

business insurance

Week of January 14, 1980

Extended coverage: Insuring real estate

Commercial property managers act as insurance brokers and risk managers for their real estate clients. **Page 6.** An insurance broker warns, however, that property managers may not land the best deal. **Perspective, page 21.**

First BI ticker

The first of biweekly industry stock reports charts 1979 results and begins tracking 1980 performance. **Page 29.**

the weekly newspaper of loss prevention, risk financing & benefit management / \$1 a copy; \$20 a year

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Soviet conflict exposes big losses



By STUART EMMRICH

NEW YORK—American companies doing business with the Soviet Union are anxiously waiting to see if President Carter's proposed trade embargo will stick them with cancelled contracts and multimillion dollar losses.

Although most company spokesmen say it is still too early to gauge the impact of Carter's action against the Communist country—especially while a clarification on what "high technology" items will be banned is still awaited from Washington—they concede that most of the losses incurred probably would not be covered by their insurance policies.

Uninsured losses may be covered by the government, however, according to a spokesman for the Commerce Department. Although the Commerce officials say they have yet to work out a formula or criteria for payments, they announced last week that they were considering indemnifying private firms for any losses as a result of the ban on exports of high technology products.

Afghanistan invaded

The U.S. is retaliating against the Soviet invasion of Afghanistan with a trade ban.

National Broadcasting Co., which has bought the rights to broadcast the summer Olympics from Moscow, is already insured by Lloyd's of London against lost payments to Russia if NBC loses its broadcast rights. It would recover 85% of its \$61 million payment to date to Russia.

Political risk insurance is available to companies with investments in Russia, primarily through American International Group and Lloyd's of London.

Neither the Overseas Private Investment Corp. nor the Foreign Credit Insurance Assn. underwrites risks in Russia. But both have written insurance on ventures in Afghanistan, the country whose internal strife and Soviet troop involvement spurred President Carter's sanctions against Russia.

OPIC, which underwrites risks on operations in underdeveloped countries, has an exposure of \$636,000 against expropriation and war, according to Carol Bernstein, vp for insurance. "Things don't look too good right now," Ms. Bernstein said. But OPIC hasn't yet decided if it will have to pay any losses, she added.

The Foreign Credit Insurance Assn., a private insurer of overseas exports which doesn't insure any business with Russia because Congress excluded Russia in FCIA's charter, has an exposure of \$74,000 in Afghanistan.

Continued on page 28

Congressional report

Curb medical use with a benefit tax

By JERRY GEISEL

WASHINGTON—Slapping a limit on the amount of tax-free group health insurance benefits companies can provide to their employees could restrain the raging fires of medical care cost inflation, according to a government report released this month.

One of the simplest ways of curbing health care cost inflation would be to limit to a flat amount—preferably near the cost of a health insurance plan with high co-insurance—tax-free health insurance benefits that employees can collect from their employers, said the report published by the Congressional Budget Office.

The report is expected to add support for the small but growing movement in Congress to alter or remove the tax shield on employer-paid health insurance benefits.

Rep. Al Ullman (D-Ore.), the

powerful chairman of the House Ways and Means Committee, already has introduced legislation (H.R. 5740) that would require employees to pay federal income taxes on health benefits if their employer paid more than \$120 a month for family coverage. The tax would be on the insurance premium over \$120 (BI, Nov. 12, 1979).

The Congressional Budget Office supports Congressional leaders, such as Mr. Ullman, who argue the lack of a ceiling on tax-free health insurance benefits has inflated the demand for health care services, resulting in spiraling costs.

"The tax exclusion encourages employees to buy more health insurance coverage than they otherwise would and this encourages more frequent use and more elaborate forms of medical care," the report said.

Placing a limit on tax-free group

Continued on page 28

Hooker's Liability Limits

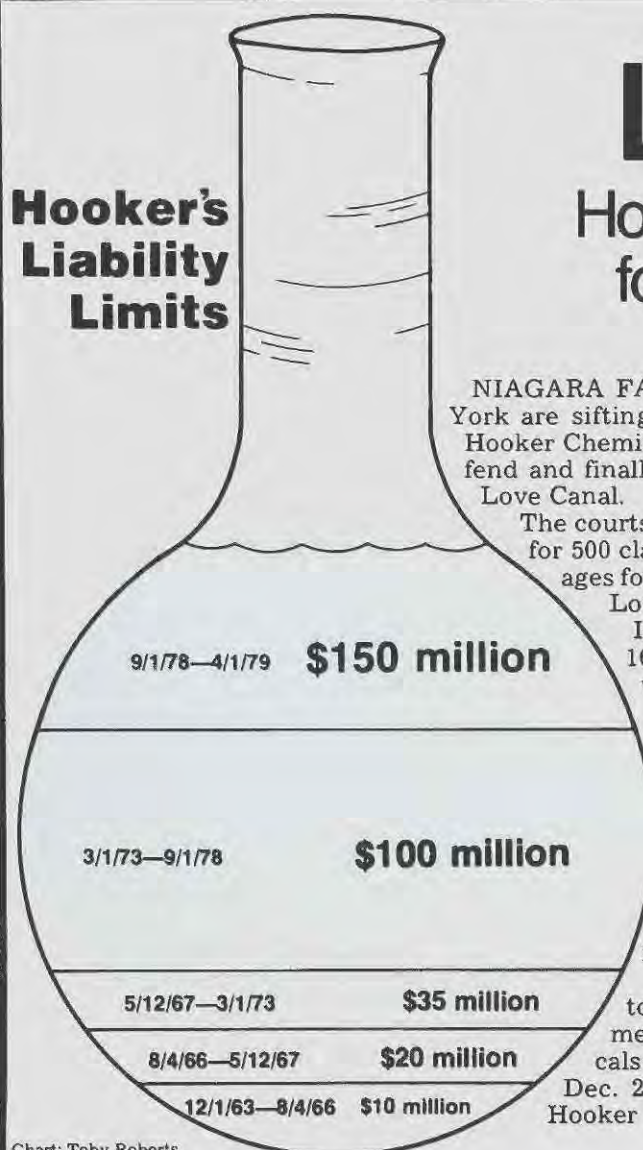


Chart: Toby Roberts

Love Canal:

Hooker battles insurers for pollution coverage

By ELLIS SIMON

NIAGARA FALLS, N.Y.—Courts in California and New York are sifting through 140 insurance policies covering Hooker Chemical & Plastics Corp. to decide who will defend and finally pay claims arising from the pollution of Love Canal.

The courts could decide none of the insurers is liable for 500 claims seeking more than \$10 billion in damages for pollution and resulting property damage in Love Canal, a community in Niagara Falls.

Insurers who underwrote policies spanning 16 years are tangled in a web of litigation in which they and Hooker are suing, countersuing and seeking injunctions against each other in the two courts.

Also named in the 500 damage suits against Hooker and its parent company, Occidental Petroleum Co., are the city of Niagara Falls, Niagara County and the Niagara Falls School District, said Richard Lippes, a Buffalo plaintiff's attorney who claims to be handling about 90% of the suits filed.

More than 237 families in Love Canal had to abandon their homes when state environmental officials found cancer-causing chemicals leaching into the soil and basements (BI, Dec. 25, 1978). The chemicals were dumped by Hooker between 1947 and 1952 into a landfill built

Continued on page 27

**Pinto trial begins
Page 2**

for your information

Lloyd's may repeal its limit on foreign ownership of broker

LONDON—Lloyd's of London may repeal its 20% limitation on foreign ownership of its brokers, according to observers here. The committee has scheduled its final decision for April in response to Marsh & McLennan Cos. Inc. attempt to purchase C.T. Bowring.

The decision will follow a special study of Lloyd's rules commissioned by the institution's governing body.

C.T. Bowring & Co., Ltd., parent company of Lloyd's of London broker C.T. Bowring, is expected to respond this week to a controversial Marsh & McLennan Cos. Inc. offer to buy the firm for \$277.2 million and stock.

Bowring—which publically decried any purchase by M&M ever since their profit-pooling negotiations collapsed last month—failed to stop the offer with a lawsuit. Bowring tried to restrain M&M from filing the required financial data with the U.S. Securities & Exchange Commission (BI, Jan. 7).

The M&M offer, which was announced 72 hours after a U.S. District Court judge denied the Bowring request, was made pending the approval of the M&M board of directors and on the condition that "Bowring agrees not to frustrate a proposed offer," according to a formal M&M statement.

If Lloyd's votes to hold its position against foreign ownership, brokerage observers say Marsh & McLennan may follow the model established last year by U.S. broker Frank B. Hall & Co.

Hall purchased all of the parent firm of Lloyd's broker Leslie & Godwin but resold 75% of the Lloyd's division to a British holding company by agreement with Lloyd's.

The British Office of Fair Trading has also started a preliminary investigation of the offer, a mandatory review under U.K. law. The Fair Trading Office will decide whether or not to recommend referral of the merger proposal to the British Monopolies Commission.

Nuclear plants face shutdown

WASHINGTON—The more than half of the nation's nuclear reactor plants that failed to meet a Jan. 2 deadline to implement required safety changes risk being shut down altogether if they don't comply with the Nuclear Regulatory Commission's directives by "the final, absolute cutoff" date of June 1.

Only around 30 of the nation's 68 plants met the January deadline to make safety and maintenance procedure changes recommended by a staff report commissioned after last March's Three Mile Island accident, an NRC spokesman said. Although most of the changes were minor ones, such as making valve regulators easier to read, the plants have reported problems in getting deliveries of the needed equipment.

Chase plots rising medical bill

BALA CYNWYD, Pa.—The medical care cost component of the Consumer Price Index, to be higher this year and next than in any postwar year since 1975, is an underestimate of true medical care costs in the United States, according to David D. Hemley, director of insurance forecasting for Chase Econometrics.

Mr. Hemley said this CPI is off by about 1.5% a year because the CPI measures only out-of-pocket expenditures by individuals and two-thirds of the total medical care costs in the country are paid by third-party insurers.

Mr. Hemley predicts the following percentage changes in the CPI for medical care components in a long-term forecast, "The Next Ten Years for the Insurance Industry:"

CPI for	Percent Change				
	1978	1979	1980	1981	1982
Medical Care Prices	8.4	10.1	9.9	8.6	9.01
Physicians' Fees	8.3	9.9	9.3	8.2	8.8
Dentists' Fees	6.5	9.6	7.7	6.9	6.4
Hospital Rooms	11.0	12.7	11.6	10.8	10.6
Drugs & Prescriptions	6.9	6.7	7.8	8.1	8.4

Pension data reprieve stalled

WASHINGTON—The federal government has delayed for one year implementing a new plan allowing pension plans with fewer than 100 participants to file full compliance reports every three years instead of annually.

Concerns of plan administrators and service providers that at least one year would be required to change their internal procedures to comply with the new reporting requirements prompted the delay, a Labor Department spokeswoman said.

Under the triennial reporting regulations, small pension and welfare benefit plans are to file full financial reports (Form 5500-C) once every three years instead of annually. Abbreviated statements would be filed the other two years.

The three-year reporting requirement now will go into effect for the 1980 plan year.

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Pinto ashes

Officials of Ford Motor Co. and the county of Elkhart, Ind., inspect the 1973 Pinto in which three women

were killed in 1978. Ford is charged with reckless homicide for faulty design of the gas tank.

Pinto homicide trial fires a criminal liability debate

By ROGER ROWAND

Special to Business Insurance

WINAMAC, Ind.—Manufacturers still smarting from the explosive growth of product liability losses during the past decade are watching Ford Motor Co. and a courtroom in this little town.

So are hordes of journalists from around the country—all waiting to see if Ford is found guilty of three criminal counts of reckless homicide for deaths that occurred when a Ford Pinto exploded into flames when hit in the rear on a highway in adjacent Elkhart County on August 10, 1978.

Both sides—Ford and the prosecuting state of Indiana—have pulled out all stops in this battle to decide whether or not product liability is fuel for criminal courts.

Indiana, which adopted its current law defining criminal recklessness only a month before the mishap, contends that the auto manufacturer knew that the 1973 Pinto was a dangerous vehicle built and sold with design flaws

that made it subject to fires, and that Ford failed to notify Pinto owners of the danger.

As the court chooses jurors this week, Ford is expected to prepare a defense claiming its products represent state-of-the-art safety and technology.

Ford is reportedly spending about \$1 million on its defense, though the firm will neither confirm nor deny the amount. It has hired James Neal, Nashville attorney who served as special prosecutor in the Watergate trials, to head its defense team. In the courtroom, he uses a self-effacing style of country humor, coming across like a drawling Andy Griffith, driving home his legal points.

The opposing team, lead by Elkhart County prosecutor Michael Cosentino, is a veritable army of volunteers, mostly lawyers and law school professors attracted by the case and its potential far-reaching legal ramifications.

One volunteer, DePaul University law professor Terrence Kiely, has suggested that a successful

criminal prosecution in such a case could be a significant step toward eventually making individual business executives subject to criminal liabilities for injuries and damages caused by defective products.

Though a parade of experts and officials are expected to testify, observers speculate that the outcome may not depend on live testimony at all, but rather on documents and films containing "rough pictures" relating to crash tests, product development and engineering product planning committee meetings, released grudgingly by Ford.

Those documents may or may not reveal when and how much Ford knew about the dangers inherent in its design, but Judge Harold Staffeldt has ruled documents not authenticated by Ford cannot be entered into evidence or made available for background.

Indiana law limits compensation in wrongful death cases to reimbursing the family for expenses incurred because of the death. Thus, the maximum legal penalty Ford can suffer is \$30,000 in fines.

Doctors kill Colorado HMO

By MARY ANN MATLOCK

FORT COLLINS, Colo.—The Jan. 1 collapse of ChoiceCare Health Services Inc., a federally qualified health maintenance organization, put health coverage for many on the rocks and revealed corporation books heavily in the red.

The Colorado insurance department, which scrambled to aid former ChoiceCare subscribers, found alternate medical coverage for most.

The financially troubled HMO, an independent practice association, collapsed because doctors decided not to continue it. Officials at the Department of Health, Education and Welfare point out, however, that the founding doctors hadn't been operating on a prepaid basis, but on a fee-for-service basis, and pulled out when told they had to operate as an HMO.

"After the physicians realized they would be accountable in terms of dollars and cents, they realized they never wanted anything to do with us," said Ted Weinberg, director of compliance for the HMO program at HEW. "It's fair to say the physicians involved up un-

til recently did so based on a misunderstanding."

Norm Lizotte, regional director of the HMO program for HEW, said, "Everyone agreed it could have been turned around and saved."

The overwhelming majority of subscribers—33,500 out of 36,000—were members of group plans through employers and were able to convert to employers' indemnity plans without loss of coverage even for pre-existing conditions, according to Joseph Newman, state-appointed conservator for ChoiceCare.

However, the 2,000 to 2,600 individual subscribers to ChoiceCare who are being offered conversion plans may not be so fortunate.

The pregnant individual subscribers, at least 50 women, probably won't be covered under the alternate plans, Mr. Newman said.

According to Don Dunnigton, director of public affairs in the HMO program for HEW, the problem was created because ChoiceCare's carrier for conversion coverage, Northwestern National Life, doesn't offer maternity benefits.

Edward Bolton, director of HMO services at Northwestern, said

standard conversion practices used throughout the industry don't require coverage for pre-existing pregnancies.

As a solution, Mr. Dunnigton suggested that remaining assets of ChoiceCare be used to pay for maternity coverage for these women. Whether this is possible depends on the audit of ChoiceCare's books by the insurance department.

That tally, though incomplete, reveals the corporation is at least \$2 million in the red. While most of this is owed to doctors and hospitals for services, \$700,000 is owed to the federal government for repayment of a start-up loan.

Mr. Newman said it will take at least a month for the final financial report to be compiled.

ChoiceCare was the first federally-qualified HMO to collapse simply because its participating doctors wanted out.

"The doctors concluded that the HMO was not for them," said Mr. Weinberg.

These disgruntled physicians, who were instrumental in establishing the HMO four years ago, voted 87 to 24 against renewing their contract with ChoiceCare in December.

Fireman's Fund tracks star-gazer risks

By RHONDA L. RUNDLE

MAUNA KEA, Hawaii—Perched atop a dormant volcano at 13,800 feet above sea level on the quake-prone island of Hawaii, the world's highest telescope looks like a shaky risk to insurers.

Only one company, Fireman's Fund, bid on the risk recently after the \$30 million observatory was completed and the owners—the Canada-France-Hawaii Telescope Corp.—started shopping for insurance.

"I was disappointed," admits Claude Bertoud, observatory administrative manager. The remoteness of the site, the elevation and the lack of loss experience scared off some insurers, he said. Initially, he recalls, a half dozen companies expressed interest.

Fireman's Fund got a head start on the competition since it provided all the builders risk coverage on the installation dating from 1974. Upon completion last Oct. 1, the San Francisco-based insurer sold the tripartite corporation a \$20 million all-risk policy with a \$200,000 deductible. The buildings are insured for \$11.5 million and the 144-inch refracting telescope for \$8 million. The balance of \$500,000 is a built-in inflation buffer.

The property coverage costs the owners \$25,000 in annual premium, reports Dale Claggett, president of Leeward Insurance Agency in Honolulu and underwriting agent on the risk.

Although the facility was insured against earthquake during construction, the owners opted to exclude this expensive coverage after completion. It would have doubled the premium, points out Mr. Claggett.

Earthquakes are not uncommon on Hawaii, but Mr. Bertoud insists they do not pose a serious risk to the new observatory. A 6.0 temblor on the Richter scale rocked the region in 1975, but caused no damage at the telescope construction site. The rotating dome and reinforced concrete structure are designed to withstand all but the severest quakes.

Fireman's Fund is also writing liability, vehicle and workers compensation coverages for the telescope corporation. The \$1 million first-dollar liability policy costs \$5,000. Thirty-one staffers, representing a \$540,000 annual payroll, are covered under the workers compensation policy at an annual premium cost of \$7,000, which includes a volume, but not an experience-rating discount, says Mr. Claggett.

A dangerous one-lane dirt road that winds the last seven miles up the mountain has already claimed three Jeeps, observes Mr. Claggett. The route is especially treacherous at night when astronomers often make the ascent. Physical damage insurance on the 15-vehicle observatory fleet costs the owners \$3,500 annually.

