

business insurance

for buyers of employe, property and liability protection/pension investments/financial services



The Chesapeake Bay bridge-tunnel has a gaping hole where a Navy vessel battered the span. It is insured for the loss under a \$75 million all-risk policy. —Wide World photo

All-risk policy absorbs bay bridge damage

NORFOLK, Va.—The mammoth Chesapeake Bay bridge-tunnel, which sustained damage that will reportedly run several million dollars late last month when a Navy vessel broke from her anchorage and battered the span, is insured for the loss under a \$75 million all-risk policy.

A spokesman for the authority which administers the 17.6-mile structure crossing between Virginia's mainland and the eastern shore peninsula confirmed that the span is still covered under policies written when the bridge-tunnel was opened several years ago.

In addition to the \$75 million all-risk policy, the complex is

covered by an \$8 million use and occupancy policy, according to J. Clyde Morris, executive director for the authority. Under the terms of the coverage, the span must be out of business for 21 days before it can begin collecting the interruption cover, however.

"WE'RE SHOOTING FOR a March 1, reopening," *Business Insurance* was told, which means the use and occupancy will cover for some of the time lost during this latest incident in the bridge-tunnel's rather accident-prone history. Earlier rammings have closed the span anywhere from a

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Kroger to drop profit sharing; blames resentment of union

CINCINNATI—As a result of what appears to be an employe relations problem aggravated by a long legal battle, the Kroger Co. has told members of its employe profit-sharing plan it will drop the program at the end of this fiscal year, Jan. 2, 1971.

Difficulties at the large drug and supermarket chain began when Kroger excluded from its contributory profit-sharing plan employes who were also being covered by a union-company retirement program. Unions representing meatcutters and retail clerks took the case to the National Labor Relations Board. The NLRB ruled that Kroger's exclusion from the voluntary profit-sharing plan of employes participating in a union pension plan discriminatorily discouraged union membership and was in violation of the Taft-Hartley Act.

In effect, the NLRB order would have required Kroger to pay retroactive profit-sharing benefits to employes who had been excluded. Kroger appealed the case, however, and a circuit court reversed the labor board's ruling. The unions in turn appealed the decision to the U. S. Supreme Court, which refused to hear the case, thus allowing the lower court decision to stand.

JACOB R. DAVIS, Kroger president, disclosed the company's intention to terminate the profit-sharing program in a letter to management and to members of the plan recently.

"An accumulation of facts and circumstances largely beyond our control has left us virtually no alternative to the discontinuance

of the profit-sharing portion of the Kroger employe profit-sharing and retirement income program," Mr. Davis wrote.

However, sources close to the company told *Business Insurance* that the "accumulation of facts and circumstances" Mr. Davis noted is actually a belief on the

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Late news

Shipping firm buys Bishopsgate Insurance

LONDON—Bishopsgate Insurance Co. Ltd., a Mobil Oil Co. affiliate, has been sold to the Peninsular & Oriental Steam Navigation Co., a shipping firm headquartered here. A Mobil source told *Business Insurance* that Bishopsgate will continue to write in the United Kingdom and Australia. The source also noted that the cash sale is in no way an indication that the oil company contemplates other changes in its affiliated insurance activities.

Braniff steers cover into London market

DALLAS—Braniff International, which had placed its fleet hull and liability covers with U. S. Aviation Insurance Group, took its business directly to London as of Jan. 1, *Business Insurance* has learned. Also a loser on the account was Marsh & McLennan. Braniff is now writing through Southeast Special Risk, a Birmingham, Ala., broker, which the airline had left earlier to go with Marsh & Mac.

"We're not anti-American market," a Braniff source said somewhat apologetically. "We value the U. S. market highly. It's just that when we were getting quotes one part of the liability package was more attractive in London."

'Vertical' risk coverages ascend with 747's

By STEPHEN GILKENSON

NEW YORK—When the first Boeing 747 took off on a scheduled flight to London late the other night under the colors of Pan American World Airways, airline insurance managers, aviation underwriters and brokers probably took Excedrin and went to bed. The headache is not over but now they can at least get some sleep. However, they did not all crawl into the same bed.

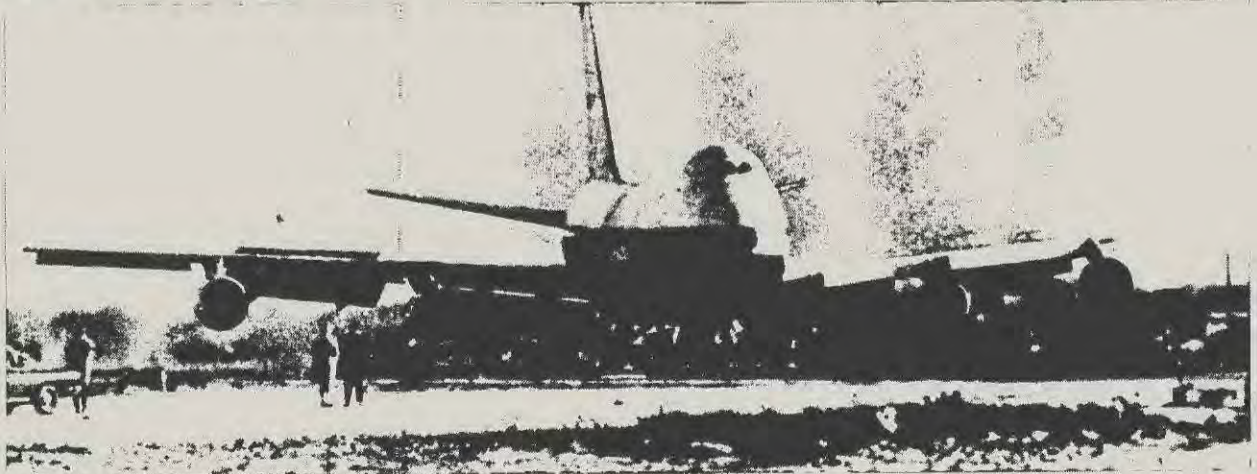
The situation at a glance is this:

Pan American's flight to London, as well as succeeding 747 flights on the airline that makes the going great, left the runway at John F. Kennedy International Airport with a \$100 million third-party liability policy and a \$23 million property (hull) cover. The liability cover, it is said by practically all concerned, is not quite enough to be comfortable but it was all the airline could get until now. The property policy is sufficient.

Trans World Airlines will be the second to put a 747 into commercial service and the first to fly domestically—on the New York to Los Angeles run beginning Feb. 25. TWA has wrapped up its insurance covers also, with limits similar to, if not the same as, Pan Am's.

American Airlines, the third to offer 747 service with a flight from New York to Los Angeles March 2, is still negotiating its covers. They are expected to be signed, sealed and delivered soon, and in similar fashion.

Unlike the coverages on sister aircraft, which were written in "horizontal" slices of excess, the 747 policies have been negotiated in "vertical" slices. That is, the three major aviation markets—U. S. Aviation Insurance Group, Associated Aviation Underwriters and the London market—are each taking a quota share of the risk from



the first dollar of coverage on up. In other words, when a loss occurs each will share in it according to the percentages worked out in an airline's particular policy.

The similarity ends there, however. At least as far as Pan Am and TWA are concerned.

The wrap ups for both policies came after months of haggling. However, they were not as frantic as some might have assumed.

"FRANTIC? No, I wouldn't say they were frantic in the end," one airline source told *Business Insurance*. "The thing is, you hold out for a price."

The price, incidentally, is said to be substantial. Some insiders, while cautioning it is difficult to estimate the

cost to the dollar because of different rating policies, are saying that premium rates are running two and one-half times those for conventional jet aircraft simply because values and passenger capacities are roughly that. It is generally agreed that conventional aircraft are premium-rated at \$1 per \$100 of value. Worked out on paper, this means liability and property coverage on a single 747 is running in the neighborhood of \$5 million. Purists may disagree with the figure, but it is the only one available at this point.

While negotiations between the airlines and the aviation insurance markets were generally cordial, it is known that underwriters split more hairs with Pan Am

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Thousands apply for new black lung benefit

WASHINGTON—Coal miners and their widows are signing up by the thousands for newly won disability benefits for black lung disease, to an extent even pessimists didn't anticipate, and the trend is worrying interested parties on all sides of the issue—government, labor and business.

The key question, of course, is how liberally benefits will be dispensed to applicants.

President Nixon is already in a budget bind and can't help but view the situation with an alarmed, "I-told-you-so" attitude. He signed the coal mine safety bill very reluctantly, after threatening to veto it because, he said, the black lung compensation program could run as high as \$385 million a year.

THE LABOR community—that fought hard for the program—is worried because drastic cost overruns could endanger upcoming fights not only for similar Federal doles for other specific occupational diseases, but also for a host of other pending labor bills that demand Federal funds.

Business has been unhappy with the Federally financed black lung compensation program from the start because of the dire implications it holds for the future of state controlled workmen's compensation.

Of more immediate consequence is that the thousands of miners signing up for the program are swelling the workmen's compensation roles in the coal mine states. This is because in order to get the Federal funds, a miner must first get all he is entitled to from the state workmen's compensation program, which apparently many have not been doing.

The Social Security Administration, which is administering the program, reported that 45,200 persons in 32 states applied for disability payments in the first two weeks after President Nixon signed the safety bill.

SOCIAL SECURITY had originally estimated that only about 30,000 miners would sign up in the early weeks of the plan.

Applications have ranged from 28,744 in coal-rich Pennsylvania to 14 in California and 13 in Arizona, where little coal is mined but where some miners have retired.

Knowledgeable insiders say the government is now bracing for an even greater rush of claims after the weather clears and word reaches the isolated miners about the new law. The law provides monthly benefits ranging from \$136 for a single man to \$272 for a person with three dependents who is stricken with pneumoconiosis (black lung).

The minimum qualification for a miner is that he must have worked at least 10 years in an underground coal mine and be totally disabled because of black lung.

Japan to host meetings

Japan is host country for two insurance events this year, the sixth annual International Insurance Seminars and the 14th annual convocation of the Insurance Hall of Fame. The seminar on insurance company management and economic security will be held July 26-30 at the Imperial Hotel in Tokyo. The convocation is scheduled for the evening of July 27.

Suit alleges this is no bull story

DAYTON, O.—A meat packing firm is being sued by a Dayton man who claims that a runaway bull caused him permanent injury.

A. I. Carter has filed a \$200,000 claim against Sucher Packing Co. for injuries sustained when the animal escaped from the packing company enclosure and knocked him down, "viciously going, stomping and falling on him," as he stood on a Dayton street.

Mr. Carter, who claims permanent back injuries as well as severe shock to his "entire nervous system," charges that the firm was negligent in allowing the fence enclosure to become "broken down and defective."

Doctors are warned on malpractice

BUFFALO, N. Y.—Members of the Western N. Y. Osteopathic Assn. have been warned that there has been an increase of malpractice claims over allegedly defective products used by physicians but manufactured by others, and that the physician can be held responsible for such damage even though he is personally without fault.

Joseph H. Chirlin, chairman of the Erie County Bar Assn., negligence committee, made the comments at a recent meeting here.

Mr. Chirlin told the osteopaths that the growth of malpractice claims since World War II is largely the result of "bad public relations" between physicians and their patients. The patient-physician relationship has become increasingly impersonal over the years, he asserted. Patients tend to feel that doctors are commercial technicians. Therefore, they have no qualms about suing them.

THE LAWYER also warned the doctors about a recent change in New York State law that has changed the three-year time limit for beginning malpractice action in cases in which foreign objects are left in the body after surgery has been completed.

In the past, he explained, the three-year limit began from the time the object was left in the patient's body. This, however, has since been changed to begin at the time the patient discovers the presence of the object, or "should have discovered it." The three-year time limit on suits in other kinds of malpractice continues to commence from the date of the alleged malpractice.

Railroad settles suit

BOSTON—A New Bedford, Mass., man has accepted a \$99,000 settlement prior to the start of a U.S. district court trial on his suit against the New York, New Haven and Hartford Railroad.

Robert F. Sheehan, 28, had sued the carrier for injuries suffered Nov. 17, 1966, while working as brakeman in the Framingham railyards. He suffered a fractured pelvis and other injuries when crushed between two railroad cars he was coupling.

Judge Andrew F. Caffrey approved the settlement.

Seven bid on state's group health second time around

INDIANAPOLIS—Bids were received from seven insurers for this state's group health insurance program that covers 19,000 employees. The contract was offered twice.

"At the moment, it's between New York Life Insurance Co. and Indiana Blue Cross-Blue Shield," George R. Watts, state supply director, told *Business Insurance*. New York Life submitted the lowest bid but "apparently the company failed to guarantee the rate for 18 months, which the state had requested in the offer," Mr. Watts said.

Marsh & McLennan has been retained as a consultant to advise the state on the bids. W. W. Hill Jr., commissioner of the state department of administration, will make the determination with Gov. Edgar D. Whitcomb's approval.

NEW YORK LIFE'S bid was \$9.59 a month an employee for individual basic coverage, plus 69¢ more for major medical insurance. The basic family coverage bid was \$18.86 a month, plus \$1.30 for major medical.

Indiana Blue Cross-Blue Shield's bids were \$10.69 plus 55¢

and \$21.53 plus 74¢. The Indiana Blues now hold an interim contract for the coverage and they were the only health insurance concern to bid when the coverage contract was first offered.

Other company bids for the basic individual plus major medical and family coverage plus major medical were:

- Benefit Trust Life Insurance Co. of Chicago—\$10.48 a month plus \$1.36 for major medical, and \$20.54 for the family plan plus another \$1.94 for family major medical coverage.

- Great American Insurance Co. of East Orange, N.J.—\$11.48, 59¢, and \$30.24, \$1.24.

- Connecticut General Life Insurance Co. of Hartford, Conn.—\$11.93 and 88¢, \$19.14 plus \$1.10.

- Equitable Life Assurance Society of the U.S.—\$11.04 and 96¢, \$24.88 plus \$1.82.

Columbia Accident and Insurance Co. of Bloomsburg, Pa., bid \$10.85 for individual employee basic and major medical and \$28.05 for family basic and major medical coverage. Columbia gave no breakdown on the basic and major medical costs.

State finds surplus in work comp fund

OLYMPIA—The Washington State Workmen's Compensation Fund reserve has a surplus for the first time in history, said Gov. Dan Evans.

The fund is the basis of payments for workers injured or killed on the job.

He said the fund has grown from a \$42 million deficiency in 1965 to a \$345,000 surplus.

Thus, rates paid in by most employers to cover their workers will be lower. The governor said that because of the good reserve and based on recent studies, 37 of the 69 employer classifications will have lower fees in 1970 and those of five classifications will be suspended entirely.

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In Europe many social security patterns contribute to confusion

NEW YORK—The greatest problem in integrating social security with private pension plans in Europe is the absence of a common social security pattern across the continent, according to a speaker at an American Management Assn. international seminar held here recently.

"Integrating social security with private pension plan is no problem if it concerns one specific country only," said Dr. Andre M. Chardon, international division manager for VITA Life Insurance Co. Ltd. of Zurich, Switzerland. However, a company operating throughout Europe faces a striking complexity in such integration because not even two countries have the same social security pattern," Dr. Chardon noted.

Virtually non-existent before the last decade, state social security has reached a "fairly high average level" in the Common Market countries and Sweden, Dr. Chardon said. In addition, such countries as England, Switzerland, Austria and Spain have improved their plans comparably, he added.

AS A RESULT any concept of a "multi-international policy in the benefit field" that discounts social security "must be considered as worthless and a waste of time and money," Dr. Chardon declared flatly.

Corporate officers of international concerns do not wish to duplicate the benefits their employe derives from his state social security pension. However, due to the 'exceptions-are-the-rule' state of affairs of European social security legislation, Dr. Chardon recommends that private pension planners should aim for 60% of final earnings after 40 years of service as a target for their social security pension plan integration results.

In Europe, it is generally accepted that the average employe's career will last about 40 years, Dr. Chardon said, in explaining his recommendation. The other figure of 60% of final earnings as a retirement pension is not only the prototype of the average U.S. corporate policy, "but a popular target European politicians aim at as well," he said.

Exceptions to Dr. Chardon's recommended formula, presented by the many different approaches various countries use in their social security programs, need be dealt with "only if you find them justified" in fulfilling your employes' needs, he noted. Dr. Chardon recommended a rule-of-thumb for this problem: "There is only a need for additional private pension benefits for that portion of the salary exceeding the social security ceilings. The most common formula would be to grant 1.5% of earnings in excess of this ceiling for each year of salary with a maximum of 40 years," he said.

DR. CHARDON mentioned several reasons for his recommendation for simplification. The AMA speaker covered several areas of social security programs in European countries, illustrating the differences between them. These areas included computable earnings, contribution levels, coverage, normal retirement age, and pension claims with marital status as a factor.

That portion of an employe's earnings specified for computation of social security benefits contribution (\$7,800 in U.S.) covers a wide range in Europe, Dr. Char-

don noted. In Belgium, while no ceiling exists for workers, salaried employes' computable earnings ceiling is fixed at \$3,822. In France, the general ceiling is \$2,936, with a compulsory supplementary pension for clerical employes whose computable earnings ceiling is \$8,808, along with a limit for "key personnel" that goes up to \$12,521. Holland and Germany have social security earnings ceilings of \$4,476 and \$5,862 respectively, while Spain and Switzerland have no official ceilings, Dr. Chardon explained.

A comparison of retirement and dependants' benefits contributions between various European countries turned up a diversity of schemes, Dr. Chardon said.

These contributions "do not by any means reflect the comparative cost" of the social security coverage, he added. The resultant deficits are covered by subsidies from the government that "vary considerably (from plan to plan) and in most instances must be compensated by taxation," Dr. Chardon noted.

Belgian workers contribute 5.75% of their computable earnings while their employers pay 7.5%. Belgian salaried employes pay 4.5% of their earnings computed for social security while their employers contribute 6.5%. German employers and their employes each share half of the 17% of computable earnings contribution for social security. A

Dutch employe pays the whole social security contribution, amounting to 10.6% of his computable earnings. Spain exacts 4% for minimum benefits and 10% for supplementary pensions from the "official" salary of employes, 10% of which is actually paid by the employer. Swiss workers and employers each contribute 3.1% of unlimited earnings computed for social security programs.

FRANCE'S complex contribution schemes include an 8.5% contribution split into 5.5% (employer) and 3% (employee) for the basic computable earnings ceiling. The supplementary scheme for clerical employes costs 4%, 2.4% of which is paid by the employer. Another 4% is added for the key personnel plan, three-fourths of which is levied on the employer. The employer operating in France must up his social security contribution by another

1.5% per employe to cover a compulsory life insurance scheme financing dependants' benefits for key French staff, Dr. Chardon noted.

As far as the extent of social security coverage is concerned, Dr. Chardon said, "we can assume that enrollment in the state social security is compulsory for all groups concerned." The only notable exceptions are special plans for certain groups such as those for minors and seamen working in Belgium and France, he remarked.

