

# Blue Cross hits barrier to life business

By MARY ELLEN MCKEE

CHICAGO—Blue Cross & Blue Shield plans nationwide may encounter problems in marketing life insurance to group health clients in the wake of a recent decision by the Connecticut insurance department. But the state's Blue Cross plan is counteracting that decision with an appeal to a superior court.

Insurance commissioner Thomas C. Mike's decision has been strongly endorsed by insurance companies selling group life insurance in Connecticut. Commissioner Mike blocked Blue Cross & Blue Shield of Connecticut Inc.'s proposed linkup with a dormant life insurance company.

The Blue Cross plan sought the commissioner's approval to acquire a dormant domestic life company under holding company laws in October, Peter Boucher,



Blue Cross & Blue Shield's entry into life insurance provides one-stop shopping to small and medium sized clients, says John Kennedy of Connecticut Blue Cross, right. But Connecticut law blocks such a move, says state official Peter Boucher, left.



chief counsel for the insurance department, explained. However, disapproval of the transaction which came in late December did not apply to any of the financial stan-

dards required under the holding company law. "Instead the commissioner relied solely on the statutes governing the type of business Blue Cross & Blue Shield can

conduct in the state to back up this decision," Mr. Boucher added. "The commissioner bypassed the merits and disadvantages of the purchase and instead went straight

to the statutes concerning the unique character of the Blue Cross plan in Connecticut."

The statutes define Blue Cross & Blue Shield of Connecticut Inc. as a hospital service corporation, which is a nonprofit sharing corporation without capital stock, organized under the laws of the state for the purpose of establishing, maintaining and operating a plan whereby comprehensive health care is provided and billed by an approved general, special or chronic disease hospital under a contract entitling such subscribers to these benefits.

"Nowhere in the statutes does it say that the Blue Cross plan can step outside of its role as a health care provider," Mr. Boucher added.

Mr. Boucher, however, emphasized that the decision in no way reflects a judgment on the merits, desirability or advisability of the

Continued on page 43

## Most hail model bill; dissenters ask more

By JERRY GEISEL

WASHINGTON—Business leaders hail the Commerce Department's model product liability bill as a political masterpiece that so evenly balances the rights of competing interest groups it could win approval in state legislatures where so many other bills have died.

"The model bill is as close to being enactable in a political environment as anything I've seen," said James Mack, public affairs director of the National Machine Tool Builders Assn. "It is both enactable and supportable by the various interests in the product liability equation."

"The bill will encourage state action because it gives the states substantive information, case citations and analysis to support the various tort reform provisions," observed Otis Lee, product liability panel executive of the U.S. Chamber of Commerce.

While the business community is overwhelmingly supportive of the model bill, there are some powerful dissenting voices. Insurers are worried about a section of the bill that would increase the liability of employers by requiring them to pay an injured employee's full loss of wages, rather than just the workers compensation benefit.

Some business leaders are disap-



The model product liability reform bill doesn't offer any reform, complains Edith Lichota.

pointed that the Commerce Department didn't follow the lead taken by some state legislatures and recommend that manufacturers' liability be eliminated after a certain number of years after a product was first sold.

Finally, some observers believe the model bill only offers the appearance of reform rather than re-

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# business insurance

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## Senator demands changes in N.Y. insurance exchange

By JOHN H. MILLER and ELLIS SIMON

LONDON/NEW YORK—New York state's chief legislative proponent of the insurance exchange says it'll be another 18 months before the new insurance trading operation gets off the ground.

Sen. John Dunne, chairman of the state legislature's insurance committee, drew this conclusion after his extensive tour of Lloyd's of London's trading facilities.

Moreover, upon his return to New York, he revealed to *Business Insurance* that "several matters" remain to be resolved between his committee and the Committee of 13 before the proposed exchange constitution and bylaws would meet with his satisfaction. Sen. Dunne indicated it's unlikely the Feb. 15 deadline for legislative action could be extended for resolution of these undisclosed differences. If the remaining issues can't be resolved before Feb. 15, he said, and "we feel the constitution shouldn't be accepted in its present form, we'll just have to reject it."

Shortly after he returned from London, Sen. Dunne introduced legislation that would move the earliest date the exchange could begin operations to March 1 from April 1. The bill would also limit public membership on the board of governors to four seats and apply state insurance statutes governing liquidation to underwriting syndicates.

In addition, his bill states that free trade zone insurers should be considered non-authorized companies for the free zone part of the business, clarifying whether free zone types of risks would have to be submitted to free zone insurers before being submitted to non-admitted markets.

Although Sen. Dunne's bill would permit an interim board of governors to start functioning

March 1, he does not see the first meeting of the exchange membership until at least 160 days later. He has recommended amending the exchange constitution to provide interim staffing, as well.

Other recommendations by the senator included permitting non-U.S. citizens to serve on the board, creation of an additional broker seat and tightened eligibility re-

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## New campus risk exec faces last staff's woes

By MARGARET LeROUX

BERKELEY, Calif.—In an atmosphere clouded with budget cuts and personnel problems, W.B. Anderson, former manager of corporate insurance and benefits at Fibreboard Corp. in San Francisco, was appointed the University of California's director of risk management.

At the same meeting of the university's board of regents where Mr. Anderson's appointment was approved, \$25 million was ordered cut from the budgets of the nine university campuses because of Proposition 13's limits on spending by state agencies.

During the new risk manager's first week on the job, the attorney for the former systemwide risk manager said he's preparing to file

an action seeking reversal of the appointment.

Acknowledging the formidable problems facing him, Mr. Anderson said he is "assessing the entire program" and anticipates "taking on more responsibilities."

The immediate personnel problem involves Stephen J. Deness, former assistant risk manager, who served as systemwide risk manager for the university from 1977 until Mr. Anderson was hired. (BI, Nov. 27, 1978.) When Mr. Deness was not promoted to the new position, his attorney, Edward J. Nevin, sought an administrative review based on his client's job performance and superior ratings by supervisors.

Denied the review, Mr. Nevin said he intends to file an action in

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### The inside story

#### Another try at ERISA reform

Pension reform law authors, Senators Harrison Williams and Jacob Javits, are again sponsoring legislation to amend their masterpiece. **Page 10.**

#### Snow, snow and still more snow

It was more than many roofs, not to mention people, in Chicago could stand up to. Losses from roof collapses under the heavy burden may hit \$40 million in the urban area. **Page 4.**

The people column  
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# Aetna pleads in district court for clear liability to Teamsters

By CHARLES EPSTEIN

CHICAGO—Aetna Casualty & Surety Co. is asking a U.S. District Court here to clarify the provisions of the \$5 million excess insurance policy it underwrote for the Teamster's Central States Pension Fund.

Aetna is asking the court to decide at what point it must provide a legal defense and pay attorneys fees for the fund's fiduciaries who were named in a suit last year by the U.S. Department of Labor.

The Central States fund also holds two fiduciary insurance policies with Lloyd's of London.

Aetna contends it should only contribute to the legal defense after the \$2 million of insurance provided by Lloyd's is exhausted. The Teamster's fund wants Aetna to provide the defense to the current defense.

When the Department of Labor filed suit in February 1978 against the Central States Pension Fund charging the fiduciaries with a breach of their responsibilities, Central States notified Lloyd's. According to Aetna's suit, "Lloyd's agreed, subject to defendants executing a non-waiver agreement, to provide a defense for the defendants and other defendants in the Marshall suit (DOL), by paying the attorney's fees and expenses. . . ."

The fund fiduciaries also notified Aetna at about the same time that a legal defense would be needed. The insurer agreed, but with one stipulation: that the defendants sign a non-waiver agreement and agree to be defended by the Chicago law office of Baker & McKenzie.

Aetna contends that at the time it made this offer, it was not aware that a legal defense was also being supplied by Lloyd's.

Central States officials balked at Aetna's "reservation of rights agreement."

Under the Lloyd's coverage, Central States officials had retained the Chicago law firm of Jenner & Block.

As a result of this impasse, Aetna

withdrew its offer to provide any legal defense and stated that its insurance is in excess to Lloyd's.

At this point, Aetna filed suit asking the court to decide the extent of Aetna's liability.

The insurer no longer provides

any coverage for Central States.

In another case, Aetna is also suing the Central States Health and Welfare Fund for payment of a \$141,000 premium, plus interests and costs, on an extension of the fund's fiduciary insurance policy. ■

## BI sets benefit awards for October presentation

CHICAGO—Awards for the 7th Annual Business Insurance Employee Benefit Communications Competition will be presented at the annual fall conference of the Council on Employee Benefits.

The annual awards previously have been presented at the spring meeting of the Risk & Insurance Management Society. The Council on Employee Benefits, a renowned national organization of leading corporate benefit executives, will provide the forum for presentation of the awards at its October 4 and 5 meeting in New Orleans.

Companies are invited to submit their benefit communications programs between March 1 and April 30, in five categories: booklets, personalized correspondence, audio-visual presentations, total communications and special projects. Special projects would include poster programs, special announcements of new benefits or benefit changes, payroll stuffers, booklets prepared especially to accompany audio-visual programs and other supplemental programs.

Entry forms and further information can be obtained from Ronnie Drachman, Awards Coordinator, 708 Third Ave., New York, N.Y. 10017, (212) 986-5050. Entries should be mailed, with the proper fee, to Ms. Drachman at that same address.

A \$75 entry fee is required for the total communication category, \$50 is required for audio-visual entries, \$50 is required for special projects, and \$40 is the required fee to accompany booklets entries and per-

sonalized correspondence entries.

Two copies of booklets, personalized correspondence and special projects must be submitted with entry applications. ■

## errors & omissions

• Willis Faber Dumas and Johnson & Higgins will jointly fund on an equal basis the \$500,000 initial capitalization of their newly announced U.S. underwriting and syndicate management firm, Johnson & Higgins Willis Faber (USA) Inc. The initial capitalization was incorrectly reported in a Jan. 22 story.

• Alliance Reinsurance Management Corp., one of the underwriting agencies handling third party business for captives listed in a Jan. 8 chart by Joseph Destein, underwrites a complete worldwide book of treaty reinsurance business, says Jim Lyon, president. The information contained in the chart was incorrect. The company's information contact is Mr. Lyon instead of the individual listed in the chart, who is no longer with Alliance Re. Alliance Re represents 53 insurance companies, 35 international insurers in its principal facility and 18 captive insurers based in Bermuda, the U.S. and Belgium.

## for your information

### Disney sues safety commission in challenge to jurisdiction

LOS ANGELES—Disney Corp. filed a lawsuit against the Consumer Products Safety Commission in federal court here asking that the court declare that the commission has no jurisdiction over the safety of amusement rides.

The court issued a temporary restraining order in mid-January stating that the commission could not accumulate civil penalties in the event it should seek action against Disney for failing to provide information to the commission.

"But it did not enjoin us, nor have we been enjoined from bringing any sort of action against Disney," said Mena Jennings, assistant attorney for the Consumer Products Safety Commission.

The commission is investigating the safety of the Skyway gondola rides at all 31 locations around the country, one of which is in Disneyland, one at Disney World, she said.

Meanwhile, in the continuing investigation of the death of a 20 year old woman on Dec. 26 on the Magic Mountain "Colossus" roller coaster, a simulation test of the fatal accident was made which resulted in the mannequin-rider being jolted from its seat. (BI, Jan. 22, 1979).

### Court declares pension owners

WASHINGTON—The Supreme Court ruled last month that a worker's pension plan benefits earned under a federal retirement program are not part of the worker's "community property" that must be shared with a divorced spouse.

Under some state community property system laws, all assets acquired during marriage are considered the joint property of husband and wife, to be divided equally or according to a schedule based on the length of the marriage.

However, the Supreme Court ruled that the federal Railroad Retirement Act, which provides that a spouse's benefits terminate after divorce, preempts "all state law that stands in its way."

The decision only applies to railroad workers in the eight states that have community property laws. A case involving how private pension benefits should be treated under community property laws is not expected to reach the Supreme Court for several years.

Last month the court also rejected the contention that non-contributory pension plans are subject to the anti-fraud provisions of the federal securities laws in deciding the celebrated Daniel's case.

### M&M to forfeit Payne interest

NEW YORK—Marsh & McLennan Cos. Inc. agreed to sell its 20% interest in Bland Payne Brokers Holdings Ltd. if the firm merges with another leading Lloyd's broker, Sedgwick Forbes Holdings Ltd. as proposed.

The development is significant in light of Alexander & Alexander Services Inc.'s earlier decision to link with the two merged firms, which together would become the largest broker. Separately Marsh & McLennan has linked with Lloyd's broker, C.T. Bowring.

M&M has agreed to sell its interest for \$31.4 million to Midland Bank Ltd., making Midland Bank the sole owner of Bland Payne.

### Carnation continues captive fight

LOS ANGELES—Carnation Co. is going to continue its fight to establish the legitimacy for tax purposes of transactions involving a captive insurance company, *Business Insurance* learned.

Having failed in December to convince the tax court that its arrangement with American Home Assurance Co. to reinsure Carnation property risks with Carnation's Bermuda insurance subsidiary constituted insurance for tax purposes, Carnation is asking the tax court judge who ruled on the case to reconsider his decision. Failing that, Carnation wants its attorney, J. Patrick Whaley, to file an appeal.

Mr. Whaley intends to argue that the arrangement involving Carnation, American Home and Carnation's captive, Three Flowers Insurance Co. Ltd., constituted insurance because American Home remained liable for losses exceeding Three Flowers' capitalization. In addition, he intends to convince the tax court or the appeals court that the promise Carnation made to increase Three Flowers' capital to \$3 million in no way detracted from the efficacy of the insurance arrangement.

### Railroad worker wins \$5.6 million

NEW YORK—A 33-year old Greek immigrant was awarded \$5.6 million by a state supreme court jury for injuries suffered in 1974 from an 11,000 volt railroad power line. George Kouriz was painting a bridge above Penn Central railroad tracks in Connecticut when he touched the line supplying power to the trains that ran below, throwing him 27 feet, breaking his back and causing brain injuries and severe burns.

The plaintiff contended the railroad should not have sent him up there and that he wasn't properly protected.

Penn Central and the contractor for whom Mr. Kouriz worked are in litigation over whether a hold harmless agreement between Penn Central and the contractor is applicable.

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# the benefit beat

## Oil workers only hold benefit line; additions later?

Gulf Oil Corp., Texaco and 39 other oil companies have agreed to increase contributions to union hospital and health care plans by \$12 per month for families to \$84 and by \$4.50 per month to \$35 for individuals in contracts worked out with the Oil, Chemical and Atomic Workers International Union. The two-year pacts cover about 85% of the union's 60,000 workers.

The contribution increases will maintain existing benefit levels. No benefit improvements were provided for in the contract, but the companies have agreed to re-open negotiations in the second year on wages, health care benefits and vacations. The Carter administration is hoping that the oil workers agreement, because provisions are in compliance with the President's wage guidelines, will set the tone for negotiations in other industries.

### New dental plan

A dental plan has been added for 900 workers at Warner & Swasey in Cleveland, negotiated by the International Association of Machinists.

The dental plan is broken down into four classes. For diagnostic and preventive care, 100% coverage applies. Charges for anaesthesia, root canals, extractions and other dental repairs are 80% covered. Fifty percent reimbursement applies for major restorative work, including crowns, bridges and full denture work, and for orthodontia work, which is only available to those dependents under 19 years of age.

A \$25 individual deductible and \$50 family deductible applies to the last three types of coverage. All coverages are subject to a \$600 limit.

In addition, the plan stipulates that all dental work exceeding \$300 must be submitted for approval before treatment is begun.

Major medical and accident and sickness coverages were improved as well for the contract effective February 1. Major medical coverage was increased to a \$100,000 maximum from the previous \$20,000. Accident and sickness coverage was raised to \$160 weekly from \$130 weekly.

### Pension boost

Kimberly-Clark Corp. is boosting monthly pension payments to more than 4,000 of its retirees and surviving spouses to help offset the rising cost of living.

The increases range from 7% for those who retired in 1976 to 25% for those who retired in 1958 or earlier. Monthly pension payment for persons who retired in 1977 or 1978 will remain the same because the company believes their incomes have not been as seriously affected by inflation as those who retired earlier.

This is the third pension supplement granted retirees during the past eight years, with previous supplements provided in 1971 and 1974. Kimberly-Clark estimates that the current supplement will eventually cost the company more than \$17 million.

### Second opinion drive

An extensive media promotion campaign by Blue Cross and Blue Shield of Greater New York has resulted in a 131% increase in the number of requests for second surgical opinions. There were 840 second surgical opinion requests for

November and December 1978 alone. For the same period in 1977, there were 363 such requests.

The Blues spent more than \$100,000 since late October on television and radio spots and bus and subway advertisements to promote the second opinion program. Second surgical opinions were introduced by the Blues in January 1976 and are presently available to 5 million surgical/medical community rated subscribers.

BC/BS said it's too early to say whether greater use of second opinions will result in a corresponding decrease in surgery, but a study of the first 1,500 cases of second surgical opinions resulted

in nonconfirmation of the need for surgery in 27% of all cases.

As a result, about \$250,000 was saved, but this was partially offset by start-up costs of the program. The Blues introduced second surgical opinions primarily to improve the quality of health care by reducing unnecessary surgery, but cost savings are also expected to result over time.

### HMO raises rates

A 10% subscriber rate increase has been granted to Capital Area Community Health Plan (CHP), a prepaid health care service in the Albany area. It's the first rate increase since the health mainte-

nance organization began operating two years ago.

The 10% increase is almost 60% below the consumer price index and the medical care price index, the New York Department of Insurance said. The new rates are \$29.04 a month for an individual and \$73.70 for a family under the basic plan. Adding drug and all-else coverage increases the monthly charge to \$30.56 for an individual and \$80.37 for a family.

By requesting the subscriber rate increase rather than borrowing additional funds, the HMO anticipates saving about \$1 million in high interest costs, which will allow it to hold back future in-

creases in health care costs to members.

In addition, the HMO's high enrollment of 17,000 and good management has enabled it to reduce its federal loan assistance \$800,000 from \$1.7 million.

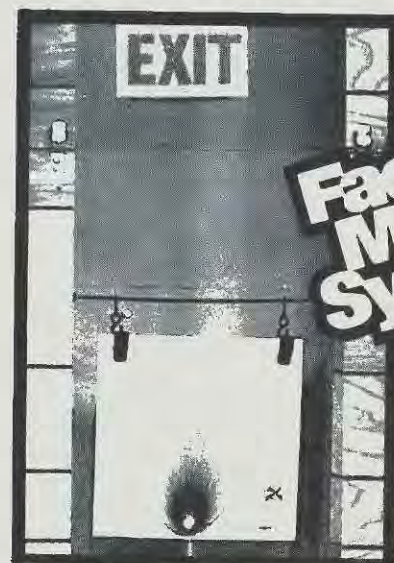
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The tennis net stood firm while health club enthusiasts scrambled to safety when the roof of this Chicago club collapsed under a heavy burden of snow.

Photo: Wide World

# Blizzards dump heavy losses on rooftops of Chicago firms

By JOHN MAES

CHICAGO—Blizzard conditions caused more than \$10 million in losses here in recent weeks including one roof collapse at a building material supply warehouse that accounted for \$250,000 in losses.

The Chicago area was the hardest hit by severe snows that swept across the entire Midwest where it is estimated that losses will surpass \$50 million for a nine-state region, according to the Insurance Information Institute (III).

Another heavy snowfall Jan. 24 caused roofs to collapse at a Chicago-area department store and at a discount store in a far

northwestern suburb, but no injuries were reported in either mishap.

Most of the damages have resulted from roofs that have collapsed under the weight of heavy snows.

In Chicago, where three storms dumped more than 30 inches of snow last month, hundreds of cave-ins have been reported, said William Sirola, branch manager for the Insurance Information Institute. The major portion of the damages occurred at commercial outlets and warehouses although in sheer numbers, private homes suffered most.

He said Chicago-area winter

storm damages may total \$40 million.

The worst incident took place Jan. 14 at the Georgia Pacific Corp. warehouse in Harvey, Ill., a Chicago suburb, when the roof caved in on a 7,000 square foot section of the 70,000 square foot facility. There were no injuries said Lou Robisch, manager of the facility.

Wind directions caused snow to drift to one side of the roof and the weight exceeded the 30-pound per square inch capacity, Mr. Robisch said. Losses will probably climb higher than the \$250,000 estimate when damage to contents of the building and business interruption losses are included, he added.

The loss is covered under a collapse provision in the company's comprehensive insurance policy with Cravens-Dargan of San Francisco, said John Manning, systems manager for Georgia Pacific.

The Harvey, Ill., warehouse was built according to local building codes which Mr. Manning said expects will be stiffened as a safeguard against repeat mishaps.

On Jan. 24, a 50-by-50 foot section of roof collapsed at a K Mart store in suburban Round Lake Beach, scattering about 60 shoppers and employees and causing an estimated \$100,000 in damage.

A spokesman for K Mart stores in Detroit said arrangements had been made to have snow from two previous storms cleared from the roof, but the collapse occurred before crews could get there.

A section of roof fell in under the weight of snow at the Carson, Pirie, Scott department store in Mount Prospect, a northwest suburb. A store manager said the store was closed at the time.

Manager Robert White said insurance adjusters were surveying the loss last week and the loss may run as high as \$100,000.

Other roof cave-ins in the Chicago area injured a man when the roof of the public works garage in suburban Park Ridge collapsed. Another killed two horses and injured two others while cave-ins at an indoor tennis and racquetball club and a senior citizens home were also reported, but with no injuries.

In one Chicago incident, millions of dollars in damages were averted when a large quantity of frozen food was quickly removed and saved from spoilage when a warehouse roof collapsed, said Vincent T. Regan, chairman of the III Illinois advisory committee.

The American Insurance Assn., an industry-sponsored group, has declared the midwest a disaster area and insurance companies are expected to move additional claims adjusters into the area, Mr. Sirola said.

State Farm has created a special catastrophe team of claims adjusters and moved them into a Chicago-area motel from where they will operate in handling storm-related claims. They are expected to handle at least 2,000 claims.

"It's a situation with a long tail," said an executive of the firm. "It may be several months before some claims show up. It's not like a hurricane or tornado where damage is immediate and apparent."

But the weather may hamper the adjusters' in their efforts to visit damaged sites, which may lead to delays in claims processing, Mr. Sirola said.

States in the disaster region include: Illinois, Nebraska, Kansas, Iowa, Michigan, Indiana, Missouri, Wisconsin and Ohio.