Visiting astronomers and most of the technical staff will sleep at the

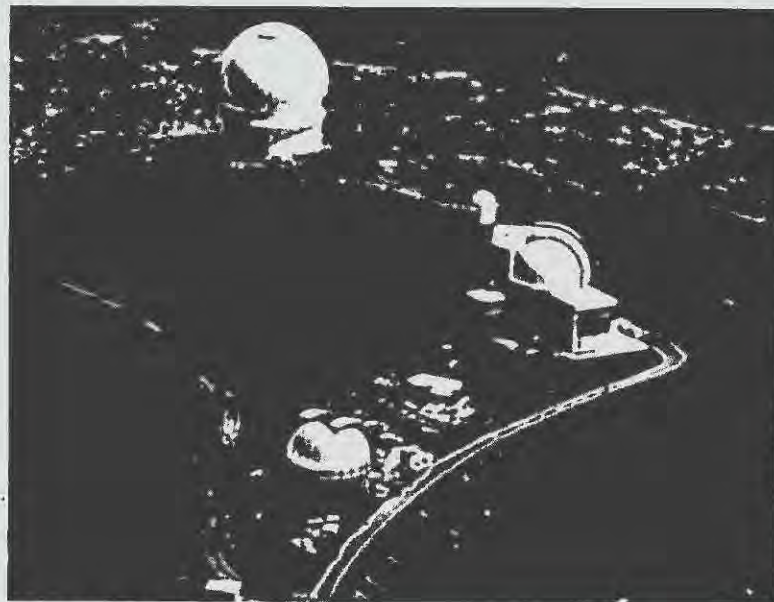


Photo: Fireman's Fund

Road to the stars

The one-lane, treacherous dirt road climbing to the world's highest observatory has already claimed three Jeeps. Physical damage insurance for the 15-vehicle fleet costs \$3,500 annually.

9,300 foot-high base camp called Hale Pohaku, Hawaiian for Stone House. Besides the dormitory, there's a recreation room, kitchen and banquet hall.

At the summit, the observatory houses not only the telescope but also a control system, data acquisition computer, darkrooms, electronic laboratory, machine shop and other service areas. These are all insured under the all-risk property policy, except for computer

data destroyed through human error.

During the course of construction, Fireman's Fund loss control technical adviser David Soderlund made numerous inspection trips up the mountain. Out of his meetings with building supervisors came several sound safety ideas.

"We requested a pre-employment physical for laborers at the construction site," says Mr. Soderlund. Physical exertion at that

elevation puts heavy demands on the human heart and lungs. Mr. Soderlund also offered first aid training at the base camp and installed portable oxygen canisters in vehicles and at the summit.

Each of the construction cranes was checked out for strength by an independent certification bureau before work began. Damage to the fragile refracting mirror would have cost not only a multi-million dollar insurance claim but also a project setback of at least a couple years.

In lieu of standard fire extinguishers, Halon gas canisters have been installed at the observatory, says Mr. Soderlund. This chemical fire retardant puts out fires without doing other damage. Carbon dioxide, on the other hand, may freeze and destroy delicate instruments and leaves a powdery residue.

Mr. Soderlund also is teaching an eight-hour defensive driving course for telescope personnel in which he talks about driving under severe conditions, including 80 mile-per-hour winds which occasionally whirl around the volcanic summit.

The governments of Canada and France each own 42% of the venture and the state of Hawaii donated the land to acquire the remaining 15% interest in the project.

The University of Hawaii astronomy department will start scheduling use of the facility as soon as technicians finish fine tuning the telescope and its auxiliary computer.

Non-N.Y. risks ride exchange slow boat

By ELLIS SIMON

NEW YORK—A risk manager in Hoboken, N.J., can send his business across the Atlantic Ocean and place it with Lloyd's of London faster than he will be able to toss it across the Hudson River and place it in the New York Insurance Exchange.

The New York department of insurance says domestic risks with no New York exposure may not be written on a direct basis in the New York Insurance Exchange. Attorneys for several insurers concede that, in theory, a non-New York domestic risk could reach the insurance exchange, but there would be little incentive for it to happen.

The Free Trade Zone is the culprit. The exchange can freely write reinsurance and foreign risks as well as New York risks rejected by the state's Free Trade Zone, but the Free Trade Zone restricts out-of-state access to the exchange for direct business.

This could limit the appeal of the New York Insurance Exchange to buyers with New York risks or special reinsurance needs.

All direct domestic business written by the New York Insurance Exchange must first be rejected by the Free Trade Zone.

Specially-licensed Free Trade Zone insurance companies can write high premium and exotic classes of business without prior approval on rate and form.

Chances of an entirely out-of-state risk being submitted to the Free Trade Zone are virtually nil, however.

To qualify for the Free Trade Zone, not only would the risk have to meet the criteria for inclusion in the Free Trade Zone, but it also would have to be declared a surplus lines risk in the state where it originates.

And not every Free Trade Zone-licensed company would be law-

fully permitted to quote on this surplus lines risk. A Free Trade Zone company could quote on an out-of-state risk only if it were not a licensed insurer in that state.

Otherwise, a Free Trade Zone company quoting on an out-of-state risk would be violating the other state's rating laws.

"An insurance company licensed in New Jersey can write a New Jersey risk from New York, but must follow the rates and forms applicable in New Jersey," explained Joseph F. Decaminada, senior vp, secretary and counsel of The Atlantic Cos.

Some attorneys and insurance brokers have argued that out-of-state business could be placed with a Free Trade Zone company licensed in the state where the business originates since the Free Trade Zone license constitutes a separate company.

But Mr. Decaminada counters that the Free Trade Zone license is an extension of an insurance company's existing authority. "It's the same old Atlantic; it's the same old AIG," he said.

A Free Trade Zone insurer could, in theory, accept an out-of-state risk from a state where it is not licensed. The insurance department has not dealt with that question, according to Alvin Balter, supervising examiner for the Free Trade Zone.

Most insurers licensed in the Free Trade Zone are also licensed in the other 49 states. One of the few exceptions is AIG's Landmark Assurance Co., licensed in New York and California.

But there would be no reason for Landmark to write a non-New York risk on a Free Trade Zone form, explains Patrick J. Foley, vp and general counsel of AIG. Such a risk would be simply written on a nonadmitted, surplus lines basis, not needing the flexibility offered by the Free Trade Zone, he said.

Risks written on a nonadmitted basis aren't subject to regulation and have total freedom. Most states require use of approved non-admitted markets, however.

While there is no incentive for an insurer to write an out-of-state risk in the Free Trade Zone, the insurer could reject a risk presented to the Free Trade Zone to facilitate placement in an insurance exchange syndicate that it controlled, said Dan Gavin, attorney with Brady & Tarpey, a New York insurance law firm.

This could happen if writing the business in the insurance exchange proved advantageous to the insurer overwriting it on a non-admitted basis. But the rules for interface between the Free Trade Zone and insurance exchange,

which are still in the drafting stage, are likely to require rejection by more than one Free Trade Zone company.

Some attorneys have argued that the definition of rejection should make out-of-state risks eligible for the New York Insurance Exchange since they cannot be written by Free Trade Zone companies.

Mr. Balter, who is working on the drafting on the interface regulation, says this is unlikely. "A minimum requirement for rejection would probably be that the risk would have to be eligible to be written in the Free Trade Zone," he said.

Mr. Decaminada said he would be "amazed" if the department ruled otherwise. While a more liberal interpretation of the law would

open the insurance exchange and Free Trade Zone to more out-of-state business, "I don't think that was ever intended."

Other state insurance commissioners would not take kindly to another state creating an insurance exchange that would write direct business in their states, he said.

"We must be sensitive to other states," added Don Gabay, first deputy superintendent of the New York insurance department.

"But there's a difference between, say, Louisiana business stolen from Lloyd's and Louisiana business stolen from a Louisiana insurance company," points out Mr. Decaminada.

Under the present structure, the New York Insurance Exchange probably will not get either.

Florida needs direct risks to float exchange: Report

By MARY ELLEN MCKEE

TALLAHASSEE—Florida should target direct domestic and international insurance business if it wants an insurance exchange, a consultant has concluded.

Latin America wouldn't generate enough reinsurance business to support a Florida exchange as Florida officials had thought, said Robert Hughes & Associates after conducting a feasibility study for the Florida insurance department.

But there's plenty of demand for direct insurance to justify setting up a Florida insurance exchange if the state wants to, the Dallas-based consulting firm said.

Florida would have no trouble, finding the capital to start an exchange, the consultant said. Miami or Jacksonville would be the best sites.

Although Florida had planned to capitalize on its cultural, economic and geographical ties to the Caribbean and South America, the state will not abandon the idea of a Florida-style Lloyd's of London. Using the information in the draft of the feasibility study, the insurance department and the insurance committees of both the Senate and the House are going to spend a few months reassessing the exchange idea (BI, July 9, 1979).

State officials and legislators will also look for specific information on exactly how much direct business Florida is likely to get, specific sources of capital to start the exchange mechanism and reaction from the insurance industry on the new nature of the Florida exchange.

Robert Hughes & Associates es-

timated Latin America generates upwards of \$200 million in reinsurance business. But that chunk of business is unlikely to reach a Florida insurance exchange because most of the Latin American companies are tied to long-term reinsurance agreements.

"The consulting firm admitted that Florida could grab a small percentage of the reinsurance business in Latin America," said Gary A. Guzzo, administrative assistant in the Florida insurance department. But it's unrealistic that any company in Latin America could find the Florida insurance exchange attractive enough to break a contract, he said.

Another target market for Florida, the Hughes study contends, is the \$2 billion reinsurance business being written by captives in the Grand Caymans and Bermuda.

Labor Dept. sues consultant Tolley Intl

By CHARLES EPSTEIN
Crain News Service

WASHINGTON—In the first suit of its kind, Tolley International, an Indianapolis-based benefits consulting firm, is being sued by the Department of Labor for giving improper advice and failing to properly supervise an employee.

As the result of the advice, the Midwestern Teamsters Health and Welfare Trust in Chicago dropped an insurance company and released it from liability for unpaid claims. This action resulted in a \$750,000 loss to the trust.

In another matter, Tolley was named in a Senate report as playing a key role in an insurance scheme that eventually saw \$11 million in premiums diverted into "worthless and questionable in-

vestments."

Tolley was named as having "a questionable relationship" with Joseph Hauser, a man who was later convicted of attempting to bribe union officials for obtaining their employee benefit business.

Mr. Hauser was named as the creator of the scheme which diverted insurance premiums totalling \$11 million from 20 separate union health and welfare funds into "questionable commissions, and commission advances, worthless and questionable investments, conversions to cash, and the payment of personal expenses and legal fees," according to a Senate permanent subcommittee investigation report. The fraudulent transactions occurred from 1973-1976.

A Tolley spokesman denied any misdoing, saying the practices mentioned in the report were "proper and consistent with industry practices."

Tolley was named in the report as using its client relationships to divert existing business to the Hauser-controlled insurance companies (Farmers National, Family Provider and Old Security) in exchange for obtaining new business from Mr. Hauser. The firm was to receive a percentage of the premiums collected by the Hauser companies, the report says.

However, to sign the new business Tolley submitted reports to clients that were "materially incomplete and misleading" about the financial strength of the holding companies that stood behind the Hauser insurance companies,

the report said.

Len Teeuws, executive vp at Tolley, was named as supplying insider information in bidding circumstances concerning retention rates to the Hauser group, the report states.

"The communication of this information in an informal manner, as opposed to the formal written invitation to bid, creates a substan-

tial risk that it will not be made equally available to all prospective bidders and obvious opportunities for fraud and abuse," according to the report.

Mr. Teeuws said this information was disclosed to other bidders, but the report said there was no evidence suggesting that the competing bidders were given the information.

Worker deaths spur union safety demand

By MARY ELLEN-McKEE

EAST CHICAGO, Ind.—A steel company will have trouble nego-

tiating a union contract and will probably have to revamp its safety program after six steelworkers were killed from a gas leak at one of the company's plants here.

A local union is charging that the absence of a safety backup system, alarms and supervisors who were familiar with safety procedures caused the deaths of the six workers at the Indiana Harbor Works plant of Jones & Laughlin.

"We've been fighting this company tooth and nail to improve its safety procedures for years," complained Norman Purdue, president of United Steelworkers Local 101. "Just talking doesn't seem to work with the management of this company. So my charges and harsh demands for immediate improvement in the safety program are going to spill into union contract negotiations."

Safety and health in the plant is going to be the number one priority in contract talks with the company coming up in a few weeks, he said.

A fan that draws gas containing high levels of carbon monoxide from blast furnaces into underground storage containers broke down Dec. 30, causing the gas to back up into the furnace and the area around it, explained an OSHA investigator.

"The only safety backup system that exists in the Indiana Harbor Works plant of Jones & Laughlin is a regular butterfly safety valve which is grossly inadequate," asserted Mr. Purdue. The butterfly safety valve is operated manually with a crank, and is positioned so that a worker must climb a ladder in order to reach it, he said.

Using information garnered in talking to steelworkers who were present at the time of the gas leak, the union official is also charging that no one present at the time of the accident knew where the valve was located or how to operate it. "A person had to be called in to operate the valve and by that time it was too late," said Mr. Purdue.

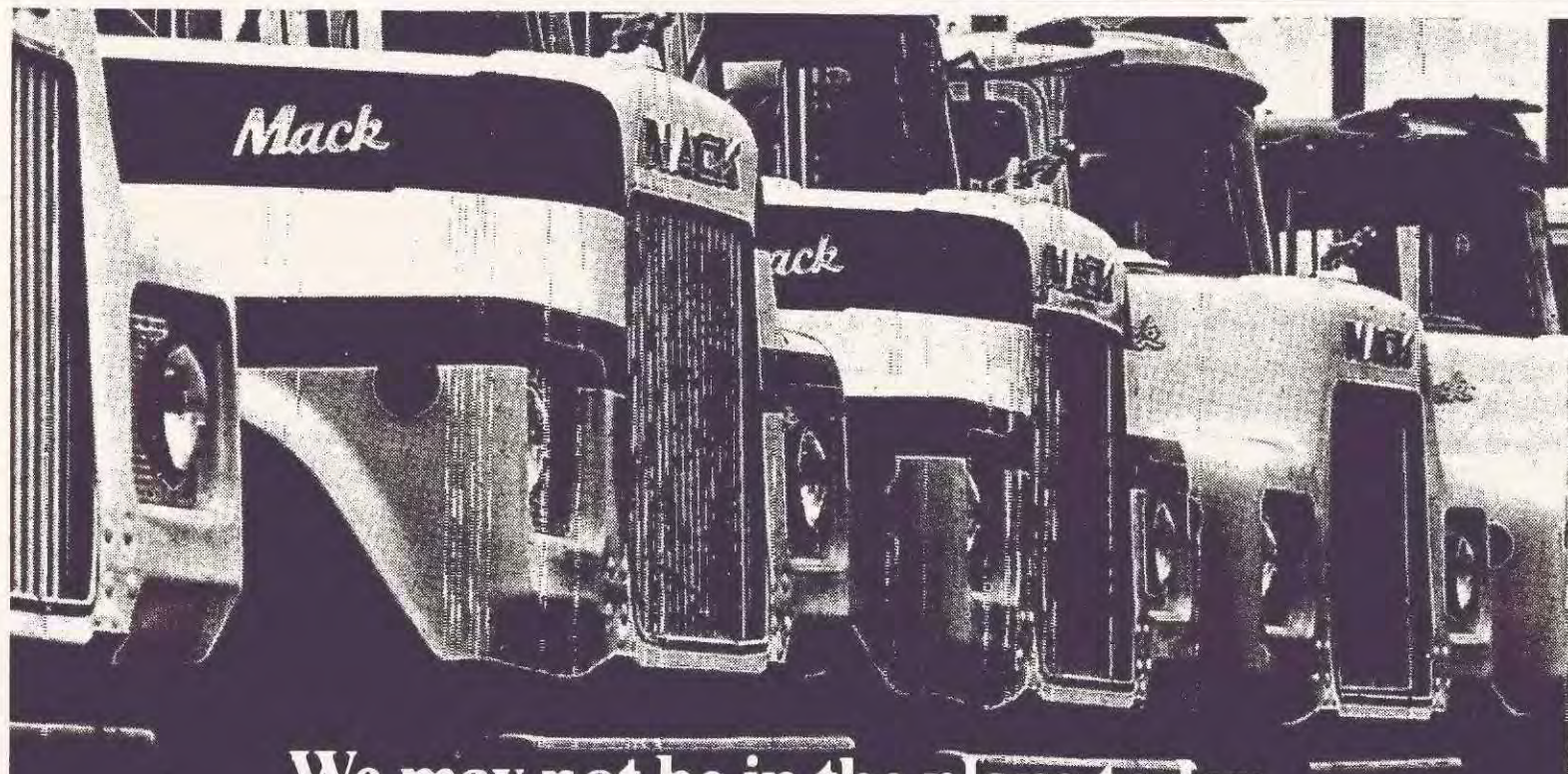
Mr. Purdue said that when he confronted management with the charge that someone from the outside had to be contacted to find and operate the safety valve, they responded that supervisors normally are called out in emergencies.

Alarm systems to alert workers to abnormally high levels of gas are installed in the plant, but were not operating at the time of the accident, said Mr. Purdue.

Mr. Purdue contends this fact alone clinches the guilt of the steel company in the deaths of the six steelworkers. "If the alarm systems had been functioning, workers would have cleared out of the plants long before becoming overcome with fumes," he said.

Jones & Laughlin refused to comment on the union's charges.

The Occupational Safety and Health inspector handling the investigation into the accident admitted that Jones & Laughlin will have to make major modifications to its safety program.



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HUMAN ERROR.

Last year, American industry was staggered by over \$650,000,000 in accidental fire loss. Even more shocking is the fact that nearly three quarters of these accidents were caused by people. By employees who lacked the proper motivation, or the proper training in loss prevention procedures.

In most cases, the facilities had the proper equipment. They had alarms. They had sprinklers. They had fire doors. The equipment didn't fail. People did.

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Real estate firms nail insurance profits

By RHONDA L. RUNDLE

LOS ANGELES—For every corporate giant wheeling and dealing in the real estate market, there are thousands of small and medium-sized companies trading income properties. These investors may not require the services of a full-fledged risk manager.

"Somebody's got to handle their insurance, so it might as well be us," says Bob Fisher, who heads up the Coldwell Banker Insurance Agency, a Glendale, Calif.-based subsidiary of the national real estate conglomerate. If Coldwell Banker sells the building, after all, Mr. Fisher figures the new owners need insurance.

Although most realty companies with insurance divisions prefer to keep a low profile, it appears real estate sales and management go hand in glove with property insurance. No one's saying this link assures an insurance sale, but the captive agency certainly gets first crack at it.

"We have the inside track," affirms Russell Bender, chief operating officer for the insurance division of the George Elkins Co., a regional realty company based in Beverly Hills. About 30 days after a sale, he says, new owners who purchase property through the company are contacted by mail. "Being part of a full-service real estate broker is our biggest tool," he declares.

If even a fraction of these potential customers sign contracts with their realtor's insurance subsidiary, those underwriting agencies may collectively be the sleeping gi-

extended coverage

Big commercial property managers trade on their strong, well-established reputations in real estate to bolster their insurance operations.

ants of the insurance brokerage business.

The insurance division of Helmsley-Spear, the New York real estate behemoth, recently plucked such a risk management plum. It will manage insurance services for 10 hotels across the country owned by Miami Beach-based First Mortgage Investors. The insured properties have a value of over \$87 million.

"This is nothing new for us," says Roy H. Peterson, managing director of the insurance division. "We handle risk management for many companies." Cushman & Wakefield is one he mentions. Mr. Peterson describes his agency as a medium-sized brokerage with about 20 people, a claims department and access to computer facilities.

