

Marine market shrugs off mounting losses—for now

By JOHN H. MILLER
and ELLIS SIMON

NEW YORK—The sinking this month of a \$22 million oil drilling platform being towed to Brazil has exacerbated growing headaches for marine insurers here and abroad as the toll of losses in recent weeks continues to mount.

Gales in the North Sea proved to be disastrous for the Scottish-built platform owned by J. Ray McDermott & Co. of New Orleans, a major petroleum drilling contractor. The

547-foot tall platform was on its way to South America for use by Petrobras, the Brazilian oil company, when it overturned and sank in 200 feet of water off the coast of England.

Despite a statistically freakish rash of shipping disasters in the closing weeks of 1978 and early this month, marine insurers are expected to do little more than raise an eyebrow at the total losses, *Business Insurance* has been told.

The year 1978 was anything but a good one for marine underwriters

who have been charging ever lower premiums because of fierce competition in their field. Mid-Atlantic storms caused losses of over \$100 million in the closing days of last year, followed quickly in the early days of January by an explosion of the tanker *Betelguese* at Bantry Bay, Ireland, which killed 50 people and caused up to another \$75 million in losses.

The McDermott platform was insured 75% in London through U.K. brokers Bain Dawes and 25% in the

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Photo: Wide World

The crippled French tanker *Betelguese* burns off Ireland.

Observers predict

Captives to rebound from tax court blow

By KATHRYN J. MCINTYRE

CHICAGO—Proponents of corporate captive insurance companies refuse to concede that the tax court dealt a knockout blow last month to Carnation or the captive industry when it stripped Carnation of any tax advantage to using a captive insurer.

The captive insurer is still a tough contender, its advocates argue, despite a tax court judge's decision declaring the Internal Revenue Service the winner against Carnation's challenge. But to stay in the fight, a wholly owned captive had better be adequately capitalized, able to stand alone without parent support, and probably should be underwriting risks of unrelated companies, experts agree.

To come out the winner for the parent company—regardless of how it fares with the IRS—the captive also had better exist for sound business reasons other than for tax advantages, the experts also stress.

Some observers contend Carnation Co. formed its Bermuda captive, Three Flowers Insurance Co. Ltd., only for the tax advantage it could offer. Carnation maintains this wasn't the case at all.

Without judging Carnation, Anistics president Peter Densen observed, "There are plenty of captives formed where the tax deduction isn't the primary business reason." Captive experts often cite as

advantages the recapture of reserves and acquisition costs and access to reinsurance markets.

But the face of the captive insurer may be forever altered by the tax court's blow. "I see continued growth of the so-called captive movement, but as profit centers or mutuals," said tax attorney Sidney R. Pine.

A corporate scramble to further capitalize inadequately funded captives is foreseen as a result of the decision in *IRS v. Carnation* as well as a rush by captives to write business for third parties. An increase in the development of association or group owned captives is also predicted.

The IRS ruled last summer that a Bermuda insurer owned by 31 companies and writing their risks constituted a mutual insurance company and thus provided tax advantages to its owners. Because the IRS has never addressed the tax ramifications of a captive writing business for third parties, many captive advisers believe such diversifications will satisfy IRS objections to captives.

As for new captive development, "I presume those companies that had planned to set up a captive for business reasons other than tax will go ahead," said Marianne Burge, partner at Price Waterhouse in New York. "The case merely confirms what we had known all along to be the service

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business insurance

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Business groups endorse model product liability bill

By JERRY GEISEL

WASHINGTON—Business groups enthusiastically endorse the major provisions of the Commerce Department's model product liability bill unveiled this month.

"The bill appears to address the major concerns raised by the manufacturing community," said Kimberly Johnson-Smith, associate director of occupational safety and health for the National Assn. of Manufacturers. "The bill seems compatible... with the points we feel should be included in a tort reform bill."

"I'm pleasantly surprised and pleased," said James Buente, insurance committee executive for the Pennsylvania Chamber of Commerce. Mr. Buente saluted the Commerce Department for drafting a balanced bill that will help manufacturers if adopted by the states, without compromising the rights of consumers.

"The Department of Commerce coming out in favor of statutory changes in the tort law is going to help us in our battle for tort reform," observed Orville Bergren, president of the Illinois Manufacturers Assn.

Dennis Connolly, counsel for the American Insurance Assn., is "pleased" that the Commerce Department recognized the need for some restructuring of the tort law in product liability, although he has reservations about the constitutionality of some of the bill's provisions.

The model bill, which could be adopted by the states, represents one of the Commerce Department's long-term solutions to the nation's product liability

The highlights of the model product liability bill are:

- Wholesalers generally are not liable.
- Product alteration is a defense against liability.
- Manufacturers are responsible for only the "useful life" of their products.
- Claims must be filed within three years of injury.
- Products are presumed not defective after 10 years.
- State-of-the-art is a stronger defense.
- A judge determines the amount of punitive damages.
- Pain and suffering damages are usually capped at \$25,000.

problems. A short-term solution—increasing the carryback period for product liability losses from three years to 10 years—was approved last year by Congress.

The model bill is an attempt to end current uncertainties in the tort system causing product liability insurance premiums to soar, a

problem cited by the Interagency Task Force on Product Liability.

The Commerce Department proposes a uniform, nationwide product liability model law for state adoption that sets standards in 18 different areas of tort law.

Victor Schwartz, the Commerce

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The inside story

Cleveland open to losses

Financially beleaguered Cleveland is 95% self-insured for liability losses, but contends it can pay all claims. Pension plan costs, taxing the city coffers, will be paid too, officials say. **Page 6**

Sears wins lawn mower suit

It's not the infamous product liability lawn mower suit, but somewhat akin and Sears successfully defended its product. **Page 39.**

The people column
page 42

Employees sue Sun Co.

By ELLIS SIMON

PHILADELPHIA—Sun Co. and its group life insurer, John Hancock Mutual Life Insurance Co., are defendants in an employees' class action suit charging the oil company with requiring its employees to purchase group life insurance with Hancock as a condition of employment and participation in Sun's pension plan.

The suit charges the defendants with violating federal antitrust statutes and seeks recovery of life insurance premiums paid by employees since 1966, the year the pension plan began. The plaintiffs are also seeking retroactive pension plan contributions on behalf of

Sun employees who elected not to purchase group life insurance.

With triple damages allowable in antitrust cases, the defendants' liability could run as high as \$150 million, according to David C. Thomsen, a Sun Co. computer analyst who is one of the plaintiffs. In addition, Mr. Thomsen has brought a tax court case charging that Sun's pension plan is unqualified under ERISA.

Since 1966, Sun has required employees to join its contributory life insurance program as a condition of employment, according to Mr. Thomsen. The company pays for the first \$2,000 of coverage and requires workers to purchase addi-

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BI stages conference on work comp issues

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

This symposium is intended as a forum for the discussion of problems and issues in workers compensation for corporate financial executives, insurance buyers, benefit managers, claims specialists and risk managers, as well as insur-

ers, brokers and consultants advising others and administering programs.

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

The conference's general sessions and problem solving workshops will provide corporate risk managers, brokers, consultants and insurers with updates on legislation, reform proposals, rates, self-insurance, safety, loss control and claims management.

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

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

errors & omissions

- Burton J. Carbino Jr. is vp and head of risk management at Irving Trust Co. in New York. He was incorrectly identified as working for a competing bank in an article in the Jan. 8 issue.

- The Texas Classroom Teachers Assn., in the process of switching to a new disability insurance carrier for its members, so far has contacted only five school districts out of the 235 local affiliates around the state. This re-enrollment of individuals with Republic National Life Insurance Co. of Dallas accounts for about \$200,000 in premium volume. It was incorrectly stated in a Dec. 11, 1978, story that the previous insurer, Washington National Insurance Co. of Evanston, has lost the entire \$3.2 million in premiums for disability policies on 23,000 teachers. Ultimately Washington National could lose that much premium, although the re-enrollment process with Republic National will require the better part of 1979. In the meantime, Washington National retains a large chunk of the TCTA business.

for your information

J&H unites with Lloyd's broker in N.Y. Insurance Exchange firm

LONDON and NEW YORK—The first syndicate management company of the New York Insurance Exchange is being formed by Johnson & Higgins and Willis Faber Dumas, a leading Lloyd's broker. The joint venture, Johnson & Higgins Willis Faber (USA) Inc., will provide syndicate and underwriting management services here, and also act as a holding company "for further joint activities in the U.S.," said Richard Purnell, chairman of J&H.

The privately held firm will be capitalized at \$500 million, funded equally by the two firms. Underwriters from Willis Faber's London operations will be sent to New York as part of the team being assembled. Willis Faber, with whom J&H has had an 80-year international cooperative brokering relationship, manages 11 Lloyd's syndicates embracing 10% of all the underwriting members of Lloyd's. Willis Faber also manages underwriting for some of the world's most prestigious insurance companies operating in the London markets.

Willis Faber is approaching leading insurers in Japan, Norway and Germany to invest money in underwriting syndicates that could be managed by the new jointly owned firm.

Portland crash victims sue United

PORTLAND, Ore.—Two suits have been filed already by passengers surviving the United Airlines DC-8 jetliner crash here Dec. 28 near Portland's international airport.

Only 10 of the more than 180 passengers and crew were killed in the crash resulting from an apparent malfunction of the landing gear indicator light showing the gear was not locked. The pilot started to run out of fuel while circling and awaiting advice from the ground. It was decided he should land the plane, but he came down short of the runway. The National Transportation Safety Board is investigating.

One suit seeks more than \$250,000 from the airline. Another suit, filed by a passenger believed to have escaped serious injury, seeks unspecified compensatory and punitive damages.

United Airlines recently dropped its \$10 million aggregate hull deductible to the minimum deductible of \$100,000 for narrow-bodied crafts and \$200,000 for wide-bodied crafts. Rollins Burdick Hunter brokered the insurance. United States Aviation Insurance Underwriters Group is handling the litigation.

Fla. insurers request rate hike

TALLAHASSEE—Insurers writing workers compensation business in Florida are requesting a 10.6% rate increase three months before the state's legislative session is expected to make major reforms of the workers compensation law.

The insurance department finds the rate increase, representing a \$65 million jump in rates, not only untimely but also beyond the wage/price guidelines.

Insurance commissioner Bill Gunter urged these insurers to channel their efforts, instead, into the reform of the workers compensation law.

AIG underwrites risks in China

NEW YORK—American International Group, which traces its routes to a company founded 60 years ago in Shanghai, will write political risk insurance for American firms doing business in the People's Republic of China.

In writing political risk coverage in China, AIG is ahead of government agencies such as the Export-Import Bank and Overseas Private Investment Corp. that must receive Congressional authorization before they can write coverage in that country, said Maurice R. Greenberg, AIG chief executive officer.

Insurers pay \$1.7 million for fire

NEW YORK—Firemen's Fund Insurance Co., Hartford Fire Insurance Co. and a third insurer have agreed to pay \$1.7 million to settle lawsuits stemming from the 1974 fire at a Port Chester, N.Y., discotheque fire in which 24 persons died and 12 were injured.

Settlement of the case, which was arranged during a trial of some of the suits in federal district court in Manhattan, calls for \$1 million from Gulliver's discotheque, insured by Firemen's Fund, \$375,000 from the village of Port Chester, insured by Hartford and \$325,000 from Port Chester Electrical Construction Co., owners of the building that housed the nightspot.

Chemical firm settles bias suit

NEW YORK—Allied Chemical Corp. has settled a grievance with five women workers who were laid off to control the risk that they would produce malformed children from exposure to fluorocarbons. The amount of the settlement wasn't disclosed.

The women filed a grievance through the International Chemical Workers Union because they were offered the choice of lower paying janitorial jobs or layoffs. Three of the women opted for layoff while two others underwent sterilization to return quickly to work.

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the benefit beat

MRC Corp. expands dental plan to control costs

Materials Research Corp. of Orangeburg, N.Y., improved company-paid dental and major medical benefits for its 460 employees with an eye to cost control.

Dental plan benefits were segregated from the major medical plan to provide full coverage for preventive and diagnostic treatment, no deductible and 80% coverage for the cost of all other dental procedures to a \$1,000 annual maximum for non-orthodontia treatment and a \$1,000 per-course-of-treatment limit for orthodontia.

The changes were made at the urging of the underwriter, Provident Life & Casualty Insurance Co., to control costs. "We look to have expenses for dental treatment decrease over time since the plan encourages employees to visit their dentist twice a year," said MRC insurance manager J. Wallace Gross.

In the major medical plan, the \$200 per person annual deductible was changed to apply on a family aggregate basis, but treatment for accidents is fully covered. The plan caps out-of-pocket medical expenses at \$500 per person, paying benefits to an unlimited maximum. Psychiatric services are now covered to \$50 per visit instead of \$30. A surviving spouse benefit was added to provide for up to two years of free medical insurance and the benefit over Medicare for older workers was raised to \$50,000 from \$10,000.

The dental and major medical plan with Provident and a basic medical plan with N.Y. Blue Cross & Blue Shield costs the company annually about \$450 for a single employee and \$1,200 for a family.

Other benefit improvements include life insurance at 1½ times base annual pay instead of on a schedule, costing the company \$2,100 a month, and a new long term disability plan for exempt employees, providing 60% of pay to age 65, integrated with Social Security and workers compensation.

Improved benefits

Teamster union members employed by the Gaffers & Sattler unit of Magic Chef Inc. in City of Industry, Calif., won lifetime medical benefits of \$50,000 per person instead of \$20,000 in a new contract.

Under the new contract, Gaffers & Sattler will pay the first \$750 of hospital expenses, up \$250 from the previous level of \$500, said manager of industrial relations William D. Newsom.

In addition, \$2,000 of life insurance for each employee came with the new contract, he said. This is the first time Gaffers & Sattler has offered life insurance coverage for its Teamster employees, Mr. Newsom noted. These workers have an existing life insurance program with the Western Conference of Teamsters, he said.

Dental experiment

Group Health Inc., a regional not-for-profit health insurer, has opened a dental clinic to serve members in the Albany area. The clinic, currently staffed by two dentists, will enable the insurer to make comparisons of the type of treatment it provides with procedures used by dentists in the local area, said Dr. George L. O'Grady, senior vp and director of dental services at GHI. "This type facility holds the answer to the elimination of profiteering which, unfortunately, goes on in some dental offices," added Dr. William A.

Bauman, GHI senior vp in charge of operations. Use of the facility is optional for GHI's 35,000 members in the Albany area, who will still be able to use outside dentists of their own choice.

PBGC pays

The Pension Benefit Guaranty Corp. agreed to pay monthly benefits averaging about \$50 to approximately 339 retirees and eligible participants in the Chicago Electrotypes' Union Number Three pension plan, which terminated in July 1976 without enough assets to pay the pensions the employees had earned. Without PBGC's ac-

tion, the payment of pensions earned under the plan would stop by January 1980. The PBGC expects its liability to be under \$1 million in guaranteeing the pensions of members of this multiemployer pension plan.

FMC offers HMOs

Chicago-based FMC Corp. has signed on with two new health maintenance organizations (HMOs) for its employees so far this year, bringing to 11 the number of HMOs offered FMC employees.

The two additions effective Jan. 1 are the Health Care Plan of New Jersey, in Moorestown, N.J., and

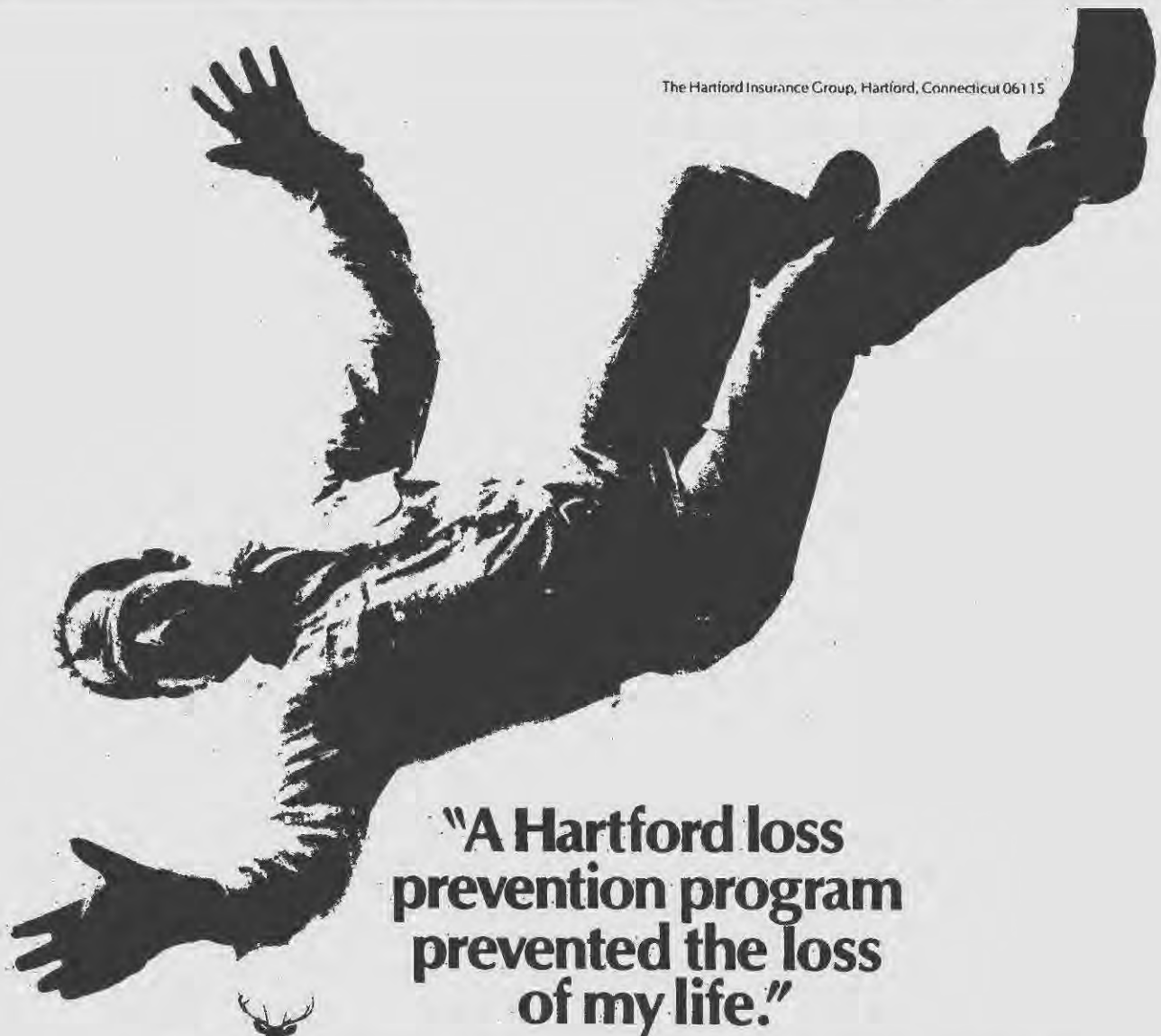
Jersey, in Moorestown, N.J., and the Kaiser Foundation Health Care plan of Portland, Ore. FMC said 7.4% of the company's employees in the Moorestown area are enrolled in the New Jersey plan while 9.6% chose the Portland HMO.