## What J&H doesn't know about London, Willis Faber does.

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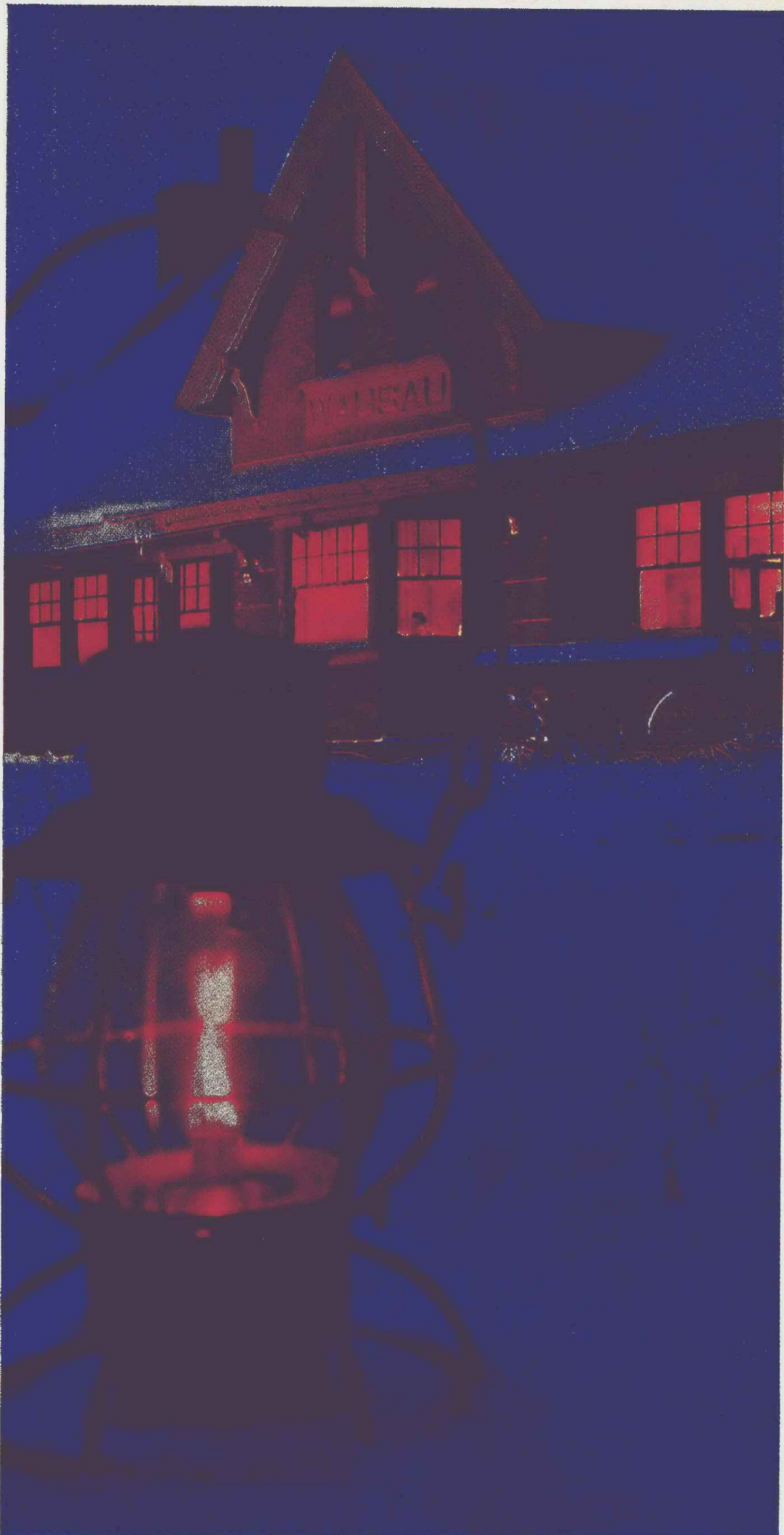


Representatives of Willis, Faber & Dumas and Johnson & Higgins meet frequently. Here the senior officers of both firms discuss recent developments. Seated (l. to r.) A. Ronald Taylor, Chairman WF&D; David V. Palmer, Deputy Chairman WF&D; Robert V. Hatcher, President J&H; Richard I. Purnell, Chairman J&H.

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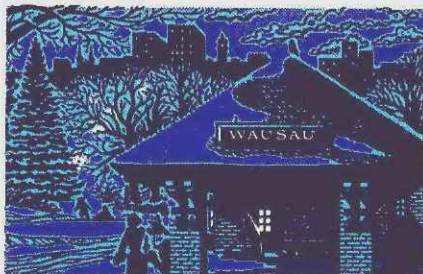
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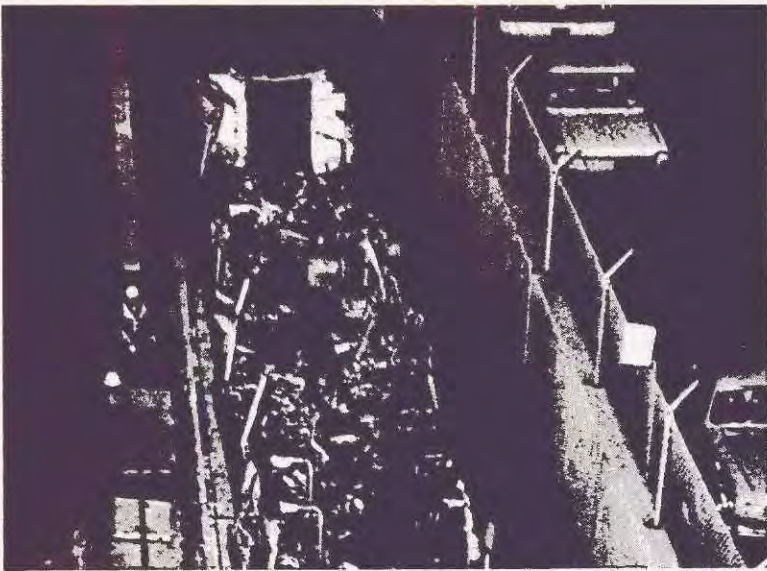


Photo: Wide World

Melted, charred rubbish is all that remains of three BART cars that caught fire last month while the train whizzed through an underwater tunnel during rush hour.

# Officials fear chemical risk in Bay Area transit line fire

By MARGARET LeROUX

OAKLAND, Calif.—The possibility that firefighters and passengers inhaled a hazardous chemical in thick smoke during the transbay tube fire in the Bay Area Rapid Transit (BART) system here last month could present the most serious liability exposure in the blaze which killed one fireman and injured 46 people.

The San Francisco coroner's office is conducting tests to determine if smoke from the blaze contained any of the hazardous PCB (polychlorinated biphenyl) that BART uses as a coolant in the electrical capacitors on its trains.

BART self-insures the first \$5 million of its liability exposure and the first \$1 million of property losses. Excess insurance programs are underwritten by U.S. and U.K. insurers.

The cause of the rush hour fire was human error involving a line switch cover on the bottom of the train that fell off, causing sparks to ignite a fire. The fire destroyed three BART cars, severely damaged two others and caused \$20,000 property damage to the underwater transit system tube that links San Francisco to the East Bay.

Passengers said an explosion, "a

sudden flash," inside the last car of a seven-car train, caused the fire which halted the speeding train as those onboard scrambled to the front car for safety.

All of those injured, including firefighters, the train operator and rush hour commuters, were treated for smoke inhalation as polyurethane used for seat cushions in the burned cars created thick, toxic fumes.

San Francisco's fire chief Andrew Casper was highly critical of conditions within the transbay tube. "BART is not geared for emergency situations," he said.

The system had planned to replace polyurethane seats with \$2.5 million of federal financing received last September.

BART buys \$50 million of property insurance over its \$1 million retention, with policies "spread everywhere—U.S. underwriters, Lloyd's and others in the London market," according to W.F. Goelz, BART's director of finance.

BART's \$20 million excess liability insurance program over its \$5 million self-insured layer is also shared by London and U.S. underwriters with domestic participants including California Union Insurance Co. and Glacier Insurance Co. BART also has a \$500,000 self-insured retention for each workers compensation claim with excess coverage of \$5 million underwritten by Employers Reinsurance Corp.

The transit system is currently without a risk manager. Marge Layne held that position for a year after BART's first manager of insurance, Leland Hoagland, who also acted as broker for the system, retired. Ms. Layne joined C&H Sugar in San Francisco in October where she will take over as risk manager upon the retirement of Julian Imig, the current risk manager, in May.

Until a new risk manager is hired at BART, Mr. Goelz and an assistant are handling BART's insurance program. Dinner Levison Co. of San Francisco is the broker for the system.

"Based on assessment of the loss, BART's coverage is adequate," Robert C. Nevins, managing partner for Dinner Levison, said. "We expect the major loss to be in the property area."

The destroyed cars, made by Rohr Industries of Chula Vista, Calif., cost the system \$300,000 each 10 years ago. "Nobody knows how much it's going to cost to replace them today," Mr. Nevins said.

The state Public Utilities Commission, which regulates BART's safety, convened hearings into the cause of the fire and ordered the transbay tube closed until its investigation is completed. BART continues to service both sides of San Francisco Bay.

Free bus service to San Francisco from one of the Oakland BART stations was provided at an estimated daily cost of \$20,000 from the day after the fire until the beginning of February when a 50 cent charge in each direction was to go into effect. It was estimated the system was losing \$60,000 per day in commuter revenues because of curtailed service.

BART has been required to buy 40 four-hour oxygen masks for use by San Francisco and Oakland firefighters after chiefs of the two departments complained that the masks supplied to them contained only 30 minutes of air. It was barely enough to allow firefighters to reach the fire midway through the 3.6 mile transbay tube.

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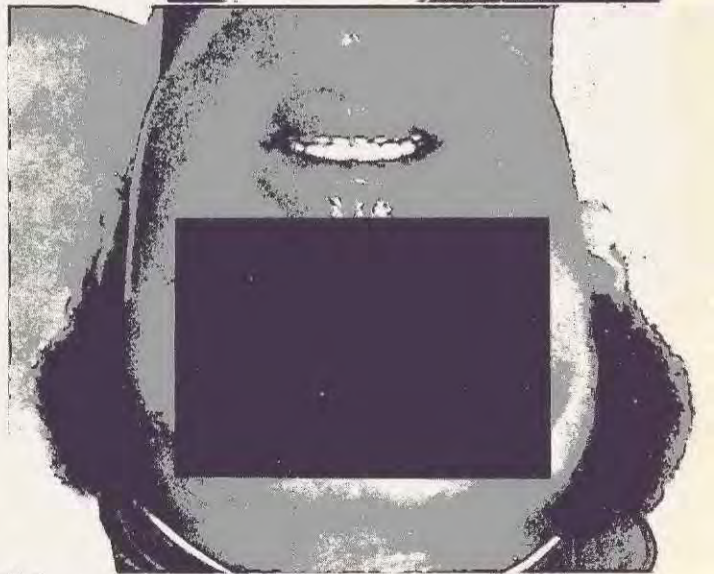
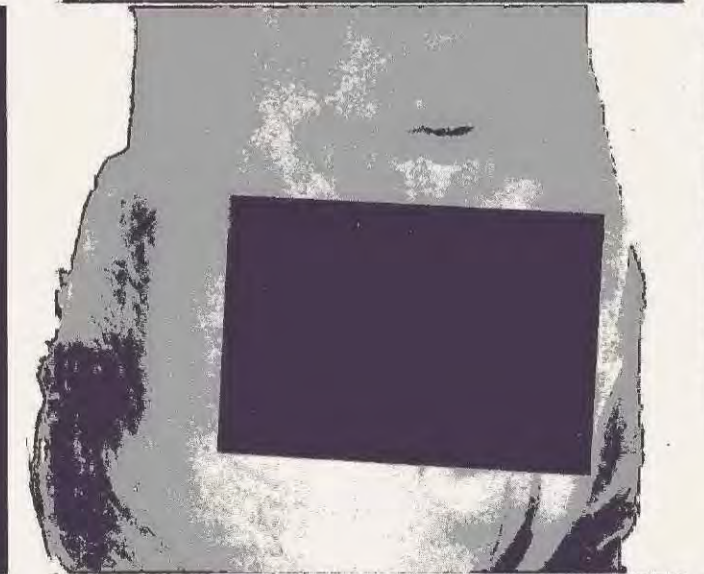
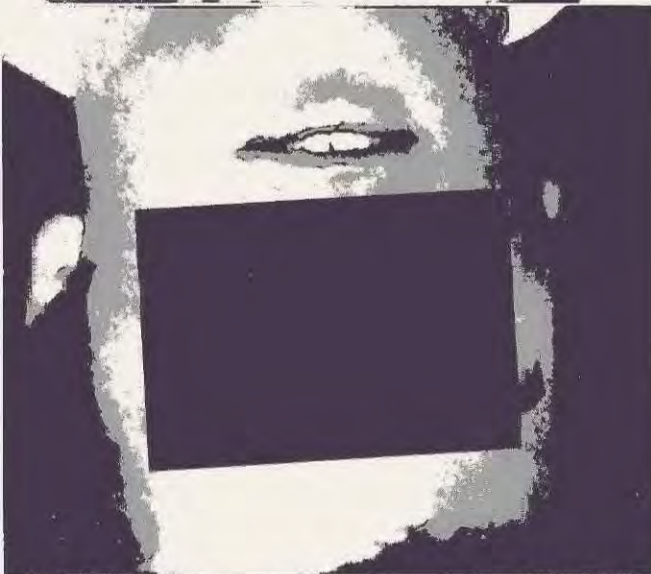
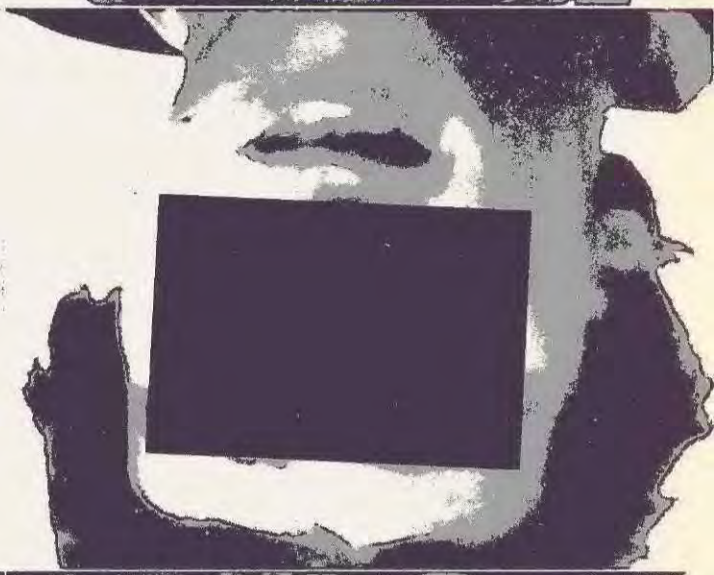
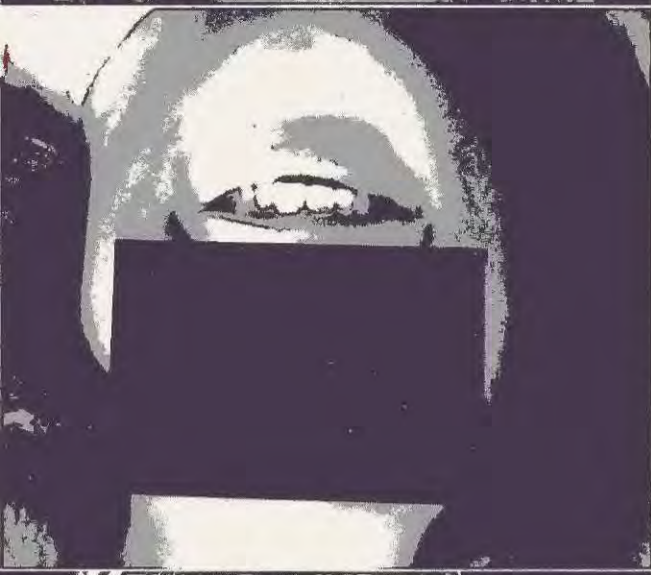
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# Senators renew efforts to revamp ERISA

By JERRY GEISEL

WASHINGTON—Using a bill introduced last year as a model, Sen. Harrison Williams (D-N.J.) and Sen. Jacob Javits (R-N.Y.) have renewed their effort to overhaul the pension reform law through sweeping legislation.

The ERISA Improvements Act of 1979 retains many of the same features that were in last year's bill, which failed to make it out of committee. But several key changes have been made involving reporting requirements, tax credits for improving pension benefits and preemption of state law.

The new bill, like its counterpart of last year, calls for creation of a single agency to enforce ERISA and thus scrapping the current tripartite system of administration. A new federal agency, the Employee Benefits Commission, would take over the present ERISA-related responsibilities of the Labor Department, Internal Revenue Service and Pension Benefit Guaranty Corp.

The commission's five members would include a chairman selected by the President from a list of nominees prepared by the Secretary of Labor, a vice chairman chosen from nominees prepared by the Treasury Secretary, and three remaining commission members selected from a list drawn up jointly by the Labor and Treasury Departments.

Tax credits stretching out over a five-year period would be given to businesses with fewer than 100 employees and whose annual profits are less than \$50,000 as a reward for starting new qualified pension plans. The credit would equal 5% of the deduction allowed for the first year, 3% for each of the next two years and 1% for the fourth and fifth years.

However, in a significant departure from last year, Sen. Javits and Sen. Williams dropped a provision to give tax credits to employers who improve existing plans by such means as reducing the number of years an employee must work for a firm before becoming fully vested. Business groups represent-

ing larger employers lobbied vigorously against the tax credit approach for improvements to pension plans. Benefits experts contended that giving tax credits for pension improvements wouldn't be fair to large corporations already maintaining very good and costly plans.

In another change from last year, Sen. Javits and Sen. Williams, the sponsors of ERISA, proposed that employes be allowed to deduct 10% of annual income, or \$1,000, whichever is less, from their taxes for pension plan contributions. A similar proposal by Sen. Robert Dole (R-Kan.) was killed in a House-Senate conference committee last year, a victim of heavy Administration pressure.

The bill calls for "special master plans." Under the concept, employers could join master defined

benefit and defined contribution plans sponsored by financial institutions such as banks and insurance companies. The financial institutions would handle reporting and disclosure requirements, communication with federal agencies, claims by participants and asset management. As plan administrator, the institution, rather than the employer, would have fiduciary liability for the plan.

In an effort to reduce employers' paperwork burdens, the bill proposes to eliminate mandatory dissemination of summary annual reports to all employees. However, employees still could request a copy.

The bill also tries to strike a delicate balance on the issue of ERISA preemption in situations where the states require employers to offer certain benefits. Some members of

Congress believe states have the right to pass laws requiring specific benefits. Others, however, are concerned that varying state benefit requirements have imposed hardships on employers with multi-state operations.

The Williams-Javits bill seeks a compromise. States no longer could require employers to provide a specific benefit in employee plans. However, the bill would save from ERISA preemption Hawaii's prepaid health care law or any other state law that is the same as Hawaii's law. Hawaii's health care law requires, among other things, that benefit plans offer at least 120 days of in-patient hospital care. It forbids employers from requiring employes to contribute more than one-half the cost of premium, or 1.5% of monthly wage, whichever is less.



Sen. Javits is no longer seeking tax credits for employers who reduce pension plan vesting requirements.



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## Universities forge on to form captive

NEW YORK—Eleven Eastern universities continue to forge ahead with plans to form a captive insurance company to write buffer layers of liability coverage.

But its formation may be hampered because Stanley R. Tarr, leader of the group, left Rutgers University at the end of January. He was Rutgers' director of risk management. He is joining the United Methodist Church in Chicago as a vp of its insurance arm which provides all risk management and insurance purchasing services to the church.

Mr. Tarr said, however, that his leaving won't stall the plans. The leadership role will shift to others, he said.

"We've been convinced that the captive would be feasible and effective in not just the short term but the long run," Mr. Tarr added.

At the group's most recent meeting in mid-January, discussion centered on the structure of the captive, including how much coverage it will provide, who will provide claims and engineering services and how management decisions will be made. If successful, the captive may be used as a model for other universities by the National Assn. of Colleges and Universities, Mr. Tarr said.

# Benefit prognosis: Physicals for the rank and file

By JOHN MAES

CHICAGO—Corporate medical examination programs are continuing to gain popularity in the U.S. and observers say they foresee the day when virtually all corporations will provide some form of preventive care for rank and file workers.

Most of the dozen firms contacted by *Business Insurance* say they provide either physical exams as a benefit or some type of target testing for high blood pressure, heart conditions or possible ill effects of the work environment.

Even in firms where routine physicals are still reserved for executives and no programs exist for regular workers, benefit managers say they are taking a hard look at instituting some type of health system for the entire work force.

"It's definitely a growth area and I see several trends developing," said Willis Goldbeck, director of the Washington Business Group on Health. He sees the following patterns developing in corporate medical programs:

- The so-called physical exam program is being broadened in many corporations to include more employees instead of just executives or salaried employees. "There's been a broadening in the sense that more folks are being included," said Mr. Goldbeck.

- Company-sponsored exams are being offered routinely to more workers, but their frequency, such as the annual checkup, is being cut back, especially for employees under 40. Employers worry about costs, while doctors have questioned the need for annual checkups, Mr. Goldbeck said.

- There's been "great growth," in screening tests and target exams as a pre-hiring measure and as a test of susceptibility to harmful elements and toxic substances.

- Screening and testing is also being extended to workers' families to check the spread of harmful elements to dependents, Mr. Goldbeck said.

Laws and government pressure are behind most of the increased corporate activity in workers' health, said Mr. Goldbeck, testifying there's also a growing commitment to employees' welfare.

"The welfare of the employee today is the welfare of the company," he said.

Companies providing comprehensive physicals for workers say the measure may cost them money now, but will save money later by

## Poll examines physicals

WASHINGTON—Seventy-six percent of a group of 160 Fortune 500 companies recently surveyed said they require pre-employment physical examinations, according to the Washington Business Group on Health.

In an interim report, it was also revealed that 39% of the companies polled provide pre-assignment physicals for workers but most routine checkup programs are still limited to salaried employees.

In addition, few workers are given physical exams at retirement and even fewer at termination or layoff, according to the health group.

For companies providing multi-phasic testing for employees, reducing disability was most frequently cited as the reason for setting up the program.

reducing sick time and lessening the risk of having to pay claims to employees disabled by disease.

"It's a worthwhile benefit to the

company because when the employees are healthy, the company is better off," said Dr. James H. Spraul, associate medical director for Monsanto Corp. in St. Louis.

Monsanto is one of the growing number of companies that has formed its own medical department. The company provides fully-paid physicals for all its employees as a pre-placement measure and on a periodic basis after hiring.

The company's medical program dates back to the 1940s. At its 100 worksites throughout the country, exams are performed by either a company doctor on-site, or elsewhere by a company-retained doctor or a private physician in smaller locales, said Dr. Spraul.

R.J. Reynolds Industries Inc. in Winston-Salem, N.C., has two physical exam plans for its 17,000 employees and their dependents, said Bynum E. Tudor, director of corporate employee benefits. Employees can use a company plan that provides one physical a year for a \$50 deductible, he said. Where further tests are required to diagnose a condition, the company's group insurance plan takes over.

Otherwise, employees can opt for the company HMO plan which provides 100% coverage of examinations for employees and their families with workers paying a \$3 monthly payroll deduction.

Prior to starting the exam program about two years ago, only executives received physicals at company expense, said Mr. Tudor.

No extensive cost effectiveness studies were made before starting the program, even though corporate officials realized it would probably translate into lower absenteeism and fewer disabling diseases in the future, said Mr. Tudor.

At Honeywell Corp. in Minneapolis, executives and certain categories such as drivers and pilots receive screening and physicals at company expense but regular employees do not, said Dr. John Jacoby, medical director. He pointed out that employees have access to HMOs through which paid checkups are available.

Honeywell does provide target examinations to those working in possible hazard areas, but Dr. Jacoby said the cost effectiveness of the blanket, company-wide checkup is still a question. "A checkup does damn little" to benefit a person who does nothing to monitor lifestyle, he said.

A better idea, he said, is company sponsored health-education "to teach people to be better managers of their own health care needs, to be better record keepers and better medical consumers."

