

# business insurance

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

## Court rules on pension plan case

WASHINGTON—A Supreme Court decision against steelworkers left with little or no pension benefits when their plant folded is being viewed as "one more reason for reform" by supporters of private pension reform.

Sources less adamant about federal law governing the private pension system say the case "isn't representative" of most private plans and shouldn't be used in the campaign that is building up for passage of the William-Javits pension reform bill, the measure which at present is given the best chance of passage.

The high court ruled against 350 former employes of a Phoenix Steel plant in Harrisburg, Pa., when, rejecting their appeal for review, it left standing a federal district court decision that they weren't entitled to pension benefits not approved for them by a retirement board designated by Phoenix.

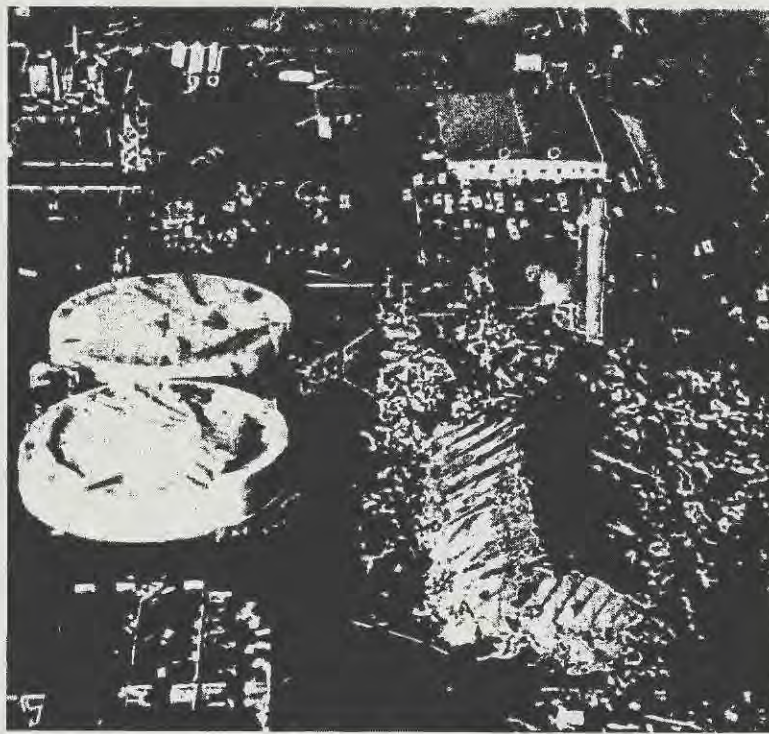
After Phoenix closed its plate division in 1960, the division plan was terminated by the board under plan terms giving first priority to employes already retired and second priority to employes with at least 15 years of continuous service. As these terms were carried out, some of the 350 union employes were left with the promise of small incremental payments when they reach retirement age and others who were short of the 15-years service requirement with no benefits at all.

**IN THEIR** lawsuit against Phoenix, the First Pennsylvania Banking & Trust Co. (fund trustee) and the United Steel Workers union as their bargaining agent, the employes said Phoenix had been unjustly enriched by their years of work without returning "fair and full compensation," including pension benefits. They said they had relied on USW statements that the union would see to it that they would receive "immediate lump sum payouts" of their pensions.

The suit noted that under one stipulation of the plan, the retirement board, which had taken over jurisdiction of the plan from USW with the union's agreement, could have provided for allocation of "part or all of the fund" without strictly following the priority arrangement.

The district court found "no genuine issue of material fact" in the arguments. A federal appeals court in Philadelphia agreed. The

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A fire and explosion at a Cherokee Nitrogen Co. ammonia nitrate plant (above), located in the Mid-America Industrial Park, Pryor, Ok., demolished the Cherokee plant and caused extensive damage to seven other plants situated in the complex. Although a score of minor injuries were reported, no loss of life occurred. Cherokee's property cover is written through the Oil Insurance Assn. Hartford Insurance Group writes the company's primary comprehensive general liability coverage to a limit of \$5 million, and a spokesman for Cherokee noted that he was "not aware of any deductible." Property cover on a National Gypsum Corp. plant, severely damaged by the blast, is written through the Factory Mutual System. Other companies involved include Georgia Pacific Corp., The Grand River Dam Authority and CCI Corp., which is also covered by Factory Mutual. A preliminary estimate of the damages has been set at \$15 million. Almost all plate glass windows in downtown Pryor, located 30 miles northeast of Tulsa, were broken as well as other windows throughout the city.

—Wide World photo

## Head of product safety agency still not named

WASHINGTON—Richard O. Simpson of the commerce department continues to be reported as the likely choice for chairman of the new product safety agency, but White House sources say the appointment cannot yet be confirmed.

Nixon administration spokesmen say "others" are still under consideration. Presumably they would be among those on a growing list of candidates for membership on the five-member product safety commission. The list includes William Spong, Virginia Democrat defeated in the November election; Malcolm Jensen, head of the Food & Drug Administration's bureau of product safety; Channing Lushbough of Consumers Union; Henry Hill, a Philadelphia chemist and businessman; and Kenneth S. Clarke, professor of health science at Mankato State University, Mankato, Mn. Also under consideration are Elizabeth Hanford, a deputy to

White House consumer advisor Virginia Knauer; Kenneth Cole, deputy director of the White House domestic council, and Rodolfo Montejano, a member of the Interstate Commerce Commission.

**ACCORDING TO** the product safety bill passed by Congress and signed by the President in October, an agency was to have been set up by the end of December. Senate commerce committee sources say authors of the bill will be heard from soon if executive action isn't taken.

In addition to the appointments delay there are disputes over product safety agency functions. The Food & Drug Administration, for example, is opposed to transfer of its National Electronic Surveillance System to the new agency. The system keeps track of household injuries by way of a computer hookup with 100 hospital emergency rooms located in 30 states.

## Phase Three seen as red tape cutter, health care malady

By TOM WALSH

CHICAGO—Ever since President Nixon's economic playmakers unveiled Phase Three, the business world has been hard at work trying to figure out what it all means, and, although most people have been able to decode an optimistic first impression, others see the new non-controls as detrimental to the health of health care services, and, perhaps, health insurance.

Briefly, the new economic phase ends mandatory wage and price controls and puts the nation's businessmen on their honor to voluntarily conduct themselves in a manner that will not drive inflation above 2.5% in 1973. Much of the red tape and enforcement procedures which accompanied Phase One and Phase Two are gone, but economic officials have put out the word that Washington retains a "stick in the closet" to presumably beat into submission elements whose wage and price greed outweigh their sense of economic duty.

Until Washington finds better methods, food processors and health care suppliers remain bound to Phase Two controls. Cost of Living Council committees will be formed to determine modifications, but it's clear that the government will attempt to keep the price lid screwed on tight in these two areas.

Insurers—most of whom had little trouble obtaining rate hikes during the first two economic phases—greeted Phase Three with mixed emotions. Some insurance executives termed the new program a "blessing," thankful to be rid of the costly record keeping which was built into the preceding phases. Others criticized its vagueness, wondering what restraints the government has up its sleeve through an essentially voluntary program with specific goals.

**HEALTH IS** the one area which has thrown group health insurers and buyers up for grabs. Both are wondering if the continued restraints on the health sector apply to health insurance, and some see the continued regulation of health services as an explosive situation in which the shrapnel may be headed toward health insurers.

Through the Health Insurance

Institute, the major health insurers issued a statement which expressed, as one insurance executive put it, "hopeful uncertainty."

"We are certainly surprised," it reads. "The implications will require some study. We certainly hope it will work and we'll cooperate fully to help make it work." End of statement.

**"WITH THE** other industries released from price controls and hospitals still subject to them, you have a very real problem," one health insurance industry observer told *Business Insurance*. "The hospitals' costs are going up disproportionately to the prices they are able to charge for their services. Many of the goods and services hospitals are forced to purchase are non-medical, simply because a hospital is a building. It's a very explosive situation. How long they'll be able to survive it, of course, depends on the individual institutions. They'll have to make up for this growing net loss somehow. They'll either have to be able to put up with a lot of red ink, or they'll have to cut back on their services."

What does all this mean to health insurance rates?

"Insurers, of course, realize all this will come to a head sooner or later and are trying to adjust rates in such a manner that they won't get burned, but they're still somewhat restricted," he said. "Risk managers would need fourth-dimensional logic to figure out what's going to happen, but I'd say they can be assured that the group health writers will attempt to build enough windage into their rates to assure that they won't get burned. They can expect that insurers will act with restraint, and, of course, rates will be based on experience with the dividend principle adjusting rates upward or downward."

**IN THE** White House's summary of Phase Three, the government said it planned to "mobilize insurance companies and other third-party payers to use their influence to curb the rise in health costs."

"The proposed efforts by insurers to help limit health costs have actually been going on for years," a spokesman for the Health Insurance Institute commented. "As a third-party financier, insurance

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# Monsanto asks retrial of benefits suit

ST. LOUIS—Monsanto Co. has requested a rehearing after St. Louis county circuit court Judge Henry G. Stussie ruled Jan. 4 that the giant firm's self-insured sickness and medical employee benefit plan contains "all the elements of insurance" and, consequently, is illegal.

The State of Missouri's division of insurance filed suit against Monsanto in 1964 when the chemical manufacturer opted to drop the lower limits of its coverage with Metropolitan Life Insurance Co. in favor of self-insurance. The suit charged that the practice is illegal in that Monsanto is not a licensed insurer and that self-insurance adversely affects the state's finances as it eliminates a two percent premium tax the state collected prior to the conversion to self-insurance.

Judge Stussie also issued an injunction which prohibits Monsanto from continuing the practice, but the company filed a stay motion Jan. 19, a process a Monsanto attorney termed "about as ordinary as the sun coming up."

Under Missouri's legal protocol, Monsanto had 15 days to request a new trial. Both parties will probably be asked to argue the motion, and, if it is denied, Monsanto has 10 days to appeal the circuit court ruling. As the case involves a suit brought by the state's insurance division, the case would be heard by the Missouri supreme court.

"MOST OF THE documents we have filed are very dry and procedural," Richard W. Duesenberg, director of Monsanto's legal department, said. "I would guess that the whole appeal procedure won't be finished for a matter of months. Although the courts in Missouri aren't as tied up as in New York—where you have to brief succeeding generations—I'd say it will be six months before the case is heard again."

Mr. Duesenberg said Monsanto's appeal won't concentrate on specific elements of the circuit court ruling because, as he put it, "We're opposed to all of it."

In stating the grounds for his decision, Judge Stussie outlined the legal conversion of the medical plan.

"Such amendment of the group policy . . . at least made Monsanto the primary insurer and made Metropolitan the excess insurer of those risks insured against by the group policy; at most made Monsanto the sole insurer of such risks; or, alternatively, made Monsanto a reinsurer of Metropolitan, or Metropolitan a reinsurer of Monsanto of such risks," the ruling said.

Citing that Monsanto had paid \$114 million in claims under the benefit plan between 1964 and 1971, Judge Stussie said that Monsanto was and is an insurer and that the "plan contains all the elements of insurance, as that term is known in the law of Missouri, to wit: (1) an agreement, oral or written, whereby, (2) for a legal consideration, (3) a promisor undertakes to indemnify the promisee, if the promisee

shall suffer a specific loss, and (4) the risk of such losses are shifted from the promisee to the promisor."

The ruling stressed that recent corporate financial disasters made prohibition of self-insurance necessary.

"The enactment of the Insurance Code of Missouri and its amendments has been held by our supreme court to indicate an intention to regulate the insurance business from beginning to end, with one of its principal objects being to make certain that the citizen secures the indemnity for which he contracts in the event of the insolvency of insurers, thereby protecting individual and public interests, and making the state a real party in interest. While there is no question regarding Monsanto's solvency at the present time, the Penn-Central, Studebaker and Lockheed financial disasters point to the necessity for regulation of any plan

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## LBJ credited with pension reform push

WASHINGTON—Senate pension experts credit Lyndon Baines Johnson with creating the concepts of the pension reform legislation now facing Congress.

Both the pension reform efforts of the late President and Sen. Jacob Javits grew out of a Johnson administration commission study, and a bill introduced by LBJ in 1968 was similar to the present Williams-Javits bill.

Johnson's bill had only one day of hearings and was killed in committee.

Mr. Johnson is also credited by political observers for being the primary impetus for Medicare. Faced with a possible boycott by doctors and opposition from health insurers, LBJ called Medicare opponents together and convinced them to support the bill.

## Senate life insurance hearings are set

WASHINGTON—Life insurance price competition hearings—which may involve tie-in group sales and the question of whether employers are fully informed when buying group programs—are set to open Feb. 20 before the Senate antitrust and monopoly subcommittee.

Sen. Philip A. Hart (D-Mi.), subcommittee chairman, said the main purpose of the hearings will be to determine if a "truth-in-life-insurance" bill is necessary to

provide consumers with premium breakdowns and other information that could be used to curb a trend toward "blind buying."

"Most people seem to believe that all life insurance costs about the same," said Sen. Hart. "Actually the price of death protection, a basic of any policy, can vary by as much as 300 percent even when annual premiums for identical policies vary only by 15 percent."

He said there is confusion among consumers "because the vast majority of policies sold today include both a savings element and death protection. But the premium for the package is not broken down, so consumers find it almost impossible to compare the values among the many policies offered by the nation's

1,805 companies."

A subcommittee staff member said the question of how corporations buy group insurance for their employees and whether these contract decisions "are as informed as you might think" would probably be dealt with to some extent when insurance companies are called in to testify in a second series of hearings six-to-eight weeks after the first.

THE STAFFER said the subcommittee may also question insurers on tie-in sales involving unwritten requirements that employers buying an insurer's health coverage has to take his group life program as well. The subcommittee is interested in such deals as "possible antitrust violations," the staffer said.

## RETROSPECTIVE RATING

by John R. Stafford

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## Another gripping Frenkel case history:

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## Pension plan ruling . . .

*Continued from page 1*

supreme court refused a review.

The appeals court acknowledged the "hardship" the fund decisions worked on the employees, most of whom were unable to get new jobs for long periods. But it said that "if, as appellants suggest, the fund was an important part of their employment, it cannot reasonably be suggested that they would not have knowledge of the fact that the fund agreement had removed administration of the plan from United Steel Workers control." Thus, "reliance on such a promise (of lump sum payment) from the union was unreasonable and the pension plan constituted a contract which barred recovery" by

the employees, the court stated.

A spokesman for sources in Congress who are pushing for reform said the case reflects "the same kind of situation we came across so often in (pension reform) hearings last year—employees losing out on benefits they thought they were working for and had earned."

He said legislation currently under consideration doesn't advocate lump sum payments but most reform bills do include plan termination insurance programs and vesting provisions that would have assured most of the former Phoenix employees of nearly full pensions when they reached retirement age.

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## Insurance for builders

HOUSTON—The National Assn. of Home Builders (NAHB) will study the creation of an independent corporation to insure a multi-year warranty program for new housing as the building industry is now doing in England.

NAHB president George C. Martin reported at the 29th annual convention and exposition held here that he will soon appoint a task force to study the project.

A \$20 fee to be paid by each builder for each house was suggested as possible method of financing the proposed program.

# Condition of New York's pension plans spawns yet another report

NEW YORK—Taking potshots at this city's municipal retirement programs has been a popular sport of late (*Business Insurance*, Dec. 12, 1972). The latest round, fired by the Citizens Union Research Foundation, was less hysterical than some of the others but every bit as damning.

The civic group's report, written by a university professor, points out that fear-ridden New York City spends more on annual retirement benefits for its employees than it does on police protection for its citizens.

The report said that, even if the city does not further liberalize the pension benefits, the cost of the retirement programs could possibly triple over the next 10

years from the present \$750 million to \$3 billion a year.

One of the reasons given for the high costs of the five retirement plans—fire, police, teachers, board of education and New York City employees—was the fact that the city guarantees retirement pay of half of final salary, including extremely costly overtime, to almost all employees. At the same time, members of the uniformed services can retire after 20 years' service with no minimum age limit. Transit workers have an age limit of 50 years before they can retire and all other city employees at age 55.

Many of the employees, particularly in the uniformed branches,

enhance their final year's salary with overtime and their half-pay pension is just that much higher. Add to this the life expectancy of 34 years (to age 75) for an employee who retires at age 41 and the cost of his pension grows substantially.

**ALSO MENTIONED** was "the generosity" of the city retirement system. For example, the average pension for retiring city teachers was \$13,000 a year compared to approximately half that for teachers whose pensions come from the state system.

The costs, according to the study, of retirement have risen along with the number of workers covered and the rise in sala-

ries. Salaries have risen about 10% a year in New York City since the 1950-51 fiscal year. The report said that the cost for the retirement plans will definitely go above the \$3 billion mark if the salary increases, granted annually, are not kept below the 10% level.

**THE CITY'S** retirement costs for fiscal year 1971-72 were figured to be \$756,588,000 of which \$608,988,000 went to pension contributions. Another \$122,600,000 went to Social Security payments and \$25 million for special union annuity payments.

In comparison, the 1966-67 total was \$433,383,000 and the figure for fiscal 1962-63 was \$294,354,000.

And even in the face of these costs, the report said that the city's pension fund might be underfunded and urged the state pension commission to take a closer look. Specifically, the re-

port stated, "It is clear that the second largest of the five major pension plans in the city—the teachers' retirement system—is not funded adequately at present," adding that the rate of the city's contribution to the retirement plan had fallen behind the rate of salary increase.

"The possibility of major reform of the city's pension system heartens many critics of the system," the foundation's study stated, "though many persons are content simply with the recent freeze on pension improvements

"If the history of public employee pensions in New York City suggests anything, it is that neither maintenance of the existing system nor comprehensive reform will be easy goals to realize," it continued.

It stated that since municipal employees unions were among the most powerful and influential, "the crux of the problem is political." ■

## INA carries coverage on church gems

NEW YORK—When two diamond encrusted crowns were stolen from a shrine in Saint Rosalia's church in Brooklyn earlier this month, parishioners were thrown into a turmoil. Old women, rosaries in hand, wept, and the neighborhood's younger people gossiped about how underworld figure Carlo Gambino, said to worship at St. Rosalia's, might use his influence to get the jewels back. After police seized three suspects, the crowns were discovered last week in an air terminal locker here, apparently without underworld help.