Keeping insurance coverage adequate for commercial properties

requires close scrutiny of both the real estate and insurance fields, points out Mr. Peterson. "We're in a unique position to spot inflationary trends in certain neighborhoods we deal in and to note possible risk exposures," he says.

"Even a short lapse in updating coverage in property or liability insurance can result in serious financial losses for an owner," Mr. Peterson continues. "We monitor prevailing construction rates and changing building codes so these factors can be figured into the cost of replacing the building."

Despite the traditionally close relationship between real estate and insurance brokers, in-house commercial underwriting is still the exception rather than the rule. For the most part, only the very largest real estate companies—those already offering a wide range of

other management and financial services—also sell insurance.

Ralph C. Sutro Co. in Los Angeles has an insurance division called Sutro Insurance Agency. The Gilley Co. in the Pacific Northwest does not.

G & E Insurance Services Inc. started out as an independently-owned agency serving Grubb & Ellis, until the Oakland, Calif.-headquartered real estate firm bought it out eight years ago. Now the agency insures all corporate-owned property and handles its referrals.

Arthur Rubloff & Co., the Chicago realty company, uses an independent outfit, the Nordstrom Insurance Agency, which acts almost like an insurance department but which is in fact separate from Rubloff. One agent works full-time handling safety referrals from Rubloff.

Other companies have experimented with in-house insurance but decided that they lacked the expertise to really make it go.

"We did have an insurance division at one time but sold it to Alexander & Alexander," says a spokesperson at Henry S. Miller Co. in Dallas. Alexander & Alexander also handles insurance services for Trammell Crow, another big Texas realty company.

George Elkins Co. in Beverly Hills, however, intends to expand its insurance operations. "In the past it was just another service we offered," says Russell Bender. "Now we plan to make it a full-fledged division and put insurance sales agents into every one of our 15 branch offices."

Mr. Bender says his company is

attracted to insurance as a profitable diversification because the business is steady and conservative, a good counterweight to the volatile Southern California real estate market.

Clients whose business comes in over the transom tend to be good customers and good risks, brokers agree. These people generally are already doing business with the real estate company and are going to stay awhile—perhaps as long as the lifetime of a mortgage or a property management contract.

That doesn't mean business is served up on a silver platter, however. Mr. Bender and other insurance executives who work for captive agencies insist they must work as hard to earn commissions as their competitors do. Big commercial clients, they stress, usually have insurance contracts and broker relationships anyway.

Most in-house insurance agencies contacted by *Business Insurance* said that only a fraction of their books of business comes via their property divisions. Few, if any, firms depend on property management clients, real estate brokerage clients or people borrowing mortgage money for enough insurance business to make the centers profitable. But it doesn't hurt to have the name recognition of prominent real estate lender and manager carry over into the insurance department.

At the very least, firms like Helmsley Spear, Coldwell Banker and Ralph C. Sutro trade on their strong, well-established reputations in real estate to bolster their insurance operations.

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U.S. Administrators wins out

Computer processing clinches claims pact

VAN NUYS, Calif.—Space age technology and employe relations know-how landed U.S. Administrators a two-year contract to handle claims for California Plant Protection's self-insured workers compensation program for 4,000 employes.

U.S. Administrators beat out four or five others for the business, says Charles Colglazier, CPP's vp of financing and administration. Service rather than cost clinched the deal, he notes, since \$110 per claim charged by U.S. Administrators is about what the Southern California security guard firm had been paying ESIS.

Mr. Colglazier calls U.S. Administrators' computer claims processing system the most advanced he's ever seen and expects it to produce rewards on CCP's bottom line. Last year, California Plant Protection paid out \$238,000 in workers compensation benefits, he says.

To report a claim, the employer merely telephones U.S. Administrators' toll-free number and the information is instantly logged in the computer. There are no manual files to compile and no delay with the mails. Case details can be retrieved from the system just as quickly. Speedier processing of claims improves employe morale, Mr. Colglazier says.

U.S. Administrators further reassures each injured worker with a letter acknowledging a claim and containing a small purchase order for doctor-prescribed drugs. Within three days the employe receives a personal call from the claims processor to allay any concerns about medical bills or other costs.

This is extremely important, Mr. Colglazier emphasizes. "If an employe is not reassured, he may start looking for an attorney." Mr. Colglazier also points out that U.S. Administrators' incidence of litigation is very low.

Besides nipping litigation in the bud, U.S. Administrators offers a cost containment feature, adds Ed Struck, general manager of U.S. Administrators' workers compensation division. To monitor claim payments, the computer system contains more than 4,000 model treatment profiles.

Bills exceeding profile limits are spit out for scrutiny and the doctor or hospital provider is contacted for an explanation. If the cost is justified, a check will be issued for the full amount. If not, a smaller sum will be sent with a note to the employe not to make up the difference.

The system also generates safety reports tracking companies' loss frequencies and costs, Mr. Struck says. This enables the client to take appropriate action to prevent future accidents.

The sophisticated workers compensation computerized program has been operating for about a year and was built "from square one" by Mr. Struck and the U.S. Administrators EDP staff.

College wins on appeal

PHILADELPHIA—The U.S. 3rd Circuit Court of Appeals, saying society considers college students adults, has ruled that Delaware Valley College in Doylestown, Pa., is not liable for \$1.1 million in damages to a student paralyzed in a car accident after a class picnic at which beer was served.

"The modern American college is not an insurer of the safety of its students," the court ruled.

"Colleges all over the country have been watching this," said William T. Campbell, the college's attorney. "It was a case with potential terrible consequences for colleges. What's a college to do about kids drinking beer?"

The ruling was on an appeal of a \$1.1 million damage award given to Donald Bradshaw, who became a quadriplegic after being injured in a car accident after an annual class picnic at the college in 1975.

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Feds may force contractors to pay abortion benefits

By JERRY GEISEL

WASHINGTON—Employers defying the new federal pregnancy benefits law which requires companies to pay some of the costs of employee abortions could be hit with tough new federal sanctions.

The Labor Department, in proposed regulations issued last month, said employers who refuse to pay for abortion-related costs could be barred as federal contractors.

The proposed rules, which would apply to some 300,000 firms that each do more than \$10,000 of business with the federal government, would be a bitter and costly blow to the hundreds of Catholic employers around the country that exclude abortion in their employee benefit plans. Catholic hospitals and universities, for example, now hold government contracts.

Between 300,000 and 600,000 firms do more than \$100 billion of business annually with the federal government, making Uncle Sam one of the nation's largest contractors. Loss of federal contracts is an

It's unlikely the Labor Department will immediately bar federal contracts with firms that don't pay for abortions.

expensive exclusion most firms seek to avoid.

The Labor Department rules on abortion benefits, which are part of the agency's voluminous antidiscrimination rules governing contractors who do business with the federal government, are expected to be challenged in federal court by two major Catholic organizations.

The U.S. Catholic Conference, the bishops' lobbying agency, and the National Conference of Catholic Bishops already have filed suit in U.S. district court here asking that the abortion section of the pregnancy benefits law be declared unconstitutional (*BI*, July 23, 1979).

The Equal Employment Opportunities Commission, which enforces civil compliance with the law, previously agreed not to take action against employers who withhold abortion benefits pending the outcome of the Catholic groups' suit.

Similarly, it's unlikely the Labor Department will immediately bar federal contracts with firms that don't pay for abortions, waiting at least until Judge Pratt issues his decision.

Still, an attorney connected with the U.S. Catholic Conference described the Labor Department rules as having a "chilling effect" on firms that refuse to offer abortion benefits.

The pregnancy benefits law, requiring employers offer equitable pregnancy benefits in their group health insurance plans, also mandates that companies pay for the cost of abortions on the same basis as they pay for other sicknesses if the woman's life is endangered by the pregnancy. Employers must

also cover the costs of any medical complications from an abortion.

Catholic groups oppose paying any abortion benefits, arguing that the mandate violates 1st Amendment rights of organizations that find abortions "morally abhorrent."

Archdioceses asked their health insurers to exclude abortion as a covered benefit in their group health insurance plans after the Supreme Court legalized abortion.

Excluding abortion from group plans sometimes results in some very slight premium savings. ■

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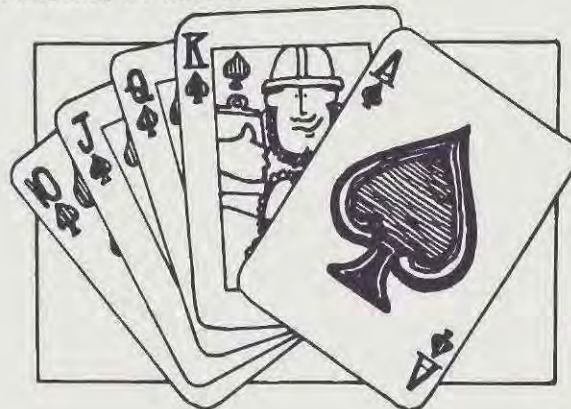
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editorial opinions

HMO must pass 3 tests

NEARLY ALL we've heard about health maintenance organizations over the past few years has been positive. Employers believe HMOs, adequately capitalized and properly managed, can go a long way toward controlling inflation in the health care benefit sector. HMOs help to encourage what hopefully will be a long-term shift toward preventive medicine and wellness care, away from expensive in-hospital care to be used only by those who have become critically ill.

But all is not totally rosy in the world of HMOs. Several disturbing examples have recently come to our attention, indicating employers run the risk of alienating employees who've joined optional HMOs and can't get the care they need.

One case in particular illustrates a problem that apparently isn't uncommon for those using HMOs. A long-time employee in a management position with a large Minnesota employer is dying of cancer, but can't get the treatment he needs from or through the HMO he is in. Moreover, the HMO won't authorize chemotherapy treatment on a referral basis, either.

This man wonders whether the HMO should have a right to withhold treatment, authorization or payment for a type of care that the HMO characterizes as strictly experimental. The patient concedes that the treatment may be experimental, but to him this is a matter of life and death. Outside doctors have said that a new type of chemotherapy is the only thing they know of that might help.

Benefit managers for numerous employers offering optional HMO plans to their workers said it isn't at all uncommon for

HMOs to refuse to pay for experimental treatments, such as chemotherapy.

Yet when an employee opts to participate in an HMO, he or she is told that basic and major medical services will be provided. At what point does a participant in a prepaid plan learn that lifesaving treatments might be withheld because they are "experimental"? And who's to say that other high-technology treatments, such as use of CT scanners or dialysis treatment, won't be banned by HMOs under the guise that they, too, are experimental?

Any HMO understandably tries to hold down costs. HMOs, in fact, offer advantages precisely because they do have more reason to manage their finances wisely. But should they carry this to the extreme, refusing care to those in need, setting themselves up to decide who lives and who dies? We think not.

The burden is on employers sponsoring and participating in HMOs on behalf of their workers to take three steps to assure that any HMO provides adequate coverage: Make sure the HMO is affiliated with a qualified hospital or has a working relationship with a health care center to provide whatever major medical treatment is necessary; if there are restrictions on coverage for treatments that might be deemed experimental, negotiate to have the coverage broadened or to provide for treatment judged necessary after a proper second medical opinion; check all contracts with HMOs to assure that all basic and major medical services and referrals are covered in the plan, particularly to the same extent these are covered in an insured health program.

Unshackle N.Y. markets

THOUGH WE DON'T agree with AIG's Hank Greenberg in his desire to restrict Free Trade Zone underwriting and the use of the New York Insurance Exchange for risks rejected by the zone, we do agree with him that it's too early to tell whether the zone is working properly.

The argument over final rules for the free zone and the exchange is muddled by what the zone was intended to do and whether it has been (and will be) useful and successful in its present form. Many people are pleading that the zone hasn't been used

very much simply because it isn't set up properly. The competitive environment in the insurance business surely has much more to do with the zone's disappointing performance in 1979.

Nonetheless, Crum & Forster's Robert Sullivan has come up with what looks like very workable and good legislative proposals to amend both the free zone and the exchange rules to put them on equal footing and to make them competitive with other U.S. and world markets.

We support Mr. Sullivan's proposals.



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.

"Quietly" seething

To the editor: Ever since reading through most of your Sept. 17 (Excess/Surplus Lines) edition I have been quietly seething below the surface. Why, oh why, does the press (trade or otherwise!) insist upon editorializing on subjects of which they obviously have little or no expertise?

Obviously, since I know many of the E/S people quoted, you have "filled in the blanks" between quotes taken out of context in reporting on the E/S business. You have sowed the seeds of discontent among corporate buyers without cause and in the general disinterest of the E/S community. You have spotlighted and given credence to opinions of those not knowledgeable in the E&S segment of the industry. You have lumped together professional E&S houses' figures with those of large retail houses and created illusions which are inaccurate. Holding an E&S license, no matter how large a shop might be, does not make that house a professional E&S house!

But your editorial, on page 14, was "the frosting on the cake"! I am confident that the vast majority of professional wholesale E&S houses had one of two reactions: outrage or amusement. I cannot believe that you would castigate hundreds of hard-working professional E&S houses because of a handful of "black hats," especially since most of those should never

have had a "market," based upon their known reputations.

You are probably correct that E&S firms do not wish to disclose information your readers desire, but who really has determined what your readers want? You or them? Why should an insurance buyer wish to gain in-depth knowledge of an E&S broker that his own management would never divulge? Should he not be far more interested in the insurance carrier with which his risk is placed?

Few buyers should ever be allowed to "market" their own risk, in my opinion; that is exactly what their broker is for. Let him do his job or get one that can do the job! If a buyer feels the need to negotiate with the carrier directly, either he is on an ego trip or he needs a new broker, or both!

And what qualifies *Business Insurance* to set standards of disclosure for the E&S community? The E&S community in this country has done a magnificent job of service within the industry, usually with damned little credit for its efforts. I find it interesting that the National Assn. of Professional Surplus Lines Offices and the American Assn. of Managing General Agents, both numbering among their membership the bulk of the professional E&S houses in this country, have no quoted spokesmen or bylines in your issue on E&S business and your "directory," on pages 99 and 100, lists

Continued on page 24

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Insurers wary

U.K. court narrows a doctor's liability

By JOHN H. MILLER

LONDON—A U.K. Appellate Court ruling that a doctor's error in judgment doesn't mean he or she was negligent isn't being accepted by leading professional indemnity insurers just yet as a reason to reduce rates.

The case, in which the court overturned a \$220,000 medical malpractice award, may be appealed to Britain's House of Lords, which has final authority for binding legal decisions.

In announcing the decision, Judge Lord Denning declared, "We are heading the situation in the U.S. where medical malpractice cases are very worrying and have led to colossal damages. Experienced medical practitioners are refusing to treat patients for fear of being accused of negligence."

"In the interests of all we must avoid such consequences in Britain, and say very firmly that in a professional man an error of judgment is not negligent."

His fellow judge Fred Lawton agreed doctors are likely to adopt "defensive medicine" if they are found guilty of negligence on flimsy evidence. But a third judge, John Donaldson, dissented, saying that if a doctor fails to exercise the skill he claims to have, he is in breach of his duty of care and is negligent.

The case centered on a 9-year-old boy, Stuart Whitehouse, who suffered extensive brain damage at birth when the doctor attending his mother had to use forceps to assist the delivery. A judge in a lower court had awarded damages against the doctor, who then appealed.

"In my view, it is a mistake to suggest that the law in Britain makes no allowance for errors of judgment, as otherwise there will be a danger in all cases of professional men of their being made liable whenever something happens to go wrong," Judge Denning explained.

Although such cases are tried by a single judge in the U.K. without a jury, in the U.S. they often come before juries who have sympathy for the patient and none for the doctor because he was usually insured, the judge said.

Marine risks

Marine underwriters at Lloyd's are pressing their associates in the broking community to send them more business in 1980, circulating their appeal statement through the Lloyd's Insurance Brokers Committee.

The underwriters fear competition in world insurance markets will mean a smaller share of risks unless the scene changes in their favor. Sometimes only about 5% of a shipping risk is placed at Lloyd's, yet the market's expertise and claims handling facilities are used to impress other markets, the underwriters contend.

Lloyd's insurers also complain that if an attractive risk is offered to world marine insurers by some shipping fleets with good claims experience, the amount that reaches Lloyd's is scaled down too heavily by brokers, with too much going to foreign markets. The marine insurers say they are getting better rates for older "flag of convenience" vessels, but are still finding it hard to achieve improved terms for most other fleets.

The broker chiefs, meanwhile, point out that they must put their clients' interests first and that all they can do is circulate the plea in

hopes it will bring a useful response.

A circular sent by Lloyd's Insurance Brokers Committee to more than 200 members says: "It is a fundamental principle of the code of conduct that a broker must place a client's interests before all other considerations. But we accept that the Lloyd's market depends on mutual trust and utmost good faith in its dealings. So that while remedies for underwriters' concern are often in their own hands, we're fully prepared to pass on their comments in the hope they will get full

consideration."

The Institute of London Underwriters, which has joined in the efforts by the Lloyd's Underwriters Assn. to get better rates and terms back into marine portfolios, is monitoring the move.

Coverage extended

Britain's Export Credits Guarantee Department plans to extend its limits of indemnity cover for businessmen wishing to trade with Egypt.

The department believes the po-

litical climate in that part of the world is improving, as Arab economic sanctions against Egypt in protest of its pact with Israel are thought to be less damaging than originally feared.

Jewels vanish

Insurers at Lloyd's are trying to trace \$1 million worth of gems that vanished at London's Heathrow Airport after being flown from Switzerland under heavy security.

Insurance investigator Bob Bishop, assigned to the case by underwriters, will pay a \$100,000 reward if the missing jewels can be recovered. They belong to the Boucheron jewel firm of Geneva,

which had sent them to its London office.

Tanker explosion

Marine insurers face claims that may reach a record \$58 million for an explosion on the 321,000-ton supertanker Energy Determination, which caught fire while moving through the Persian Gulf in mid-December.

The tanker, owned by United Overseas Petroleum Co. Inc., was not loaded when it caught fire in the narrow Strait of Hormuz and broke in two. The forward section was towed to Dubai and salvage experts are now assessing the damage.

WHEN YOU START PINCHING PENNIES ON HEALTH CARE COVERAGE, MAKE SURE YOU PUT THE SQUEEZE ON THE RIGHT COSTS.



INA Special Risks: House that Jack built

By STUART EMMRICH

someone you should know

NEW YORK—Clients of INA's Special Risk Facilities don't run into Jack Morrison too often. The president of the three-year-old division of the Philadelphia-based insurer doesn't have the high profile, the constant visibility that characterizes his former boss Hank Greenberg, whose competing American International Group company is seen by many people as almost an extension of the Greenberg personality.

But Mr. Morrison, a 29-year veteran of the insurance business, is nonetheless a crucial person for buyers of commercial insurance. He sets the policies for INA's special risks operations, decides what types of insurance it will sell, often has a direct hand in rejecting or

accepting business and, perhaps most importantly, is thought by many to be the key reason the INA division is the success it is today.