Other companies such as Joseph Schlitz Brewing Co. in Milwaukee and Dallas-based LTV Corp. also have no non-executive examination programs. But benefit managers say various forms of health care testing are being closely studied. Chuck Mazza, benefit manager at Schlitz, said a health testing program will be tried this year to see how many employees participate. ■



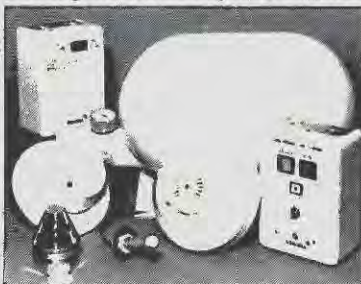
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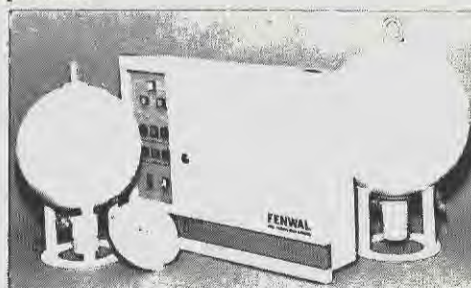
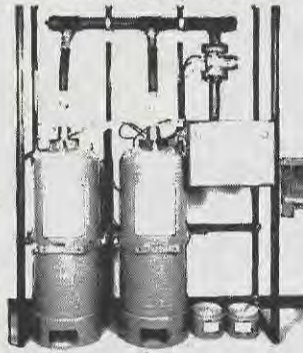
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# editorial opinions

## Thieves thrive

**L**AST YEAR is being characterized as the year of the multimillion-dollar heist. It's a dubious achievement, and one which may be felt throughout 1979 in insurance premiums.

The list of huge thefts this year is impressive, and discouraging: \$8 million in cash and jewelry stolen from Lufthansa's cargo hangar at Kennedy International Airport in New York; \$3 million stolen from a Wells Fargo truck in Staten Island; theft of a Rembrandt worth \$1 million and three other paintings from a San Francisco museum; \$3 million in paintings stolen from Chicago's Art Institute; \$1.5 million in stocks and negotiable securities stolen from a Wall Street firm, and \$1.6 million in unrefined gold and silver stolen in a truck hijacking in Connecticut.

What's worse, the thieves are making out like bandits. Nobody can trace them or arrest them. Of all the robberies listed, arrests have been made in only one case—the Wall Street incident. A partial recovery was made in one other case—the Staten Island robbery.

Inland marine insurers must be worried. Losses are rising, recoveries and arrests are falling and security isn't accomplishing much of anything.

## Ex-cons reform

**E**MPLOYERS GROUSE that they're increasingly being restricted by the government and by civil rights laws prohibiting them from asking too much about a prospective employee's background. The worry, of course, is that without knowing a person's background a company is more apt to mistakenly hire workers who will steal the company blind.

Their fears are apparently unfounded in the case of ex-offenders. We read with great interest the news release from the U.S. Department of Labor pointing out that under the federal program providing fidelity bonds of up to \$10,000 for ex-offenders and other persons unable to obtain adequate bonds for employment, less



"Listen, George, I heard about this new kind of cash flow plan that I'd like to try out... can you tell me how those things called introspective ratings plans work...?"

than 2% of those bonded defaulted last year.

The program, sponsored by federal-state employment service offices, paid \$245,378 in claims last year out of a total bonding liability of almost \$11 million a month. Some 12,427 persons were bonded, but defaults amounted to less than one per every 58 ex-offenders. Claims averaged about \$1,140 for the 215 defaults during the year. That's not a bad record.

## Leaky motto

**P**RODUCT LIABILITY has reached the stage where even the plumbers are running scared. A recent issue of a master plumber's publication warns members of a plumbing contractors group to use a new logo/motto in advertising.

The old one, plumbers were warned, could lead to "serious complications." The group's old logo read: "We sell, install, and guarantee our services." The warning grew out of an observation that many firms advertising in the Yellow Pages and in local phone directories were still using the old logo.

## letters

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

### Punitive damages

To the editor: I have read the article by Henry Salfeld on page 20 of the Dec. 25, 1978, issue of *Business Insurance* and I am particularly interested in the section regarding punitive damages.

In that section, Mr. Salfeld states: "While the CAP excluded coverage for injuries sustained by fellow employees for any person engaged in the business of his employer the words have been omitted from the BAP. The exclusion, therefore, also applies if the accident occurred while the driver of the car was not on business..."

I have searched the exclusions of the BAP and do not find this to be the case. The ISO's business auto policy contains an exclusion of "bodily injury to any fellow employe of the insured arising out of and in the course of his or her employment."

Also, Mr. Salfeld says it may be that punitive and exemplary damages are excluded. I have looked at the Aetna Insurance Co.'s, the Continental Insurance Co.'s and the Houston General Insurance Co.'s BAP policies and cannot find this exclusion. Am I missing something, or would Mr. Salfeld have a list of the companies which are attaching the exclusion?

**Kenneth E. Newburger**  
President, Kessler-Bondenheimer Inc., New Orleans, La.

*Author's reply: We said in the article, too, that policies we had examined had "quietly omitted" this exclusion of punitive damages contained in the ISO's proposed wording. No, we haven't seen any policies that include the exclusion, but I encourage you to object to the exclusion if you should run into it. Relative to the fellow employe exclusion, I called attention to the fact that the CAP excluded coverage for injuries sustained by fellow employes only if the person causing the injury were engaged in the business of the employer. The BAP exclusion is broader and also applies while such person is not engaged in the employer's business.*

### Who was first?

To the editor: Re: Jerry Geisel's article on municipal risk sharing, Jan. 8.

The Texas Municipal League may have made waves in public insurance circles in 1974 by establishing a fund for cities to collectively self-insure their workers compensation but if it was the first, it is only by virtue of Mr. Geisel's definition of "major."

The Dade County workmens compensation self-insurance plan was established 10 years earlier, on Oct. 1, 1964, with Dade County and four cities within Dade County participating. Within a year, 20 of Dade's 27 cities were members and still are. The idea of pooling was so innovative at the time that it took over three years for the Florida Industrial Commission (since renamed the Bureau of Workmens Compensation, Department of Commerce) to acknowledge the plan as being legally appropriate.

During these years the discount has never been less than 10%; for the year ended Oct. 1, 1978, on collective premiums of \$12,137,988, the discount was 59%.

Though I am no longer the insurance manager for Dade County, I maintain a paternal interest in the plan; it was my baby.

**Lucian C. Catin, RM**

Risk Control Associates Inc., Miami, Fla.

### Promoting health

To the editor: Re: your Jan. 8 riskWatch column covering our health maintenance survey. You have done a most thorough job. All the important points relating to business have been included. I hope readers find the column interesting.

You conclude with the suggestion that annual employer-paid physical exams for employees be provided and promoted by employers. There is some argument that annual physicals may not be necessary—that they can be scheduled less frequently. Of course, the point is to get started on a program... all employees should have their first physical, then consider a program of annual-only for older employees, while younger ones are set-up on a less frequent schedule.

We certainly would like to see more done by companies to promote better health. I really think we are on the verge of adopting a national attitude of a healthier lifestyle.

**Thomas S. Santley**  
Assistant vp, Pacific Mutual Life Insurance Co., Newport Beach, Calif.

### Industry profits

To the editor: On Nov. 1, 1978, I sent a bulletin to my clients predicting that insurers would make \$10 billion in profits before taxes for 1978. Indeed, preliminary figures announced just this month indicated insurance company profits of \$2.67 billion on underwriting and \$7.3 billion on investments, totaling more than \$1.97 billion.

These figures, however, do not reflect over-reserves. From my own checking of several major accounts, I would estimate reserves are more than \$3 billion in excess of final payouts. There are serious over-reserves of unearned premiums as well.

You should know that since the three and five year policy forms were dropped and all-risk coverage is on a one-year basis, the premium reserve should average 55% of writings for one year. And yet some insurers still have reserves equal to as much as 100% of their annual writings. The IRS is checking into this, and I predict a lot of back income taxes will be assessed, as was done in the years following World War II.

I also predict repeal of the McCarran Act, due to pressure from a public tired of insurance ripoffs.

**Justin S. Lencke**  
Consultant, Marianna, Fla.

### Insurer objects

To the editor: Our clipping service just sent us a copy of a story carried in the Oct. 30, 1978, issue of *Business Insurance*. We are disappointed that someone on your staff didn't verify the statement made by the executive director of the Virginia Hospital Assn. that alleges St. Paul slashed its initial hospital malpractice premium bid based on being made privy to the lower bid of the Virginia Hospital Reciprocal. That's just not true.

The author also accepts as fact the executive director's statement that the reciprocal encouraged other insurers to return to the malpractice business in Virginia. St. Paul has continued to be a stable market for medical malpractice in-

*Continued on page 14*

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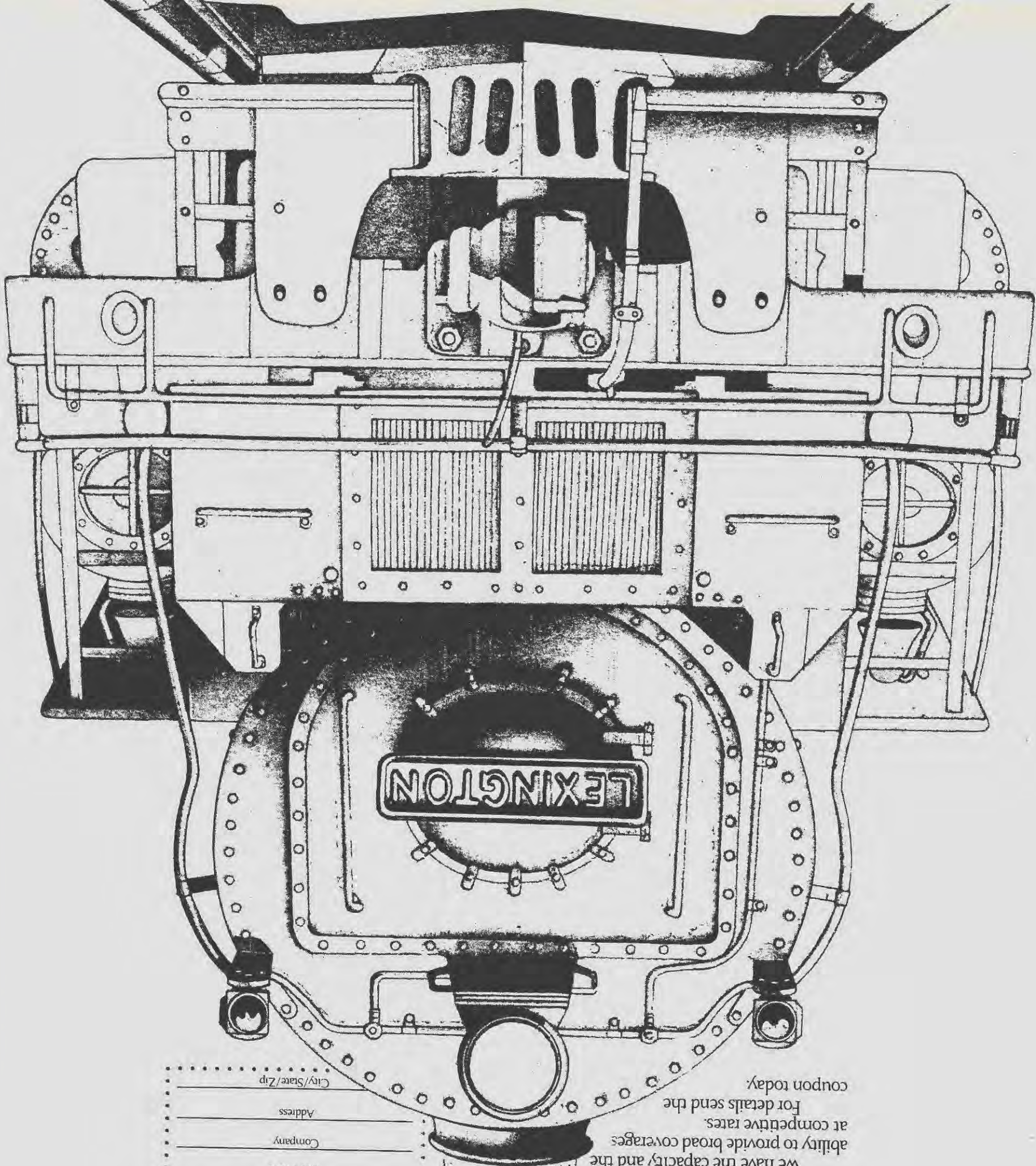
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## Letters column . . .

*Continued from page 12*  
insurance in Virginia. It didn't "return" because it never left.

**David G. McDonell**  
Communications officer, The St. Paul Cos. Inc., St. Paul, Minn.

### Captive comment

To the editor: I have been reading *Business Insurance* magazine for some time now and I find your publication very interesting and informative.

I was particularly impressed by your Jan. 8 issue (Captive and Self-Insurance Review) since our company is part of an offshore insurance company organized for the purpose of writing product liability and completed operations coverage. It is known as North American Manufacturers Insurance Co. Ltd. of Hamilton, Bermuda, from

which location all business activities are conducted.

This offshore company has been in existence for almost one year and has been covering companies in the material handling field, foundry equipment field and other types of manufacturers of industrial equipment.

**Marvin H. Coleman**  
President, Conveyor Systems Inc., Morton Grove, Ill.

### Still interested

To the editor: A story on the Colorado Hospital Assn. Trust in your Dec. 11 issue indicates interest in our program is waning, but we don't agree. The 32 Colorado hospitals are presently members of the trust (CHAT) have all shown positive interest in the program.

My meetings with hospital

boards and administrators throughout the state lead me to believe we'll witness outstanding growth in the trust within the next year as more hospitals participate. As the story pointed out, we initially had 27 of Colorado's 63 eligible hospitals sign up when the trust was launched in late 1978; we're now up to 31 member hospitals.

Moreover, legislators from a neighboring state have asked us to help them prepare enabling legislation similar to that passed in Colorado in 1976 which made it possible to establish the trust.

The lack of a rapid increase in the trust's membership isn't due to waning interest. It's probably due to stiffer competition from traditional insurers, forcing hospital boards to spend more time studying competitive programs. We also believe our program will grow in popularity because of the local legal and medical advisory services provided, services not available through commercial insurance companies. Medical Liability Consultants Program Inc., a firm of physicians and lawyers, offers CHAT participants expert advice, reviewing medical services and imposing loss control measures.

**Richard Grant**  
Trust administrator and assistant vp, Warren & Sommer Management Co., Denver, Colo.

### No floats

To the editor: I noted with some dismay your editorial in the Dec. 25, 1978, issue of *Business Insurance*.

Specifically, your comments contained in "Riding the Float" appear to indicate from your particular editorial opinion that someone is poorly informed on current fiscal situations that exist between a broker and his company. Normal account currents provide for payment of premium funds, whether or not they be collected, 45 days after the end of the month in which the insurance is written. With some companies, this has now been restricted to 30 days. The only occasion that I am aware that a broker may have 120 days to pay for clients' coverage is in the event that he placed insurance through Lloyd's of London or other foreign markets. In that case, it is a matter of individual negotiation between the American broker and his foreign correspondent.

Any risk manager that would follow the guideline of holding off paying premiums for a period of 120 to 160 days is very ill advised and may fast find himself with a very bad credit reputation within the insurance marketplace, not to mention that he may find his coverages cancelled for nonpayment of premium.

**William F. Willer**  
Assistant vp, Stembler-Adams & Sweet Inc., Miami, Fla.

*Editor's note: We think we're on the same side of the fence as you are, though your initial comment indicates you are disagreeing with us. We, too, think it's an abuse of power and unwise for policyholders to delay payments until the last possible moment. Our editorial called the slow-pay practice unfair.*

## Board schedules safety exams

CHAMPAIGN, Ill.—The Board of Certified Safety Professionals will hold its fall 1979 examinations here Oct. 13. The core examination and the specialty and comprehensive practice examinations will be held concurrently.

New applicants must apply by June 1 and current CSPs interested in taking one of the specialty examinations or the comprehensive practice exam should notify the board by Aug. 1.



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# New tide of offshore group captives stems costs

By JERRY GEISEL

WASHINGTON—Despite a soft casualty market, the drive to solve corporate liability insurance problems by using alternative risk funding methods continues to pick up steam with the formation of two new major group-owned captive insurance firms.

In Bermuda, 29 medical device and diagnostic product manufacturers have started their own insurance company, Medical Device Mutual Assurance & Reinsurance Co. Ltd. (MEDMARC) to provide stockholders with as much as \$1 million of product liability coverage.

In the Cayman Islands, Agrichem Insurance Co. Ltd. has been chartered to offer 22 small, farm agricultural chemical manufacturers and distributors up to \$2 million of product liability insurance.

MEDMARC is paying a fee to National Union Fire Insurance Co. of Pittsburgh for writing the insurance policies and for providing administrative services. National Union is not sharing in the risk. Unlike many other group-owned offshore captives which reinsure the bulk of the owners' risks, MEDMARC is assuming all \$500,000 of each policyholder's primary coverage. Each primary policy also has a \$500,000 aggregate limit. Deductibles are negotiated individually. Policyholders also can opt for an additional \$500,000 of excess liability coverage. Four unnamed U.S. and Bermuda-based insurers are reinsuring 100% of the excess coverage.

Interest in MEDMARC began about two years ago when medical device and diagnostic product manufacturers faced a nightmarish insurance situation, including dramatic increases in insurance premiums for members, said Jack White, vp-technical affairs for the Health Industry Manufacturers Assn. in Washington. "Some of our members were having to pay 8% of sales for product liability insurance."

**Medical equipment** manufacturers producing such devices as iron lungs, heart pacemakers and kidney dialysis machines faced the worst of all worlds. While premiums were soaring, limits of coverage were being slashed, deductibles were hiked and fewer insurers were willing to write the business. At the same time, there seemed to be little correlation between premiums and loss experience; companies without a loss were slapped with major increases in premiums.

Faced with this deteriorating liability situation, Risk Administrative Services, a New York-based consulting firm, was retained by the Health Insurance Manufacturers Assn. to recommend an alternative program. In March 1978, Risk Administrative Services concluded that a Bermuda-based group owned captive offered the best opportunity to keep premiums at a reasonable, stable level.

## Regulators offer model legislation

LAS VEGAS—The National Assn. of Insurance Commissioners is offering a model bill for states to adopt to deal with rising health care costs by ensuring more widespread availability of insurance.

The bill calls for health insurers to offer comprehensive health insurance as a condition of licensing, that benefits be comprehensive and the policyholders share some of the costs, especially the first \$200 of expenses and 20% of all additional expenses to a maximum of 10% of a family's income.

Twenty-nine medical equipment manufacturers banded together and contributed \$30,000 each to capitalize MEDMARC. MEDMARC owners, each owning an equal share of the captive, range in size from \$1 million in annual sales to \$100 million in sales.

**Annual premiums** paid to MEDMARC range from about \$5,000 to \$100,000, averaging \$35,000 to \$40,000. Premiums are based on sales, loss experiences and claims potential. Each participant is individually rated. Initially, MEDMARC's underwriting stance will be extremely conservative. "We want to maintain some kind of parity with the marketplace, but hopefully reduce rates if experience is favorable," Mr. White said.

The number of MEDMARC policyholders is expected to double in

the first year, said Mr. White, increasing premium flow to at least \$2.5 million, up from \$1.7 million now. Some insurers slashed premiums after learning they might lose some customers to MEDMARC, said Mr. White. "Some quotes were unbelievable," he said. As a result, some potential MEDMARC participants decided to stick with their present plans.

Meanwhile, the agricultural chemical manufacturers' new captive, Agrichem, has boosted the number of stockholders from 13 to 22 since it began rolling six months ago.

Agrichem offers \$2 million of coverage on product liability risks. Bercanus, a Bermuda excess and surplus lines insurer, writes a direct primary policy of \$500,000 for the agricultural chemical manufacturers, reinsuring with Agri-

chem for \$25,000 per claim and an aggregate of \$100,000 in most cases. Agrichem also offers excess coverage of \$1.5 million over the primary policy, boosting the total amount of insurance available to \$2 million. Five unnamed U.S. and Bermuda insurers and reinsurers are involved in the excess insurance arrangements.

**Agrichem** grew out of discussions two years ago when farm chemical manufacturers were socked with skyrocketing increases in product liability premiums they felt were unjustified in view of excellent loss experience in the industry. Beauman & Beauman of Indialantic, Fla., evaluated the feasibility of a small group-owned captive.

A Cayman Islands-based captive was chosen for its tax advantages

and accessibility. Participants are primarily in Southeastern states. Stuart Turner of Seattle adjusts claims, while International Underwriters of Dallas determines reserves. Agrichem hasn't decided whether to use an outside company for loss control services. The Bank of Nova Scotia issues policies and collects premiums.

Agrichem's annual premium flow is \$2.25 million and will rise as the captive adds an umbrella program and other lines of coverage, says Verne Bader, president of Bader Risk Management Inc. of Little Rock, Ark., consultant for the captive's manager. Premiums are based on each policyholder's sales and operations. Agrichem owners generally are small, owner-operated, closely-held firms with annual sales between \$10 million and \$25 million.

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Roscoe 'Fatty' Arbuckle was among the more well known of Mack Sennett's famous "Keystone Kops." Here, Kop Arbuckle, who went on to greater fame and notoriety after leaving Sennett, is about to apprehend Al St. John. Illustration courtesy of Museum of Modern Art/Film Stills Archive.



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# HMO study refutes single national plan

WASHINGTON—Establishing a single national premium for a network of HMOs is too costly to implement, a feasibility study prepared by the Group Health Foundation indicates.

On a national scale, the HMO industry can only support administrative assistance, the study found.

But a clear definition of what employers and HMOs want from each other emerges in the report.

The Department of Health, Education & Welfare, which commissioned the study by the HMO trade group last year, wanted to see if the

recent increase in the number of HMOs created administrative problems which would curb HMO participation among large multi-site employers.

The study also considered whether provision of certain central marketing and administrative services through a "network" of HMOs would substantially increase penetration of the multi-site market, which represents over 30 million employees nationwide or 40% of the entire U.S. work force.

After contacting 23 multi-site

employers, 18 HMOs, 15 labor unions and five industry organizations, researchers found that although major multi-site employers are concerned about dealing with a large number of HMOs, creating a uniform national rate would require HMOs in low cost areas to substantially subsidize HMOs in high cost areas. This would seriously erode the competitive advantage of the lower cost HMOs and could have the potential for anti-trust actions by the Justice Department, the study warned.

The HMO network concept

would also be difficult to launch and administer, the study found, because HMOs and purchasers have a broad range of and often "conflicting" expectations in their relationship.

Researchers contacted over 50 HMOs and over 100 major employers and labor unions to assess how the employer-HMO relationship could be improved. Then they tried to determine where and how a network HMO concept could be utilized to the advantage of both employer and HMO.

The study indicates that employ-

ers expect HMOs to:

- Lower total health benefits costs.
- Keep the number of administrative procedures and reports to a minimum.
- Offer a benefit package that is the same, comparable or superior to the alternative package.
- Assure the HMO is well managed, financially sound and provides services of appropriate quality.
- Provide a reasonable process for resolving problems or complaints.
- Standardize formats for contracts and forms.
- Provide information on HMO utilization.

On the other hand, HMOs expect employers to:

- Present an objective presentation of choices during an annual open enrollment period and reasonable access to employees.
- Contribute the same amount of money to the HMO as to the alternative program.
- Present the HMO option adequately to new and transferring employees with on-site access for the HMO of employees.
- Promptly provide information on eligibility changes.
- Use standard forms for contracts and forms.
- Accept an HMO's standard benefit package and integration of any optional benefits into the total employee benefit package.
- Eliminate waiting periods and other restrictions in the alternative program.
- Give direction from corporate headquarters to the local offices to cooperate with the HMO and to provide training in how to do so.
- Prepay the employee's cost to enter the HMO.

Other factors are also responsible for the relatively small market-share HMOs hold in the multi-site employer market, the study found. First, the HMOs have failed to win universal respect of multi-site purchasers for their managing and marketing skills. "Many employers remain wary of dealing with organizations which they perceive as being less well managed than their own," the study notes.

Another factor inhibiting HMO popularity with multi-site employers is a misunderstanding of HMOs and their operations, the study found. This misunderstanding is manifested, the study reports, by a tendency toward simplistic comparisons between HMOs and traditional indemnity options.