FMC, a diversified manufacturer, offered employees six new HMOs in 1978. Among them were the Metro Health Plan of Indianapolis, Ind., in which 4% of its area employees are enrolled, the Health Maintenance Organization of Elkins Park, Pa., with a 1.68% enrollment, the Kaiser Foundation Health Plan of San Jose, Calif., with 9% enrollment, the Health Alliance of Northern California with

a 3.8% enrollment, the Family Health Program of Long Beach, Calif., with a 32% enrollment and the General Medical Center's Health Plan of Pomona, Calif., with 2% enrollment.

The Health Service plan of Pennsylvania enrolls 5.9%.

Benefit beat keeps insurance and employee benefit managers up-to-date on what other companies are doing and informed of current developments in the employee benefit field. We'd like to know if you've made any changes. Write Kathryn J. McIntyre, Business Insurance, 740 N. Rush St., Chicago, Ill. 60611 or call 312-649-5286.



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THE HARTFORD



34% to 74% rate increases

Bank execs dipping into funds drive up bond rates

By ELLIS SIMON

NEW YORK—Proposed rate increases for bankers blanket bond coverage, ranging from 34% to 74%, are likely to increase the attractiveness of self-insurance and other alternative funding mechanisms for banks and thrift institutions, says a bank risk manager.

The Surety Assn. of America, the advisory ratemaking body for underwriters of fidelity and surety bonds, recommended the rate hikes because of an increase in dishonesty and theft among senior bank officials. "Management seems to be running off with the banks," said Robert Parremore, assistant manager of the association's fidelity department.

The rate increases are slated to be 34% for savings and loan institutions, 39% for commercial banks and 74% for savings banks. To date, all but 13 state regulatory bodies have approved the filings, Mr. Parremore said.

As surety rates continue to rise, banks will be forced to retain a greater part of the risk, noted Burton J. Carbino Jr., vp at Irving Trust. Most large banks already have large retentions and therefore will feel less of the impact of rate hikes than smaller banks, the risk manager added.

However, as more banks absorb higher retentions, banks that are unable to do so will find themselves absorbing the brunt of higher insurance costs, said Mr

Carbino. "It's a kind of 'Catch 22.'"

In New York, the largest banks have surety bond deductibles of no less than \$250,000 with some retaining as much as \$2 million, noted H.T. Chester Jr., senior vp and director at Johnson & Higgins. These deductibles were as low as \$25,000 six and seven years ago, he said.

Small and medium-sized banks would do well to follow the practices of the larger institutions, Mr. Chester suggested. Raising deductibles, which presently run as low as \$1,000, to \$10,000 or \$25,000 could minimize the impact of the rate hikes, he suggested.

In addition, higher retentions could induce some banks to take

specific actions to control losses, since they will have to absorb a larger share of losses, he noted. Such measures can also reduce the opportunities for major loss well beyond the banks' retentions, Mr. Chester said.

Incidents of senior bank officials embezzling seven-figure amounts are not unusual, noted Charles Swarts, vp-national services at Marsh & McLennan. With the exception of maybe two or three markets, the surety bonding industry has suffered "consequential losses" across the board, he said.

Besides small banks, large banks with multi-branch operations will be affected greatest by the rate hikes, Mr. Swarts said. Medium-sized banks with one location and

the largest banks will be affected to a lesser degree. But it's possible markets that haven't suffered losses will not go along with the rate hikes, lessening their overall impact, he added.

Bankers blanket bond rates have been rising continually in recent years, but the newly proposed rate increases are greater than those adopted in past years. Between 1971 and 1976, rates on bank fidelity coverage increased 49% (BI, Sept. 5, 1977).

The rate hikes proposed by the Surety Assn. come at a time when prices for other forms of property/casualty coverage are declining or holding steady. Even stock brokers' blanket bond rates were recommended for a 21% rate reduction by the Surety Assn. In 1976, rates on this class jumped 50%.

In response to banks' continuing fidelity insurance woes, the American Bankers Assn. initiated a marketing assistance plan in late 1977. Called the Controlled Group Bonding Plan, the program helps find coverage for banks that have submitted to an audit by an approved bank examiner and complied with the examiner's recommendations.

At present, the plan is available in 25 states and 80 banks have obtained coverage through the program, said John Wolff, assistant director of the ABA's insurance and protection division. Currently 17 domestic insurers and two London brokers are providing coverage under the program.

Although it is too early to tell whether the program has helped reduce fidelity losses, the Surety Assn. is keeping separate statistics on banks participating in the plan, Mr. Wolff noted. In addition, six of the participating insurers offer reductions of 15% off manual rates and others have indicated their willingness to do likewise, he said.

Mr. Carbino of Irving Trust warned that if the ABA plan fails to eventually ease the market for bankers blanket bond coverage, it could necessitate development of alternative risk funding mechanisms to commercial insurance. Use of sophisticated techniques would require the blessing of banking regulators, he added.

While the Surety Assn. has noticed the problem of increasing dishonesty among bank officials, it failed to provide advice on loss prevention, Mr. Carbino complained. In addition, he charged that fidelity underwriters' high administrative costs reduce the amount of premium available to pay losses.

However, Mr. Parremore of the Surety Assn. said rate increase applications are being based on administrative cost formulas developed during a 1967-1969 study. That study showed administrative costs represented 20.5% of net premium earned for fidelity lines. The average expense ratio of property/casualty insurers in 1978 was 25.8%, according to A.M. Best Co. Inc.

Firm expands HMO interests

PHILADELPHIA—The HMO International has merged with the INA Corp. health care management group in a move recently approved by HMOI shareholders.

The INA Health care management group, through Hospital Affiliates International Inc. and other subsidiaries, owns, operates and manages under contract 135 hospitals and acute care centers. It is also active internationally.

Why employee benefit communications don't always communicate.

J&H points out some expensive mistakes.

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A group of J&H Communications Consultants at a videotape facility. Seated: Dennis McKoy, Vice President; Agnes Gioconda. Standing: Thomas Loughrey, Joan Korn and Robert Lang.

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WAUSAU STORY

"When Employers of Wausau took over as our property insurance carrier," says Wrede Smith, President of American Pop Corn Company,



President Wrede Smith, in the corn crib loft.

"they dug into our problems and alerted us to a situation that made a big difference in the premiums we would be paying."

This policyholder, the makers of famous Jolly Time® Pop Corn, is located in Sioux City, Iowa. The city is assigned a class three fire insurance rating. But we discovered the company's facilities only merited a class six rating. That difference was costing them a lot of extra money in insurance premiums. At our recommendation, the policyholder installed three fire hydrants in strategic locations and earned a class three rating.

As a result of the improvements, the policyholder will save more in insurance premiums in the first year alone than the entire cost of the hydrants.



Don Townley, left, of American Pop Corn Company, and Jim Sparks, Property Consultant for Employers of Wausau, conduct a hydrant flow test.

And they will continue to benefit year after year because of the action they took.

Don Townley, Treasurer of American Pop Corn, says, "We're not a big company but we're a growing company. And our growing insurance expenses became of greater concern to us. Whereas five or ten years ago insurance received attention

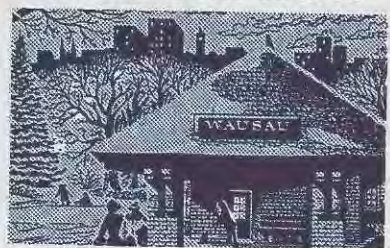
when premiums came due, we now try to work closely with our insurance company the year around and to do our part to help hold down rising insurance costs."



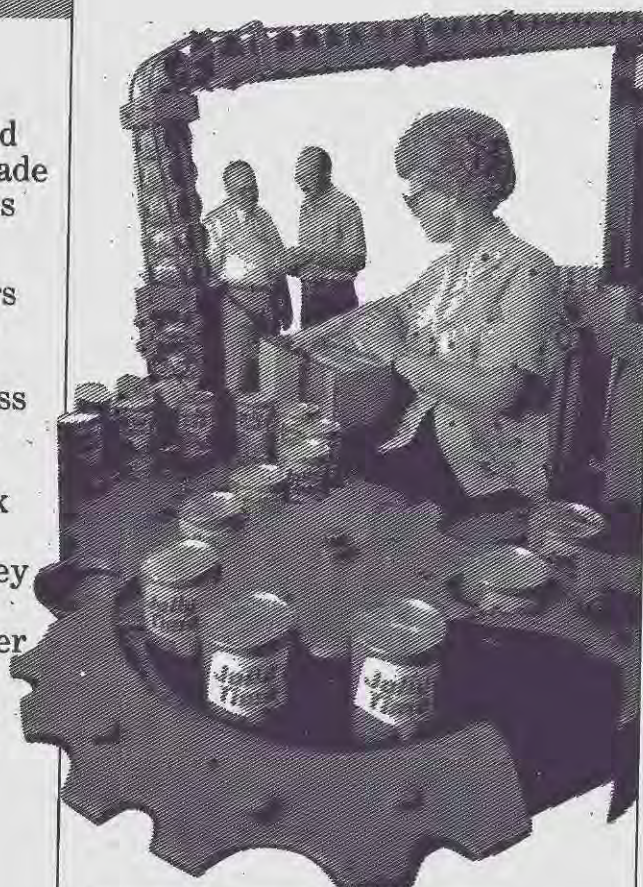
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Come to the source



Wausau Insurance Companies
Employers Insurance of Wausau



Employers of Wausau also provides worker's compensation insurance to this policyholder. Here, our Senior Safety Consultant, Lou Wagman, left, checks the canning operation with plant safety manager, Lawrence Bruyer as Eldora Thoreson works on the line.

Broke Cleveland promises to pay insurance costs

By JOHN MAES

CLEVELAND—Despite its beleaguered financial condition, this city should have sufficient funds to pay claims this year under its largely self-insured liability program.

No claims are pending that "we can't handle," municipal officials say.

And while Cleveland remains delinquent on more than \$5 million in contributions to two state pension funds, city administrators say they are looking for a way to meet the obligations by February to avoid paying interest. But they may have to let tax liens fulfill the payments, they admit.

Approximately \$600,000 is being allocated to the city's general fund and to its utility system in 1979 from which liability claims are

paid. Revenues from nearly \$5 million in city land sales and income from an expected increase in city taxes could be used to bolster the insurance expense accounts if necessary, said Bert Bastock, city budget administrator.

Cleveland's expenses under all its self-insurance plans aren't expected to exceed \$700,000 for 1978, said Mr. Bastock. The amount of claims paid remains relatively stable from year to year, he added.

"Historically, what we have been shown is that we are going to pay so much for insurance claims, so we budget for it," he explained.

In addition, if a multi-million dollar claim is filed against the city, the matter would wind up in litigation that could take years, during which Cleveland's financial picture would change considerably,

he said.

Although self-insurance funds are a relatively small part of Cleveland's \$136 million to \$140 million overall budget proposal for 1979, Mr. Bastock said insurance and self-insurance reserves will be safe even if the city's financial situation continues to deteriorate because insurance is a high-priority item.

"It would be the last thing we would want to cut because without it, we don't operate," said Mr. Bastock.

Cleveland is self-insured for about 95% of its liability, as is usual for most larger cities, said Richard B. Mills, chief of the negligent defense section in the city's legal department.

Covered by conventionally purchased insurance are Cleveland's two airports, insured by Lloyd's of

London for \$10 million, and the paramedic ambulance service, covered by an Allstate blanket policy for \$100,000 per incident, said Mr. Mills.

Also injured by outside carriers are the Cleveland Municipal Stadium, a water main cleaning project and the city convention center. But Mr. Mills indicated the convention facility will probably become self-insured at a future date.

As for workers compensation, claims are filed with the individual city, but the state of Ohio actually pays the claims from a fund composed of real estate tax revenues contributed by law by each city to the state.

Cleveland, with 10,000 municipal employees, contributed about \$5 million, or 3.3% of its 1977 payroll costs, to the fund last year. "It

doesn't fluctuate that much from year to year and we're not really worried about an increase," said a city budget worker.

The most dramatic effect the city's financial plight has had on its risk management posture is, "It's made us more inclined to defend ourselves," according to Mr. Mills. "All it's done is made us a little tighter and more prone to defend instead of saying 'maybe we can work something out.' If we think we have a defense, we assert it."

"We've paid everyone we owe and there's nothing pending in court that we can't handle," he continued. "But if something happens where 1,000 people get killed, I don't know what to say. As far as the law department is concerned, we perform our function to do everything possible to protect the taxpayers' interests and the taxpayers' money."

The largest claim pending against Cleveland is a \$1.6 million award stemming from an auto accident five years ago that killed five persons viewing a lakefront airshow. The city's liability for the award, which is being appealed, is \$800,000, the bulk of which is covered by insurance, he said. The airshow sponsors are at risk for the remainder of the award.

Also pending is a \$150,000 fire damage claim which is also covered by commercially purchased insurance, he said.

Financial developments have also caused a backlog of about 80 or 90 claims to a city moral claims board that hears citizens requests for recovery of damages in smaller liability cases that do not involve legal proceedings. "They are only for actual out-of-pocket expenses by the citizen such as deductibles. They don't involve claims for pain or suffering," said Mr. Mills.

In another development concerning Cleveland's ailing financial state, administrators for two state pension funds say their members will continue to collect full benefits even if Cleveland continues to be delinquent on contributions to the funds.

Both the Public Employees Retirement System of Ohio and the State Police and Fireman's Disability and Pension Board of Ohio have strong enough assets to withstand Cleveland's indebtedness, according to administrators of both organizations.

Cleveland was in arrears to the two funds by more than \$6 million, said Mr. Bastock, but \$800,000 of the debt has been paid through a lien placed on city taxes. The city went delinquent on the payments in order to meet payrolls.

"The money's going to be paid, it just may come in a little bit late," said Paul Ross, an official of the police and firefighter's fund. The organization has \$675 million in assets, enough to pay full benefits to its 6,500 disabled and retired members, he said.

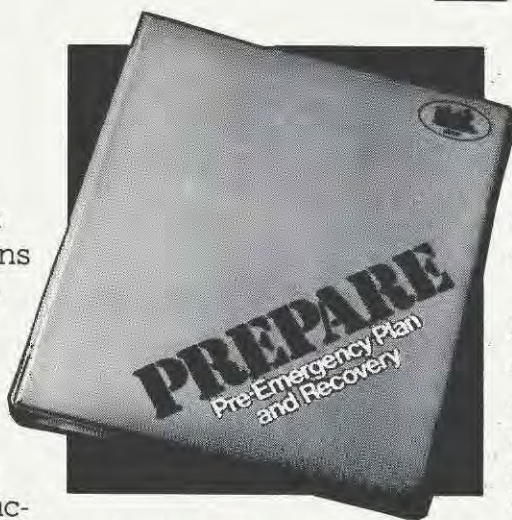
William McLaughlin, executive director of the public employees retirement group, expressed similar thoughts. "We're a \$4.2 billion fund and we're talking about delinquent payments of about \$2.1 million. We're a fully-funded system."

Contractors earn safety dividend

KANSAS CITY—CNA Insurance will pay more than \$1 million in dividends to member companies of the Building Service Contractors Assn. International for participation in a 1977-78 insurance program.

The payment made to 550 of the approximately 700 janitorial firms that make up the association was the largest made by CNA.

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editorial opinions

Sloppy habits

DURING DECEMBER, when about \$3 million worth of Cezanne paintings were stolen from Chicago's Art Institute, Chicago police and the FBI found security systems so lax at the Institute that practically anybody could have walked off with some treasures.

Among other things, over 400 employees of the institution had access to keys for the so-called broom closet which was being used as an art storage area during remodeling. It's surprising more works weren't stolen.

Shocked by the Art Institute's laxity? No, because we think it happens all the time, not only at the country's leading art museums but also in corporate executive offices, corporate petty cash departments, computer rooms, storage areas where valuable supplies and electronic equipment is inventoried and countless other places. We see it every week, if not every day.

Those who agree include Belden Menkus, a security expert who does consulting work. He says he's seen loose security systems in museums nationwide and at corporations worldwide.

Commander William Murphy, chief of investigations for the Chicago Police Department, also revealed his view of security when he said: "They have been operating under the same system for years, and like all large companies they relax and drop their guard. When you're around things all day, you forget how valuable they are and when you're around the same people all day, you lower your guard."

Understandable, but not forgivable.

That should serve as fair warning to all risk managers.

Game plans

ANY GOOD MANAGER will have a five-year plan, right? What happens when wage/price guidelines louse up your five-year plan after you've already prepared to institute a new benefit plan during 1979?



That's just what employee benefit managers for a number of corporations are asking themselves. The conversations we've had with managers and consultants around the country indicate that a lot of companies anticipate far in advance the steps to be taken before instituting a dental plan, for example. And for those who've long since planned to make some major benefit changes in 1979—start a thrift plan, modify a profit-sharing plan, institute a new dental plan, expand a dental plan, start up a vision care plan—there's a certain momentum established that means no turning back now.

Many firms plan to ignore the Carter Administration's wage guidelines. They've already planned and financed new benefits or benefit alterations. And employees count on the new benefits. Moreover, benefits are usually considered critical to maintaining and improving employee productivity and moral.

Wage and price controls are counterproductive. Mr. Carter should know that by now. At the very least, all benefit costs should be exempted from wage guidelines. Employers aiming to be competitive, or to reward good performance, or for whatever reason, should be allowed to improve their benefit programs.

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.

Price cutter named

To the editor: One of the prominent names and faces you omitted in your recent article concerning the "rampant price cutting" was Liberty Mutual. In a number of recent competitive situations with Liberty Mutual, we have found ourselves in embarrassing situations due to the substantial price difference between our proposal and Liberty Mutual's.

In a most recent situation on a multi-location drug store, the manual premium for the account was in excess of \$108,000. After negotiations with two carriers we were able to provide a quotation of approximately \$69,000. Liberty Mutual wrote the account for \$25,000. This is only one situation out of several that we have experienced over the last five to six months with Liberty Mutual.

With premium price cutting like this, one has to ask: Whatever happened to insurance?

Kevin W. Conboy

Vp, Ter Bush & Powell Inc., Syracuse, N.Y.

Congress won't help

To the editor: The 12/25/78 issue of *BI* carried a well written report of a survey by Joanne Gamlin entitled, "Workers compensation hurts risk budget the most" on page 1.

In the last column of the article, Mike Craig, manager of insurance for Transcon Lines in Los Angeles, is quoted as saying Congress should be pressured for a "reasonable" Federal Workers Compensation Act (to relieve employers of the excessive costs in present state programs).

Mr. Craig is absolutely correct in urging reductions in excessive costs, however—Congress is the wrong group to "pressure" for relief. The record of congressionally mandated workers compensation programs is abysmal, at best.

The excesses in the Longshoremen's and Harbor Workers Act have been well documented, especially in California.

The Federal Employees Compensation Act is in even worse shape. A recent General Accounting Office audit of that program revealed the following: Although federal civilian employment has remained fairly constant during recent years, the compensation program has grown dramatically. From fiscal year 1970 through fiscal year 1977:

- Injuries reported by employees increased by 72.1%, from 120,625 to 207,615.