Apart from some differences in conditions for retirement, the age of 65 is the normal retirement age for male employes in Belgium, West Germany, Holland, Spain and Switzerland, Dr. Chardon said. While there are exceptions in several countries, "most have early or late retirement options that allow the planner to

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washington watch

Administration, its conferees fall out on national prepaid health insurance

WASHINGTON—Two high ranking administration health officials and a White House conference report kept the dialogue on national health insurance alive while Congress was taking its Christmas holiday.

The final report to the President from the much-publicized White House Conference on Food, Nutrition and Health said the key requirements in remedying widespread hunger and malnutrition in the nation would be the establish-

ment of a national prepaid health insurance program, development of new methods of delivery of health care and extension of existing health programs to all states.

Health, Education and Welfare Secretary Robert Finch and Surgeon General Jesse Steinfeld agreed, in separate statements, that assuring each American adequate health care is an admirable goal. But, they cautioned, a national health insurance program at this time would be unworkable.

Each recommended steps be taken now to lay the groundwork for such a program.

SECRETARY FINCH, addressing the National Press Club in Washington, pointed out that "we just don't have the capability to provide good quality care for the number of Americans we'd expect that would be entitled to that (national health insurance) care. We can't even provide the appropriate level of care for the

people under Title 18 and Title 19," the Medicare program.

"We have a national crisis in our health delivery system," Secretary Finch said, stressing that the primary problem is a shortage of doctors. "If we didn't have the import of foreign medical personnel that man our big city hospitals, we'd probably have already moved to one level of care for the very rich and another secondary kind of care for the very poor long ago," he said. "And, that's what we must not do!"

Dr. Steinfeld, in answer to a series of questions for the hearing record of the Senate Labor Committee, said he thinks—"speaking as an individual"—we "are moving toward a national health insurance program" and said that it is "our duty to be ready for it in terms of not only the capacity to provide the services but in terms of the administrative mechanisms to have an efficient program."

We must immediately undertake a number of experiments and pilot projects involving the use of para-professional personnel as well as professional personnel with emphasis on preventive care and preventive medicine and use of ambulatory care facilities in lieu of institutional or hospital-type facilities wherever possible, Dr. Steinfeld said. "It is imperative for us to begin both such experiments and pilot programs as soon as possible," he added.

"**THE PROBLEM** in this country is to improve both the quality and quantity of health care and to make it available for all who need health care," Dr. Steinfeld told the committee. "Unfortunately," he said, "Medicaid is not a resounding success since it is a purchaser of services."

Asked whether he believes the government should pay the premium for the poor as part of a national health insurance program, Dr. Steinfeld replied that the government must help pro-

vide medical care for the poor through whatever mechanism is most efficient and most appropriate to get the job done in a fair or equitable way.

In the long run, however, the goal really should be to eliminate poverty and the ghetto altogether, he said. Then all our citizens will be able to afford either health care or their share of the premiums for health care depending upon the type of program that Congress and the people choose.

Dr. Steinfeld declined to say what program he favored. He suggested that this be decided by pilot studies in different parts of the nation such as urban areas, rural areas, suburban low, middle or upper income areas, and in what has been called the American ghetto.

"It may well be," he said, "that in different states or in different areas we will have modifications of a health insurance program rather than a single national plan."

Blue Cross seeks to join Harvard plan

BOSTON—A new medical insurance plan, providing benefits much broader than the existing Blue Cross-Blue Shield plan with only slightly added costs, has been proposed before the Massachusetts state rate setting commission.

In essence, this approach would provide 24-hour emergency house call service for \$5, outpatient doctor visits for \$1, and outpatient eye examinations for \$1 a visit.

Inpatient services would include physicians' and surgeons' services, drugs and medicines plus special duty nursing, all at no charge.

THIS APPROACH seeks to incorporate Blue Cross, ten insurance companies and the Harvard Community Health Plan (the latter previously detailed in *Business Insurance*), to be known as the Harvard Plan and sponsored by Harvard University, Cambridge, and its medical school.

Present subscribers to Blue Cross would have the option of buying the new plan or retaining the one in existence. New monthly rates for master medical subscribers would be \$49.94 for families, \$16.96 for individuals, the rates to be subject to state insurance commissioner approval.

Envisioned is use of the Harvard University Medical School facilities and medical-school affiliated hospitals (Beth Israel, Peter Bent Brigham, Children's and Boston Hospital for Women).

A BLUE CROSS subscriber would be asked to decide whether to shift to the new plan (at the outset limited to 30,000), actual acceptance to be on an individual basis since some present subscribers will probably find it beneficial to continue with Blue Cross alone.

Only groups may subscribe at the outset, with individual subscriptions to be developed at a later time. Inclusion of indigents—such as those on Medicaid—is under study.

Roger W. Birnbaum, Harvard Plan assistant director, told the commission session:

"The primary purpose of the corporation is to join with the Harvard Medical School and its affiliated hospitals in an attempt to relieve many of the problems now confronting the health care that we have the knowledge and skills to provide."



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Okay, everybody, let's hear it for Luke Kramers

Luke Kramers—champion of the working girl? No. Luke Kramers—great lover on the silver screen? Well, no.

Luke Kramers has made his name by turning misery into sheer comfort. Luke is a scientist for American Enka Corp. near Asheville, North Carolina. A company shrewd enough to recognize that sagging panty hose were reaching epidemic proportions. So, being a leader in man-made fiber, the company wondered if there wasn't a nylon that would "stick to the subject," you might say.

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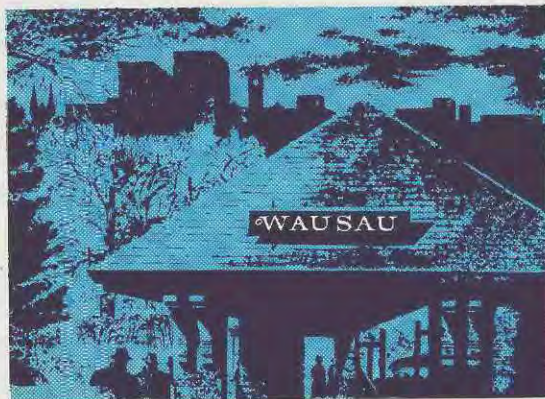


a leg-hugging nylon fiber called Enkasheer®. And the results can be seen beautifying the scene on mainstreets all over America.

From panty hose to carpeting, American Enka has worked its fibers into all forms of living.

But we feel sort of a kinship to Luke Kramers. Just as he found a fiber that would make a stocking shape itself perfectly to a leg, we shape business insurance to fit Enka's exact needs. When hose slip, it's downright uncomfortable. When your insurance slips, it can be a disaster. That's why we say insurance ought to work for a living. That's the Wausau Story.

Employers Insurance of Wausau



Advocates industry pools to gain capacity

CHICAGO—Industry insurance pools, organized on a \$5 million per-loss basis, could not only free up property-liability insurance capacity but also save insureds money, according to Edward P. Lalley, insurance manager for Kraftco Corp.

An excellent definition of insurance, Mr. Lalley told the Chicago chapter of the American Society of Insurance Management, is: "the pooling of risk on a voluntary basis through the use of intermediaries."

Insurers, he said, are in the "risk-shifting" business because a risk, once transferred to them, does not remain with them but is shifted back to all the parties the insurer covers. In support of his suggestion that low-level insuring

is not the most efficient method of handling risks Mr. Lalley offered some statistics:

- The 650 non-financial corporations listed in the Fortune 500 analysis of U. S. companies have assets of \$538 billion, which must be protected by the property-liability insurance industry's total assets of \$50 billion.

- The 650 companies have \$278 billion of net worth as compared with the property-liability industry's \$20 billion surplus.

- Mr. Lalley estimated \$3.5 billion in premiums are paid by the 650 companies for fire, explosion, auto and industrial accident insurance. About \$2.5 billion takes care of the actual losses, he said, while the remaining \$1 billion is used to service the losses.

- Plant expansion and other elements constituting insurable needs are growing at a rate of about 5% compounded. The property-liability insurance industry is earning about 4% on its capital, according to a recent Arthur D. Little & Co. study, and 1% of that is paid out to stockholders. Mr. Lalley predicted that, with a 4% return, "little, if any, new investment or money will flow into the property-liability insurance industry in the foreseeable future."

Concentration of commercial risks, because of the greater economy of operating in fewer and larger locations under similar conditions, is rendering those risks more uninsurable. "Nothing—not even the inability of the property-liability insurers to provide protec-

tion for these facilities—" Mr. Lalley said, "is going to reverse this trend."

INDUSTRY POOLING, he said, is the solution to the problem. All that is needed is the ability to define the risk to all participants and sufficient interest from those subject to the risk to accept the costs of pooling.

Mr. Lalley has devised a three-step approach to risk handling that calls for companies to "eat" the first \$500,000 of a loss, on a per-loss basis, or the first \$5 million, on an annual aggregate basis.

"Who hasn't heard of deductibles?" he said. But his idea is that to absorb a loss that large would be "financially embarrassing to virtually all corporations

except the very largest," and, he added, "eating that large a loss is a good loss-prevention lesson."

"The inevitability of the occurrence of such losses," he added, should be recognized by tax authorities by making reasonably sized reserves "deductible in calculating corporate insurance tax in a manner identical to premiums paid to insurance companies."

By taking care of the predictable losses in this manner the insurance industry would be relieved of them and the insureds save the difference between the insurers' service charge and what it costs them (the insureds) for loss servicing. Inspection and engineering services can be contracted for separately and loss and the financial outgo implicit in loss come into sharper focus for the insured.

CONCERNING THE second loss-sharing level, pooling, Mr. Lalley said, "I believe it is time for each major industry to explore, probably through its trade association, . . . pooling those risks to which that industry is subject. This could involve product claims, product recall, air and water pollution, and high-piled warehouse destruction."

He suggested starting the loss reimbursement level for the pools where the self-insurance level ends, with maximum per-loss reimbursement set at \$5 million and maximum annual aggregate reimbursement set at \$50 million. "The occurrence of loss at this level should be infrequent," he said, and because of this payment of loss should be able to be accomplished on a post-assessment basis, thereby protecting cash flow of participating companies.

Under Mr. Lalley's plan the insurance industry does not enter the risk handling scene until the level of truly catastrophic losses is reached. He considers the insurable per-loss level to begin at \$5 million and extend to \$500 million. On an annual aggregate loss basis the conventional insurance market, he said, should handle levels from \$50 million to \$500 million.

AN OFFICER OF a large insurance company, Mr. Lalley said, once implied to him that the insurance industry could not successfully handle the high level, catastrophic losses without receiving the premium volume from the lower level losses, assigned under Mr. Lalley's plan to be handled by the individual corporation and industry pools. The man's comment, Mr. Lalley said, "suggests that the solution to the problem of pooling high level, catastrophic losses rests in attempts by the insurance industry to have those subject to lower level risks subsidize, directly or indirectly, the handling of the high level losses."

The insurance industry, he maintained, must recognize that all risks at this suggested third level are "completely and absolutely outside the realm of the usual and ordinary underwriting criteria." Sporadic and uncertain losses, he said, make it impossible to precisely estimate the cost of protection. Contracts written for five or ten years would be one solution to this problem. Another approach Mr. Lalley advocates is open-end premium payments. Insurer and insured, he said, should convince the income tax authorities on the "certain yet sporadic nature of these losses" so that insurers could keep "virtually all of the premium accepted for this risk in an incurred, unreported reserve, free of tax for as long as ten years." ■

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Recent casualties don't scare tanker owners

LONDON—Tanker owners have declared their intention to keep "jumbo tanker" fleets in active operation in spite of recent major casualties.

Underwriters have agreed to support this move after Lloyd's chairman Henry S. Mance told them that insurance claims on Lloyd's underwriter from the three big explosion incidents at the end of 1969 would represent only 2½% of Lloyd's annual marine premium income.

He explained: "Underwriters are in business to meet claims. While three serious claims in two weeks are bound to attract attention, the problems of insuring these large tankers is continually under review.

"UNDERWRITING IS a long term business. Serious losses in the first stages of any new technological advance are to be expected.

"I have every confidence that cover will continue to be available, and any safety problems will be solved."

While Mr. Mance was expressing these views, tanker owners, shipbuilders, underwriters, and marine classification representatives met to discuss the cause of the mystery explosions on the Marpessa, Kong Haakon VII, and Mactra in December.

Afterwards Mr. J. H. Kirby, managing director of Shell International Marine, said: "The big tankers are here to stay. The industry just cannot go back to 50,000 tonners, because the demand for crude oil is such that the shipbuilding industry could

German pensions surveyed

PHILADELPHIA—German employees are receiving higher pensions and getting payments sooner, according to a recent survey taken by Towers, Perrin, Forster & Crosby, international management consultants

Compiling questionnaires from 732 German companies, TPF&C reported that 60% of employers questioned were now computing pensions on a pay-related basis. This means instead of paying an employe a flat rate for each year of service, they give him payments computed according to his salary during his last three years of service.

Also, the report noted that years of service for pension eligibility had been cut from 25 to 15 in many cases.

ALTHOUGH discriminatory practices are loosening up, with about 90% of the companies now giving benefits to all employes, a TPF&C spokesman said that things in Germany are still a lot different than they are in the U.S.

"Germans just don't expect and depend on pensions in the way that Americans do," he said. "Over here it's considered a God-given right. But in Germany companies work under the system of the Retirement Benefit Pledge. They set aside funds within the company. They can more or less pick and choose who will get what, and if the company folds no one expects to get anything."

He said that retired German employes depend more on savings accounts and social security than on pensions.

not build enough of them.

"EVEN IF THEY could be built, there are not enough trained crews, and the ports of the world would become congested. The 250,000 and 300,000 tonners are with us. The problem is to make them safe."

Latest theories for the explosions are that a static spark may have ignited an explosive mixture while the tanks were being cleaned.

Shell Marine is spending large sums on a "crash programme" to find the reason for the explosions. Underwriters, the Pontich Salvage Association, and Lloyd's Register are co-operating.

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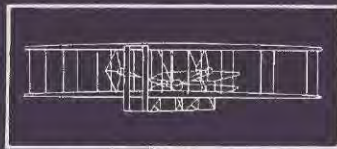
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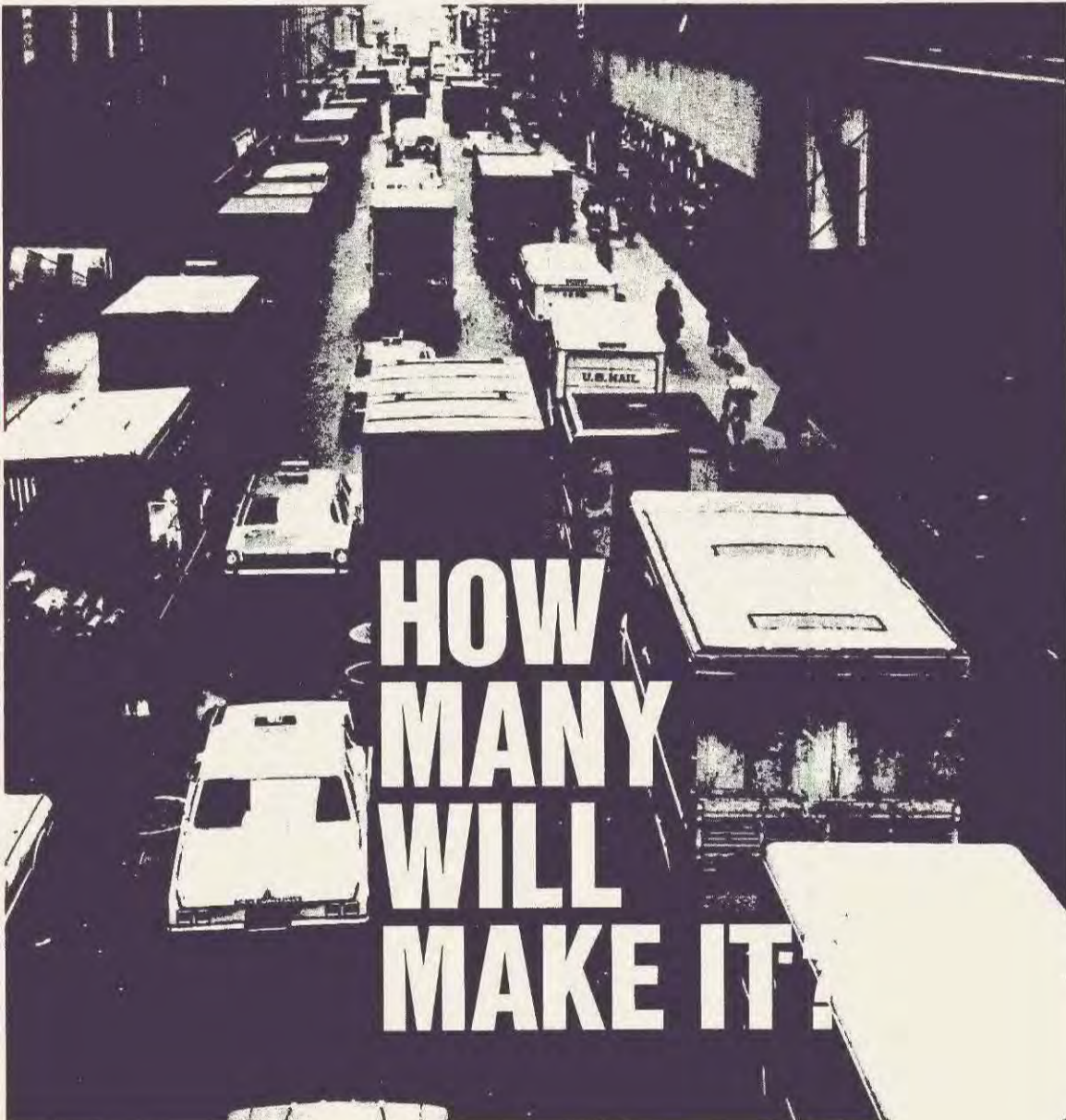
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Readers are invited to submit items for inclusion in this column. A sample of the literature should be sent to: Info for Buyers, *Business Insurance*, 740 Rush Street, Chicago 60611.

• A 70 page illustrated book covering safety precautions to be taken during hurricanes, tornadoes, earthquakes, floods, storms, nuclear attack, civil riots, and even what to do if your airplane is hijacked, is available for \$1.25 per copy, including postage and handling. Lower prices are offered when ordering in quantity. **Timely Tips When Disaster Strikes** also includes matters of insurance coverage against disaster, and insurance procedures thereafter and deals with proper medical preparation for prolonged emergencies. Copies can be ordered from Howard Warren Publishers, P. O. Box 6112, Cherry Creek Station, Denver Colo. 80206.

• **Supervisory Responsibility For Safety** is an 8 page booklet offered by the U. S. Printing Office for 10¢. The booklet offers hints on how the supervisor can maintain safe work conditions and promote safe work methods. For a copy write the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402.