When Mr. Morrison came to INA three years ago from AIG, he came as literally half the staff of the nascent special risks division, a new enterprise designed by INA to snare big accounts and unusual risks that INA feared were slipping to competitors. Mr. Morrison, named head of the property side of the division, shared with B.A. Buge, head of the casualty operations, the task of making the insurance company's goal a reality.

They quickly put together a staff

of about 250 people scattered among seven regional offices, added about 200 more from existing INA business now considered under the purview of special risks, and went to work.

Now president of the operation, the 54-year-old Mr. Morrison watches over a business that has grown to more than 1,700 employees, expanded with subsidiaries into such areas as professional liability, petroleum insurance and administration of self-insurance services and is expected to sell \$1 billion in gross premiums during 1980.

"I think you can say we have been a success," said Mr. Morrison,

'We don't go through brokers; we make personal contact. We make sure we know the insurance managers,' says John Morrison.



who is not only greatly responsible for that success but also is directly involved in making sure it continues.

His philosophy is that INA should be seen by potential cus-

tomers as a place where almost any risk will at least be considered, especially major accounts that need special treatment.

"We have a good reputation," he said. "Most major accounts that go around for special treatment get offered to INA."

Mr. Morrison has built INA's reputation as a multifaceted underwriter by broadening the types of risks it underwrites.

That policy has led to several acquisitions in the past couple of years that expanded the scope of the operations—especially in the area of professional liability. And more might be on the way.

"We are always looking to expand. We are now looking at two or three things on the boards. I'm not sure if we will go ahead with any of them, but it is my feeling that we should at least explore every opportunity and try to find a way to do it."

Mr. Morrison makes his mark on the insurance field by working a minimum of 10 hours a day, keeping personally involved in the day-to-day operation of the business, shuttling between New York and the home office in Philadelphia to keep up-to-date on company operations—rather than cutting a public relations image.

That doesn't mean he believes INA should have an impersonal image, however.

"I'm not so sure buyers need to know me as a person, but there should be a personal relationship on some level. We make sure that we know the insurance managers and that they know the people who handle their business. We just don't go through the brokers; we make personal contact. We've often had people up here or to Philadelphia to meet top company executives if we think it important," he explained.

But if Mr. Morrison were to go out on the road and start burnishing his image, he would probably start correcting what he sees as a misconception many buyers have about insurers who deal in special risks.

"There are those who think of us as people who go around in flowered shirts and polka-dotted ties, taking gambles left and right," Mr. Morrison said bemusedly as he looked down at his conservative grey suit worn on a recent afternoon.

"We're not like that at all. This is a very serious, professional, very competitive business.

"Let's face it. Ours is not a business of swingers."

In this business of what he calls "aggressive professionals," Mr. Morrison says INA has made its mark in the past three years.

"The first year I'm sure there were people who thought this was another venture that would come and go. That's not any reflection on INA, but just that any new business is greeted with some skepticism.

"Well, I think they know now that we are here to stay," he said, smiling.

The cost of health care coverage is actually two costs. The retention costs (which cover everything from administrative costs to reserves). And the cost of benefits. All too often, only retention costs get much attention.

THE EXPENSIVE ASSUMPTION.

Some buyers make the assumption that the cost of benefits will always be the same. After all, the same people will get sick and incur the same costs, no matter who the carrier is. So how can there be a difference?

The fact is, there can be a big difference.

Retention costs are generally only 5 to 10% of the total health care coverage bill. If a carrier simply assumes risk and pays bills, there's no control over the really big part of your cost. The benefit costs.

Which is why Blue Cross and Blue Shield Plans are so committed to containing benefit costs. In fact, Blue Cross and Blue Shield Plans are the only ones whose scope and method of operations are broad enough to deal with the problem effectively.

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Blue Cross and Blue Shield Plans often have special arrangements with hospitals and physicians supporting a wide range of cost containment initiatives. This means value added and lower benefit costs to enrolled groups.

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Work hazards aren't product risks: Ark.

LITTLE ROCK—An employer is not guilty of intent to injure a worker even if he allows a hazardous work condition to exist, orders an employee to perform a dangerous job or willfully violates a safety statute, the Arkansas supreme court has ruled.

An employee was severely and permanently injured when he stepped into an unguarded loading bin of a grain auger and became trapped. He filed a product liability suit against his employer, charging the employer "willfully and wantonly disregarded this known danger" in assigning the task.

The court ruled that in order to file a product liability suit against an employer, a worker's complaint must allege an employer acted "with a desire" to bring about the injury. Negligence of an employer is not enough to prove such intent, the court said.

Award overturned

ALBANY—The New York state court of appeals has overturned a \$500,000 award to a man who had been wrongly assigned to classes for the mentally retarded, ruling the court system is not the proper place to test the validity of educa-

around the states

tional decisions.

The New York man, now 28, was found to be retarded at age six and the educator who tested him recommended he be reevaluated in two years. He was not retested until 12 years later, when he was found to be not retarded. He filed suit against the New York City board of education, charging it was responsible for its failure to retest him.

The court pointed out that state law provides a process for handling complaints over the proper placement of a child.

Interest on bills

ALBANY—Most delinquent workers compensation medical bills in New York state will earn 1.5% monthly interest until paid by the insurer or employer, under a new workers compensation rule.

The amended rule covers bills submitted by physicians, hospitals, chiropractors and podiatrists after Jan. 1. Interest will not be authorized on contested bills found by an arbitration panel to be

willfully exaggerated, or if the treatment was unneeded or excessive or if the bill does not properly identify the claimant or employer.

Hospital rates

ANNAPOLIS—The University of Maryland Hospital has been denied a temporary 24% rate increase by the state health services cost review commission.

Hospital officials said they needed an additional \$23 million annually to operate. The commission countered that its staff report indicated an increase was unjustified, calling the hospital management "ineffective and inefficient."

The hospital's request for a permanent 24% increase will not be acted upon for another six months, the commission said.

Work comp revamp

WASHINGTON—The District of Columbia City Council has agreed to revamp the city's expensive workers compensation law.

Benefits payable under the law

are the second highest in the nation, a factor in the flight of business to the Virginia and Maryland suburbs where the benefits and rates are lower, employer groups contend.

Meanwhile, James R. Montgomery III, acting superintendent of insurance, has approved a 22.7% hike in workers compensation rates for city employers.

Work comp changes

TRENTON—New Jersey Gov. Brendan Byrne has signed into law legislation making major changes in the state's workers compensation law, putting New Jersey among the top 15 states in payments for major amputations.

Lewis Applegate, head of the governmental relations office for the New Jersey State Chamber of Commerce, estimated the measure would cost industry another \$100 million annually in workers compensation premiums. The system currently collects \$552 million a year in premiums and pays out \$416 million.

The law, which affects all injuries after Jan. 1 and is not retroactive, eliminates payments for minor complaints such as sprains, minor cuts or bruises and makes it generally more difficult for workers to qualify for payments while increasing those payments when awarded.

Existing maximum payments of \$40 a week for certain injuries will increase to a range of \$40 to \$176 in the first year, depending on the injury, and rise as the average state weekly wage increases. Payments will be based on 75% of the average weekly wage instead of the current 66.6%.

Maximum payments for the loss of an arm will increase to \$55,341 from \$12,000 and to \$52,825 from \$11,000 for the loss of a leg, while the maximum payment for the loss of a hand will go to \$33,343 from \$9,200 and to \$28,106 from \$8,000 for a foot. The maximum payment for work-connected total disability will be boosted to \$100,320 from \$20,900 and burial benefits for work-related deaths would increase to \$2,000 from \$750.

Workers who fail to wear safety equipment after repeated warnings are prohibited from receiving payments by an amendment to the bill.

Another amendment states that a policeman or firefighter responding to an emergency is considered working and can collect if injured while on emergency calls.

HMO statute

RICHMOND—A commission studying health care costs in Virginia has recommended the 1980 state legislature enact a law regulating the operation of health maintenance organizations.

The proposal is designed to expand and clarify the laws that apply to HMOs and prepaid health care plans like Blue Cross, several members of the commission said.

Because both kinds of plans are now covered by the same statute, certain problems are involved in applying that legislation specifically to HMOs, state insurance commissioner James W. Newman Jr. told the commission. An HMO "is a financial mechanism as well as a delivery system," he noted, while Blue Cross/Blue Shield plans are strictly programs for financing the care of subscribers.

Doctor wins suit

DAYTON—A Dayton, Ohio, physician was awarded \$397,500 by a county court jury in a suit against his malpractice insurer.

Dr. Kennon W. Davis sued Buckeye Insurance Union Inc., charging the insurer had not made a good-faith attempt to negotiate a settlement in a malpractice suit that cost him \$462,500.

Dr. Davis was sued by a woman who gave birth to twins, one of them mentally retarded, after he had performed a tubal ligation on her. The suit charged that the doctor failed to notify the woman after tests showed the results of the surgery were questionable.

Roof collapse.

AUSTIN—The Texas supreme court has reaffirmed that the standard Texas property policy does not cover a roof that collapses under the weight of accumulated rainfall.

Harold Matchoolian of Houston sued U.S. Fire Insurance Co. after it refused to pay his claim after an Aug. 24, 1974, storm dumped 1.7 inches of rain in 20 minutes. The standard policy on his building excluded water damage unless it is caused by wind or hail or other natural damages.

Mr. Matchoolian contended the wind tore loose a piece of roofing paper that blew over a roof drain, causing the water to stop up and the roof to collapse under the weight. A trial jury found the insurance covered the loss, but the decision was reversed on appeal.

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Strengthen air safety in San Diego: NTSB

WASHINGTON—Another air catastrophe, similar to one that killed 144 persons in 1978, could occur in San Diego if the Federal Aviation Administration does not tighten air traffic control procedures at the city's Lindbergh Field, the National Transportation Safety Board warns.

The board has recommended that the FAA require air traffic control clearance of all flights entering the San Diego area. Private aircraft taking off and landing at smaller area airports do not require FAA clearance.

The recommendation follows an NTSB investigation into the midair collision of a Pacific Southwest Airlines 727 jetliner and a private airplane on Sept. 25, 1978. All 135 persons aboard the airliner, two passengers of the private plane and seven people on the ground were

killed.

In addition, two near collisions involving commercial and private aircraft have occurred since then and were cited by the board to illustrate the potential danger. One of the near collisions was on Nov. 18 over San Diego Stadium, which was filled at the time with 51,910 spectators viewing a professional football game.

Another disaster nearly occurred just late last month when a Pacific Southwest Airlines 727 aborted a landing into Lindbergh to avoid hitting a small plane that had taxied out onto the same runway on which the jet had been cleared for landing.

The NTSB had placed most of the blame for the 1978 accident on the PSA jetliner's crew for failing to keep track of the light plane. But it also cited air traffic control procedures as a contributing factor.

For Minn. arena

7 insurers line up to write builder's risk

MINNEAPOLIS—Seven companies are vying in the insurance arena for a \$52 million builder's risk policy to protect the Twin Cities' planned indoor stadium, new home of the Minnesota Vikings, Twins and Kicks.

The winning team will be named early this month, reports a spokesman from the independent insurance consulting firm on the project.

A broad form builder's risk policy will insure the structure during construction for its full completed value of \$52 million. Stadium owners, the Minnesota Metropolitan Sports Facilities Commission, will also carry between \$20 million and \$25 million coverage on the liability side, reports Raymond L. Miller, vp of Schwartz Brothers Insurance Agency.

The Chicago insurance broker has already drawn up underwriting specifications on insurance for both the commission and its building contractors for the construction phase of the project. Schwartz Brothers executives Mr. Miller and Thomas R. Wiley will also participate in selection of the carriers through the bid process.

This role for an insurance consultant was required by the public bond issue raising revenue for the stadium. Schwartz Brothers will continue to provide insurance to the Commission after the stadium is completed, as stipulated by the bond issue.

Mr. Miller declined to describe the nature of the Schwartz Brothers contract with the Metropolitan Sports Commission in detail, except to say it is open-ended in time and that compensation is on a fee-per-hour basis plus expenses.

Two building contractors, Construction Management Services in Minneapolis and Detroit-based Barton-Malow Construction Management Services Inc. will be required to purchase insurance specified by the Schwartz Brothers Insurance Agency. This includes workers compensation, comprehensive general liability, automobile liability and umbrella liability coverage over the entire liability package.

Hometown fans of the Twin Cities' three pro ball teams can expect completion of the protected indoor complex scheduled for the 1982 Twins baseball season. The stadium resembles the Seattle Superdome, with a huge inflatable dome overhead held up by air pressure.

Ground has already been broken at the downtown Minneapolis site of the new stadium, which will replace the old outdoor sports facility in suburban Bloomington. Seating capacity of the new stadium will be 75,000 at football and soccer games and 53,000 for baseball games.

Architects on the project are Skidmore, Owings & Merrill. ■

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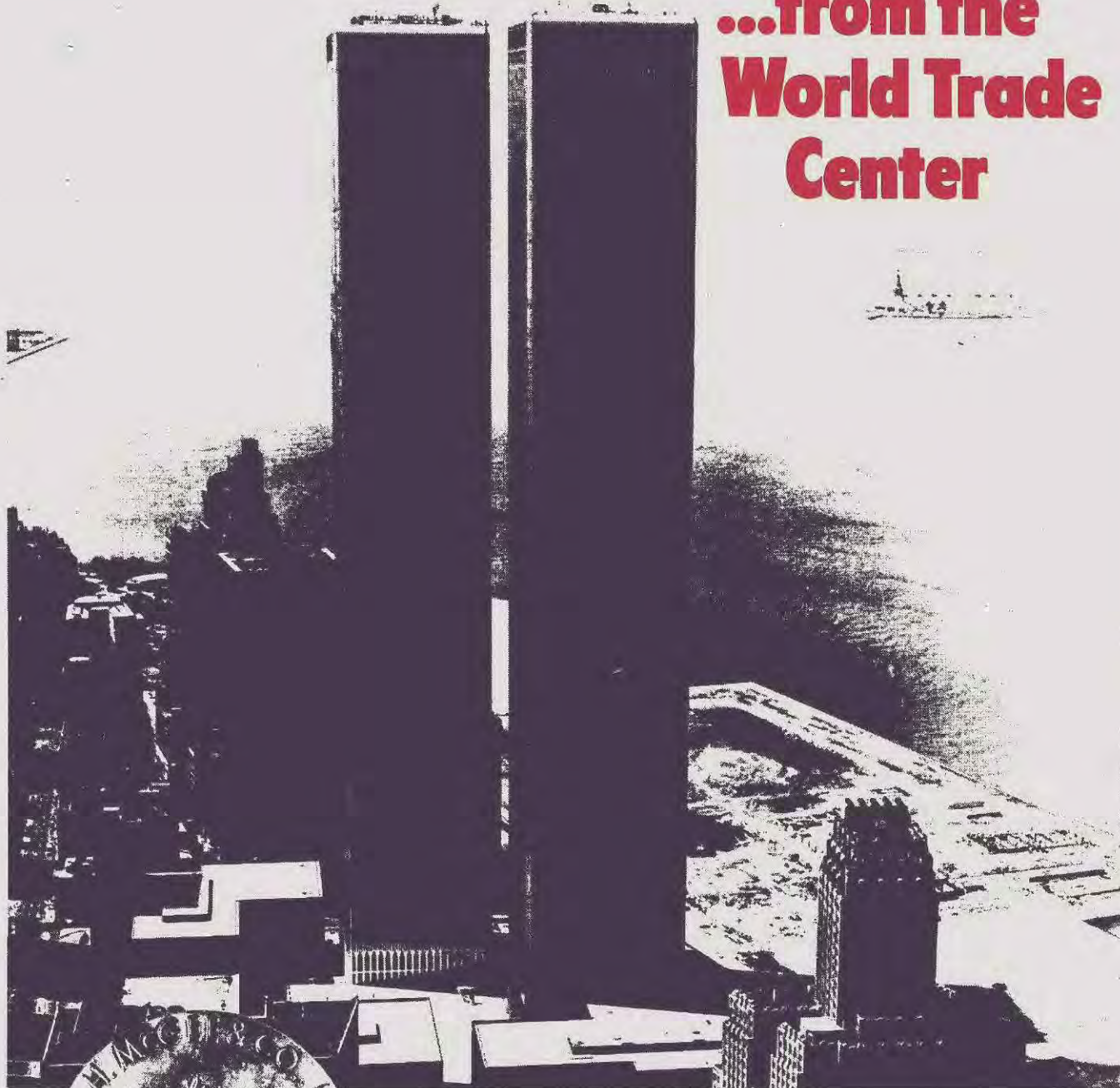
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Pay hikes alter benefit formulas

LAKE BLUFF, Ill.—The average U.S. earnings in 1978 was \$10,556, a 7.94% increase from 1977, reports consultant A.S. Hansen here.

The 1978 figure will mean increases beginning in 1980 in:

- The index factors used to compute the benefits on behalf of workers first becoming eligible in 1980.

- The decoupled formula "bend points," which were \$180 and \$1,085 for 1979 eligibles and will now be \$194 and \$1,171.

- The maximum family formula "bend points," formerly \$230, \$332 and \$433, now \$248, \$358 and \$467.

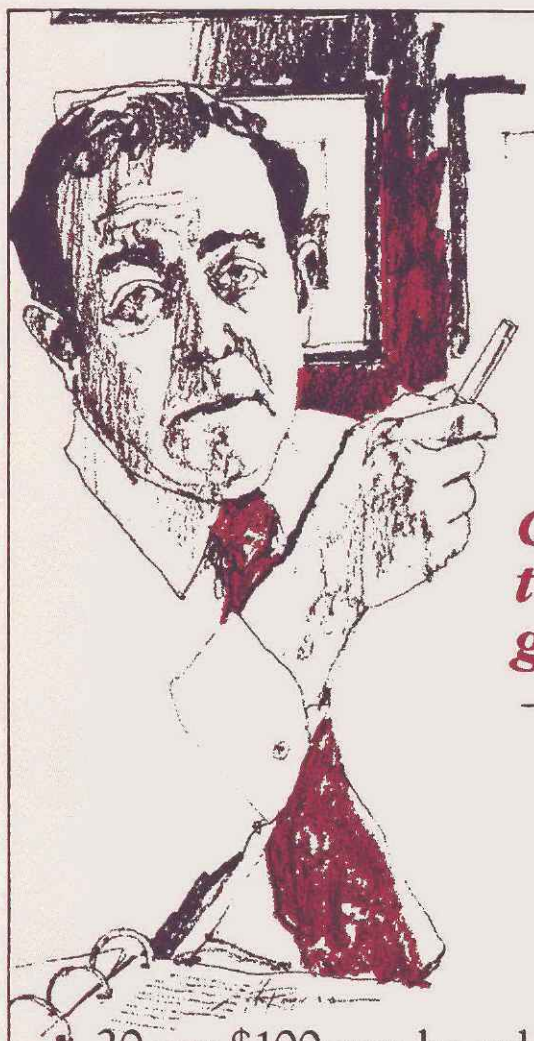
- The maximum earnings a person may receive without suffering benefit deductions for beneficiaries younger than 65, which was \$3,480 and will be \$3,720.