- Claims increased by 70.3%, from 17,795 to 30,301.

- Persons drawing compensation for extended periods increased by 90%, from 23,462 to 44,576.

- Benefits paid increased by 315.1%, from \$131.5 million to \$545.8 million.

If the amount of benefits paid continues to increase at this rate, Labor estimates that annual benefit costs will amount to \$1 billion by 1980.

We are having enough trouble here in Washington trying to keep the Congress from enacting minimum federal standards (using the "Longshore Act" as a model) for all states. A federal act, along the lines of the Federal Employees Compensation Act, would probably break the bank the first year.

It also should be mentioned that the (reasonable) federal black lung program was going to cost only \$40 million to \$60 million dollars the first year and then trail off. Today it

is at \$1 billion and on the rise.

Robert B. Collyer

Executive assistant, UBA Inc., Washington, D.C.

Buyer beware

To the editor: I must defend both the adjuster and the insurers against Don Stuart's attack—"Speaking Out" Oct. 30, 1978 (Insurance policies expose language risks). I think the adage applies—"People in glass houses should not throw stones."

The adjuster, quite rightly, did not consider net profit to be a recoverable loss under the stock claim. In the absence of a specific agreement, established practice dictates that the insured will be indemnified for direct expenses involved, such as prime costs, labor and overheads which have been incurred. Raw materials, of course, would be settled on the basis of replacement cost.

Neither is it fair to blame the insurance company as, presumably, in the absence of instructions to the contrary, they must assume that the insured has carefully established his values at risk and decided that the buildings and machinery should not be insured for replacement or reproduction values and the basis of settlement for stock should be A.C.V. and not selling price, or contract price, or market value.

Normally, net profit should not form part of the stock value as this should more properly be recoverable under a loss of profits policy also referred to as consequential loss or interruption insurance. The question of including overheads in the direct damage policy gives food for thought as there could be duplication of coverage. Nevertheless, it is generally to be recommended that to give full protection in all circumstances one should include overheads in the direct damage policy as it is possible in extreme circumstances for turnover not to reduce following a direct damage loss, therefore coverage under the loss-of-profits policy be denied.

One can only agree with Mr. Stuart that his policy was not drafted satisfactorily, but by no stretch of the imagination can I blame the adjuster or the insurer for this situation. It is, after all, the responsibility of the buyer and his advisers to ensure that the insurance contract is written to their satisfaction and they should "understand every bit of wording they contain and pay much attention to it" to quote Mr. Stuart's own words.

If A.C.V. (actual cash value) is not acceptable, then they should determine at the outset what basis of settlement will be required and establish their insured values accordingly, and have the policy written to their requirement. With regard to stock, whether finished or work in progress, one must always bear in mind the need to dovetail with a business interruption policy, there being different considerations with regard to the profits form or the gross earnings mercantile and manufacturing forms.

S. Russell Petts

Director, McCullough Petts Corporate Insurance Agency Inc., London, Ontario, Canada

Double talk

To the editor: Your newsmagazine has been one of the few interesting publications covering the

Continued on page 12

business insurance

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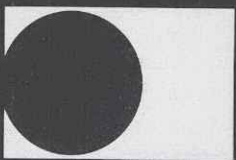
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THE NEW AMERICAN INSURANCE MARKETS (A TRANSATLANTIC VIEW)

Donald Kramer (President, Kramer Capital Consultant), Sir Henry Mance (former Chairman of Lloyds), B. P. Russell (Chairman, Crum & Forster), Derek Martin (Willis Faber), and Peter Dugdale (Managing Director, Guardian Royal Exchange) examined the possible impact of:

- The New York Insurance Exchange
- R.E.X.
- The New York Free Zone

on world insurance markets at a recent symposium held in London. Full transcripts are now available from Laing & Cruickshank for \$50. Mail to Laing & Cruickshank, The Stock Exchange, London EC2N 1HA.

Letters column . . .

Continued from page 10
area of insurance and risk management.

Lately, however, you're beginning to publish articles written as though they were removed from some of the world's most boring textbooks. A good example is in the Nov. 27, 1978, issue.

Peter Downes' article in this issue which criticizes the self-insurance article written by Charles McAlear is about as drab and meaningless as you can get. He starts off irritating the reader by aristocratically saying what irritates him, including the statement that if a person puts ice or mixer in good scotch he is obviously a barbarian. Besides being offensive to people who do such a barbaric thing, an insurance publication is not the place to voice such an opinion.

Mr. Downes points out that Mr. McAlear erred in saying that a \$100,000 premium savings does not justify a \$500,000 retention. In a few rare instances this is true, but Mr. McAlear's statement makes sense as it does apply to most situations, and therefore is a worthy observation. Mr. Downes' article is full of anecdotes, philosophical connotations, fancy talk, and winds up saying absolutely nothing. Whatever meaning he intended for this article, it seems to be quite hidden within his textbook double-talk.

In short, Mr. McAlear's article was brief, to the point and contained some interesting information. Mr. Seaver's article, which also criticized Mr. McAlear, was also not interesting nor was it informative.

Charles L. Feeney
Insurance representative, Fluor Engineers & Constructors Inc., Irvine, Calif.

More D&O veterans

To the editor: The Nov. 13 edition of *Business Insurance* has just come to my attention and I note an inaccuracy in an article on page 68. This is the reference to the introduction of directors and officers liability insurance by the INA Special Risks Facilities Inc.

Peter Wood would probably also take exception to the statement at the conclusion of the article that American Home was the first domestic insurer to write D&O insurance. That's far from the truth. Our organization was writing the cover with a domestic company as much as 13 years ago and I know that the Liberty Mutual and others wrote policies around that same time.

Warren T. Geary
Vp, Scarborough & Co., Chicago, Ill.

Big player omitted

To the editor: I was very interested in your editorial opinion "Riding the float." You forgot the biggest players at the float game—the insurance carriers themselves!!

As your opinion declares, the days of capitalizing are about over for everyone, including the carriers. Aetna Casualty & Surety has introduced a new commercial account billing system (CABS) allowing our insureds to pay premiums directly to the company on an installment basis. The agents were not happy with our move, but we didn't develop the system for the agency force—it was offered as a service to our insureds.

Once again, the great equalizer triumphs—the needs and wants of the insurance consuming public in a competitive marketplace.

Paul A. Whiting
Commercial account representative, Aetna Casualty & Surety, Springfield, Ill.

University offers insurance courses

HARTFORD—The University of Connecticut Insurance Institute here will offer courses during its 1979 spring term leading to designations of Certified Employee Benefit Specialist (CEBS) and Chartered Property Casualty Underwriter (CPCU).

Registration for both programs will be held from Jan. 22 through Jan. 26, the university's insurance institute announced.

The insurance institute, part of the university's school of business, will also offer programs in the 1979 fall term leading to a certificate in general insurance and diplomas in risk management, claims management, underwriting and loss control management.

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- An in-depth report on the effects of nationalism in foreign countries on insurance and benefits programs of U.S. corporations abroad.
- Report on pension legislation in Brazil.

a publication of Cohn Communications, Inc.

business insurance

- Corporate funding techniques for international benefit plans.
- A look at the current state of the London markets and worldwide reinsurance capacity.
- Impact of compulsory participation on monopolistic auto and liability programs in many countries.
- Effect of political upheavals on multi-national risk management programs.
- Directory of international insurance, risk management and benefit services.

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dates for buyers

FEB. 5-6. The THEOREM Institute is offering a two-day workshop for government risk managers on reducing cost through a **practical risk management program** at the Rodaway Inn at the Denver Airport. The workshop will offer specific guidelines for establishing an internal system to control and reduce claims and the cost of insurance and self-insurance administration. Emphasis will be on the practical rather than the theoretical with a how-to manual provided. The program will be repeated in Atlanta at the Holiday Inn-Airport **April 5-6**. Cost is \$200, with a 20% discount for groups of three or more. Contact Michael E. O'Neill, President, THEOREM Institute, 1737 N. First St., Suite 590, San Jose, Calif. 95112; phone

408-294-1427 or 800-538-6896.

FEB. 6-8. Risk Research Group (London) Ltd. is offering a three-day practical course taking a look at **product liability in a European context**. The course will examine the legal position, the multinational company and the framework for managing risk, evaluate the risk, and show how to develop management programs including control and finance. Cost is \$550. Contact Gillian Morley, Risk Research Group (London) Ltd., Bridge House, 181 Queen Victoria St., London EC4; phone 01-236-2175.

FEB. 8-9. New York University's school of continuing education is offering an intensive two-day seminar on **corporate insurance management**, designed to reevaluate insurance purchasing methods and to examine ways to control losses and reduce premiums. Cost is \$495 plus a \$65 registration fee per organization. Contact Registrar—14th floor, NYU Conference Center, 360 Lexington Ave., New York, N.Y. 10017.

FEB. 12-15. The University of Delaware is presenting a symposium on **fine art security** at the university's campus in Newark. The symposium is designed for museum directors and curators, members of boards of directors and trustees, insurance personnel, law enforcement officials, security directors and other persons interested in reducing fine art theft through improved security measures. Cost is \$395. Contact University of Delaware, Division of Continuing Education, Newark, Del. 19711; phone 302-738-8155.

FEB. 15-17. Union Planters National Bank is holding a **fidelity bond claim seminar** at the Tamaron in Durango, Colo. It will examine executive fidelity, bond claims and related matters. Seminar participants will be shown how to file and pursue a claim, possible consequences of the claim, the insurer's part in the claim, legal strategies if a claim is not paid and steps to reduce fidelity bond claims. Cost is \$495. Contact Union Planters National Bank of Memphis, James A. Cook Jr., Special Assistant for Financial Affairs, 67 Madison Ave., Memphis, Tenn. 38174; phone 901-683-1985.

FEB. 20-21. Market research specialists Frost & Sullivan Inc. of New York is sponsoring a two-day conference covering all aspects of **flame retardant products and chemicals**, related tort liabilities and governing regulations will be held at the Harvard Club in New York City. The conference will take an in-depth look at product liability, governmental regulations and voluntary industry standards, the impact of the consumer movement and the risks taken by chemical manufacturers. Contact Bob Sanzo, Director of Marketing, Frost & Sullivan Inc., 106 Fulton St., New York, N.Y. 10038; phone 212-233-1080.

FEB. 22-27. The American Society for Industrial Security is sponsoring its first **oil, gas and mining security** workshop at the Marriott Astrodome Hotel in Houston. Security experts will discuss problems and solutions plaguing this area of the industry such as protection of proprietary data, theft of geological maps, oil and gas product protection, contraband searches of offshore facilities, terrorist activities, strike preparation and corporate security interface
Continued on following page

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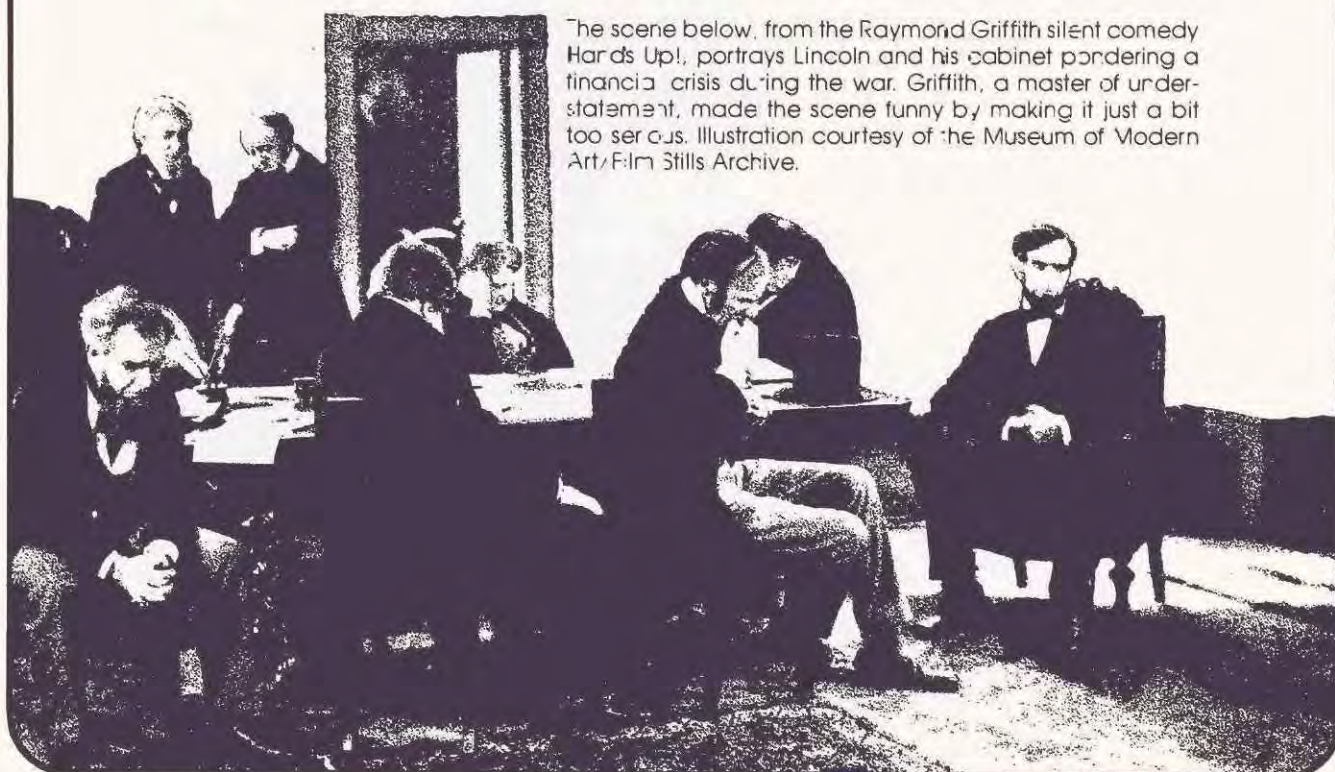
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The scene below, from the Raymond Griffith silent comedy *Hallelujah*, portrays Lincoln and his cabinet pondering a financial crisis during the war. Griffith, a master of understatement, made the scene funny by making it just a bit too serious. Illustration courtesy of the Museum of Modern Art/Film Stills Archive.

Dates . . .

Continued from preceding page
with prosecuting attorneys. Cost for the two-day course is \$165 for members and \$215 for non-members. Contact Lew Schneider, American Society for Industrial Security, 2000 K St., N.W., Suite 651, Washington D.C. 20006; phone 202-331-7887.

FEB. 26. The National Assn. of Manufacturers and the Institute for Advanced Professional Studies are presenting a one-day seminar on **mandatory retirement**—regulations, compliance and cost—at the Twin Bridges Marriott in Washington D.C. The seminar will interpret labor regulations issued after the public discussion period, the act's impact on benefit plans and cost, employment policies and practices and examine potential litigation from charges of age discrimination. Guidelines for compliance will be included along with a discussion of Federal enforcement procedures. Cost is \$175 and includes extensive course notes and luncheon. Contact Institute for Advanced Professional Studies, One Gateway Center, Newton, Mass. 02158; phone 617-964-1412.

FEB. 27-MAR. 2. The U.S. Environmental Protection Agency, the California Dept. of Health Services and the California Chemical Waste Processors Assn. is sponsoring in San Diego the second national conference on the **management of hazardous materials**. The conference is designed to give a comprehensive, in-depth look at all the dimensions of this rapidly growing field from a technical, managerial, regulatory, political, environmental and public viewpoint. Sessions on today's regulatory process, hazardous waste production, disposal technology and hazardous waste resource recovery is scheduled. Contact O. James Pardau, Executive Director, P.O. Box 214878, Sacramento, Calif. 95821.

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

MAR. 20-22. The third international **captive insurance** company conference sponsored by the Risk Planning Group Inc. will be held at the Princess and Bermudian Hotels in Hamilton, Bermuda. The program will review important events in the captive insurance industry during the past year, the growth and development of captives and IRS tax rulings. Funding employee benefits through captives and developing "outside business" for captives will also be examined. Contact Micki Briskin, Conference Coordinator, Risk Planning Group Inc., 722 Post Rd., Darien Conn. 06820; phone 203-655-9791.

MAR. 12-16. The American Society for Industrial Security will present an **assets protection course** at the Davidson conference center at the University of Southern California. The course will review the fundamentals of loss prevention and will provide principles, practical plans and techniques for cost effective security and asset protection. Cost is \$475 for members and \$525 for non-members. Contact The American Society for Industrial Security, 2000 K St., N.W., Washington, D.C. 20006; phone 202-331-7887.



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N.M. court bars employer references from slander

SANTA FE—An employer is protected against damages if he evaluates a former employee's professional qualifications for a prospective new employer, the New Mexico state court of appeals has ruled.

The decision came in a slander suit filed in Bernalillo county district court more than four years ago by Mary E. Gengler, a nurse-anesthetist, seeking damages of \$364,800 from Albuquerque Anesthesia Services Ltd. and Dr. McKinley Phelps Jr., an official of the firm.

She alleged Dr. Phelps "maliciously, falsely and deliberately slandered and defamed her" when he discussed her work performance with doctors at veterans hospital in Albuquerque where she sought employment after being terminated as an employee of Albuquerque Anesthesia Services. She lost in district court and appealed.

The court of appeals noted that Miss Gengler had answered, "Anytime," to a question on the employment application form at the veterans hospital asking, "When may inquiry be made of your employer?"

Her application for employment was denied after two doctors at the veterans hospital had talked to Dr. Phelps, because of "less than desirable references."

Second injury fund

TRENTON—Members of the New Jersey Assembly's labor committee recently revealed details of proposed legislation to improve benefits for disabled workers under the state's second injury fund, some of which were frozen at levels set decades ago.

Drafted by Assemblyman Thomas F. Cowan Sr. of Hudson County, the measure would extend the maximum compensation rate to all employees in the fund and would provide payments to their dependents after their deaths.

"This bill will bring the benefits received by older workers in the fund in line with the benefits being given to employees who enter the fund today," said Mr. Cowan. "Many of these recipients are being paid inadequate sums of money, as low as \$20 or \$40 a week, because of the rates set under the old laws."

The second injury fund, which provides a top weekly payment of \$147 to workers who suffer permanent work-related disabilities, pays benefits to more than 2,000 workers, some suffering from asbestosis and other related diseases.

Md. OSHA fines

BALTIMORE—The Bethlehem Steel Corp. faces approximately \$11,000 in fines if a Maryland state official determines the steel company exposed coke oven workers to excessive amounts of potentially cancerous emissions.

A state hearing examiner last month upheld all but one of 27 citations filed against the manufacturer by the Maryland Occupational Safety and Health agency. The citations alleged Bethlehem exposed employees working around coke ovens to heated emissions in excess of permissible limits at its Sparrows Point, Md., plant.

Bethlehem claims the state is forcing it to comply with safety regulations that were proposed but never formally adopted on state and federal levels. The company filed notice of appeal.

A public hearing will be held on

the matter, said Harvey A. Epstein, state commissioner of labor and industry, who will then decide on whether to affirm, reverse or modify the fines. A decision will not be

rendered until the spring, he said.