• American Foreign Insurance Association has released the latest edition of **AFIA Guide Latin America**. The publication covers 14 Latin American countries and summary information for 11 islands and their respective insurance requirements. A copy can be obtained by writing AFIA at 110 William Street, New York, N. Y. 10038.

• **What Every Lawyer and Accountant Should Know About Business Life Insurance** is a 24 page booklet offered for 10¢ from Provident Mutual Life Insurance Company, P. O. Box 7379, Philadelphia, Pa. 19101. The booklet covers estate valuation problems, long periods of litigation, conflicting interests, permissible investments, defective agreements, the value of keyman insurance, life underwriters and trust officers, and many other interesting categories. The booklet can be obtained by writing the company.

• **AFIA Guide Europe**, offered by the American Foreign Insurance Association features a summary of insurance requirements and forms in foreign countries. It is published to provide agents, brokers, and insureds reliable insurance information. The 14 countries covered are; Austria, Belgium, Denmark, France, West Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Switzerland, and the United Kingdom. A copy of the latest edition can be obtained by writing AFIA at 110 William Street, New York, N. Y. 10038.

• A free sample of **Employee Benefits Check** is available by writing V. W. Eimicke Associates Inc., 15 Park Pl., Bronxville, N.Y. 10708. The form is non-negotiable and is printed on special safety check paper so that each employe can see, in dollars and cents, just how much the company has spent on him over and above his regular pay.

• **Fire Escape for Office Workers** is an educational folder published by the National Fire Protection Assn. Emphasis is on knowing areas of refuge and exit in the building and case histories stress the need to avoid panic. Copies are \$2.50 per 100 and \$20 per 1,000 from the NFPA Publications Service Dept., 60 Battery-march St., Boston, Mass. 02110.

• The Mine Safety Appliances Co., Pittsburgh, has developed a plastic bump cap that has been successfully tested by employes of Continental Airlines and is endorsed by that company's director of safety. A suspension between the cap and the head allows cool air to circulate and the items can easily be color coded for quick identification of employes. More information is available by writing David R. Drobis, Mine Safety Appliances Co., c/o Ketchum, MacLeod & Grove Inc., Four Gateway Ctr., Pittsburgh, Pa., 15222.

• Information on the nationwide facsimile network operated by the Tranceiver Corp. of America is now available. This network makes it possible for insurance executives to send or receive policy or claims documentation or any printed, written, drawn, typed or photographed material to or from major cities of the United States in minutes. For further information write Charles A. Morrison, The Biddle Co., Bloomington, Ill. 61701.

• A 28-page text, **Standard for Type Designations, Areas of Use, Maintenance and Operation of Powered Industrial Trucks** (NFPA No. 505), is available for 75¢ from the National Fire Protection Assn., at 60 Battery-march St., Boston, Mass. 02110. Recommendations on the use of industrial trucks powered by LP-Gas have been clarified to give basic guidelines for safety while filling, storing, removing and handling the fuel containers. The current text was adopted at the 1969 NFPA annual meeting.

• Johnson & Higgins has released an illustrated brochure entitled **People Keep Asking Us . . .** describing how they work with clients in planning and coordinating employe benefits. It is available free by writing the firm at 63 Wall St., New York, N.Y. 10005.

• The Arrowhead **Panoramic Surveillance Camera** and processing system have been designed for photographic surveillance of banks and other locations where security is critical. The camera may be set for stationary photography or for a sweep of up to 180°. The remote control unit features exposure interval selector, scan indicator, film footage and battery voltage indicators. For further information write John Galley, Arrowhead Enterprises Inc., Diamond Ave., Bethel, Conn., 06801.

• An illustrated brochure from Wilson Products Div., ESB Inc., describes **Air-supplied Respirators** used in a wide range of industrial environments as a non-emergency device to combat the long-range cumulative effects of dusts, vapors and mists. For more information, write: Merchandising Mgr., Wilson Products Div., ESB Inc., P.O. Box 622, Reading, Pa. 19603.

• The Council of Profit-sharing Industries and Towers, Perrin, Foster & Crosby have published results of a study of **Effective Profit-sharing Plans**. The research consists of 142 personal interviews with managers and employes of companies that use profit sharing. The three major objectives of the study were to determine: how management and employes look at profit sharing; how effectively management communicates profit sharing; and how much of a motivator profit sharing is. For further information write the Council of Profit-Sharing Industries, 29 N. Wacker Dr., Chicago, Ill.

• **Standard for the Installation of Gas Appliances and Gas Piping** (NFPA No. 54) clarifies physical damage from which such installations must be protected. Copies of the 152-page document are \$1.25 from the National Fire Protection Assn., 60 Batterymarch St., Boston, Mass. 02110.

• The 24-page **Tentative Code for the Storage and Transportation of Oxidizing Materials and Organic Peroxides** is available from the National Fire Protection Assn. for \$1. The code (NFPA No. 499-T) discusses reactions to extinguishing agents and heat, shock and friction. Copies are available from the association at 60 Batterymarch St., Boston, Mass. 02110.

• **What Everyone Should Know about Mutual Funds** is a new booklet from Fund Aids Inc. that explains what mutual funds are and how they operate in easy-to-understand terms. Types of funds, withdrawal plans and legal obligations are among the subjects discussed. The color-illustrated booklet is available from the corporation for 50¢ by contacting them at 1007 Fifth Ave., San Diego, Cal. 92101. Quantity discount prices can be obtained.

• Materials explaining **International Benefits Information Service** offered by Charles D. Spencer & Associates Inc., is free by writing the firm at 222 W. Adams St., Chicago, Ill. 60606. A monthly briefing service is also available.

• **How to Establish a Flexible Keogh Retirement Plan** is a 24-page booklet issued by Certified Portfolios Inc. Four different sample formulas for use of the plan are included as well as legal forms necessary to initiate a CPI Keogh Plan and sample purchase and sell orders. To receive the book write Charles R. Billman, Certified Portfolios Inc., Client Service Center, 500 Newport Ctr. Dr., Newport Beach, Cal. 92660.

• Grayarc Co. Inc. offers information on its pressure-sensitive **Packing List and Invoice-enclosed Envelopes**. The water-proof, polyethylene envelopes come in fluorescent red and samples are available by writing the firm at 882 Third Ave., Brooklyn, N.Y. 11232; Dept. 12L-A.

Study finds campus losses overstated

NEW YORK—A college insurance study by C. B. Lilly Inc., the corporate insurance management and advisory firm headquartered in East Orange, N.J., has drawn some rather sharp criticism from the insurance industry, saying it just isn't so.

The study declares that insurance losses on U.S. campuses in 1968 were no worse than the average annual losses for a five-year period prior to 1968. It is generally felt that 1968 was the worst year as far as campus unrest is concerned.

According to Curtis B. Lilly, president of the advisory company, the survey was conducted among 400 universities and colleges. Some of them are the same institutions that complain insurance companies are raising rates,

increasing deductibles, cutting provisions for vandalism covers and decreasing competitive insurance markets. Mr. Lilly chided the industry for "panicking" from news media reports of student disorders and their expense.

THE LILLY survey was based on 400 replies of 1,261 institutions queried and has been termed by Mr. Lilly as "representative of campus experiences with student unrest." It maintains that the total loss ratio for 1968 between premium income and insurance losses was about 63.7% compared with 63% for the five years from 1962 to 1966 for all colleges and public schools. The loss experience colleges and universities attributed to student disorders accounted

for only 22.4% of the total reported losses, the Lilly study reported.

Insurance industry spokesmen criticized the study almost immediately, saying "people who keep records are the insurance companies, not school officials," and "any time you ask someone to tell you what their losses were, the figures invariably will be wrong" among other things.

THE NATIONAL Insurance Actuarial and Statistical Assn. here also entered the fray, releasing some of its own statistics.

The association reported that in 1967, the last year for which complete figures are available, the fire insurance loss ratio was 75.4% compared with 53.1% for the 1962-66 period at educational

institutions. Statistics for 1968 were not available. However, the NIASA said loss ratios in New York and California campuses were "over 100%."

IN THE report Mr. Lilly recommended that colleges and universities consider forming their own reciprocal insurance company. Such an organization, he said, could produce a lower expense factor than is built into rating structures being used currently for school exposures.

Insurance carried by the colleges replying to the Lilly study totaled \$8.4 million. Losses totaled \$3.6 million. Of that \$807,000 was directly attributable to student disorder, the study concluded.

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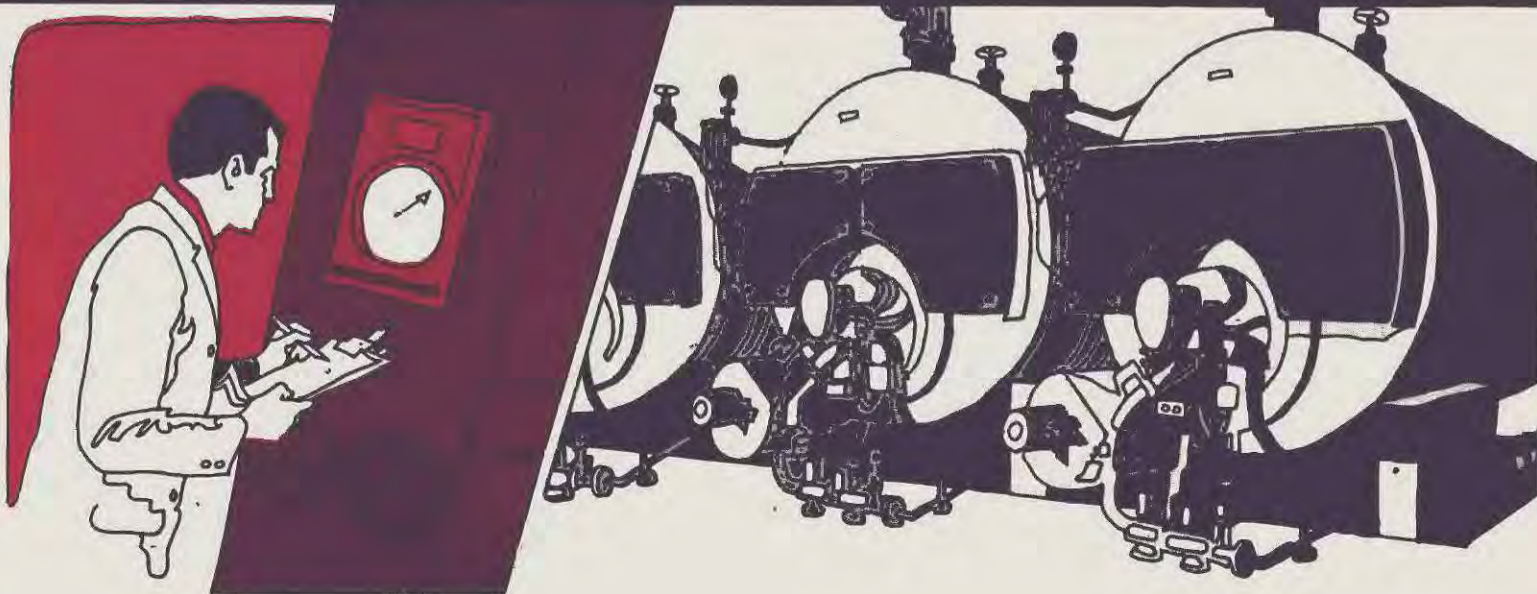
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london line

Scientific agency needed to assess risk problems of insurance industry

LONDON—Scientists can help to take the guesswork out of the insurance industry. This prediction for the coming decade has been made by Julius Neave, general manager of Mercantile and General Reinsurance Company.

Telling the Insurance Institute of London that there ought to be a special agency to assess the risk problems of new techniques and materials, he declared:

"This agency ought to be set up by the insurance industry itself so that the hazards facing underwriters can be predicted by scientists and research experts at all levels."

ITS BENEFITS DURING the next ten years would help the public tremendously, he suggested.

Success is sweet relief to insurers

CAPE KENNEDY, Fla.—After five groundings due to bad weather, a faulty launch ignition switch, and booster rocket leaks, the Intelsat III communications satellite, which was insured for \$4.5 million, finally blasted off Jan. 14.

The 647-pound satellite, originally scheduled for launch Jan. 7, is the first of the Communications Satellite Corp.'s projects to be insured.

"It reached the desired orbit Jan. 17 and is now 22,300 miles up," said a spokesman of Marsh & McLennan, brokers who helped place the policy for an \$872,000 premium, written by aviation underwriters throughout the world. "We all breathed a sigh of relief once it got safely into orbit," the source confided.

THE SATELLITE was insured from launch until it was in orbit and functioning properly.

Although delays caused no damage to the satellite, it did cause some underwriters to bite their nails.

"They were getting jittery," the Marsh & McLennan man said. "But I figured it was good that Cape Kennedy wasn't taking any chances."

THE POLICY covered the second and third losses of a five-launch series. The first loss occurred last July 25.

"With the success of this launch, we may be able to negotiate the insurance of two more shots," he said. "But that's just in the talk stage now."

The Communications Satellite Corp., which is the U.S. representative in the 70-member International Telecommunications Satellite Consortium, has paid about \$6.1 million to the Federal space agency for its share of the \$11.5 million project, 75% of the \$6.1 million is insured. Other members did not insure their shares.

Starr named vp

J. Philip Starr, manager of the employe benefits department at R.B. Jones Inc., has been elected a vp of finance at the Kansas City-based insurance firm.

Mr. Neave listed these risks as meriting this new scientific approach: fires in the petrochemical and plastics industry, widespread damage from oil pollution, the changing habits of hurricanes, the effects of supersonic travel, and even the advance in "spare-part" surgery.

Risk potentials that developed from an examination of such new processes ought to be made widely known.

Mr. Neave forecast that in the next decade more and more of Britain's international insurance business would come in the form of reinsurance.

EFFORTS ARE BEING made by Scotland Yard to stop major art thefts which have led to valuable paintings passing through "undercover" routes to the United States and the Far East.

In consultation with Interpol

offices throughout the world, they are building up a dossier on the methods which criminal organizations use to smuggle valuable objects through foreign countries.

It has been discovered that antiques can often be given a coating of paint, and shipped with ordinary cargo under the guise of being cheap souvenirs.

BUSINESSMAN T. C. Marshall, head of the Peak Trailers trucking industry firm, has been insured by his company for \$600,000. The premium: \$20,000 a year. If he dies while in the company's service, the proceeds are held on trust for his wife and children. If he dies after leaving the firm, it keeps the proceeds for its own benefit.

VENTRILOQUIST Dennis Spicer, who became an overnight star at 29 in Britain after appearing before the Queen in a

Royal Variety show, left a widow and young son when he was killed in a road crash four weeks later. Insurers for the driver who hit him have paid her \$70,000 after a court action in which other showbiz stars gave evidence about his potential earnings after the Royal acclaim.

HELICOPTERS ARE being used in British experiments to combat a growing wave of truck hi-jacking round London.

"Private eyes in the skies" is the name adopted for them by the Road Haulage Association, which is co-operating with police forces to beat the menace of thefts.

Pilots maneuvering helicopters round populous areas will be asked to radio the police of any suspicious activities on the ground.

The scheme will be enforced whenever truck loads worth more than \$50,000 are stolen.



If you've got the usual kind of risk, it doesn't take much talent for someone to write up the usual kind of insurance.

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But when you've got a different kind of risk, you need someone with a special kind of experience and insight. And a lot of common sense and imagination. Someone like MOAC. For when it comes to insuring a risk as unusual as a giant TV tower — all the way from plant to site

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compensation trends

Corporate giants show increased interest in survivor benefit plans

By JOSEPH S. ROBINSON

NEW YORK—There's a big swing in the direction of survivor benefits. These benefit extras are often woven into the group life program initiated by the company.

When designing such a plan, employe benefit experts first take into consideration that nearly all employes have a need for a minimum amount of group life protection to cover such contingencies as last illness expenses, funeral costs and the clean-up of

outstanding bills and debts. Thus, employes would have basic life coverage equivalent to one to three times annual earnings. In addition, there are survivor benefits for those employes with a spouse and/or children. These benefits typically provide a monthly income of 20% of the employe's final salary to the spouse and an additional 10% if there are children.

While there are various types of survivor benefits, the one common denominator is the installment income feature; these

are death benefits paid out usually at monthly intervals.

CURRENT survivor benefit approaches usually take on one of these patterns:

- Life insurance benefits consisting of a percentage of the employe's pre-death earnings that are paid to a specified beneficiary (usually the wife until she dies or remarries).
- A supplement to basic group life insurance with a mandatory fixed period settlement option.
- Survivor benefits under long-

term disability plans in which only the survivors of deceased long-term disability claimants receive benefits.

- Death benefits connected with individual policy pension trusts.

- Widows' benefits under qualified pension plans payable from the pension fund assets.

Mobile Oil makes use of the group approach to survivor benefits by supplementing its basic group life coverage with a plan for survivor benefits that decreases as the employe gets older. The current Mobile Oil plan is divided into three parts.

Plan A provides insurance protection equal to double the employe's yearly earnings. Payments are made monthly over a three-year period including interest. The first 12 installments are twice the amount of the next 24 payments.

Plan B, called "family protection," bases the amount of life insurance coverage on a formula

that multiplies the employe's annual pay by a certain factor. The factor depends upon the employe's age. For instance, at age 35, the factor is 2.7; at age 45, it's 1.7.

Plan C, termed "survivor income protection," provides a monthly benefit equal to 20% of the employe's monthly wage until the deceased employe's 65th birthday. After that, the benefit is 10% of earnings until the 85th anniversary of the deceased employe's birth.

Coverage under all three plans ceases at age 65. At that point a special over-65 life plan takes over. If the employe becomes disabled and later dies before age 65, death benefits are payable under all three plans. The benefits are basically the same as if the employe had been actively at work and covered.

* * *

BENEFIT Brochure does not bind company to long-term employment contract. So says a Texas high court in ruling that company bulletins that encourage employes to reap the rewards of long term faithful service, do not guarantee employment until retirement.

Here's what happened:

Mr. Hurt started to work for Standard Oil of Texas in 1930. There was no formal contract . . . it was simply employment at will. In 1952, Texas Standard put in some new employe benefits and issued company booklets and various printed brochures explaining the programs and stressing the value of a career employment with the company.

Two years later, Mr. Hurt was given early retirement—after being with Texas Standard for some 24 years. He received substantial severance pay, a monthly annuity, stock under the company plan, group insurance, etc. . . But he later complained that he left the company under economic duress and that in effect he had a contract of employment—made in 1952 by virtue of the company brochures—that assured his working for Texas Standard until normal retirement at age 65.