- The wage basis for a "quarter of coverage" used to determine eligibility for benefits, which was \$260 and will be \$290. ■

Financial Strategies

In Business Insurance

An INA Series



***Cost analysis
tells us when to
go offshore.***

-Gillette's Mather

A multinational firm, according to William L. Mather, Administrator of Risk Management for The Gillette Company, doesn't necessarily have to buy all its overseas property coverage at high local rates.

In Gillette's case, when the company determines that an overseas exposure is costing more than a comparable U.S. exposure (.20-per-\$100, for example, as opposed to .10-per-\$100), corrective measures are taken. "In countries which permit the practice," says Mather, "we export the reinsurance back to our offshore captive."

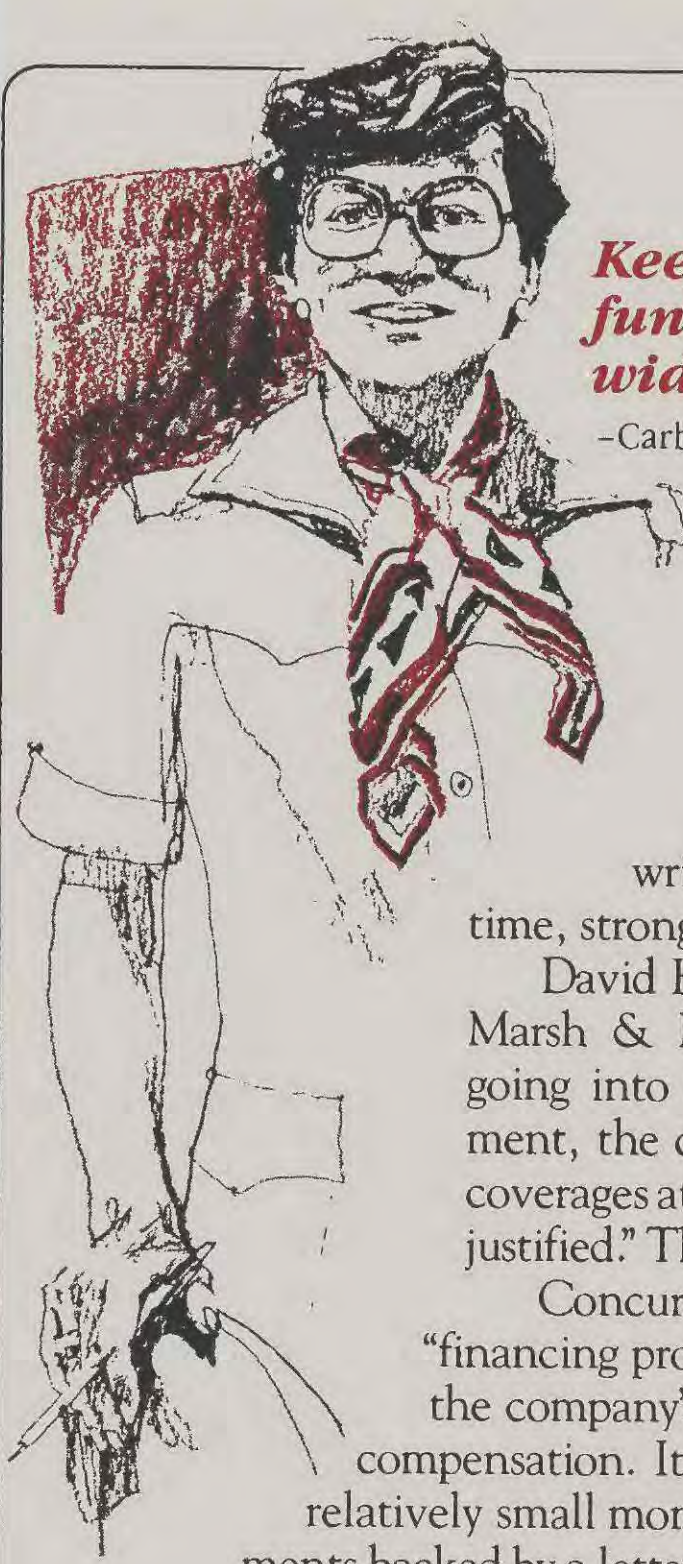
An admitted national carrier writes the basic property coverage for Gillette at prevailing rates – assuring that the policy is in compliance with local laws and regulations. But the carrier retains only part of the risk, with the majority being reinsured by the Gillette captive.

When the two premiums are averaged, the high rate of .20-per-\$100 can be substantially reduced. Mather sees this as a viable way of smoothing out differentials between U.S. and overseas property-coverage costs.

Inflationary pressures continue to push employee benefit costs higher and higher. Outlook for a slackening of this trend is doubtful, but one hopeful sign exists in a mechanism for controlling the rate of growth of these costs. From the corporate standpoint, flexibility in cash-flow management and investment return are additional advantages.

The Carborundum Company now self insures medical, surgical and death-benefit programs for over 3,000 salaried employees in the U.S. "Our cost increases," says Edith Lichota, Assistant Treasurer of Insurance and Benefits, "have beaten the inflation statistics in this area by one-third to one-half."

Operating under a federally approved Trust arrangement, the plan can be funded on a



***Keeping our
funding options
wide open.***

—Carborundum's Lichota

current basis — or, alternatively, be pre-funded. In the latter case: no impact on P&L. Additionally, tax-exempt interest generated in the Trust reduces corporate expenses or accumulates as a funding reserve.

Ms. Lichota sums up: "We've got an effective vehicle from the benefits viewpoint and the Treasurer's."

A brokerage firm reports that a large conglomerate's insurance department recently implemented two "opposing" money-management plans — with excellent results. Management had requested that department heads seek operating tax write-offs through purchases and capital investment. At the same time, strong cash-flow positions were to be maintained.

David Holbrook, Senior Vice President of Marsh & McLennan, commented: "By going into the market at the right moment, the conglomerate bought property coverages at as large a premium as could be justified." This satisfied the write-off goal.

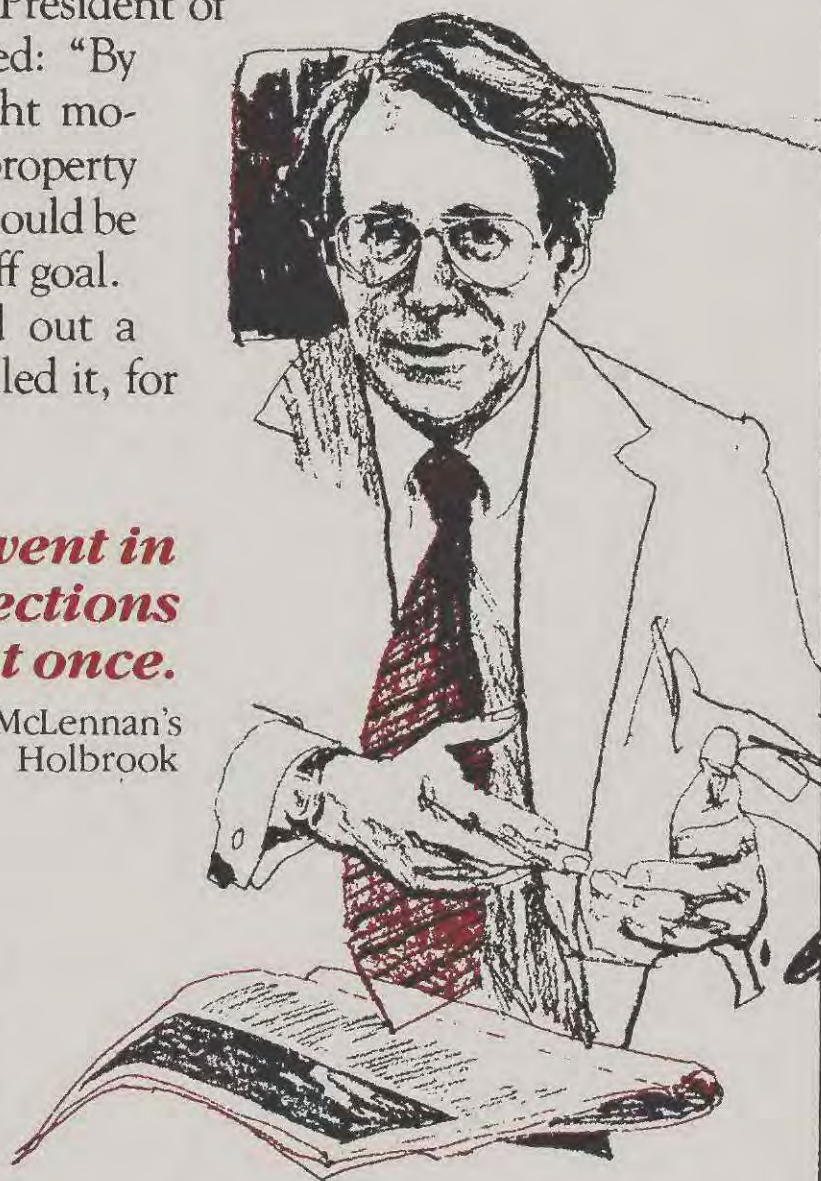
Concurrently, M&M worked out a "financing program," as Holbrook called it, for the company's workers' compensation. It involved relatively small monthly payments backed by a letter of credit guaranteeing the carrier future premiums plus loss-adjustments.

Large amounts of cash were retained by the company in the same year it achieved a major write-off on insurance purchases.

The dynamics of business insurance have never been more complex. Opportunities to improve financial performance by sharpening strategies have never been greater. Know-how, experience and resources are crucial. So is the willingness to innovate. No company has more impressive credentials in these areas than INA. If you have a concept or a problem to discuss, or if you'd like to review new developments in this field, INA's Property-Casualty Insurance Group can be of special help. Write to John R. Cox, President, Insurance Company of North America, 1600 Arch Street, Philadelphia, PA 19101 or call (215) 241-2729.

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at once.***

—Marsh & McLennan's
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perspective

Real estate risks

Group insurance plans for commercial property may overcharge owners

By Robert McLallen

NEVER IN MY EXPERIENCE has the owner of an average or above average commercial property benefited from participating in a group or master property policy.

The only benefactor is the management company, which gains some degree of convenience and invariably a commission income arrangement from the insurer.

Let me explain.

There is virtually unlimited capacity for average and above average risks, which results in adequate competition levels. Typically, however, insurers will develop significantly different underwriting attitudes within these general classifications.

A responsive master policy presumes that a single insurer will offer the most appropriate product to each specific class of risk. The market place simply doesn't work that way.

The problem is magnified when considering the effect of substandard or unacceptable classes of real property being included in a master policy. An underwriter is aware that he can expect pressure to accept undesirable risks as a part of the "master policy" concept. He will therefore tend to load the rates for the average or better risks in the property schedule.

The result is that the only property class that benefits from this method is substandard real estate.

Often a master policy is touted as significantly reducing property insurance premiums because of the inherent reduction in insurer's expenses. The fact is that from an underwriting point of view each risk is inspected and considered individually and the cost savings from a master policy is insignificant at best.

The premium volume discount theory may have some degree of validity. Understandably most insurers would prefer a large order to a small one. On that basis, there may be some propensity to allow additional initial premium credits in order to obtain an account, but the profitability of the account will ultimately replace this aspect of the master policy premium development.

The major long-term factor in the pricing of a master policy will be the same as in most other commercial property policies: the ratio of premium to losses.

There is, however, a paradox in the loss ratio issue as it relates to the prop-

erty owner's interests.

If the loss ratio is favorable, there is a tendency for the following:

- An understandable reluctance on the part of the underwriter to pass much of the profits onto the policyholder in order to offset the impact of possible losses in the future.

- Increased pressure on the underwriter to take on less desirable business at relatively favorable rates which will tend to adversely affect the loss ratio in the future.

- To increase commission levels to management companies if possible.

If, however, an adverse loss ratio develops, these alternatives may be anticipated.

- Increased rates applied on a percentage basis—not by individual property.

- Reductions in coverage, increased deductible, etc.

- Cancellation of master policy.

It is clear that I do not consider the master policy approach as being in the long-term interest of a real estate property owner.

I would, however, offer the following suggestions:

- If a master policy is available, the property owner should obtain an alternative quotation from an outside source of his selection.

- Require a copy of the master policy or at least a very detailed explanation of coverages, terms and conditions. The policy may not meet your needs or desires. Do not simply accept a certificate of insurance.

- Satisfy yourself that your real estate management company has a professional insurance department and/or an insurance broker to whom you can look for appropriate guidance should the need arise.

- The property owner should consider the benefits of handling real estate coverage through its own broker. This might avoid a great deal of inconvenience if you should decide to change managing agents.

There are real estate management companies that have excellent facilities for handling the property owners insurance needs, but I would suggest that there are many more who use the captive nature of their relationship to develop an additional income source with little concern for the needs of the property owner—much in the same vein as the savings and loan industry.

It is very important to realize that the proper insurance program for income-producing property is a crucial factor in the property owner's long-term goal to protect and enhance the asset value of the property. It is unrealistic to expect anyone other than the property owner to shoulder that burden.



Master policies for commercial property packaging modern, fire-resistant office buildings with older stores and warehouses may result in higher premiums for owners.



Robert McLallen is president of the Suburban Insurance Agency of Rolling Meadows, Ill., and Condominium Insurance Specialists of America, based in Chicago.

perspective

White collar crime

By Henry Salfeld

THE JUSTICE DEPARTMENT and the U.S. Chamber of Commerce estimate the cost of "white collar crime" exceeds \$50 billion annually. Included in the estimate are such misdeeds as embezzlement, fraud, bribery and kick-back schemes, conflicts of interest, buyer manipulation and others.

Although only a fraction of the affected employers is insured for such losses under various kinds of bonds or policies, the experience of the bonding companies has deteriorated. In addition, the courts have liberally interpreted coverage or exclusions of blanket bonds in the interest of the insured, underwriters say.

In response, the Surety Assn. of America, the official rating organization, and nonmember companies have promulgated several endorsements that appear "to clarify intent" but actually and legally restrict the previous coverage. One nonmember company has gone so far as to eliminate dishonesty and fraud from the coverage and limit it to theft or forgery.

Because of their importance for the buyer of dishonesty insurance, the three principal endorsements adopted in identical or similar form by all members of the Surety Assn. and most nonmembers are analyzed here.

The first endorsement, put into action in November 1976, follows a previous one designed for attachment to financial institution bonds. It revises the definition of dishonesty and contains several new exclusions (BI, Oct. 18, 1976 and is also applicable to commercial blanket and blanket position bonds whether issued as separate contracts or as parts of blanket crime or DDD Policies. The American Bankers Assn. calls the most important effects of this rider "overkill."

Now dishonest or fraudulent acts are only those that an employee commits with a "manifest" intent to cause the insured to sustain a direct loss and to obtain financial benefit from the employee or specific other third parties. The word "manifest" is not defined in the endorsement and the Surety Assn. refers to legal dictionaries. Whether companies may eventually object to the introduction by the insured of documentary and other evidence to prove the employee's intent remains to be seen.

The loss must result "directly" from the employee's acts. Indirect or consequential losses are no longer insured. Whether or not a loss is a direct one is subject to judicial consideration of the facts in each case. In *J.R. Norton Co. vs. Fireman's Fund Insurance Co.* (569 P 2d. 857), the employee manipulated records to conceal the death of cattle in his care. The court decided such concealment was the proximate and direct

Henry Salfeld was an insurance broker with Fenkel & Co. in New York since 1935 and has been a consultant to that firm since 1974, when he retired as senior vp. He has written extensively on insurance.

'Hand in the till' theft forces more exclusions on employee bond policies



cause of the loss, whereas the company considered the death of the cattle and not the subsequent concealment to have been the direct cause.

A strict interpretation of the clause that the manifest intent must be to cause a loss to the employer would eliminate coverage for any loss where the primary intent of the employee is to obtain a benefit for himself, herself or certain others and where the loss to the insured was not intended but only coincidental. So-called Robin Hood cases would fall into this category.

The benefits the dishonest employee intends to derive may not include salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other employee benefits earned in the normal course of employment. This "other" clause is most unclear: If anyone has "earned" such benefits "in the normal course of employment," they certainly wouldn't result from dishonest or fraudulent acts.

Another exclusion eliminates coverage for "potential income, including but not limited to interest and dividends, not realized by the insured because of a loss covered under the policy." Does this mean the exclusion applies only if the potential income is inherent in a loss otherwise covered or also if the employee deprives the employer exclusively of potential income? If, for instance, the employee steals

bonds with coupons attached or coupons only? And what is the decision if a salesman dishonestly diverts sales to another party without causing the insured any other loss covered under the bond?

Also excluded is coverage for punitive damages for which the insured might be legally liable, arising from a loss covered under the bond. If the loss caused by the employee consists of the payment of compensatory damages to a third party there is coverage, but any punitive damages vicariously incurred by the insured would not be insured.

The exclusion pertaining to "all costs, fees and other expenses incurred by the insured in establishing the existence of or amount of loss covered under the bond" confirms a long-standing practice, but again is subject to interpretation. It is supplemented by another endorsement on "legal fees exclusion" published by the Surety Assn. in March 1977.

The exclusion is not limited to extra-legal costs and, therefore, duplicates the endorsement which excludes "fees, costs or expenses incurred or paid by the insured in prosecuting or defending any legal proceeding." Even though the exclusion appears to be unequivocal, the question remains as to who should carry expenses caused by the denial of liability by the company and incurred by the insured in establishing the validity of the claim.

The question is the same under the legal fee exclusion endorsement. The first half of Sec. 1 clearly refers to third party actions brought against the insured, but the second half also pertains to expenses incurred by the insured "in prosecuting any legal proceeding whether or not such proceeding results or would result in a loss to the insured covered by this bond." There is no exception for suits brought by the insured against the company to prove the existence or amount of the claim. On the other hand, the company will not be able to refuse payment of costs if imposed upon it by the court because it considered the denial of liability to have been in bad faith.

In the first half of the endorsement, the company has eliminated its obligation to defend any legal proceeding brought against the insured even though the third party may allege and eventually successfully prove its loss was because of a dishonest act of an employee of the defendant, as defined in and covered by the bond. The insured must defend such action at its own expense.

An important exclusion in blanket bonds has always applied "to loss, or to that part of any loss, as the case may be the proof of which, either as to its factual existence or as to amount, is dependent upon an inventory computation or a profit and loss computation." But, until the recent promulgation of the inventory exclusion rider by the Surety Assn., the exclusion was followed by a "provided" clause that made the exclusion inapplicable to a loss "which the insured can prove, through evidence wholly apart from such computations, is sustained by the insured. . ."

On the basis of this exception, courts have generally allowed dishonesty claims if the insured could show "prima facie" evidence or through any means besides the mentioned computations that there was a loss covered under the bond. The courts then permitted the insured to use inventory and profit and loss computations for further substantiation of the claim. (See *J.R. Norton Co. vs. Fireman's Fund Insurance Co.* 569 P 2d; *Prager & Bear Inc. vs. Federal Insurance Co.* 136 Cal. Rptr 875-1977; *Popeo vs. Liberty Mutual Insurance Co.* 343 N.E. 2d. 417-Mass. 1976.)