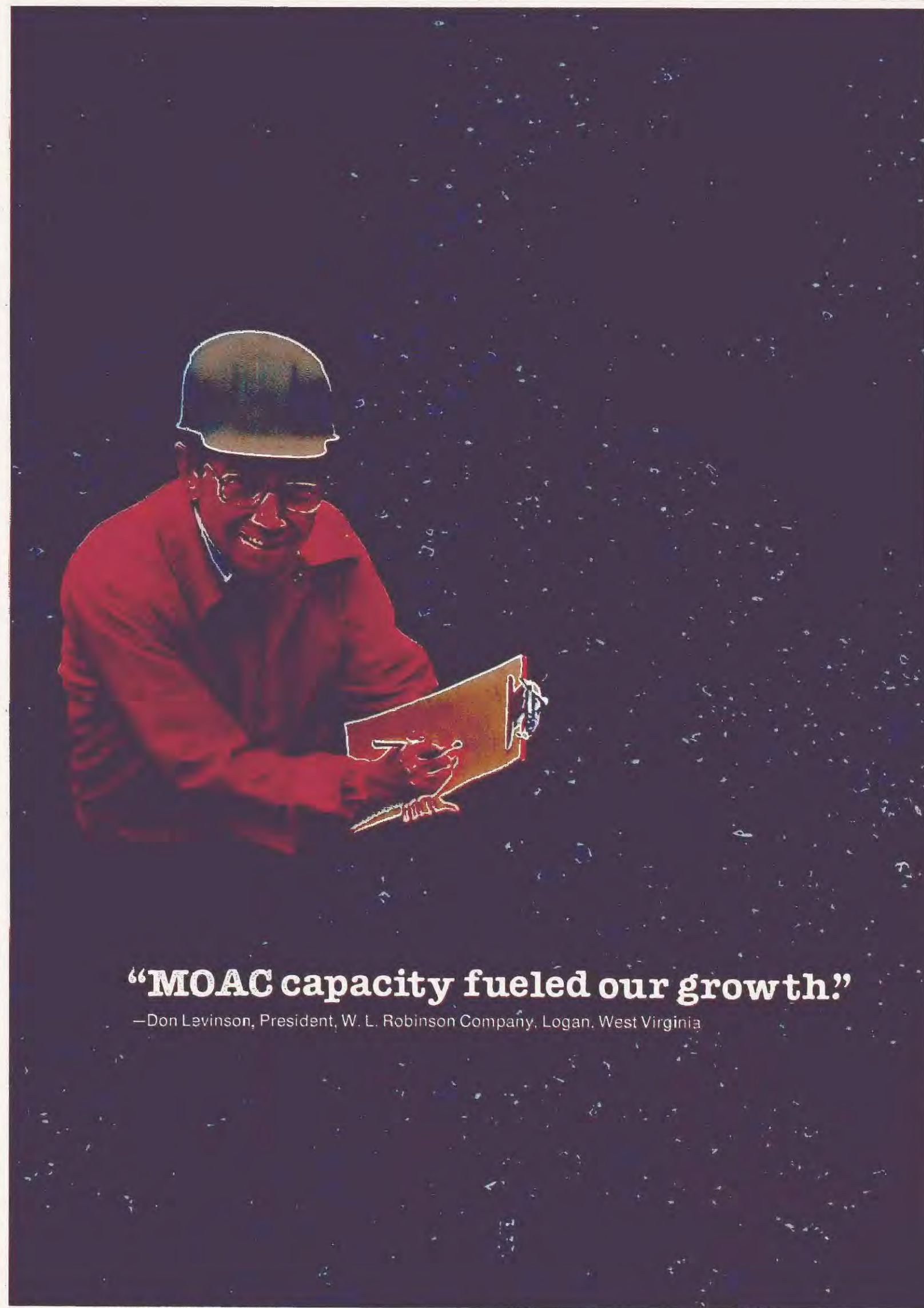
Bargaining and benefits

HARRISBURG—Pennsylvania

municipal governments, including school boards, cannot cut off insurance and other benefits for employees when a labor contract expires and negotiations are under

way on another pact, the Pennsylvania supreme court has ruled.

Termination of the benefits, the court said, would be a violation of a government's obligation to bar-



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gain "in good faith" and would amount to "coercion" of the workers. The decision applies only when the employees are continuing to work while negotiations are under way. Justice Rolf Larsen said in his view the benefits could be legally ended if the employees did call a strike.

The unanimous ruling upsets a 1977 decision by the commonwealth court and agrees with an earlier opinion of the Pennsylvania labor relations board. It was issued

in connection with a dispute between the teachers and the school board in the Cumberland Valley School District, near Carlisle in Cumberland County.

City wins appeal

AUGUSTA—The Maine supreme court sustained an appeal by the city of Augusta of a workers compensation commission award involving a former Augusta policeman, Dean A. Murray Sr.

In a 6-0 opinion written by Justice James P. Archibald, the court noted that Mr. Murray suffered a back injury in 1972 requiring surgery while working as a policeman. His compensation ended in 1973, after which he worked for various firms, including the Bath Iron Works. While at BIW in 1975, he again suffered back pain while working on a ship and needed a second operation.

The supreme court ordered the superior court judgment approv-

ing the award to Mr. Murray vacated and the matter returned to the workers compensation board for further hearing to determine the city's share of responsibility.

Del. rejects rate hike

DOVER—Delaware insurance commissioner David H. Elliott rejected a request for a 25.6% increase in workers compensation rates, but insurers plan to return with a 16% rate increase request.

The department found the 25.6% increase, representing a \$9 million jump in rates, "excessive." At the same time, Mr. Elliott emphasized, the department recognizes an increase is needed since the July enactment of legislation doubling certain benefits and causing claim costs and administrative costs to rise considerably.

The rejection was an interim denial, allowing insurance companies to resubmit a rate filing at a lower increase. Insurance companies have already indicated that they will come back with a request for an approximate 16% increase effective Feb. 1, according to the insurance commissioner.

Mr. Elliott also urged the General Assembly to reconsider the impact of the recent legislation (HB 980) on employers in the state and to temporarily halt the new benefits until the Governor's Commission could review the entire workers compensation program.

Calif. too

LOS ANGELES—The California insurance department denied a request by the state's workers compensation rating bureau for a 4.7% increase in workers compensation insurance rates.

The insurance department last approved a 4.6% rate increase in minimum workers compensation insurance rates effective Jan. 1, 1978. A 19.8% increase was approved in 1977.

Insurance commissioner Wesley J. Kinder, after public hearings held here and in San Francisco, said he won't consider future rate increases until insurers in the state improve the way premium and loss statistical data is collected and rates calculated.

The increase would have added \$100 million to workers compensation insurance costs in 1979 as compared to 1978.

Second opinions

NEW ORLEANS—The Louisiana State Medical Society is opposing a second surgical opinion plan for Louisiana group clients being developed by the Prudential Insurance Co.

The Prudential plan would deny policyholders "the right of the individual to select the doctor of his or her choice," contends medical society secretary-treasurer Dr. James H. Stewart. Prudential is establishing a "closed panel" of physicians who will agree to accept the insurer's set fees, he said.

Ron Claiborne, general manager of Prudential's Southwest home office group insurance department, denied that the Louisiana second opinion plan is a "closed panel." Any physicians willing to participate can do so, and so far about 137 doctors have signed up.

Prudential faced opposition from the Texas Medical Society when the insurer initiated a second opinion plan in that state, Mr. Claiborne noted, but changes were made in the plan to the doctors' satisfaction.

Dividends paid

DES MOINES—About 900 Iowa physicians will share in \$334,382 in premium dividends that will be paid out to them this month as participants in the Iowa medical society/Aetna liability insurance program.

In addition, member doctors will enjoy a rollback in their medical malpractice premium rates this year of between 2% and 6%, according to Donald Neuman, assistant executive vp for the Iowa medical society. A 5% partnership/corporation surcharge and a 25% employed surcharge are also being eliminated, he said.

The return is possible because of low administrative costs and a low number of claims, he added. ■

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PERSPECTIVE

Think progressively in loss control: Factor in group behavior patterns

By Frank E. Davis

ONE OF THE MAIN concerns of management today is to maintain a satisfactory level of profits or, in service industries, to provide an adequate service as economically as possible. The days of abnormally high profit levels are over, and social and service costs to the community are forcing up taxes to unprecedented levels.

Do we have to accept the present state of affairs?

The answer is a clear and definite "no" despite what the purveyors of doom would have you believe. The extent of our present ills relates very closely to our narrow and limited approach to risk and loss.

We are too wedded to the traditional approaches. We look at all forms of insurance to help us guard against our business losses, and call this risk management. And we install loss control programs which are mostly oriented toward preventing accidental loss and think that we have done our job of loss control.

Far more business losses are tolerated than ever before by boards of management and by shareholders who know no better. They believe what they are told by chief executives, most of whom would not have a clue as to the extent of preventable losses in their business.

Many losses go entirely unrecognized, but they are there just the same.

For over 80 years we have developed traditional concepts of risk and loss prevention which are entirely outdated and unsuitable for this day and age. We are still using horse and buggy techniques in a space age.

The problem is that, as always, we are tending to look at a very small percentage of our potential loss areas in our business, and we have not even bothered to look for common denominators to loss.

Until robots take over the work of hu-

Frank Davis is in charge of safety and loss control services with Duncan Risk Management Consultants in Sydney, Australia.



Photo: Mary Cairns

mans, it is my belief that people must be the most important common denominator in business loss—a fact which has been overlooked by managers and accountants and which has caused the unnecessary loss of untold billions of dollars.

Our biggest risk is the actions of people and with few exceptions we insure against

the direct or indirect actions of people, and yet we fail to recognize this in our risk and loss management programs.

Instead, we single out comparatively few of the people-related potential loss areas and develop insurance wordings to allow managements some cover to compensate

Labor relations is a typical area in which large, unavoidable losses are incurred. Many of the industrial wage and conditions disputes are unavoidable. But these represent only a small percentage of the total cost of loss through industrial dispute. The industrial climate itself can precipitate costly disputes. It is not too difficult, using loss control measurement techniques, to work out the probability and level of losses that could occur.

for actions of people which cause loss. It is interesting to note here that even though cover is taken out to insure against loss, in most cases, the direct or uninsured costs which accrue are up to four times the amount which is recovered from insurance.

But, is this good enough?

Continued on page 28

Redundant rehab efforts hamper solution

By Daniel C. Sullivan

- In Pennsylvania, the no-fault law mandates the state bureau of vocational rehabilitation to monitor the provision of rehabilitation of victims of automobile accidents.

- Ohio has state-run rehabilitation centers to provide rehabilitation under workers compensation.

- Minnesota's workers compensation law requires the state vocational rehabilitation department to certify any disabled person for benefits.

- Virginia law looks to the state vocational rehabilitation agency for vocational evaluation of disabled claimants under workers compensation.

THESE ARE JUST A FEW EXAMPLES of state vocational rehabilitation agencies involved in providing rehabilitation services; services that are already being offered by the private sector. The result: a duplication of effort that is causing growing concern in the insurance industry and among self-insureds.

It's not the competition that causes concern. Rather, it is the pronounced tendency of state agency participation to affect early involvement in the rehabilitation process and to impose eligibility requirements for

Daniel Sullivan is a rehabilitation consultant with International Rehabilitation Associates Inc., a division of INA.

services.

Another problem arises in cases where the state vocational rehabilitation agency assumes the dual role of monitoring its competitors' performance while at the same time providing all rehabilitation services in workers compensation and auto no-fault cases. A conflict of interest is apparent.

The need to control soaring medical costs and disability payments has made rehabilitation a major concern to the insurance industry and business in general. Rehabilitation is doubly important to business because it can salvage time and money that has been invested in training the person to be a competent and productive employee.

Private rehabilitation—including in-house insurance company programs and independent companies—came into being because there was a need for this vital service and it was not available through the state system. Today, the industry includes more than 150 independent providers of these services.

One of the major differences between state agency and private rehabilitation is the emphasis on retraining. The state, in most cases, tends to view rehabilitation as a long-term training process, with evaluation based on testing for potential, rather than existing or transferable skills.

By contrast, the ultimate goal of private rehabilitation is to return the individual to the same job, with the same employer, as soon as possible. Barring this, transferable skills are identified for other jobs within the same organization. Only as a last resort is

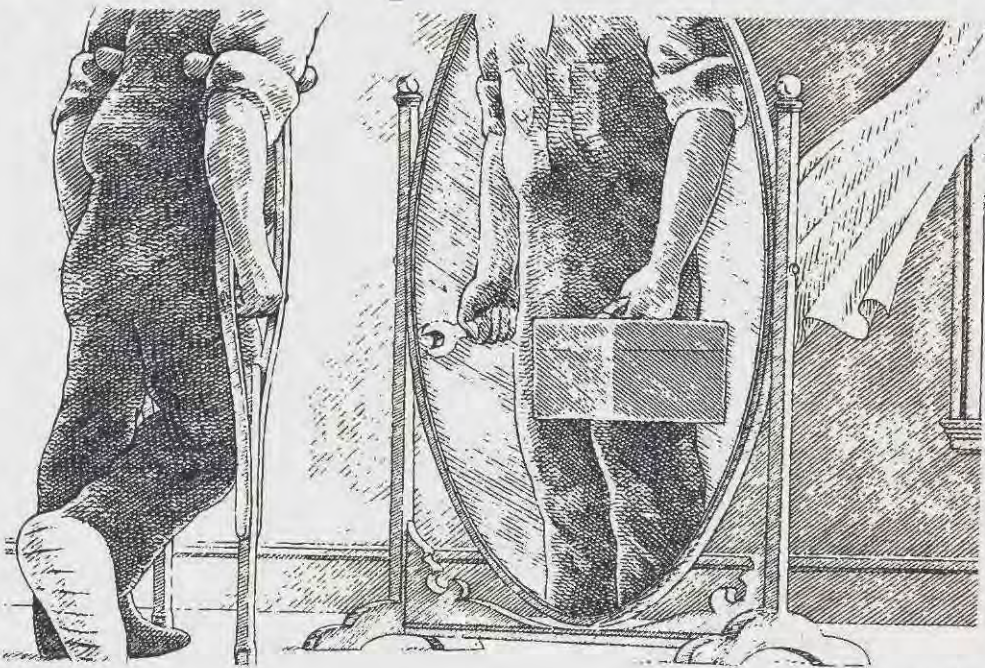


Illustration: INA

Privately run rehabilitation programs try to quickly return an injured person to his old job with his old employer, but state-operated programs tend to emphasize long-term training for a different kind of work.

training undertaken for an entirely different job with another employer, because it is the most costly approach and the most difficult for the disabled person to accept.

Another area of focus by private rehabili-

tation is accountability—to the insurer, the employer and the disabled person. "The private sector," says IRA president George Welch, "has every incentive to deliver the

Continued on page 28

PERSPECTIVE

Dickering turns to bickering over pricing

By Nicholas Taube

I THINK I HAVE A BASIC understanding of the economic law of supply and demand, business cycles and financial statement profitability.

What I do not even pretend to understand are the current insurance quoting gyrations. This leads me to ask myself: Is pricing an insurance policy a problem?

It appears to me that, theoretically, it is a serious problem. However, practically it does not appear to be—or at least so it would seem—watching the actors that compose the little play called insurance. In this play there are no “good guys” or “bad guys” as in the great Shakespearean tradition. Yet four naturally antagonistic forces are constantly flailing at each other. Each has an axe to grind and just as importantly pursues his point of view with the zeal of a newly converted missionary. Each blames the other for his own woes and is unwilling to admit that he contributed to the problem in even the slightest degree. Yet as the worm turns, it seems to erode everyone’s credibility.

The underwriter is the man down the street who is a good father, taxpayer and churchgoer, who a short two years ago was

Nicholas Taube, underwriting manager at the L.E. Harris Insurance Agency in Washington, D.C., has viewed the insurance industry from the perspective of an underwriter, account executive and adjuster.

beating his breast in despair over his dilemma of unprofitability. He was quick to point out that the regulators, agents and insureds had all conspired to deprive him of his inalienable rights to life, liberty and the pursuit of profitability. He proceeded to cancel agents of the poor risks he underwrote, charged the insureds premiums in multiples of the expiring premiums and virtually begged the regulator to show mercy for his indiscretions and judgment.

The regulator looked kindly at this poor soul, who was beside himself, and gave him rate increases. Today our champion of finance and actuarial wizardry has been able to rationalize discounting these rates heavily, while patting himself on the back for having extracted himself from the problem he originally helped create.

The regulator is a fine upstanding citizen in the community. He champions the cause of righteousness. He demands rates that are both affordable and profitable, homogeneous and not discriminatory, socially acceptable yet statistically valid and fair to two diametrically opposed forces. He protects the interest of the public when the rates are higher than they think they can afford (which has nothing to do with statistical validity) and protects the interest of the insurers when they ask for mercy for their indiscretions, which conveniently occurs every four to five years. The regulator’s ire seems to rise to great heights when premiums rise to new heights, but seems to subside when



‘Is pricing an insurance policy a problem? Theoretically, it is a serious problem. However, practically it does not appear to be—or at least so it would seem—watching the actors that compose the little play called insurance.’

—Nicholas Taube

the rates begin dropping to previous levels that put everyone in the red. Homogeneity seems to be a basis of insurance, but only if it does not involve age, sex, geographic area, etc., all factors which are discriminatory. Homogeneity can result from our living in the same state, even if it is the state of confusion.

The insured is blameless. He isn’t part of the society that has a government inflationary target rate of 7.2%, interest rates very close to the highest in history and courts that award damages previously considered ludicrous. His products couldn’t possibly be part of the wholesale or retail price index that is constantly rising. Surprisingly, the

fact his insurance costs have risen to offset someone else’s losses is of no concern to him.

The fact is, he was given a discount on his life insurance policy this year because he didn’t die last year.

And throughout this jolly holocaust, the agent sits back complaining about insurer irresponsibility, regulatory unfairness and public ire. He watches his ship drift anywhere the winds will take it, as all good captains do.

Maybe when we are all old and gray and GS-15’s, we may have finally learned the real price we have paid in this game called insurance where the buyer is supreme and the underwriter is scapegoat.

Speaking Out

Are you meeting more and enjoying it less?

By Barbara G. Fisher

MEETINGS! MEETINGS! MEETINGS! It seems like everyone is shooting an arrow at my tail to attend a meeting. It wouldn’t be so bad if the meetings were worthwhile. Most of them turn out to be hot air recyclers.

Those who contribute the most recycling energy I’ve cynically divided into:

- The Babblers (verbal Silly String in action).
- The Nit-pickers (the inventors of nonsense soup).
- The District Attorneys (question every point into a hung jury).
- The Post-meeting Detractors (epitaphs ad nauseum).

So what’s my point? My point is, life doesn’t have to be a series of one meeting after another. That’s right. Whenever anyone asks to meet with me, my first question is “why?” This sets some people stammering and others into an unruffled discourse on the reasons why a meeting is important.

It’s amazing how many people think you have to have a meeting every time a decision has to be made. My time is spread too thin on a daily basis for me to put myself into a circling pattern two or three times a week.