Held: There was no contract as such. The basic offer contained in the brochures and other written material was not directed toward keeping the employes by a contractual obligation. It was designed to retain them, of their own volition, by giving them an interest in profits and other benefits. *Hurt v. Standard Oil of Texas* 444 S. W. 2d 342. ■

Court rules on lockout

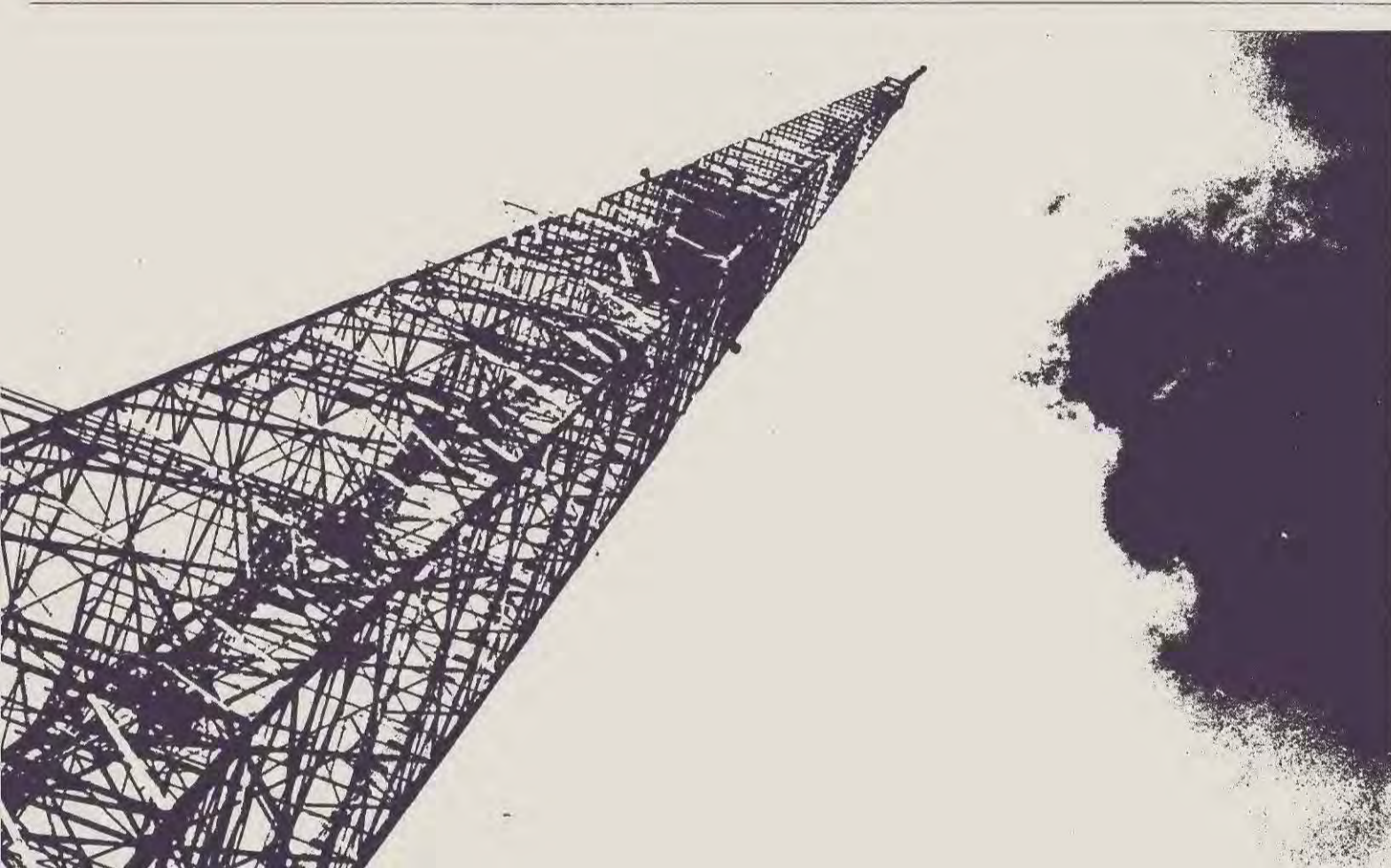
NEW YORK—A lockout is a labor dispute and makes workers ineligible for immediate unemployment compensation, an appellate branch of the Supreme Court ruled.

The court supported the decision passed by the Unemployment Insurance Appeal Board on the case between union workers and Radio Corp. of America.

Employes were locked out when their union contract expired in Nov., 1967. Management said no work was available and put up barricades. Workers picketed, demanding unemployment payments for the time lost.

According to state law here, payments start at the beginning of a normal work layoff, but they must be held up for seven weeks if a dispute is involved.

Because of the barricades and pickets, the court decided that it was a labor dispute and that employes were not entitled to immediate payment. ■



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For additional information, we invite you to write to Walter T. Wells, Vice President, Marine Office • Appleton & Cox Corporation, 123 William Street, New York, N.Y. 10038. Aviation insurance through Associated Aviation Underwriters.

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Make a full study

It is good news that the National Assn. of Insurance Brokers has taken the leadership in organizing a combined company-producer study of the capacity crisis in property-liability insurance.

Such a study is long overdue in an economy that through inflation, technology and general growth is placing impossible demands on world insurance markets. Indeed, *Business Insurance* has pointed out on several occasions that insurance is the one vital element in the economy whose anticipated growth pattern has not been charted by private industry or Federal agencies.

The subject of a joint examination of future capacity needs has been taken up by the American Risk and Insurance Assn. and by James Baylor, Illinois' thoughtful director of insurance. In October Richard Bjorklund, managing editor of *Business Insurance*, called for a joint study that would include opinions and information from the American Society of Insurance Management on behalf of corporate insurance consumers.

We believe that no current study of the capacity situation can be complete without consulting representatives of American industry.

Last month E. P. Lalley, insurance manager of Kraftco Corp., told the Chicago ASIM chapter that the financial resources of the 650 largest U.S. businesses are many times the aggregate resources of all property-liability insurers. Mr. Lalley made the point that in the future the resources of American business will have to be used to meet risks through more substantial deductibles, self-insurance and other forms of self-assumption of risk, including industry pooling. Only in that way, he maintained, can the future insurance capacity needs of business be adequately met.

Joseph E. Johnson of Brown, Crosby & Co. Inc., chairman of the new NAIB capacity crisis committee, said his committee is "convinced the capacity problem is real right now, with the future presenting even greater problems." Mr. Johnson stressed the importance of the industry finding its own solutions.

We believe that the NAIB committee could make a greater contribution to the charting and meeting of future capacity needs if it would take a broader view of the problem and call for the assistance and advice of those who handle corporate insurance programs. It is essential that the American business community be a full partner in the consideration of solutions for the severe capacity crisis.

Unions 'discover' pensions

There was a time when the consumer had very little to worry about whenever labor negotiated a new contract with management. Those were the days when a new contract with, let's say, the egg packers union provided for a 10¢ per hour across-the-board wage increase, an extra \$1,000 in life insurance and maybe even a boost in hospitalization benefits. The pact, of course, would probably cost the consumer an extra cent for a dozen eggs, but he really didn't care

business insurance

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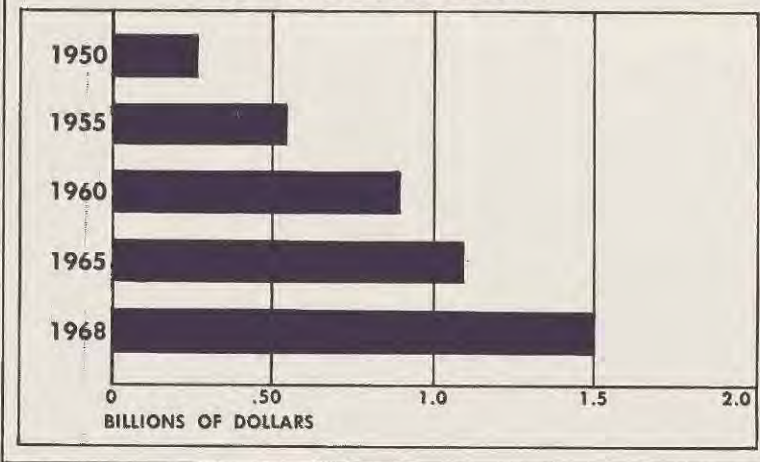
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LIABILITY PREMIUMS—AN INDEX TO CAPACITY PROBLEM



Insurance premiums written over the past two decades for liability insurance (other than automobile) give some indication of the growth of the property-liability insurance capacity crisis which is to be studied by a special committee of the National Assn. of Insurance Brokers in cooperation with insurers. Premiums for liability insurance have risen fivefold since 1950 despite the introduction of commercial multiple-peril policies that accounted for \$940 million in premiums in 1968. This rapid growth in liability insurance premiums augurs growing capacity demands by business and industry in the decade of the 70s.

Source: Best's Aggregates & Averages, Insurance Information Institute.

because he knew the egg packers were happier and handling his eggs with a little more tender loving care.

Union contracts today are not as cut and dried. Nor as cheap. In addition to increased wages and health/welfare benefits labor has apparently discovered such things as pensions and early retirement—intangible little items to the average consumer, perhaps, but items that are driving the consumer price index up, up and away.

A case in point is the Metropolitan Transit Authority in New York City, which was recently forced to raise the fares 50%.

"The most galling part of the higher transit and commutation fares," it was recently noted elsewhere, "is that the riders can count on no improvements in service. On-time performance on the subway has been slipping badly. . . . Needed maintenance is being skimped, and motormen are being put on the road with much less yard training than they ought to have for passenger safety."

At least part of that 10¢ increase in fare is being used to make a great many transit authority workers happier—sitting in front of tv sets in their Queens apartments or in retirement communities.

Two years ago the transit authority signed an agreement with the union that opened the way for retirement at age 50 after 20 years of service, with a pension equal to half of the worker's last annual pay. Earlier, sanitation employes in New York negotiated a similar benefit. That precedent-setting agreement let sanitation workers retire after 20 years without any age floor. A source in Mayor John Lindsay's office told *Business Insurance* recently that police and firemen are almost certain to demand the same at their next contract go-arounds.

The effect on the transit system has been obvious. Dropping of the age floor to 50 has caused an abrupt exodus of thousands of the system's most seasoned employes. And, according to transit officials, the replacement burden has been staggering.

If this sort of thing spreads to other industries, it's going to give President Nixon's inflation fighters yet another reason to bite nails in their see-saw battle to stem increases.

A proper function

Without going into the complexities and accusations that have marked the attempt to convert Hardware Dealers Mutual Fire Insurance Co. into a capital stock insurance company, it is possible to single out Michigan Insurance Commissioner Russell E. Van Hooser as the hero of the hearings. Commissioner Van Hooser's assistant appeared at the Wisconsin insurance department hearing on behalf of 30,988 Hardware Dealers policyholders in Michigan who pay 9% of premiums collected by the company.

Not only did Commissioner Van Hooser file an appearance, but his testimony was the most cogent presented at the confusing hearing. He said: "The proposed plan (now withdrawn by the company management) virtually assures that most of the policyholders of Hardware Dealers will not receive common stock in proportion to their equity in the surplus of the company: 80% of the equity is to be distributed in preferred stock (par value \$5 per share), valued at \$10 per share; and only 20% of the equity is to be distributed in common stock (par value \$25 per share), which is valued at \$50 per share. As a direct result of this ratio and these values, 90% of the policyholders of Hardware Dealers possess an equity in the surplus that is too small to entitle them to receive any common stock at all unless they pay cash to the company in order to complete a full share."

We believe that Commissioner Van Hooser exercised a proper function of the state insurance regulator by so clearly demonstrating the effect on Michigan policyholders of the first reorganization plan presented in Wisconsin by the Hardware Dealers management. In the decade of the consumer to come, insurance regulators should give close scrutiny to proposals—in and out of their home states—that vitally affect the interests of policyholders and the public.

Air carrier liability

To the Editor: I feel compelled to point out that the statement made concerning air carrier liability in the Washington Watch article of your Jan. 5 issue is inaccurate and misleading to an already confused shipping public.

In domestic air commerce, the air carriers' liability for the negligent loss or damage of freight is set by our tariffs at 50¢ per pound, but not less than \$50, unless a greater value is declared by the shipper. It is not limited to a maximum of \$50 as you have quoted. The similar statement concerning the air carriers' domestic cargo liability as made in the Senate Small Business Committee report is also inaccurate.

John B. Owens

Supervisor—Cargo Claims, Continental Airlines, Los Angeles, Cal.

Editor's Note: A staff member of the Senate select committee on small business told *Business Insurance* that the committee stands behind the accuracy of its report on air carrier liability, which Washington Watch quoted.

Title insurance

To the Editor: In your Sept. 29 article "California bill meets insolvency" you mention legislation creating the California Insurance Guarantee Assn. designed to protect insurance buyers against future insurance company failures. The article states that "the new law covers all lines of insurance except for title insurance."

"Insurance guarantee unit will protect California's policyholders: Barger," an item in the Nov. 10 issue of *Business Insurance*, states that "membership initially will consist of approximately 350 California-licensed insurance companies that write property and casualty lines."

Please advise, therefore, what the new law does cover.

Alfred Friedman

Operations Officer, National Bank of North America, New York, N. Y.

Editor's Note: Business Insurance contacted Angele Khachadour, assistant chief of the legal and compliance division of the California department of insurance, who said the legislation excludes from membership in the association insurers writing life, title, surety, disability, credit, mortgage guaranty, and ocean marine coverage in California. "Title insurance is not a property and casualty line," he said, and "companies authorized to transact title insurance cannot transact any other line of insurance." A recent count of members in the California Insurance Guarantee Assn. tallied 474.

Boeing damage

To the Editor: The boxed article on page 30 of the Jan. 5 issue of *Business Insurance*, which reports an incident to a Boeing 747 airplane at Renton, contains misinformation as to the amount of damage. The fact is that repair costs are not anticipated to exceed the deductible, and an insurance claim is not expected to develop. Underwriters have been so advised.

The "spokesman for Boeing" was not only misinformed but lacked authority to make comments regarding damages and insurance.

A. H. Blaker

Assistant Treasurer, Boeing Co., Seattle, Wash.



Where in the world is Zurich?

■ In Austria it's at 15 Schwarzenbergplatz in Vienna, and it's called Zurich Versicherungs-Gesellschaft. Same name in seven other Austrian towns.

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Ad for Kelly Girl liability cover stirs 'temporary' ire

NEW YORK—With their ad featuring a bare-shouldered, wide-eyed brunette, the Kelly Girl temporary agency boasts an exceptional third party liability insurance policy and warns the business world that most temporary employees are not covered adequately.

They are, however, according to a *Business Insurance* survey, and they are also furious with Kelly for printing what they consider

to be misleading advertising.

"Just who are they trying to kid," said a manager at Dot Girls here. "Anyone without third party liability coverage would be a nut. We all have it. Any temporary service worth its salt insures its clients against damage."

UNDER A third party liability bond the temporary agency assumes all responsibility if one of its employees causes a damage suit to be brought against the firm where he is working.

"What happens if an employe working for a stock broker steals or loses a stock certificate? The person who owns the stock sues the broker," a Kelly spokesman explained. "And if it is a Kelly employe, our insurance pays for the loss."

He admitted this doesn't happen often, but that a company should be prepared if it does.

"Maybe nothing will happen to your home for 50 years, but this doesn't mean you don't try to get the best possible insurance coverage for it," he said. "You should be ready for the unexpected, especially with temporary help when you're allowing a stranger into the company. I know of one case in which a temporary girl accidentally tripped over a chair and knocked an employe out of a window. I mean, it happened!"

HE SAID the purpose of the ad was to inform customers as to what kind of coverage was available and educate them to the accident possibilities.

"The ad illustrated a use of fear tactics" said a ManPower Inc. manager. "We in the industry do not like to see this kind of advertising and are very upset about it. Nearly all of us have as much coverage or better."

The Kelly third party bond is written by Continental Casualty



This national ad for Kelly Girl provoked quick replies from other temporary help agencies that their coverage was as good or better.

Co. with limits in excess of \$100,000 for damages. Kelly's workmen's compensation and general liability are written by Great

American Insurance Co.

The ManPower third party liability bond, also written by Continental Casualty, provides up to \$500,000 coverage.

"We also have additional insurance for more extensive coverage in special situations, such as when a worker goes into a stock brokerage firm or bank," the ManPower representative noted.

HE ADDED that the Assn. of Temporary Personnel Contractors had written a protest letter to the Kelly president.

Richard Burkhardt of Lumbard Brokers Corp., which placed insurance for Olsten Services, said this temporary agency requires each employe to fill out an individual bond application.

"The third party bond provides up to \$1 million coverage," he said. Olsten has such good coverage, in fact, that their insurance portfolio often turns out to be superior to the client's."

He explained that in addition

to third party liability, most temporary agencies have insurance covering workmen's compensation, New York State disability, and general liability.

Mr. Burkhardt said that while there is a tight market on third party bonds in all industries, Olsten has always been successful in getting coverage.

"WE HAVE experienced no difficulty getting it, either," said a spokesman for Exclusive Temporaries. "It's no big deal at all. The entire industry is up in arms about the Kelly ad. We think it's terrible."

A manager at Uniforce Temporary Personnel Inc., agreed and felt the ad was in poor taste.

Kelly, however, is standing firm. "We are not trying to imply anything derogatory about other companies," a Kelly manager said. "We are merely trying to educate our customers. We feel these accusations from the industry are unfair."

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Residents win coal dust claims against Norfolk & Western RR

TOLEDO—A group of citizens in nearby Sandusky has recovered damages from Norfolk and Western Railway for an "intermittent coal dust invasion" from coal stockpiles on docks near their homes.

Attorneys representing 704 Sanduskians and the railroad have filed a report with U.S. District Court Judge Don J. Young here showing that the claims have been settled or dismissed.

The suit, originally brought in the amount of \$1 million, was

settled for somewhat less than that. However, the final amount agreed upon is believed to be substantial. Norfolk & Western is self-insured for such claims, it was learned.

AN ATTORNEY who represented most of the plaintiffs told *Business Insurance* that he believes the case will have considerable impact on future pollution actions.

"It's the first case I know of of this nature where a group of neighbors banded together in an attempt to improve their environment," Donald Murray of Murray & Murray, Sandusky law firm, said.

Mr. Murray said that the suit was originally filed by nine Sandusky residents. It was later declared a class action, meaning that property owners living in a speci-

fied area near the docks where the coal was stockpiled could become parties to the action, winning if the suit was successful but sharing the costs were the railroad to prevail.

FOLLOWING a long trial earlier this year, Judge Young ruled in favor of the residents, allowing them to sue for damages. The settlement came before the second trial could get under way.

Of the original 704 claims, 522 have been paid by the railroad. Forty-five of the actions were dismissed because persons decided not to submit claims after first expressing a desire to join in the suit. Another 135 of the cases were dropped because property owners failed to meet a claims-filing deadline. Two additional parties to the action, which began two years ago, could not be found.

New key life plan offered young execs

CHICAGO—Expeditor 25, a new key executive life insurance plan, is now being offered by Continental Assurance.

The plan is tailored to provide a company's key young executives with the high amount of life insurance that they usually need when beginning a career. The employer pays a portion of the premium equal to the cash value of the policy while the employe contributes the remainder.