The Insurance Co. of North America, during all the uproar before the crowns' discovery, stood behind an all-risk policy they wrote for St. Rosalia's. Incorporating fire and liability cover as well as theft losses, the INA policy covers the crowns for \$100,000. Corroon & Black, New York, are brokers on the case.

Corroon & Black has been the broker for the insurance on the jeweled crowns since 1952, a spokesman said. In 1952 another robbery of the jewels took place. But both crowns were mysteriously returned by mail within a few days. Local sources say that the thieves, apparently unaware of underworld connections with the predominately Italian parish at the time of the theft, became afraid of recriminations, and hurried to replace the crowns.

**THE CURRENT INA \$100,000** coverage for the crowns covers their full value, a source told *Business Insurance*. But parishioners have placed the value of the religious, jeweled pieces at \$350,000—about three times their insured value. And the sentimental worth of the crowns may be inestimable to older parishioners who made contributions toward the crowns after World War II as a tribute to the ideals of peace.

A spokesman for Corroon & Black said that to the best of his knowledge, INA and his company would continue to insure St. Rosalia's church after the case of the stolen crowns.

Loss prevention measures for the returned jewels are already planned by St. Rosalia's pastor. The Rev. Anthony LoGatto said, "We'll never put them back where they were—it's too much of a temptation."

The crowns had been displayed above the heads of a wall painting of the Virgin and Child in the church's Regina Pacis shrine. ■



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# washington watch

## Nixon and Congress edge closer on no-fault—not pension, health reform

By JOHN REVETT  
Washington editor

WASHINGTON—The Nixon Administration and Congress appear to be edging closer together on no-fault auto insurance while continuing at arm's length on pension reform and national health insurance.

As the new congressional session opened, all three legislative proposals were re-introduced without much fanfare or public-

ity. This was not too surprising in the case of the Williams-Javits pension reform bill, which returned unchanged and backed by 46 co-sponsors—impressively close to a Senate majority but also indicative of a substantial opposition since other co-sponsors were sought but declined.

The Kennedy-Griffiths national health insurance bill drew some attention when it was re-introduced with additional sections. One new provision calls

for a gradual extension of dental coverage to the entire adult population, starting seven years after passage. The old bill covered only children up to 15 years of age. Another addition blocks double recovery for malpractice by stipulating that no damages will be awarded to injured persons for the cost of remedial services covered under the program.

But the Hart-Magnuson national no-fault insurance bill was

re-introduced with changes of immediate significance, designed in part to win backers among senators who sent the measure to the anti-no-fault Senate judiciary committee last session by a 49 to 46 vote.

Back before the Senate commerce committee with the sponsorship of Sens. Warren Magnuson (D.-Wa.), Philip Hart (D.-Mi.), Frank Moss (D.-Ut.), Ted Stevens (R.-Ak.) and Adlai Stevenson III (D.-Ill.), the 1973 version is essentially a bill suggested by the National Conference of Commissioners of Uniform State Laws.

This is seen by some of the new bill's backers as a move aimed at bringing out the fact that many state officials, aside from trial-lawyer-influenced legislators, are strongly in favor of national no-fault standards. This in turn is expected to have some degree of effect on the state-conscious Nixon Administration's

position that legislatures be permitted to set up their own no-fault standards. It comes at a time when the administration's unofficial March 26 deadline for state action, or strong indications of it, is fast approaching. Will the White House finally abandon its state-by-state advocacy because of inaction by all but a handful of states? Some Hart-Magnuson supporters believe that it will and that the new national no-fault bill will be easier for the administration to accept than its predecessor if only because it is now being set forth as a 'state-advocated' measure.

**THE NEW** bill differs from the former measure mainly by setting a \$50,000 instead of \$75,000 ceiling on compensation for work loss, above which law suits are permissible, and by wiping out a \$25,000 limit the old bill had on medical and rehabilitation coverage. In keeping with the 'evolution' of national no-fault, which at one point gave the federal government a major administrative role, the bill requires only that the secretary of transportation determine if a state has complied with federal standards within a time limit of one legislative session (up to two years to accommodate states with limitations on what they can take up in certain sessions).

States that don't pass no-fault laws in accordance with the federal standards within their time limit would have the standards imposed on them, but not federal government supervision. The states themselves would administer the imposed federal plan. They would "exclusively regulate the insurance companies and agencies that do business under it," according to Sen. Stevens, whose comments on the new bill are considered significant—a kind of direct message from a Republican senator to the Republican White House.

**IN CO-SPONSORING** the bill, Sen. Stevens put heavy emphasis on the role of states: Each complying state would be "free to develop its own no-fault plan beyond the minimum standards" and "free to administer, operate, tax and regulate no-fault and the automobile casualty insurance business within its borders without any interference from any federal agency." He said there will be no "straitjacket" on states. "Far from it. Each state will be making a very large number of decisions about extremely important aspects" of their no-fault laws.

Sen. Stevens' view of the measure and his approach in supporting it are seen by some supporters of the bill as reflecting a general appeal by the Hart-Magnuson forces for a switch by the administration. Between-the-lines wording is being read as an invitation to back off from the state-by-state approach without losing face. Though the bill is nearly the same as its predecessor, it pays, Sen. Moss said, "a degree of respect to the expertise of officials of state government which I for one find heartening."

But the statement of sponsors re-introducing national no-fault were not all conciliatory on the issue of states. Inserting a *Business Insurance* story (Jan. 1) on lawmakers killing Pennsylvania's proposed no-fault law into the Congressional Record to back up his point, Sen. Hart stressed that only five states have enacted "true no-fault," and of the five only Michigan meets the transportation department's guidelines that states were urged to follow voluntarily.

## 35 states to go.

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five states.

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tions, bearing more than 150,000 signatures and demanding action, to the state legislature. This excellent and well-run campaign has resulted in new strict laws removing the habitual traffic offender from the roads in Indiana. In our judgment, such a campaign can and should be run in all states.

If your state is one of the 35 still to go, call the independent insurance agent in your town. He has the campaign package and the know how.

Just tell him you want to help put your state on the map.

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While you may know us best for work-

men's "comp," we have equal capabilities in practically every other form of business insurance. As an example, our youthful life insurance company recently passed the one billion dollar mark of insurance in force in business life plans!

Because we grew up in Wausau—and chose to stay there—the small-town characteristic of "earning our keep" comes naturally to us in whatever insurance problem we're involved with.

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# U.K. to study problems of compensation liability

LONDON—Major problems of liability for personal damages will be studied by a British government commission which will report to Parliament later this year on the best methods of compensation for injured people. It will probably review the no-

fault system in operation in some parts of the United States as a guideline to future possibilities in Britain, but in general will confine itself to present needs.

The probe will cover five different aspects of injury, including those which cause either death or

lifetime disablement:

- Injuries caused in factories or other workplaces.
- Injuries while using autos or other forms of transport.
- Damage through the use of manufactured goods, including drugs like thalidomide.
- Accidents in offices or other premises used by the public in various ways.
- No-fault compensation in situations where existing laws need strict proof of fault or liability.

## info for buyers

To receive literature listed in Info for Buyers write directly to the name and address accompanying each item, mentioning that you saw the offering in *Business Insurance*. Readers are welcome to submit items for possible inclusion in the column. A sample of your literature should be sent to Info for Buyers, *Business Insurance*, 740 Rush St., Chicago, Il. 60611.

• To help clarify the many issues of the new Consumer Product Safety Act, Commerce Clearing House Inc. has just published **Consumer Product Safety Act—Law And Explanation**. The book outlines the duties of manufacturers, private labelers, distributors, and retailers under the law; the procedures for development and issuance of standards and ban orders; rules for product safety-labeling and certification; and regulations governing defect notices, recalls and refunds. The book is available for \$2.50 a copy from CCH, 4025 W. Peterson Ave., Chicago, Il. 60646.

• **How to Buy Insurance for a Corporation**, a 13-part series authored by *Business Insurance* contributing editor Bion Francis, is now available in booklet form. The booklet discusses the problems to be expected when buying insurance, and offers practical solutions for solving them. Single copies are \$3.50 or \$3.25 for orders of 11 or more. They may be obtained by sending a check or money order to Bookshelf, Crain Communication, 740 Rush St., Chicago, Il. 60611.

• The American Home & National Union has published a booklet defining over 20 types of specialized property coverages. Some of these coverages are: Builders risk contractor's equipment, depreciation insurance, utility insurance, hospital operating income insurance and data processing insurance. For a free copy write Michael Morrison, American Home Assurance Co., 102 Maiden Lane, New York, N.Y. 10005.

• The Advanced Devices Laboratory has made a booklet on infrared intrusion detection available. **How It Works and How to Use It** describes how the system responds to the intruder's own body heat, and how it can be applied where environmental hazards have precluded the use of other types of equipment. The booklet is available by writing M.J. Fealy, National Marketing Manager, Advanced Devices Laboratory, Inc., 316 Mathew Street, Santa Clara, Ca. 95050.

• Are you as confused about no-fault as you are about workmen's compensation laws from state to state? General Adjustment Bureau Inc. has expanded its popular **Comparative Analysis of Automobile No-Fault Statutes** to include laws in 10 states. Free copies may be obtained by writing Management Services, General Adjustment Bureau Inc., 123 William St., New York, N.Y., 10038.

• **Micro-History of Compensation and Benefits**, a brochure available from Hewitt Associates, briefly lists the history of benefits, compensation, and related events in the United States from 1794 to 1972. For free copies write Al Schlachtmeyer, Hewitt Assoc., 102 Wilmot Rd., Deerfield, Il. 60015.

• Blyth Eastman Dillon & Co. is offering a folder on **Fund Monitoring Services**, including fund audit, performance measurement, and portfolio evalua-

tion. This has been prepared for the employe benefit fund administrator or money manager interested in maintaining greater management control over his investing activities. It is free when you write Alexander Gould, Blyth Eastman Dillon & Co. Inc., 72 Wall Street, New York, N.Y. 10005.

• Alexander & Alexander has announced that a revised edition of its brochure, **Notes on Old Age Benefits Under Social Security**, is available. It incorporates the 20% increase in benefits which became effective last September and the increase in covered earnings to \$10,800 for 1973 and \$12,000 for subsequent years. Single copies are available by writing Consulting Actuarial Division, Alexander & Alexander, 2 N. Riverside Plaza, Chicago, Il. 60606.

### International Issue

The 1973 International Issue of *Business Insurance*, to be published March 12, will include a special Info for Buyers section. Companies are welcome to submit items for the special section, specifying the literature's title, name of the individual to whom requests should be addressed, company's address and any necessary price information. Please enclose a sample of the literature, addressing all items to Info for Buyers, *Business Insurance*, 740 Rush St., Chicago, Il. 60611. We will not include any items submitted after Feb. 26.

• A special OSHA portfolio, utilized at a recent Kindler, Laucci & Day seminar, contains a status review of OSHA covering its purpose, intentions, and implications plus sample policies, procedures, forms and records for business firms to use to comply with the act's requirements. For more information write Kindler, Laucci & Day, 1545 Wilshire Blvd., Los Angeles, Ca. 90017.

• **New England Life Separate Bond Account**, a booklet offered by the company, explains the operation, investment, objectives and success of the separate bond account, which is utilized in conjunction with qualified group pension and profit-sharing cases as well as auxiliary funds of individual policy pension and profit-sharing plans. For a copy write Arthur J. Brockelman Jr., New England Life, 501 Boylston St., Boston, Ma., 02117.

• The 3rd annual **Employee Benefit Fund Investment Performance** report is available from A. S. Hansen, Inc. The report includes investment results for 246 equity and fixed income funds managed by 114 banks located in 27 states and the District of Columbia, and 36 equity funds under the investment management of 28 leading companies. Data in the report was compiled from 1965 to '71. For a free copy write the company at 200 Park Ave., New York, N.Y. 10017.

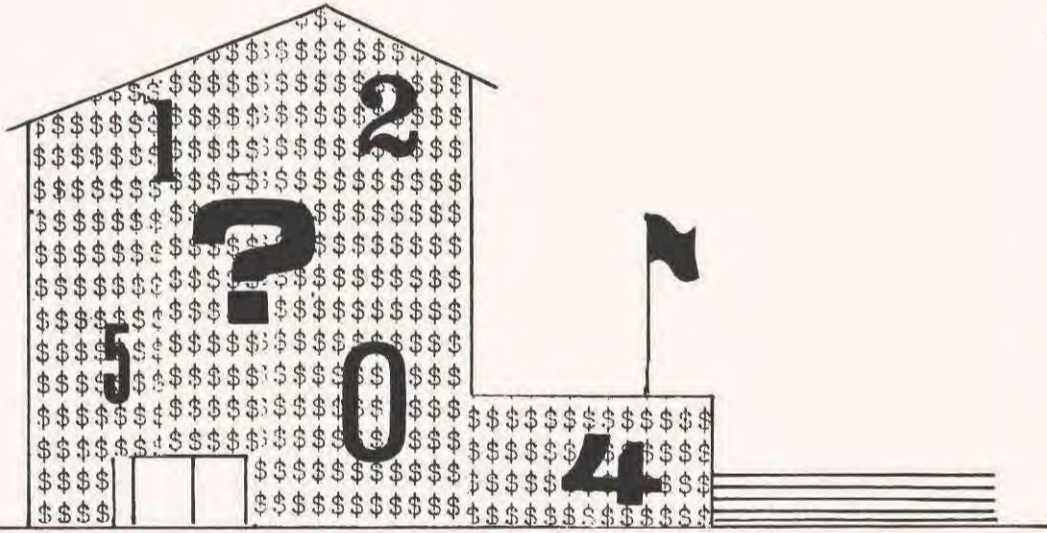


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• **How to Provide a Better Health Program for Employees at Low Cost** has been published for management officials concerned with employee health, on-the-job-performance, health insurance plans, and pension and welfare fund administration. The booklet is a non-technical explanation of the automated multiphase health testing procedure. For a free copy write International Compumedics Corp., 14 Washington Rd., Princeton Junction, N.J. 08550.

• **Homemakers Home and Health Care Services Inc.** have released **How to Save Time and Money When Handling Medical Claims**, a packet of information describing the organization's services of providing comprehensive home health care in more than 100 American cities. Utilization of these services, according to the company, reduces the costs of claims by reducing the lengths of hospital stay, provides evaluation of the claimant and brings all home care services under one roof. For a free copy write Ronald Rosenberg, Homemakers Services Inc., The Upjohn Co., Kalamazoo, Mi. 49001.

• **The 1972-73 Source Book of Health Insurance Data** is available from the Health Insurance Institute. The book is a statistical report of the private health insurance business in the United States and provides recent information concerning the five major forms of health insurance;

1972-73

**SOURCE BOOK OF HEALTH INSURANCE**



hospital, surgical, regular medical, major medical, and disability (loss of income) insurance. Single copies of the Source Book are available without charge by writing to the Health Insurance Institute, 277 Park Ave., New York, N.Y. 10017.

• **OSHA Made Clear**, produced by the Greater Los Angeles chapter of the National Safety Council, is a 20-minute audio-visual presentation explaining and updating OSHA regulations. For purchase or rental information write the film library, Greater Los Angeles Chapter, National Safety Council, 3388 W. 8th St., Los Angeles, Ca. 90005. The film library also has available a catalog of additional safety and training films.

• **The National Safety Council** has released **Cold Facts and Fiction About Safe Winter Driving**, a booklet using a true-or-false technique to dispel many of the myths surrounding winter driving. For price and quantity information write the membership department of the council, 425 N. Michigan Ave., Chicago, Il. 60611.

• **Small Talk**, a pamphlet prepared by State Mutual Life Assurance Co. of America describes the company's new group master pension plan. The plan is designed to meet the needs of the small employer group market and provides for three coverage options. For a free copy of the pamphlet write Group Marketing Div., State Mutual of America, 440 Lincoln St., Worcester, Ma. 01605.

# Proposed military retirement plan would cut pensions, save billions

WASHINGTON—Pentagon officials may touch off a storm from angry career servicemen when they ask the new Congress to tighten part of the defense budget this year—the massive retirement system that now supports some 900,000 non-active soldiers, sailors and airmen at a yearly cost of \$4.3 billion.

Based on current figures, if no changes are made in the military pensions, by the year 2000, 1.6 million military retirees will receive yearly payments that total \$21.6 billion.

Both the hierarchy at the Pentagon and key congressmen are pushing for passage of drafted legislation that they say would save about \$14.5 billion over the

next 28 years. They also expect additional savings from the more efficient personnel-management policies encouraged by the bill.

Their legislation, already drawn up, will go to Capitol Hill in February or March after review by the Office of Management and Budget. Meanwhile, officials at the Defense department are drumming up a major campaign to promote acceptance of the retirement changes among career servicemen.

**THE PROPOSED** changes are complex, with key features designed to safeguard servicemen now on active duty from discrimination. The most radical features (and, incidentally, those

expected to save the most money) are those which call for a two-step retirement plan for those with less than 30 years active service, and a new system of payments for men who become pensioners with less than 20 years service.

Also proposed are reductions of retirement pay by an amount equal to a portion of the retiree's Social Security benefits. Retirement benefits will be computed from the base of average monthly pay during the highest earning year rather than the amount of the final paycheck.

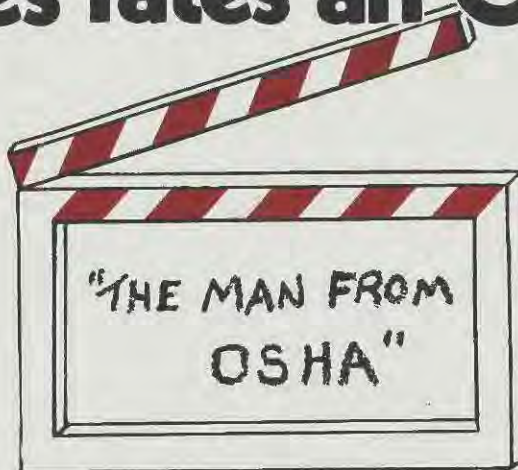
Once fully enforced, the two-step feature would allow a serviceman who retired after 20 years to get 35% of his base pay for the first 10 years of retire-

ment (rather than the immediate 50% he is now entitled to). After 10 years, he would be eligible for an "increased annuity" that would pay him the 50% of base pay for the rest of his life.

Pentagon experts justify the cuts in the retirement system by pointing out that generous benefits had been initiated during the era when career military salaries fell well below civilian counterparts. However, since 1968, military pay has risen 68%, bringing it to competitive level with civilian salaries. The retirement cuts, officials say, would reflect the new situation more realistically.