HMOs also have to combat an existing attitudinal bias, according to the study, because HMOs are often linked to "socialized medicine." The study suggests that this bias contributes to a philosophical predisposition against HMOs in many corporate settings. Such predispositions were strengthened when early HMO failures received widespread publicity.

The report recommends the formation of a central market liaison staff that would perform some national HMO marketing functions. According to the recommendations, the staff would assemble and maintain a central file of marketing information on multi-site employers contracting with HMOs and also a central file of background information on HMOs for employers.

The liaison group would also contact large multi-site purchasers to persuade them to offer qualified group practice HMOs and assist group practice HMOs in dealing with multi-site purchasers.

And finally, the group would provide technical assistance to group practice HMOs in marketing strategy development and rate making.

The study suggested the group assess the potential for a national HMO advertising campaign. ■

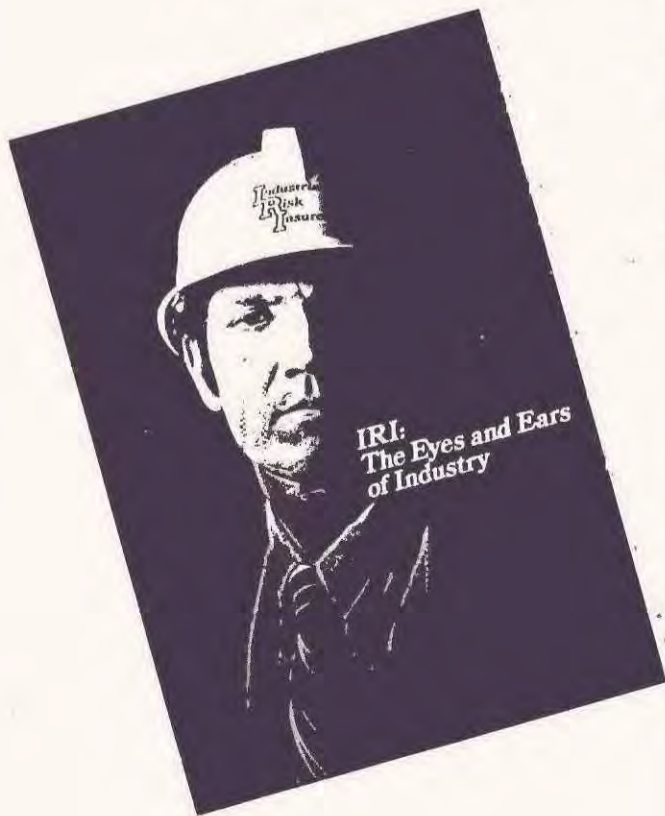
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## Insurer pays \$5.1 million to swimmer

WASHINGTON—The Home Insurance Co. has paid more than \$5.1 million on a personal injury suit for policyholder ITT-Sheraton Corp. of America, but the big New York-based insurer could have saved millions of dollars if it had agreed to settle the case before it went to trial.

The case involved a 1971 accident at the Sheraton Park Hotel in Washington in which an 18-year-old youth was paralyzed when his head struck the bottom of the hotel's swimming pool after he dived from the pool's high board.

A suit was filed in 1972 against Sheraton in U.S. district court, charging the big hotel chain was negligent in installing a powerful Duraflex high board at a pool that was too shallow to accommodate the springy aluminum board.

In 1975, a jury awarded the accident victim, Thomas Hooks and family of Venice, Ill., \$7.5 million, but presiding Judge Joseph Waddy reduced this amount to \$4.68 million.

The \$5.1 million The Home Insurance Co. paid covers not only the liability judgment, but also the hundreds of thousands of dollars in interest that accrued during the appeal process.

**The case** could have been settled for \$1 million at a pretrial conference, but attorneys representing The Home, which reportedly supplied Sheraton with an \$8 million excess liability policy, ignored the conference, according to Rex Carr, an East St. Louis, Ill., lawyer who represented the plaintiff.

"The magistrate who conducted the pretrial conference even called The Home attorneys and said: 'Why aren't you at this conference so we can get this case settled?'" Mr. Carr related. "But The Home attorneys said they had instructions not to engage in any negotiations."

Mr. Carr isn't sure why The Home declined to negotiate before the case went to trial. "Perhaps they believed they couldn't get hit for any real money...or maybe it was Eastern prejudice against provincial Midwesterners."

Mr. Carr accepted the Hooks' case on a contingency fee basis. His share of the \$5.1 million payment was about one-third or about \$1.68 million.

The attorney defended contingency fees, observing that such arrangements "ensure that the poor man gets the same justice as the rich man.... Large corporations like The Home or Sheraton have almost limitless financial resources and they could literally bankrupt any individual who could want to fight them in court unless he or she had an attorney willing to take the risk."

The use of contingency fee arrangements generally is limited to the U.S., Mr. Carr observed. "That means there are millions of people throughout the world who are not being compensated for their injuries."

The Home Insurance Co. declined to comment on the case. ■

## Captives expert moves

Robert Godfrey joined Rollins Burdick Hunter Jan. 1 in charge of Rollins Burdick Hunter Management, a New York subsidiary providing captive management services to RBH clients. Mr. Godfrey was previously in charge of establishing a risk management services operation for Dallas-based Scor Reinsurance Co. At RBH, he replaces Jack Ryan, who left to join American Risk Management.



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## New York town decides to expand self-insurance

By ELLIS SIMON

HEMPSTEAD, N.Y.—The Town of Hempstead, faced with escalating liability premiums and criticism by state agencies for inefficiently managing its insurance, is now self-insuring the first \$1 million of its general liability risk.

Hempstead's experience dramatically illustrates the liability insurance problems faced by municipalities. Since 1974, the premium on its general liability policy, written by U.S. Fidelity & Guaranty Co., has risen to almost \$850,000 from less than \$240,000. The premium for 1979 would have been in excess of \$1 million.

Since 1974, liability losses and

expenses have averaged \$200,000 annually, they said.

Therefore, Hempstead, which already self-insures its workers compensation coverage, chose to put an amount equivalent to its 1978 premium into a reserve fund. Savings will be reflected in funding for the following year's budget and will be passed along to taxpayers, said Al Leone, chief deputy town attorney.

With a population of about 800,000 and covering most of the South Shore of Nassau County on Long Island, Hempstead is the largest township in the United States. It also has some of the highest property taxes in the nation.

The town also pays \$216,000 for an umbrella policy from Columbia Casualty Co. providing \$4 million of coverage over the \$1 million retention. It has retained Claims Service Bureau of New York Inc. to investigate claims.

Claims Service Bureau will investigate claims and recommend settlements, Mr. Leone said. These recommendations will be reviewed by the town attorney's office and submitted to the town board for approval and payment, he explained.

Hempstead is prevented by law from building up self-insured loss reserves in excess of its retention, Mr. Leone said. State law requires excess reserves to be returned to the town's general fund.

Thus, if losses exceed reserves, the town will have to seek other sources of money and increase taxes in the following year, he explained.

Hempstead has altered another insurance program in 1979 to save money. Increasing its fire insurance deductible from \$1,000 to \$25,000 on its policy with Fireman's Fund Insurance Co. will result in a \$58,000 premium reduction for a \$170,000 premium.

Assuming liability claims against the Town of Hempstead continue to run about \$200,000, savings could run about \$700,000 in 1979 under the redesigned insurance plans. In addition future savings could be realized in July when the town puts its fire, excess liability and group health policies out to bid.

While state law does not require service contracts to be granted to the lowest bidder, Hempstead has chosen to do this in light of charges of inefficiency and political favoritism leveled by the bipartisan state commission of investigation.

The commission found that Hempstead, Nassau County and the Town of Oyster Bay placed their coverages through Richard A. Williams, a Hicksville broker, at the recommendation of Joseph Hargiotta, chairman of the Nassau County Republican Party.

The state agency also found that over a four-year period, Mr. Williams shared some \$300,000 in commissions on governmental insurance placements with persons selected by local Republican officials (BI, Oct. 30, 1978). These persons were said to have done little or no work for their fees.

Mr. Williams, who brokered the excess liability policy, will be eligible to bid for the new coverages. ■

### New marine market

The New Zealand Insurance Co. Ltd. has appointed Talbot, Bird & Co. Inc. as their marine managers in New York. Talbot, Bird operates nationwide and already acts as managers or marine managers for a number of companies, both domestic and foreign.

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# Philly battles rising health costs with pilot plan

By REBECCA A. FANNIN

PHILADELPHIA—The business community in this region has complained loudly enough about mounting health care costs that help is on the way.

Programs preaching cost containment and strategies for controlling benefit bills have been devised by a newly created Joint Health Cost Containment Program. The operation is recognized as forging ahead with a commitment unequaled elsewhere.

Its most recent project, collecting Blue Cross data on lengths of hospital stay, is a "first in the nation," according to executive director Gerald A. Gleeson. The Joint Health Cost Containment Program wants to determine whether hospitalization has been excessive and to work with health institutions to reduce overuse.

The Philadelphia program is advancing other techniques to battle health cost escalation, including programs to teach cost control to businessmen who serve as trustees or directors of health care institutions and as representatives on regional health systems agencies. Furthermore, the program has been instrumental in organizing the Penjerdel Employe Benefits Assn. made up of benefit managers and consultants to exert influence on health care providers (BI, Dec. 25, 1978).

In its pilot stage, it was supported by: the Greater Philadelphia Chamber of Commerce; the Penjerdel Corp., a regional business forum, and the Health Services Council Inc., a research firm for hospitals in the area.

The organization has since become a separate entity, financially supported by 41 major corporations in the Delaware Valley, among them Campbell Soup Co., E.I. DuPont Corp., IBM Corp., Honeywell Inc. and ARA Services Inc.

The cost containment efforts of corporations in the Philadelphia area were recognized by the U.S. Chamber of Commerce in its five-part report for businesses—A National Strategy for Health Care Cost Containment.

The program's basic premise is that since health care services are a purchase by the business community, the maximum value should be received from a company's in-

vestment in its employees' health, Mr. Gleeson said. Another focus is that health costs can be contained without radically restructuring the health delivery system or lessening the quality or quantity of benefits, the executive director said.

While the program does not promise to reduce health benefit costs, he added, the sponsoring organizations are convinced that vigorous pursuit of cost containment goals will moderate the rate of increase. If not tried for at least several years, there is but one promise—inevitable rapid accel-

eration of health benefit costs without room for new benefits—he predicted.

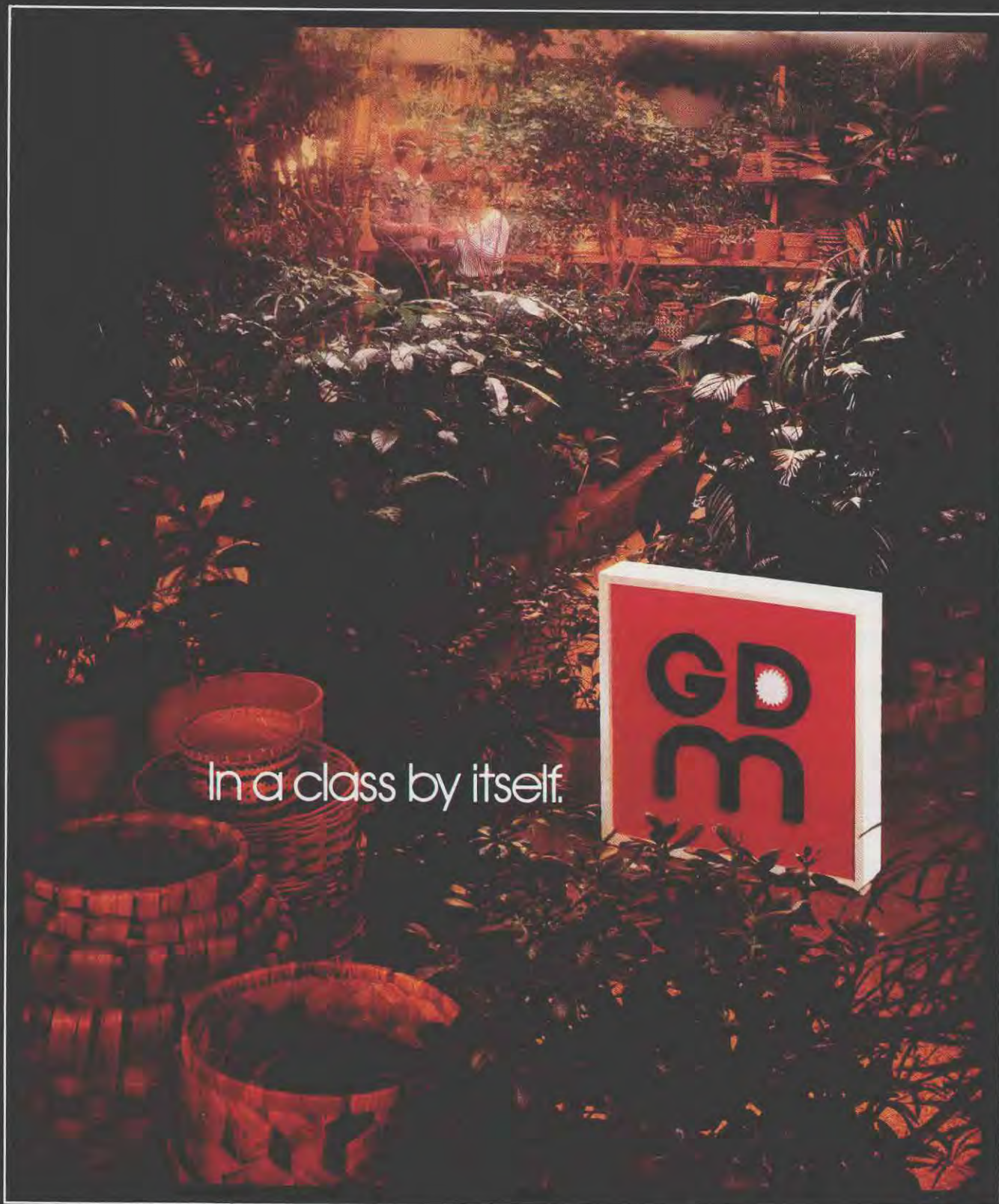
Mr. Gleeson noted that the Blue Cross data collection program will work to implement effective cost containment programs, unlike other studies that have failed to take action and techniques that have not always worked. The hospital utilization program, by contrast, has the potential of substantial savings since each reduced day cut from hospitalization saves at least \$150.

The Blue Cross data should be available soon, Mr. Gleeson said. An expected result, he noted, is that the organization will encourage hospitals to conduct more pre-operative testing on an outpatient basis to reduce the costs of expensive in-patient hospital care.

The statistics will be gathered on diagnosis in 64 acute care hospitals throughout the area. The data will then be available quarterly. The figures will be fairly comprehensive, since 70% in the region is covered by Blue Cross, Mr. Gleeson said.

The Joint Health Cost Containment Program will sound out its data and recommendations on a hospital advisory committee, composed of leading hospital officials, before approaching individual hospitals with suggestions on how to cut costs.

The statistics will be aggregated so that identity of the patient and the hospital will be confidential. No figures will be provided to companies unless at least 10 individuals in the company were hospitalized for the same illness to ensure confidentiality. ■



In a class by itself.



## ERISA council gains 3 members

WASHINGTON—Three new members were appointed to the Labor Department's Advisory Council on Employee Welfare and Pension Benefit Plans.

Charles A. Moran, vp at Manufacturers Hanover Trust, will represent the corporate trust field. Philadelphia attorney Howard Kline, a former staff member of the House Pension Task Force, will represent the general public while Marilyn Brown, president of Marilyn V. Brown Inc. in New York, will represent the investment management field.

In addition, Thomas Duzak, director of the insurance, pension and unemployment benefits department of the United Steel Workers of America, was reappointed to a new three year term to represent employe organizations. Wesley Jeltema, executive vp of the Michigan chapter of the Associated General Contractors of America, also was reappointed to a new term on the council. Mr. Jeltema represents employers maintaining or contributing to multiemployer pension plans.

The 15-member ERISA council advises the Labor Department. ■

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# The Widening World



**Simplified placement of insurance, cost benefits, and the availability of professional management services are all factors behind the continuing growth of captive insurance companies.**

**A brief review by INA of an insurance topic of interest to business executives.**

For a growing number of American companies, the insurance subsidiary or "captive" is an idea whose time has arrived.

There are now at least 1,000 captives, both individually and group owned, operating worldwide. Over a hundred have been formed in the last two years alone. Moreover, with costs continuing to escalate for full risk protection through conventional policy coverage, captives are expanding both the volume and scope of their underwriting activities.

Most captives were origi-

nally formed to write insurance for the parent company or group only, but as they grew in experience (and in capital surplus) some began to accept risks from unrelated outside companies. This makes the captive more of a full-fledged insurance company, with possibly important tax consequences.

At one time, a captive was considered feasible only for the very large company or trade association, and the capital outlay required may still rule out a wholly-owned captive for many companies. But many captives

are now being formed by groups and medium-sized firms.

## The Bermuda angle

Many captives today – about 700 of them – are based in Bermuda, where capitalization requirements are less stringent and investment and financial reporting rules more relaxed. American multinational companies that do not restrict their captives to doing business with the parent company find Bermuda particularly advantageous, since income derived from overseas insurance operations is not taxable until the funds are repatriated.

With the advent of the captives, Bermuda has become a world insurance center, handling as much as two billion dollars in premiums each year. Of this, as much as \$500 million is outside business not related to the captives' sponsors.

What has led companies to establish captives? Essentially, a captive represented an extension of the self-insurance trend – a

# of Captive Insurers

reaction to situations in which commercial coverages for certain risks had become either unavailable or prohibitively costly.

## Lower expense ratios

Today, however, with commercial insurance less restricted, the motives are largely financial.

When insurance is placed directly with the captive, a company may be able to realize a savings of the commercial insurer's overall administrative costs. On the other side of the ledger is the cost of executive time, as well as any fees for the captive's management.

In addition, retention of premium reserves by the captive instead of an insurance company can have important cash flow advantages for the parent company. Such funds may be legally available for company investments that otherwise might have to be financed through bank loans. And the fact that a captive can reinsure a large part of its risks can mitigate against the disastrous loss – at reinsurance rates that can be lower than those for primary insurance.

## Backing and fronting

Reinsurance, in fact, can play a key role for a captive, since many parent company risks are too large for a captive to handle without the backing of another insurer.

In one arrangement, the parent company pays premiums directly to the captive for primary insurance, but a large amount – say 80% – of the risk is immediately transferred to a reinsurance company. Or, in another arrangement called "fronting," the parent pays all premiums to a primary insurer, which then cedes perhaps 50% of the risk to the captive as the reinsurer. In some cases the captive handles part of both the primary and reinsurance coverages.

All of these arrangements involve some major tax considerations. In general, the IRS today disallows the tax deduction of premiums paid to wholly-owned captives, except to the degree that the risks are shared by other insurers, on the ground that such captives are merely a form of self-insurance. Challenges to

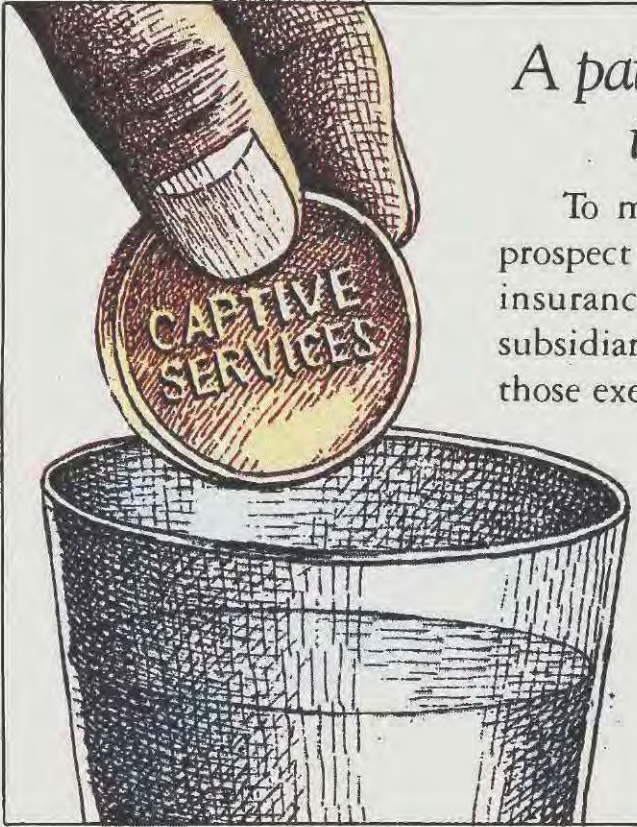
this IRS ruling are now in the courts. If, however, the premiums go to a captive organized by a group and not dominated by any one company, they are likely to be deductible.

A decision about setting up a captive can be difficult. The first step should be a comprehensive survey of the company's risk exposures and insurance coverages, together with all other relevant factors such as cash flow and financing considerations. If the study suggests that a captive is advisable, insurance brokers and some insurance companies – including INA – can be instrumental in its creation and management.

\* \* \*

The Insurance Company of North America was founded in 1792 in Independence Hall, Philadelphia. Today it is the largest component of INA Corporation's international network of insurance and financial service companies. In property and casualty insurance and risk management services, life and group insurance, health care management, and investment banking, INA and its affiliated companies offer a unique combination of products and services to business and industry around the world.

INA insurance products and services are available through selected independent agents and brokers. For an informative booklet on current trends in captive insurance, write INA, 1600 Arch St., Philadelphia, Pa. 19101.



## *A painless way to acquire insurance experience*

To most company executives, the prospect of sudden immersion in the insurance business via an insurance subsidiary is not an enticing one. For those executives, some insurance companies and brokers have a solution: working with the risk manager, they can provide all the management services needed by a captive – including underwriting, financial management, loss control and claims handling.

**INA**

The Professionals

# Report shows captive growth despite restrictions

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CHICAGO—The fifth annual report on captive insurance companies compiled by Risk Management Reports lists over 600 separate insurance company subsidiaries domiciled in the U.S. and abroad.

"In 1978 both the numbers of captives and the activities of existing captives increased remarkably," say the editors, estimating 200 to 250 more captives exist than are listed. In addition, "1978 saw the beginning of a real 'boom' in outside business for captives," the report says. "Spurred by the IRS, captives and their managers decided that unrelated business in the form of direct or reinsurance placements would stave off attacks by IRS auditors."

The captive management community is developing too, note the editors. Seventy-three captive

management companies located in Bermuda, Cayman Islands, Colorado, Gibraltar, Guernsey, Netherlands Antilles, New Hebrides, New York and Sweden are listed.

**Extensive financial information** is reported on 20 captives whose parent companies agreed to reveal the performance of their insurance subsidiaries. The report on U.S. Industries Inc.'s Diversity Insurance Co. Ltd. of Bermuda, for example, shows that it operated in 1977 with total capital and net surplus of \$5.7 million, received \$4.9 million on direct written insurance and received another \$11.3 million in premiums on reinsurance. Parent-related business accounted for 70% of Diversity's premium flow and 72% of its \$15.1 million in paid losses.

While the editors of Risk Man-

agement Reports expanded the number of captives listed in its annual round-up, it bumped 22 captives from the listing, saying they no longer qualified as captives because they had become commercial insurance companies. Among them are Armco Inc.'s Bellefonte companies, Greyhound's Pine Top companies and Gulf Oil's InSCO.

The editors also extract from the overall list of captive insurance companies a listing of captives owned jointly by companies within an association or group. Seventy such multiple-owner companies are identified.

Risk Management Reports, edited by consultant Felix Kloman, president of Risk Planning Group of Darien, Conn., is published by Business Insurance.