A major feature of the plan is the high cash value of the policy available in the first year. For example, for a male executive at age 29, during the first year the cash value would be approximately \$4 per \$1,000 of coverage while the premium would be \$20.12 per \$1,000 with a \$1.11 per \$1,000 dividend. The premium remains fixed over the years. Build-up of cash value and dividends per \$1,000 for five, ten and 20 years amounts to: \$70 and \$4.03; \$147 and \$7.40; \$314 and \$12.81.

The key executive life plan is available in all states except Vermont. Continental has designed a special version for New York whose regulations set limits on maximum cash values that life insurance policy can offer during the first four years it is in effect. The New York version of Expeditor 25 consequently has slightly higher dividends than the version being marketed in other states.

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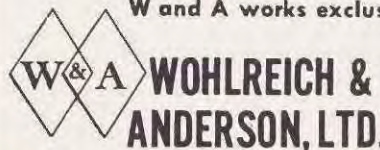
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Alaska: business booms but state is still insurance industry orphan

NEW YORK—"Anybody who treats this as a frivolous topic is going to miss something."

Perhaps John Armstrong Jr., assistant vp of the Insurance Co. of North America, was attempting to wake up a late afternoon audience when he boomed forth with that declarative here the other day.

"Certainly," he added, "Alaska is the state of the future." But, the vp noted, too many "gutless" underwriters in this country have not yet recognized the fact. Writing coverage on property in the nation's 49th state is just too difficult, and for no real good reason. "Some day," to paraphrase him somewhat casually, "a courageous little underwriter is going to come along, put some faith in the land to the north and make a heap of premium dollars for his company at the same time."

THE VP LATER told *Business Insurance* that INA is indeed one of the more courageous in the insurance industry, citing the fact that the company currently has considerable sums tied up in reserves on Alaskan risks.

"We are very deep into it," he said, noting that premiums are of course high now but that they "will level off." In the meantime, he indicated, INA is "making money" on Alaskan risks.

Mr. Armstrong was chairman of a panel discussion on insurance in Alaska held here recently during an American Management Assn. conference on international corporate insurance management. The subject of insurance buying for Alaskan property had, on

paper at least, showed promise of being one of the more rewarding sessions at this AMA go-around. To be sure, it was interesting. On insurance matters, however, it was somewhat less than informative.

APPARENTLY there is just nothing new to report this year. Despite things like the great oil discovery on the North Slope, despite the voyage of the S. S. Manhattan, underwriters are still cautious about writing coverages and premiums are as high or higher than they were last year.

This concerns John Armstrong and others who speak of the state being an "insurance orphan." The INA vp also noted the irony of the fact that Alaska was being considered during an international insurance management briefing and suggested that henceforth the subject be part of domestic insurance conferences sponsored by the AMA.

Speaking to the session about offshore insurance problems was Richard R. McKay, Mr. McKay, executive vp of Adams & Porter Associates, Houston, told the

meeting of the difficulties of insuring offshore risks. The hazards, he said, are obvious: weather conditions and some still rather primitive port conditions.

Also reiterating the obvious was John D. Ryan, a vp of Alexander & Alexander, New York. Mr. Ryan spoke of onshore risks. Again the climate was mentioned, as well as some other primitive conditions that remain in Alaska. At one point, for example, he mentioned the fact that you're not likely to find a fire hydrant on every block in the sparsely populated state. What underwriter wouldn't tack on a few extra premium dollars or even avoid such a risk, the vp intimated.

A HIGHLIGHT was the showing of a film by David J. Engel,

supervising engineer of J. Ray McDermott & Co. Inc. of New Orleans. The firm, which builds and places drilling platforms in the fertile oil fields of the world, recently completed another off the coast of Alaska. The half-hour film documented the project.

However, the real star of the whole session on Alaska was John Armstrong. A personable and witty gentleman from Philadelphia, Mr. Armstrong began chairing the session by citing his qualifications.

"In 1896 my grandfather went to the Klondike," he began. "Two years later he went to the Yukon looking for gold, but got mosquito bites instead. Henceforth he went into the ministry from
Continued on page 18

Unheard of! A million-dollar star with life insurance from what's-their-name.

He doesn't care whose, if it's special enough. Ours is. Through Comp-U-TermSM, one of the newest inventions of Continental Assurance. An unknown. But no matter — his independent insurance agent is the one who tailors the insurance to his one-of-a-kind needs (though it's available only through Continental Assurance). Your broker can do it too, structuring exclusive benefits and premiums to increase, decrease, remain level—or do all three. Without a rate book. Totally unique. As if it were his own insurance company! With you the only customer! Unheard of! In a way, the more he sells, the less known we become. It's why we've stayed unknown, while becoming No. 16 among more than 1800 life insurance companies.

Continental^{Life} Assurance: The Great Unknown

(But No. 1 with insurance pros)



\$1 million quotation

NEW YORK—The Humble Oil and Refining Co. attempted to get insurance on the S. S. Manhattan, which recently made a pioneer voyage through the Northwest Passage to the oil-rich North Slope of Alaska, but in the end decided to play the odds themselves.

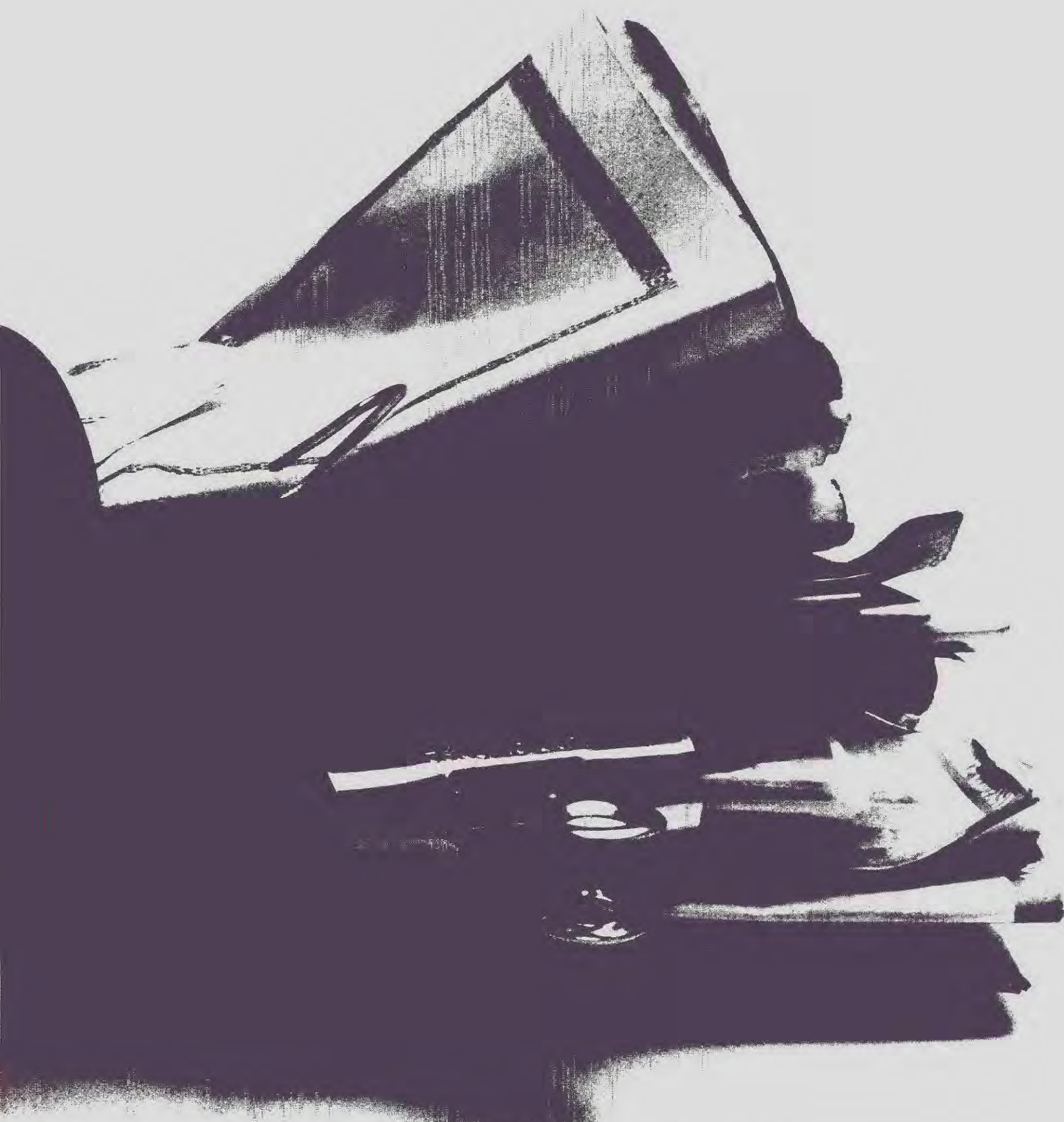
Richard R. McKay, vp of Adams & Porter Associates, Houston brokers, told an American Management Assn. conference audience here he believed the oil company was quoted a \$1 million premium on a \$40 million policy with a \$10 million deductible. Sources at Humble confirmed the report in essence. *Business Insurance* also learned the quote was made by the London market and that at least one U.S. marine department, that at Insurance Co. of North America, had even refused to quote on the business.

One informed marine insurance source, however, warned against attaching an undue amount of significance to the size of the quoted premium.

"I think it was simply a case of an insurer being asked to cover a very unusual, one-time experiment and saying, 'OK, if you want a quote we'll give you one.'" Humble, he added, looked at the policy's total value (which was probably considerably less than the total cost of the experiment), the premium and the deductible and decided to play the odds itself.



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Tax act pension treatment gets mixed reviews

By GEORGE LANGWORTH

NEW YORK—The new tax reform act, while a windfall for most pensioners, threatens to hurl the costs of operating a corporate pension plan with a lump sum payout option out of reach.

A complicated new tax treatment for lump sum pension distributions has confused and concerned many tax experts and pension planners surveyed by *Business Insurance*. Following the progress of the new bill through

Congress, most people are wondering just what the final version means for them.

Originally, the House-backed removal of long-term capital gains treatment from the employer contribution portion of the lump sum distribution (usually the largest part) spelled out a dire future for pension plans incorporating such an option. Using such a lump sum payment to reinvest for a greater return or insuring the receipt of the full benefits of a pension immediately

are common practices among many retirees.

HOWEVER, Senate conferees to the Joint Standing Committee, headed by Sen. Wilbur Mills, succeeded in including in the bill two Senate additions notably, a seven-year, forward-averaging provision and the exclusion of all other ordinary income from the base used to figure the tax on the lump sum distribution.

Vague wording, and according to one source, "shoddy thinking"

have introduced a real threat both to corporate pension planners and to outside pension plan consultants. "Just what is the employer's contribution to an employee's pension plan," asked William N. Bret, of A. S. Hansen Inc. in Dallas. "I can offer any one of 60 formulas through which it is determined, but just which one is acceptable under the law?"

Like Mr. Bret, many pension experts were in a quandry about what the 1969 Tax Reform Act means when it refers to an employer contribution. As one prominent pension expert in Washington explained, "A great majority of pensioners are covered under a plan from which the employer contribution for each employee is not readily ascertainable. It can conceivably require a great deal more work (in both accounting and record-keeping) than profit-sharing to keep track of the employer contribution for an employee.

"Our only recourse, really," the Washington source continued, "is the Internal Revenue Service. They are, of course, notoriously understaffed over there, so it should be quite some time before

a ruling on the problem will be available. Meanwhile, several people are going to die, and we will have to come up with something to try to abide by this law."

THE HUGE addition in administrative problems of determining the employer contribution of an employee's pension plan prompted one expert to predict that many small pension plan consultants might be driven out of business, by the vagaries of the new tax bill. "Many of these small firms simply don't have the capacity to handle the mammoth workload that keeping track of employer contributions could become," said the source, an actuary at a consultant firm here.

In addition, he warned that the administrative costs to a firm in running its pension plan would skyrocket accordingly. "The small, closely held corporation will have to spend a great deal more in the operation of its fund unless we get excellent rulings from IRS on the problem," he said.

"We're not really worried about the increased workload—whatever it is," said Mr. Bret of A. S. Hansen. "But that's because we have two large computer complexes to handle our problems. I don't know what the little guy's going to do. This bill is just ridiculous in its misconception," he concluded.

However, the 1969 Tax Reform Act does have its brighter sides. Far from eliminating a "loophole" the new tax treatment will actually benefit a great number of pensioners. "Out of the 25,000 employees enrolled in our 1,200 pension plans," said Robert Grathwohl, an actuary at Lambert M. Huppeler Co. Inc. here, "maybe 100 of them will be adversely affected." Those pensioners possibly hurt by the new tax treatment have incomes in the highest tax brackets, he explained.

UNDER THE OLD tax treatment, lump sum pension distributions were taxed at one-half the ordinary income rate up to a ceiling of 25% of the lump sum. The 1969 Tax Reform Act has removed capital gains treatment from the employer contribution. Hereafter, only the pensioner's in-

Continued on page 24



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Alaska . . .

Continued from page 15
which he never emerged."

In addition to the proximity of his ancestor to the land, the INA vp mentioned the fact that he has been to Alaska more than once and that he has invested considerable sums of INA funds ("not my own") in Alaskan interests.

MR. ARMSTRONG also noted some bits and pieces of intelligence:

- The state is two and one-half times the size of Texas, with a population of less than 300,000.
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Drug distributor acquires control of credit card firm

NEW YORK—The nation's largest drug distributor has jumped feet-first into the prescription drug credit card business.

Foremost-McKesson Inc., owner of McKesson & Robbins Drug Co., has acquired 51% of Pharmaceutical Card System Inc., a prescription drug plan card company which currently services some 25,000 prescription claims each month.

"We will use our current marketing channels," John T. Fay, executive vp of Pharmaceutical Card System Inc., and vp for professional relations with McKesson & Robbins, told *Business Insurance*. The drug distributor is now marketing drugs from 6,000 different manufacturers to 29,000 drug stores and nearly 6,000 hospitals, he said.

"WE THINK of ourselves as distribution specialists and there is a parallel here with the middleman function that PCS provides between insurance companies and providers of services," said John J. Fenstermaker, vp at Foremost-McKesson, Inc.

The drug distributor's entry into the third party prescription drug plan field will answer a need voiced by several unions and insurance companies dealing with prescription drug care as an employe benefit.

Union officials have complained in the past of many pharmacists' refusal to honor the "credit cards." By dealing with the credit cards through their drug supplier, druggist fears of non-payment will be largely alleviated, it is believed.

Drug prescriptions have increased from 250 million dispensed in 1946 to an estimated 1.25 billion in 1969, with a projected 2 billion prescriptions per year anticipated for 1976, Mr. Fay noted. He quoted a prediction made by Donald Rucker, senior health analyst for the U.S. Social Security Administration who said that "the growth of drug insurance will accelerate over the next several years so that more than 70% of all prescribed medication by the early part of 1976 will be subject to third party programs."

THIRD PARTY prescription payment programs are enlisted to handle the tremendous amount of paperwork that accumulates from employe benefit drug care plans.

The United Auto Workers' prescription reimbursement plan, involving some three million employes of Ford, Chrysler and General Motors presents the typical dilemma. The employe pays the first \$2 on each prescription (subject to an annual limit, usually \$600). The druggist files the prescription receipt upon which the employe's name and social security number are imprinted with the credit card company, which in turn pays the druggist

the remainder of the prescription charges.

The credit card company then files a claim with the insurance company to be reimbursed to the limit of the coverage, plus its own fee. Once the employe drug insurance limit runs out the credit card company bills the employe for the remainder of the prescription charges.

Currently PCS is servicing drug insurance plans written by Occidental, Equitable, Connecticut General, Continental Casualty, Washington National and Union Labor Life. In addition, PCS has signed up some 4,000 participating drug stores including such chains as Walgreen, Super-X, Peoples, Osco and Revco. ■



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Cancer death suit rejected

GRAND RAPIDS, Mich.—A Federal court jury has ruled that a widow who contended her husband died of lung cancer allegedly induced by cigaret smoking had "no cause for action" against Liggett and Myers Tobacco Co.

The suit was brought by Mrs. Geraldine Thayer, administrator for the estate of her husband, Leslie Thayer, who died at the age of 49 in 1964. The jury deliberated about two hours before rejecting her \$750,000 suit. ■



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Agree to court debates on thalidomide claims

LONDON—Lawyers claiming products liability cover from a Lloyd's underwriting syndicate over the tragic thalidomide affair in Britain have agreed to have the insurance issues debated in

court.

The decision is expected to lead to a lengthy hearing of vital importance over the specific interpretation of the policy wording.

The syndicate, it is emphasized, is ready to meet any award made by the court in full, but feels that the claim by Distillers Co. (Biochemicals), of London, could surge so high that it ought to be explored in a special lawsuit.

ior men in the West German firm which made the drug, known there as Contergan, on the accusation that they were negligent in putting it on the market.

Billions of dollars are involved in compensation claims by 2,400 children in West Germany, but because of the complexity of its laws it may be another seven years before they can be settled.

Sweden has acted swiftly, however, in aiding 100 thalidomide babies in its own country. One of its major chemical firms has made substantial offers to help them financially.

While the children in Britain will get immediate help, the supplementary lawsuit over the insurance policy will not be heard for at least six months, or longer, because of the delay in hearing commercial cases in the courts.

BUT INSURERS already have marked it down as an important case because of its impact on the wording of products liability policies. Lawyers are reluctant to discuss full details, but it is believed the policies were worded so as to provide a maximum cover of \$600,000 for any one accident, or series of accidents, arising out of any one event.

This would normally present no problem, because usually one specific event would give rise to clear liability, and the extent of the insurers' risk would be apparent.

But with the thalidomide tragedy in Britain there are other factors that have not been clearly settled by the courts, as the "fair and just" awards were made

without any need to go deeply into the history of the children, while the number of incidents in a legal sense is under debate in court.

Prominent British lawyer Desmond Ackner, who took up the children's cases, said there are no decisions on record to show whether damages could be properly claimed for injuries before birth.

SUCH DECISIONS as there are insisted that the foetus must be viable at the time of the accident, and capacity for viable existence is not attained until seven or eight months.

If the liability issue had been fought, the children would have had to prove that a drug manufacturer owed a duty of care to a foetus of whose conception he knew, or ought to have known, at the month of conception.

Success on their behalf could not have been guaranteed, so there has been a mutual settlement between all sides in which the only issue to be decided by the courts was the amount of damages the tragically deformed children ought to get.

Naturally Distillers Co. (Biochemicals) Ltd. is hoping to get as much of its potential \$12.5 million pay-out back from the insurers as possible. But equally the Lloyd's syndicate is entitled to seek the court's ruling on the way the \$250,000 limit wording should apply when there might be 300 claimants whose mothers were each separate victims of the drug.

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business insurance/perspective

Insolvency funds: A desirable security or a needless expense for the policyholder?

by William H. Rodda, president,
Marine Insurance Handbook Inc.,
Chicago, Ill.