A couple of years ago I said, “Enough!” First, I called a sharp halt to every invitation I got from anyone who wanted to “sit down with me to go over. . . .” What would take “us” 90 minutes to “go over” usually took me 15 minutes at my convenience—and that included dictation of any comments I had. Second, I started to decline needless luncheon invitations.

Certainly you have to attend meetings. But, you don’t have to attend all of them. Before every meeting I attend, I find out:

- Why are we meeting?
- Why am I there?
- Who else is going to be there?
- How long is it going to take?
- What is the expected outcome?

The harried author is corporate insurance administrator for SGL Industries Inc. in Haddonfield, N.J. She used to be asked to find time for at least one major meeting per week until she revised the system.



“Maybe we should have a meeting and talk it over!”

Somewhere in between frustration and being fed-up, I came to the conclusion that since I “spend” my time, it is mine. I started putting a time fence around my meetings, whenever I could. At first, I was surprised how easy it was to carry it off.

Instilling a bit of fear of not being able to get everything in within the “set” time period can lead to some real preparation. After all, how is anyone to know whether or not you have a plane to catch at the end of the set time? Caution prevents most people from

taking that chance. I remember one insurance broker who was so stunned at what we accomplished in 40 minutes, he wrote a letter to our board chairman.

I believe preparation is the whole key to a successful meeting. I probably spend the same overall time on my meetings as anyone else. The basic difference is that I spend the bulk of that time preparing.

Conversely, if I had a suit for every “let’s-get-together-after-lunch-and-kick-around” meeting I’ve attended, I’d be the best

dressed person on the Northeast Corridor. For the most part, these unprepared, impromptu sit-arounds were a colossal waste of time. The ironic result was usually that everyone should gather their thoughts so that we could meet again later. Sound familiar?

Here are a few other examples of my meeting avoidance techniques:

- Salespeople—I insist on having their “pitch” in writing. If they’re selling something my company needs now or in the near future, I’ll be anxious to meet with them. If, on the other hand, we operate a garage and they’re selling computers. . . .

• Proposals—First, they get scrutinized. Second, my comments are made in a letter or over the telephone. Many times, it really isn’t necessary to meet. If it is necessary to meet, however, it is obvious to everyone.

• “Sit in” Invitations—If my participation isn’t really required initially, my status would be “spectator.” I only enjoy being a spectator at a ball game, and then only if it’s a good one.

I’m also not Mary’s little lamb in meetings that are clearly circling. You shouldn’t be either. When you make a time investment, you have a right to the reward of accomplishment. You also have the obligation to ensure that the others in attendance get the same reward.

One person who has mastered the techniques of meeting quality can often direct a meeting to a successful conclusion. After all, most people know all the things that make up a good meeting and they want the meeting to accomplish its purpose. The problem is that they get lazy. All of us do at times. Preparation doesn’t get completed (for any number of reasons), so the contribution isn’t what it should be. Some hardened meet-ers even have deep scars of resentment. Their attitude toward meetings has become so negative that they have a hard time being effective. I can certainly sympathize.

Peculiar as it may sound, since I took charge of my meeting attendance time, I actually look forward to the meetings I attend. There’s even a bit of excited anticipation because I know the meetings will be great. Now, when I attend meetings I know I’m saving myself time, instead of feeling as if I’m wasting it.

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PERSPECTIVE

Rehab hampered . . .

Continued from page 25

care and counseling needed, without regard to the limiting qualifications of time and condition so often a part of the publicly funded system. The private program is geared toward reaching maximum recovery as quickly as modern medical and rehabilitation practice will allow, which is in the best interest of both the client and the company that is paying the bill."

Time is crucial

Achieving maximum recovery involves the "whole person." Physical, emotional, social, financial and vocational needs must be met. This calls for an extensive rehabilitation program, based on objectives and target dates and culminating in placement. The private sector has the trained, competent professionals to provide and personally supervise this extensive effort. They are free of the burden of an overwhelming case load—often the situation faced by a state

vocational rehabilitation counselor.

Time is crucial in the rehabilitation process. Each day of delay can add months to the total rehabilitation of an injured person. Here again the private sector has the advantage in that involvement takes place as soon as the referral is made by the insurance carrier—often allowing rehabilitation to begin while the patient is still in the hospital. In many cases, however, state programs begin only after a vocational disability has been determined.

A final consideration is the availability of funds for proper medical and vocational rehabilitation—which in the long run saves money. In the private sector, funding for the rehabilitation program is provided by the insurance carrier or self-insured. The expense determines the amount of money available and that amount remains available until the job is done. The state, on the other hand, has a set number of dollars a year allocated for rehabilitation. When the funds run out, rehabilitation programs shut down.

Differences exist, but the state and private sector can work together. An example is a "memorandum of understanding" established between private rehabilitation firms and the Michigan bureau of rehabilitation. The agreement outlines the counselor's responsibility, procedures for resolving conflicts, sharing of information, services to be provided and reporting procedures. This is a small but important step. It shows that state and private rehabilitation programs can work together successfully.

Wasted efforts

Duplication of rehabilitation services is a waste of time, money and effort. State agencies already have an enormous and ever-growing responsibility in the areas of congenital disability, learning disability, mental retardation and progressive disabilities.

In an era when taxpayers are staging revolts against higher taxes, private rehabilitation—with its focus on returning people to the job market as quickly as possible—has proven its cost-effectiveness to business. Success is evidenced not only by the growth of the industry, but by the sheer numbers of disabled workers who have become self-supporting—all at no cost to the taxpayer.



Photo: INA

Time is crucial in the rehabilitation process. Each day of delay can add months to total rehabilitation time.

Group behavior . . .

Continued from page 25

Some of these "risk" areas were probably the most significant potential loss areas in the days of the Industrial Revolution, but modern technology and social change have completely changed the values and behavior patterns of our whole society—the people whose actions cause the losses.

A whole new or more important group of loss areas has emerged which is eating away funds and reducing profits more than ever before, and we sit back and let it happen.

Individual and group behavior patterns are fast becoming the key to reduced or increasing profits, and we must recognize this fact if we are to prevent escalating costs from ultimately forcing us out of business.

Employee absenteeism is perhaps one of the most costly loss areas in business, particularly in the thousands of smaller businesses where even one person away can cost the business plenty. Absenteeism, al-

though obviously very costly to most companies, has never been considered as a risk area.

Absenteeism costs

Absenteeism varies, just as employee accident injuries vary. However, it is not uncommon to suffer a 10% absentee rate with much the same loss ramifications as a 10% lost time injury rate, even more so because workers compensation insurance picks up some of the losses attributed to accident injuries whereas losses through absence from work are a direct loss.

In looking at absenteeism, which can be dealt with statistically and analyzed in much the same way as injury accidents, many other factors will come to light which should be dealt with in a loss control program. Among these will be information on: off-the-job accidents; alcoholism and drug

dependency; personal social problems which could become part of a more objective welfare approach; the need to consider some alternative to current approaches to employee sick pay entitlements; the level of worker morale; on-the-job working relationships; business interruption losses through reduced resources; customer alienation losses through late delivery, etc.; quality and increased scrap costs through the need to use untrained labor; chronically ill employees; non-compatible employees, and employees doing freelance or outside work, etc.

There are many other cost/loss areas related to employee absenteeism which would be highlighted in such a program, and this is typical of many of the non-safety related loss areas in business which could be treated in much the same way from a risk point of view as existing accident/safety related areas.

Labor relations is another typical area in which large, avoidable losses are incurred. Many of the industrial wage and conditions disputes are unavoidable. However, these only represent a small percentage of the total cost of loss through industrial disputes.

Other industrial factors cause much greater loss to companies than wage and condition disputes. Early in 1978 a three week strike by drivers at the Leyland Rover plant in Solihull in England cost British Leyland \$68 million in lost production.

The strike which caused this enormous loss started over the way the company had dismissed one of its employees for stealing. It was not the actual dismissal that precipitated the strike, but the way the employee was treated, even though there was a clearly understood company rule that stealing would be subject to instant dismissal for anyone caught in the act. After a very costly stoppage to both employer and employees, the dismissed employee himself talked the strikers into ending their strike and going back to work, but not before the damage had been done—\$68 million damage.

In this case the company believed it was on safe ground because the stealing employee already had a prison record for stealing. However, his work mates didn't see it the same way as the company, and their action is now costly loss history for British Leyland.

Industrial climate

The industrial climate within an organization can be very costly to the operations of that company, but it is not too difficult, using loss control measurement techniques, to work out the probability and level of losses that could occur.

Other typical loss producing areas that are being looked into by those organizations with forward thinking loss control programs are: labor turnover; inadequate training at all levels; scrap and waste control, channels of communication; management of executive time; materials handling; inventory control, and the implications of change. There are also many other areas which are not covered by any form of insurance under traditional insurance arrangements, but space will not permit an elabora-



Photo: Mary Cairns

The industrial climate at a work place can be controlled to avoid heavy losses for the company.

tion of these.

Perhaps one of the most important of those listed above is the implication of change on an organization and the associated losses that almost inevitably occur.

Effects of change

We are now undergoing a period of change and progress unprecedented in industrial history. Under the impact of new machines and scientific wonders, whole occupations have been swept away and new ones created. Technological innovation has led to a massive redeployment and reorganization of labor across industries and even the most conservative observer can see the trend intensifying. The need, then, for those most closely involved with implementing change—the supervisors and managers—is to establish a favorable climate for change and to develop skills of initiating change. If this is not done, change will remain one of the high loss areas of business.

Although we have all grown up in a world of continual change, many of these changes which exposed us to the harsh realities of life were very traumatic. As a result, we have built up a suspicion about change and even though we might accept a change as being desirable, we will subconsciously tend to resist it. The worse the climate for change within an organization, the more we will resist change, and all such resistance adds to the ultimate cost of the change.

In the new approaches to loss control management, change is always high on the list of priorities. It is possible, using loss measurement techniques, to measure the climate for change in an organization and to predict the probable level of losses through resistance to change.

I wonder whether there will ever be a wording which will enable managers with a favorable change climate to insure against abnormal levels of loss through change?

Risk Management Notes

Umbrella limits annual losses in self-insurance programs

By Warren, McVeigh & Griffin

MANY UMBRELLA LIABILITY policies call for a self-insured retention of \$10,000 per claim for claims not covered in underlying policies.

At least one insurer (Fireman's Fund) has an endorsement to limit the self-insured retention to an annual aggregate. This means that the insured will pay the self-insured retention only once during a policy year. For the balance of the annual policy period, the policy will apply without retention.

This appears to be a desirable endorsement and we understand that it is often applied at no charge. It is called "Insured's Retained Limit—Annual Aggregate form No. 175022-7-76."

The text is as follows:

"Notwithstanding anything to the contrary in Insuring Agreement II limit of liability, it is agreed that where there is no primary insurance or other insurance available to insured and the Insured's Retained Limit applies:

"As respects each separate annual period of the policy, the Insured's Retained Limit stated in the declarations shall be reduced by the amount of damages paid by the insured or for which the insured is legally liable under each claim or suit against the insured in said annual period until the Insured's Retained Limit is exhausted.

Thereafter, this policy shall apply without application of the Insured's Retained Limit to any additional claim or suit against the insured until the inception of the next succeeding annual period at which time the Insured's Retained Limit shall be reinstated in full subject again to reduction in said succeeding annual period as above provided."

Keep safety safe

Halon is widely used as a fire extinguishing agent because it is effective in controlling deep-seated fires and is considered generally non-toxic. There are conditions, however, where this vapor can cause injuries.

A case occurred where a Halon 1301 extinguishing system installed in a computer room was discharged accidentally by a maintenance man when there were no employees in the room. When employees did arrive, they did not know the system had been tripped and there was a Halon concentration in the room of about 1%. Several of the employees smoked cigarettes; these employees later developed sore throats and it was discovered by the doctor that inhalation of Halon while smoking cigarettes resulted in creation of acid which burned the upper respiratory tract.

Halon installations should be installed and procedures developed so that if the system is ever tripped, from a fire or otherwise, the vapors can be ventilated outside the area. Smoking should not be allowed until all vapors are dissipated.

Toyota hit; victim gains \$1.5 million

SACRAMENTO—A 23-year-old woman, severely burned in a 1975 auto collision here that also killed a man, has collected more than \$1.5 million in out-of-court settlements from Toyota Corona Corp. and four other persons.

Most of the settlement was paid by Toyota, said Sacramento attorney Michael Gessford, attorney for the injured Sacramento secretary, Patricia Daniels. The company's share was covered by insurance, said Toyota Corona officials, but they declined to answer further questions.

The crash occurred when the 1969 Toyota Corona, driven by Miss Daniels, was at a stop sign at an intersection and another car, traveling at high speeds, collided with the rear-side of the Toyota causing it to burst into flames.

A passenger in the woman's car, a 20-year-old man, was killed and Miss Daniels suffered second and third degree burns over more than half her body, Mr. Gessford said.

Lawsuits against the auto manufacturer, the driver of the car that hit her vehicle and the driver of a third auto that was in the vicinity were later filed, the attorney said.

Crash tests conducted in 1973 by the Insurance Institute for Highway Safety in Washington, D.C., found that rear-end collisions caused fire in the passenger compartment within 1/3 second of impact, a spokesman for the institute said.

The tests revealed impact at 39.8 miles an hour caused the rear-end filler pipe to push against the fuel tank, causing the tank to rupture and spark flames, the spokesman said. The Sacramento collision occurred at speeds of nearly 80 miles an hour, Mr. Gessford said.

The Insurance Institute turned the findings over to the National Highway Traffic Safety Administration, asking the agency to open an investigation on the auto.

Engineering tests have been conducted on the Toyota but, "there's no reason to think there's any problem with those cars," said Robert Helmuth, chief of the defects evaluation division for the traffic safety administration.

The National Highway Traffic Safety Administration has the authority to order a recall of vehicles for correction of mechanical or structural defects considered to be unsafe. ■

Nuclear insurers up deductible

HARTFORD—American Nuclear Insurers (ANI) will increase its deductible to \$25,000 from \$5,000 on builders' all-risk policies issued or renewed this year.

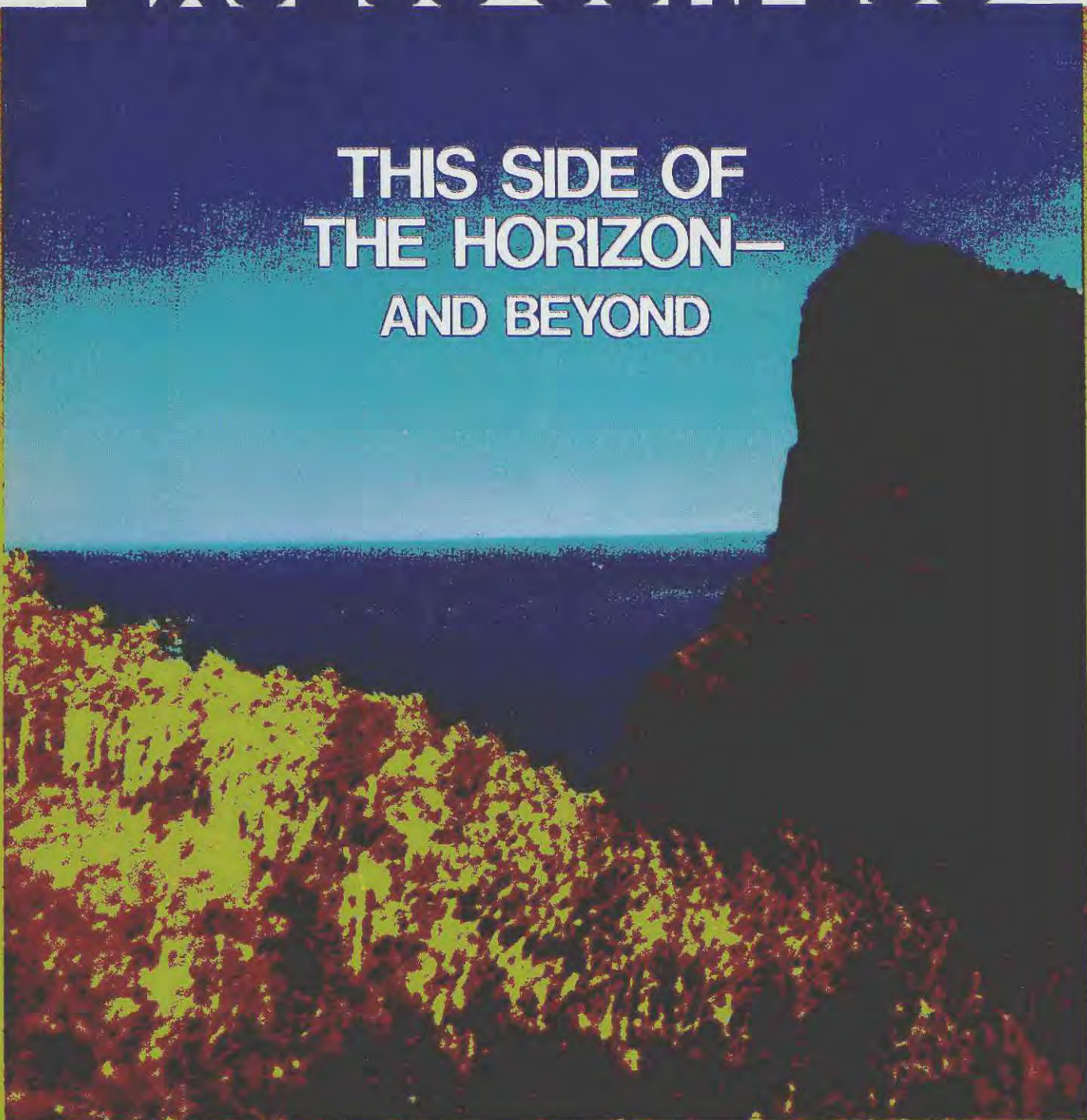
The increase is attributable to inflation, said ANI president Burt C. Proom, who also noted that deductibles have not been raised on the policies since they were first issued in 1966 to cover losses on construction of nuclear facilities. Insureds, by absorbing a large portion of each loss, can maintain the same limits of coverage without increases in premiums, Mr. Proom said.