The endorsement put into effect by the Surety Assn. in November 1976 eliminates what it calls the "proviso" clause. In its letter of submission to the state insurance department of Nov. 17, 1976, the Surety Assn. said its purpose was "to clarify," i.e., to prevent judicial interpretation of the exclusion to the benefit of the insured. Whether the companies will succeed in their endeavor will have to be seen. Even without the "proviso" clause, a claim that can be shown to exist and the amount that has been admitted by the employee may not be considered to be "dependent upon" the computations in order to be used in support of the policyholder's claim.

speaking out

Moving a captive with greatest ease

By Robert Reeves

HOSPITAL CORP. OF AMERICA this year relocated its wholly owned insurance subsidiary, Parthenon Insurance Co., from Colorado to Tennessee. Though this may seem like an ad for Tennessee captives, HCA found that the Tennessee insurance department encourages an open-door policy to discuss problems and lend advice.

The relocation could have been difficult and complex. It turned out to be a relatively simple procedure. The specific steps in relocating Parthenon to Tennessee from Colorado are as follows:

- A letter of intent was filed with the Tennessee insurance department identifying the parent company and all affiliated and controlled companies Parthenon proposed to insure.
- A statement was filed with the Tennessee insurance department setting forth the facts concerning the availability of professional liability or errors and omissions insurance combined with comprehensive general liability coverage that Parthenon proposed to write.
- A description was given to the insurance department of the evidence we proposed to present illustrating a need for Parthenon to continue providing this type of insurance.

A formal hearing was held and our evidence was presented. After the hearing the commissioner gave us notice to submit our articles of incorporation and other documents required by the statute. Two copies of the articles of incorporation certified by the secretary of state were then filed with the insurance department along with two copies of the corporate bylaws. An irrevocable letter of credit in the amount of \$400,000 to capitalize Parthenon

Robert Reeves is vp-insurance at Hospital Corp. of America in Nashville.



was issued in favor of the commissioner of insurance, state of Tennessee, and filed with the department.

A receipt from the bank was also filed verifying Hospital Corp. of America's \$350,000 payment to the account of Parthenon Insurance Co. for its surplus, providing Parthenon with total capital and surplus of \$750,000. Opening financial statements were filed with the Tennessee insurance department, along with biographical sketches of all the officers and directors of Parthenon. A form, with appropriate board resolutions attached, was also filed appointing the commissioner of insurance as agent for service of process.

A schedule of projected premium income to be received by Parthenon during the first 12 months of operation was filed, as well as identification of the policyholders and appropriate premium amount specified and a statement indicating the proposed location of the principal administrative offices and an estimate of the number of Tennessee residents to be employed. Shortly after filing these documents with the Tennessee insurance department, we received our certificate of authority and submitted for their approval our proposed policy wording, rates and actuarial reports.

The "F" reorganization (a change in identity, name, form or place of organization of a corporation) was completed with the Jan. 1, 1979, merger of Parthenon Colorado into Parthenon Tennessee, with the Tennessee corporation receiving all the assets and liabilities of the Colorado corporation. The articles of merger were filed with the insurance departments of both Colorado and Tennessee for their approval. The proper notices were also filed with the Internal Revenue Service regarding the statutory "F" reorganization. A certificate of assumption of liability was filed with the Colorado secretary of state.

After the merger was completed, Parthenon's financial statements reflected the additional investment by Hospital Corp. of America of \$400,000 capital and a surplus of \$350,000 initially placed in the Tennessee insurance company for its activation. This relocation process was accomplished easily within a two-month period and the cooperation we received from both insurance departments was excellent.

Buyer's delay negates property coverage

A POLICYHOLDER'S DELAY in checking with his insurance broker about any doubt as to coverage violated a condition precedent regarding notice in the insurance policies, a Georgia appellate court ruled.

Atlanta International Properties Inc. requested coverage from the Georgia Underwriting Assn. for fire, extended coverage, vandalism and malicious mischief for 39 pieces of property. The insurer issued 39 policies, each of which had the word "and" typed under the insured perils to indicate a \$6 charge for "extended coverage and vandalism and malicious mischief."

Subsequently, the properties suffered from vandalism or malicious mischief. An officer of Atlanta International examined the policies and concluded there was no coverage. About nine months later, he mentioned the question to his broker and was informed there was indeed coverage. Claims were filed but liability was denied by the insurer because of a failure to comply with a policy requirement that "the insured shall give immediate written notice to the company of any loss." Atlanta International sued the insurer but lost.

The appellate court agreed, empha-

Georgia insurer denies vandalism claims under 'immediate notice' clause

legal briefs

sizing that in the absence of some waiver or estoppel, a notice of loss provision is a bar to suit on the policy where, as here, such provision was made, a condition precedent by the contract terms. The court rejected Atlanta International's claim that the addition of the word "and" created any ambiguity in the policies. *Atlanta Intern., Etc. vs. Georgia Underwriting*, Court of Appeals of Georgia, April 24, 1979 (BI/01/J.-\$4).

Workers comp

Injuries resulting from an employer's failure to provide proper medical treatment to a professional baseball pitcher were compensable under the Pennsylvania workers compensation act, a federal court ruled. The court held the player could not sue for his injuries, as the act was his exclusive remedy.

Patrick Bayless sued the Philadelphia Phillies baseball club for personal injuries suffered while employed as a professional pitcher. He contended his mental illness was caused by the administration of drugs following complaints of severe back pain. At the time the drugs were administered, Bayless was working for the club and under the care of a team trainer and physician supplied by the club. The trial court dismissed Bayless's suit.

The court ruled the failure to provide

proper medical treatment constituted an "accident," bringing the act into operation. The court pointed out that here the employer assumed the obligation of providing medical care to the employees who became ill in the course of their employment and that Bayless charged that proper care was not provided, resulting in his injury. This placed Bayless clearly within the act's scope, the court said.

The court rejected Bayless's contention that the act was not intended to apply to "high priced athletes," saying the act makes no such distinction and applies to all employees regardless of their earnings. *Bayless vs. Philadelphia National League Club*, U.S. District Court for the Eastern District of Pennsylvania, May 22, 1979 (BI/02/J.-\$4).

Hospital defined

A Missouri appellate court held that a facility that principally provides convalescent care and rehabilitation and that was not equipped for surgery was not a "hospital" as defined in the policy.

The Equitable Life Assurance Society issued a group medical policy covering a Mr. McManus. The policy defined a hospital, in part, as having on its premises organized facilities for the care and treatment of sick and injured persons, including major surgical facilities. According to the policy, a hospital

would not include confinement to a nursing or convalescent facility.

Mr. McManus was served at the Brothers of Mercy Extended Care Facility, where he died in November 1972. Brothers was licensed as a professional nursing home and so advertised itself. Mr. McManus's widow sued and recovered a judgment of \$3,000.

The appellate court reversed the judgment. The court concluded that by the clear terms of the policy, Brothers was not a hospital because it lacked a surgical facility and was used principally as a convalescent facility. *McManus vs. The Equitable Life Assurance Society of U.S.*, Missouri Court of Appeals, June 11, 1979 (BI/03/J.-\$4).

Heart attack

In Minnesota the widow of a deceased worker was awarded compensation death benefits. Her husband had suffered a fatal heart attack while testifying at a compensation hearing in support of a petition. The compensation judge denied benefits for the heart attack but the court of appeals allowed the claim.

The supreme court, on appeal, rejected causation between the original compensable injury and the heart attack. The court said the injury sustained while pursuing a compensable claim was not compensable. *Hendrickson vs. George Madsen Construction Co.*, supreme court of Minnesota, July 20, 1979 (BI/04/F.-\$4).

These abstracts were prepared by Cases Unlimited Inc. Copies of the entire decision may be obtained by sending a check for \$4 made out to Cases Unlimited to Business Insurance, 740 N. Rush St., Chicago, Ill. 60611. Please list the number for each opinion.

At Celanese Corp.

Bullock replaces Lopez as risk exec

David Bullock, 39, has been named risk manager at Celanese Corp. in New York. He replaces **Peter Lopez**, who assumed a position at St. Regis Paper Co. as reported. Mr. Bullock, who will report to assistant controller Charles Stephens, has a B.B.A. degree from Louisiana State University. He was previously director of risk management and insurance at Singer Co., now located in Stamford, Conn., where **Nicholas DeRosa** has replaced him. Mr. DeRosa, 32, was previously insurance manager at Singer and has a B.B.A. degree from Pace University. A new insurance manager has not been named.

Cluett, Peabody & Co. Inc. in New York has named **Neuman M. Wood**, 38, corporate safety director. Mr. Wood, who previously was director of safety and claims management at Monumental Properties Trust in Baltimore, Md., reports to risk manager J. Kirk Barefoot in his new position. He has a bachelor's degree in psychology from George Washington University and a J.D. from the University of Baltimore. Mr. Wood replaces **Gerald Magarik**, who is now manager of safety programs at G.K.

comings & goings: buyers

Technologies in Greenwich, Conn.

The Toledo, Ohio, firm of Sheller-Globe Corp. has named **Donna M. Crouch**, 33, risk analyst. Ms. Crouch replaces **Sandra Hall**, who left the company to join Owens Illinois Inc. in Toledo as insurance administrator. Ms. Crouch, who previously worked as insurance administrator in the risk management department of Quesetor Corp., also in Toledo, is enrolled in the business program at the University of Toledo and attended Stautzenberger College in Toledo. She reports to the director of risk management, Richard Walker. Ms. Hall, 29, has a bachelor's degree in business education from the University of Arkansas at Pine Bluff and is working toward her CPCU at the University of Toledo. She reports to risk manager Richard Johnson.

Odell W. Sheriff Jr., 31, has joined Cluett Peabody & Co. Inc. in Atlanta as security manager for the company's Southeastern region.

He replaces **Leonard Rickerson**, who retired. Mr. Sheriff worked for the Atlanta Police Department for nine and a half years, specializing in the investigation of crimes against business. He will be responsible for security, polygraph testing and the safety aspects of risk management in the Southeastern region. He has a B.S. degree from Georgia State University and will report to risk manager J. Kirk Barefoot.

Robert T. Nischwitz has joined Kellwood Co. in St. Louis as manager of security. He replaces **James Brown**, who left the company. Mr. Nischwitz, a certified protection professional, was most recently director of corporate security at Pet Inc., also in St. Louis, where that position has been discontinued. He has also worked for Hussmann Refrigerator Co. and the Federal Bureau of Investigation. Mr. Nischwitz has a B.A. degree in English from Washington University and is a member of the American Society for Industrial Security, the Society

of Former Special Agents of the FBI and two other law enforcement officials' societies. He reports to Robert Maddocks, general counsel and secretary.

Amax Inc. in Greenwich, Conn., has named **Michael A. Wiebe**, 23, senior insurance analyst, filling a vacancy created when **Robert Doyle** left to join Planned Parent-

hood Federation of America Inc. in New York, as reported. Mr. Wiebe was a loss prevention engineer at Improved Risk Mutuals and has a bachelor's degree in engineering from State University of New York and an M.B.A. degree in finance from the University of Connecticut. He will report to Robert J. Ryan, manager of corporate insurance.

letters

Continued from page 10
only about 10% of the firms operating in this phase of the business (many of which are simply retailers who hold E&S licenses).

You have suggested that "Tight-lipped E&S brokers could tarnish industry," and then gone far out of your way to plant just such "seeds of doubt" in the minds of your readers! You have quoted some giants of the E&S phase of our industry, which is a smokescreen of respectability to cover an otherwise issue of garbage journalism. Is it really any wonder folks don't want to talk to you?

T.C. Anderson
Chairman
Skanco International Ltd.
President Specialty Underwriters Assn.

P.S. I realize this letter is far too long to print, and it should not be "excerpted" in any way. However, perhaps some of the points I have made will help you produce in the future a responsible, accurate issue on the E&S phase of our business.

Laws won't work

To the editor: While your magazine is performing a service exposing the dishonest people in our industry, I do not see how more legislation will serve any useful purpose other than to create problems for those firms that need to rely on the services of an excess and surplus lines broker (BI, Sept. 17 editorial).

The majority of the E/S brokers are not boiler room operators but are entities created by state insurance legislation. In the "Fountain Pen Conspiracy" by Johnathan Kwitny, a book that covers the lives of some of the more renowned crooks, the author points out that many of the so-called crooks take this path not so much for the monetary benefits that might accrue, but for psychological reasons, i.e., they get a charge out of what they are doing. If they

derived their income by honest means, these people might be bored. People who get a charge out of cheating people, even if they do not have to resort to cheating, invariably are so capable and intelligent that no laws will stop them.

Please keep in mind it takes three to tango in a fraudulent insurance scheme: the astute but unscrupulous E/S broker, the stupid retailer and the greedy insurance buyer. It is also interesting to note how often the big alphabet brokers are the ones taken in by these fraudulent schemes.

There are just as many, if not more, retailers involved in the same practices and going unpunished. Here are but a few examples that I know of: A retailer owed one of the "biggies" in our business \$327,000 in premiums. Why? The company failed to bill him, so he spent the money and declared bankruptcy. The company never pressed charges against anyone even though what the retailer did is a felony in California.

We recently had a company become insolvent. A retailer took them for a couple of hundred thousand dollars. Reason: They forgot to bill the retailer. The retailer declared bankruptcy when exposed.

Then we have the case of the pillar of his community: a church leader who was convicted of not returning unearned premiums to his insured got a slap on the wrist.

A retailer used to increase the premiums on the face of the policy and charge his insured more for the coverage. This man is still operating.

Keep exposing the crooks, but also take some retailers to task. If you really want to perform a service for the industry, follow up on the crooks named in the "Fountain Pen Conspiracy," and see why these people are able to still operate.

H.P. Schlander
Anderson & Murison
Pasadena, Calif.

info

• "Multinational Benefits Assessment" covers such topics as the need for an international benefit system, corporate benefit planning, local management and employee relations and cost control of benefits abroad. For a free copy, write Multinational Benefit Associations, 980 Post Rd., Darien, Conn. 06820.

• **Employee benefit self-funding** is becoming increasingly attractive to employers. In response to this trend, Jefferson National Life Insurance Co. has compiled a self-funding administrators kit. The kit is designed to give a brief overview of self-funding, an explanation of the variety and flexibility of the company's stop-loss products and a checklist for establishing a new self-funded plan. For a free copy of this administrators kit, write Jefferson National Life Insurance Co., Group Dept., 1 Virginia Ave., Indianapolis, Ind. 46204.

anapolis, Ind. 46204.

• "Which Way Should You Go?" on **health benefit plan** choices is a brochure from Bankers Life & Casualty Co. describing self-funded health benefit plans with administrative services for employers paying at least \$200,000 annually in health claims. For a free copy, write John Farrington, Regional Director of Group Sales, Banker's Life & Casualty Co., 711 High St., Des Moines, Iowa 50307.

• The Gypsum Assn. is offering the third edition of its **industrial safety manual**. The 28-page manual covers most gypsum company industry production operations, outlines several safety programs and presents safety guidelines mandated by government standards. Cost is \$1.40. Write the Gypsum Assn., 1603 Orrington Ave., Evanston, Ill. 60201.

datebook

JAN. 22-23. "Captive Insurance: The Decisions for 1980" is the name of a seminar to be held in Los Angeles sponsored by AMR International Inc. The seminar will discuss how to analyze the **financial strength of a captive**, what can be expected from the Internal Revenue Service this year, offshore investment strategy and how outside underwriting profits can be achieved. Cost is \$595. Contact AMR International Inc., Advanced Management Research, 1370 Avenue of the Americas, New York, N.Y. 10019; phone 212-974-0800.

JAN. 28-29. **Physical Security Workshop**, in San Diego, sponsored by the American Society for Industrial Security; \$180 for mem-

bers, \$230 nonmembers. American Society for Industrial Security, 2000 K St. N.W., Suite 651, Washington, D.C. 20006; 202-331-7887.

JAN. 28-30. **Advanced Course on Employee Benefits**, in Atlanta, sponsored by American Management Assns.; \$495 for members, \$570 nonmembers. Also **Jan. 30-Feb. 1** in San Francisco; **March 17-19** in Chicago; **April 28-30** in New York. AMA, 135 W. 50th St., New York, N.Y. 10020; 212-586-8100.

JAN. 28-30. **Self-Insurance, Risk Retention**, in San Francisco, sponsored by American Management Assns.; \$450 for members, \$520 nonmembers. AMA, 135 W. 50th

St., New York, N.Y. 10020; 212-586-8100.

JAN. 28-30. **Principles and Practices of Insurance Buying**, in San Francisco, sponsored by American Management Assns.; \$495 for members, \$570 nonmembers. AMA, 135 W. 50th St., New York, N.Y. 10020; 212-586-8100.

JAN. 28-31. **Financial Costing of Risk Management** at the University of Dallas (Irving), sponsored by the Risk Management Institute; \$345 for RIMS deputy members, \$375 for others. Professor Bruce D. Evans, Risk Management Institute, University of Dallas Station, Irving, Tex. 75061; 214-438-1123 or 214-438-5765.

JAN. 29-31. **Product Liability: Implications for Management**, in Ann Arbor, Mich., sponsored by the University of Michigan Graduate School of Business Administration; \$555 fee. Also **April 28-30, July 14-16.** Contact John Corwin, program coordinator, Division of Management Education, Graduate School of Business Administration, The University of Michigan, 1735 Washtenaw Avenue, Ann Arbor, Mich. 48109; 313-763-1000.

JAN. 30-FEB. 1. **How To Get Maximum Workers Compensation Coverage** at the Lowest Possible Rates in Today's Economy, in San Francisco, sponsored by the American Management Assns.; \$450 for AMA members, \$520 for nonmembers, \$380 for three or more AMA members from the same company or \$440 for three or more nonmembers from the same company. Contact AMA, 135 W. 50th St., New York, N.Y. 10020; 212-586-8100.

JAN. 30-FEB. 1. **Workers Compensation: Costs, Coverages and Problems**, in San Francisco, sponsored by American Management Assns.; \$450 fee for AMA members, \$520 for nonmembers, \$380 per AMA member for team of three or more from same company, \$440 per nonmember for team of three or more. AMA, 135 W. 50th St., New York 10020; 212-246-0800.

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Chicago clergy congregate in auto plan

About 1,100 priests of the Archdiocese of Chicago are now covered by a group auto insurance contract with Aetna Life & Casualty.

The archdiocese pays about 70% of the \$500 premium per auto, with the priest paying the remainder. A priest's contribution varies only if he owns more than one automobile. Priests are covered for liability and physical damage under the master contract issued to the archdiocese, and a priest's coverage cannot be canceled by Aetna as long as he pays the required premium.

Chrysler benefits

Pensions and benefits will remain undisturbed for Chrysler-employed members of the United Auto Workers even though a renegotiated contract will reduce wage increase formulas and eliminate certain holidays to aid the financially-troubled automaker.

Chrysler and the UAW have agreed on the changes, subject to union ratification, as a condition of qualifying for \$3.5 billion in federal loan assistance approved by Congress last month.