William H. Rodda

Insurance company insolvencies have caused a clamor for some method under which claimants against insolvent companies would be paid for their losses. The number of insurance companies that have failed in recent years has been small, but it is the number of policyholders affected that causes the clamor rather than the number of insolvencies. Several thousand insureds whose property losses are not paid, or whose liability claims are not met, can raise a furor that is heard in Washington as well as in all of the state capitals.

Several different proposals have been made to pay the claims of those who are unfortunate enough or unwary enough to buy insurance in companies that subsequently failed. These plans range from supposedly simple plans within a single state to an elaborate federal scheme that would encompass the entire insurance business. This discussion is not an attempt to promote or support any plan but is rather an analysis of the various proposals as they may affect the policyholder. The reader can decide whether he feels that there is social or economic justification for him to pay the costs which ultimately will be borne by those who buy insurance.

The acceptance of the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation in the banking and savings and loan fields poses the question whether a similar corporation would be desirable for insurance company failures. The FDIC and the FSLIC have paid depositors of insolvent institutions up to the prescribed limits. FDIC and FSLIC have not eliminated failures. Banks have failed during 1969 at a rate of almost one a month in the United States. It is impossible to say whether supervision by the federal organizations has prevented other failures. Supervision of any kind, and particularly an inquiring supervision, probably brings to

light questionable practices by some institutions in time to prevent failures.

THE PAYMENT OF \$15,000 per account in an insolvent organization by FDIC or FSLIC does not in itself prove that a similar arrangement is feasible in the insurance business. The rules can be fairly simple as to who will be paid in the case of a bank failure. An "account" can be defined and a maximum amount set for payment to each account. It is worthy of note that the amount payable per account is relatively small. The businessman and the corporation whose accounts necessarily are more than \$15,000 are expected to chose banks that will not fail. They are smaller in number so that fewer votes would be affected by losses on their part.

Proposals for insurance company insolvency funds vary greatly as to what kinds of insurance should be covered. Automobile insurance has been the primary objective of all the funds so far proposed or enacted. This is the result of two things. First, many people are affected by the insolvency of an automobile insurance company. There is a higher proportion of claims to the number of policies written in automobile insurance than in almost any

the plans should cover the extremely high verdicts which occasionally are returned by the courts. It may logically be asked why the really high verdict should be eliminated. Such claims are the ones which clobber the insured in a catastrophic way. The limit of \$15,000 per account of the FDIC would be wholly inadequate for liability insurance purposes.

THERE IS CONTROVERSY whether unearned premiums should be covered. An automobile insurance premium with an insolvent insurer may be several hundred dollars. Loss of this unearned premium may be a greater loss to the policyholder than an automobile collision claim. There is also the question whether claims are to be paid in full, such as is the case with FDIC for insolvent banks—or is there to be a deductible of \$100 or \$200, or some other figure?

Still another question is of great importance to the business insured. Proposals are geared to help the person who has little or no assets. The insured who has a net worth of \$1,000,000 is considered as not needing relief. Such policyholders would be excluded from benefits under

for an insurer to participate in the protection of the fund. This has been the pattern in the banking field under FDIC. These federal requirements as to solvency, examination, and underwriting would take the place of state regulation in these areas. It does appear that the establishment of a federal insolvency fund for insurers would lead to a substantial degree of federal regulation of the participating insurers.

The proposals for state administered insolvency funds have the dual purpose of keeping the costs at a minimum and of preserving state regulation of insurance. This second objective of preserving state regulation of insurance is getting a major part of the attention in the current discussions. This tends to obscure some of the more important differences between the federal and the state proposals. Federal administration of insolvency funds could be better evaluated if the issues were not clouded by arguments over the merits and demerits of federal versus state regulation of the insurance business.

A federal fund would be strong financially. Its administration would be relatively uniform throughout the country. Payments of claims because of insolvency would be expected to be reasonably prompt, if the experience with FDIC can be taken as an indication. Proponents of the plan anticipate that supervision by a federal bureaucracy would bring about more adequate rates than have been achieved in some areas under state regulation. This may be wishful thinking. The same pressures for low cost insurance would be exerted upon the federal bureaucracy that have been evident in the states. Such a collateral benefit to insurers is certainly conjectural and by no means certain.

The proposals for state funds appear to have the advantages of lower cost and simplicity of operation. The only money which would be collected in advance of an actual insolvency in a state would be minor administrative funds for a body that would be set up to operate the plan. Assessments would be levied after the fact of an insolvency. Insurers in states that have had few or no insolvencies also feel that they would avoid a sharing of the costs of insolvencies in other states. There are states in which no insolvencies have occurred in recent years. Insurers which operate only in such states are reluctant to share the cost of insolvencies from states which in their opinion have insolvencies because of weakness in the insurance requirements in those states.

TYPICAL OF THE PROPOSALS for state insolvency funds is a so-called "model bill" which has been prepared by a committee of the National Association of Insurance Commissioners. This proposes a post-insolvency assessment arrangement. Insurers operating in a state would be required to join the organization. If an insolvency occurred, all the other companies would be assessed according to their premium volume in order to meet the claims against the insolvent insurer. In-

continued on following page

'It is no longer a question of whether there should be an insolvency fund but rather what kind of fund should be enacted.'

other field, perhaps with the exception of accident and health insurance. Thus the failure of an automobile insurance company leaves more people without the protection they paid for.

A second reason for greater interest in automobile insurance company insolvencies is that many of the failures have been among these companies. Automobile insurance has been unprofitable. It is impossible to prove whether financial difficulties have resulted directly from inadequate rates, but certainly they have been a factor. The establishing of loss and claim reserves in automobile insurance requires a high degree of competence and honesty. Competence has been lacking in some companies, and lack of honesty has been alleged in other failures. The high initial premiums in automobile insurance makes this an ideal situation for the unscrupulous operator who wants to accumulate a lot of money rapidly so that he can siphon off the assets for himself, and then let the company go broke.

An insurance company insolvency plan is inherently more complicated than a bank insolvency plan. A primary problem is the determining of what kinds of insurance shall be included. Should the plan cover merely automobile insurance which has been the most troublesome, or should it include other property and liability insurance? Should life insurance and accident and health insurance be covered? What limits should be imposed upon the recoveries? There is controversy whether

some plans. Surplus lines coverage in unauthorized insurers would probably be excluded.

Two general proposals are emerging as probable patterns. It is no longer a question of whether there should be an insolvency fund but rather what kind of fund should be enacted. One proposal is for a federal fund similar to the FDIC. Assessments would be collected from insurance companies and held in a fund to pay the claims from insolvent insurers. The other proposal is for state organizations which would collect no funds, or only minor administrative funds, in advance of insolvencies, but which would collect assessments after the fact of insolvency of an insurer.

Two principal objections have been voiced to the federal proposal. One is the cost. It has been charged by opponents of a federal insolvency fund that the administrative costs for such a fund would exceed \$36,000,000 per year even before a single insolvent insurer were handled. It is obvious that a substantial cost would result from a federal fund and that this would have to be added to the cost of insurance premiums.

THE SECOND PRINCIPAL objection to a federal fund is the allegation that it would supplant state regulation of the insurance business with federal regulation. There is justification for this belief. It is almost certain that such a federal organization would establish requirements

perspective

Continued from preceding page

urers in the state would set up an association which would administer the collection and distribution of funds to meet claims against the insolvent insurer. Methods probably would follow those now in force for FAIR plans, assigned risk pools, and similar state operations.

It has been argued that some states might fail to enact the necessary legislation for an insolvency fund. There would inevitably be differences in the operations and in the claims to be paid. It is debatable whether such differences are desirable or undesirable. Advocates of the state plans argue that state differences can take into account the regional differences in social and economic conditions.

Several states have already enacted state insolvency fund plans. These vary greatly as to the kinds of insurance that are covered, whether return premiums

shall be paid as a claim against the fund, whether there shall be a deductible from the amount to be paid, and what limit shall be placed upon the amount of any claim.

The Insurance Commissioners' "model bill" contains limitations and restrictions which appear to represent a consensus of present thinking. There is a "non-duplication of recovery" provision which would force an insured to collect first under the provisions of any insurance which he carried. This is aimed primarily at the uninsured motorist coverage of a claimant against an insured of the insolvent insurer. Many automobile losses in the past have been sustained by persons who had claims against the policyholders of an insolvent company. Uninsured motorist coverage as written by most companies now covers any claim which is uncollectible because the insurer of the defendant is insolvent. The

"non-duplication of recovery" provision would prevent a double collection by the injured party.

THE COMMISSIONERS' BILL also has a \$100 deductible from any claim. This is intended to simplify administration and also to keep down the cost. Unearned premiums would be considered an allowable claim, subject to the \$100 deductible.

One of the more important limitations in the Commissioners' "model bill" is an upper limit of \$300,000 on a claim. However, this is a more lenient provision than the current law of one state which eliminates the claim of any person or corporation having net assets above \$1,000,000. Another important limitation is the definition of an "insolvent insurer" to be an insurer authorized to do business in the state when the policy was issued or when the insured event occurred. Insurance in

an unauthorized insurer would be excluded.

The insolvency fund is aimed to protect the small claimant, the person who has purchased insurance without a professional knowledge of insurance company solvency and who would be hurt by inability to collect his claim. It is in effect a social type of legislation because its benefits do not extend to all insureds nor for unlimited amounts. Like the bank insolvency funds of FDIC and FSLIC, it is the small policyholder who will benefit most. The cost will be spread over the entire insurance business, including policyholders who will not benefit in proportion to their added costs. The questions to be considered by business policyholders are whether the general benefit to society and to the economy of the country would be sufficient to justify enactment of the proposals, and which would be best. ■

Columnist disagrees with BI editorial

by John P. Olsen,
insurance manager,
Ingersoll-Rand Co.,
New York, N. Y.



J. P. Olsen

ments primarily refer to a major manufacturing corporation with its attendant ability to negotiate, to a large extent they apply to small companies and to those not engaged in manufacturing. The first question is whether to work from standard insurance company policy form or draw up one of your own. This latter is referred to as manuscript policies with the original language usually drawn by the assured. The major argument for corporate insurance managers against the manuscript policy is that the general rule of law that provides that ambiguities in the policy are ruled strictly against the insurer may be reversed where a manuscript policy is concerned since the insured may be the sole author, or at least the principal author, of the policy form.

WHILE THIS argument may have some validity, the answer, as far as I am concerned, is that the insurance manager who is charged with providing the coverage should guard with his life against the creation of *any* ambiguities. Well written forms contain few so-called legal ambiguities and stated differently, it is a pretty

it pretty close to the vest and not generally communicate it. It gives some freedom of movement.

The next question might be the definition of bodily injury and whether it should be expanded to cover personal injury. This can be readily taken care of by including the personal injuries—false arrest, detention or imprisonment, malicious prosecution or humiliation, disparagement of property, libel, slander, defamation of character, wrongful entry or eviction, invasion of privacy including assault and battery not committed by or at the direction of the insured unless committed for the purpose of the protection of persons or property. Some companies will leave the words "personal injury" undefined but it may be preferable to have the wording in the endorsement.

Although the new policy automatically provides coverage for liability assumed under incidental contracts, such as, off-premises indemnification of municipalities, side track agreements and maintenance agreements, I strongly recommend the purchase of blanket contractual liability coverage. Naturally, underwriters

which sits on top of your basic policy. After assuming a self-insured retention—usually \$25,000—a considerable amount of the restrictive language in the CGL insurance policy will be picked up by an umbrella policy sitting on top. The most notable is the care, custody and control exclusion contained in basic CGL. I repeat—this is a complete oversimplification of a complex subject. The automobile and aircraft exclusion can be handled by including these exposures with the same liability carrier, thus avoiding complications. Watercraft is a subject unto itself and I for one have no particular desire to discuss marine insurance at this time.

The war, workmen's compensation, employers liability, alienated premises and even the liquor liability exclusions are all standard and usually not of too much concern. The design error exclusion which, of course, is new under the new comprehensive general liability policy, is designed to take the business risk out of the products liability coverage. I am a bit concerned with the language "active malfunctioning" which is required to have been the cause before triggering coverage. In my view, the so-called business risk (i.e., the failure of machines simply to perform) always has been intended not to be covered. It will be interesting to see the first major litigation on this clause.

The question of insuring one's liability for damage to its manufactured goods is really the subject of other types of coverage. It is an unusual manufacturer who, having been in the business a number of years, would choose to insure for damage to every machine he has manufactured.

The easiest way to take care of the completed operations is simply to eliminate the exclusion. This is a very real exposure to contractors.

Adequate treatment here of the X, C, U, exclusions would require a separate paper. The best way to handle it is to arrange its deletion.

I think the American Society of Insurance Management deserves a vote of thanks from everyone on the excellent report it published on the subject of the revised comprehensive general liability policy. It should be required reading for every risk manager. After reading it, you will quickly conclude that my brief comments are inadequate.

Perhaps, as some are now arguing, there are, in fact, many additional areas that ASIM should involve itself with. I am inclined to think that ASIM with its sophisticated membership could easily involve itself in additional matters. I would hope, however, that its excellent work in the "nitty gritty" area would continue. ■

'The new CGL policy contains some very cute language that I predict will be in our courts very shortly.'

risky business to rely on ambiguities as the reasons to establish coverage.

An initial consideration might be who should be insured under the policy. Usually language appropriate to include all wholly owned subsidiaries and/or affiliated companies on an automatic basis is readily acceptable to underwriters. A serious consideration will be whether to add employees, other than directors and officers (who are automatically covered).

The arguments on this question range far and wide. The reason for not including them as an additional insured is to avoid fellow servant suits in jurisdictions where they are permitted. Those instances where the employee is known to have financial security because of insurance and where such suits are permitted generally results in a rash of such law suits. On the other hand, supervisory personnel who are not covered but who might be subject to certain litigation from injured subordinates might very easily become quite disturbed over the fact that they are not named in the policy and not insured. Generally speaking, the best solution I have heard is to name the employees under the policy as additional insureds but to keep

will wish a thorough review of the agreements of their smaller insureds. Quite obviously, their smaller companies could be assuming major liabilities of others.

The new CGL policy contains some very cute language that I predict will be in our courts very shortly. One, I suspect, will be the definition of property damage which requires that the injury or destruction occur to tangible property before coverage is afforded. One school of thought subscribes to the theory that simply rendering tangible property useless is injury to tangible property. The other claims just the opposite. The problem arises when a considerable business interruption or consequential loss involving damage to property occur where there has been no tangible damage to the property itself. I simply point this up—offer no ready solution—and predict this will be decided by the courts.

There are about 15 exclusions in the comprehensive general liability insurance policy. They can be handled variously.

AT THE RISK of a complete oversimplification of the problem, a considerable amount of the exclusions can be effectively dealt with through the purchase of umbrella liability insurance coverage

Although I generally agree with the editors of *Business Insurance*, particularly when they forcefully endorse positions I have taken, I must register one exception. Recently, in supporting an article I authored and, while quite correctly advocating the elevation of the status of risk managers, the editorial ("Needed: D&O info," Oct. 22) seemed to imply that careful and detailed policy review would keep the risk manager in the unenviable position of a "contract clerk." I must disagree, at least in part.

The major importance of correct policy language is many times overlooked by even the more sophisticated corporate insurance manager. He sometimes tends to give his so-called risk management functions prime consideration, delegating to others, or ignoring, policy terms and conditions. In my view, the review and revision of policy language, however unappetizing, requires careful and detailed effort.

I'm reminded of the underwriter who, on many occasions, told his assureds there was no question as to the intent of the insurance policy and that, regardless of the language, his company would respond—and he promptly did respond—on small claims for his large assureds. But when the first major loss occurred he vanished, leaving the matter to the courts. Purchasing insurance is the purchase of words, and woe to the corporation that tucks its policies, unread into the file.

The revised comprehensive general liability insurance policy may be a good case in point and warrants some comments for your consideration. Although my com-

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Tax act...

Continued from page 18
terest garnered from the pension plan's investments and his own contribution will receive capital gains treatment (which rates have also increased).

The employer contribution will be treated as ordinary income, except that it is eligible for a seven-year, forward-averaging provision. That is, if the employer-contributed portion of a retiree's lump sum distribution is \$70,000, it would be divided by seven. The tax due on the resultant amount, \$10,000, is then computed and multiplied by seven, thereby arriving at the tax due on the entire employer contribution.

Obviously, the tax due when a \$10,000 bracket is applied to \$70,000 is much less than that (in plans of those employees enrolled for at least five taxable years prior to the year of distribution) produced by ordinary income tax treatment or capital gains treatment. This surprise increase in

tax relief is due primarily to an added paragraph under the heading "Amounts Subject to Penalty" in the tax law, which reads: "Any amount which received during the taxable year by the employee as compensation for personal services performed for the employer in respect to whom the amounts distributed or paid are received shall not be taken into account."

This exclusion of all other ordinary income (from the employer supplying the pension) from the base used to compute the tax rate of the employer contribution opened the door to the more beneficial tax treatment of the lump sum distribution.

"THE CATCH to this thing," complained Mr. Bret who is also a co-founder of the National Assn. of Pension and Welfare Plans Inc., "is that you have to assume that a man is receiving compensation from only one employer to get this kind of tax relief. For the executive who has a higher income, this is a little naive. Obviously he has to have more than one source of ordinary income in

order to be in his tax bracket."

However, Mr. Bret agreed that the new tax treatment would afford substantial tax relief to pensioners receiving lump sum distributions under \$300,000 or so. "The trouble is that the new treatment was originally billed as the closing of a tax loophole, which is exactly the opposite of what it actually does," he added.

One suggested method of counteracting the pinch that high income pensioners incur from outside ordinary income is deferred compensation. "Those people who are receiving large compensation from other sources," explained Mr. Grathwohl, "should defer this compensation for at least a year after retirement in order to protect the tax advantage they receive under the new tax treatment. In this way, the people in high income brackets will have only 1/7 of the employer contributions as the tax rating base for the employer contribution."

If high income pensioners do not defer their outside compensation for the suggested year after retirement, it must be added to

the 1/7 of the employer contribution before figuring the taxes due. The resulting amount is then multiplied by seven, possibly increasing the amount of taxes to paid out of the lump sum distribution substantially.

IN AN OBSERVATION that may surprise many, one source contacted by *Business Insurance* declared that the new tax treatment actually relieves an increased tax pinch caused by the new capital gains law revision contained in the 1969 Tax Reform Act.

Under the old capital gains law a capital gain was taxed at a maximum rate of 25%. However,

under the new tax act, only the first \$50,000 of a long-term capital gain receives the half-rate, 25% treatment. After the first \$50,000 a capital gain will be taxed at 29.5% in 1970, 32.5% in 1971 and 35% in 1972, without any half-rate alternative.

"It's hard to believe," said the source, a tax counsel for a large, Washington-based insurance association, "but our figures show that the new seven-year, forward-averaging provision, coupled with the exclusion of outside ordinary income from the tax-computation base for employer contributions, consistently improves on the new capital gains treatment of lump sum pension distributions."

Here are pension rules in new Federal tax act

Sec. 515. Total Distributions from Qualified Pension, Etc., Plans.