## Houston Port picks Wortham over A&A

HOUSTON—Locally based John L. Wortham & Son has replaced Alexander & Alexander as broker for the Port of Houston, plagued with insurance woes following two catastrophic grain elevator explosions last December in Galveston and New Orleans.

The port was forced to get new grain stock underwriters last February. Subsequently, Fireman's Fund, the port's workers compensation insurer, dropped the port in August, citing increased risks relating to the port's grain elevator. At the time a \$3.5 million dust collection system was being installed at the elevator.

The port has since been insured through the Texas assigned risk pool.

Houston General Insurance Co. will take over the port's workers compensation coverage Jan. 1. In addition, the Fort Worth-based insurer will write primary general and auto liability and all-risk property coverage for the port, replacing Nation Surety Corp. and American Home Assurance Co. respectively on these lines.

**Another change** replaces Midland Insurance Co. with INA on the port's marine hull and protection and indemnity (P&I) coverage. A \$5 million excess P&I policy remains with Arkwright-Boston.

Other coverages being renewed are boiler and machinery, written by Hartford Steam Boiler Inspection & Insurance Co., travel accident, written by The Home Insurance Co. and public officials liability, written by Forum Insurance Co.

The three-year contract with Wortham provides for a combined annual premium not to exceed \$1,009,573.

Alexander & Alexander remains broker on the grain stock and grain elevator physical damage cover. The grain stock comes up for renewal in February, but no decision has been made on future coverage.

## Winter storm damage

The estimate of insured losses from windstorms, ice and freezing temperatures which initially struck Texas Jan. 1 through 4 and later moved into Missouri and Illinois has been raised to \$10 million from \$5 million by the American Insurance Assn. The revised estimate also includes damage caused by snow that fell as the storm moved into Missouri and Illinois. The storm was assigned catastrophe number 76 by the Insurance Services Office.

# Upjohn HealthCare Services<sup>SM</sup> takes the guesswork out of handling disability claims.

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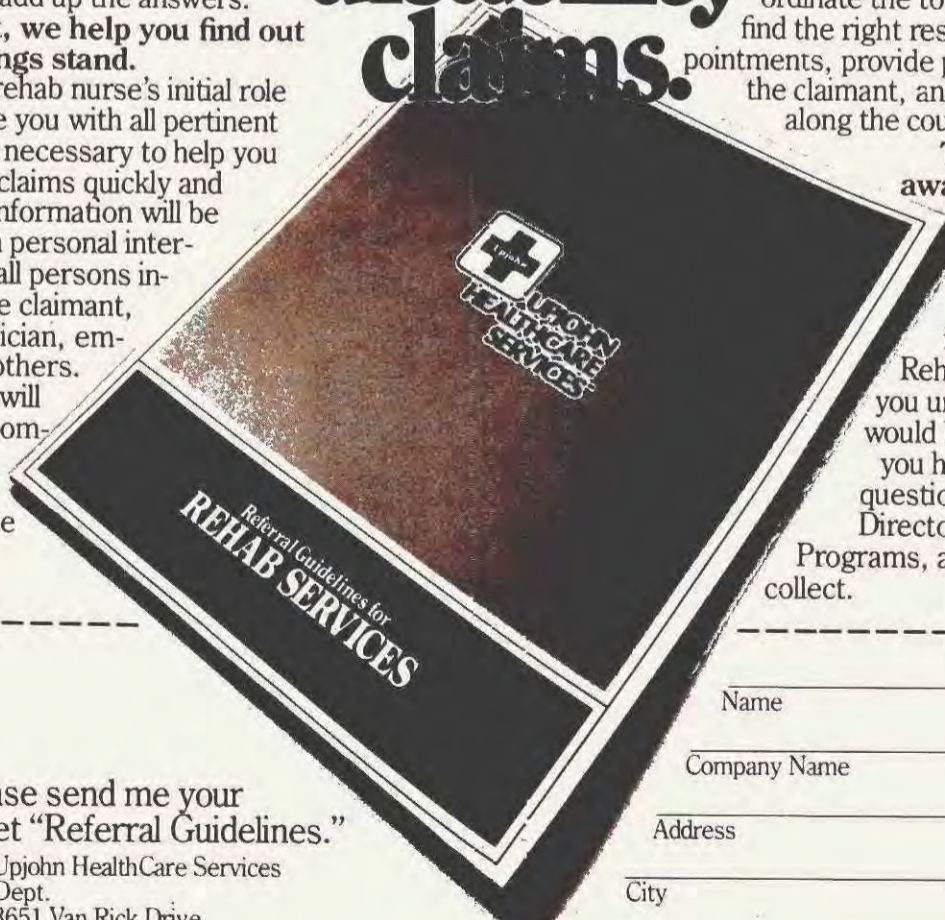
Included in our reports to you will be realistic time and cost estimates for all recommendations. These recommendations will be based on effective solutions and cost efficiency. They may call for long-term therapy, or only a slight modification at a job-site. Each recommendation is made in light of the specific individual and injury, but all recommendations are made with an eye toward cost containment.

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# What The Free-Trade Zone Means To Your Operations Abroad.

*Harold Christensen, AFIA President*



New York's insurance "free-trade zone" is being ushered in with a good deal of fanfare and rising expectations. It offers risk managers and brokers the opportunity to employ their skills and talent in obtaining the most desirable coverage on our own shores with fewer legalistic restraints.

Subject to the terms of the law, licensed insurance companies now will be able to write primary policies on large corporate risks without the need for prior New York State approvals and a host of esoteric risks will now be able to be covered here.

For those companies with large-scale operations abroad however, the new free-trade zone will have little impact on their overseas risks. They have long been accustomed to dealing with the major international insurance organizations in New York and other parts of the country where an international free-trade zone environment has existed for as long as AFIA has been in operation — over sixty years.

But for those risk managers and brokers who have not been as involved in overseas risks as some of the multinational companies have, the new free-trade zone

may, on the surface, seem to simplify their efforts. In point of fact, the opposite may be true. Licensed companies may well write overseas exposures without having the necessary overseas facilities and insureds may be lulled into endorsing their domestic policies for risks abroad, not realizing the potential harm.

It is necessary here or abroad to know the market and the services provided. And because of different regulations, laws, and customs, it is even more important overseas than domestically to have an underwriter who is trained and knowledgeable about the countries abroad with claims service and staff spread throughout the world.

This is why AFIA maintains the largest number of offices, claims services, and staff abroad of any U.S. foreign underwriter and perhaps one of the reasons why 90 of the top 100 companies operating abroad insure with AFIA.

We welcome the new free-trade zone in New York. It is a step toward lessening the restraints of government on our industry. And it is a step we heartily applaud.



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## ESIS Profiles: Risk management's new breed.

Rita Garcia  
Risk Manager  
Castle & Cooke, Inc.

*“Castle & Cooke uses a state-by-state strategy to self insure workers’ comp successfully.”*

“It’s obvious why we concentrate a substantial amount of our self insurance in the area of workers’ comp. In agriculture, fishery operations and food processing – three of our major fields – the possibility of injury is often present. And in the many states where we operate, regulations are steadily increasing the level of disability payments.

“Since 1968, when Castle & Cooke started self insuring, we’ve achieved better financial control over the entire situation. And ESIS shares the credit for that. Their people are on the scene in every state. And with a working knowledge of each state’s laws and methods, they’ve been particularly helpful in claims investigation and handling.

“ESIS’ loss reports, on a state-by-

state basis, help us pinpoint potential problem spots...and serve as an accurate tool in assessing loss predictability. This gives us a good handle on determining reserve levels from year to year. They’ve also contributed to safety consulting in many of our plants across the country.”

---

*More and more risk managers like Rita Garcia are turning to ESIS. Why? ESIS is the leading administrator of self insurance programs in the U.S. ESIS can provide all of the administrative, claims handling, loss control and statistical reporting functions normally performed by an insurance carrier. To find out how ESIS can help your self insurance program, write to us or contact your insurance agent or broker.*

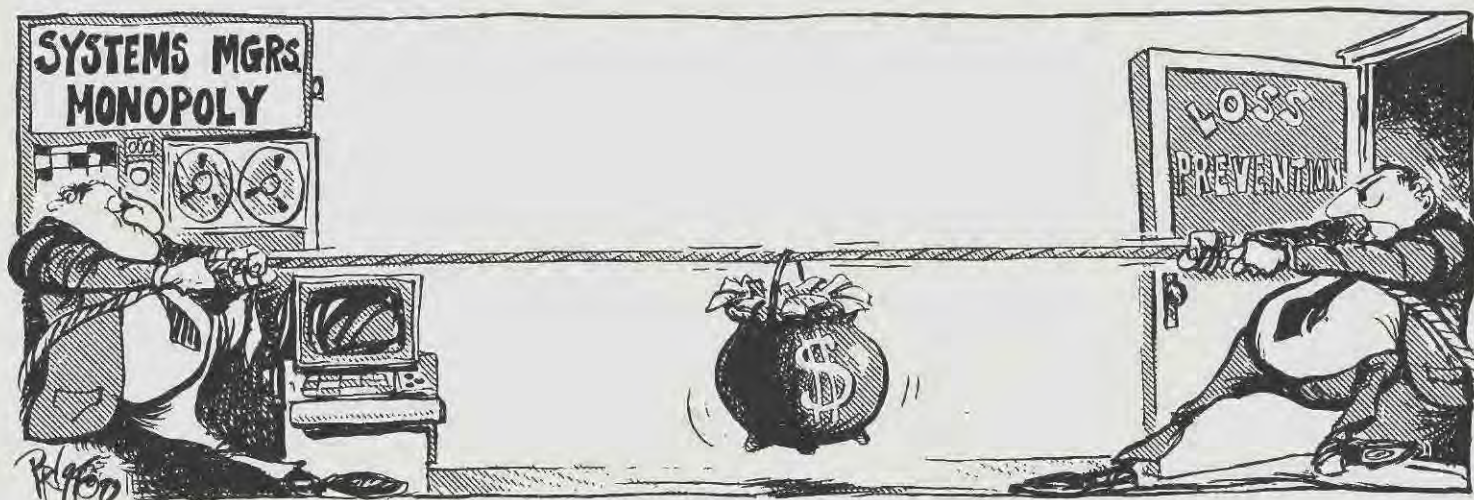
# ESIS

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## PERSPECTIVE

# How many games do you know? Or, met any of these characters lately?

By Peter Downes



Budget Battles: Games people play

of all, one makes it clear, without actually saying so, that anybody with an atom of common sense will ignore your report at his peril. My favorite counterploy, however, is the mildly voiced rhetorical question just as I am leaving, such as "How loud do you think you will laugh when they lock you in the slammer?" When it is done right the response is truly satisfying.

**ACCOUNTANT'S ONE-UPMANSHIP GAME:** I have never worked for an employer yet where the bean counters did not play this game or a variation of it. In its simplest form, after an invoice has been paid, for example, with all the proper authorizations attached and the premium has been distributed among various divisions, an accountant will crawl out of the woodwork and will question every aspect of the transaction, implying all the while that it is wholly incorrect. Patience is a virtue while this game is being played.

**SYSTEMS MANAGER'S MONOPOLY:** These managers are acquisitive and are constantly seeking bigger and better pieces of hardware. Some of them play this game so busily that they seem to have little time for programming and always demand more than their fair share of the community chest.

**BUDGET DEPARTMENTS' REGRESSIVE GAME:** Budget department staffs are merely disguised bean counters who want everything to be the same as it was last year and get really annoyed when things cannot be that way. A characteristic ploy in this type of game is the demand to know why costs have risen. One explains carefully that values have increased, also sales and payrolls in addition to which we have added a new division. "Yeah, I hear all that baloney

but why are the premiums going up?"

**THE UNDERWRITERS' 'YOU-SHOULD-KNOW-BETTER' GAME:** The essential feature of this game is the sudden application of a rule known only to under-

## —Speaking Out—

writers. A characteristic form of the game may arise when one attempts to add high valued properties to an existing policy. The date of the change is still indefinite, but so that there are no problems at the last minute one seeks confirmation in advance. One painstakingly asks the underwriter to be sure of the facts since one's Board of Directors is in no mood for trifling. After weeks of dithering the confirmation finally arrives, the due date arrives and the premises are added, and finally an invoice turns up on one's desk. After examination one calls the underwriter because the premium is 50% higher than it should be. "No, it's not," comes the response "the rate has gone up." "What kind of rip-off is this?" "It's no rip-off. We always do things this way and you should know that."

**INSURANCE AGENT'S CON GAME:** I have never been caught by this myself but it is among the nastier games played and I hope it is not too widespread. A typical variation of the game is to assure an unsuspecting client that his objectives can be accomplished when in fact, they cannot. On transferring the business, the explanation given for the failure is that the former agents spoiled things for everybody.

**INSURANCE COMMISSIONER'S DIVERSION GAME:** In a shooting war a com-

mon tactic is to create a diversion in one sector of the battle field while accomplishing an objective elsewhere. Things are much the same in the regulatory world. Consequently, when I hear that an insurance commissioner has attacked automobile insurers, for example, I find myself looking around to see what monkey business he is up to elsewhere. Usually, one does not have to look very far.

**LOSS PREVENTION ENGINEERS' DIS-ECONOMY GAME:** Loss prevention engineers will always tell you that their recommendation describes an ideal state in which they do not take costs into consideration. In other words, if it takes a half million dollars to effect \$5 worth of improvements then that is no concern of theirs.

An interesting variation which I have run into from time to time concerns the protection of a machine which would effectively prevent it from being used at all. For example, in a recent case a conveyor system moving slowly overhead was being used to air dry objects which had been spray painted. The engineer wanted the spray painting area to be totally enclosed. Consequently, if the conveyor were to be used the protection would be ineffective and when the spray painting operation was not in use, the protection would be unnecessary. Having pointed out this illogicality to the engineer, it was stressed by him that the recommendation was mandatory.

If there is one common factor in these rebellious little games perhaps it may be that they are the product of authoritarian little minds. Unfortunately, one cannot ignore them, but one can learn to place them in perspective and have a whale of a time beating them.

### BOSSSES' PUT YOU DOWN GAME:

There are a number of ploys in this game and anybody can play it. Indeed, most of us probably do at one time or another, even if it is only with a secretary or the mail boy. Characteristically, an earnest risk manager will compile a report which he feels requires immediate attention and will then go and see his boss about it. The boss does not really understand what it is all about and promises to get to it when he has time, maybe next year. A real adept at the game cannot only suggest that mountains are being made out of mole hills but with a subtle lift of an eyebrow will hint that your report is poorly written and barely understandable.

Counterploys to this type of one-upmanship are quite easy to manage. First

*Peter Downes, who in this speaking out column admits he enjoys beating the games people play, is manager of insurance at American Trading & Production Corp. in Baltimore and a regular contributor to these Perspective pages.*

## 1979: A buyer's year for negotiating credits

By Robert A. Wilson

AFTER SEVERAL YEARS of rapidly escalating insurance costs, conditions have changed drastically and dramatically in the insurance business. Suddenly, the insurance companies have decided that their 1977 and 1978 profits are too high.

As a result, the pricing for your 1979 renewals will generally be lower than for the 1976/1978 period. Although the premiums in many cases will be reduced, it is unlikely that they will be anywhere near as low as they were in 1974 and 1975.

Where can you look for premium reduc-

*Robert A. Wilson, CPCU, ARM, president of Corporate Risk Management Inc. in Hinsdale, Ill., has over 20 years of insurance experience. His firm specializes in helping business to reduce insurance premiums and analyze insurance requirements.*

tions in 1979? Here are just a few possibilities that should be explored.

### WORKERS COMPENSATION:

Just about all Illinois companies, for example, use the current advisory rates and the bureau's method of computing the experience modification. However, after a two-year hiatus, some insurance companies are again allowing schedule credits if your loss experience has been favorable. If your loss experience was poor in the 1974/1976 period you may have had a schedule debit included, but if it has improved in the 1977/1978 period you may be able to negotiate the removal of the schedule debit.

We know of many firms that are now in the Illinois Assigned Risk Pool through no fault of theirs. Since the pool companies could also add a schedule debit without your knowledge, you should verify the formula used. If there is a schedule debit included, it

can often be eliminated if you can correct the physical conditions or management activities that caused it to be included. This may, in some cases, result in the elimination of a 25 point increase in your current premium, and even possibly in last year's premium.

You may also be able to reduce your workers compensation premiums if you can verify that an improper classification is being used. Although this approach is often ignored, it can result in current as well as future premium reductions. You must of course be prepared to demonstrate the reason for the change.

### PRODUCT LIABILITY:

Everyone knows that product liability rates soared in the 1975/1977 period and then generally stabilized in 1978. We now see many insurance companies taking a closer look at the rates used in 1975/1977.

If your rates increased substantially, perhaps you should take a fresh look at your products and determine if a fair and reasonable presentation of your products had been made to your insurance company. In some cases, you may be able to provide a more realistic analysis of how your products are made, the quality control measures you implemented and just what your products will or will not do.

If your story is properly prepared and presented, you may end up with a reduced rate for 1979.

### UMBRELLA LIABILITY:

Many firms have included an umbrella liability policy as an integral part of their insurance program for years. Until the 1975/1977 period, umbrella policies were relatively inexpensive. However, as the number and size of losses increased, premiums increased ac-

*Continued on page 30*

## PERSPECTIVE

# Hardware alone won't prevent thefts; basic security principles paramount

By Belden Menkus

**M**ORE AND MORE electronic security hardware is being installed by businesses and governments. The devices used are becoming more and more sophisticated as significant improvements in the microelectronic technology employed make it increasingly cost-effective. But the trouble is, while these devices can be used to reduce risk exposures, their use will not make those exposures go away.

Electronic gadgetry use, in particular, will not compensate for failure to enforce appropriate security principles. Several incidents during late 1978 illustrate this.

• On Dec. 11, six men (possibly five, or maybe seven; the published reports on the incident differ as to the exact number of persons involved) broke into an international airline cargo terminal at Kennedy Airport, handcuffed nine employees and pistol-whipped another and removed between \$5 million and \$7 million in currency and jewels.

This sort of currency shipment is claimed to be routine; negotiable bills were being returned from West Germany where they had been exchanged for Deutsch marks by U.S. tourists and business people. The bills, as one would expect, were largely worn and apparently the quantity involved was so large that no record of their serial numbers was kept by the shipping bank. These facts would make any future attempt to trace or recover the bills almost impossible.

Thefts from international airports no longer are unusual; losses occur worldwide with painful regularity. For instance, one international airline is rumored to be unable to account for an entire Boeing 747 jet plane. Again, just 16 days after the Kennedy incident, on Dec. 27, another gang stole an estimated \$2 million from a cargo facility at Simon Bolivar Airport, just outside of Cara-

*Belden Menkus, who has more than 25 years of experience helping management improve administrative and information handling techniques, will periodically contribute articles on safety and security to these perspective pages. A distinguished and honored professional, Mr. Menkus is a full time consultant to management and is headquartered in Middleville, N.J.*

cas.

• Meanwhile, on Dec. 18, three or five or seven gunmen stole somewhere between \$1 million and \$3 million (once again, published reports differed on both details of the incident) from an armored truck whose crew had made its regular stop for lunch at a sandwich shop in a sparsely populated section of New York City's Staten Island. Two of the three people assigned to the truck were waiting in line for sandwich service when they and 11 others in the shop were handcuffed and herded into a storeroom by armed gunmen. Equipped with keys to the truck taken from the guards in the store, the gunmen entered the truck and overpowered the remaining guard.

**This sort of theft**, apparently, also is no longer as unusual as it was once assumed to be. Several days later it was revealed that on Dec. 19, \$230,000 had been taken from an armored truck belonging to another security firm while it was making a regular stop at a New Jersey shopping mall some 25 miles directly northwest of the Staten Island site.

None of these incidents seems to reflect even minimal use of modern hardware.

First, airport cargo handling facilities are like most bulk terminals: constructed in the least expensive fashion feasible, intended to provide only minimal protection to their contents (mainly to keep out rain and snow) and designed to maximize available internal cubic space for the physical mass of goods being handled.

The typical terminal building is not designed to protect its contents against more than casual attack. Creation of a secure area within such a building typically is done with minimal investment. Use of low grade vaulting or locks, for instance, is justified on the basis that the overall risk is relatively low—the goods will be on the premises for only a brief time.

**Second**, the typical armored truck is designed to be a rolling fortress. It should adequately protect its contents against a bomb blast or direct heavy weapons attack. Yet one wonders at the overall structural adequacy of many of these vehicles.

For instance, on Dec. 27 the rear doors of an armored truck in transit in the Los



**Security Matters**

Thefts are most likely to occur when management has not acted constructively to prevent their occurrence. Losses will continue to grow so long as no corrective action is taken.

—Belden Menkus

Angeles area flew open and dropped an admitted \$3,000 in quarters onto the highway.

Most armored trucks reflect vehicle protection design assumptions that probably were obsolete 30 years ago. Typically these vehicles lack the supplemental structural protection customarily installed in armored executive limousines: transmitting alarms that could be used by the truck crew to summon law enforcement forces when an emergency occurs, communications gear at least as sophisticated as that routinely installed on newer commuter buses that would permit continual contact between the truck and its base terminal, an in-transit crew lavatory of the type long used on interstate buses and aircraft and a means for feeding crew members that does not require that they park and leave the truck.

Even if better use had been made of security hardware in both of these environments, it would not have eliminated the impact of the apparent failure to observe four basic security principles:

**1. Recognition of vulnerability.** Typically air cargo terminals are located away from the main public areas of the airport. These buildings tend, among other things, to be poorly lighted, too accessible to potential intruders and used as an inexpensive crew lounge and for other purposes detracting from site/cargo security. Enclosing a portion of the building interior with lightweight wire mesh screening does not make the site secure. As already suggested, the design assumptions used with armored trucks make them extremely vulnerable whenever they are motionless. Putting better uniforms on the crew—or making some comparable gesture—does not eliminate the basic vulnerability.

**2. Operational inconsistency.** Work routines in a security-oriented environment should not be so predictable as to become vulnerabilities in themselves. For instance, when it is possible to set one's watch by the

arrival and departure from a lunch stop parking lot of a security vehicle, the potential thief is given an important base from which to plan and execute an assault on the vehicle in question.

**3. Definition of value.** Confusion about the nature or face amount of a value suggests that constructive control over the value itself has been lost. It is virtually impossible to recover any value that cannot be adequately described, or to prosecute successfully anyone accused of taking it. Understatement, for instance, of asset values for insurance or customs or taxation purposes is self-deceptive at best. The practice effectively undercuts any effort to improve cargo-handling security.

**4. Internal reliability.** Most organizations continue to assume that all employees are motivated to serve the corporation's best interests. That's no longer true, if it ever was. The reliability of employees working in sensitive positions no longer can be assumed, if it ever could. Background investigations, of the type required for securing access to classified military information, should be required routinely for persons in sensitive positions. This practice should be pursued despite obstacles.

It must be assumed, as appears to be true in the incidents discussed here, that someone working inside the organization can inform thieves of the value of goods and the best time and place for taking them. The Kennedy Airport thieves were reported to have addressed several terminal employees by their first names. The odds against a thief or hijacker randomly electing to attack a very high value are so great as to not be worth calculating.

Thefts and other losses are most likely to occur when management has not acted constructively to prevent their occurrence. Insurance losses of this type will continue to grow so long as insurers and risk managers do not require corrective action.

## Small firms ripe for computer fraud Rx

By George Nordhaus

**T**HANKS TO THE NEW powerful but inexpensive minicomputers, smaller businesses now face a challenge once reserved for giant corporations—computer fraud.

In fact, the odds are stacked against the mini-computer user:

• One person normally operates the system. If he or she is dishonest, the chances for theft are greater than in a larger firm where it takes collusion of several employees.

• Most minis keep data in electronic storage and display it on cathode ray tubes. They don't generate paper documents that the owner of the company can review in an informal audit.