ANI will continue to offer optional higher deductible levels of \$50,000, \$100,000 and \$250,000 Mr. Proom said. ■

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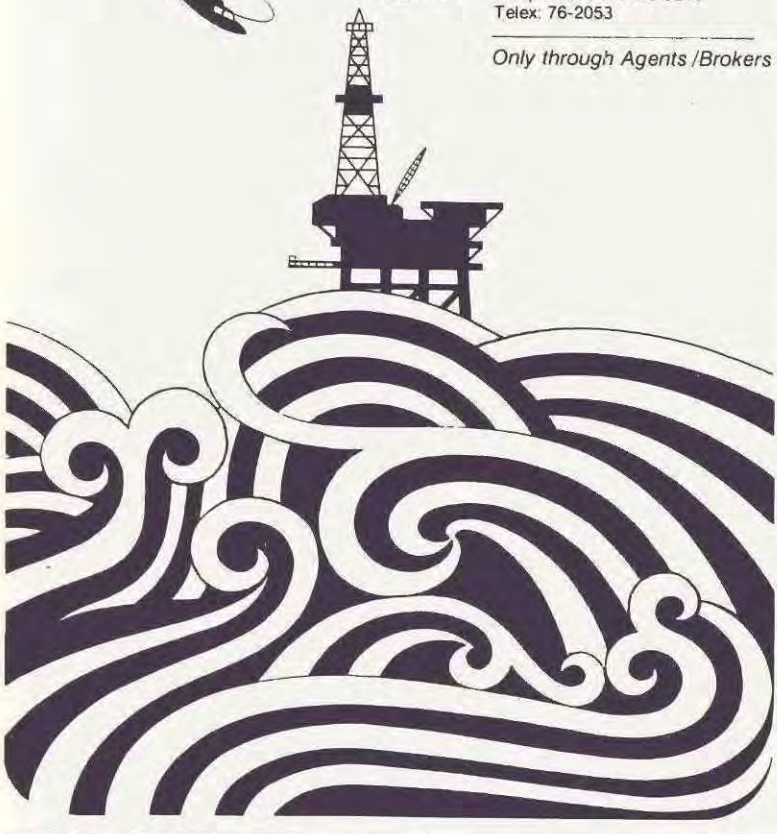
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Art thefts paint uncertainty for museum insurance rates

By JOHN MAES

CHICAGO—Pilferage of high-priced art objects recently could force higher insurance premiums for art museums if the artworks are not recovered and has already sparked review of museum security systems.

By and large, however, directors and insurance companies think that premiums will remain relatively stable for the time being and that security is adequate despite criticism leveled by law enforcement authorities.

Three recent thefts, two of which remain unsolved, probably won't mean sharply increased premium rates or wholesale policy cancellations, they predict.

"We're concerned, but we're not pushing the panic button yet," said Huntington T. Block, president of the Washington, D.C. insurance agency bearing his name.

"We don't take these things lightly but the track record on thefts has been pretty good and most stolen art objects are recovered," he continued. "I don't think insurance companies are going to push the panic button."

Mr. Block's firm is considered one of the largest handlers of art insurance, serving 150 to 200 museums and private collections. Mr. Block's firm was also the agent for the insurance on the \$3 million worth of paintings by French impressionist Paul Cezanne which were plucked by thieves from a storage-maintenance room at the Art Institute of Chicago on Dec. 27.

In other recent incidents, thieves circumvented an alarm system on Christmas Eve and stole three paintings from the M.H. De Young Memorial Museum in San Francisco, including a work by Rembrandt. The paintings, valued at \$1.2 million, have not been recovered.

A few weeks before the San Francisco incident, three Monet paintings valued at \$1 million disappeared from the Santa Barbara Museum of Art. The institution's security chief was later arrested and charged in connection with the theft for allegedly supplying information to a gang of thieves about museum security.

Despite the Chicago theft, "our experience in fine arts has always been favorable," said Mr. Block.

The Great Northern Brokerage of New York City also handles substantial fine arts business. Its secretary-treasurer, Norman Newman, said the profitability of the market along with the recovery rate of stolen art treasures are too good to cause much worry now.

"Recoveries are usually made within 60 to 90 days of the theft and the market is exceptionally profitable," he maintained.

Also taking a wait-and-see attitude are the American insurers, who with a host of British companies underwrite art museums, galleries and private collections.

"It's a good line," said a spokesman for the Hartford Fire Insurance Co. of art insurance. "There will be no pullback as far as we're concerned, but we would re-emphasize loss control and closely monitor the situation."

"If they don't rescue any of the stuff we might see higher premiums down the road and it would be a slight increase over a period of time," he said.

There are no indications of any major changes in underwriting posture from INA, Fireman's Fund and Aetna, a few American insurers of art collections.



Photo: The Art Institute of Chicago
"Madame Cezanne" was stolen from a room with only simple locks at Chicago's Art Institute.

The adequacy of security measures remains a big question surrounding the museum thefts.

The Chicago Art Institute and the San Francisco De Young Museum have been criticized by law enforcement authorities and security analysts who have contended security must have been lax or inadequate.

At the Chicago Art Institute, police and the FBI said they found works of art kept in storage rooms with only simple locks, no reinforced doors and lax regulation of which employees were given keys to the room.

Institute officials refused to comment other than offering prepared statements which claimed all security measures are undergoing "intense review."

In San Francisco, a security analyst toured the De Young museum

and told a local newspaper that security was inadequate to deter the thief who managed to circumvent security devices.

The finding was repudiated, however, by a spokesman for the De Young, who emphasized the museum has spent \$500,000 over the last five years to upgrade the museum's security. "But obviously that didn't prevent the theft and something further has to be done," he admitted.

The museum's board of directors plans to hire a firm to research and evaluate the security arrangements and develop a master plan.

None of the stolen paintings was insured. Only items on loan to the institution are covered by insurance on the reasoning that since the objects are irreplaceable, it is better to use the money for further acquisitions.

At larger museums, security is usually good; but most smaller institutions have below average security systems and "leave themselves wide open for a theft," said Thomas McShane, an FBI agent who specializes in art theft cases.

"For example, at the New York museums the security is really excellent and they have the most sophisticated systems," according to Mr. McShane. "There are armed guards there and that's a good deterrent. I've talked to criminals who have been caught and they've confided that guards who are armed are quite a deterrent to them."

Large and small museums alike should brace themselves for continued efforts by thieves to pilfer art objects, he warned. "It's a very, very lucrative market."

"I think security needs to be beefed up quite a bit," Mr. McShane said.

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riskWatch

By SIMON BENSIMON

Victim of terrorism demands employer assume responsibility

(Special from Crain's Chicago Business)

A \$185 million suit recently filed against Beatrice Foods of Chicago by one of its former senior executives may turn out to be a landmark case in the area of a company's responsibility to its employees against international terrorism.

The suit was filed in Federal District Court in New York by Gustavo Curtis, former general manager of Industrias Gran Columbia, S.A., a wholly owned subsidiary of Beatrice Foods.

Mr. Curtis was kidnapped by terrorists in Colombia in September 1976 and held captive for eight months. He was released in May 1977, after Beatrice paid a ransom of \$500,000.

The suit alleges:

- Beatrice failed to assign Mr. Curtis to another country prior to the kidnapping, despite the fact that he was known to be a target of terrorists in Colombia.

- Statements by Beatrice that Mr. Curtis may have staged his own kidnapping were defamatory.

- Efforts by Beatrice to secure Curtis's release were "dilatatory and evasive," designed "to save (the company) money."

- Beatrice refused to retain Mr. Curtis in its employ unless he agreed to remain posted in Colombia.

- Beatrice arranged termination of employment in such a way as to deny Mr. Curtis his fringe benefits, including severance pay and stock options.

- Mr. Curtis suffered emotional distress and personal injuries in captivity which have affected his temperament and capabilities as a spouse.

A spokesman for Beatrice said, "The matter is still under discussion with Mr. Curtis through attorneys."

The case has brought to the fore issues of major importance to other Midwest multinationals with worldwide operations: Is a company obligated to provide its employees with a "safe place to work?" Should favored consideration be granted a rescued hostage regarding work assignment? How much and what kind of diligence must a company exercise against terrorism in order not to be liable to litigation either from its employees or the government of the country where it operates?

Who should handle negotiations with terrorists? Mr. Curtis claims in his suit that Beatrice's selection of Control Risks of the United Kingdom as agents to negotiate his release represented a conflict of interest between Beatrice's alleged interest in paying the lowest ransom possible and Mr. Curtis's welfare. Control Risks is a subsidiary of an insurance broker. (Editor's note: Control Risks is affiliated with Investment Insurance International (Managers) Ltd., a leading Lloyd's underwriter of kidnap-ransom insurance. Both are affiliated with Hogg Robinson, a firm of leading London insurance brokers. When a company buys kidnap-ransom insurance through this organization, it is required to contract for the services of Control Risks, experts in handling the mechanics of pre-kidnap loss control and post-kidnap negotiations.)

Obviously the ramifications of a terrorist attack go far beyond simply paying ransom, said Lloyd W. Singer, president of Motorola Teleprograms Inc. (MTI).

Businessmen's demand for protection against terrorism has spawned a plethora of security consultants. Still, far too many multinationals here are not adequately prepared to deal with terrorist attacks against them, says Robert R. Glendon, president of Intercontinental Research Associates in Downers Grove.

Based on intelligence gathered in part from its own network of sources worldwide, Intercontinental prepares in-depth studies of the potential for terrorist activities in countries around the world. High-risk countries at the moment include San Salvador and Nicaragua, he says.

Companies do not like to talk about their brush with terrorists. However, according to Risks International outside Washington, acts of terrorism against American businesses increased to about 400 in 1978 from 250 in 1976. In all, companies paid a total of \$150 million in ransom and other forms of blackmail since 1970.

Mr. Glendon says there are only two options available to multinationals in the face of terrorist action: "Do nothing or do something." Curtis v. Beatrice may well strengthen considerably the "do something" option.



Bensimon

Second death at Calif. park sparks call for safety review

By JOANNE GAMLIN

VALENCIA, Calif.—The second death in less than 12 months of an amusement park patron here has sparked a call for a "wall-to-wall safety inspection" of the Magic Mountain amusement park by the California division of Occupational Safety and Health.

A 20-year-old East Los Angeles woman was either thrown or fell 20 feet to her death from her seat on the roller coaster ride Colossus at the park Dec. 26. Cal OSHA chief Arthur Carter has proposed an extensive safety inspection. Substantial litigation is expected.

Earlier this year, a 23-year-old honeymooning bridegroom was killed when the tramway in which he and his bride were seated jumped its cable and dropped 50 feet to the ground Feb. 4. (BI, March 6, 1978). Previously undisclosed, a park employee was also crushed to death in January.

The bride in the Feb. 4 accident, who survived the fall but was badly injured, has filed a \$9 million lawsuit in Los Angeles federal

court against: Magic Mountain; its parent company, The Newhall Land & Farming Co., and the three European manufacturers of the "Eagles Flight" gondola ride and its clamps and conveyance cable.

The suit, filed last spring by Kathleen Ann Garcia, asks for \$3 million in actual damages and \$5 million in exemplary damages from the five defendants. In addition, it asks \$900,000 for the wrongful death of her husband, Miguel Garcia, and \$250,000 in damages for his widow in compensation for the trauma of witnessing her husband of one day perish.

Magic Mountain has been self-insured for general liability under a program that has limits of \$100,000 per occurrence. There was no aggregate loss limit on the program, brokered by Johnson & Higgins.

The insurance program was renegotiated in November, however, and a spokesman declined to comment on the new program. Wendy Hamilton, who had been corporate risk manager for more than a year,

left Magic Mountain in November.

The deaths of two park 'guests' in the span of a year, which also saw other problems such as the injury of 12 patrons on another roller coaster in July, were the first such fatalities for the seven-year-old amusement park in Northern Los Angeles county.

Nonetheless, the insurance executive for another California park said that should Magic Mountain experience another patron death in the next 24 months or so, the ensuing bad publicity could cause its attendance to dwindle to such a point that Magic Mountain would be forced to shut down.

The call for a "wall-to-wall safety inspection" of the park by Cal OSHA is highly unusual, the same executive said. Jurisdiction over park safety is split between the state and the Los Angeles county engineering department. Under state law, Cal OSHA has jurisdiction only over the park's aerial tramway and the county is charged with inspecting all other rides.

Nevertheless, Cal-OSHA appears. Continued on following page

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Safety review . . .

Continued from preceding page
 appears to be highly concerned about the situation at Magic Mountain. "We have never had two to three deaths in one year in a California amusement park," Gene Cresci, assistant to Cal OSHA head, Mr. Carter, told *Business Insurance*.

Investigation of the Colossus tragedy centers on the fact that Ms. Flores had a highly unusual body structure. She was 53 inches tall and weighed 253 pounds with a 53-inch waist, according to Eugene Bahl, a county building and safety engineer. He declined to conjecture that Ms. Flores' extreme weight caused her to be forced over the lap bar during the rapid-fire 105-foot drop down Colossus' second hill. The force of gravity is significantly increased over the course of the Colossus ride, at times hitting 3.2 times normal.

"I wish we hadn't had a roller coaster with quite as many negative Gs," Mr. Bahl told a local newspaper.

An official report on the Flores death will be issued by the Los Angeles County Board of Supervisors in early February. Preliminary reports indicate that her death was not due to mechanical failure of the roller coaster or to negligence on her part. For example, it has been established that she did not stand up during the ride. Moreover, it is known that her lap bar was in the correct down position, said Mr. Bahl.

With her striking height and weight, "should Ms. Flores have been allowed on the roller coaster at all?" several knowledgeable observers asked. The county at present only sets a height require-

ment of 50 inches.

"I expect this question to be litigated to the hilt, but I cannot help observing that there was an obvious disharmony between the size of the roller coaster and the lap bar and Ms. Flores' dimensions," said a Cal OSHA official. Poor training of park attendants, allowing her to take the ride, could have been responsible for the Colossus tragedy, he indicated.

The park recently began adding safety belts to the lap bars on the roller coaster. Twice last summer lap bars sprung open, shortly after the Colossus opened, and in response the park began installing steel cables to keep the lap bars locked, he explained. The decision to add safety belts was made because of 'guest' complaints about the violence of the ride on the wooden roller coaster.

There were no safety belts on Ms. Flores' car at the time of her death. And safety belts could have prevented her death, according to one

informed source.

The February death of Miguel Garcia in the skyride gondola was attributed by the California division of Industrial Safety to the cumulative effect of minor discrepancies in the tolerances of the cable clamps on the Eagles Flight system.

Accordingly, the lawsuit filed by Mrs. Garcia charges the ride was "defective and unreasonably dangerous" as a result of the conduct of the three European designers and manufacturers of the system. The clamping device designed to hold the gondola car onto the cable could "fail to lock and secure the car onto the cable under conditions reasonably foreseeable" in the operation of the ride, the suit claims.

The three European manufacturers who are defendants in the lawsuit are: Wagner-Biro, A.G., an Austrian corporation, which designed and manufactured the ride;

Pohlig-Hecht-Bleichert of West Germany, which designed and manufactured the clamp used to secure the gondola car to the moving cable, and Intamin, A.G. of Switzerland and its U.S. subsidiary, Intamin Inc. of California, which sold the overhead conveyance cable and all appurtenance parts and structures to the park.

S. Jerome Levy, a Chicago attorney representing Mrs. Garcia, who now resides in that city, said that a settlement of the lawsuit may be reached soon.

New Chubb office

Chubb & Son Inc., a member of the Chubb Group of Insurance Cos. based in New York City, has opened a branch office in Richmond, Va., to underwrite property and casualty insurance for most areas of the state. Charles S. Johnson, a long time Chubb employee, has been appointed branch manager, the company announced.

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Herbicide sprayed in Viet Nam

Soldiers charge chemical weapon is killing them

By REBECCA A. FANNIN

NEW YORK—A federal class action suit could result in a huge product liability exposure for chemical producers of a herbicide known in Viet Nam as "agent orange."

The suit, alleging that the herbicide used to kill trees and ground cover caused cancer, was filed on behalf of Viet Nam veteran Paul Reutershan. He died of abdominal cancer Dec. 14 in Norwalk, Conn. If proven that the use of agent orange does lead to cancer, the chemical's producers could be liable for payments "far in excess of their net worth combined," said plaintiff's lawyer Victor Yannacone Jr. of Patchogue, N.Y., who filed the suit in U.S. District Court in New York.

The suit was also filed on behalf of all others—possibly 4.2 million American soldiers—who may have suffered from exposure to the herbicide when it was used to kill vegetation in Viet Nam that provided cover for the Viet Cong.

The civilian population is also at risk since public utilities have used the herbicide for right-of-way clearing. About 8 million to 12 million civilians could have been exposed to the alleged cancer-causing chemical, Mr. Yannacone said.

Huge workers compensation and product liability payments are likely, he suggested, for medical bills alone could amount to \$50,000 per person.

"I doubt if the companies involved have enough insurance coverage to even begin to cover the payments," Mr. Yannacone said.

Because of the potential of large payments, Mr. Yannacone said he is seeking a court order to handle claims in the same way as after an airline crash. In those accidents, a fund is created by those negligent to pay claims rapidly.

Named in the suit, which was filed in U.S. District Court in New York, are Dow Chemical Co., Hercules Inc. of Wilmington, Del., and Northwest Industries Inc. of Chi-

cago. Mr. Yannacone said more companies will soon be named.

The suit alleges that the three chemical producers knew that agent orange was cancer-causing, yet failed to warn either the soldiers or public utilities that used the chemical for right-of-way purposes.

Velsicol Chemical Corp., the chemical producing subsidiary of Northwest Industries, was "puzzled and surprised" that it had been named as a defendant because it "never produced the chemical," said a spokesman.

It is possible the suit should have named North American Phillips Corp. instead, one source said, because Phillips has produced the

herbicide. Earlier a suit was filed in behalf of Mr. Reutershan against North American Phillips, but the suit was dropped.

Dow Chemical Co., a herbicide producer, "doesn't feel that use of the herbicide contributed to any injuries or caused Mr. Reutershan's death," said Herbert Edwards, manager of claims and litigation at Dow Chemical.

"We supplied the product to the government and our chemist assured us that the chemical was safe," Mr. Edwards said. "The Veterans Administration and the Department of Defense agree that we cannot be held attributable."

Dow Chemical is of course adequately insured for the exposure, Mr. Edwards said. The company

maintains a Bermuda captive insurance company, Dow Insurance Ltd., for its general liability exposure.

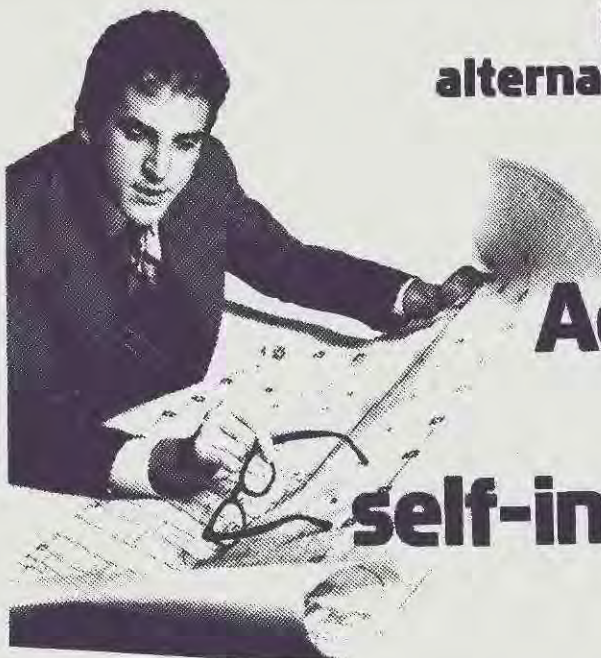
The Veterans Administration found no evidence linking agent orange and cancer in its own tests, said a Veterans Administration spokesman. The tests were made after 500 veterans, 350 from the Chicago area, made claims to the V.A. for compensation because of a medical condition they believed was related to the agent.

To put the number of claims in perspective, the V.A. spokesman noted that 3 million claims are filed each year against the V.A. Out of the 500 cases citing effects of agent orange, eight or nine received com-

pensation, but the payment was not related to the herbicide, the spokesman added.