**THEY ARE** quick to point out that actual changes would not become effective until 20 years after the program's inception, so that all servicemen retiring in the future will be guaranteed an annuity at least as large as those of similar servicemen who retired before them.

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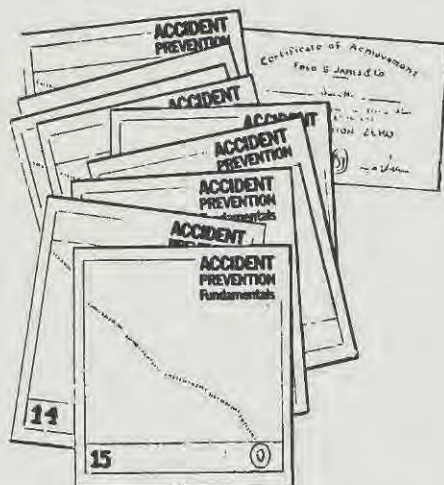


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# Retail security men stress prevention over arrests

By PATRICK THOMAS

NEW YORK—A hot, crowded room at the Hilton Hotel here provided the setting, though hardly an ideal one, for a lucid discussion, by persons deeply involved with the problems of loss prevention and security in the retail store world.

Though they were sometimes difficult to hear over the various conversations transpiring among members of the audience, two speakers at the 62nd annual convention of the National Retail Merchants Assn. agreed that any merchandise shrinkage prevention program needed two vital ingredients to insure its success: The total commitment and backing of top management and a philosophy of prevention rather than of apprehension.

"Our shrinkage figures for the years 1965 to 1969 were at the national average or a little worse," said M.W. Proudfoot, vp-finance of Broadway Department Stores, Los Angeles. "Finally, the chairman of the board decided to crack down and indicated he would be personally involved.

"**THE CHAIRMAN** wanted, unrealistically, I think, the 1970 figure cut in half in 1971," Mr. Proudfoot continued, adding that the program really took off at that point.

The Broadway security program that grew out of the chairman's displeasure revolved around six basic concepts, according to Mr. Proudfoot:

- Assume there are problems in all areas of the business and attack them accordingly.

- Inform all company personnel of the seriousness of the problem.

- Spend more money in the loss prevention area.

- The figures and statistics available could and must be believed.

- Any policy or system was open to challenge and no action would be considered too drastic.

- The admission that, yes, people really do steal.

The company's top management began visiting their 32 store locations and the importance of security was stressed at emergency meetings. A central shrinkage control committee with Mr. Proudfoot as its head was organized and a shrinkage control department was established, separate from the security department.

Then, with a "re-trained and beefed up" security staff dedicated to prevention, not apprehension, more specific action was taken. Fitting rooms were given priority treatment as their doors were shortened and conspicuously-dressed fitting room checkers roamed about them.

Mr. Proudfoot said that one move—that of stapling customers' bags shut—was taken apprehensively but that little negative feedback had been received.

The store's personnel took many other moves and their efforts seem to be paying off. "Our shrinkage figures are now way down," Mr. Proudfoot noted, "and we're now shooting for less than 1%." They did halve the 1970 shrinkage figure in 1971.

If Mr. Proudfoot was the afternoon's Mr. Outside, concentrating

on security involving customers, Stephen Redshaw was definitely Mr. Inside.

Mr. Redshaw, director of operating services at Bullock's in Los Angeles and director of the NRMA security services group, told those in attendance, "If you measure the amount of security money going to external and internal thefts, I'll bet that most of the money is going to stop external thefts while most of the actual theiving is internal."

He felt that "while the hiring age is going down, the number of short hours is going up and employees have no motivation or loyalty." For these reasons, he said that "an atmosphere of security" must be created within the store so that employees are made constantly aware that there is a security system in operation.

Once top management was committed to the prevention type of security program, Mr. Redshaw said, the next step was to measure what you are getting for your security dollar.

"For example," he pointed out, "top management doesn't understand why they should pay good money for a guard who stands around daydreaming and looks about as authoritative as Wally Cox. And they're right. There could easily be a simple alternative to the guard, such as rearrangement of the merchandise."

**AT BULLOCK'S**, he noted, the allocation of funds for the "atmosphere of security" went in five directions.

First, a personnel screening group, independent of the personnel department, was established to run checks on all employment applicants. Mr. Redshaw said that this was, singly, the most important feature of the program. So far, about three percent of the applicants are rejected because of this screening.

Another aspect of the program was a three-pronged approach to training—"new employees, management and re-training."

A reward program was established and the fact of its existence, as well as its benefits to employees, is "constantly publicized."

Rules and regulations for employees were set up—such as package checks as the employees leave the building. ("The president of the company opens his briefcase every night when he leaves and sets a good example.")

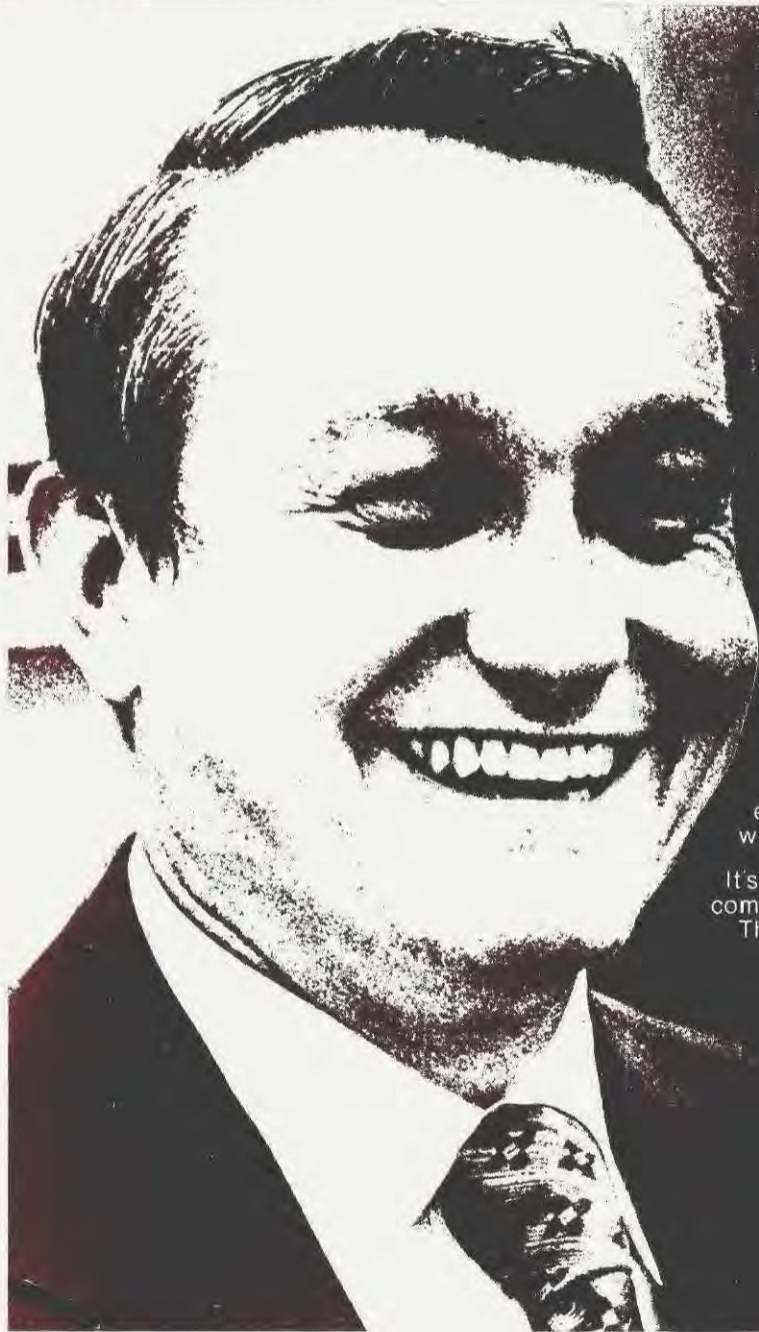
Lastly, a five-man security audit team was created and now visits each store location at least twice a year. "They arrive at the location at six in the morning and they'll be there at least 12 hours," Mr. Redshaw said.

He added, much to the relief of some members of the audience who had looked concerned during his speech, that it was a good idea not to "come on like the Gestapo."

"Your security chief should be a respected person, you should involve all departments and you should always keep in touch with the regular employees," he advised. "You'd be amazed at how much you can find out about what's going on by just talking to the regular employees." ■

## Council has new name

The Council of Profit Sharing Industries has changed its name to the Profit Sharing Council of America, Stanley D. Noble, president, has announced. According to Mr. Noble, the reason for the change is that the council's current membership now includes a wide variety of business and service organizations in all fields."



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# london line

## Payment to U.K. thalidomide victims now examined for its consequences

LONDON—Now that the Distillers Co. affair seems to be finally over, with a \$50 million offer for thalidomide victims, there is sudden reaction arising in Britain over whether the right thing had been done from the point of social conscience.

It was undoubtedly attacks on the Distillers group, including threats by Ralph Nader to organize a U.S. boycott of its liquor products, that forced it to hike its compensation in less than a

month from \$12 million (*Business Insurance*, Dec. 18, 1972) to the \$50 million mark.

But it took ten years to do this, after legal wrangling in the courts, and now people are asking if the firm was unduly pressured toward the end in a way that might imperil drug companies in the future.

For while the Distillers group might well be able to afford this big payment, as it has a net capital of more than \$1 billion, there

are smaller pharmaceutical firms which could be bankrupted if they were ever forced into a similar situation.

**SOME CRITICS** are already saying that research companies will be reluctant to take the risk now clearly involved in marketing or developing new medicines and that product liability insurance is bound to rise in cost.

There is also substantial speculation over who will finally bear

the cost in the end. The company has issued a writ against a Lloyd's syndicate, under liability cover taken out before the thalidomide affair developed.

This is still to be heard in court, and it is believed that one reason why the Distillers Co. hesitated about making a voluntary compensation settlement was the fear that it might invalidate this cover.

The firm's previous offers were all approved by British court hearings on the basis of normal damage claims, although the company firmly denies any specific negligence on its own part in marketing the drug under licence from the West German manufacturer Chemie Grumenthal. This attitude was accepted as part of the previous settlements.

**LLOYD'S** claims their potential payment is attributable to "any one event" in any year, and so may be restricted in the end to

\$2.4 million. Distillers suggests that the policy covers, in fact, every child involved, and not just the overall medical catastrophe. The firm claims Lloyd's liability could be as high as \$200 million.

With \$50 million at stake, it is only proper that Lloyd's should contest the issue in the courts if its syndicate wishes, as there must be some legal ruling on the meaning of liability policies in case there is another near-tragedy like thalidomide in the future. Many insurers, however, are now wording policies to cover unforeseen contingencies.

Dr. J.B. Harman, treasurer of Britain's medical defence union, which insures doctors against claims for professional negligence, fears there will be an adverse effect on new drugs because of the thalidomide case.

He said, "Fewer companies will take the risk involved in developing them. I am sorry Distillers Co. has given in to pressures on its business, because it would have been better to have fought the case right through the courts as they were not necessarily negligent, and then been generous afterwards."

**THE ASSN.** of British Pharmaceutical Industry fears insurance cover will rise drastically. Some companies may even find themselves uninsurable if they can be sued easily.

Protests in the press also reflect anxiety, with many people now suggesting that the British government should meet some of the compensation cost as thalidomide was prescribed by doctors under the national health service.

So far the government has failed to respond to these suggestions, but may be forced to take action when Parliament has time to debate the issue in the near future.

The most that Prime Minister Edward Heath has done till now is to appoint a royal commission to look into all aspects of liability claims for injuries caused through faulty drugs. He has also offered \$7 million to help all children who are exceptionally disabled at birth through any factor.

It was the government's refusal to help Distillers Co. with tax refunds on its original \$12 million offer that led to the pressure on the firm to increase the compensation settlement.

Insurance companies who hold large investments in Distillers, as it is a public company quoted on the stock exchange, joined in the campaign to force a larger payment by Distillers. They included the Prudential Assurance, Norwich Union, Co-operative Insurance Society and Britannic Assurance who have life insurance funds invested in it. The Federation of Insurance Brokers also pressed the view that insurance firms have a "social conscience" in this field.

## Group auto insurance

AUSTIN, TX.—State Rep. Jim Clark filed another bill for introduction in the Texas House of Representatives that would allow the sale of group automobile insurance.

Rep. Clark sponsored a similar bill in the last special session of the legislature in September, but it died on the House floor in the closing hours.

Under the bill, group automobile insurance could be written for unincorporated and incorporated associations, labor unions, workers for a common employers and "any other group that can be reasonably insured."



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**Insurer pays \$6 million****Salad oil swindle suit settlement**

NEW YORK—A federal bankruptcy referee and a state court have put an end to the lengthy legal wrangling between Fidelity & Casualty Co. of New York and the bankruptcy trustee of Ira Haupt & Co. (*Business Insurance*, Sept. 11, 1972).

The court and the referee approved a \$6 million settlement of a \$48 million suit brought against the insurer in 1965 as a result of the famed salad oil swindle.

The Haupt firm, a securities and commodities dealer ruined by the swindle, was the principal victim of the fraud. The suit contended that Haupt company's

losses were covered by bonds and insurance policies written by Fidelity & Casualty, a subsidiary of Continental Insurance Co.

Fidelity & Casualty, however, denied liability and declined to pay, contending that Haupt's management had been lax in overseeing the operations of the firm.

**THE \$6 MILLION**, less administrative expenses, will be used to help satisfy creditor claims against the Haupt estate. Among those creditors are 10 banks whose loans to Haupt were imperiled when the company went under.

The banks seek \$18 million.

The approval of the settlement limits the chances of the New York Stock Exchange to collect its claim of \$9.5 million, which was subordinate to the banks' claims. The NYSE, which wanted Charles Seligson, the Haupt trustee to continue the legal battle against the insurer in hopes that a much larger piece of the \$48 million could be won, assessed its other member firms the \$9.5 million to aid Haupt customers after the firm failed.

The swindle was perpetrated by Anthony (Tino) De Angelis, president of Allied Crude Vege-

table Oil Refining Corp. Haupt, and others, agreed to finance Mr. De Angelis when he produced as collateral warehouse receipts for vegetable oil which was said to be stored at his company's tank farm. The receipts proved to be worthless when Allied filed for bankruptcy in late 1963 and it was discovered that massive oil shortages existed.

Mr. De Angelis, for his part in the swindle, was sentenced to 20 years in federal prison but was paroled last June after serving seven years.

**UNDER THE** terms of the Haupt settlement, Fidelity & Casualty will drop claims against Chase Manhattan Bank, which had convinced Haupt to do business with Mr. De Angelis. The insurer will also abandon claims

against Bunge Corp., a commodities importer-exporter and major financial backer of Allied and Walter Klein, a Bunge principal. The insurer had charged that Bunge and Mr. Klein concealed knowledge of Allied's troubles. ■

**Job injuries up 8%**

The Washington state department of labor and industries has reported that job-related injuries in the state jumped more than eight percent in 1972, primarily because of a huge increase in mandatory coverage. Workmen's compensation claims totaled 148,000 last year, compared to 124,700 in the previous year, said William C. Jacobs, department director. He attributed the increase to the extension of mandatory coverage to 450,000 employees.

**Illinois has appointee for insurance job**

CHICAGO—Fred A. Mauck, a Chicago attorney, has been nominated as Illinois director of insurance by Gov. Daniel Walker, replacing the governor's initial appointee, Anthony G. Angelos.

Mr. Angelos stepped down from the appointment after receiving severe criticism from state and county officials, state legislators and the press for alleged liquor license violations, syndicate connections, and questionable business practices (*Business Insurance*, Jan. 15). His supposed violations of the Illinois Dram Shop Act, which prohibits those holding liquor licenses from making political contributions, is now under investigation by a Cook County grand jury.

In naming Mr. Mauck as his new nominee, Gov. Walker commented, "I have never believed that a person had to work in the insurance industry to operate the department of insurance." Mr. Mauck, he continued, "has the



Fred A. Mauck

best kind of experience—he owns three insurance policies. I want someone without any preconceived notions about insurance in this job."

**INSURANCE** and legislative sources view Mr. Mauck's approval by the Illinois senate as "almost automatic." As one spokesman pointed out, "He's an unknown quantity to the industry, but he certainly looks like a solid citizen."

A founder of the Chicago law firm of Roan and Grossman, from which he will resign, Mr. Mauck is a specialist in corporate and real estate law, a fact which Gov. Walker thinks "gives Mr. Mauck the background necessary to deal with the corporate and financial aspects of the insurance industry."

**Executive runs afoul of O.S.H.A.**

Photo © 1972 Dave Phillips

The sudden and unexpected resignation of J. Claudius Witherspoon as General Manager of Galactic Industries' Wombat Division sent shock waves reverberating through the world of commerce.

Widely regarded as an exemplary executive, Witherspoon was marked by some as an eventual successor to the firm's revered founder, Julius Galactic, himself. Although tight-lipped company officials grimly refused comment on the shocking termination of a promising career, it was whispered throughout the far-flung Galactic empire that Witherspoon had run afoul of the new Occupational Safety and Health Act.

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O.S.H.A. served to bring his inadequacy into sharp focus.

Selection and placement of portable fire extinguishers baffled him. Required inspection and maintenance procedures left him in utter confusion. Finally his failure to provide special extinguishing systems for the protection of his new, sophisticated Wombat production line, set tongues to wagging. A series of small but troublesome fires and a mounting number of O.S.H.A. citations culminated in Witherspoon's disgrace and dismissal.

**Wherein we dwell on what might have been**

Alas, had he only acquainted himself with the unique products and services of The Ansul Company, Witherspoon's executive star might still be in ascendancy. Ansul is engaged in the business of solving fire protection problems. There are

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**Ansul Solves Fire Protection Problems.**

# SEC ruling may throw Connecticut out of PBW stock exchange seat

HARTFORD—Connecticut, topping its coup of becoming the first state to win a stock exchange seat, had just proudly purchased its first stocks—1,000 shares of Xerox—when a week later the Securities and Exchange Commission announced a ruling that threatens to oust the state from its place on the PBW Stock Exchange.

Making good on an August proposal, the SEC ordered all exchanges to accept but also to limit their institutional membership to those concerns which do 80% of their trading for "public business."