Congress has also required Chrysler to establish an ESOP of \$162.5 million worth of company stock before granting loan guarantees. With the move, Chrysler employees will own one-sixth of the firm, sources said.

Benefit strike

Disagreement over a uniform health insurance plan has led the 60,000-member Oil, Chemical and Atomic Workers Union to strike the refinery industry.

Union members, who represent about 70% of all refinery workers in the U.S., walked off their jobs last Tuesday afternoon after the union and some 100 oil companies failed to reach agreement over wages, vacation time and health care benefits.

The union is looking for uniform standards and elimination of co-payment of premiums in medical insurance plans to which companies contribute an average of \$35 per month per worker, said a union spokesman. Most of the major companies pay \$84 monthly and offered the union an additional \$10 per month, which was rejected by the workers.

"We have 100 different companies and 100 different plans," the union spokesman said.

Workers are also looking for dental and prescription drug care coverage, which most of the companies don't have, according to the spokesman.

\$1 million cover

Major medical benefits have been increased to \$1 million from \$250,000 for more than 15,000 members of Teamsters Local 251 and their families and for about 560 members of the Painters Union No. 195 and their families. Both local unions are located in Rhode Island.

Under the major medical policy, written by Blue Cross & Blue Shield, a subscriber pays the first \$100 of expense with the insurer paying 80% of all subsequent covered charges, including drugs, doctors' fees, medical supplies and appliances and some hospital charges for extraordinarily costly cases.

HMO rate hike

Financially troubled Manhattan Health Plan, a health maintenance organization serving 9,500 sub-

benefit beat

scribers in Manhattan and Roosevelt Island, was tentatively granted a 10.3% hike in rates charged to individual members and a 19.6% increase for family members.

But New York state insurance department approval is contingent upon the HMO receiving a \$600,000 operational loan by Feb. 1 from the federal government or other source. Failing that, the insurance department will reevaluate the request.

Under the tentative increase, Manhattan Health Plan monthly rates would rise to \$31.79 from \$28.83 for individual members and to \$82.65 from \$69.10 for families.

Manhattan Health Plan was formed in November 1977 with a \$2.5 million developmental loan from the federal government, but its enrollment fell short of projections and it has used up the original loan. It now expects to reach the break-even point of 15,700 members by June.

Oral surgery

Blue Cross & Blue Shield of Iowa discontinued coverage Jan. 1 for inpatient removal of impacted wisdom teeth unless hospitalization is medically required.

Only subscribers who must enter the hospital for the surgery be-

cause of heart or blood disorders, handicap, retardation or the need for special hospital services will be covered, said Robert Simmons, senior vp for the plans. Both group and individual subscribers are affected.

Previously, most patients could receive benefits for wisdom teeth extraction as long as they entered the hospital, even if they did not need to, Mr. Simmons said.

The move is designed to provide a long-needed detailed listing of the categories under which an oral surgery patient should be covered, Mr. Simmons said.

Plan officials are also trying to emphasize the "outpatient alternative" for oral surgery. In the past, just to get insurance coverage, some patients tended to enter the hospital for the surgery when they

could have had an outpatient operation, Mr. Simmons said.

The new plan was drawn up after a year of study and consultation with the Iowa Foundation for Medical Care and groups of oral surgeons in conjunction with the Iowa Dental Assn.

Some Des Moines area oral surgeons had criticized the action as illustrative of a "doctor-dominated" plan but Mr. Simmons said the plan's subscriber advisory council also was consulted about the change in coverage and supported it.

Made any benefit changes? Write Valerie Berg, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611 or call 312-649-5430.

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Contact: Jim Gilbert
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Insurers, Hooker battle in courts over Love Canal

Continued from page 1
 over the canal.

Hooker's liability insurance program from the 1940s through spring of 1979 is detailed in an exhibit filed in Los Angeles Superior Court as part of Hooker's case against its insurers.

Hartford Accident & Indemnity, which wrote all of Hooker's liability insurance to an undetermined limit since before 1942, wrote a \$10 million policy for Hooker in 1963. The limit on the Hartford policy was increased to \$20 million in 1966, but was dropped back to \$10 million in 1967 when Hooker started buying excess insurance policies.

Increasing insurance

From May 12, 1967, until March 1, 1973, Hooker had \$35 million of liability insurance, with Hartford as the primary insurer and five different excess insurers on the risk at varying times.

Hartford stopped insuring Hooker on March 1, 1973. On the same day Hooker increased its liability insurance limits to \$100 million on March 1, 1973, and carried that limit until Sept. 1, 1978, when the coverage was increased to \$150 million with a multitude of underwriters.

Over 40 U.S. and London insurers underwrote over 140 policies for Hooker during the 16-year period.

If the courts were to decide none of the insurers is liable for the pollution of Love Canal, Hooker and Occidental would have to pay for the costly defense and any judgments awarded in the suits seeking in excess of \$1 billion in compensatory damages and \$9 billion in punitive damages.

In addition, the federal government late last month sued Hooker to recover its expenditures on Love Canal cleanup and to force Hooker to remove any environmental threat and monitor the health of former residents of Love Canal.

The federal action, which also applies to three other Hooker dumping sites in Niagara Falls, seeks fines of \$10,000 per day against Hooker for violating the Clean Water Act since its passage in 1972.

Lawsuits mount

The federal suit could cost Hooker and Oxy over \$125 million, which attorneys close to the Hooker litigation don't believe will be covered by insurance. However, one attorney says the government's charges are too vague.

Hooker and Occidental sued their four primary insurers, Hartford Accident & Indemnity Co., The Continental Insurance Co., Highlands Insurance Co. and National Union Fire Insurance Co. of Pittsburgh—as well as Lloyd's of London, which wrote a pollution and seepage policy—Dec. 21, 1978, in Los Angeles County Superior Court.

Since then Hooker has added its excess insurers as named defendants in the case and has obtained an injunction against three excess insurers, Argonaut Insurance Co., Unigard Mutual Insurance Co. and International Surplus Lines, to prevent them from suing Hooker in New York State.

Hartford sued Hooker Nov. 28, 1978, in Niagara County Supreme Court. The insurer also filed a suit



This modular home in Love Canal was split for moving it out of the contaminated area.

last month against the city of Niagara Falls, which it insured on a primary basis for \$100,000.

Meanwhile, Hooker and Occidental are seeking to prevent Hartford from pursuing its suit filed in Niagara County. At the same time, Hartford seeks to stop the California case filed by Hooker and Occidental from proceeding.

Highlands, which wrote a \$50,000 primary policy on Hooker from May 1, 1976, until April 1, 1979, is the only insurer willing to defend Love Canal claims. But it has cross-complained against the other primary insurers, said Edward McHale of Mitchell, Silberman & Knapp, Hooker's attorney in Los Angeles.

Lloyd's filed a cross-complaint against the primary insurers, charging that its seepage and pollution policy was in excess of other coverages, he added.

Insurer defenses

Insurers seeking to deny coverage want to know specifically the period in which damages occurred, whether the leaching was a "sudden and accidental" occurrence and whether a New York State prohibition in effect since 1973 on insuring damage caused by toxic substances is applicable to the Hooker policies.

Even if the courts rule in favor of Hooker and other policyholders, insurers could escape paying claims, according to one attorney close to the case who thinks a statute of limitations would permit denial of all damage claims. A New York state court has ruled that the statute of limitations runs from the time an event occurred instead of when it was discovered, he argued.

Should that interpretation be accepted by the courts, the statute of limitation would have run out in the mid-1950s.

Denying all claims from Love Canal would leave injured parties with unrighted grievances, however. The attorney suggested that a compensation fund similar to that established for black lung victims might be necessary.

Next week:

How Hooker/Oxidental Petroleum structured a liability insurance program from 1963 to 1979.

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Firms await losses in Soviet trade ban

Continued from page 1
ghanistan, a spokesman said. "We could very well pay claims on that," he said.

But several corporate risk managers with investments in Russia say they didn't buy insurance to protect against income lost in a government trade ban.

"We don't have any insurance like that," said risk manager Spencer Brewer, whose Dresser Industries received a reported \$180 million in contracts to supply oil-field equipment and technology to the Soviets in 1978. The company is also now helping build a Dresser-designed plant on the Volga River in Russia.

Mr. Brewer said his company was still waiting to see if the Soviet project is a "critical item" and therefore banned by President Carter's decision.

Control Data Corp. in Minneapolis has exported an estimated \$50 million worth of computers to the Soviet Union during the last decade. It is unsure how its existing trade agreements will be affected by Carter's action, a spokesman said, and are waiting to find out what kinds of computers will be banned.

It's doubtful whether the company's insurance policies would cover the loss of revenues that may result from the President's decision, a spokesman said.

"Control Data doesn't have a blanket policy covering political risk. We evaluate each contract in-

dividually and decide if we need to take out such coverage, such as we did with Iran last year. But we are not aware that any of our contracts in Russia have that kind of insurance," the spokesman said.

Armco's contract

Armco Inc. of Middletown, Ohio, has a joint project with the Nippon Steel Corp. to build a \$353 million electrical mill in the Soviet Union and is likewise waiting to see if that contract will be disallowed by the government. If so, it will be chalked up as another expected sale that didn't go through.

"There would be no insurance coverage for it," explained Rick Rogers, president of Armco Risk Management. "It would be just like any other sale of products and services that fell through. It is just a business risk we take and certainly not the first time we thought we sold something we didn't."

Construction has not yet begun on the mill; Armco has so far only agreed to provide technology for it, Mr. Rogers said.

Other corporations with investments in Russia might have protected their risks through AIG, whose sensitive risk division underwrites most of the business in this area.

Robert Svensk, assistant vp of the AIG department acknowledged that the company has several clients in the Soviet Union whose trade agreements would be insured if cancelled by the govern-

ment, but he declined to discuss the number and names of clients for the political risk policies.

The policy, which Mr. Svensk said insures 90% of the investment, protects against revocation of an insured's export license by government action. Prices for the policy can run to 4% to 5% of the total insured, he said.

Mr. Svensk said he has not yet talked with clients who had investments in Russia. He said he saw no reason to rush into contacting them until the situation is further clarified.

AIG's political risk coverage has become increasingly popular in the past few years, Mr. Svensk said, but it isn't for everyone.

"We might decide that we really don't want to insure the sale of computers to Russia (one of the items mentioned by President Carter as likely to be embargoed) and the rates might be higher than, say, a shoe manufacturer might want to pay," he said.

Grain deals

The nation's grain exporters, whose estimated \$2.25 billion trade agreements with the Soviet Union were cancelled by the president's

action, will recoup most of those losses through a government buy-out program also announced by President Carter.

The exporters still stand to lose "a couple of million dollars" because of the embargo, said a spokesman for the Department of Agriculture.

Minneapolis-based exporter Cargill Inc., for example, will lose money even if all the grain is bought up, a spokesman said. The immediate drop in 10% of the company's exporting operations—caused by the Soviet embargo—will depress grain prices and there are costs incurred on export facilities that are not now needed because of the ban on trade with Russia, he explained.

Cargill officials are going over insurance policies, but it's "very doubtful" that any of the losses would be covered under these circumstances, the spokesman said.

Wallace Aru, insurance manager for Louis Dreyfus Corp., a New York-based grain exporter, declined to discuss his company's possible losses because of the Carter decision, but said he doubted any of those losses would be covered under any of Dreyfus's insurance policies.

"I don't think you can find anything in that area that would be considered an insurable risk. I know I haven't seen anything like that," Mr. Aru said.

Export values

The value of American exports of high technology items to Russia has averaged between \$150 million and \$216 million over the past four years.

The total of American exports to the Soviet Union has risen to \$3 billion from \$1.6 billion since 1976, according to government figures.

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Congress links tax-free benefits to medical costs

Continued from page 1
health insurance benefits would "encourage employees to choose less inflationary health insurance plans since... additional coverage would have to be purchased with taxable dollars," according to the report.

Not mentioned in the report, however, is the considerable political opposition that such a benefit limitation would encounter. The United Auto Workers, for example, has said it would oppose any proposal that takes away existing benefits from workers.

The report does mention, though, that a tax-free health insurance cap could force some complicated administrative problems, a point earlier stressed by benefit consultants.

"Firms making health insurance contributions over the ceiling would have to report the amounts they paid for health insurance for their employees. Doing so could create some difficulties because the insurance is normally purchased as a package item."

An alternate way of reducing the inflationary consequences of tax-free health insurance benefits would be to limit the tax exclusion to group plans that contain such employee cost-sharing features as coinsurance and deductibles.

Cost-sharing

Requiring cost-sharing for all insured services would increase consumers' sensitivity to medical costs because consumers would bear some direct expense for all insured services. This change should curb spending and reduce the utilization of medical services," the report said.

Rep. Ullman, as well as Sen. David Durenberger (R-Minn.) and Sen. Richard Schweiker (R-Pa.), have introduced bills in Congress that require employers to offer low-cost, high-coinsurance plans, in varying degree, as alternatives to a traditional full benefit health and medical insurance plan (BI, Dec. 10, 1979).

Cash rebates

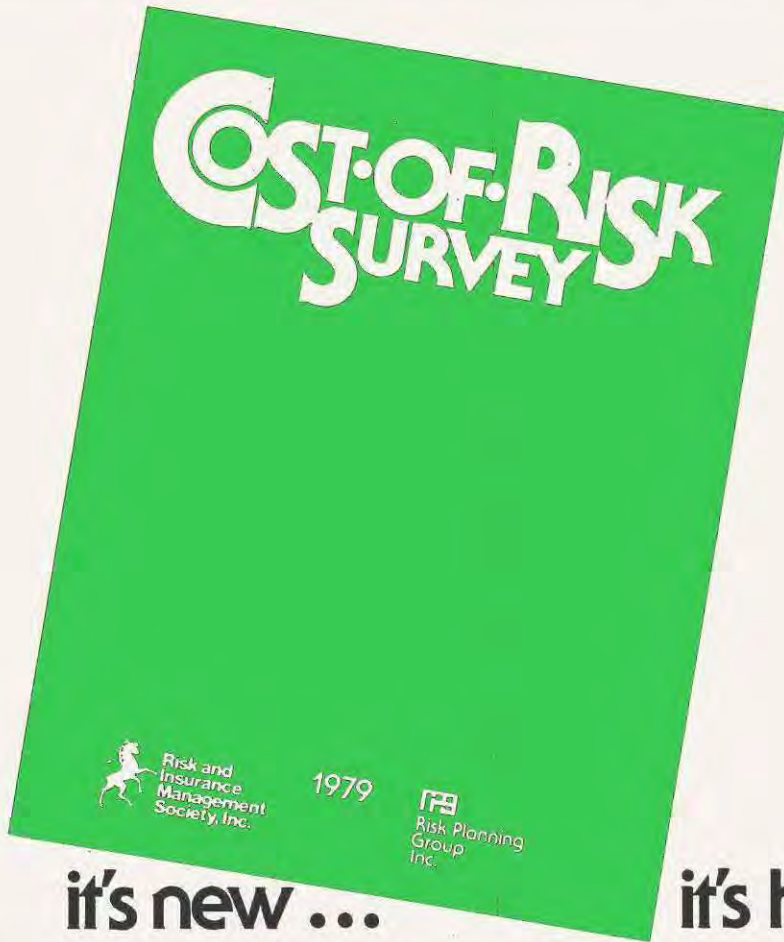
The Durenberger bill would require employers pay employees who select a low-cost plan a cash rebate representing the difference in monthly premium cost between the regular high-cost indemnity plan and the high-coinsurance, low-cost plan.

When employees pay a greater share of health care costs, they use the health care delivery system more carefully, deflating the demand for services, Rep. Ullman said in concurring with the Congressional Budget Office report on the reason for health cost inflation.

Rep. Ullman's bill, like the Durenberger proposal, requires employers to offer cash rebates for employees who opt for lower cost plans, such as health maintenance organizations.

The CBO report warns, however, that for significant savings to occur "viable prepaid plans such as HMOs would have to be available" to employees.

Single copies of the report, *Tax Subsidies for Medical Care: Current Policies and Possible Alternatives*, are available through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.



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The **Cost of Risk Survey** respondents include 515 organizations, representing \$471 billion in revenues, 5.7 million employees, and \$1.7 billion in insurance premiums. 98 of the *Fortune 500* industrial companies are among the survey respondents.

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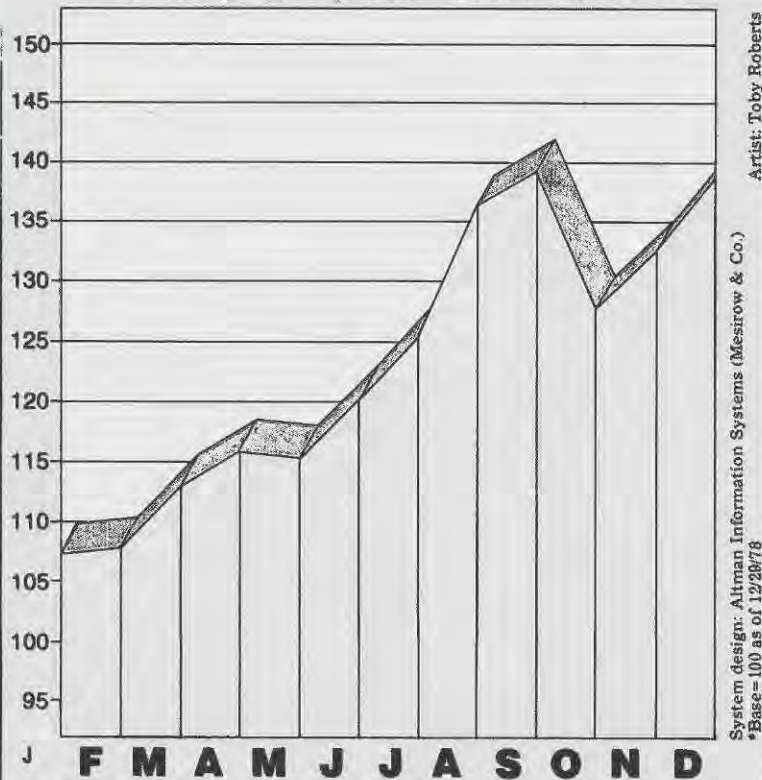
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BI Insurance Index 1979 Performance



British Issues

1/8 Companies:	Price £	Chg. %	Div. %	Yield %	2 Week High-Low £
Commercial Union	135	6.4	14.18	10.5	138-132
Eagle Star	151	7.2	10.92	7.2	153-148
General Accident	222	6.3	14.88	6.7	222-212
Guardian Roy Exchange	230	7.0	17.06	7.4	230-222
Phoenix	220	6.7	17.49	8.0	222-214
Royal	315	6.6	28.21	9.0	328-312
Sun-Alliance	528	8.5	35.72	6.8	530-520
Brokers:					
CT Bowring	138	10.6	5.45	3.9	142-122
CE Heath	200	8.0	11.83	5.9	200-185
Hogg Robinson	85	6.8	7.23	8.5	87-83
Alexander Howden	102	8.6	10.00	9.8	102-94
Minet	101	9.4	5.95	5.9	101-95
Sedgwick Forbes	94	9.4	7.14	7.6	94-88
Bland Payne	72	6.6	6.46	9.0	72-67
Stenhouse Holding	72	6.6	6.46	9.0	72-67
Stewart Wrightson	175	7.4	16.15	9.2	175-168
Willis Faber	215	10.8	14.77	6.9	215-207

Source: Kitcat & Aiken, London

BI index climbing toward 1979 high

By SUSAN ALT

CHICAGO—An exclusive insurance industry index published by *Business Insurance* indicates composite insurance stock values rose to an index value of 138.9 by year-end 1979 from the base value of 100 at year-end 1978.