Lawyer Mr. Yannacone maintains proof exists that the herbicide and cancer are linked. He noted that two U.S. Air Force reports, one in April 1974 and another in October 1978, charged that the herbicide was contaminated with a cancer-causing agent and that the chemical's producers knew of its hazards.

The class action suit also asks that the defendants reimburse the Veterans Administration, the Social Security Administration and the stockholders and users of public utilities for expenses they incurred in either testing for chemical effects or paying claims. ■



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Feds may act on work comp

WASHINGTON—A major effort will be made during the new congressional session to enact minimum federal standards for workers compensation, predicts a key insurance industry official.

But despite the expected all-out push by Sen. Jacob Javits (R-N.Y.) and Sen. Harrison Williams (D-N.J.), the drive to pass minimum standards will fail, just as it has in previous years, says Andre Maisonnier, vp at the Alliance of American Insurers.

The move to pass minimum federal standards will not succeed because of congressional concerns about the higher costs to businesses that would result, Mr. Maisonnier told reporters at a press briefing.

Mr. Maisonnier also believes congressional interest in federal no-fault auto standards had peaked, predicting any no-fault auto legislation introduced this session has no chance at passage.

Legislation will be introduced to permit businesses tax deductions on self-insured reserves to pay for product liability losses, a proposal that failed to receive approval in Congress last year. It is unclear if the new Congress will be more receptive to the idea, Mr. Maisonnier said. ■

Tax court blow . . .

Continued from page 1

position on this issue. Even without this decision, they would have had to fight hard for the deduction (of premium payments).

"I'm not trying to say this isn't a victory for the IRS," she continued. "It certainly is a setback for companies that have challenged the IRS believing it to be wrong," she said of other suits.

Mr. Densen suggests there could be a slowdown in the development of new captives, akin to the one he perceived following issuance of the infamous revenue ruling against captive transactions. (But captive observers are divided over whether the revenue ruling had any effect on new captive development, with more saying it did not.)

Some captive supporters, like fans of a champion boxer who has taken a hard blow early in the fight,

point out that Carnation's defeat in tax court is only the first round.

Carnation's attorney, J. Patrick Whaley, is preparing for another bout, either in tax court by asking the judge to reconsider, or by an appeal. Carnation has not decided which tack to take.

Ways to rebound

Tax and captive advisers, however, are ready with advice for other corporations on what strategies to adopt in their fight to win tax deductions while insuring risks in their captives.

Strategies offered are the same steps discussed since the IRS ruled in August 1977 that the typically structured corporate arrangements with subsidiary insurers do not constitute insurance for tax purposes. Commonly suggested

are: Write the risks of unrelated companies; form joint underwriting pools; dive into the insurance business.

Focusing especially on the judge's opinion in the Carnation case, advisers declare that a captive insurer must be sufficiently capitalized to stand without parent company support. Carnation initially capitalized Three Flowers at \$120,000, the minimum required in Bermuda. Carnation promised American Home Assurance Co. it would further capitalize the captive to \$3 million if losses demanded, a promise the insurer elicited as a condition of reinsuring Carnation's risks in its captive.

Minimum capitalization and the promise to further capitalize were Carnation's downfall, observers say.

"It appears to me," said attorney Mr. Pine, "that the single basis of the tax court decision is the finding that the agreement Carnation made with American Home and

Three Flowers to contribute capital geared to the amount of the insurance losses amounted in the opinion of the court to a funding operation with no risk assumed by Three Flowers."

Two agreements

Without risk assumption, there is no risk shifting and therefore no insurance for tax purposes, the IRS and court agreed.

"The decision emphasizes the agreement to further capitalize Three Flowers. It looks like the cornerstone the court took off on," said W. John Glancy, counsel for Ocean Drilling & Exploration Co. in its attempt to recover money paid in taxes as a result of unfavorable treatment of its Bermuda captive by the IRS, among other disputed matters. The Carnation decision should not affect ODECO's case in the U.S. Court of Claims, Mr. Glancy maintains, "because we don't have any agreement like

that."

Not all tax attorneys are willing to conjecture that absent the capitalization agreement, Carnation might have won the case. "I don't know if the decision would have been different," admitted James Cameron of the law firm Baker & McKenzie. "But it would have been more difficult to decide."

As it was, the court looked at the facts, decided a 1941 Supreme Court decision in *Halvering v. Le-Geir* stood as the precedent and concluded that the capitalization agreement cancelled out any risk shifting element in the Carnation/American Home/Three Flowers arrangement.

Assessing the transactions that resulted in reinsurance of Carnation property risks in its Bermuda captive, the tax court judge determined:

- The portion of the premium paid by Carnation for insurance of its risks ultimately assumed by its captive was not tax deductible.
 - The premiums did not offer Carnation foreign source income.
 - Carnation could not use that premium income to take advantage of unused foreign tax credits.
- Carnation therefore owes the IRS \$823,632.

While most corporations are distressed with the first finding, observers point out that Carnation loses the most because of the second and third points.

"It appears Carnation was trying to get the maximum benefit from foreign tax credit in forming Three Flowers," observed Wallace G. McQuat, vp of the West Coast-based Risk Sciences Group. "It wanted to convert U.S. source income to foreign source income to use unused foreign tax credit. There is no other reason to put property risks in a captive."

Tax motivated?

"Self-insuring property losses and using a captive produces virtually no tax advantage, as opposed to general liability where a company can't take a deduction for IBNR (incurred but not reported) losses but a captive can use insurance company rules for setting up reserves," he explained.

Carnation's attorney Mr. Whaley denies that Three Flowers was tax-motivated, citing briefs filed early in the litigation spelling out Carnation's risk management reasons for forming the captive.

Even though the judge never referred to the infamous IRS ruling on captive transactions, his opinions seem to stand as an indication to the IRS that it's "on the right track," suggested one expert.

Tax lawyers also bemoan a section of the judge's opinion that seems to say a former tax court ruling—*Theodore v. Commissioner*—considered to be supportive of the captive insurance company concept really is not.

The court also left unanswered a number of questions regarding the tax implications of dealing with a captive insurer, observers complain. The judge failed to discuss the merits of the "economic family" theory, the basis for the unfavorable IRS position on the tax implications captives.

In addition, the court's decision does not discuss the effect of third-party business in the captive.

The fear is that no matter how much business unrelated to the parent the captive underwriters, the IRS will still isolate premiums paid by the parent company for insurance of its risks and prohibit deductions of them.

Other experts believe, like Mr. Cameron, that "third-party business will take a captive out of the Carnation decision. A good definition of risk transfer and risk shifting is if your premiums are at risk for the losses of others and their premiums are at risk to pay your losses."



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17th plan in the state

Fla. retailers rack up self-insured work comp fund

By JERRY GEISEL

JACKSONVILLE, Fla.—Florida's first workers compensation fund exclusively for retailers could slash workers compensation premiums for state employers through a dividend plan.

"Retailers may be able to cut their workers compensation bills by 40% or even more," predicts C.C. Dockery, administrator of the Florida Retail Federation Self-Insurers Fund, which began rolling this month.

Organization of the Florida retailers' fund brings to 17 the number of self-insured funds sponsored by a state trade association in Florida, up from 13 in 1973, and more are expected this year.

Premium volume in these funds, organized to save money through joint efforts, hit \$60.5 million last year, up 630% from \$9.6 million in 1973. The market share of workers compensation insurance written by these funds in Florida has almost doubled since 1973, 6.8% in 1978 compared with 3.5% in 1973, according to the Florida Department of Labor and Employment Security.

Florida retailers began to explore alternative risk funding methods two years ago when their workers compensation premiums began to soar. Some small businesses found it difficult to obtain coverage from insurers because of their low premium volume and were forced in the state assigned risk pool where they were slapped with an automatic 8% surcharge. Larger firms complained they weren't receiving dividends from their insurers even though they had outstanding loss ratio experiences.

A survey of 50 members of the Florida Retail Federation revealed that for every dollar they were spending on workers compensation premiums, only two cents were being paid out for losses. "Retailers felt their premiums were too high in relation to what their losses were," Mr. Dockery explained. "So they wanted a program where good safety records would be rewarded with dividends."

Under the pooling arrangement put together by Summit Consulting Inc. of Lakeland, Fla., which manages a similar fund for the Associated Industries of Florida, the

amount of dividends an individual member will receive will be based on its own loss experience as well as the profitability of the fund.

Since the fund is open to members of the Florida Retail Federation with loss ratio experiences of 60% or better, Mr. Dockery expects the fund to show a healthy underwriting profit that will allow retailers to shave their workers compensation costs by at least 40% in some cases.

Aside from paying out dividends, the fund also offers advance discounts ranging up to 15% of the standard premium to participants. The size of the discount depends on how big a premium the company pays.

Once in the fund, members' workplaces will be inspected periodically by industrial safety engineers from ESIS, the INA Corp. affiliate that provides loss control, statistical services and claims handling for self-insurers. After each inspection, ESIS engineers will list safety violations in a report to the employer, urging him to correct the unsafe working conditions immediately.

Mr. Dockery also receives a copy of the ESIS report. If he sees blatant safety violations, he calls the employer to be sure that the violations are corrected pronto. If the employer hasn't corrected the violations by the time of a follow-up inspection, the fund has the option of canceling coverage.

The fund pays losses up to \$150,000 on a per occurrence basis. Specific excess insurance purchased from INA covers any single loss between \$150,000 and \$1,150,000. Under an annual aggregate stop loss policy, also with INA, the fund sets aside 70% of premiums to pay for claims. Once that fund is exhausted, the INA aggregate stop loss pays the next \$250,000 in claims.

The fund began operations Jan. 1, with 20 charter members contributing \$143,000 in premiums. The smallest premium paid into the fund was \$350 and the largest about \$50,000.

By the time the fund celebrates its first anniversary, it will have an

annual premium flow of more than \$1.5 million with 250 members, according to Mr. Dockery.

The long-range potential is even brighter. "In five years the fund could have an annual premium flow of \$10 million," making it one of the largest self-insured workers compensation fund in the state, Mr. Dockery said.

In addition, the fund could act as a magnet in attracting new members to the Florida Retail Federation, an old line trade association that currently has about 500 members ranging from giant department stores to home town apparel shops. An employer has to be a member of the association in order to join the workers compensation fund.

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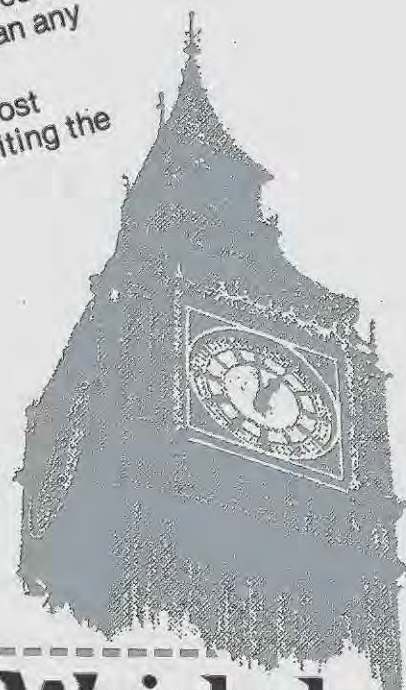
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Also available is excess automobile liability over primary limits of \$25,000/\$50,000 bodily injury and \$25,000 property damages. Auto physical damage may also be obtained, the company said.

New D&O plan

Hull & Co. (California) Inc. of San Francisco has added a new program to its errors and omissions liability package with specific forms of coverage for real estate brokers, escrow agents, mortgage bankers, title abstractors and real estate appraisers.

Model liability bill . . .

Continued from page 1

Department official who led the drafting of the model bill, hopes that consumers, insurers and manufacturers consider the proposal "a fair compromise." One long-time product liability observer described the bill as "an excellent accommodation of competing interests."

The model law aims to ensure the availability of affordable product liability insurance for manufacturers following safe manufacturing practices without taking away the rights of consumers to be compensated if they are injured by unreasonably safe products, Mr. Schwartz said.

Sixteen states have passed product liability bills since the current drive to change the tort law began in 1977. The Commerce Department believes recently enacted

state legislation has widened already-existing disparities. As a result, only a uniform nationwide product liability law would give insurers the certainty they say is needed to assess and quantify product exposures.

The Administration has not yet taken a position on the model bill. Possible Administration endorsement of the bill will not come until the expiration of a 45-day public comment period.

Manufacturers will welcome the model bill provision eliminating their liability if a product is altered or modified without their permission or not in accordance with instructions, and if the alteration causes an accident. Companies have complained in recent years about being on the losing end of liability cases although their products were altered long after they

left the manufacturers' control.

Under the model bill, wholesalers and distributors generally would no longer be entangled in product liability suits. They would only be liable if the manufacturer were insolvent or if they were given a reasonable opportunity to discover a product defect that caused an accident.

10-year limit

Manufacturers would find their liability diminished by the passage of time, unlike some state laws now in effect. Ten years after the date a product is first sold it would be presumed non-defective, requiring the plaintiff to provide "clear and convincing evidence" that a defect caused an injury.

However, in cases where the injury is presumed caused by prolonged exposure to defective products, the 10-year limitation on suits would not apply.

The Commerce Department re-

jected suggestions from some business lobbyists that workers compensation be made the sole source of recovery for employees injured in workplace accidents. Instead, the department proposes that if a worker is injured by a product more than 10 years old, he be prohibited from suing the manufacturer. The worker would, however, be allowed to collect all lost wages from the employer, rather than just the workers compensation benefit.

Some states have approved legislation giving manufacturers an absolute defense against liability for products manufactured in conformity with state-of-the-art technology. Commerce's model bill doesn't go that far. Following industry practices would be a defense only if industry safety standards were developed through careful, thorough product testing and if standards were up-to-date in light of the technology reasonably available at the time. Furthermore,

consumer interests would have had to be considered in formulating the standards.

"Reckless disregard"

To reduce the backlog of product liability cases in the courts, the bill recommends all cases in which the damages are less than \$30,000 be resolved through binding arbitration. Arbitration boards would consist of an attorney or retired judge, a lay person, and an expert in the field in which the accident occurred.

Awards would be reduced by the amount of compensation an accident victim receives from public sources, such as Social Security disability benefits. A plaintiff could receive no more than \$25,000 for "pain and suffering" unless suffering permanent serious disfigurement, impairment of bodily function or permanent mental illness.

Manufacturers still could be slapped with punitive damages if it showed a "reckless disregard" for consumers who might be injured by the product. While juries would decide if punitive damages should be imposed, the amount of damages would be determined by presiding judges.

Before deciding whether to award punitive damages, a court would be expected to consider the financial condition of the manufacturer as well as the effect on profits of the manufacturers' "misconduct."

Damage awards would be reduced by the amount a plaintiff's negligence or another party's action contributed to the injury.

Finally, a plaintiff or defendant or their attorneys participating in a frivolous lawsuit or defense could be forced to pay legal costs for the opposing party.

Some business groups endorsed the overall thrust of model bill but have severe reservations about certain provisions. Mr. Buente of the Pennsylvania Chamber of Commerce, for example, questions the practicality of using arbitration boards for product liability suits claiming damages under \$30,000. He complains that similar boards used in Pennsylvania for medical malpractice suits have not worked well.

Industry approval

Connecticut Business & Industry Assn. staff attorney John Anderson approves of the \$25,000 limit for pain and suffering compensation. But, along with several other observers, Mr. Anderson questions whether the \$25,000 limit can survive a constitutional challenge. Some state courts have upheld medical malpractice limits, while others have rejected them as unconstitutional.

The Alliance of American Insurers, an industry trade group, applauds the Commerce Department for proposing that sanctions be imposed on frivolous claims and defenses. "We believe it is a step in the right direction to relieve the courts of unnecessary and unmeritorious claims," said an Alliance spokesman.

The Assn. of Trial Lawyers of America and the Environmental Defense Fund, two influential groups opposing proposed tort reforms in some states, declined comment until they could study the model bill longer.

The model product liability bill took about four months to draft and comes three years after the federal government first took any action on product liability problems. L. William Seidman, President Ford's assistant for economic affairs, instructed the Commerce Department in January 1976 to perform a crash study of the product liability problem after hearing complaints of Michigan manufacturers.

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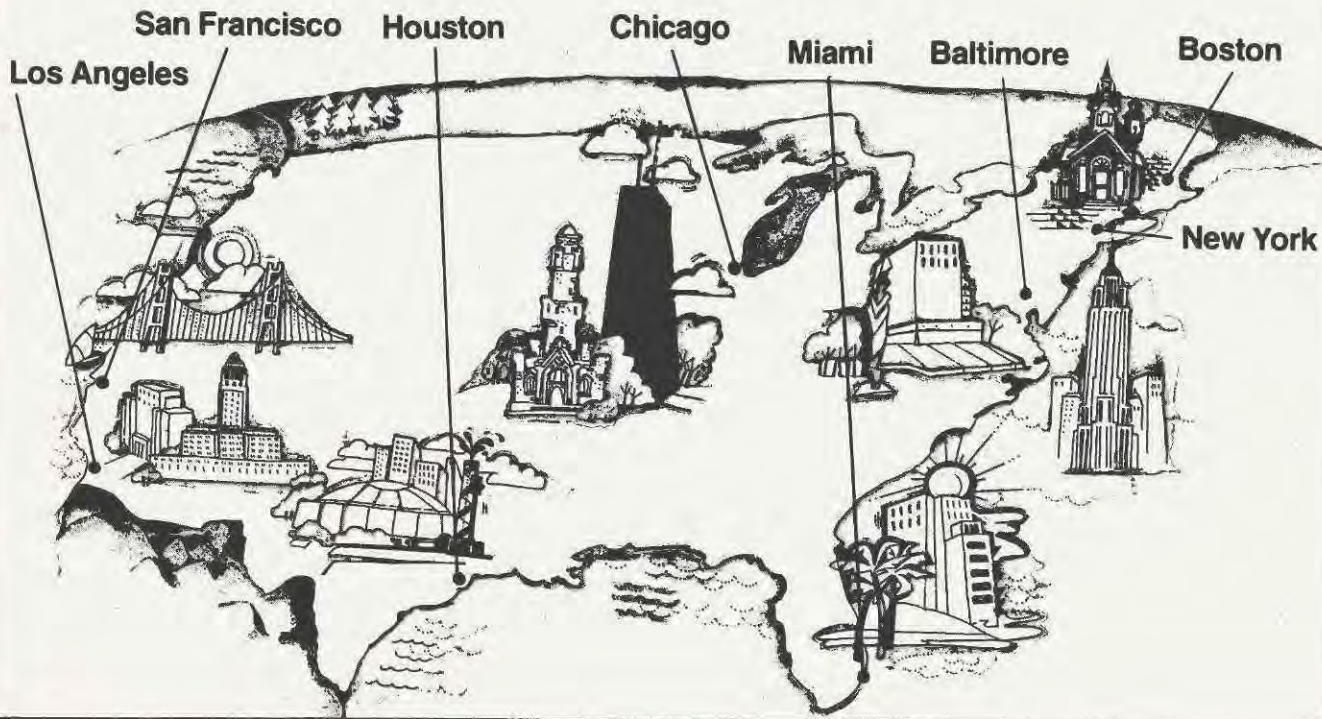
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Mower users must obey safety rules: Court

CONCORD, N.H.—Consumers are expected to follow manufacturers' safety instructions when using products, the state supreme court here ruled in upholding a lower court decision.