Just where such a definition leaves Connecticut, whose state-owned Connecticut Nutmeg Securities

holds the seat in order to save brokerage commissions on the state's pension fund investments, is subject to debate at this point.

The ruling would allow pension funds to be considered part of an institution's "public business," but only if the institution does not hold undue control over them. Since Connecticut Nutmeg Securities was designed with the intent of controlling investments for the state's pension fund, not even spokesmen for Connecticut's treasury department are sure whether its trading on the PBW Exchange will comply with the new SEC ruling.

In an interview with *Business Insurance*, John Einhorn, assistant

to the state treasurer, said, "We're not sure if Connecticut's seat on the exchange complies with the SEC's ruling, but it won't affect the way we'll proceed." He indicated that Connecticut would continue to trade, while it looked into "loopholes" in the ruling.

**THE SEC** has given exchanges until March 15 to comply with the new order, and has set a 30-day limit above this for all exchange members to indicate whether they will remain on the exchange and comply with the 80% ruling.

These combined time limits give Connecticut until April 19 to prepare its strategy and to rally support for its fight to stay

on the PBW. "We won't give it up lightly," Mr. Einhorn asserted. "If necessary, we'll seek justice department action in an anti-trust movement. We also hope the PBW Exchange will back us up."

Part of the controversy also concerns the current SEC-upheld practice of requiring fixed brokers' fees for all transactions less than \$300,000. Connecticut is fighting any minimum limits at all, striving for a system of entirely negotiable commissions.

According to Mr. Einhorn, this position is endorsed by the president of Merrill Lynch, Pierce, Fenner & Smith, Donald T. Regan, as well as the former president of the New York Stock Exchange, Robert Haach.

A modified position is backed up in Congress, where Sen. Harrison Williams (D.-N.J.) and Sen. John Tower (R.-Tx.) are introducing a bi-partisan bill recommending that the fixed fee limit be lowered to \$100,000. ■

## Phase III . . .

*Continued from page 1*  
firms are being asked to use what clout they have to curb excessive use of hospital services."

What kind of clout do they have?

"Damn little," he retorted. "Insurers, and with good reason, are pretty reluctant to question the professional judgement of a doctor. The doctors have their own peer-review committees, and they do take up cases where it's apparent that some shark is condoning excessive use of services. But now the government is asking insurance companies to help make sure there are no abuses of services and that people don't jump into the hospital for any reason. How are we supposed to know if a person is faking or not?"

"Any effort to limit excessive services may not have any effect on health costs," he noted. "The greatest proportion of hospital expenses are incurred in the first two days of the hospital stay. You may cut down the gross number of days spent in the hospital, but you haven't really affected the costs."

Like many other executives, Erwin Rode, a vp in Prudential's group division, is waiting for Washington to sort itself out, but speculates that health insurers will not be adversely affected by Phase Three.

"Of course we'll have to wait and see just what they have in mind, but, when read overall, the information I have seen leads me to believe that under Phase Three health insurance is not considered a part of the health industry area. Under Phase Two, the government wanted us to help it monitor price hikes in the health area by letting it know if someone was raising prices above the limits," Mr. Rode stated. "Perhaps that's all they have in mind for us here, or maybe they may not have anything specific in mind at all. Maybe they just want to sit down with somebody and ask what can be done."

**IN OTHER** areas of insurance, no rate hike rush is anticipated. Insurers survived the first two phases far better than most industries, and, as a whole, have little catching up to do.

"Most companies have been able to get the increases they needed throughout the control program," William Williams, executive vp of Insurance Services Office, said. "1971 and 1972 were good years for most companies, with more reductions than increases. This isn't saying that some company in some line hasn't taken a beating in some state, but, as a whole, insurers have survived quite well."

Most insurance executives interviewed said that they expect to keep operating under a "business as usual" scheme until further notice from the White House.

**FOR INSURANCE** agents and brokers, the new economic non-controls mean that they have successfully avoided government control through the three phases.

"When Phase One was first in the planning stages, the government originally talked about slapping controls on commissions for agents and brokers," Donald Perin of the National Association of Insurance Agents said. "They realized, fortunately, that it would have been something of an administrative nightmare to let it pass, and they now have allowed us all the way through to collect our commissions on the old percentage formula basis. What this new phase means overall remains to be seen, but I truly doubt it will have any extensive effect on insurance prices." ■

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# Georgia decision opens mass marketing gates

NEW YORK—Another blow has been struck for the insurance consumer in a recent Georgia supreme court decision that allows mass-marketed property and casualty policies to be sold at substantially lower premiums than similar policies sold on an individual basis.

The rate differentials granted in the case were based on the reduced expense factor in mass merchandising—in effect, it is an instance of low rates for low overhead.

Experts polled by *Business Insurance* about the implications of the decision for mass merchandising tended to agree on at least two points: A long range effect can be expected on the national growth of mass merchandising, but no immediate impact will be felt in Georgia. It seems that a number of underwriters have been mass marketing policies there for years, anticipating the court's sanction in the matter.

Part of the long-range effects foreseen by the mass merchandising men will be visible after more court battles in other states follow the lead of the Georgia triumph.

INDEED, some states have already handed down similar decisions. Christopher Paul, vp of mass merchandising for Traveler's Corp., recounted "a moratorium on mass merchandising" that took place in Maine during the court battle being waged there over low premium rates on mass-marketed policies.

Maine's supreme court, like Georgia's, came out in favor of allowing the lower-priced mass-marketed policies, and now that type of group underwriting is flourishing there.

Mr. Paul noted that the combined impact of the Georgia ruling with similar ones in Maine and other states "might force any group who considered opposing mass merchandising to reconsider their action."

"It sounds a death knell to those who would try to oppose mass marketing in the courts," he concluded. If this response seems somewhat dramatic, it may be because Mr. Paul is particularly close to the case. The defendant in the Georgia suit is a subsidiary of a company wholly owned by Travelers.

MR. PAUL'S evaluation is startlingly accurate if the reaction by "The Cracker," Georgia's independent agents' newsletter, can be used as a measuring stick. According to this sounding board for insurance agents: "...the association is not likely to carry the matter further. We asked for a clear interpretation as to the 'ground rules' for mass marketing and we now have that interpretation from the highest legal authority in the state."

Scott Ripley, secretary and manager of mass marketing sales for Hartford, backed up this strength-through-the-courts theory. Commenting on the Georgia court's favoring of low-priced mass-marketed premiums, he said, "This type of decision has been consistent in the great majority of court cases throughout the country that had involved similar arguments."

Experts from Travelers, Frank B. Hall, Aetna Casualty & Surety

## New institute chairman

William H. Abell, chairman of Commonwealth Life Insurance Co., Louisville, Ky., has been elected chairman of the Institute of Life Insurance for a one-year term.

and Hartford were in accord about the minimal immediate effect the ruling would have on mass merchandising in Georgia itself. They all indicated that their companies, in addition to many others, wrote low-priced mass-marketed policies there while the case was being deliberated both in and out of court.

Gary Thompson, manager of mass merchandising for broker Frank B. Hall, added, "Agents there have taken the approach for granted. They anticipated its legal approval for years, and in fact, broke no laws while writing mass-marketed policies."

HE INDICATED that even before the court's final decision approving mass marketing was announced, agents were negotiating for lower mass policy rates.

Aetna's mass merchandising man, George Katz, summed up the general attitude of the industry experts when he noted: "I think the decision will help mass merchandising to gain momentum, although the actual ruling doesn't change present circumstances. The ruling can pave the way for greater future expansion of mass merchandising throughout the nation."

According to Mr. Paul of Travelers: "The only immediate impact on mass merchandising that Georgia may feel will occur if a number of companies who felt inhibited about writing mass-marketed policies prior to the court ruling will now see fit to enter Georgia and begin mass marketing with no doubt about their legal right to do so."

Mr. Thompson, speaking for

Frank B. Hall, added, "We do feel this decision indicates a trend for mass merchandising. The age of consumerism is upon us, and letting the public get lower rates through mass-marketed policies is just one more way to let the American consumer gain a little more clout."

THE DECISION—in *Caldwell, Insurance Commissioner, and Georgia Assn. of Independent Insurance Agents vs. Standard National and Travelers Group*—followed more than three years of battle in and out of court.

It began in 1969 when the independent Georgia agents, backed up by state insurance commissioner Johnnie L. Caldwell, opposed low rate, mass-marketed auto policies written by Standard National for employees of Lock-

heed. Commissioner Caldwell issued a ruling against the mass-marketed policies which charge an agency commission of 6% rather than the independent agents' rate of 20%.

A Georgia supreme court justice overturned the ruling in the recent decision, supporting a reversal of a superior court judge. The judge declared that no state statute was violated by Standard National's mass-marketed policies, which charge 16.6% less for auto liability and 22.7% less for auto physical damage than charged by policies of individual holders.

Standard National, a Georgia-based subsidiary of Phoenix of Hartford, which is in turn fully owned by Travelers, has, since the mass merchandising debate began, changed its name to Travelers Insurance of America.

## AN OPEN MEMO TO U.S. CORPORATIONS WITH CANADIAN SUBSIDIARIES

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January 29, 1973

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# editorial opinions

## A threat to self-insurance

THE FIRST MAJOR judicial threat to the growth of self-insured benefit plans has occurred in Missouri where the St. Louis county circuit court has ruled that Monsanto Co.'s self-insured sickness and medical employe benefit plan contains "all the elements of insurance" and is in violation of state law because the company is not a licensed insurer.

The decision, which is expected to be appealed by Monsanto, could have wide ramifications for firms that have or are contemplating the establishment of such plans, and benefits men will be watching the case brought by Missouri's division of insurance closely.

The Missouri regulatory division first brought the suit against Monsanto in early 1964, and since then its argument in essence has been that non-insured plans adversely affect the state's finances by eliminating the two percent tax it collects on direct premiums paid to insurance companies.

This, of course, is the very thing that opponents of self-insured benefit plans have been warning those who have courted the idea. Richard J. Mellman, vp and actuary of Prudential Insurance Co., was quoted in this magazine Dec. 4, 1972 thusly: "If a significant trend to non-insurance develops, will the states be willing to suffer a loss of tax revenue, or, instead, will more states impose restrictions on non-insurance plans? Or, will they impose penalties for unauthorized conduct of an insurance company? The states," said Mr. Mellman, "are beginning to react to the threat of

loss of premium revenue."

If the St. Louis circuit court's decision is upheld, it strikes us that the Missouri case could have a domino effect on other states. This, moreover, would have a damaging effect on the cause of one of the more sophisticated approaches to risk and employe benefits management.

Indeed, companies like Monsanto have used the self-insured approach in benefits management to good advantage. In some cases it has stabilized a corporation's health benefits costs, not to mention the inherent cash flow advantage. A ruling by the Missouri supreme court, which is expected to hear an appeal, upholding the lower court would have the effect of punishing Monsanto and other companies for sound business management.

Perhaps it is time for the American Society of Insurance Management, which is professing to take a greater interest in the employe benefits side of risk management, to begin thinking of approaches to take should the threat to self-insured benefit plans become broader in scope. James E. Bailey, ASIM's Washington-based legislative counsel, says there was "nothing ASIM could do" about the Missouri case since it was a private matter between the state's insurance department and Monsanto.

A good beginning for ASIM might be to start thinking in terms of legislation at the state level that would protect an employer's right to insure or self-insure his benefit plans.

## Adding another voice

SPeAKING OF RIGHTS, we'd like to add our voice to the growing chorus of those in and out of the communications business who are becoming increasingly indignant—with ample justification, we think—at the overt pressures now being put on one of this country's most cherished freedoms. We speak of the First Amendment guarantee of freedom of the press.

Last summer, new limits were placed on that freedom when the Supreme Court ruled that the First Amendment no longer allows reporters to withhold the names of confidential sources or refuse to testify about criminal acts that they had been told about in confidence.

Since the nation's high court handed down its decision four reporters have gone to jail for refusing to disclose sources of information. Eleven others are presently under judicial pressure to reveal information given them in confidence.

The restraints being put on the press these days should arouse the ire of every American who believes that the First Amendment is a key vertebra in the backbone of this country, for the erosion of this freedom will certainly lead to a society that is told only what society's fathers want to tell it.

To be certain, the press has sometimes abused its privilege, but to destroy its right to operate in freedom is to abuse the right and opportunity of every American—access to information that might otherwise not be revealed now that the press has lost the right to protect its sources.

## Good news

IT'S GOOD TO hear that Illinois Gov. Dan Walker's initial appointee to the post of director of insurance, Anthony G. Angelos (*Business Insurance*, Jan. 15), has withdrawn from the job.

Mr. Walker was either extremely naive or ill-advised when he thought he could name a man with so much smoke around him to the sensitive insurance regulatory post and get away with it.

Perhaps someone should tell the newly-elected governor that insurance departments are no longer the place to hide the bodies of heavy campaign contributors with questionable reputations—especially in Illinois which until recently has had a long history of less than adequate insurance regulation (more than 130 insolvencies in years past).

# business insurance

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

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# letters

This column is a readers' forum. Letters are welcome. Address Letters to the Editor, Business Insurance, 630 Third Ave., New York, N.Y. 10017.

## Flexible compensation

To the Editor: Coming across the term "flexible compensation" twice in one issue of your fine publication (Dec. 4, 1972), as I did in the reported comments of two highly qualified gentlemen—Messrs. Wood of Hewitt Associates and Attwood of Equitable—suggests that it has a cachet that makes it more palatable than the older, more hackneyed, "cafeteria approach to compensation."

To suggest that employes are competent judges of true, as opposed to more visible but less valid, needs is spurious—as is attested to by the average person's failure to provide adequately for his disability, retirement or death, if left solely to his own devices.

As Mr. Wood says, "... employes manage to make rather important choices off the job. . . ." This, however, is not synonymous with making the right choices!

On balance, cautionary remarks and suggested fail-safe mechanisms—in somewhat inhibiting the individual's choice by the use of sundry parameters—is closer to reality in my opinion.

The fundamental ingredient in any context, however, is to educate the individual. Without such insight and carried away by his own bias or favoring, the individual can gorge himself on the one hand and deprive himself on the other. Since everyone in that "cafeteria" is not an "economic dietician," there surely will be some acute distress unless some knowledge and moderation are brought to bear on the problems of the man, his family and estate.

George C. White

Registered consultant, Massapequa, N.Y.

## Drawing conclusions

To the Editor: I refer to Mr. A. E. Backman's letter to the editor of Dec. 18, 1972, relative to general average.

As an avid reader of "Letters to the Editor" with little or no knowledge of general average I accept that by that statement alone I should keep quiet. However, Mr. Moore, in my humble opinion, wrote an intelligent article inviting responses to reasoned argument against the continuation of an antiquated system of insurance, which, by the one adverse response by a former chairman of the Average Adjusters Assn. of the United States, would seem to indicate that Mr. Moore may have put his finger on a very sensitive and presumably lucrative segment of the insurance business.

I should have thought that so illustrious a personage as the former chairman of that association could have at least taken the time to point out one misrepresentation and perhaps one half-truth rather than elaborate in such detail on nothing. The one positive contribution Mr. Backman has to make is to read "sundry books" which would convince Mr. Moore of his ignorance.

If this is the best that can be said in favor of the present system, I feel sure your readers will draw their own conclusions.

B. Grimes  
Scarsdale, N.Y.

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# SGLI 'replacers' find Arizona is a legal limbo

By TOM WALSH

CHICAGO—Much to the wonderment of Veterans Administration officials and persons pushing for stricter regulation of the mail-order insurance business, two small Arizona-based life insurance firms are demonstrating that insurance laws which can't be enforced are as effective as no insurance laws at all.

Since 1967, Continental Fidelity Life Insurance Co. and Guaranty National Insurance Co., both of Phoenix, have been offering ex-servicemen mail-order "replacement" policies for Servicemen's Group Life Insurance (SGLI) in direct competition with 600 other companies whose agents are authorized by the VA to sell SGLI "conversion" policies to veterans. The VA is overwhelmed that the two Arizona companies, which are both owned and operated by the same people, liberally sprinkle their mailers with the acronym "SGLI," the insurers who underwrite the term insurance on military personnel are upset that the non-affiliates are muscling in on their post-service conversion action, and some state insurance officials are upset that the companies, although not licensed to sell insurance within their states, are going ahead with apparent legal immunity.

Since June 25, 1970, all active-duty military personnel are automatically insured for \$15,000 worth of contributory term life insurance, unless they request a lesser amount or no insurance at all. Underwritten by many of the companies which are authorized by the VA to later convert the group policies, the policies remain in force up to 120 days after discharge. During those 120 days, veterans are urged by the VA to convert with approved companies in an amount equal to or less than the amount of their group coverage. In its pamphlets outlining the conversion procedure, the VA warns veterans against non-approved companies such as the two Arizona insurers.

"Lists of recently separated veterans have been obtained improperly by some insurance companies and are used in an attempt to make hurry-up sales," the pamphlet says. "Sometimes VA or other official approval is implied. Such implications are false. The only companies approved by the VA to offer SGLI conversion policies (600 of them) are listed in the enclosed pamphlet. One or more will have a representative in your area.

"IF YOU receive a call or letter from any company not included on this list, you can be certain that the company is not approved by the VA to handle SGLI conversion policies and may not even be licensed to do business in your state. Some of these companies say that they issue a 'SGLI Replacement Policy.'"

"These companies in Arizona are the only two companies which persist in this practice which we allege is deceptive," F. J. Petraitis, director of insurance services for VA, told *Business Insurance*. "We do all we can at this end to try to tell our people to beware of companies like these for fear they'll be misled. We would prefer to take some kind of action to put an end to it, but we can't. We don't have the jurisdiction, and the people who do apparently won't do anything about it. My predecessor even took the trouble to write the governor of Arizona about these companies, asking him to help us end their replace-

ment practice, but he wrote back and said that he had no control over the state insurance commissioner, or something to that effect."

Despite the fact that the literature for both companies plainly states that they are "not an insurer under the Servicemen's Group Life Insurance Program," Mr. Petraitis' charges of deception stem from the companies' use of the SGLI name in their brochures. He and other VA officials have appealed to the Federal Trade Commission and the Arizona insurance commission to end the practice, but the promotional material has apparently already received approval by the proper authorities.

"We've been operating under this mail-order method since 1967, and every policy and advertise-

ment we send out has been gone through and the language worked out with the Federal Trade Commission and state of Arizona officials," Wallace M. Greene, president of the two companies, said. "Our material contains a complete disclaimer that clearly states that we are not tied in with the VA."