• The cost of hiring a specialist to check the system's integrity and safeguard against employee theft can run as high as \$10,000 to \$20,000—perhaps as much as the minicomputer cost in the first place.

But, there are much less expensive solutions: Two quick steps we suggest are 1) have an annual audit by a CPA firm, and 2) make sure that all your employees are covered by a blanket bond in a substantial amount.



*George Nordhaus is president of Insurance Marketing Services Inc. in Santa Monica, Calif. He writes a monthly insurance and risk management newsletter used by agents and brokers around the country.*

## A buyer's year . . .

*Continued from page 29*

cordingly. It was not unusual to see an annual-premium increase from \$500 to \$4,500 or from \$6,000 to \$40,000.

Except in unusual cases, premium increases are now a thing of the past. In fact, if your policy is properly negotiated you may experience the pleasure of a premium reduction. Again, if your insurance representative is not very adept at negotiating your renewal, your reduction in premium may be nonexistent. Therefore you should be sure that your broker fully understands his assignment.

### PROPERTY INSURANCE:

If your property, including machinery and equipment, is well maintained and you normally comply with your insurance company's recommendations for loss control, you should be able to negotiate additional premium credits ranging from 5% to 25%. The credit will depend in part on the physical conditions of your plant as well as the negotiating skills of your broker. He

must be able to effectively communicate the facts and conditions to your insurance company if you expect a premium reduction.

### EXCESS AND SURPLUS LINES:

A number of surplus lines markets are anticipating a substantial reduction in their overall premium income. This will be caused by the primary markets' more liberal pricing and underwriting practices for 1979.

If any part of your insurance program is with a surplus lines insurance company, you should determine if a primary insurance company will now accept your business. Not only will your premiums be reduced, but you may also be able to negotiate broader terms and conditions.

Overall, we believe that you should be able to arrange premium reductions in 1979 without sacrificing the quality of your program. You may also get broader policy conditions or eliminate unfavorable restrictions that were imposed upon you in 1975/1977.

It certainly looks like 1979 will be a buyer's year for the astute risk manager. ■

# XEROX HAS SOMETHING WORTH COPYING.

To help Blue Cross and Blue Shield Plans stem the rising cost of health care in America today, more and more companies are providing health and physical fitness programs to keep their employees healthy and productive.

One excellent example of such a program is the health and recreation program open to all Xerox employees, both management and labor, in Monroe County, N.Y.

Here's how it works. An exercise stress test is recommended prior to starting the program. A lifestyle survey is taken so that the Xerox Recreation and Medical Services staff can track the progress of employees and relate that to their diet, exercise routine, smoking and drinking habits, etc. After receiving an individual exercise prescription, each participant then spends one-half hour a day, three times a week, in jogging, bike riding, or other aerobic exercise programs.

Xerox and other bold and imaginative companies realize one important thing: that fitness programs have the potential of returning enormous dividends in greater health and happiness for employees. And greater productivity from them.

It also stands to reason that if your company can institute a program to keep your employees healthy and well, your company's health care costs can possibly be lowered.

As you know, Blue Cross and Blue Shield Plans are fighting a nationwide battle to keep costs from running away.

Programs such as second surgical opinion, medical necessity programs, home care, health maintenance organizations, same day surgery, pre-admission testing and the like are in use in many Plans with positive money-saving results. As successes are achieved, the results are shared so that knowledge gained by solving local problems can be applied on a wider basis.

We're encouraged. The average length of hospital stays for Blue Cross Plan subscribers under age 65 dropped by almost a day between 1968 and 1977. That may not sound like much. But if the length of stay were the same today as it was in 1968, we would be paying an additional \$1,249,869,813 a year. In addition, the rate of hospital admissions for these subscribers dropped by 4.9%, representing \$554,938,847.

But controlling health care costs without sacrificing quality is a complex problem. One we all need to work on together.

While the Xerox program is an extensive one, there are health programs to fit any size company.

Blue Cross and Blue Shield Plans would like to help you. If you would like more information about employee fitness programs, write for the free booklet "Building a Healthier Company," Box 8008, Chicago, IL 60680.



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# PERSPECTIVE

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# riskWatch

By REBECCA A. FANNIN

## Medical emergency training beckons for corporate attention

It's midafternoon in mid-Manhattan. Shoppers are bustling along famous Fifth Ave., swishing through the doors of a well-known store catering to the carriage trade. Eight floors above them, in the well-decorated executive suite, a top officer of this very establishment suddenly cries out and slumps forward over his desk, the victim of a severe heart attack.

Secretaries scramble. An assistant reaches for the phone, dials the emergency number. The executive is clearly losing ground as his fellow workers loosen his collar and tie, propping him in a more comfortable position. Everyone worries, and everyone waits. And waits.

Thirty-two minutes later, the city ambulance arrives after a slow trip fighting traffic. The executive becomes another statistic, dead on arrival at the hospital.

A consultant who specializes in handling such medical emergencies has shocking news for risk managers: Neither corporations nor city rescue squads are adequately prepared to aid stricken employees.

As a former medical emergency technician for an ambulance firm in the heart of New York City, Jonathan S. Glenn should know. He's responded to many corporate emergency calls. His days resembled those documented in the well-known television series entitled "Emergency." But unlike the happy outcomes in the popular program, he has seen treatment arrive too late too many times.

In a large city, heart attacks are not uncommon among high-pressured executives. In these cases, a slow response by city ambulances can kill. Brain damage occurs four to six minutes after the heart stops. But ambulances usually take a "terrible" 32 minutes to arrive on the scene, Mr. Glenn claims.

In-house medical departments aren't much better, the emergency expert charges. Industrial nurses frequently move too slowly, waste crucial time collecting first-aid equipment and riding elevators to the injured employee. Besides that, he adds, industrial nurses are notorious for administering improper aid. A mistake in cardiopulmonary resuscitation (CPR) can—and often does—result in a punctured lung or liver.

Mr. Glenn isn't alone in his opinions about in-house nurses. The Red Cross says nursing schools aren't required to teach CPR.

Mr. Glenn's Corporate Medical Emergency Training program is similar to Red Cross training. But unlike the Red Cross, which requires trainees to visit special centers at pre-determined times, Mr. Glenn travels to the company to teach emergency procedures.

His program is costlier initially, however. The Red Cross uses volunteer instructors and charges only \$10 per trainee, but Mr. Glenn charges \$2,000 on the average to train large groups (the fee includes quarterly refresher courses).

On call to help teach Mr. Glenn's 18-hour training session and customized quarterly refresher drills are five registered nurses and two consulting physicians. The fee includes medical emergency supplies and oxygen equipment.

By contrast, the Red Cross program is standardized for every company and involves two days of training. Red Cross also loans four films and provides four workbooks.

Another difference is that Red Cross normally teaches only one representative from each company, who then is certified to teach co-workers. Mr. Glenn teaches any number of employees from the same company.

So far, few companies are even nibbling at this idea. Some, like Burlington Mills and Pepsico—to whom Mr. Glenn unsuccessfully tried to sell his program—believe their industrial nurses are already doing an effective job.

Mr. Glenn has also tried to sell the service to government-supported companies such as Amtrak and Conrail. But they haven't bought it either, at least partially because they feel they're exempt from OSHA scrutiny.

Those, however, that have seen the light are the Northeast regional offices of Exxon Corp., the New York offices of Barclays Bank International and the corporate headquarters of Seligman & Latz, owner of 800 beauty salons.

Ironically, a Barclays top executive suffered heart attack symptoms while Mr. Glenn was training the workers. Mr. Glenn promptly came to the rescue proving to Barclays management that trained personnel on hand can prevent tragedies.



Fannin

# Property insurers score high on report cards from buyers

CHICAGO—The insurance industry receives good grades from insureds for claims handling and service, but many insureds are unable to recover their total loss, according to a survey of more than 1,600 known property insureds who suffered losses of at least \$5,000 during the past two years.

Survey results also reveal that speed of service, completeness of coverage, expertise and courtesy of agents and the insurance company claims representative shape the insureds' attitudes toward the insurance industry. But insurance agents, the study shows, are looked upon as invaluable sources of assistance in the total claims process.

The survey, entitled The Insurance Industry Report Card—Property Claims, was prepared by a Chicago-based research firm, Kapuler & Associates, at the request of the Zurich-American Insurance Cos. Zurich-American commissioned the study to determine how attitudes developed during the claims handling process effect an insureds' overall view of the insurance industry, to examine actual loss versus recovery in property losses, trace common gaps in insurance programs, and monitor changes made in insurance programs following a loss.

More than one-third or 37% of the responding businesses in the study were covered by insurance for 100% of their loss, but 47% of the businesses were not covered for the total loss with 25% covered for only 76% to 99% of the total loss, 10% covered for 51% to 75% of the total loss and 12% covered for less than 50% of the total loss.

Of the 47% who did not recover their total loss, 24% attributed a deductible for incomplete recovery, 23% said they didn't have enough insurance to cover equipment, inventory or furnishings, 13% cited depreciation for assuming part of the loss, 4% cited business interruption, 3% didn't realize they weren't covered until after the loss and 1% had to repair rather than replace.

As a result of the losses, 36% of the business managers made changes in their insurance programs and 11% expected to make a change in the future, while 63% planned to keep their insurance program intact. Only 7% said their company changed insurance carriers, 3% increased contents or stock coverage, 2% increased building coverage and 2% added business interruption insurance.

The study also found almost half of the responding businesses that recovered less than 100% of the total loss did not realize there were any gaps in their insurance programs before the losses occurred.

Despite the substantial percentage of insureds interviewed who had to assume part of their loss, 68% of the claimants were still very satisfied with the total claims process. 22% were somewhat satisfied, 9% were unsatisfied and 1% had no comment to make.

The study did find, however, that insureds were most concerned about the speed of processing a claim, with 60% noting satisfactory speed in processing a claim, 23% somewhat satisfied with processing claim speed and 3% were not satisfied at all.

However, a whopping 74% of the responding businesses were impressed with the availability of the agent throughout the entire claims adjustment process, 14% were somewhat impressed and 7% were

not satisfied. Sixty-nine percent of the study participants found the insurance company claims representative the most readily available to answer questions and handle the claim, 17% were somewhat satisfied with the insurance company representative and 7% were not satisfied at all.

Insurance agents were deemed

to be of the most assistance in the overall handling of a claim by 70% of the responding businesses, with 58% claiming that the insurance company representative helped the most in handling a claim, 33% considered their accountant the most helpful, while 24% considered a public adjuster the best in lending assistance.

## Famous Quotes . . . . .



"Time is money."

—Benjamin Franklin

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## Carter budget boosts HMO funding by 80%

WASHINGTON—The new Carter budget reflects a continued commitment to prepaid health care, with a major expansion in funding for health maintenance organizations (HMOs).

The budget calls for a boost in HMO funding to \$74 million for fiscal year 1980, an 80% rise from the \$41 million slated for fiscal 1979.

The record budget for the Department of Health, Education and Welfare counts on Congressional passage of a proposed 9.7% cap on hospital expenditures, though a similar hospital cost cap was defeated last year.

The much-criticized Occupational Safety and Health Administration (OSHA) also is the benefi-

ciary of more federal funds, allocated to hire 286 additional staffers for safety enforcement programs and to simplify safety standards. OSHA's budget will rise from \$162 million to \$173 million. The safety agency expects to conduct 69,000 workplace inspections in fiscal 1980, up from 63,000 inspections in 1979.

The Labor Department's Office of Pension and Welfare Benefit Programs, which administers the pension reform law alongside the Internal Revenue Service, will be required to reduce employment from the current 652 staffers to 625 employees in fiscal 1980 beginning Oct. 1. Staff reductions will occur

in the offices of reporting and disclosure, and communications.

The budget also reflects the Administration's desire to begin taxing benefits that have been shielded, drawing up proposals to assist Congress in the development of regulations specifying what benefits should be taxed. However, Congress last year approved legislation barring the IRS from issuing final regulations on benefit taxation until 1980.

The Administration asked Congress to approve legislation establishing a \$200 million fund to clean up oil spills, requiring a fee of three cents per barrel of oil received at any U.S. terminal or refinery. A similar measure failed last year.

Although the budget mentions national health insurance in numerous places, Carter doesn't ask Congress to approve funding for such a program in fiscal 1980. The Carter Administration has said that government funding for NEI won't be needed until 1983. ■

## Calif. sues taxi operator for lacking work comp

LOS ANGELES—The California Department of Industrial Relations has issued a stop order and a criminal complaint against Yellow Cab Co. of Los Angeles, declaring that the company is not providing its 950 employees with workers compensation insurance.

Colleen Logan, area administrator for the department that is charged with enforcement of workers compensation coverage, said Yellow Cab defied the stop order issued Jan. 9. As a result, the department filed a criminal complaint against the cab company in order to shut it down, she said.

Meanwhile, the cab company, represented by former California governor Pat Brown, filed a tempo-

rary restraining order on Jan. 12 to block the department's stop order, said to be the biggest ever issued by the state. A Los Angeles superior court judge Jerry Pach denied the temporary restraining order. However, the department was handed a writ of mandate to show cause why the stop order it issued should be enforced.

A hearing on the mandate will be held on Feb. 9, said Ms. Logan.

However, because of a technicality found in the writ of mandate, it was later established that the department was not free to go ahead with its criminal complaint against Yellow Cab, which is reportedly continuing to obtain workers compensation coverage.

As a consequence, a department labor deputy said the department will pursue the complaint again on February 23 after the scheduled hearing on the writ of mandate on February 9.

**Yellow Cab**, Los Angeles's largest taxi fleet, has been without workers compensation insurance since Dec. 5 when the cab company's former insurer, The Insurance Co. of North America, cancelled the policy. The industrial relations department was informed that Yellow Cab was without workers compensation insurance by a cab driver who was injured on Jan. 1 and told that there was no insurance to cover his injury, said Ms. Logan.

Yellow Cab, which has had problems in the past in securing workers compensation coverage, would not talk to *Business Insurance*.

Under a stop order, an employer must, by state law, send his workers home, pay regular wages while they are off due to the order and recall them only when it has secured the proper coverage.

The order is accompanied by a penalty assessment not to exceed \$10,000, calculated at \$100 per employee. ■

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## Feds want new reg for retiree plans

WASHINGTON—The U.S. Department of Labor is proposing a new regulation to clarify the circumstances under which an employee benefit plan administrator may suspend payment of pension benefits to retired employees who return to work.

Proposed under the pension reform law, the regulation defines reemployment during a calendar year month as 40 or more hours of work in that month, or in the case of maritime industry employment, five or more days of work in a month. The period of suspension is the month during which the retiree is reemployed for the 40 hours or five days.

While a pension benefit of a non-multiemployer plan participant can only be suspended under the regulation if the retiree returns to work for the same employer, participants in multiemployer plans can lose their retirement benefits if they return to work in the same industry, in the same trade or craft, in the same geographic area. All three conditions must be met before such a plan can suspend pension benefits.

Comments on the proposed regulation must be sent to the U.S. Department of Labor in Washington, D.C., by March 6. ■



## Self-insurance plus excess in one

# Underwriters prescribe new hospital insurance plan

By MARY ELLEN McKEE

CHICAGO—An insurance underwriting manager and a CNA insurance subsidiary here believe they have a plan for hospitals to fund a complete liability insurance program at a reasonable cost.

The novel hospital catastrophe program was developed to provide an integrated approach to liability protection by consolidating a self-insurance trust fund with excess coverage provided by Columbia Casualty Co., the CNA subsidiary issuing the policies. It offers a solution to the problems of maintaining adequate protection, achieving financial stability and controlling claim costs at the same time, says Thomas F. Tucker, vp of Victor O. Schinnerer & Co., underwriting managers for the program.

It is understood two hospitals have already bought the program, but Schinnerer & Co. wouldn't provide details.

The policy will cover bodily injury and property damage arising out of a hospital's day-to-day operations including professional services, personal injury and contractual liability. Employees of the hospital can be covered as additional insureds while acting within the scope of their jobs.

Hospitals are covered under this program on a limited occurrence basis, meaning claims arising out of occurrences during the policy period and reported within 12 months of the policy's expiration are covered.

If at the end of the two-year reporting period, the hospital believes there are some potentially serious unreported claims, it can convert the policy to a full occurrence contract for an additional 25% of original premium.

"One of the primary functions of this insurance program is to allow hospitals—whether they be of the Michael Reese or Rush St. Luke's Presbyterian variety or just simply a small community hospital—with a properly managed self-insurance program to reduce their risk retention to a more viable level by purchasing commercial excess insurance protection over a more appropriate retention and at a reasonable price," Mr. Tucker elaborated.

**Under the program**, hospitals can obtain coverage of up to \$5 million per loss, less the primary self-insured retention of the hospital, with a policy aggregate limit of \$5 million. The policy limit and retention apply to indemnity and legal costs, with a combined single limit applicable to both professional and general liability losses.

Retentions can be established as low as \$100,000 with higher retentions of \$250,000, \$500,000 and \$1 million available. The actual retention will be based on the hospital's desire to retain risk and Schinnerer & Co.'s evaluation of the hospital's financial strength.

Each hospital determines how the program will function and chooses from three options:

- Specific coverage for each loss up to \$5 million, less the self-insured retention, and a separate excess policy that is subject to a policy aggregate limit of \$5 million.
- A combined excess and aggregate stop-loss coverage policy with a \$5 million limit, less the self-insured retention of the hospital, or a policy aggregate limit of \$5 million over the hospital's specific retention (minimum \$100,000) and aggregate primary retention (minimum \$1 million).

- Coinsurance option where the hospital can retain 20% to 60% of each loss up to \$1 million less its retention for an appropriate credit.

This is available under both the specific excess option and the combined specific excess/aggregate stop-loss option.

The underwriting and rating process is based on the evaluation of several key factors related to the underlying risk management program. Four evaluation reports covering six areas of the underlying program will be prepared for analysis by Schinnerer & Co.

When a hospital applies to the hospital catastrophe program, it must provide Schinnerer with its most recent annual report, financial statement of the self-insured trust, description and copy of the trust agreement and an actuarial study supporting the funding of the self-insured trust program. The

hospital must also supply its financial prospectus used for raising funds, organizational chart, and a verified claim history for the past five years, with specific information about the insurer, limits and premium or funding level for each year.

**Schinnerer also** requires the hospital to turn over the latest risk control survey of the hospital and a copy of the contract for risk control services, copy of the contract for claims management services and a copy of the most recent American Hospital Assn. annual survey for the last five years.

A hospital with deficiencies in any of these areas can be accepted into the program at a surcharged

rate. However, recommendations for improvements are made as the hospital enters the program. If the improvements are made at the anniversary of the policy date, the surcharge is eliminated.

All of these areas will be reviewed at the anniversary date of every hospital, Mr. Tucker noted. "When a hospital signs into this program, it makes several commitments—all of which are printed on the front page of every policy," Mr. Tucker said. The hospital promises to improve safety standards, implement and maintain an approved claims management and risk control program, supply copies of claims and incident reports required by Schinnerer, assign a risk control coordinator and disclose

appropriate underwriting and financial information requested by Schinnerer.

Mr. Tucker claimed that Schinnerer in turn would provide a loss control system based on data compiled through reviewing both primary and excess claims activity. It will be designed to assist hospital administration in providing employee education, identifying problems of patient safety and providing a better defense of claims.

"This new program gives hospitals an important and expanded role in their own insurance and, at the same time, a chance to avoid paying the large premiums based on sharing all risks and losses with other hospitals," Mr. Tucker added.

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# N.J. cities' work comp pool on back burner again

TRENTON—New Jersey municipalities hoping to pool their workers compensation exposures have been put on hold for an indefinite period as the result of a dispute over the legality of their plan.

A legislative proposal to create a state fund for excess municipal liability claims, potentially reducing the insurance woes of public entities in the state, has been on the state house back burner for over a year.

The New Jersey League of Municipalities had proposed to create a workers compensation risk pool enabling participants to self-assume the first \$125,000 exposure on a compensation claim, purchasing stop-loss coverage and administrative services at lower cost.

The proposal was developed by James S. Kemper & Co., which had begun working on the project in

mid-1977. If 12% of all municipal workers compensation premiums in the state were placed in the pool, savings of 19% would result, said Kemper executive vp Larry O. Kaddatz. A 25% participation rate would result in 26% savings, he estimated.

New Jersey's largest cities already self-insure. The proposed pooling program was intended to aid communities with populations of 10,000 to 100,000, Mr. Kaddatz said. There are about 200 New Jersey communities in that size range.

Late last year, Mr. Kaddatz received an opinion from the state attorney general's office that commingling municipal self-insurance funds is prohibited by state statute.

However, New Jersey's Interlo-

cal Service Act says whatever a municipality can do individually, it can do jointly, noted John Lazer of the state's department of community affairs. Mr. Lazer said his office intends to meet with insurance department officials and representatives of the attorney general's office to resolve the dispute.

Meanwhile, three bills pertaining to municipal insurance are in the state legislature hopper. Respectively, they would bring all statutes on municipal insurance under one section of the state code, enable municipalities to pool for self-insurance of liability and establish a state fund to assume public entity liability risks in excess of \$300,000 per occurrence.

All public entities would be required to contribute to the excess liability pool, according to a state

separate aide. If approved, New Jersey would become the first state operating such a fund for excess liability, the aide said. The proposed statute, known as the Dodd bill, would permit public entities to self-insure their primary risks below the \$300,000 threshold. Use of the state excess liability fund would ease the problems for primary insurers, who have been forced to purchase facultative reinsurance on municipal risks. A \$300,000 policy limit would eliminate much of the long-tail reserving problems associated with large claims, as well, the aide said.

Unlike the municipal league plan for workers compensation, the excess liability fund would not be voluntary and therefore would supercede questions regarding commingled self-insurance funds,

said Herman Hanssler, deputy commissioner of insurance.

However, the plan has failed to excite New Jersey legislators. First introduced in December 1977, the bill died when the session ended. It was rewritten and introduced into the 1978 legislative session but has remained in committee, said Richard Lofberg, a Teaneck broker.

Mr. Lofberg served as consultant to several school districts when unavailability of public entity liability insurance reached a crisis stage late in 1977 (*BI*, Nov. 14, 1972).

A joint insurance industry/agent marketing assistance program set up early in 1978 has enabled about 75 public entities to obtain liability coverage to date, Mr. Lofberg noted. While municipal liability coverage has become more available in New Jersey, affordability remains a problem, he added. ■

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## BI to hold work comp conference

CHICAGO—The second annual National Conference on Workers Compensation will be held here June 11 through 13 at the Hyatt Regency O'Hare, announced *Business Insurance*, sponsor of the meeting.

This symposium is intended as a forum for the discussion of problems and issues in workers compensation for corporate financial executives, insurance buyers, benefit managers, claims specialists and risk managers, as well as insurers, brokers and consultants advising others and administering programs.

The first conference was held in July 1978, drawing 158 corporate executives and experts on workers compensation from around the country. Thirty-four speakers, with audience participation, tackled subjects ranging from safety and self-insurance to federal regulation and rehabilitation.

The registration fee is \$385 for the first person from a company and 10% less for additional persons from the same company.

For registration information, write or call Taylor Lucas at Crain Education Division, 740 N. Rush St., Chicago, Ill. 60611; Phone (312) 649-5245.

## Property claims increase 62%

NEW YORK—Property and casualty insurance companies paid 62% more claims last year than they did in 1977 and the total was third highest in nearly 30 years, according to figures released by the Insurance Information Institute.

Claims payments totaled more than \$643.2 million for 41 incidents classified as catastrophes by the institute such as hurricanes, winds, tornadoes and explosions. The 1977 insured losses were \$396 million for 43 incidents.

The 1978 figure was the third highest total since 1949, the first year figures were compiled.

The most severe 1978 losses were from winter storms that struck 31 states resulting in insured damages of \$79 million.