The New Hampshire supreme court said an injured plaintiff can be barred from recovery if his or her own "misconduct" was the major factor that caused the accident.

The case is considered important to manufacturers and insurers who have claimed that courts in recent years no longer take consumer misuse of products into consideration when awarding damages in personal injury suits.

"The decision has pulled together what strict liability means in New Hampshire, the duty imposed on the manufacturers and

the defenses available to the manufacturer or seller," said Sears, Roebuck & Co. defense attorney Matt Reynolds.

In recent years, as an example of how courts no longer take consumer misuse of products into account, some insurers touted the widely ballyhooed story of a man who picked up a lawn mower to trim a hedge, was injured and successfully sued the manufacturer. However, insurers and others stopped citing that story after this magazine revealed that there was no evidence to prove such a case actually existed. (BI, Oct. 31, 1977).

Ironically, the New Hampshire case also involved a lawn mower. In the fall of 1974, David Thibault of Nashua, N.H., was using a Sears Craftsman rotary power mower purchased in 1968 to cut the grass

around his house.

The rear housing of the Craftsman lawn mower was embossed with the warning, "Keep Hands & Feet From Under the Mower." The instruction booklet that accompanied the lawn mower warned operators to mow slopes horizontally, not from top to bottom. This warning was repeated twice in the booklet in easy to understand language, according to the court.

Mr. Thibault, however, disregarded the instruction booklet advice and mowed the lawn up and down a steep slope instead of mowing the lawn horizontally. While mowing in a vertical direction, Mr. Thibault lost his balance and fell. His foot slipped under the mower housing during the accident and the mower blade severed two toes and partially severed a third toe.

Mr. Thibault sued Sears in state

court arguing that the mower was defectively designed because it lacked a rear trailing guard to shield the operator from the whirling blades.

Sears denied liability, maintaining that Mr. Thibault was responsible for the accident by mowing up and down the hill, contrary to the explicit written instructions in the booklet.

In addition, Sears contended that Mr. Thibault lifted the mower from the ground when he fell, bringing the blade down on his foot. As a result, the lack of a guard did not contribute to the accident.

A lower court acquitted Sears and the state supreme court upheld the jury decision, noting that the warning in the instruction booklet was adequate, the design of the lawn mower was not the

cause of the accident and that Mr. Thibault's misuse of the mower was more than 50% responsible for his injuries, barring his recovery.

In rejecting Mr. Thibault's suit, which asked for "reasonable damages," the court had harsh words for some judicial commentators who believe that manufacturers should be required to bear the entire risk and costs of injuries caused by their products, even if they were not at fault.

Requiring manufacturers to bear the entire risk has had severe economic consequences, the ruling noted. For thousands of small firms the high cost of insurance has become prohibitive and consumers' freedom of choice in the marketplace has been reduced as manufacturers have withdrawn products because of liability fears, the court said. j.g. ■

Unnecessary surgery takes toll: Study

WASHINGTON—Unnecessary surgery may have taken 10,000 lives and cost more than \$4 billion in 1977, a congressional subcommittee says. Employers probably picked up the major share of this staggering expense through company-paid group health insurance plans.

Second opinions by other doctors could vastly reduce the number of unnecessary operations, the House subcommittee on oversight and investigations said.

Of the 21 million operations performed in the U.S. in 1977, about two million surgical procedures may not have been necessary, the subcommittee said, noting that most tonsillectomies and hysterectomies were unnecessary.

"Many tonsillectomies could be avoided with little hazard to the child," the subcommittee report said. "It appears that a majority of tonsillectomies performed in 1977 need not have been done."

The subcommittee said no organization—not state licensing authorities, peer review panels or the Department of Health, Education and Welfare—has taken any decisive action to curb unnecessary surgery.

As a result, the subcommittee urged Congress to consider legislation requiring HEW to mandate that Medicare and Medicaid beneficiaries seek a second professional opinion before applying for highly elective surgery, such as tonsillectomies.

An experienced HEW program requiring second professional opinions in Massachusetts reduced the number of operations by between 10% and 20% in 1977, proof that second opinion programs do work, the subcommittee said.

In a related area, the subcommittee found a wide variation in surgical risk in hospitals around the country. "An individual may have twice the chance of dying from the operation simply by having the procedure performed at one hospital rather than another," it said.

At hospitals in the greater Boston area, for example, the death rate for patients who underwent open-heart surgery ranged from 49% to 22% to 10%. Information revealing how death rates for surgical procedures may vary from hospital to hospital should be made public, the subcommittee suggested.

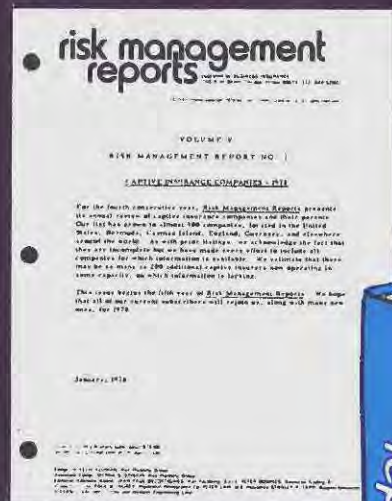
The American Medical Assn. criticized the report, complaining that the subcommittee "has applied limited, early results from a few studies to the nation as a whole without justification."

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Black broker captures five big accounts

NEW YORK—Ebony International Brokerage Corp. has landed five commercial accounts and has brokered over \$500,000 in premium business during the nine months since it incorporated, said president Arthur I. Golden and marketing director Robert J. Isacsen.

The minority-owned and controlled firm was begun early in 1978 and incorporated in May 1978 with an eye to providing an entree into the insurance business for qualified blacks interested in participating in the insurance industry (BI, Jan. 8).

Ebony is co-brokering alongside two leading national brokerage firms for two of its clients, Mr. Isacsen said. The first large corporate account landed by Ebony was Equitable Life Assurance Society of the U.S., on which Ebony is participating in the property insurance program. Ebony's other four accounts are related to the construction business. The firm has also approached numerous other Fortune 500 companies, said Mr. Isacsen, and is talking with firms in Black Africa to assist in the placement of international insurance programs.

Ebony is targeting over \$1.5 million in premium volume during its first full year, the executives said. The firm employs five full time people including Mr. Isacsen, Mr. Golden, Thelma Golden, Lawrence P. Dixon and an administrative assistant.

Ebony's board of directors includes 10 individuals with strong ties to the insurance and black communities. Mr. Golden owned an insurance brokerage business in Queens, N.Y., for 17 years, is an attorney and an officer and past president of the United Insurance Brokers Assn. Mr. Isacsen has been with Alexander & Alexander and Johnson & Higgins as an account executive. Mrs. Golden, an insurance administrator and Mr. Golden's brokerage partner, is a tax accountant. Mr. Dixon, a domestic and international bond expert, spent 13 years with Chubb & Son.

Ebony's chairman of the board is Ernest Johnson, who owned an insurance brokerage in Harlem for over 20 years, is a past president of the United Insurance Brokers Assn. and worked on formation of New York's FAIR Plan.

Also on Ebony's board are Daniel Lewis, who was an assistant district attorney in New York and is now a law secretary and counsel to a justice of the New York Supreme Court; Barbara Nichols, a life insurance underwriter and salesperson specializing in group and other commercial benefit business, is a life agent for several large companies; Grantley E. Nurse, assistant director of personnel and administration for Arthur Anderson & Co.; Dr. Albert G. Oliver, principal of an elementary school in New York City, associate professor at Baruch College and chairman of operations for Crossroads Africa, and Albert G. Vespoli, president of Vespoli, Shukla & Co. ■

N.J. RIMS officers

The New Jersey chapter of the Risk & Insurance Management Society elected the following officers for 1979: Meyer S. Gottlieb of American Hoechst Corp., president; Kenneth Ward of National Utilities & Industries Corp., vp; Carol Capossela of United Jersey Banks, secretary, and Wilson King of Boy Scouts of America, treasurer.

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Marine market . . .

Continued from page 1
U.S. through Houston-based Adams & Porter. The towing barge, Intermac 600, is owned by Oceanic Contractors, a McDermott subsidiary, and is insured for \$7 million.

At the same time, the Greek tanker Andros Patria, mortally damaged by an explosion at sea, carries a \$12.5 million policy. The ship was undertow to the Azores for repairs, salvage and cargo transfer, minus her crew of 29 killed following the explosion. Pollution losses caused by oil spills from the 218,000 ton vessel were said to be under control, probably not rising beyond \$1 million.

"Statistical freak"

These losses and a number of others during 1978 added up to spectacular news, but overall won't affect marine insurance markets much, underwriters said. The actual number of losses and their severity hasn't increased, said John Delach, vp of Marsh & McLennan and a marine expert. Recent disasters constitute a sta-

tistical freak, said Arthur McKenzie, director of the Tanker Advisory Center, which records marine incidents.

Most tanker safety records are reasonably good, despite the recent flurry of accidents bunched together, said London underwriters at Lloyd's.

Investigators still don't know the cause of the Jan. 8 explosion of the 120,000 ton, 10-year-old Betelgeuse, owned by Total Oil Co. of France. It was delivering oil at the Gulf terminal in Southern Ireland when the explosion occurred. But it's known the tanker lacked an inert gas safety system like most newer tankers have, so a buildup of hydrocarbons could have made it possible for a spark to ignite the gases.

The owner had \$13 million hull insurance through French marine

insurers, with another \$14 million for third-party liability and pollution liability through a British protection and indemnity club. U.S. insurer participation is very small.

Damage to Gulf's terminal alone is estimated to be as high as \$30 million, but there was not substantial pollution damage since the oil burned before it could spoil the coast.

The American Hull Insurance Syndicate insures one-fourth of the \$12.5 million insured hull value of the Andros Patria. Another 15% is insured by other American insurers.

Insurers worry

There are a few marine insurers who think rates may rise in the wake of last year's disasters, but most leading London insurers worry that they may not even be able to push through increases to compensate for inflation in ship repairs.

Also boosting 1978's marine losses was the total loss of the 45,000 ton German barge-carrier Munchen, owned by Hapag-Lloyd and lost without a trace in heavy weather during December after sending out a distress signal. Valued at nearly \$50 million and carrying cargo worth another \$30 million, the Munchen was headed for Savannah from Bremerhaven with a crew of 28.

More than 25% of the insurance on the vessel was underwritten by Lloyd's, with the remainder placed in West Germany. Much of the reinsurance was in London with Lloyd's and the U.K. companies, while the American Hull Insurance Syndicate was also a reinsurer on more than \$1 million worth of the loss.

At about the same time the Munchen was lost, a floating drydock worth \$20 million went adrift off the coast of northern France while being towed to Peru, resulting in a total loss.

Earlier in the year there was \$50 million damage to the Nedlloyd Hoorn, which burned while being built at Rotterdam. The Amoco Cadiz loss totaled \$12 million for the hull value alone, and the Pentelis A. Lemos worth \$17 million sank in March.

An upward trend

The year's accidents will, at best, serve to remind underwriters in the current soft market not to be lulled into complacency just because there were a couple of years without such tragedies, said Allen Schumacher, AHIS manager.

One of the few people who thinks rates will start climbing is Jack Cassidy, president of the Shipowners Claims Bureau Inc. and manager of the American Steamship Owners Mutual Protection & Indemnity Assn. Inc. He thinks marine liability (P&I) rates will rise this year for excess of loss coverage and reinsurance. ■

Sun Co. . . .

Continued from page 1
tional life insurance in amounts based on their salary at a fixed rate per \$1,000, he said.

Employees with the company before 1966 had to purchase life insurance from Hancock to be eligible for pension plan participation, Mr. Thomsen charged. The computer analyst, who is single and said he has no need for life insurance, did just that in 1975, 10 years after he joined Sun.

Annual life insurance premiums are about \$5.5 million, Mr. Thomsen said, and since 1966 probably amount to \$30 million. At least \$15 million in pension plan contributions were not made for employees who chose not to buy life insurance, he believes.

Mr. Thomsen said he is not aware of other firms that make such requirements of their employees. In fact, he delayed filing the suit for several years so he and the other plaintiffs could research whether this practice does occur elsewhere, he said.

A member of Sun's corporate legal staff, Grace Kennedy, was not aware of other employers engaging in such practices. However, she would not comment on what Sun's benefit practices are since Sun was still reviewing the complaint.

Employee benefit experts contacted by *Business Insurance* said they didn't know of other employers mandating participation in a contributory benefit plan for any reason. Some reacted with disbelief that such a situation would exist in this day. "It sounds like something that would have been done years ago," said Johnson & Higgins vp Ken Keene.

Legal experts told *Business Insurance* such practices would probably be illegal under ERISA and labor laws, but could not cite any specific statutes.

Insurance companies and insurance transactions normally are exempt from antitrust statutes under the McCarran Ferguson Act, but Mr. Thomsen believes the antitrust law applies in this case because alleged coercion of employees is involved.

John Hancock provided group life insurance for Sun Co. but was not involved with the firm's pension program, said Hancock's Gordon Thomas, vp-group insurance underwriting. But he would not comment further since the insurer is also reviewing the complaint. ■



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Roberts promoted risk exec at Columbia Pictures

Sheila P. Roberts, 32, has joined Columbia Pictures Industry Inc. in New York as risk manager after working nine years at New York-based Lionel Corp. At Lionel, she was promoted from executive secretary to assistant insurance manager and finally to insurance manager. Lionel hasn't hired a replacement. At Columbia Pictures, Ms. Roberts reports to vp and treasurer C. Charles Jowaiszas. The previous Columbia Pictures insurance manager, **Les R. Welch**, 29, has joined Crane Co. in New York as assistant insurance manager. Mr. Welch reports to Stephen Frey, insurance manager, and is in charge of property and casualty risk manage-

ment. Mr. Welch had been insurance manager for two years at Columbia Pictures.

Edward Johnston, director of insurance and benefits at Diamond International Corp. in New York, is retiring Jan. 26 after 44 years with the company. Mr. Johnston has been director for five years and previously was insurance manager. Diamond International hasn't hired a replacement.

Donald J. Davignon, 44, who joined Joseph E. Seagram & Sons Inc. in New York last January as assistant risk manager, has succeeded **Robert J. Ruppel** as direc-

tor of risk management. Mr. Ruppel has retired after serving Seagram since early in his career. Mr. Davignon, who joined Seagram where he was risk and benefits director since 1971, has hired two additional staff members. **Douglas S. Kasten**, 29, is the new manager of property risks, coming from American Cyanamid Co., where he was senior risk analyst. **Russell C. Opferkuch**, 30, has been hired as loss control engineer and analyst, after seven years with Improved Risk Mutuals Insurance Co. in various loss prevention jobs, the latest as senior staff review engineer.

Michael J. Patterson has been

hired as director of risk management in a new position at Hacienda La Puente Unified School District in La Puente, Calif. He reports to business manager Max Ragland. The position was created because the school district, the third largest in Southern California, is planning to self-insure first dollar coverage in casualty and property. Mr. Patterson will also be involved in loss prevention. Formerly, Mr. Patterson was with Claims Management Corp., a California service company offering claims and legal management to self-insureds.

Insurance and employee benefits have been joined as one depart-



Cathy Lowenbraun

ment at Kane-Miller Corp. in Tarrytown, N.Y. following the departure of insurance director **Norman Hoffman**. Mr. Hoffman joined the College of Insurance in New York as an assistant professor, as reported. Promoted to head the department is **Cathy Lowenbraun**, 28, as director of insurance and corporate communications, reporting to treasurer Richard A. Winfield. Ms. Lowenbraun joined Kane-Miller in 1972 as insurance manager. In 1976, she was promoted to manager of employee benefits, then a separate department. She was again advanced in 1978 to director of employee benefits and communications. Corporate public relations and non-financial communications were added to her responsibilities because both fields require strong communication skills, Ms. Lowenbraun said. In the recent reorganization, the insurance department was enlarged from a two-member staff. **Andrew Magyar**, who had been in the internal audit division at Kane-Miller for two years, was transferred to the newly created position of insurance analyst. **Doris Kirkpatrick**, previously an insurance secretary, was advanced to administrative assistant in property and casualty. **Joan Pizzurro** retained her title of administrative assistant in employee benefits, but was brought into the combined employee benefit and insurance department. Two secretaries were also added.

Howard Johnson Co. in Boston has promoted **Philip A. Murphy**, 41, to vp of risk management in recognition of the importance of the function. Mr. Murphy, who joined the company in 1962, moved up steadily from accounting and various insurance positions before being named corporate risk manager in 1975. He reports to senior vp and treasurer Edger Andlauer.

The pension department at Anchor Hocking Corp. in Lancaster, Ohio has split into two functions: retirement separate from reporting and disclosure. **Lucille M. Braden**, 42, has been promoted to supervisor of retirement administration from pension analyst. **Marion Cramer**, previously pension supervisor, has been named supervisor of reporting and disclosure. In addition, two pension analysts were added to the staff: **Louis Sandor Jr.**, 25, a recent law school graduate from Ohio State University, and **Christopher Vandenoever**, 24, from the unit records division.

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- ☐ Does your policy limit loss to damages by definition, and exclude non-pecuniary claims?
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- ☐ Does your policy include outside persons as insured fiduciaries?
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If the answer to *any* of the above questions is "Yes," the chances are you have probably purchased the wrong policy. And the real problem is that you will probably never know until you have an uninsured loss.

How do you know you have the right fiduciary liability policy? There's only one way—to *compare*. Remember—*all policies are not created equal*. While all contracts may appear to be similar, there can be substantial differences in their terms and conditions—differences which can be very significant—and costly. And, unfortunately, it's impossible to compare policies without a thorough understanding of the law. (ERISA)

The Professional Indemnity Agency, direct Lloyd's correspondents, is one of the very few insurance underwriters qualified to make sound recommendations. Fiduciary liability coverage is our business—our *only* business. We understand this is a difficult business—and we refuse to take the easy way out. Combining a Fiduciary Liability and a Directors and Offi-

cers Policy may serve the best interests of the insurance carrier and the broker, but it may *not* serve *your* best interest because it may not give your people the complete protection as provided by the P.I.A. form. The responsibilities of persons covered under each policy are quite different; in fact the law (ERISA) *mandates* this conflict. P.I.A. does not deal directly with insureds, but we will be happy to make our facilities available to your agent or broker.

Before the enactment of ERISA, your sole responsibility was the guarding of corporate assets. But now, because of this law, (ERISA) you are faced with the tremendous additional responsibility of protecting the personal assets of your directors, officers and other employees. You've got to be *sure*. You've got to *compare*. You've got to talk to the experts... NOW!



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If the life insurance you're carrying is a misfit, that's un-American.

At AM Life, we make sure your life insurance fits your present and your future. That's why we've grown as we have—over \$950-million of insurance in force in just 13 years and a Best's policyholder's rating of A+ (Excellent).

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We want to keep you safe, and sound.