"WE'VE BEEN looking into the advertising of these companies for about three years," Joy Evans, director of Arizona's insurance policy and advertising approval section, said. "We feel the literature in question says what the companies are doing."

Arizona's approval of the literature is disheartening to the VA, which in the past has had good luck urging insurance commissioners to correct any action it considered a problem.

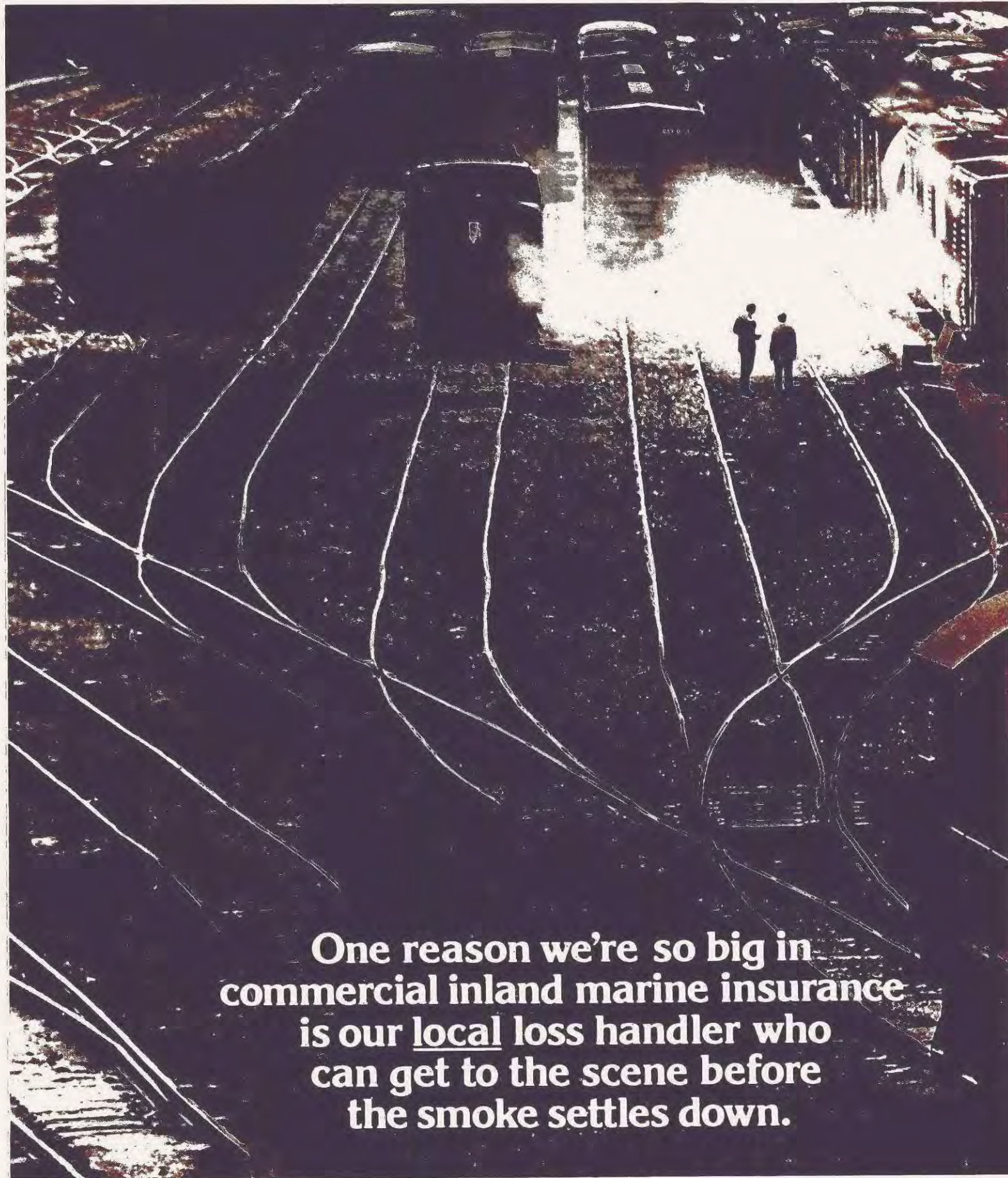
"We've gotten excellent cooperation from 99% of the insurance commissioners," Mr. Petraitis said. "These people usually investigate what I ask, and, in most cases, the companies voluntarily end whatever practice is causing the problem. If not, cease and desist orders are usually issued. These, of course, have involved other actions, such as companies obtaining pirated lists of names of servicemen about to be discharged. In California, one outfit was getting the names under the guise of being a job placement agency which said it would help find jobs for veterans."

There are legitimate ways to obtain such lists, Mr. Petraitis notes, but there have been instances where servicemen at separation centers were bribed to provide the names and addresses.

"I can't tell you how we obtain our lists," Mr. Greene said. "That's a trade secret. It took me a while to figure out a way to secure these names, but I did. My methods are strictly legitimate. There are no government offices involved."

At last count by the National Association of Insurance Commissioners, various forms of unauthorized insurers acts are law in all but 13 states. These laws, in effect, prohibit companies who are not licensed within a state to sell insurance within the jurisdiction. The problem, though, is that the states only have legal clout over companies which are based within their states. If they wish to come down on a company based somewhere else, judgments have to be transferred and puni-

*Continued on following page*



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## SGLI . . .

Continued from preceding page

tive measures carried out by the defendant's home state.

In late 1970, the state of Nebraska charged Guaranty National with violation of its unauthorized trade act, a criminal statute which carries a maximum fine of \$10,000. The state fined the Arizona firm \$2,000 for doing mail-order business without a Nebraska license. Nebraska moved to have the judgment transferred to Arizona, but an Arizona court ruled not to allow the transfer and the company was off the hook.

"If you examine these acts carefully, and we had our law offices thoroughly check all these laws, you'll find that no two are alike," Mr. Green said. "Everything we do is completely within the law, because, you see, there is no way to enforce these laws.

The case in Nebraska shows that you can only bring action within your jurisdiction. Trying to get another state to do battle for you is a hard chore."

**HUGH ALEXANDER**, supervisor of compliance and enforcement for the Nebraska insurance department, says he'll seek a civil injunction against the firm if he ever hears it is again doing business in Nebraska.

"That won't work either," says Mr. Greene. "We have as much right to use the U.S. mails as anyone else. That's another effort that couldn't be enforced."

Mr. Green says he finds his method of selling insurance to ex-servicemen clearer, cheaper and more ethical than the practices of the 600 approved insurers who write conversion policies.

"Our policies are simply telling the veteran we'll afford him the opportunity to buy insurance without a physical examination.

That's the same right he's extended under the VA. Our literature is far clearer in content than the material any conversion agent will present. Did you know these people go to a vet with two applications? First the agent will find out if the vet is in good health. If he is, he'll issue him a new policy with his company. If he's not, he'll use the other application and make it out so that the risk can be shared by the entire pool. The agents don't get any commission for a conversion policy, just for those written by their companies. Conversions are only made if the insured is in poor health. Our rates are also considerably cheaper than those offered by many converter companies."

One insurance consumer expert disagrees with Mr. Greene's last claim.

"RECENTLY I had occasion to tabulate interest adjusted cost in-

dexes for \$10,000 straight life policies issued by a large number of SGLI converters," Joseph M. Beth, a professor of insurance at Indiana University's graduate school of business, said. "I assembled the data into four quartiles—the first quartile representing the policies with the lowest cost indexes and the fourth quartile representing the policies with the highest cost indexes. On the basis of the data in their mailings, the nonparticipating policies issued at age 25—the only age with sufficient data—by both Continental Fidelity and Guaranty National would fall into the fourth quartile of nonparticipating policies issued by converter companies."

Why doesn't Mr. Greene simply join the pool and avoid the bad risks it absorbs?

"I wouldn't like being under the jurisdiction of the VA," Mr. Greene said. "Its rules say the companies must be licensed in each state they do business in. If

that's the case, you'd have each state telling you how you must word your advertisements. You'd wind up with literature worded 50 different ways, and the expenses involved would be phenomenal. You just couldn't make it.

"WE'VE FOUND ways of getting under these jurisdictions, and the other companies are envious because our companies only have to answer to the FTC, Arizona and Oklahoma (Continental Fidelity is also licensed in Oklahoma). We are a full legal reserve company, and we've assets on deposits in the states we are licensed in to insure that we are indeed solvent."

VA officials admit that their effort to eliminate the Arizona competitors will be an uphill struggle.

"The way things look now, we can't touch them," Mr. Petraitis said. "They've got themselves a legislative limbo in Arizona." ■

## Burt Kelley, past ASIM leader, dead

NEW YORK—Burton E. Kelley, a past national president of the American Society of Insurance Management, and one of two men to ever hold that post for a two-year term, died here Jan. 4th.

A scholarship fund, to be administered by ASIM, has been set up in his name.

Mr. Kelley, 67, served as ASIM's national president from 1954 to 1956. But his leadership predated even the national organization. From 1946 to 1948, before ASIM's national organization was effective, Mr. Kelley was president of the New York chapter of ASIM.

One of seven honorary members of ASIM, Mr. Kelley acted in another unique capacity for the risk managers' society when in 1963, as the first program chairman, he presided over the first national conference of ASIM, held in New Orleans.

At the time of his death, Mr. Kelley was president of a fire prevention concern, CBF Systems Inc., of Covina, Ca. He was the director of insurance for U.S. Plywood-Champion Papers Inc. here (now known as Champion International) from 1952 to 1970, and acted as a consultant for them after his 1970 retirement.

Mr. Kelley was also associated with Ebasco Services here, where he was an insurance consultant from 1946 to 1952.

Mr. Kelley is survived by his wife Lillian, their three daughters and a sister. His family has requested that any remembrances be sent to the Burt Kelley Scholarship Fund, c/o Ron Judd, managing director, American Society of Insurance Management. Further information about the scholarship fund may be obtained from Mr. Judd at ASIM headquarters, 500 5th Avenue, New York, N.Y. 10036. ■



Burton Kelley

## Liability policy

The U.K. pharmaceutical industry is backing a plan by the Fenchurch insurance group, London, to introduce a special policy in the market for legal liability arising out of claims over pharmaceutical, cosmetic, veterinary and other products.



Sacramento, San Francisco, Seattle, St. Louis, Summit (N.J.), Syracuse, Tampa, Toronto, Tulsa, Vancouver (B.C.), Winnipeg. Aviation insurance through Associated Aviation Underwriters.

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# How does a flagship navigate a safe course for 73 companies?

Whittaker signed on Argonaut, specialists in safety insurance programs for large multi-location employers. Whittaker is big. Its operations, complex. Seventy-three divisions and subsidiaries manufacture thousands of products at hundreds of plants throughout the United States and in Europe. They are the world's number one builder of pleasure boats, the nation's largest independent metals distributor and a major producer of textiles, vinyls and chemicals. Other world-wide operations include recreational products, transportation systems, and technical, scientific and research activities.

## Diverse Operations Create Different Safety Problems.

Whittaker's widespread operations and complexity of safety problems had created a high-risk classification in their workmen's compensation insurance. Whittaker recognized the magnitude of their activities required great expertise in the handling of their workmen's compensation. Further, they needed a more complete program of in-plant safety education and control, all tied to a policy of loss accountability on the part of each division. When Whittaker established a loss accountability program related directly to profits, Argonaut was in a unique position to be of significant help. Argonaut worked with Whittaker executives and safety committees to plan specific safety programs. Internally, Whittaker's Industrial Relations department developed safety audio visual aids to educate division heads and employees. Emphasis was placed on proper filing of claims, screening of employees and top level administration of the safety program.

**The result? Reduction of injuries.** According to Thomas W. Tily, Vice President of Marsh & McLennan in Los Angeles: "Argonaut's experience plus their network of nationwide offices and service facilities were ideally suited to Whittaker's accountability plan. It became a question of working extremely close with Argonaut to bring their facilities into proper focus with Whittaker's needs. That this has been accomplished is evidenced by a sharp reduction in time-loss accidents."

Providing workmen's compensation for large multi-location operations is Argonaut's specialty. Ask your agent or broker about Argonaut.

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Principal Offices: Atlanta, Boise, Chicago, Dallas, Los Angeles, Minneapolis, New Orleans, New York, Portland, San Francisco and other major cities.

# business insurance

# PERSPECTIVE



BY MARSHALL W. REAVIS

Professor of business administration,  
Governors State University,  
Park Forest South, Ill.

This is the first of a series of articles that deal with practical areas of risk management that may not necessarily fall into the strict boundaries of insurance or self-insurance. The author notes that they will be most useful to risk men with small staffs—those, for instance, employed by companies with annual sales of between \$50 million and \$400 million. Risk men for larger firms may find the articles applicable to other departments in their companies, although in many firms some of these tasks may not have been assigned nor completed. The first article deals with real estate records.

## Keeping track of your company's real estate requires extra care

"What should the risk man's responsibility be? Should he make it his responsibility to set out to build a complete listing of all properties and include a system to maintain and keep it up to date? I suggest he should . . ."

FULL AWARENESS of the existence of all corporate real estate, whether owned, leased for use or leased to others, is of extreme importance to the risk manager. Here we are not as much concerned with the legal aspects of deeds, contracts and leases, but rather with complete knowledge and records of corporate real estate.

"Of course we know about all of our real estate holdings," some risk managers may say. But do you? One risk manager I know told me of the time he was driving down a country road with a plant manager who pointed to a farmhouse and said, "We own that house and farm. It will be great for future expansion." The risk man quickly made a mental review of his property list. No such farm appeared. Later, back at the home office, he searched the property list on his policy and still found no such farm listed. Finally, a search of law department files turned up the purchase agreement. In this case the agreement included a lifetime occupancy clause for the seller, as well as the fact that full liability, including property insurance,

rested on the seller until death.

While this is a case that ended with relief of responsibility for the risk manager, there are others that don't. The risk man should know if his divisions or subsidiaries are allowed to lease, sublease, buy or sell property. Usually, two departments in a company should have such information in their files, the tax department and the legal department. If the company is large enough, of course, a real estate department will have this information at hand.

**BUT SUPPOSE** there is no single source for this information? What should the risk man's responsibility be? Should he make it his responsibility to set out to build a complete listing of all properties and include a system to maintain and keep it up to date? I suggest he should, either by himself or in conjunction with his law department. The list, once developed, can be made available to other departments within the firm. Generally, others will gladly accept your efforts and will look to you for leadership in this role.

The physical make-up of the real estate

list will vary with the number and variety of properties the firm controls. A loose-leaf notebook approach has an advantage, for individual properties can be entered and deleted without massive reworking of the material each time a property is bought or sold. Of course, it is wise to make a complete review annually and to make sure that there is constant monitoring of the list by other departments. You must, first of all, get accurate reports on all property transactions as they occur.

As for information to be included in the list, there is certain basic data which is needed about each location, regardless of the size of the company. Arrange the information so it may be quickly located. One suggestion is to use a single sheet for each location which is filed in alphabetical order by state, then city and street address. A designation of the type of activity at the location should appear next, noting for example whether the operations are for retail, wholesale, or manufacturing purposes, or whether it is simply vacant property. A description of the location

*Continued on following page*

## The four-day week: A historical view



BY BION H. FRANCIS

Insurance consultant, Milford, Ct.

This is the first of a four-part series of articles discussing the four-day work week in terms of changes in the American society as a whole as well as labor and management attitudes. This essay offers an historical perspective of the relationship of productivity to hours of work per week per worker. Future articles will discuss the feasibility of the four-day work week on a nationwide scale and the evolution of the American concept of work.

"With the advent of the 20th century, productivity in the United States continued to rise. During the first 30 years of the 20th century, this finally began to bring about an increase of leisure . . ."

RECENT YEARS have seen increasing interest in the four-day work week. The companies which have experimented with it have included not only a number of smaller enterprises, but also a large life insurance company, the municipal government of a major city, and a well-known magazine. It is reported that one leading union may include such a proposal as one objective in its next round of bargaining.

However, although many employees are enthusiastic about the plan, both labor and business in the past have been opposed. One reason is that the four-day work week, as it is frequently applied, is not a method of reducing the number of hours in the work week. For example, suppose that a company changes from a five-day work week with eight hours of work a day, to a four-day week with ten hours of work a day. In one sense this is not a change in the length of the work week. The employee works 40 hours a week both before and after the change. The employee does save commuting time for one day and has a full day of additional lei-

sure for himself. Consequently, he may consider that his work week is arranged better.

However, organized labor may view this change as a return to the 10-hour day which it fought against for so long. Business may object to the change on the grounds that this will reduce production or result in an impaired standard of living. The difficulty in all of this debate is that we have failed to look at the change from the viewpoint of its history.

**THAT BACKGROUND** contains a similar change—the change from a six day week to a five day week. This change was not accomplished at the expense of a longer work day nor an impaired standard of living.

In fact, we increased our standard of living, shortened our work day, and shifted from a six-day week to a five-day week.

Let's look at some figures: Statistics prepared by the National Bureau of Economic Research indicate that, for the last few years of the 19th century, the average number of hours worked each week in the

civilian economy was a little more than 53 hours, or almost nine hours a day for six days a week. Because this is an average figure, it means that many workers worked 10 hours a day for six days a week.

During this period, per capita productivity in the United States approximately doubled, but this was not used to reduce the length of the work week. There is apparently a strong tendency to use increasing productivity to improve living standards rather than to provide more leisure.

With the advent of the 20th century, productivity in the United States continued to rise. During the first 30 years of the 20th century, this finally began to bring about an increase of leisure:

Year	Per capita output in 1929 dollars	Average weekly hours of work
1899	\$497	53.4 hours
1909	618	52.0
1919	710	49.4
1929	858	48.7

From this table it can be seen that most of the rise in productivity was still used to increase production. However, during those 30 years, the average number of hours of work decreased by about nine percent. In general, this took the form of a shorter work day. During those 30 years,

*Continued on following page*

## business insurance

## PERSPECTIVE

## Real estate . . .

Continued from preceding page

should be given next. Depending on the risk man's preference, this might be the actual legal description or it might be a description used on an insurance policy (i.e., "a two-story brick, sprinklered factory building").

**THE NEXT** item of interest involves the ownership of the property. As noted earlier, properties can be owned by, leased to or leased from the firm. In the event of leased property, one should indicate from whom the property is leased, the address of that firm, the person to contact at that firm, the date of the expiration of the lease and any information on renewal provisions. The sheet should also note where the original lease is located at your own firm.