Hardest hit states were Texas, Arkansas, Mississippi, New York and Oklahoma. Only Idaho, Nevada, Oregon, Utah and Washington were spared catastrophic losses in 1978.

The worst year for property and casualty insurers was 1965 when \$896.1 million in catastrophe claims were paid. Most of that total, \$715 million resulted from Hurricane Betsy. ■

# info for buyers

To receive materials listed in Info for Buyers, write to the name and address accompanying each item, mentioning that you saw the item offered in *Business Insurance*. Readers are invited to submit educational and promotional material of interest to risk managers and employee benefit chiefs for possible inclusion in the column. All items that are free and of interest to our readers are eligible; those available at a modest cost will be considered. Send a sample to Info for Buyers, *Business Insurance*, 740 Rush St., Chicago, Ill. 60611.

- Ebasco Risk Management Consultants Inc. is publishing a technical bulletin for **benefits and pension specialists**. The monthly publication will deal with topics such as dental insurance, Social Security integration and self-funding. For a free copy of the current issue write Joseph Caravella, Marketing Communications Consultants Inc., 100 Church St., New York, N.Y. 10007.

- RIMCO Inc. is offering a comprehensive dictionary of **insurance and reinsurance terminology**. This reference tool defines over 600 key words and phrases in layman's language. Cost is \$9.95. Write RIMCO Inc., 10300 N. Central Expressway, Dallas, Tex. 75231.

- Do you need more information about the **coordination of benefits and HMOs**? If so, Personnel Research Associates is offering an employers HMO service newsletter that should keep you up-to-date about the subject. For a free copy write Richard D. Quinn, Personnel Research Associates, 49 Oakridge Rd., Verona, N.J. 07044.

- A promotional brochure on **group health and life self-insurance** is now available from Celtic Life Insurance Co. For a free copy write Frederick J. Manning, President, Celtic Life Insurance Co., 208 S. LaSalle St., Suite 2003, Chicago, Ill. 60604.

- **Funding and Termination of Defined Benefit Plans** is a report prepared by Reymont Associates. The report covers actuarial costs, minimum funding requirements, maximum deductible limits and accounting requirements. Cost is \$5. Write D.J. Scherer, Reymont Associates, 29 Reymont Ave., Rye, N.Y. 10580.

- Are you thinking about adding **prepaid legal services** to your employee benefit package? If so, Personnel Research Associates has prepared a comprehensive report to help you. The report contains background information and describes types, trends and case studies on prepaid legal plans. The report also shows how a typical plan operates, and how to formulate one. Cost is \$11. Write Richard D. Quinn, Personnel Research Associates, 49 Oakridge Rd., Verona, N.J. 07044.

- Recent legal decisions, merger or consolidation of welfare and pension plans, actuarial requirements for self-funded health care plans, prepaid legal plans and investment management are topics examined in the **1978 Fund Advisors Institute Proceedings**. The 130-page book contains edited texts of 17 presentations given at an International Foundation of Employee Benefit Plans program. Cost is \$6 for members, \$10.50 for non-members. For more than five copies the cost is \$5.50 each for members, \$9.50 each for non-members. Write International Foundation of Employee Benefit Plans, P.O. Box 69, Brookfield, Wisc. 53005.

- A new booklet describing the

Congress, Suite 501, Austin, Tex. 78701.

- Attention hospital administrators who need a system to control the escalating costs of **malpractice insurance**. Victor O. Schinnerer & Co. and Columbia Casualty Co., a CNA subsidiary, have designed a program with an integrated approach to a hospital's liability protection program. The program is not conventional insurance but a method by which a hospital funds a risk it is capable of funding and transfers to Schinnerer/CNA the risk it cannot afford to assume. For a free copy of a brochure describing this novel approach to malpractice protection write Thomas F. Tucker, Victor O. Schinnerer & Co., 55 E. Jackson Blvd., Chicago, Ill. 60604.

- A brochure is available describing the objectives, services and the personnel of the newly-formed, minority run brokerage firm—

**Ebony International Brokerage Corp.** For a free copy write Arthur I. Golden, President, Ebony International Brokerage Corp., 775 Broadway, Suite 2411, New York, N.Y. 10019.

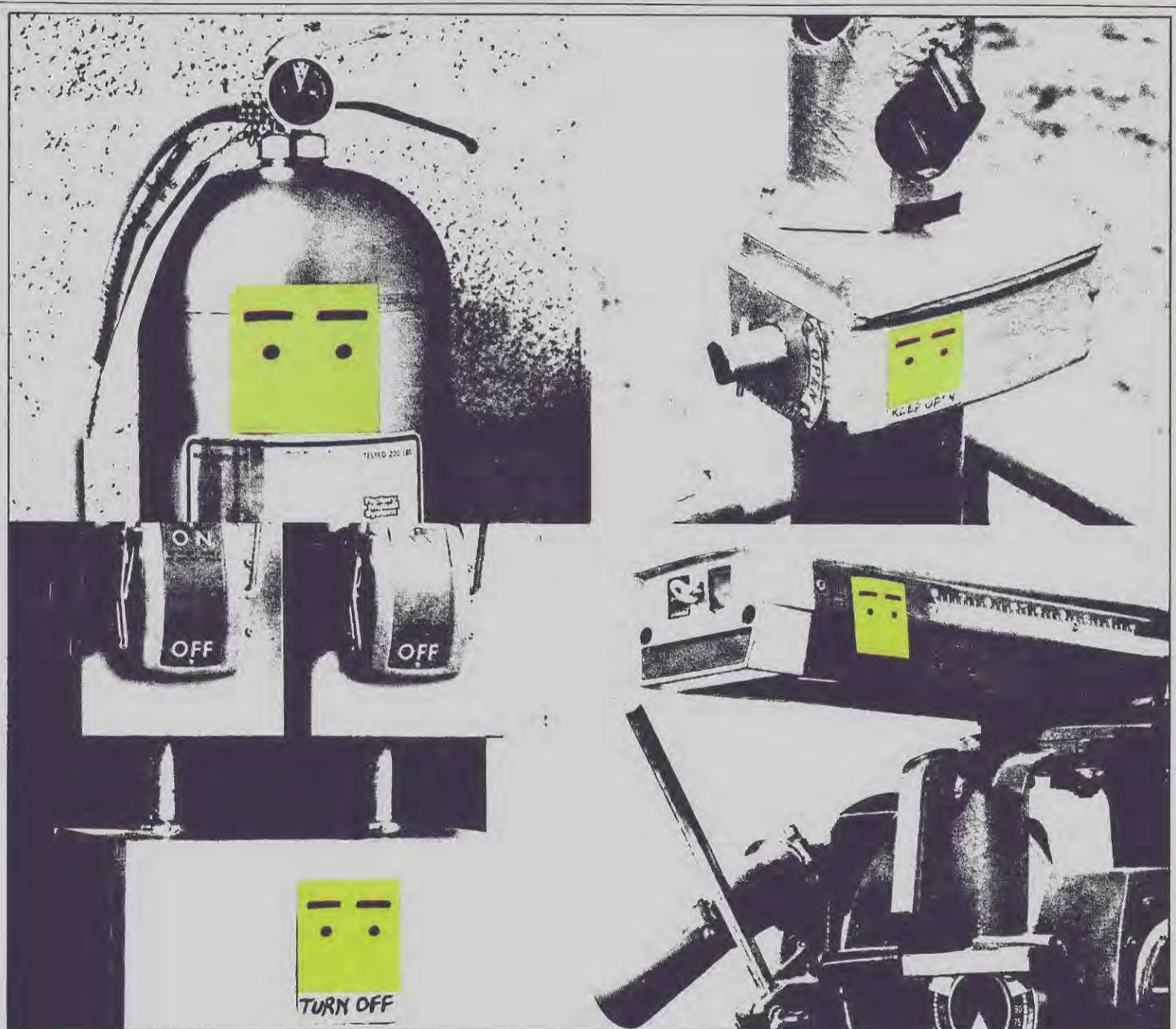
- **The Schedule of Bank Insurance** provides descriptions of various insurance policies and bonds used by banks. It refers to the Digest of Bank Insurance for each type of coverage and serves as an excellent reference source on bank insurance coverage for trustees, directors, managers and examiners. The 1978 revision of the schedule ranges in cost from \$5 for one copy for members, \$6.25 for non-members, to \$3.50 each for 11 or more copies for members, \$4.40 for non-members. For a free copy request 21-800, Order Processing Dept., 1120 Connecticut Ave., N.W., Washington, D.C. 20036.

- **You Could Look Like A Million** to someone who wants to sue

you, says a Kemper Insurance Co. brochure explaining its \$1 million personal liability policy against unusually large but increasingly frequent lawsuits. For a free copy write Communications & Public Affairs Dept., Kemper Insurance Cos., Long Grove, Ill. 60049.

- **An Insurance Buyer's Checklist for Hospitals** from RIMCO Inc. provides guidelines for hospital administrators who are seeking the best insurance program for their institution. Copies are \$10 each. Write Klaus Gebhardt, RIMCO Inc., 10300 N. Central Expressway, Suite 180, Dallas, Tex. 75231.

- A newsletter **A Close Look at National Retirement Programs: U.S. vs. Canada**, is available from Kwasha Lipton consulting actuaries and employee benefit services. For a free copy write Dept. M., Kwasha Lipton, 429 Sylvan Ave., Englewood Cliffs, N.J. 07632.



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# around the states

## Railroads liable for others' cars: Ill. court

OTTAWA—The Illinois appellate court last month reversed a circuit court decision that would have had dramatically changed the liability of railroads in train wrecks. Peoria county circuit court had held in 1976 that Burlington Northern Railroad, as owner of a defective railroad car that caused a 1972 train wreck on the Toledo, Peoria & Western Railroad, was liable for the damages of the train wreck. The decision ran counter to and in effect overturned the long-standing agreements by which the nation's railroad industry had operated under the auspices of the Assn. of American Railroads. The AAR's interchange rule No. 1 holds

that each railroad is responsible for the condition of the cars on its lines, regardless of how the railroad that owns the car maintains it. In overturning the circuit court's decision, the appellate court said TP&W was aware of the problems on the BNR car that caused the accident and assumed the risk for them by accepting the car from the Burlington. TP&W intends to appeal the case to the Illinois supreme court.

### N J. medical malpractice

TRENTON—New Jersey physicians insured for medical malpractice by captives sponsored by the

state medical society and hospital association will pay less for their coverage, according to the state insurance department. Rate reductions averaging 8.3% have been approved effective Feb. 1 on new business and Jan. 1 on renewals for coverage provided by Inter-Insurance Exchange of New Jersey, the malpractice company formed by the state medical society. The insurer covers 5,415 physicians in the state. Rate reductions for malpractice coverage for staff physicians employed by the state's 78 hospitals have also been approved retroactive to Jan. 29, 1977. The reductions in rates charged by Health Care In-

surance Exchange, a captive of the state hospital association, will vary with the type of physicians and number of specialists employed, insurance department officials said. The reduced rates reflect a change in reserving procedures to fund for actual claims rather than anticipated ones, the insurance department said. **Mont. medical malpractice** HELENA—Montana physicians are getting dividends of \$301 to \$3,001 on their malpractice insurance purchased in 1978 from Aetna Life & Casualty, the state's largest

malpractice insurer. A total of \$652,028 is being rebated to Montana doctors insured by Aetna, the largest dividend the insurer has declared since the 1974/1975 malpractice insurance crisis. Montana is one of six states in which 1979 malpractice insurance rates are being cut by Aetna. The others are Utah, Vermont, Delaware, Iowa and Wyoming.

### Legal malpractice

PHOENIX—Malpractice claims against Arizona attorneys increased steadily during the five-year period from 1972 to 1976, a survey of the State Bar of Arizona reveals. A total of 140 legal malpractice claims were filed in the five-year period: eight in 1972, 14 in 1973, 18 in 1974, 41 in 1975 and 59 in 1976. Half the claims involved substantive attorney errors and 21% were attributable to missed deadlines. The survey defined substantive errors such as negligent representation/failure to advise, negligent defense/failure to defend and negligent prosecution/failure to prosecute. Missed deadlines include such actions as failure to file a timely appeal, failure to respond to a complaint on time and failure to act within the statute of limitations.

### Property rates

SEATTLE—Washington homeowners can expect fire insurance rate reductions of 8% to 10% from many of the state's insurers and indications are commercial rates could also decline in the future. Lower rates for homeowners filed by the Washington Survey and Rating Bureau, representing about 30% of the premium volume in the state, went into effect Jan. 1. The cost of insuring a \$50,000 home could now be \$182, down from \$203 last year. Safeco Insurance Co., one of the first to drop its rates, did so last March. "A lot of it can be attributed to the campaign against arson, particularly in Seattle," said Safeco assistant vp Ron Schlattman. Better construction as well as arson control brought down rates, according to a spokesman for insurance commissioner Richard Marquardt. "It's likely that commercial accounts, although they aren't included in this reduction, will decline in the future, also based on experience rating," the commissioner's spokesman said.

### Rehabilitation

SACRAMENTO—Injured California public employees now must receive vocational rehabilitation according to a decision in the state's fourth district court of appeals. The decision stemmed from a case involving a former Santa Monica, Calif., policeman and the California state workers compensation fund. The state fund plans to appeal the decision. "The biggest problem for public entities is that they have not reserved for vocational rehabilitation," said G. David Marceau, a consultant to public entities on insurance problems. Mr. Marceau estimated that vocational rehabilitation costs between \$4,000 and \$7,000 per case.

### Firm insures ski rentals

SAN FRANCISCO—Liability insurance for ski equipment rental operators with available limits of up to \$300,000 has been announced by the Hull & Co. (California) Inc. Coverage will be available on a comprehensive general liability basis or limited to ski rentals.

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# Calif. grants credits in third-party work comp suits

By JOANNE GAMLIN

SACRAMENTO—In a four to three decision Jan. 11, the California supreme court extended the doctrine of comparative negligence into workers compensation cases by allowing an employer credits or reimbursement under the Labor Code, based on an employee's recovery from a third party.

However, the high court's majority opinion specified that an employer's recovery is limited to the extent that the employer's liability in a workers compensation case exceeds responsibility for the employee's full tort damages.

The case in question involved Associated Construction & Engineering Co. of California vs. Workers Compensation Appeals Board and Jeffery L. Cole. California introduced the doctrine of comparative negligence as a system to replace the older doctrine of contributory negligence in the

1975 case of *Li vs. Yellow Cab Co.* (*Business Insurance*, April 21, 1975.)

The high court's decision is significant not only in introducing the concept of comparative negligence to workers compensation cases but also in modifying two older decisions which prevented a negligent employer from obtaining any credit toward future workers compensation liability when an injured employee recovers from a third party.

According to court documents, Jeffery L. Cole was a carpenter for Associated Construction & Engineering Co. of California when he seriously injured his right ankle. Associated Construction & Engineering, at the time, was insured by the California Compensation & Fire Co. After collecting temporary

disability payments of \$6,144.87, Mr. Cole brought suit against a third party, Napp Systems U.S.A. Inc.

Once the suit was settled for \$60,000, with the plaintiff-employee receiving \$40,000, Mr. Cole sought a permanent disability award. The workers compensation judge found that he had sustained a permanent disability of 29% representing a total monetary award of \$8,085, of which \$2,270 had previously been advanced by the employer.

Associated Construction then claimed a credit against its workers compensation liability under Labor Code section 3861 for Mr. Cole's \$40,000 net recovery in the third-party action. Such a credit, according to the high court document, would have wiped out the firm's further workers com-

pensation obligation.

The employee pleaded that his employer had concurrent negligence serving to prohibit the credit, relying on an older legal decision. But Associated Construction maintained that the old "all-or-nothing" rule of contributory negligence had been modified by *Li vs. Yellow Cab*. It asked the judge to reduce its credit only in accordance with its comparative fault.

The judge decided that the older decision was still valid and the workers compensation appeals board adopted this stance. Thus, confronted with an award of permanent disability benefits unaffected by the plaintiff-employee's substantial third-party recovery, Associated Construction petitioned the high court to review the

board's decision.

In writing the majority opinion, supreme court Justice J. Mosk said adoption of the doctrine of comparative negligence will not unduly complicate the work of the appeals board. Further, he denied that permitting partial credit will encourage employers to maintain only "half-safe" work environments.

"An employer will obtain a reduction in its workers compensation liability only if its degree of negligence is so small that its statutory liability exceeds its percentage share of the tort measure of damages," he wrote.

"In any event, there is no safety disincentive in a system that holds the employer responsible for its full share of tort damages before any credit against workers compensation benefits is allowed." ■

## dates

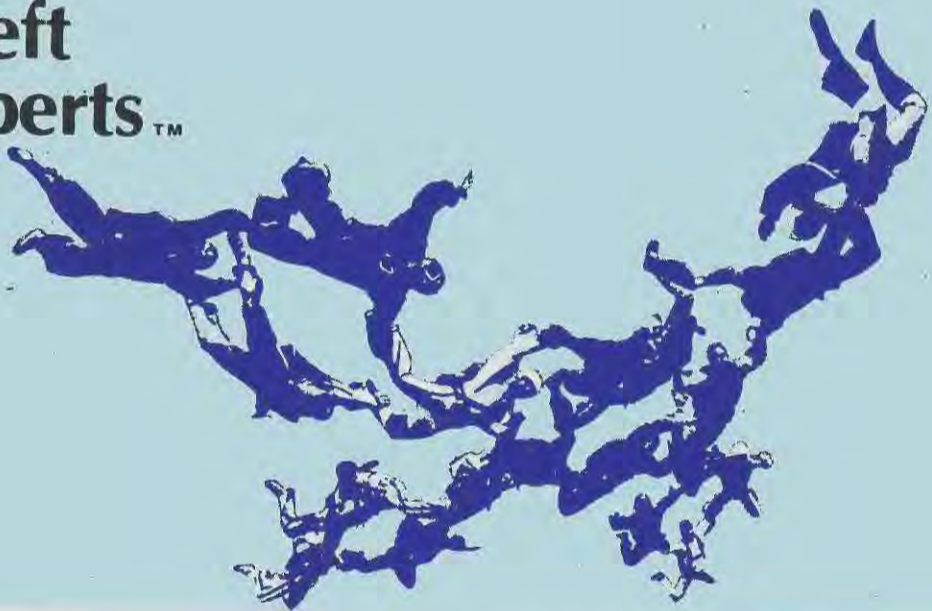
**FEB. 27-MAR. 2.** The U.S. Environmental Protection Agency, the California Dept. of Health Services and the California Chemical Waste Processors Assn. are sponsoring in San Diego the second national conference on the **management of hazardous materials**. The conference is designed to give an in-depth look at the field from a technical, managerial, regulatory, political, environmental and public viewpoint. Contact O. James Pardo, Executive Director, P. O. Box 214878, Sacramento, Calif. 95812.

**MAR. 1-2.** The Province of Manitoba is sponsoring a series of five **health and safety seminars** targeting the construction industry. The programs are designed to develop a sound approach to accident prevention and an understanding of on-the-job safe work practices and procedures that will help prevent or control accidents and create a safety awareness in all personnel. Cost is \$15 per person for the two-day seminar and \$10 per person for the one-day seminar. Contact the Province of Manitoba, Dept. of Labor, Workplace Safety and Health Division, 204-301 Weston St., Winnipeg, Man. R3E 3H4.

**MAR. 7-8.** International Risk Management Consultants will present a two-day advanced seminar in Dallas on the **reduction of construction insurance cost**. The advanced seminar is a supplement to a basic program on the same subject. The seminar is designed to give participants an opportunity to fine-tune their insurance program and take an in-depth look at insurance costs and coverage techniques. The program will be repeated in Los Angeles, **March 15-16**; Chicago, **April 5-6**, and Washington D.C., **April 19-20**. Cost is \$395 for individuals; \$345 for each person of a three-person team. Contact RCI Communications Inc., 10300 N. Central Expressway, Suite 350, Dallas, Tex. 75231; phone 214-363-9656.

**MAR. 12-13.** The third annual **claims conference** will be held in New York. Seminars and panel discussions on fraud investigations, rehabilitation, residual disability claims, punitive damages and the courtrooms, no-fault, medical and disability insurance and professional management of claims are scheduled. Contact Neal Jones, Beneficial National Life Insurance Co., 2 Park Ave., New York, N.Y. 10016; phone 212-889-4141.

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# people

## Tarr moves to church from university

**Stanley R. Tarr** left Rutgers University where he was director of risk management for 15 years to become vp of the insurance arm for the United Methodist Church in Chicago. The nonprofit organization, Educational and Institutional Insurance Administration Inc., handles risk management for Methodist churches and universities. In the newly created position, Mr. Tarr reports to Robert Foote, principal of the firm. The organization plans to form a captive insurance company, Mr. Tarr said. Rutgers University is seeking Mr. Tarr's replacement.

**John F. Ross**, 38, has joined HFC Corp. in Chicago as the holding company's first corporate risk manager. He is also risk manager for the financial subsidiary Household Finance Co., whose revenues amount to 50% of the holding company's. HFC's subsidiaries include National Car Rental, several hardware store chains, manufacturing companies and Alexander Hamilton Life Insurance Co. Mr. Ross is developing a corporate risk management philosophy for the companies, which each have local risk management responsibilities. He reports to James Pinkerton, executive vp of administration. Previously, Mr. Ross was director of insurance and risk management

for Nalco Chemical Co. in Oak Brook, Ill. **Fred R. Dietz** has replaced him, reporting to R.M. Bloom, vp and controller. Mr. Dietz is responsible for implementing corporate property and casualty programs. He was previously with CLC of America Inc. in Chicago as corporate risk manager. CLC recently closed its Chicago headquarters to move to Houston.

At Champion International Corp. in Stamford, Conn., the benefits department has been reorganized under the direction of **Dave Schutte**, director of benefits. **John Alberto**, 27, was promoted to

manager of benefit planning and reporting from senior benefits analyst. His added responsibilities include employee benefit communications and government agency reporting. Mr. Alberto retained duties assisting the corporate labor relations staff and business units in benefit plan design and implementation as well as working on plan costs and analysis. Two additional benefit analysts report to Mr. Alberto in the reorganization. **Sarah Mullady**, 50, was promoted from senior benefits analyst to project manager in charge of development and maintenance of benefit policies and projects in health care cost control studies. She also

implements state and federal laws affecting benefit plans. **Mike Hauer** continues as manager of benefit administration with responsibility for claims processing and recordkeeping for all benefit plans.

**Mary W. Louaillier**, 28, was promoted to risk and insurance coordinator from insurance administrator at Zapata Off-Shore Co. in Houston. Her responsibilities include primary administration of property insurance and contractual risk analysis, reporting to risk manager Jean Reynold-Lippman. Ms. Louaillier has been with Zapata since 1970.

**Gerald W. Blanchard**, 31, has been hired as insurance and claims manager at Michigan Farm Bureau in Lansing, Mich. He replaces **Jack Barron**, who joined Planet Corp., as reported. Mr. Blanchard reports to Roger Jones, vp of administrative services. He previously was office manager and bookkeeper for the A. Richard Ash Agency, representing Penn Mutual Life Insurance.

**Thomas J. O'Malley** has been promoted to insurance and benefits coordinator for Eberhard Faber Inc. in Wilkes-Barre, Pa. Previously, Mr. O'Malley was benefits clerk for four years. He reports to director of industrial relations, William S. O'Neill.

**Rita Garcia** has been promoted to director of risk management at Castle & Cooke in San Francisco. She was promoted in part because risk management has become more important due to escalating insurance costs, extension of corporate liability and an increase in self-insurance limits, according to her boss, company treasurer C.P. Rainey. Mrs. Garcia, who joined the company in 1970 and became insurance clerk in 1973, most recently was risk manager. **Dennis Taugher**, formerly assistant risk manager, has succeeded her.