The index rose steadily through most of the year, with only three small biweekly dips in the first half, ending the year lower than the index high of 141.1 on Oct. 2 but climbing steadily again toward that point.

BI's commercial insurance stock index, representing shares of 70 leading insurance companies, brokers and insurance-related services suppliers, was created by Ar-

thur Altman of Chicago-based Altman Information Systems, a division of securities broker Mesirow & Co.

The index uses information supplied by FISCAL (Financial Information Systems Computer Accessible Library), available on the National Computer Network of Chicago. Mr. Altman's special program for the index adjusts the file data for stock splits and dividends and for the addition or deletion of companies, prices the securities every other week for *Business Insurance* as of the market closing on

a Tuesday prior to publication, and calculates the index values.

The index was established as of Dec. 26, 1978, and run every other Tuesday through 1979 to establish values used in the graph for 1979 on this page. Every other week, a graph will show the change in index values for the latest two-week period. The index is "equally weighted" which means that a change in stock price for each company in the index has the same effect on the index, regardless of the number of shares held by the public or traded in any two-week period.

BI's insurance industry index performance for 1979 showed the composite up 38.9% as of the market close the day before Christmas 1979, compared to gains of 15.29% for the New York Stock Exchange index for the same period, 12.14% for Standard & Poor's and only 4.12% for the Dow Jones Industri-

70 companies form composite

CHICAGO—Making up the BI insurance industry composite index are the following companies: Aetna Life & Casualty Co., American Bankers Insurance Co. of Florida, American Financial Corp. of Ohio, American General Insurance Co., American Indemnity Financial Corp., American International Group Inc., American National Insurance Co., American States Life Insurance Co., Aneco Reinsurance Ltd., Appalachian National Corp., Avemco Corp.

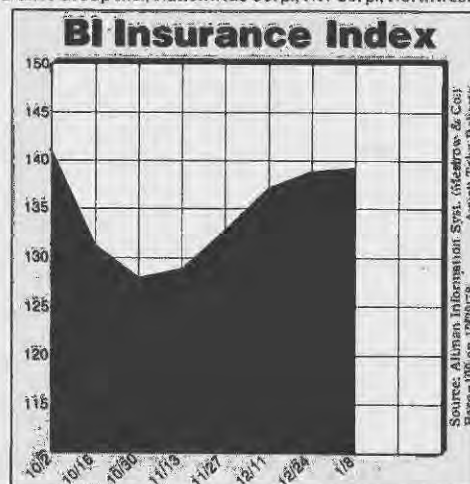
Also: Bankers of Iowa Inc., Bisco Corp., Carolina Casualty Insurance Co., Central National Financial, Chubb Corp., CNA Financial Corp., Combined Insurance Co., Connecticut General, Continental Corp., Crawford & Co., Crown Life Insurance Co., Crum & Forster.

Also Employers Casualty Co., Equifax Inc., ERC Corp., Farmers Group Inc., First Colony Life Insurance Co., Foremost Corp. of America, General Reinsurance Corp., Globe Life & Accident Insurance Co., Great West Life Insurance Co., Hanover Insurance Co., Hartford Steam Boiler Inspection Co., INA Corp., Integon Corp.

Also Jefferson National Life Insurance Co., Kemper Corp., Lincoln National Corp. of Indiana, MGIC Investment Corp., Mission Insurance Group Inc., Nationwide Corp., NN Corp., Northwestern National Life Insurance, Ohio Casualty Corp., Old Republic International Corp., Pinehurst Corp., Preferred Risk Life Insurance Co., Provident Life & Accident Insurance Co., Republic National Life Insurance Co. and Ryan Insurance Group Inc.

Also St. Paul Cos. Inc., Tokio Marine & Fire Insurance Co., Travelers Corp., United Fire & Casualty Co., U.S. Fidelity & Guaranty Co., United Services Life Insurance Co., Washington National Corp., and Zenith National Corp.

Eleven publicly held brokers are included in the index computations: Alexander & Alexander, Baldwin & Lyons, Corroon & Black, E.H. Crump, Frank B. Hall & Co., Integrated Resources, Fred S. James & Co., Marsh & McLennan Cos., Penn General Agencies, Reed Stenhouse Cos. Ltd., and Rollins Burdick Hunter Co.



BI Industry Stock Report

Jan. 8, 1980

Dec. 25, 1979 thru Jan. 8, 1980

Co.	Price	P/E	\$ Div.	% Yld.	High	Low	Vol. (000)
Insurance Cos.							
Aetna Life & Cas Co	AMEX 33.50	4.9	1.80	5.4	33.50	31.75	959.6
American Bankers Ins Co Fla	OTC 8.50	5.4	0.44	5.2	8.88	8.25	75.6
American Finl Corp Ohio	OTC 23.25	2.6	0.04	0.2	23.25	22.00	54.8
American Gen Ins Co	AMEX 36.00	5.5	1.00	2.8	36.88	34.88	222.3
American Indty Finl Corp	OTC 17.50	4.6	1.00	5.7	18.00	17.38	17.3
American Intl Group Inc	OTC 58.25	9.9	0.42	0.7	59.75	57.00	278.7
American Natl Ins Co	OTC 15.12	6.0	0.62	4.1	15.88	15.00	200.1
American Sts Life Ins Co	OTC 19.50	8.1	0.64	3.3	22.00	19.50	3.3
Aneco Reins Ltd	OTC 6.75	0.0	0.00	0.0	7.25	6.38	110.4
Appalachian Natl Corp	OTC 2.87	8.2	0.16	5.6	2.88	2.75	10.9
Avemco Corp	NYSE 12.00	10.0	0.40	3.3	12.00	11.13	83.7
Banks Iowa Inc	OTC 26.00	5.2	1.12	4.3	26.00	25.50	4.8
Bisco Corp	OTC 32.50	4.7	1.60	4.9	32.50	31.00	9.8
Carolina Cas Ins Co	OTC 6.37	4.3	0.32	5.0	6.38	6.38	1.4
Central Natl Finl Corp	OTC 7.50	3.8	0.35	4.7	7.50	6.75	1.6
Chubb Corp	OTC 38.00	5.0	2.40	6.3	38.00	36.88	104.2
CNA Finl Corp (CNA)	AMEX 18.25	4.2	0.00	0.0	11.25	11.50	150.4
Combined Ins Co Amer	OTC 19.12	6.1	1.40	7.3	19.25	18.38	271.4
Connecticut Gen Ins Corp	AMEX 35.88	5.5	1.32	3.7	35.88	34.00	200.9
Continental Corp	AMEX 27.25	5.1	2.00	7.3	27.25	26.50	281.8
Crawford & Co	OTC 25.50	15.4	0.74	2.9	25.50	24.75	28.2
Crown Life Ins Co	OTC 62.00	44.9	1.80	2.9	66.00	25.50	37.7
Crum & Forster	AMEX 53.38	5.2	2.52	4.7	54.75	52.88	57.8
Employers Cas Co	OTC 43.00	5.8	1.20	2.8	43.50	43.00	2.3
ERC Corp	OTC 76.75	8.8	1.40	1.8	85.50	71.75	1,005.7
Equifax Inc	AMEX 19.75	6.0	2.20	11.1	20.00	19.25	12.0
Farmers Group Inc	OTC 27.25	9.5	0.84	3.1	27.25	26.63	342.6
First Colony Life Ins Co	OTC 29.00	12.9	0.74	2.6	30.50	26.50	12.1
Foremost Corp Amer	OTC 15.62	7.4	0.40	2.6	15.75	15.25	50.3
General Reins Corp Del	OTC 90.00	8.0	2.00	2.2	97.00	90.00	223.2
Globe Life & Acc Ins Co	OTC 28.25	10.0	0.40	1.4	28.50	28.13	149.0
Great West Life Assurn Co	OTC 127.25	5.8	6.00	4.7	127.25	28.25	3.1
Hartford Steam Boiler Insn	OTC 36.75	4.3	0.52	1.4	36.75	32.00	53.9
INA Corp (Ins. Co. of NA)	OTC 32.50	6.6	2.20	6.8	32.75	32.50	7.3
Integon Corp	AMEX 47.63	5.1	3.30	6.9	50.88	47.63	416.8
Jefferson Natl Life Ins Co	AMEX 27.13	11.3	0.48	1.8	29.50	26.50	103.9
Kemper Corp	OTC 32.00	7.1	0.52	1.6	33.00	32.00	15.7
Lincoln Natl Corp Ind	OTC 37.50	4.4	1.87	5.0	38.50	37.50	60.2
MGIC Invst Corp	AMEX 41.50	6.1	2.80	6.7	44.00	41.13	192.1
Mgic Invst Corp	AMEX 27.50	8.3	1.00	7.4	28.88	26.00	463.3

Co.	Price	P/E	\$ Div.	% Yld.	High	Low	Vol. (000)
Insurance Cos.							
Mission Ins Group Inc	AMEX 29.75	7.4	0.68	2.3	31.75	29.75	20.9
Nationwide Corp Ohio	OTC 16.50	5.0	0.60	3.6	16.50	16.38	3.4
Nn Corp	OTC 30.75	7.6	2.00	6.5	32.50	30.00	99.6
Northwestern Natl Life Ins	OTC 32.38	6.2	1.04	3.2	33.38	30.38	96.3
Ohio Gas Corp	OTC 34.75	5.1	1.40	4.0	35.50	34.75	40.7
Old Rep Intl Corp	OTC 19.88	4.7	0.92	4.6	19.88	17.75	159.4
Pinehurst Corp	OTC 6.87	7.2	0.00	0.0	7.38	6.50	59.7
Preferred Risk Life Ins Co	OTC 19.50	7.0	0.50	2.6	20.25	19.50	8.0
Provident Life & Acc Ins Co	OTC 45.50	6.1	1.48	3.3	47.50	45.00	30.9
Republic Natl Life Ins Co	OTC 17.75	9.9	0.60	3.4	18.13	17.25	264.5
Ryan Ins Group Inc	OTC 19.00	5.2	0.12	0.6	21.00	19.00	12.7
St Paul Cos Inc	OTC 40.38	5.4	2.00	5.0	41.00	40.25	145.7
Safeco Corp	OTC 37.00	5.5	1.80	4.9	37.25	35.88	141.6
Sri Corp	OTC 22.50	5.9	0.90	4.0	23.00	19.00	6.3
Seibels Bruce Group Inc	OTC 18.00	6.2	0.80	4.4	18.00	17.75	15.1
Southwestern Life Corp	OTC 41.88	15.9	1.00	2.4	42.25	40.75	897.3
Standard Life Ins Co Ind	OTC 15.50	9.6	0.36	2.3	16.00	15.50	240.7
Statesman Group Inc	OTC 5.00	4.2	0.15	3.0	5.00	5.00	11.8
Tokio Marine & Fire Ins Co	OTC 139.50	14.8	2.49	1.8	141.00	136.00	9.9
Travelers Corp	AMEX 37.63	4.2	2.08	5.5	38.13	37.50	269.8
United Fire & Cas Co	OTC 24.25	7.7	0.72	3.0	24.25	24.25	43.8
United States Fid & Gty Co	AMEX 38.13	4.8	2.40	6.3	38.50	38.00	127.5
United Svcs Life Ins Co	OTC 13.25	4.9	0.80	6.0	13.75	13.25	50.4
Washington Natl Corp	AMEX 26.50	5.7	1.40	5.3	26.50	24.75	38.8
Zenith Natl Ins Corp	OTC 16.00	11.1	0.40	2.5	16.00	15.00	26.8
INSURANCE COMPANIES							
AVERAGE		6.7		3.7			
Agents/Brokers							
Alexander & Alexander Svcs	OTC 31.00	11.0	1.40	4.5	32.75	31.00	148.6
Baldwin & Lyons Inc	OTC 25.00	4.8	0.70	2.8	25.75	25.00	20.6
Corroon & Black Corp	AMEX 26.37	9.4	1.56	5.9	27.63	26.00	37.8
Crump E H Cos Inc	OTC 10.75	10.3	0.32	3.0	11.50	10.50	50.6
Hall Frank B & Co Inc	AMEX 25.87	9.1	1.34	5.2	27.38	25.88	39.8
Integrated Res Inc	NYSE 13.00	8.7	0.00	0.0	13.88	12.00	176.6
James Fred S & Co Inc	AMEX 24.88	9.9	1.40	5.6	25.25	24.13	118.4
Marsh & McLennan Cos Inc	AMEX 69.75	12.1	3.60	5.2	70.38	67.88	108.4
Penn General Agencies Inc	OTC 1.13	8.7	0.00	0.0	1.13	1.00	81.0
Reed Stenhouse Cos Ltd	OTC 8.87	8.1	0.48	5.4	9.00	1.13	33.7
Rollins Burdick Hunter Co	OTC 20.50	9.0	1.24	6.0	21.75	20.50	12.5
AGENTS/BROKERS							
AVERAGE		9.2		4.7			

Other giant gains were registered by Integon Corp. (84.6%), Jefferson National Life Insurance (95.6%), Zenith National Insurance (98.9%) and Integrated Resources Inc. (95.9%).

Some big names in the insurance business had stock prices that barely stayed ahead of inflation during the year, including AIG, Chubb, Hartford Steam Boiler, Alexander & Alexander and Marsh & McLennan.

BIGGEST GAINERS, 1979*

ERC Corp.	171.43%
Avemco Corp.	164.71%
Southwestern Life Corp.	128.57%
First Colony Life Ins. Co.	117.86%
Pinehurst Corp.	100 %
Zenith National Ins. Corp.	98.9 %
Crawford & Co.	98 %
Integrated Resources Inc.	95.92%
Jefferson National Life Ins. Co.	95.56%
Integon Corp.	84.62%

*As of 12/26/79

BIGGEST LOSERS, 1979*

Appalachian National Corp.	-19.63%
United Services Life Ins. Co.	-15.5 %
Nationwide Corp.	-12.67%
American Financial Corp.	-4.30%
Equifax Inc.	-3.61%
Rollins Burdick Hunter Co.	-3.33%
Connecticut General Ins. Corp.	-2.51%
Baldwin & Lyons Inc.	-2.39%
Aneco Reinsurance Ltd.	-1.85%

*As of 12/26/79

The American Worker.

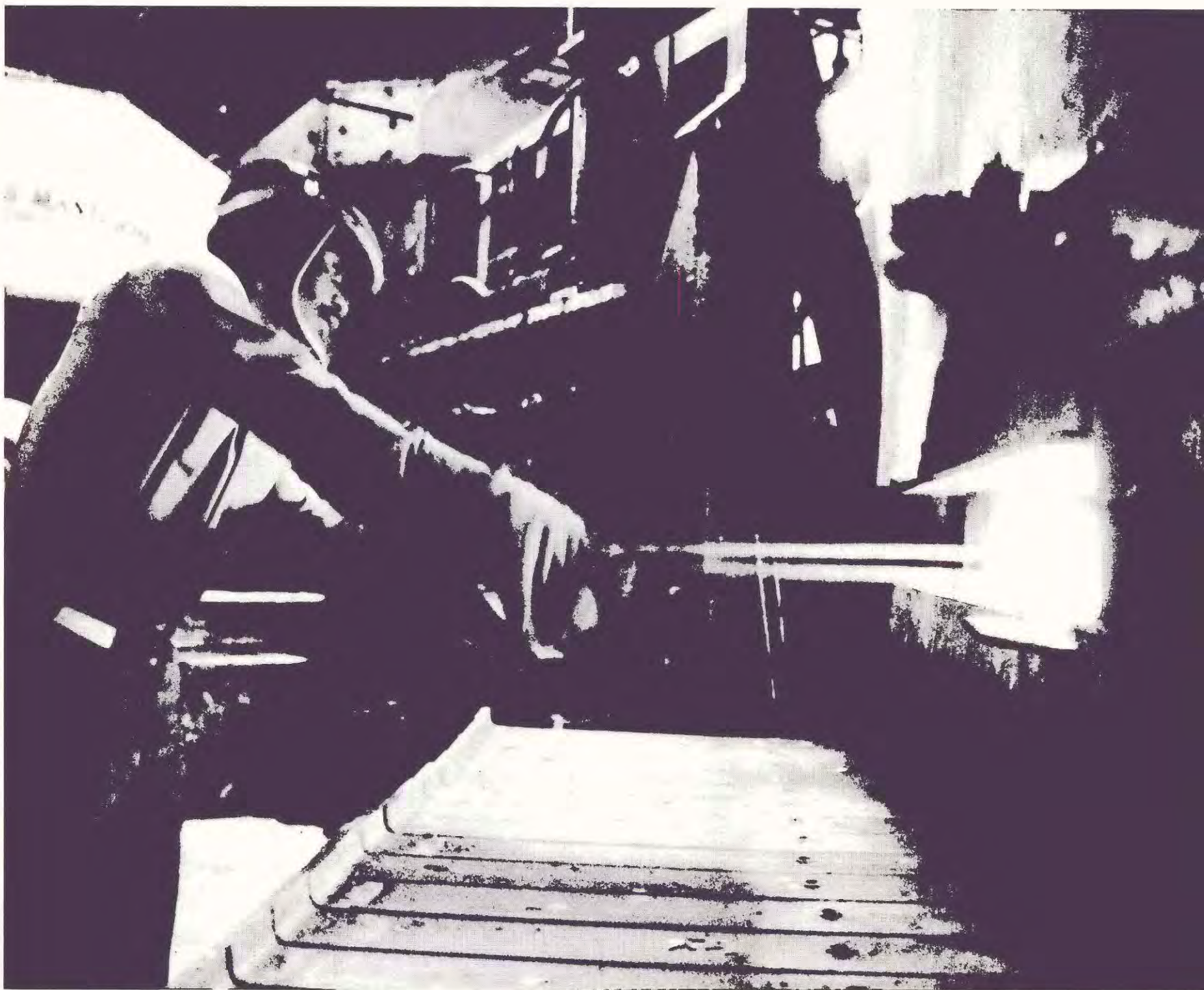
He holds the white-hot molds for America in his hands...

For almost 100 years now, we've been insuring America's most valuable resource: her workers.

During that time, we've discovered some very effective ways to help American business hold down the cost of insurance. Loss Control is one way.

Our Loss Control Consultants can help you to identify hazardous conditions at your plant—before they turn into accidents. That, in turn, can reduce claims and substantially lower your net insurance costs.

Loss Control. It's one way to cut the cost of business insurance. There are many others. Call or write us today and we'll share them with you.



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