The next item of interest is the area and occupancy of the building. It is recommended that the total square footage be noted, as well as the number of floors involved and the area of each floor. Occupancy should be shown by floor so activities in multi-storied or multi-tenanted buildings can be quickly identified.

Next, a section on building conditions could be included in the form of a checklist. This, for example, can list items

such as sprinklers, fire doors, fire diagrams, protected areas, fire department name and location, police name and location and so forth. Another checklist, this one of unusual exposures, might include earthquake, flood, riot and tornado alley areas and firms in the immediate area which could present some hazards (for example, a fireworks factory).

**IF THERE** are an usually large number of locations to be noted, the risk manager

**"In order to maintain and update this record, I suggest that numbered copies be released only to certain unit heads and then updated at least every six months . . ."**

may want to set up file card systems. One, in alphabetical order, could be established according to the lessor or lessee, and another could be set up by expiration dates of leases. In a situation that involves a large number of lessors and lessees, a color code could be worked out within the card system so that both leased-to and leased-from properties could be filed together. It is also possible that a firm with a large number of locations could develop computer techniques of accountability for the risk manager.

Let us review some of the problems that the risk manager faces in developing his real estate list. For example: Divisions might lease, or even purchase property without reporting it. So, there has to be a cross-check which will control this information. Here he can establish a rule that all real estate leases must clear the risk manager. Also for any property purchased, he can insist that all real estate contracts be approved by the risk manager. To implement these techniques may require

ager for his information. Inspections by property carriers should reveal some information in these areas. Here the risk manager can insist that carriers frequently update fire diagrams.

**FINALLY**, production scheduling changes should be relayed in some way to the risk manager if they involve shifting new products or new processes to different plants. A sad situation developed at one firm I know of when it shifted a product line to a plant in another state. This product required the utilization of a production technique whereby a highly explosive gas was used. The failure to advise the risk manager resulted in a 700% increase in the fire insurance rate on that particular plant because of certain state restrictions, until extensive and expensive modifications were made.

In order to maintain and update this record, I suggest that numbered copies be released only to certain unit heads and then updated at least every six months to a year. A frequent problem with such systems is that, once prepared, a manual is never updated and soon falls into disuse. The alert risk manager must avoid that pitfall.

While the development of the real estate list seems to belong to some other corporate department, the wise risk manager who forges ahead and establishes control over this tool will find it not only very helpful to himself but to others, too. ■

## Four-day . . .

Continued from preceding page

the average work day dropped from nine hours to eight hours. Of course, this was still an average, and there were large numbers who still worked for nine and even 10 hours a day for six days a week.

At this point another influence took over. The decade of the 1930s was dominated by the Great Depression. What effect did this have on the length of the work week? Here is what happened to the average number of hours a week worked in the United States:

Year	Per capita output in 1929 dollars	Average weekly hours of work
1930	\$772	47.7 hours
1933	590	45.0
1934	639	41.7
1935	718	42.6
1939	847	43.8

As might be expected, both hours of work and productivity dropped during the

1930s. The low point of the work week occurred in 1934, when it dropped to 41.7 hours. There was some recovery, but even at the end of the 1930s, the work week was almost four hours less than at the beginning. It was during this decade that the five-and-a-half day week became generally established.

Subsequently, the 1940s brought war and abnormal labor conditions:

Year	Per capita output in 1929 dollars	Average weekly hours of work
1940	\$ 916	43.9 hours
1944	1,327	47.0
1949	1,144	41.6

Under wartime demand for production, both the number of hours in the work week and per capita production rose to a peak in 1944. Both of these then dropped during the remainder of the 1940s. In particular, the number of hours in the work week suffered its sharpest drop in

the last half of that decade.

This was the time when the shift to the five-day week largely took place. Some companies made the change before World War II. However, because of wartime conditions, virtually all companies returned to the five-and-a-half day and six day work week during the war.

**AS SOON** as the war was over, the country moved back, not simply to the five-and-a-half day week, but to the five-day week. The final stamp of approval for this change came with the legislation needed to authorize the banks to close on Saturdays.

Throughout the period from 1950 to 1972 there has been little change in the length of the work week. The average work week of production employees in manufacturing, as prepared by the Bureau of Labor Statistics, has become a "leading indicator" of the business cycle. As such, it is studied and is widely available. For this reason, it has largely replaced the

figures which I have used on the work week in the civilian economy. The work week of production workers in manufacturing has remained almost unchanged since 1950:

Year	Average work week of production employees in manufacturing
1950	40.5 hours
1959	40.3
1965	41.2
1971	39.9
1972 (Sept.)	40.7

During this period, there has been little net change in the number of hours of the work week. This remains true despite the fact that productivity, however measured, has risen greatly during the last twenty years.

With productivity rising, why is it that the length of the work week does not change? This question will be studied in the following three articles of this series. ■

## Risk management notes

## A suggestion for clearing up lingo limbo

**BY WARREN, McVEIGH & ASSOCIATES**  
Risk management consultants,  
San Francisco—Los Angeles

**M**ANY INSUREDs, as well as insurers and brokers, are confused by complex usage of terms to denote the amount of a risk subject to loss. We hear such terms as PML (probable maximum loss or possible maximum loss), MPL, (just reversing the letters), NLE (normal loss expectancy), MFL (maximum foreseeable loss) and many others. Since underwriters do not agree among themselves on usage, the insured is left hanging in limbo. Communication without extensive explanations is impossible. We must therefore applaud the efforts of Bernard Daenzer (in the Nov. 25, 1972

Weekly Underwriter) to bring order out of the chaos. He points out that there are really only two concepts to consider:

- Maximum loss which would be expected under most conditions, with public and private protective devices in service.
- The maximum loss which could ever occur.

The first concept he suggests calling PML—probable maximum loss. The second concept is best titled AS—amount subject. Since both these terms are currently widely used, their universal adoption would be a real step ahead.

## Tax deductibility of self-insured compensation

It is generally known that workmen's compensation insurance premiums are

tax deductible and, for self-insureds, losses paid are deductible, but reserves for future payments are generally not deductible. However, self-insured reserves are deductible under some conditions.

Revenue ruling 70-262 states: "Section 1.461 (a) (2) of the income tax regulations provides, in part, that under an accrual method of accounting, an expense is deductible for the taxable year in which all the events have occurred which determine the fact of the liability and the amount thereof can be determined with reasonable accuracy."

Therefore, if injury has occurred where the reserve is reasonably well-established but where payments are to be spread over several years, the entire amount may be considered a tax deduction in the year of occurrence. ■

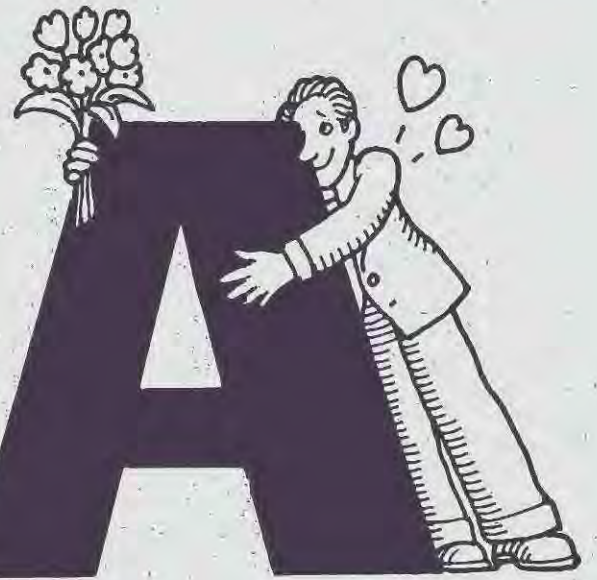
## Francis booklet available

A 13-part series of articles on buying corporate insurance, which was authored by *Business Insurance* contributing editor Bion Francis, is now available in booklet form.

The series, which appeared on the *Perspective* pages of this magazine in issues last year, looks into the problems to be expected when buying insurance, how to recognize them and offers practical advice on how to surmount them.

"How to Buy Insurance for a Corporation" may be obtained by writing Bookshelf, Crain Communications, 740 Rush St., Chicago, Ill. 60611. Single copies are \$3.50; ordered in lots of 11 or more the price is \$3.25. A check or money order should accompany the request.

# How to live with OSHA and like it.



How to avoid  
Duplicate Recordkeeping  
on Workmen's Compensation



OSHA

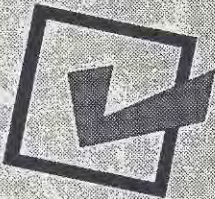
THE OCCUPATIONAL SAFETY AND HEALTH ACT—PUBLIC LAW 91-596



OBLIGATION OR  
OPPORTUNITY?

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Premises Inspection Guide



CHECKLIST IS SIMPLY A GUIDE...  
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# \$3.2 million settlement negotiated for survivors of 1965 cruise ship fire

MIAMI—Survivors and relatives of victims of a 1965 fire aboard the Miami-based Yarmouth Castle have been awarded \$3.2 million in damage claims.

The settlement ends a seven-year legal fight for most of the 462 survivors of the cruise ship disaster which claimed 90 lives. Fifty cases still are pending as an aftermath of the blaze which spread through the aging ship on a voyage from Miami to Nassau in the Bahamas on Nov. 13, 1965.

The award was paid by Lloyd's of London, the underwriting group which had insured the ship's owners, Chadade Shipping Co., and a co-defendant firm, Yarmouth Cruise Lines.

Three Miami attorneys who

pursued the case through the courts for more than 300 victims will divide 10 percent of the settlement, or \$320,000, plus expenses.

Those attorneys, William Alper, James Dixon Jr. and J. B. Spence, were named by a federal court judge, soon after the legal actions began, to work as a team to consolidate claims. One phase of their work was to unify some 350 separate legal actions filed in the case.

**EACH CLAIMANT** is to receive a portion of the \$3.2 million award in proportion to his approved claim. In all, 440 claims were originally filed, asking more than \$59 million. Many

of the smaller claims were resolved years ago, however, and others have since been abandoned.

The total award has been turned over to U.S. district court in Miami and the three attorneys—who negotiated the settlement as a "proctors' committee" representing victims and relatives will distribute the checks.

The 462 surviving passengers and crewmen were rescued from the fire or from drowning by two rescue ships, the S.S. Bahama Star and the Finnish cargo vessel Finnulp. Fire broke out during a regularly scheduled Friday night-through-Monday-morning cruise to Nassau.

During a long series of hear-

ings to determine responsibility for the tragedy, it was disclosed that no general alarm was ever sounded and that the only warning passengers ever received came from individual crewmen.

**COAST GUARD** investigators blamed the high death toll on the failure to sound a general alarm and on the inadequate sprinkler system. Investigators also were highly critical of the ship's master, Captain Byron Voutsinas, for being one of the first to board a lifeboat—while most of the passengers still were on the Yarmouth Castle.

Capt. Voutsinas testified that he and crew members rowed to the Finnish vessel to ask the Finnulp's captain to message an SOS. He later returned to his ship and was one of the last to leave before the vessel capsized around dawn.

The Yarmouth Castle tragedy brought tough new U.S. regulations governing the seaworthiness and operation of cruise ships out of this country's ports. Many older vessels were retired because their owners decided that it would be too costly to upgrade them to meet the new safety requirements.

## Self-insurance suit . . .

*Continued from page 2*

providing cash benefits for temporary disability and for hospital, medical and surgical expenses."

In its lengthy defense, Monsanto argued that the eight-year-old suit should be dismissed for the following reasons:

"(1) Monsanto's employe benefit plan is not insurance; (2) Monsanto is not engaged in the insurance business; (3) There is no statutory intention either to regulate or prohibit such employe benefits; (4) such plans are legitimate under federal law and the state has no power to prohibit the operation of such plans."

In arguing the first point, the Monsanto lawyers noted that "in all attempts to define the term 'insurance,' a premium has been a necessary element. It is totally absent in this case." The insurance division had argued that the services the employes perform for the company constitute compensation in a non-contributory plan, but Monsanto refuted the claim by stressing that such services contain "no allocable basis for a ratable contribution toward the cost" and that the statute cited by the plaintiff "clearly contemplates that 'money' be paid."

Debating the second point, Monsanto contended that "to engage in the 'insurance business' means that insurance is the purpose of the business," that "the element of profit or at least that the plan be self-sustaining" is a necessary requirement and that "solicitation and sale of insurance policies to the public" is also necessary.

Monsanto meets none of these requirements, its lawyers claimed.

Monsanto further argued that the Missouri insurance division has no jurisdiction over benefit programs.

Noting that such benefit plans did not exist in 1881 when Missouri's insurance law was originally drafted and that the state's present statutes have no regulatory mechanisms for benefit plans, the defense pointed out that a bill sponsored by the National Association of Insurance Commissioners to regulate such self-insured plans was considered by the Missouri superintendent of insurance, but never got off the ground in Missouri or anywhere else.

"**OUR POINT** then is that if there is a need to regulate such plans—and there has been no showing that there is—it is up to the legislature to do this," the lawyers argued.

Finally, Monsanto noted that employe benefit plans have been "recognized, encouraged and regulated" by the federal government and that its self-insured plan was a part of its collective bargaining agreement and cannot be prohibited by an injunction at the request of the Missouri insurance division. Citing the Pension and Welfare Disclosure Act, Section 301(a), Monsanto notes that the interstate nature of such employe benefit activities precludes state prohibition and that the act "specifically recognizes that an employe welfare benefit plan may be uninsured."

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## Performance is key to choice of fund manager

NEW YORK—A panel of corporate pension fund managers exhibited a diverse set of opinions as they discussed the question of who to give new money to at Pensions Magazine first annual pensions conference here.

They agreed that the money manager's performance was the key but their opinions as to how much time should he be given to perform, how should he be rewarded and how well he should perform varied rather widely. (Additional conference stories are on pages 24, 29 and 30.)

Robert R. Evans, senior financial planning analyst for J.C. Penney Co. Inc., first shook things up when he told the audience, "Reward the money manager who did not do too well rather than the one who performed very well. All managers go through cycles and rewarding in inverse order of performance could serve to stimulate the manager who had a bad year.

"The key," he continued, "is having a manager you can live with. If he has a bad year, but you still have confidence in him, give him the largest slug of money because he will come around and that money will grow proportionately faster."

**LATER, WHEN** Robert J. Greenebaum, Inland Steel Co.'s treasurer, virtually questioned the sanity of such a move, Mr. Evans emphasized the fact that you must have managers you can trust, and if you do, run with them. "If you have good managers, they will end up in a dead heat over 10 years anyway. If you have a poor manager, and you have no confidence in him, of course, get rid of him," he said.

Mr. Greenebaum indicated that Inland Steel's pension fund was a sizable factor in the company's future planning (company contributions to the fund will be up 80% over last year). It was his turn to shake up the attendees by stating that a manager should be given "12 months to perform." If the evaluation was negative at the end of that time, move on, was his advice.

Mr. Evans and Michael L. Noel, assistant treasurer and manager of financial planning at Southern California Edison Co., took immediate exception to that amount of time. Mr. Evans advocated a two-year evaluation period while Mr. Noel stressed "the long-term approach."

Perhaps because of the pressure on steel industry pension funds, Mr. Greenebaum felt that money should be kept moving and that costs of the movement should not be worried about.

"The cost of transferring money from one manager to another is from two percent to four percent of the portfolio value," he said. "This shouldn't be a problem since you wouldn't have picked the new manager if he couldn't make you more than two percent to four percent, right?"

All three of the panelists pointed out that they had found new managers within the past while. Mr. Noel, who said his company's fund is managed by four equity managers, including an in-house organization, and two fixed-income managers, screened a total of 56 prospective managers in 1971 after firing an old one.

Mr. Greenebaum noted that Inland Steel had moved its fund from the management of one bank to a bank and three other managers in 1969. "The fund was divided into 40%, 30%, 20% and 10% pieces," he said, adding that

a new manager would be starting soon and that his money would be taken from the top performing manager.

J.C. Penney's pension fund is managed by one bank and one outside manager, according to Mr. Evans. "Each manager gets equal dollar contributions on the same day of the month," he commented. "That way, we know at least 50% of the money will be right."

Aside from the importance of performance, the panelists one other point of complete agreement was the power of communications.

"I can't stress the importance of communications enough," said Mr. Noel. "Communications with your manager are an absolute

*Continued on Page 24*

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# Investment advisor paints a bleak pension picture; offers alternatives

NEW YORK—In a speech provocatively entitled "When Will Money Run Out?", an investment advisor predicted a rather bleak future for many pension funds but offered his own road out of the quagmire.

"The money is certainly not going to run out for all pension funds," asserted Albert L. Zesiger, chairman and president of BEA Associates Inc. "Many funds, such as those in the aerospace industry, are tremendously overfunded. But it's uneven. While some companies are unaffected by pension problems, others are choked."

Historically, he said, the reasons for the strangling effect are many: wage freezes have resulted

in companies expanding their pension plans rather than hiking wages; tax laws; society's shift from allowing a bare subsistence level to guaranteeing a retirement living based on final year's salary; the fact that people are now living longer and their wages are higher and the rate of increase of assets has slowed up.

"PENSIONS ARE now regarded as contracts," he continued, in what was thought to be a pessimistic vein. "Many pensions still have escape clauses for employers but the unions, particularly the steelworkers, are after this provision. The AFL-CIO wants pensions to have the highest priority after wages in bank-

ruptcy cases. The government is stepping in further all the time with talk of portability, vesting and other items."

All these things, he felt, added up to an unhappy future for companies in five categories:

- Small, marginal companies confronting strong unions, such as in the clothing area.
- Where early retirement will become a factor—"Western Union is having problems now and the textile industry is next."
- Companies with large, unfunded liabilities.
- Companies in labor intensive industries—he mentioned clothing and retailing.
- Companies caught in a cyclical draught of business.

To counter what could be the horrendous possibility of the money running out, Mr. Zesiger urged corporate pension people to "do more accurate long-range planning. You should make a 10-year projection and compare pension costs to earnings, for example."

HIS SECOND counterweight was "common stock assumptions. In 1970, the rate of return was 9%, today it's 2.6%." He indicated that a return goal should be set, say 10%, and that it should then be attached. "A 10% rate of growth to meet liabilities over the next few years would be good but make sure it's enough."

And that led him to the subject of bonds.

"The bond market has been all but overlooked," he contended, "but it returns more than the stock market. There are no sure bets, of course, but bonds are a no-lose proposition if they are

managed well. I'll guarantee you a return rate of at least 9%."