(a) Limitation on Capital Gains Treatment.—

(1) Employees' trust.—Section 402(a) (relating to taxability of beneficiary of exempt trust) is amended by adding at the end thereof the following new paragraph:

"(5) Limitation on Capital Gains Treatment.—The first sentence of paragraph (2) shall apply to a distribution paid after December 31, 1969, only to the extent that it does not exceed the sum of—

"(A) the benefits accrued by the employee on behalf of whom it is paid during plan years beginning before January 1, 1970 and

"(B) the portion of the benefits accrued by such employee during plan years beginning after December 31, 1969, which the distributee establishes does not consist of the employee's allocable share of employer contributions to the trust by which such distribution is paid.

The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph."

(2) Employee Annuities.—Section 403(a) (2) (relating to capital gains treatment for certain distributions under a qualified annuity plan) is amended by adding at the end thereof the following new subparagraph:

"(C) Limitation on Capital Gains Treatment.—Subparagraph (A) shall apply to a payment paid after December 31, 1969, only to the extent it does not exceed the sum of—

"(i) the benefits accrued by the employee on behalf of whom it is paid during plan years, beginning before January 1, 1970, and

"(ii) the portion of the benefits accrued by such employee during plan

years beginning after December 31, 1969, which the payee establishes does not consist of the employee's allocable share of employer contributions under the plan under which the annuity contract is purchased.

The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this subparagraph."

(b) Limitation on Tax.—Section 72 (n) (relating to treatment of certain distributions with respect to contributions by self-employed individuals) is amended—

(1) by striking out so much thereof as precedes paragraph (2) and inserting in lieu thereof the following:

"(n) Treatment of Total Distributions.—

"(1) Application of Subsection.—

"(A) General Rule.—This subsection shall apply to amounts—

"(i) distributed to a distributee, in the case of an employee's trust described in section 401(a) which is exempt from tax under section 501 (a), or

"(ii) paid to a payee, in the case of an annuity plan described in section 403(a), if the total distributions or amounts payable to the distributee or payee with respect to an employee (including an individual who is an employee within the meaning of section 401(c)(1) are paid to the distributee or payee within one taxable year of the distributee or payee, but only to the extent that section 402(a) (2) or 403(a) (A) does not apply to such amounts.

"(B) Distributions to which Applicable.—This subsection shall apply only to distributions or amounts paid—

"(i) on account of the employee's death,

"(ii) with respect to an individual who is an employee without regard to

Continued on page 30



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Self-insurer tells how it must be done

SAN FRANCISCO—The problems of corporate self insurance were reviewed here this week before the Northern California Chapter of CPCU by Norman Wintermute, assistant vice president, Bank of America.

"The corporate insurance manager," Mr. Wintermute declared, "must not only review policies available but must always know the best way at any given moment to handle the risk from the corporation viewpoint."

This knowledge, he added, "involves the determination of whether the risk should be self insured, partially insured and/or partially self-insured and exactly what type policies should be used."

THE BANK executive offered three areas "where self insurance should be considered."

"These," Mr Wintermute said, "are instances where the corporation's risk is so spread as to make self insurance the logical solution; where the premium appears to be out of line with the exposure; and where insurance coverage would merely be a substitute for good business methods."

Mr. Wintermute explained that Bank of America has 951 branches in California and 106 others in foreign nations.

"**UNDER** these circumstances," he continued "the bank believes it preferable to self insure its plate glass exposures, for example, rather than cover them by commercial policies."

"Many of the determinations on self insurance procedures," he said, "are and must be essentially management decisions and these rest on such factors as contingency reserves, capitalization, profits and business policy."

Mr. Wintermute cited as another example the fact that Bank of America operates 850 vehicles. These are self insured for physical damage.

"**SINCE** we know that all of these 850 vehicles will not be destroyed in a single incident," he continued, "we do not need to set

up a reserve equal to their combined value.

"Under these circumstances, we might well take the premium used by commercial insurers, learn the loss factor in their rating formula, and use that as the basis of reserves."

Mr. Wintermute warned of two instances in which he believes a corporation "should always obtain commercial insurance" rather than to attempt self insurance.

"These situations arise," he explained, "when the corporation does not feel it has sufficient spread of risk to make self insurance desirable and where the insurance carrier provides valuable services which the corporation itself does not want to provide." ■

C. V. Starr forms aviation company 'to help provide necessary capacity'

NEW YORK—The American International insurance groups and its senior company, C. V. Starr and Co. Inc., have formed a new international aviation agency in an "attempt to help the industry provide the capacity necessary for increased aviation risks."

The new firm, American International Aviation Agency Inc., will be headed by Joseph F. Sheehan as president and director of the agency. Mr. Sheehan has been with the Starr interests for almost 12 years, holding various executive positions related to aviation, treaty reinsurance and excess lines.

"It was Mr. Greenberg's idea," Mr. Sheehan told *Business Insur-*

ance, referring to C. V. Starr's president, M. R. Greenberg. "He realized there is a need for aircraft insurance in both the hull and liability areas. This is our own capacity, but others are joining as quota-share reinsurers," he explained.

THE NUCLEUS of the capacity the new company is trying to build up will come from four companies in the Starr stable—the American Home Group, the National Union Group, the New Hampshire Group and American International Reinsurance Co. of Bermuda. The new company, which is already attempting to establish an identity for itself as AAIA, has thus far more than

doubled its retention by reinsurance, Mr. Sheehan said.

"We're attempting to get \$2 million in any combination on any one aircraft, but we haven't neared that as yet," he added.

The company, Mr. Sheehan noted, will essentially go after commercial airline business. They do not have any 747s on the books as yet (TWA and Pan Am both had their covers wrapped up before AAIA officially announced its entry on the scene), "but when the other airlines get their 747s we'll be available," he said.

The Starr offshoot will not compete with the two major U.S. aviation pools—U. S. Aviation Insurance Group and Associated Aviation Underwriters. ■

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Credit card leaves fraud cover behind in system switch

CHICAGO—First National Bank of Chicago has dropped out of the Interbank credit card system—and the insurance program that goes with it—to join with Bank of America's BankAmericard.

One reason First National made the switch, according to Donald R. McBride, president of Bank America Service Corp., is "very definitely" the huge losses suffered by First National and other members of the Midwest Bank Card system from fraud.

The coverage left behind by First National is a \$1 million limit Aetna Casualty and Surety counterfeit and fraud blanket cover for Interbank.

First National, along with other member banks in the BankAmericard system, now has option of buying a counterfeit and fraud insurance program marketed to individual banks by Marsh & McLennan, according to Mr. McBride.

Kroger . . .

Continued from page 1
part of management that profit-sharing at Kroger was "causing the company more aggravation than it was worth."

"The profit-sharing program has ceased to become a motivator," a company employee or the

management level said privately last week. Fewer than 16,000 of Kroger's 83,000 employees are currently members of the plan, which at its peak in 1965 had about 25,000 participating members.

IN ADDITION, it was noted that the court's rejection of the NLRB decision had caused con-

siderable resentment among unionized Kroger employees. An overwhelming majority of employees are represented by unions at the Ohio firm where labor-management relations have been especially tense in recent years. "It is extremely difficult to get union members to go along with a court decision that rejects a National Labor Relations Board ruling," the source said.

Kroger's profit-sharing plan, which was begun in 1951, permits members to contribute 5% of salary, up to a \$15 maximum per week, with the company making a contribution from profits. A company spokesman said that over the life of the plan, Kroger had contributed an amount about equal to that contributed by employees. The fund has been increased over the years by reinvestment of the company's contributions. At the end of 1968 the fund totaled \$92 million. Of that amount \$37.7 million was from employee contributions and \$54.3 million from company contributions. That same year the company contributed \$3,694,364 out of profits to the plan.

Mr. Davis explained that the company plans to keep the profit-sharing in effect for all of 1970. Upon termination, he said, employees will receive all their contributions, in addition to those of the company. ■

Bridge . . .

Continued from page 1
few hours to 14 days.

About 30% of the property damage and use and occupancy coverages are written by Insurance Co. of North America. The remainder is insured by a pool of 30 companies.

Last month's damage occurred when an amphibious Navy cargo ship—The Yancey—broke loose from her anchorage and smashed a 375-foot gap in a bridge portion of the span near the Norfolk end. Five sections of the two-lane roadway and their supporting sections were swept away.

The bridge was designed to permit easy replacement of individual sections. However, the full extent of the loss could not immediately be assessed since divers were still inspecting the piling bases last week. ■

'Vertical' coverages . . .

Continued from page 1
than they did with TWA.

Several years ago, when Pan American was placing its primary coverages with USAIG, the airline suffered three hull losses in a single year, which amounted to almost \$25 million. When the policy came up for renewal USAIG upped its premiums considerably.

PAN AM, which thought the successive losses untypical and the USAIG demands unfair, took its business elsewhere. With the advent of the jumbo jet, however, Pan Am found it necessary to go back to USAIG for at least some of the coverage it needed to get off the ground. But USAIG, as indeed the entire aviation insurance market, was in the driver's seat for this go-around. As a result, one source noted, Pan Am found itself negotiating with a wall much of the time.

"Underwriters have a different attitude when they negotiated with Pan Am," one knowledgeable aviation insurance source explained rather ruefully, adding that the airline has been rather fickle in its approach to insurance matters over the years. Another noted, "Pan Am jumps around too much."

The airline, it was said, has changed its insurance philosophy from deductibles to nondeductible policies several times in the past. In addition, the wisdom of Pan American's decision to change markets a few years ago has been questioned by those in the insurance buying business who hold the belief that you should find an insurance carrier, establish a relationship with him and stick with him even if a premium jump seems unreasonable.

In addition, those who write this business have other negative thoughts about Pan Am. Some have expressed them in rather gruesome terms.

"**THERE IS** some feeling," another underwriter confided, "that Pan Am, which will have the most 747's in the air in the near future (25 of them are scheduled to be delivered in the next six months), is the odds-on choice to first lose one of them. Naturally, the three markets are going to have to bear the loss, even if it is a TWA or American loss. But the fact remains that Pan Am has the odds against it and underwriters want to get the most premium dollars for this anticipated loss."

Pan Am's new 747's are being insured under a composite rating set-up as part of the airline's total fleet. "This is the way our coverages have been written in the past," explained Robert Ferguson, senior vp of finance, who also told *Business Insurance* that the airline feels the \$100 million liability limit is "adequate." However, he added that Pan Am is "looking for another layer" to provide additional comfort. He would not say how much more would be comfortable but others say they are shooting for \$125 million.

The present insurance philosophy at Pan American, which places its business through Parker & Co., New York broker, is that there are no deductibles. By contrast, both Boeing and TWA are self-insuring a portion of the risk by retaining quota shares in the coverages. Boeing's is about 10% of each loss. TWA is similarly retaining a sizeable portion of each risk. However, in TWA's case the retention will not exceed an annual aggregate.

In other respects, however, all the coverages are believed to have been drawn up in similar fashion.

The \$23 MILLION cover on each Pan Am hull, for example, is split largely between the American market—USAIG and AAU—which traditionally prefers hull to liability risks. Only about \$4 million of the \$23 million has wound up in London, and of that only about \$1 million is held by Lloyd's. The other \$3 million has been taken by independent British insurers.

However, a far greater proportion of the liability risk has gone to London. Some of it of course comes back to this country as reinsurance with companies like Insurance Co. of North America.

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Weil-McLain adds Eliel and Loeb

MICHIGAN CITY, Ind.—Weil McLain Co. Inc. of this city has agreed in principle to acquire Eliel and Loeb Co., a Chicago insurance brokerage firm, for an undisclosed number of Weil-McLain common shares. Eliel and Loeb will continue under present management as a division of Insurance Consultants Inc., a division of Weil-McLain headquartered in St. Louis. Eliel and Loeb had 1969 income from commissions and fees of approximately \$1.3 million.

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Patman asks housing investments by funds

WASHINGTON—Rep. Wright Patman, chairman of the House banking and currency committee, has introduced legislation which would require the nation's private pension plans to invest enough of their funds in Federally guaranteed housing mortgages to make up the difference between what current money sources now supply and what is needed to meet the national housing goal of 600,000 low-and-moderate income units a year.

An outspoken critic of the banking community and of the Nixon Administration's use of high interest rates to fight inflation, Rep. Patman charged, when introducing the legislation, that while the administration has placed its faith in the private sector to achieve a solution to the nation's housing crisis, so far this sector has failed dismally.

One answer, he claimed, is to channel large blocks of funds into housing from sources that until now have been relatively untapped—that is, pension funds.

UNDER HIS BILL, the Secretary of Housing and Urban Development—after conferring with the Secretary of the Treasury—would notify the administrators of all private pension funds which qualify for tax exemptions what percent of their assets they must invest in housing mortgages every year.

The U.S. has slipped from a sixth place ranking in housing to 10th or 15th and our housing industry is too weak to climb out of its sick bed, Rep. Patman said.

He quoted the director of the standards policy office of the Department of Commerce as saying that "within a few years—perhaps a decade—it will probably be generally acknowledged internationally that the best housed inhabitants of any large country in the world are those in the USSR. The political impact of this situation will be profound. The U.S. will suffer devastating comparisons."

The fact that pension programs now hold mortgages totaling \$3.9 billion verifies beyond doubt that program administrators have found such purchases fit requirements for prudent and secure investments, Rep. Patman said.

THE BILL PROVIDES that investments ordered by the HUD secretary shall be in mortgages which are federally insured or guaranteed, thus removing all question of risk, he added.

It also removes all doubt about providing an adequate return since mortgages insured by the Federal Housing Administration or guaranteed by the Veterans Administration are now yielding 8%, almost twice as much as the rate of return for all but a few pension programs as indicated by a study of pension fund rates of return, he said.

The study referred to showed that of the 100 largest private pension funds—with assets totaling \$33.1 billion—the rate of return on investments seldom exceeded 5%, and a large number had rates of return under 4%.

It may be argued, Rep. Patman continued, that to divert funds from common stock purchases to mortgages will reduce the rate at which pension plan assets appreciate. The answer to this is that an absolutely safe mortgage investment paying 8½% to 10% interest means that a \$20,000 mort-

gage with a 30-year term will provide interest payments totaling over \$32,000 alone, or more than 1½ times the amount of the principle.

This, he said, is an arrangement that seems more than adequate in view of the tax-free status of the multimillion-dollar investment portfolios.

The Patman bill would—"for administrative purposes"—authorize the HUD Secretary to confine his directives concerning investment of assets to those pension plans which have assets valued at \$4 million or more. ■

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Nixon pollution stand has insurers in quandary

NEW YORK—As everyone from the President on down clamors for some good stuff to breathe and drink insurance companies whisper and scurry around, searching for a way to approach the boogey man of pollution liability coverage.

In his annual message to the nation the other day, President Nixon emphasized a polluted state of the union above Viet Nam problems and called for more waste control devices. He suggested a five-year, \$10 billion plan, partially sponsored by the government, to cover costs.

As smoggy-eyed, irate citizens use stronger tactics and pelt polluters with suits and petitions, industrial firms are asking for more time and understanding. Meanwhile, insurance companies covering these

companies stand in the cross-fire scratching their heads.

"It's just about anyone's guess as to how industries will be covered for pollution damage in the '70s," a spokesman for the American Society of Insurance Management told *Business Insurance*. "But coverage is getting pretty tight, and it will probably get tighter."

According to an official in the Pennsylvania department of insurance, the issue is as clouded as Lake Erie.

"EVERYTHING'S so unclear on pollution coverage, that I just can't tell you anything, but maybe that's telling you something about it," he said.

A representative of Byrnes McCaffrey, insurance brokers in De-

troit, said there was no consistency in the industry.

"It's very nebulous. Every company has a different idea on it," he said. "The ten carriers we place insurance with are covering pollution damage today, but within a reasonable time it will be written out. The premium price will go up if the policyholder wants it written back in."

ALTHOUGH A source close to Lloyd's said there has been no overall change in the London liability insurance market, he did note that Lloyd's policies which did not cover for pollution were less expensive than those that did.

"No company is writing it," a Royal-Globe spokesman said. "It's all in the hands of the Fed-

eral government now."

A Travelers Insurance Co. representative said his company is working on a liability exclusion.

"WE'VE BEEN reviewing this for a long time. I don't want to tell you how long," he said. "There are so many ins and outs, I just can't make a statement now. We're heavily involved with the oil companies and are considering a number of proposals."

Insurance Company of North America (INA) has taken the most definite action in the market by refusing to cover willful water pollution.

"We cover accidental pollution in the case of equipment breakdowns," an INA official said. "But if someone has uncontrolled waste, dumps into streams and

knows he's dumping, then we don't cover." He felt that other carriers would eventually do the same.

"INSURANCE shouldn't be made available so that an industry can do wrong and get protection for it," he said. "Other carriers will start thinking this way too. We won't be the lonesome polecats in this area."

Left alone with its Torrey Canyons and Santa Barbara drilling spillages, the oil industry has recently developed a self-insurance program called TOVOLOP (Tanker Owners Voluntary Organization to Cover Liability for Oil Pollution.)

TOVOLOP, SUPPORTED by 67% of the world's tanker owners, covers up to \$10 million for reimbursements to governments that must clean up oil spills. \$1.4 million of this coverage is paid for by the tanker owners themselves and the rest is reinsured throughout the world market.

Insurance managers of automotive, chemical, airline and steel companies do not have such backing. Apparently the uncertainty felt in insurance circles is gripping them also.

"No company is going to tell you about its pollution," a representative of the automotive industry said.

The U.S. Justice Department has recently filed suit against the Automobile Manufacturers Assn., General Motors Corp., Ford Motor Co., Chrysler Corp., and American Motors Corp. for allegedly delaying development and installation of pollution control devices.

"I CAN'T tell you anything about our insurance," he continued. "But we have decided to file a counter claim against the suit."

As he spoke he began to drop the calculated executive language and suddenly just exploded with anger at what has been eating at him for some time.

"We make too damn many cars," he said. "Don't tell anyone where you got this. I'd get fired. But I think we should control the number of vehicles on the road. No matter how many pollution control devices you put into a car, you're still going to have a problem because of the volume of automobiles. Of course that would mean a profit cut and companies are opposed to anything human if it cuts profits."

AN INSURANCE manager of another automobile corporation said most pollution damage is covered, but that this program was not uniformly endorsed and he wasn't sure what would happen in the '70s.

"I think insurance companies should keep writing coverage for it," he said. "Insurance is designed to protect people, isn't it?"

The airlines, which have been slapped with damage claims for jet stream smoke and noise, expressed the same views, if they expressed any at all.

An insurance company representative said he didn't have much sympathy for the public.

"MOST SUITS come from professional nature lovers who have an axe to grind and want to embarrass big companies," he said.

He said industries were constantly working on pollution control.

"There can be no sudden solution," an automobile representative said. "We're doing our best."

Continued on page 29

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Pollution . . .

Continued from page 28

The New York City Department of Air Resources and other community action groups think that's not good enough.

