling property and casualty programs, claims handling and loss prevention. Nashville has developed a self-insurance program for its liability exposures and will be utilizing a loss aggregate deductible in its property coverages. Mr. Sinclair was a partner in a local agency before.

ENSERCH Corp. in Dallas has filled two positions in the insurance department. Mike Whelan, 30, is the new director of the insurance department, replacing Lee E. Baldwin, who moved to Zapata Corp., as reported earlier. Before, Mr. Whelan was assistant insurance manager for 2½ years. Mr. Whelan handles all property and casualty. The new assistant insurance manager is Greg Sosbee, 27. Mr. Sosbee previously was an underwriter with Employers Insurance of Texas for four years. Both Mr. Sosbee and Mr. Whelan report to Benjamin A. Brown, corporate treasurer.

Allen P. Palles, 37, has joined the Chicago-based Marmor Group

as vp, responsible for insurance, pension and profit-sharing trusts and financing. He's also vp of Refco Cos., a Marmon affiliate, replacing Lawrence A. Zinder, who is senior vp of Hyatt Corp. At Marmon, Mr. Palles replaced Fred Manning, who was treasurer and has now formed his own investment company in Chicago, Manning Investment Co. Before joining Marmon, Mr. Palles was with Pullman Inc. for 12 years, most recently as vp of business development and planning for its trailmobile division.

John P. Sullivan, 32, has been promoted to manager of indirect compensation for the Penn Mutual Life Insurance Co. He's responsible for the home office employee benefits program and retirement plan as well as personnel data and payroll. Mr. Sullivan, who reports to Daniel Dawley, second vp in personnel, is also the plan administrator for the company's home office employee welfare benefit plans. Before, Mr. Sullivan was manager of benefits and personnel information. He replaces Tom Goddard, who became an investment officer.

David Hampson, 25, has filled a new position as property risk analyst for Harris Corp. in Cleveland. He's responsible for administering all property risk functions in addition to coordinating engineering protection services and conducting risk funding studies. He reports to W.J. Glad-den, insurance manager. Mr. Hampson previously was a graduate assistant in the risk management department at the University of Georgia. Before that, he worked for Hampson Insurance Agency Inc. in Miami for 2½ years.

Jack G. Wilson has joined Floating Point Systems Inc. a Beaverton, Ore., based manufacturer of computer equipment, as special projects coordinator. In this new position, his responsibilities include administration of the company's insurance and risk management programs and employee benefits. He reports to Henry G. Jansen, manager of planning and control. Mr. Wilson was previously with Columbia Corp. in Portland for eight years as director of risk management.

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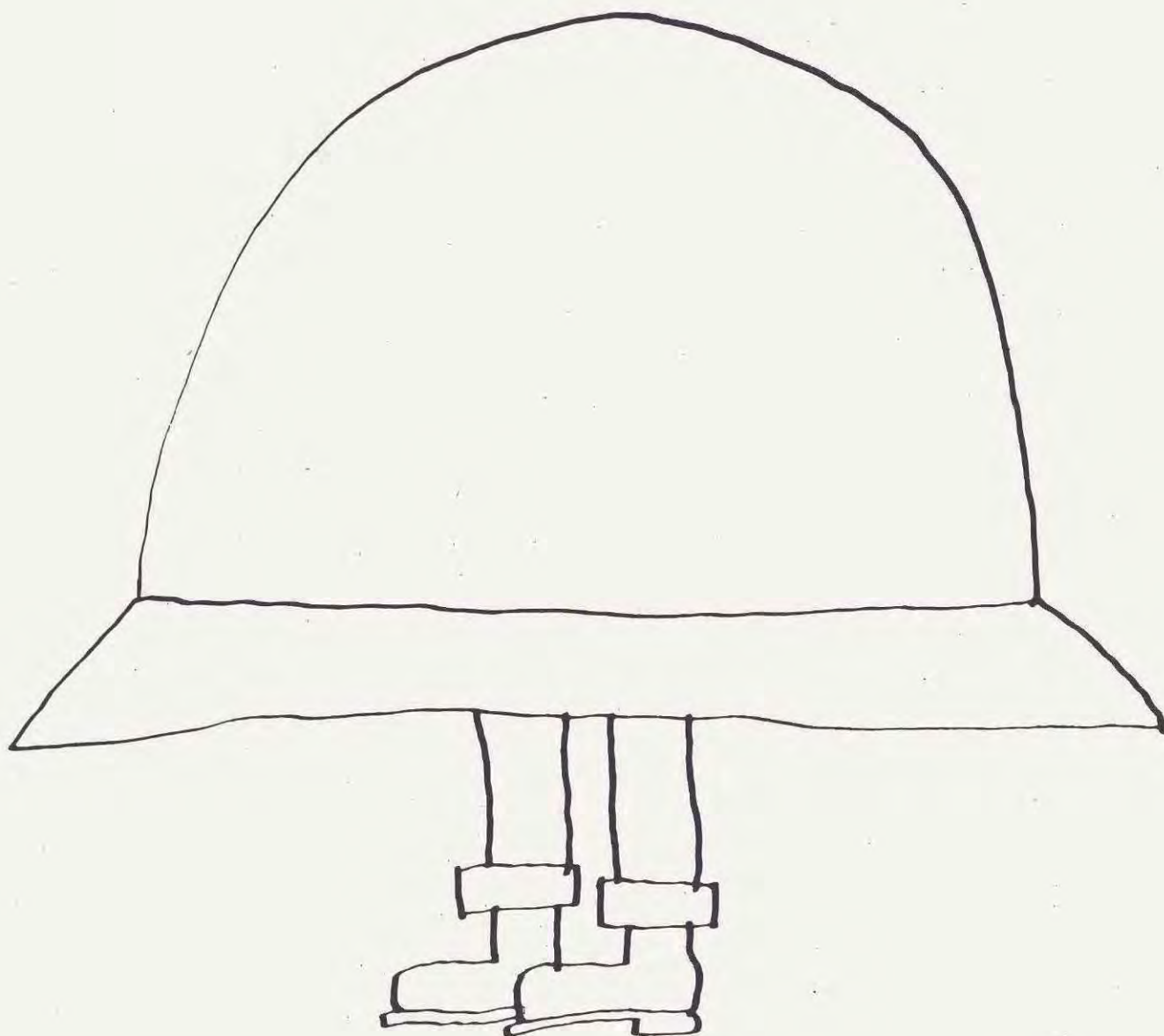
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