**Charles A. Abbick**, 41, is building an insurance department for Milwaukee-based Clark Oil Co. as the company's director of corporate insurance, a new position. Reporting to chief financial officer Jack Bruss, Mr. Abbick is bringing together insurance functions that were scattered throughout legal, real estate, treasury and human resource departments. Previously, the insurance department consisted of a director of claims, **Marvin Faust**, and a claims manager, **Vincent F. Domine**. Mr. Faust has left the company while Mr. Domine has been promoted to insurance manager. Under Mr. Abbick's direction, the insurance department has been expanded to six staffers. Mr. Abbick previously was manager of general insurance for Gould Inc. in Rolling Meadows, Ill. Gould hasn't replace him.

**Kerry Clem**, a December 1978 MBA graduate of the University of Georgia, joined Esmark Inc. in Chicago Jan. 1 as associate risk manager, a new position, reporting to Gary Bausom. His responsibilities include administration of casualty programs, including workers compensation, auto, general and product liability.

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# Blue Cross's life bid . . .

Continued from page 1  
acquisition. "Once a review of the statutes revealed that the Blue Cross plan was authorized to provide only comprehensive health care coverage, the commissioner did not take the matter further," the insurance department's attorney said.

John J. Kennedy, vp of marketing for the Connecticut plan, admits that Blues officials are very disappointed the plan will not be allowed to participate in the life insurance marketplace.

Meanwhile, there are reports that people at the Blues consider the decision more than a little disturbing, especially since the acquisition would have met all the requirements under the holding company laws.

Blues officials feel—and the insurance department after a cursory examination agrees—that:

- The proposed acquisition would not have deterred American Professional Life Insurance Co. from being licensed to write a line of insurance it was licensed to write prior to the acquisition. (But ironically the company didn't have any licenses to write any lines of insurance at the time.)

- The acquisition would not have jeopardized the financial stability of the subsidiary.

- Post-acquisition activities would not have had any impact on the shareholders of American Professional, since the sole shareholder is the seller, who would cease being an owner.

The insurance department, however, did not feel that the Blues acquisition met the last requirement under the holding company law which states that an acquisition must be in the "public interest." A Blues acquisition would not be in the public interest, said Mr. Boucher, chief counsel for the department, simply because selling life insurance is not authorized under the statutes. Consequently, it would have been illegal.

## One-stop shopping

Ralph Elliott, a Dover attorney who represented the seven insurance companies—Aetna, Travelers, Connecticut General, Hartford Fire, Prudential, Metropolitan Life and John Hancock—when they opposed a Blues entry into the life insurance market, takes the interpretation of the decision even further.

"Blue Cross is given preferential treatment—exemptions from all taxes except premium tax, hospital differentials, exemption from insurance regulation," Mr. Elliott said. "The legislature gave the plan special status, but in return imposed a limitation on the kind of business the Blues could market."

To allow the Blues to engage in marketing life insurance without the approval of the legislature would have been a violation of the equal protection laws of the Constitution, Mr. Elliott argued.

However, reports are also circulating that Blues attorneys are questioning the soundness of a decision that hangs on this point alone without consideration to the overall advantages such an acquisition would bring to small and medium sized employers.

Blue Cross & Blue Shield of Connecticut Inc. decided to buy American Professional, Mr. Kennedy elaborated, to extend a "one-stop shopping" feature to small and medium sized employers.

"Unions and large corporations are sophisticated buyers—they shop around for health, life and accidental death and dismemberment policies until they find one where the price and level of benefits are right," Mr. Kennedy explained. "The small guy, however,

finds it more appropriate and desirable to deal with one supplier."

The Blue Cross plan simply wants to increase its ability to write a package of life insurance and accidental death and dismemberment coverage, but providing Connecticut employees with comprehensive health care would still have been the primary objective of the plan.

## Effect elsewhere

Despite the insurance department's assurances that the decision is limited, applicable only within the borders of Connecticut, Mr. Kennedy, vp of marketing for the Blues plan, is concerned that insurance regulators and insurance company executives will look upon the decision in Connecticut as a precedent.

"The state of Connecticut is the

insurance capital of the world—a decision here is looked upon as a precedent, like it or not," Mr. Kennedy noted.

Even Mr. Boucher reluctantly admits that the Connecticut insurance department has been flooded with requests for a copy of the decision from other insurance departments and insurance industry representatives.

Some Blues officials are still wondering why this controversy surfaced in Connecticut when Blue Cross and Blue Shield plans have acquired life insurance companies in the past. Presently, Blues plans in approximately eight states own life subsidiaries—Illinois, Texas, Ohio, California, South Carolina, Minnesota, Colorado and Wisconsin.

Insurance regulators in these states where Blue Cross owns life insurance companies have received no complaints from the insurance industry about Blues subsidiaries. And these insurance reg-

ulators attested to the fact that Blues in the life marketplace does not pose any regulatory problems for the states.

## Already in business

Last year, Fort Dearborn, the subsidiary of Chicago's Health Care Service Corp., reported \$852,000 in profits on the parent company's initial investment of \$3.3 million. It expects to maintain that pace this year. Fort Dearborn boasts of \$1 billion of life insurance in force and a license to operate in 16 states.

Group Life & Health of Dallas, believed to be the second most profitable life insurer owned by a Blue Cross & Blue Shield plan, has \$3.2 billion of life insurance in force and is licensed in three states.

The most recent Blues acquisition was made by Ohio Medical Indemnity (Blue Shield of Ohio) when it purchased the Mansfield Insurance Corp. and started mar-

keting group life insurance at the beginning of the year.

Most insurance regulators refused to comment on the actual decision in Connecticut, saying that it doesn't apply in their particular states. However, all regulators contacted by *Business Insurance* recognize that this decision will have a profound impact on future Blues acquisitions. As a spokesman for Ohio's insurance department noted, "insurance companies are now aware that they can oppose Blues market expansion into other areas." Acquisitions that may have been overlooked last year will now attract closer scrutiny by competitors, he added.

"Quite frankly, we're a little confused as to why the insurance industry in other states has not raised these questions before we did," pondered John E. Ahearn, counsel for Aetna Life & Casualty Co. "I think it's possible that the ramifications of such a move have simply been overlooked." ■

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## Senator . . .

Continued from page 1  
quirements for the "subscriber" membership class.

In addition, he proposed to extend time limits on claims against insolvent syndicates, changing the liquidation order for an insolvent syndicate's assets and eliminating certain exclusions on security fund guarantees against insolvencies.

Sen. Dunne doesn't plan to hold any public hearings on his new proposals because of "the light turnout" at hearings held by the insurance department during 1978. But his latest revelations appear to have caught some observers by surprise, particularly his displeasure with parts of the proposed constitution. An aide to Governor Hugh Carey, a backer of the exchange, groused that all proposals, records of discussions and the final proposed draft of the constitution have been available to Sen. Dunne since mid-December.

Sen. Dunne himself had agreed to the 45-day legislative review period for the draft constitution and bylaws. "He should abide by those rules," said the governor's aide.

Any delay in approving the constitution and bylaws governing the operation of the exchange could thwart plans to begin moving by April to get the exchange operations established.

All of this is notwithstanding the added time Sen. Dunne now believes is needed to set up support facilities for the exchange if it is to be effective. His week-long tour through Lloyd's in late January apparently impressed upon Sen. Dunne the necessity of slowing down and doing the job properly, so the exchange is sure to have efficient administrative capability.

"I was surprised at the amount of work Lloyd's puts into its backup services," he told *Business Insurance* while still in London. "The New York exchange, like any insurance center, is clearly going to need the same sort of extensive facilities. It might turn out to be less effective if it doesn't have the same wide range of services I saw for myself in London. We have waited so long for this in New York that we don't want it to open precipitately. It is becoming clear to me as a result of my trip to London that an administrative setup as comprehensive as that at Lloyd's cannot be put into effect overnight. I would think a realistic figure for the time it might take to install the full extent of these facilities in the New York exchange and to deal with related matters would be 18 months."

It's possible that Sen. Dunne's new doubts about the proposed constitution involve provisions for the exchange's security guarantee fund, since he indicated while in London that he might have to "re-examine parts of the constitution" relating to management of the guarantee fund in light of his visit at Lloyd's.

"We have got to have (a security guarantee fund) that will fully meet all claims and which is an adequate substitute for the unlimited liability that Lloyd's provides," Sen. Dunne said.

He cautioned against "undue haste" in trying to launch the exchange, and noted "we may have to put in some additional provisions with regard to the startup of operations."

Donald Kramer, architect of the New York Insurance Exchange and an influential member of the Committee of 13, reacted to the prospect of delays with dismay, warning that any slowing of the momentum that has been building could seriously hurt the insurance exchange's chances for success.

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# Campus . . .

*Continued from page 1*  
Alameda County Superior Court seeking reversal of the board of regents decision to appoint Mr. Anderson director of risk management and "is giving thought" to libel action at the same time. The possible libel action stems from an unfavorable report on the university's risk management made last year by an inter-

university task force. Mr. Deness, who continues to work in the university's risk management department, said "Our aim is not to take the job away from Mr. Anderson but to restore my reputation," which he claims was badly damaged in the risk management recruitment process.

Twice last year the university sought to fill the director's position, advertising both times and inviting Mr. Deness to apply each time. Mr. Deness said he was told he was one of the finalists for the job during the recruitment effort. When the first recruitment effort failed, the proposed salary for the position was increased to the mid-\$40,000 range from the \$30,000 to \$35,000 originally offered.

In his new position, Mr. Anderson reports to the assistant vp-business management. It's not known what, if any, added responsibilities Mr. Anderson will assume.

# Court rules sexes earn same benefit

By JERRY GEISEL

PORTLAND, Maine—In April 1978, the Supreme Court ruled in a landmark case that it is unlawful for a pension plan to require women to contribute more than men to receive the same benefit.

Now a U.S. court of appeals has gone one step further and said if unequal contributions are unlawful then it is also discriminatory for an employer to operate a plan in which male and female contributions are equal, but in which women receive smaller benefits than men.

At issue was whether pension plans could pay smaller pension benefits to women since studies show that women on the average live longer than men and thus receive pension benefits over a longer period of time.

The case involved a money purchase pension plan operated by Colby College, a small liberal arts college in Waterville, Maine. Under the plan, men and women employees made equal annual contributions toward their retirement benefits.

When an employee retired, the college purchased an annuity from the Teachers Insurance Annuity Assn. and College Retirement Equities Fund with the premiums the employee contributed during his or her years of employment.

However, the monthly annuity benefit that a female received was smaller than the male's monthly benefit even though the same amount of premiums had been contributed. Colby College contended the difference in annuity benefits was based on the actuarial fact that women live longer after retirement than men and thus collect pension benefits over a longer period of time.

But the appeals court ruled that the Colby plan violated the Civil Rights Act of 1964 forbidding sex discrimination against any individual in employment practices and compensation.

Thus, while women as a class may outlive men as a class, there was no assurance that any individual woman employed by Colby College would fit the generalization on which the monthly annuity benefits were based. As a result, sex discrimination was involved since an individual woman might not outlive an individual man, yet she would receive a smaller monthly benefit.

"The case represents a continuation of the trend toward eliminating any appearance of sex discrimination in pension plans," noted Richard Sears, a partner at Kwasha Lipton, the national consulting firm.

The impact of the decision is limited to colleges around the country maintaining defined contribution plans similar to Colby's. Most other employers maintain defined benefit plans in which the monthly retirement benefit for men and women are equal.

# New campus liability risk plan

A new "combined per occurrence program" for professional, medical and hospital liability—the first of its kind in California—has been established at the University of California, according to Stephen J. Deness, who until last month was acting systemwide risk manager for the university's nine different campuses.

The program includes a \$5,000 shared deductible per occurrence, and resulted in a \$1.3 million savings on medical malpractice insurance premiums for the university, Mr. Deness told a workshop meeting of the Northern California chapter of the Risk & Insurance Management Society.

To fund losses within the deductible, a \$1 million trust fund was established with Bank of America. The university then pays the first \$200 of each claim, plus 50% of the next \$10,000 loss.

In exchange for the deductible, a premium discount of \$1.6 million was negotiated with Truck Insurance Exchange, member of the Farmers Insurance Group, primary insurers of the university's malpractice program.

The Farmers Group has been providing coverage for the university through the California Hospital Assn. for the past five years.

Excess insurance written by several insurers including Lloyd's and associated underwriters, National Union Insurance Co. and Fireman's Fund Insurance Co. provide the university with liability limits of \$25 million.

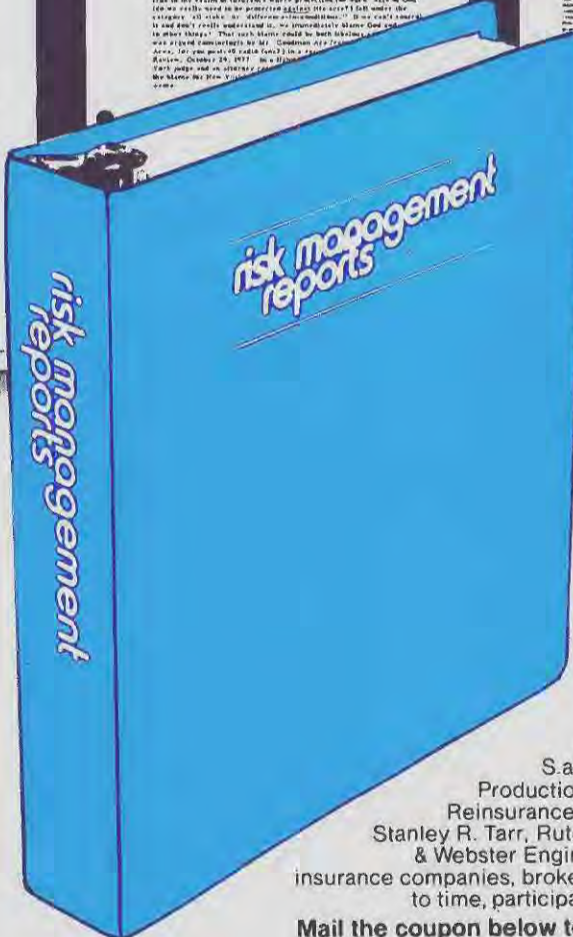
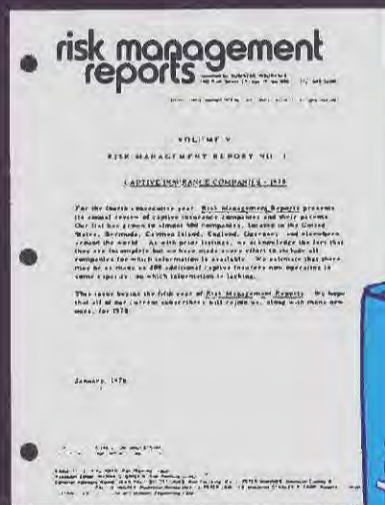
Premiums for the coverage reached a maximum \$16.9 million in fiscal 1976-77. However, "legislative trends and the university's strong risk management posture," Mr. Deness said, made it possible to negotiate lower premiums which total \$14.9 million for fiscal 1978-79.

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## Model liability bill . . .

Continued from page 1

form itself. "Instead of reforming the tort system, the bill only identifies it," charges Edith Lichota, assistant treasurer of the Carborundum Co. There is an urgent need for a model bill, she said, but "this isn't it."

The model bill, which was unveiled last month, is designed for state adoption. It is an attempt to end current inconsistencies from state to state in the tort litigation system—a factor causing uncertainties in measuring product risks and contributing to the rise in product liability insurance premiums.

These uncertainties would be eliminated through a uniform product liability law that would give insurers the predictability they say is needed to assess and quantify product exposures.

Major provisions of the model bill include:

- Wholesalers and distributors generally are not liable. They could only be in a product liability suit if the manufacturer were insolvent or if they had a reasonable opportunity to discover a product defect that caused an accident.
- Manufacturers could not be held liable if a product is altered or modified without their permission and the alteration caused the accident.
- State of the art becomes a stronger defense.
- In most cases, products are presumed not defective after 10 years.
- Manufacturers are responsible only for the "useful safe life" of their products.
- Pain and suffering damages generally are capped at \$25,000.

• A judge determines the amount of punitive damages.

• In some cases, an injured worker could collect the full loss of wages from his or her employer, rather than just the workers compensation benefit, and no longer be able to sue the manufacturer.

### Employer liability

Insurers are very concerned about the last mentioned section of the bill. That radical alteration of the workers compensation system would come into play if the accident occurred more than 10 years after the product that caused the injury was first sold and if the employer failed to properly maintain the product. An employee could no longer sue the manufacturer.

"On first blush, the section that brings an employer into a workplace injury suit raises very serious concerns," said Dennis Connolly, counsel for the American Insurance Assn. in New York. "We are

very concerned about bringing an employer into the tort litigation system. I'm not sure whether it is worthwhile."

But John O'Sullivan, senior vp at Marsh & McLennan in New York noted that making the employer responsible for a greater share of the cost of the worker's injury would give companies "an incentive for risk prevention that didn't exist before. . . . The employer would now have an additional exposure above and beyond workers compensation."

However, government sources concede that the section of the bill dealing with workplace accidents is weak and say it will be revised. They would not say what they have in mind.

Some business groups were disappointed that the Commerce Department didn't propose an elimination of a manufacturer's liability after a certain number of years—probably 10—from the time a product was first sold. The Commerce

bill says products are presumed not defective after 10 years and after that it would be up to the plaintiff to provide "clear and convincing evidence proving otherwise."

"We feel that a rebuttable statute of repose will not provide the predictability that a fixed time statute of repose would offer," said James Buente, insurance committee executive for the Pennsylvania Chamber of Commerce in Harrisburg.

But Washington attorney Richard Fay of Reed, Smith, Shaw and McClay said a bill with an absolute time cutoff for liability would be unacceptable to consumer and other powerful groups and would endanger the acceptability of the entire bill.

### Pain and suffering

In addition, a rigid time limitation on manufacturers' liability would arouse intense opposition because it would doom some meritorious claims and could "significantly diminish the incentive for risk prevention," noted Mr. O'Sullivan of Marsh & McLennan.

Most observers approve of the \$25,000 limit for "pain and suffering" that would be imposed unless a plaintiff suffered permanent serious disfigurement, impairment of bodily function or permanent mental illness.

"The cap on pain and suffering probably will be looked upon favorably in the business community since this is something very difficult to quantify equitably," said Mr. Lee of the Chamber of Commerce. But Mr. Lee, along with other observers, questions whether such a limit could survive a constitutional challenge.

There also is some doubt about whether the Commerce proposal to establish arbitration boards to decide cases where damages involved are under \$30,000 would actually work. Mr. Buente of the Pennsylvania Chamber of Commerce believes it might be difficult to recruit the appropriate experts.

Mrs. Lichota of the Carborundum Co., also complains the Commerce Department proposal falls short of also limiting the scope of punitive damages. "It still doesn't make punitive damages dependent in any way on the size of compensatory damages so that theoretically even though you have a judge assessing damages, you could have punitive damages greatly exceed the amount of compensatory damages and that has been a major problem," she said.

### Punitive damages

Other observers took the proposal to task for failing to require that punitive damages go into a general rehabilitation fund rather than to the plaintiff. Victor Schwartz, the Commerce Department official who led the drafting of the bill, said there would be legal problems with funneling punitive damage awards into a general fund.

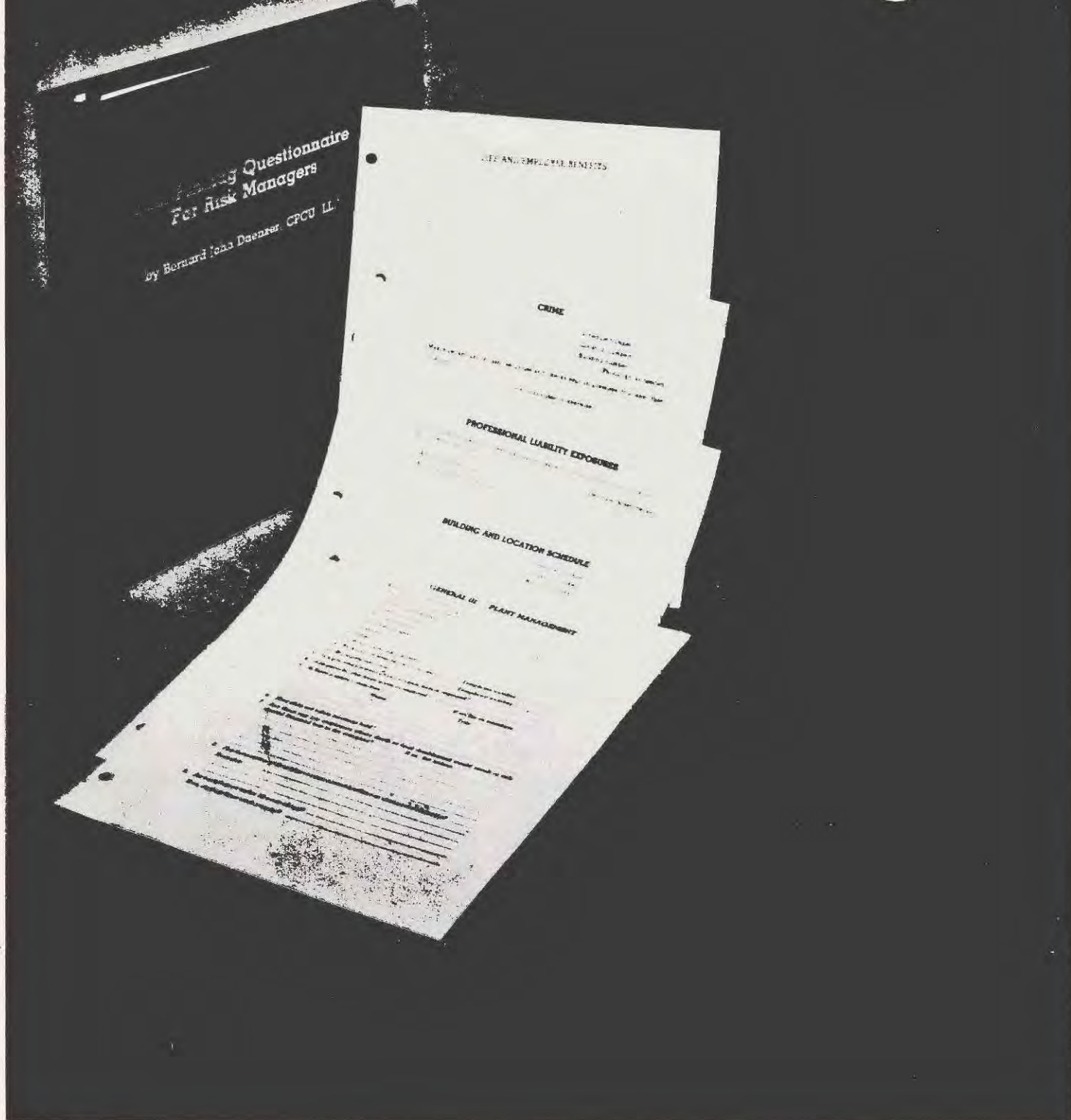
Insurers declined to speculate on the possible effect passage of the model bill by the 50 states would have on product liability insurance premiums.

In addition, a crucial variable that would shape the impact of the model bill on premiums would be how the courts interpret the various provisions, Mr. Connolly said.

But Mr. O'Sullivan of Marsh & McLennan believes passage of the model bill in the major industrial states would probably stabilize premiums because underwriters' preception of the tort law would change. No longer would isolated, unreasonably decided cases be considered trend, he said.

The introduction of the model bill should end the nearly three-year-old debate on whether the states should act to change their tort laws without waiting for Congress to pass a federal bill. ■

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# business insurance

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