"ENVIRONMENT is a very sexy subject right now," said Barbara Simpson, public relations director for the air resources department. "Everyone is standing up and shouting about it in big business, but that's mostly lip service."

She noted that one automobile manufacturer did spend money on pollution control devices, but spent twice as much on his advertising campaign.

"Sure, they're doing something, but it's a matter of seeing how much they're doing in relation to other things."

Tom Stokes, who has helped organize a citizens' group called "Environment," said big business is making false accusations in saying people are out to milk companies.

"THEY ARE polluting for profit and they know that's what they're doing, and we're not going to let them get away with it," Mr. Stokes said. "We're going to talk to legislators, urge boycotts, distribute photos of polluted areas, and embarrass industry every chance we get."

He said his group was circulating a petition demanding that President Nixon declare the environment condition a crisis.

"We try to reach as many people as we can and get the man in the street thinking about these problems," Mr. Stokes said. "Possibly the insurance industry, which does a lot of research on environmental hazards, would be interested in working with us."

GARY SOUCIE, chairman of a pollution fighting group called "Friends of the Earth," is working with the Los Angeles clean air commission to send a petition to Congress.

"I'm like a lot of other New Yorkers," he said. "I've got post-nasal drip. My eyes burn."

The auto industry may say it's working on air pollution control, but it's not working very hard."

As the song says—"there must be some solution to the problem of pollution,"—but where? While citizens, insurance men and in-

dustry managers try to answer that question, or avoid answering it, the streams run slower and the air hangs thicker. A few people apparently are going to make it an issue that won't take a scapegoat.

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Feb. 18-20, American Management Assn., Developing a modern employee benefit package, 8655 W. Higgins Rd., Chicago, Ill.

Feb. 18-20, American Management Assn., Modernizing the group insurance plan, 8655 W. Higgins Rd., Chicago, Ill.

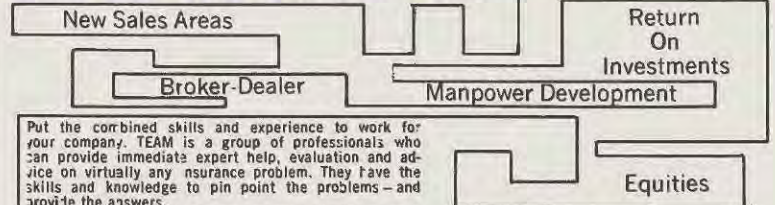
March 9-11, American Management Assn., Communicating employee benefits, 8655 W. Higgins Rd., Chicago, Ill.

March 9-11, American Management Assn., New trends in employee benefit programs, 8655 W. Higgins Rd., Chicago, Ill.

March 9-13, American Management Assn., Principles and practices of insurance buying, 8655 W. Higgins Rd., Chicago, Ill.

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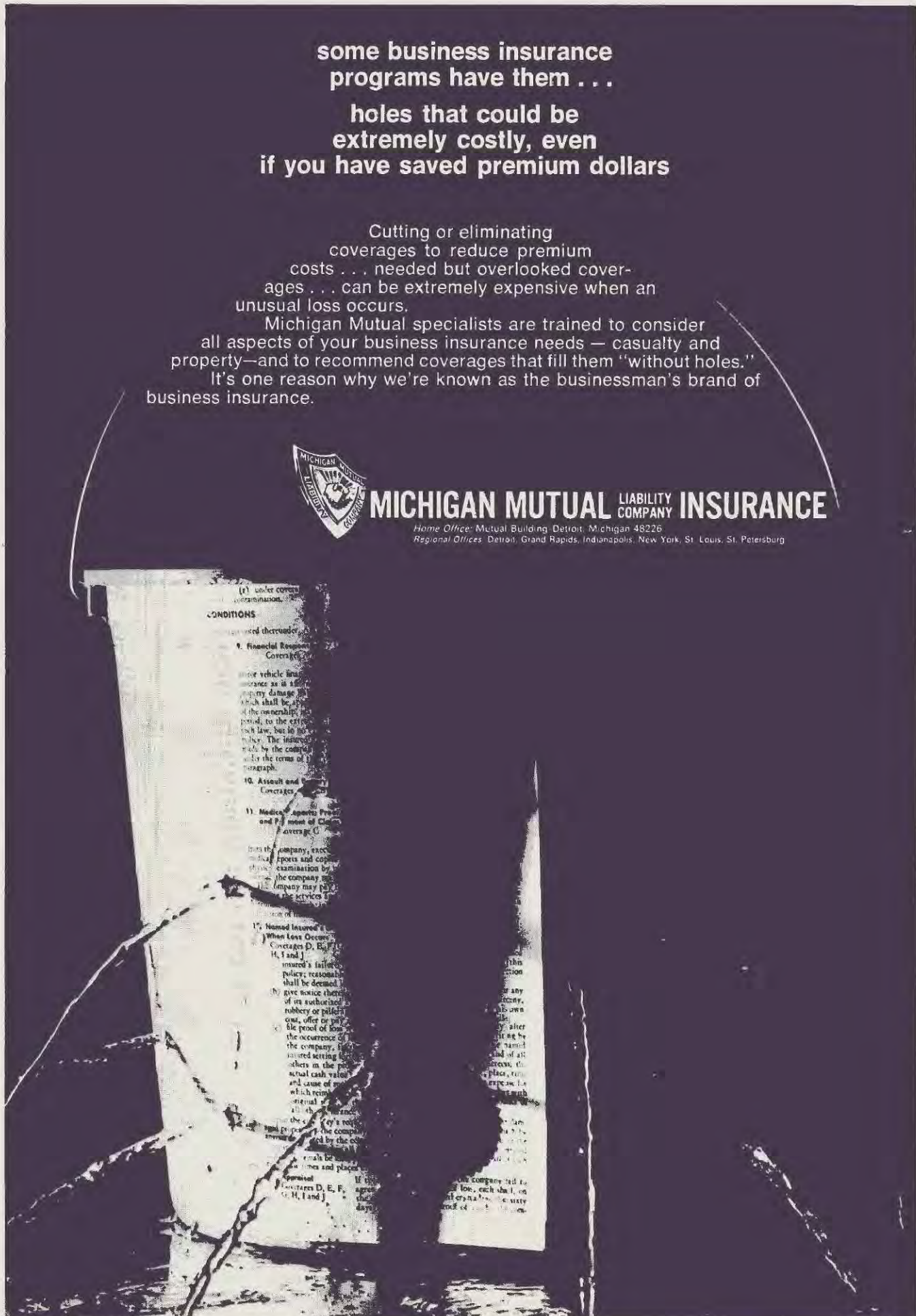
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May drop tanker oil pollution covers

LONDON—Unconfirmed but reliable reports circulating here indicate that the British insurance market—including Lloyd's—is on the verge of announcing it will no longer accept insurance for third party risks following oil pollution by tankers.

The announcement, if it comes, will follow a recent agreement by the world's leading trading nations in Brussels that sets the limits of liability of tanker owners at \$125 per gross ton or a maximum of \$14 million per ship per incident.

Sources here also indicate that such a decision by the British insurance market will make it likely that the oil tanker industry will have to bear a portion of the third party burden itself, either through a mutual insurance pool or through new individual self-insurance funds.

Folger named vp

Roy A. Folger has been named vp of Fred S. James & Co. His insurance brokerage firm, Folger & Erlin, recently merged with James, Frank W. Erlin Jr. and Michael W. Erlin now become associates of the James company.

Tax law . . .

Continued from page 24

section 401(c)(1), on account of his separation from the service.

"(iii) with respect to an employee within the meaning of section 401(c)(1), after he has attained the age of 59½ years, or

"(iv) with respect to an employee within the meaning of section 401(c)(1), after he has become disabled (within the meaning of subsection (m)(7)).

"(C) Minimum Period of Service.—This subsection shall apply to amounts distributed or paid to an employee from or under a plan only if he has been a participant in the plan for 5 or more taxable years prior to the taxable year in which such amounts are distributed or paid.

"(D) Amounts Subject to Penalty.—This subsection shall not apply to amounts described in clauses (ii) and (iii) of subparagraph (A) of subsection (m)(5) (but, in the case of amounts described in clause (ii) of such subparagraph, only to the extent that subsection (m)(5) applies to such amounts."); and

"(3) by adding at the end thereof the following new paragraphs:

"(4) Special Rule for Employees Without Regard to Section 401(c)(1).—In the case of amounts to which this subsection applies which are distributed or paid with respect to an individual who is an employee without regard to section 401(c)(1), paragraph (2) shall be applied with the following modifications:

"(A) '7 times' shall be substituted for '5 times', and '14 2/7 percent' shall be substituted for '20 percent'.

"(B) Any amount which is received during the taxable year by the employee as compensation (other than as deferred compensation within the meaning of section 404), for personal services performed for the employer in respect of whom the amounts distributed or paid are received shall not be taken into account.

"(C) No portion of the total distributions or amounts payable (of which the amounts distributed or paid are a part) to which section 402(a)(2) or 403(a)(2) (A) applies shall be taken into account.

Subparagraph (B) shall not apply if the employee has not attained the age of 59½ years, unless he has died or become disabled (within the meaning of subsection (m)(7))."

Subtitle C—Restricted Property Sec. 321. Restricted Property.

(a) In General.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding after section 82 (as added by section 321(b) of this Act) the following new section:

"Sec. 83. Property Transferred in Connection With Performance of Services.

(a) General Rule.—If, in connection with the performance of services, property is transferred to any person other than the person for whom such services are performed, the excess of—

"(1) the fair market value of such property (determined without regard to any restriction other than a restriction which by its terms will never lapse) at the first time the rights of the person having the beneficial interest in such property are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier, over

"(2) the amount (if any) paid for such property,

shall be included in the gross income of the person who performed such services

in the first taxable year in which the rights of the person having the beneficial interest in such property are transferable or are not subject to a substantial risk of forfeiture, whichever is applicable. The preceding sentence shall not apply if such person sells or otherwise disposes of such property in an arm's length transaction before his rights in such property become transferable or not subject to a substantial risk of forfeiture.

"(b) Election To Include in Gross Income in Year of Transfer.—

"(1) In general.—Any person who performs services in connection with which property is transferred to any person may elect to include in his gross income, for the taxable year in which such property is transferred, the excess of—

"(A) the fair market value of such property at the time of transfer (determined without regard to any restriction other than a restriction which by its terms will never lapse), over

"(B) the amount (if any) paid for such property.

If such election is made, subsection (a) shall not apply with respect to the transfer of such property, and if such property is subsequently forfeited, no deduction shall be allowed in respect of such forfeiture.

"(2) Election.—An election under paragraph (1) with respect to any transfer of property shall be made in such manner as the Secretary or his delegate prescribes and shall be made not later than 30 days after the date of such transfer (or, if later, 30 days after the date of the enactment of the Tax Reform Act of 1969). Such election may not be revoked except with the consent of the Secretary or his delegate.

"(c) Special Rules.—For purposes of this section—

"(1) Substantial risk of forfeiture.—The rights of a person in property are subject to a substantial risk of forfeiture if such person's rights to full enjoyment of such property are conditioned upon the future performance of substantial services by any individual.

"(2) Transferability of property.—The rights of a person in property are transferable only if the rights in such property of any transferee are not subject to a substantial risk of forfeiture.

"(d) Certain Restrictions Which Will Never Lapse.—

"(1) Valuation.—In the case of property subject to a restriction which by its terms will never lapse, and which allows the transferee to sell such property only at a price determined under a formula, the price so determined shall be deemed to be the fair market value of the property unless established to the contrary by the Secretary or his delegate, and the burden of proof shall be on the Secretary or his delegate with respect to such value.

"(2) Cancellation.—If, in the case of property subject to a restriction which by its terms will never lapse, the restriction is canceled, then, unless the taxpayer establishes—

"(A) that such cancellation was not compensatory, and

"(B) that the person, if any, who would be allowed a deduction if the cancellation were treated as compensatory, will treat the transaction as not compensatory, as evidenced in such manner as the Secretary or his delegate shall prescribe by regulations, the excess of the fair market value of the property (computed without regard to the restrictions) at the time of cancellation over the sum of—

"(C) the fair market value of such property (computed by taking the restriction into account) immediately before the cancellation, and

"(D) the amount, if any, paid for the cancellation,

How the new tax law affects lump sum distribution

SUBJECT: Employee, age 40, with no prior accumulation under old law, starting his pension plan from today

ASSUMPTION: He will retire at 50% of his final salary, 74.1% of which is provided by his Social Security benefits (i.e., utilizing integration of Social Security with pension plan benefits)

SALARY	\$12,000	\$ 24,000	\$ 48,000
LUMP SUM DISTRIBUTION AVAILABLE TO HIM AT RETIREMENT (medium range mortality rate used)	\$45,900	\$110,900	\$240,900
EMPLOYER CONTRIBUTION:	\$16,760	\$ 40,495	\$ 87,970
NEW TAX TREATMENT:			
1. (divide L.S.D. by 7)	\$ 2,385	\$ 5,785	\$ 12,570
2. Figure tax at ordinary rate on this amount and multiply by seven. Result: Tax due on employer contribution part of lump sum dist.:	\$ 2,100	\$ 6,700	\$ 16,800
3. Remainder of lump sum distribution subject to new capital gains treatment:	\$29,140	\$ 70,405	\$152,930
4. c.g. tax due on this:	\$ 6,400	\$ 20,400	\$ 53,525
5. Total Tax Due Under New Treatment:	\$ 8,500	\$ 27,100	\$ 70,325
OLD TREATMENT: (using new c.g. law)	\$10,100	\$ 32,160	\$ 84,350
NEW TREATMENT IS:	84.16% of old treatment	84.3% of old treatment	83.4% of old treatment

This chart, prepared for Business Insurance, by the Lambert M. Huppeler Co. of New York, shows that the lump sum distribution consistently fares better under the new tax treatment of the 1969 Tax Reform Act as compared with the old tax treatment under the old capital gains law, assuming that the subject has no outside ordinary income.

shall be treated as compensation for the taxable year in which such cancellation occurs.

"(e) Applicability of Section.—This section shall not apply to—

"(1) a transaction to which section 421 applies.

"(2) a transfer to or from a trust described in section 401(a) or a transfer under an annuity plan which meets the requirements of section 404(a)(2),

"(3) the transfer of an option without a readily ascertainable fair market value, or

"(4) the transfer of property pursuant to the exercise of an option with a readily ascertainable fair market value at the date of grant.

"(f) Holding Period.—In determining the period for which the taxpayer has held property to which subsection (a) applies, there shall be included only the period beginning at the first time his rights in such property are transferable or are not subject to a substantial risk of forfeiture, whichever occurs earlier.

"(g) Certain Exchanges.—If property to which subsection (a) applies is exchanged for property subject to restrictions and conditions substantially similar to those to which the property given in such exchange was subject, and if section 354, 355, 356, or 1036 (or so much of section 1031 as relates to section 1036) applied to such exchange, or if such exchange was pursuant to the exercise of a conversion privilege—

"(1) such exchange shall be disregarded for purposes of subsection (a), and

"(2) the property received shall be treated as property to which subsection (a) applies.

"(h) Deduction by Employer.—In the case if a transfer of property to which this section applies or a cancellation of a restriction described in subsection (d), there shall be allowed as a deduction under section 162, to the person for whom were performed the services in connection with which such property was transferred, an amount equal to the amount included under subsection (a), (b), or (d) (2) in the gross income of the person who performed such services. Such deduction shall be allowed for the taxable year of such person in which or with which ends the taxable year in which such amount is included in the gross income of the person who performed such services.

"(i) Transition Rules.—This section shall apply to property transferred after June 30, 1969, except that this section shall not apply to property transferred—

"(1) pursuant to a binding written contract entered into before April 22, 1969.

"(2) upon the exercise of an option granted before April 22, 1969.

"(3) before May 1, 1970, pursuant to a written plan adopted and approved before July 1, 1969.

"(4) before January 1, 1973, upon the exercise of an option granted pursuant to a binding written contract entered into before April 22, 1969, between a corporation and the transferor requiring the transferor to grant options to employees of such corporation (or a subsidiary of such corporation) to purchase a determinable number of shares of stock of such corporation, but only if the transferee was an employee of such corporation (or a subsidiary of such corporation) in or before April 22, 1969," or

"(5) in exchange for (or pursuant to the exercise of a conversion privilege contained in) property transferred before July 1, 1969, or for property to which this section does not apply (by reason of paragraphs (1), (2), (3), or (4)), if section 354, 355, 356, or 1036 (or so much of section 1031 as relates to section 1036) applies or if gain or loss is not otherwise required to be recognized upon the exercise of such conversion privilege, and if the property received in such exchange is subject to restrictions and conditions substantially similar to those to which the property

given in such exchange was subject."

(b) Nonexempt Trusts and Nonqualified Annuities.—

(1) Beneficiary of nonexempt trust.—Section 402(b) (relating to taxability of beneficiary of nonexempt trust) is amended to read as follows:

"(b) Taxability of Beneficiary of Nonexempt Trust.—Contributions to an employees' trust made by an employer during a taxable year of the employer which ends within or with a taxable year of the trust for which the trust is not exempt from tax under section 501(a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with performance of services), except that the value of such contract shall be substituted for the fair market value of the property for purposes of applying such section. The amount actually distributed or made available to any distributee by any such trust shall be taxable to him in the year in which so distributed or made available, under section 72 (relating to annuities), except that distributions of income of such trust before the annuity starting date (as defined in section 72(c)(4)) shall be included in the gross income of the employee without regard to section 72(e)(1) (relating to amount not received as annuities). A beneficiary of any such trust shall not be considered the owner of any portion of such trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners)."

(2) Beneficiary under nonqualified annuity.—Section 403 (relating to taxation of employee annuities) is amended by striking out subsections (c) and (d) and inserting in lieu thereof the following new subsection:

"(c) Taxability of Beneficiary Under Nonqualified Annuities or Under Annuities Purchased by Exempt Organiza-

tions.—Premiums paid by an employer for an annuity contract which is not subject to subsection (a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with performance of services), except that the value of such contract shall be substituted for the fair market value of the property for purposes of applying such section. The preceding sentence shall not apply to that portion of the premiums paid which is excluded from gross income under subsection (b). The amount actually paid or made available to any beneficiary under such contract shall be taxable to him in the year in which so paid or made available under section 72 (relating to annuities)."

(3) Deductibility of employer contributions.—Section 404(a)(5) (relating to deduction for contributions of an employer to an employees' trust, etc.) is amended to read as follows:

"(5) Other plans.—If the plan is not one included in paragraph (1), (2), (3), in the taxable year in which an amount attributable to the contribution is includible in the gross income of employees participating in the plan, but, in the case of a plan in which more than one employee participates only if separate accounts are maintained for each employee."

(c) Clerical Amendment.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end thereof the following new item: "Sec. 83. Property transferred in connection with performance of services."

(d) Effective Dates.—The amendments made by subsections (a) and (c) shall apply to taxable years ending after June 30, 1969. The amendments made by subsection (b) shall apply with respect to contributions made and premiums paid after August 1, 1969.

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