When asked what he thought the bond-equity ratio should be for pension funds, he answered that the ratio should be variable but that the \$30 million fund should be 50% in each.

IN A question-and-answer session after his speech, Mr. Zesiger again pointed out that the unions were after certain legislation but added, "Government intervention might not really be such a bad thing in that it may not allow the demands to become too heavy."

He also stressed that companies could not avoid making pension promises they might not be able to keep. "If there are a few more door-closings because of pension demands, it might make some people, namely unions, more realistic," he said.

So when will the money run out? Virtually paraphrasing Rudyard Kipling's "If," he said, "If you can wade through all the misinformation you receive, if you can manage well," and on and on, "it won't."

## Governor asks pension fund reform

HARTFORD—Connecticut Gov. Thomas J. Meskill is calling for stringent reform of pension fund management in the state.

He has told the newly-assembled state legislature: "Pension funds have been bankrupted, time and again. They have been raided, time and again. And, all too often, they have been plain, downright stolen."

"It is little satisfaction," he said, "to a man who has worked 40 years for his pension to learn that somebody has gone to jail for taking it away from him."

"There must be new and stringent laws," he continued, "governing the management of pension funds in the private sector, to the end that they match the safety and security of government-administered pension programs."

At the same time, Gov. Meskill said he will give top priority in the current legislative session to seeking cures for "escalating hospital care costs," citing "the relentless increase in hospital costs that have wiped out the life savings of far too many unfortunate people who find themselves in need of hospital care."

The governor noted that hospital costs in Connecticut have jumped 14% a year, each year, for the past five years.

"Viewed in this harsh light," he asserted, "it is easy to understand the sense of outrage that so many of our citizens express when faced with hospital care."

## Managers . . .

Continued from page 23

must, and that works both ways. Each must know what the other is doing and you can't overcommunicate."

A big divergence among them appeared when Anthony B. Cashen, vp of Alliance Capital Management Co. and the panel's moderator, asked what they would like to see as their funds' 1973 performance level.

Mr. Evans indicated that his feelings on the subject were "not absolute;" Mr. Noel said he would be happy to stay even with the Standard & Poor index "in an up market;" and Mr. Greenebaum felt that two percent to three percent better than the S & P would be a good level.

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# It may be habit forming

# Early vesting proposal stirs Canadian debate

TORONTO—A hot debate is waging across Canada over employees' pension rights. The conflict centers around the question of how soon workers should be awarded fully-vested rights to corporate pension plans.

The Pension Commission of the Province of Ontario two months ago decided that employees should be given full rights to the money contributed on their behalf by their employers at age 40 after only five years of service.

While this plan seemed to have good acceptance when first announced, managements of some companies now are reported hesitating to endorse it.

At least four Canadian provinces appeared to show support for the proposal initially and the federal government also was reported in favor of it. The support of organized labor was assured.

**BUT UNCERTAINTY** now is being expressed by some pension planners who work largely for management and heated debates are reported breaking out in some pension fund circles. There is growing evidence that most companies are not inclined to take what they consider such a drastic step all at one time.

Under present laws in the provinces of Ontario, Quebec, Alberta and Saskatchewan, as well as in federal jurisdictions, company contributions are fully vested only when employees with at least 10 years' service reach 45 years of age. Both the employee's

and employer's contributions are locked in at that time until the worker retires.

William M. Mercer Ltd., a leading actuary and benefit consulting firm, while conceding the social desirability of earlier vesting, warns that the full administrative costs have yet to be calculated.

Mercer also noted that if provincial and federal governments were to move ahead with such legislation, it might be at the expense of other social benefits being built into pension plans.

**THE ONTARIO** pension commission's proposal affects only pension law in this province. But it is noted that over the years

the governments of the other Canadian provinces have imitated Ontario's moves on pensions.

It is the feeling of the Mercer company that some sort of compromise might provide a solution to the matter, in view of the fact that additional administrative costs and other problems have to be handled.

Mercer suggests that mandatory vesting be extended to age 45 but feels that the 10 year service provision might be reduced to five.

The actuary has requested the Ontario pension commission to extend the time over which the cost of benefit improvements can be amortized. Mercer also believes that an earlier locking-in requirement, which would prevent a worker, say at age 40, from touching either his own or his firm's contributions until retirement, is likely to find disfavor from both employees and employers. ■

## Agent/Broker Directory Available Now

Because of the demand for the profiles tables, charts and analyses contained in the July 31 issue, this information has been published in the form of a 6" x 9" desk-top directory. The annual *Business Insurance Directory of Commercial Insurance Agents & Brokers*, September, 1972, edition contains this important information for use by corporate insurance buyers, financial institutions, consultants and government officials. Readers may order copies by filling in this coupon and mailing it to: *Business Insurance*, 740 Rush Street, Chicago, Ill. 60611.

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# Ca. school district faces fraud charge

SAN FRANCISCO—The self-insurance fund of the San Francisco Unified School District may get nicked for \$1 million if attorney Suzanne Martinez, of the federally financed Youth Law Center, wins a precedent-shattering suit filed in superior court here on behalf of an 18-year-old Galileo High School student.

The suit, according to school district attorney Irving Breyer is "novel and raises interesting legal questions... even though I don't believe it has validity."

The youth, named only as Peter, seeks \$1 million from the school system because he "was never taught to read and write properly."

The former student now earns under \$50 a week as an equipment handler for a rock music group and contends that his life has been "blighted by the defective education" provided him at Galileo High.

**ATTORNEY** Martinez contends the student has an I.Q. of 100 but when he graduated from Galileo in June 1972, he was only reading and writing at a fifth grade level.

The suit, filed on behalf of Peter by his mother, charges the San Francisco school system with fraud. The mother asserts in the suit that she was "repeatedly assured by Peter's teachers and by school officials that Peter was passing and did not need any special training."

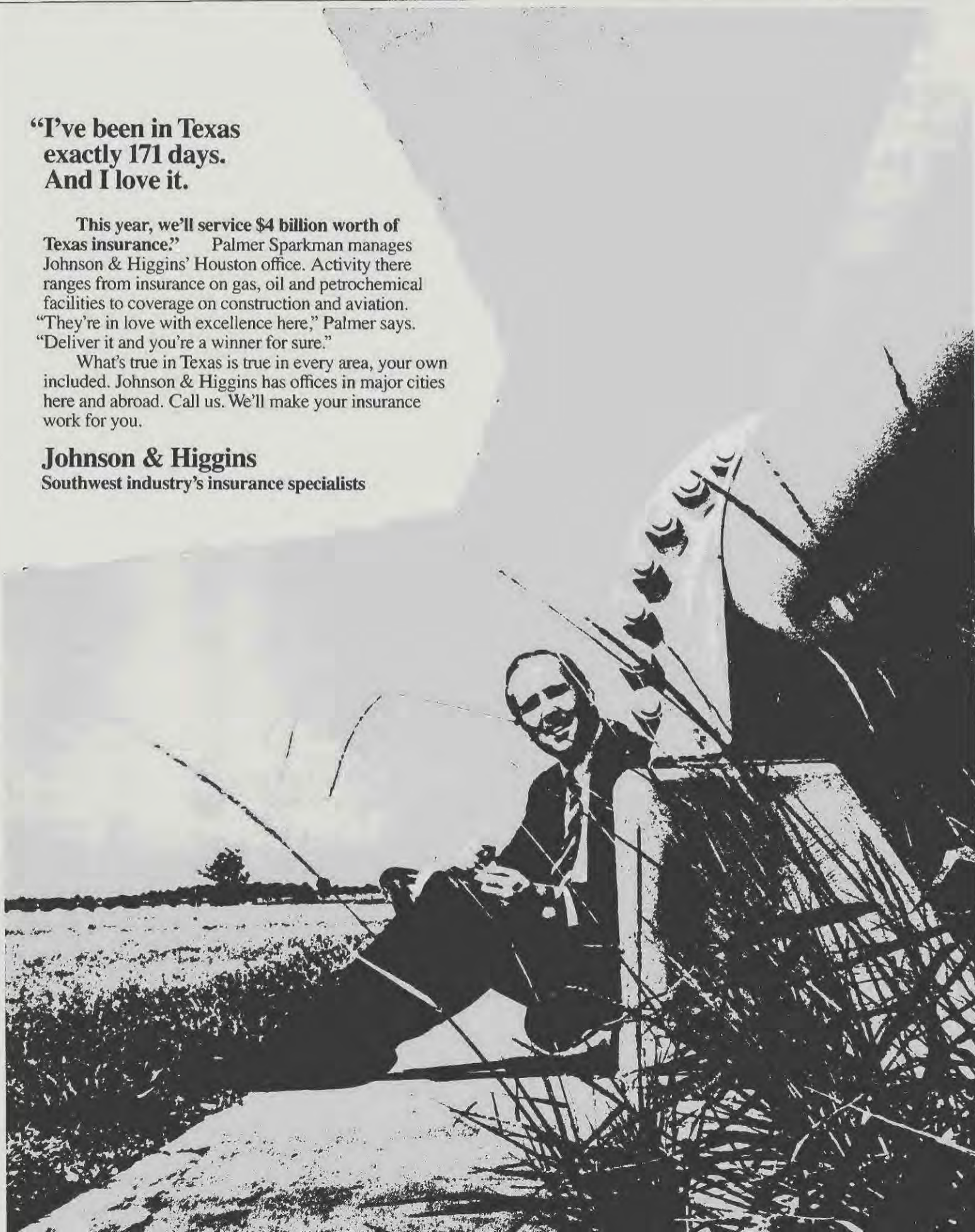
Attorney Martinez said the suit was filed because "Peter believes he has no chance of getting a good job and will be limited to mostly demeaning, unskilled, low paid manual labor." ■

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# Rate-cutting war is on in Canada; aviation insurance lowest in years

By ROBERT CATHERWOOD

TORONTO—A furious rate-cutting war has driven aviation insurance premiums in Canada down to the lowest levels in years.

The rate cutting applies to business aircraft, private pleasure aircraft and helicopters. Some owners are being solicited with offers to replace or renew their insurance at rates as much as

60%-70% lower than they are paying.

The traditional aviation underwriters in Canada complain that rates are being slashed by brokers who have worked out special contracts with a wide network of unlicensed insurers in Europe and Asia.

According to some local insurers the foreign underwriters—many of which are not experienced in the aviation business—

have been attracted to the business by profits made by aircraft underwriters in recent years. Some of the newcomers have decided to grab off more business by chopping rates to the bone.

Local underwriters also say the advent of jumbo jets has attracted some newcomers to the business because the huge insured values of the jumbos has required the participation of some insurers who had not written much aircraft business before. And until the crash of an Eastern Airlines Lockheed Tri-Star at Miami late last year, the insurers had had very favorable experience with the wide-bodied jets.

**THE SEVERE** rate cutting is especially surprising to the more experienced underwriters because the loss record for civil aircraft over the past year has been particularly bad.

The Ministry of Transport in Ottawa reports that aircraft accidents last year increased in every part of Canada except the Atlantic region where there was no change. In the period ending July 31, 1972, accidents in Quebec were up 55% over the same

period the year before. Ontario was 34% higher, Central Canada up 31%, Western Canada up 21% and the Pacific region up 5%.

Most local insurers say the current bout of rate cutting—which they blame on the foreign unlicensed market—is the most severe they have witnessed. "It's the worst I have seen in 15 years," says Kenneth Wilson, chief underwriter, Orion Insurance Co., Toronto.

**AND THE FEELING** is those who are chopping the premiums will eventually get burned. "Unless there is a sudden improvement, the losses are bound to catch up with those who are cutting rates," says James A. Redwood, manager for Canada, British Aviation Insurance Co. (BAIC), Toronto.

The brokers are complaining too. R. Stewart Sinclair, executive vp, Lukis Stewart Price Forbes & Co., Toronto, describes the situation as "unbelievable." Mr. Sinclair, who has been closely involved with aviation insurance for 20 years and pioneered several aircraft plans in Canada, says he doesn't object to keen competition. But he views the rate cutting now going on as irresponsible.

"How long it will last is anyone's guess," he says. "But when the losses start piling in there will be a day of reckoning. In the long run, no one will benefit and the only remembrance will be that of the turmoil created."

While both brokers and insurers say most of the business they are losing is going primarily to unlicensed insurers, just who these insurers are and what brokers are directing the business to them is something of a mystery. None of the brokers want to admit they are dealing with unlicensed rate cutters.

**WHEN THE** business is written by insurers not licensed in Canada, a Canadian company "fronts" for the unlicensed companies. The fronting company issues the policy, collects the premiums and pays the losses, although it does not actually assume the risk. The real underwriters are the unlicensed companies, spread all the way from North Korea to Bulgaria, according to local insurers. The fronting Canadian company normally receives a fee for its services of 5%-7½% of the premium.

The traditional aircraft insurers are refusing to match the rates being quoted by their free-swinging competitors, despite the loss of business. Mr. Redwood, for example, says BAIC's business is off 50%. "It's a tough position to take, but we must base our rates on experience," he says.

T. A. Wheatley, vp and general manager, Canadian Aviation Insurance Managers Ltd., Montreal, says his company has also lost business.

"We are in a period of cut-throat competition," he says. "It's not economical to write business at the rates some insurers are quoting. This sometimes means we have to part company with some very good friends of ours."

**THE SMALL** pool of available business in Canada makes the underwriters particularly sensitive to the present savage competition. Net written aviation premiums in 1971 (latest available figures) totaled only \$31 million. "There just aren't that many aircraft to insure," says Mr. Redwood.

Despite the small pool of business, the unlicensed underwriters seem anxious to crowd in for their share (drawn in, of course,

by the brokers who deal with them). "More markets are competing for the available business," says Peter Power, aviation insurance manager of Macaulay Nicolls Maitland & Co., Vancouver-based brokers.

Mr. Power, whose firm recently merged with Tomenson, Saunders Ltd., a Toronto-based broker, says he has not seen such competition in 20 years of experience in the aviation-insurance market.

Even Reed Shaw Osler, the big Toronto-based broker which admits to aggressively going after aircraft business, says rates have been cut "unmercifully." P. C. Garratt, a Reed Shaw vp, says some underwriters are quoting rates of less than one percent to insure aircraft hulls, while fire insurance rates for the hangar in which the aircraft is kept are running 2%-3%.

Mr. Garratt and Robert Clements, a senior vp of Marsh & McLennan in Toronto both say, however, that the aviation business has always been highly cyclical. "Some underwriters tend to overreact, pushing rates up too high when there are losses and cutting them too low when experience is profitable," Clements says.

At the moment, it's clear the rates are at the bottom of the cycle and the aircraft owners are reaping the benefit.



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## Evel Knievel finally insured for accidents

LAS VEGAS—Motorcycle daredevil driver Evel Knievel, who has undergone nine major operations in five years and estimates his hospital bills have surpassed the \$35,000 mark, has finally been insured for \$100,000 in accident and life cover.

Mr. Knievel has crashed everywhere from Seattle to Las Vegas to Pocono, Pa., and has been turned down by 32 insurance companies.

"I am now insured, but only for \$100,000," said Mr. Knievel, who was here for a series of five jumps. "If I were killed here in Las Vegas the insurance wouldn't pay for my truck, wouldn't make a down payment on my jet airplane and I don't think it would pay my payroll for a month."

Mr. Knievel's insurance is with two American companies. "I don't even care to mention their names. They haven't done anything but charge me for the policy and I don't feel like giving them any free publicity," said Mr. Knievel who is married with three children.



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## Canada may see rise in product liability claims

TORONTO—Prospects for a rash of product liability suits involving hazardous products in Canada loomed in the wake of a supreme court decision involving a lacquer sealer.

The court was called upon to decide whether a producer of a flammable fast-drying lacquer was liable for injuries and property damage suffered by a user of the product despite the fact that the user was aware of a cautionary notice on the lacquer label.

Justice Bora Laskin ruled that a mere warning that a product is flammable is not explicit enough. The judge asserted in his ruling that a detailed description of dangers inherent in the use of the product must be included in the warning.

Following the court ruling, a significant comment was made by a Canadian insurance industry official. "This could result in labels being so filled with language that the print would be so small that no one would read the label," said a spokesman for the Ontario Insurance Adjusters Assn.

The insurance spokesman added that the ruling by the high Canadian court "will no doubt cause a great deal of concern in

high places in the manufacturing industry."

The case in question involved a lacquer sealer with a flash point almost as low as that of gasoline. The plaintiff bought a container for use on a parquet floor he was installing in a basement recreation room.

Court testimony showed that the plaintiff removed the furniture from the rec room and opened a window but did not extinguish the pilot lights in the furnace and water heater. Following about an hour's work, a line of flames flashed into the rec room, giving the plaintiff mild burns and damaging the basement.

### Black lung covered by state workmen's comp

HARRISBURG, PA.—Gov. Milton Shapp of Pennsylvania has signed legislation bringing black lung disease under coverage of the state workmen's compensation law.

The new law also increases benefits July 1 to disabled coal miners under the program. Miners received \$60 weekly under a long-established state program.

Claimants after July 1 can receive up to \$100 a week.

The state currently is providing \$16 million a year to some 8,500 black lung victims, while thousands of others are receiving federal benefits. Only new claimants would be paid through the workmen's compensation program.

The law gives coal companies three years to completely assume the payments. They will assume 25% of the burden in July, 50% in fiscal 1974-75, 75% in 1975-76 and 100% in 1976-77 and thereafter.

The state established its program to aid coal miners with respiratory ailments in 1939.

### Kaiser's work comp becomes self-insured

SPOKANE, WA.—Kaiser Aluminum & Chemical Corp. officials here reported that the firm will

change its workmen's compensation insurance from the state department of labor and industries program to one of self-insurance.

All Kaiser plants in the state will be on the self-insurance program effective this month.

The 1971 legislature passed laws enabling companies to self-insure, thus ending the state's complete monopoly on the workmen's compensation business. Washington was one of the last states to continue the monopoly program and does not yet allow companies to purchase insurance from insurance companies to cover workmen's compensation costs.

Kaiser officials said that among the major benefits resulting from the change will be faster payment of employe claims and continued company efforts in the improvements of safety programs.

By administering the plan themselves, Kaiser also expects a reduction in the total cost of workmen's compensation claims.

### Alberta to self-insure governmental vehicles

EDMONTON, Alberta—Insurance agencies stand to lose some of the business they have previously enjoyed in handling coverage for provincial government owned vehicles.

Gordon Miniely, treasurer of the Province of Alberta, said the Alberta government plans to handle some of its vehicle insurance itself rather than deal through private agencies.

The new policy has grown out of a study of government insurance requirements which was initiated last August by Mr. Miniely.

Mr. Miniely said that official notification of the changes in government policy concerning insurance coverage has been made to Guardian Insurance Co. of Canada, which has acted as insurance carrier for the government motor fleet. ■

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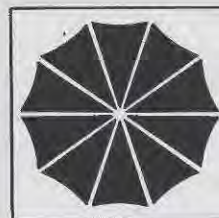
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**February 7**, Society of Chartered Property and Casualty Underwriters, one-day seminar, "The 1973 changes in comprehensive general liability," San Francisco. For more information write the CPCU, P.O. Box 566, Media, Pa. 19063.

**February 14-16**, American Management Assn., three-day workshop, "Mass merchandising in the insurance industry," AMA Management Center, 8655 W. Higgins Road, Chicago. For more information write AMA headquarters.

**February 21-22**, American Insurance Association, product liability seminar, "Consumer product safety Act," San Francisco. For more information write the AIA, 85 John St., New York, N.Y. 10038.

**February 28-March 2**, American Management Assn., briefing session and forum, "Cash management for insurance companies," Miyako Hotel, San Francisco. For more information write AMA headquarters.

## Suits from helicopter crash net \$3 million

LOS ANGELES—Survivors of 18 persons killed in a May 22, 1968 crash of a Los Angeles Airways helicopter in Paramount, Ca. received more than \$3.1 million in a superior court settlement here.

Settlement of 16 separate civil suits was completed by superior court Judge William H. Leavit only two working days before a jury trial was scheduled to begin.

Judge Leavit said trial of the 16 suits and another 12 suits filed by survivors of those killed in an Aug. 14, 1968, Los Angeles Airways crash would have taken about one year.

The 12 suits, filed by survivors of 19 persons killed in the August crash, were settled about one

year ago for a total of \$2,903,000. Both crashes occurred on flights between Los Angeles International Airport and Disneyland.

Ordered to share payment of damages along with Los Angeles Airways (which is now out of business) is the Sikorsky Aircraft Division of United Aircraft Co., manufacturer of the helicopters.

At the time of both accidents, United Aircraft Co. was insured by the Aircraft Builders Council plan. The plan covers mostly manufacturers of aircraft components. Although United Aircraft Co. is no longer a member of the plan, it will be covered by it for settlement of the suits. Eighty percent of the plan's insurance is provided through the

United Kingdom market, the rest by domestic companies, according to Robert Hugel, the firm's director of insurance.

The damages awarded in individual suits ranged from a low of \$7,328 to \$550,000 with the total awarded coming to \$3,152,328. The settlement ended two years of negotiations on both series of suits before Judge Leavit.

Damages in the August 1968 crash in Compton, Ca. were paid by Los Angeles Airways, Sikorsky and two other companies which contributed to the helicopter construction; Astro-Peen Co. and Modern Plating Co.

Lawsuits from both crashes charged the shuttle service with negligent and careless operation and the manufacturer with negligent design and construction.

Before the crashes, Los Angeles Airways operated 118 flights daily between the airport and the amusement center.

The May crash was the nation's worst helicopter accident with 23 deaths and the August disaster the second worst with 21 deaths. Along with all passengers, the crew of both helicopters died in the crashes.

## Nine more on ASIM study group

CHICAGO—Nine more persons have been named to serve on the American Society of Insurance Management's coordinating committee for national reform of state workmen's compensation laws, bringing the total number of planners to 20.

Added to a previously released partial list of committee members were Dr. John S. Bickley, Alabama Insurance Industry Chair of Insurance holder at the University of Alabama; Paul F. Hill, National Safety Council; Clarence Johnson, executive director of the National Program to Improve State Workmen's Compensation; Dr. F. William Dowda, American Medical Assn.; Hans J. Holtorf Jr., chairman of the American Bar Assn.'s work comp committee; John J.N. Fry, NABISCO Inc.; Ronald D. Gregory, Workmen's Compensation Advisors Inc., and Brevard Crihfield, The Council of State Governments.

ASIM also announced that A. Grant Whitney, Belk Stores, will serve as the committee's chairman.

The group was authorized at a Dec. 6, 1972 ASIM-sponsored workmen's compensation conference here after some 40 persons attending decided immediate action is needed to prevent federal takeover of the workmen's compensation system. The committee will formulate plans for establishing advisory committees in each state to assist in the legislative implementation of the recommendations of the report of the National Commission on State Workmen's Compensation Laws.

## Canadian firms merge

Two insurance companies in Ontario and British Columbia have merged to form a new association with Canada-wide services. Tomenson, Saunders Ltd., Toronto, and Macaulay, Nicolls, Maitland & Co. Ltd., Vancouver have merged. Business of the two companies will be conducted under the name, Macaulay Nicolls Maitland Insurance, in Association with Tomenson, Saunders Ltd.

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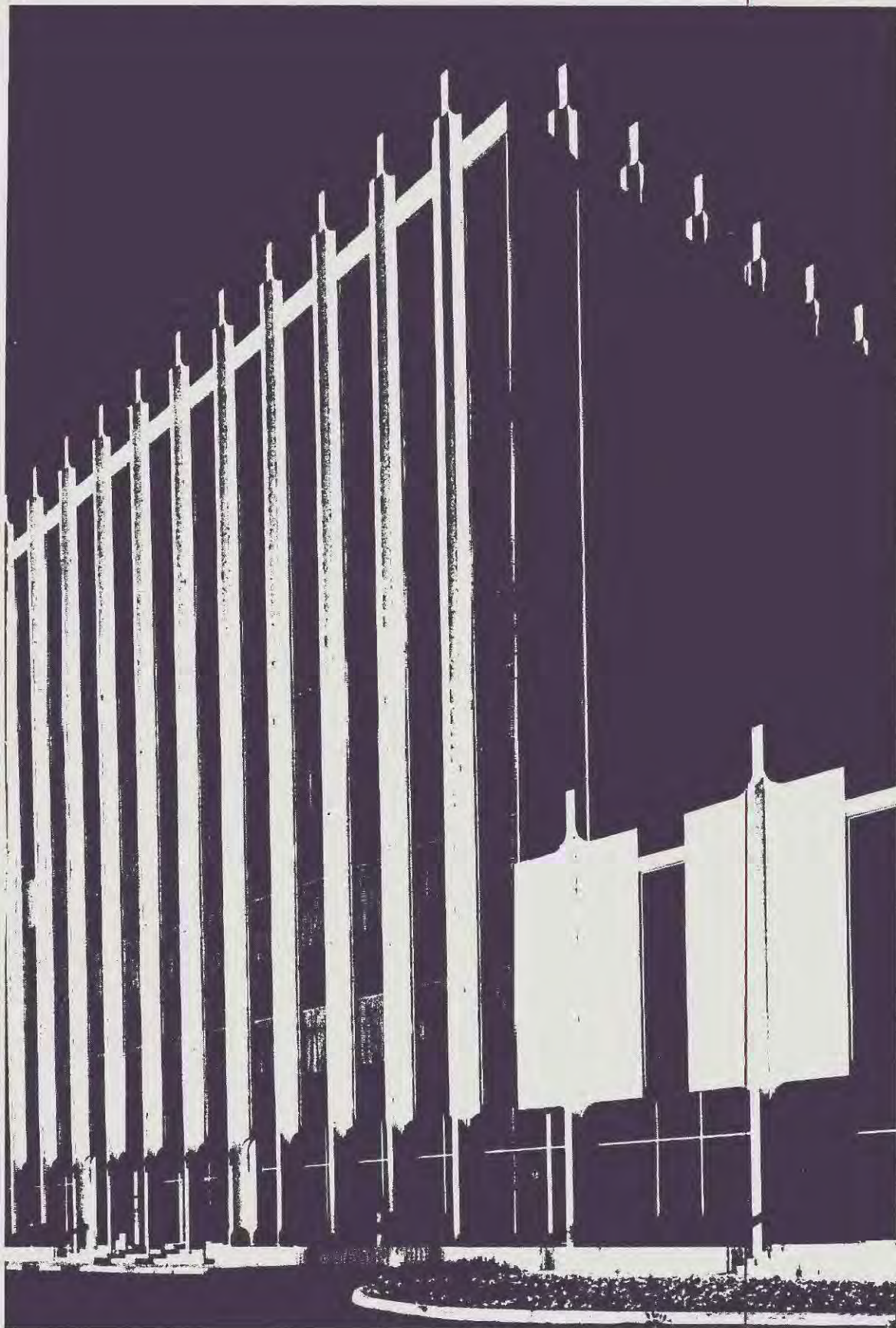
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## Managers warned of hasty gains

NEW YORK—"A farmer does not pull up his carrots every night to see how they're growing, nor would the carrots benefit from such benign surveillance." This farmy paraphrase from Dean Acheson was offered by Martin Segal, president of Wertheim Asset Management Services Inc., as an analogy for pension fund managers to heed.

Speaking before the first annual pensions conference sponsored by Pensions Magazine at the New York Hilton earlier this month, Mr. Segal, a leading authority in the employe-benefits field, warned pension fund managers about the pitfalls they might encounter from a too-hasty use of short-term gains to supply immediate improved benefits or immediate reductions in costs.

"Get buyers to understand that short term gains should be used to cushion short term losses," Mr. Segal stressed.

Because short-term losses are inevitable, Mr. Segal said, performance after only one, two or three years is no real indicator of a pension fund's riches, though it may look good on paper.

**HE TOLD** the audience of 700 that managers should instead look to sustained profits over a period of many years for a true reflection of how investments perform.

While yearly considerations of returns are important, Mr. Segal pointed out that undue emphasis on the yearly rate of returns can hurt a pension fund.

"Funds which fall prey to the siren songs of over-zealous financial advisers who project annual investment gains of 10% of 12% or more may be courting severe financial problems," he warned.

Repeating a formula he developed a decade ago, Mr. Segal told the audience that an increase of just 1% in sustained annual yield could mean a reduction of from 10% to 25% in the annual cost of the pension fund plan, or an increase of 33% in benefits for the same cash outlay.

"If a 1% increase can have such a seemingly disproportionate effect, think what a 2% or 3% increase would do. And that's why corporate executives, union leaders and government officials involved in pension plans are so interested in investment performance," he said, urging a conservative assumption of yield from pension fund investments.

Mr. Segal had further advice for the pension managers. Once they achieved sustained rates of returns, they must learn to use them effectively.

"Pension funds should not carry substantial gains without doing anything with them," he said.

"Paper profits, carried year after year, may make the investment adviser look good in performance studies, but they do little for the plan participant. A more sensible approach is represented by the imaginative formula use developed by some actuaries for the efficient use of long-term paper profits."

Predicting a new breed of pension clients who will be not only more sophisticated, but more knowledgeable about how their funds should be handled, Mr. Segal advised that pension fund investments had no major place with "glamour stocks," but should instead have adequate fixed income securities as their basis. ■

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# Atty. predicts passage of pension reform

NEW YORK—Frank Cummings, draftsman of the 1967 Javits pension reform bill, keynoted Pensions Magazine's first annual pensions conference here earlier

this month with a talk on the chances for passage of the new pension legislation now before Congress.

A former minority general

counsel of the U.S. Senate labor and public welfare committee, Mr. Cummings, now a partner in the Washington law firm of Gall, Lane Powell & Kilcullen, pre-

dicts that the updated senate bill, S-4, will pass in one house in 1973, and in both houses by 1974.

The comprehensive senate bill has essentially the same provisions as the Javits bill which was killed by the finance committee in 1972. But S-4 was reintroduced by Sen. Harrison Williams (D.-N.J.), with 40 co-sponsors.

Shoring up the house's efforts is bill HR-2, introduced by Rep. John H. Dent (D.-Pa.).

Mr. Cummings thinks the strongest point to be made for both bills' passage is that they "are completely aimed at the middle class," with those whom they are most likely to benefit being the same people with the most influence to get the proposals passed into law.

Assuring pension fund managers that while "horror stories" circulated about inadequate or vanishing pensions were true in many instances, they were not representative of most private pension plans, Mr. Cummings urged corporate support of the pending legislation.

He told the audience that by supporting pension reforms they were not admitting that their own funds were bungled, but rather were preventing guilt-by-association with disreputable, badly-managed funds.

The cost considerations of the proposed pension bills, should, at their worst, "not cause panic,"

Mr. Cummings asserted. He discounted the idea, however, that studies could provide any accurate cost predictions for the pension legislation.

"Studies deal with averages and guesses together. There is really no way to determine exact cost, because the biggest variable is turnover, and no one has studied its effects," he noted.

He pointed out other variables that might upset cost projections made in studies. For example, in the event of even such a welcome development as the discovery of cures for cancer and heart disease, Mr. Cummings predicted that "social security would be 'in extremis,' and pension fund projections would be off totally." The resulting higher life expectancies and larger numbers of people living on pensions would make it necessary to completely revamp current figures.

Mr. Cummings offered planners one point of advice—funds could be managed most economically by putting pension money into vesting now, in anticipation of the passage of the reform pension bills.

## Expansion in Virginia

Old Line Life Insurance Co. of America, Milwaukee, announced that Mace Investment Corp., Norfolk, Va., had been acquired and would be operated as a branch of Old Line Investment Sales Co., a subsidiary which sells leveraged funding programs which combine the sale of mutual funds and term life insurance.

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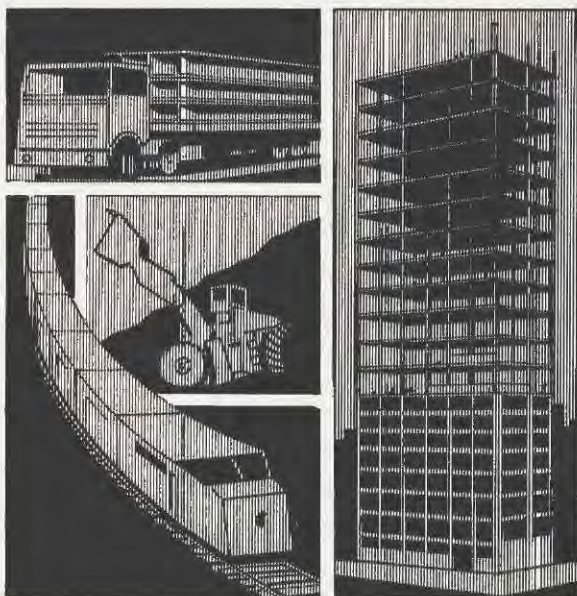
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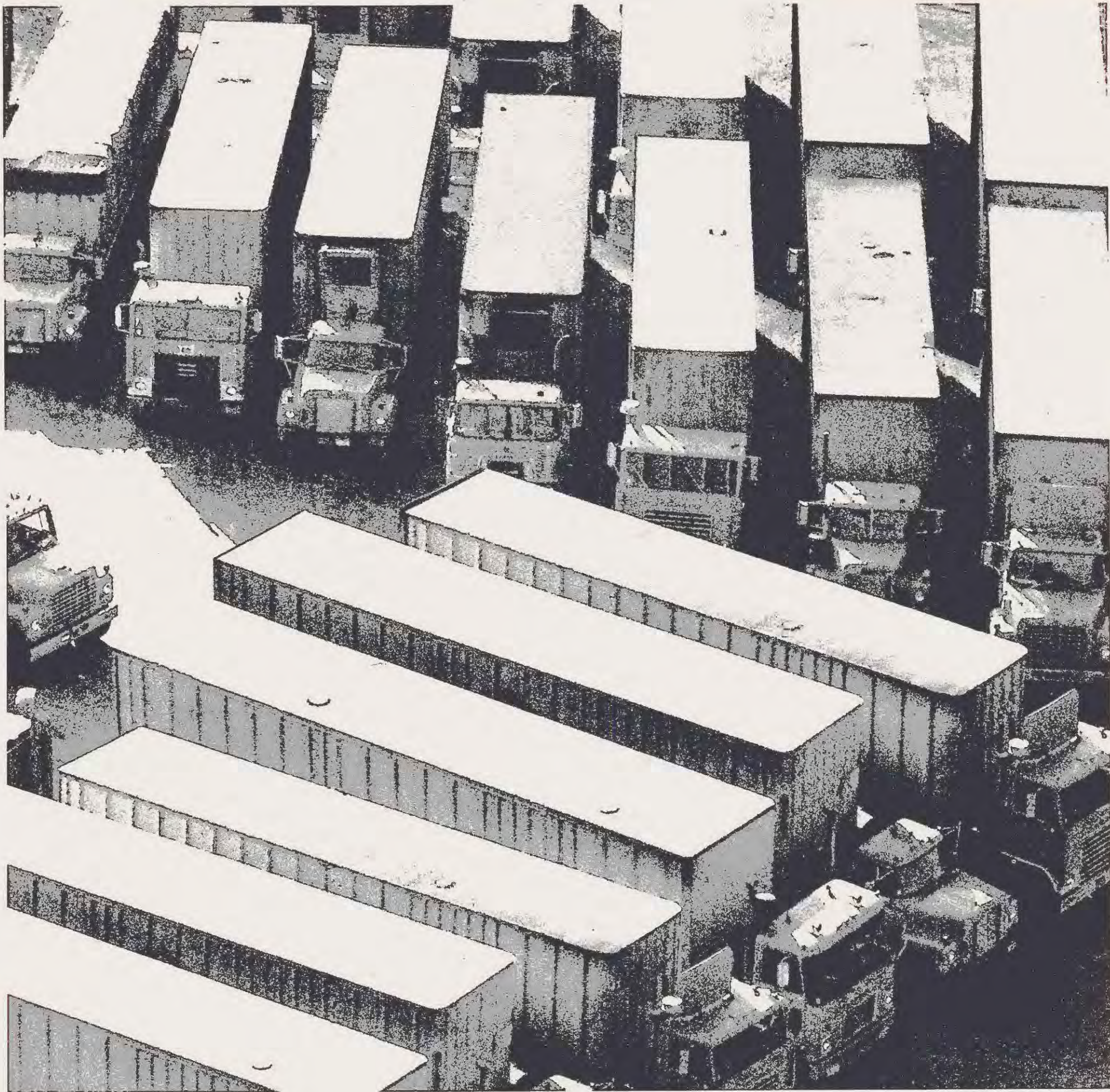
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